



Control Number: 43121



Item Number: 13

Addendum StartPage: 0

PUC DOCKET NO. 43121

**REQUEST BY EDE AND RANDY
BULLOCK FOR DETERMINATION
OF RCH WATER SUPPLY
CORPORATION'S COMPLIANCE
WITH TEXAS WATER CODE
SEC. 13.004 (37766-I)**

§
§
§
§
§
§

PUBLIC UTILITY COMMISSION

RECEIVED
2015 OCT 21 AM 11:13

PUBLIC UTILITY COMMISSION
OF TEXAS
FILING CLERK

**RCH WATER SUPPLY CORPORATION'S
SUPPLEMENTAL RESPONSE TO ORDER NO. 2**

TO THE PUBLIC UTILITY COMMISSION:

The RCH Water Supply Corporation ("RCH") hereby provides the additional information requested in Order No. 2.

I. INTRODUCTION AND BACKGROUND

On September 24, 2015, RCH asserted that the PUC's jurisdiction in this proceeding is limited. On September 29, 2015, Commission Staff responded by recommending the production of certain documents by RCH. On September 30, 2015, Order No. 2 required the additional documents be submitted by October 15, 2015. On October 15, 2015, RCH provided the requested tariff and requested additional time to provide information related to documents from the Secretary of State. RCH hereby provides additional documentation from the Secretary of State.

III. DOCUMENTS

Order No. 2 required the following:

1. A copy of RCH's current tariff and service regulations;
2. Documentation showing: (a) that RCH is a non-profit corporation with the Secretary of State's Office; (b) it has been registered as a non-profit for the past two years; and (c) status as a non-profit is up-to-date and in good standing with the Secretary of State's Office.

RCH provided its tariff on October 15, 2015.

According to the Secretary of State's website, RCH received a certificate of involuntary termination on February 7, 2014. However, RCH believes the involuntary termination was issued in error. The termination was issued for failure to provide a Nonprofit Periodic Report, not for the failure to pay any tax or fees. RCH has been attempting to locate the periodic report submitted to the Secretary of State in 2013, but has not been successful to date in its location.

Thus, out of an abundance of caution and without admitting that it failed to submit the periodic report, RCH submitted the periodic report to the Secretary of State. Upon receipt of the report, the Secretary of State reinstated RCH's existence. See Exhibit A, attached hereto and incorporated herein for all purposes. As explained below, if RCH had submitted the periodic report in 2013 or in October 2015, the effect is the same: the PUC has no jurisdiction over Randy and Ede Bullock's complaint.

Even though RCH believes that it filed all reports in a timely manner, the Secretary of State acted in accordance with Tex. Bus. Org. Code Sec. 11.251 (b)(1)(A) and terminated RCH's existence for failure to file a periodic report. However, according to Tex. Bus. Org. Code Sec. 11.253, upon filing the required report, the Secretary of State shall reinstate RCH. Out of an abundance of caution, RCH filed both the periodic report and a certificate of reinstatement, but was informed by the Secretary of State that a certificate of reinstatement was unnecessary. See Exhibit B, attached hereto and incorporated herein for all purposes. The Secretary of State indicated that filing the periodic report, Secretary of State Form 802, was sufficient to reinstate RCH.

However, most importantly, Tex. Bus. Org. Code Sec. 11.253(d) provides as follows:

“(d) If a filing entity is reinstated before the third anniversary of the date of its involuntary termination, **the entity is considered to have continued in existence without interruption from the date of termination.** The reinstatement shall have no effect on any issue of personal liability of the governing persons, officers, or agents of

the filing entity during the period between termination and reinstatement.” (emphasis added).

Thus, the Secretary of State has indicated that RCH has complied with all steps necessary for reinstatement, even though RCH asserts that involuntary termination should not have occurred. However, regardless, by reinstatement before the third anniversary of the state of the involuntary termination, RCH is considered to have continued in existence without interruption from the date of termination.

The Secretary of State website information page for RCH indicates that RCH is a corporation that is “in existence”. See Exhibit C, attached hereto and incorporated herein for all purposes. The “involuntary termination” of RCH that occurred on February 7, 2014, has been corrected. RCH is now considered to have been in existence without interruption.¹

Regarding the specific documents requested in Order No. 2, RCH provides the following documents:

(a) Documentation that shows that RCH is a non-profit corporation with the Secretary of State’s Office.

The orange highlighted information in Exhibit C demonstrates the Secretary of State’s treatment of RCH as a non-profit corporation.

(b) Documentation that shows that RCH has been registered as a non-profit for the past two years.

The pink highlighted information in Exhibit A coupled with Tex. Bus. Org. Code Sec. 11.253(d) demonstrates that RCH has been registered as a non-profit for the past two years. Further, RCH directs attention to the orange highlighted information in Exhibit C. Exhibit C does not demonstrate any termination of RCH’s existence that has not since been corrected. The State of Texas considers RCH to have been registered as a non-profit for the past two years.

¹ See Tex. Bus. Org. Code Sec. 11.253(d).

(c) Documentation that shows that RCH's status as a non-profit is up-to-date and in good standing with the Secretary of State's Office.

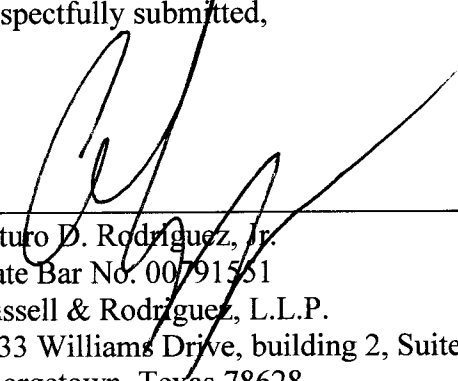
See the pink highlighted information on Exhibit A. Additionally, see the green highlighted area on Exhibit C. To RCH's knowledge, the Secretary of State does not issue a "Certificate of Good Standing." Thus, the documents provided are the only documents available to RCH at this time.

As explained by RCH in its Response to Order No. 1, filed on September 24, 2015, the PUC's jurisdiction is only invoked pursuant to PUC Rule § 24.35. RCH has demonstrated that RCH is a water supply corporation as defined by Tex. Water Code §13.002 (24) and has operated as a non-profit corporation pursuant to the laws of the State of Texas since 1961.²

III. PRAYER

RCH has demonstrated through this filing and the documentation provided in RCH's response to Order No. 1 that the PUC cannot exercise jurisdiction pursuant to TWC §13.004 and 10 Tex. Admin. Code § 24.35. As such, RCH prays for entry of an order dismissing the docket and all charges asserted against RCH.

Respectfully submitted,



Arturo D. Rodriguez, Jr.
State Bar No. 00791551
Russell & Rodriguez, L.L.P.
1633 Williams Drive, building 2, Suite 200
Georgetown, Texas 78628
T: (512) 930 1317
F: (866) 929-1641

ATTORNEY FOR RCH WATER SUPPLY
CORPORATION

² See Exhibit C.

CERTIFICATE OF SERVICE

I hereby certify that on the 21st day of October, 2015, a true and correct copy of the foregoing document was served on the individuals listed below by hand delivery, email, facsimile or First Class Mail.

Katherine Lengieza Gross
Attorney – Legal Division
Public Utility Commission of Texas
1701 N. Congress Avenue
P. O. Box 13326
Austin, Texas 78711-3326
Telephone: (512) 936-7277
Facsimile: (512) 936-7268
Representing the Public Utility
Commission of Texas

Randy and Ede Bullock
P.O. Box 2303
Rockwall, Texas 75087



Arturo D. Rodriguez, Jr.



Office of the Secretary of State

CERTIFICATE OF FILING OF

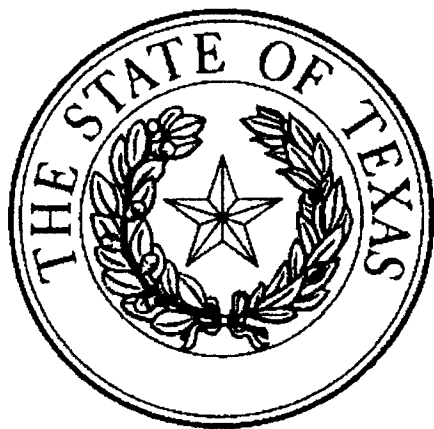
RCH WATER SUPPLY CORPORATION
File Number: 17642701

The undersigned, as Secretary of State of Texas, hereby certifies that the Nonprofit Periodic Report for the above named entity has been received in this office and has been found to conform to the applicable provisions of law.

ACCORDINGLY, the undersigned, as Secretary of State, and by virtue of the authority vested in the secretary by law, hereby issues this certificate evidencing filing effective on the date shown below.

Dated: 10/15/2015

Effective: 10/15/2015



A handwritten signature in black ink, appearing to read "Cascos", followed by a horizontal line.

Carlos H. Cascos
Secretary of State

EXHIBIT A



Office of the Secretary of State

October 15, 2015

Russell & Rodriguez, L.L.P.
1633 Williams Drive, Bldg. 2, Suite 200
Georgetown, TX 78628 USA

Batch Number: 63592769

Document Number: 635927690003

Re: RCH WATER SUPPLY CORPORATION
File Number: 17642701
Reinstatement

This office has received and reviewed the above referenced document. The review reveals the following objections to the filing of the document. If payment of fees were to be charged to a credit card, LegalEase®, or a SOS client account, the account has not been charged.

1. Where the corporate existence of a Texas nonprofit corporation has been forfeited for failure to file a periodic report, the entity does not file an application for reinstatement. Form 811 is NOT required to reinstate this entity. Form 802 has sufficed to reinstate this entity.

Sincerely,

Michelle Ledesma
Corporations Section
Business & Public Filings Division
512-475-2705

EXHIBIT B

TEXAS SECRETARY of STATE

CARLOS H. CASCOS

[UCC](#) | [Business Organizations](#) | [Trademarks](#) | [Notary](#) | [Account](#) | [Help/Fees](#) | [Briefcase](#) | [Logout](#)

BUSINESS ORGANIZATIONS INQUIRY - VIEW ENTITY

Filing Number: 17642701 **Entity Type:** Domestic Nonprofit Corporation
Original Date of Filing: July 24, 1961 **Non-Profit Type:** Water Supply Corporation
Formation Date: N/A **FEIN:**
Tax ID: 32019810947
Duration: Perpetual

Name: RCH WATER SUPPLY CORPORATION
Address: 811 YELLOW JACKET LN STE 102
 Rockwall, TX 750874819 USA

<u>REGISTERED AGENT</u>		<u>FILING HISTORY</u>	<u>NAMES</u>	<u>MANAGEMENT</u>	<u>ASSUMED NAMES</u>	<u>ASSOCIATED ENTITIES</u>	
<u>View Image</u>	<u>Document Number</u>	<u>Filing Type</u>	<u>Filing Date</u>	<u>Effective Date</u>	<u>Eff. Cond</u>	<u>Page Count</u>	
<input checked="" type="checkbox"/>	7268808	Articles of Incorporation	July 24, 1961	July 24, 1961	No	4	
<input checked="" type="checkbox"/>	3585478	Nonprofit Periodic Report	June 9, 1986	June 9, 1986	No	1	
<input checked="" type="checkbox"/>	145148460001	Report Notice	September 26, 2006	September 26, 2006	No	1	
<input checked="" type="checkbox"/>	149069900001	Notice of Forfeited Rights for Non-Filing of Periodic Report	October 27, 2006	October 27, 2006	No	1	
<input checked="" type="checkbox"/>	161839060001	Involuntary Dissolution	February 28, 2007	February 28, 2007	No	1	
<input checked="" type="checkbox"/>	183644780002	Nonprofit Periodic Report	August 23, 2007	August 23, 2007	No	2	
<input checked="" type="checkbox"/>	272966800002	Articles of Amendment	August 31, 2009	August 31, 2009	No	2	
<input checked="" type="checkbox"/>	496293540002	Certificate of Amendment	August 20, 2013	August 20, 2013	No	3	
<input checked="" type="checkbox"/>	496870910001	Report Notice	August 27, 2013	August 27, 2013	No	1	
<input checked="" type="checkbox"/>	507085820001	Notice of Forfeited Rights for Non-Filing of Periodic Report	October 3, 2013	October 3, 2013	No	1	
<input checked="" type="checkbox"/>	528241910001	Certificate of Involuntary Termination	February 7, 2014	February 7, 2014	No	1	
N/A	635927690002	Nonprofit Periodic Report	October 15, 2015	October 15, 2015	No	N/A	

[Order](#) [Return to Search](#)

Instructions:

- To place an order for additional information about a filing press the 'Order' button.

EXHIBIT C