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DOCKET NO. 54752

APPLICATION OF CSWR-TEXAS	§	
UTILITY OPERATING COMPANY, LLC	§	PUBLIC UTILITY COMMISSION
AND RBTQ, INC. DBA SOUTHWEST	§	
GARDENS WATER FOR SALE,	§	OF TEXAS
TRANSFER, OR MERGER OF	§	
FACILITIES AND CERTIFICATE	§	
RIGHTS AND FOR DECERTIFICATION	§	
OF ALL OF DON HAYS DBA	§	
SOUTHWEST WATER COMPANY (DON	§	
HAYS) CERTIFICATE OF	§	
CONVENIENCE AND NECESSITY IN	§	
LUBBOCK COUNTY	§	

**ORDER NO. 8
APPROVING SALE AND TRANSFER TO PROCEED**

This Order addresses the application of CSWR-Texas Utility Operating Company, LLC and RBTQ, Inc. dba Southwest Gardens Water (Southwest Gardens) for the sale, transfer, or merger of facilities in Lubbock County. The applicants seek approval of the following: (1) the sale and transfer of all facilities and service area under Southwest Gardens' certificate of convenience and necessity (CCN) number 12891 to CSWR-Texas; (2) the cancellation of Southwest Gardens' CCN number 12891; (3) the amendment of CSWR-Texas's CCN number 13290 to include the area previously included in Southwest Gardens' CCN number 12891; (4) the decertification of Don Hays dba Southwest Water Company's CCN number 12735; and (5) the amendment of CSWR-Texas's CCN number 13290 to include 12.7 acres that are currently uncertificated. This Order addresses only the proposed sale and transfer of facilities and certificate rights from Southwest Gardens to CSWR-Texas. The Commission administrative law judge (ALJ) approves the transaction between CSWR-Texas and Southwest Gardens, and the transaction may be completed.

I. Findings of Fact

The Commission makes the following findings of fact:

Applicants

1. Southwest Gardens is a Texas Corporation registered with the Texas secretary of state under filing number 132575600.

2. Southwest Gardens holds CCN number 12891 which obligates it to provide retail water service in Lubbock County.
3. Southwest Gardens owns and operates a public water system registered with the Texas Commission on Environmental Quality (TCEQ) as Southwest Garden Water public water system number 1520217.
4. CSWR Texas is a Texas limited liability company registered with the Texas secretary of state under file number 0803367893.
5. CSWR Texas holds CCN number 13290 which obligates it to provide water service in Angelina, Aransas, Austin, Burleson, Burnet, Calhoun, Camp, Denton, Ellis, Erath, Guadalupe, Harris, Hays, Hidalgo, Hood, Jackson, Kerr, Limestone, Llano, Lubbock, McCulloch, Montague, Montgomery, Navarro, Parker, Polk, Robertson, Victoria, Wilson, and Wood counties.

Application

6. On March 14, 2023, CSWR-Texas and Southwest Gardens filed the application at issue in this proceeding.
7. CSWR-Texas supplemented the application on June 6 and 13, 2023.
8. In the application, CSWR-Texas and Southwest Gardens seek approval of the following:
 - a. CSWR Texas will acquire all of Southwest Gardens' water facilities and water service area under CCN number 12891;
 - b. Southwest Gardens' CCN number 12891 will be cancelled;
 - c. CSWR Texas's CCN number 13290 will be amended to include the area previously included in Southwest Gardens' CCN number 12891;
 - d. the decertification of Don Hays dba Southwest Water Company's CCN number 12735; and
 - e. the amendment of CSWR-Texas's CCN number 13290 to include 12.7 acres that are currently uncertificated.
9. The requested area comprises approximately 46.7 acres and 130 connections.

10. Approximately 34 acres of the requested area are dually certificated to Southwest Gardens under CCN numbers 12891 and Don Hays under CCN number 12735.
11. Approximately 12.7 acres of the requested area are currently uncertificated.
12. The requested area is located approximately 5.2 miles southeast of downtown Wolfforth, Texas, and is generally bounded on the north by County Road 7500; on the east by County Road 1840; on the south by County Road 7540; and on the west by Frankford Avenue.
13. In Order No. 5 filed on June 30, 2023, the ALJ found the application administratively complete.

Notice

14. On July 28, 2023, CSWR-Texas filed the affidavit of Aaron Silas, director of regulatory operations for CSWR Texas, attesting that notice of the application was provided to all current customers of Southwest Gardens, neighboring utilities, and affected parties on July 12, 2023.
15. On July 28, 2023, CSWR-Texas filed the publisher's affidavit attesting to the publication of notice in the *Lubbock Avalanche-Journal*, a newspaper of general circulation in Lubbock County, on July 14 and 21, 2023.
16. On July 28, 2023, CSWR-Texas filed the affidavit Mr. Silas attesting that notice of the application was provided to all landowners owning tracts of land, 25 acres or more, wholly or partly in the requested area.
17. In Order No. 6 filed on August 10, 2023, the ALJ found notice sufficient.

Evidentiary Record

18. In Order No. 7 filed on November 13, 2023, the ALJ admitted the following evidence into the record:
 - a) The application, including confidential attachments, filed on March 14, 2023;
 - b) CSWR-Texas's first supplement to the application, including confidential attachments, filed on June 6, 2023;
 - c) CSWR-Texas's second supplement to the application filed on June 13, 2023;

- d) Commission Staff's recommendation on administrative completeness filed on June 29, 2023;
- e) CSWR-Texas's affidavit of notice to current customers, neighboring utilities, and affected parties, publisher's affidavit, and landowner affidavit, including confidential attachments, filed on July 28, 2023;
- f) Commission Staff's recommendation on sufficiency of notice, filed on August 8, 2023; and
- g) Commission Staff's recommendation on the transaction, including confidential attachments, filed on September 21, 2023.

Cumulative Recommendation

- 19. On September 26, 2023, Commission Staff filed its recommendation regarding the transaction in this docket recommending that CSWR-Texas has the financial, managerial, and technical capability to provide continuous and adequate service to all areas included in this docket.

Purchaser's Compliance History

- 20. The Commission's complaint records, which date back to 2018, show 12 complaints against CSWR-Texas.
- 21. CSWR-Texas does not have any active violations in the TCEQ database.
- 22. CSWR-Texas does not have a history of continuing mismanagement or misuse of revenues as a utility service provider.
- 23. CSWR-Texas demonstrated a compliance history that is adequate for approval of the transaction to proceed.

Adequacy of Existing Service

- 24. There are 130 connections in the requested area are being served by Southwest Gardens through public water systems number 1520217.

25. The last TCEQ compliance investigation of Southwest Gardens was in June 2021. No violations were identified as a result of the investigation. Southwest Gardens has three violations listed in the TCEQ database.
26. Capital improvements are necessary for CSWR-Texas to continue providing continuous and adequate service to the requested area.
27. There is no evidence in the record that Southwest Gardens has failed to comply with any Commission or TCEQ order.

Need for Additional Service

28. There is a continuing need for service because Southwest Gardens is currently serving 130 connections in the requested area.
29. There have been no specific requests for additional service within the requested area.

Effect of Approving the Transaction and Granting the Amendment

30. CSWR-Texas will be the sole certificated water utility for the 46.7 acres of the requested area.
31. There will be no effect on landowners because the area is currently certificated. Any landowners in the requested areas who do not currently receive service from Southwest Gardens will need to request service from CSWR-Texas if they require service after the transaction has been completed.
32. All retail public utilities in the proximate area were provided notice of the application, and no protests or adverse comments were filed.
33. There is no evidence that approval of the transaction will have any adverse effect on any other retail public utility servicing the proximate area.

Ability to Serve: Managerial and Technical

34. CSWR-Texas owns and operates numerous TCEQ-registered public water systems in Texas.
35. CSWR-Texas employs or contracts with TCEQ-licensed water operators who will be responsible for the operation of the public water system being transferred.

36. CSWR-Texas has the technical and managerial capability to provide adequate and continuous service to the requested area.

Ability to Serve: Financial Ability

37. CSWR, LLC, the immediate parent company of CSWR-Texas, is capable, available, and willing to cover temporary cash shortages, and has a debt-to-equity ratio of less than one, satisfying the leverage test.
38. CSWR, LLC provided a written guarantee of coverage of temporary cash shortages or operating expense shortfalls, satisfying the operations test.
39. CSWR Texas is proposing improvements to Southwest Gardens' public water system that exceed \$100,000, therefore a firm capital commitment under 16 TAC § 24.11(e)(5) is required.
40. CSWR Texas demonstrated adequate cash funding of the purchase price and planned system improvements in this application, along with all of CSWR Texas's other purchased systems and planned system improvements, therefore satisfying the requirement for a firm capital commitment under 16 TAC §24.11(e)(A).
41. CSWR-Texas demonstrated the financial and managerial ability and stability to provide continuous and adequate service to the requested area.

Financial Assurance

42. There is no need to require CSWR Texas to provide a bond or other financial assurance to ensure continuous and adequate service.

Feasibility of Obtaining Service from Adjacent Retail Public Utility

43. Southwest Gardens is currently providing water service to customers serving customers throughout the certificated portion of the requested area and such service has been continuous.
44. Obtaining service from an adjacent retail public utility would likely increase costs to customers because new facilities would need to be constructed. At a minimum, an interconnect would need to be installed in order to connect to a neighboring retail public utility.

45. It is not feasible to obtain service from an adjacent retail public utility.

Environmental Integrity and Effect on the Land

46. The requested area will continue to be served with existing infrastructure.

47. There will be minimal effects on environmental integrity and on the land as a result of CSWR-Texas's planned upgrades, renovations, and repairs to the public water system.

Improvement of Service or Lowering Cost to Consumers

48. CSWR-Texas will continue to provide water service to Southwest Gardens' existing customers in the requested area.

49. Reliability and quality of water service is expected to improve under CSWR-Texas's management.

50. CSWR-Texas will adopt current rates upon consummation of the transaction.

Regionalization or Consolidation

51. It will not be necessary for CSWR-Texas to construct a physically separate public water system to serve the requested area.

52. Because the requested area will not require construction of a physically separate public water system, evaluation of regionalization or consolidation with another retail public utility is not required.

II. Conclusions of Law

The Commission makes the following conclusions of law:

1. Notice of the application was provided in compliance with Texas Water Code (TWC) §§ 13.246 and 13.301(a)(2) and 16 Texas Administrative Code (TAC) § 24.239(c).¹
2. After consideration of the factors in TWC § 13.246(c), CSWR-Texas demonstrated that it is capable of rendering continuous and adequate service to every customer within the requested area, as required by TWC § 13.251.

¹ After this application was filed, 16 TAC § 24.239 was amended, effective March 29, 2023. Accordingly, all references and citations to 16 TAC § 24.239 in this Order are made to the version in effect at the time the application was filed.

3. CSWR-Texas demonstrated adequate financial, managerial, and technical capability for providing adequate and continuous service to the requested area as required by TWC §§ 13.241(a) and 13.301(b).
4. The applicants demonstrated that the sale and transfer of Southwest Gardens' facilities and service area to CSWR-Texas will serve the public interest and is necessary for the continued service, accommodation, convenience, and safety of the public, as required by TWC § 13.301(d) and (e).

III. Ordering Paragraphs

In accordance with the preceding findings of fact and conclusions of law, the Commission enters the following orders.

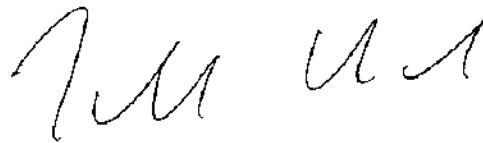
1. The transaction between CSWR-Texas and Southwest Gardens in this proceeding is approved and may be completed.
2. As soon as possible after the effective date of the transaction, but not later than 30 days after the effective date, CSWR-Texas and Southwest Gardens must file proof that the transaction has been completed and customer deposits, if any, have been addressed.
3. CSWR-Texas and Southwest Gardens have 180 days to complete the transaction.
4. Under 16 TAC § 24.239(m), if the transaction is not completed within this 180-day period, and no extension has been granted, this approval is void and the applicants must reapply for approval.
5. CCN number 12891, and associated facilities and service area, will continue to be held by Southwest Gardens until the final order or notice of approval is issued in this matter, in accordance with Commission rules.
6. In an effort to finalize this case as soon as possible, CSWR-Texas and Southwest Gardens must continue to file monthly updates regarding the status of the closing and submit documents evidencing that the transaction was completed.
7. Within 15 days following the filing of CSWR-Texas and Southwest Gardens' proof that the transaction has been completed and customer deposits, if any, have been addressed,

Commission Staff must file a recommendation regarding the sufficiency of the documents and propose a schedule for continued processing of this docket.

8. Before the Commission can grant final approval to this transaction, CSWR-Texas must file a capital improvements plan that complies with the requirements of TWC § 13.244(d)(3) and 16 TAC § 24.233(a)(6).

Signed at Austin, Texas on the 13th day of November 2023.

PUBLIC UTILITY COMMISSION OF TEXAS



JEFFREY J. HUHN
ADMINISTRATIVE LAW JUDGE