



Control Number: 51764



Item Number: 58

OPEN MEETING COVER SHEET COMMISSIONER MEMORANDUM

MEETING DATE: January 16, 2025

DATE DELIVERED: January 15, 2025

AGENDA ITEM NO.: 3


CAPTION: Docket No. 51764 – Compliance Filing for
Docket 49758 (Application of Mark Patterson
for Temporary Rates for a Nonfunctioning
Utility)

DESCRIPTION: Chairman Thomas Gleeson Memorandum

Public Utility Commission of Texas

Memorandum

TO: Commissioner Kathleen Jackson
Commissioner Courtney K. Hjaltman

FROM: Chairman Thomas J. Gleeson 

DATE: January 15, 2025

RE: January 16, 2025 Open Meeting – Item No. 3
Docket No. 51764 – Compliance Filing for Docket 49758 (*Application of Mark Patterson for Temporary Rates for Services Provided for a Nonfunctioning Utility*)

Before the Commission is a proposed interim order that addresses the compliance filing for Docket No. 49758.¹ As discussed below, I would adopt the proposed interim order with some important modifications.

Based on Commission Staff's recommendation, the proposed interim order would set an effective date of April 29, 2024, for replacing the utility's tariff because that is the date the receivership of the utility terminated per a court order. I appreciate Commission Staff's desire to set a retroactive effective date of April 29, 2024. But the Commission is generally prohibited from engaging in retroactive ratemaking.² In addition, under Texas Water Code (TWC) § 13.190(a), "[a] water and sewer utility may not directly or indirectly by any device or in any manner charge, demand, collect, or receive from any person a greater or lesser compensation for any service rendered or to be rendered by the utility than that prescribed in the schedule of rates of the utility applicable to that service when filed in the manner provided in [chapter 13 of the TWC]" Although Mr. Patterson's receivership ended on April 29, 2024, the receiver's fee has not been removed from the tariff, and Mr. Patterson has been charging that fee according to the approved tariff in place. He has also remained subject to Commission-ordered requirements of making compliance filings. Therefore, I recommend that the Commission approve the proposed interim order but change the effective date of the new tariff, which removes the receiver's fee, to the date of the Commission's interim order. To accomplish this, I recommend authorizing the Office of Policy and Docket Management to modify the interim order to require Commission Staff to file a revised tariff that is consistent with the Commission's decision.

Finally, the Commission should delegate 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.

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

² *State v. Public Utility Comm'n of Texas*, 883 S.W.2d 190, 199 (1994).

Memorandum from Chairman Thomas J. Gleeson
Date: January 15, 2025

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