



Control Number: 53224



Item Number: 17

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PUBLIC UTILITY COMMISSION  
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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 §

**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 doing business as 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. On September 23, 1991, the Texas Water Commission granted CCN number 12601 to "Mr. Jesse Grady dba Horseshoe Lake Property Owners Association."
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. 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to customers and any facilities previously used by Horseshoe Lake to provide continuous and adequate water service are no longer active.
7. Horseshoe Lake does not provide and is not capable of providing continuous and adequate water service to customers in its certificated service area.
8. Commission Staff identified the last known address of Horseshoe Lake in the Commission's records as follows:

Jesse Grady  
PO Box 8014  
Smithville, Texas 78957
9. 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).
10. 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.**

**Commission Staff's Motion for a Default Order**

11. On April 1, 2022, Commission Staff filed a motion for entry of a default order revoking Horseshoe Lake's CCN.
12. In Order No. 2 filed on April 5, 2022, the administrative law judge (ALJ) requested clarification from Commission Staff on a potential discrepancy between the last known

address of Horseshoes Lake in the Commission's records and the address in the CCN attached to Commission Staff's April 1, 2022 motion for entry of a default order, and the address to which Commission Staff provided notice of this proceeding.

13. The ALJ denied the April 1, 2022 motion for entry of a default order in Order No. 4 filed on June 14, 2022.

**Additional Notice**

14. 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 additional associated addresses:

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

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

15. On April 21, 2022, Commission Staff sent a copy of the petition filed on February 14, 2022 by certified mail, return receipt requested, to the three Horseshoe Lake addresses identified above.

**Commission Staff's Second Motion for a Default Order**

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

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

**Evidentiary Record**

18. In Order No. 5 filed on June 29, 2022, the ALJ 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.
19. In Order No. 6 filed on October 11, 2022, ALJ admitted into evidence Commission Staff's petition filed on February 14, 2022.

**Grounds for Default**

20. More than 30 days have passed since service of the petition to Horseshoe Lake.
21. Horseshoe Lake did not request a hearing on the merits and did not respond to the petition.
22. More than 10 days have passed since service of the motion for default.
23. 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 §§ 22.54 and 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 a 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 26<sup>th</sup> day of January 2023.

PUBLIC UTILITY COMMISSION OF TEXAS



PETER M. LAKE, CHAIRMAN



WILL MCADAMS, COMMISSIONER



LORI COBOS, COMMISSIONER



JIMMY GLOTFELTY, COMMISSIONER



KATHLEEN JACKSON, COMMISSIONER