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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	§	

ORDER NO. 9
APPROVING SALE AND TRANSFER TO PROCEED

This Order addresses the application of Leon Springs Utility Company, Inc. and CSWR-Texas Utility Operating Company, LLC (collectively, applicants) for the sale, transfer, or merger of facilities in Bexar County. The applicants seek the sale and transfer of all facilities and service area held under Leon Springs' sewer certificate of convenience and necessity (CCN) number 20614 to CSWR-Texas, the cancellation of Leon Springs' sewer CCN number 20614, and the amendment of CSWR-Texas's sewer CCN number 21120 to include the area previously included in Leon Springs' sewer CCN number 20614. The administrative law judge (ALJ) grants that the sale is approved and the transaction between the applicants may proceed and be consummated.

I. Findings of Fact

The Commission makes the following findings of fact.

Applicants

1. Leon Springs is a Texas corporation registered with the Texas secretary of state under file number 67607700.
2. Leon Springs is an investor-owned utility that operates, maintains, and controls facilities for providing sewer service in Bexar County under CCN number 20614.
3. Leon Springs owns and operates a public sewer system registered with the Texas Commission on Environmental Quality (TCEQ) as Leon Springs Utility Company. Leon Springs has a TCEQ-approved wastewater treatment plant (WWTP) registered as Bridgewood Hills Wastewater Treatment Facility, wastewater discharge permit number WQ0014376001.

4. CSWR-Texas is a Texas limited liability company registered with the Texas secretary of state under file number 803367893.
5. CSWR-Texas is an investor-owned utility that operates, maintains, and controls facilities for providing sewer service in Hidalgo, Hood, and Parker counties under CCN number 21120.

Application

6. On August 10 and 11, 2021, Leon Springs and CSWR-Texas filed the application at issue in this proceeding.
7. CSWR-Texas supplemented the application on August 25, 26, 30, and 31, September 8, 9, and 30, October 1, 14, 15, 19, and 20, and December 17 and 20, 2021.
8. In the application, Leon Springs and CSWR-Texas seek approval of the following transaction: (a) CSWR-Texas will acquire all of Leon Springs' sewer facilities and sewer service area held under sewer CCN number 20614; (b) Leon Springs' sewer CCN number 20614 will be cancelled; and (c) CSWR-Texas's sewer CCN number 21120 will be amended to include the area previously included in Leon Springs' sewer CCN number 20614.
9. The requested area comprises approximately 1,419 acres and 1,350 connections.
10. The requested area is located approximately 17 miles north-northwest of downtown San Antonio, Texas, and is generally bounded on the north by Dominion Drive; on the east by Monterrey Road; on the south by Mission North Burial Park and Tejas Trail West; and on the west by Union Pacific Railroad.
11. In Order No. 2 filed on September 14, 2021, the ALJ found the application administratively complete.

Notice

12. On September 16, 2021, CSWR-Texas filed the affidavit of Aaron Silas, regulatory case manager for CSWR-Texas, attesting that notice was provided to all current customers of Leon Springs, neighboring utilities, and affected parties on September 15, 2021.

13. On October 28, 2021, CSWR-Texas filed the affidavit of Aaron Silas, regulatory case manager for CSWR-Texas, attesting that notice was provided to the city of San Antonio on October 21, 2021.
14. In Order No. 5 filed on November 9, 2021, the ALJ found the notice sufficient.

Evidentiary Record

15. On January 13, 2022, the parties filed a joint motion to admit evidence.
16. In Order No. 8 filed on February 1, 2022, the ALJ admitted the following evidence into the record of this proceeding: (a) the application, including confidential attachments, filed on August 10 and 11, 2021 (b) CSWR-Texas's first supplement to the application, including highly sensitive attachments, filed on August 25 and 26, 2021; (c) CSWR-Texas's second supplement to the application, including confidential attachments, filed on August 30 and 31, 2021; (d) CSWR-Texas's third supplement to the application, including confidential attachments, filed on September 8 and 9, 2021; (e) CSWR-Texas's affidavit of notice to current customers, neighboring utilities, and affected parties, including confidential exhibit B, filed on September 16 and 17, 2021; (f) Dominion Homeowners Association's motion to intervene filed on September 23, 2021; (g) CSWR-Texas's fourth supplement to the application, including highly sensitive attachments, filed on September 30 and October 1, 2021; (h) CSWR-Texas's fifth supplement to the application including highly sensitive attachments, filed on October 14 and 15, 2021; (i) CSWR-Texas's sixth supplement to the application, including confidential attachments, filed on October 19 and 20, 2021; (j) CSWR-Texas's supplement affidavit of notice to current customers, neighboring utilities, and affected parties filed on October 28, 2021; (k) Commission Staff's supplemental recommendation on sufficiency of notice filed on November 8, 2021; (l) the City of San Antonio's letter confirming receipt of notice filed on November 11, 2021; (m) CSWR-Texas's seventh supplement to the application, including highly sensitive amended attachment G, filed on December 17 and 20, 2021; and (n) Commission Staff's recommendation on the transaction, including confidential attachments, filed on December 20 and 21, 2021.

Cumulative Recommendation

17. On December 20 and 21, 2021, Commission Staff filed its recommendation regarding the transaction in this docket recommending that CSWR-Texas has the financial, managerial, and technical capability to provide continuous and adequate service to all areas included in this docket and in Docket Nos. 50251,¹ 50276,² 50311,³ 50989,⁴ 51003,⁵ 51026,⁶ 51031,⁷

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, Notice of Approval (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, Notice of Approval (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, Notice of Approval (Mar. 17, 2021).*

⁴ *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, Notice of Approval (Apr. 23, 2021).*

⁵ *Application of Oak Hills 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, Notice of Approval (Sept. 9, 2021).*

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, Notice of Approval (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, Notice of Approval (Apr. 14, 2021).*

51036,⁸ 51047,⁹ 51065,¹⁰ 51089,¹¹ 51118,¹² 51126,¹³ 51130,¹⁴ 51146,¹⁵ 51222,¹⁶ 51544,¹⁷ 51642,¹⁸ 51917,¹⁹ 51928,²⁰ 51940,²¹ 51981,²² 52089,²³ and 52099.²⁴

⁸ *Application of Kathie Lou Daniels dba Woodlands West and CSWR-Texas Utility Operating Company, LLC for Sale, Transfer, or Merger of Facilities and Certificate Rights in Burleson County, Docket No. 51036, Notice of Approval (Aug. 23, 2021).*

⁹ *Application of Jones-Owen Company dba South Silver Creek I, II, and III and CSWR-Texas Utility Operating Company, LLC for Sale, Transfer, or Merger of Facilities and Certificate Rights in Burnet County, Docket No. 51047, Notice of Approval (Apr. 19, 2021).*

¹⁰ *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, Corrected Notice of Approval (Mar. 10, 2021).*

¹¹ *Application of Donald E. Wilson dba Quiet Village II d/b/a 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, Notice of Approval (Nov. 18, 2021).*

¹² *Application of Shady Oaks Water Supply Company, LLC and CSWR-Texas Utility Operating Company, LLC for Sale, Transfer, or Merger of Facilities and Certificate Rights in Wilson County, Docket No. 51118, Notice of Approval (Mar. 18, 2021).*

¹³ *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).*

¹⁴ *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, Notice of Approval (Apr. 20, 2021).*

¹⁵ *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, Notice of Approval (Apr. 23, 2021).*

¹⁶ *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).*

¹⁷ *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).*

¹⁸ *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).*

¹⁹ *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).*

²⁰ *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, Notice of Approval (Jan. 21, 2022).*

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 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, Notice of Approval (Jan. 28, 2022).*

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).*

System Compliance

18. Leon Springs' sewer system is currently in compliance with the rules of the TCEQ.
19. CSWR-Texas demonstrated a compliance history that is adequate for approval of the sale to proceed.

Adequacy of Existing Service

20. There are currently 1,350 connections in the 1,419-acre requested area that are being served by Leon Springs through its sewer system, and such service has been continuous and adequate.
21. Leon Springs has no outstanding violations listed in the TCEQ database.
22. No additional construction is necessary for the CSWR-Texas to serve the requested area.

Need for Additional Service

23. There is a continuing need for service because the Leon Springs is currently serving 1,350 connections in the requested area.
24. This is an application to transfer only existing facilities, customers, and service area. There have been no specific requests for additional service within the 1,419-acre requested area.

Effect of Approving the Transaction and Granting the Amendment

25. Approving the sale and transfer to proceed and granting the CCN amendment will obligate CSWR-Texas to provide continuous and adequate sewer service to current and future customers in the 1,419-acre requested area.
26. Because this application is to transfer only existing facilities, customers, and service area, there will be no effect on any other retail public utility servicing the proximate area.
27. There will be no effect on landowners in the requested area because the area is currently certificated.
28. CSWR-Texas will adopt Leon Springs' current rates upon the consummation of the transaction.

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).

Ability to Serve: Managerial and Technical

29. CSWR-Texas owns and operates three public sewer systems registered with the TCEQ and does not have any active violations listed in the TCEQ database.
30. CSWR-Texas employs or contracts with TCEQ-licensed sewer operators who will operate the sewer system.
31. No additional construction is necessary for CSWR-Texas to provide service to the requested areas.
32. CSWR-Texas has the technical and managerial capability to provide adequate and continuous service to the requested area.

Ability to Serve: Financial Ability and Stability

33. CSWR, LLC, the immediate parent company of CSWR-Texas, is capable, available, and willing to cover temporary cash shortages, and has a debt-to-equity ratio of less than one, satisfying the leverage test.
34. CSWR, LLC provided a written guarantee to cover temporary cash shortages, demonstrated that it has sufficient cash available to cover any projected operations and maintenance shortages in the first year five years of operations after completion of the transaction, and possesses the cash and leverage ability to pay for capital improvements and necessary equity investments, satisfying the operations test.
35. CSWR-Texas demonstrated the financial and managerial ability and stability to provide continuous and adequate service to the requested area.

Financial Assurance

36. There is no need to require CSWR-Texas to provide a bond or other financial assurance to ensure continuous and adequate service.

Voluntary Valuation of Acquired Utility or Facilities

37. Prior to filing the application, CSWR-Texas and Leon Springs filed a notice to the Commission in Project No. 49859 of their intent to use the Commission's fair market value (FMV) process to determine the ratemaking rate base of Leon Springs' sewer system assets to be acquired by CSWR-Texas.

38. CSWR-Texas included copies of the three appraisal reports required by the FMV process with the application and evidence of the purchase price agreed upon between CSWR-Texas and Leon Spring.
39. The agreed upon purchase price for the transaction is identified in confidential attachment FB-1 to Commission Staff's Recommendation.
40. The average of the three appraisals yields a purchase price of less than the FMV of Leon Springs' sewer system; therefore, the ratemaking rate base for Leon Springs' sewer system is the agreed upon purchase price for the transaction identified in attachment FB-1 to Commission Staff's recommendation.
41. The application included CSWR-Texas's known and estimated transaction and closing costs.
42. No additional conditions for the acquisition based on the FMV process are needed.

Feasibility of Obtaining Service from Adjacent Retail Public Utility

43. The requested area is currently being served by Leon Springs, and there will be no changes to land uses or existing CCN boundaries. Obtaining service from an adjacent retail public utility would likely increase costs to customers because new facilities will need to be constructed. Therefore, it is not feasible to obtain service from another utility.

Environmental Integrity and Effect on the Land

44. The requested area will continue to be served with existing infrastructure.
45. The environmental integrity of the land will not be affected as no additional construction is needed to provide service to the requested area.

Improvement of Service or Lowering Cost to Consumers

46. 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.
47. The rates charged to customers in the requested area will not change as a result of the proposed transaction because CSWR-Texas will adopt the currently in effect tariff for the Leon Springs' sewer system upon consummation of the transaction.

Regionalization or Consolidation

48. CSWR-Texas will not need to construct a physically separate sewer system to continue serving the requested area; therefore, concerns of regionalization or consolidation do not apply.

II. Conclusions of Law

The Commission makes the following conclusions of law.

1. The applicants provided notice of the application that complies with Texas Water Code (TWC) §§ 13.246 and 13.301(a)(2) and 16 Texas Administrative Code (TAC) § 24.239.
2. After consideration of the factors in TWC § 13.246(c), CSWR-Texas demonstrated adequate financial, managerial, and technical capability for providing adequate and continuous service to the requested area as required by TWC § 13.301(b).
3. The applicants have demonstrated that the sale of Leon Springs' facilities to CSWR-Texas will serve the public interest and is necessary for the service, accommodation, convenience, and safety of the public as required by TWC § 13.301(d) and (e).
4. CSWR-Texas filed its notice of intent to use the fair market valuation as required by TWC § 13.305(c)(1) and 16 TAC § 24.238(d).
5. The Commission's Executive Director selected three utility valuation experts to perform appraisal of Leon Springs in compliance with TWC § 13.305(c)(2) and 16 TAC § 24.238(e).
6. The application included copies of the three appraisal reports completed by the utility valuation experts as required by TWC § 13.305(h) and 16 TAC § 24.239(d)(1)(A).
7. The application included the purchase price agreed to by CSWR-Texas and Leon Springs as required by TWC § 13.305(h)(2) and 16 TAC § 24.239(d)(1)(B).
8. The calculation of the fair market valuation for Leon Springs complies with TWC § 13.305(f) and 16 TAC § 24.238(f)–(j).
9. The calculation of the ratemaking rate base for Leon Springs complies with TWC § 13.305(g) and 16 TAC § 24.238(b)(3) and (4).

III. Ordering Paragraphs

In accordance with these findings of fact and conclusions of law, the Commission issues the following orders.

1. The sale is approved and the transaction between Leon Springs and CSWR-Texas may proceed and be consummated.
2. The ratemaking rate base for Leon Springs sewer system is determined to be the agreed upon purchase price for the transaction is identified in the highly sensitive attachment FB-1 to Commission Staff's recommendation.
3. CSWR-Texas may seek to include in its rate base its transaction and closing costs for the acquisition of Leon Springs sewer system in a future rate case.
4. As soon as possible after the effective date of the transaction, but not later than 30 days after the effective date, the applicants must file proof that the transaction has been consummated and customer deposits, if any, have been addressed.
5. The applicants have 180 days to complete the transaction.
6. Under 16 TAC § 24.239(m), if the transaction is not consummated within this 180-day period, or an extension is not granted, this approval is void and the applicants will have to reapply for approval.
7. The applicants are advised that the requested areas and associated facilities will remain under sewer CCN number 20614 and held by Leon Springs until the sale and transfer transaction is complete, in accordance with Commission rules.
8. In an effort to finalize this case as soon as possible, the applicants must continue to file monthly updates regarding the status of the closing and submit documents evidencing that the transaction was consummated.
9. Within 15 days following the filing of the applicants' proof that the transaction has been consummated and customer deposits, if any, have been addressed, Commission Staff must file a recommendation regarding the sufficiency of the documents and propose a schedule for continued processing of this docket.

Signed at Austin, Texas the 9th day of February 2022.

PUBLIC UTILITY COMMISSION OF TEXAS

A handwritten signature in black ink, reading "Katie Moore Marx". The signature is written in a cursive, flowing style.

KATIE MOORE MARX
ADMINISTRATIVE LAW JUDGE

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