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DeAnn T. Walker
Chairman

Arthur C. D'Andrea
Commissioner

Shelly Botkin
Commissioner

John Paul Urban
Executive Director




Greg Abbott
Governor

Public Utility Commission of Texas

TO: DeAnn T. Walker, Chairman
Arthur C. D'Andrea, Commissioner
Shelly Botkin, Commissioner

All Parties of Record

FROM: Hunter Burkhalter 
Administrative Law Judge

RE: **Open Meeting of May 9, 2019**
Docket No. 49176 – *Application of Troy Henry for Temporary Rates for Services Provided for a Nonfunctioning Utility*

DATE: April 18, 2019

Enclosed is a copy of the Proposed 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, May 9, 2019, at the Commission's offices, 1701 North Congress Avenue, Austin, Texas. The parties shall file corrections or exceptions to the Proposed Order on or before Wednesday, May 1, 2019.

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

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DOCKET NO. 49176

APPLICATION OF TROY HENRY	§	PUBLIC UTILITY COMMISSION
FOR TEMPORARY RATES FOR	§	
SERVICES PROVIDED FOR A	§	OF TEXAS
NONFUNCTIONING UTILITY		

PROPOSED ORDER

This Order addresses the application of Troy Henry for temporary rates for services provided for a nonfunctioning utility. The application requests approval of temporary rates in order to keep the sewer system operating properly within regulatory requirements. The application is approved.

I. Findings of Fact

The Commission makes the following findings of fact.

Applicant and Other Interested Persons

1. Tawakoni Waste, LLC holds sewer certificate of convenience and necessity (CCN) number 21072 for the provision of sewer service in Hunt County, Texas
2. Tawakoni Waste owns a wastewater treatment plant authorized with a now-expired Texas Commission on Environmental Quality (TCEQ) wastewater discharge permit, number WQ0014297001 (the sewer utility).
3. On December 21, 2018, in TCEQ Docket No. 2018-1749-UCR-E, the TCEQ found that Tawakoni Waste and its agent had failed to provide adequate and safe operation of the sewer utility, and that a temporary manager of the sewer utility was immediately needed to properly operate the utility.
4. On December 21, 2018, the TCEQ appointed Troy Henry as the temporary manager of the sewer utility beginning on December 21, 2019 and lasting until June 19, 2019, at the latest.

Application

5. On February 5, 2019, Mr. Henry filed with the Commission an application for temporary rates under Texas Water Code (TWC) § 13.046 and 16 Texas Administrative Code (TAC) § 24.363.
6. The application requests approval of temporary rates in order to keep the sewer utility operating properly within regulatory requirements, to allow for compensation to the temporary manager, and to make emergency improvements to the utility.
7. In Order No. 2 issued on March 5, 2019, the administrative law judge (ALJ) found the application administratively complete and sufficient.
8. On March 15, 2019, Mr. Henry filed the supplemental information required under Order No. 2.

Notice

9. On February 1, 2019, Mr. Henry provided notice of the proposed rate change to all customers of the sewer utility.
10. In Order No. 2 issued on March 5, 2019, the ALJ found the notice sufficient.

Evidentiary Record

11. On April 15, 2019, Mr. Henry and Commission Staff filed a joint motion to admit evidence.
12. On April 16, 2019, the ALJ issued Order No. 3, admitting the following evidence into the record of this proceeding: (a) Mr. Henry's Application filed on February 5, 2019; (b) Commission Staff's final recommendation filed on March 29, 2019; and (c) Mr. Henry's tariff, included as Attachment B to the final recommendation filed on March 29, 2019.

Reasonableness of Temporary Rates

13. Mr. Henry's application requests, and Commission Staff recommends, temporary rates as follows:
 - a) A flat charge of \$35 per month per connection to remain in effect until such time as Tawakoni Water is no longer under a temporary manager or receiver or until a

new entity completes transfer of ownership of Tawakoni Water and imposes new rates that have been approved by the Commission; and

- b) A flat charge of \$50 per month per connection to remain in effect until the earlier of June 19, 2019 or when the full amount of the \$30,615 deficit accrued by Mr. Henry has been collected.

- 14. The proposed temporary rates became effective February 1, 2019, consistent with Mr. Henry's notice.
- 15. The sewer utility requires approximately \$3,650 per month to be operated properly.
- 16. The sewer utility currently serves 105 connections.
- 17. The temporary rates will enable the sewer utility to operate properly and to allow Mr. Henry to recoup expenses already incurred prior to the imposition of the temporary rates.

Requirement for Monthly Documentation

- 18. Consistent with Commission Staff's recommendation, Mr. Henry should be required to provide to the Commission, monthly, documentation until the temporary manager's term is completed. This documentation shall include:
 - a) A summary of monthly operations including revenues and expenses with a detailed list of actual expenses incurred, including manager's fees, repairs, chlorine, billing, operator costs, electricity, laboratory fees, and sampling costs;
 - b) Copies of invoices/receipts to support the actual cost of service; and
 - c) The number of actual customers at the beginning and ending of the month.

Tariff

- 19. On April 15, 2019, Commission Staff filed the proposed tariff as an attachment to its Proposed Notice of Approval.

Informal Disposition

- 20. More than 15 days have passed since completion of the notice provided in this docket.
- 21. No person filed a protest or motion to intervene.
- 22. Mr. Henry and Commission Staff are the only parties to this proceeding.

23. No party requested a hearing and no hearing is needed.
24. Commission Staff recommended approval of the application.
25. This decision is not adverse to any party.

II. Conclusions of Law

The Commission makes the following conclusions of law.

1. The Commission has jurisdiction over this proceeding pursuant to TWC §§ 13.041 and 13.046.
2. Tawakoni Waste is a sewer utility as that term is defined in TWC § 13.002(23).
3. Public notice of the application was provided as required by TWC § 13.046 and 16 TAC § 24.363(b).
4. The application was processed in accordance with the requirements of the Administrative Procedures Act,¹ TWC, and the Commission's rules.
5. The temporary rates approved in this case are, consistent with 16 TAC § 24.363(a), calculated to enable Mr. Henry recover the reasonable costs incurred in making services available and bringing the nonfunctioning sewer utility into compliance with Commission rules.
6. The temporary rates approved in this case are reasonable, consistent with TWC § 13.046.
7. The requirements for informal disposition pursuant to 16 TAC § 22.35 have been met in this proceeding.

III. Ordering Paragraphs

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

1. The Commission approves the application of Troy Henry for temporary rates for services provided for a nonfunctioning utility.

¹ Tex. Gov't Code ch. 2001.

2. The Commission approves the temporary rate provisions contained in the tariff attached to the Commission Staff's Proposed Notice of Approval filed on April 15, 2019.
3. Within ten days of the date of this Proposed Order, Commission Staff must provide a clean copy of the tariff approved by this Proposed Order to central records to be marked *Approved* and filed in the Commission's tariff books.
4. During his tenure as temporary manager, Mr. Henry shall provide to the Commission, by the last day of the following month, the following documentation relating to the previous month:
 - a) a summary of monthly operations including revenues and expenses, with a detailed list of actual expenses incurred including manager's fees, repairs, chlorine, billing, operator costs, electricity, laboratory fees, and sampling costs;
 - b) copies of invoices and receipts to support the actual cost of service;
 - c) the actual number of customers at the beginning and end of the month; and
 - d) a signed statement that a copy of the same information has been provided to the TCEQ.
5. The Commission denies all other motions and any other requests for general or specific relief, if not expressly granted herein.

Signed at Austin, Texas the _____ day of _____ 2019.

PUBLIC UTILITY COMMISSION OF TEXAS

DEANN T. WALKER, CHAIRMAN

ARTHUR C. D'ANDREA, COMMISSIONER

SHELLY BOTKIN, COMMISSIONER

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