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

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PUBLIC UTILITY COMMISSION

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

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**PUBLIC UTILITY COMMISSION  
OF TEXAS**

**ORDER**

This Order addresses the application of CSWR-Texas Utility Operating Company, LLC for authority to change rates and consolidate water and sewer systems. CSWR-Texas sought a water revenue requirement of \$7,365,181 and a sewer revenue requirement of \$2,263,293, for a total revenue requirement of \$9,628,474 based on a requested 9.62% overall rate of return. The requested water revenue requirement represents an increase of approximately \$3.6 million, and the requested sewer revenue requirement represents an increase of approximately \$1.2 million, over CSWR-Texas's adjusted water and sewer test-year revenues, respectively.

A hearing on the merits convened on September 7, 2023 through videoconference hosted by the State Office of Administrative Hearings (SOAH). On November 28, 2023, the SOAH administrative law judges (ALJs) filed a proposal for decision. The ALJs recommended that CSWR-Texas's request to consolidate its water and sewer systems be approved. They also recommended that the Commission set CSWR-Texas's retail water revenue requirement at \$7,022,645 and its retail sewer revenue requirement at \$2,143,473. On February 1, 2024, the ALJs filed a letter that made changes to the proposal for decision in response to the parties' filed exceptions and replies to exceptions to the proposal for decision.

The Commission adopts in part and rejects in part the proposal for decision, including findings of fact and conclusions of law, and authorizes CSWR-Texas to change its rates to the extent provided in this Order.

**I. Discussion**

The Commission may change findings of fact or conclusions of law in a proposal for decision if the Commission (1) "determines that the administrative law judge did not properly apply or interpret applicable law, commission rules or policies, or prior administrative decisions

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or issued a finding of fact that is not supported by the preponderance of the evidence; or (2) determines that a commission policy or a prior administrative decision on which the administrative law judge relied is incorrect or should be changed.”<sup>1</sup> The Commission’s changes to the proposal for decision, and the reasons and legal bases for the changes, are provided below.

The Commission’s determinations result in a total base-rate revenue requirement of \$8,962,178 for CSWR-Texas, or \$6,871,557 and \$2,090,621 for its water and sewer operations, respectively.<sup>2</sup> The Commission also authorizes an overall rate of return of 7.37% for CSWR-Texas.<sup>3</sup>

#### **A. Section 13.145 Applicability**

In this proceeding, CSWR-Texas requested to consolidate the rates and tariffs for 62 water systems and 12 sewer systems, respectively. Repealed Texas Water Code (TWC) § 13.145 previously contained the standard for Commission review of consolidation requests for water and sewer systems, otherwise known as the substantial-similarity standard. However, during this proceeding, the Texas Legislature passed H.B. 2373, which repealed TWC § 13.145, effective June 2, 2023.<sup>4</sup> A significant issue between the parties in this proceeding was whether repealed TWC § 13.145 applied in this proceeding.<sup>5</sup>

The ALJs recommended that TWC § 13.145 does not apply to this proceeding. Among other recommendations, the ALJs recommended that Texas’s general savings clause in Texas Government Code § 311.031 does not require application of the substantial-similarity standard to CSWR-Texas’s requested consolidation because no prior action is taken in a contested case by the Commission until the Commission issues a final, non-appealable order.<sup>6</sup>

The Commission adopts the ALJs’ conclusion that repealed TWC § 13.145 does not apply to this proceeding but also clarifies the reasoning supporting its determination. Instead of making

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<sup>1</sup> Tex. Gov’t Code § 2003.049(g)(1)–(2).

<sup>2</sup> Second Revised Commission Number Run at 2 and 9 (May 9, 2024).

<sup>3</sup> *Id.* at 4 and 11.

<sup>4</sup> Act of May 17, 2023, 88<sup>th</sup> Leg., R.S., Ch. 327 (H.B. 2373), eff. June 2, 2023.

<sup>5</sup> Tex. Gov’t Code § 311.031.

<sup>6</sup> Proposal for Decision at 16–17 (Nov. 28, 2023).

a more general conclusion regarding Texas's general savings clause, the Commission clarifies that it had not taken prior action under TWC § 13.145 in this proceeding within the meaning of Texas Government Code § 311.031(a)(1) when the repeal of the substantial-similarity standard became effective on June 2, 2023. Therefore, the Commission adds finding of fact 36A and conclusion of law 7A.

### **B. Annualized Test-Year Data**

In its application, CSWR-Texas provided annualized data for 36 systems for which it did not have a full 12 months of historical, operational data. To account for this lack of data, CSWR-Texas annualized the months of data available for the acquired systems' fixed and variable costs at the time the application was filed.<sup>7</sup>

The ALJs recommended that CSWR-Texas's use of annualized data in this proceeding is appropriate. The ALJs stated that CSWR-Texas provided robust support for its annualization by providing actual operational data, which was then spread over 12 months. Furthermore, CSWR-Texas benchmarked its annualized test-year data with six months of operational data that demonstrated CSWR-Texas's annualized test-year data was accurate within 1% of actual costs.<sup>8</sup>

The Commission agrees with the ALJs' recommendations but clarifies that the use of annualized test-year data is not always appropriate and must be evaluated on a case-by-case basis. In this proceeding, CSWR-Texas provided sufficient analysis to establish that its use of annualized data was reasonable. The Commission adds new finding of fact 51A and modifies finding of fact 52 to reflect the Commission's policy clarification.

### **C. Rate Base**

#### **1. Acquisition Adjustments for Systems Approved Under the FMV Process**

The ALJs recommended that, consistent with TWC § 13.305, all positive acquisition adjustments for the systems CSWR-Texas acquired under the fair market value (FMV) process subject to this proceeding should be included in rate base.<sup>9</sup>

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<sup>7</sup> CSWR-Texas Ex. 8, Direct Testimony of Chris Ekrut at 8–9, 13–14, 16–18, 29–30.

<sup>8</sup> CSWR-Texas Ex. 8, Direct Testimony of Chris Ekrut at 6, 13–14; CSWR-Texas Ex. 12, Rebuttal Testimony of Brent Thies at 4–5, Exh. BT-R-1; CSWR-Texas Ex. 13, Rebuttal Testimony of Christ Ekrut at 4–5.

<sup>9</sup> Proposal for Decision at 38.

The Commission rejects the ALJs' recommendation because the Commission clearly stated its position on this issue in its supplemental preliminary order issued on May 25, 2023.<sup>10</sup> Acquisition adjustments for systems approved under the FMV process are expressly disallowed by Commission rules.<sup>11</sup> The Commission clarifies that for each system acquired using the FMV process, the ratemaking rate base is the one approved by the Commission in the underlying sale, transfer, or merger proceeding. The Commission's determination is reflected in the second revised number run filed on May 9, 2024. The Commission adds new conclusion of law 13A to reflect its determination.

#### **D. Rate of Return**

##### **1. Return on Equity**

The ALJs recommended that a 0.5% upward risk premium adjustment to CSWR-Texas's return on equity was warranted due to CSWR-Texas's exceptional business risk. CSWR-Texas based its request for such an adjustment on its relatively small size and its acquisition of mainly troubled water and sewer systems that, it asserted, have unique operational challenges requiring significant up-front investment without guaranteed recovery.<sup>12</sup>

The Commission rejects the ALJs' recommendation and determines that no upward risk premium adjustment to CSWR-Texas's return on equity is warranted based on the evidentiary record. The business risks on which CSWR-Texas based its request are greatly diminished by the rates approved by this Order. Therefore, the Commission determines that an appropriate return on equity for CSWR-Texas is 9.53%. To reflect its determination, the Commission deletes finding of fact 74, adds new finding of fact 74A, and modifies finding of fact 75.

##### **2. Cost of Debt**

Because CSWR-Texas has no debt, its cost of debt must be estimated in this proceeding. The ALJs recommended that an appropriate cost of debt for CSWR-Texas is 6.06%. The ALJs made this recommendation by selecting the mid-point between the first six months of 2023 average bond yield data for utilities with a Baa rating (5.60%) and the actual weighted effective cost of

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<sup>10</sup> Supplemental Preliminary Order (May 25, 2023).

<sup>11</sup> 16 TAC § 24.41(d)–(f).

<sup>12</sup> CSWR-Texas Ex. 10, Direct Testimony of Daniel D'Ascendis at 8, 55; CSWR-Texas Ex. 11, Rebuttal Testimony of Jeremiah Cox at 14–16.

debt for CSWR-Texas's affiliates in Louisiana, Missouri, and Kentucky (6.52%). However, the ALJs noted that a 6.52% cost of debt is out of line with historically approved costs of debt and there is insufficient data to prove a 6.52% cost of debt is reasonable.<sup>13</sup>

The Commission rejects the ALJs' recommended 6.06% cost of debt. The Commission determines that the range recommended by the proposal for decision is unreasonable and that using the range to select a midpoint would be arbitrary and capricious. Using average bond yield data from the first six months of 2023 for utilities with a Baa rating is inappropriate because this proceeding relies on 2022 test-year data for CSWR-Texas's allowable expenses, cost of service, and rate base. It would be inconsistent to mismatch CSWR-Texas's test-year data with debt issued or approximated from a different time period.<sup>14</sup> Further, CSWR-Texas failed to provide comparable information on the regulatory business environments in the states of its affiliates that would permit analysis of appropriate long-term debt costs.<sup>15</sup> Therefore, the Commission determines that a 5.03% cost of debt based on the average bond yields for utilities with a Baa bond rating in 2022 is the most reasonable evidence on cost of debt for CSWR-Texas in the evidentiary record.

To reflect its determination, the Commission adds finding of fact 76A and modifies finding of fact 77 for accuracy and completeness. Further, the Commission adds finding of fact 78A, deletes finding of fact 79, and modifies findings of fact 81 and 82 to reflect its determination and for accuracy. Additionally, the Commission modifies finding of fact 86 and conclusion of law 16 to reflect the follow-through impacts of its determinations as to CSWR-Texas's return on equity and cost of debt.

#### **E. Pass-Through Provisions**

The ALJs recommended approval of CSWR-Texas's requested pass-through provision, which used averaged line loss from three distinct systems for groundwater production fees assessed by the Upper Trinity Groundwater Conservation District.<sup>16</sup>

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<sup>13</sup> Proposal for Decision at 76–77.

<sup>14</sup> Commission Staff Ex. 1A, Direct Testimony of Emily Sears at 21–22.

<sup>15</sup> Proposal for Decision at 74; Tr. at 143:9–16 (Sears Redirect) (Sept. 7, 2023).

<sup>16</sup> CSWR-Texas Ex. 8, Direct Testimony of Chris Ekrut at 46–47.

The Commission rejects the ALJs' recommendation and concludes that a separate pass-through provision should be charged for each of the three distinct systems. By averaging the line loss of the distinct systems into a single provision, CSWR-Texas's proposal results in customers of systems with lower line loss subsidizing customers of systems with higher line loss, which does not appropriately incent CSWR-Texas to improve line loss. Because the actual line loss for each system is known, it is reasonable to approve separate pass-through provisions for each of the three distinct systems.<sup>17</sup>

To reflect its determination, the Commission modifies finding of fact 94 and adds new finding of fact 94A. The Commission also corrects the internal reference in finding of fact 97 for accuracy.

#### **F. Rate-Case Expenses**

The ALJs recommended that CSWR-Texas should recover \$459,367 in rate-case expenses, including a \$25,000 disallowance for a fixed-fee billing arrangement, to be surcharged over a 24-month period. The ALJs based their recommendation on information provided by CSWR-Texas and updated in its reply brief.<sup>18</sup>

The Commission rejects the ALJs' recommendation and instead authorizes CSWR-Texas to recover \$419,459 in rate-case expenses. The most recent affidavit from a licensed attorney capable of providing testimony on the reasonableness of rate-case expenses, which is dated August 24, 2023, supports reasonable rate-case expenses totaling \$444,459.<sup>19</sup> Subtracting the \$25,000 fixed-fee billing arrangement appropriately disallowed by the ALJs in the proposal for decision from \$444,459 yields a rate-case expense total of \$419,459. The Commission authorizes CSWR-Texas to establish a surcharge to recover \$419,459 in rate-case expenses. As calculated by Commission Staff in its second revised number run, CSWR-Texas is authorized to collect a \$1.60 monthly charge per meter equivalent for 24 months, or until the total \$419,459 amount is

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<sup>17</sup> Commission Staff Ex. 3, Direct Testimony of Kathryn Eiland, Exh. KE-11.

<sup>18</sup> CSWR-Texas Ex. 12, Rebuttal Testimony of Brent Thies, Exh. BT-R-3; CSWR-Texas Reply Brief, Exhibit A.

<sup>19</sup> CSWR-Texas Ex. 12, Rebuttal Testimony of Brent Thies, Exh. BT-R-3 at 1-4.

collected.<sup>20</sup> For any additional rate-case expenses, CSWR-Texas is authorized to book those expenses in a regulatory asset and seek recovery in a future proceeding.

To reflect its determination, the Commission adds finding of fact 98A, modifies findings of fact 100 and 101 and conclusion of law 21, and adds conclusion of law 21A.

### **G. Additional Changes**

The Commission makes the following additional changes to the proposal for decision.

Consistent with prior Commission orders, the Commission adds new findings of fact 32A through 32Q to address the testimony filed in this proceeding and adds new finding of fact 32R to address the evidentiary record. The Commission also adds new findings of fact 32S through 32EE to reflect the additional procedural history after the close of the evidentiary record at SOAH.

The Commission adds finding of fact 34A to address that the rates approved by this Order differ from the interim rates that were effective as of November 30, 2023. The Commission deletes the second sentence of finding of fact 40 because it makes a statement of general applicability that is unnecessary for the Commission to make in this proceeding. The Commission modifies findings of fact 56 and 57 to reflect that CSWR-Texas's total rate base is identified in Commission Staff's second revised number run. The Commission modifies finding of fact 70 to recite the facts of the clarification filed by CSWR-Texas on January 11, 2024. In addition, the Commission modifies finding of fact 90 to reflect the determinations made by the Commission in this proceeding. Further, the Commission deletes finding of fact 102 because the Commission disagrees that the phased-in rate proposal made by the Office of Public Utility Counsel (OPUC) was unreasonable. Commission rules provide for phased-in rates as a reasonable alternative ratemaking methodology. Further, finding of fact 103 provides a sufficient basis for why phased-in rates are not necessary in this proceeding.

The Commission modifies conclusion of law 2 to accurately reflect the Commission's statutory authority and conclusion of law 6 to correct a rule citation. In addition, the Commission modifies conclusion of law 11 because there are no findings of fact regarding class A rate filing instructions and the reference to the Commission's class A rate filing instructions is ultimately

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<sup>20</sup> Second Revised Number Run at 20, Rate Case Expense Surcharge Calculation.



irrelevant to the Commission's consideration of a class B rate application. The Commission arrives at the same decision as recommended by the ALJs in conclusion of law 11 without relying on the class A rate filing instructions. The Commission also modifies conclusion of law 17 to reflect that the rates approved by this Order are just and reasonable, as required by TWC § 13.182. Lastly, the Commission adds conclusion of law 21B to reflect that CSWR-Texas is required to calculate whether a surcharge or refund is owed to customers for the difference between the rates approved by this Order and the interim rates that went into effect on November 30, 2024.

#### **H. Minor and Non-Substantive Changes**

The Commission makes other minor modifications or corrections to the proposed findings of fact and conclusions of law for such matters as capitalization, spelling, punctuation, style, grammar, readability, and conformity with the Commission's order-writing format.

### **II. Findings of Fact**

The Commission adopts the following findings of fact.

#### **Applicant and Background**

1. CSWR-Texas Utility Operating Company, LLC is a Texas limited liability company registered with the Texas Secretary of State under filing number 803367893.
2. CSWR-Texas holds certificate of convenience and necessity (CCN) number 13290, which obligates it to provide retail water service in its certificated service areas in Angelina, Aransas, Austin, Burleson, Burnet, Calhoun, Camp, Denton, Ellis, Erath, Gillespie, Guadalupe, Harris, Hays, Hidalgo, Hood, Jackson, Kerr, Limestone, Llano, Lubbock, McCulloch, Montague, Montgomery, Navarro, Orange, Parker, Polk, Robertson, Sabine, San Augustine, Victoria, Wilson, and Wood counties.
3. CSWR-Texas holds CCN number 21120, which obligates it to provide retail sewer service in its certificated service areas in Aransas, Bexar, Calhoun, Hidalgo, Hood, Jackson, Lubbock, Navarro, Orange, Parker, and Polk counties.
4. CSWR-Texas operates several public water systems registered with the Texas Commission on Environmental Quality (TCEQ) and several sewer systems permitted with the TCEQ.

5. As of December 31, 2022, CSWR-Texas provided for compensation potable water service to approximately 7,106 connections under CCN number 13290 and sewer service to approximately 2,753 connections under CCN number 21120.
6. Since entering the Texas market in December 2020, CSWR-Texas has acquired numerous water and wastewater systems, some at the behest of the Commission or other state agencies.

**Application**

7. On February 3, 2023, CSWR-Texas filed a class B water and sewer rate filing package (the application) with the Commission seeking authority to change rates.
8. The application represents CSWR-Texas's first ever comprehensive rate filing before the Commission.
9. The application used the 12-month period ending December 31, 2022, as the historical test year, adjusted for known and measurable changes.
10. As part of the application, CSWR-Texas seeks to consolidate 62 water systems under a single water rate tariff and 12 wastewater systems under a single wastewater tariff.
11. CSWR-Texas seeks an annual revenue requirement of \$7.4 million in water revenue and \$2.3 million in wastewater revenue, totaling an overall \$9.7 million.
12. CSWR-Texas's requested water revenue requirement represents an increase of \$3.6 million over adjusted test-year revenues.
13. CSWR-Texas's requested wastewater revenue requirement represents an increase of \$1.2 million over adjusted test-year revenues.
14. CSWR-Texas requested an overall rate of return of 9.62%.
15. CSWR-Texas also requested approval of varying pass-through charges for some of its water and wastewater systems.
16. In Order No. 3 issued on March 30, 2023, the Commission ALJ found the application administratively complete and suspended CSWR-Texas's requested effective date to the earlier of 265 days or until interim rates were approved.

17. CSWR-Texas's suspended effective date is November 30, 2023.

**Notice of the Application**

18. On February 3 and March 10, 2023, CSWR-Texas provided notice by first-class mail to each customer or other affected party.
19. No party challenged the adequacy of the notice provide by CSWR-Texas, and Commission Staff recommended that CSWR-Texas's notice of the application be deemed sufficient.
20. In Order No. 3, the Commission ALJ found CSWR-Texas's notice of the application sufficient.

**Interventions and Protests**

21. More than 10% of the ratepayers affected by the proposed rate increases filed protests in this docket.
22. The 316 intervenors granted party status in this proceeding are listed in Order Nos. 2, 4, 5, and 6, issued on February 24, and April 11, 12, and 13, 2023, respectively, and SOAH Order Nos. 1, 3, and 4 issued on May 17, June 27, and July 12, 2023, respectively.
23. SOAH Order No. 3 aligned the intervenors by water or wastewater system, and SOAH Order No. 4 assigned a designated representative to each aligned group.
24. SOAH Order No. 5, issued on August 1, 2023, dismissed all but 16 intervenors for failure to participate in the proceeding because neither they nor their designated representative filed testimony or a statement of position by the deadline established in SOAH Order No. 3.
25. The remaining intervenors are Robert Hill and Bob Ellenberger, designated representatives for Quiet Village II; Jennifer Washburn, designated representative for Emerald Forest; Heather Thompson, designated representative for Treetop; Melissa Allred, designated representative for Spanish Grant; Barry Wolf, designated representative for Settlers Estates; LaDonna Turner, designated representative for Grande Casa; Jim Rieber; Alison Rieber; Curtis Quarles; Andrew Clogg; Thuy Howeth; Kim Hilmer; Heather Baughman; Dominion Homeowners Association; and OPUC.

**Referral to SOAH**

26. On May 9, 2023, the Commission referred the application to SOAH, and two days later the Commission issued its preliminary order identifying 62 issues to be addressed in this proceeding.
27. On May 25, 2023, the Commission issued its supplemental preliminary order regarding a threshold issue and adding additional issues on fair market value acquisition adjustments.
28. The hearing on the merits convened by videoconference on September 7, 2023, and concluded the same day.
29. The SOAH ALJs admitted exhibits offered by CSWR-Texas, Commission Staff, OPUC, and Mr. Hill on behalf of Quiet Village II. Dominion Homeowners appeared at the hearing but did not offer any exhibits.
30. No other party appeared at the hearing and offered exhibits.
31. On September 22, 2023, CSWR-Texas, Commission Staff, and OPUC filed initial post-hearing briefs.
32. The record closed on September 29, 2023, with the filing of reply briefs by CSWR-Texas, Commission Staff, and OPUC.

**Testimony**

- 32A. On February 10, 2023, CSWR-Texas filed the direct testimonies and workpapers of Josiah Cox, Todd Thomas, Jacob Freeman, Mike Duncan, Dane Watson, and Dylan D'Ascendis.
- 32B. On February 13, 2023, CSWR-Texas filed the direct testimonies and workpapers of Brent Thies and Chris Ekrut.
- 32C. From June 22, 2023, to July 13, 2023, TX Treetop filed the testimonies of Jim Rieber, Alison Rieber, Curtis Quarles, Kim Hilmer, Heather Baughman, Andrew Clogg, and Heather Thompson.
- 32D. On July 14, 2023, OPUC filed the direct testimony and exhibits of Mark Garrett, Quiet Village II filed the testimony of Robert Hill and Robert Eilenberger, Emerald Forest filed the testimony of Jennifer Washburn, Spanish Grant filed the testimony of Melissa Allred,

TX Treetop filed the testimony of Thuy Howeth, and Settlers Estates Sec II filed the testimony of Barry Wolf.

- 32E. On July 18, 2023, Grande Casa filed the testimony of LaDonna Turner.
- 32F. On August 4, 2023, Commission Staff filed the direct testimonies and workpapers of Emily Sears, Ethan Blanchard, James Euton, and Kathryn Eiland.
- 32G. On August 4, 2023, CSWR-Texas filed an objection and motion to strike portions of testimony of intervenors Robert Hill and Robert Eilenberger, Andrew Clogg, Heather Baughman, Curtis Quarles, and LaDonna Turner.
- 32H. On August 15, 2023, Commission Staff filed errata to the direct testimonies of Kathryn Eiland and Ethan Blanchard.
- 32I. In SOAH Order No. 6 filed on August 17, 2023, the SOAH ALJs granted in part and denied in part CSWR-Texas's motion to strike portions of intervenor testimony.
- 32J. On August 25, 2023, CSWR-Texas filed the rebuttal testimonies of Josiah Cox, Brent Thies, Chris Ekrut, and Dylan D'Ascendis.
- 32K. On August 28, 2023, Commission Staff filed errata to the direct testimonies of James Euton, Kathryn Eiland, and Ethan Blanchard.
- 32L. On August 28 and 29, 2023, CSWR-Texas filed supplements to the rebuttal testimony and workpapers of Brent Thies.
- 32M. On September 1, 2023, OPUC filed errata to the direct testimony of Mark Garrett.
- 32N. On September 5, 2023, CSWR-Texas filed errata to the rebuttal testimony of Josiah Cox.
- 32O. On September 8, 2023, Commission Staff filed errata to the direct testimony of Ethan Blanchard and Kathryn Eiland.
- 32P. On September 19, 2023, the parties jointly filed a motion to correct substantive errors in the hearing on the merits transcript.
- 32Q. In SOAH Order No. 9 filed on October 3, 2023, the SOAH ALJs granted the parties' motion to correct the transcript.

**Evidentiary Record**

- 32R. At the hearing on the merits on September 7, 2023, the SOAH ALJs admitted the following items into the evidentiary record:
- a. CSWR-Texas Exhibit Nos. 1, 1A, 1B, 2-6, 6A, 7, 8, 8A, 9-14, and 16;
  - b. OPUC Exhibit Nos. 1-5; and
  - c. Commission Staff Exhibit Nos. 1A, 1B, 2-15, 17-27, 29-31, 33, and 32.

**Proposal for Decision**

- 32S. On November 28, 2023, the ALJs filed a proposal for decision.
- 32T. On January 11, 2024, CSWR-Texas, Commission Staff, and OPUC filed exceptions to the proposal for decision.
- 32U. On January 25, 2024, CSWR-Texas, Commission Staff, and OPUC filed replies to exceptions to the proposal for decision.
- 32V. On February 1, 2024, the SOAH ALJs filed their response to the exceptions and replies to exceptions and made certain modifications to the proposal for decision.
- 32W. On March 8, 2024, the Commission Counsel filed a memorandum requesting that Commission Staff file an updated number run to reflect the decisions made by the Commission at the March 7, 2024 open meeting.
- 32X. On March 27, 2024, Commission Staff filed its number run with updated schedules for CSWR-Texas based on the decisions made by the Commission at the March 7, 2024 open meeting.
- 32Y. On April 2, 2024, the Commission Counsel filed a memorandum requesting that Commission Staff clarify its calculated rate of return for CSWR-Texas.
- 32Z. On April 2, 2024, CSWR-Texas filed a response to Commission Staff's number run and requested that Commission Staff be directed to recalculate its number run analysis to include \$1,110,404 in ratemaking rate-base it asserted was erroneously excluded from its ratemaking rate-base.

- 32AA. On April 12, 2024, Commission Staff filed a revised number run and clarified that the correct rate of return for CSWR-Texas is 7.37%. Commission Staff also provided revised schedules that used a 7.37% rate of return.
- 32BB. On April 16, 2024, CSWR-Texas filed a response to Commission Staff's revised number run and reasserted its request that Commission Staff be directed to recalculate its number run analysis.
- 32CC. At its April 25, 2024 open meeting, the Commission clarified that for each system acquired using the FMV process, Commission Staff's number run should include the ratemaking rate base approved by the Commission for systems in the underlying sale, transfer, or merger proceeding. The Commission ordered the Office of Policy and Docket Management to direct Commission Staff to file a revised number run.
- 32DD. On April 26, 2024, the Commission Counsel filed a memorandum requesting that Commission Staff conduct the recalculation requested by the Commission at its April 25, 2024 open meeting.
- 32EE. On May 9, 2024, Commission Staff filed its second revised number run with updated schedules for CSWR-Texas based on the determinations made by the Commission at the March 7, 2024 open meeting and the clarification made by the Commission at its April 25, 2024 open meeting.

**Interim Rates**

33. On September 8, 2023, CSWR-Texas, Commission Staff, and OPUC (collectively, the movants) filed an uncontested motion to establish interim rates effective November 30, 2023, to be set at the level determined in the proposal for decision.
34. The SOAH ALJs granted the movants' request and therefore the rates recommended in the proposal for decision were effective on an interim basis beginning November 30, 2023.
- 34A. The rates approved by this Order differ from the interim rates that were effective beginning November 30, 2023.

**Consolidation of Systems**

35. Consolidation of systems can create economies of scale and larger customer bases so that customers can afford the benefits and share the costs of being served by a more capable utility.
36. On June 2, 2023, the Legislature repealed TWC § 13.145, which set forth the substantial-similarity standard for consolidating multiple systems under a single tariff.
- 36A. The repeal of TWC § 13.145 was effective on June 2, 2023.
37. The repealed TWC § 13.145 does not apply to CSWR-Texas's request to consolidate the systems identified in the application.
38. The cost to serve customers via small, standalone, rural, community-based water and wastewater systems is higher on a per-meter basis than for larger systems within CSWR-Texas's service area.
39. The majority of the water and wastewater systems CSWR-Texas seeks to consolidate will have lower rates on a consolidated basis compared to a standalone system basis.
40. The affordability of service under a singular function (e.g., water or wastewater service) can be measured by whether the average customer bill exceeds 2% to 2.5% of the median household income (MHI).
41. If consolidated, all of the water and wastewater systems identified in the application will have an average monthly customer bill for 5,000 gallons of water or wastewater service that does not exceed 2.5% of the MHI. The average monthly bill for all but six systems will be under 2.0% of the MHI.
42. On a standalone basis, if not consolidated, the average customer bill for 5,000 gallons of water or wastewater service would exceed 2.5% of the MHI for 13 of the systems subject to this proceeding.
43. Consolidation of the requested systems is in the public interest because it promotes affordability and mitigates rate impacts to customers over the short term and long term.



44. Consolidation of the requested systems reduces the need for frequent, complicated, and expensive rate cases, further promoting affordability to customers and conserving governmental resources.
45. Consolidation of the requested systems is in the public interest and would produce just and reasonable rates for the customers of each consolidated system.
46. Consolidation of the requested systems aligns with the Commission's objective to expedite the acquisition, consolidation, and improvement of distressed water and sewer utilities and promotes conservation.

**Annualization of Test-Year Data**

47. CSWR-Texas acquired 36 of the systems identified in the application during the test year and therefore did not have a full 12 months of historical operational data for those systems.
48. To account for the lack of test-year data and to reflect a full year's worth of expenses for each of those systems, CSWR-Texas annualized the data it did have available for those systems' fixed and variable costs at the time it filed the application to determine each system's annual revenue requirement.
49. In rebuttal testimony, CSWR-Texas updated its annualized data for those systems with an additional six months of actual operating expense data and validated the accuracy of its annualized data. The updated data showed CSWR-Texas's actual costs were only 1% higher than the annualized amounts included in the application.
50. Commission Staff previously calculated a water utility's revenue requirement based on annualized test-year data in Docket No. 50200,<sup>21</sup> and the Commission previously approved a revenue requirement for an electric utility based on annualized data in Docket No. 52828.<sup>22</sup>

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<sup>21</sup> *Application of Undine Texas, LLC and Undine Texas Environmental, LLC for Authority to Change Rates*, Docket No. 50200, Order (Nov. 5, 2020).

<sup>22</sup> *Application of Golden Spread Electric Cooperative, Inc. to Change Wholesale Transmission Service Rates*, Docket No. 52828, Order (Mar. 9, 2023).

51. No party challenged the accuracy of CSWR-Texas's annualized data or its subsequent analysis showing that the annualization was within 1% accuracy of CSWR-Texas's actual operating costs.
- 51A. The use of annualized data is not always appropriate and should be evaluated on a case-by-case basis.
52. CSWR-Texas provided sufficient data, including benchmarking its annualized test-year data with six months of operational data that demonstrated the annualized data was accurate within 1% of actual cost, for the Commission to determine that CSWR-Texas's annualization adjustments are an appropriate known and measurable change in this proceeding and should be allowed.

**Cost of Service**

53. CSWR-Texas's requested allowable expenses are reasonable and necessary and should be approved.
54. No party recommended any specific disallowances to CSWR-Texas's requested operations and maintenance expenses.
55. No party challenged CSWR-Texas's requested depreciation rates and expense, tax expense, or affiliate expense except as flow-through adjustments from other recommended changes.

**Rate Base**

56. CSWR-Texas's total rate base for the water systems identified in the application is \$18,222,843, as set forth in Commission Staff's second revised number run filed on May 9, 2024.
57. CSWR-Texas's total rate base for the wastewater systems identified in the application is \$6,374,502, as set forth in Commission Staff's second revised number run filed on May 9, 2024.
58. CSWR-Texas's requested rate-base components are prudent and should be incorporated into rate base.

59. No party challenged the prudence of any specific item included in CSWR-Texas's requested invested capital.
60. Notwithstanding CSWR-Texas's requested acquisition adjustments, no party challenged the recovery of any specific item included in CSWR-Texas's requested invested capital or transaction closing costs.
61. The rate base and ratemaking rate base approved in prior sale, transfer, or merger proceedings applicable to the application were known in total at the conclusion of the test year.
62. CSWR-Texas's requested rate base is prudent and should be approved.

**Acquisition Adjustments**

63. The application includes the acquisitions of certain systems that were completed pursuant to the FMV statute—TWC § 13.305—and implemented by the Commission under 16 Texas Administrative Code (TAC) section 24.238.
64. The ratemaking rate base for the FMV-acquired systems has already been determined by the Commission in prior dockets and is not subject to review as part of this proceeding.
65. The ratemaking rate base of the FMV-acquired systems is reasonable and should be included in CSWR-Texas's rate base.
66. CSWR-Texas proposed additional acquisition adjustments for systems it acquired outside the FMV process.
67. CSWR-Texas's acquisitions outside the FMV process were purchased for reasonable prices, the facilities are used and useful, and CSWR-Texas has made reasonable, prudent, and timely investments to bring the systems into compliance.
68. For the systems that CSWR-Texas has acquired outside the FMV process, CSWR-Texas has planned improvements for those systems that, once completed, will provide the customers with either higher quality or more reliable service, and the acquisition of those systems, notwithstanding any future consolidation, has already resulted in positive regionalization.

69. The net positive acquisition adjustments for the systems CSWR-Texas acquired outside of the FMV process are reasonable and should be included in rate base.
70. On January 11, 2024, CSWR-Texas filed an update of its requested acquisition adjustments to clarify which systems were acquired through the FMV process and outside of that process and provide a corrected total acquisition adjustment amount that should be included in rate base, if applicable.

**Transaction Closing Costs**

71. No party challenged the recovery through rate base of CSWR-Texas's transaction costs incurred during the acquisition of the 62 water and 12 wastewater systems.
72. CSWR-Texas's acquisition transaction costs are reasonable and should be approved.

**Rate of Return**

**Return on Equity**

73. A reasonable range for CSWR-Texas's return on equity is 9.16%–9.90% and would allow CSWR-Texas to earn a reasonable return on its invested capital.
74. DELETED.
- 74A. A risk premium adjustment for CSWR-Texas is not warranted in this proceeding because the business risk on which CSWR-Texas based its request for such an adjustment are greatly diminished by the rates approved by this Order.
75. A return on equity of 9.53% is reasonable and should be approved.

**Cost of Debt**

76. CSWR-Texas has been unable to acquire debt financing for its Texas operations.
- 76A. The cost of debt for Baa-rated utilities for 2022 was 5.03%.
77. The cost of debt for Baa-rated utilities for the first six months of 2023 was 5.60%.
78. CSWR-Texas's affiliates in Louisiana, Missouri, and Kentucky have acquired an actual weighted effective cost of debt of 6.52%.

- 78A. CSWR-Texas did not provide comparable information on the regulatory business environments of its sister companies that would permit analysis of appropriate long-term debt costs.
79. DELETED.
80. CSWR-Texas anticipates that once it is charging fully compensatory rates, it will likely be able to acquire debt financing in the future.
81. Although CSWR-Texas might not qualify for a Baa rating, if it were rated, the 2022 average bond yield data for utilities with a Baa bond rating is the most reasonable evidence on cost of debt in the evidentiary record and best approximates cost of debt in this proceeding.
82. A 5.03% cost of debt, based on the 2022 average bond yield data for utilities with a Baa bond rating, is reasonable for CSWR-Texas and should be approved.

**Capital Structure**

83. Because CSWR-Texas does not carry any debt, it proposed a hypothetical capital structure of 45% debt and 55% equity.
84. CSWR-Texas does not oppose Commission Staff's proposed hypothetical capital structure of 48% debt and 52% equity.
85. A capital structure for CSWR-Texas of 48% debt and 52% equity is reasonable and should be adopted.

**Overall Rate of Return**

86. CSWR-Texas's overall rate of return should be as follows:

Component	Cost	Weighting	Weighted Cost
Debt	5.03%	48%	2.41%
Equity	9.53%	52%	4.96%
Overall			7.37%

**Rate Design**

87. CSWR-Texas proposes to use a two-part water rate consisting of a fixed monthly charge, which increases based on meter size, and a uniform volumetric rate applied per 1,000 gallons of usage.
88. CSWR-Texas proposes a flat, system-wide monthly sewer rate for all customers.
89. CSWR-Texas does not oppose Commission Staff's recommendation to use the Commission's standard meter equivalent ratios.
90. CSWR-Texas's proposed consolidated rates, as modified to incorporate Commission Staff's meter equivalent ratios recommendation and to the extent provided in this Order, are reasonable and should be adopted.

**Pass-Through Provisions**

91. The pass-through provisions requested by CSWR-Texas are intended to reflect the gallonage charge of the applicable pass-through entity or source supplier and an estimated amount of line losses associated with that gallonage supply.
92. No party challenged CSWR-Texas's requested pass-through provisions for the following systems, and therefore they are reasonable and should be approved:

Pass-Through Entity	Pass-Through Provision	System	Rate
Laguna Ocho / M&I	Emergency Purchased Wholesale Treated Water	Laguna Tres Laguna Vista	\$1.90 per 1,000 gallons
City of Lubbock	Purchased Wholesale Treated Water	Franklin Water Systems 1 Franklin Water Systems 3	\$0.57 per 1,000 gallons

93. CSWR-Texas's requested pass-through provisions for the following systems reflect the actual costs charged by the pass-through entities and should be approved:

Pass-Through Entity	Pass-Through Provision	System	Rate
Prairielands Groundwater	Groundwater Production Fees	Emerald Forest	\$0.24 per 1,000 gallons

Pass-Through Entity	Pass-Through Provision	System	Rate
Conservation District		Grande Casa Ranchitos Lakeview Ranchettes Estates Spanish Grant (Formerly, Carroll Water Company)	
North Harris County Regional Water Authority	Groundwater Production Fees	Tall Pines Utility	\$5.41 per 1,000 gallons

94. CSWR-Texas's request to establish a combined pass-through provision for groundwater production fees assessed by the Upper Trinity Groundwater Conservation District to the following systems is unreasonable: Hilltop Home Addition Hilltop Estates (formerly, Abraxas), Laguna Tres, Laguna Vista, and Treetops Phase I.

94A. Separate pass-through provisions for the groundwater production fees and systems identified in finding of fact 94, above, are appropriate as follows:

Pass-Through Entity	Pass-Through Provision	System	Rate
Upper Trinity Groundwater Conservation District	Groundwater Production Fees	Hilltop Home Addition Hilltop Estates	\$0.23 per 1,000 gallons
Upper Trinity Groundwater Conservation District	Groundwater Production Fees	Laguna Tres Laguna Vista	\$0.25 per 1,000 gallons
Upper Trinity Groundwater Conservation District	Groundwater Production Fees	Treetops Phase I	\$0.27 per 1,000 gallons

95. CSWR-Texas did not prove that its requested pass-through provisions for the following systems are reasonable, and therefore the existing provision for these systems should remain in place:

Pass-Through Entity	Pass-Through Provision	System
Buena Vista Bethel Special Utility District	Emergency Purchased Wholesale Treated Water	Emerald Forest Grande Casa Ranchitos Lakeview Ranchettes Estates Spanish Grant (Formerly, Carroll Water Company)
City of Rockport	Purchased Wholesale Treated Water	Copano Heights Unit 1 & 2

96. CSWR-Texas did not prove that its request to establish pass-through provisions for the following systems are reasonable, and therefore CSWR-Texas's proposed pass-through provisions should not be approved:

Pass-Through Entity	Pass-Through Provision	System
Guadalupe County Groundwater Conservation District	Groundwater Production Fees	Oak Hills Ranch Estates Oak Hill Ranchettes
North Alamo Water Supply Corporation	Purchased Wholesale Treated Water	Quiet Village II
North Alamo Water Supply Corporation (City of Donna)	Purchased Wastewater Treatment from City of Donna (billed through North Alamo Water Supply Corporation)	Quiet Village II
Upper Trinity Groundwater Conservation District	Groundwater Production Fees	WaterCo
City of Rockport	Purchased Wholesale Treated Water	Copano Cove Copano Ridge
Bi-County Water Supply Corporation	Emergency Purchased Wholesale Treated Water	Woodland Harbor (Formerly, Alpha Utility)

97. For the systems listed in finding of fact 96, it is reasonable for CSWR-Texas to collect the gallonage charge by the pass-through entity or source supplier.

**Rate-Case Expenses**

98. CSWR-Texas requests recovery of \$484,367 in rate-case expenses it has incurred in this proceeding.



- 98A. The most recent affidavit from a licensed attorney capable of providing testimony on the reasonableness of rate-case expenses, which is dated August 24, 2023, supports reasonable rate-case expenses totaling \$444,459.
99. The flat-fee charge of \$25,000 for testimony from an outside expert witness on CSWR-Texas's cost of capital was not reasonable because CSWR-Texas did not submit sufficient information detailing and itemizing that expense.
100. It is reasonable for CSWR-Texas to recover \$419,459 in rate-case expenses for this proceeding through a surcharge over 24 months, allocated between the customers of the systems identified in the application and the Leon Springs and Shady Grove sewer facilities.
101. It is reasonable for CSWR-Texas to book a regulatory asset for any additional rate-case expenses not supported by the August 24, 2023 attorney affidavit and to request recovery of those trailing rate-case expenses in its next comprehensive base-rate proceeding.

**OPUC's Phased-In Rate Proposal**

102. DELETED.
103. Consolidation of the systems identified in the application sufficiently mitigates rate shock while ensuring customers are paying their actual cost of service.

**III. Conclusions of Law**

The Commission adopts the following conclusions of law.

1. CSWR-Texas is a class B utility, retail public utility, and water and sewer utility as defined in TWC § 13.002(4-b), (19), and (23) and 16 TAC § 24.3(6), (31), and (38).
2. The Commission has authority over the application under TWC §§ 13.041, 13.042, 13.181, and 13.1871.
3. The Commission processed CSWR-Texas's application in accordance with the requirements of the TWC, the Administrative Procedure Act,<sup>23</sup> and Commission rules.

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<sup>23</sup> Tex. Gov't Code §§ 2001.001–.903.

4. CSWR-Texas provided sufficient notice of the application in accordance with TWC § 13.1871, 16 TAC § 24.27(d)(1), and the Administrative Procedure Act.
5. SOAH exercised jurisdiction over this proceeding under TWC § 13.041(c-1) and Texas Government Code § 2003.049.
6. Notice of the hearing was given in compliance with 16 TAC § 24.27(d)(2) and Texas Government Code § 2001.051–.052.
7. CSWR-Texas has the burden of proof to show that its proposed rate change is just and reasonable under TWC § 13.184(c) and 16 TAC § 24.12.
- 7A. The Commission had not taken prior action under Texas Government Code § 311.031(a)(1) at the time the repeal of TWC § 13.145 became effective.
8. The repealed TWC § 13.145 does not apply to CSWR-Texas's request to consolidate the water and wastewater systems identified in the application.
9. The standard that governs CSWR-Texas's request for consolidation is whether the requested consolidated rates are just and reasonable; not unreasonably preferential, prejudicial, or discriminatory; and sufficient, equitable, and consistent in application to each class of consumers, in accordance with TWC § 13.182.
10. For the systems for which it had 12 months of historical operational data when it filed its application, CSWR-Texas's annualization adjustments to test-year expenses are reasonable, known and measurable changes and are consistent with 16 TAC § 24.41(b).
11. For systems that were purchased during the test year and for which CSWR-Texas did not have 12 months of historical operational data when it filed its application, CSWR-Texas's annualization adjustments to test-year expenses are reasonable, known and measurable changes and are consistent with 16 TAC § 24.41(b) and Commission precedent.
12. CSWR-Texas's affiliate expenses are reasonable and comply with TWC § 13.185(e).
13. The ratemaking rate base approved by the Commission under TWC § 13.305(g) and 16 TAC § 24.238 for CSWR-Texas's acquisition of systems under the FMV process is required to be incorporated in CSWR-Texas's rate base.

- 13A. Acquisition adjustments for systems acquired through the FMV process are expressly disallowed under 16 TAC § 24.41(f).
14. The net positive acquisition adjustment CSWR-Texas requests to recover for systems it acquired outside of the FMV process is reasonable under 16 TAC § 24.41(d)(1)(C)(i)–(ii).
15. As required by TWC § 13.183 and 16 TAC § 24.41(c)(1), the rates approved by this Order will permit CSWR-Texas a reasonable opportunity to earn a reasonable return on its invested capital used and useful in rendering service to the public over and above its reasonable and necessary operating expenses and will preserve CSWR-Texas’s financial integrity.
16. An overall rate of return of 7.37% will not yield CSWR-Texas more than a fair return on the invested capital used and useful in rendering service to the public in accordance with TWC § 13.184(a).
17. The rates approved by this Order are just and reasonable; not unreasonably preferential, prejudicial, or discriminatory; and sufficient, equitable, and consistent in application to each class of consumers, in accordance with TWC § 13.182.
18. As required by TWC § 13.185(h), the rates approved by this Order do not include legislative advocacy expenses, the costs of processing a refund or credit under TWC Subchapter F, or any expenditure that is unreasonable, unnecessary, or not in the public interest.
19. The rates approved by this Order comply with 16 TAC § 24.43(b)(1) regarding conservation.
20. The requirements to support changes to pass-through provisions as set forth in 16 TAC § 24.25(b)(2), including actual line-loss data for the preceding 12 months, are instructive as to what is necessary for the proper calculation and review to determine the reasonableness of CSWR-Texas’s requested pass-through provisions.
21. It is reasonable for CSWR-Texas to recover rate-case expenses totaling \$419,459 over 24 months through a per-customer bill surcharge for the systems identified in the application and the Leon Springs and Shady Grove sewer facilities.

- 21A. The rate-case expenses approved by this Order are reasonable and necessary as required under 16 TAC § 24.44(a).
- 21B. Any difference between CSWR-Texas's interim rates that became effective November 20, 2023 and the final rates approved by this Order are subject to surcharge or refund under TWC § 13.1871(t) and 16 TAC § 24.37(h).

#### **IV. Ordering Paragraphs**

In accordance with these findings of fact and conclusions of law, the Commission issues the following orders:

1. The Commission adopts the proposal for decision, including findings of fact and conclusions of law, to the extent provided in this Order.
2. CSWR-Texas's request to consolidate the systems identified in the application and for updated consolidated tariffs is approved to the extent consistent with this Order.
3. The Commission authorizes CSWR-Texas to change its rates to the extent provided in this Order.
4. For the systems charged by the Guadalupe County GCD, North Alamo WSC, Upper Trinity GCD to WaterCo, the City of Rockport to Copano Cove and Copano Ridge, and the Bi-County WSC, the Commission authorizes CSWR-Texas to collect the proposed gallonage charge by the pass-through entity or source supplier until it files an application for a minor tariff change to update those provisions when it has sufficient line-loss data.
5. CSWR-Texas must file tariffs consistent with this Order within 20 days of the date of this Order in *Compliance Tariff for Final Order in Docket No. 54565 (Application of CSWR-Texas Utility Operating Company, LLC for Authority to Change Rates)*, Control No. 56352.
6. No later than 10 days after the date of the tariff filings, Commission Staff must file its comments recommending approval, modification, or rejection of the individual sheets of the tariff proposals, unless the presiding officer in Control No. 56352 files an order stating otherwise. Responses to Commission Staff's recommendation must be filed no later than 15 days after the filing of the tariff, unless the presiding officer in Control No. 56352

files an order stating otherwise. The presiding officer in Control No. 56352 must approve, modify, or reject each proposed tariff sheet. If any proposed tariff sheets are modified or rejected, CSWR-Texas must file proposed revisions to those tariff sheets in accordance with any applicable order by the presiding officer in Control No. 56352.

7. Copies of all tariff-related filings must be served on all parties of record.
8. The Commission authorizes CSWR-Texas to recover \$419,459 in rate-case expenses incurred in this proceeding through a surcharge of \$1.60 per connection per month for the customers of the systems identified in the application and the Leon Springs and Shady Grove sewer facilities to be collected for 24 months or until the full amount is collected, whichever occurs first.
9. The approved surcharge for rate-case expenses must be implemented in Docket No. 56351, *Compliance Docket of CSWR-Texas Utility Operating Company, LLC Related to Surcharges and Refunds in Docket No. 54565*.
10. CSWR-Texas must calculate the net surcharge or refund owed to customers for the difference between the rates approved by this Order and the interim rates effective November 30, 2023 under 16 TAC § 24.37(h). In that calculation, CSWR-Texas must include all tariffed rates that would have been charged to customers, including base and pass-through rates. CSWR-Texas must file a report documenting the calculations and issuance of this surcharge or refund in Docket No. 56351, *Compliance Docket of CSWR-Texas Utility Operating Company, LLC Related to Surcharges and Refunds in Docket No. 54565*.
11. The Commission authorizes CSWR-Texas to book a regulatory asset for any additional rate-case expenses not supported by the August 24, 2023 attorney affidavit and to request recovery of those additional rate-case expenses in its next comprehensive base-rate proceeding.
12. The Commission denies all other motions and any other requests for general or specific relief that have not been expressly granted.

Signed at Austin, Texas the 13<sup>th</sup> day of June 2024.

PUBLIC UTILITY COMMISSION OF TEXAS

  
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LORI COBOS, COMMISSIONER

  
\_\_\_\_\_  
JIMMY GLOTFELTY, COMMISSIONER

  
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KATHLEEN JACKSON, COMMISSIONER