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DOCKET NO. 52410

APPLICATION OF CSWR-TEXAS	§	PUBLIC UTILITY COMMISSION
UTILITY OPERATING COMPANY, LLC	§	
AND LEON SPRINGS UTILITY	§	OF TEXAS
COMPANY, INC. FOR SALE, TRANSFER,	§	
OR MERGER OF FACILITIES AND	§	
CERTIFICATE RIGHTS IN BEXAR	§	
COUNTY	§	

COMMISSION STAFF'S RECOMMENDATION OF APPROVAL

On August 10, 2021, CSWR-Texas Utility Operating Company, LLC (CSWR-Texas) and Leon Springs Utility Company, Inc. (Leon Springs) (collectively, Applicants) filed an application for approval of the sale, transfer, or merger of facilities and certificate rights in Bexar County. Applicants seek approval to sell and transfer all of Leon Springs' wastewater system and service area under Certificate of Convenience and Necessity (CCN) number 20614 to CSWR-Texas. The requested area includes 1,209 customer connections and approximately 1,419 acres. Applicants filed supplemental information on August 25, 26, 30, and 31, September 8, 9, and 30, and October 1, 14, 15, 19, 20, and 28, and December 17 and 20, 2021.

On December 13, 2021, the administrative law judge filed Order No. 7, directing the Staff (Staff) of the Public Utility Commission of Texas (Commission) to request a hearing or make a final recommendation on the application by December 21, 2021. Therefore, this pleading is timely filed.

I. APPROVAL RECOMMENDATION

Staff has reviewed the application and, as supported by the attached memoranda of Patricia Garcia of the Infrastructure Division and Fred Bednarski III of the Rate Regulation Division recommend and respectfully requests the entry of an order permitting the proposed transaction to proceed. Under 16 TAC § 24.239(i) and TWC §§ 13.246 and 13.301, Staff recommends that this transaction be found to serve the public interest and that it should be allowed to proceed without a public hearing. If the transaction is permitted to proceed, Staff further requests that the Applicants be required to file evidence that all assets have been transferred to the acquiring entity, and that the disposition of any remaining deposits have been addressed as soon as possible, as required by 16 TAC § 24.239(l).

II. CONCLUSION

Staff respectfully requests entry of an order consistent with this pleading.

Dated: December 21, 2021

Respectfully Submitted,

**PUBLIC UTILITY COMMISSION OF
TEXAS LEGAL DIVISION**

Rachelle Nicolette Robles
Division Director

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DOCKET NO. 52410

CERTIFICATE OF SERVICE

I certify that unless otherwise ordered by the presiding officer, notice of the filing of this document was provided to all parties of record via electronic mail on December 21, 2021, in accordance with the Second Order Suspending Rules, issued in Project No. 50664.

/s/ R. Floyd Walker
R. Floyd Walker

Public Utility Commission of Texas

Memorandum

TO: Floyd Walker, Attorney
Legal Division

FROM: Patricia Garcia, Senior Engineering Specialist
Infrastructure Division

DATE: December 21, 2021

RE: Docket No. 52410 – *Application of CSWR-Texas Utility Operating Company, LLC and Leon Springs Utility Co, Inc. for Sale, Transfer, or Merger of Facilities and Certificate Rights in Bexar County*

1. Application

CSWR-Texas Utility Operating Company, LLC (CSWR-Texas) and Leon Springs Utility Co, Inc. (Leon Springs) (collectively Applicants) filed an application for a sale, transfer, or merger (STM) of facilities and certificate rights in Bexar County, Texas, under Texas Water Code (TWC) § 13.301 and 16 Texas Administrative Code (TAC) § 24.239.

Specifically, CSWR-Texas seeks approval to acquire facilities and to transfer all of the sewer service area from Leon Springs under sewer Certificate of Convenience and Necessity (CCN) No. 20614. The requested area includes 1,209 customer connections and approximately 1,419 acres, comprised of 1,419 acres of transferred area from CCN No. 20614. The application proposes the addition of approximately 1,419 acres to CSWR-Texas's CCN No. 21120.

2. Notice

CSWR-Texas provided notice consistent with 16 TAC § 24.239(c). The deadline to intervene was November 11, 2021. There were no motions to intervene, protests, or opt-out requests received.

3. Factors Considered

Under TWC §§ 13.241 and 13.246 and 16 TAC §§ 24.11(e), 24.227 and 24.239, the Commission must consider certain factors when granting or amending a water or sewer CCN. These factors are addressed below.

3.1. *Consideration of the adequacy of service currently provided to the requested area and system compliance (TWC § 13.246(c)(1), 13.301(e)(3)(A); 16 TAC §§ 24.227(a) and (e)(1), 24.239(h)(3)(A), (h)(5)(A), and (h)(5)(I)).*

Leon Springs has a Texas Commission on Environmental Quality (TCEQ) approved wastewater treatment plant (WWTP) registered as Bridgewood Wastewater Treatment Facility, Wastewater Discharge Permit No. WQ14376-001. The last TCEQ compliance investigation of the Leon Springs system was on March 31, 2021. No violations or concerns were noted as a result of that investigation. In addition, the Commission's complaint records, which date back to 2014, show no complaints against Leon Springs.

No additional construction is necessary for the CSWR-Texas to serve the requested area.

3.2. *Consideration of the need for additional service in the requested area (TWC § 13.246(c)(2); 16 TAC §§ 24.227(e)(2) and 24.239(h)(5)(B)).*

The purpose of the transaction is to transfer the Bridgewood Wastewater Treatment Facility to CSWR-Texas. The customers are currently receiving sewer service from the Bridgewood Wastewater Treatment Facility.

3.3. *Consideration of the effect of granting an amendment on the recipient of the certificate or amendment, on the landowners in the area, and on any other retail public utility of the same kind already servicing the proximate area (TWC § 13.246(c)(3), 16 TAC §§ 24.227(e)(3), 24.239(h)(5)(c)).*

CSWR-Texas will be the certificated entity for the requested area and will be required to provide adequate and continuous service to the requested area.

There will be no effect on landowners as the area is currently and will continue to be certificated.

There will be no effect on any retail public utility servicing the proximate area. All retail public utilities in the proximate area were provided notice of the transaction taking place in this application and did not request to intervene.

3.4. *Consideration of the managerial and technical ability of the applicant to provide adequate service (TWC §§ 13.241(a) and (b), 13.246(c)(4); and 13.301(b) and (e)(2); 16 TAC §§ 24.227(a) and (e)(4), and 24.239(f) and (h)(5)(D)).*

Leon Springs has a TCEQ approved WWTP registered as Bridgewood Wastewater Treatment Facility, Wastewater Discharge Permit No. WQ14376-001. The last TCEQ compliance investigation of the Leon Springs system was on March 31, 2021. No violations or concerns were noted as a result of that investigation.

CSWR-Texas stated its intent to invest the capital required to make the upgrades, renovations, and repairs necessary to bring the sewer systems into compliance with TCEQ regulations and to ensure customers receive safe and reliable service. The needed improvements will begin when the systems are officially transferred to CSWR-Texas. Once the sewer systems are compliant with TCEQ regulations, the service provided to the requested area will be adequate.

TCEQ rule, 30 TAC § 290.46, Minimum Acceptable Operating Practices for Public Drinking Water Systems, requires the operation of a public water system by trained and licensed personnel. The production, treatment, and distribution facilities at the public water system must be operated at all times under the direct supervision of a water works operator who holds an applicable, valid license issued by the TCEQ executive director. The licensed operator of a public water system may be an employee, contractor, or volunteer. CSWR-Texas plans to use a contract operator for plant operations, which would include one or more appropriately qualified and licensed operator(s). The contract operator(s) would be responsible for day-to-day inspections, checks, sampling, reporting, meter reading, and any necessary system repairs.

Based on orders filed in previous CSWR-Texas dockets where the administrative law judge requested Staff take into consideration all prior CSWR-Texas STM dockets in which Staff recommended the transaction should be allowed to proceed Staff is including the list of dockets reviewed below:

- Docket No. 50251:¹ CSWR-Texas acquired the public water system, Coletto Water, PWS No. 2350036, and associated facilities, approximately 438 acres of service area, and 211 connections in Victoria County from JRM Water, LLC.
- Docket No. 50276:² CSWR-Texas acquired the public water system, North Victoria Utilities, PWS No. 2350049, and associated facilities, approximately 307 acres of service area, and 77 connections in Victoria County from North Victoria Utilities, Inc.
- Docket No. 50311:³ CSWR-Texas acquired the public water system, Copano Heights Water, PWS No. 0040017, and associated facilities, approximately 61 acres of service are, and 110 connections in Aransas County from Copano Heights Water Company.
- Docket No. 51065:⁴ CSWR-Texas acquired the public water system Treetop Estates, PWS No. 1840134, and associated facilities, approximately 93 acres of service area, and 35 connections in Parker County from Treetop Utilities, LLC.
- Docket No. 51118:⁵ CSWR-Texas acquired the public water systems, Shady Oaks Water, PWS No. 2470017; Hickory Hill Water, PWS No. 2470018; Arrowhead Water,

¹ *Application of JRM Water LLC and CSWR-Texas Utility Operating Company, LLC for Sale, Transfer, or Merger of Facilities and Certificate Rights in Victoria County*, Docket No. 50251 (Mar. 12, 2021).

² *Application of North Victoria Utilities, Inc. and CSWR-Texas Utility Operating Company, LLC for Sale, Transfer, or Merger of Facilities and Certificate Rights in Victoria County*, Docket No. 50276 (Mar. 11, 2021).

³ *Application of Copano Heights Water Company and CSWR-Texas Utility Operating Company, LLC for Sale, Transfer, or Merger of Facilities and Certificate Rights in Aransas County*, Docket No. 50311 (Mar. 17, 2021).

⁴ *Application of Treetop Utilities, Inc. and CSWR-Texas Utility Operating Company, LLC for Sale, Transfer, or Merger of Facilities and Certificate Rights in Parker County*, Docket No. 51065 (Mar. 9, 2021).

⁵ *Application of Shady Oaks Water Supply Company, LLC and CSWR-Texas Operating Company, LLC for Sale, Transfer, or Merger of Facilities and Certificate Rights in Wilson County*, Docket No. 51118 (Mar. 18, 2021).

PWS No. 2470025; and C Willow Water, PWS No. 2470019, and associated facilities, approximately 1,828 acres of service area, and 560 connections in Wilson County from Shady Oaks Water Supply Company, LLC.

- Docket No. 51026:⁶ CSWR-Texas acquired the public water system, Tall Pines, PWS No. 1010220, and associated facilities, approximately 42 acres of service are, and 73 connections in Harris County from Tall Pines Utility, Inc.
- Docket No. 51031:⁷ CSWR-Texas acquired the public water systems, Council Creek Village, PWS No. 0270014; South Council Creek 1, PWS No. 0270079; and South Council Creek 2, PWS No. 0270080, and associated facilities, approximately 275 acres of service area, and 176 connections in Burnet County from Council Creek Village, Inc. dba Council Creek Village dba South Council Creek 2.
- Docket No. 51047:⁸ CSWR-Texas acquired the public water system, South Silver Creek I II & III, PWS No. 0270041, and associated facilities, approximately 169 acres of service area, and 103 connections in Burnet County from Jones-Owen dba South Silver Creek I II & III.
- Docket No. 50989:⁹ CSWR-Texas acquired the public water systems Hillside Estates Water System, PWS No. 0080049; Meadowview Estates, PWS No. 0080051; Settlers Meadows Water System, PWS No. 0080055; Settlers Estates Sec II, PWS No. 0080056; Settlers Crossing Water System, PWS No. 0080058; Meadowview Estates II, PWS No. 0080059; and Settlers Crossing Water System 2, PWS No. 0080060, and associated facilities, approximately 638 acres of service area, and 316 connections in Austin County from Ranch Country of Texas Water Systems, Inc.
- Docket No. 51130:¹⁰ CSWR-Texas acquired the public water system, Laguna Tres Subdivision, PWS No. 1110019, and associated facilities from Laguna Tres, CSWR Also acquired the public water system Laguna Vista Subdivision, PWS No. 1110095 and associated facilities and unpermitted wastewater facilities from Laguna Vista. The total certificated area amended to CSWR-Texas' CCN was 362 acres of water service

⁶ *Application of Tall Pines Utility, Inc. and CSWR-Texas Utility Operating Company, LLC for Sale, Transfer, or Merger of Facilities and Certificate Rights in Harris County, Docket No. 51026 (Apr. 23, 2021).*

⁷ *Application of Council Creek Village, Inc. dba Council Creek Village dba South Council Creek 2 and CSWR Texas Utility Operating Company, LLC for Sale, Transfer, or Merger of Facilities and Certificate Rights in Burnet County, Docket No. 51031 (Apr. 14, 2021).*

⁸ *Application of Jones-Owen Company dba South Silver Creek I, II, and III and CSWR-Texas Utility Operating Utility Company, LLC for Sale, Transfer, or Merger of Facilities and Certificate Rights in Burnet County, Docket No. 51047 (Apr. 19, 2021).*

⁹ *Application of Ranch Country of Texas Water Systems, Inc. and CSWR-Texas Utility Operating Company, LLC for Sale, Transfer, or Merger of Facilities and Certificate Rights in Austin County, Docket No. 50989 (Apr. 23, 2021).*

¹⁰ *Application of Laguna Vista Limited and Laguna Tres, Inc. and CSWR-Texas Utility Operating Company, LLC for Sale, Transfer, or Merger of Facilities and Certificate Rights in Hood County, Docket No. 51130 (Apr. 20, 2021).*

area, with 446 water connections and 6 acres of sewer service area with 5 connections in Hood County.

- Docket No. 51146:¹¹ CSWR-Texas acquired the public water system, Abraxas Utilities, PWS No. 1840034, Wastewater Discharge Permit No. WQ 00150-10001, and associated facilities, approximately 721 acres of service area, and 437 connections in Parker County from Abraxas Corporation.
- Docket No. 51036:¹² CSWR-Texas acquired the public water system, Woodlands West, PWS No. 0260043 and associated facilities, approximately 61 acres and 18 connections in Burleson County.
- Docket No. 51003:¹³ CSWR-Texas acquired the public water system, Oak Hills Ranch Water, PWS No. 0940085 and associated facilities, approximately 1,857 acres and 196 connections in Guadalupe and Wilson counties.
- Docket No. 51089:¹⁴ CSWR-Texas acquired the public water system, Quiet Village II, PWS No. 1080221, associated facilities, and wastewater collection lines, this includes approximately 18.5 acres and 165 connections in Hidalgo County.
- Docket No. 51222:¹⁵ Estate of Patetreen Petty McCoy dba Big Wood Springs Water Company (Big Wood Springs) has a public water system registered with the TCEQ as Big Wood Springs Water System, PWS No. 2500019. Big Wood Springs does not have any open violations in the TCEQ databases. For this docket, CSWR-Texas is seeking to transfer approximately 643 acres and 76 connections in Wood County.
- Docket No. 51981:¹⁶ Live Oak Hills and Flag Creek Ranch Water Systems (Live Oak Hill and Flag Creek) has two public water systems registered as Live Oak Hills Subdivision, PWS No. 1540012 and Flag Creek Ranch, PWS No. 1500112. The last TCEQ compliance investigation of the Live Oak Hill system was on September 18, 2019. Several violations or concerns were noted as a result of that investigation which have since been resolved. The last TCEQ compliance investigation of the Flag Creek

¹¹ *Application of Abraxas Corporation and CSWR-Texas Utility Operating Company, LLC for Sale, Transfer, or Merger of Facilities and Certificate Rights in Parker County, Docket No. 51146 (Apr. 23, 2021).*

¹² *Application of Kathie Lou Daniels dba Woodlands West and CSWR-Texas Utility Operating Company, LLC for Sale, Transfer, or Merger of Facilities in Burleson County, Docket No. 51036 (Aug. 23, 2021).*

¹³ *Application of Oak Hill Ranch Estates Water and CSWR-Texas Utility Operating Company, LLC for Sale, Transfer, or Merger of Facilities and Certificate Rights in Guadalupe and Wilson Counties, Docket No. 51003 (Sep. 9, 2021).*

¹⁴ *Application of Donald E. Wilson dba Quiet Village II dba QV Utility and CSWR-Texas Utility Operating Company, LLC for Sale, Transfer, or Merger of Facilities and Certificate Rights in Hidalgo County, Docket No. 51089 (Nov. 18, 2021).*

¹⁵ *Application of David Petty, Executor of the Estate of Patetreen Petty McCoy dba Big Wood Springs Water Company, and CSWR-Texas Utility Operating Company, LLC for Sale, Transfer, or Merger of Facilities and Certificate Rights in Wood County, Docket No. 51222 (pending).*

¹⁶ *Application of Live Oak Hills and Flag Creek Ranch Water Systems and CSWR-Texas Utility Operating Company, LLC for Sale, Transfer, or Merger of Facilities and Certificate Rights in Llano and McCulloch Counties, Docket No. 51981 (pending).*

Ranch system was on January 24, 2019. No violations or concerns were noted as a result of that investigation. In addition, the Commission's complaint records, which cover the last five years, show no complaints against Live Oak Hill and Flag Creek. For this docket, CSWR-Texas is seeking to transfer approximately 425 acres and 68 connections in Llano and McCulloch Counties.

- Docket No. 51642:¹⁷ James L. Nelson dba Waterco (Waterco) has a public water system registered with the TCEQ as Waterco, PWS No. 1690028. The application states that there are several violations for this water system that will require immediate capital investment to remedy. CSWR-Texas indicates that it has worked with an engineer to identify the shortcomings in the system and will address the deficiencies to ensure that, after closing the sale, the full operation of this public water system can continue in accordance with Commission and TCEQ rules. For this docket, CSWR-Texas is seeking to transfer approximately 25 acres and 13 connections in Montague County.
- Docket No. 51126:¹⁸ Aero Valley Water Service (Aero Valley) has a public water system registered with the TCEQ as Aero Valley Water Service, PWS No. 0610243. There are several violations listed in the TCEQ database. CSWR-Texas will address the violations and deficiencies to ensure that, after closing the sale, the full operation of this public water system can continue in accordance with Commission and TCEQ rules. For this docket, CSWR-Texas is seeking to transfer approximately 46.5 acres, which consists of 32.5 acres of single certification and 14 acres of dual certification with Town of Northlake's CCN No. 12915, with 42 connections in Denton County.
- Docket No. 51928:¹⁹ Betty J. Dragoo (Dragoo) has a public water system registered with the TCEQ as Thousand Oaks Subdivision, PWS No. 0720054. The last TCEQ compliance investigation of this public water system was on April 10, 2018. The investigation identified one violation for failure to install flush valves on dead end mains. This violation remains unresolved. Staff notes that a violation related to flush valves may not affect the adequacy of water service provided by Dragoo. For this docket, CSWR-Texas is seeking to transfer approximately 96 acres of uncertificated area with 15 connections in Erath County.
- Docket No. 51544:²⁰ Franklin Water Service Co. LLC (Franklin) has two public water systems registered with the TCEQ as Franklin Water Systems 1, PWS No. 1520224 and Franklin Water Systems 3, PWS No. 1520080. The last TCEQ compliance investigation of Franklin Water Systems 1 was conducted from February 13, 2019

¹⁷ *Application of James L. Nelson dba Waterco and CSWR-Texas Utility Operating Company, LLC for Sale, Transfer, or Merger of Facilities and Certificate Rights in Montague County, Docket No. 51642 (pending).*

¹⁸ *Application of Shawn M. Horvath dba Aero Valley Water Service and CSWR-Texas Utility Operating Company, LLC for Sale, Transfer, or Merger of Facilities and to Amend CSWR-Texas Utility Operating Company, LLC'S Certificate of Convenience and Necessity in Denton County, Docket No. 51126 (pending).*

¹⁹ *Application of Betty J. Dragoo and CSWR-Texas Utility Operating Company, LLC for Sale, Transfer, or Merger of Facilities and Associated Acreage in Erath County, Docket No. 51928 (pending).*

²⁰ *Application of Franklin Water Service Co. LLC and CSWR-Texas Utility Operating Company, LLC for Sale, Transfer, or Merger of Facilities and Certificate Rights in Lubbock County, Docket No. 51544 (pending).*

through February 18, 2019. There were two alleged violations noted for Franklin Water System 1, which were resolved in March 22, 2019. The last TCEQ compliance investigation of Franklin Water Systems 3 was conducted on December 17, 2019. No violations were noted as a result of the investigation at the Franklin Water Systems 3 water plant. For this docket, CSWR-Texas is seeking to transfer approximately 186 acres and 219 connections in Lubbock County.

- Docket No. 51940:²¹ Walnut Bend Water Supply aka Walnut Bend Water System (Walnut Bend) has a public water system registered with the TCEQ as Walnut Bend Water Supply, PWS ID No. 0030037. The last TCEQ compliance investigation of the Walnut Bend water system was on August 11, 2020. No violations or concerns were noted as a result of that investigation. For this docket, CSWR-Texas is seeking to transfer approximately 48 acres and 19 connections in Angelina County.
- Docket No. 51917:²² Rocket Water Company, Inc. (Rocket Water) has a public water system registered as The Woodlands Water System, PWS ID number 1050139. The last TCEQ compliance investigation of this system was on September 22, 2017. No violations or concerns were noted as a result of that investigation. For this docket, CSWR-Texas is seeking to transfer approximately 1,004 acres and 69 connections in Hays County.
- Docket No. 52089:²³ Alpha Utility of Camp County, LLC (Alpha Utility) has a public water system registered as Woodland Harbor, PWS ID No. 0320014. The last TCEQ compliance investigation of Alpha Utility was on October 12, 2020. Alpha Utility has several violations and additional issues that need to be addressed that include well rehab, tank inspection, and distribution improvements. CSWR-Texas stated they intend to invest the capital required to make the upgrades, renovations, and repairs necessary to bring the water systems into compliance with TCEQ regulations and to ensure customers receive safe and reliable service. The needed improvements will begin when the systems are officially transferred to CSWR-Texas. Once the water systems are compliant with TCEQ regulations, the service provided to the requested area will be adequate. For this docket, CSWR-Texas is seeking to transfer approximately 217 acres and 163 connections in Camp County.
- Docket No. 52099:²⁴ THRC Utility, LLC (THRC) has public water systems (PWS) registered as Pelican Isle Water System, PWS ID No. 1750036 and a WWTP registered as Pelican Isle WWTP, Wastewater Discharge Permit No. WQ0013528001. The last TCEQ compliance investigation of the public water system was on August 7, 2019. THRC has a capacity violation for the water system. CSWR has indicated that they will

²¹ *Application of Walnut Bend Water Supply and CSWR-Texas Utility Operating Company, LLC for Sale, Transfer or Merger of Facilities and Certificate Rights in Angelina County, Docket No. 51940 (pending).*

²² *Application of Rocket Water Company, Inc. and CSWR-Texas Utility Operating Company, LLC for Sale, Transfer, or Merger of Facilities and Certificate Rights in Hays County, Docket No. 51917 (pending).*

²³ *Application of Alpha Utility of Camp County, LLC and CSWR-Texas Operating Utility Company, LLC for Sale, Transfer, or Merger of Facilities and Certificate Rights in Camp County, Docket No. 52089 (pending).*

²⁴ *Application of THRC Utility, LLC and CSWR-Texas Utility Operating Company, LLC for Sale, Transfer, or Merger of Facilities and Certificate Rights in Navarro County, Docket No. 52099 (pending).*

make the necessary improvements once the system is acquired. The last TCEQ compliance investigation of the wastewater discharge system was on July 8, 2021. No violations or concerns were noted as a result of that investigation. For this docket, CSWR-Texas is seeking to transfer approximately 83.7 acres and 378 connections in Navarro County.

In each of the above applications, CSWR-Texas has stated that it intends to contract with an operations company.

- 3.5. *The applicants' demonstration that regionalization or consolidation with another retail public utility is not economically feasible when construction of a physically separate water or sewer system is required to provide service to the requested area. (TWC § 13.241(d); 16 TAC § 24.227(b)).*

The construction of a physically separate system is not necessary for CSWR-Texas to serve the requested area. Therefore, concerns of regionalization or consolidation do not apply.

- 3.6. *Consideration of the feasibility of obtaining service from an adjacent retail public utility (TWC § 13.246(c)(5); 16 TAC §§ 24.227(e)(5) and 24.239(h)(5)(E)).*

Leon Springs is currently serving customers and has sufficient capacity. Obtaining service from an adjacent retail public utility would likely increase costs to customers because new facilities will need to be constructed. At a minimum, an interconnect would need to be installed in order to connect to a neighboring retail public utility. Therefore, it is not feasible to obtain service from an adjacent retail public utility.

- 3.7. *Consideration of the financial ability of the applicant to pay for facilities necessary to provide continuous and adequate service (TWC §§ 13.246(c)(6) and 13.301(b); 16 TAC §§ 24.227(a) and (e)(6), 24.11(e), and 24.239(f) and (h)(5)(F)).*

The Rate Regulation Division is addressing this criterion in a separate memo.

- 3.8. *Requirement of the applicant to provide a bond or other financial assurance in a form and amount specified by the Commission to ensure that continuous and adequate utility service is provided (TWC §§ 13.246(d), 13.301(c); 16 TAC §§ 24.227(f), 24.239(f)).*

The Rate Regulation Division is addressing this criterion in a separate memo.

- 3.9. *Consideration of the environmental integrity and the effect on the land to be included in the certificated area (TWC § 13.246(c)(7) and (9); and 16 TAC §§ 24.227(e)(7) and (9) and 24.239(h)(5)(G)).*

The environmental integrity of the land will not be affected as no additional construction is needed to provide service to the requested area.

- 3.10. *Consideration of the probable improvement in service or lowering of cost to consumers (TWC § 13.246(c)(8); 16 TAC §§ 24.227(e)(8), 24.239(h)(5)(H)).*

CSWR-Texas will continue to provide sewer service to the existing customers in the area. There will be no change in the quality or cost of service to customers.

Applicants meet all of the statutory requirements of TWC Chapter 13 and the Commission's Chapter 24 rules and regulations. Approving this application to transfer sewer facilities in the requested area, and all of the sewer service area of sewer CCN No. 20614 to CSWR-Texas's sewer CCN No. 21120 is necessary for the service, accommodation, convenience and safety of the public.

4. Recommendation

Based on the above information, I recommend that the Commission find that the transaction will serve the public interest and that Applicants be allowed to proceed with the proposed transaction. There are no deposits held by Leon Springs for the customers being served by Bridgewood Wastewater Treatment Facility. I further recommend that a public hearing is not necessary.

Public Utility Commission of Texas

Memorandum

TO: Floyd Walker, Attorney
Legal Division

FROM: Fred Bednarski III, Financial Analyst
Rate Regulation Division

DATE: December 21, 2021

RE: Docket No. 52410 - *CSWR-Texas Utility Operating Company, LLC and Leon Springs Utility Company, Inc. for Sale, Transfer, or Merger of Facilities and Certificate Rights in Bexar County*

On August 10, 2021, CSWR-Texas Utility Operating Company, LLC (CSWR-Texas) and Leon Springs Utility Company, Inc. (Leon Springs) filed an application for the sale and transfer of facilities and certificate rights in Bexar County

I recommend that CSWR-Texas be found to have demonstrated the financial and managerial capability needed to provide continuous and adequate service to the areas subject to this application and other recently approved or pending applications. My conclusions are based on information provided by CSWR-Texas before the date of this memorandum and may not reflect any changes in the CSWR-Texas's status after this review.

Ability to serve: financial ability and stability (Texas Water Code (TWC) §§ 13.241(a) and 13.246(c)(6))

An owner or operator of a retail public utility must have the financial resources to operate and manage the utility and to provide continuous and adequate service to the current and requested utility service areas, as established by 16 Texas Administrative Code (TAC) § 24.11. CSWR-Texas must demonstrate that it meets one of the five leverage tests under 16 TAC § 24.11(e)(2) as well as the operations test under 16 TAC § 24.11(e)(3).

Leverage test

My analysis is based on CSWR-Texas' affiliate, CSWR, LLC and Subsidiaries' (CSWR) financial statements ending December 31, 2020. These financial statements contain an unqualified auditor's opinion from RSM US LLP stating that the financial statements present fairly, in all material respects, the financial position of CSWR as of December 31, 2020 and 2019.

CSWR's financial statements, provided in confidential Attachment FB-1, report a debt-to-equity below 1.0. Therefore, CSWR meets the test specified in 16 TAC § 24.11(e)(2)(A). CSWR is also

capable, available, and willing to cover temporary cash shortages. Therefore, through its affiliate, CSWR-Texas meets the leverage test specified in 16 TAC § 24.11(e)(2)(E).

Operations test

An owner or operator must demonstrate sufficient available cash to cover projected cash shortages for operations and maintenance expense during the first five years of operations, as required by 16 TAC § 24.11(e)(3).

CSWR-Texas' financial projections, as provided in confidential Attachment FB-1, show that there are projected shortages to cover. However, CSWR's financial statements and recent cash balance provided in confidential Attachment FB-1 indicate CSWR possesses sufficient cash and financial ability to pay for capital improvements and necessary equity investments associated with this application as well as those associated with other recently approved or pending applications. Additionally, CSWR-Texas provided an affidavit indicating CSWR's commitment to providing funds necessary for cash required to purchase Leon Springs system as well as the other water and wastewater systems included in CSWR-Texas' other recently approved and pending applications. Sufficient cash and net operating income available to cover possible future shortages provide an indication of financial stability and financial and managerial capability. Therefore, CSWR-Texas meets the operations test specified in 16 TAC § 24.11(e)(3).

Financial assurance (TWC § 13.246(d))

Because CSWR-Texas meets the financial tests, I do not recommend that the Commission require additional financial assurance.

Fair market value and ratemaking rate base (TWC 13.305(i))

Because CSWR-Texas has filed notice with the Commission of its intent to use a fair market value (FMV) process to determine the ratemaking rate base of Leon Springs, the following provisions of TWC § 13.305 apply to this proceeding:

(f) For the purposes of the acquisition, the fair market value is the average of the three utility valuation expert appraisals conducted under Subsection (c).

(g) For an acquisition of a selling utility, the ratemaking rate base of the selling utility is the lesser of the purchase price negotiated by the acquiring utility and the selling utility or the fair market value. The ratemaking rate base of the selling utility shall be incorporated into the rate base of the acquiring utility during the utility's next rate base case under Subchapter F.

(i) If the utility commission approves the application for acquisition under Section 13.301, the utility commission shall issue an order that includes:

- (1) the ratemaking rate base of the selling utility as determined under Subsection (g); and
- (2) any additional conditions for the acquisition the utility commission requires.

Consistent with the above statutory provisions, the table in confidential Attachment FB-1 shows the FMV appraisal amount reported by each of the utility valuation experts and the resulting average amount.

Because the average of the three appraisals yields a FMV which is more than the sales price, the ratemaking rate base for Leon Springs is the sales price amount provided in confidential Attachment FB-1 as prescribed by the provisions of TWC § 13.305(g).