



## **Filing Receipt**

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**Item Number - 69**

**DOCKET NO. 54171**

<b>APPLICATION OF TEXAS WATER UTILITIES, LP AND CS WATER CORPORATION FOR SALE, TRANSFER, OR MERGER OF FACILITIES AND CERTIFICATE RIGHTS IN BOSQUE COUNTY</b>	<b>§</b>	<b>PUBLIC UTILITY COMMISSION</b>
	<b>§</b>	
	<b>§</b>	<b>OF TEXAS</b>
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**COMMISSION STAFF’S RESPONSE TO ORDER NO. 15**

**I. INTRODUCTION**

On September 30, 2022, Texas Water Utilities, LP (Texas Water) and the CS Water Corporation (collectively, Applicants) filed an application for the sale, transfer, or merger of facilities and certificate rights in Bosque County, Texas, under Texas Water Code § 13.301 and 16 Texas Administrative Code (TAC) § 24.239. Texas Water filed supplemental information on October 4, October 25, and October 26, 2022; November 1 and November 23, 2022; and February 10 and July 14, 2023,

On July 11, 2023, the administrative law judge (ALJ) filed Order No. 15, directing the Staff (Staff) of the Public Utility Commission of Texas (Commission) to file recommendations 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 July 18, 2023. Therefore, this pleading is timely filed.

**II. RECOMMENDATION ON SUPPLEMENTAL MATERIAL**

Staff has reviewed the application and supplemental materials Applicants have filed to address the issues identified in Order Nos. 14 and 15 and, as supported by the attached memorandum from James Harville of the Infrastructure Division, recommends that Applicants have sufficiently addressed those issues. Specifically, Mr. Harville points out that the infrastructure necessary to provide full service to the requested area is already in place and that no repairs, improvements, or capital expenditures are required to provide continuous and adequate service upon acquisition. Additionally, Mr. Harville notes that Texas Water is acquiring all of CS Water’s existing certificate of convenience and necessity and that no uncertificated areas are proposed to be acquired in this application.

### **III. RECOMMENDATION ON SUPPLEMENTAL NOTICE**

Staff has reviewed the supplemental notice documentation filed by Applicants and, as supported by the attached memorandum from Mr. Harville, 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 and as supported by the attached memorandum from Fred Bednarski of the Rate Regulation Division, recommends that the loan documentation requirements under 16 TAC § 24.11(e)(5) are not applicable to this case. As previously mentioned, Staff notes that Texas Water already has the infrastructure in place necessary to provide full service to the requested area and that no repairs, improvements, or capital expenditures are required to provide continuous and adequate service to the requested area. Accordingly, Staff contends that since Texas Water is not proposing capital improvement in excess of \$100,000,<sup>1</sup> section 24.11(e)(5) does not apply. Alternatively, if the ALJ were to find that 16 TAC § 24.11(e)(5) does apply, Staff recommends granting a good cause exception under 16 TAC § 22.5(b).

### **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 Nos. 14 and 15 and allowing Applicants to proceed with the transaction.

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<sup>1</sup> Texas Water Utilities, L.P.'s Response to Order No. 14 at 4 (Jun. 21, 2023).

Date: July 18, 2023

Respectfully submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS  
LEGAL DIVISION**

Marisa Lopez Wagley  
Division Director

John Harrison  
Senior Managing Attorney

/s/ Margaux Fox  
Margaux Fox  
State Bar No. 24120829  
Ian Groetsch  
State Bar No. 24078599  
1701 N. Congress Avenue  
P.O. Box 13326  
Austin, Texas 78711-3326  
(512) 936-7021  
(512) 936-7268 (facsimile)  
Margaux.Fox@puc.texas.gov

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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 July 18, 2023 in accordance with the Second Order Suspending Rules, filed in Project No. 50664.

/s/ Margaux Fox  
Margaux Fox

# *Public Utility Commission of Texas*

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## **Memorandum**

**TO:** Margaux Fox, Attorney  
Legal Division

**FROM:** James Harville, Infrastructure Analyst  
Infrastructure Division

**DATE:** July 18, 2023

**RE:** Docket No. 54171 – *Application of Texas Water Utilities, LP and CS Water Corporation for Sale, Transfer, or Merger of Facilities and Certificate Rights in Bosque County*

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### **1. Application**

Texas Water Utilities, LP (Texas Water) and the CS Water Corporation (CS Water) (collectively, Applicants) filed an application for the sale, transfer, or merger (STM) of facilities and certificate rights in Bosque County, Texas, under Texas Water Code (TWC) § 13.301 and 16 Texas Administrative Code (TAC) § 24.239.

Specifically, Texas Water, water Certificate of Convenience and Necessity (CCN) No. 12983 seeks approval to acquire facilities and to transfer all of the water service area from CS Water under water CCN No. 11441.

Based on the mapping review by Tracy Montes, Infrastructure Division:

- The requested area includes 178 customer connections and approximately 726 acres, comprised of transferred area from CCN No. 11441.
- The application proposes the subtraction of approximately 726 acres from CCN No. 11441 and the addition of approximately 726 acres to CCN No. 12983.

### **2. Notice**

An affidavit was provided affirming that notice was submitted to 7 landowners in the requested area on June 16, 2023. A map indicating the location of each landowner and a list was provided.

### **3. 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)).*

Texas Water has indicated that the infrastructure necessary to provide full service to the requested area is already in place and that no repairs, improvements, or capital expenditures are required to provide continuous and adequate service upon acquisition.

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

### **4. Need for Service**

Texas Water has specified that all of CS Water's customers are located within CS Water's existing CCN. There are no uncertificated areas being acquired as a result of the application.

### **5. Recommendation**

Based on the mapping review by Tracy Montes, Infrastructure Division, and my technical and managerial review, I recommend Texas Water's notice be found sufficient, and further recommend approval of a good cause waiver for both the capital improvement plan and need for service requirements if the provided supplemental documentation is found insufficient.

# *Public Utility Commission of Texas*

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## **Memorandum**

**TO:** Margaux Fox  
Legal Division

**FROM:** Fred Bednarski III  
Rate Regulation Division

**DATE:** July 18, 2023

**RE:** Docket No. 54171 – *Application of Texas Water Utilities, L.P. and CS Water Corporation for Sale, Transfer, or Merger of Facilities and Certificate Rights in Bosque County*

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On September 30, 2022, Texas Water Utilities, L.P. (TWU) and CS Water Corporation (CS Water) filed an application for the sale and transfer of facilities and certificate rights in Bosque 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. 14, requiring staff to file a recommendation on the loan documentation or good cause exception provided by TWU.

The infrastructure necessary to provide full service to the requested area is already in place and no repairs, improvements, or capital expenditures are required to provide continuous and adequate service upon acquisition pursuant to James Harville's, Infrastructure Analyst, Memorandum. Therefore, I recommend a finding that loan documentation is not required and that, if necessary, a good cause exception should be granted for 16 TAC § 24.11(e)(5)(A).