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**SOAH DOCKET NO 473-20-3261.WS
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APPLICATION OF BLUE CEREUS,	§	BEFORE THE STATE OFFICE
	§	
LLC FOR AUTHORITY TO CHANGE	§	OF
	§	
RATES	§	ADMINISTRATIVE HEARINGS

**SOAH ORDER NO. 12
APPROVING INTERIM RATES AND ADOPTING PROCEDURAL SCHEDULE**

I. APPROVING INTERIM RATES

On September 20, 2021 and October 20, 2021, Blue Cereus filed a motion for interim rates pursuant to 16 Texas Administrative Code (TAC) § 24.37. On October 29, 2021, the State Office of Administrative Hearings (SOAH) administrative law judge (ALJ) convened a prehearing conference in which Blue Cereus, Seguro Water Company (Seguro) and San Pedro Water Resources, JV (collectively, Wholesalers), and the Staff (Staff) of the Public Utility Commission of Texas (Commission) (collectively, the Parties) discussed an agreement on Blue Cereus’s request for interim rates.

However, the parties were unable to finalize an agreement regarding one component of the interim rates. Blue Cereus contended that it could not in fact pay the approved \$2500/month wholesale water rates for the San Pedro system. On November 12, 2021, the ALJ convened a prehearing conference.¹ At this prehearing conference, the ALJ directed the Parties to file information regarding (1) the amount Blue Cereus could afford to pay to the Wholesalers for purchased water for the San Pedro water system; and (2) the amount the Wholesalers needed to provide purchased water to the San Pedro water system.

Blue Cereus filed its 1st Amended Report on Interim Rates for San Pedro Village Water System² on November 19, 2021. In this report Blue Cereus argued that it could not afford to pay

¹ The parties also addressed the confidentiality of a report filed by Blue Cereus. An order addressing that report is forthcoming.

² Blue Cereus, LLC’s 1st Amended Financial Report on Interim Rates for San Pedro Village Water System (Nov. 19,

more than \$1800 per month in purchased water costs to the Wholesalers for the San Pedro water system.³ Blue Cereus also provided three attachments to support its claim that it cannot afford to pay more than \$1800 per month.

The Wholesalers filed a response on November 23, 2021, arguing that Blue Cereus had not met its burden to show that it could not pay the approved \$2500/month wholesale water rate for the San Pedro water system. The Wholesalers urged that the rate be set at \$2056-\$2446/month,⁴ based on the \$1774/month flat fee that the Temporary Manager had been paying the San Pedro water system and the \$6/connection/month fee he had been paying himself out of the \$20/connection/month fee from the final emergency rate set by the Commission. The Wholesalers also noted that Blue Cereus had initially agreed to a \$2500 rate, then a \$2000 rate, before asserting that a \$1800 rate was necessary, and that it should be held to its agreements. Staff filed a response on November 29, 2021, also arguing that Blue Cereus's evidence was insufficient to support a lesser interim rate and recommending that the rate be set using the lower of the Wholesalers' figures.

Based on the evidence submitted and the Parties' filings, the ALJ agrees that Blue Cereus has failed to support its request for an \$1800/month wholesale water rate for the San Pedro water system. The ALJ finds that a \$2056 monthly rate is appropriate. Accordingly, the ALJ adopts the Parties' previously submitted proposed agreed order, with the \$2056/month contested rate imposed for the San Pedro water system, as set forth below:

Blue Cereus's current approved rates are comprised of the rates listed in its approved tariffs plus an additional final emergency rate of \$20 per connection per month.⁵ The additional \$20 per

2021).

³ *Id.* at 2.

⁴ The Wholesalers' response later uses the figure \$2046 as the minimum acceptable rate, though this appears to be an error, which was also used in Staff's response. The ALJ assumes that \$2056 is the correct figure.

⁵ *Proceeding to Set Final Rate for Blue Cereus Under TWC § 13.4133, Docket No. 50030, Order Setting Final Rate Pursuant to Tex. Water Code § 13.4133 (Jan. 10, 2020)*.at Ordering Paragraph No. 1.

connection per month was required to be allocated as follows: \$6 per connection per month was to be used to compensate the temporary manager; and \$14 per connection per month was to be used as needed for operational expenses that exceed revenues collected from base rates.⁶ The Parties agreed to an interim rate that is identical to the current approved rate except that Blue Cereus may use the entirety of the additional \$20 per connection per month as necessary to operate and maintain the water system and to compensate the Wholesalers.

The ALJ finds that the agreed interim rates are just and reasonable and will continue to provide Blue Cereus with needed revenue while minimally impacting customers. Accordingly, the agreed interim rates are hereby **ADOPTED**, effective with the first billing cycle following the date of this order. The interim rates will remain in effect until a final rate determination is made or another interim rate is established and will be subject to refund or surcharge. The “relate back” date for the purposes of calculating the refund or surcharge is May 9, 2021. Blue Cereus **SHALL** provide notice to its customers of the interim rates in compliance with 16 TAC § 24.37(j) and **SHALL** file proof of notice in the docket no later than December 31, 2021.

The Parties further agreed that Blue Cereus will comply with 16 TAC § 24.43(c) when calculating customer bills using these interim rates. Accordingly, it is ordered that Blue Cereus **SHALL** round up or down to the nearest 1,000 gallons, as appropriate, or calculate the fractional portion of usage in its billing to customers for volumetric charges.

Lastly, Blue Cereus and the Wholesalers are currently negotiating the terms of a wholesale water contract. The Parties agreed that Blue Cereus will pay Seguro \$3,400 per month (\$2,000 by the 3rd, and \$1,400 by the 14th, or the next banking day if the 3rd or the 14th falls on a non-banking day) for wholesale water purchased to serve the customers of the La Caleta Estates Water System. Blue Cereus **SHALL** pay San Pedro Water Resources, JV \$2,056 per month (\$1,500 by the 3rd, and \$556 by the 14th, or the next banking day if the 3rd or the 14th falls on a non-banking day) for wholesale water purchased to serve the customers of the San Pedro Village Water System.

⁶ *Id.*, Order Setting Final Rate Pursuant to Tex. Water Code § 13.4133 at Ordering Paragraph No.2.

Therefore, it is ordered that the payment amounts will remain in effect until Blue Cereus and the Wholesalers are able to execute a written wholesale purchased water contracts.

I. ADOPTING PROCEDURAL SCHEDULE

The Parties have proposed the following agreed procedural schedule, which is **ADOPTED:**

Event	Date
Blue Cereus Direct Testimony	January 14, 2022
Objections to Blue Cereus Direct Testimony	January 21, 2022
Reply to Objections to Blue Cereus Direct Testimony	January 28, 2022
Discovery Deadline on Blue Cereus Direct Testimony	January 28, 2022
Intervenor Direct Testimony	February 4, 2022
Objections to Intervenor Testimony	February 11, 2022
Reply to Objections to Intervenor Testimony	February 18, 2022
Discovery Deadline on Intervenor Direct Testimony	February 18, 2022
Staff Direct Testimony	February 25, 2022
Objections to Staff Direct Testimony	March 4, 2022
Reply to Objections to Staff Direct Testimony	March 11, 2022
Discovery Deadline on Staff Direct Testimony	March 11, 2022

Cross-Rebuttal Testimony	March 18, 2022
Objections to Cross-Rebuttal Testimony	March 25, 2022
Reply to Objections to Cross-Rebuttal Testimony	April 1, 2022
Discovery Deadline on Cross-Rebuttal Testimony	April 1, 2022
Pre-hearing Conference	April 11, 2022
Hearing on the Merits	April 21, 2022 to April 22, 2022

. The hearing on the merits will convene at **9:00 a.m. on April 21, 2022, via Zoom** and continue no later than April 22, 2022. The hearing is expected to last two days. To access the hearing, go to <https://soah-texas.zoomgov.com/> or the Zoom application on your mobile device, then select “Join a Meeting” and enter the following information when prompted:

Meeting ID: 160 583 5224
Passcode: 9exdUM

If you do not have access to a device that would allow videoconferencing capabilities, you may join by telephone by calling either number below and entering the following Meeting ID and passcode. Note that the passcode to join by telephone is different than the passcode to join via a computer or smart device.

(669) 254-5252 or (646) 828-7666

Meeting ID: 160 583 5224
Passcode: 918689

It is further **ORDERED** that the following actions shall be taken **no later than April 11, 2022**, each party shall:

- file a witness list identifying and providing contact information for all witnesses the party expects to call to testify during the hearing;
- identify its witnesses, if any, for whom the other party waived cross-examination;
- file a list of all exhibits it intends to offer at the hearing (including, for example, on cross-examination);
- deliver to the ALJ at SOAH Room 504, 5th Floor, William P. Clements Building, 300 West 15th Street, Austin, Texas, 78701, *the ALJ's copies, the record copy, and two appeal copies* of all exhibits the party intends to offer. If a court reporter will transcribe the hearing, the parties SHALL, after consulting the court reporter about how to do so, provide *the record copy* instead to the court reporter, along with a copy of the party's witness list and exhibit list.⁷

All exhibits SHALL be marked with the offering party's name and the exhibit number. Exhibits should be numbered sequentially, and multipage documents shall be paginated or Bates-stamped. Exhibits not meeting a requirement in this order may not be admitted into the record absent good cause.

Prior to the hearing, the parties SHALL provide to witnesses all documents necessary for their effective participation in the hearing. Parties should also speak to the witnesses they intend to call to testify and provide them the necessary videoconferencing information.

SIGNED December 10, 2021.



DANIEL WISEMAN
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS

⁷ The parties may agree among themselves on the method of delivery to each other and may agree to forgo delivery to each other of marked copies of exhibits they have already received, relying on the exhibit lists to identify the offering party and exhibit number.

SECTION 1.0 -- RATE SCHEDULE

Section 1.01 - Rates

<u>Meter Size</u>	<u>Monthly Minimum Charge</u> (All meter sizes include zero gallons)	<u>Gallonage Charge</u>
5/8" or 3/4"	<u>\$85.00</u>	<u>\$4.00</u> per 1,000 gallons from 0-10,000
1"	<u>\$182.50</u>	<u>\$4.50</u> per 1,000 gallons from 10,001-20,000
1 1/2"	<u>\$345.00</u>	<u>\$5.50</u> per 1,000 gallons from 20,001 and over
2"	<u>\$540.00</u>	
3"	<u>\$995.00</u>	

SECTION 1.0 -- RATE SCHEDULE

Section 1.01 - Rates

Meter Size

Monthly Minimum Charge

Gallonage Charge

5/8" or 3/4"

\$47.00 (Includes 0 gallons)

\$1.25 per 1000 gallons