



## **Filing Receipt**

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**PUC DOCKET NO. 54565  
SOAH DOCKET NO. 473-23-18885.WS**

<b>APPLICATION OF CSWR-TEXAS</b>	<b>§</b>	<b>BEFORE THE</b>
<b>UTILITY OPERATING COMPANY,</b>	<b>§</b>	<b>PUBLIC UTILITY COMMISSION</b>
<b>LLC FOR AUTHORITY TO CHANGE</b>	<b>§</b>	<b>OF TEXAS</b>
<b>RATES</b>	<b>§</b>	

**CSWR-TEXAS UTILITY OPERATING COMPANY, LLC’S RESPONSE TO  
COMMISSION STAFF NUMBER RUN ANALYSIS**

CSWR-Texas Utility Operating Company, LLC submits this response to Commission Staff of the Public Utility Commission of Texas’s (“Commission Staff”) number run analysis regarding errors in Commission Staff’s calculation of rate base and rates. Specifically, the calculations include an erroneous reduction of the ratemaking rate base previously approved by the Public Utility Commission of Texas (“Commission”) pursuant to Texas Water Code (“TWC”) § 13.305 and 16 Texas Administrative Code (“TAC”) § 24.238. The Company attempted to resolve these issues informally with Commission Staff but could not reach a resolution. Pursuant to TWC § 13.305(g), the Company requests that Commission Staff be directed to recalculate its number run analysis to include \$1,110,404 in ratemaking rate base for systems acquired through the fair market value (“FMV”) process as previously approved by this Commission in Docket Nos. 53483, 52880, 52879 and 52803.<sup>1</sup>

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<sup>1</sup> See *Application of CSWR-Texas Utility Operating Company, LLC and North Orange Water & Sewer, LLC for Sale, Transfer, or Merger of Facilities and Certificate Rights in Orange County*, Docket No. 53483, Notice of Approval (May 8, 2023); *Application of Texas Landing Utilities and CSWR-Texas Utility Operating Company, LLC for Sale, Transfer, or Merger of Facilities and Certificate Rights in Polk and Montgomery Counties*, Docket No. 52880, Notice of Approval (Nov. 3, 2022); *Application of Walter J. Carroll Water Company, Inc. and CSWR-Texas Utility Operating Company, LLC for Sale, Transfer, or Merger of Facilities and Certificate Rights in Ellis County*, Docket No. 52879, Notice of Approval (Sept. 21, 2022); and *Application of Copano Cove Water Company, Inc. and CSWR-Texas Utility Operating Company, LLC for Sale, Transfer, or Merger of Facilities and Certificate Rights in Aransas County*, Docket No. 52803, Notice of Approval (Dec. 19, 2022).

## I. RESPONSE TO COMMISSION STAFF NUMBER RUN ANALYSIS

Commission Staff's number run analysis inappropriately removes approximately \$1.1 million in previously approved ratemaking rate base. Commission Staff's removal of the previously approved ratemaking rate base contravenes the Texas Water Code, Commission rules related to systems acquired through the FMV process, and the prior Commission orders approving the ratemaking rate base in Docket Nos. 53483, 52880, 52879 and 52803.<sup>2</sup>

As explained in its direct case, prior to filing this proceeding, the Company was approved to acquire multiple water or wastewater utilities through the FMV process under TWC § 13.305(g) that are affected by this proceeding.<sup>3</sup> TWC § 13.305(g) specifically provides that for an acquisition of a selling utility under the FMV process, the ratemaking rate base of the selling utility is the lesser of the purchase price negotiated by the acquiring utility and the selling utility or the appraised fair market value. It also states that the ratemaking rate base of the selling utility "*shall be incorporated* into the rate base of the acquiring utility during the utility's next rate base case under Subchapter F."<sup>4</sup> The Commission approved the ratemaking rate base for those systems in the respective Sale, Transfer, or Merger ("STM") dockets<sup>5</sup> and, pursuant to TWC § 13.305(g), the Company included in its rate base in this proceeding the ratemaking rate base for each of those systems, which included an approximately \$1.1 million increase to the pre-acquisition plant values for those systems to capture the ratemaking rate base approved by the Commission, as demonstrated below.

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<sup>2</sup> *Id.*

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

<sup>4</sup> TWC § 13.305(g) (emphasis added); Proposal for Decision ("PFD") at 36-37 (Nov. 28, 2023).

<sup>5</sup> *Supra* note 1.

Acquired Utility	STM Docket No.	Pre-acquisition Value of Plant Assets	Increase to Capture Ratemaking Rate Base	Approved Ratemaking Rate Base	Staff Proposed Reduction to Rate Base
North Orange	53483 <sup>6</sup>	\$846,218	\$903,782	\$1,750,000	-
Texas Landing	52880 <sup>7</sup>	\$1,398,341	\$1,659	\$1,400,000	-
Carroll Water	52879 <sup>8</sup>	\$970,746	\$196,347	\$1,167,093	-
Copano Cove	52803 <sup>9</sup>	\$1,491,384	\$8,616	\$1,500,000	-
<b>Total</b>			<b>\$1,110,404</b>		<b>\$(1,193,311)</b>

These accounting entries are *not* positive acquisition adjustments under 16 TAC § 24.41.<sup>10</sup> They are necessary accounting entries used to capture the ratemaking rate base amounts identified in Commission Staff’s recommended ratemaking rate base calculations that were filed and approved in each of the STM dockets. These recommendations were included in the application in highly sensitive SOI Exhibit F-1 and are attached here as Highly Sensitive Exhibit A<sup>11</sup> for the Commissioners’ convenience.<sup>12</sup> Commission Staff’s number run ignores the prior approving

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<sup>6</sup> Docket No. 53483, Notice of Approval.

<sup>7</sup> Docket No. 52880, Notice of Approval.

<sup>8</sup> Docket No. 52879, Notice of Approval.

<sup>9</sup> Docket No. 52803, Notice of Approval.

<sup>10</sup> Rebuttal Testimony of Brent G. Thies, CSWR-Texas Ex. 12 at 7:13-8:7. The Company refers to accounting adjustments necessary to calculate ratemaking rate base as “FMV-related acquisition adjustments” because the Commission’s STM form application explicitly refers to adjustments to rate base as an “acquisition adjustment.” See Commission STM Application at page 17, available at <https://www.puc.texas.gov/industry/water/forms/forms.aspx>. In order to be consistent with the Commission’s form STM application and the applications filed in the underlying STMs approving these adjustments to rate base, the amounts are referred to FMV-related “acquisition adjustments.” They are *not* “positive acquisition adjustments” under 16 TAC § 24.41.

<sup>11</sup> The Company filed a statement of confidentiality in this proceeding explaining that these documents are considered highly sensitive because they contain competitively sensitive business and financial information. CSWR-Texas Ex. 1 at SOI Ex. H.

<sup>12</sup> Highly Sensitive SOI Ex. F-1 Schedule Workpapers, CSWR-Texas Ex. 1A at FMV Ratemaking Rate Base Support (Staff Memos) HS.

orders and unilaterally removes from rate base the entire \$1.1 million increase to rate base for these four systems.

To be clear, the Commission did not order at the March 7, 2024 Open Meeting that the previously approved ratemaking rate base for any system acquired under TWC § 13.305 should be reduced. Nor does the Commission have authority to do so under TWC § 13.305(g), which *requires* inclusion of the ratemaking rate base in rate base in this proceeding. Rather, the Company understands the Commission intended to disallow recovery of positive acquisition adjustments requested under 16 TAC §§ 24.41(e) and (f) that are *in addition to* the ratemaking rate base for systems acquired under TWC § 13.305 as explained in the Supplemental Preliminary Order issued on May 25, 2023.<sup>13</sup> The Supplemental Preliminary Order states that “[a] utility may not use an acquisition adjustment under 16 Texas Administrative Code (TAC) § 24.41(e) or (f) for plant, property, or equipment acquired through a transaction based on the fair-market-valuation process under 16 TAC § 24.238.” It does not address reductions to ratemaking rate base. In her March 6, 2024 memo addressing these adjustments, Commissioner Cobos specifically referenced the Commission’s Supplemental Preliminary Order, and again referenced that order during the Open Meeting.<sup>14</sup> The only reduction to rate base ordered by the Commission was to remove any amount that exceeded the ratemaking rate base. The Commissioners never directed Commission Staff to reduce the ratemaking rate base that was previously approved by the Commission pursuant to TWC § 13.305. Commission Staff, however, removed \$1.1 million in ratemaking rate base approved for these systems, effectively reversing the previous approvals of those amounts.

The impact of Commission Staff’s error on the Company’s revenues is significant:

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<sup>13</sup> Open Meeting Tr. at 17:17-24 (Mar. 7, 2024).

<sup>14</sup> *Id.*

- it unilaterally reduces by \$1,110,404 the rate base and removes the related return;
- it contravenes the explicit provisions of TWC § 13.305(g), which states that inclusion of these previously approved amounts is mandatory, not discretionary;
- it defies the explicit orders of this Commission in Docket Nos. 53483, 52880, 52879 and 52803 approving the rate base amounts associated with the four FMV systems; and
- it renders pointless the significant expenditure of time and Company and Commission resources to participate in the FMV process and adjudicate multiple STMs under that process, which took over a year to accomplish and significantly delayed the filing of this statement of intent to change rates.

The Texas Water Code does not give Commission Staff discretion or authority to reduce or disapprove ratemaking rate base amounts already approved by the Commission. Nor does it have authority to ignore prior Commission orders.

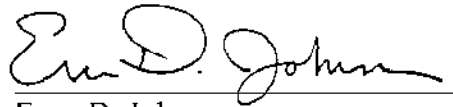
Therefore, pursuant to TWC § 13.305(g), the Company requests that Commission Staff be directed to recalculate its number run analysis to include the \$1,110,404 in ratemaking rate base that was previously approved for these four FMV systems and that the Commission issue an order consistent with TWC § 13.305(g) that includes these amounts in the calculation of rates.

## **II. CONCLUSION**

The Company respectfully requests that an order be issued that accurately includes in rate base the ratemaking rate base approved by the Commission in Docket Nos. 53483, 52880, 52879 and 52803 and for such other relief to which it has shown itself to be entitled.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I hereby certify that on this 2<sup>nd</sup> day of April 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

Exhibit A is  
Highly Sensitive  
and will be provided pursuant to the terms of the Protective Order