



## Filing Receipt

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**DOCKET NO. 52341**

<b>APPLICATION OF MARK</b>	<b>§</b>	<b>PUBLIC UTILITY COMMISSION</b>
<b>PATTERSON FOR TEMPORARY</b>	<b>§</b>	
<b>RATES FOR A NONFUNCTIONING</b>	<b>§</b>	<b>OF TEXAS</b>
<b>UTILITY</b>	<b>§</b>	

**COMMISSION STAFF'S CLARIFICATION**

On July 22, 2021, Mark Patterson (Mr. Patterson), temporary manager of Castle Water, Inc. dba Horseshoe Bend Water System (Castle Water), filed an application requesting a temporary rate increase pursuant to Texas Water Code § 13.046 and 16 Texas Administrative Code (TAC) § 24.363 in Hood County, Texas.

On October 1, 2021, the administrative law judge (ALJ) filed Order No. 5, requesting clarification from the Staff of the Public Utility Commission of Texas (Staff) by October 15, 2021 regarding whether the \$8.00 temporary manager's fee should have been included in the fees noticed. Therefore, this pleading is timely filed.

**I. RECOMMENDATION ON NOTICE**

The \$8.00 temporary manager's fee should not have been included in the notice issued by Mr. Patterson on August 27, 2021. On February 12, 2021, a final order was filed in Docket No. 49759, which approved the current temporary rates for Castle Water. The order approving the rates separated out the Temporary Manager's Fee of \$8.00 per connection per month as its own line item in the tariff rather than including the \$8.00 in the monthly minimum charge for each meter size.<sup>1</sup> As stated in the Commissioner memorandum filed on January 13, 2021:

The compensation for the temporary manager should be recovered through a separate rate; it should not be included in the interim temporary rate. There is a pending docket for the sale or acquisition of this utility, and separating out the compensation for the receiver in this case allows the Commission to cleanly terminate this portion of the temporary rate in the STM proceeding. The reason for this is that, under TWC § 13.046(d), the temporary rate may continue after the sale of the nonfunctioning utility.<sup>2</sup>

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<sup>1</sup> *Application of Mark Patterson for Temporary Rates for Services Provided for a Nonfunctioning Utility*, Docket No. 49759, Order at Finding of Fact No. 8 (Feb. 12, 2021).

<sup>2</sup> *Id.*, Commissioner Memorandum at 1 (Jan. 13, 2021) (citation omitted).

On March 3, 2021, Horseshoe Bend Water Company (HBWC), the purchaser in the pending sale, transfer, merger application for the acquisition of Castle Water, filed a letter of disagreement in Docket No. 49759, stating that it opposed the “reduction of the minimum monthly charge for the smallest meter size from \$42.00 per connection per month (as fixed by the Temporary Rates) to \$34.00 per connection per month (as fixed in the Proposed Rates) to account for the hypothetical \$8.00 per connection per month temporary manager’s fee.”<sup>3</sup> In Staff’s response to HBWC’s disagreement letter, Staff noted there is no argument that HBWC is not entitled to the temporary manager fee, which is established to compensate the temporary manager for serving in the role of temporary manager.<sup>4</sup> Staff further opined that the loss of the \$8 per connection per month in revenue did appear to impact HBWC’s ability to provide service and to bring the system into compliance by October 2021 per the compliance plan HBWC executed with the Texas Commission on Environmental Quality (TCEQ).<sup>5</sup>

Taking these factors into consideration, Staff does not believe that it would have been appropriate for Mr. Patterson to include the \$8.00 temporary manager fee in the August 29, 2021 notice. The temporary manager’s fee was intentionally pulled out of the temporary rates approved in the February 12, 2021 Commission Order filed in Docket No. 49759. Therefore there was no need to include it in the notice for this docket.

## **II. CONCLUSION**

For the reasons detailed above, Staff respectfully recommends that the \$8.00 temporary manager’s fee should not have been included in the fees noticed by Mr. Patterson in the present docket because it is separate and distinct from the temporary rate.

Dated: October 15, 2021

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<sup>3</sup> *Id.*, Horseshoe Bend Water Company’s Explanation of Disagreement with Proposed Tariff at 4 (Mar. 3, 2021) (HBWC Disagreement).

<sup>4</sup> *Id.*, Commission Staff’s Response to Horseshoe Bend Water Company LLC’s Disagreement with Proposed Tariff at 3 (Mar. 24, 2021).

<sup>5</sup> *Id.*, HBWC Disagreement at 4-5, Attachment A.

Respectfully submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS  
LEGAL DIVISION**

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**CERTIFICATE OF SERVICE**

I certify that, unless otherwise ordered by the presiding officer, notice of the filing of this document was provided to all parties of record via electronic mail on October 15, 2021, in accordance with the Order Suspending Rules, filed in Project No. 50664.

/s/ John Harrison  
John Harrison