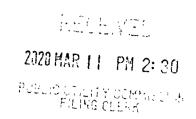


Control Number: 50605



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OPEN MEETING COVER SHEET COMMISSIONER MEMORANDUM

MEETING DATE: March 12, 2020

DATE DELIVERED: March 11, 2020

AGENDA ITEM NO.: 4

CAPTION: Docket No. 50605 – Commission Staff's

Petition for an Order Appointing a

Temporary Manager to Blue Cereus, LLC

DESCRIPTION: Commissioner Botkin Memorandum

Distribution List:

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000001

DeAnn T. Walker Chairman

Arthur C. D'Andrea Commissioner

Shelly Botkin Commissioner

John Paul Urban
Executive Director



Public Utility Commission of Texas

TO:

Chairman DeAnn T. Walker

Commissioner Arthur C. D'Andrea Commissioner Shelly Botkin

All Parties of Record (via electronic transmission)

FROM:

Lorenzo Z Garcia

Commission Advising

RE:

Petition for an Order Appointing a Temporary Manager to Blue Cereus, LLC,

Docket No. 50605, Commissioner Memo, March 12, 2020 Open Meeting, Item

No. 4.

DATE:

March 11, 2020

Please find enclosed a memorandum by Commissioner Botkin regarding the above-referenced docket. No other commissioner will file a memorandum in this docket.

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Public Utility Commission of Texas

Commissioner Memorandum

TO:

Chairman DeAnn T. Walker

Commissioner Arthur C. D'Andrea

FROM:

Commissioner Shelly Botkin Sub

DATE:

March 11, 2020

RE:

March 12, 2020 Open Meeting – Item No. 4

Docket No. 50605 - Petition for an Order Appointing a Temporary Manager to

Blue Cereus, LLC

I recommend that the Commission make the following changes to the Order in this proceeding.

First, I recommend that the Commission modify the Order's introductory paragraph for clarity and for consistency with previous decisions of the Commission.

This Order approves the agreement and report to Commission between Commission Staff and Blue Cereus, LLC relating to Commission Staff's petition for an order appointing a temporary manager to Blue Cereus. The agreement also serves as a report to the Commission under 16 Texas Administrative Code (TAC) § 22.246(h). The Commission approves the agreement and appoints Lynn Sherman as the temporary manager. This Order addresses Commission Staff's petition to appoint Mr. Sherman as temporary manager for Blue Cereus, LLC. The Commission approves the petition to the extent provided in this Order.

Second, a new finding of fact 46 should be added because it is necessary to support conclusion of law 9.

46. In order to timely address the petition by Commission Staff to appoint a temporary manager for Blue Cereus, the Commission finds good cause exists to waive the 20-day requirement in 16 TAC § 22.35(b)(2) and to consider this matter at the next regularly scheduled open meeting of March 12, 2020.

Third, conclusion of law 9 should be modified to address the 20-day requirement of 16 TAC § 22.35(b)(2).

9. The requirements for informal disposition in 16 TAC § 22.35 have been meet in this proceeding except for 16 TAC § 22.35(b)(2), which requires that the proposed order be served on all parties no less than 20 days before the Commission is scheduled to consider the application in an open meeting. Under 16 TAC § 22.5(b), good cause exists to waive this requirement.

Fourth, ordering paragraph 1 should be modified for clarity and consistency with previous decisions of the Commission.

1. The Commission approves the petition to the extent provided in this Order.

Fifth, I recommend that the Commission modify ordering paragraph 3 for clarity.

3. The Commission appoints Mr. Lynn Sherman as temporary manager of Blue Cereus. Mr. Sherman's appointment as temporary manager will begin on the date this Order is signed and will continue until the Commission orders otherwise to begin on March 12, 2020.

Finally, I propose delegating to the Office of Policy and Docket Management staff the authority to modify the order to conform to the *Citation and Style Guide for the Public Utility Commission of Texas* and to make other non-substantive changes to the order for such matters as capitalization, spelling, grammar, punctuation, style, correction of numbering, and readability.

I look forward to discussing this matter with you at the open meeting.