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DOCKET NO. 52879

APPLICATION OF CARROLL WATER COMPANY, INC. AND CSWR-TEXAS UTILITY OPERATING COMPANY, LLC FOR SALE, TRANSFER, OR MERGER OF FACILITIES AND CERTIFICATE RIGHTS IN ELLIS COUNTY	§ § § § § § §	PUBLIC UTILITY COMMISSION OF TEXAS
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COMMISSION STAFF’S RECOMMENDATION ON APPROVAL OF THE SALE

On November 29, 2021, CSWR-Texas Utility Operating Company, LLC (CSWR-Texas) and Carroll Water Company, Inc. (Carroll Water) (jointly, Applicants) filed an application for approval of the sale, transfer, or merger of facilities and certificate of convenience and necessity (CCN) rights in Ellis County. Applicants seek approval to sell and transfer all of Carroll Water's water systems under CCN No. 11543 to CSWR-Texas CCN No. 13290. The application reflects a requested area of 1,668 acres and 584 customers. Applicants filed supplemental information on November 23, 2021 and December 7, 2021.

On February 8, 2022, the administrative law judge filed Order No. 3, directing the Staff (Staff) of the Public Utility Commission of Texas (Commission) to request a hearing or file a final recommendation on approval of the sale by March 18, 2022. Therefore, this pleading is timely filed.

I. RECOMMENDATION TO ALLOW THE TRANSACTION TO PROCEED

As detailed in the attached memorandum of Patricia Garcia, Infrastructure Division, Staff recommends and respectfully requests the entry of an order permitting the proposed transaction to proceed. Staff's review of the application indicates that the proposed transaction satisfies the relevant statutory and regulatory criteria, including those factors identified in Texas Water Code § 13.246(c). Additionally, Staff recommends that CSWR-Texas has demonstrated the financial, technical, and managerial capability to provide continuous and adequate service to the area subject to the proposed transaction and that a public hearing is not necessary. The approval of the sale expires six months from the date of the Commission's written approval of the sale. If the sale is not effectuated within that period, and unless the Applicants request and receive an extension

from the Commission, the approval is void and the Applicants must re-apply for approval of the sale.

Finally, Staff also recommends that Applicants be ordered to file documentation demonstrating that the transaction has been consummated and that the disposition of any remaining deposits have been addressed as required by 16 Texas Administrative Code § 24.109(m)-(n). The CCN remains in the name of Carroll Water until the transfer is complete and approved in accordance with the Commission's rules and regulations.

II. CONCLUSION

Staff respectfully requests that an order be issued permitting the proposed transaction to proceed.

Dated: March 18, 2022

Respectfully submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS
LEGAL DIVISION**

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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 March 18, 2022, in accordance with the Order Suspending Rules, issued in Project No. 50664.

/s/ Kourtnee Jinks

Kourtnee Jinks

Public Utility Commission of Texas

Memorandum

TO: Kourtnee Jinks, Attorney
Legal Division

FROM: Patricia Garcia, Senior Engineering Specialist
Infrastructure Division

DATE: March 18, 2022

RE: Docket No. 52879 – *Application of Carroll Water Company, Inc. and CSWR-Texas Utility Operating Company, LLC for Sale, Transfer, or Merger of Facilities and Certificate Rights in Ellis County*

1. Application

On November 22, 2021, CSWR-Texas Utility Operating Company, LLC (CSWR-Texas) and Carroll Water Company, Inc. (Carroll Water) (collectively Applicants) filed an application for sale, transfer, or merger (STM) of facilities and certificate rights in Ellis County, Texas, under Texas Water Code (TWC) § 13.301 and 16 Texas Administrative Code (TAC) § 24.239.

Specifically, CSWR-Texas, certificate of convenience and necessity (CCN) No. 13290, seeks approval to acquire facilities and to transfer all of the water service area from Carroll Water under water CCN No. 11543. The requested area includes approximately 1,668 acres, comprised of 1,668 acres of transferred area (from CCN No. 11543).

The application proposes the transfer of approximately 1,668 acres from CCN No. 11543 to CCN No. 13290. Approximately 1,078 acres would remain dually certificated with Buena Vista-Bethel SUD, CCN No. 10898. Approximately 529 acres would remain dually certificated with City of Midlothian, CCN No. 11706. Approximately 61 acres would remain dually certificated with City of Red Oak, CCN No. 11074.

The application indicates that the total acreage being requested is approximately 1,676 acres with a total of 584 customer connections. Based on the mapping review by Gary Horton, Infrastructure Division, it was determined the requested area is approximately 1,668 acres.

In addition, the Applicants requested approval of the transaction using the fair market value of the assets rather than their original cost as allowed under TWC § 13.305.

2. Notice

CSWR-Texas provided notice consistent with 16 TAC § 24.239(c). The deadline to intervene was February 14, 2022; 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. I address these factors below. In addition, the Commission must consider the request for the determination under TWC § 13.305(i)(1) of the ratemaking rate base of the acquired facilities. I also address this request below.

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

Carroll Water has five Texas Commission on Environmental Quality (TCEQ) approved public water systems. The water systems are registered as Emerald Forest, PWS ID: 0700058, Grande Casa, PWS ID: 0700063, Lakeview Ranchettes, PWS ID: 0700057, Red Oak Community Water Service PWS ID: 0700056, and Spanish Grant Subdivision PWS ID: 0700064. Each of the public water systems had compliance investigations done by the TCEQ on April 5, 2018. Emerald Forest, Grande Casa, Red Oak Community Water System, and Spanish Grant Subdivision have unresolved violations for each water system. The Commission's complaint records, which date back to 2017, show that 101 complaints have been filed against Carroll Water. In addition, Carroll Water had an agreement with the Commission's enforcement division regarding some outstanding violations which they have not complied with.

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 Carroll Water public water systems to CSWR-Texas. The customers are currently receiving water service from the Carroll Water's public water systems.

There are currently 584 existing customers in the requested area, therefore, there is a need for service.

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 be required to provide adequate and continuous service to the requested area.

There will be no effect on landowners as the area is currently 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 acquiring utility 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)).*

CSWR-Texas has the ability to provide adequate service in the requested area. CSWR-Texas has purchased several TCEQ approved public water systems and wastewater treatment plants. The Commission's complaint records, which date back to 2017, show 12 complaints against CSWR-Texas.

CSWR-Texas stated its intent 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.

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.

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).*

- 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, 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.

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).*

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).*

- 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 area, with 446 water connections and 6 acres of sewer service area with 5 connections in Hood County from Laguna Tres, Inc. and Laguna Vista Limited.
- 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 from Kathie Lou Daniels dba Woodlands West.
- 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

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).*

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).*

connections in Guadalupe and Wilson Counties from Oak Hills Ranch Estates Water Company.

- 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 from Donald E. Wilson dba Quiet Village II dba QV.
- Docket No. 51928:¹⁵ CSWR-Texas acquired the public water system, Thousand Oaks Subdivision, PWS No. 0720054 and associated facilities, this includes approximately 96 acres and 15 connections in Erath County from Betty J. Dragoo.
- Docket No. 51981:¹⁶ CSWR-Texas acquired the public water systems, Live Oak Hills Subdivision, PWS No. 1540012, Flag Creek Ranch, PWS No. 1500112, and associated facilities for each including approximately 425 acres and 68 connections in Llano and McCulloch Counties from Live Oak Hills and Flag Creek Ranch Water Systems.
- Docket No. 51544:¹⁷ CSWR-Texas acquired the public water systems, Franklin Water Systems 1, PWS No. 1520224 and Franklin Water Systems 3, PWS No. 1520080 and associated facilities for each including approximately 186 acres and 219 connections in Lubbock County from Franklin Water Service Co. LLC.
- Docket No. 51222:¹⁸ CSWR-Texas acquired the public water system, Big Wood Springs Water System, PWS No. 2500019 and associated facilities, this includes approximately 643 acres and 76 connections in Wood County.
- Docket No. 51917:¹⁹ CSWR-Texas acquired the public water system, The Woodlands Water System, PWS ID number 1050139 and associated facilities, this includes approximately 1,004 acres and 69 connections in Hays County from Rocket Water Company, Inc.

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 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 (Jan. 21, 2022).*

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 (Jan. 28, 2022).*

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 (Feb. 15, 2022).*

¹⁸ *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 (Feb. 16, 2022).*

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 (Mar. 8, 2022).*

- Docket No. 51642:²⁰ 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. 52089:²¹ 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. 51940:²² 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. 52099:²³ 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 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

²⁰ *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).*

²¹ *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).*

²² *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).*

²³ *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)*

Navarro County. For this docket, CSWR-Texas is seeking to transfer approximately 83.7 acres and 378 connections in Navarro County.

- Docket No. 52410:²⁴ Leon Springs Utility Co, Inc. (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. For this docket, CSWR-Texas is seeking to transfer approximately 1,419 acres and 1,209 connections in Bexar County.
- Docket No. 51126:²⁵ 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. 52700:²⁶ RJR Water Company, Inc. (RJR Water) has a TCEQ public water system registered under PWS ID No. 1840077. The last TCEQ compliance investigation of the RJR Water system was on September 9, 2021. All violations or concerns noted as a result of that investigation have been resolved. For this docket, CSWR-Texas is seeking to transfer approximately 346 acres and 136 connections in Parker and Palo Pinto Counties.
- Docket No. 52702:²⁷ Fremont Water Company (Fremont) has a TCEQ public water system registered as Fremont Water under PWS ID No. 1330153. The last TCEQ compliance investigation of the Fremont Water system was on January 17, 2017. All violations or concerns noted as a result of that investigation have been resolved. For this docket, CSWR-Texas is seeking to transfer approximately 139 acres and 58 connections in Kerr County.
- Docket No. 52803:²⁸ Copano Cove Water Company, Inc. (Copano Cove) has a TCEQ public water system registered as Copano Cove Subdivision under PWS ID No. 0040003 and Copano Ridge Subdivision under PWS ID: 0040029. The last TCEQ

²⁴ *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, Docket No. 52410 (pending)*

²⁵ *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).*

²⁶ *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, Docket No. 52700 (pending)*

²⁷ *Application of CSWR-Texas Utility Operating Company, LLC and Fremont Water Company for Sale, Transfer, or Merger of Facilities and Certificate Rights in Kerr County, Docket No. 52702 (pending)*

²⁸ *Application of Copano Cove Water Company, Inc. and CSWR-Texas Utility Operating Company, LLC for Sale, Transfer, or Merger of Facilities and Certificate Rights in Aransas County, Docket No. 52803 (pending)*

compliance investigation of the Copano Cove Water system was on August 31, 2021. There are several violations listed in the TCEQ database for the Copano Cove Water public water system. The last TCEQ compliance investigation of the Copano Ridge Subdivision was on June 23, 2020. There no violations listed in the TCEQ database for the Copano Ridge Subdivision. 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 1,267 acres and 713 connections in Aransas 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 areas. 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)).*

Carroll Water 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 the 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 buyer 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 transferee 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) and 13.301(c); 16 TAC §§ 24.227(f) and 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); 16 TAC §§ 24.227(e)(7) and (9) and 24.239(h)(5)(G)).*

The environmental integrity of the land will be minimally affected as improvements are made at each water system which may include construction of facilities to provide service to the requested area.

3.10. *Determination of the ratemaking rate base of the acquired facilities (TWC § 13.305(i)(1)).*

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

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

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

The 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 water facilities in the requested areas, and the water service areas of the water CCN No. 11543 to CSWR-Texas and amending water CCN No. 13290 of CSWR-Texas 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 the Applicants be allowed to proceed with the proposed transaction. There are deposits held by Carroll Water for some of the customers being served by the Emerald Forest, Grande Casa, Lakeview Ranchettes, Red Oak Community Water Service and Spanish Grant Subdivision public water systems. I further recommend that a public hearing is not necessary.

Public Utility Commission of Texas

Memorandum

TO: Kourtnee Jinks, Attorney
Legal Division

FROM: Fred Bednarski III, Financial Analyst
Rate Regulation Division

DATE: March 18, 2022

RE: Docket No. 52879 – *Application of Carroll Water Company, Inc. and CSWR-Texas Utility Operating Company, LLC for Sale, Transfer, or Merger of Facilities and Certificate Rights in Ellis County*

On November 22, 2021, Carroll Water Company, Inc. (Carroll Water) and CSWR-Texas Utility Operating Company, LLC (CSWR-Texas) filed an application for the sale and transfer of facilities and certificate rights in Ellis County.

I recommend a finding that CSWR-Texas demonstrates 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 ratio of 0.16. Because the ratio is less than 1.0, 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 CWSR's commitment to providing funds necessary for cash required to purchase Carroll Water's 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 Carroll Water, 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 less than the sales price, the ratemaking rate base for Carroll Water is the average appraisal amount, provided in confidential Attachment FB-1, as prescribed by the provisions of TWC § 13.305(g).