



Control Number: 48754



Item Number: 5

Addendum StartPage: 0

**DeAnn T. Walker**  
Chairman

**Arthur C. D'Andrea**  
Commissioner

**Shelly Botkin**  
Commissioner

**John Paul Urban**  
Executive Director



**Greg Abbott**  
Governor


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## *Public Utility Commission of Texas*

TO: DeAnn T. Walker, Chairman  
Arthur C. D'Andrea, Commissioner  
Shelly Botkin, Commissioner

All Parties of Record

FROM: Hunter Burkhalter   
Administrative Law Judge

RE: **Open Meeting of August 8, 2019**  
**Docket No. 48754** – *Petition to Revoke Hearthstone Colony Water Supply Corporation's Certificate of Convenience and Necessity Under Texas Water Code § 13.254 and 16 Texas Administrative Code § 24.245*

DATE: July 19, 2019

Enclosed is a copy of the Proposed Default Order in the above-referenced docket. The Commission will consider this docket at an open meeting currently scheduled to begin at 9:30 a.m. on Thursday, August 8, 2019, at the Commission's offices, 1701 North Congress Avenue, Austin, Texas. The parties may file corrections or exceptions to the Proposed Default Order on or before Wednesday, July 31, 2019.

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

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**DOCKET NO. 48754**

<b>PETITION TO REVOKE</b>	<b>§</b>	<b>PUBLIC UTILITY COMMISSION</b>
<b>HEARTHSTONE COLONY WATER</b>	<b>§</b>	
<b>SUPPLY CORPORATION'S</b>	<b>§</b>	<b>OF TEXAS</b>
<b>CERTIFICATE OF CONVENIENCE</b>	<b>§</b>	
<b>AND NECESSITY PURSUANT TO</b>	<b>§</b>	
<b>TEXAS WATER CODE § 13.254 AND</b>	<b>§</b>	
<b>16 TEXAS ADMINISTRATIVE CODE</b>	<b>§</b>	
<b>§ 24.245</b>	<b>§</b>	

**PROPOSED DEFAULT ORDER**

This Default Order addresses the petition of Commission Staff to revoke the sewer certificate of convenience and necessity (CCN) of Hearthstone Colony Water Supply Corporation for violations of the Texas Water Code and Commission rules. The Commission grants the petition, by default, and revokes Hearthstone Colony WSC's CCN number 20588.

**I. Findings of Fact**

The Commission makes the following findings of fact.<sup>1</sup>

**CCN Holder**

1. Hearthstone Colony WSC is registered with the Texas secretary of state as a domestic for-profit corporation under file number 61150600.
2. Hearthstone Colony WSC is authorized to provide sewer service under CCN number 20588 in Harris County.

**Commission Staff's Petition**

3. On October 10, 2018, Commission Staff filed its petition in this proceeding, in which it seeks to revoke the CCN of Hearthstone Colony WSC for failure to provide continuous and adequate sewer service.
4. The petition alleges that Hearthstone Colony WSC is no longer providing and is incapable of providing continuous and adequate sewer service and, therefore, its CCN should be

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<sup>1</sup> The findings of fact are derived from the factual allegations found in Commission Staff's petition and are deemed admitted by default.

revoked under Texas Water Code (TWC) § 13.254(a)(1) and 16 Texas Administrative Code (TAC) § 24.245(i)(1)(A) (*formerly* § 24.113(i)(1)(A)).

5. Hearthstone Colony WSC's CCN was issued on April 21, 1983.
6. Hearthstone Colony WSC's status with the Texas secretary of state is listed as inactive.
7. The Commission's records indicate that Hearthstone Colony WSC is no longer in business and the facilities it used to provide sewer service are inactive.
8. Hearthstone Colony WSC is no longer providing and is incapable of providing continuous and adequate sewer service.

#### Notice

9. The Commission's records list Hearthstone Colony WSC's address as: 5851 San Felipe, Houston, Texas 77057.<sup>2</sup>
10. On October 10, 2018, Commission Staff sent copies of the petition, by certified mail, return receipt requested, to: (a) the address of Hearthstone Colony WSC as shown in the Commission's records; and (b) the address for Hearthstone Colony WSC's registered agent for process, as shown in the records of the Texas secretary of state.
11. The petition notified Hearthstone Colony WSC that it was entitled to request a hearing within 30 days after the filing of the petition, and included the following admonition, in at least 12-point, bold-face type:

**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.**

#### The Motion for Default

12. On January 10, 2019, Commission Staff filed a motion for entry of a default order.
13. The motion for default was served upon Hearthstone Colony WSC in the same way that the petition was served.

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<sup>2</sup> <http://www.puc.texas.gov/WaterSearch/Utility?siteId=16395> Under Tex. Gov't Code § 2001.090 and 16 TAC § 22.222, the Commission takes official notice of Hearthstone Colony WSC's address as shown in the Commission's records.

**Grounds for Default**

14. More than 30 days have passed since service of the petition to Hearthstone Colony WSC.
15. Hearthstone Colony WSC did not request a hearing on the merits, and did not respond to the petition.
16. More than 30 days have passed since service of the motion for default.
17. Hearthstone Colony WSC did not respond to the motion for default.
18. Commission Staff proved, by default, that Hearthstone Colony WSC is no longer providing and is incapable of providing continuous and adequate sewer service in its certificated area.

**II. Conclusions of Law**

The Commission makes the following conclusions of law.

1. The Commission has jurisdiction over this matter under TWC § 13.254.
2. Hearthstone Colony WSC is a retail public utility under 16 TAC § 24.3(59).
3. As the holder of CCN number 20588, Hearthstone Colony WSC is obligated to serve every consumer within its certified area and render continuous and adequate service within the area under TWC § 13.250 and 16 TAC § 24.247.
4. Because Hearthstone Colony WSC is no longer providing and is incapable of providing continuous and adequate service in the area covered by its CCN in violation of TWC § 13.250 and 16 TAC § 24.247, the Commission is entitled to revoke the CCN under TWC § 13.254(a)(1) and 16 TAC § 24.245(i)(1)(A).
5. Adequate notice was provided to Hearthstone Colony WSC in compliance with 16 TAC §§ 22.54 and 22.183, and Texas Government Code § 2001.054.
6. Hearthstone Colony WSC's failure to request a hearing within 30 days of the notice of an opportunity for a hearing qualifies this proceeding for disposition by default under 16 TAC § 22.183.
7. 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 orders:

1. The motion for default is granted and Hearthstone Colony WSC's CCN number 20588 is revoked.
2. The Commission is not constrained in any manner from requiring additional action or penalties for violations that are not raised here.
3. 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 August 2019.

**PUBLIC UTILITY COMMISSION OF TEXAS**

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**DEANN T. WALKER, CHAIRMAN**

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**ARTHUR C. D'ANDREA, COMMISSIONER**

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**SHELLY BOTKIN, COMMISSIONER**