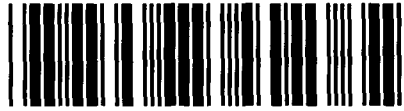


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Item Number: 3

Addendum StartPage: 0

DeAnn T. Walker  
Chairman

Arthur C. D'Andrea  
Commissioner

Shelly Botkin  
Commissioner

John Paul Urban  
Executive Director



Greg Abbott  
Governor

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PUBLIC UTILITY COMMISSION  
FINANCIAL CLERK

## Public Utility Commission of Texas

### DOCKET NO. 48650

### NOTICE OF HEARING ON EMERGENCY ORDER

**PETITION:** Commission Staff's Petition For Emergency Order Appointing a Temporary Manager to Blue Cereus, LLC under Texas Water Code § 13.4132 and 16 TAC § 24.142.

The Public Utility Commission of Texas (Commission) Staff applied to the Commission for an emergency order appointing a temporary manager to manage the retail water utility services and operations of Blue Cereus, LLC located in Val Verde County. Notice of the petition was mailed on August 30, 2018, to the last known address of Blue Cereus' headquarters and to the additional addresses listed in Commission Staff's petition.

On August 30, 2018, under authority delegated by the Commission, the Executive Director granted the petition and appointed Jane Whaley as temporary manager of Blue Cereus. A copy of the Emergency Order Appointing a Temporary Manager to Blue Cereus, LLC under Texas Water Code § 13.4132 and 16 TAC § 24.142 is provided with this notice. The appointment was effective August 30, 2018.

The emergency order was issued without a hearing under the authority in §§ 13.4132 and 13.451 of the Texas Water Code (TWC). TWC § 13.451 authorizes the Commission to issue an emergency order after providing notice and opportunity for a hearing that the Commission considers practicable under the circumstances or without notice or opportunity for a hearing. If the Commission considers the provision of notice and opportunity for a hearing practicable, the Commission shall provide notice not later than the 10th day before the date set for the hearing.

**EMERGENCY ORDER HEARING:** In accordance with TWC §§ 13.4132 and 13.451, the Public Utility Commission of Texas will convene a hearing on the Emergency Order at the Commission's offices at **9:30 a.m., September 14, 2018, 1701 N. Congress Avenue, Austin, Texas 78701.**

The Commission will consider evidence on whether to affirm, modify, or set aside the emergency order appointing the temporary manager. The hearing will be conducted in accordance with Chapter 2001 of the Texas Government Code, TWC chapter 13, and Commission rules in 16 Texas Administrative Code chapter 24.

*Persons planning to attend this hearing who have disabilities requiring auxiliary aids or services should notify the Commission as far in advance as possible so that appropriate arrangements can be made. Requests can be made by mail, telephone or in person to the Commission's Office of Customer Protection, 1701 N. Congress Ave., Austin, Texas 78701, phone number (512) 936-7150 or (512) 936-7136 for the teletypewriter for the deaf.*



DOCKET NO. **48650**

2018 AUG 30 PM 2:46  
PUBLIC UTILITY COMMISSION  
FILING CLERK

**PETITION FOR AN ORDER  
APPOINTING A TEMPORARY  
MANAGER TO BLUE CEREUS, LLC  
WITHOUT A HEARING**

**§ PUBLIC UTILITY COMMISSION  
§  
§ OF TEXAS  
§**

**EMERGENCY ORDER APPOINTING A TEMPORARY MANAGER TO BLUE  
CEREUS, LLC PURSUANT TO TEX. WATER CODE § 13.4132 AND 16 TAC § 24.142  
WITHOUT A HEARING**

This Order addresses the application filed by the Public Utility Commission of Texas (Commission) Staff for an emergency order appointing a temporary manager to Blue Cereus, LLC (Blue Cereus), holder of CCN No. 11088. The Executive Director, on behalf of the Commission,<sup>1</sup> issues this emergency order without a hearing, and sets a hearing on this matter at the September 14, 2018 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, 7<sup>th</sup> Floor, Austin, Texas 78701.
2. Blue Cereus holds CCN No. 11088 and operates two public water systems.<sup>2</sup>
3. Blue Cereus currently serves approximately 92 connections.<sup>3</sup>

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<sup>1</sup> 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.

<sup>2</sup> La Caleta Estates, PWS TX2330063 and San Pedro Village, PWS TX2330046.

<sup>3</sup> *Water and Wastewater Utilities Annual Report 2014*, Docket No. 43134, Blue Cereus’s 2014 Annual Report (April 2, 2015).

4. Seguro Water Co., LLC and San Pedro Canyon Water Resources are the wholesale water suppliers for Blue Cereus under two Agreements to Sell and Purchase Water (Agreements).<sup>4</sup>
5. Jimmy Alan Hall manages Blue Cereus and acts as its President and Registered Agent.
6. On June 1, 2018, Seguro Water Co., LLC and San Pedro Canyon Water Resources sent Blue Cereus a Notice of Default and Notice of Default and Notice of Termination (Notice) notifying it that the Agreements would terminate on August 30, 2018, absent arrangements for payment of delinquent bills.<sup>5</sup>
7. Seguro Water Co., LLC and San Pedro Canyon Water Resources filed the Notice with the Commission on June 11, 2018 in Docket No. 48455.<sup>6</sup>
8. August 2018 water bills from the wholesale water suppliers state that, as of August 1, 2018, Blue Cereus owes San Pedro Canyon Water Resources \$48,527.18<sup>7</sup> and Seguro Water Co., LLC \$117,498.22.<sup>8</sup>
9. Staff has confirmed that Blue Cereus and the wholesale water suppliers have not been able to resolve their contract disputes and the wholesale water suppliers intend to shut off the water supply on August 30, 2018. Staff has also confirmed that Blue Cereus has no other options for wholesale water supply. Therefore, the discontinuation of water is imminent.
10. Commission Staff is not seeking, nor has it obtained, an emergency order from TCEQ.
11. On August 30, 2018, Commission Staff filed a request for an emergency order appointing a person to temporarily manage and operate the utility.
12. Commission Staff recommended that the Commission appoint Jane Whaley as temporary manager for Blue Cereus.

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<sup>4</sup> *Request of Seguro Water Company, LLC and San Pedro Canyon Water Resources to Place Blue Cereus, LLC Under Temporary Management or Supervision*, Docket No. 48455, Petition (June 11, 2018).

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

<sup>6</sup> Docket No. 48455, Petition.

<sup>7</sup> Blue Cereus's August 2018 Water Bill from San Pedro Canyon Water Resources (August 1, 2018).

<sup>8</sup> Blue Cereus's August 2018 Water Bill from Seguro Water Co., LLC (August 1, 2018).

13. Commission Staff further recommended that the emergency order appointing a temporary manager begin immediately and be in effect for 180 days beginning on August 30, 2018 and ending on March 2, 2019 or when Blue Cereus has contracted with a wholesale water provider to ensure continuous and adequate water supply to its customers, whichever occurs first.

## II. Conclusions of Law

1. The Commission has jurisdiction over this docket pursuant to TWC § 13.041(d)(2) and 16 TAC § 24.14(a)(3).
2. Under TWC § 13.4132 and 16 TAC § 24.142, the Commission may authorize a willing person to temporarily manage and operate a utility if the utility has abandoned operations.
3. TWC § 13.412 and 16 TAC § 24.142 enumerate actions that constitute abandonment, including but not limited to, “failure to pay a bill or obligation to a retail public utility or to an electric or gas utility with the result that the utility service provider has issued a notice of discontinuance of necessary services.”
4. Blue Cereus abandoned the operation of its facilities under 16 TAC § 24.142(a)(2)(A) when its wholesale water suppliers notified the utility that they would discontinue wholesale water supply on August 30, 2018 after Blue Cereus failed to pay its water bills.
5. Under 16 TAC § 22.299(d), an emergency <sup>order</sup> appoint a temporary manager may be issued with or without a hearing. This order sets a hearing on September 14, 2018, at 9:30 a.m. at the Commission’s offices in Austin, Texas.

## III. Ordering Paragraphs

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

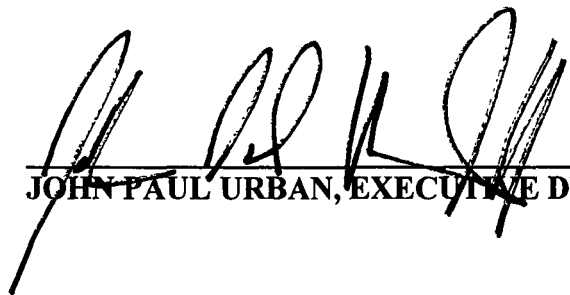
1. Commission Staff’s request for a order appointing a person to temporarily manage and operate the Blue Cereus is granted.
2. Jane Whaley is appointed temporary manager for Blue Cereus for a term of 180 days to begin on August 30, 2018 and end on March 2, 2019, or until a utility is certified to provide service to Blue Cereus, whichever is the earlier occurrence.

3. Jane Whaley 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, Jane Whaley 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. Jane Whaley shall return to the Commission an inventory of all property received within 60 days of appointment, pursuant to 16 TAC § 24.143(e).
6. Jane Whaley 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).
7. Jane Whaley shall comply with all applicable requirements imposed by the TCEQ.
8. Jane Whaley is not required to post financial assurance.
9. Jane Whaley shall be compensated for her role as temporary manager from Blue Cereus's revenues in the amount of six dollars per connection per month, and shall bill for this amount in addition to the regular authorized rates for Blue Cereus.
10. The Commission shall provide notice of issuance of this emergency order to Blue Cereus as soon as practicable pursuant to 16 TAC § 22.293(c).
11. A hearing to affirm, modify or set aside this emergency order shall be held at the September 14, 2018 Open Meeting currently scheduled for 9:30 a.m., at the offices of the Commission in Austin, Texas.
12. Commission Staff shall provide notice of opportunity to participate in an evidentiary hearing to affirm, modify, or set aside this emergency order to Blue Cereus no later than the tenth day before the date of the hearing and shall provide that Blue Cereus 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 30 day of August 2018.

**PUBLIC UTILITY COMMISSION OF TEXAS**



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JOHN PAUL URBAN, EXECUTIVE DIRECTOR