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PETITION BY CITY OF HOUSTON §  
TO CANCEL BELLEWOOD WATER §  
SUPPLY CORPORATION'S §  
CERTIFICATE OF CONVENIENCE §  
AND NECESSITY IN HARRIS §  
COUNTY §

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PUBLIC UTILITY COMMISSION  
OF TEXAS  
FILING CLERK

### JOINT PROPOSED DEFAULT ORDER

**COMES NOW** the Staff of the Public Utility Commission (Staff), representing the public interest, together with the City of Houston (the City) (collectively, the Parties), and files this Joint Proposed Default Order. In support thereof, the Parties show the following:

#### I. BACKGROUND

On April 22, 2015, the City filed a petition to cancel Bellewood Water Supply Corporation's (Bellewood WSC) water certificate of convenience and necessity (CCN) No. 12476 in Harris County (the Petition). Notice of the Petition was published in the *Texas Register* on May 8, 2015. The City filed an amended Petition (Amended Petition) on July 29, 2015.

In the Amended Petition, the City asserts that Bellewood WSC is a defunct corporation that forfeited its corporate charge in 2009.<sup>1</sup> The City further asserts that it has no ownership interest in Bellewood WSC, but began providing water service to 35 existing connections in 2009.<sup>2</sup> The City also states that it has been receiving annual Notices of Violation for Bellewood WSC's expired registration.<sup>3</sup>

Order No. 6, issued September 8, 2015, found the Amended Petition administratively complete and ordered the City to provide notice to customers and neighboring utilities, and Staff to provide notice to Bellewood WSC. Staff filed its affidavit of notice to Bellewood WSC on September 25, 2015 reflecting that notice was served via certified mail, return receipt requested, to Bellewood WSC at Bellewood WSC's last known address in the Commission records, its

<sup>1</sup> Petition at 8.

<sup>2</sup> *Id.* The City's supplemental filing (*Amended Petition*) of July 29, 2015 updates the number of existing connections from 20 (as stated in its original Petition) to 35.

<sup>3</sup> *Id.*

Registered Agent for process on file with the Secretary of State and additional addresses found by Staff. The City filed its affidavit of notice to customers and neighboring utilities on September 28, 2015. No response from Bellewood WSC was received.

On October 26, 2015 the Parties filed a Joint Motion for Issuance of a Default Order of Revocation. Order No. 8, issued October 28, 2015, directed the Parties to file a proposed default order by November 16, 2015. Therefore, this pleading is timely filed.

## **II. JOINT MOTION FOR APPROVAL**

The attached Joint Proposed Default Order would grant the City's Amended Petition to cancel Bellewood WSC's water CCN No. 12476 in Harris County.

## **III. CONCLUSION**

The Parties respectfully request that the Commission adopt the attached Joint Proposed Default Order.

Respectfully Submitted,

PUBLIC UTILITY COMMISSION STAFF

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A handwritten signature in black ink, appearing to read 'Erika Banks', is written over a horizontal line.

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**DOCKET NO. 44669**  
**CERTIFICATE OF SERVICE**

I certify that a copy of this document will be served on all parties of record November 16, 2015, in accordance with 16 TAC § 22.74.



Erika Banks

**DOCKET NO. 44669**

**PETITION BY CITY OF HOUSTON  
TO CANCEL BELLEWOOD WATER  
SUPPLY CORPORATION'S  
CERTIFICATE OF CONVENIENCE  
AND NECESSITY IN HARRIS  
COUNTY**

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**PUBLIC UTILITY COMMISSION  
  
OF TEXAS**

**JOINT PROPOSED DEFAULT ORDER**

This Order addresses the petition of the City of Houston (the City) to cancel Bellewood Water Supply Corporation's (Bellewood WSC) water certificate of convenience and necessity (CCN) No. 12476 in Harris County (the Petition). The City's Petition is granted and Bellewood WSC's CCN No. 12476 is cancelled.

**I. FINDINGS OF FACT**

1. Bellewood WSC is a retail public utility that operated under CCN No. 12476.
2. Bellewood WSC is a defunct corporation that forfeited its corporate charge in 2009.
3. Bellewood WSC is incapable of providing service and failed to provide continuous and adequate service in the area covered by CCN No. 12476.
4. Bellewood WSC failed to meet the performance requirements for a CCN holder in TWC § 13.250 and 16 TAC § 24.114.
5. On April 22, 2015 the City filed its Petition seeking to cancel Bellewood WSC's CCN No. 12476.
6. Notice of the Petition was published in the *Texas Register* on May 8, 2015.
7. On July 29, 2015 the City filed an Amended Petition, including a revised list of the neighboring utility service providers providing the same type of service within two miles of Bellewood WSC's CCN service area, and proposed notice forms.
8. The City has no ownership interest in Bellewood WSC, but began providing water service to 35 existing connections in 2009.
9. The City has been receiving annual Notice of Violations for Bellewood WSC's expired registration.

10. On September 8, 2015, in Order No. 6, the administrative law judge (ALJ) found the City's Amended Petition administratively complete and approved Staff's proposed notice to Bellewood WSC.
11. On September 10, 2015, Staff sent by certified mail the approved Notice of Opportunity for a Hearing, as well as a copy of the Amended Petition, and a copy of Staff's Response to Order No. 5 (collectively, Notice Materials) to Bellewood WSC's last known address in the Commission's records, to Bellewood WSC's registered agent for process on file with the Secretary of State, and all additional addresses found by Staff.
12. On September 25, 2015 Staff filed an affidavit reflecting that Staff served notice on Bellewood WSC in accordance with the approved methods of service.
13. The Notice of Opportunity for Hearing included the required disclosure in at least 12-point, bold-face type.
14. On September 28, 2015, the City filed an affidavit of notice provided to customers and neighboring utilities.
15. More than 30 days have passed since service of the Notice Materials.
16. Bellewood WSC has not requested a hearing on the merits.

## **II. CONCLUSIONS OF LAW**

1. The Commission has jurisdiction over the subject matter of this proceeding pursuant to TWC § 13.041(a), 13.250, and 13.254.
2. Pursuant to 16 TAC § 24.3(16), a CCN is defined as "a permit issued by the commission which authorizes and obligates a retail public utility to furnish, make available, render, or extend continuous and adequate retail water or sewer service to a specified geographic area."
3. Pursuant to 16 TAC § 24.3(58), a retail public utility is defined as "any person, corporation, public utility, water supply or sewer service corporation, municipality, political subdivision or agency operating, maintaining, or controlling in this state facilities for providing potable water service or sewer service, or both, for compensation."
4. The Commission may revoke the CCN pursuant to TWC § 13.254 if it finds that a retail public utility that possesses a CCN "has never provided, is no longer providing, is incapable of providing, or has failed to provide continuous and adequate service in the area, or part of the area, covered by the certificate" in violation of TWC § 13.250 and 16 TAC § 24.114.

5. Pursuant to 16 TAC § 22.1(b), the proceedings under the Texas Water Code are governed by the Commission's procedural rules.
6. A presiding officer may issue a default order on an informal basis without a hearing on the merits pursuant to Administrative Procedure Act, Tex. Gov't Code Ann. § 2001.056(4) (West 2008 & Supp. 2014) and 16 TAC § 22.183 if the defaulting party fails to request a hearing within 30 days of the notice of an opportunity for a hearing.
7. Pursuant to 16 TAC § 22.183, the requirements for disposition by default have been met in this proceeding.

### **III. ORDERING PARAGRAPHS**

In accordance with these findings of fact and conclusions of law, the Commission issues the following order:

1. The City's Amended Petition for cancellation of Bellewood WSC's CCN No. 12476 is granted.
2. Bellewood WSC's CCN No. 12476 is cancelled.
3. All other motions, requests for entry of specific findings of fact and conclusions of law, and any other requests for general or special relief, if not expressly granted herein, are denied.

**SIGNED AT AUSTIN, TEXAS the \_\_\_\_\_ day November 2015.**

**PUBLIC UTILITY COMMISSION OF TEXAS**

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**STEPHANIE FRAZZELL  
ADMINISTRATIVE LAW JUDGE**