

**BEFORE THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS**

In the Matter of Delmer Towns d.b.a. Towns)
Riverview to Show Cause Whether it Should) Docket No. 20-DTRW-120-SHO
Not be Required to Obtain a Certificate of)
Convenience and Necessity to Operate as a)
Potable Water Public Utility.)

**COMMISSION STAFF'S REPLY TO TOWNS' RESPONSE TO STAFF'S
MOTION FOR EMERGENCY RELIEF PURSUANT TO K.S.A. 77-536**

1. On June 17, 2020, the Commission Staff ("Staff") filed a Motion for Emergency Relief Pursuant to K.S.A. 77-536 ("Staff's Emergency Motion").
2. On June 23, 2020, Delmer Towns d.b.a. Towns Riverview ("Towns") submitted its response to Staff's Emergency Motion.
3. Also on June 23, 2020, Staff received a letter from the Kansas Rural Water Association (KRWA) explaining that KRWA has been working with Towns over the last three weeks and the letter details the work that has been done on Towns water system. That letter is attached to this response as **Attachment A**.
4. It is important to update the Commission with this KRWA letter in order to highlight the current efforts being taken by Towns and what efforts still need to be taken.
5. First, Staff asserts that, except for recommendation eight (8) and clarifications that will be discussed below, all other recommendations in Staff's Emergency Motion are necessary and Staff recommends the Commission direct Towns to begin complying with or begin work needed to comply with the recommendations to meet the deadlines provided by Staff.
6. For recommendation six (6), seven (7) and ten (10), Towns responds the same to each, asking the Commission to hold the recommendation "in abeyance to allow Towns to locate a buyer for its water distribution system, or in the alternative, to initiate the process to convert the

water distribution system to a rural water district.”¹ While Staff understands that Towns is busy working with the KDHE and the Commission, these tasks are important to complete and Staff insists that these tasks should be completed in the time frame provided in Staff’s Emergency Motion. It is critical that Towns separate the finances of the water utility from other non-regulated businesses, bill customers in compliance with the Commission’s Billing Standards, and accurately determine the rate at which customers are using water. The blanket response of waiting until Towns can find a buyer or set up a rural water district is not acceptable to Staff. Either one of those solutions could take years to accomplish and require coordination of many other parties that the Commission has no jurisdiction over. These recommendations are not unreasonable. Each recommendation can and should be done in the timeframe provided by Staff. While Staff is optimistic that Towns is searching for a long term solution, Towns offers no timeline for which these solutions will be manifested. In the short term, these problems addressed by the recommendations, need immediate solutions in order to ensure Towns’ customers are being provided with the bare minimum sufficient and efficient service.

7. Towns’ response to recommendation four (4) is not sufficient. Continuous pressure recording charts tied directly to Towns’ water mains at two sites on the southern and eastern extremities of the system are necessary to continuously record the system pressure in areas where customers have experienced sporadic water pressure throughout the day. Towns’ agreement with KDHE, shown in exhibit B to its Response offers pressure readings from different locations taken three to five times a day all within the same hour.² Staff believes this approach does not properly capture the sporadic water pressure problems customers are experiencing. Three to five daily readings all within the same hour will not provide enough data to evaluate the ability of Towns’

¹ Towns Response to Staff’s Motion for Emergency Relief at 6, (Jun. 23, 2020).

² *Id.* Exhibit B.

distribution system to meet customer demand throughout the distribution system of Towns' distribution system.

8. The process of installing and replacing meters in recommendation six (6) needs to begin and be completed by September 2020. As mentioned above, the long term solution of waiting on another entity to buy Towns' water system or waiting on the formation of a rural water district could last years. The process of installing and replacing meters is a solution that protects both Towns and customers. This problem can be solved in the short term and ensure customers are not being over or under charged for water service.

9. To clarify recommendation seven (7), Staff recommends Towns establish a separate checking account for only its water operations. All purchases and operating expenses associated with water operations shall be paid from the water company's checking account. The rates Towns is charging for water service are subject to refund. For now, Staff has not made a final determination either way that Towns' rates are just and reasonable. Because of this, it is important Towns keeps revenues from rates separate from his other businesses.

10. Staff is willing to assist Towns with recommendation ten (10) by creating a template water bill for Towns' customers. This template will have the items needed in the recommendation so Towns can send it to its customers. Towns' customers need to see what they are being charged for their water service and Towns needs to be transparent with its billing as part of meeting the Commission's billing standards.

11. Regarding Towns' assertion that a civil penalty of \$370,400 is not warranted and if the Commission does not agree, Towns requests a hearing before the Commission issues that penalty.³ Staff would agree with this request and has no issue with the Commission waiting for

³ *Id.* at 7.

progress to be made regarding other Commission requirements before holding a hearing to discuss the appropriateness of any sort of penalty.

12. In conclusion, Staff recommends the Commission adopt Staff's recommendations as set forth in Staff's Emergency Motion with an exception and clarifications. Staff recommends allowing recommendation eight (8) be temporarily held in abeyance to allow Towns to locate a buyer for its water distribution system, or in the alternative, to initiate the process to convert the water distribution system to a rural water district. Staff clarifies that Towns' response and proposed solution to recommendation four (4) is not sufficient to properly identify pressure issues throughout the Towns' water distribution system. Staff recommends the Commission direct Towns to begin taking steps to comply with recommendation four (4). Staff recommends the Commission direct Towns to complete the process in recommendation six (6) of installing and replacing meters by September 2020. Staff clarifies recommendation seven (7) should be modified to recommend that Towns create a separate checking account for its water services. All purchases and operating expenses associated with water operations shall be paid from the water company's checking account. Staff will offer to supply a template for recommendation ten (10) in order to help Towns create an actual water bill that provides a breakdown of costs to its customers. Finally, Staff recommends the Commission does not issue a civil penalty on Towns until these issues can be resolved or a hearing can be held.

WHEREFORE, Commission Staff respectfully submits this Reply for Commission consideration.

Respectfully Submitted,

/s/ Cole Bailey

Cole Bailey (27586)

Litigation Counsel

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Kansas Corporation Commission

1500 S.W. Arrowhead Road

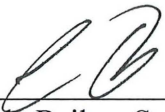
Topeka, Kansas 66604-4027

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VERIFICATION

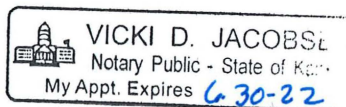
STATE OF KANSAS)
) ss.
COUNTY OF SHAWNEE)

Cole Bailey, of lawful age, being duly sworn upon his oath deposes and states that he is Litigation Counsel for the State Corporation Commission of the State of Kansas; that he has read and is familiar with the foregoing *Commission Staff's Reply to Towns' Response to Staff's Motion for Emergency Relief Pursuant to K.S.A. 77-536*, and attests that the statements therein are true and correct to the best of his knowledge, information and belief.



Cole Bailey, S. Ct. #27586
Litigation Counsel
The State Corporation Commission
of the State of Kansas

SUBSCRIBED AND SWORN to before me this 24th day of June, 2020.





Notary Public

My Appointment Expires: June 30, 2022

ATTACHMENT A



P.O. Box 226 • Seneca, KS 66538 • 785/336-3760
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June 23, 2020

Leo Haynos
Kansas Corporation Commission
1500 SW Arrowhead Road
Topeka, KS 66604-4027

Dear Leo,

In response to the Emergency Order issued by the Kansas Department of Health and Environment (KDHE) dated May 8, 2020 and the letter dated June 8, 2020 sent to Delmer Towns from KDHE, the Kansas Rural Water Association (KRWA) sent Technical Assistant Jon Steele to Garden City to assist Towns Riverview Subdivision staff. Jon visited the system on multiple occasions during the month of June. This letter will serve as a summary of those site visits.

On June 9, 2020, Jon met with Delmer Towns II. Delmer II is currently overseeing the water system and is the main contact during this time. Jon and Delmer performed an abbreviated system evaluation on that day. Jon began to work on Well #2 to bring it online to provide pressure to the south portion of the system. Delmer hired a contractor who replaced 9 valves in the system in order to isolate the north and south portions.

During the week of June 15 – 18, Jon was back onsite. During that week, Jon and Delmer completed the work on Well #2, flushed and disinfected the well. The chlorine disinfection system was repaired and put online. The system uses sodium hypochlorite for disinfection. Bacteriological samples were analyzed by ServiTech laboratory and were negative for coliform bacteria. Jon also performed a drawdown and specific capacity test for Well #2. The well was put online the morning of June 20. Delmer has tracked pressure and chlorine residual in the south portion of the system since the well went online. Chlorine residuals are running from 1.5 mg/L to 2.0 mg/L of free chlorine (the KDHE minimum required is 0.2 mg/L of free chlorine). Pressure has increased as well. Delmer reported the lowest pressure readings are 25 psi at the highest elevations. Jon is returning to the site to make more adjustments to the Well #2 pressure switch, hopefully increasing the minimum pressures at the higher elevations. Jon is planning to install a pressure gauge with a chart recorder to track pressure differences during a 24-hr period.

During Jon's site visits, he found a number of connections that were unmetered and many meters that were past their useful life. Delmer II is compiling a list of locations that new or replacement meters will be installed. Materials estimates, including new meters, piping and valves for line looping and replacement, have been acquired and a plan of action is being created. Delmer has also enlisted an engineering firm to map the system.

A lot of progress has been made this month. Jon reports there is still a lot of work to do to bring this system up to par, but the Towns Riverview Subdivision management team is willing and prepared to get the work done. KRWA will continue to work with the state agencies to assist the system and its customers. If you have any other questions, please contact KRWA and we will get whatever information you need.

Sincerely,

Daryn Martin
Technical Assistant

CERTIFICATE OF SERVICE

20-DTRW-120-SHO

I, the undersigned, certify that a true and correct copy of the above and foregoing Staff's Reply to Towns' Response to Staff's Motion for Emergency Relief Pursuant to K.S.A. 77-536, was electronically served this 24th day of June, 2020, to the following:

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Vicki Jacobsen