



## **Filing Receipt**

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<b>APPLICATION OF CSWR-TEXAS</b>	<b>§</b>	<b>PUBLIC UTILITY COMMISSION</b>
<b>UTILITY OPERATING COMPANY,</b>	<b>§</b>	
<b>LLC, TB GP, LLC DBA VALLEY VISTA</b>	<b>§</b>	
<b>WATER COMPANY, AND VALLEY</b>	<b>§</b>	<b>OF TEXAS</b>
<b>VISTA HOMEOWNERS</b>	<b>§</b>	
<b>ASSOCIATION, INC. DBA VALLEY</b>	<b>§</b>	
<b>VISTA WATER COMPANY FOR SALE,</b>	<b>§</b>	
<b>TRANSFER, OR MERGER OF</b>	<b>§</b>	
<b>FACILITIES AND CERTIFICATE</b>	<b>§</b>	
<b>RIGHTS IN UVALDE COUNTY</b>	<b>§</b>	

**COMMISSION STAFF’S REVISED RECOMMENDATION ON SUFFICIENCY  
OF CLOSING DOCUMENTS**

On January 4, 2023, CSWR-Texas Utility Operating Company, LLC (CSWR-Texas) and Valley Vista Homeowners Association, Inc. dba Valley Vista Water Company (Valley Vista) filed an application for the sale, transfer, or merger (STM) of facilities and certificate rights in Uvalde County under the provisions of Texas Water Code (TWC) § 13.301 and 16 Texas Administrative Code (TAC) § 24.239. On April 4, 2023, CSWR-Texas filed a supplement to the application to update the underlying purchase agreement to add TB GP, LLC dba Valley Vista Water Company (TB GP, LLC) to the STM application as the seller of the certificate of convenience and necessity (CCN) rights, while Valley Vista is only the seller of the water system and associated facilities and underlying acreage owned by Valley Vista. As such, CSWR-Texas, TB GP, LLC, and Valley Vista (collectively, Applicants) seek approval for CSWR-Texas, CCN No. 13290 to acquire all of the water service area from TB GP, LLC under water CCN No. 13147, as well as the facilities that provide service to CCN No. 13147 from Valley Vista, and to cancel CCN No. 13147.

On April 28, 2023, the administrative law judge (ALJ) filed Order No. 14, approving the sale and transfer to proceed, and requiring the Applicants to file proof that the transaction had been consummated and to address customer deposits, if any, no later than 30 days after the effective date of the transaction. Order No. 14 also required the Staff (Staff) of the Public Utility Commission of Texas (Commission) to file a recommendation regarding the sufficiency of the Applicants’ closing documents and to propose a schedule for continued processing of this docket within 15 days of the filing of the closing documents. On December 4, 2023, the Applicants filed notice of the completed transaction.

On December 19, 2023, Staff filed a recommendation that the closing documents were deficient. However, on December 20, 2023, the Applicants filed a response to Staff's deficiency recommendation to address Staff's concerns. Subsequently, the ALJ filed Order No. 15, finding the closing documents deficient and setting a deadline of January 16, 2024 for Staff to file a supplemental recommendation on the sufficiency of the closing documentation, as supplemented and propose a procedural schedule for further processing. Therefore, this pleading is timely filed.

### **I. SUFFICIENCY OF CLOSING DOCUMENTS**

Staff has reviewed the closing documents and the response to Staff's deficiency recommendation filed by the Applicants and recommends that they are sufficient and meet the requirements of 16 TAC § 24.239(b), (i), and (k)-(m). Specifically, 16 TAC § 24.239(b) requires the filing of an STM application and the provision of public notice at least 120 days before the effective date of a proposed transaction. Additionally, 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. Further, under 16 TAC § 24.239(m), the proposed transaction must be completed within 180 days following the date of the Commission order allowing the transaction to proceed. Lastly, under 16 TAC § 24.239(l), the closing documents for the transaction must include a signed contract, bill of sale, or other appropriate documents as evidence that the transaction has closed as proposed, be signed by both the transferor and transferee, and be filed within 30 days after the actual effective date of the transaction. Based on Staff's review of the closing documents, Staff recommends that the Applicants properly and timely filed notice of the completed transaction.

Regarding Staff's prior deficiency recommendation, Staff recommended that the Applicants provide a signed contract, bill of sale, or other appropriate document that is signed by both TB GP, LLC and CSWR-Texas based on the fact that TB GP, LLC was added a second transferor and third joint applicant in this proceeding to transfer its CCN rights to CSWR-Texas and that the amendment to the underlying agreement for this STM indicates that TB GP, LLC agreed to execute a general assignment and bill of sale prior to closing. In error, Staff disregarded the full context of the agreement, which states that TB GP, LLC agreed to execute a bill of sale and general assignment to transfer the residual interest, if any, in the system to Valley Vista, so that Valley Vista could close the transaction with CSWR-Texas. And based on the executed bill

of sale and general assignment filed by the Applicants on December 20, 2023, TB GP, LLC and Valley Vista closed on the amended agreement to transfer the residual interest, if any, in the system from TB GP, LLC to Valley Vista. Staff does acknowledge that the bill of sale and general assignment were executed on February 13, 2023 while the amended agreement was not entered into until March 21, 2023 and not fully executed until April 3, 2023. However, Staff recommends that the timing of the execution does not render the documents deficient in terms of providing proof that this portion of the transaction has been closed as proposed.

Apart from the residual interest, if any, in the system, TB GP, LLC also agreed to transfer the CCN to CSWR-Texas in conjunction with the closing and agreed to do all acts and things necessary and to cooperate with and assist CSWR-Texas and Valley Vista in transferring the CCN from TB GP, LLC to CSWR-Texas. As stated above, 16 TAC § 24.239(l) requires the transferee and transferor to file a signed contract, bill of sale, or other appropriate documents as evidence that the transaction has closed as proposed and for such documentation to be signed by both the transferor and transferee. As such, the rule requires the closing documents to also include a signature from TB GP, LLC for proof that the transaction has been closed as proposed. However, upon further consideration, because the transfer of the CCN is something that cannot be completed upon closing of the transaction and can only occur through the Commission's final order in this proceeding, Staff recommends that TB GP, LLC has satisfied its obligations under the amended agreement by executing a bill of sale and general assignment with Valley Vista. Therefore, Staff recommends that any additional signed documentation from TB GP, LLC may not be necessary to provide further proof that the transaction has closed as proposed.

However, to the extent the ALJ determines that 16 TAC § 24.239(l) requires additional closing documentation to be signed by TB GP, LLC, based in part on the fact that Thomas L. Kirkpatrick has signed previous documents on behalf of TB GP, LLC that have been filed in this proceeding, Staff notes that Mr. Kirkpatrick has also attested in an affidavit that TB GP, LLC has forfeited its existence and that CCN No. 13147 is abandoned and not held by any existing person or entity. As such, if CSWR-Texas is unable to have Mr. Kirkpatrick sign such additional closing documentation on behalf of TB GP, LLC, Staff recommends there is good cause to not require TB GP, LLC to sign additional appropriate documentation to prove that the transaction has closed as proposed.

Regarding customer deposits, the closing documents include a statement that there are no outstanding customer deposits. Additionally, the Applicants' responses regarding customer deposit information in the initial application, filed on January 4, 2023, indicate that all customers of Valley Vista had been refunded their deposits. As such, Staff recommends that the Applicants are not required to file any further customer deposit information in accordance with 16 TAC § 24.239(k) and (l), as there were no outstanding customer deposits as of the effective date of the transaction. Staff therefore recommends a finding that customer deposits have been adequately addressed as required by 16 TAC § 24.239(k) and (l).

For these reasons, Staff recommends that the Applicants have complied with the applicable closing requirements of 16 TAC § 24.239. Staff therefore recommends that the closing documents and customer deposit information be found sufficient.

## II. PROPOSED PROCEDURAL SCHEDULE

In accordance with Staff's recommendation that the Applicants' closing documents be found sufficient, Staff proposes the following procedural schedule:

Events	Date
Deadline for CSWR-Texas to comply with Ordering Paragraph No. 7 in Order No. 14 regarding its capital improvements plan	February 2, 2024
Deadline for Staff to file a recommendation on CSWR-Texas's capital improvements plan	February 16, 2024
Deadline for Staff to provide final maps, certificates, and tariffs (if applicable) to Applicants for review and consent	February 16, 2024
Deadline for Applicants to file signed consent forms with the Commission	February 23, 2024
Deadline for parties to jointly file Proposed Notice of Approval, including findings of fact, conclusions of law, and ordering paragraphs	March 1, 2024

## III. CONCLUSION

For the reasons detailed above, Staff respectfully requests entry of an order consistent with this pleading.

Date: January 16, 2024

Respectfully submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS  
LEGAL DIVISION**

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**DOCKET NO. 54**

**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 January 16, 2024 in accordance with the Second Order Suspending Rules, filed in Project No. 50664.

/s/ Scott Miles  
Scott Miles