



Control Number: 49759



Item Number: 38

Addendum StartPage: 0

DeAnn T. Walker
Chairman

Arthur C. D'Andrea
Commissioner

Shelly Botkin
Commissioner

John Paul Urban
Executive Director



Greg Abbott
Governor


2020 NOV 13 PM 3:42

RECEIVED
PUBLIC UTILITY COMMISSION
CLERK

Public Utility Commission of Texas

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

All Parties of Record

FROM: Steven Leary 
Administrative Law Judge

RE: **Open Meeting of December 17, 2020**
Docket No. 49759 – *Application of Mark Patterson for Temporary Rates for Services Provided for a Nonfunctioning Utility*

DATE: November 13, 2020

Because of the COVID-19 state of disaster, the Commission has moved to a work-at-home environment and is working to maintain operations as normally as possible. However, all known challenges have not yet been overcome and the dates provided in this notice are subject to change.

Enclosed is a copy of the Proposed Order in the above-referenced docket. The Commission will consider this docket at an open meeting currently scheduled to begin at 9:30 a.m. on Thursday, December 17, 2020, at the Commission's offices, 1701 North Congress Avenue, Austin, Texas. The parties must file corrections or exceptions to the Proposed Order on or before Monday, November 23, 2020.

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

ag
Q:\CADM\Docket Management\Water\Rates\49XXX\49758 PO Memo.docx



Printed on recycled paper

An Equal Opportunity Employer

1701 N. Congress Avenue PO Box 13326 Austin, TX 78711 512/936-7000 Fax: 512/936-7003 web site: www.puc.texas.gov



DOCKET NO. 49759

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

PROPOSED ORDER

This Order addresses the application of Mark Patterson for temporary rates for services provided for a nonfunctioning utility. The Commission approves the temporary rate provisions contained in the proposed tariff filed by Commission Staff on July 24, 2020, and approves the proposed tariff filed by Commission Staff on July 24, 2020.

I. Findings of Fact

The Commission makes the following findings of fact.

Applicant and Other Interested Persons

1. Castle Water, Inc. dba Horseshoe Bend Water System holds water certificate of convenience and necessity (CCN) number 10263 for the provision of water service in Hood and Parker counties.
2. Horseshoe Bend owns a public water system registered with the Texas Commission on Environmental Quality (TCEQ) under identification number 1840002.
3. On July 3, 2019, the TCEQ filed an emergency order in TCEQ Docket No. 2019-0923-UCR-E appointing Mr. Patterson as temporary manager for Horseshoe Bend for a term expiring on December 30, 2019.
4. On December 30, 2019, the TCEQ filed an emergency order in TCEQ Docket No. 2019-0923-UCR-E reappointing Mr. Patterson as temporary manager for Horseshoe Bend for a term expiring on June 27, 2020.

5. On June 22, 2020, the Commission filed an order in Docket No. 50847¹ appointing Mr. Patterson as temporary manager of Horseshoe Bend. The Commission set Mr. Patterson's compensation for his role as temporary manager at \$8.00 per connection per month.

Application

6. 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.
7. The application requests approval of temporary rates to keep the water utility operating properly within regulatory requirements, to allow for compensation to the temporary manager, and to make emergency improvements to the utility.
8. On August 5 and 28, October 1, November 1, and December 11, 2019, and March 31, April 2, and June 17, 2020, Mr. Patterson filed supplements to the application.
9. In Order No. 2 filed on August 20, 2019, the administrative law judge (ALJ) found the application administratively complete.

Notice

10. On August 5, 2019, Mr. Patterson provided notice of the proposed rate change to all customers of Horseshoe Bend.
11. In Order No. 2 filed on August 20, 2019, the ALJ found 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 October 20, 2020, 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) Mr. Patterson's response 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 on October 1, 2019; (g) notice of

¹ *Petition for an Order Appointing a Temporary Manager for Castle Water, Inc dba Horseshoe Bend Water System*, Docket No. 50847, Order Appointing a Temporary Manager (Jun. 22, 2020).

charging temporary rate filed on November 1, 2019; (h) profit and loss statement filed on December 11, 2019; (i) Mr. Patterson's expense spreadsheet filed on March 31, 2020; (j) Mr. Patterson's response to Commission Staff's first set of requests for information filed on April 2, 2020; (k) Mr. Patterson's response to Commission Staff's second set of requests for information filed on June 17, 2020; and (l) Commission Staff's amended recommendation on final disposition and all attachments filed on July 24, 2020.

Reasonableness of Temporary Rates

14. The application requested temporary monthly base rates of \$42.00 for a 3/4-inch meter, \$57.00 for a 1-inch meter, and \$175.00 for a 2-inch meter, with no gallons included. These requested rates included a fee related to the temporary manager's fee. The application also requested a temporary volumetric charge of \$4.00 per 1,000 gallons, and 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.
15. In its amended recommendation on final disposition filed on July 24, 2020, Commission Staff recommended approval of the following:
 - a. Temporary 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, and \$192.00 for a 2-inch meter, with no gallons included;
 - b. A temporary manager fee set at \$8.00 per connection per month, which is separately stated in the proposed tariff;
 - c. A temporary volumetric charge of \$3.10 per 1,000 gallons;
 - d. 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; and
 - e. A monthly pass-through fee of \$0.22 per 1,000 gallons of water usage per connection to recover fees charged by the Upper Trinity Groundwater Conservation District.
16. Commission Staff also recommended approval of the following:

- a. A surcharge \$2.93 per month that was collected by Mr. Patterson for three months, for a total of \$3,868.71, to recover costs related to the replacement of a well pump, motor, and wiring, related to a theft; and
 - b. A surcharge of \$2.22 per month to be collected for four months, for a total of \$3,911.47, to recover new account fees, parts purchased, and equipment use fees.
17. 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.
18. In order to properly operate Horseshoe Bend as temporary manager, Mr. Patterson needs approximately \$212,426 annually.
19. The temporary monthly base rates, temporary manager's fee, temporary volumetric charge; monthly surcharges, pass-through fee, and temporary tap fee are reasonable to allow Mr. Patterson to provide continuous and adequate water service for Horseshoe Bend customers within the water service area of CCN number 10263.

Requirement for Monthly Documentation

20. In its July 24, 2020 filing, Commission Staff recommended that Mr. Patterson be required to provide documentation periodically until the temporary manager's term is completed. Commission Staff recommended that this documentation include:
 - a. Summary of monthly revenues and expenses with a detailed list of actual expenses for operating the system, such as repairs, chlorine, billing, operator costs, electricity, laboratory fees, sampling costs, etc.;
 - b. Copies of invoices and receipts to support the actual cost of service;
 - c. The actual number of connections at the beginning and at the end of the month; and
 - d. A signed statement that copies of the monthly report will be provided to the Texas Commission on Environmental Quality at the same time it is provided to the Commission.

Tariff

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

Informal Disposition

22. More than 15 days have passed since completion of the notice provided in this docket.
23. Mr. Patterson and Commission Staff are the only parties to this proceeding.
24. No party requested a hearing and no hearing is needed.
25. Commission Staff recommended approval of the application.
26. 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 this proceeding under TWC §§ 13.041 and 13.046.
2. Horseshoe Bend 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 application was processed in accordance with the requirements of the Administrative Procedure Act,² TWC, and the Commission's rules.
5. The temporary rates approved in this case are, as required under 16 TAC § 24.363(a), calculated to enable Mr. Patterson to recover the reasonable costs incurred in making services available to the customers of Castle Water, Inc. dba Horseshoe Bend Water Works within the service area of CCN number 10263 and bringing public water system number 1840002 into compliance with Commission rules.
6. The temporary rates approved in this case are reasonable under 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.

² Tex. Gov't Code §§ 2001.001–.903.

1. The Commission approves the temporary rate provisions contained in the proposed tariff filed by Commission Staff on July 24, 2020, and approves the proposed tariff filed by Commission Staff on July 24, 2020.
2. The rates and fees approved in this Order must remain in place until the Commission orders otherwise.
3. During his tenure as temporary manager, 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.
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 provide notice to the Commission when debt is incurred for needed improvements to public water system identification number 1840002, and must submit to the Commission construction approval letters from the TCEQ for each needed improvement.
6. Mr. Patterson must make any entity which acquires water CCN number 10263 and the accompanying public water system 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.
7. Within ten days of the date of this, 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.
8. 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