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DeAnn T. Walker
Chairman

Brandy Marty Marquez
Commissioner

Arthur C. D'Andrea
Commissioner

Brian H. Lloyd
Executive Director



Greg Abbott
Governor

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PUBLIC UTILITY COMMISSION
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Public Utility Commission of Texas

TO: DeAnn T. Walker, Chairman
Brandy Marty Marquez, Commissioner
Arthur C. D'Andrea, Commissioner

All Parties of Record

FROM: Jeffrey J. Huhn *JJA*
Administrative Law Judge

RE: **Open Meeting of January 25, 2018**
Docket No. 47797 – *Application for an Order Appointing a Temporary Manager to Aero Valley Water Service*

DATE: January 5, 2018

Enclosed is a copy of the Proposed Default Order in the above-referenced docket. The Commission will consider this docket at an open meeting presently scheduled to begin at 9:30 a.m. on Thursday, January 25, 2018, at the Commission's offices, 1701 North Congress Avenue, Austin, Texas. The parties shall file corrections or exceptions to the Proposed Default Order on or before Wednesday, January 17, 2018.

If there are no corrections or exceptions, no response is necessary.

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DOCKET NO. 47797

APPLICATION FOR AN ORDER	§	PUBLIC UTILITY COMMISSION
APPOINTING A TEMPORARY	§	
MANAGER TO AERO VALLEY	§	OF TEXAS
WATER SERVICE	§	

PROPOSED DEFAULT ORDER

This Order addresses the amended application filed by Commission Staff for an order appointing a temporary manager to Aero Valley Water Service (Aero Valley). Commission Staff recommended that Monarch Utilities I, L.P. (Monarch) be appointed as temporary manager for Aero Valley. Commission Staff's amended application is granted.

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

I. Findings of Fact

1. Aero Valley is a retail public utility previously owned and operated by Shawn Horvath.
2. On November 1, 1979, Aero Valley was granted water certificate of convenience and necessity (CCN) No. 11401.
3. Aero Valley is comprised of one public water system.¹
4. On October 20, 2015, Mr. Horvath informed the Texas Commission on Environmental Quality (TCEQ) that Aero Valley had been experiencing an outage since October 17, 2015, and he did not plan to provide an alternative source of water. Mr. Horvath subsequently relocated to Las Vegas, Nevada.
5. The TCEQ appointed Eric Tamayo, the Public Works Director of the nearby City of Northlake as temporary manager through an emergency order. Mr. Tamayo served six months as temporary manager and informed the Commission and the TCEQ that he would be unable to serve an additional six-month term. The TCEQ then appointed Mr. Mark Patterson of Patterson Water Supply to a six-month term on April 20, 2016. The order expired on October 17, 2016.

¹ PWS ID No. 0610243.

6. On September 23, 2016, the Commission issued an emergency order appointing Mr. Patterson as temporary manager for another six months, from October 17, 2016 to April 15, 2017.² The Commission later affirmed the Emergency Order. The Executive Director of the Commission then, by emergency order, extended the term of the Commission order for an additional six months, from April 16, 2017 to October 13, 2017. The Commission subsequently affirmed that Emergency Order.
7. Mr. Patterson is no longer interested in operating Aero Valley as temporary manager.
8. Commission Staff is not seeking, nor has it obtained, an emergency order from the TCEQ regarding this matter.
9. At this time, Monarch has requested that it not be compensated directly for its role as temporary manager. Monarch stated that it intends to file an application for temporary rates in which it would request that it be authorized to implement the user rates, other tariffed rates, and the customer service policies of its Commission-approved tariff that are in effect for all of Monarch's other systems.
10. On November 21, 2017, Commission Staff filed an application for an order appointing a temporary manager to Aero Valley.
11. On November 27, 2017, Commission Staff filed an amended application that included default language under 16 Texas Administrative Code (TAC) § 25.183(b).
12. The amended application included the required disclosure in at least 12-point, bold-face type.
13. Commission Staff recommended that Monarch be appointed as temporary manager of Aero Valley.
14. On November 27, 2017, Commission Staff's application and amended application were sent by certified mail to the last known address of Aero Valley's headquarters in the Commission's and TCEQ's records. A copy was also sent by certified mail to Monarch.

² *Petition for an Order Appointing a Temporary Manager to Aero Valley Water Service in Denton County*, Docket No. 46309, Emergency Order (Sep. 23, 2016) (Docket No. 46309).

15. Commission Staff's application and amended application notified Aero Valley that it was entitled to an opportunity to be heard by the Commissioners under Texas Water Code § 13.4132(a).³
16. More than 30 days have passed since service of the application to Aero Valley.
17. Aero Valley did not request a hearing on the merits.
18. On December 28, 2017, Commission Staff filed a motion for a default order under 16 TAC § 22.183(a).

II. Conclusions of Law

1. The Commission has jurisdiction over this docket under TWC § 13.4132 and 16 TAC § 24.142.
2. Under 16 TAC § 24.142, the Commission may authorize a willing person, municipality, or political subdivision to temporarily manage and operate a utility if the utility has abandoned operations.
3. Actions that constitute abandonment, include, but are not limited to, failure to provide appropriate water treatment so that a potential health hazard results, failure to adequately maintain facilities resulting in potential health hazards, or repeatedly failing to respond to the Commission as enumerated in TWC § 13.412 and 16 TAC § 24.142.
4. Aero Valley is incapable of legally operating as a utility in a way that ensures continuous and adequate service in the area covered by CCN No. 11401.
5. Aero Valley has been abandoned.
6. Issuance of a default order against Aero Valley is appropriate because Aero Valley failed to request a hearing within 30 days of service of the notice of an opportunity for a hearing, as provided in 16 TAC § 22.183(a).
7. The requirements for disposition by default in 16 TAC § 22.183 the have been met in this proceeding.

³ Tex. Water Code Ann. § 13.4132(a) (West 2008 & Supp. 2017) (TWC).

III. Ordering Paragraphs

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

1. Commission Staff's amended application for an order appointing a temporary manager to Aero Valley is granted.
2. Monarch is appointed temporary manager of Aero Valley for a term of six months to begin on January 25, 2018 and end on July 25, 2018, or until a retail public utility is able to legally provide service to Aero Valley's customers.
3. Monarch 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.
4. As temporary manager, Monarch shall comply with all requirements in 16 TAC § 24.143, including but not limited to reading meters, billing for utility 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.
5. Monarch shall return to the Commission an inventory of all property received within 60 days of appointment under 16 TAC § 24.143(e).
6. Monarch 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, amount of water produced or treated, and any other information required by the Commission under 16 TAC § 24.143(h).
7. Monarch shall comply with all applicable requirements of the TWC as well as Commission and TCEQ rules.
8. Monarch is not required to post financial assurance.
9. All other motions and any other requests for general or specific relief, if not expressly granted, are denied.

Signed at Austin, Texas the _____ day of January 2018.

PUBLIC UTILITY COMMISSION OF TEXAS

DEANN T. WALKER, CHAIRMAN

BRANDY MARTY MARQUEZ, COMMISSIONER

ARTHUR C. D'ANDREA, COMMISSIONER