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**Received - 2023-02-23 12:47:21 PM**

**Control Number - 54678**

**ItemNumber - 3**

**DOCKET NO. 54678**

<b>REQUEST FOR AN EMERGENCY</b>	<b>§</b>	<b>PUBLIC UTILITY COMMISSION</b>
<b>ORDER TO COMPEL CHANNEL OAKS</b>	<b>§</b>	
<b>WATER SYSTEM LLC TO PROVIDE</b>	<b>§</b>	<b>OF TEXAS</b>
<b>CONTINUOUS AND ADEQUATE</b>	<b>§</b>	
<b>WATER SERVICE</b>	<b>§</b>	

**EMERGENCY ORDER TO COMPEL CHANNEL OAKS WATER SYSTEM LLC TO PROVIDE CONTINUOUS AND ADEQUATE SERVICE WITHOUT A HEARING**

This Emergency Order addresses the request filed by the Staff of Public Utility Commission of Texas (Commission) for an emergency order to compel Channel Oaks Water System LLC to provide continuous and adequate service. The executive director, on behalf of the Commission, issues this emergency order without a hearing, and sets a hearing on this matter for the open meeting scheduled on March 23, 2023, to be held at the Commission’s offices in Austin, Texas.

The Commission adopts the following findings of fact and conclusions of law:

**I. Findings of Fact**

1. Commission Staff, as the requesting party, is located at 1701 N. Congress Avenue, 7<sup>th</sup> Floor, Austin, Texas 78701.
2. Channel Oaks Water System LLC is a limited liability corporation registered with the Texas secretary of state under filing number 0802645951.
3. Channel Oaks owns or operates for compensation facilities for the distribution, sale, or provision of potable water to the public in Burnet County.
4. Channel Oaks operates, maintains, or controls facilities for providing potable water to the public for compensation in Burnet County.
5. Channel Oaks operates, maintains, or controls a public water system registered with the Texas Commission on Environment Quality (TCEQ): Channel Oaks Water System, identification number 0270037.
6. Channel Oaks currently serves approximately 45 connections.

7. On December 28, 2022, the Commission received two complaints from Channel Oaks' customers alleging low water pressure and service outages.
8. Channel Oaks did not respond to either complaint.
9. On January 19, 2023, Commission Staff received information that Channel Oaks' licensed water operator planned to stop its work effective January 27, 2023.
10. On January 30, 2023, Commission Staff was informed by Channel Oaks that it ceased management and operation of the water system.
11. On January 30, 2023, Commission Staff was informed of a dispute regarding ownership and responsibility for Channel Oaks.
12. On February 8, 2023, Channel Oaks informed Commission Staff that a committee of property owners in the Channel Oaks subdivision would "provide interim service until an Owner/Operator is identified."
13. On February 23, 2023, Commission Staff filed a request for an emergency order to compel Channel Oaks to provide continuous and adequate service to its customers because the discontinuance of service to Channel Oaks' customers was imminent.
14. In its request, Commission Staff alleged that Channel Oaks was required to obtain a certificate of convenience and necessity but was operating without one.
15. Commission Staff further alleged that Channel Oaks was not providing safe or adequate service to its customers and that it risked discontinuing or impairing service to its customers.
16. Commission Staff further alleged that no responsible party was managing or operating the utility or its public water system.
17. Commission Staff further alleged that no licensed water operator had been hired or contracted to maintain the public water system and its facilities, which risked impairing service to its customers.
18. Commission Staff recommended the executive director issue an emergency order to compel Channel Oaks to provide continuous and adequate service beginning on the date the order was signed and remaining in effect for 180 days.

## II. Conclusions of Law

1. The Commission has jurisdiction over this matter under Texas Water Code (TWC) §§ 13.041(d) and 13.451(a) and 16 Texas Administrative Code (TAC) § 24.14(a)(2).
2. Channel Oaks is a utility as defined by TWC § 13.002(23) and 16 TAC § 24.3(38).
3. Channel Oaks is a retail public utility as defined by TWC § 13.002(19) and 16 TAC § 24.3(31).
4. Under TWC § 13.242(a), a utility may not in any way render retail water service directly or indirectly to the public without first having obtained from the Commission a certificate that the present or future public convenience and necessity will require that installation, operation, or extension.
5. Channel Oaks is a utility that is required to possess a certificate of public convenience and necessity.
6. Under TWC § 13.139(a), a retail public utility that is required to possess a certificate of convenience and necessity must furnish the service, instrumentalities, and facilities that are safe, adequate, efficient, and reasonable.
7. Channel Oaks failed to provide service and facilities that are safe, adequate, and reasonable as required under TWC § 13.139(a) when it allowed its water operator to cease operating the public water system and did not select an alternate, licensed water operator.
8. Under TWC § 13.250(a), a retail public utility that is required to possess a certificate of public convenience and necessity must serve every customer within its service area and must render continuous and adequate service within the area.
9. Channel Oaks failed to provide adequate water service under TWC § 13.250(a) when it delivered water of poor quality in December 2022 and January 2023.
10. Channel Oaks failed to provide continuous water service under TWC § 13.250(a) when it experienced multiple disruptions of water service in December 2022.
11. Channel Oaks failures to act impaired the water service to its customers.

12. Under TWC § 13.250(c), any discontinuance, reduction, or impairment of a retail public utility's service is subject to the conditions, restrictions, and limitations of the Commission.
13. Under TWC § 13.250(d), a retail public utility that has not been granted a certificate of public convenience and necessity may not discontinue, reduce, or impair retail water service to any ratepayer without the Commission's approval.
14. The Commission has not approved Channel Oaks' discontinuance, reduction, or impairment of service under either TWC § 13.250(c) or (d).
15. Under TWC § 13.041(d)(1) and 16 TAC § 24.14(a)(2), the Commission may issue an emergency order to compel a retail public utility that is required to obtain a certificate of public convenience and necessity to provide continuous and adequate water service if the discontinuance of the service is imminent or has occurred because of the retail public water utility's actions or failures to act.
16. Channel Oaks' failure to hire or a contract with a licensed water operator render discontinuance of service imminent under TWC § 13.041(d)(1).
17. Channel Oaks' failure to continue managing and operating the water system and its facilities render discontinuance of service imminent under TWC § 13.041(d)(1).
18. Under TWC § 13.451(b), the Commission may, by order or rule, delegate to the executive director the authority to issue an emergency order under Subchapter K-1 of the TWC. The delegation was made by Commission order on December 4, 2015, in Docket No. 43517.
19. Under TWC § 13.451(a) and 16 TAC § 24.14(a)(2), an emergency order to compel a retail public utility to provide continuous and adequate service may be issued without a hearing if notice and opportunity for a hearing is impracticable under the circumstances.
20. Channel Oaks' actions make notice and an opportunity for a hearing on the emergency order impracticable.
21. Under TWC § 13.454(a) and 16 TAC §§ 22.297(d)(2) and 22.299(d), if no hearing is held before the issuance of an emergency order, the emergency order must set a time and place for a hearing to affirm, modify, or set aside the emergency order, and the hearing is to be held as soon as practicable after the order is issued.

22. Under TWC § 13.455 and 16 TAC § 24.14(f), the term of an emergency order must be limited to a reasonable time specified in the Commission's order and may not exceed 180 days.
23. Commission Staff filed its request for an emergency order in accordance with 16 TAC § 22.295.

### **III. Ordering Paragraphs**

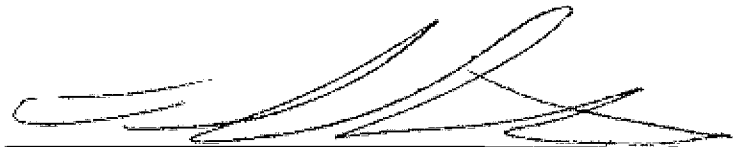
In accordance with these finding of facts and conclusions of law, the Commission issues the following Order:

1. Commission Staff's request for an emergency order to compel Channel Oaks to provide continuous and adequate service is granted.
2. Channel Oaks must immediately furnish such service, instrumentalities, and facilities as are safe, adequate, efficient, and reasonable.
3. Channel Oaks must immediately serve every customer within its service area and must immediately render continuous and adequate service within the area.
4. Channel Oaks must identify an individual who has the authority and responsibility to manage the utility no later than March 3, 2023.
5. Channel Oaks must hire a water operator licensed by the TCEQ to operate the public water system no later than March 3, 2023.
6. No later than March 10, 2023, Channel Oaks must file in this docket a sworn affidavit that states:
  - (a) the identity and contact information of the individual who has the authority and responsibility to manage the utility;
  - (b) the identity and contact information of the licensed water operator that Channel Oaks hired or contracted with to operate the public water system; and
  - (c) that the water operator hired or contracted with has access to all systems and facilities necessary to prevent discontinuance of service.

7. Commission Staff must provide notice of issuance of this emergency order to Channel Oaks as soon as practicable in accordance with 16 TAC § 22.293(c).
8. Channel Oaks must provide notice of the issuance of this emergency order to its customers and the TCEQ within ten days of the issuance of this emergency order and in accordance with 16 TAC § 22.293(d)(1)-(5).
9. No later than five days after it provides notice of the issuance of this emergency order to the TCEQ and its customers, Channel Oaks must file proof of such notice in this docket.
10. A hearing to affirm, modify, or set aside this emergency order will be held at the Commission's Open Meeting scheduled for March 23, 2023, to be held at the Commission's offices in Austin, Texas.
11. Commission Staff must provide notice to Channel Oaks of the opportunity to participate in an evidentiary hearing to affirm, modify, or set aside this emergency order no later than the tenth day before the date of the hearing and the notice must provide that Channel Oaks may waive the right to this hearing by written notice to the Commission or by failing to attend the hearing.
12. This order remains in effect for a term of 180 days to begin on the date the order is signed and ending on August 22, 2023, or unless the term is modified or the order is set aside by the Commission.

Signed at Austin, Texas the 23 day of February, 2023.

**PUBLIC UTILITY COMMISSION OF TEXAS**

A handwritten signature in black ink, appearing to read 'Thomas Gleeson', written over a horizontal line.

**Thomas Gleeson, Executive Director**