



## Filing Receipt

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**Control Number - 53220**  
**ItemNumber - 4**

**DOCKET NO. 53220**

<b>PETITION TO REVOKE EDWARD R.</b>	<b>§</b>	<b>PUBLIC UTILITY COMMISSION</b>
<b>RATHGEBER, JR. DBA RIVER</b>	<b>§</b>	
<b>TIMBER WATER SUPPLY'S</b>	<b>§</b>	<b>OF TEXAS</b>
<b>CERTIFICATE OF PUBLIC</b>	<b>§</b>	
<b>CONVENIENCE AND NECESSITY</b>	<b>§</b>	
<b>PURSUANT TO TEX. WATER CODE</b>	<b>§</b>	
<b>§ 13.254 AND 16 TAC § 24.113</b>	<b>§</b>	

**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. 12293 belonging to Edward R. Rathgeber, Jr. dba River Timber Water Supply (River Timber). In its petition, Commission Staff recommend, based on underlying supporting information, that River Timber is no longer providing continuous and adequate water service to the certificated area of CCN 12293, that the facilities necessary to provide continuous and adequate water service to the certificated area are inactive, and that River Timber's water CCN be revoked under Texas Water Code (TWC) § 13.254(a)(1) and 16 TAC § 24.245(d)(1)(A).<sup>1</sup> Commission Staff included the disclosure required under 16 TAC § 22.183(b)(1) and Commission Staff sent the petition to River Timber'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 River Timber that a

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<sup>1</sup> Staff additionally requests that the caption of this case be revised to "PETITION TO REVOKE EDWARD R. RATHGEBER, JR. DBA RIVER TIMBER WATER SUPPLY'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 When it submitted its Open Docket Request in this matter, Staff erroneously cited a now repealed and replaced section of the Texas Administrative Code.

default could be granted if River Timber failed to timely request a hearing within 30 days of service and a reference to statutes and rules involved.

## **II. STAFF'S PROPOSED DEFAULT ORDER**

Commission Staff has attached to this pleading a proposed default order which revokes River Timber's CCN No. 12293.

## **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 River Timber's last known address and shows that notice was given to River Timber in accordance with Commission rules and the Administrative Procedure Act.<sup>2</sup> 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  
Van Moreland  
1701 N. Congress Avenue  
P.O. Box 13326  
Austin, Texas 78711-3326  
(512) 936-7163

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<sup>2</sup> Administrative Procedure Act, Tex. Gov't Code Ann. §§ 2001.001-.902 (West 2008 & Supp. 2014).

(512) 936-7268 (facsimile)  
van.moreland@puc.texas.gov

**DOCKET NO. 53220**

**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 River Timber in accordance with 16 TAC § 22.183(b).

/s/Van Moreland  
Van Moreland

**ATTACHMENT ONE**  
**AFFIDAVIT OF ROSE PUENTE**

**DOCKET NO. 53220**

<b>PETITION TO REVOKE EDWARD R. RATHGEBER, JR. DBA RIVER TIMBER WATER SUPPLY'S CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY PURSUANT TO TEX. WATER CODE § 13.254 AND 16 TAC § 24.113</b>	<b>§ § § § § § §</b>	<b>PUBLIC UTILITY COMMISSION  OF TEXAS</b>
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**AFFIDAVIT OF ROSE PUENTE**

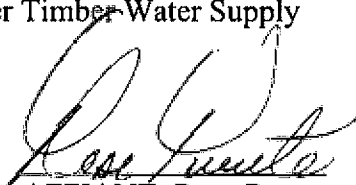
STATE OF TEXAS           §  
TRAVIS COUNTY           §

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.

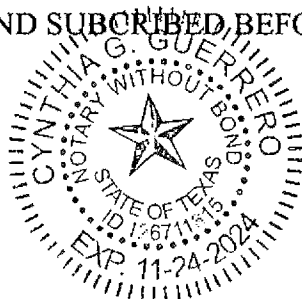
"My name is Rose Puente. I am the Legal Assistant in the Division of Compliance and Enforcement of the Public Utility Commission of Texas (Commission). I am over the age of twenty-one, and I am competent to make this Affidavit. In accordance with 16 Texas Administrative Code § 22.183(b), on February 14, 2022, I mailed, by certified mail, a copy of Commission Staff's Petition to Revoke Edward R. Rathgeber, Jr. dba River Timber Water Supply's Certificate of Convenience and Necessity and Notice of Opportunity for a Hearing, filed on February 14, 2022, to the last known address of Edward R. Rathgeber, Jr. dba River Timber Water Supply.

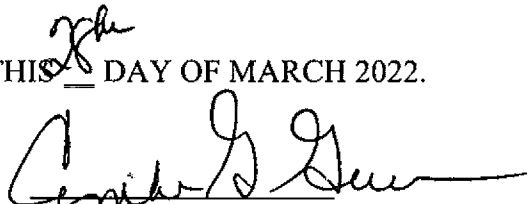
"On March 28, 2022, I mailed by certified mail, a copy of Commission Staff's Motion for a Default Order filed on March 28, 2022, to Edward R. Rathgeber, Jr. dba River Timber Water Supply's last known address. Please see the attached tracking information for each item, a copy of the petition, and a copy of the Motion for Entry of a Default Order.

"Edward R. Rathgeber, Jr. dba River Timber Water Supply  
2404 Rutland Drive, Suite 104  
Austin, TX 78758"

  
AFFIANT: Rose Puente

SWORN TO AND SUBSCRIBED BEFORE ME THIS 28<sup>th</sup> DAY OF MARCH 2022.



  
Notary Public for the State of Texas

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 SCD Fee SH Fee

1.

[Redacted]

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73

375

Handling Charge - if Registered and over \$50.00 in value

735

2.

7020 2450 0000 5363 0030

Edward R. Rathgeber, Jr.  
dba River Timber Water Supply  
2404 Rutland Drive, Suite 104  
Austin, TX 78758

73

3.

[Redacted]

[Redacted]

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Adult Signature Required

4.

[Redacted]

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Adult Signature Restricted Delivery

5.

[Redacted]

[Redacted]

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Restricted Delivery

6.

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Return Receipt

7.

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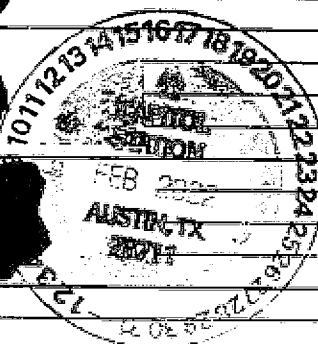
[Redacted]

53

Signature Confirmation

Signature Confirmation Restricted Delivery

Special Handling



Total Number of Pieces Listed by Sender

Total Number of Pieces Received at Post Office

Postmaster, Per (Name of receiving employee)

[FAQs >](#)[Track Another Package +](#)**Tracking Number:** 70202450000053630030[Remove X](#)

Your item has been delivered and is available at a PO Box at 8:26 am on March 1, 2022 in AUSTIN, TX 78711.

**USPS Tracking Plus® Available** **Delivered, PO Box**

March 1, 2022 at 8:26 am  
AUSTIN, TX 78711

**Get Updates** 

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**Text & Email Updates**

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**Tracking History**

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**USPS Tracking Plus®**

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**Product Information**

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**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

- ☐ 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	S Fi
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2.												
3.												
4.												
5.												
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7.												
8.												

1.  
[Redacted]  
2.  
7020 2450 0000 5363 0207

Edward R. Rathgeber, Jr.  
dba River Timber Water Supply  
2404 Rutland Drive, Suite 104  
Austin, TX 78758

Handling Charge - If Registered and over \$50.000 in value

Adult Signature Required

Adult Signature Restricted Delivery

Restricted Delivery

Return Receipt

Signature Confirmation

Signature Confirmation Restricted Delivery

Special Handling

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. 53220**

<b>PETITION TO REVOKE EDWARD R.</b>	<b>§</b>	<b>PUBLIC UTILITY COMMISSION</b>
<b>RATHGEBER, JR. DBA RIVER</b>	<b>§</b>	
<b>TIMBER WATER SUPPLY'S</b>	<b>§</b>	<b>OF TEXAS</b>
<b>CERTIFICATE OF PUBLIC</b>	<b>§</b>	
<b>CONVENIENCE AND NECESSITY</b>	<b>§</b>	
<b>PURSUANT TO TEX. WATER CODE</b>	<b>§</b>	
<b>§ 13.254 AND 16 TAC § 24.245</b>	<b>§</b>	

**PROPOSED DEFAULT ORDER**

This Default Order addresses Commission Staff's petition to revoke Edward R. Rathgeber, Jr. dba River Timber Water Supply (River Timber)'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 River Timber's CCN No. 12293.

**I. Findings of Fact**

The Commission makes the following findings of fact:

**Certificate of Convenience and Necessity**

1. On January 11, 1993, the Commission granted water CCN number 12293 to River Timber.
2. River Timber's water CCN number 12293 certifies an area located approximately 13 miles southeast of Austin, Texas.
3. River Timber 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 River Timber's CCN No. 12293 for failure to provide continuous and adequate water service.
5. The petition alleges that River Timber 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. River Timber's last known address in the Commission's records is:

Edward R. Rathgeber, Jr. dba River Timber Water Supply  
2404 Rutland Drive, Suite 104  
Austin, TX 78758

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 River Timber'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 River Timber's last known address identified above on March 28, 2022.
9. The petition notified River Timber 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 River Timber that River Timber 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 River Timber that the factual allegations in this petition could be deemed admitted and the relief sought herein granted by default if River Timber 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 River Timber 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 River Timber 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 River Timber.
19. River Timber 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. River Timber 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. River Timber 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. River Timber is the holder of water CCN No. 12293.

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 River Timber 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 River Timber's CCN No. 12293 under TWC § 13.254(a)(1) and 16 TAC § 24.245(d)(1)(A).
8. Adequate notice was provided to River Timber in compliance with Texas Government Code §§ 2001.052 and 2001.054 and 16 TAC § 22.183.
9. River Timber 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. River Timber'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**

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**PETER M. LAKE, CHAIRMAN**

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**WILL MCADMAS, COMMISSIONER**

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**LORI COBOS, COMMISSIONER**

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**JIMMY GLOTFELTY, COMMISSIONER**