



Control Number: 49596



Item Number: 32

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DOCKET NO. 49596

**APPLICATION OF MARK PATTERSON §
FOR TEMPORARY RATES FOR A §
NONFUNCTIONING UTILITY §**

**PUBLIC UTILITY COMMISSION
OF TEXAS**

COMMISSION STAFF'S RESPONSE TO ORDER NO. 12

COMES NOW the Staff (Staff) of the Public Utility Commission of Texas (Commission), representing the public interest, and files this Response to Order No. 12 and would show the following:

I. BACKGROUND

On June 3, 2019, Mark Patterson, temporary manager for Perrin Water System (Patterson), Certificate of Convenience and Necessity (CCN) No. 12196, filed with the Commission a request for a temporary rate increase pursuant to Texas Water Code (TWC) § 13.046 and 16 Texas Administrative Code (TAC) § 24.363 in Jack County, Texas. Mark Patterson was appointed as the temporary manager for Perrin Water System by an emergency order issued by the Texas Commission on Environmental Quality (TCEQ) on May 3, 2019.

On January 13, 2020, Staff filed its amended final recommendation. On March 31, 2020, Staff filed an amended revised proposed order. On May 8, 2020, the Commission Administrative Law Judge (ALJ) issued Order No. 12 requesting clarification related to Staff's amended final recommendation and revised proposed order and setting a deadline of May 22, 2020 for Staff to respond. This pleading is therefore timely filed.

II. RESPONSE TO ORDER NO. 12

Order No. 12 requested clarification regarding the issue of whether an annual true-up should be required in this proceeding and requested that Staff address the handling of any overcollections occurring during the pendency of the application. After review, Staff clarifies that it does not expect an over-collection to occur and does not recommend an annual true-up. However, if the required monthly Receiver's report demonstrates a collection of excess funds as a result of the temporary rate, Staff recommends that the Receiver establish a segregated account to record the excess funds and use those funds for system improvements and repairs.

A redlined and a clean version of the second amended final recommendation (Attachment A), which includes an amended version of Anna Given's memo (Attachment B), and the second amended revised proposed order (Attachment C) are attached hereto incorporating this change.

III. CONCLUSION

Staff respectfully submits this clarification regarding the annual true-up requirement and includes the attached second amended final recommendation and second amended revised proposed order for the Commission's consideration.

Dated: May 22, 2020

Respectfully Submitted,

PUBLIC UTILITY COMMISSION OF TEXAS LEGAL DIVISION

Rachelle Nicolette Robles
Division Director

Heath D. Armstrong
Managing Attorney

/s/ Rustin Tawater
Rustin Tawater
State Bar No. 24110430
1701 N. Congress Avenue
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rustin.tawater@puc.texas.gov

DOCKET NO. 49596 CERTIFICATE OF SERVICE

I certify that, unless otherwise ordered by the presiding officer, notice of the filing of this document was provided to all parties of record via electronic mail on May 22, 2020, in accordance with the Order Suspending Rules, issued in Project No. 50664.

/s/ Rustin Tawater
Rustin Tawater

ATTACHMENT A

DOCKET NO. 49596

APPLICATION OF MARK PATTERSON	§	PUBLIC UTILITY COMMISSION
FOR TEMPORARY RATES FOR A	§	
NONFUNCTIONING UTILITY	§	OF TEXAS
	§	

COMMISSION STAFF'S SECOND AMENDED FINAL RECOMMENDATION

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

I. BACKGROUND

On June 3, 2019, Mark Patterson, temporary manager for Perrin Water System (Patterson), Certificate of Convenience and Necessity (CCN) No. 12196, filed with the Commission a request for a temporary rate increase pursuant to Texas Water Code (TWC) § 13.046 and 16 Tex. Admin. Code (TAC) § 24.363 in Jack County, Texas. Mark Patterson was appointed as the temporary manager for Perrin Water System by an emergency order issued by the Texas Commission on Environmental Quality (TCEQ) on May 3, 2019.

On July 26, 2019, Staff filed its final recommendation recommending approval of the application. On July 31, 2019, Staff and Patterson filed a joint motion to admit evidence and joint proposed notice of approval. Staff and Patterson filed an amended joint motion to admit evidence and joint proposed notice of approval on August 7, 2019.

On September 20, 2019, the Commission administrative law judge (ALJ) filed a proposed order to be considered at the October 11, 2019 Open Meeting (Open Meeting). On October 10, 2019, Chairman Walker filed a memorandum in this docket, requesting additional information and analysis concerning monthly operating expenses, out-of-pocket expenditures, and the reasonableness of the requested temporary rates. At the Open Meeting, the Commission adopted the recommendations contained in the memorandum.

Subsequent to the Open Meeting, the ALJ also issued Order No. 7, setting a deadline of November 12, 2019, for Staff to file an amended final recommendation or to request an extension of time. On November 12, 2019, Staff requested an extension of time to file its amended final recommendation. Order No. 8, filed on November 13, 2019, granted Staff's request and set a deadline of January 14, 2020, for Staff to file its amended recommendation. On May 8, 2020, the Commission Administrative Law Judge (ALJ) issued Order No. 12 requesting clarification related to Staff's amended final recommendation and Staff's revised proposed order and setting a deadline of May 22, 2020 for Staff to respond. This pleading is therefore timely filed. ~~This pleading is therefore timely filed.~~

II. FINAL RECOMMENDATION

As supported by the attached memoranda and workpapers of Patricia Garcia of the Commission's Water Utility Regulation Division, Anna Givens of the Commission's Rate Regulation Division, and Adrian Narvaez also of the Commission's Rate Regulation Division. Staff recommends that the Commission:

- 1) Approve annual temporary costs of \$89,752 in order to properly operate the water system for 145 connections.
- 2) Approve temporary tap fees of \$1,000 for a 3/4 inch meter, \$1,250 for a 1 inch meter and \$2,500 for a 2 inch meter.
- 3) Approve a volumetric charge of \$2.50 per 1,000 gallons and temporary base rates per connection per month as specified below, as requested and noticed to customers with an effective date of June 1, 2019.

Customer Meters	Base Rate
5/8x3/4"	\$ 38.69
3/4"	\$ 58.03
1"	\$ 96.72
1-1/2"	\$ 193.43
2"	\$ 309.49
3"	\$ 618.98
4"	\$ 967.15
6"	\$ 1,934.31
8"	\$ 3,094.89

Volumetric Charge	
All Gallonage	2.50

- 4) Order that the temporary rate and volumetric charge shall remain in place in the event that the system remains under temporary management or a receiver is appointed, 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.
- 5) Order that the temporary manager re-notice affected customers of any change to their base rate and volumetric charge and surcharge under the method ordered by the presiding officer under 16 TAC § 22.55.
- 6) Order 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
 - a) A signed statement that copies of the monthly report will be provided to the TCEQ at the same time it is provided to the PUC.
- 7) Order that, in the event the Applicant request that the Commission true up, on an annual basis, the actual costs incurred by the Receiver to the temporary rate increase approved by the Commission, the required monthly reports demonstrate a collection of excess funds as a result of the temporary rate, Applicant shall use any excess funds for system improvements and repairs.

3)-

IV.III. CONCLUSION

For the reasons stated above, Staff respectfully requests the issuance of an order consistent with the above recommendation. ~~As stated in Chairman Walker's memo dated October 11, 2019, the Commission's Office of Policy and Docket Management shall draft a revised proposed order to reflect this amended final recommendation.~~

Dated: May 22, 2020

Respectfully Submitted,

PUBLIC UTILITY COMMISSION OF TEXAS LEGAL DIVISION

Rachelle Nicolette Robles
Division Director

Heath D. Armstrong
Managing Attorney

/s/ Rustin Tawater _____
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DOCKET NO. 49596

CERTIFICATE OF SERVICE

I certify that a copy of this document will be served on all parties of record on May 22, 2020 in accordance with 16 TAC § 22.74.

/s/ Rustin Tawater _____
Rustin Tawater

DOCKET NO. 49596

APPLICATION OF MARK PATTERSON	§	PUBLIC UTILITY COMMISSION
FOR TEMPORARY RATES FOR A	§	
NONFUNCTIONING UTILITY	§	OF TEXAS
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COMMISSION STAFF'S SECOND AMENDED FINAL RECOMMENDATION

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

I. BACKGROUND

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On July 26, 2019, Staff filed its final recommendation recommending approval of the application. On July 31, 2019, Staff and Patterson filed a joint motion to admit evidence and joint proposed notice of approval. Staff and Patterson filed an amended joint motion to admit evidence and joint proposed notice of approval on August 7, 2019.

On September 20, 2019, the Commission administrative law judge (ALJ) filed a proposed order to be considered at the October 11, 2019 Open Meeting (Open Meeting). On October 10, 2019, Chairman Walker filed a memorandum in this docket, requesting additional information and analysis concerning monthly operating expenses, out-of-pocket expenditures, and the reasonableness of the requested temporary rates. At the Open Meeting, the Commission adopted the recommendations contained in the memorandum.

Subsequent to the Open Meeting, the ALJ also issued Order No. 7, setting a deadline of November 12, 2019, for Staff to file an amended final recommendation or to request an extension of time. On November 12, 2019, Staff requested an extension of time to file its amended final recommendation. Order No. 8, filed on November 13, 2019, granted Staff's request and set a deadline of January 14, 2020, for Staff to file its amended recommendation. On May 8, 2020, the Commission Administrative Law Judge (ALJ) issued Order No. 12 requesting clarification related to Staff's amended final recommendation and Staff's revised proposed order and setting a deadline of May 22, 2020 for Staff to respond. This pleading is therefore timely filed.

II. FINAL RECOMMENDATION

As supported by the attached memoranda and workpapers of Patricia Garcia of the Commission's Water Utility Regulation Division, Anna Givens of the Commission's Rate Regulation Division, and Adrian Narvaez also of the Commission's Rate Regulation Division. Staff recommends that the Commission:

- 1) Approve annual temporary costs of \$89,752 in order to properly operate the water system for 145 connections.
- 2) Approve temporary tap fees of \$1,000 for a 3/4 inch meter, \$1,250 for a 1 inch meter and \$2,500 for a 2 inch meter.
- 3) Approve a volumetric charge of \$2.50 per 1,000 gallons and temporary base rates per connection per month as specified below, as requested and noticed to customers with an effective date of June 1, 2019.

<u>Customer Meters</u>	<u>Base Rate</u>
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Volumetric Charge	
All Gallonage	2.50

- 4) Order that the temporary rate and volumetric charge shall remain in place in the event that the system remains under temporary management or a receiver is appointed, 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.
- 5) Order that the temporary manager re-notice affected customers of any change to their base rate and volumetric charge and surcharge under the method ordered by the presiding officer under 16 TAC § 22.55.
- 6) Order 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
 - a) A signed statement that copies of the monthly report will be provided to the TCEQ at the same time it is provided to the PUC.
- 7) Order that, in the event the required monthly reports demonstrate a collection of excess funds as a result of the temporary rate, Applicant shall use any excess funds for system improvements and repairs.

III. CONCLUSION

For the reasons stated above, Staff respectfully requests the issuance of an order consistent with the above recommendation.

Dated: May 22, 2020

Respectfully Submitted,

PUBLIC UTILITY COMMISSION OF TEXAS LEGAL DIVISION

Rachelle Nicolette Robles
Division Director

Heath D. Armstrong
Managing Attorney

/s/ Rustin Tawater
Rustin Tawater
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DOCKET NO. 49596

CERTIFICATE OF SERVICE

I certify that a copy of this document will be served on all parties of record on May 22, 2020 in accordance with 16 TAC § 22.74.

/s/ Rustin Tawater
Rustin Tawater

ATTACHMENT B

Public Utility Commission of Texas

Memorandum

TO: Rustin Tawater, Legal Division

FROM: Anna Givens, Rate Regulation Division

DATE: May ~~21~~¹³, 2020

SUBJECT: Docket No. 49596, Application of Mark Patterson for Temporary Rates for a Nonfunctioning Utility

SUMMARY AND RECOMMENDATION

On June 3, 2019, Perrin Water Systems, Inc. through its Receiver, Mark Patterson, filed with the Commission a request for a temporary rate increase under 16 Texas Administrative Code (TAC) § 24.363. Under 16 TAC § 24.363,

A retail public utility that takes over the provision of services for a nonfunctioning retail public water utility may immediately begin charging customers of the nonfunctioning system a temporary rate to recover the reasonable costs incurred for interconnection or other costs incurred in making services available and any other reasonable costs incurred to bring the nonfunctioning system into compliance with Commission rules.

Additionally, under 16 TAC § 24.363, the Commission must issue an order regarding the reasonableness of the temporary rates. In making the reasonableness determination, the Commission must consider information submitted by the retail public utility taking over the provision of service, the customers of the nonfunctioning system, or any other affected person.

In response to the Commission's October 10, 2019 memorandum, Staff issued a separate discovery request to the Receiver. On December 11, 2019, the Receiver submitted additional information supporting the reasonableness of its requested temporary rates. The discovery responses include additional documentation to support the Receiver's out-of-pocket expenditures and supplement its July 17, 2019 Response to Commission Staff's Request for Documentation. Additionally, on January 13, 2020, the Receiver updated its December 11, 2019 information.

My recommendation addresses the Commission's request for the Rate Regulation Division Staff 1) to file additional detailed information to identify specific line item components that comprise the monthly operating expense total recommended by the Commission Staff; 2) to file a detailed recommendation on the reasonableness of the requested temporary rate components; and 3) to address the out-of-pocket expenditures of the temporary manager for the months of May and June.

Public Utility Commission of Texas

Memorandum

Recommended Total Estimated Annual Costs

Based upon my review of the Receiver's response to Staff's First Request for Information (RFI), including the 2019 Profit and Loss Statement and third-party documentation, I recommend that the total estimated yearly costs used to set the temporary rate include the following items.

Bank Expenses	\$ 154
Legal and Accounting Expenses	\$ 977
Postage and Delivery Expenses	\$ 609
Software Updates	\$ 162
Travel Expenses	\$ 217

The bank expenses, legal and accounting expenses, and travel expenses represent the amounts that the Receiver supported with third-party documentation. The postage and delivery expense of \$609 that I recommend represents the annual expense associated with the Receiver's postage for bills associated with 145 accounts ($145 \times \$0.35 \times 12 = \609). The software update expense of \$162 represents the allocation to the Receiver of 7.86% of the invoiced amounts from the software vendor and the supporting documentation appears in the Receiver's January 13, 2020 updated documentation.

As a result of my review of the Receiver's Response to Commission Staff's Request for Documentation as filed on July 17, 2019 and its responses to Staff's First RFI, I recommend approval of the Receiver's request for a temporary rate increase with the modifications to the request described above. Staff's recommended total annual temporary costs of \$89,752, including the recommendations of Ms. Garcia appear in Attachment AG-1. Attachment AG-1 provides detailed information to identify specific line item components that comprise the annual operating expense total recommended by the Commission Staff. Recovery of the annual temporary costs is reasonable for the provision of adequate and continuous water utility service. Staff witness Adrian Narvaez presents the resulting rate design.

Additionally, I recommend that the Commission order the Receiver to provide a summary of its monthly operations, maintenance, administrative, and general expenses with a detailed list of actual expenses. I recommend that the filing of the monthly summary occur no later than the last business day of the month following the operational month. Further, I recommend that the monthly filings continue until completion of the Receiver's term. Monthly filings must include copies of invoices or receipts to support the actual costs. Based on my review and the review of Ms. Garcia, thorough results in a recommended annual temporary rate below the rate requested by the Receiver, I do not expect an over-collection to occur. However, if the required monthly Receiver's report filings of invoices and receipts demonstrates a collection of excess funds as a result

Public Utility Commission of Texas

Memorandum

of the temporary rate, I also recommend that the Receiver use any excess funds for system improvements and repairs. ~~a true up of the actual costs incurred by the Receiver to the temporary rate increase approved by the Commission~~

Public Utility Commission of Texas

Memorandum

TO: Rustin Tawater, Legal Division

FROM: Anna Givens, Rate Regulation Division

DATE: May 21, 2020

SUBJECT: Docket No. 49596, Application of Mark Patterson for Temporary Rates for a Nonfunctioning Utility

SUMMARY AND RECOMMENDATION

On June 3, 2019, Perrin Water Systems, Inc. through its Receiver, Mark Patterson, filed with the Commission a request for a temporary rate increase under 16 Texas Administrative Code (TAC) § 24.363. Under 16 TAC § 24.363,

A retail public utility that takes over the provision of services for a nonfunctioning retail public water utility may immediately begin charging customers of the nonfunctioning system a temporary rate to recover the reasonable costs incurred for interconnection or other costs incurred in making services available and any other reasonable costs incurred to bring the nonfunctioning system into compliance with Commission rules.

Additionally, under 16 TAC § 24.363, the Commission must issue an order regarding the reasonableness of the temporary rates. In making the reasonableness determination, the Commission must consider information submitted by the retail public utility taking over the provision of service, the customers of the nonfunctioning system, or any other affected person.

In response to the Commission's October 10, 2019 memorandum, Staff issued a separate discovery request to the Receiver. On December 11, 2019, the Receiver submitted additional information supporting the reasonableness of its requested temporary rates. The discovery responses include additional documentation to support the Receiver's out-of-pocket expenditures and supplement its July 17, 2019 Response to Commission Staff's Request for Documentation. Additionally, on January 13, 2020, the Receiver updated its December 11, 2019 information.

My recommendation addresses the Commission's request for the Rate Regulation Division Staff 1) to file additional detailed information to identify specific line item components that comprise the monthly operating expense total recommended by the Commission Staff; 2) to file a detailed recommendation on the reasonableness of the requested temporary rate components; and 3) to address the out-of-pocket expenditures of the temporary manager for the months of May and June.

Recommended Total Estimated Annual Costs

Based upon my review of the Receiver's response to Staff's First Request for Information (RFI), including the 2019 Profit and Loss Statement and third-party documentation, I recommend that the total estimated yearly costs used to set the temporary rate include the following items.

Bank Expenses	\$ 154
Legal and Accounting Expenses	\$ 977
Postage and Delivery Expenses	\$ 609
Software Updates	\$ 162
Travel Expenses	\$ 217

The bank expenses, legal and accounting expenses, and travel expenses represent the amounts that the Receiver supported with third-party documentation. The postage and delivery expense of \$609 that I recommend represents the annual expense associated with the Receiver's postage for bills associated with 145 accounts ($145 \times \$0.35 \times 12 = \609). The software update expense of \$162 represents the allocation to the Receiver of 7.86% of the invoiced amounts from the software vendor and the supporting documentation appears in the Receiver's January 13, 2020 updated documentation.

As a result of my review of the Receiver's Response to Commission Staff's Request for Documentation as filed on July 17, 2019 and its responses to Staff's First RFI, I recommend approval of the Receiver's request for a temporary rate increase with the modifications to the request described above. Staff's recommended total annual temporary costs of \$89,752, including the recommendations of Ms. Garcia appear in Attachment AG-1. Attachment AG-1 provides detailed information to identify specific line item components that comprise the annual operating expense total recommended by the Commission Staff. Recovery of the annual temporary costs is reasonable for the provision of adequate and continuous water utility service. Staff witness Adrian Narvaez presents the resulting rate design.

Additionally, I recommend that the Commission order the Receiver to provide a summary of its monthly operations, maintenance, administrative, and general expenses with a detailed list of actual expenses. I recommend that the filing of the monthly summary occur no later than the last business day of the month following the operational month. Further, I recommend that the monthly filings continue until completion of the Receiver's term. Monthly filings must include copies of invoices or receipts to support the actual costs. Based on my review and the review of Ms. Garcia, I do not expect an over-collection to occur. However, if the required monthly Receiver's report demonstrates a collection of excess funds as a result of the temporary rate, I recommend that the Receiver use any excess funds for system improvements and repairs.

ATTACHMENT C

DOCKET NO. 49596

APPLICATION OF MARK	§	PUBLIC UTILITY COMMISSION
PATTERSON FOR TEMPORARY	§	
RATES FOR A NONFUNCTIONING	§	OF TEXAS
UTILITY	§	

COMMISSION STAFF'S SECOND AMENDED REVISED PROPOSED ORDER

This Order addresses the application of Mark Patterson (Patterson), temporary manager for Perrin Water System for a temporary water rate increase. Staff (Staff) of the Public Utility Commission of Texas (Commission) recommended approval of the application. The application is approved.

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

I. Findings of Fact**Applicant and Other Interested Persons**

1. David A. Fenoglio and Edward A. Fenoglio, doing business as Perrin Water System (Perrin), hold water certificate of convenience and necessity 12196 for the provision of water service in Jack County, Texas. Perrin is registered with the Texas secretary of state under file number 0121135100.
2. Perrin holds CCN No. 12196 for the provision of service in Montague County, Texas.
3. Perrin provides water service to the area under CCN number 12196 with Texas Commission on Environmental Quality (TCEQ) public water system (PWS) number 1190005.
4. On May 3, 2019, in TCEQ Docket No. 2019-0619-UCR-E, the TCEQ found that Perrin Water System and its agent had failed to provide adequate and safe operation of the water utility, and that a temporary manager of the water utility was immediately needed to properly operate the utility.
5. The TCEQ appointed Patterson as temporary manager of Perrin on May 3, 2019.

Application

6. On June 3, 2019, Patterson filed with the Commission an application for temporary rates pursuant to Texas Water Code (TWC) § 13.046 and 16 Texas Administrative Code (TAC) § 24.363 (formerly 16 TAC § 24.147).
7. The application requests approval of temporary rates in order to ensure sufficient funds are available to keep the water system operating properly within regulatory requirements. In addition, the temporary rate increase will allow for compensation to the temporary manager to make emergency repairs and required improvements on the system in order to begin to bring the system into compliance with the TCEQ rules.
8. On July 8, 2019, Order No. 2 was issued, finding the application and notice administratively complete and sufficient, and establishing a procedural schedule.
9. On July 17, 2019, Patterson filed the supplemental information required under Order No. 2.
10. On January 13, 2020, Commission Staff filed its Amended Final Recommendation required under Order No. 9.

Notice

11. Patterson provided proper notice to its customers as required by 16 TAC § 24.147(b).
12. In Order No. 2, issued on July 8, 2019, the administrative law judge (ALJ) found the notice sufficient.

Evidentiary Record

13. On July 31, 2019, Commission Staff and Patterson filed a joint proposed notice of approval and proposed tariff.
14. On August 20, 2019, the ALJ issued Order No. 3, admitting the following evidence into the record of this proceeding: (a) the application filed on June 3, 2019, as supplemented by documents filed on June 26, 2019, July 17, 2019 and July 29, 2019; (b) Commission Staff's final recommendation filed on June 26, 2019; (c) Patterson's tariff, included as an

attachment to the joint motion to admit evidence and proposed notice of approval, filed on July 26, 2019; and; (d) Commission Staff's amended joint proposed notice of approval, filed on August 7, 2019.

15. On September 5, 2019, the ALJ issued Order No. 6, admitting the following additional evidence into the record of this proceeding: (a) Commission Staff's Response to Order No. 4 and Request to Change Style of Docket, filed on August 27, 2019.

Reasonableness of Temporary Rates

16. Patterson's application requested a base rate of \$50.00 for a ¾-inch meter, \$75.00 for a 1-inch meter, and \$250.00 for a 2-inch meter with no gallons included, a volume charge of \$5.00 per 1000 gallons in addition to the above monthly charge, and temporary tap fees of \$1,000 for a ¾-inch meter, \$1,250 for a 1-inch meter and \$2,500 for a 2-inch meter.
17. Commission Staff recommends a base rate of \$38.69 for a 5/8-inch meter, \$58.03 for a 3/4-inch meter, \$96.72 for a 1-inch meter, \$193.43 for a 1 1/2-inch meter, \$309.49 for a 2-inch meter, \$618.98 for a 3-inch meter, 967.15 for a 4-inch meter, \$1,934.41 for a 6-inch meter, and \$3,094.89 for an 8-inch meter with no gallons included, a volume charge of \$2.50 per 1000 gallons in addition to the above monthly charge, and temporary tap fees of \$1,000 for a ¾-inch meter, \$1,250 for a 1-inch meter and \$2,500 for a 2-inch meter. The base rate charge includes a \$12.00 charge related to the receiver's fee.
18. The proposed temporary rates became effective June 1, 2019, consistent with Patterson's notice.
19. Patterson's application, supplemental information, and Commission Staff's recommendation demonstrate that the system needs approximately \$89,752 annually to operate properly.
20. The temporary rates recommended by Commission Staff will become effective upon order of the Commission.

21. Significant repairs to and replacement of water system components are necessary to enable Patterson to provide continuous and adequate water service for the customers of Perrin within the water service area of CCN number 12196.
22. In order to properly operate PWS number 1190005 as temporary manager for Perrin, Patterson needs approximately \$89,752 annually.
23. The temporary base rates and tap fees are reasonable for Patterson to provide continuous and adequate water service for the customers of Perrin within the water service area of CCN number 12196.
24. The temporary base rates and tap fees will remain in place until such time as Perrin is not under temporary management or receivership, the temporary manager or receiver requests a new rate, or a sale, transfer, or merger application for the service area held under CCN number 12196 and accompanying PWS number 1190005 is approved.

Requirement for Monthly Documentation

25. In its July 26, 2019 filing, Commission Staff recommended that Patterson be required to provide documentation periodically until the temporary manager's term is completed. This documentation must include:
 - 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/receipts to support the actual cost of service; and
 - c) Actual number of customers at the beginning and ending of the month

Tariff

26. On January 13, 2020, Commission Staff filed the proposed tariff as an attachment to its amended final recommendation.

Informal Disposition

27. Patterson and Commission Staff are the only parties to this proceeding.
28. More than 15 days have passed since completion of the notice of this docket.

29. The Commission received no protests, motions to intervene, or requests for hearing.
30. No issues of fact or law remain disputed by any party.

II. Conclusions of Law

1. The Commission has jurisdiction over this proceeding pursuant to TWC §§ 13.041 and 13.046.
2. Perrin is a Class C water utility as that term is defined in TWC § 13.002(4-c).
3. Public notice of the application was provided as required by TWC § 13.046 and Commission rules.
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 Patterson to recover the reasonable costs incurred in making services available to the customers of Perrin Water System, within the service area of CCN number 12196 and bringing PWS number 1190005 into compliance with Commission rules.
6. This docket was processed in accordance with applicable statutes and Commission rules.
7. The requirements for informal disposition pursuant to 16 TAC § 22.35 have been met in this proceeding.

III. Ordering Paragraphs

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

1. The Commission approves the application of Patterson for temporary rates for services provided for a nonfunctioning utility.
2. The Commission approves the temporary rate provisions contained in the tariff attached to the Commission Staff's amended final recommendation filed on January 13, 2020.

¹ Administrative Procedure Act, Tex. Gov't Code Ann. §§ 2001.001-.902 (West 2008 & Supp. 2015).

3. During his tenure as temporary manager or receiver, Patterson must provide monthly 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 for 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 copies of the monthly system operating reports have been provided to TCEQ.

~~3.4.~~ If the required monthly reports demonstrate a collection of excess funds as a result of the temporary rate, Patterson shall use the excess funds for system improvements and repairs.

4.5. In the event debt is secured for needed improvements to PWS number 1190005, Patterson must provide notice to the Commission when the debt is secured and must submit to the Commission construction approval letters from the TCEQ for each needed improvement. If necessary, Patterson shall request a temporary surcharge or new temporary rate to pay for the secured debt.

~~5.6.~~ Patterson must make an entity which acquires CCN number 12196 and the accompanying PWS number 1190005 from Perrin aware if any infrastructure was funded through customer contributions, and that the acquiring entity must disclose these customer contributions in any future rate case before the Commission.

4. Within ten days of the date of this Order, Commission Staff must provide a clean copy of the tariff approved by this Order to central records to be marked *Approved* and filed in the Commission's tariff books.

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 _____ 2020.

PUBLIC UTILITY COMMISSION OF TEXAS

DEANN T. WALKER, CHAIRMAN

ARTHUR C. D'ANDREA, COMMISSIONER

SHELLY BOTKIN, COMMISSIONER

DOCKET NO. 49596

APPLICATION OF MARK	§	PUBLIC UTILITY COMMISSION
PATTERSON FOR TEMPORARY	§	
RATES FOR A NONFUNCTIONING	§	OF TEXAS
UTILITY	§	

COMMISSION STAFF'S SECOND AMENDED REVISED PROPOSED ORDER

This Order addresses the application of Mark Patterson (Patterson), temporary manager for Perrin Water System for a temporary water rate increase. Staff (Staff) of the Public Utility Commission of Texas (Commission) recommended approval of the application. The application is approved.

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

I. Findings of Fact

Applicant and Other Interested Persons

1. David A. Fenoglio and Edward A. Fenoglio, doing business as Perrin Water System (Perrin), hold water certificate of convenience and necessity 12196 for the provision of water service in Jack County, Texas. Perrin is registered with the Texas secretary of state under file number 0121135100.
2. Perrin holds CCN No. 12196 for the provision of service in Montague County, Texas.
3. Perrin provides water service to the area under CCN number 12196 with Texas Commission on Environmental Quality (TCEQ) public water system (PWS) number 1190005.
4. On May 3, 2019, in TCEQ Docket No. 2019-0619-UCR-E, the TCEQ found that Perrin Water System and its agent had failed to provide adequate and safe operation of the water utility, and that a temporary manager of the water utility was immediately needed to properly operate the utility.
5. The TCEQ appointed Patterson as temporary manager of Perrin on May 3, 2019.

Application

6. On June 3, 2019, Patterson filed with the Commission an application for temporary rates pursuant to Texas Water Code (TWC) § 13.046 and 16 Texas Administrative Code (TAC) § 24.363 (formerly 16 TAC § 24.147).
7. The application requests approval of temporary rates in order to ensure sufficient funds are available to keep the water system operating properly within regulatory requirements. In addition, the temporary rate increase will allow for compensation to the temporary manager to make emergency repairs and required improvements on the system in order to begin to bring the system into compliance with the TCEQ rules.
8. On July 8, 2019, Order No. 2 was issued, finding the application and notice administratively complete and sufficient, and establishing a procedural schedule.
9. On July 17, 2019, Patterson filed the supplemental information required under Order No. 2.
10. On January 13, 2020, Commission Staff filed its Amended Final Recommendation required under Order No. 9.

Notice

11. Patterson provided proper notice to its customers as required by 16 TAC § 24.147(b).
12. In Order No. 2, issued on July 8, 2019, the administrative law judge (ALJ) found the notice sufficient.

Evidentiary Record

13. On July 31, 2019, Commission Staff and Patterson filed a joint proposed notice of approval and proposed tariff.
14. On August 20, 2019, the ALJ issued Order No. 3, admitting the following evidence into the record of this proceeding: (a) the application filed on June 3, 2019, as supplemented by documents filed on June 26, 2019, July 17, 2019 and July 29, 2019; (b) Commission Staff's final recommendation filed on June 26, 2019; (c) Patterson's tariff, included as an attachment to the joint motion to admit evidence and proposed notice of approval, filed on

July 26, 2019; and; (d) Commission Staff's amended joint proposed notice of approval, filed on August 7, 2019.

15. On September 5, 2019, the ALJ issued Order No. 6, admitting the following additional evidence into the record of this proceeding: (a) Commission Staff's Response to Order No. 4 and Request to Change Style of Docket, filed on August 27, 2019.

Reasonableness of Temporary Rates

16. Patterson's application requested a base rate of \$50.00 for a ¾-inch meter, \$75.00 for a 1-inch meter, and \$250.00 for a 2-inch meter with no gallons included, a volume charge of \$5.00 per 1000 gallons in addition to the above monthly charge, and temporary tap fees of \$1,000 for a ¾-inch meter, \$1,250 for a 1-inch meter and \$2,500 for a 2-inch meter.
17. Commission Staff recommends a base rate of \$38.69 for a 5/8-inch meter, \$58.03 for a 3/4-inch meter, \$96.72 for a 1-inch meter, \$193.43 for a 1 1/2-inch meter, \$309.49 for a 2-inch meter, \$618.98 for a 3-inch meter, 967.15 for a 4-inch meter, \$1,934.41 for a 6-inch meter, and \$3,094.89 for an 8-inch meter with no gallons included, a volume charge of \$2.50 per 1000 gallons in addition to the above monthly charge, and temporary tap fees of \$1,000 for a ¾-inch meter, \$1,250 for a 1-inch meter and \$2,500 for a 2-inch meter. The base rate charge includes a \$12.00 charge related to the receiver's fee.
18. The proposed temporary rates became effective June 1, 2019, consistent with Patterson's notice.
19. Patterson's application, supplemental information, and Commission Staff's recommendation demonstrate that the system needs approximately \$89,752 annually to operate properly.
20. The temporary rates recommended by Commission Staff will become effective upon order of the Commission.
21. Significant repairs to and replacement of water system components are necessary to enable Patterson to provide continuous and adequate water service for the customers of Perrin within the water service area of CCN number 12196.

22. In order to properly operate PWS number 1190005 as temporary manager for Perrin, Patterson needs approximately \$89,752 annually.
23. The temporary base rates and tap fees are reasonable for Patterson to provide continuous and adequate water service for the customers of Perrin within the water service area of CCN number 12196.
24. The temporary base rates and tap fees will remain in place until such time as Perrin is not under temporary management or receivership, the temporary manager or receiver requests a new rate, or a sale, transfer, or merger application for the service area held under CCN number 12196 and accompanying PWS number 1190005 is approved.

Requirement for Monthly Documentation

25. In its July 26, 2019 filing, Commission Staff recommended that Patterson be required to provide documentation periodically until the temporary manager's term is completed. This documentation must include:
 - 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/receipts to support the actual cost of service; and
 - c) Actual number of customers at the beginning and ending of the month

Tariff

26. On January 13, 2020, Commission Staff filed the proposed tariff as an attachment to its amended final recommendation.

Informal Disposition

27. Patterson and Commission Staff are the only parties to this proceeding.
28. More than 15 days have passed since completion of the notice of this docket.
29. The Commission received no protests, motions to intervene, or requests for hearing.
30. No issues of fact or law remain disputed by any party.

II. Conclusions of Law

1. The Commission has jurisdiction over this proceeding pursuant to TWC §§ 13.041 and 13.046.
2. Perrin is a Class C water utility as that term is defined in TWC § 13.002(4-c).
3. Public notice of the application was provided as required by TWC § 13.046 and Commission rules.
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 Patterson to recover the reasonable costs incurred in making services available to the customers of Perrin Water System, within the service area of CCN number 12196 and bringing PWS number 1190005 into compliance with Commission rules.
6. This docket was processed in accordance with applicable statutes and Commission rules.
7. The requirements for informal disposition pursuant to 16 TAC § 22.35 have been met in this proceeding.

III. Ordering Paragraphs

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

1. The Commission approves the application of Patterson for temporary rates for services provided for a nonfunctioning utility.
2. The Commission approves the temporary rate provisions contained in the tariff attached to the Commission Staff's amended final recommendation filed on January 13, 2020.
3. During his tenure as temporary manager or receiver, Patterson must provide monthly 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

¹ Administrative Procedure Act, Tex. Gov't Code Ann. §§ 2001.001-.902 (West 2008 & Supp. 2015).

expenses with a detailed list of actual expenses incurred for 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 copies of the monthly system operating reports have been provided to TCEQ.

4. If the required monthly reports demonstrate a collection of excess funds as a result of the temporary rate, Patterson shall use the excess funds for system improvements and repairs.
5. In the event debt is secured for needed improvements to PWS number 1190005, Patterson must provide notice to the Commission when the debt is secured and must submit to the Commission construction approval letters from the TCEQ for each needed improvement. If necessary, Patterson shall request a temporary surcharge or new temporary rate to pay for the secured debt.
6. Patterson must make an entity which acquires CCN number 12196 and the accompanying PWS number 1190005 from Perrin aware if any infrastructure was funded through customer contributions, and that the acquiring entity must disclose these customer contributions in any future rate case before the Commission.
4. Within ten days of the date of this Order, Commission Staff must provide a clean copy of the tariff approved by this Order to central records to be marked *Approved* and filed in the Commission's tariff books.
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 _____ 2020.

PUBLIC UTILITY COMMISSION OF TEXAS

DEANN T. WALKER, CHAIRMAN

ARTHUR C. D'ANDREA, COMMISSIONER

SHELLY BOTKIN, COMMISSIONER