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DOCKET NO. 54018

APPLICATION OF CSWR-TEXAS	§	PUBLIC UTILITY COMMISSION
UTILITY OPERATING COMPANY, LLC	§	
AND LINCECUMS WATER WELL	§	OF TEXAS
SERVICE FOR SALE, TRANSFER, OR	§	
MERGER OF FACILITIES AND	§	
CERTIFICATE RIGHTS IN BRAZORIA	§	
COUNTY	§	

COMMISSION STAFF'S RESPONSE TO ORDER NO. 9

I. INTRODUCTION

On August 31, 2022, CSWR-Texas Utility Operating Company, LLC (CSWR-Texas) and Lincecums Water Well Service (collectively, Applicants) filed an application for approval of the sale, transfer, or merger of facilities and certificate rights in Brazoria County. CSWR-Texas filed supplemental information on September 23, October 25, and December 2, 2022, and on February 27, 2023.

On May 23, 2023, the administrative law judge (ALJ) filed Order No. 9, directing the Staff (Staff) of the Public Utility Commission of Texas (Commission) to file a recommendation on whether Applicants' capital improvement plans satisfy Commission requirements, on the loan documentation or request for a good cause exception, on Applicants' supplemental notice, and on Applicants' supplemental materials by June 21, 2023. Therefore, this pleading is timely filed.

II. RECOMMENDATION ON SUPPLEMENTAL MATERIAL

Staff has reviewed the application and supplemental materials Applicants filed on June 8, 2023 to address the capital improvement plan and need for service and mapping issues the ALJ identified in Order No. 9, and as supported by the attached memorandum from Jolie Mathis of the Infrastructure Division, recommends that Applicants have sufficiently addressed those issues.

III. RECOMMENDATION ON SUPPLEMENTAL NOTICE

Staff has reviewed the supplemental notice documentation filed by Applicants on June 8, 2023, and as supported by the attached memorandum from Ms. Mathis, recommends that the Applicants' supplemental notice be deemed sufficient.

IV. RECOMMENDATION ON LOAN DOCUMENTATION

Staff has reviewed the application and supplemental materials filed by Applicants on June 8, 2023, and as supported by the attached memorandum from Fred Bednarski of the Rate Regulation Division, recommends that CSWR-Texas has satisfied the requirements of 16 Texas Administrative Code (TAC) § 24.11(e)(5). Specifically, Staff notes that CSWR-Texas has sufficient capital to pay for the capital improvements and has a firm capital commitment from its parent as well. Alternatively, if the ALJ were to find that sufficient capital or a firm capital commitment is not sufficient to satisfy 16 TAC § 24.11(e)(5), Staff recommends granting a good cause exception to 16 TAC § 24.11(e)(5)(A).

V. CONCLUSION

For the reasons detailed above, Staff respectfully requests that an order be issued finding that Applicants have addressed the issues raised in Order No. 9 and allowing Applicants to proceed with the transaction.

Date: June 21, 2023

Respectfully submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS
LEGAL DIVISION**

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/s/ Margaux Fox
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DOCKET NO. 54018

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 June 21, 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: Jolie Mathis, Utility Engineering Specialist
Infrastructure Division

DATE: June 21, 2023

RE: Docket No. 54018 – *Application of CSWR-Texas Utility Operating Company, LLC and Lincecums Water Well Service for Sale, Transfer, or Merger of Facilities and Certificate Rights in Brazoria County*

1. Application

On August 31, 2022, CSWR-Texas Utility Operating Company, LLC (CSWR-Texas) and Lincecums Water Well Service (Lincecums) (collectively, Applicants) filed an application for sale, transfer, or merger (STM) of facilities and certificate rights in Brazoria County, Texas, under Texas Water Code (TWC) §§ 13.242 through 13.250 and § 13.301 and 16 Texas Administrative Code (TAC) §§ 24.225 to 24.237 and § 24.239.

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

- The requested area includes 28 customer connections and approximately 44.6 acres, comprised of:
 - 1.5 acres of uncertificated area;
 - 43.1 acres of transferred area from Lincecums Water Well Service (CCN No. 13222) to CSWR-Texas (CCN No. 13290).
- The application proposes the subtraction of approximately 43.1 acres from CCN No. 13222 and the addition of approximately 44.6 acres to CCN No. 13290
- The application indicates that the total acreage being requested is approximately 44 acres, however, the mapping review determined the requested area is approximately 44.6 acres.

2. Notice

CSWR-Texas reviewed the area proposed to be certified along with the Brazoria County tax appraisal maps and determined that there are no parcels of land at least 25 acres that are wholly or partially included in the proposed area. Therefore, the requirements of TWC § 13.246(a-1) and 16 TAC § 24.235(b)(2) do not apply.

3. Need for Service and Mapping

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)).

CSWR-Texas provided a confidential attachment that identified the customer currently served through the Lincecum Water system but not located within the certificated area. CSWR-Texas also provided the most recent monthly bill for this customer.

4. Capital Improvement Plan

An application for a certificate of public convenience and necessity or for an amendment to a certificate must contain: a capital improvements plan, including a budget and estimated timeline for construction of all facilities necessary to provide full service to the entire proposed service area (TWC § 13.244(d)(3)).

CSWR-Texas has provided a line-item budget for anticipated repairs and improvements on the water system it is purchasing. Estimated costs are expected to exceed \$100,000, therefore the need for firm capital commitment under 16 TAC § 24.11(e)(5) is required.

CSWR-Texas provided a budget, an estimated timeline for construction, and a keyed map showing where facilities will be located.

CSWR-Texas estimates it will take 12 months to evaluate the repairs and improvements needed and will begin construction within 24 months. Construction is estimated to be completed within 30 months.

The Rate Regulation Division will be addressing the need for firm capital commitment criterion in a separate memo.

5. 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 no deposits held by Lincecums for the customers being served by Powers Subdivision. I further recommend that a public hearing is not necessary.

Public Utility Commission of Texas

Memorandum

TO: Margaux Fox
Legal Division

FROM: Fred Bednarski III
Rate Regulation Division

DATE: June 21, 2023

RE: Docket No. 54018 *Application of CSWR-Texas Utility Operating Company, LLC and Lincecums Water Well Service for Sale, Transfer, or Merger of Facilities and Certificate Rights in Brazoria County*

On August 31, 2022, CSWR-Texas Utility Operating Company (CSWR-Texas), water Certificate of Convenience and Necessity (CCN) No. 13290 and Lincecums Water Well Service (Lincecums) filed an application to for the sale and transfer of facilities and certificate rights in Brazoria County under the provisions of Texas Water Code § 13.301 and 16 Texas Administrative Code (TAC) § 24.239, and to amend CSWR-Texas' CCN No. 13290 with uncertificated area under Subchapter G of Texas Water Code Chapter 13.

On May 23, 2023, the administrative law judge issued Order No. 9, requiring staff to file a recommendation on the loan documentation or good cause exception provided by CSWR-Texas.

Staff notes that 16 TAC § 24.11(e)(5)(B) allows the owner to meet the test by providing loan approval documents or firm capital commitments. At the February 16, 2023 open meeting, the Commission elaborated upon its previous discussion regarding these requirements at the October 6, 2022 open meeting. The Commissioners clarified that audited financial statements showing an adequate cash surplus were sufficient proof of financial assurance.¹

CSWR-Texas filed documentation demonstrating access to adequate funding for this application, as well as CSWR-Texas' pending applications as indicated in confidential attachment

¹ Open Meeting at 39:40 (Feb. 16, 2023), Item No. 3 (*available at https://www.adminmonitor.com/tx/puct/open_meeting/20230216/*).

FB-1.1. CSWR-Texas' parent has committed capital to pay for the capital improvements regarding this application and pending STM proceedings, and is capable, available, and willing to cover any temporary cash shortages and operating expense shortfalls in this and other STM proceedings.² CSWR-Texas submitted audited financial statements containing a cash and cash equivalents balance sufficient to pay for the purchase price of Lincecums, the remaining systems' purchase prices, Lincecums' improvement cost, and the remaining systems' improvements costs. CSWR-Texas additionally provided an updated cash balance indicating adequate cash funding. Therefore, I recommend a finding that CSWR-Texas provided adequate cash funding, a firm capital commitment, and that, if necessary, a good cause exception should be granted for 16 TAC § 24.11(e)(5)(A).

² Confidential 54393 highly sensitive attachment G at pdf 7 (Aug. 31, 2022).