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DOCKET NO. 53219

PETITION TO REVOKE M.A.B.D.D. INC.'S CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY PURSUANT TO TEX. WATER CODE § 13.254 AND 16 TAC § 24.113	§ § § § § §	PUBLIC UTILITY COMMISSION OF TEXAS
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COMMISSION STAFF'S MOTION FOR ENTRY OF A DEFAULT ORDER

The Staff of the Public Utility Commission of Texas files this Motion for Entry of a Default Order in accordance with 16 Texas Administrative Code (TAC) § 22.183. In support thereof, Commission Staff shows the following:

I. BACKGROUND

On February 14, 2022, Commission Staff filed a petition to revoke Certificate of Convenience and Necessity (CCN) No. 12009 belonging to M.A.B.D.D., Inc. (MABDD). In its petition, Commission Staff recommend, based on underlying supporting information, that MABDD is no longer providing continuous and adequate water service to the certificated area of CCN 12009, that the facilities necessary to provide continuous and adequate water service to the certificated area are inactive, and that MABDD's water CCN be revoked under Texas Water Code (TWC) § 13.254(a)(1) and 16 Texas Administrative Code (TAC) § 24.245(d)(1)(A).¹ Commission Staff included the disclosure required under 16 TAC § 22.183(b)(1) and Commission Staff sent the petition to MABDD's last known address as required by 16 TAC § 22.183(b)(2).

Under 16 TAC § 22.183(a), a default occurs when a party fails to request a hearing within 30 days after service of notice of an opportunity for a hearing. In this matter, Commission Staff provided notice of an opportunity for a hearing and included a warning to MABDD that a default could be granted if MABDD failed to timely request a hearing within 30 days of service and a reference to statutes and rules involved.

¹ Staff additionally requests that the caption of this case be revised to "PETITION TO REVOKE M.A.B.D.D. INC.'s CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY PURSUANT TO TEX. WATER CODE § 13.254 AND 16 TAC § 24.245." When it submitted its Open Docket Request in this matter, Staff erroneously cited a now repealed and replaced section of the Texas Administrative Code. Additionally, MABDD was erroneously named as "M.A.B.B.D. INC." in the original caption of Staff's Petition to Revoke MABDD's CCN.

II. STAFF'S PROPOSED DEFAULT ORDER

Commission Staff has attached to this pleading a proposed default order which revokes MABDD's CCN No. 12009.

III. MOTION TO ADMIT EVIDENCE

Commission Staff has attached the affidavit of Rose Puente, Legal Assistant in the Commission's Division of Compliance and Enforcement, attesting that a copy of the petition was sent by certified mail, return receipt requested, to MABDD's last known address and shows that notice was given to MABDD in accordance with Commission rules and the Administrative Procedure Act.² Commission Staff has also attached the affidavit of Ms. Puente and asserts that a copy of this motion was sent by certified mail, return receipt requested, to the same address. Commission Staff respectfully requests that this affidavit be admitted into evidence.

IV. CONCLUSION

Commission Staff respectfully recommends that the Commission enter the attached Default Order.

Dated: March 24, 2022

Respectfully submitted,

PUBLIC UTILITY COMMISSION OF TEXAS DIVISION OF COMPLIANCE & ENFORCEMENT

Barksdale English
Division Director

/s/Van Moreland
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P.O. Box 13326
Austin, Texas 78711-3326
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² Administrative Procedure Act, Tex. Gov't Code Ann. §§ 2001.001-.902 (West 2008 & Supp. 2014).

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CERTIFICATE OF SERVICE

I certify that on March 28, 2022, a copy of this document was sent via certified mail, return receipt requested, to the Commission's last known address of MABDD in accordance with 16 TAC § 22.183(b).

/s/Van Moreland
Van Moreland

ATTACHMENT ONE
AFFIDAVIT OF ROSE PUENTE

DOCKET NO. 53219

**PETITION TO REVOKE M.A.B.D.
INC.'S CERTIFICATE OF PUBLIC
CONVENIENCE AND NECESSITY
PURSUANT TO TEX. WATER CODE
§ 13.254 AND 16 TAC § 24.113**

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**PUBLIC UTILITY COMMISSION

OF TEXAS**

AFFIDAVIT OF ROSE PUENTE

STATE OF TEXAS §
TRAVIS COUNTY §

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

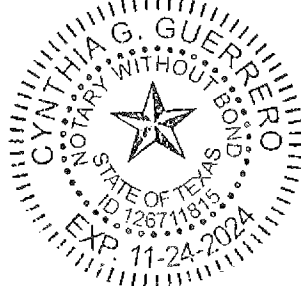
“My name is Rose Puente. I am the Legal Assistant in the Division of Compliance and Enforcement of the Public Utility Commission of Texas (Commission). I am over the age of twenty-one, and I am competent to make this Affidavit. In accordance with 16 Texas Administrative Code § 22.183(b), on February 14, 2022, I mailed, by certified mail, a copy of Commission Staff’s Petition to Revoke M.A.B.D.D. Inc.’s Certificate of Convenience and Necessity and Notice of Opportunity for a Hearing, filed on February 14, 2022, to the last known address of M.A.B.D.D. Inc.

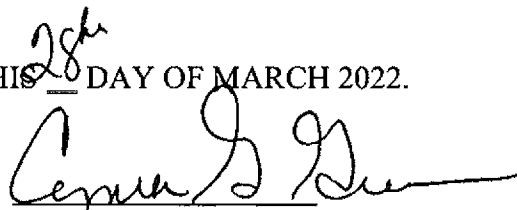
“On March 28, 2022, I mailed by certified mail, a copy of Commission Staff’s Motion for a Default Order filed on March 28, 2022, to M.A.B.D.D. Inc.’s last known address. Please see the attached tracking information for each item, a copy of the petition, and a copy of the Motion for Entry of a Default Order.

“M.A.B.D.D, Inc.
2600 One American Center
600 Congress
Austin, TX 78701 ”


AFFIANT: Rose Puente

SWORN TO AND SUBSCRIBED BEFORE ME THIS 28th DAY OF MARCH 2022.




Notary Public for the State of Texas

2/14/22

Name and Address of Sender

Atten: ROSE PUENTE

Public Utility Comm. of TX
1701 N. Congress Ave.
P O Box 13326
Austin, Texas 78701

Check type of mail or service

- ☐ Adult Signature Required ☐ Priority Mail Express
☐ Adult Signature Restricted Delivery ☐ Registered Mail
☒ Certified Mail ☐ Return Receipt for Merchandise
☐ Certified Mail Restricted Delivery ☐ Signature Confirmation
☐ Collect on Delivery (COD) ☐ Signature Confirmation Restricted Delivery
☐ Insured Mail
☐ Priority Mail

Affix Stamp Here

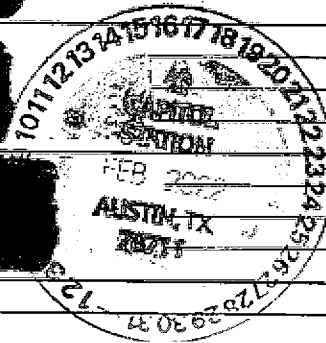
(for additional copies of this receipt).
Postmark with Date of Receipt.

USPS Tracking/Article Number	Addressee (Name, Street, City, State, & ZIP Code™)	Postage	(Extra Service) Fee	Handling Charge	Actual Value if Registered	Insured Value	Due Sender if COD	ASR Fee	ASRD Fee	RD Fee	RR Fee	SC Fee	SCRD Fee	SH Fee
1. 7020 2450 0000 5363 0023	M.A.B.D.D., Inc. 2600 One American Center 600 Congress Austin, TX 78701	73	375											
2.	[REDACTED]	73												
3.	[REDACTED]	73												
4.	[REDACTED]	73												
5.	[REDACTED]	73												
6.	[REDACTED]	73												
7.	[REDACTED]	53												
8.	[REDACTED]													

Total Number of Pieces Listed by Sender: 7

Total Number of Pieces Received at Post Office: 7

Postmaster, Per (Name of receiving employee): [Signature]



Track Another Package +

Tracking Number: 70202450000053630023

Remove X

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USPS Tracking Plus® Available ∨

 **Delivered, To Original Sender**

March 2, 2022 at 8:29 am
AUSTIN, TX 78711

Feedback

Get Updates ∨

Text & Email Updates	∨
Tracking History	∨
USPS Tracking Plus®	∨
Product Information	∨

See Less ^

Name and Address of Sender Atten: ROSE PUENTE Public Utility Comm. of TX 1701 N. Congress Ave. P O Box 13326 Austin, Texas 78701		Check type of mail or service <input type="checkbox"/> Adult Signature Required <input type="checkbox"/> Priority Mail Express <input type="checkbox"/> Adult Signature Restricted Delivery <input type="checkbox"/> Registered Mail <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Certified Mail Restricted Delivery <input type="checkbox"/> Signature Confirmation <input type="checkbox"/> Collect on Delivery (COD) <input type="checkbox"/> Signature Confirmation Restricted Delivery <input type="checkbox"/> Insured Mail <input type="checkbox"/> Priority Mail		Affix Stamp Here (for additional copies of this receipt). Postmark with Date of Receipt.												
USPS Tracking/Article Number	Addressee (Name, Street, City, State, & ZIP Code™)	Postage	(Extra Service) Fee	Handling Charge	Actual Value if Registered	Insured Value	Due Sender if COD	ASR Fee	ASRD Fee	RD Fee	RR Fee	SC Fee	SCRD Fee	S F		
1. 7020 2450 0000 5363 0191	M.A.B.D.D, Inc. 2600 One American Center 600 Congress Austin, TX 78701			Handling Charge - if Registered and over \$50,000 in value												
2.	[REDACTED]															
3.	[REDACTED]															
4.									Adult Signature Required	Adult Signature Restricted Delivery	Restricted Delivery	Return Receipt	Signature Confirmation	Signature Confirmation Restricted Delivery	Special Handling	
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Total Number of Pieces Listed by Sender	Total Number of Pieces Received at Post Office	Postmaster, Per (Name of receiving employee)														

ATTACHMENT TWO
PROPOSED DEFAULT ORDER

DOCKET NO. 53219

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

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**PUBLIC UTILITY COMMISSION

OF TEXAS**

PROPOSED DEFAULT ORDER

This Default Order addresses Commission Staff's petition to revoke M.A.B.D.D Inc. (MABDD)'s Certificate of Convenience and Necessity (CCN) for violations of the Texas Water Code and Commission rules. The Commission grants the petition, by default, and revokes MABDD's CCN No. 12009.

I. Findings of Fact

The Commission makes the following findings of fact.

Certificate of Convenience and Necessity

1. On December 19, 1986, the Commission granted water CCN number 12009 to MABDD.
2. MABDD's water CCN number 12009 certifies an area located approximately 12 miles northwest of Austin, Texas.
3. MABDD is no longer providing water utility service to customers, and any facilities previously used to provide continuous and adequate water services are no longer active.

Commission Staff's Petition

4. On February 14, 2022, Commission Staff filed its petition in this proceeding, in which it seeks to revoke MABDD's CCN No. 12009 for failure to provide continuous and adequate water service.
5. The petition alleges that MABDD is no longer providing water utility service to customers, and that any facilities previously used to provide continuous and adequate water service are no longer active.

Notice

6. MABDD's last known address in the Commission's records is:

M.A.B.D.D, Inc.
2600 One American Center
600 Congress
Austin, TX 78701

7. On March 28, 2022, Commission Staff filed the affidavit of Rose Puente, Legal Assistant with the Commission's Division of Compliance and Enforcement, attesting that a copy of the petition was sent by certified mail, return receipt requested, to MABDD's last known address on February 14, 2022.
8. In her affidavit, Ms. Puente also asserts that a copy of Commission Staff's motion for entry of a default order was sent by certified mail, return receipt requested, to MABDD's last known address identified above on March 28, 2022.
9. The petition notified MABDD 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).
10. The petition also notified MABDD that MABDD 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, as provided by 16 Texas Administrative Code (TAC) § 22.183(b)(1):

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

Evidentiary Record

11. On March 28, 2022, Commission Staff filed a motion requesting the affidavit of Ms. Puente be admitted into evidence.
12. In Order No. _ filed on _____, the administrative law judge admitted the following into evidence the affidavit of Ms. Puente and supporting documents, attached to Commission Staff's Motion for Entry of a Default Order,

Revocation of Certificate of Convenience and Necessity

13. A water utility that has received a CCN from the Commission is obligated under Texas Water Code (TWC) § 13.250(a) and 16 TAC § 24.247 to provide continuous and adequate service to every consumer within the boundaries of its certificated area.
14. Under TWC § 13.254(a)(1) and 16 TAC § 24.245(d)(1)(A), the Commission may revoke the CCN of a water utility if, after notice and opportunity for hearing, the Commission finds that the CCN holder is no longer providing or has failed to provide continuous and adequate service to all or part of the area located within its certificated boundaries.
15. The evidence in the record indicates that MABDD is no longer providing water utility service to customers, and that any facilities previously used to provide continuous and adequate water services are no longer active.

Motion for Disposition by Default

16. On March 28, 2022, Commission Staff filed a motion for entry of a default order.
17. The motion for default was served on MABDD 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 MABDD.
19. MABDD 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 entry of a default order.
21. MABDD did not respond to the motion for entry of a default order.

II. Conclusions of Law

1. The Commission has jurisdiction over this petition under TWC § 13.254.
2. MABDD is a water utility under TWC § 13.002(23) and 16 TAC § 24.3(31).
3. Under TWC §§ 13.041(a) and 13.042(e), the Commission has jurisdiction and authority to regulate and supervise the business, rates, services, and operations of each water utility in Texas that is not located within the incorporated limits of a municipality exercising exclusive original jurisdiction under TWC § 13.042(b)
4. MABDD is the holder of water CCN No. 12009.

5. A water utility that has received a CCN from the Commission is obligated under TWC § 13.250(a) and 16 TAC § 24.247 to provide continuous and adequate service to every consumer within the boundaries of its certificated area.
6. Under TWC § 13.254(a)(1) and 16 TAC § 24.245(d)(1)(A), the Commission may revoke the CCN of a water utility if, after notice and opportunity for hearing, the Commission finds that the CCN holder is no longer providing or has failed to provide continuous and adequate service to all or part of the area located within its certificated boundaries.
7. Because MABDD is no longer providing water utility service to customers and any facilities previously used to provide continuous and adequate water services are no longer active, the Commission is entitled to revoke MABDD's CCN No. 12009 under TWC § 13.254(a)(1) and 16 TAC § 24.245(d)(1)(A).
8. Adequate notice was provided to MABDD in compliance with Texas Government Code §§ 2001.052 and 2001.054 and 16 TAC § 22.183.
9. MABDD 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. The Commission deems the allegations in Commission Staff's petition as true and admits those facts into evidence.
2. Commission Staff's petition and motion for default order are granted.
3. MABDD's Certificate of Convenience and Necessity is revoked.
4. The Commission is not constrained in any manner from requiring additional action or penalties for violations.

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 MCADMAS, COMMISSIONER

LORI COBOS, COMMISSIONER

JIMMY GLOTFELTY, COMMISSIONER