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<b>APPLICATION OF CSWR-TEXAS UTILITY OPERATING COMPANY, LLC FOR AUTHORITY TO CHANGE RATES</b>	§ § § §	<b>BEFORE THE STATE OFFICE OF ADMINISTRATIVE HEARINGS</b>
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**CSWR-TEXAS UTILITY OPERATING COMPANY, LLC’S RESPONSE TO THE  
OFFICE OF PUBLIC UTILITY COUNSEL’S MOTION TO COMPEL RESPONSES TO  
OFFICE OF PUBLIC UTILITY COUNSEL’S SECOND REQUEST FOR  
INFORMATION**

CSWR-Texas Utility Operating Company, LLC (CSWR-Texas or the Company) submits this Response to the Office of Public Utility Counsel’s (OPUC) Motion to Compel Responses to OPUC’s Second Request for Information (Motion to Compel), filed on March 21, 2025 in this proceeding.<sup>1</sup> Pursuant to 16 Texas Administrative Code (TAC) § 22.144(f), this response is timely filed within five working days of receipt of OPUC’s Motion to Compel, which was served on March 21, 2025.

**I. RESPONSE TO MOTION TO COMPEL**

CSWR-Texas continues to object to OPUC Requests for Information (RFI) Nos. 2-5 and 2-7 as overly broad and unduly burdensome. OPUC RFI No. 2-5 includes 12 subparts (seven of which are two-part questions) and references Schedule II-A-2.1 of the Company’s application, which is a Statement of Income by NARUC account and before any pro forma adjustments.<sup>2</sup> Of the 12 subparts, five include a request for copies of invoices and receipts or source documentation underlying the amount claimed for a specific account.<sup>3</sup> OPUC RFI No. 2-7 seeks similar information related to Schedule II-B-1 and the accompanying workpaper, which include the original cost of CSWR-Texas’s rate base by NARUC account.

The Texas Rules of Civil Procedure grant courts the discretion to limit discovery if the court determines that “the burden or expense of the proposed discovery outweighs its likely

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<sup>1</sup> OPUC’s Motion to Compel Responses to OPUC’s Second Request for Information (Mar. 21, 2025) (OPUC’s Motion to Compel).

<sup>2</sup> Office of Public Utility Counsel’s Second Request for Information to CSWR-Texas Utility Operating Company, LLC at OPUC RFI No. 2-5 (Mar. 21, 2024).

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

benefit.”<sup>4</sup> To make this determination, the court must weigh the needs and circumstances of the case including the amount in controversy, the resources of the parties, the importance of the issues at stake in the litigation, and the importance of the proposed discovery in resolving the issues.<sup>5</sup> The Texas Supreme Court has held that “the simple fact that requested information is discoverable . . . does not mean that discovery must be had.”<sup>6</sup>

**A. OPUC’s requested production exceeds that required in a comprehensive rate case.**

OPUC’s request demands detailed data regarding costs incurred over 12 months for 96 individual water and 18 individual sewer systems involving thousands of individual expenses, plant assets and components of plant assets. Producing this information will not only result in the production an unwieldy amount of information and individual documents but also require a significant marshalling of resources to review, parse and produce the requested information. No statute or rule requires this level of production in a comprehensive rate case. Therefore, there must be reasonable limits on how many individual transactions or line items underlying the cost of service must be supported in a comprehensive rate proceeding. For example, the rate filing package for Class B utilities describes a “large” operating expense as more than 10% of the test year account balance for the corresponding NARUC account. The production of documentation supporting large operating expenses would significantly limit the scope of production and focus on assets with large dollar amounts.

OPUC claims the requested information is “necessary to verify whether the claimed expenses were prudently incurred and justifiably included in the rate base.”<sup>7</sup> However, that “standard” would render almost any limitations on discovery as moot. Moreover, it is not sufficient to overcome the presumption of reasonableness that the information already provided is afforded.

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<sup>4</sup> Tex. R. Civ. P. 192.4(b).

<sup>5</sup> *Id.*

<sup>6</sup> *In re State Farm Lloyds*, 510 S.W.3d 595,605 (Tex. 2017) (citing *Nicholas v. Wyndham Int’l, Inc.*, 373 F.3d 537, 543 (4th Cir. 2004)).

<sup>7</sup> OPUC’s Motion to Compel at 2–3.

**B. OPUC is not authorized to audit or require an audit of a utility's books and records as part of a comprehensive rate proceeding or any other proceeding.**

OPUC's motion to compel demands a comprehensive audit of all of CSWR-Texas books and records, including the original cost of its plant previously approved, and individual expenses and assets. Although a comprehensive audit of a utility's books and records may be required *by the Commission* under 16 TAC § 24.133 and 24.134, it is *not* authorized or required in the context of a comprehensive rate case and should not be substituted as the basis for review or the burden of proof of the applicant. OPUC is not authorized by any statute or rule to direct or require an audit of the Company's books and records or, more importantly, to require a utility and its customers to bear the cost of an audit.

**C. The information sought by OPUC is already included in the application and responses to other discovery, and was provided consistent with the Company's internal accounting procedures, books, and records, and the rules adopted by the Public Utility Commission of Texas.**

Although OPUC complains that it must have access to the requested information, OPUC already has access to this information through the Company's application, specifically through the schedules and general ledger and significant supporting documentation already provided.<sup>8</sup> OPUC, however, seeks to expand the scope of its inquiry water rate case to audit the underlying invoice and receipts for this information. Such a review would capture an unwieldy amount of individual transactions and documentation that far exceeds any express or implied requirement under Commission rules.

OPUC asserts, however, that such review is necessary because it requires even more detailed information about each transaction, expense or assets.<sup>9</sup> It does not explain (1) why the general ledger detail provided with CSWR-Texas's application will not suffice;<sup>10</sup> (2) why documentation that has already been provided (for example, the contracts underlying the test year contract labor expense) diminishes the need for individual invoices;<sup>11</sup> or (3) why the descriptions of expenses included in each line item in Schedule II-A-2.1 are needed when this schedule is

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<sup>8</sup> Application at WP II-A-2.2\_2.4 (tab "GL Detail") (Dec. 30, 2024).

<sup>9</sup> OPUC's Motion to Compel at 4.

<sup>10</sup> Application at WP II-A-2.2\_2.4 (tab "GL Detail").

<sup>11</sup> See CSWR-Texas Utility Operating Company, LLC's Response to Commission Staff's First Request for Information at Staff RFI No. 1-45 and *Confidential Attachment Staff 1.45 – Operations Contracts* (Mar. 20, 2025).

organized by NARUC account to which the standard NARUC account descriptions apply. As such, more reasonable options are available for OPUC to review information to support these costs that would result in a much-reduced burden and cost to the Company, the parties, Staff and the presiding officer.

For the foregoing reasons, OPUC's Motion to Compel should be overruled and CSWR-Texas's objection to OPUC RFI Nos. 2-5 and 2-7 should be sustained.

## **II. CONCLUSION**

CSWR-Texas respectfully requests the entry of an order denying OPUC's Motion to Compel the responses to OPUC RFI Nos. 2-5 and 2-7. CSWR-Texas further requests that it be granted any other relief to which it may be justly entitled.

Respectfully submitted,

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**ATTORNEYS FOR CSWR-TEXAS UTILITY  
OPERATING COMPANY, LLC**

**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 March 28, 2025, in accordance with the Second Order Suspending Rules, issued in Project No. 50664.

/s/ Evan D. Johnson

Evan D. Johnson