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DOCKET NO. 54543

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

JOINT RESPONSE TO ORDER NO. 17

CSWR-Texas Utility Operating Company, LLC (CSWR-Texas) and Staff of the Public Utility Commission of Texas (Commission Staff) (collectively, the Parties) file this Joint Response to Order No. 17. In support thereof, the Parties show the following:

I. BACKGROUND

On February 28, 2024, the administrative law judge (ALJ) filed Order No. 17, requiring the Parties to file briefing on whether 16 Texas Administrative Code (TAC) § 24.239(p) applies to this proceeding and whether consent from TB GP, LLC or Valley Vista Homeowner’s Association is required by March 20, 2024. In addition, the ALJ required the Parties to file a proposal for continued processing, if applicable. On March 4, 2024, the ALJ filed Order No. 18, granting an extension for the Parties to file a Proposed Notice of Approval and to file a response to Order No. 17 by March 11, 2024. Therefore, this pleading, concurrently filed with a Supplemental Joint Motion to Admit Evidence and Proposed Notice of Approval, is timely filed.

II. DISCUSSION

The Parties understand the ALJ’s inquiry to the potential applicability of 16 TAC § 24.239(p) to specifically inquire about 16 TAC § 24.239(p)(3), in which the requirements of

Texas Water Code (TWC) § 13.301 do not apply to the foreclosure on the physical assets of a utility. This exception is in relation to TWC § 13.304(b), which states that a financial institution that forecloses on a utility or any part of the utility's facilities or property that are used to provide utility service is not required to provide the 120-day notice prescribed by TWC § 13.301.¹ While the facilities were at one point foreclosed on by Texas First Bank,² the transfer of facilities from Valley Vista to CSWR-Texas in this proceeding does not meet the exception under 16 TAC § 24.239(p)(3), such that 16 TAC § 24.239(p) does not apply to this proceeding.

Regarding any requirement for TB GP, LLC or Valley Vista to provide signed consent forms, the manager of Valley Vista, who is the operator of the acquired utility and the only person CSWR-Texas is aware of who is qualified to speak to the accuracy of the mapping at issue in this proceeding, has agreed to sign the requested consent form, which is attached to this pleading. As far as a consent form from TB GP, LLC, there is no statute or Commission rule that requires an applicant to consent to a final map. Instead, the review and consent process has become part of Commission Staff's standard practice to help finalize proceedings in which applicants seek to obtain or amend certificates of convenience and necessity (CCN).

While TB GP, LLC entered into the agreement between Valley Vista and CSWR-Texas to help effectuate the transfer of the certificated service area under CCN No. 13147 to CSWR-Texas,³ despite having already forfeited its existence,⁴ ultimately TB GP, LLC's consent is not necessary to cancel TB GP, LLC's CCN No. 13147. Specifically, the Commission has the authority to cancel

¹ See also 16 TAC § 24.241(c).

² See CSWR-Texas Utility Operating Company, LLC's First Supplement to the Application at Attachment C (Feb. 21, 2023) (CSWR-Texas's First Supplement).

³ See CSWR-Texas Utility Operating Company, LLC's Third Supplement to Application at Attachment A (Apr. 4, 2023).

⁴ CSWR-Texas's First Supplement at Attachment C.

TB GP, LLC's CCN without TB GP, LLC's consent pursuant to TWC § 13.254(a)(1) and 16 TAC § 24.245(d)(1)(A), because TB GP, LLC, the certificate holder, is no longer providing, is incapable of providing, and has failed to provide continuous adequate service in its CCN, since its facilities were foreclosed on, and it has forfeited its existence. Nevertheless, TB GP, LLC's signing onto the agreement between Valley Vista and CSWR-Texas to transfer its CCN to CSWR-Texas should suffice as TB GP, LLC's consent to the cancellation of its CCN No. 13147 and the amendment of CSWR-Texas's CCN No. 13290 to include the area previously included in TB GP, LLC's CCN No. 13147. And based on the circumstances of TB GP, LLC's forfeited existence, there is good cause to not require TB GP, LLC to provide a signed consent form.

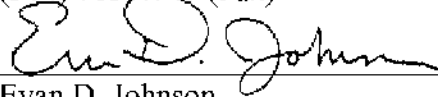
III. CONCLUSION

The Parties respectfully recommend that 16 TAC § 24.239(p) does not apply to this proceeding and that Valley Vista's consent to this proceeding and the final map is resolved through the attached consent form. Further, the Parties respectfully recommend that TB GP, LLC's consent is not required, but that its consent to this proceeding is resolved by its signing onto the agreement to transfer its CCN to CSWR-Texas, and that there is good cause to not require TB GP, LLC to provide a signed consent form to the final map.

Respectfully submitted,

**ATTORNEYS FOR CSWR-TEXAS UTILITY
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CERTIFICATE OF SERVICE

I hereby certify that on this 11th day of March 2024, notice of the filing of this document was provided to all parties of record via electronic mail in accordance with the Second Order Suspending Rules, filed in Project No. 50664.



Evan D. Johnson

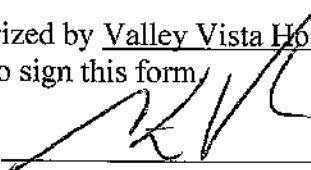
CONSENT FORM

Docket No. 54543 – *Application of CSWR-Texas Utility Operating Company, LLC, TB GP, LLC dba Valley Vista Water Company, and Valley Vista Homeowners Association, Inc. dba Valley Vista Water Company for Sale, Transfer, or Merger of Facilities and Certificate Rights in Uvalde County*

- I concur with the map transmitted by e-mail on **February 16, 2024**.
- I do not concur with the map transmitted by e-mail on **February 16, 2024**.

I understand that I have until **February 23, 2024** to provide my response.

I am authorized by Valley Vista Homeowners Association, Inc. dba Valley Vista Water Company to sign this form.

Signature: 

Printed Name: CHAD E. VLASAK

Relationship to Applicant: MGR

Date signed: 03-06-2024

Please upload the signed consent form to the PUC Interchange Filer at:
<https://interchange.puc.texas.gov/filer>.

You can find instructions for E-Filing the consent form at:
<http://www.puc.texas.gov/industry/filings/E-Filing%20Instructions.pdf>.