



Control Number: 54597



Item Number: 6

**PETITION TO APPOINT A
TEMPORARY MANAGER FOR
NORTHERN HILLS DEVELOPMENT
COMPANY, INC.**

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PUBLIC UTILITY COMMISSION
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ORDER APPOINTING A TEMPORARY MANAGER

This Order addresses the petition filed by Commission Staff for an order appointing Texas Water Utilities, L.P. as temporary manager for Northern Hills Development Company, Inc. The Commission appoints Texas Water Utilities as temporary manager for Northern Hills to the extent provided in this Order. Texas Water Utilities' appointment as temporary manager will begin on the date this Order is signed and will continue until the Commission orders otherwise.

I. Findings of Fact

The Commission makes the following findings of fact.

Utility

1. Northern Hills is a Texas corporation registered with the Texas secretary of state under filing number 23361400.
2. Northern Hills owns and operates for compensation facilities and equipment for the transmission, storage, distribution, sale, or provision of potable water service to the public.
3. Northern Hills provides potable water service to approximately 85 connections in Grayson County under certificate of convenience and necessity (CCN) number 11996.
4. Northern Hills owns and operates a public water system registered with the Texas Commission on Environmental Quality (TCEQ): Northern Hills Water Service, identification number 0910126.

Failure to Pay Wholesale Water Supply Bill

5. The City of Denison is a municipality that operates, maintains, or controls facilities for providing potable water service for compensation.
6. Northern Hills purchases water at wholesale from Denison and uses this wholesale water supply to serve all its retail customers.

7. On December 14, 2022, Denison issued notice to Northern Hills scheduling disconnection of water service to occur on January 4, 2023 due to Northern Hills' failure to pay its wholesale water supply bill.
8. Commission Staff held talks with Denison seeking to delay disconnection of the wholesale water supply to allow for a payment arrangement to be made between Denison and Northern Hills or, in the alternative, for a temporary manager to be appointed.
9. Denison made multiple efforts to establish a payment arrangement with Northern Hills, and Commission Staff communicated to Northern Hills the importance of entering into and adhering to a payment arrangement with Denison. Despite these efforts, Northern Hills has not made wholesale water supply payments to Denison since June 2022.
10. On January 17, 2023, the City Council of the City of Denison adopted Resolution No. 4122, which authorizes the Denison city manager to take all necessary actions to seek payment of all outstanding balances from Northern Hills, including disconnection of service.
11. As of January 23, 2023, Northern Hills owed Denison more than \$60,000 for wholesale water purchases dating back to July 2018.

Petition for Temporary Management

12. On January 26, 2023, Commission Staff filed a petition for an order appointing Texas Water Utilities as temporary manager for Northern Hills beginning on the date the order is signed and ending when the Commission orders otherwise.
13. Commission Staff recommended that the Commission appoint a temporary manager for Northern Hills under Texas Water Code (TWC) § 13.4132 and 16 Texas Administrative Code (TAC) §§ 24.355 and 24.357 because Northern Hills has abandoned operations of its facilities under TWC § 13.412(f)(1) and 16 TAC § 24.355(c)(1).
14. Commission Staff alleged that Northern Hills abandoned operations by failing to pay a bill or obligation owed to a retail public utility with the result that the utility service provider issued a notice of discontinuance of necessary services.

15. Texas Water Utilities currently provides water service to approximately 33,000 customer connections across multiple, geographically separate areas of the state under CCN number 12983.
16. Texas Water Utilities employs or contracts with TCEQ-licensed water operators.
17. Texas Water Utilities is willing to serve as temporary manager for Northern Hills.
18. Commission Staff recommended that Texas Water Utilities be compensated \$15 per water connection per month as compensation for its work as temporary manager for Northern Hills.
19. Commission Staff also requested a waiver of the requirement in 16 TAC § 24.357(c) regarding the temporary manager's duty to post financial assurance with the Commission.

Notice

20. On January 30, 2023, Commission Staff sent a copy of the petition via certified mail, return receipt requested, to the last known addresses of Northern Hills' headquarters. A copy of the petition was also sent by regular mail to the last known address of Texas Water Utilities in Commission records and to Texas Water Utilities' counsel.
21. In Order No. 1 filed on January 27, 2023, the Commission administrative law judge (ALJ) set a hearing on the merits at the Commission's open meeting scheduled for February 16, 2023 to address Commission Staff's petition to appoint Texas Water Utilities as temporary manager for Northern Hills.
22. On February 3, 2023, Commission Staff filed and served upon Northern Hills the required notice of hearing.
23. On February 6, 2023, Commission Staff filed the affidavit of Rose Ramirez, legal assistant in the Commission's division of compliance and enforcement, attesting to the provision of notice of the petition and notice of the hearing.

Evidentiary Record

24. At the prehearing conference held on February 15, 2023, the Commission ALJ admitted into evidence the following Commission Staff exhibits: exhibit number one, petition for an order appointing a temporary manager for Northern Hills; exhibit number 2, affidavit of Rose Ramirez and mailing receipts; and exhibit number 3, notice of hearing.

Hearing

25. On February 16, 2023, the Commission held a hearing to address Commission Staff's petition to appoint Texas Water Utilities as temporary manager for Northern Hills.

II. Conclusions of Law

The Commission makes the following conclusions of law.

1. The Commission has authority over this matter under TWC §§ 13.412 and 13.4132.
2. Northern Hills is a water utility as defined under TWC § 13.002(23) and 16 TAC § 24.3(38).
3. The City of Denison is a retail public utility as defined under TWC § 13.002(19) and 16 TAC § 24.3(31).
4. Commission Staff filed a petition to appoint a temporary manager for Northern Hills in accordance with 16 TAC § 24.355.
5. Notice of the petition was provided by certified mail to the last known address of Northern Hills in accordance with 16 TAC § 22.74.
6. Under TWC § 13.4132(a) and 16 TAC § 24.355(a), the Commission may appoint a willing person to temporarily manage and operate a utility that has discontinued or abandoned operations or the provision of services after providing notice to the utility.
7. The Commission provided Northern Hills with notice and an opportunity to be heard by the Commissioners at an open meeting of the Commission in accordance with TWC § 13.4132(a) and 16 TAC § 24.355(a).
8. TWC § 13.412(f) and 16 TAC § 24.355(c) provide non-exhaustive lists of acts that constitute abandonment.
9. Northern Hills abandoned the operation of its facilities under TWC § 13.412(f)(1) and 16 TAC § 24.355(c)(1) when it failed to pay a bill or obligation owed to a retail public utility or to an electric or gas utility with the result that the utility service provider has issued a notice of discontinuance of necessary services.
10. A temporary manager has all the powers and duties necessary to ensure the continued operation of the utility and the provision of continuous and adequate service to customers,

including but not limited to reading meters, billing for utility service, collecting revenues, disbursing funds, requesting rate increases if needed, accessing all system components, conducting required sampling, making necessary repairs, and performing other acts necessary to assure continuous and adequate utility service as authorized by the Commission under TWC § 13.4132(c) and 16 TAC § 24.357(b).

11. Under 16 TAC § 24.357(d), a temporary manager may be appointed to serve a term in excess of 180 days if an extended term is specified by the Commission.
12. Within 60 days after appointment, a temporary manager is required to provide the Commission with an inventory of all property received as temporary manager under 16 TAC § 24.257(e).
13. A temporary manager is required to report to the Commission on a monthly basis the following items: an income statement for the reporting period; a summary of utility activities, such as improvements or major repairs made, number of connections added, and the amount of water produced or treated; and any other information required by the Commission under 16 TAC § 24.357(h).
14. The compensation for the temporary manager must come from the utility revenues and will be set by the Commission at the time of appointment under 16 TAC § 24.357(f).
15. The requirement to post financial assurance with the Commission may be waived under 16 TAC § 24.357(c).
16. Notice and an opportunity for a hearing was provided to Northern Hills as required by TWC § 13.4132(a) and 16 TAC §§ 22.54(a) and 24.355(a).
17. The Commission processed this docket in accordance with applicable statutes and Commission rules.

III. Ordering Paragraphs

In accordance with these findings of fact and conclusions of law, the Commission issues the following orders.

1. The Commission appoints Texas Water Utilities, L.P. as temporary manager for Northern Hills Development Company, Inc. Texas Water Utilities' appointment as temporary

manager will begin on the date this Order is signed and will continue until the Commission orders otherwise.

2. If Texas Water Utilities wishes to terminate its temporary manager appointment for Northern Hills, it must file a request in this docket at least 60 days before the date it requests the appointment to end.
3. Texas Water Utilities must exercise all the powers and duties necessary to ensure the continued operations of Northern Hills and the provision of continuous and adequate service as required by TWC § 13.4132(c) and 16 TAC § 24.357(b).
4. Within 60 days after appointment, Texas Water Utilities must return to the Commission an inventory of all property received in accordance with 16 TAC § 24.357(e). This inventory must be filed in Docket No. 54635, *Compliance Filing for Docket No. 54597 (Petition to Appoint a Temporary Manager for Northern Hills Development Company, Inc.)*.
5. Texas Water Utilities must report to the Commission on a monthly basis. Under 16 TAC § 24.357(h), by the last day of each month the following documentation for the previous month must be filed: an income statement for the reporting period; a summary of utility activities, such as improvements or major repairs made, number of connections added, and amount of water produced or treated; and any other information required by the Commission. The filings must be made in Docket No. 54635, *Compliance Filing for Docket No. 54597 (Petition to Appoint a Temporary Manager for Northern Hills Development Company, Inc.)*.
6. Texas Water Utilities must comply with all applicable requirements of the TWC, as well as Commission and TCEQ rules.
7. The Commission waives the requirement under 16 TAC § 24.357(c) for Texas Water Utilities to post financial assurance.
8. The Commission sets the compensation for Texas Water Utilities as a temporary manager for Northern Hills at fifteen dollars per connection per month. The temporary manager compensation must come from Northern Hills' revenues.
9. The Commission denies all other motions and any other requests for general or specific relief that have not been expressly granted.

Signed at Austin, Texas the 16th day of February 2023.

PUBLIC UTILITY COMMISSION OF TEXAS



PETER M. LAKE, CHAIRMAN



WILL MCADAMS, COMMISSIONER



LORI COBOS, COMMISSIONER



JIMMY GLOTFELTY, COMMISSIONER



KATHLEEN JACKSON, COMMISSIONER