TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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CHIEF CLERKS OFFICE

ORDER TO COMPEL

AN ORDER to compel the Hardin Water Supply Corporation to terminate water utility service to customers for nonpayment of sewer utility service provided by City of Hardin in Liberty County, Texas; Docket No. 2006-0595-UCR

On January 10, 2007, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered the petition of City of Hardin ("the City") for an order to compel the Hardin Water Supply Corporation ("Hardin WSC") to terminate water utility service for nonpayment of sewer utility service in Liberty County in accordance with the requirements of 30 Texas Administrative Code (TAC) § 291.88(e).

a. City of Hardin is a retail public utility that supplies sewer service in Liberty County. City of Hardin is authorized by the TCEQ to provide such service pursuant to the authority granted in Certificate of Convenience and Necessity ("CCN") No. 20950.

b. City of Hardin has obtained funding through the State or Federal government for the provision, expansion or upgrading of sewer service.

c. Hardin WSC provides retail water utility service in Liberty County pursuant to CCN No. 11270.

d. Hardin WSC provides water utility service to many of City of Hardin's customers ("Affected Customers").

e. The provision of sanitary sewer service to the Affected Customers is integral to Hardin WSC's separate provision of water service to those same customers.

f. City of Hardin is experiencing losses due to uncollected revenue.

g. City of Hardin requested that Hardin WSC enter into an agreement to terminate water

service for the nonpayment of sewer utility service, however, the parties have been unable to negotiate an agreement on this issue.

h. An Order compelling a process for the termination of water utility service for nonpayment of sewer utility service by the Affected Customers is necessary to effectuate the purposes of the Texas Water Code.

WHEREAS, the Commission has jurisdiction to consider this petition and is authorized to make and enter this Order in accordance with Texas Water Code Sections 13.041(b) and 13.250(b).

WHEREAS, the Commission's findings are sufficient to allow the issuance of this Order under 30 TAC § 291.88(e).

NOW, THEREFORE, BE IT ORDERED BY THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY THAT:

1. City of Hardin's petition for an order to compel Hardin WSC to terminate water utility service for nonpayment of sewer utility service is hereby **granted**.
2. Delinquent Customers. This Order is valid for the purpose of compelling Hardin WSC to terminate an Affected Customer's water utility service for nonpayment of sewer utility services owed to City of Hardin. 30 TAC § 291.88(a)(2).
3. Subject to the provisions of 30 TAC § 291.88, the parties must use the following process in order to terminate water utility service for nonpayment of sewer utility service:
   A. Notice to Delinquent Customers. After proper notice to its delinquent customers, City of Hardin may initiate procedures for the disconnection of water service. The notice to delinquent customers must comply with 30 TAC § 291.88(a)(1).
   B. Disconnection. Prior to the intended date of disconnection described in 30 TAC § 291.88(a)(1)(D), City of Hardin shall notify Hardin WSC in writing of any customer account that requires disconnection of water service for nonpayment of sewer utility services by providing the address of the delinquent account and the intended date of disconnection. In order to avoid unnecessary disconnection of water service, City of Hardin shall provide immediate notice to Hardin WSC when a delinquent customer has paid all of its past-due charges prior to the intended date of disconnection and

City of Hardin is no longer requesting disconnection. Prior to disconnection of water service, City of Hardin shall pay Hardin WSC the cost of disconnecting the water service in an amount not to exceed Hardin WSC's established disconnection fee.

C. Reconnecting. If water service is disconnected for nonpayment of sanitary sewer service charges, except as otherwise required by law or as agreed to by City of Hardin, Hardin WSC shall not provide water services to that customer until City of Hardin notifies Hardin WSC that it has received payment of all delinquent sewer collection charges, plus any applicable charges which are then collectible in accordance with City of Hardin's tariff or other applicable law. Hardin WSC may not charge the customer a reconnect fee prior to reconnection unless it is for nonpayment of water service charges in accordance with its approved tariff. Hardin WSC may require the customer to pay any water service charges which have been billed but remain unpaid prior to reconnection. Hardin WSC must follow the service restoration procedures provided in 30 TAC § 291.88(h) of the Texas Administrative Code.

D. Effect on Provision of Water. This Order shall not affect or impair Hardin WSC's rights and obligations with respect to its customers or the provision of water utility services, except as specifically set forth in this Order and as allowed by law.

E. Purpose of Order/Indemnity. This Order is made for the purpose of facilitating the collection of fees for sanitary sewer services provided by City of Hardin. No partnership or joint venture is intended to be created hereby. Hardin WSC's sole responsibility is that of City's agent for disconnection of utility service, and it is ordered that Hardin WSC shall have no responsibility for, and City of Hardin shall indemnify, defend, and hold Hardin WSC harmless for, any damage, claims, or causes of action arising from:

i. the construction, operation, maintenance, repair or existence of the sewer collection system;

ii. the provision of sewer collection service; and

iii. any act or omission relating to such services.

F. Commencement. The effect of this order shall commence after the first billing date which includes service provided on the date that this Order is issued.

G. Automatic Termination. If any provision of this Order is determined by any regulatory or judicial body to be invalid, or in violation of any law, the remainder of the Order shall continue to be valid.

H. Notices. Any notice or communication required or permitted to be given under this Order shall be sufficiently given when received by any other party. It will also be deemed sufficient if it is delivered by hand delivery, mailed by certified mail, postage prepaid, return receipt requested, or sent by facsimile transmission to the addresses indicated below, or to other addresses furnished in writing by any party to all other parties.

City of Hardin
PO Box 324 - County Road 2010
Hardin, Texas 77561-0324

Hardin Water Service Corporation
PO Box 819
Hardin, Texas 77561

Issue Date:_____

TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

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Kathleen Hartnett White, Chairman