



Control Number: 48748



Item Number: 6

Addendum StartPage: 0

RECEIVED

AMENDED PETITION TO REVOKE §
 SENNA HILLS UTILITY CO.'S §
 CERTIFICATE OF CONVENIENCE §
 AND NECESSITY PURSUANT TO §
 TEXAS WATER CODE § 13.254 AND 16 §
 TEXAS ADMINISTRATIVE CODE §
 § 24.245 §

PUBLIC UTILITY COMMISSION
 2019 JAN 28 PM 2:29
 PUBLIC UTILITY COMMISSION
 FILING CLERK

COMMISSION STAFF'S MOTION FOR ENTRY OF DEFAULT ORDER

Staff of the Public Utility Commission of Texas (Commission Staff) files this Motion for Entry of Default Order in the above-styled cause in accordance with 16 Texas Admin. Code (TAC) §§ 24.245(i) and 22.183.

I. Introduction

For the reasons discussed below, Commission Staff requests that the Commission grant this Motion for Entry of Default Order (Motion) and enter the attached Proposed Default Order granting the Amended Petition to Revoke Senna Hills Utility Co.'s Certificate of Convenience and Necessity (CCN)¹ regarding sewer CCN No. 20649. In support of this Motion, Commission Staff respectfully shows the following:

II. Procedural Background

On January 25, 2019 Commission Staff filed an Amended Petition to Revoke Senna Hills Utility Co.'s (Senna Hills) Certificate of Convenience and Necessity (amended petition). Commission Staff alleged in the amended petition that Senna Hills is not providing continuous and adequate service because the utility is no longer operating. Commission Staff sent a copy of the amended petition by certified mail, return receipt requested, to the address that Senna Hills most recently had on file with the Commission and to the address on file with the Secretary of State for the Senna Hills registered agent for process.

Senna Hills has not requested a hearing since Commission Staff provided the amended petition. More than 30 days have passed since providing Senna Hills with the amended petition.

¹ *Amended Petition to Revoke Senna Hills Utility Co.'s Certificate of Convenience and Necessity Pursuant to Texas Water Code §13.254 and 16 Texas Administrative Code §24.245*, Docket No. 48748 (Jan. 25, 2019).

6

III. Jurisdiction and Legal Authority

The Commission has jurisdiction over this case under § 13.254 of the Texas Water Code (TWC).

Under 16 TAC § 24.245(i)(1)(A), the Commission may revoke a CCN after notice and a hearing if the CCN holder has never provided, is no longer providing, is incapable of providing, or has failed to provide continuous and adequate service in all or part of the certificated service area. Under 16 TAC § 22.183, the Commission may issue a default order² when the party having the burden of proof fails to appear for a hearing or fails to request a hearing within 30 days after service of notice and opportunity for a hearing.³

Adequate notice for a default requires disclosure in at least 12-point, bold-face type that the factual allegations listed in the notice could be deemed admitted, and the relief sought in the notice of hearing might be granted by default if the defaulting party fails to timely request a hearing.⁴ Adequate notice also requires that the disclosure be sent via certified mail to the party's last known address in the Commission's records if the party has a license, certificate, or registration approved by the Commission.⁵

IV. Conclusion and Prayer

Commission Staff provided Senna Hills with the notice required in 16 TAC § 22.183 regarding the petition to revoke sewer CCN 20649.⁶ Senna Hills did not request a hearing within 30 days of Commission Staff providing it notice of the opportunity for a hearing and the possibility of a default judgment. Accordingly, Commission Staff respectfully requests that the Commission grant this Motion and enter the attached Default Order granting the Amended Petition to Revoke Senna Hills Utility Co.'s Certificate of Convenience and Necessity for sewer CCN 20649.

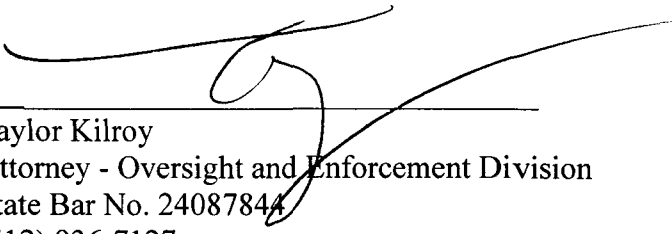
² 16 TAC § 22.183(b).

³ 16 TAC § 22.183(a).

⁴ 16 TAC § 22.183(b)(1).

⁵ 16 TAC § 22.183(b)(2)(A).

⁶ See Attachment 2, Affidavit of Tasha Lopez.



Taylor Kilroy
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 78711-3326
taylor.kilroy@puc.texas.gov

CERTIFICATE OF SERVICE

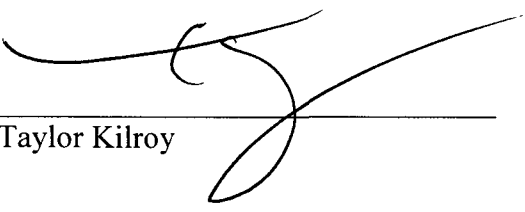
I certify that on May 8, 2019, pursuant to 16 TAC § 22.183(b)(2), a copy of this document was sent certified mail, return receipt requested, to the last known address of Senna Hills Utility Co. in the Commission's records, and to the address for Senna Hills Utility Co.'s registered agent for process on file with the Secretary of State:

Senna Hills Utility Co.'s Last Known Address in Commission Records:

Senna Hills Utility Company
600 Congress Ave., Suite 1250
Austin, Texas 78701

Address for Registered Agent for Process on File with Secretary of State:

Keith J. Cunningham
1301 Capital of Texas Hwy., South Ste. A-300
Austin, Texas 78746



Taylor Kilroy

Attachment One
Proposed Default Order

DOCKET NO. 48748

AMENDED PETITION TO REVOKE	§	PUBLIC UTILITY COMMISSION
SENNA HILLS UTILITY CO.'S	§	
CERTIFICATE OF CONVENIENCE	§	OF TEXAS
AND NECESSITY PURSUANT TO	§	
TEXAS WATER CODE § 13.254 AND 16	§	
TEXAS ADMINISTRATIVE CODE	§	
§ 24.245	§	

PROPOSED DEFAULT ORDER

This Default Order addresses the amended petition of Commission Staff to revoke the certificate of public convenience and necessity of Senna Hills Utility Co. (Senna Hills) for violations of the Texas Water Code¹ and Commission rules.² The Commission grants Commission Staff's amended petition and revokes certificate of convenience and necessity 20649.

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

I. Findings of Fact

Background

1. Senna Hills is a retail public utility that was granted certificate of convenience and necessity 20649 on April 8, 1987.
2. Senna Hills is located in Travis County, Texas in the city of Austin.
3. On May 15, 1986, Senna Hills filed an application with the Texas Secretary of State (SOS) to become a Texas corporation.
4. Senna Hills has ceased to operate and is now listed as inactive on the SOS's website.
5. Senna Hills is no longer in business and the facilities it used to provide continuous and adequate service are inactive.

Application

6. On January 25, 2019, Commission Staff filed an amended petition and provided notice of opportunity for hearing seeking revocation of Senna Hills' certificate 20649.

¹ Tex. Water Code Ann. § 13.254 (TWC).

² 16 Texas Admin. Code § 24.245 (TAC).

7. The amended petition disclosed, using a font size larger than 12-point, bold-face type, that the factual allegations in the petition could be deemed admitted and the relief requested could be granted by default if a timely hearing request was not made.

Notice

8. On January 25, 2019, Commission Staff sent a copy of the amended petition by certified mail, return receipt requested, to the addresses Commission Staff was able to find for Senna Hills after reasonable investigation. More specifically, the amended petition was sent by certified mail, return receipt requested, to the address that Senna Hills most recently had on file with the Commission and the SOS.

Default

9. More than 30 days have passed since service of the petition to Senna Hills.
10. Senna Hills did not request a hearing on the merits.

II. Conclusions of Law

1. The Commission has jurisdiction over this petition under § 13.254 of the Texas Water Code (TWC).
2. 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.”
3. Under 16 Texas Administrative Code (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.”
4. Under 16 TAC § 24.3(59), 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.”
5. TWC § 13.250 and 16 TAC § 24.247 require a retail public utility that possesses a certificate to provide “continuous and adequate service.”

6. 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,” the Commission may revoke the CCN pursuant to TWC § 13.254 and 16 TAC § 24.245.
7. Senna Hills failed to meet the performance requirements for a certificate holder in TWC § 13.250 and 16 TAC § 24.247 when it ceased operating and ceased to provide continuous and adequate service.
8. Senna Hills is incapable of providing continuous and adequate service in the area covered by certificate 20649.
9. Issuance of a default order against Senna Hills is appropriate because Senna Hills 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).
10. The requirements for disposition by default in 16 TAC § 22.183 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 amended petition is granted.
2. Senna Hills’ certificate 20649 is revoked.
3. The Commission shall not be constrained in any manner from requiring additional action or penalties for violations.
4. The Commission denies all other motions and any other requests for general or specific relief, if not expressly granted.

Signed at Austin, Texas, the _____ day of _____, 2019.

PUBLIC UTILITY COMMISSION OF TEXAS

DEANN T. WALKER, CHAIRMAN

ARTHUR C. D'ANDREA, COMMISSIONER

SHELLY BOTKIN, COMMISSIONER

Attachment Two
Affidavit of Tasha Lopez

DOCKET NO. 48748

PETITION TO REVOKE SENNA HILLS § PUBLIC UTILITY COMMISSION
UTILITY CO.'S CERTIFICATE OF §
CONVENIENCE AND NECESSITY §
PURSUANT TO TEXAS WATER CODE §
§ 13.254 AND 16 TEXAS §
ADMINISTRATIVE CODE § 24.113 § OF TEXAS

AFFIDAVIT OF TASHA LOPEZ

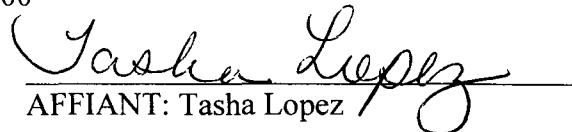
§
STATE OF TEXAS §
TRAVIS COUNTY §

BEFORE ME, the undersigned authority, on this day personally appeared, Tasha Lopez, and being by me duly sworn, upon oath declared that the statements and capacity acted in are true and correct.

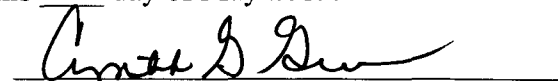
“My name is Tasha Lopez. I am the legal assistant in the Oversight & Enforcement Division of the Public Utility Commission of Texas (Commission). I am over the age of twenty-one and I am competent to make this Affidavit. In accordance with 16 TAC § 22.183(b), I mailed, by certified mail, a copy of Commission Staff's Amended Petition to Revoke Senna Hills Utility Co.'s Certificate of Public Convenience and Necessity filed on January 25, 2019, to Senna Hills Utility Company and Keith J. Cunningham, on January 25, 2019, to the last known addresses. Please see the attached tracking information for each item and copy of the application.

Senna Hills Utility Company
2600 One American Center
600 Congress
Austin, Texas 78701

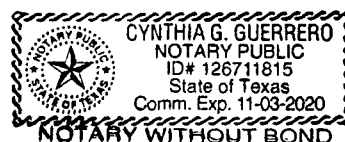
Keith J Cunningham
1301 Capital of Texas Hwy South Ste. A-300
Austin, TX 78746


AFFIANT: Tasha Lopez

SWORN TO AND SUBSCRIBED BEFORE ME this 9th day of May 2019.


Notary Public for the State of Texas

1



CMRR- Keith J. Cunningham
Returned to Sender

Ship Request Form

Ship Request #: 199738

Sender

Name: Tasha Lopez
Account #: 47300 PUC
Phone: 512-936-7401
Email:
Company: Public Utility Commission

eRR Track: 9171082133393862310336

Recipient

Attn To: Keith J Cunningham
Company: Keith J Cunningham
Address: 1301 Capital of Texas Hwy South
Suite A300
City: Austin
State: TX
Zip: 78746
Country: US

Shipping Instructions

Items

Units	Description	Code	Origin	Unit Value	Total Value
0 00					

[FAQs > \(https://www.usps.com/faqs/uspstracking-faqs.htm\)](https://www.usps.com/faqs/uspstracking-faqs.htm)

Track Another Package +

Tracking Number: 9171082133393862310336[Remove X](#)

Your item has been delivered to the original sender at 10:04 am on February 4, 2019 in AUSTIN, TX 78711.

Delivered

February 4, 2019 at 10:04 am
Delivered, To Original Sender
AUSTIN, TX 78711

Feedback

Return Receipt Electronic

Tracking History

February 4, 2019, 10:04 am
Delivered, To Original Sender
AUSTIN, TX 78711

Your item has been delivered to the original sender at 10:04 am on February 4, 2019 in AUSTIN, TX 78711.

February 2, 2019, 9:29 am
Available for Pickup
AUSTIN, TX 78711

February 2, 2019, 9:28 am
Arrived at Unit
AUSTIN, TX 78701

February 2, 2019, 4:23 am
Departed USPS Regional Facility
AUSTIN TX DISTRIBUTION CENTER

February 1, 2019, 4:31 pm
Arrived at USPS Regional Facility
AUSTIN TX DISTRIBUTION CENTER

February 1, 2019
In Transit to Next Facility

January 30, 2019, 9:06 pm
Departed USPS Regional Facility
OKLAHOMA CITY OK DISTRIBUTION CENTER

January 30, 2019, 12:20 pm
Arrived at USPS Regional Facility
OKLAHOMA CITY OK DISTRIBUTION CENTER

January 26, 2019, 10:51 am
Forward Expired
AUSTIN, TX 78746

January 26, 2019, 10:51 am
No Such Number
AUSTIN, TX 78746

January 26, 2019, 4:24 am
Departed USPS Regional Facility
AUSTIN TX DISTRIBUTION CENTER

January 25, 2019, 9:01 pm
Arrived at USPS Regional Facility
AUSTIN TX DISTRIBUTION CENTER

January 25, 2019, 7:46 pm
Accepted at USPS Origin Facility
AUSTIN, TX 78701

Feedback

January 25, 2019

Pre-Shipment Info Sent to USPS, USPS Awaiting Item

Product Information



See Less ^

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Go to our FAQs section to find answers to your tracking questions.

FAQs (<https://www.usps.com/faqs/uspstracking-faqs.htm>)

Feedback

The easiest tracking number is the one you don't have to know.

With Informed Delivery®, you never have to type in another tracking number. Sign up to:

- See images* of incoming mail.

- Automatically track the packages you're expecting.
- Set up email and text alerts so you don't need to enter tracking numbers.
- Enter USPS Delivery Instructions™ for your mail carrier.

Sign Up

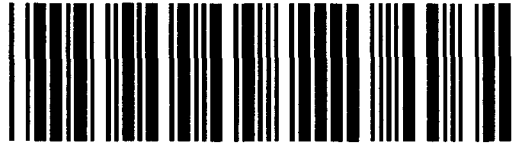
([https://reg.usps.com/entreg/RegistrationAction_input?](https://reg.usps.com/entreg/RegistrationAction_input?app=UspsTools&appURL=https%3A%2F%2Ftools.usps.com%2Fgc)

*NOTE: Black and white (grayscale) images show the outside, front of letter-sized envelopes and mailpieces that are processed through USPS automated equipment.

Feedback

CMRR- Senna Hills
Returned to Sender

Ship Request Form

Ship Request #: 199736

Sender

Name: Tasha Lopez
Account #: 47300 PUC
Phone: 512-936-7401
Email:
Company: Public Utility Commission

eRR Track: 9171082133393862310329

Recipient

Attn To: Senna hills Utility Company
Company: Senna Hills Utility Company
Address: 600 Congress Ave
Suite 1250
City: Austin
State: TX
Zip: 78701
Country: US

Shipping Instructions

Items

Units	Description	Code	Origin	Unit Value	Total Value
0 00					

USPS Tracking®FAQs > (<https://www.usps.com/faqs/uspstracking-faqs.htm>)**Track Another Package +****Tracking Number:** 9171082133393862310329

Remove X

Expected Delivery on**WEDNESDAY****13** FEBRUARY
2019 ⓘ **by**
8:00pm ⓘ **Delivered**February 13, 2019 at 8:31 am
Delivered, To Original Sender
AUSTIN, TX 78711

Feedback

Return Receipt Electronic**Tracking History****February 13, 2019, 8:31 am**

Delivered, To Original Sender

AUSTIN, TX 78711

Your item has been delivered to the original sender at 8:31 am on February 13, 2019 in AUSTIN, TX 78711.

February 13, 2019, 7:23 am

Arrived at Unit

AUSTIN, TX 78701

February 12, 2019

In Transit to Next Facility

February 11, 2019, 4:22 pm
Departed USPS Regional Facility
AUSTIN TX DISTRIBUTION CENTER

February 9, 2019, 1:19 pm
Arrived at USPS Regional Facility
AUSTIN TX DISTRIBUTION CENTER

February 7, 2019, 9:01 pm
Departed USPS Regional Facility
OKLAHOMA CITY OK DISTRIBUTION CENTER

February 7, 2019, 12:03 pm
Arrived at USPS Regional Facility
OKLAHOMA CITY OK DISTRIBUTION CENTER

January 28, 2019, 9:20 am
Addressee Unknown
AUSTIN, TX 78701

January 26, 2019, 4:24 am
Departed USPS Regional Facility
AUSTIN TX DISTRIBUTION CENTER

January 25, 2019, 9:01 pm
Arrived at USPS Regional Facility
AUSTIN TX DISTRIBUTION CENTER

January 25, 2019, 7:46 pm
Accepted at USPS Origin Facility
AUSTIN, TX 78701

January 25, 2019
Pre-Shipment Info Sent to USPS, USPS Awaiting Item

Feedback

Product Information

See Less ^

Can't find what you're looking for?

Go to our FAQs section to find answers to your tracking questions.

FAQs (<https://www.usps.com/faqs/uspstracking-faqs.htm>)

Feedback

The easiest tracking number is the one you don't have to know.

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- See images* of incoming mail.
- Automatically track the packages you're expecting.
- Set up email and text alerts so you don't need to enter tracking numbers.
- Enter USPS Delivery Instructions™ for your mail carrier.

Sign Up

([https://reg.usps.com/entreg/RegistrationAction_input?](https://reg.usps.com/entreg/RegistrationAction_input?app=UspsTools&appURL=https%3A%2F%2Ftools.usps.com%2Fgc)

*NOTE: Black and white (grayscale) images show the outside, front of letter-sized envelopes and mailpieces that are processed through USPS automated equipment.

Feedback