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DOCKET NO. 53430

APPLICATION OF CSWR-TEXAS	§	PUBLIC UTILITY COMMISSION
UTILITY OPERATING COMPANY	§	
LLC AND WATER WORKS I AND II	§	OF
FOR SALE, TRANSFER, OR MERGER	§	
OF FACILITIES AND CERTIFICATE	§	TEXAS
RIGHTS IN LLANO COUNTY	§	

COMMISSION STAFF’S RESPONSE TO ORDER NO. 5

On February 22, 2022, CSWR-Texas Utility Operating Company, LLC (CSWR Texas) and Cody and Anita Lewis dba Cassie Water Company, Deer Springs Water Company, and Water Works I and II, filed an application for approval of the sale, transfer, and merger of facilities and certificate of convenience and necessity (CCN) rights in Burnet and Llano Counties.

On June 28, 2022, the administrative law judge (ALJ) filed Order No. 5, directing the Staff (Staff) of the Public Utility Commission of Texas (Commission) to reply by July 8, 2022, to CSWR Texas’ response to Mr. Blankenship’s request to intervene. Therefore, this pleading is timely filed.

I. BACKGROUND

On June 17, 2022, Mark Blankenship filed a motion to intervene in the above-styled and numbered docket. Mr. Blankenship stated that he and his wife, Joan Blankenship, are currently parties to a pending Service Agreement to Purchase (“Contract”), in which Mr. Blankenship and his wife, have agreed to purchase a portion of the real property referred to in this proceeding. Mr. Blankenship further asserted that the parties involved in the contract predate the contract between CSWR Texas and Water Works I and II.

On June 24, 2022, CSWR Texas filed its response to Mr. Blankenship’s request to intervene. CSWR Texas agreed that Mr. Blankenship is a customer of Water Works I and II and that he has a right to intervene in the matter, but that Mr. Blankenship’s request should be limited to his status as a customer and that Mr. Blankenship’s request for the Commission to render a decision on a real property sales contract is outside of the Commission’s jurisdiction.

II. STAFF'S RESPONSE

Staff is unclear on the scope of Mr. Blankenship's motion to intervene. If Mr. Blankenship intended to intervene as a customer of Water Works I and II, which he did not specify, Staff supports the intervention. As a customer of Water Works I and II, Mr. Blankenship has a justiciable interest which may be adversely affected by the outcome of the proceeding and should thus be allowed to intervene on that basis.¹ However, since this is a transaction under Texas Water Code (TWC) § 13.301 that is limited to examining whether CSWR has demonstrated adequate financial, managerial, and technical capability for providing continuous and adequate service to the requested area and whether it has met the criteria listed in TWC § 13.246(c), any intervention should be limited to examining compliance with those provisions. Any intervention outside that scope should be denied.

In Mr. Blankenship's motion to intervene, he asserted that he and his wife are currently in the process of purchasing a portion of the real property owned by Cody Lewis, the current owner and operator of Water Works I and II. Mr. Blankenship further argued that he is currently involved in a legal dispute in which a portion of the property was not allegedly conveyed to Mr. Blankenship and his spouse and requests that PUC postpone the transaction. After reviewing the documentation submitted by Mr. Blankenship and CSWR Texas, it is Staff's position that Mr. Blankenship's concerns regarding the contractual dispute between Mr. Lewis and the Blankenship's are beyond the scope of the current proceeding. As mentioned above, this proceeding is limited to examining whether CSWR met the requirements under TWC §§ 13.246(c) and 13.301. Mr. Blankenship's motion to intervene, in contrast, involves a contractual dispute and requests relief that is beyond the Commission's jurisdiction.² Therefore, it is Staff's position that to the extent Mr. Blankenship's motion for intervention is about this contractual dispute, it is outside of the Commission's jurisdiction.

III. CONCLUSION

For the reasons detailed above, Staff recommends that Mr. Blankenship's request to intervene be denied to the extent that the intervention request goes beyond Mr. Blankenship's

¹ See 16 TAC § 22.103(b).

² TWC § 13.001(c).

status as a customer of Water Works I and II and respectfully requests the entry of an order consistent with this recommendation.

Dated: July 8, 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 8, 2022, in accordance with the Order Suspending Rules, issued in Project No. 50664.

/s/ Ian Groetsch
Ian Groetsch