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DOCKET NO. 53326

APPLICATION OF CSWR-TEXAS § PUBLIC UTILITY COMMISSION
UTILITY OPERATING COMPANY §
LLC AND ARANSAS BAY UTILITIES §
CO., LLC FOR SALE, TRANSFER, OR § OF TEXAS
MERGER OF FACILITIES AND §
CERTIFICATE RIGHTS IN ARANSAS §
COUNTY

COMMISSION STAFF’S RECOMMENDATION ON APPROVAL OF SALE

On March 10, 2022, CSWR-Texas Utility Operating Company, LLC (CSWR-Texas) and Aransas Bay Utilities Co., LLC (Aransas Bay Utilities) (collectively, the Applicants) filed an application for sale, transfer, or merger (STM) of facilities and certificate rights in Aransas County. Specifically, CSWR-Texas seeks approval to acquire facilities and to transfer water and sewer service areas held under water Certificate of Convenience and Necessity (CCN) No. 13290 and sewer CCN No. 21120. The requested area includes approximately 282 acres, 409 water customer connections, and 35 sewer customer connections. The Applicants filed supplemental information on March 28, 2022, April 14, 2022, May 9, 2022, June 14, 2022, June 20, 2022, July 5, 2022.

On June 28, 2022, the administrative law judge (ALJ) filed Order No. 4, requiring the Staff (Staff) of the Public Utility Commission of Texas (Commission) to file a request for a hearing or final recommendation on approval of the sale and CCN amendment by July 12, 2022. Therefore, this pleading is timely filed.

I. RECOMMENDATION

Staff has reviewed the application and, as supported by the attached memoranda of Patricia Garcia of the Infrastructure Division and Ethan Blanchard of the Rate Regulation Division recommends 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 will serve the public interest and 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(1).

Staff notes that the approval of the sale expires 180 days from the date of the Commission's written approval of the sale. If the sale is not consummated 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 the approval of the sale, as required by 16 TAC § 24.239(m).

II. CONCLUSION

Staff respectfully requests the entry of an order permitting the proposed transaction to proceed.

Dated: July 12, 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 July 12, 2022, in accordance with the Order Suspending Rules, issued in Project No. 50664.

/s/ Arnett D. Caviel
Arnett D. Caviel

Public Utility Commission of Texas

Memorandum

TO: Arnett Caviel, Attorney
Legal Division

FROM: Patricia Garcia, Senior Engineering Specialist
Infrastructure Division

DATE: July 12, 2022

RE: Docket No. 53326 – *Application of CSWR-Texas Utility Operating Company, LLC and Aransas Bay Utilities Co., LLC for Sale, Transfer, or Merger of Facilities and Certificate Rights in Aransas County*

1. Application

On March 10, 2022, CSWR-Texas Utility Operating Company, LLC (CSWR-Texas) and Aransas Bay Utilities Co., LLC (Aransas Bay) (collectively, Applicants) filed an application for sale, transfer, or merger (STM) of facilities and certificate rights in Aransas County, Texas, under Texas Water Code (TWC) § 13.301 and 16 Texas Administrative Code (TAC) § 24.239.

Specifically, CSWR-Texas, water Certificate of Convenience and Necessity (CCN) No. 13290 and sewer CCN No. 21120, seeks approval to acquire facilities and to transfer all of the water and sewer service area from Aransas Bay under water CCN No. 10566 and sewer CCN No. 20607.

Based on the mapping review by Dave Babicki, Infrastructure Division:

- The requested water area includes 409 customer connections and approximately 282 acres of transferred area from CCN No. 10566 to CCN No. 13290.
- The requested sewer area includes 35 customer connections and approximately 35 acres of transferred area from CCN No. 20607 to CCN No. 21120.
- The application proposes the subtraction of approximately 282 acres from CCN No. 10566 and approximately 35 acres from CCN No. 20607, and the addition of approximately 282 acres to CCN No. 13290 and approximately 35 acres to CCN No. 21120.

2. Notice

CSWR-Texas provided notice consistent with 16 TAC § 24.239(c). The deadline to intervene was May 27, 2022; there were no motions to intervene, protests, or opt-out requests received.

3. Factors Considered

Under TWC §§ 13.241, 13.246, and 13.301 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)(D)).*

Aransas Bay has a Texas Commission on Environmental Quality (TCEQ) approved public water system (PWS) registered as Aransas Bay Utilities, PWS ID: 0040018. The last TCEQ compliance investigation of the Aransas Bay system was on January 13, 2022. There were four violations noted based on the investigation. CSWR has stated its intent to invest the capital required to resolve all issues at the systems they are purchasing. The improvements will begin when the systems are officially transferred to CSWR-Texas.

Aransas Bay also has a wastewater treatment plant (WWTP) registered as Aransas Bay Utilities, Wastewater Discharge Permit No. WQ00495-6000. The last TCEQ compliance investigation of the Aransas Bay system was on November 18, 2019. Aransas Bay does not have any violations listed in the TCEQ database for the sewer system. The Commission's complaint records, which date back to 2017, show no complaints against Aransas Bay.

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 Aransas Bay Utilities water and sewer systems to CSWR-Texas. The customers are currently receiving water and sewer service from Aransas Bay's water and sewer systems.

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 continuous and adequate 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.

TCEQ rule, 30 TAC §30.331(b), Wastewater Operators and Operations Companies, requires the operators of a domestic wastewater treatment facility to have a valid license issued by the TCEQ executive director. CSWR-Texas will have qualified TCEQ licensed operators licensed in wastewater treatment to run the acquired systems.

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 CSWR-Texas has acquired a public water system registered with the TCEQ as Waterco, PWS No. 1690028, associated facilities, approximately 25 acres of service area, and 13 connections in Montague County from James L. Nelson dba Waterco.
- Docket No. 51940:²¹ CSWR-Texas has acquired a public water system registered with the TCEQ as Walnut Bend Water Supply, PWS ID No. 0030037, associated facilities, approximately 48 acres of service area, and 19 connections in Angelina County from Walnut Bend Water Supply aka Walnut Bend Water System.
- Docket No. 52089:²² CSWR-Texas acquired the public water system registered as Woodland Harbor, PWS ID No. 0320014, and associated facilities, approximately 217 acres of service area, and 163 connections in Camp County from Alpha Utility of Camp County, LLC.
- Docket No. 52410:²³ CSWR-Texas has acquired the TCEQ approved WWTP registered as Bridgewood Wastewater Treatment Facility, Wastewater Discharge Permit No. WQ14376-001, and associated facilities, approximately 1,419 acres of service area, and 1,209 connections in Bexar County from Leon Springs Utility Co, Inc.
- 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 wastewater treatment plant (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 Navarro County. For this docket, CSWR-Texas is seeking to transfer approximately 83.7 acres and 378 connections in Navarro County.

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 (Mar. 17, 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 (Mar. 17, 2022).*

²² *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 (Mar. 25, 2022).*

²³ *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 (Jun. 3, 2022)*

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)*

- 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 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.

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)*

- Docket No. 52879:²⁹ Carroll Water Company, Inc. (Carroll Water) has five public water systems 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. For this docket, CSWR-Texas is seeking to transfer approximately 1,676 acres and 584 connections in Ellis County.
- Docket No. 52661:³⁰ Tri-County Point Property Owners Association (Tri-County) has three TCEQ approved PWS registered as Tri County Point Water System 2, PWS ID No. 1200027, Tri County Point Water System 3, PWS ID No. 1200028, and Tri County Point Water System 4, PWS ID No. 1200029. The last TCEQ compliance investigation of the Tri-County systems was on March 26, 2020. Tri-County has violations listed in the TCEQ database for their public water systems. Tri-County also has a TCEQ approved WWTP registered as Tri-County Point Property Owners Association WWTP, Wastewater Discharge Permit No. WQ0015399001. The last TCEQ compliance investigation of the Tri-County system was on March 17, 2021. Tri-County has self-reported violations listed in the TCEQ database. For this docket, CSWR-Texas is seeking to transfer a total of approximately 476 water customer connections and approximately 702 acres of transferred area from Tri-County (CCN No. 11786) to CSWR (CCN Nos. 13290 and a total of approximately 447 sewer customer connections and approximately 1,841 acres of transferred area from Tri-County (CCN No. 20616) to CSWR (CCN Nos. 21120).
- Docket No. 52880:³¹ Texas Landing Utilities (Texas Landing) has three public water systems treatment plant registered as Texas Landing Utilities Deerwood, PWS ID No. 1700798, Texas Landing Utilities Goode City, PWS ID No. 1700744, Texas Landing Utilities, PWS ID No. 1870151 and one wastewater treatment plant (WWTP) registered as Texas Landing Utilities, Wastewater Discharge Permit No. WQ-13147-001. The last TCEQ compliance investigation of the Texas Landing system was on December 1, 2020. Texas Landing has violations listed in the TCEQ database, that are on the path to compliance. For this docket, CSWR-Texas is seeking to transfer 310 water customer connections and approximately 844 acres and 119 sewer connections and approximately 93 acres in Polk and Montgomery counties.

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

²⁹ *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, Docket No. 52879 (pending)*

³⁰ *Application of Tri-County Point Property Owners Association and CSWR-Texas Utility Operating Company, LLC for Sale, Transfer, or Merger of Facilities and Certificate Rights in Calhoun and Jackson Counties, Docket No. 52661 (pending)*

³¹ *Application of Texas Landing Utilities and CSWR-Texas Utility Operating Company, LLC for Sale, Transfer, or Merger of Facilities and Certificate Rights in Polk and Montgomery Counties, Docket No. 52880 (pending)*

- 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)).***

Aransas Bay 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 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 will be 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 will be 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)).***

The customers' rates will not change from the current rates for the Aransas Bay Utilities water and sewer systems. Reliability and quality of water service is expected to improve under CSWR-Texas's management.

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 area, and all of the water service area of the water CCN No. 10566 and all of the sewer service area of the sewer CCN No. 20607 from Aransas Bay to CSWR-Texas and cancelling water CCN No. 10566 and sewer CCN No. 20607 of Aransas Bay and

amending water CCN No. 13290 and sewer CCN No. 21120 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 some customers of Aransas Bay for the customers being served by the Aransas Bay Utilities water and sewer systems. I further recommend that a public hearing is not necessary.

Public Utility Commission of Texas

Memorandum

TO: Arnett Caviel
Legal Division

FROM: Ethan Blanchard
Rate Regulation Division

DATE: July 12, 2022

RE: Docket No. 53326 – *Application of CSWR-Texas Utility Operating Company, LLC and Aransas Bay Utilities Co., LLC for Sale, Transfer, or Merger of Facilities and Certificate Rights in Aransas County*

On May 13, 2022, CSWR-Texas Utility Operating Company (CSWR-TUOC), CCN Nos. 13290 (water) and 21120 (sewer), and Aransas Bay Utilities Company, LLC (Aransas), CCN Nos. 10566 (water) and 20607 (sewer), filed an application for the sale and transfer of facilities and certificate rights in Aransas County under the provisions of Texas Water Code § 13.301 and 16 Texas Administrative Code § 24.239.

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-TUOC 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

CSWR-TUOC filed an affidavit stating that CSWR, LLC is capable, available, and willing to cover any temporary cash shortages or operating expense shortfalls.¹

My analysis is based on financial statements ending December 31, 2021. These financial statements contain an unqualified auditor's opinion from RSM US LLP stating that the financial

¹ 53326 CSWR Supplemental Attachment G-1 to Application at 7 (Jun. 20, 2022).

statements present fairly, in all material respects, the financial position of CSWR, LLC as of December 31, 2021.²

CSWR-TUOC provided the financial statements CSWR, LLC, which demonstrates debt-to-equity ratio of 0.11. Based upon my review of the financial statements of CSWR, LLC, I recommend a finding that CSWR, LLC meets the leverage test specified in 16 TAC § 24.11(e)(2)(A). Therefore, I recommend a finding that—through its affiliate—CSWR-TUOC meets the leverage test as specified in 16 TAC § 24.11(e)(2)(E).

Operations Test

An affiliated interest may provide a written guaranty of coverage of temporary cash shortages if the affiliated interest also satisfies the leverage test, as required by 16 TAC § 24.11(e)(3).

CSWR, LLC provided a written guaranty and also satisfied the leverage test. Therefore, I recommend a finding that CSWR-TUOC meets the operations test specified in 16 TAC § 24.11(e)(3).

Fair Market Valuation

Because CSWR-TUOC has filed notice with the Commission of its intent to use a fair market value (FMV) process to determine the ratemaking rate base of Aransas, Subsection (g) of Texas Water Code (TWC) § 13.305 shall apply to this proceeding, which states:

(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.

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

² 53326 CSWR's Second Supplement to Application – Supplemental Confidential Attachment F at bates 5 (Apr. 14, 2022).

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

Recommendation

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

Consequently, I recommend a finding that CSWR-TUOC demonstrates the financial and managerial capability needed to provide continuous and adequate service to the area subject to this application. My conclusions are based on information provided by CSWR-TUOC before the date of this memorandum and may not reflect any changes in CSWR-TUOC's status after this review.