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DOCKET NO. 53709

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

COMMISSION STAFF’S CLARIFICATION IN RESPONSE TO ORDER NO. 8

I. INTRODUCTION

On June 13, 2022, CSWR-Utility Operating Company, LLC (CSWR-Texas) and George Fuller (Mr. Fuller), executor of the estate of Virginia Fuller, (collectively, Applicants), filed an application for approval of the sale, transfer, or merger of facilities and certificate of convenience and necessity (CCN) rights in Lubbock County. Specifically, CSWR-Texas, CCN No. 21120, seeks approval to acquire facilities and to transfer all of the sewer service area from Mr. Fuller under inactive sewer CCN No. 20743 to the J E Franklin Trust under sewer CCN No. 21120. CSWR-Texas filed supplemental information on June 14, 20, and 27, August 16, September 1, and December 2, 2022, and January 9 and 27, 2023.

On January 27, 2023, the administrative law judge (ALJ) filed Order No. 8, directing the Staff (Staff) of the Public Utility Commission of Texas (Commission) to file a recommendation on capital improvements and CSWR-Texas’s capital improvements plan by February 10, 2023. Therefore, this pleading is timely filed.

II. RESPONSE TO ORDER NO. 8

Order No. 8 requires Staff to file a recommendation on capital improvements and CSWR-Texas’ capital improvements plan. Specifically, Order No. 8 extended Staff’s deadline to respond to Order No. 7, which asked Staff to clarify the following issues: 1) Is CSWR-Texas proposing to make a substantial addition to its current CCN area with requiring capital improvements in excess of \$100,000?; and 2) If capital improvements in excess of \$100,000 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?

Staff has reviewed the application, as supplemented, and as detailed in the attached memorandum of James Harville, Infrastructure Division, recommends that CSWR-Texas is not proposing to make a substantial addition to its current CCN area requiring capital improvements in excess of \$100,000. CSWR-Texas does not anticipate that any capital improvements will require any new facilities, and any capital improvements necessary will be made to existing facilities. Accordingly, Staff recommends that 16 TAC §24.11(e)(5) is not applicable to this proceeding, and CSWR-Texas is not required to submit a capital improvements plan.

III. CONCLUSION

For the reasons stated above, Staff recommends that CSWR-Texas is not proposing to make a substantial change to its current CCN area requiring capital improvements in excess of \$100,000 and that a capital improvements plan is not required.

Date: February 10, 2023

Respectfully submitted,

PUBLIC UTILITY COMMISSION OF TEXAS LEGAL DIVISION

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Division Director

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/s/ Margaux Fox
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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 February 10, 2023 in accordance with the Second Order Suspending Rules, filed in Project No. 50664.

/s/ *Margaux Fox*
Margaux Fox

Public Utility Commission of Texas

Memorandum

TO: Margaux Fox, Attorney
Legal Division

FROM: James Harville, Infrastructure Analyst
Infrastructure Division

DATE: February 10, 2023

RE: Docket No. 53709 – *Application of CSWR-Texas Utility Operating Company, LLC and George Fuller, Executor of the Estate of Virginia Fuller, for Sale, Transfer, or Merger of Facilities in Lubbock County*

CSWR-Texas Utility Operating Company, LLC (CSWR-Texas) and George Fuller, Executor of the Estate of Virginia Fuller (George Fuller) (collectively, Applicants) filed an application for sale, transfer, or merger (STM) of facilities and certificate rights in Lubbock County, Texas, under Texas Water Code (TWC) § 13.301 and 16 Texas Administrative Code (TAC) § 24.239.

Specifically, CSWR-Texas, Certificate of Convenience and Necessity (CCN) No. 21120, seeks approval to acquire facilities and to transfer all of the sewer service area from George Fuller under inactive sewer CCN No. 20743, J E Franklin Trust.

On January 20th, 2023, a request for clarification was filed for Commission Staff's recommendation on whether CSWR-Texas is proposing to make a substantial addition to its current CCN area requiring capital improvements in excess of \$100,000.

Based on the review of additional information filed by CSWR-Texas on January 27, 2023, capital improvements do not exceed \$100,000, therefore the need for firm capital commitment under 16 TAC § 24.11(e)(5) is not required.