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APPLICATION FOR AN ORDER
APPOINTING A TEMPORARY
MANAGER TO AERO VALLEY
WATER SERVICE

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PUBLIC UTILITY COMMISSION
OF TEXAS
FILING CLERK

ORDER APPOINTING A TEMPORARY MANAGER

This Order addresses the application filed by Commission Staff for an order appointing a temporary manager of the facilities formerly operated by Shawn Horvath under the name Aero Valley Water Service. The Commission held a hearing on the application at the August 29, 2019 open meeting. The Commission appoints Reid Barnes as temporary manager of Aero Valley.

I. Findings of Fact

The Commission makes the following findings of fact.

Aero Valley

1. Aero Valley is a retail public utility comprising of one public water system that serves 38 connections at the Northwest Regional Airport in Denton County.
2. Texas Secretary of State records indicate that Aero Valley does not exist as a distinct business entity.
3. Aero Valley was granted certificate of convenience and necessity (CCN) number 11401 on November 1, 1979.
4. On December 4, 1980, the Commission approved the transfer of Aero Valley's assets and CCN number 11401 to Jesse Miller.
5. Commission Staff was informed that Mr. Miller attempted to sell Aero Valley to another person, though no application for a sale, transfer, or merger, for the indicated transaction was approved by this Commission. In the absence of an approved STM, Mr. Miller remained the holder of CCN number 11401.
6. The Commission revoked CCN number 11401 on April 25, 2016 in Docket No. 45277.
7. At this time, Mr. Miller is not engaged with any of the operations of Aero Valley.

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8. Mr. Shawn Horvath is currently functioning as the de facto owner of the utility. Since September 20, 2001, the Texas Commission on Environmental Quality (TCEQ) has identified Mr. Horvath as the owner and operator of the public water system associated with Aero Valley. A default order, issued on June 3, 2015 by TCEQ, identified Mr. Horvath as the owner and operator of the public water system which was associated with CCN number 11401. Additionally, the TCEQ Drinking Water Watch database lists Mr. Horvath as the administrative contact for the public water system. The Commission's database currently lists no responsible party for Aero Valley.

Abandonment and Temporary Managerships

9. On October 20, 2015, Mr. Horvath informed TCEQ that Aero Valley had been experiencing a service outage since October 17, 2015, and he did not plan on providing an alternate source of water. Mr. Horvath then relocated out-of-state. Mr. Horvath has not participated in any operation of Aero Valley since leaving Texas nor has he expressed any intention to do so in the future.
10. On October 26, 2015, the TCEQ executive director found that Mr. Horvath abandoned utility operations and appointed Eric Tamayo, the Public Works Director of the nearby City of Northlake as temporary manager through an emergency order. The TCEQ affirmed and modified the executive director's emergency order by an order signed on December 17, 2015. Mr. Tamayo served six months as temporary manager and informed the Commission and TCEQ that he would be unable to serve an additional six-month term.
11. By emergency order on April 20, 2016, the TCEQ executive director again found that Mr. Horvath abandoned utility operations and appointed Mark Patterson of Patterson Water Supply to a six-month term on April 20, 2016. The TCEQ affirmed the executive director's emergency order on May 11, 2016.
12. On September 23, 2016, the Commission issued an emergency order finding that Mr. Horvath abandoned utility operations and appointed Mr. Patterson as temporary manager for another six months, from October 17, 2016 to April 15, 2017. The Commission later affirmed this emergency order on October 7, 2017.

13. The executive director of the Commission then, by emergency order, extended the term of Mr. Patterson's temporary managership through October 13, 2017. The Commission affirmed that emergency order on June 29, 2017.
14. Mr. Patterson decided that he was no longer interested in operating Aero Valley as temporary manager after expiration of his extended term:
15. On January 25, 2018, the Commission, through a default order, appointed Monarch Utilities I, L.P. to a six-month term as temporary manager. The Commission later extended that default order to last an additional six months until January 22, 2019.
16. On March 4, 2019, the Commission again appointed Monarch as temporary manager until August 27, 2019.
17. On July 30, 2019, Monarch informed Commission Staff in writing that it was no longer interested in acquiring Aero Valley or serving as temporary manager.

Application

18. On July 31, 2019, Commission Staff filed an application for an order appointing a temporary manager for Aero Valley.
19. In its application, Commission Staff asserts that, without the appointment of a temporary manager, Aero Valley is incapable of providing continuous and adequate service to its customers.
20. Commission Staff recommends that Mr. Reid Barnes be appointed as temporary manager of Aero Valley.
21. A previous Commission order granting a temporary rate of \$71.43 to Monarch remains in effect. This temporary rate was established to cover proven operation and maintenance costs.
22. Commission Staff's application notified Aero Valley that it was entitled to an opportunity to be heard by the Commissioners under Texas Water Code (TWC) § 13.4132(a).

Notice

23. On August 14, 2019, Commission Staff's application was sent by certified mail to the last known address of Aero Valley's headquarters in the Commission's and TCEQ's records. A copy of the petition was also sent by certified mail to Mr. Barnes.
24. On August 23, 2019, Commission Staff filed the affidavit of Tasha Lopez, the legal assistant in the Oversight and Enforcement Division of the Commission, attesting that a copy of the application and notice of the hearing on the order were delivered by certified mail to Aero Valley and Reid Barnes.

Recommended Temporary Manager

25. Reid Barnes is an attorney in good standing licensed to practice law in Texas. He has practiced law as an associate with Lynn Sherman Law Firm and Consulting since 2016, providing legal, strategic planning, and business consulting services pertaining to water projects, water and wastewater utilities, electric transmission projects, land and water conservation, and property rights.
26. Mr. Barnes has worked with multiple retail water systems that have either been placed into receivership or have had a temporary manager designated to undertake operations. Mr. Barnes is experienced in water law and is willing and able to serve as a temporary manager for Aero Valley. Mr. Barnes is prepared to employ a licensed water operator to assist him in the temporary management of the utility.
27. Mr. Barnes requested compensation of 15 dollars per connection per month.

Additional Findings

28. The Commission revoked CCN number 11401 by order dated April 25, 2016 in Docket No. 45277.¹
29. Commission Staff is not seeking nor has it obtained an emergency order from TCEQ.
30. It is necessary to appoint a temporary manager to ensure that Aero Valley's customers receive continuous and adequate water utility service.

¹ *Petition to Revoke Aero Valley Water Service's Certificate of Public Convenience and Necessity Pursuant to Tex. Water Code Ann. § 13.254 and 16 TAC § 24.113, Default Order (Apr. 25, 2016).*

II. Conclusions of Law

The Commission makes the following conclusions of law.

1. The Commission has jurisdiction over this application under TWC § 13.4132 and 16 Texas Administrative Code (TAC) §§ 24.355 and 24.357.
2. Under TWC § 13.4132 and 16 TAC § 24.355, the Commission may authorize a willing person to temporarily manage and operate a utility if the utility has abandoned operations.
3. Actions that constitute abandonment are enumerated in TWC § 13.4132(a) and 16 TAC § 24.355(c) and include, but are not limited to, failure to provide appropriate water treatment so that a potential health hazard results, failure to adequately maintain facilities resulting in potential health hazards, or repeatedly failing to respond to the Commission or TCEQ.
4. Mr. Horvath was a public utility and a retail public utility by virtue of his operation of facilities to provide potable water service to persons at the Northwest Regional Airport in Denton County prior to October 26, 2015.
5. Mr. Horvath abandoned operations as a utility under TWC §§ 13.412 and 13.4132(a)(1) and 16 TAC §§ 24.355 and 24.357(a) by failing to provide water service and failing to find an alternative source of water for his customers at the Northwest Regional Airport in Denton County.
6. Mr. Horvath was provided notice of the application and notice that he could be heard by the Commission before the appointment of a temporary manager as required by TWC § 13.4132(a).
7. The Commission may appoint Mr. Barnes to temporarily manage and operate the subject facilities as Mr. Barnes is a willing person under TWC § 13.4132.

III. Ordering Paragraphs

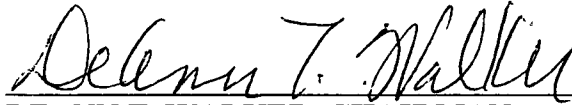
In accordance with these findings of fact and conclusions of law, the Commission issues the following orders:

1. The Commission appoints Mr. Reid Barnes as temporary manager of Aero Valley until the temporary manager is discharged from his responsibilities by the Commission or a

- superseding action is taken by an appropriate court on the appointment of a receiver at the request of the Office of the Attorney General, whichever is the earlier occurrence.
2. Mr. Barnes may exercise all the powers and duties necessary to ensure the continued operation of the utility and the provision of continuous and adequate service to customers.
 3. As temporary manager, Mr. Barnes must comply with all requirements in TWC § 13.4132(c) and 16 TAC § 24.357(b), including but not limited to reading meters, billing for utility service, collecting revenues, disbursing funds, requesting rate increases if needed, accessing all system components, conducting required sampling, making necessary repairs; and performing other acts necessary to assure continuous and adequate utility service as authorized by the Commission.
 4. Mr. Barnes must return to the Commission an inventory of all property received within 60 days of appointment as required by 16 TAC § 24.357(e).
 5. Mr. Barnes must report to the Commission on a monthly basis. This report must include an income statement for the reporting period; a summary of utility activities such as improvements or major repairs made, number of connections added, and amount of water produced or treated; and any other information required by the Commission.
 6. Mr. Barnes must employ a licensed water operator to assist him in the management of Aero Valley for the duration of his temporary managership.
 7. Mr. Barnes must comply with all applicable requirements of the TWC as well as Commission and TCEQ rules.
 8. Mr. Barnes is not required to post financial assurance.
 9. Mr. Barnes shall be compensated for his role as temporary manager from Aero Valley's revenues in the amount of fifteen dollars per connection per month and shall bill for this amount as part of the regular authorized rate of Aero Valley.
 10. All motions and requests for general or specific relief, if not expressly granted, are denied.

Signed at Austin, Texas the 30th day of August 2019.

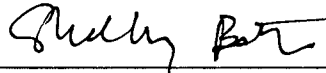
PUBLIC UTILITY COMMISSION OF TEXAS



DEANN T. WALKER, CHAIRMAN



ARTHUR C. D'ANDREA, COMMISSIONER



SHELLY BOTKIN, COMMISSIONER

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