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Public Utility Commission of Texas

TO: Stephen Journeay
Commission Counsel

All Parties of Record

FROM: Katie Moore Marx
Administrative Law Judge *KMM*

RE: **Docket No. 53219** – *Petition to Revoke M.A.B.B.D. Inc.'s Certificate of Convenience and Necessity Under Tex. Water Code § 13.254 and 16 Texas Administrative Code § 24.245*

DATE: June 14, 2022

Enclosed is the Proposed Default Order in the above-referenced case. By copy of this memo, the parties to this proceeding are being served with the Proposed Default Order.

Please place this docket on an open meeting agenda for the Commissioners' consideration. Please notify me and the parties of the open meeting date. The parties must file corrections or exceptions to the Proposed Order by June 28, 2022.

If a party proposes a correction or exception, the party must fully explain the correction or exception and must provide a citation to the record to support the correction or exception.

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

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DOCKET NO. 53219

PETITION TO REVOKE M.A.B.B.D.	§	PUBLIC UTILITY COMMISSION
INC.'S CERTIFICATE OF	§	
CONVENIENCE AND NECESSITY	§	OF TEXAS
UNDER TEX. WATER CODE §13.254	§	
AND 16 TAC §24.245	§	

PROPOSED DEFAULT ORDER

This Default Order addresses the April 19, 2022 petition of Commission Staff to revoke the certificate of convenience and necessity (CCN) of M.A.B.B.D. Inc. for violations of the Texas Water Code (TWC) and Commission rules. The Commission grants the petition, by default, and revokes M.A.B.B.D.'s CCN number 12009.

I. Findings of Fact

The Commission makes the following findings of fact.

CCN Holder

1. M.A.B.B.D. is a voluntarily-terminated Texas corporation, which was registered with the Texas secretary of state under filing number 75513600.
2. M.A.B.B.D. holds CCN number 12009.
3. Under CCN number 12009, M.A.B.B.D. is obligated to provide continuous and adequate water service to customers within the boundaries of its certificated service area in Travis County.

Commission Staff's Petition

4. On April 19, 2022, Commission Staff filed its amended petition in this proceeding, in which it seeks to revoke M.A.B.B.D.'s CCN number 12009 for failure to provide continuous and adequate water service.
5. The amended petition alleges that M.A.B.B.D. is no longer providing, and is incapable of providing, continuous and adequate water service and, therefore, its CCN should be revoked.

6. On December 19, 1986, the Texas Water Commission issued water CCN number 12009 to M.A.B.B.D.
7. A Commission Staff review of records related to CCN number 12009 indicates that M.A.B.B.D. is no longer providing water utility service to customers, and any facilities previously used by M.A.B.B.D. to provide continuous and adequate water service are no longer active.
8. M.A.B.B.D. does not provide, and is not capable of providing, continuous and adequate water service to customers in its certificated service area.

Notice

9. Commission Staff determined, after conducting a reasonable investigation of the Texas secretary of state database and the Texas comptroller records, that M.A.B.B.D. has two associated addresses: 2600 One American Center, 600 Congress, Austin, Texas 78701; and 101 San Jacinto Blvd., Austin, Texas 78707-4025.
10. On April 19, 2022, Commission Staff sent a copy of the amended petition and notice of opportunity for a hearing, by certified mail, to M.A.B.B.D.'s addresses at 2600 One American Center, 600 Congress, Austin, Texas 78701 and 101 San Jacinto Blvd., Austin, Texas 78707-4025.
11. The amended petition notified M.A.B.B.D. of the legal authority and the Commission's jurisdiction over this matter, cited to particular sections of the statutes and rules involved, and provided a statement of the factual allegations, as provided under Texas Government Code § 2001.052(a).
12. The amended petition also notified M.A.B.B.D. 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-faced type:

In accordance with 16 TAC § 22.183, Commission Staff hereby notifies M.A.B.B.D. that the factual allegations in this petition could be deemed admitted and the relief sought herein granted by default if M.A.B.B.D. fails to request a hearing within 30 days after service of this petition.

Evidentiary Record

13. In Order No. 2 filed on April 11, 2022, the administrative law judge (ALJ) admitted the following into evidence: the affidavit of Rose Puente and supporting documents, attached to Commission Staff's March 28, 2022 motion for entry of a default order.
14. In Order No. 7 filed on June 9, 2022, the ALJ admitted the following into evidence: the affidavit of Rose Ramirez and supporting documents, all of which are identified as attachment one to Commission Staff's May 20, 2022 response to Order No. 6.

Motion for Disposition by Default

15. On June 2, 2022, Commission Staff filed a motion for entry of a default order.
16. On June 2, 2022, Commission Staff sent a copy of the motion for default, by certified mail, to M.A.B.B.D.'s addresses at 2600 One American Center, 600 Congress, Austin, Texas 78701 and 101 San Jacinto Blvd., Austin, Texas 78707-4025.

Grounds for Default

17. More than 30 days have passed since service of the amended petition to M.A.B.B.D.
18. M.A.B.B.D. did not request a hearing on the merits and did not respond to the amended petition.
19. More than 10 days have passed since service of the motion for default.
20. M.A.B.B.D. did not respond to the motion for default.

II. Conclusions of Law

The Commission makes the following conclusions of law.

1. The Commission has authority over this petition under TWC § 13.254.
2. M.A.B.B.D. is a retail public utility under TWC § 13.002(19) and 16 Texas Administrative Code (TAC) § 24.3(31).
3. Under TWC § 13.250(a) and 16 TAC § 24.247, M.A.B.B.D., as the holder of CCN number 12009 is obligated to provide water service to every consumer an applicant for service within its certificated area who requests water service and meets the terms of M.A.B.B.D.'s water service policies, and such service must be continuous and adequate.

4. Because M.A.B.B.D. is no longer providing and is incapable of providing continuous and adequate service in its certificated service area in violation of TWC § 13.250(a) and 16 TAC § 24.247, the Commission is entitled to revoke CCN umber 12009 under TWC § 13.254(a)(1) and 16 TAC § 24.245(d)(1)(A).
5. Under 16 TAC § 22.183(b)(2)(A), because M.A.B.B.D. holds a certificate approved by the Commission, notice must typically be provided to it by sending the notice to its last known address as shown in the Commission's records.
6. Because there is no known address for M.A.B.B.D. as shown in the Commission's records, however, it was reasonable for Commission Staff to determine, after conducting a reasonable investigation, the correct addresses for M.A.B.B.D. and to send notice to those addresses in compliance with 16 TAC § 22.183(b)(2)(C).
7. Adequate notice was provided to M.A.B.B.D. in compliance with Texas Government Code §§ 2001.052 and 2001.054 and 16 TAC § 22.183.
8. M.A.B.B.D. 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 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 Commission deems the allegations in Commission Staff's amended petition as true.
2. The Commission grants Commission Staff's motion for default order and revokes M.A.B.B.D.'s water CCN number 12009.
3. The Commission directs Commission Staff to update its records accordingly.
4. The Commission is not constrained in any manner from requiring additional action or penalties for violations that are not raised here.
5. 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 _____ 2022.

PUBLIC UTILITY COMMISSION OF TEXAS

PETER M. LAKE, CHAIRMAN

WILL MCADAMS, COMMISSIONER

LORI COBOS, COMMISSIONER

JIMMY GLOTFELTY, COMMISSIONER