



## **Filing Receipt**

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<b>APPLICATION OF TEXAS WATER UTILITIES, L.P. AND WOODLAND OAKS UTILITIES LP FOR SALE, TRANSFER, OR MERGER OF FACILITIES AND CERTIFICATE RIGHTS AND FOR A NAME CHANGE TO CERTIFICATES OF CONVENIENCE AND NECESSITY IN MONTGOMERY COUNTY</b>	§ § § § § § § § §	<b>PUBLIC UTILITY COMMISSION  OF TEXAS</b>
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**TEXAS WATER UTILITIES, L.P.'S RESPONSE TO ORDER NO. 10**

Texas Water Utilities, L.P. (TWU) files this Response to Order No. 10, issued on July 12, 2023.

**I. BACKGROUND**

On January 4, 2022, TWU and Woodland Oaks Utility Company, Inc. (collectively, Applicants) filed an application for the sale, transfer, or merger of facilities and certificate rights in Montgomery County under the provisions of Texas Water Code (TWC) § 13.301 and 16 Texas Administrative Code (TAC) § 24.239. On July 12, 2023, the Public Utility Commission of Texas (Commission) administrative law judge (ALJ) issued Order No. 10 Requiring Clarification, which set a deadline of July 18, 2023 for TWU to clarify whether its planned capital improvements are necessary for it to provide water and sewer service that meets the Texas Commission on Environmental Quality's (TCEQ) minimum requirements following its acquisition of the water and sewer system at issue in this proceeding. Order No. 10 also requires TWU to identify the documents in the record that constitute its capital improvements plan. This response is therefore timely filed.

**II. RESPONSE**

TWU has planned capital improvements for the water and sewer system at issue in the Woodland Oaks STM proceeding. These planned capital improvements are shown in the record in Attachment 8 to the Application, TWU's capital improvement plan.<sup>1</sup> However, these planned capital improvements are not necessary to provide water and sewer service that meets TCEQ's minimum requirements. The estimated capital expenditures shown in Attachment 8 are not for

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<sup>1</sup> Application at Attachment 8 (Confidential) (Jan 4, 2023).

required capital improvements but for system improvements based on preliminary estimates. TWU could forego these improvements and still be able to provide continuous and adequate service in the near-term post-acquisition. Additionally, TWU is not proposing a substantial addition to its current CCN area, instead the area to be acquired through the transaction is 884 acres of water CCN area and 737 acres of sewer CCN area. This cannot be construed as a substantial addition to TWU's service area under CCN number 12983, which covers over 80,000 acres and 33,537 customers. Therefore, 16 TAC § 24.11(e)(5) does not apply because TWU is not proposing a *substantial* addition to its current CCN area that *requires* capital improvements in excess of \$100,000.<sup>2</sup>

Furthermore, as a general matter the Commission may require TWU to demonstrate adequate financial, managerial, and technical capability to provide service to the requested area and existing and if TWU cannot demonstrate adequate financial capability, the Commission may require TWU to provide a bond or other financial assurance.<sup>3</sup> However, the Commission has not determined that TWU cannot demonstrate adequate financial capability. In fact, Commission Staff's final recommendation opines that "TWU has filed documentation demonstrating adequate funding of the purchase price and planned system improvements provided in confidential attachment FB-1. Therefore, I recommend a finding that TWU satisfies the requirements of 16 TAC § 24.11(e)(5)(A)."<sup>4</sup>

Overall, TWU's planned capital improvements are not necessary for it to provide water and sewer service that meets the TCEQ's minimum requirements following its acquisition of the water and sewer systems at issue in this proceeding; therefore, it is not necessary for TWU to meet the requirements of 16 TAC § 24.11(e)(5). However, even if 16 TAC § 24.11(e)(5) is applicable to this proceeding, as Commission Staff opined in its final recommendation, TWU has satisfied the requirements of 16 TAC § 24.11(e)(5).

### III. CONCLUSION

TWU respectfully requests an order that 16 TAC § 24.11(e)(5) does not apply to this proceeding, or in the alternative that TWU has met the requirements of 16 TAC § 24.11(e)(5), and also requests any further relief to which it may be justly entitled.

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<sup>2</sup> See 16 TAC § 24.11(e)(5) (emphasis added).

<sup>3</sup> *Id.*

<sup>4</sup> Commission Staff's Recommendation on Final Disposition and Name Change Request, Memorandum of Fred Bednarski III at 2 (June 6, 2023).

Respectfully submitted,

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**ATTORNEYS FOR TEXAS WATER  
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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 July 18, 2023, in accordance with the Order Suspending Rules, issued in Project No. 50664.

/s/ William A. Faulk, III

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William A. Faulk, III