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DOCKET NO. 49759

**APPLICATION OF MARK
PATTERSON FOR TEMPORARY
RATES FOR SERVICES PROVIDED
FOR A NONFUNCTIONING UTILITY** §
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**PUBLIC UTILITY COMMISSION
OF TEXAS** 2021 FEB 13 AM 10:18
PUBLIC UTILITY COMMISSION
FILING CLERK

ORDER

This Order addresses the application of Mark Patterson for temporary rates for services provided for a non-functioning utility. The Commission approves the temporary rates proposed in the application, as modified by this Order and to the extent provided in this Order. The temporary rates approved by this Order are subject to reconciliation, and the Commission may revise the temporary rates following its reconciliation review. The Commission approves the proposed tariff filed by Commission Staff on July 24, 2020, as modified by this Order.

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. Castle Water 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 Castle Water 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 Castle Water 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 Castle Water. 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 filed proof of providing notice of the proposed rate change to all customers of Castle Water.
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 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 charging temporary rate filed on November 1, 2019; (h) profit and loss statement 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).

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.

14. At the January 14, 2021 open meeting, the Commission took judicial notice of the utility's tariff on file with the Commission and which was attached to a Commissioner memorandum filed on January 13, 2021.

Reasonableness of Temporary Rates

15. 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. The application, as supplemented, included a surcharge of \$2.93 that was collected by Mr. Patterson over a three-month period, for a surcharge total of \$3,869 to recover the costs to replace a well pump, motor, and wiring.
16. The tariffed rates on file with the Commission for Castle Water include monthly minimum rates for the following meter sizes 5/8" or 3/4", 1", 1 1/2", 2", 3", and 4". The tariffed rates on file with the Commission for Castle Water also include a gallonage charge and a tap fee for the meter sizes of 5/8" or 3/4".
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. The temporary base rates, temporary manager's fee, temporary volumetric charge, temporary surcharge, and temporary tap fee are reasonable to allow Mr. Patterson to provide continuous and adequate water service for Castle Water customers within the water service area of CCN number 10263.

19. At the January 14, 2021 open meeting, the Commission determined that the compensation for the temporary manager should be recovered through a separate rate, that the proposed minimum monthly rate and tap fee for 3/4" meters apply more broadly to 5/8" or 3/4" meters consistent with the utility's filed tariff, and that the reporting requirements be modified.

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 a proposed tariff as an attachment to its amended recommendation on final disposition.

II. Conclusions of Law

The Commission makes the following conclusions of law.

- 1. The Commission has authority over this proceeding under TWC §§ 13.041, 13.046, and 13.131.
- 2. Castle Water 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 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 and consistent with TWC § 13.046.
7. The Commission may prescribe forms of books, accounts, records, and memoranda to be kept by water and sewer utilities, including the books, accounts, records, and memoranda of the rendition of and capacity for service as well as the receipts and expenditures of money, and any other forms, records and memoranda the Commission determines are necessary, in accordance with TWC § 13.131.

III. Ordering Paragraphs

In accordance with the preceding findings of fact and conclusions of law, the Commission issues the following orders.

1. The Commission approves the temporary rates proposed in the application, as modified by this Order and to the extent provided in this Order. The temporary rates approved by this Order are subject to reconciliation, and the Commission may revise the temporary rates following its reconciliation review.
2. The Commission approves the proposed tariff filed by Commission Staff on July 24, 2020, as modified by this Order.
3. For the reconciliation review, revenues received through the temporary rates will be compared to the actual expenses incurred by the utility. The temporary manager must file invoices, cancelled checks, or other documentation to support all actual expenses. The temporary manager must categorize all actual expenses into two categories: a) operating expenses; or b) repair, replacement, or improvement expenses.
4. Beginning 30 days from the date of this Order, the temporary manager must file quarterly reports that address, in detail, all needed repairs identified in the application and any additional repairs, replacements and improvements for the utility that cost more than

\$2,000. For each of these items, the report must describe the need for the repair, replacement, or improvement; identify the estimated cost and actual cost (once completed); and identify the completion date or estimated completion date. The quarterly reports must be filed in Docket No. 51763, Compliance Filing for Docket No. 49759 (*Application of Mark Patterson for Temporary Rates for a Nonfunctioning Utility*).

5. Within 30 days of completing all needed repairs identified in the application and any additional repairs, replacements, and improvements identified in the quarterly reports, the temporary manager must file a final report verifying such completion. The final report must be filed in Docket No. 51763, Compliance Filing for Docket No. 49759 (*Application of Mark Patterson for Temporary Rates for a Nonfunctioning Utility*).
6. The reconciliation of the temporary rates will begin following the filing of the final report, upon the request of Commission Staff, or as directed by the Commission.
7. The temporary rates proposed in the application are modified to recover the compensation for the temporary manager through a separate rate and not as part of the monthly minimum charges or volumetric charges. The monthly minimum charge for the proposed 3/4" meter size is modified to apply to 5/8" or 3/4" meter size and the tap fee for the proposed 3/4" meter size is modified to apply to 5/8" or 3/4" meter sizes.
8. The Commission approves the following temporary rates:

<u>Meter Size</u>	<u>Monthly Minimum Charge</u>
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5/8" or 3/4"	\$34.00
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1"	\$49.00
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2"	\$167.00
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Monthly Temporary Manager's Fee of \$8.00 per connection per month

Monthly Gallonage Charge (for all meter sizes) of \$4.00 per 1,000 gallons

<u>Meter Size</u>	<u>Tap Fee</u>
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5/8" or 3/4"	\$1,000
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1"	\$1,250
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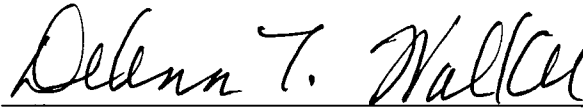
2" \$2,500

9. The revised proposed tariff filed by Commission Staff on July 24, 2020 must be further modified to: a) remove the pass-through fee; and b) remove the proposed language that addresses how long the temporary rates will remain in effect, the possible return to rates listed in section 1.01, and specify that the temporary rates are in place of the rates listed in section 1.01, effective July 23, 2019.
10. If the temporary rates approved in this Order do not result in a reasonable rate for the services provided to the nonfunctioning utility or to bring the utility into compliance with Commission and TCEQ rules, the temporary manager may implement revised temporary rates and file notice to the Commission of the revised temporary rates.
11. During his tenure as temporary manager, Mr. Patterson must file a monthly report by the last day of each month. The monthly reports must address the following information and documentation for the previous month: (a) a summary of monthly operations including revenues and expenses with a detailed list of actual expenses incurred; (b) copies of invoices and receipts to support the actual operating expenses; (c) the 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.
12. 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 letters from the TCEQ approving the construction for each needed improvement.
13. Mr. Patterson must make any entity that acquires water CCN number 10263, and the accompanying public water system number 1840002 for Castle Water, 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.
14. Within fourteen days of the date of this Order, Commission Staff must file a clean copy of the revised tariff, consistent with the modification in this Order, to central records to be marked *Approved* and filed in the Commission's tariff books.

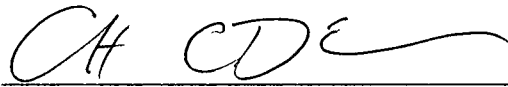
15. The Commission denies all other motions and any other requests for general or specific relief, if not expressly granted herein.

Signed at Austin, Texas the 12th day of February 2021.

PUBLIC UTILITY COMMISSION OF TEXAS



DEANN T. WALKER, CHAIRMAN



ARTHUR C. D'ANDREA, COMMISSIONER



SHELLY BOTKIN, COMMISSIONER