



Control Number: 51481



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***Public Utility Commission of Texas***

TO: Stephen Journeay  
Commission Counsel

All Parties of Record

FROM: Gregory R. Siemankowski  
Administrative Law Judge

A handwritten signature in black ink, appearing to be "G. Siemankowski".

RE: **Docket No. 51481** – *Application of CSWR-Texas Utility Operating Company, LLC  
for Temporary Rates for a Nonfunctioning Utility*

DATE: April 20, 2021

The administrative law judge has made amendments to the Proposed Order that will be considered at the May 6, 2021 Open Meeting. The changes bring the Proposed Order into alignment with language adopted by the Commission in Docket Nos. 49758<sup>1</sup> and 49759.<sup>2</sup>

The amendments include the addition of conclusion of law number 8, the addition of ordering paragraphs 1, 3, 4, 5, and 6, and the modification of ordering paragraph number 2. The changes can be seen in the attached Amended Proposed Order.

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<sup>1</sup> *Application of Mark Patterson for Temporary Rates for Services Provided for a Nonfunctioning Utility*, Docket No. 49758, Order (Feb. 12, 2021).

<sup>2</sup> *Application of Mark Patterson for Temporary Rates for Services Provided for a Nonfunctioning Utility*, Docket No. 49759, Order (Feb. 12, 2021)

**DOCKET NO. 51481**

<b>APPLICATION OF CSWR-TEXAS</b>	<b>§</b>	<b>PUBLIC UTILITY COMMISSION</b>
<b>UTILITY OPERATING COMPANY,</b>	<b>§</b>	
<b>LLC FOR TEMPORARY RATES FOR</b>	<b>§</b>	<b>OF TEXAS</b>
<b>A NONFUNCTIONING UTILITY</b>	<b>§</b>	

**PROPOSED ORDER**

This Order addresses the application of CSWR-Texas Utility Operating Company, LLC for temporary rates for services provided for Castlecomb Water System, a nonfunctioning utility. The Commission approves the temporary rate provisions contained in the proposed water and sewer tariffs filed by Commission Staff on January 11, 2021 and approves the proposed water and sewer tariffs filed by Commission Staff on January 11, 2021.

**I. Findings of Fact**

The Commission makes the following findings of fact.

**Applicant and Other Interested Persons**

1. CSWR-Texas is a Texas limited liability company registered with the secretary of state under filing number 803367893.
2. Castlecomb is a water system and on-site sewage facility that provides retail water and sewer service to the Castlecomb and Kensington subdivisions located in Kerr County.
3. Castlecomb is currently uncertificated by the Commission. Its public water system is registered with the Texas Commission on Environmental Quality (TCEQ) under public water system identification number 1330163.
4. On September 24, 2020, CSWR-Texas was appointed as temporary manager for Castlecomb in Docket No. 50851.<sup>1</sup>

**Application**

5. On November 2, 2020, CSWR-Texas filed an application for temporary rates under Texas Water Code (TWC) § 13.046 and 16 Texas Administrative Code (TAC) § 24.363.

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<sup>1</sup> *Petition for an Order Appointing a Temporary Manager to the Castlecomb Water System*, Docket No. 50851, Order Appointing a Temporary Manager (Sep. 30, 2020).

6. The application requests approval of temporary rates in order to ensure sufficient funds are available to keep the water and sewage facilities operating properly within regulatory requirements. In addition, the temporary rates will allow for compensation to the temporary manager to make emergency repairs and required improvements on the system in order to begin to bring the system into compliance with the rules of the Commission and the TCEQ.
7. In Order No. 2 filed on December 2, 2020, the administrative law judge (ALJ) found the application administratively complete.
8. On December 18, 2020, CSWR-Texas supplemented the application.
9. On January 4, 2021, CSWR-Texas again provided supplemental information, in response to discovery requests from Commission Staff.
10. On January 11, 2020, Commission Staff filed its recommendation on final disposition.

**Notice**

11. On October 26, 2020, CSWR-Texas provided notice of the application to all customers of Castlecomb.
12. In Order No. 2 filed on December 2, 2020, the ALJ found the notice sufficient.

**Evidentiary Record**

13. On January 25, 2021, the parties filed a joint motion to admit evidence.
14. In Order No. 4 filed on January 27, 2021, the ALJ admitted the following evidence into the record of this proceeding: (a) the application and all attachments filed on November 2, 2020; (b) CSWR-Texas' response to Commission Staff's request for documentation filed on December 18, 2020; (c) CSWR-Texas' response to Commission Staff's first request for information filed on January 4, 2021; (d) CSWR-Texas' response to Commission Staff's second request for information filed on January 4, 2021; and (e) Commission Staff's recommendation on final disposition and all attachments filed on January 11, 2021.

**Reasonableness of Temporary Rates**

15. The application requests a monthly flat rate for water service of \$62.50 per month per connection and a flat rate for sewer service of \$62.50 per month per connection. The

application also requests a temporary manger's fee of \$7.50 per month per connection for water service and a temporary manger's fee of \$7.50 per month per connection for sewer service.

16. The temporary rates became effective September 25, 2020, consistent with CSWR-Texas' notice.
17. In its recommendation on final disposition, Commission Staff estimated yearly costs for the water system of \$15,307.08 and yearly costs for the sewer system of \$19,220. Commission Staff also recommended a surcharge to be collected for four months to enable CSWR-Texas to recover one-time only fees already expended by CSWR-Texas.
18. For monthly sewer service, Commission Staff recommended a \$64.67 flat rate, a \$7.50 temporary manager's fee, and a \$7.54 surcharge for four months.
19. For monthly water service, Commission Staff recommended a \$52.60 flat rate, a \$7.50 temporary manager's fee, and a \$4.02 surcharge for four months.
20. The rates recommended by Commission Staff are reasonable for CSWR-Texas to provide continuous and adequate water service for the customers of Castlecomb.
21. The temporary rates and temporary manager's fee will remain in effect until the Commission orders otherwise.
22. The temporary rates will remain in effect even in the event that a new temporary manager or receiver is appointed.

**Requirement for Monthly Documentation**

23. In its recommendation on final disposition, Commission Staff recommended that CSWR-Texas provide monthly documentation, by the last day of the month following the month in question, until the temporary manager's term is completed. Commission Staff recommended that the documentation include:
  - (a) a summary of monthly operations, including revenues and expenses, with a detailed list of actual expenses incurred, including manager's fees, repairs, chlorine, billing, operator costs, electricity, laboratory fees, and sampling costs;
  - (b) copies of invoices and receipts to support the actual cost of service;
  - (c) the actual number of connections served at the beginning and end of the month; and

- (d) a signed statement that a copy of the same information has been provided to the TCEQ.

**Tariff**

24. On January 11, 2021, Commission Staff filed proposed water and sewer tariffs as attachments to its recommendation on final disposition.

**Informal Disposition**

25. At least 15 days have passed since the completion of notice provided in this docket.
26. No person filed a protest or motion to intervene.
27. CSWR-Texas and Commission Staff are the only parties to this proceeding.
28. No party requested a hearing and no hearing is needed.
29. Commission Staff recommended approval of the application.
30. This decision is not adverse to any party.

**II. Conclusions of Law**

The Commission makes the following conclusions of law.

1. The Commission has authority over this proceeding under TWC §§ 13.041 and 13.046.
2. Castlecomb is a retail public utility as defined in TWC § 13.002(19) and 16 TAC § 24.3(31) and a water utility as defined in TWC and § 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 Administrative Procedure Act,<sup>2</sup> the TWC, and Commission rules.
5. The temporary rates approved in this case are, as required under 16 TAC § 24.363(a), calculated to enable CSWR-Texas to recover the reasonable costs incurred in making service available to the customers in Castlecomb's service area and bringing public water

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<sup>2</sup> Tex. Gov't Code §§ 2001.001–.903.

system number 1330163 and Castlecomb's sewage facility into compliance with Commission and TCEQ rules.

6. The temporary rates approved in this case are reasonable and consistent with TWC § 13.046.
7. Under TWC § 13.046(c), CSWR-Texas is hereby given a reasonable time to bring the nonfunctioning system into compliance with Commission rules, including the requirement of obtaining a certificate of convenience and necessity.
8. 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.
9. The requirements for informal disposition under 16 TAC § 22.35 have been met in this proceeding.

#### **IV. Ordering Paragraphs**

In accordance with the 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 proposed tariffs filed by Commission Staff on January 11, 2021, 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. \_\_\_\_\_, Compliance Filing for Docket No. 51481 (*Application of CSWR-Texas Utility Operating Company 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. \_\_\_\_\_, Compliance Filing for Docket No. 51481 (*Application of CSWR-Texas Utility Operating Company 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. For as long as CSWR\_Texas is the temporary manager of Castlecomb, it must provide monthly documentation, by the last day of the month following the month in question: (a) a summary of monthly operations, including revenues and expenses, with a detailed list of actual expenses incurred, including manager's fees, repairs, chlorine, billing, operator costs, electricity, laboratory fees, and sampling costs; (b) copies of invoices and receipts to support the actual cost of service; (c) the number of actual customers at the beginning and end of the month; and (d) a signed statement that a copy of the same information has been provided to the TCEQ. The filings must be made in Docket No. \_\_\_\_\_, *Compliance Filing for Docket No. 51481 (Application of CSWR-Texas Utility Operating Company, LLC for Temporary Rates for a Nonfunctioning Utility)*.



8. If the required monthly reports demonstrate a collection of excess funds as a result of the temporary rate, CSWR-Texas must use excess funds for systems improvements and repairs.
9. If any overages were collected from customers for the months the requested rate was billed, CSWR-Texas must issue no refunds to the customers. Instead, the excess funds should be used to pay for system improvements and repairs and the liability reduced by the amount incurred repairs and maintenance.
10. CSWR-Texas may file for an additional or revised temporary rate for the nonfunctioning utility at a later date.
11. Within ten days of the date of this Order, Commission Staff must provide a clean copy of the tariff approved by this Order to central records to be marked *Approved* and filed in the Commission's tariff books.
12. 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 \_\_\_\_\_ day of \_\_\_\_\_ 2021.**

**PUBLIC UTILITY COMMISSION OF TEXAS**