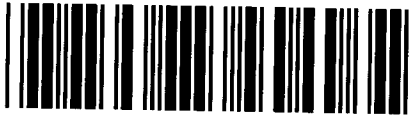


Control Number: 45276



Item Number: 6

Addendum StartPage: 0

**DOCKET NO. 45276**

**PETITION TO REVOKE SAN  
JACINTO UTILITY,  
INCORPORATED'S CERTIFICATE  
OF PUBLIC CONVENIENCE AND  
NECESSITY PURSUANT TO TEX.  
WATER CODE ANN. § 13.254 AND  
16 TAC § 24.113**

§  
§  
§  
§  
§  
§  
§

**PUBLIC UTILITY COMMISSION  
OF TEXAS**

2016 FEB 16 PM 2:01  
FILED  
FILING CLERK

**DEFAULT ORDER**

This Order addresses the petition of the Public Utility Commission of Texas (Commission) Staff to revoke the Certificate of Public Convenience and Necessity (CCN) of San Jacinto Utility, Incorporated (San Jacinto Utility) regarding San Jacinto Utility's violations of the Texas Water Code and Commission rules (Petition). Commission Staff's Petition is granted and San Jacinto Utility's CCN No. 20606 is revoked.

The Commission adopts the following findings of fact and conclusions of law:

**I. Findings of Fact**

1. San Jacinto Utility is a retail public utility granted CCN No. 20606 by the Texas Commission on Environmental Quality (TCEQ) to provide sewer service on August 28, 1991.
2. The original owner of San Jacinto Utility passed away in 1997.
3. At that time, San Jacinto Utility was placed into a receivership and Mr. David Lucas was appointed as receiver.
4. On or before May 2008, Mr. Lucas left the State of Texas and abandoned the San Jacinto Utility. Mr. Lucas did not receive permission from the court to abandon the utility as receiver, nor did he arrange for another party to operate the utility.
5. The Office of the Attorney General determined that a new receiver could not be appointed because the utility had been under receivership for too long.

6. Efforts to appoint a temporary manager by TCEQ failed because of the extremely poor condition of the wastewater treatment plant and the lack of a discharge permit for the wastewater treatment plant.
7. In June 2009, the Johnson County Public Works notified all property owners that the wastewater treatment plant needed to be shut down due to its extremely poor condition.
8. By June 2011, all former property owners served by San Jacinto Utility had each installed an onsite sewage facility and were disconnected from the San Jacinto Utility system.
9. After all former customers served by the San Jacinto Utility wastewater treatment plant were disconnected the wastewater treatment plant was dismantled and the utility ceased to operate.
10. On October 23, 2015, Commission Staff filed the Petition and provided notice of opportunity for hearing seeking revocation of San Jacinto Utility's CCN No. 20606.
11. The Petition included the required disclosure in at least 12-point, bold-face type.
12. The Petition was sent by certified mail, return receipt requested, to the owner of San Jacinto Utility's last known address in the Commission's records, the address used in TCEQ proceedings, the address for the registered agent for process on file with the Texas Secretary of State (SOS), and the address for the director of San Jacinto on file with the SOS.
13. More than 30 days have passed since service of the Petition and notice of opportunity for hearing.
14. San Jacinto Utility did not request a hearing on the merits.

## **II. Conclusions of Law**

1. Tex. Water Code. Ann. § 13.242 (West 2008 and Supp. 2014) (TWC) provides that a "utility ... may not in any way render ... sewer utility service directly or indirectly to the public without first having obtained from the utility commission a certificate that the present or future public convenience and necessity will require that installation, operation, or extension."

2. 16 TAC § 24.3(15) defines a CCN 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. 16 TAC § 24.3(58) defines a retail public utility 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. TWC § 13.250 and 16 TAC § 24.114 require a retail public utility that possesses a CCN to provide "continuous and adequate service."
5. If the Commission 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, the Commission may revoke the CCN pursuant to TWC § 13.254 and 16 TAC § 24.113.
6. San Jacinto Utility failed to meet the performance requirements for a CCN holder in TWC § 13.250 and 16 TAC § 24.114.
7. San Jacinto Utility is incapable of providing continuous and adequate service in the area covered by CCN No. 20606.
8. Issuance of a default order against San Jacinto Utility is appropriate because San Jacinto Utility failed to request a hearing within 30 days of service of the notice of an opportunity for a hearing, as provided in 16 TAC § 22.183(a).
9. Pursuant to 16 TAC § 22.183, the requirements for disposition by default have been met in this proceeding.

### **III. Ordering Paragraphs**

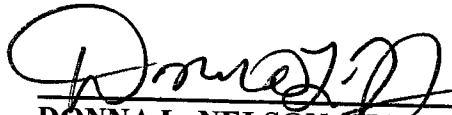
In accordance with these findings of fact and conclusions of law, the Commission issues the following order:

1. Commission Staff's Petition is granted.
2. San Jacinto Utility's CCN No. 20606 is revoked.

3. The Commission shall not be constrained in any manner from requiring additional action or penalties for violations that are not raised here.
4. All other motions, requests for entry of specific findings of fact and conclusions of law, and any other request for general or specific relief, if not expressly granted herein, are denied.

SIGNED AT AUSTIN, TEXAS the 16<sup>th</sup> day of February 2016.

PUBLIC UTILITY COMMISSION OF TEXAS



DONNA L. NELSON, CHAIRMAN



KENNETH W. ANDERSON, JR., COMMISSIONER



BRANDY MARTY MARQUEZ, COMMISSIONER