



Control Number: 53220



Item Number: 9

DOCKET NO. 53220

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

DEFAULT ORDER

This Default Order addresses the February 14, 2022 petition of Commission Staff to revoke the water certificate of convenience and necessity (CCN) of Edward R. Rathgeber, Jr. dba River Timber Water Supply for violations of the Texas Water Code (TWC) and Commission rules. The Commission grants the petition, by default, and revokes Mr. Rathgeber's CCN number 12293.

I. Findings of Fact

The Commission makes the following findings of fact.

CCN Holder

1. Mr. Rathgeber is an individual.
2. Multiple spellings of Mr. Rathgeber's name—Rathgerger and Rathgeber—appear in the Commission's records.
3. On January 11, 1993, the Commission issued CCN number 12293 to Mr. Rathgeber dba River Timber.
4. Under CCN number 12293, Mr. Rathgeber dba River Timber is obligated to provide continuous and adequate water service to customers within the boundaries of the CCN's certificated service area in Travis County.

Commission Staff's Petition

5. On February 14, 2022, Commission Staff filed its petition in this proceeding, in which it seeks to revoke Mr. Rathgeber's CCN number 12293 for failure to provide continuous and adequate water service.

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6. The petition alleges that Mr. Rathgeber is no longer providing and is incapable of providing continuous and adequate water service and therefore requests that the CCN be revoked.
7. A Commission Staff review of records related to CCN number 12293 indicates Mr. Rathgeber dba River Timber is no longer providing water utility service to customers and any facilities previously used to provide continuous and adequate water service are no longer active.
8. Mr. Rathgeber dba River Timber does not provide and is not capable of providing continuous and adequate service to customers in its certificated service area.

Notice

9. Mr. Rathgeber's last known address in the Commission's records is:
2404 Rutland Drive, Suite 104
Austin, Texas 78758
10. On February 14, 2022, Commission Staff sent a copy of the petition by certified mail to Mr. Rathgeber's last known address in the Commission's records identified above.
11. The petition notified Mr. Rathgeber 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.
12. The petition notified Mr. Rathgeber that he 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:

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

13. On March 28, 2022, Commission Staff filed a motion to admit evidence.
14. In Order No. 2 filed on March 29, 2022, the administrative law judge granted the motion and admitted into evidence the affidavit of Rose Puente, and the documents that are

attached to Ms. Puente's affidavit, all of which are identified as attachment one to Commission Staff's March 28, 2022 motion.

Motion for Disposition by Default

15. On March 28, 2022, Commission Staff filed a motion for entry of a default order.
16. On March 28, 2022, Commission Staff sent a copy of the motion for default by certified mail to Mr. Rathgeber's last known address in the Commission's records identified above.

Grounds for Default

17. More than 30 days have passed since service of the petition on Mr. Rathgeber.
18. Mr. Rathgeber did not request a hearing on the merits and did not respond to the petition.
19. More than 15 days have passed since service of the motion for default.
20. Mr. Rathgeber 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. Because Mr. Rathgeber is no longer providing and is incapable of providing continuous and adequate service in the certificated service area, the Commission is entitled to revoke CCN number 12293 under TWC § 13.254(a)(1) and 16 TAC § 24.245(d)(1)(A).
3. Adequate notice was provided to Mr. Rathgeber in compliance with Texas Government Code § 2001.054(c) and 16 TAC §§ 22.54(a) and 22.183(b).
4. The Commission may issue a default order under 16 TAC § 22.183(a) and (b) in this proceeding because Mr. Rathgeber failed to request a hearing within 30 days of service of the notice of an opportunity for a hearing.
5. This proceeding meets the requirements for disposition by default in 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 grants Commission Staff's motion for a default order and revokes Mr. Rathgeber's CCN number 12293.
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 that have not been expressly granted.

Signed at Austin, Texas the 6th day of October 2022.

PUBLIC UTILITY COMMISSION OF TEXAS



PETER M. LAKE, CHAIRMAN



WILL MCADAMS, COMMISSIONER



LORI COBOS, COMMISSIONER



JIMMY GLOTFELTY, COMMISSIONER



KATHLEEN JACKSON, COMMISSIONER