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DOCKET NO. 53709

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

**CSWR-TEXAS UTILITY OPERATING COMPANY, LLC’S
RESPONSE TO ORDER NO. 7 REQUIRING CLARIFICATION AND SIXTH
SUPPLEMENT TO THE APPLICATION**

COME NOW CSWR-Texas Utility Operating Company, LLC (“CSWR-Texas”) and George Fuller, Executor of the Estate of the Estate of Virginia Fuller (“Franklin Sewer”) and timely files this Response to Order No. 7 requiring a clarification regarding the capital improvement plan. Order No. 7 set a deadline of January 27, 2023 to provide the requested information. Therefore, this response is timely filed.

I. REQUESTED CLARIFICATIONS

A. Substantial Addition Requiring Additional Financial Assurance

16 TAC § 24.11(3)(5) provides that where 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, “[t]he owner must submit loan approval documents or firm capital commitments affirming funds are available to install.” CSWR-Texas confirms that it anticipates making certain improvements to this system upon approval of the transfer of Franklin Sewer’s certificate to the Company, but the addition that will not require capital improvements in excess of \$100,000. The estimated cost of capital improvements for this system are in fact expected to be considerably less than \$100,000, as set forth in Confidential Attachment J to the application, which includes a preliminary engineering report that CSWR-Texas obtained as part of its due diligence. Thus, the

issue raised by Order No. 7 regarding the need for firm capital a commitment under 16 TAC § 24.11(3)(5) is not implicated by this proceeding.

B. Capital Improvement Plan

Order No. 7 requests clarification on which documents constitute CSWR-Texas's capital improvement plan. First, it is not clear that the Texas Water Code contemplated that all sale transfer merger applications filed pursuant to Texas Water Code ("TWC") § 13.301 for the transfer of existing water or sewer facilities and CCN service area must include a "capital improvement plan" to receive approval. That requirement is contained in Texas Water Code § 13.244, which applies to CCN amendment proceedings, not STM applications. Moreover, the time and expense associated with creating a detailed capital improvement plan for every STM application prior to the transferee obtaining access to and operating the system may create unreasonable burdens and delays for these applications and make it more difficult for qualified companies like CSWR-Texas to acquire and rehabilitate small, distressed, and non-functioning water and sewer systems.

However, for the sake of expediency, CSWR-Texas seeks to clarify how it meets the capital improvement plan requirement in this case. 16 TAC § 24.233(a)(6) provides that for the applicant in an STM proceeding, "if the infrastructure is not already in place or if existing infrastructure needs repairs and improvements to provide continuous and adequate service to the requested area, a capital improvement plan, including a budget and an estimated timeline for construction of all facilities necessary to provide full service to the requested area, keyed to a map showing where such facilities will be located to provide service." Based on this rule language, Order No. 7 requests additional information as to where in the application CSWR-Texas has included the details of this plan. Confidential Attachment J to the application includes a budget of anticipated improvements and a map of the current facilities. The anticipated improvements are part of a

preliminary engineering report that may be modified or refined post-closing as CSWR-Texas becomes more experienced with the system.

For this particular sewer system, the preliminary engineering anticipates that only spot repairs to existing facilities may be needed. Because CSWR-Texas does not anticipate that the capital improvements will require any new facilities, the map provided in the application is sufficient to demonstrate where existing facilities that may need improvements are located.

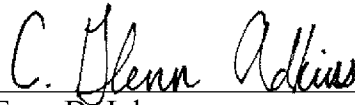
Lastly, attached to this pleading is CSWR-Texas's sixth supplement to the application, Supplemental Attachment H, which includes a general estimated timeline of the proposed improvements to the system. As stated in the supplement, depending on the availability of contractors in the area, CSWR-Texas anticipates that it can complete the evaluations and necessary repairs within six to twelve months of closing. Thus, taken together, Confidential Attachment J to the application and CSWR-Texas' sixth supplement to the application constitute a capital improvement plan.

II. CONCLUSION

In conclusion, CSWR-Texas's estimate for repairs to Franklin Sewer are below \$100,000 so additional financial assurance is not needed in this proceeding. CSWR-Texas has provided a capital improvement plan through Confidential Attachment J and Supplemental Attachment H to the application.

Respectfully submitted,

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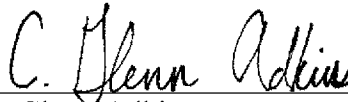


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**ATTORNEYS FOR CSWR-TEXAS
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CERTIFICATE OF SERVICE

I hereby certify that on this 27th day of January 2023, a true and correct copy of the foregoing document was served on all parties of record via electronic mail in accordance with the Order Suspending Rules issued in Project No. 50664.



C. Glenn Adkins

The Capital Improvement Plan for this system is comprised of Confidential Attachment J and this Supplemental Attachment H. Confidential Attachment J contains a budget for anticipated evaluations and improvements and a map of the existing facilities that may require spot repairs.

For the estimated timeline of the evaluations and repairs, CSWR-Texas estimates that it can complete the evaluations and repairs on the Franklin Sewer system within 6 to 12 months post-closing, subject to the availability of qualified contractors in the area.