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PUBLIC UTILITY COMMISSION
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VIA PUC INTERCHANGE

TO: THE PUBLIC UTILITY COMMISSION OF TEXAS

RE: Docket No. **48650** – Petition for an Order Appointing a Temporary Manager to Blue Cereus, LLC Without a Hearing

Docket No. 50030 – Proceeding to Set Final Rate for Blue Cereus under Texas Water Code § 13.4133

Seguro Water Co., LLC and San Pedro Canyon Water Resources (the “Wholesalers”), the only wholesale water providers for Blue Cereus, LLC, provide the following update related to the subject matter of the above-referenced dockets from the Wholesalers’ perspective.

First, as represented in our meeting with PUC staff and representatives of Blue Cereus on September 12, 2019, Wholesalers have replaced the wholesale master meters at both wholesale systems, Seguro and San Pedro at a total cost of \$5,300. The Seguro master meter was replaced on September 26, 2019 and notice was provided via email to Mr. Lynn Sherman, Temporary Manager of Blue Cereus, on the same day. The cost to purchase and install a replacement master meter on the Seguro wholesale system was \$2,900. A new San Pedro master meter was installed on September 27, 2019 and notice was provided via email to Mr. Sherman on the same day. Per Mr. Sherman’s request, the location of the San Pedro master meter was moved to the delivery side of the wholesale water system, downstream of the storage tank and other wholesale system infrastructure. The cost to purchase and install the new San Pedro master meter was \$2,400.

Second, on Sunday, November 3, 2019, the storage tank at San Pedro began overflowing and causing electrical issues at the related pump building. Wholesalers worked as quickly as possible to repair the equipment impacted by the overflow, which required pulling the pump motor, transporting it to a repair shop in Laredo (as there were no resources available in Del Rio to repair or replace the motor), returning the motor to Del Rio and installing it. The wholesale system was up and operating by 9:00 pm Monday, November 4, 2019. In performing this work, San Pedro complied with all Texas Commission on Environmental Quality requirements for sampling and testing the drinking water after the system was back on-line and purging the wholesale system up to the point of custody transfer. San Pedro also proactively notified the TCEQ Laredo Regional Office of the water outage so that TCEQ staff would be prepared to respond to any retail customers who might call to complain about the water service. San Pedro representatives kept the Temporary Manager informed of the cause of the problem and

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timing and completion of the repair work. The total cost of these repairs, including repair of the pump motor, labor and travel expenses, was \$2,640.

The all-in cost for wholesalers over the past two months to conduct these repairs and replace master meters for both subdivisions is just under \$8,000. Wholesalers contributed the capital necessary for the new master meters and for the repairs needed to address the San Pedro storage tank overflow even though they have not received full payment for the potable wholesale water they have provided to Blue Cereus either before or during the appointment of the Temporary Manager.

Third, because the receipts for the provision of wholesale water have been so inconsistent, Wholesalers are conserving the limited resources available to them to maintain the systems rather than to intervene in the Blue Cereus retail rate case. However, we must point out that Blue Cereus' rate/tariff change applications are deficient in that Blue Cereus has not demonstrated that it has a firm supply of water by contract or otherwise. The only provision for the purchase of wholesale water in Blue Cereus' rate filing package is a \$2.00 per 1,000 gallon pass-through rate, which appears only in the public notice and does not appear in the rate applications. To our knowledge, that rate has no basis in fact, in contract, nor in cost of service.

Fourth, even with the absence of a contract, the Wholesalers have continued to provide water to Blue Cereus out of a sense of civic responsibility to the retail customers. The Temporary Manager recently unilaterally made the decision to pay Wholesalers only the base fee and suspended any payment of volumetric rates, without any basis in contract or in law, even though a volumetric rate could have been based, at a minimum, on the volume of retail meter sales. However, such an arrangement is now moot with the replacement of the master meters and the Temporary Manager should reinstitute full payment of the volumetric fee to Wholesalers going-forward. As to the past unpaid amounts due for wholesale water during the period of Temporary Management, a provision should be made in the rate case to add a temporary surcharge to the rates to pay the unpaid balance that has accumulated during that time.

Fifth, taking the filings in the rate case into consideration as a whole, it appears that the rate increase applications will not further the financial stability of the retail utility. The applications omit the inclusion of any surcharge that would remedy the chronic problems associated with the aging retail meters and unburied and frequently leaking distribution pipes. Both issues directly tie in to accurate invoices to customers and gross receipts, without which the financial stability of Blue Cereus cannot be assured.

Wholesalers find themselves in an unstable financial position. Wholesalers have no steady receipt of revenues reinforced by a contract or law to pay them for the cost of

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providing potable wholesale water. Wholesalers first provided notice of their intent to terminate the provision of wholesale water 16 months ago and, unfortunately, see no certain prospect of change in financial condition for the future based upon Blue Cereus' rate change applications. Wholesalers are not required by contract, by law, or in equity to continue to supply water without getting paid for it and to their personal financial detriment and reluctantly consider termination of water service as a resolution, which they will take only as a matter of last resort.

For all of the above reasons, Wholesalers would urge the PUC to refer this matter to the Attorney General and request that Blue Cereus be placed into receivership or, alternatively, after a thorough examination of the financial condition of Blue Cereus, to put in place rates that ensure the financial stability of Blue Cereus and by extension its wholesale water providers. Wholesalers are more than willing to work with the Temporary Manager and PUC staff to develop a wholesale rate for water that is fair and reasonable and to allow that cost of water to be added to Blue Cereus' rate applications. In the absence of such remedies, Wholesalers will have no option other than to cease the provision of water and will do so, barring a change in circumstances that makes the continued operation of the Wholesale systems financially stable.¹ Wholesalers are willing to wait for the outcome of the retail rate proceeding and review its options at that time.

Sincerely,



Celina Romero
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cc via email: Lynn Sherman
Bob Ferguson
Kitty Lewis
Wayne Lewis
Steve Dickman

cc via hand delivery: Heath Armstrong
Alaina Zermeno

¹ Wholesalers wish to make their position clear at this time so that Blue Cereus has sufficient time to make arrangements for another water supply to replace Wholesalers should that become necessary in the future.