



Filing Receipt

Filing Date - 2023-11-20 10:41:29 AM

Control Number - 52700

Item Number - 83

DOCKET NO. 52700

APPLICATION OF RJR WATER	§	PUBLIC UTILITY COMMISSION
COMPANY, INC. AND CSWR-TEXAS	§	
UTILITY OPERATING COMPANY, LLC	§	OF TEXAS
FOR SALE, TRANSFER, OR MERGER	§	
OF FACILITIES AND CERTIFICATE	§	
RIGHTS IN PARKER AND PALO PINTO	§	
COUNTIES	§	

COMMISSION STAFF'S RESPONSE TO ORDER NO. 11

On October 12, 2021, CSWR-Texas Utility Operating Company, LLC (CSWR-Texas) and RJR Water Company, Inc. (RJR Water) (collectively, Applicants) filed an application for approval of the sale and transfer of facilities and certificate rights in Parker and Palo Pinto Counties, Texas.

On June 13, 2023, the administrative law judge (ALJ) filed Order No. 11, directing the Staff (Staff) of the Public Utility Commission of Texas (Commission) to file recommendations on whether 1) the Applicants' capital improvements plan satisfies the requirements of the Commission, Texas Water Code (TWC) § 13.244(d)(3) and 16 Texas Administrative Code (TAC) § 24.233(a)(6); 2) the Applicants provided loan documentation in accordance with 16 TAC § 24.11(e)(5)(A) or if a request for a good cause exception should be granted; 3) the Applicants provided supplemental notice in accordance with TWC § 13.246(a-1) and 16 TAC § 24.235(b)(2); and 4) the Applicants' supplemental materials, if any, regarding need for service and mapping, is sufficient. On November 8, 2023, the ALJ filed Order No. 17, establishing a deadline of November 20, 2023 for Staff to file its recommendations. Therefore, this pleading is timely filed.

I. RECOMMENDATION ON THE CAPITAL IMPROVEMENTS PLAN

Staff has reviewed the updated capital improvements plan provided on November 6, 2023 and, as detailed in the attached memorandum of Patricia Garcia, Infrastructure Division, recommends that CSWR-Texas' capital improvements plan be approved. Specifically, CSWR-Texas is proposing to make capital improvements to RJR Water's water system and the updated capital improvements plan included a budget, an estimated timeline for construction, and a keyed map showing where facilities will be located. Therefore, Staff recommends that the capital improvements plan complies with TWC § 13.244(d)(3) and 16 TAC § 24.233(a)(6).

II. RECOMMENDATION ON LOAN DOCUMENTATION

Staff has reviewed CSWR-Texas's response regarding loan documentation under 16 TAC § 24.11(e)(5)(A) and, as detailed in the attached memorandum of Fred Bednarski, Rate Regulation Division, recommends CSWR-Texas has satisfied 16 TAC § 24.11(e)(5). Specifically, Staff notes that CSWR-Texas has sufficient capital to pay for the capital improvements and has a firm capital commitment from its parent as well. Alternatively, if the ALJ were to find that sufficient capital or a firm capital commitment is not sufficient to qualify as loan documentation to satisfy 16 TAC § 24.11(e)(5)(A), Staff recommends that CSWR-Texas's request for a good cause exception to 16 TAC § 24.11(e)(5)(A) be granted.

III. RECOMMENDATION ON SUPPLEMENTED NOTICE

Staff has reviewed the supplemental proof of notice filed on October 3, 2023 and recommends that it is sufficient. Specifically, CSWR-Texas provided an affidavit of notice, dated September 27, 2023 and signed by Aaron Silas, Director of Regulatory Operations of CSWR-Texas, attesting that each landowner of a tract of land that is at least 25 acres and is wholly or partially located in the requested area received individual notice by first-class mail. Therefore, Staff recommends that the supplemental notice be deemed sufficient. Furthermore, the supplemental notices, to the extent that such landowners had not previously received individual notice, were mailed on September 8, 2023. As such, Staff also recommends that, to the extent such landowners did not already receive notice, any potential deadline for intervention by these landowners, if even allowed at this stage of the proceeding, has already passed with no requests for intervention being made since supplemental notice was provided to these landowners.

IV. RECOMMENDATION ON NEED FOR SERVICE AND MAPPING

Staff has reviewed CSWR-Texas's response regarding need for service and mapping and, as detailed in Ms. Garcia's memorandum, recommends that need for service has been demonstrated.

V. CONCLUSION

For the reasons detailed above, Staff respectfully requests the entry of an order consistent with the foregoing recommendations finding that the Applicants have sufficiently addressed the issues in Order No. 11.

Date: November 20, 2023

Respectfully submitted,

PUBLIC UTILITY COMMISSION OF TEXAS LEGAL DIVISION

Marisa Lopez Wagley
Division Director

Ian Groetsch
Managing Attorney

/s/ Scott Miles
Scott Miles
State Bar No. 24098103
1701 N. Congress Avenue
P.O. Box 13326
Austin, Texas 78711-3326
(512) 936-7228
(512) 936-7268 (facsimile)
Scott.Miles@puc.texas.gov

DOCKET NO. 52700

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 November 20, 2023 in accordance with the Second Order Suspending Rules, filed in Project No. 50664.

/s/ Scott Miles
Scott Miles

Public Utility Commission of Texas

Memorandum

TO: Scott Miles, Attorney
Legal Division

FROM: Patricia Garcia, Infrastructure Analysis Section Director
Infrastructure Division

DATE: November 20, 2023

RE: Docket No. 52700 – *Application of RJR Water Company, Inc. and CSWR-Texas Utility Operating Company, LLC for Sale, Transfer, or Merger of Facilities and Certificate Rights in Parker and Palo Pinto Counties*

1. Application

CSWR-Texas Utility Operating Company, LLC (CSWR-Texas) and RJR Water Company, Inc. (RJR Water) (collectively, Applicants) filed an application for a sale, transfer, or merger (STM) of facilities and certificate rights in Parker and Palo Pinto Counties, 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 water service area from RJR Water under water Certificate of Convenience and Necessity (CCN) No. 12139. The requested area includes 136 customer connections and approximately 346 acres of transferred area from RJR's water CCN No. 12139 to CSWR-Texas' water CCN No. 13290.

The application proposes the subtraction of approximately 346 acres from CCN No. 12139. The application proposes the addition of approximately 346 acres to CCN No. 13290.

2. Notice

CSWR-Texas provided notice consistent with 16 TAC § 24.239(c). The deadline to intervene was December 20, 2021. There were no motions to intervene, protests, or opt-out requests received.

On October 3, 2023, CSWR-Texas submitted an affidavit stating that each landowner of a tract of land that is at least 25 acres and is wholly or partially located in the requested area received individual notice by mail. I recommend CSWR-Texas' notice be found sufficient.

3. Need for Service

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 all of RJR Water's public water system facilities, service area, and customers to CSWR-Texas. There are no uncertificated areas being added to CSWR-Texas' CCN in this application. The only area to be transferred is currently certificated to RJR Water. There is no need for additional service as CSWR-Texas will continue to provide service to the customers in the area. I recommend need for service is necessary for the customers in the requested area and that need for service has been satisfied.

4. Capital Improvements Plan

An application for a certificate of public convenience and necessity or for an amendment to a certificate must contain: a capital improvements plan, including a budget and estimated timeline for construction of all facilities necessary to provide full service to the entire proposed service area (TWC § 13.244(d)(3)).

CSWR-Texas is proposing to make improvements to RJR Water's water systems. CSWR-Texas provided a capital improvement plan which included a budget, an estimated timeline for construction, and a keyed map showing where facilities will be located. The proposed capital improvements are estimated at \$100,000. However, with a cumulative review of all their new utilities, CSWR-Texas' capital improvements are expected to exceed \$100,000. Therefore, the need for loan documentation or firm capital commitment under 16 TAC § 24.11(e)(5) is required.

The Rate Regulation Division will be addressing the need for loan documentation or firm capital commitment criterion in a separate memo.

5. Recommendation

I recommend CSWR-Texas' notice be found sufficient, approval of the capital improvement plan, need for service is satisfied, and that a public hearing is not necessary.

Public Utility Commission of Texas

Memorandum

TO: Scott Miles, Attorney
Legal Division

FROM: Fred Bednarski III, Financial Analyst
Rate Regulation Division

DATE: November 20, 2023

RE: Docket No. 52700 – *Application of RJR Water Company, Inc. and CSWR-Texas Utility Operating Company, LLC for Sale, Transfer, or Merger of Facilities and Certificate Rights in Parker and Palo Pinto Counties*

On October 12, 2021, CSWR-Texas Utility Operating Company (CSWR-Texas), CCN No. 13290, and RJR Water Company, Inc. (RJR), CCN No. 12139, filed an application for the sale and transfer of facilities and certificate rights in Parker and Palo Pinto Counties under the provisions of Texas Water Code § 13.301 and 16 Texas Administrative Code (TAC) § 24.239.

On June 13, 2023, the administrative law judge filed Order No. 11, requiring CSWR-Texas to file information that capital improvements exceed \$100,000 and if so, to either file loan documentation in accordance with 16 TAC § 24.11(e)(5)(A) or request a good cause exception under 16 TAC § 24.2(b).

16 TAC § 24.11(e)(5)(B) allows the owner to meet the financial test under 16 TAC § 24.11(e)(5) by providing loan approval documents or firm capital commitments. At the February 16, 2023 open meeting, the Commission elaborated upon its previous discussion regarding these requirements at the October 6, 2022 open meeting and clarified that audited financial statements showing an adequate cash surplus were sufficient proof of financial assurance.¹

CSWR-Texas filed documentation demonstrating access to adequate cash funding for this application, as well as CSWR-Texas' pending applications, as indicated in confidential attachment

¹ Open Meeting at 39:40 (Feb. 16, 2023), Item No. 3 (*available at https://www.adminmonitor.com/tx/puct/open_meeting/20230216/*).

FB-1.1. CSWR-Texas' parent has committed capital to pay for the capital improvements regarding this application and pending STM proceedings, and is capable, available, and willing to cover any temporary cash shortages and operating expense shortfalls in this and other STM proceedings.² CSWR-Texas submitted audited financial statements containing a cash and cash equivalents balance sufficient to pay for the purchase price of RJR, the remaining systems' purchase prices, RJR's improvement cost, and the remaining systems' improvements costs. Therefore, I recommend a finding that CSWR-Texas provided adequate cash funding, a firm capital commitment, that satisfies the requirements of 16 TAC § 24.11(e)(5)(A) and that, if necessary, a good cause exception should be granted to the requirement to provide loan approval documents.

² Application, Highly Sensitive Attachment G at bates page 6 (Oct. 13, 2021).