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Governor

Thomas J. Gleeson
Executive Director

Public Utility Commission of Texas

TO: Stephen Journey
Commission Counsel

All Parties of Record

FROM: Isaac Ta *I. T.*
Administrative Law Judge

RE: **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*

DATE: June 29, 2022

Enclosed is a Proposed Default Order in the above-referenced case. By copy of this memo, the parties to this proceeding are being served with the Proposed Default Order.

Please place this docket on an open meeting agenda for the Commissioners' consideration. Please notify me and the parties of the open meeting date. The parties must file corrections or exceptions to the Proposed Order by July 14, 2022.

If a party proposes a correction or exception, the party must fully explain the correction or exception and must provide a citation to the record to support the correction or exception.

If there are no corrections or exceptions, no response is necessary.

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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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PROPOSED DEFAULT ORDER

This Default Order addresses the February 14, 2022 petition of Commission Staff to revoke the certificate of convenience and necessity (CCN) of Jesse Grady dba Horseshoe Lake Property Owners Association for violations of the Texas Water Code (TWC) and Commission rules. The Commission grants the petition, by default, and revokes Horseshoe Lake’s CCN number 12601.

I. Findings of Fact

The Commission makes the following findings of fact.

CCN Holder

1. Jesse Grady is an individual doing business as Horseshoe Lake Property Owners Association.
2. Horseshoe Lake holds CCN number 12601.
3. Under CCN number 12601, Horseshoe Lake is obligated to provide continuous and adequate water service to customers within the boundaries of its certificated service area in Bastrop County.

Commission Staff’s Petition

4. On February 14, 2022, Commission Staff filed a petition in this proceeding, in which it seeks to revoke Horseshoe Lake’s CCN number 12601 for failure to provide continuous and adequate water service.
5. The petition alleges that Horseshoe Lake is no longer providing and is incapable of providing continuous and adequate water service and, therefore, its CCN should be revoked.

6. On September 23, 1991, the Texas Water Commission granted CCN number 12601 to “Mr. Jesse Grady dba Horseshoe Lake Property Owners Association.”
7. A Commission Staff review of records related to CCN number 12601 indicates that Horseshoe Lake is no longer providing water utility service to customers, and any facilities previously used by Horseshoe Lake to provide continuous and adequate water service are no longer active.
8. Horseshoe Lake does not provide and is not capable of providing continuous and adequate water service to customers in its certificated service area.

Notice

9. The last known address of Horseshoe Lake in the Commission’s records is:

Jesse Grady
PO Box 8014
Smithville, Texas 78957
10. Commission Staff determined, after conducting a reasonable investigation of the Texas secretary of state database, Texas Commission on Environmental Quality records, and the Texas Water Commission records, that Jesse Grady has two associated addresses:

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

Jesse Grady
118 Lakeview Dr.
Hemphill, Texas 75948-94058
11. On April 18, 2022, Commission Staff sent a copy of the petition by certified mail, return receipt requested, to Horseshoe Lake’s addresses identified above.
12. The petition notified Horseshoe Lake 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).
13. The petition also notified Horseshoe Lake that it 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:

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

14. In Order No. 5 filed on June 29, 2022, the administrative law judge admitted into evidence the affidavit of Rose Ramirez, and the documents that are attached to Ms. Ramirez's affidavit, all of which are identified as attachment one to Commission Staff's June 15, 2022 motion for entry of a default order.

Motion for Default

15. On June 15, 2022, Commission Staff filed a motion for entry of a default order.
16. On June 15, 2022, Commission Staff sent a copy of the motion for default, by certified mail, to Horseshoe Lake's addresses:

Jesse Grady
PO Box 8014
Smithville, Texas 78957

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

Jesse Grady
118 Lakeview Dr.
Hemphill, Texas 75948-94058

Grounds for Default

17. More than 30 days have passed since service of the petition to Horseshoe Lake.
18. Horseshoe Lake did not request a hearing on the merits and did not respond to the petition.
19. More than 10 days have passed since service of the motion for default.
20. Horseshoe Lake 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. Horseshoe Lake is a retail public utility under TWC § 13.002(19) and 16 Texas Administrative Code (TAC) § 24.3(31).
3. Under TWC § 13.250(a) and 16 TAC § 24.247, Horseshoe Lake, 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's water service policies, and such service must be continuous and adequate.
4. Because Horseshoe Lake is no longer providing and is incapable of providing continuous and adequate water service in its certificated service area, in violation of TWC § 13.250 and 16 TAC § 24.247, the Commission is entitled to revoke CCN number 12601 under TWC § 13.254(a)(1) and 16 TAC § 24.245(d)(1)(A).
5. Adequate notice was provided to Horseshoe Lake in compliance with Texas Government Code §§ 2001.052 and 2001.054 and 16 TAC § 22.183(b)(2).
6. Horseshoe Lake 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 orders.

1. The Commission deems the allegations in Commission Staff's petition as true.
2. The Commission takes official notice of its records that contain the last-known address of Horseshoe Lake.
3. The Commission grants Commission Staff's motion for default order and revokes Horseshoe Lake's CCN number 12601.
4. The Commission directs Commission Staff to update its records accordingly.
5. The Commission is not constrained in any manner from requiring additional action or penalties for violations that are not raised here.

6. 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 MCADAMS, COMMISSIONER

LORI COBOS, COMMISSIONER

JIMMY GLOTFELTY, COMMISSIONER