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DOCKET NO. 46309

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PETITION FOR AN ORDER
APPOINTING A TEMPORARY
MANAGER TO AERO VALLEY
WATER SERVICE IN DENTON
COUNTY

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PUBLIC UTILITY COMMISSION

OF TEXAS

PUBLIC UTILITY COMMISSION
FILING CLERK

**EMERGENCY ORDER EXTENDING THE TERM OF THE COMMISSION ORDER
APPOINTING A TEMPORARY MANAGER TO AERO VALLEY WATER SERVICE**

This Order addresses the application of the Public Utility Commission of Texas (Commission) Staff for an emergency order extending the term of the Commission order appointing a temporary manager to Aero Valley Water Service (Aero Valley) in Denton County for an additional 180 days. The Executive Director, on behalf of the Commission,¹ grants this emergency order without a hearing, and sets a hearing on this matter at the May 4, 2017 Open Meeting currently scheduled for 9:30 a.m. at the Commission's offices in Austin, Texas.

The Commission adopts the following findings of fact and conclusions of law:

I. Findings of Fact

1. Commission Staff, as the requesting party, is located at 1701 N. Congress Avenue, 7th Floor, Austin, Texas 78701.
2. Aero Valley is a retail public utility previously owned and operated by Mr. Shawn Horvath. Aero Valley was granted Certificate of Convenience and Necessity (CCN) number 11401 on November 1, 1979. This CCN was revoked by the Commission on April 25, 2016 because it was not properly transferred to Mr. Horvath.
3. Aero Valley is comprised of one public water system.
4. On September 9, 2016, Commission Staff filed an Amended Request for an Emergency Order Appointing a Temporary Manager to Aero Valley Water Service without a Hearing (Petition).

¹ Tex. Water Code § 13.451(b) (TWC) states that the Commission may, by order or rule, delegate to the Executive Director the authority to receive and issue emergency orders under Subchapter K-1 of the TWC. The delegation was made by Commission order on December 4, 2015 in Docket No. 43517.

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5. An Emergency Order granting that Petition was issued on September 23, 2016.
6. The Commission issued an Order affirming the Emergency Order on October 7, 2016.
7. On April 13, 2017, Commission Staff filed an Application for an Emergency Order Extending the Term of the Commission Order Appointing a Temporary Manager to Aero Valley Water Service without a Hearing (Commission Staff's Application for an Emergency Order).
8. Continuity of the temporary manager is necessary to maintain continuous and adequate service. An emergency order is justified in order to meet deadlines imposed by statute and rule so that a timely extension may be made.
9. Commission Staff reported that a utility has expressed interest in acquiring Aero Valley's customers, and additional time is needed to ensure that these customers are able to find a long-term solution.

II. Conclusions of Law

1. The Commission has jurisdiction over this docket pursuant to Tex. Water Code §§ 13.4132 and 13.451 (TWC) and 16 Tex. Admin. Code § 24.142 (TAC).
2. Aero Valley is a public utility as defined in TWC § 13.002.
3. Under 16 TAC § 24.143(d), the Commission may grant an extension of the term of the temporary manager at the request of Commission Staff.
4. TWC § 13.451(b) states that the Commission may, by order or rule, delegate to the Executive Director the authority to receive and issue emergency orders under Subchapter K-1 of the TWC. The delegation was made by Commission order on December 4, 2015 in Docket No. 43517.
5. Under 16 TAC § 22.299(d), an emergency order to extend the term of a temporary manager may be issued with or without a hearing. The Commission or the executive director will set a hearing as soon as practicable after the order is issued.

III. Ordering Paragraphs

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

1. Commission Staff's request for an emergency order is granted and the term for the temporary manager of Aero Valley is extended for 180 days to begin on April 16, 2017 and end on October 13, 2017, or until another utility is certified to provide service to Aero Valley, whichever is the earlier occurrence.
2. Mr. Patterson has all the powers and duties necessary to ensure the continued operation of the utility and the provision of continuous and adequate service to customers.
3. As temporary manager, Mark Patterson shall comply with all requirements in 16 TAC § 24.143, including but not limited to reading meters, billing for service, collecting revenues, disbursing funds, requesting rate increases if needed, accessing all system components, conducting required sampling, making necessary repairs; and performing other acts necessary to assure continuous and adequate utility service as authorized by the Commission.
4. Mr. Patterson shall return to the Commission an inventory of all property received within 60 days of appointment, pursuant to 16 TAC § 24.143(e).
5. Mr. Patterson shall report to the Commission on a monthly basis. This report shall include an income statement for the reporting period; a summary of utility activities such as improvements or major repairs made, number of connections added, and amount of water produced or treated; and any other information required by the Commission, pursuant to 16 TAC § 24.143(h).
6. Mr. Patterson shall comply with all applicable requirements imposed by the TCEQ.
7. Mr. Patterson is not required to post financial assurance.
8. Mr. Patterson shall be compensated for his role as temporary manager from Aero Valley's revenues in the amount of twelve dollars per connection per month, and shall bill for this amount as part of the regular authorized rates of Aero Valley.

9. Commission Staff shall provide notice of issuance of this emergency order to Aero Valley as soon as practicable pursuant to 16 TAC § 22.293(c).
10. A hearing to affirm, modify or set aside this emergency order shall be held at the May 4, 2017 Open Meeting currently scheduled for 9:30 a.m., at the offices of the Commission in Austin, Texas.
11. Commission Staff shall provide notice of opportunity to participate in an evidentiary hearing to affirm, modify, or set aside this emergency order to Aero Valley no later than the tenth day before the date of the hearing and shall provide that Aero Valley may waive the right to this hearing either by written notice to the Commission or by failing to attend the hearing.

Signed at Austin, Texas the 13th day of April 2017.

PUBLIC UTILITY COMMISSION OF TEXAS



BRIAN H. LLOYD, EXECUTIVE DIRECTOR