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DOCKET NO. 49759

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

PUBLIC UTILITY COMMISSION
FILING CLERK

NOTICE OF FILING IN DOCKET NO. 50085

COMES NOW the Staff (Staff) of the Public Utility Commission of Texas (Commission), representing the public interest, and files this Notice of Filing in Docket No. 50085. In support thereof, Staff shows the following:

I. BACKGROUND

On July 17, 2019, Mark Patterson, acting as temporary manager for Castle Water, Inc. dba Horseshoe Bend Water System (Horseshoe Bend), filed a request for a temporary rate increase for water Certificate of Convenience and Necessity (CCN) No. 10263 under Texas Water Code (TWC) § 13.046 and 16 Texas Administrative Code (TAC) § 24.363 in Hood County, Texas. Mr. Patterson was initially appointed as temporary manager for Horseshoe Bend and its public water system no. 1840002, by an order issued by the Texas Commission on Environmental Quality on July 3, 2019 and reappointed as temporary manager by the Commission on June 22, 2020.¹

On November 24, 2020, the administrative law judge filed a revised proposed order in this docket. This docket is also currently on the agenda for the December 17, 2020 open meeting.

II. NOTIFICATION OF FILING IN DOCKET NO. 50085

Staff respectfully makes this filing to notify the Commission of information filed in Docket No. 50085.² In Docket No. 50085, Horseshoe Bend and Horseshoe Bend Water Company, LLC (HBWC) have applied to sell and transfer the water service area under CCN number 10263, along with the CCN and related facilities. A briefing order was filed on

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).

² *Application of Castle Water, Inc. Dba Horseshoe Bend Water System and Horseshoe Bend Water Company, LLC for Sale, Transfer, or Merger of Facilities and Certificate Rights in Parker County*, Docket No. 500085 (pending).

November 5, 2020 directing the parties to Docket No. 50085 to address the following: “the applicability, if any, of the rates proposed to be set in Docket 49759 to the [Docket 50085]; if these rates are applicable, the duration for which these rates will be effective in [Docket 50085], and; the rates effective upon the expiration of the rates from Docket 49759.”³

On December 1, 2020, HBWC responded to the briefing order and expressed a preference for the temporary rates noticed by Mr. Patterson in Docket No. 49759, rather than the temporary rates proposed by Staff and presented to the Commission for consideration.⁴ In support of this request, HBWC stated that the smallest meter size the company operates is “5/8 inches x 3/4 inches.”⁵ This information appears to conflict with the information provided by Mr. Patterson to support his temporary rate request, which is also the information upon which Staff’s temporary rate recommendation was based. In his response to Order No. 2 filed on August 28, 2019, Mr. Patterson submitted documentation stating: “We currently have 518 meters listed in our billing system, all of which are 3/4” meters.”⁶ In addition, the initial request for temporary rates filed in this docket references only a 3/4” meter size and not a 3/4” x 5/8” meter size.⁷ This information was later supplemented by a filing stating that the system had 437 3/4” meters and three 1” meters.⁸

HBWC asserts that the discrepancy in the information regarding meter sizes is probably due to a lack of reliable data regarding the system.⁹ HBWC has also indicated that it is aware that Staff relied on the information regarding the 3/4” meter size to formulate its recommended temporary rates.¹⁰ Staff has no reason to doubt the veracity of the statements made by Mr. Patterson or HBWC; however, Staff believes that it is incumbent on the two parties who have physical access to the system to resolve the discrepancy regarding meter sizes such that the

³ *Id.*, Order No. 8 Requiring Responses (Nov. 5, 2020).

⁴ *Id.*, Response to Order No. 8 Requiring Responses and Request for Determination Regarding Rates Under § 13.046(d) at 5 (Dec. 1, 2020) (HBWC Response to Order No. 8).

⁵ *Id.*, HBWC at 8.

⁶ Response to PUC Request for Documentation at PDF 2 (Aug. 28, 2019).

⁷ Application of Mark Patterson for Temporary Rates for Service Provided for a Nonfunctioning Utility at 1 (Jul.17, 2019) (“We respectfully request that we be allowed to begin charging a base rate of \$42.00/ month for a 3/4” meter \$57.00 for a 1” meter, and \$175.00 for a 2” meter with no gallons included.”).

⁸ Revised Customer List for the Horseshoe Bend Water System (Oct. 1, 2019).

⁹ HBWC Response to Order No. 8 at 8.

¹⁰ *Id.* at fn. 12.

Commission has the opportunity to set a reasonable temporary rate as required by TWC § 13.046(b). This is especially critical for HBWC who has asserted that the temporary rate pending approval by the Commission will generate less revenue than the rates in the current tariff for CCN No. 10263.¹¹ Accordingly, Staff is bringing this information to the attention of the Commission.

III. CONCLUSION

Staff respectfully requests that the foregoing information be taken into consideration during any relevant deliberations by the Commission at the December 17, 2020 open meeting.

Date: December 15, 2020

Respectfully submitted,

PUBLIC UTILITY COMMISSION OF TEXAS LEGAL DIVISION

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¹¹ *Id.* at 8.

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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 December 15, 2020 in accordance with the Order Suspending Rules, filed in PUC Project No. 50664.

/s/ Alaina Zermeno
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