

Bryan W. Shaw, Ph.D., *Chairman*  
Buddy Garcia, *Commissioner*  
Carlos Rubinstein, *Commissioner*  
Mark R. Vickery, P.G., *Executive Director*



## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

November 30, 2009

LaDonna Castañuela  
Office of the Chief Clerk  
Texas Commission on Environmental Quality  
P.O. Box 13087, MC-105  
Austin, Texas 78711-3087

Re: Application from Glidden Fresh Water Supply District No. 1 requesting an emergency order compelling the City of Columbus to provide an emergency interconnection in Colorado County, Texas; TCEQ Docket No. 2009-1599-UCR

Dear Ms. Castañuela:

Please find enclosed the Executive Director's Brief and proposed order. Please let me know if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "Stefanie Skogen".

Stefanie Skogen  
Staff Attorney  
Environmental Law Division

Enclosure

cc: Mailing List  
Tammy Holguin-Benter  
Elsie Pascua

TCEQ DOCKET NO. 2009-1599-UCR

APPLICATION FROM GLIDDEN  
FRESH WATER SUPPLY DISTRICT  
NO. 1 REQUESTING AN EMERGENCY  
ORDER COMPELLING THE CITY OF  
COLUMBUS TO PROVIDE AN  
EMERGENCY INTERCONNECTION  
IN COLORADO COUNTY, TEXAS

§  
§  
§  
§  
§  
§  
§  
§

BEFORE THE  
  
TEXAS COMMISSION ON  
  
ENVIRONMENTAL QUALITY

EXECUTIVE DIRECTOR’S BRIEF

The Executive Director (ED) of the Texas Commission on Environmental Quality (TCEQ or Commission) files this brief regarding Glidden FWSD No. 1’s application for an emergency order compelling the City of Columbus to provide Glidden with an emergency interconnection for the provision of temporary sewer service. Glidden filed its application pursuant to section 13.041(d)(2) of the Texas Water Code and title 30, section 291.14(a)(2) of the Texas Administrative Code. Both Glidden and Columbus are retail public utilities, as defined in section 291.3(40). In support of his brief, the ED shows the following:

I. BACKGROUND

Columbus is a municipality that owns and operates a wastewater treatment system. Glidden is a fresh water supply district that owns and operates a wastewater collection system serving approximately 245 connections. Under various contracts between the parties, Columbus has provided wholesale sewer service to Glidden since 1974. The most recent contract between the parties, effective January 27, 2007, expired on January 27, 2009. The parties attempted to renegotiate the contract but did not reach an agreement. On January 20, 2009, Glidden filed a wholesale rate appeal petition with the TCEQ requesting that it review Columbus’ final contract renewal offer of \$8,600 per month for one year. The matter was referred to the State Office of Administrative Hearings (SOAH), TCEQ Docket No. 2009-0120-UCR, SOAH Docket No. 582-

09-2555, and is currently in abatement.<sup>1</sup> The parties did enter into a temporary agreement under which Glidden would pay Columbus \$7,000 per month for wholesale service until the rate case was resolved or October 1, 2009, whichever came first.

On September 25, 2009, Columbus notified Glidden by letter that it would not be renewing their February 6, 2009, agreement and would terminate service upon the contract's expiration. On September 29, 2009, Glidden filed a petition asking the Commission to issue an emergency order requiring Columbus to continue providing sewer service to Glidden. The Commission held an emergency agenda session on October 1, 2009, at which time the Commission granted Glidden's request for an emergency order and established a rate of \$7,000 per month. That order is set to expire on December 30, 2009. The parties have continued to negotiate a settlement but have not yet been able to reach an agreement.

## **II. LEGAL AUTHORITIES**

Under section 13.041(d)(2) of the Texas Water Code, the Commission may issue an emergency order to compel a retail public utility to provide an emergency interconnection with a neighboring retail public utility for the provision of temporary sewer service for not more than ninety days if service discontinuance is imminent.<sup>2</sup>

## **III. ED'S RECOMMENDATION**

Glidden's reasons for requesting an emergency order met the section 13.041(d)(2) requirements. Columbus no longer wanted to provide wholesale service, and Glidden had no other viable option for immediately obtaining such service. Glidden and Columbus have engaged in negotiations since the emergency order was issued but have not yet reached an agreement on a wholesale sewer contract. Therefore, the ED recommends that the Commission affirm the

---

<sup>1</sup> While the case still is abated, Glidden filed a request to establish a procedural schedule and a motion for interim rates on November 20, 2009.

<sup>2</sup> 30 TEX. ADMIN. CODE § 291.14(a)(2) (West 2009).

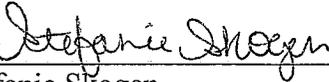
October 1, 2009, emergency order issued in this case and attaches a proposed order to that effect.

Respectfully submitted,

TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

Mark R. Vickery, P.G., Executive Director

Robert Martinez, Director  
Environmental Law Division

By   
Stefanie Skogen  
Staff Attorney  
State Bar of Texas No. 24046858  
Environmental Law Division  
P.O. Box 13087, MC-173  
Austin, Texas 78711  
Phone: (512) 239-0575  
Fax: (512) 239-0606

TCEQ DOCKET NO. 2009-1599-UCR

IN THE MATTER OF AN EMERGENCY § BEFORE THE  
ORDER CONCERNING GLIDDEN §  
FRESH WATER SUPPLY DISTRICT § TEXAS COMMISSION ON  
(FWSD) NO. 1 AND THE CITY OF §  
COLUMBUS IN COLORADO COUNTY, §  
TEXAS § ENVIRONMENTAL QUALITY

**ORDER AFFIRMING EMERGENCY ORDER**

On December 9, 2009, the Texas Commission on Environmental Quality (Commission) considered whether to affirm, modify, or set aside an emergency order regarding Glidden FWSD No. 1's application to compel the City of Columbus to provide an emergency interconnection for the provision of temporary sewer service. The Commission issued the emergency order at an emergency agenda session on October 1, 2009. Both Glidden and Columbus were represented at the October 1, 2009, agenda session. The Commission finds the situation continues to justify the issuance of an emergency order compelling Columbus to provide an emergency interconnection to Glidden for the provision of temporary sewer service.

**THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY  
ORDERS THE FOLLOWING:**

1. The October 1, 2009, emergency order, attached as Exhibit A and incorporated into this order by reference, is affirmed.
2. This order shall be effective for ninety days from the date the emergency order was issued by the Commission.

Issue Date:

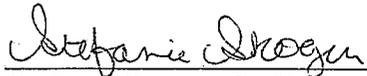
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

---

Bryan W. Shaw, Ph.D., Chairman

**CERTIFICATE OF SERVICE**

I certify that on November 30, 2009, a copy of the foregoing document was sent by first class mail, agency mail, electronic mail, and/or facsimile to the persons on the attached mailing list.

  
Stefanie Skogen, Staff Attorney  
Environmental Law Division

**Mailing List**  
**Glidden FWSD No. 1**  
**TCEQ Docket No. 2009-1599-UCR**

**REPRESENTING GLIDDEN FWSD NO.**

**1:**

Melissa Kilpatrick  
Smith, Murdaugh, Little & Bonham, L.L.P.  
1100 Louisiana Street, Suite 400  
Houston, Texas 77002-5211  
Phone: (713) 652-6500  
Fax: (713) 652-6515

Michael Gershon  
Lloyd Gosselink Rochelle and Townsend,  
P.C.  
816 Congress Avenue, Suite 1900  
Austin, Texas 78701  
Phone: (512) 322-5800  
Fax: (512) 472-0532

**REPRESENTING THE CITY OF COLUMBUS:**

Barbara Boulware-Wells  
Akers & Boulware-Wells, LLP  
6618 Sitio Del Rio Boulevard  
Building E, Suite 102  
Austin, Texas 78730  
Phone: (512) 852-2284  
Fax: (512) 233-0801

**REPRESENTING THE OFFICE OF PUBLIC INTEREST COUNSEL:**

Blas J. Coy, Jr.  
Texas Commission on Environmental Quality  
Office of Public Interest Counsel, MC-103  
P. O. Box 13087  
Austin, Texas 78711-3087  
Phone: (512) 239-6363  
Fax: (512) 239-6377

**OFFICE OF THE CHIEF CLERK:**

LaDonna Castañuela  
Texas Commission on Environmental Quality  
Office of the Chief Clerk, MC-105  
P.O. Box 13087  
Austin, Texas 78711-3087  
Phone: (512) 239-3300  
Fax: (512) 239-3311

**OFFICE OF PUBLIC ASSISTANCE:**

Bridget Bohac  
Texas Commission on Environmental Quality  
Office of Public Assistance, MC-108  
P.O. Box 13087  
Austin, Texas 78711-3087  
Phone: (512) 239-4000  
Fax: (512) 239-4007