



## Filing Receipt

**Received - 2022-04-14 09:02:53 AM**

**Control Number - 53219**

**ItemNumber - 6**

**DOCKET NO. 53219**

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

**ORDER NO. 3  
DENYING MOTION FOR DEFAULT**

On February 14, 2022, Commission Staff filed a petition in which it seeks to revoke M.A.B.B.D. Inc.'s water certificate of convenience and necessity number 12009. Commission Staff alleges that M.A.B.B.D. is no longer providing continuous and adequate water service to the certificated area and the facilities necessary to provide continuous and adequate water service to the certificated area are inactive.

On March 28, 2022, Commission Staff filed a motion for entry of a default order. The motion included the affidavit of Rose Puente, legal assistant in the Commission's Division of Compliance and Enforcement, dated March 28, 2022, attesting that a copy of Commission Staff's petition to revoke M.A.B.B.D.'s CCN and notice of opportunity for a hearing and a copy of Commission Staff's motion for entry for a default order were sent by certified mail to M.A.B.B.D.'s last known address. Commission Staff's motion also included a copy of a page from the United States Postal Service (USPS) firm mailing book for accountable mail, a USPS tracking sheet, a second copy of a page from the USPS firm mailing book for accountable mail, and a proposed default order.

In the petition, Commission Staff states that the petition was sent by certified mail, return receipt requested, to M.A.B.B.D.'s "last known address . . . 2600 One American Center, 600 Congress, Austin, TX 78701." The affidavit of Ms. Puente also states that a copy of the default order was sent to M.A.B.B.D.'s "last known address" and the tracking sheet shows that a package was delivered to the original sender.

The Commission's default rule, 16 Texas Administrative Code (TAC) § 22.183, specifies three methods by which proof can be made that the non-moving party was provided notice of the opportunity for a hearing, two of which is relevant here. Under 16 TAC § 22.183(b)(2)(A), a

default order may be issued when the moving party can prove that the required notice was sent by certified mail to the non-movant's "last known address in the Commission's records, if the party has a . . . certificate . . . approved by the Commission." Commission Staff does not state from where it obtained M.A.B.B.D.'s last known address, however, a search of the Commission's records indicates that there is no address for M.A.B.B.D. in the Commission's records.

Under 16 TAC § 22.183(b)(2)(C), if 16 TAC § 22.183(b)(2)(A) does not apply, the required notice may be sent to "an address for the party identified after reasonable investigation." Here, Commission Staff has not explained the investigation done to identify M.A.B.B.D.'s last known address; therefore, it cannot be determined whether the investigation was reasonable.

Thus, because Commission Staff has not demonstrated that a reasonable investigation was done to locate M.A.B.B.D.'s last known address, adequate proof of notice has not yet been shown, and Commission Staff's motion for default is denied at this time.

Commission Staff is free to file a new motion for default if circumstances warrant it in the future.

By May 12, 2022, the parties must file a proposed schedule for further processing of this matter.

**Signed at Austin, Texas the 14th day of April 2022.**

**PUBLIC UTILITY COMMISSION OF TEXAS**



---

**KATIE MOORE MARX**  
**ADMINISTRATIVE LAW JUDGE**