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Public Utility Commission of Texas

Commissioner Memorandum

TO: Commissioner McAdams
Commissioner Cobos

FROM: Chairman Peter M. Lake

DATE: July 14, 2021

RE: July 15, 2021 Open Meeting – Agenda Item No. 18
Docket No. 50605 – Petition for an Order Appointing a Temporary Manager to
Blue Cereus, LLC

Earlier in this proceeding, the Commission appointed Mr. Sherman to temporarily manage and operate the water utility Blue Cereus, LLC. The Commission determined that Blue Cereus abandoned operations under Texas Water Code § 13.4132 by failing to resolve the past-due balance allegedly owed to Seguro Water Co., LLC and San Pedro Canyon Water Resources (collectively, the wholesalers) and because there was an ongoing threat by the wholesalers to stop the wholesale water supply to Blue Cereus.

According to the most recent monthly report, filed by Mr. Sherman in this proceeding on July 12, 2021, the ongoing disagreement between Blue Cereus and the wholesalers regarding the amount owed for wholesale water service has not been resolved. Mr. Sherman further asserted that the wholesalers recently terminated water service to customers of Blue Cereus for Blue Cereus's alleged failure to timely pay a recent invoice for wholesale water service.¹ However, Mr. Sherman also stated that in the pending rate case, Docket No. 50239,² the parties have reached an agreement in principal with Blue Cereus regarding the retail rates and an agreement in principle with the wholesalers regarding the pass-through amounts.³

In the most recent status updated filed in Docket No. 50239, Commission Staff stated that the parties are working on agreement documents and that by July 28, 2021 the parties will file the agreement package or a request for a hearing.

I agree with the temporary manager that it is imperative to resolve this ongoing conflict between the utility and wholesalers. Ensuring that Blue Cereus maintains a secure water supply for its customers is a priority. To achieve this, it is necessary to set rates that preserve the financial integrity of the utility and enable it to pay its wholesale water providers so that it can provide retail water service to its customers. Fortunately, there is a pending rate case for this utility.

If the Commission grants Mr. Sherman's request to terminate his temporary manager term for Blue Cereus, it appears that the operation of the utility will revert to Jimmy Alan Hall, president

¹ Temporary Manager's Summary Report at 4 (Jul. 12, 2021).

² *Application of Blue Cereus, LLC for Authority to Change Rates*, Docket No. 50239 (Nov. 14, 2019)(pending).

³ *Id.* at 2-3.

and registered agent of the utility.⁴ I recommend that Mr. Hall provide a report to the Commission that addresses his plan to resolve the issues discussed in this memo. Therefore, I recommend that the Commission direct the Office of Policy and Docket Management to issue an order requiring Blue Cereus to file a report in the pending rate case proceeding, Docket No. 50239, within three weeks of the date the order is filed.

The report should include a comprehensive, detailed plan and timeline to secure the water supply for Blue Cereus and address how the utility will resolve the outstanding debts owed to the wholesalers in the pending rate case.

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

⁴ *Application of Blue Cereus, LLC for Authority to Change Rates*, Docket No. 50239, Direct Testimony and Exhibits of Jimmy Alan Hall at 1 (Jan. 17, 2020).