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**DOCKET NO. 53709**

**APPLICATION OF CSWR-TEXAS § PUBLIC UTILITY COMMISSION**  
**UTILITY OPERATING COMPANY, §**  
**LLC AND GEORGE FULLER, § OF TEXAS**  
**EXECUTOR OF THE ESTATE OF §**  
**VIRGINIA FULLER, FOR SALE, §**  
**TRANSFER, OR MERGER OF §**  
**FACILITIES IN LUBBOCK COUNTY §**

**ORDER NO. 7**  
**REQUIRING CLARIFICATION AND SUPPLEMENTAL RECOMMENDATION AND**  
**MODIFYING PROCEDURAL SCHEDULE**

This Order requires CSWR-Texas Utility Operating Company, George Fuller, executor of the estate of Virginia Fuller, and Commission Staff to provide clarification on two issues relevant to this application that were raised by the Commission at its October 6, 2022 open meeting<sup>1</sup> during its discussion of Docket No. 52391.<sup>2</sup> Specifically, the Commission discussed the following: (1) the requirements of 16 Texas Administrative Code (TAC) § 24.11(e)(5), and (2) the requirements of Texas Water Code (TWC) § 13.244(d)(3) and what constitutes a capital improvement plan.

**I. Substantial Addition and Capital Improvements**

The requirements of 16 TAC § 24.11(e)(5) apply either when an applicant is proposing service to a new certificate of convenience and necessity (CCN) area or a substantial addition to its current CCN area requiring capital improvements in excess of \$100,000. In this case, it appears CSWR-Texas is proposing to make a substantial addition to its current CCN area which will not require capital improvements in excess of \$100,000.

By January 27, 2023, the parties must jointly clarify the following:

1. Is CSWR-Texas proposing to make a substantial addition to its current CCN area with requiring capital improvements in excess of \$100,000?

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<sup>1</sup> Open Meeting at 32:38 (Oct. 6, 2022), Item No. 7 (available at [https://adminmonitor.com/tx/puct/open\\_meeting/20221006/](https://adminmonitor.com/tx/puct/open_meeting/20221006/)).

<sup>2</sup> *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).

2. If capital improvements in excess of \$100,00 are required, can applicants in a sale, transfer, or merger application use firm capital commitments to satisfy the requirements of 16 TAC § 24.11(e)(5) when 16 TAC § 24.11(e)(5)(A) appears to require loan approval documentation?

## 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.<sup>3</sup> A pro forma budget is not a capital improvement plan under the TWC or the Commission's rules.<sup>4</sup>

After reviewing the record of this proceeding, it is unclear to the administrative law judge (ALJ) which documents constitute CSWR-Texas's capital improvement plan.<sup>5</sup> Therefore, the ALJ requires the following:

1. By January 27, 2023, CSWR-Texas must identify the documents constituting its capital improvements plan; and
2. By February 3, 2023, Commission Staff must file a recommendation on whether CSWR-Texas has satisfied the requirements of TWC § 13.244(d)(3), consistent with the Commission's discussion at its October 6, 2022 open meeting.

## III. Procedural Schedule

The ALJ modifies the procedural schedule as follows:

Event	Date
Deadline for the parties to file clarification regarding capital improvements; deadline for CSWR-Texas to identify its capital improvements plan	January 27, 2023
Deadline for Commission Staff to file a recommendation on CSWR-Texas' capital improvements plan	February 3, 2023

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<sup>3</sup> *Id.*, Order Remanding Proceeding to Docket Management at 2.

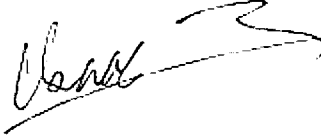
<sup>4</sup> *Id.*

<sup>5</sup> CSWR-Texas's application appears to identify confidential attachments H and J as its capital improvements plan.

Deadline for the parties to file a joint motion to admit evidence and proposed order approving sale and allowing transaction to proceed	February 13, 2023
120-day deadline for the Commission to approve the sale or require a hearing	February 27, 2023 <sup>6</sup>

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

**PUBLIC UTILITY COMMISSION OF TEXAS**



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ADMINISTRATIVE LAW JUDGE**

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<sup>6</sup> The 120-day deadline falls on Saturday, February 25, 2023. Under 16 TAC § 22.4(a), the deadline moves to Monday, February 27, 2023, the next day the Commission is open for business.