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DOCKET NO. 54393

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| APPLICATION OF CSWR-TEXAS | § | PUBLIC UTILITY COMMISSION |
| UTILITY OPERATING COMPANY, | § | |
| LLC AND INTERMEDIARY | § | OF TEXAS |
| SOLUTIONS HOLDING LLC FOR | § | |
| SALE, TRANSFER, OR MERGER OF | § | |
| FACILITIES AND CERTIFICATE | § | |
| RIGHTS IN LUBBOCK COUNTY | § | |

COMMISSION STAFF’S RESPONSE TO ORDER NO. 6

I. INTRODUCTION

On November 30, 2022, CSWR-Texas Utility Operating Company, LLC (CSWR-Texas) and Intermediary Solutions Holding LLC (collectively, Applicants) filed an application for the sale, transfer, or merger of facilities and certificate rights in Lubbock County.

On May 17, 2023, the administrative law judge (ALJ) filed Order No. 6, 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. 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 capital improvement plan and need for service and mapping issues the ALJ identified in Order No. 6 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 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 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 the 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. 6 and allowing Applicants to proceed with the transaction.

Dated: June 14, 2023

Respectfully submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS
LEGAL DIVISION**

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/s/ Ian Groetsch
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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 June 14, 2023, in accordance with the Second Order Suspending Rules, filed in Project No. 50664.

/s/ Ian Groetsch _____

Ian Groetsch

Public Utility Commission of Texas

Memorandum

TO: Ian Groetsch, Attorney
Legal Division

FROM: Jolie Mathis, Utility Engineering Specialist
Infrastructure Division

DATE: June 14, 2023

RE: Docket No. 54393 – *Application of CSWR-Texas Utility Operating Company, LLC and Intermediary Solutions Holding LLC for Sale, Transfer, or Merger of Facilities and Certificate Rights in Lubbock County*

1. Application

CSWR-Texas Utility Operating Company LLC (CSWR-Texas) and Intermediary Solutions Holding LLC (Intermediary Solutions) (collectively, Applicants) filed an application for sale, transfer, or merger (STM) of facilities and certificate rights in Lubbock County, Texas, under Texas Water Code (TWC) § 13.301 and 16 Texas Administrative Code (TAC) § 24.239.

Specifically, CSWR-Texas, water Certificate of Convenience and Necessity (CCN) No. 13290, seeks approval to acquire facilities and to transfer and cancel all of the water service area from Intermediary Solutions under water CCN No. 12179.

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

- The requested area includes 194 customer connections and approximately 149.2 acres, comprised of:
8.5 acres of uncertificated area; and
140.7 acres of transferred area from CCN No. 12179.
- The application proposes the subtraction of approximately 140.7 acres from CCN No. 12179 and the addition of approximately 149.2 acres to CCN No. 13290.
- The application indicates that the total acreage being requested is approximately 148.2 acres, however, the mapping review determined the requested area is approximately 149.2 acres.

2. Notice

CSWR-Texas provided notice consistent with 16 TAC § 24.239(c). The deadline to intervene was March 6, 2023; there were no motions to intervene, protests, or opt-out requests received.

CSWR-Texas provided notice consistent with TWC § 13.246(a-1) and 16 TAC § 24.235(b)(2). An affidavit was filed showing that notice was provided to customers outside the current CCN area and landowners of tracts of land 25 acres or more in the requested area. Additionally, a detailed map providing the location of the customers outside the current CCN area and the landowners with tracts of land over 25 acres that are partially included in the CCN area were provided with identifying landowner information.

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)).

CSWR-Texas is proposing to make improvements to the North University Estates water system. The proposed capital improvements do exceed \$100,000, therefore the need for firm capital commitment under 16 TAC § 24.11(e)(5) is required.

Once CSWR-Texas begins operating the facility, it is estimated it will take 12 months to evaluate the repairs and improvements needed. Following the evaluation, CSWR-Texas estimated it will begin construction within 24 months and that construction will be completed within 30 months.

A map was provided showing where the facilities will be located.

4. Loan Documentation

The Rate Regulation Division will be addressing this 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 deposits held by Intermediary Solutions for some of the customers being served by North University Estates. I further recommend that a public hearing is not necessary.

Public Utility Commission of Texas

Memorandum

TO: Ian Groetsch
Legal Division

FROM: Fred Bednarski III
Rate Regulation Division

DATE: June 14, 2023

RE: Docket No. 54393 *Application of CSWR-Texas Utility Operating Company, LLC and Intermediary Solutions Holding LLC for Sale, Transfer, or Merger of Facilities and Certificate Rights in Lubbock County*

On November 30, 2022, CSWR-Texas Utility Operating Company (CSWR-Texas), which holds water Certificate of Convenience and Necessity (CCN) No. 13290, and Intermediary Solutions Holding LLC (Intermediary) filed an application for the sale and transfer of facilities and certificate rights in Lubbock 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 17, 2023, the administrative law judge issued Order No. 6, 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' additional 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 future STM proceedings, and is capable, available, and willing to cover any temporary cash shortages and operating expense shortfalls in this and future STM proceedings.² CSWR-Texas submitted audited financial statements containing a cash and cash equivalents balance sufficient to pay for the purchase price of Intermediary, the remaining systems purchase prices, Intermediary's improvement cost, and the remaining system 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 (Nov. 30, 2022).