

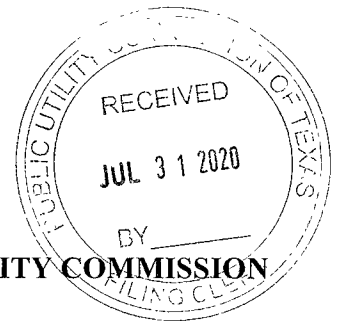


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**DOCKET NO. 49759**

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

**PUBLIC UTILITY COMMISSION  
OF TEXAS**

**JOINT PROPOSED ORDER AND MOTION TO ADMIT EVIDENCE**

**COMES NOW** the Staff (Staff) of the Public Utility Commission of Texas (Commission), representing the public interest, and on behalf of itself and Horseshoe Bend Water System and its receiver, Mark Patterson, files this Joint Proposed Order, and would show the following:

**I. NOTICE OF JOINT PROPOSED NOTICE OF APPROVAL**

On July 6, 2020, the administrative law judge (ALJ) issued Order No. 9 requiring Staff and Patterson to file Joint Proposed Order by July 25, 2019. On July 23, 2020, Staff filed an amended recommendation on final disposition.

**II. MOTION TO ADMIT EVIDENCE**

Staff and Patterson move to admit the following into evidence: (a) the application filed on July 17, 2019; (b) Proof of notice filed on August 5, 2019; (c) Response of Mr. Patterson to Order No.1 filed on August 5, 2019; (d) Mr. Patterson's Response to Order No. 2 filed on August 28, 2019 (e) Commission Staff's recommendation on final disposition and all attachments filed on September 13, 2019; (f) Revised Customer List filed by Mr. Patterson on October 1, 2019; (g) Notice of Charging Temporary Rate filed on November 1, 2019; (h) Profit and Loss Statement filed on December 11, 2019; (i) Attachment F filed by Mr. Patterson on March 31, 2020; (j) Response to Commission Staff's First Request for Information filed by Mr. Patterson on April 2, 2020; (k) Response to Commission Staff's Second Request for Information filed by Mr. Patterson by June 17, 2020; (l) Commission Staff's Amended Recommendation on Final Disposition and all attachments filed on July 24, 2020.

**III. CONCLUSION**

Staff and Patterson request that the Commission grant the motion to admit evidence and enter an Order consistent with the Joint Proposed Order.

Dated: July 31, 2020

Respectfully Submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS  
LEGAL DIVISION**

Rachelle Nicolette Robles  
Division Director

/s/ Rashmin J. Asher  
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**CERTIFICATE OF SERVICE**

I hereby certify that, unless otherwise ordered by the presiding officer, a true and correct copy of the foregoing document was transmitted by electronic mail to the parties of record on July 31, 2020 in accordance with the Order Suspending Rules issued in Docket No. 50664.

/s/ Rashmin J. Asher  
Rashmin J. Asher

**DOCKET NO. 49759**

**APPLICATION OF MARK  
PATTERSON FOR TEMPORARY  
RATES FOR SERVICES PROVIDED  
FOR A NONFUNCTIONING UTILITY**

**PUBLIC UTILITY COMMISSION  
OF TEXAS**

**JOINT PROPOSED ORDER**

This Order addresses the application of Mark Patterson for temporary rates for services provided for a non-functioning utility. The Commission approves the application.

**I. Findings of Fact**

The Commission makes the following findings of fact.

**Applicant and Other Interested Persons**

1. Horseshoe Bend Water System holds water certificate of convenience and necessity (CCN) number 10263 for the provision of water service in Parker County, Texas.
2. Horseshoe Water System (Horseshoe) owns a public water system (PWS) registered with the Texas Commission on Environmental Quality (TCEQ).
3. On June 21, 2019, an agreed order issued by the Office of the Attorney General appointed Mark Patterson, Patterson Professional Services, LLC, receiver for Horseshoe and its public water system, PWS identification number 1840002.

**Application**

4. On July 17, 2019, Mr. Patterson filed an application for temporary rates under Texas Water Code (TWC) § 13.046 and 16 Texas Administrative Code (TAC) § 24.363.
5. The application requests approval of temporary rates to provide Mr. Patterson the resources necessary to provide continuous and adequate service to Horseshoe customers within the water service area of water CCN number 10263 who receive water from PWS number 1840002.
6. In Order No. 2 filed on August 20, 2019, the administrative law judge (ALJ) found the application administratively complete and sufficient.
7. On August 28, 2020, Mr. Patterson filed the supplemental information required under Order No. 2.
8. On September 13, 2019, Commission Staff filed its recommendation on final disposition.
9. On July 24, 2020, Commission Staff filed its amended recommendation on final disposition.

**Notice**

10. On August 5, 2019, Mr. Patterson mailed notice of the application to Horseshoe customers within the water service area under water CCN number 10263.
11. In Order No. 2 filed on August 20, 2019, the ALJ found the notice sufficient.

**Evidentiary Record**

12. On July 31, 2020, Mr. Patterson and Commission Staff filed a joint motion to admit evidence.
13. In Order No. 10 filed on \_\_\_\_\_, the ALJ admitted the following evidence into the record of this proceeding: (a) the application filed on July 17, 2019; (b) Proof of notice filed on August 5, 2019; (c) Response of Mr. Patterson to Order No.1 filed on August 5, 2019; (d) Mr. Patterson's Response to Order No. 2 filed on August 28, 2019 (e) Commission Staff's recommendation on final disposition and all attachments filed on September 13, 2019; (f) Revised Customer List filed by Mr. Patterson on October 1, 2019; (g) Notice of Charging Temporary Rate filed on November 1, 2019; (h) Profit and Loss Statement filed on December 11, 2019; (i) Attachment F filed by Mr. Patterson on March 31, 2020; (j) Response to Commission Staff's First Request for Information filed by Mr. Patterson on April 2, 2020; (k) Response to Commission Staff's Second Request for Information filed by Mr. Patterson by June 17, 2020; (l) Commission Staff's Amended Recommendation on Final Disposition and all attachments filed on July 24, 2020.

**Reasonableness of Temporary Rates**

19. The application requested monthly base rates of \$50.00 for a 3/4-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 \$1000 for a 3/4 -inch meter, \$1250 for a 1-inch meter and \$2500 for a 2-inch meter.
20. Commission Staff recommended monthly base rates of \$17.36 for a 5/8-inch meter, \$26.03 for a 3/4-inch meter, \$54.00 for a 1-inch meter, \$192.00 for a 2-inch meter with no gallons included. These monthly base rates include a \$12.00 charge related to the temporary manager's fee. Commission Staff further recommends a pass-through fee of \$0.22 per 1000 gallons of water usage. Commission Staff additionally recommends a volume charge of \$3.10 per 1000 gallons and temporary tap fees of \$1000 for a 3/4-inch meter, \$1250 for a 1-inch meter and \$2500 for a 2-inch meter.
21. The temporary rates recommended by Commission Staff will be come effective upon order of the Commission.
22. Significant repairs to and replacement of water system components are necessary to enable Mr. Patterson to provide continuous and adequate water service for Horseshoe customers within the water service area of water CCN number 10263.

23. In order to properly operate Horseshoe as temporary manager, Mr. Patterson needs approximately \$212,426 annually.
24. The temporary base rates, tiered block gallonage rates, monthly surcharge, and tap fee are reasonable for Mr. Patterson to provide continuous and adequate water service for Horseshoe customers within the water service area of CCN number 10263.

**Requirement for Monthly Documentation**

25. In its July 24, 2020 filing, Commission Staff recommended that Mr. Patterson be required to provide documentation monthly until the receiver's term is completed. Commission Staff recommended the documentation include: (a) a summary of monthly operations, including revenues and expenses, with a detailed list of actual expenses incurred including manager's fees, cost of repairs, cost of chlorine used, billing expenses, operator costs, cost of electricity used, laboratory fees, and sampling costs; (b) copies of invoices and receipts to support the actual cost of service; (c) the actual number of connections at the beginning and end of the month; and (d) a signed statement that copies of monthly reports have been provided to TCEQ.

**Tariff**

26. On July 24, 2020, Commission Staff filed a proposed tariff as an attachment to its amended recommendation on final disposition.

**Informal Disposition**

27. More than 15 days have passed since completion of the notice of this docket.
28. No person filed a protest or request to intervene.
29. Mr. Patterson and Commission Staff are the only parties to this proceeding.
30. No party requested a hearing and no hearing is needed.
31. Commission Staff recommend approval of the application.
32. This decision is not adverse to any party.

**II. Conclusions of Law**

The Commission makes the following conclusions of law.

1. The Commission has authority over the application under TWC §§ 13.041 and 13.046.
2. Horseshoe is a water utility as defined in TWC § 13.002(23) and 16 TAC § 24.3(39).

3. Public notice of the application was provided as required by TWC § 13.046 and 16 TAC § 24.363(b).
4. The Commission processed the application under the requirements of the TWC, Administrative Procedure Act,<sup>2</sup> and Commission rules.
5. The temporary rates approved in this case are consistent with 16 TAC § 24.363(a), calculated to enable Mr. Patterson to recover the reasonable costs incurred in making services available to the customers of Horseshoe within the service area of CCN number 10263 and bringing PWS number 1840002 into compliance with Commission rules.
6. The temporary rates approved in this case are reasonable and consistent with TWC § 13.046.
7. The requirements for informal disposition in 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 orders.

1. The Commission approves the temporary rate provisions contained in the tariff attached to Commission Staff's amended recommendation on final disposition filed on July 24, 2020.
2. During his tenure as receiver, Mr. 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 connections 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. Mr. Patterson must provide notice to the Commission when debt is secured for needed improvements to PWS identification number 1840002, and must submit to the Commission construction approval letters from the TCEQ for each needed improvement.
4. Within 60 days of this Order, any overage amounts collected must be returned to customers in the form of a bill credit.

5. Mr. Patterson must make any entity which acquires water CCN number 10263 and the accompanying PWS identification number 1690007 from Horseshoe aware that a portion of the infrastructure was funded through customer contributions, and that the acquiring entity must disclose these customer contributions in any future rate case before the Commission.
6. 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.
7. 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 August 2020.

**PUBLIC UTILITY COMMISSION OF TEXAS**

**DEANN T. WALKER, CHAIRMAN**

**ARTHUR C. D'ANDREA, COMMISSIONER**

**SHELLY BOTKIN, COMMISSIONER**