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DOCKET NO. 53224

PETITION TO REVOKE HORSESHOE LAKE PROPERTY OWNERS ASSOCIATION'S CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY PURSUANT TO TEX. WATER CODE § 13.254 AND 16 TAC § 24.245	§ § § § § § §	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. 12601 belonging to Jesse Grady d/b/a Horseshoe Lake Property Owners Association (Horseshoe Lake POA). In its petition, Commission Staff recommended, based on underlying supporting information, that Horseshoe Lake POA is no longer providing continuous and adequate water service to the certificated area of CCN 12601, that the facilities necessary to provide continuous and adequate water service to the certificated area are inactive, and that Horseshoe Lake POA's water CCN be revoked under Texas Water Code (TWC) § 13.254(a)(1) and 16 TAC § 24.245(d)(1)(A). Commission Staff included the disclosure required under 16 TAC § 22.183(b)(1) and Commission Staff sent the petition to Horseshoe Lake POA's addresses identified after a reasonable investigation as required by 16 TAC § 22.183(b)(2).¹

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 Horseshoe Lake POA that a default could be granted if Horseshoe Lake POA failed to timely request a hearing within 30 days of service and a reference to statutes and rules involved.

¹ See Commission Staff's Response to Order No. 2 (April 18, 2022); Certificate of Service (April 21, 2022).

II. STAFF'S PROPOSED DEFAULT ORDER

Commission Staff has attached to this pleading a proposed default order which revokes Horseshoe Lake POA's CCN No. 12601.

III. MOTION TO ADMIT EVIDENCE

Commission Staff has attached the affidavit of Rose Ramirez, 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 Horseshoe Lake POA's addresses found after a reasonable investigation and shows that notice was given to Horseshoe Lake POA in accordance with Commission rules and the Administrative Procedure Act.² Commission Staff has also attached the affidavit of Ms. Ramirez and asserts that a copy of this motion was sent by certified mail, return receipt requested, to the same addresses. 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: June 15, 2022

Respectfully submitted,

PUBLIC UTILITY COMMISSION OF TEXAS DIVISION OF COMPLIANCE & ENFORCEMENT

Barksdale English
Division Director

/s/Van Moreland
Van Moreland
State Bar No. 24088087
1701 N. Congress Avenue
P.O. Box 13326
Austin, Texas 78711-3326
(512) 936-7163
(512) 936-7268 (facsimile)
van.moreland@puc.texas.gov

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 June 15, 2022, a copy of this document was sent via certified mail, return receipt requested, to the Commission's last known address of Horseshoe Lake POA in accordance with 16 TAC § 22.183(b).

/s/Van Moreland
Van Moreland

ATTACHMENT 1
AFFIDAVIT OF ROSE RAMIREZ

DOCKET NO. 53224

PETITION TO REVOKE HORSESHOE § PUBLIC UTILITY COMMISSION
LAKE PROPERTY OWNERS §
ASSOCIATION'S CERTIFICATE OF § OF TEXAS
PUBLIC CONVENIENCE AND §
NECESSITY PURSUANT TO TEX. §
WATER CODE § 13.254 AND 16 TAC §
24.245 §

AFFIDAVIT OF ROSE RAMIREZ

STATE OF TEXAS §
TRAVIS COUNTY §

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


“My name is Rose Ramirez. 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 April 18, 2022, I mailed, by certified mail, a copy of Commission Staff’s Petition to Revoke Jesse Grady d/b/a Horseshoe Lake Property Owners Association’s Certificate of Convenience and Necessity and Notice of Opportunity for a Hearing, filed on February 14, 2022, to the addresses of Jesse Grady d/b/a Horseshoe Lake Property Owners Association found after a reasonable investigation.

“On June 15, I mailed by certified mail, a copy of Commission Staff’s Motion for a Default Order filed on June 15, 2022, to Jesse Grady d/b/a Horseshoe Lake Property Owners Association’s addresses found after a reasonable investigation. Please see the attached tracking information for each item.

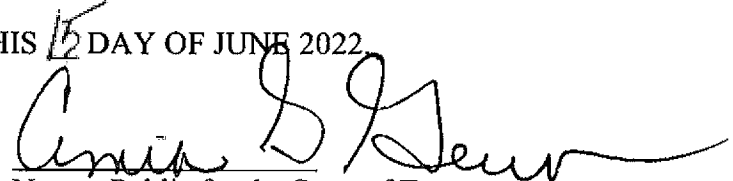
Jesse Grady
PO Box 8014
Smithville, TX 78957

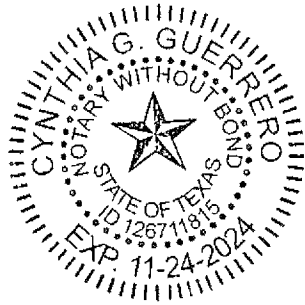
Jesse Grady
Route 2, Box 95-B
Smithville, Texas 78957

Jesse Grady
118 Lakeview Dr.
Hemphill, Texas 75948-9408”


AFFIANT: Rose Ramirez

SWORN TO AND SUBSCRIBED BEFORE ME THIS 15 DAY OF JUNE 2022.


Notary Public for the State of Texas

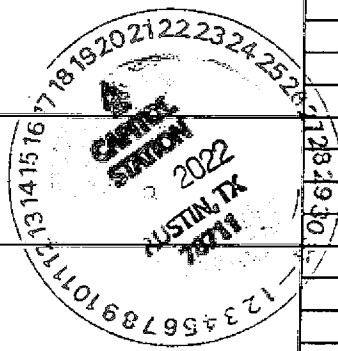


Name and Address of Sender
 Atten ROSE PUENTE
 Public Utility Comm. of TX
 1701 N. Congress Ave.
 P O Box 13326
 Austin, Texas 78701

- Check type of mail or service
- Adult Signature Required
 - Adult Signature Restricted Delivery
 - Certified Mail
 - Certified Mail Restricted Delivery
 - Collect on Delivery (COD)
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 - Priority Mail
 - Priority Mail Express
 - Registered Mail
 - Return Receipt for Merchandise
 - Signature Confirmation
 - Signature Confirmation Restricted Delivery

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. 7021 2720 0000 9785 5494	Mr. Jesse Grady PO Box 8014 Smithville, TX. 78957													
2. 7021 2720 0000 9785 5517	Mr. Jesse Grady Route 2, Box 95-B Smithville, TX. 78957													
3. 7021 2720 0000 9785 5500	Mr. Jesse Grady 118 Lakeview Dr. Hemphill, TX. 75948 9408													
4.														
5.														
6.														
7.														
8.														



Total Number of Pieces Listed by Sender: **3**
 Total Number of Pieces Received at Post Office: **3**
 Postmaster Per (Name of receiving employee): *[Signature]*



6/15/2022

Firm Mailing Book For Accountable Mail

Name and Address of Sender

Attention: ROSE RAMIREZ

Public Utility Commission of Texas
1701 N. Congress Ave.
PO Box 13326
Austin, TX. 78701-1494

Check type of mail or service

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

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. 7021 2720 0002 6230 6103	Jesse Grady 118 Lakeview Dr. Hemphill, Texas 75948-9408													
2. 7021 2720 0002 6230 6127	Jesse Grady PO Box 8014 Smithville, TX 78957													
3. 7021 2720 0002 6230 6110	Jesse Grady Route 2, Box 95-B Smithville, Texas 78957													
4.								Adult Signature Required	Adult Signature Restricted Delivery	Restricted Delivery	Return Receipt	Signature Confirmation	Signature Confirmation Restricted Delivery	Special Handling
5.														
6.														
7.														
8.														
Total Number of Pieces Listed by Sender	Total Number of Pieces Received at Post Office	Postmaster, Per (Name of receiving employee)												

ATTACHMENT 2
PROPOSED DEFAULT ORDER

DOCKET NO. 53224

PETITION TO REVOKE HORSESHOE LAKE PROPERTY OWNERS ASSOCIATION'S CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY PURSUANT TO TEX. WATER CODE § 13.254 AND 16 TAC § 24.245	§ § § § § § §	PUBLIC UTILITY COMMISSION OF TEXAS
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PROPOSED DEFAULT ORDER

This Default Order addresses Commission Staff's petition to revoke Jesse Grady d/b/a Horseshoe Lake Property Owners Association (Horseshoe Lake POA)'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 Horseshoe Lake POA's CCN No. 12601.

I. Findings of Fact

The Commission makes the following findings of fact:

Certificate of Convenience and Necessity

1. On September 23, 1991, the Texas Water Commission granted water CCN number 12601 to Horseshoe Lake POA.
2. Under CCN number 12601, Horseshoe Lake POA is obligated to provide continuous and adequate water service to customers within the boundaries of the CCN's certificate service area in Bastrop County.

Commission Staff's Petition

3. On February 14, 2022, Commission Staff filed its petition in this proceeding, in which it seeks to revoke Horseshoe Lake POA's CCN No. 12601 for failure to provide continuous and adequate water service.
4. The petition alleges that Horseshoe Lake POA 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.

5. A Commission Staff review of records related to CCN number 12601 indicates Horseshoe Lake POA 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.
6. Horseshoe Lake POA does not provide and is not capable of providing continuous and adequate service to customers in its certificated service area.

Notice

7. Horseshoe Lake POA's addresses identified after reasonable investigation are:

Jesse Grady
PO Box 8014
Smithville, TX 78957

Jesse Grady
Route 2, Box 95-B
Smithville, Texas 78957

Jesse Grady
118 Lakeview Dr.
Hemphill, Texas 75948-9408

8. On April 18, 2022, Commission Staff sent a copy of the petition by certified mail, return receipt requested, to Horseshoe Lake POA's addresses identified above.
9. The petition notified Horseshoe Lake POA 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 Horseshoe Lake POA that Horseshoe Lake POA 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 Horseshoe Lake POA that the factual allegations in this petition could be deemed admitted and the relief sought herein granted by default if Horseshoe Lake POA fails to request a hearing within 30 days after service of this petition.

Evidentiary Record

11. On June 15, 2022 Commission Staff filed a motion requesting the affidavit of Ms. Ramirez be admitted into evidence.
12. In Order No. __ filed on _____, the administrative law judge admitted the following into evidence the affidavit of Ms. Ramirez and supporting documents, attached to Commission Staff's Motion for Entry of a Default Order.

Motion for Disposition by Default

13. On June 15, 2022, Commission Staff filed a motion for entry of a default order.
14. On June 15, 2022, Commission Staff sent a copy of the motion for entry of a default order by certified mail, return receipt requested, to Horseshoe Lake POA's addresses identified above.

Grounds for Default

15. More than 30 days have passed since service of the petition to Horseshoe Lake POA.
16. Horseshoe Lake POA did not request a hearing on the merits and did not respond to the petition.
17. More than 30 days have passed since service of the motion for entry of a default order.
18. Horseshoe Lake POA 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. Horseshoe Lake POA is a retail public water utility under TWC § 13.002(23) and 16 TAC § 24.3(31).
3. Under TWC § 13.250(a) and 16 TAC § 24.247, Horseshoe Lake POA, as the holder of CCN number 12601, is obligated to provide water service to every customer and applicant for service within its certificated area who requests water service and meets the terms of Horseshoe Lake POA's water service policies, and such service must be continuous and adequate.

4. Because Horseshoe Lake POA 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 number 12601 under TWC § 13.254(a)(1) and 16 TAC § 24.45(d)(1)(A).
5. Adequate notice was provided to Horseshoe Lake POA in compliance with Texas Government Code §§ 2001.052 and 2001.054 and 16 TAC § 22.183.
6. Horseshoe Lake POA 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).
7. 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. The Commission grants Commission Staff's motion for default order and revokes Horseshoe Lake POA's water CCN number 12601.
3. The Commission is not constrained in any manner from requiring additional action or penalties for violations.
4. 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