



**STATE OF ALABAMA**  
**PUBLIC SERVICE COMMISSION**  
**P.O. BOX 304260**  
**MONTGOMERY, ALABAMA 36130**

TWINKLE ANDRESS CAVANAUGH, PRESIDENT

JOHN A. GARNER, EXECUTIVE DIRECTOR

JEREMY H. ODEN, ASSOCIATE COMMISSIONER

CHRIS "CHIP" BEEKER, JR., ASSOCIATE COMMISSIONER

**CENTRAL WATER WORKS, INC.**

**DOCKET 30494**

**ORDER**

**BY THE COMMISSION:**

On or about July 14, 2022, Central Water Works, Inc. ("Central Water") petitioned for a finding that it is not subject to regulation by the Commission as a water utility. The Commission regulates water utilities as defined in Ala. Code § 37-4-1,<sup>1</sup> subject to several statutory exemptions.<sup>2</sup> The Commission recently examined the scope of its regulatory jurisdiction in a generic proceeding (Docket 33192) to determine whether certain unregulated water providers met the statutory definition of "utility" which would subject them to Commission regulation.

The generic proceeding, which included a public comment period, produced an order ("June 27, 2022 Order") that clarified the criteria for utility status. Among other determinations in the June 27, 2022 Order, the Commission found that a nonprofit water service provider is presumed not to be a utility providing service "to or for the public" if it meets the following two-prong test: 1) the entity shows, through corporate governance documents or other evidence, that it only provides water to its own members; and 2) its corporate governance documents show that its members have the right to select and remove the leadership of the entity. This finding is based on the Alabama Supreme Court's recognition that an important distinction of a utility is that it holds itself out as providing service to every person in the public who requires service.<sup>3</sup>

In light of the Commission determinations set out in the June 27, 2022 Order, Central Water submitted this petition for a finding that it is not subject to regulation by the Commission as a water utility. In support of its request,

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<sup>1</sup> Ala. Code § 37-4-1 defines a "utility," relevant to water service, as "every person, not engaged solely in interstate business, that now or may hereafter own, operate, lease, or control... [a]ny plant, property, or facility for the supply, storage, distribution, or furnishing to or for the public of water for manufacturing, municipal, domestic, or other uses."

<sup>2</sup> See, e.g., Ala. Code §§ 11-50-241; 11-50-323; 11-88-21; 37-1-33; 37-1-34; and 37-6-27.

<sup>3</sup> See *Coastal States Gas Transmission Co. v. Alabama Pub. Serv. Comm'n*, 524 So. 2d 357, 361 (Ala. 1988).

Central Water provided documentation to show that it is a non-profit corporation that provides water service only to its own members, not to the general public. It also submitted its corporate governance documents as evidence that its members elect and may remove its board members. Pursuant to the findings in the June 27, 2022 Order, Ala. Code § 37-4-1, and relevant caselaw, the submitted information shows that Central Water is not a public utility and therefore not subject to Commission regulation.

**IT IS SO ORDERED BY THE COMMISSION** that based on provided documents, Alabama law, and the findings in the June 27, 2022 Order, Central Water Works, Inc. is not a public utility and therefore not subject to Commission regulation.

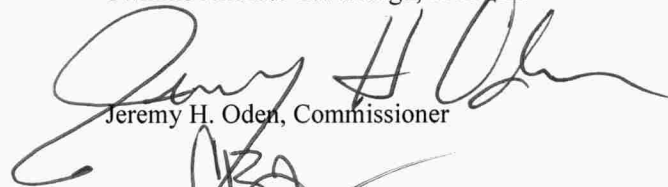
**IT IS FURTHER ORDERED** that jurisdiction in this cause is hereby retained for the issuance of any further order or orders as may appear to be just and reasonable in the premise.

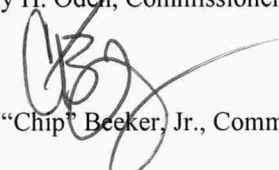
**IT IS FURTHER ORDERED** that this Order shall be effective as of the date hereof.

DONE at Montgomery, Alabama, this *21<sup>st</sup>* day of September, 2022.

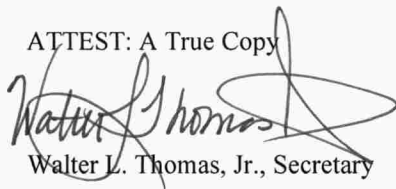
ALABAMA PUBLIC SERVICE COMMISSION

  
Twinkle Andress Cavanaugh, President

  
Jeremy H. Oden, Commissioner

  
Chris "Chip" Becker, Jr., Commissioner

ATTEST: A True Copy

  
Walter L. Thomas, Jr., Secretary