



## **Filing Receipt**

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**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>PUBLIC UTILITY COMMISSION  OF TEXAS</b>
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**SECOND SUPPLEMENTAL MOTION TO ADMIT EVIDENCE AND  
REVISED PROPOSED ORDER APPROVING SALE AND TRANSFER TO PROCEED**

Texas Water Utilities, L.P. (TWU) on behalf of itself and CS Water Corporation (CS Water) (collectively, Applicants) and the Staff (Staff) of the Public Utility Commission of Texas (Commission) files this Second Supplemental Motion to Admit Evidence and Revised Proposed Order Approving Sale and Transfer to Proceed. The Office of Public Utility Counsel (OPUC) is unopposed to this filing. Pursuant to Order No. 17 issued on August 31, 2023, this pleading is timely filed by September 21, 2023.

Commission Staff contacted intervenor Joseph Riley via phone. As a follow-up to the conversation, Mr. Riley sent an email confirming that his wife, Juan Li, had recently passed away, that the account with CS Water for service at 138 County Road 1539, Morgan, TX 76671, had been in his wife's name and is now under the name Estate of Juan Li, and that he does not plan on continuing to participate in this proceeding. Therefore, Applicants, Commission Staff, and OPUC respectfully request that Mr. Riley be deemed to be unopposed to this pleading.

**I. SECOND SUPPLEMENTAL MOTION TO ADMIT EVIDENCE**

Applicants move to admit the following evidence into the record of this proceeding:

- (a) TWU's Response to Order No. 14, filed on June 21, 2023 (Interchange Item No. 64);
- (b) TWU's Supplemental Landowner Map, filed on July 14, 2023 (Interchange Item No. 68);
- (c) Commission Staff's Response to Order No. 15, filed on July 18, 2023 (Interchange Item No. 69); and
- (d) TWU's Supplemental Landowner Map in Response to Order No. 16, filed on July 27, 2023 (Interchange Item No. 71).

## II. REVISED PROPOSED ORDER

The Revised Proposed Order Approving Sale and Transfer to Proceed—provided as Attachment 1 to this supplemental motion to admit evidence—would grant Applicants' application for the sale, transfer, or merger of facilities and certificate rights in Bosque County.

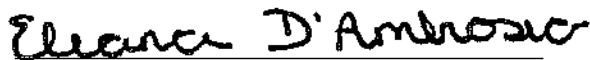
## III. CONCLUSION

Applicants respectfully request that the Commission grant the Second Supplemental Motion to Admit Evidence and adopt the attached Revised Proposed Order Approving Sale and Transfer to Proceed.

Respectfully submitted,

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**ATTORNEYS FOR TEXAS WATER  
UTILITIES, L.P.**

**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 September 21, 2023, in accordance with the Order Suspending Rules, issued in Project No. 50664.

  
Eleanor D' Ambrosio  
Eleanor D' Ambrosio

**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  OF TEXAS</b>
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**REVISED PROPOSED ORDER APPROVING SALE AND TRANSFER TO PROCEED**

This Order addresses the application of CS Water Corporation (CS Water) and Texas Water Utilities, L.P. (TWU) for approval of the sale, transfer, or merger of facilities and certificate rights in Bosque County. The applicants seek approval to sell and transfer all of CS Water’s facilities and service area under water certificate of convenience and necessity (CCN) number 11441 to TWU’s water CCN number 12983, and to cancel CS Water’s water CCN number 11441. The administrative law judge (ALJ) approves the transaction between TWU and CS Water, and the transaction may be completed as proposed.

**I. Findings of Fact**

The Commission makes the following findings of fact.

**Applicant**

1. TWU is a limited partnership registered with the Texas secretary of state under file number 800034797.
2. TWU is an investor-owned utility that owns, operates, and controls facilities for providing water service under CCN number 12983.
3. CS Water is a Texas corporation registered with the Texas secretary of state under filing number 114397600.
4. CS Water is an investor-owned utility that owns, operates, and controls facilities for providing water service under CCN number 11441.

**Application**

5. On September 30, 2022, the applicants filed the application at issue in this proceeding.

6. The applicants supplemented the application on October 4, October 25, and October 26, 2022, and February 10, 2023.
7. In the application, as supplemented, the applicants seek approval for the following: (a) to sell and transfer all of CS Water's facilities and service area under water CCN number 11441 to TWU's water CCN number 12983; (b) to cancel water CCN number 11441; and (c) to amend TWU's water CCN number 12983 to include the areas previously included in CS Water's CCN number 11441.
8. The requested area includes approximately 726 acres and 178 current customers.
9. The requested area is located approximately 6.5 miles west of downtown Whitney, Texas, and is generally bounded on the north by County Road 1500 and Cedron Creek; on the east by Brazos River and Lake Whitney; on the south by King Creek; and on the west by Farm to Market 56.
10. In Order No. 3 filed on November 1, 2022, the ALJ found the application, as supplemented, administratively complete.

**Notice**

11. On November 21, 2022, the applicants filed the affidavit of George Freitag, Texas Regulatory Manager for TWU, attesting that notice was provided to all current customers, neighboring utilities, and affected parties on November 18, 2022.
12. In Order No. 5 filed on December 14, 2022, the ALJ found the notice sufficient.
13. On April 7, 2023, TWU filed a clarification regarding the rates requested in this proceeding under Texas Water Code (TWC) § 13.3011.
14. On April 26, 2023, the applicants filed the affidavit of Brian Bahr, Director of Rates and Regulatory Affairs for TWU, attesting the new notice was provided to all current customers, neighboring utilities, and affected parties on April 19, 2023.
15. In Order No. 12 filed on May 8, 2023, the ALJ found the new notice sufficient.
16. On June 21, 2023, TWU filed the affidavit of Mr. Bahr attesting that notice was provided on June 16, 2023, to all owners of tracts of land of 25 acres or more that are wholly or partially located in the requested area.

17. On July 14 and 27, 2023, TWU filed supplemental mapping showing the tracts located within the requested area.
18. In Order No. 17 filed on September August 31, 2023, the ALJ found the supplemental proof of notice to landowners sufficient.

**Intervenors**

19. In Order No. 2 filed on November 1, 2022, the ALJ granted the motion to intervene of the Office of Public Utility Counsel (OPUC).
20. In Order No. 13 filed on May 24, 2023, the ALJ granted the motion to intervene of Juan Li and Joseph Riley.

**Evidentiary Record**

21. On March 10, 2023, the parties filed a joint motion to admit evidence and proposed order approving the sale and transfer to proceed.
22. On May 31, 2023, the applicants filed a supplemental motion to admit evidence and revised proposed order approving the sale and transfer to proceed.
23. On September 21, 2023, TWU filed a second supplemental motion to admit evidence and revised proposed order approving the sale and transfer to proceed on behalf of the applicants and Commission Staff. OPUC was unopposed to the motion and revised proposed order.
24. In Order No. \_\_ filed on September \_\_, 2023, the ALJ admitted the following evidence into the record of this proceeding: (a) The application and all attachments, filed on September 30, 2022; (b) the supplements to the application, filed on October 4, 2022, October 25, 2022, October 26, 2022, and February 10, 2023; (c) Commission Staff's recommendation on administrative completeness and notice and proposed procedural schedule, filed on October 31, 2022; (d) TWU's response to Commission Staff's first request for information and confidential attachments, filed on November 1, 2022; (e) TWU's proof of notice and confidential mailing list, filed on November 21, 2022; (f) Commission Staff's recommendation on the sufficiency of notice, filed on December 12, 2022; (g) TWU's objections to Commission Staff's second request for information, filed on December 12, 2022; (h) TWU's response to Commission Staff's second request

for information and confidential attachment, filed on January 4, 2023; (i) TWU's supplemental response to Commission Staff's second request for information and confidential attachments, filed on January 20, 2023; (j) Commission Staff's recommendation on approval of the sale and on the CCN amendment and confidential attachment, filed on January 31, 2023; (k) TWU's proof of re-notice in compliance with Order No. 10, filed on April 26, 2023; (l) TWU's confidential list of notice recipients, filed on April 27, 2023; (m) Commission Staff's recommendation on the sufficiency of new notice, filed on May 4, 2023; (n) copies of Agreed Orders resolving Texas Commission on Environmental Quality enforcement actions opened against TWU in the past five years, filed on May 31, 2023; (o) TWU's response to Order No. 14, filed on June 21, 2023; (p) TWU's supplemental landowner map, filed on July 14, 2023; (q) Commission Staff's response to Order No. 15, filed on July 18, 2023; and (r) TWU's supplemental landowner map in response to Order No. 16, filed on July 27, 2023.

#### *Purchaser's Compliance History*

25. TWU has been subject to an enforcement action by the Commission, Texas Commission on Environmental Quality (TCEQ), Texas Department of Health, the Office of the Attorney General, or the United States Environmental Protection Agency in the past five years for non-compliance with rules, orders, or state statutes. TWU has resolved, or is in the process of resolving, the compliance issues related to the open TCEQ enforcement actions listed in the application.
26. TWU does not have a history of continuing mismanagement or misuse of revenues as a utility service provider.
27. TWU has demonstrated a compliance history that is adequate for approval of the proposed transaction.

#### *Adequacy of Existing Service*

28. CS Water owns and operates one public water system (PWS) in Bosque County registered with TCEQ under PWS identification number 0180033.
29. CS Water's PWS at issue in this proceeding is currently providing continuous and adequate service to the requested area.



30. The last TCEQ compliance investigation of CS Water was on June 30, 2020. CS Water does not have any violations listed in the TCEQ database. The Commission's complaint records, which date back to 2017, show two complaints against CS Water.
31. There is no evidence in the record that CS Water has failed to comply with any Commission or TCEQ order.

**Need for Additional Service**

32. There are 178 existing water customers in the requested area that are currently receiving service from CS Water and have an ongoing need for service.
33. This is an application to transfer only existing facilities, customers, and service area.
34. There is no evidence in the record indicating a need for additional service.

**Effect of Approving the Transaction and Granting the Amendment**

35. Approving the transaction will obligate TWU to provide continuous and adequate water service to current and future customers in the requested area.
36. CS Water and TWU are the only utilities affected by this sale and transfer.
37. All retail public utilities in the proximate area were provided notice of the application.
38. There will be no effect on landowners in the requested area because they are currently served by CS Water.

**Initial Rates**

39. TWU as an entity is entitled to request approval to charge initial rates and service charges that are shown in the water tariff issued to TWU at the time the application was filed.
40. TWU's tariff in force for its other water systems on the date the application was filed was approved in Docket No. 52494.1
41. The rates requested by TWU are as follows:

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<sup>1</sup> *Application of R&N Enterprises and Monarch Utilities I.L.P. for Sale, Transfer, or Merger of Facilities and Certificate Rights in Cooke County, Docket No. 52494, Notice of Approval (Sept. 1, 2022).*

Minimum Monthly Charge 5/8" Meter – \$48.37	
0 – 2,000 gallons	\$6.48 per 1,000 gallons
2,001 – 10,000 gallons	\$7.98 per 1,000 gallons
10,001 – 20,000 gallons	\$9.05 per 1,000 gallons
20,000+ gallons	\$9.64 per 1,000 gallons

**Ability to Serve: Managerial and Technical**

42. The operations, maintenance, management, and customer services will be provided by TWU through TCEQ-licensed operators who will operate the public water and wastewater systems.
43. Reliability and quality of water service is expected to improve under TWU's management.
44. TWU has access to an adequate supply of water and is capable of providing water that meets the requirements of chapter 341 of the Texas Health and Safety Code, chapter 13 of the TWC, and the TCEQ's rules.
45. TWU has the technical and managerial capability to provide continuous and adequate service to the requested area.

**Ability to Serve: Financial Ability and Stability**

46. TWU's affiliate, SouthWest Water Company, is capable, available, and willing to cover any temporary cash shortages and operating expense shortfalls and has a debt-service coverage ratio of greater than 1.25. Therefore, TWU satisfies the leverage test.
47. TWU projects no operating and maintenance shortages in the first five years after the completion of the proposed sale and transfer. Therefore, TWU satisfies the operations test.
48. TWU possesses the funds necessary for the purchase price of CS Water's public water system and for the construction of TWU's planned capital improvements.
49. TWU has demonstrated the financial capability and stability to provide continuous and adequate water service.

**Financial Assurance**

50. There is no need to require TWU to provide a bond or other financial assurance to ensure continuous and adequate service.

**Feasibility of Obtaining Service from an Adjacent Retail Public Utility**

51. It is not feasible for an adjacent utility to provide service to the requested area because CS Water's existing facilities possess sufficient capacity to provide continuous and adequate service.
52. Utilities within a two-mile radius were noticed and no protests, adverse comments, or motions to intervene were filed by any adjacent retail public utility in this docket.

**Environmental Integrity**

53. The proposed transaction will not adversely affect the environmental integrity of the land.
54. The effect on the land should be minimal as the requested area will continue to be served with existing facilities.

**Improvement of Service or Lowering Costs to Consumers**

55. The proposed transaction will improve reliability and quality of water service because the water system will be operated and maintained by a sufficient number of licensed operators.

**Regionalization or Consolidation**

56. The construction of a physically separate water system is not necessary for TWU to serve the requested area; therefore, it is not necessary to consider regionalization or consolidation.

**Voluntary Valuation of Acquired Utility or Facilities**

57. TWU notified the Commission of its intent to use a fair market value process to determine the ratemaking rate base of CS Water.
58. TWU provided copies of the three appraisal reports and evidence of the purchase price with the application.

59. The purchase price and the appraised value for CS Water reported by each utility valuation expert are identified in confidential Attachment FB-1 filed with Commission Staff's recommendation on approval of the sale and on the CCN amendment.
60. The average of the three appraisals yields a fair market value for CS Water that is less than the purchase price.
61. The ratemaking rate base for CS Water is the purchase price identified in confidential Attachment FB-1.
62. TWU provided evidence of the amount of fees paid to the three utility valuation experts with the application.
63. No additional conditions for the acquisition based on the fair market value process are needed.

## II. Conclusions of Law

The Commission makes the following conclusions of law.

1. Notice of the application was provided in compliance with TWC §§ 13.246 and 13.301(a)(2), and 16 Texas Administrative Code (TAC) § 24.239(c).
2. After consideration of the factors in TWC § 13.246(c), TWU demonstrated that it is capable of rendering continuous and adequate water service to every customer within the requested area, as required by TWC § 13.251.
3. TWU demonstrated adequate financial, managerial, and technical capability for providing adequate and continuous service to the requested area as required by TWC §§ 13.241(a) and 13.301(b).
4. The applicants demonstrated that the sale of CS Water's facilities and the transfer of the service area held under water CCN number 11441 to TWU will serve the public interest and is necessary for the service, accommodation, convenience, and safety of the public, as required TWC §§ 13.246(b) and 13.301(d) and (e).
5. TWU filed its notice of intent to use fair market value as required by TWC § 13.305(c)(1) and 16 TAC § 24.238(d).

6. The Commission's Executive Director selected three utility valuation experts to perform appraisals of CS Water in compliance with TWC § 13.305(c)(2) and 16 TAC § 24.238(e).
7. The application included copies of the three appraisal reports completed by the utility valuation experts as required by TWC § 13.305(h)(1) and 16 TAC § 24.238(f)(5).
8. The application included the purchase price agreed to by the applicants as required by TWC § 13.305(h)(2).
9. The application included the ratemaking rate base determined under TWC § 13.305(g) and 16 TAC § 24.238 as required by TWC § 13.305(h)(3).
10. The application included the known transaction and closing costs incurred by TWU to be requested for review and recovery in TWU's rate base in a future rate case as permitted by TWC § 13.305(g) and 16 TAC § 24.238(k).
11. The calculation of the fair market valuation for CS Water complies with TWC § 13.305(f) and 16 TAC § 24.238(f)–(j).
12. The calculation of the ratemaking rate base for CS Water complies with TWC § 13.305(g) and 16 TAC § 24.238(b)(3)–(4).

### **III. Ordering Paragraphs**

In accordance with these findings of fact and conclusions of law, the Commission issues the following orders.

1. The sale and transfer is approved, and the transaction between CS Water and TWU may proceed and be consummated as proposed.
2. As soon as possible after the effective date of the transaction, but not later than 30 days after the effective date, the applicants must file proof that the transaction has been consummated and customer deposits, if any, have been addressed.
3. The applicants have 180 days from the date of this Order to complete the transaction.
4. Under 16 TAC § 24.239(m), if the transaction is not consummated within this 180-day period, and an extension is not granted, this approval is void, and the applicants will have to reapply for approval.

5. The applicants are notified that the facilities and service area subject to the transaction will remain under water CCN number 11441 and will be held by CS Water until the sale and transfer transaction is consummated in accordance with Commission rules.
6. In an effort to finalize this case as soon as possible, the applicants must file monthly updates regarding the status of the closing and submit documents evidencing that the transaction was consummated.
7. Within 15 days following the filing of the applicants' proof that the transaction has been consummated and customer deposits, if any, have been addressed, Commission Staff must file a recommendation regarding the sufficiency of the documents and propose a schedule for continued processing of this docket.

**Signed at Austin, Texas the \_\_\_\_\_ day of September, 2023.**

**PUBLIC UTILITY COMMISSION OF TEXAS**

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**KATIE MOORE MARX**  
**ADMINISTRATIVE LAW JUDGE**