



Control Number: 47069



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Kenneth W. Anderson, Jr.
Commissioner

Brandy Marty Marquez
Commissioner

Brian H. Lloyd
Executive Director



Greg Abbott
Governor

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PUBLIC UTILITY COMMISSION
CLERK

Public Utility Commission of Texas

TO: Kenneth W. Anderson, Jr., Commissioner
Brandy Marty Marquez, Commissioner

All Parties of Record

FROM: Irene Montelongo
Director, Docket Management

RE: **Open Meeting of June 29, 2017**
PUC Docket No. 47069 – Petition To Revoke Boca Chica Water System Inc.'s Certificate of Convenience and Necessity Under Tex. Water Code § 13.254 and 16 Tex. Admin. Code § 24.113

DATE: June 1, 2017

Enclosed is a copy of the Proposed Default Order in the above-referenced docket. The Commission will consider this docket at an open meeting presently scheduled to begin at 9:30 a.m. on Thursday, June 29, 2017, at the Commission's offices, 1701 North Congress Avenue, Austin, Texas. The parties shall file corrections or exceptions to the Proposed Default Order on or before Wednesday, June 21, 2017.

If there are no corrections or exceptions, no response is necessary.

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DOCKET NO. 47069

PETITION TO REVOKE BOCA CHICA	§	PUBLIC UTILITY COMMISSION
WATER SYSTEM INC.'S	§	
CERTIFICATE OF CONVENIENCE	§	OF TEXAS
AND NECESSITY UNDER TEX.	§	
WATER CODE § 13.254 AND 16 TEX.	§	
ADMIN. CODE § 24.113	§	

PROPOSED DEFAULT ORDER

This Order addresses the petition of Commission Staff to revoke the certificate of public convenience and necessity of Boca Chica Water System, Inc. for violations of the Texas Water Code¹ and Commission rules.² Commission Staff's petition is granted and certificate of convenience and necessity 11736 is revoked.

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

I. Findings of Fact

1. Boca Chica is a retail public utility that was granted certificate of convenience and necessity 11736.
2. Boca Chica is located in Cameron County, approximately 16 miles east of Brownsville International Airport on State Highway 4.
3. On September 23, 1981, Boca Chica filed an application with the Texas Secretary of State (SOS) to become a Texas corporation.
4. Boca Chica has ceased to operate and is now listed as "Forfeited Existence" on the SOS's website.
5. Boca Chica is no longer in business and the facilities used to provide continuous and adequate service are inactive.
6. On April 14, 2017, Commission Staff filed a petition and provided notice of opportunity for hearing seeking revocation of Boca Chica's certificate 11736.
7. The petition included the required disclosure in at least 12-point, bold-face type.

¹Tex. Water Code Ann. § 13.254 (West 2008 and Supp. 2016) (TWC).

² 16 Texas Administrative Code § 24.113 (TAC).

8. The petition was sent by certified mail, return receipt requested, to the addresses Commission Staff was able to find for Boca Chica after reasonable investigation. More specifically, the petition was sent by certified mail, return receipt requested, to the addresses and officers that Boca Chica most recently had on file with the Commission.
9. More than 30 days have passed since service of the petition to Boca Chica.
10. Boca Chica did not request a hearing on the merits.

II. Conclusions of Law

1. TWC § 13.242 provides that a "utility ... may not in any way render retail water ... 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. Under 16 TAC § 24.3(14), a CCN is "[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 utility service to a specified geographic area."
3. Under 16 TAC § 24.3(58), a retail public utility is "[a]ny 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 certificate to provide "continuous and adequate service."
5. If the Commission finds that a retail public utility that possesses a certificate "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 certificate under TWC § 13.254 and 16 TAC § 24.113.
6. Boca Chica failed to meet the performance requirements for a certificate holder under TWC § 13.250 and 16 TAC § 24.114 when it ceased operating and ceased to provide continuous and adequate service.

7. Boca Chica is incapable of providing continuous and adequate service in the area covered by certificate 11736.
8. Issuance of a default order against Boca Chica is appropriate because Boca Chica 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. The requirements for disposition by default in 16 TAC § 22.183 the 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 orders:

1. Commission Staff's petition is granted.
2. Boca Chica's certificate 11736 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 _____ day of June 2017.

PUBLIC UTILITY COMMISSION OF TEXAS

KENNETH W. ANDERSON, JR., COMMISSIONER

BRANDY MARTY MARQUEZ, COMMISSIONER