



Control Number: 48461



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DOCKET NO. 48461

PETITION TO REVOKE L H L
INDUSTRIES, INC.'S CERTIFICATE
OF CONVENIENCE AND NECESSITY
PURSUANT TO TEXAS WATER
CODE § 13.254 AND 16 TEXAS
ADMINISTRATIVE CODE § 24.245

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PUBLIC UTILITY COMMISSION

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COMMISSION STAFF'S AMENDED PETITION TO REVOKE
L H L INDUSTRIES, INC.'S
CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY AND
NOTICE OF OPPORTUNITY FOR A HEARING

Staff of the Public Utility Commission of Texas (Commission) files this Amended Petition to Revoke L H L Industries, Inc.'s Certificate of Public Convenience and Necessity (Amended Petition) and hereby provides notice of the opportunity to request a hearing on the merits of this Amended Petition.

I. INTRODUCTION

For the reasons discussed below, the water service Certificate of Public Convenience and Necessity (CCN) No. 11271 for L H L Industries, Inc. (L H L) should be revoked. Upon investigation, Commission Staff has determined that the public water system associated with L H L is inactive, and that the CCN should be revoked.

In the event L H L fails to request a hearing within thirty days of service of this Amended Petition, a default order should be issued, without additional notice to L H L, granting all relief sought in this Amended Petition. In support of this Amended Petition, Commission Staff respectfully shows the following:

II. JURISDICTION AND LEGAL AUTHORITY

The Commission is authorized to regulate and supervise the business of each water and sewer utility within its jurisdiction.¹ Pursuant to Tex. Water Code § 13.242 (TWC), a "water supply or sewer service corporation may not in any way render retail water or sewer utility service directly

¹ Tex. Water Code § 13.041 (TWC).

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.”

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.”² 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.”³

A retail public utility that possesses a CCN is required to provide continuous and adequate service.⁴ A retail public utility that possesses a CCN and fails to provide continuous and adequate service may be subject to revocation.⁵ As part of this authority, the Commission, “after notice and hearing, may revoke or amend any” CCN if the Commission finds that “the certificate holder 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.”⁶

Pursuant to the contested case provisions of the Administrative Procedure Act,⁷ a party is entitled to an opportunity for a hearing after reasonable notice of not less than 10 days, where the party may respond to and present evidence and argument on each issue involved in the case.⁸ If a hearing is not requested within thirty days after service of notice of an opportunity for hearing, a default occurs.⁹ Upon default, the presiding officer may issue a default order, revoking the certificate without a hearing on an informal basis.¹⁰

III. FACTUAL ALLEGATIONS

L H L is located in Brazoria County, Texas near the City of Houston. On January 11, 1972, L H L filed an application with the Secretary of State to become a Texas corporation. On November

² 16 Tex. Admin. Code § 24.3(14) (TAC).

³ TWC § 13.002(19) and 16 TAC § 24.3(59).

⁴ See TWC § 13.250(a) and 16 TAC § 24.247.

⁵ TWC § 13.254(a)(1) and 16 TAC 24.245(i)(1)(A).

⁶ *Id.*

⁷ Administrative Procedure Act, Tex. Gov’t Code §§ 2001.001-.902 (APA).

⁸ APA §§ 2001.051.

⁹ 16 TAC § 22.183.

¹⁰ APA § 2001.056(4) and 16 TAC § 22.183.

1, 1979, L H L was granted CNN No. 11271. L H L underwent a tax forfeiture on March 16, 1981. The utility has ceased to operate, and is now listed as inactive on the Secretary of State's website. Commission Staff's review of Commission's records indicate that L H L is no longer in business, and the facilities it used to provide continuous and adequate service are inactive. Therefore, L H L is no longer providing and is incapable of providing continuous and adequate service.

IV. RECOMMENDATION FOR REVOCATION

The Commission should revoke L H L's CCN No. 11271 because L H L is no longer in business, and the facilities it used to provide continuous and adequate service are inactive.¹¹ As long as CCN No. 11271 continues to remain in effect, it may be a violation of Commission rules for another company to provide service in the certificated area.¹²

For the above stated reasons, Commission Staff recommends revocation of CCN No. 11271 pursuant to TWC § 13.254(a)(1) and 16 TAC § 24.245(i)(1)(A).

V. NOTICE OF OPPORTUNITY FOR HEARING

16 TAC §§ 22.54 and 22.55 require Commission Staff to provide reasonable notice to persons affected by a proceeding in accordance with the Administrative Procedure Act.¹³ In license revocation proceedings, APA § 2001.054 requires that notice be given "by personal service or by registered or certified mail to the license holder of facts or conduct alleged to warrant the intended action." In order to proceed on a default basis, 16 TAC § 22.183 requires Commission Staff to provide notice by certified mail, return receipt requested: (a) to a certificate holder's last known address in the Commission's records; (b) to the person's registered agent for process on file with the Secretary of State; or (3) to an address for the party identified after reasonable investigation if the first two options are not applicable.

¹¹ See TWC § 13.254(a)(1) and 16 TAC 24.245(i)(1)(A).

¹² See TWC § 13.242.

¹³ APA §§ 2001.001-.902.

In accordance with these provisions, Commission Staff will provide a copy of this Amended Petition by certified mail, return receipt requested, to L H L's last known address in the TCEQ's and Commission's records:

L H L Industries
2935 Entex Building,
Kinwood, TX 77002

Commission Staff will also provide a copy of this Amended Petition by certified mail, return receipt requested, to the address for the registered agent for process on file with the Secretary of State:

Albert E Hassell
13714 Hempstead HWY
Houston, TX 77040

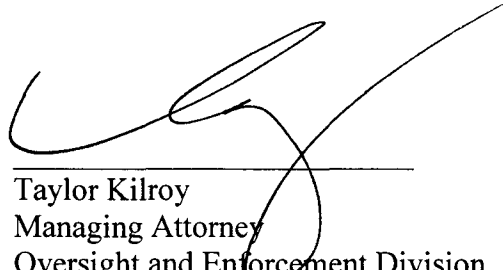
Pursuant to 16 TAC § 22.183, Commission Staff hereby notifies L H L that the factual allegations in this Amended Petition could be deemed admitted and the relief sought herein granted by default if L H L fails to request a hearing within 30 days after service of the Amended Petition and Notice of Opportunity for Hearing. The purpose of a hearing on the merits is to consider revocation of L H L's CCN No. 11271. If L H L fails to request a hearing, the presiding officer may issue a default order on an informal basis without a hearing on the merits pursuant to APA § 2001.056(4) and 16 TAC § 22.183.

The factual allegations listed in Commission Staff's Amended Petition and Notice of Opportunity for a Hearing could be deemed admitted and the relief sought herein could be granted by default if you fail to timely request a hearing.

VI. REQUEST

WHEREFORE, PREMISES CONSIDERED, Commission Staff respectfully requests that the Commission grants Commission Staff's Amended Petition to revoke L H L's CCN No. 11271. In the event that L H L fails to request a hearing on the merits, Commission Staff requests that the Commission issue a default final order, with no further notice to L H L, revoking CCN No. 11271.

Respectfully Submitted,



Taylor Kilroy
Managing Attorney
Oversight and Enforcement Division
State Bar No. 24087844
(512) 936-7127
(512) 936-7208 (facsimile)
Public Utility Commission of Texas
1701 N. Congress Avenue
P.O. Box 13326
Austin, Texas 78701-3326

CERTIFICATE OF SERVICE

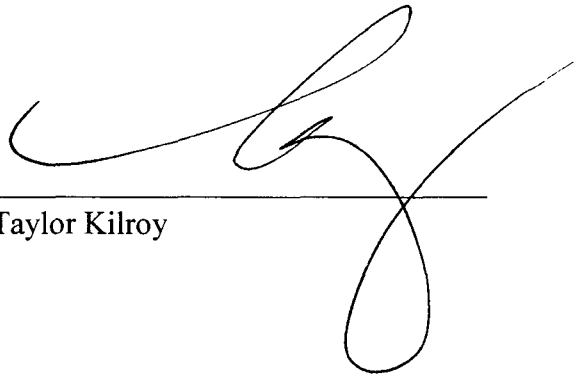
I certify that on July 23, 2019, pursuant to 16 TAC § 22.183(b)(2), a copy of this document was sent certified mail, return receipt requested, to the last known address of L H L Industries, Inc. (L H L) in the Commission's records and to the address for the registered agent for process on file with the Secretary of State:

L H L's Last Known Address in Commission Records:

L H L Industries
2935 Entex Building,
Kinwood, TX 77002

Address for the registered agent for process on file with the Secretary of State:

Albert E. Hassell
13714 Hempstead HWY
Houston, TX 77040



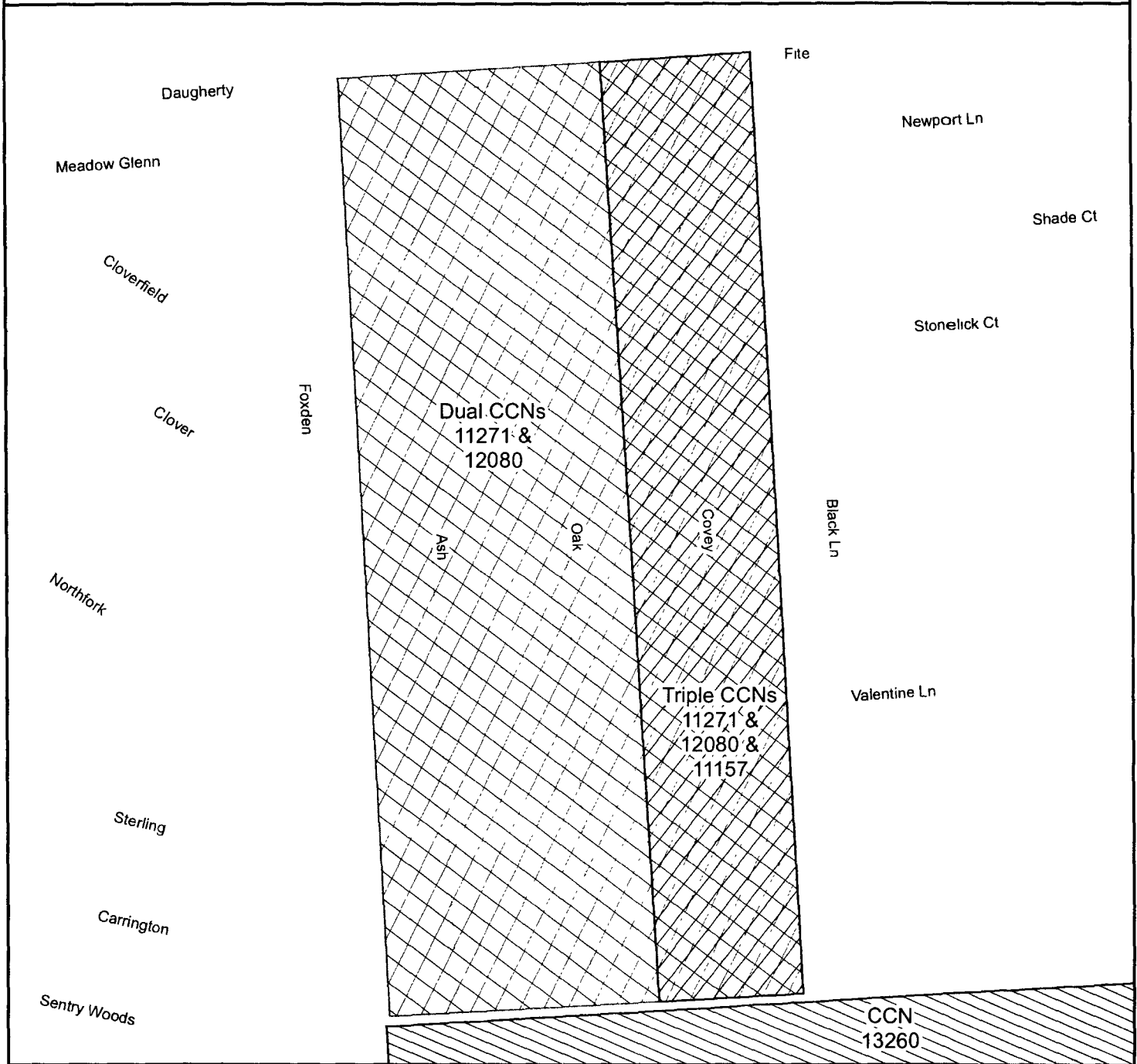
Taylor Kilroy

Attachment 1

Map of Water Service Certificate of Convenience and Necessity





No. 11271

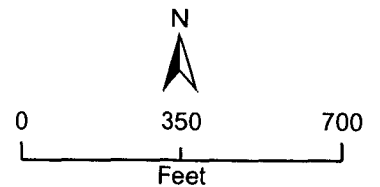
LHL Industries Water CCN No. 11271 in Brazoria County



Public Utility Commission of Texas
1701 N. Congress Ave
Austin, TX 78701

Water CCNs

-  11271 - LHL Industries
-  11157 - Aqua Texas Inc
-  12080 - Manvel Terrace Utilities
-  13260 - Undine Texas LLC



Map by: Kristy Nguyen
Date created: May 25, 2018
Project path: n:\11271 lhl industries\11271 lhl industries