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DeAnn T. Walker
Chairman

Arthur C. D'Andrea
Commissioner

Shelly Botkin
Commissioner

John Paul Urban
Executive Director



Greg Abbott
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PUBLIC UTILITY COMMISSION

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 September 12, 2019**
Docket No. 49181 – *Petition to Revoke the Town of Lakeview's Certificates of Convenience and Necessity Pursuant to Texas Water Code § 13.254 and 16 Texas Administrative Code § 24.245*

DATE: September 3, 2019, 2019

On August 13, 2019, a proposed default order was issued in the above-referenced docket. The Commission is currently scheduled to consider this docket at an open meeting to begin at 9:30 a.m. on Thursday, September 12, 2019, at the Commission's offices, 1701 North Congress Avenue, Austin, Texas.

A revised proposed default order has been drafted and is attached. The revisions were made to conform with Default Orders issued on similar matters on the August 29, 2019 agenda. Specifically, a new ordering paragraph 4 has been added, and the subsequent ordering paragraphs have been renumbered.

4. The Commission directs Commission Staff to update its records accordingly.

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

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DOCKET NO. 49181

PETITION TO REVOKE THE TOWN	§	PUBLIC UTILITY COMMISSION
OF LAKEVIEW'S CERTIFICATES OF	§	
CONVENIENCE AND NECESSITY	§	OF TEXAS
PURSUANT TO TEXAS WATER CODE	§	
§ 13.254 AND 16 TEXAS	§	
ADMINISTRATIVE CODE § 24.245	§	

REVISED PROPOSED DEFAULT ORDER

This Default Order addresses the petition of Commission Staff to revoke the water and sewer certificates of convenience and necessity (CCNs) of the Town of Lakeview for violations of the Texas Water Code and Commission rules. The Commission grants the petition, by default, and revokes the Town of Lakeview's water CCN number 11350 and sewer CCN number 20525.

I. Findings of Fact

The Commission makes the following findings of fact.

CCN Holder

1. The Town of Lakeview is a municipal utility.
2. The Town of Lakeview is authorized to provide water service under CCN number 11350 and sewer service under CCN number 20525, both in Jefferson County.

Commission Staff's Petition

3. On February 7, 2019, Commission Staff filed its petition in this proceeding, in which it seeks to revoke the CCNs of the Town of Lakeview for failure to provide continuous and adequate service.
4. The petition alleges that the Town of Lakeview is no longer providing and is incapable of providing continuous and adequate service and, therefore, its CCNs should be revoked under Texas Water Code (TWC) § 13.254(a)(1) and 16 Texas Administrative Code (TAC) § 24.245(i)(1)(A).
5. The Town of Lakeview was located in Jefferson County.
6. The Town of Lakeview's water CCN number 11350 was issued on November 1, 1979.

7. The date on which the Town of Lakeview's sewer CCN number 20525 was issued is not known.
8. The Town of Lakeview ceased to exist when it was annexed by the City of Port Arthur in 1980.
9. The Commission's records indicate that the Town of Lakeview is no longer in business and the facilities it used to provide water and sewer service are inactive.
10. The Town of Lakeview is no longer providing and is incapable of providing continuous and adequate water and sewer service.
11. The area of Port Arthur formerly known as the Town of Lakeview is being provided water and sewer service by the City of Port Arthur.

Notice

12. The Commission's records list the Town of Lakeview's address as: PO Box 1089, Port Arthur, TX 77641-1089.
13. On February 7, 2019, Commission Staff sent a copy of the petition, by certified mail, return receipt requested to the address of the Town of Lakeview as shown in the Commission's records.
14. The petition notified the Town of Lakeview 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.

Evidentiary Record

15. In Order No. 1 issued on August 13, 2019, the ALJ admitted, as evidence in the record of this proceeding, the affidavit of Tasha Lopez and the documents that are attached to Ms. Lopez's affidavit, marked as Exhibit A to Commission Staff's supplemental filing to motion for entry of default order filed on April 8, 2019.

The Motion for Default

16. On March 12, 2019, Commission Staff filed a motion for entry of a default order.
17. The motion for default was served upon the Town of Lakeview in the same way that the petition was served.

Grounds for Default

18. More than 30 days have passed since service of the petition to the Town of Lakeview.
19. The Town of Lakeview did not request a hearing on the merits, and did not respond to the petition.
20. More than 30 days have passed since service of the motion for default.
21. The Town of Lakeview did not respond to the motion for default.

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. The Town of Lakeview is a retail public utility under 16 TAC § 24.3(59).
3. As the holder of CCN numbers 11350 and 20525, the Town of Lakeview 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 the Town of Lakeview is no longer providing and is incapable of providing continuous and adequate service in the area covered by its CCNs in violation of TWC § 13.250 and 16 TAC § 24.247, the Commission is entitled to revoke the CCNs under TWC § 13.254(a)(1) and 16 TAC § 24.245(i)(1)(A).
5. Adequate notice was provided to the Town of Lakeview in compliance with 16 TAC §§ 22.54 and 22.183, and Texas Government Code § 2001.054.
6. The Town of Lakeview'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.

III. Ordering Paragraphs

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

1. The Commission deems the allegations in Commission Staff's petition as true.
2. The Commission takes official notice of its records that contain the address of the Town of Lakeview.
3. The motion for default is granted and the Town of Lakeview' CCN numbers 11350 and 20525 are revoked.
4. The Commission directs Commission Staff to update its records accordingly.
5. The Commission is not constrained in any manner from requiring additional action or penalties for violations that are not raised here.
6. 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 September 2019.

PUBLIC UTILITY COMMISSION OF TEXAS

DEANN T. WALKER, CHAIRMAN

ARTHUR C. D'ANDREA, COMMISSIONER

SHELLY BOTKIN, COMMISSIONER