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DOCKET NO. 49176

APPLICATION OF TROY HENRY
FOR TEMPORARY RATES FOR
SERVICE PROVIDED FOR A
NONFUNCTIONING UTILITY

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COMMISSION STAFF'S FINAL RECOMMENDATION

COMES NOW the Staff of the Public Utility Commission of Texas (Staff), representing the public interest and files this Final Recommendation and would show the following:

I. BACKGROUND

On February 5, 2019, Troy Henry (Henry), temporary manager of Tawakoni Waste, LLC ("Utility"), filed with the Public Utility Commission ("Commission" or "PUC") a request for a temporary rate increase pursuant to Texas Water Code Ann. (TWC) § 13.046 and 16 Tex. Admin. Code (TAC) § 24.363 (formerly 16 TAC § 24.147), in Hunt County, Texas. The Texas Commission on Environmental Quality issued an emergency order effective for the period of December 21, 2018 through June 19, 2019, appointing Henry as temporary manager of Utility.

On March 5, 2019, the administrative law judge (ALJ) issued Order No. 2, requiring Staff to file its final recommendation by April 1, 2019. This pleading is therefore timely filed.

II. FINAL RECOMMENDATION

As supported by the attached memorandum of Patricia Garcia of the Water Utility Regulation Division, Staff recommends Staff recommends the Commission:

- 1) Approve a proposed temporary rate of \$85.00, composed of a flat rate of \$35.00 and a surcharge of \$50.00 per connection per month, as requested and noticed to customers, effective February 1, 2019.
- 2) Order that the temporary rate shall remain in place beginning February 1, 2019 through the end of the current temporary manager's term end date of June 19, 2019. At the end of this time, the temporary rate of \$35.00 shall remain in place in the event that the temporary manager remains the same, a new temporary manager is approved, or a receiver is approved, until such time as:

- a) The temporary manager or receiver requests a new rate; or
 - b) The water system is sold and a Sale, Transfer, Merger application is approved and/or a permanent rate is approved for the water system.
- 3) Order the that the temporary manager continue to provide the following documentation monthly by the last day of the month following the operational month until the temporary manager's term is completed:
- a) Summary of monthly operations including revenues and expenses with detailed list of actual expenses incurred for manager's fees, repairs, chlorine, billing, operator costs, electricity, laboratory fees, sampling costs, etc.;
 - b) Copies of invoices and/or receipts to support the actual cost of service;
 - c) Actual number of customers at the beginning and ending of the month; and
 - d) A signed statement that copies of the monthly reports have been provided to the TCEQ.

III. CONCLUSION

Staff respectfully requests the entry of an order consistent with the above recommendations. Staff and Utility shall jointly propose a notice of approval by the deadline established in Order No. 2.

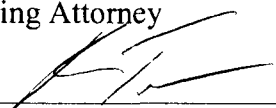
Dated: March 29, 2019

Respectfully Submitted,

**PUBLIC UTILITY COMMISSION OF
TEXAS LEGAL DIVISION**

Margaret Uhlig Pemberton
Division Director

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Managing Attorney



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CERTIFICATE OF SERVICE

I certify that a copy of this document will be served on all parties of record on March 29, 2019 in accordance with 16 TAC § 22.74.



Rustin Tawater

Public Utility Commission of Texas

Memorandum

To: Rustin Tawater, Attorney
Legal Division

Thru: Tammy Benter, Director
Heidi Graham, Manager
Water Utility Regulation Division

From: Patricia Garcia, Engineering Specialist
Water Utility Regulation Division

Date: March 29, 2019

SUBJECT: **Docket No. 49176**, *Application of Troy Henry for Temporary Rates for Service Provided for a Nonfunctioning Utility*

Background:

On February 5, 2019, Troy Henry, temporary manager of Tawakoni Waste, LLC ("Utility"), sewer Certificate of Convenience and Necessity (CCN) No. 21072, filed with the Public Utility Commission ("Commission" or "PUC") a request for a temporary sewer rate increase pursuant to Texas Water Code Ann. (TWC) § 13.046 and 16 Tex. Admin. Code (TAC) § 24.363 (formerly 16 TAC § 24.147), in Hunt County, Texas.

The Texas Commission on Environmental Quality (TCEQ) issued an emergency order effective for the period of December 21, 2018 through June 19, 2019, appointing Troy Henry, as temporary manager of Tawakoni Waste, LLC.

Troy Henry requests approval of a temporary sewer rate increase for Tawakoni Waste, LLC customers in order to assure sufficient funds to keep the sewer system operating properly within regulatory requirements. In addition, the temporary sewer rate increase will enable the temporary manager to make emergency improvements to the sewer system.

Documentation Reviewed:

Items reviewed in support of this rate increase include invoices filed by the temporary manager for repairs, laboratory tests, electricity, and chlorine.

Recommendation:

Based on Staff's review of the information in the application and the documentation described above, Staff recommends monthly operation expenses of approximately \$3,650 in order to

properly operate the sewer system. The resulting temporary rate is \$35.00 per connection per month using 105 connections.

Staff also considered the receipts and invoices for repairs performed by Troy Henry and Sabine River Authority in the amount of \$30,615. In order to allow the temporary manager to recover this amount from the customers of Tawakoni Waste, Staff recommends a temporary surcharge rate of \$50.00 per connection per month for the remainder of the current temporary manager term of 5 months, beginning February 1, 2019 through and ending June 19, 2019. This results in a temporary rate of \$85.00 per connection per month.

Staff recommends the Commission:

- 1) Approve a proposed **temporary rate of \$85.00, composed of a flat rate of \$35.00 and a surcharge of \$50.00** per connection per month, as requested and noticed to customers with an effective date of February 1, 2019.
- 2) Order that the temporary rate shall remain in place beginning February 1, 2019 through the end of the current temporary manager's term ending on June 19, 2019 and beginning on June 20, 2019, the **temporary rate of \$35.00** shall remain in place in the event that the temporary manager remains the same, a new temporary manager is approved, or a receiver is approved, until such time as:
 - a) The temporary manager or receiver requests a new rate; or
 - b) A Sale, Transfer, Merger application is approved and the utility is sold or a permanent rate is approved for the utility.
- 3) Order the temporary manager to provide monthly, by the last day of the month following the operational month, until the temporary manager's term is completed, the following documentation:
 - a) Summary of monthly operations including revenues and expenses with a detailed list of actual expenses incurred for manager's fees, repairs, chlorine, billing, operator costs, electricity, laboratory fees, sampling costs, etc.;
 - b) Copies of invoices or 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 copies of the monthly reports have been provided to the TCEQ.