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DOCKET NO. 54019

APPLICATION OF CSWR-TEXAS	§	PUBLIC UTILITY COMMISSION
UTILITY OPERATING COMPANY, LLC	§	
AND VILLE D'ALSACE WATER	§	OF TEXAS
SUPPLY, LLC FOR SALE, TRANSFER,	§	
OR MERGER OF FACILITIES AND	§	
CERTIFICATE RIGHTS IN MEDINA	§	
COUNTY	§	

**COMMISSION STAFF'S RECOMMENDATION ON CLOSING DOCUMENTS,
RECOMMENDATION ON SUPPLEMENTAL INFORMATION, PROPOSED
PROCEDURAL SCHEDULE, AND MOTION TO ADMIT EVIDENCE**

I. INTRODUCTION

On August 31, 2022, CSWR-Texas Utility Operating Company, LLC (CSWR-Texas) and Ville D'Alsace Water Supply, LLC (Ville D'Alsace) (collectively, Applicants) filed an application for approval of the sale, transfer, or merger (STM) of facilities and certificate of convenience and necessity (CCN) rights in Medina County under the provisions of Texas Water Code § 13.301 and 16 Texas Administrative Code (TAC) § 24.239. CSWR-Texas filed supplemental information on September 7, September 15, October 5, and December 2, 2022.

On July 18, 2023, the administrative law judge (ALJ) filed Order No. 10, directing the Staff (Staff) of the Public Utility Commission of Texas (Commission) to file a supplemental recommendation on the closing documents, a recommendation on whether the applicants' capital improvement plan satisfies the requirements of the Commission, TWC § 13.244(d)(3), and 16 TAC § 24.233(a)(6), a recommendation on the loan documentation or the request for a good cause exception, a supplemental recommendation on the applicants' supplemented notice, a supplemental recommendation on the supplemental materials; propose a procedural schedule for continued processing of this docket; and move to admit Staff's recommendation into the record of this proceeding by August 24, 2023. Therefore, this pleading is timely filed.

**II. RECOMMENDATION ON THE SUFFICIENCY OF THE CLOSING
DOCUMENTS AND REQUEST FOR GOOD CAUSE EXCEPTION**

Staff has reviewed the closing documents filed by Applicants on May 10 and July 28, 2023, and recommends that they are sufficient. Based on its review, Staff has determined that the Applicants' filing meets the requirements of 16 TAC § 24.239(a), which requires the filing of a

sale, transfer, or merger (STM) application and the provision of public notice at least 120 days before the effective date of a proposed transaction. Under 16 TAC § 24.239(i), the proposed transaction may be completed at the end of the 120-day period or at any time after the transferee receives notice that a hearing will not be required.

Applicants filed notice of the completed transaction on May 10, 2023, which included a bill of sale signed by both the transferor and the transferee and assigning Ville D'Alsace's water system to CSWR-Texas. The effective date of the transaction is listed on the bill of sale as April 27, 2023, and the bill of sale was signed by the transferor and transferee on April 27, 2023. Notice was completed on November 16, 2022, which is more than 120 days before the bill of sale was signed on April 27, 2023. Therefore, Staff recommends a finding that Applicants' closing documents are sufficient and satisfy 16 TAC § 24.239(a), (i), and (I).

With regard to customer deposits, the closing documentation filed on May 10, 2023, contains an affidavit dated May 9, 2023, and signed by Richard Wesley Russell, Managing Member of Ville D'Alsace, attesting that all customer deposits were returned or refunded to customers. CSWR-Texas further states that the Ville D'Alsace did not place the customer deposits in an interest-bearing account so no interest accrued on the deposits, and the customer deposits were returned in full without interest.¹ Staff therefore recommends that the closing documents are sufficient and comply with 16 TAC § 24.239.

III. RECOMMENDATION ON LOAN DOCUMENTATION

Staff has reviewed the loan documentation filed on CSWR-Texas and, as supported by the memorandum of Fred Bednarski, Rate Regulation Division, recommends that the loan documentation be deemed sufficient. If the ALJ finds that CSWR-Texas's financial information does not meet the requirements of 16 TAC § 24.11(e)(5)(A), Staff recommends that the ALJ grant a good cause exception.

IV. SUPPLEMENTAL RECOMMENDATION ON SUPPLEMENTED NOTICE

Staff has reviewed the supplemental proof of notice provided by CSWR-Texas and recommends that it is sufficient. Specifically, CSWR-Texas provided an affidavit of notice dated June 27, 2023, and signed by Aaron Silas, Director of Regulatory Operations of CSWR-Texas,

¹ CSWR-Texas's Supplemental and Corrected Response to Order No. 8 at 1 (Jul. 28, 2023).

attesting that all owners of tracts of land of 25 acres or more and wholly or partially include in the area proposed to be certified received individual notice of the application by first-class mail. Therefore, Staff recommends that the supplemental notice provided by CSWR-Texas be deemed sufficient for further processing of this matter.

V. SUPPLEMENTAL RECOMMENDATION ON THE SUPPLEMENTAL MATERIALS

Staff has reviewed CSWR-Texas's proposed capital commitments to Ville D'Alsace, and as, as supported by the memorandum of Patricia Garcia, Infrastructure Division, recommends that CSWR-Texas be granted a good cause exception for its capital improvement plan. Specifically, CSWR-Texas's proposed capital improvements are expected to exceed \$100,000; however, CSWR-Texas states that they will not know the full extent to the improvements necessary until after the sale has been approved, and the systems are in their possession. Therefore, Staff recommends that the ALJ grant CSWR-Texas a good cause exception to the capital improvements plan.

VI. PROCEDURAL SCHEDULE

Staff recommends that the supplemental information provided be found sufficient. Therefore, Staff proposes the following procedural schedule.

Event	Date
Deadline for Staff to provide final maps, certificates, and tariffs (if applicable), to the Applicants for review and consent	August 29, 2023
Deadline for the Applicants to file signed consent forms with the Commission	September 6, 2023
Deadline for parties to jointly file Proposed Notice of Approval, including findings of fact, conclusions of law, and ordering paragraphs	September 19, 2023

VII. MOTION TO ADMIT EVIDENCE

Staff moves for admission of this pleading and the attached memoranda into the evidentiary record of this proceeding.

VIII. CONCLUSION

For the reasons detailed above, Staff recommends that the closing documents and customer deposit information be found sufficient, that CSWR-Texas's loan documentation is sufficient, that the supplemental notice be deemed sufficient, that CSWR-Texas be given a good cause exception to the capital improvements plan, that the proposed procedural schedule be adopted, and that an order be granted admitting this pleading and the attached memoranda into the evidentiary record. Staff respectfully requests the entry of an order consistent with the foregoing recommendations.

Date: August 24, 2023

Respectfully submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS
LEGAL DIVISION**

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DOCKET NO. 54019

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 August 24, 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: Fred Bednarski III, Financial Analyst
Rate Regulation Division

DATE: August 24, 2023

RE: Docket No. 54019 *Application of CSWR-Texas Utility Operating Company, LLC and Ville D'Alsace Water Supply, LLC for Sale, Transfer, or Merger of Facilities and Certificate Rights in Medina County*

On August 31, 2022, CSWR-Texas Utility Operating Company (CSWR-Texas), CCN No. 13290, and Ville D' Alsace Water Supply Company (Ville D' Alsace) filed an application for the sale and transfer of facilities and certificate rights in Medina County under the provisions of Texas Water Code § 13.301 and 16 Texas Administrative Code § 24.239.

On May 31, 2023, the administrative law judge issued Order No. 8, 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 cash funding for this application, as well as CSWR-Texas' pending applications, as indicated in confidential attachment 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. CSWR-Texas submitted audited financial statements containing a cash and cash equivalents balance sufficient to pay for the purchase price of Ville D' Alsace, the remaining systems' purchase

prices, Ville D' Alsace's improvement cost, and the remaining systems' improvements costs. 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).

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

Public Utility Commission of Texas

Memorandum

TO: Margaux Fox, Attorney
Legal Division

FROM: Patricia Garcia, Infrastructure Analysis Section Director
Infrastructure Division

DATE: August 24, 2023

RE: Docket No. 54019 – *Application of CSWR-Texas Utility Operating Company, LLC and Ville D’Alsace Water Supply, LLC for Sale, Transfer, or Merger of Facilities and Certificate Rights in Medina County*

1. Application

On August 31, 2022, CSWR-Texas Utility Operating Company, LLC (CSWR-Texas) and Ville D’ Alsace Water Supply Company (Ville D’ Alsace) (collectively, Applicants) filed an application for sale, transfer, or merger (STM) of facilities and certificate rights in Medina 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.

Specifically, CSWR-Texas, water Certificate of Convenience and Necessity (CCN) No. 13290, seeks approval to acquire facilities and to transfer all of the water service area from Ville D’ Alsace under water CCN No. 12757.

Based on the mapping review by Hank Journey, Infrastructure Division:

- The requested area includes 133 customer connections and approximately 266 acres, comprised of:
 - 11.6 acres of uncertificated area;
 - 254.4 acres of transferred area from Ville D’ Alsace (CCN No. 12757)
- The application proposes the subtraction of approximately 254.4 acres from CCN No. 12757 and the addition of approximately 266 acres to CCN No. 13290.

2. Notice

CSWR-Texas provided notice consistent with 16 TAC § 24.239(c). The deadline to intervene was December 14, 2022; there were no motions to intervene, protests, or opt-out requests received.

On July 28, 2023, CSWR-Texas filed an affidavit stating that all owners of tracts of land of 25 acres or more that are wholly or partially located in the requested area received individual notice by mail. I recommend CSWR-Texas' notice be found sufficient.

3. Capital Improvements 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 is proposing to make improvements to Ville D' Alsace's water system. The proposed capital improvements are expected to exceed \$100,000. CSWR-Texas states that the itemized Attachment J provided in their original application is an estimate of the costs of repairs to the system. They will not be able to know the full extent of the improvements necessary until after the sale has been approved and the systems are in their possession. I recommend a good cause exception should be granted for the capital improvement plan.

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

4. Need for Service

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)).

The purpose of the transaction is to transfer all of Ville D' Alsace's public water system facilities, service area, and customers to CSWR-Texas. There are uncertificated areas being added to CSWR-Texas' CCN in this application. The customers in both the uncertificated and area currently certificated to Ville D' Alsace are currently receiving water service from Ville D' Alsace's water system. There is no need for additional service as CSWR-Texas will continue to provide service to the customers in the area through the water facilities currently owned by Ville D' Alsace when the sale and transfer is complete. I recommend need for service is necessary for the customers in the requested areas and that need for service has been satisfied.

5. Sufficiency of Proof of Sale Documents

I recommend CSWR-Texas' proof of sale documents be found sufficient. Customers received a return of their deposit without interest.

6. Recommendation

I recommend CSWR-Texas' notice be found sufficient, approval of a good cause exception for the capital improvement plan, need for service is satisfied, proof of sale documents be deemed sufficient, and that a public hearing is not necessary.

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.