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DOCKET NO. 53238

APPLICATION OF SIMPLY	§	PUBLIC UTILITY COMMISSION
AQUATICS, INC. AND CSWR-TEXAS	§	
UTILITY OPERATING COMPANY,	§	OF TEXAS
LLC FOR SALE, TRANSFER OR	§	
MERGER OF FACILITIES AND	§	
CERTIFICATE RIGHTS IN	§	
MONTGOMERY, SABINE AND SAN	§	
AUGUSTINE COUNTIES	§	

**ORDER NO. 10
REQUIRING CLARIFICATION AND ESTABLISHING DEADLINES**

This Order requires CSWR-Texas Utility Operating Company, LLC and Commission Staff to provide clarification, and possibly additional documentation, on two issues relevant to this application that were raised by the Commission at its October 6, 2022 open meeting¹ during its discussion of Docket No. 52391.² Specifically, the Commission discussed the following: (1) the requirements of 16 Texas Administrative Code (TAC) § 24.11(e)(5)(B) and what is required to demonstrate a firm capital commitment, and (2) the requirements of Texas Water Code (TWC) § 13.244(d)(3) and what constitutes a capital improvement plan.

I. Firm Capital Commitment

The requirements of 16 TAC § 24.11(e)(5) apply either when an applicant is proposing service to a new CCN area or a substantial addition to its current CCN area requiring capital improvements in excess of \$100,000. If capital improvements required by an applicant for a CCN amendment exceed \$100,000, the applicant must demonstrate that all funds needed to install the CCN applicant's proposed facilities for the requested service area are available.³ A financial guarantee letter does not satisfy this requirement.⁴

¹ Open Meeting at 32:38 (Oct. 6, 2022), Item No. 7 (available at https://adminmonitor.com/tx/puct/open_meeting/20221006/).

² *Application of Liberty County Utilities, LLC for Water and Sewer Certificates of Convenience and Necessity in Liberty County*, Docket No. 52391 (pending). See also, *id.*, Order Remanding Proceeding to Docket Management (Oct. 20, 2022).

³ *Id.* at 2.

⁴ *Id.*

The ALJ requires the following clarification and confirmation in this application:

1. By February 3, 2023, CSWR-Texas must file clarification on whether the service area to be added to its CCN number 13290 service area is a substantial addition to its current CCN area requiring capital improvements in excess of \$100,000 in order to provide continuous and adequate service to existing customers and projected customers in the first two years of projections. CSWR-Texas shall identify the documents in its application that support its response or provide additional information, as needed.
2. By February 10, 2023, Commission Staff must file comments and make a recommendation regarding whether CSWR-Texas's application satisfies the requirements of 16 TAC § 24.11(e)(5), consistent with the Commission's discussion at its October 6, 2022 open meeting.

II. Capital Improvement Plan

Under TWC § 13.244(d)(3), an applicant for a CCN or an amendment to a CCN must provide a capital improvement plan, which must include a budget and estimated timeline for construction of all facilities necessary to provide full service to the entire proposed service area and must be keyed to a map showing where the facilities will be located to provide service.⁵ A pro forma budget is not a capital improvement plan under the TWC or the Commission's rules.⁶

The ALJ requires the following clarification and confirmation in this application:

1. By February 3, 2023, CSWR-Texas Utility must identify the documents constituting its capital improvement plan for the requested CCN area; and
2. By February 10, 2023, Commission Staff must file comments and a recommendation on whether CSWR-Texas Utility has satisfied the requirements of TWC § 13.244(d)(3), consistent with the Commission's discussion at its October 6, 2022 open meeting.

⁵ *Id.*, Order Remanding Proceeding to Docket Management at 2.

⁶ *Id.*

Signed at Austin, Texas the 20th day of January 2023.

PUBLIC UTILITY COMMISSION OF TEXAS

Susan E. Goodson

**SUSAN E. GOODSON
ADMINISTRATIVE LAW JUDGE**

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