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**BEFORE THE
STATE OFFICE OF ADMINISTRATIVE
HEARINGS**

**APPLICATION OF CSWR-TEXAS UTILITY OPERATING
COMPANY, LLC FOR AUTHORITY TO CHANGE RATES**

**SOAH ORDER NO. 6
RULING ON CSWR'S OBJECTIONS AND
MOTION TO STRIKE DIRECT TESTIMONY**

On August 4, 2023, CSWR-Texas Utility Operating Company, LLC (CSWR-Texas) filed its Objection to and Motion to Strike Intervenor Direct Testimony (Motion). CSWR-Texas's objections focus on testimony that it alleges contains hearsay, irrelevant statements that are beyond the scope of the proceeding, and inappropriate expert opinion on technical water treatment and water quality issues. No party responded to CSWR-Texas's Motion. For the reasons addressed below the Motion is **GRANTED IN PART** and **DENIED IN PART**.

CSWR-Texas objected to the following portions of the joint testimony filed by intervenors Robert Hill and Robert Eilenberger, arguing it contains inadmissible

hearsay and/or irrelevant statements regarding an acquisition and certification of a system that was previously approved in a separate sale-transfer-merger which is not at issue in this docket.¹

Messrs. Hill and Eilenberger's testimony, Interchange Item No. 2377:

1. Page 1, paragraph 3, starting with "we asked alamo water supply ..." and ending with "freedom of information act."
2. Page 1, paragraph 3, starting with "She stated that ..." and ending with "\$10 dollars."
3. Page 2, paragraph 1, starting with "The prior contractor stated ..." and ending with "CCN number."
4. Page 2, paragraph 1, starting with "they stated ..." and ending with "quiet village subdivision."

The Administrative Law Judges (ALJs) conclude these portions of testimony contain inadmissible hearsay. Therefore, CSWR-Texas's motion is **GRANTED**, and the above portions of testimony are **STRICKEN**.

CSWR-Texas objected to the following portions of intervenors Andrew Clogg's and Heather Baughman's testimonies, arguing that they contain inadmissible hearsay:

Mr. Clogg's testimony consisted of various filings:

1. Interchange Item No. 2373:
 - Page 2, starting with "Timeline of Facebook H2S Complaints:" and ending with "dealing with the water smell."

¹ Tex. R. Evid. 401-402, 801-802.

2. Interchange Item No. 2371:²
 - Page 1, Leaf Home Water Test Results.
3. Interchange Item No. 2372:
 - Page 1, starting with “they say the ...” and ending with “virtually nonexistent.”

Ms. Baughman’s testimony, Interchange Item No. 2353:

4. Pages 19 through 21, containing a “simplelab” report.

The ALJs conclude the above-identified portions of testimony contain inadmissible hearsay. Therefore, CSWR-Texas’s motion is **GRANTED**, and the above portions of testimony are **STRICKEN**.

CSWR-Texas objected to the following portions of testimony filed by intervenors Ms. Baughman, Curtis Quarles, and LaDonna Turner, arguing that they contain opinions related to water treatment and water quality that are outside the witnesses’ personal knowledge and constitute improper expert opinion testimony.³

Ms. Baughman’s testimony, Interchange Item No. 2353:

1. Page 1, paragraph 4, starting with “The water provided ...” and ending with “skin issues.”

² Mr. Clogg’s filings identified as Interchange Item Nos. 2371 and 2372 were not identified in CSWR-Texas’s July 7, 2023 motion requesting the ALJs’ ruling on whether certain intervenors’ filings would be deemed non-evidentiary statements of position or direct testimony. Like his Interchange Item No. 2373 filing that was previously addressed in SOAH Order No. 5, Mr. Clogg’s 2371 and 2372 filings will also be regarded as testimony.

³ Tex. R. Evid. 602, 702.

Curtis Quarles's testimony, Interchange Item No. 2355:

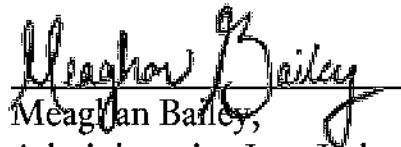
2. Page 1, paragraph 3, starting with "When CSWR took over ..." and ending with "towels and clothes...."


LaDonna Turner's testimony, Interchange Item No. 2388:

3. Page 1, point 3, starting with "Since the CSWR-Texas ..." and ending with "or the water lines."

The ALJs conclude the above-referenced testimony consists of information within the intervenors' personal knowledge and is not improper expert opinion testimony. Therefore, CSWR-Texas's motion to strike these portions of testimony is **DENIED**.

Signed August 15, 2023


Meaghan Bailey,
Administrative Law Judge


Christiaan Siano,
Administrative Law Judge