



Filing Receipt

Filing Date - 2023-04-13 11:35:55 AM

Control Number - 54285

Item Number - 37

DOCKET NO. 54285

APPLICATION OF CSWR-TEXAS UTILITY OPERATING COMPANY, LLC AND DOUGLAS UTILITY COMPANY C/O ZIEBEN GROUP FOR SALE, TRANSFER, OR MERGER OF FACILITIES AND CERTIFICATE RIGHTS IN HARRIS COUNTY	§ § § § § § §	PUBLIC UTILITY COMMISSION OF TEXAS
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**ORDER NO. 6
APPROVING SALE AND TRANSFER TO PROCEED**

This Order addresses the application of CSWR-Texas Utility Operating Company, LLC and Douglas Utility Company c/o Zieben Group for approval of the sale, transfer, or merger of facilities and certificate rights in Harris County. The applicants seek approval of the sale and transfer of all facilities and service areas held of Douglas Utility's certificates of convenience and necessity (CCN) numbers 11369 and 20527 to CSWR-Texas, the cancellation of Douglas Utility's CCN numbers 11369 and 20527, and the amendment of CSWR-Texas's CCN numbers 13290 21120 to include the facilities and service area previously included in Douglas Utility's CCN numbers 11369 and 20527. The administrative law judge (ALJ) approves the transaction between Douglas Utility and CSWR-Texas and the transaction may be completed as proposed.

I. Findings of Fact

The Commission makes the following findings of fact.

Applicants

1. Douglas Utility is a Texas corporation registered with the Texas secretary of state under filing number 18261200.
2. Douglas Utility operates, maintains, and controls facilities for providing retail water and sewer service in Harris County under CCN numbers 11369 and 20527.
3. Douglas Utility owns a public water system registered with the Texas Commission on Environmental Quality (TCEQ) as Fountainview Subdivision under public water system identification number 1010127.

4. Douglas Utility owns and operates a TCEQ-permitted wastewater system, under wastewater discharge permit number WQ11200001, registered as Douglas Utility Fountainview.
5. CSWR-Texas is a Texas limited liability company registered with the Texas secretary of state under file number 803367893.
6. CSWR-Texas operates, maintains, and controls facilities for providing retail water service in Angelina, Aransas, Austin, Burlison, Burnet, Calhoun, Camp, Denton, Ellis, Erath, Guadalupe, Harris, Hays, Hidalgo, Hood, Jackson, Kerr, Limestone, Llano, Lubbock, McCulloch, Montague, Montgomery, Navarro, Orange, Parker, Polk, Robertson, Sabine, San Augustine, Victoria, Wilson, and Wood counties under CCN number 13290.
7. CSWR-Texas operates, maintains, and controls facilities for providing sewer service in Aransas, Bexar, Calhoun, Hidalgo, Hood, Jackson, Montgomery, Navarro, Orange, Parker and Polk counties under CCN number 21120.
8. CSWR-Texas owns and operates several public water systems registered with the TCEQ and wastewater systems permitted by the TCEQ.

Application

9. On October 31, 2022, the applicants filed the application at issue in this proceeding.
10. In this application, Douglas Utility and CSWR-Texas and seek approval of the following transaction: (a) CSWR-Texas will acquire all of Douglas Utility's facilities and certificated service areas under CCN numbers 11369 and 20527; (b) the cancellation of Douglas Utility's CCN numbers 11369 and 20527; and (c) CSWR-Texas's CCN numbers 13290 and 21120 will be amended to include the facilities and areas previously included in Douglas Utility's CCN numbers 11369 and 20527.
11. CSWR-Texas supplemented the application on November 17, 18, and 21, 2022, December 2, 2022, and February 27 and March 3, 2023.
12. The requested water service area and sewer service area subject to the transaction (the requested areas) are identical in acreage and boundaries.
13. The requested areas are approximately 104.9 acres and 472 customer connections, comprised of 27.9 acres of uncertificated area and 77 acres of transferred area.

14. The requested area is located approximately 5 miles southwest of downtown Humble, Texas and is generally bounded on the north by Sam Houston Parkway (Tollway); on the east by Lee Road; on the south by Aldine Bender Road (Farm-to-Market Road 525); and on the west by Crosswinds Drive.
15. In Order No. 2 filed on December 2, 2022, the ALJ found the application, as supplemented, administratively complete.

Notice

16. On January 17, 2023, CSWR-Texas filed the affidavit of Aaron Silas, regulatory case manager for CSWR-Texas, attesting that mailed notice was provided to all current customers of Douglas Utility, landowners, neighboring utilities, and affected parties on December 13, 2022. CSWR-Texas also filed a publisher's affidavit attesting that notice was published in the *Houston Chronicle*, a newspaper regularly published in Harris County, on December 7 and 14, 2022.
17. In Order No. 3 filed on January 31, 2023, the ALJ found the notice sufficient.

Evidentiary Record

18. In Order No. 5 filed on April 10, 2023, the ALJ admitted the following evidence into the record of this proceeding:
 - (a) The application and all attachments filed on October 31, 2022;
 - (b) CSWR-Texas' first supplement to the application filed on November 17, 2022;
 - (c) CSWR-Texas' highly sensitive supplemental attachment G filed on November 18, 2022;
 - (d) CSWR-Texas' second supplement to the application and confidential supplemental attachment J filed on November 21, 2022;
 - (e) Commission Staff's recommendation on administrative completeness and notice and proposed procedural schedule filed on December 1, 2022;
 - (f) CSWR-Texas' highly sensitive supplemental attachment G filed on December 2, 2022;
 - (g) CSWR-Texas' affidavit of notice to current customers, neighboring utilities, and affected parties, including highly sensitive Exhibit B, filed on January 17, 2023;

- (h) Commission Staff's recommendation on sufficiency of notice filed on January 27, 2023;
- (i) CSWR-Texas' fourth supplement to the application including highly sensitive supplemental attachment G filed on February 27, 2023;
- (j) CSWR-Texas' fifth supplement to the application, including confidential supplemental attachment A-1, filed on March 3, 2023; and
- (k) Commission Staff's recommendation on the transaction, including confidential attachment FB-1, filed on March 6, 2023.

Cumulative Recommendation

19. On March 6, 2023, Commission Staff filed its recommendation regarding the transaction in this docket recommending that CSWR-Texas has the financial, managerial, and technical capability to provide continuous and adequate service to all areas included in this docket and in Docket Nos. 50251,¹ 50276,² 50311,³ 50989,⁴ 51003,⁵ 51026,⁶ 51031,⁷

¹ *Application of JRM Water LLC and CSWR-Texas Utility Operating Company, LLC for Sale, Transfer, or Merger of Facilities and Certificate Rights in Victoria County, Docket No. 50251, Notice of Approval (Mar. 12, 2022).*

² *Application of North Victoria Utilities, Inc. and CSWR-Texas Utility Operating Company, LLC for Sale, Transfer, or Merger of Facilities and Certificate Rights in Victoria County, Docket No. 50276, Notice of Approval (Mar. 11, 2022).*

³ *Application of Copano Heights Water Company and CSWR-Texas Utility Operating Company, LLC for Sale, Transfer, or Merger of Facilities and Certificate Rights in Aransas County, Docket No. 50311, Notice of Approval (Mar. 17, 2022).*

⁴ *Application of Ranch Country of Texas Water Systems, Inc. and CSWR-Texas Utility Operating Company, LLC for Sale, Transfer, or Merger of Facilities and Certificate Rights in Austin County, Docket No. 50989, Notice of Approval (Apr. 23, 2022).*

⁵ *Application of Oak Hill Ranch Estates Water and CSWR-Texas Utility Operating Company, LLC for Sale, Transfer, or Merger of Facilities and Certificate Rights in Guadalupe and Wilson Counties, Docket No. 51003, Notice of Approval (Aug. 9, 2022).*

⁶ *Application of Tall Pines Utility, Inc. and CSWR-Texas Utility Operating Company, LLC for Sale, Transfer, or Merger of Facilities and Certificate Rights in Harris County, Docket No. 51026, Notice of Approval (Apr. 23, 2022).*

⁷ *Application of Council Creek Village, Inc. d/b/a Council Creek Village d/b/a South Council Creek 2 CSWR-Texas Utility Operating Company, LLC for Sale, Transfer, or Merger of Facilities and Certificate Rights in Burnet County, Docket No. 51031, Notice of Approval (Apr. 14, 2022).*

51036,⁸ 51047,⁹ 51065,¹⁰ 51089,¹¹ 51118,¹² 51126,¹³ 51130,¹⁴ 51146,¹⁵ 51222,¹⁶ 51544,¹⁷

⁸ *Application of Kathie Lou Daniels d/b/a Woodlands West and CSWR-Texas Utility Operating Company, LLC for Sale, Transfer, or Merger of Facilities and Certificate Rights in Burleson County, Docket No. 51036, Notice of Approval (Aug. 23, 2022).*

⁹ *Application of Jones-Owen Company d/b/a South Silver Creek I, II, and III and CSWR-Texas Utility Operating Company, LLC for Sale, Transfer, or Merger of Facilities and Certificate Rights in Burnet County, Docket No. 51047, Notice of Approval (Apr. 19, 2022).*

¹⁰ *Application of Treetop Utilities, Inc. and CSWR-Texas Utility Operating Company, LLC for Sale, Transfer, or Merger of Facilities and Certificate Rights in Parker County, Docket No. 51065, Corrected Notice of Approval (Mar. 10, 2022).*

¹¹ *Application of Donald E. Wilson d/b/a Quiet Village II d/b/a QV Utility CSWR-Texas Utility Operating Company, LLC for Sale, Transfer, or Merger of Facilities and Certificate Rights in Hidalgo County, Docket No. 51089, Notice of Approval (Nov. 18, 2022).*

¹² *Application of Shady Oaks Water Supply Company, LLC and CSWR-Texas Utility Operating Company, LLC for Sale, Transfer, or Merger of Facilities and Certificate Rights in Wilson County, Docket No. 51118, Notice of Approval (Mar. 18, 2022).*

¹³ *Application of Shawn M. Horvath Dba Aero Valley Water Service and CSWR-Texas Utility Operating Company, LLC for Sale, Transfer, or Merger of Facilities and to Amend CSWR-Texas Utility Operating Company, LLC's Certificate of Convenience and Necessity in Denton County, Docket No. 51126, Notice of Approval (Oct. 26, 2022).*

¹⁴ *Application of Laguna Vista Limited and Laguna Tres, Inc. CSWR-Texas Utility Operating Company, LLC for Sale, Transfer, or Merger of Facilities and Certificate Rights in Hood County, Docket No. 51130, Notice of Approval (Apr. 20, 2022).*

¹⁵ *Application of Abraxas Corporation and CSWR-Texas Utility Operating Company, LLC for Sale, Transfer, or Merger of Facilities and Certificate Rights in Parker County, Docket No. 51146, Notice of Approval (Apr. 23, 2022).*

¹⁶ *Application of the Estate of Patetreen Petty McCoy d/b/a Big Wood Springs Water Company and CSWR-Texas Utility Operating Company, LLC for Sale, Transfer, or Merger of Facilities and Certificate Rights in Wood County, Docket No. 51222, Notice of Approval (Feb. 16, 2022).*

¹⁷ *Application of Franklin Water Service Co. LLC and CSWR-Texas Utility Operating Company, LLC for Sale, Transfer, or Merger of Facilities and Certificate Rights in Lubbock County, Docket No. 51544, Notice of Approval (Feb. 15, 2022).*

51642,¹⁸ 51917,¹⁹ 51928,²⁰ 51940,²¹ 51981,²² 52089,²³ 52099,²⁴ 52410,²⁵ 52661²⁶ 52702,²⁷
52803,²⁸ 52879,²⁹ 52880,³⁰ and 53326.³¹

¹⁸ *Application of James L. Nelson dba WaterCo and CSWR-Texas Utility Operating Company, LLC for Sale, Transfer, or Merger of Facilities and Certificate Rights in Montague County, Docket No. 51642, Notice of Approval (Mar. 15, 2022).*

¹⁹ *Application of Rocket Water Company, Inc. and CSWR-Texas Utility Operating Company, LLC For Sale, Transfer, Or Merger of Facilities and Certificate Rights in Hays County, Docket No. 51917, Notice of Approval (Mar. 8, 2022).*

²⁰ *Application of Betty J. Dragoo and CSWR-Texas Utility Operating Company, LLC for Sale, Transfer, or Merger of Facilities and Associated Acreage in Erath County, Docket No. 51928, Notice of Approval (Jan. 21, 2022).*

²¹ *Application of Walnut Bend Water Supply and CSWR-Texas Utility Operating Company, LLC for Sale, Transfer or Merger of Facilities and Certificate Rights in Angelina County, Docket No. 51940, Notice of Approval (Mar. 15, 2022).*

²² *Application of Live Oak Hills and Flag Creek Ranch Water Systems and CSWR-Texas Utility Operating Company, LLC for Sale, Transfer, or Merger of Facilities and Certificate Rights in Llano and McCulloch Counties, Docket No. 51981, Notice of Approval (Jan. 28, 2022).*

²³ *Application of Alpha Utility of Camp County, LLC and CSWR-Texas utility Operating Company, LLC for Sale, Transfer, or Merger of Facilities and Certificate Rights in Camp County, Docket No. 52089, Notice of Approval (Mar. 25, 2022).*

²⁴ *Application of THRC Utility, LLC and CSWR-Texas Utility Operating Company, LLC for Sale, Transfer, or Merger of Facilities and Certificate Rights in Navarro County, Docket No. 52099, Corrected Notice of Approval (Jul. 28, 2022).*

²⁵ *Application of CSWR-Texas Utility Operating Company, LLC and Leon Springs Utility Company, Inc. for Sale, Transfer, or Merger of Facilities and Certificate Rights in Bexar County, Docket No. 52410, Notice of Approval (Jun. 3, 2022).*

²⁶ *Application of Tri-County Point Property Owners Association and CSWR-Texas Utility Operating Company, LLC for Sale, Transfer, or Merger of Facilities and Certificate Rights in Calhoun and Jackson Counties, Docket No. 52661, Notice of Approval (Dec. 12, 2022).*

²⁷ *Application of CSWR-Texas Utility Operating Company, LLC and Fremont Water Company for Sale, Transfer, or Merger of Facilities and Certificate Rights in Kerr County, Docket No. 52702, Notice of Approval (Aug. 5, 2022).*

²⁸ *Application of Copano Cove Water Company, Inc. and CSWR-Texas Utility Operating Company, LLC for Sale, Transfer, or Merger of Facilities and Certificate rights in Aransas County, Docket No. 52803, Notice of Approval (Dec. 19, 2022).*

²⁹ *Application of Carroll Water Company, Inc. and CSWR-Texas Utility Operating Company, LLC for Sale, Transfer, or Merger of Facilities and Certificate Rights in Ellis County, Docket No. 52879, Notice of Approval (Sept. 21, 2022).*

³⁰ *Application of Texas Landing Utilities and CSWR-Texas Utility Operating Company, LLC for Sale, Transfer, or Merger of Facilities and Certificate Rights in Polk and Montgomery Counties, Docket No. 52880, Notice of Approval (Nov. 3, 2022).*

³¹ *Application of CSWR-Texas Utility Operating Company, LLC and Aransas Bay Utilities Co., LLC for Sale, Transfer, or Merger of Facilities and Certificate Rights in Aransas County, Docket No. 53326, Notice of Approval (Dec. 16, 2022).*

CSWR-Texas's Compliance History

20. CSWR-Texas has not been under enforcement action by the Commission, TCEQ, Texas Health and Human Services, the Office of the Texas Attorney General, or the United States Environmental Protection Agency in the past five years for non-compliance with rules, orders or state statutes.
21. The Commission's complaint records, which date back to 2017, show 12 complaints against CSWR-Texas.
22. CSWR-Texas does not have a history of continuing mismanagement or misuse or revenues as a utility service provider.
23. CSWR-Texas demonstrated a compliance history that is adequate for approval of the transaction to proceed.

Adequacy of Existing Service

24. The last TCEQ compliance investigation of the Fountainview Subdivision public water system was on August 13, 2021. The last TCEQ compliance investigation of the Douglas Utility Fountainview wastewater system was on April 18, 2022.
25. The Fountainview Subdivision water system has one violation listed in the TCEQ database.
26. The Commission's complaint records, which date back to 2017, show six complaints against Douglas Utility.
27. CSWR-Texas plans to make upgrades, renovations, and repairs to the system to return the system to compliance and to ensure that customers receive safe and reliable service.

Need for Additional Service

28. There is a continuing need for service because Douglas Utility is currently serving 472 customer connections in the requested area.
29. This is an application to transfer existing facilities, customers, and service area.
30. There have been no specific requests for additional service within the requested area.

Effect of Approving the Transaction

31. All retail public utilities in the proximate area of the requested areas were provided notice of the transaction and none filed a protest or motion to intervene.

32. There is no evidence that approval of the transaction will have any adverse effect on any other retail public utility providing service in the proximate area.
33. Approving the sale and transfer to proceed and granting the CCN amendments will obligate CSWR-Texas to provide continuous and adequate water and sewer service to current and future customers in requested area.
34. There will be no effect on landowners because the areas are currently certificated.

Ability to Serve: Managerial and Technical

35. CSWR-Texas owns and operates numerous TCEQ-approved public water systems and TCEQ-permitted wastewater systems.
36. CSWR-Texas employs or contracts with TCEQ-licensed water operators who will operate the water and sewer system.
37. No additional construction is necessary for CSWR-Texas to provide service to the requested area.
38. CSWR-Texas has the technical and managerial capability to provide adequate and continuous service to the requested areas.

Feasibility of Obtaining Service from Adjacent Retail Public Utility

39. Douglas Utility is currently serving customers and has sufficient capacity.
40. Obtaining service from an adjacent retail public utility would likely increase costs to customers because new facilities would need to be constructed. At a minimum, an interconnect would need to be installed in order to connect to a neighboring retail public utility.
41. It is not feasible to obtain service from an adjacent retail public utility.

Regionalization or Consolidation

42. It will not be necessary for CSWR-Texas to construct a physically separate water system or wastewater system to serve the requested areas.
43. Because the requested areas will not require construction of a physically separate water system, consideration of regionalization or consolidation with another retail public utility is not required.

Ability to Serve: Financial Ability and Stability

44. CSWR, LLC, the immediate parent company of CSWR-Texas, is capable, available, and willing to cover temporary cash shortages, and has a debt-to-equity ratio of less than one, satisfying the leverage test.
45. CSWR, LLC provided a written guarantee of coverage of temporary cash shortages and demonstrated that it has sufficient cash available to cover any projected operations and maintenance shortages in the first five years of operations after completion of the transaction and possesses the cash and leverage ability to pay for capital improvements and necessary equity investments, satisfying the operations test.
46. CSWR-Texas submitted documents demonstrating funds are available for the purchase of the system and facilities.
47. CSWR-Texas demonstrated the financial and managerial ability and stability to provide continuous and adequate service to the requested area.

Financial Assurance

48. There is no need to require CSWR-Texas to provide a bond or other financial assurance to ensure continuous and adequate service.

Voluntary Valuation of Acquired Utility or Facilities

49. Prior to filing the application, CSWR-Texas and Douglas Utility filed a notice to the Commission in Project No. 49859³² of their intent to use the Commission's fair market value (FMV) process to determine the ratemaking rate base of Douglas Utility's water and sewer system assets to be acquired by CSWR-Texas.
50. CSWR-Texas included copies of the three appraisal reports required by the FMV process with the application and evidence of the purchase price agreed upon between CSWR-Texas and Douglas Utility.
51. The agreed upon purchase price for the transaction and the appraisals reported by each of the utility experts and the resulting average amount is identified in confidential attachment FB-1 to Commission Staff's recommendation on the transaction.

³² Notice of Intent to Determine Fair Market Value, Docket No. 49859.

52. The average of the three appraisals yields a purchase price of less than the FMV of Douglas Utility's water and sewer systems; therefore, the ratemaking rate base for Douglas Utility's water and sewer system is the agreed upon purchase price for the transaction identified in attachment FB-1 to Commission Staff's recommendation.
53. The application included CSWR-Texas's known and estimated transaction and closing costs.
54. No additional conditions for the acquisition based on the FMV process are needed.

Environmental Integrity and Effect on the Land

55. There will be minimal effects on environmental integrity and on the land as a result of CSWR-Texas's planned upgrades, renovations, and repairs to the water system and sewer system.

Improvement of Service or Lowering Cost to Consumers

56. Reliability and quality of water service is expected to improve under CSWR-Texas's management.
57. The rates charged to customers in the requested area will not change as a result of the proposed transaction, because CSWR-Texas will adopt the currently in effect tariffs for the water system and sewer system upon approval of the transaction.

II. Conclusions of Law

The Commission makes the following conclusions of law.

1. Notice of the application was provided in compliance with Texas Water Code (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), CSWR-Texas demonstrated that it is capable of rendering continuous and adequate service to every customer within the requested areas, as required by TWC § 13.251.
3. CSWR-Texas demonstrated adequate financial, managerial, and technical capability for providing continuous and adequate service to the requested areas as required by TWC §§ 13.241(a) and 13.301(b) and 16 TAC § 24.239(e).

4. CSWR-Texas filed its notice of intent to use the fair market valuation as required by TWC § 13.305(c)(1) and 16 TAC § 24.238(d).
5. The Commission's executive director selected three utility valuation experts to perform an appraisal of Douglas Utility's water and sewer system in compliance with TWC § 13.305(c)(2) and 16 TAC § 24.238(e).
6. The application included copies of the three appraisal reports completed by the utility valuation experts as required by TWC § 13.305(h) and 16 TAC § 24.239(d)(1)(A).
7. The application included the purchase price agreed to by CSWR-Texas and Douglas Utility as required by TWC § 13.305(h)(2) and 16 TAC § 24.239(d)(1)(B).
8. The calculation of the fair market valuation for Douglas Utility complies with TWC § 13.305(f) and 16 TAC § 24.238(f) through (j).
9. The calculation of the ratemaking rate base for Douglas Utility complies with TWC § 13.305(g) and 16 TAC § 24.238(b)(3) and (4).
10. Under 16 TAC § 24.238(b)(4), if the three appraisals yields a fair market value that is more than the sales, price, the ratemaking rate base is the sales price amount.
11. It is not necessary for CSWR-Texas to provide bond or other financial assurance under TWC §§ 13.246(d) and 13.301(c).
12. The applicants demonstrated that the sale and transfer of the facilities and service area under Douglas Utility's CCN numbers 11369 and 20527 to CSWR-Texas will serve the public interest and is necessary for the continued service, accommodation, convenience, or safety of the public, as required by TWC §§ 13.246(b) and 13.301(d) and (e).

III. Ordering Paragraphs

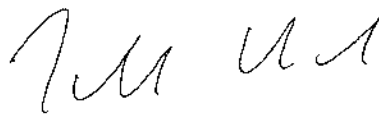
In accordance with these findings of fact and conclusions of law, the Commission issues the following orders.

1. The transaction between CSWR-Texas and Douglas Utility in this proceeding is approved and may be completed as proposed.

2. The ratemaking rate base for Douglas Utility is determined to be the agreed upon purchase price for the transaction and is identified in the highly sensitive attachment FB-1 to Commission Staff's recommendation on the transaction.
3. CSWR-Texas may seek to include in its rate base its transaction and closing costs for the acquisition of Douglas Utility water and sewer system in a future rate case.
4. 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 completed and customer deposits, if any, have been addressed.
5. The applicants have 180 days from the date of this Order to complete the transaction.
6. Under 16 TAC § 24.239(m), if the transaction is not completed within this 180-day period and no extension has been granted, this approval is void and the applicants will have to reapply for approval.
7. The applicants are advised that the facilities and service areas subject to the transaction will remain under Douglas Utility's CCN numbers 11369 and 20527 until the final order or notice of approval is issued in this matter, in accordance with Commission rules.
8. In an effort to finalize this case as soon as possible, the applicants must continue to file monthly updates regarding the status of the closing and submit documents evidencing that the transaction was completed.
9. Within 15 days following the filing of the applicants' proof that the transaction has been completed 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 13th day of April 2023.

PUBLIC UTILITY COMMISSION OF TEXAS



JEFFREY J. HUHN
ADMINISTRATIVE LAW JUDGE