



Control Number: 44211



Item Number: 17

Addendum StartPage: 0

House Bill (HB) 1600 and Senate Bill (SB) 567 83rd
Legislature, Regular Session, transferred the functions
relating to the economic regulation of water and sewer
utilities from the TCEQ to the PUC effective
September 1, 2014

Executive Summary – Enforcement Matter
Michael Lantz O’Neill d/b/a Frontier Park Resort and Marina
RN101278034
Docket No. 2013-1429-UCR-E

RECEIVED

2015 JAN 12 AM 7:49

PUBLIC UTILITY COMMISSION
FILING CLERK

Order Type:
Emergency Order

Findings Order Justification:
N/A

Media:
PWS

Small Business:
Yes

Location(s) Where Violation(s) Occurred:
Ranch Road 1, Box 1690, Hemphill, Sabine County, Texas

Type of Operation:
Public water system and retail public utility (Utility)

Other Significant Matters:
Additional Pending Enforcement Actions: None
Past-Due Penalties: \$7,703.85 (Docket No. 2007-0712-PWS-E) and \$64,066.00 (Docket No. 2007-0449-MLM-E)
Past-Due Fees: \$737.40
Other: Pending action for contempt and abstract of judgment at Office of Attorney General, referred on April 16, 2013
Interested Third-Parties: None

Texas Register Publication Date: N/A

Comments Received: Pursuant to TEX. WATER CODE § 7.075, publication is not required for an Emergency Order.

Penalty Information

Total Penalty Assessed: N/A
Amount Deferred for Expedited Settlement: N/A
Amount Deferred for Financial Inability to Pay: N/A
Total Paid to General Revenue: N/A
Total Due to General Revenue: N/A
SEP Conditional Offset: N/A

Compliance History Classifications:
Person/CN – N/A
Site/RN – N/A

Major Source: No
Statutory Limit Adjustment: N/A
Applicable Penalty Policy: N/A

Investigation Information

Complaint Date(s): N/A
Date(s) of Investigation: August 29, 2009, February 28, 2011, May 30, 2013, July 16, 2013, and July 29, 2013
Date(s) of NOV(s): N/A
Date(s) of NOE(s): N/A

Violation Information

Abandoned operations [TEX. WATER CODE §§ 13.412(f) and 13.4132 and 30 TEX. ADMIN. CODE § 291.142(c)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

Technical Requirements:

1. Immediately upon the effective date of the Emergency Order, Sabine River Authority ("SRA") shall serve as temporary manager until a receiver is appointed or 180 days after the effective date of the Emergency Order; i.e. January 28, 2014, whichever occurs first.
2. SRA is authorized to exercise those powers and duties necessary to ensure the continued operations of the Utility and the provision of continuous and adequate services to customers, including the powers and duties set forth in TEX. WATER CODE § 13.4132.
3. SRA shall give the Executive Director an inventory of all Utility property received within sixty (60) days of the effective date of this Order.
4. SRA's requirement to post financial assurance with the TCEQ in an amount and type acceptable to the Executive Director has been waived by the Executive Director pursuant to 30 TEX. ADMIN. CODE § 291.143(c).
5. SRA's compensation will come from Utility revenues in the amount of fifteen dollars (\$15.00) per month per connection.
6. SRA shall report to the Executive Director on a monthly basis in accordance with 30 TEX. ADMIN. CODE § 291.143(h).

Litigation Information

Date Petition(s) Filed: N/A
Date(s) Green Card(s) Signed: N/A
Date(s) Answer(s) Filed: N/A
SOAH Referral Date: N/A
Hearing Date(s):
Preliminary hearing: N/A

Executive Summary – Enforcement Matter
Michael Lantz O’Neill d/b/a Frontier Park Resort and Marina
RN101278034
Docket No. 2013-1429-UCR-E

Evidentiary hearing: N/A

Contact Information

TCEQ Attorneys: Stephanie Frazee, Litigation Division, MC 175, (512) 239-3400
Lena Roberts, Litigation Division, MC 175, (512) 239-3400

TCEQ SEP Coordinator: N/A

TCEQ Enforcement Coordinator: Remington Burklund, Enforcement Division, MC 219, (512) 239-2611

TCEQ Regional Contact: Mr. Ronald Hebert, Section Manager, Beaumont Regional Office, MC R-10, (409) 898-3838

Respondent: Michael Lantz O’Neill, 360 Frontier Drive, Hemphill, Texas 75948

Respondent's Attorney: N/A

Background Facts:

The Utility provides potable water service for compensation to approximately 20 community and 89 non-community service connections, serves at least 25 people per day for at least 60 days per year, and provides water for human consumption. No other source of water is available to the more than 60 people whose water is supplied by the Utility.

On August 26, 2008, the Commission issued Default Order Docket No. 2007-0449-MLM-E against Michael Lantz O’Neill d/b/a Frontier Park Resort and Marina for numerous PWS and WW violations. On March 17, 2010, the case was referred to the Office of Attorney General. On December 20, 2010, the 353rd Judicial District in Travis County issued a Default Judgment and Permanent Injunction against Mr. O’Neill.

During an investigation conducted on February 28, 2011, a TCEQ Beaumont Regional Investigator documented that Mr. O’Neill was not in compliance with the Default Judgment.

On April 16, 2013, the TCEQ referred the case back to the Office of Attorney General to pursue contempt and abstract of judgment for the Default Judgment.

On July 15, 2013, water service at the Utility ceased after a weather event. Mr. O’Neill claimed to be attempting to restore service to the Utility. Sabine County Emergency Management provided bottle water to the customers at the facility until July 25, 2013.

On July 25, 2013, a TCEQ Beaumont Regional investigator observed that water service was unavailable for all areas of the Utility. Respondent had abandoned the Utility by failing to adequately maintain facilities, resulting in potential health hazards, extended outages, or repeated service interruptions.

A potential health hazard exists as a result of the Utility’s failure to provide continuous and adequate service. Immediate repairs on the Utility are necessary to ensure the quality of the water in the State and to ensure the Utility operates in a safe manner and meets requirements in the Texas Water Code, the Texas Health & Safety Code, and TCEQ rules. Therefore, a temporary manager is necessary to operate the Utility to ensure the quality of the water meets TCEQ rule requirements, complies with the Texas Water Code and the Texas Health & Safety Code, and is safe for public use and consumption.

On July 26, 2013, the Executive Director issued an Emergency Order appointing Mr. Broughton as Temporary Manager for the Utility. Mr. Broughton made repairs at the Utility in order to restore service and subsequently informed TCEQ that he no longer wished to act as the Temporary Manager at the Utility and that TCEQ should obtain a replacement.

Executive Summary – Enforcement Matter
Michael Jantz O’Neill d/b/a Frontier Park Resort and Marina
RN101278034
Docket No. 2013-1429-UCR-E

On August 1, 2013, the Executive Director issued an Emergency Order appointing Sabine River Authority as Temporary Manager for the Utility. Therefore, Executive Director is requesting that the Emergency Order appointing Sabine River Authority as Temporary Manager be affirmed as modified.