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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 § 24.113	§ § § § § § §	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).¹ In its petition, Commission Staff recommend, 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).² Commission Staff included the disclosure required under 16 TAC § 22.183(b)(1) and Commission Staff sent the petition to Horseshoe Lake POA'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 Horseshoe Lake POA

¹ See Attachment 1.

² Staff additionally requests that the caption of this case be revised to "PETITION TO REVOKE JESSE GRADY D/B/A HORSESHOE LAKE PROPERTY OWNERS ASSOCIATION'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 When it submitted its Open Docket Request in this matter, Staff erroneously cited a now repealed and replaced section of the Texas Administrative Code.

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.

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 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 Horseshoe Lake POA's last known address and shows that notice was given to Horseshoe Lake POA in accordance with Commission rules and the Administrative Procedure Act.³ 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: April 1, 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

³ Administrative Procedure Act, Tex. Gov't Code Ann. §§ 2001.001-.902 (West 2008 & Supp. 2014).

(512) 936-7163
(512) 936-7268 (facsimile)
van.moreland@puc.texas.gov

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CERTIFICATE OF SERVICE

I certify that on April 1, 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
CERTIFICATE OF CONVENIENCE AND
NECESSITY NO. 12601

THE STATE OF TEXAS
COMMISSION OF TRAVIS
TEXAS WATER COMMISSION



I hereby certify that this is a true and correct copy of a Texas Water Commission Document, the original of which is filed in the permanent records of the Commission.

Given under my hand and the seal of office on
SEP 30 1991

Gloria A. Vasquez

Gloria A. Vasquez, Chief Clerk
Texas Water Commission

CERTIFICATE OF CONVENIENCE AND NECESSITY

To Provide Water Service Under V.T.C.A., Water Code
and Texas Water Commission Substantive Rules

Certificate No. 12601

I. Certificate Holder:

Name: Mr. Jesse Grady dba Horseshoe Lake Property Owners
Association

Address: Route 2, Box 95-B
Smithville, Texas 78957

II. General Description and Location of Service Area:

The area covered by this certificate is located approximately 15 1/2 miles east of downtown Bastrop, Texas and 1 mile east of Farm to Market Road 2104. The service area is generally bounded on the east by an unnamed county road and on the west by Grassy Creek in Bastrop County, Texas.

This area is cover under dual certification with Aqua Water Supply Corporation, CCN No. 10294.

III. Certificate Maps:

The certificate holder is authorized to provide water service in the area identified on the Commission's official water service area map, WRS-11, maintained in the offices of the Texas Water Commission, 1700 North Congress, Austin, Texas with all attendant privileges and obligations.

This certificate is issued under Application No. 8744-C and subject to the rules and orders of the Commission, the laws of the State of Texas, conditions contained herein and may be revoked for violations thereof. The certificate is valid until amended or revoked by the Commission.

Issued Date: SEP 23 1991

ATTEST:

Gloria A. Vasquez *John Hall*

For the Commission

ATTACHMENT 2
AFFIDAVIT OF ROSE PUENTE

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 §	§	
24.113	§	

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.

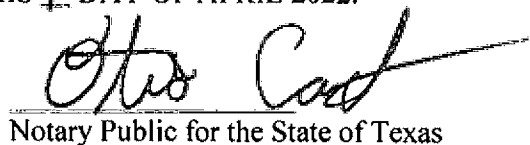
“My name is Rose Puente. I am the Legal Assistant in the Division of Compliance and Enforcement of the Public Utility Commission of Texas (Commission). I am over the age of twenty-one, and I am competent to make this Affidavit. In accordance with 16 Texas Administrative Code § 22.183(b), on February 14, 2022, I mailed, by certified mail, a copy of Commission Staff’s Petition to Revoke 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 last known address of Jesse Grady d/b/a Horseshoe Lake Property Owners Association .

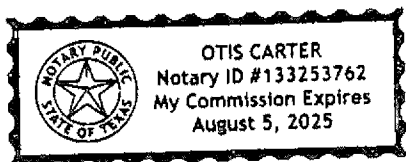
“On April 1, 2022, I mailed by certified mail, a copy of Commission Staff’s Motion for a Default Order filed on March 31, 2022, to Jesse Grady d/b/a Horseshoe Lake Property Owners Association’s last known address. Please see the attached tracking information for each item, a copy of the petition, and a copy of the Motion for Entry of a Default Order.

“Mr. Jesse Grady
 PO Box 8014
 Smithville, TX 78957”


 AFFIANT: Rose Puente

SWORN TO AND SUBSCRIBED BEFORE ME THIS 1 DAY OF APRIL 2022.


 Notary Public for the State of Texas



2/14/22

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)
 - 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	SI Fee
1. [REDACTED]	[REDACTED]	73	375											
2. [REDACTED]	[REDACTED]	73		Handling Charge and over \$50,000 in value										
3. [REDACTED]	[REDACTED]	73												
4. [REDACTED]	[REDACTED]	73						Adult Signature Required						
5. [REDACTED]	[REDACTED]	73						Adult Signature Restricted Delivery						
6. 7020 2450 0000 5363 0061 ✓	Mr. Jesse Grady PO Box 8014 Smithville, TX 78957	73												
7. [REDACTED]	[REDACTED]	53												
8. [REDACTED]	[REDACTED]													
Total Number of Pieces Listed by Sender	Total Number of Pieces Received at Post Office	Resistor Per (Name of receiving employee)												



7

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Tracking Number: 70202450000053630061

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USPS Tracking Plus® Available [v](#)

Delivered, To Original Sender

February 24, 2022 at 10:08 am
AUSTIN, TX 78711

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ATTACHMENT 3
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. Horseshoe Lake POA's water CCN number 12601 certifies an area located approximately 15.5 miles east of Bastrop, Texas.
3. Horseshoe Lake POA 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 Horseshoe Lake POA's CCN No. 12601 for failure to provide continuous and adequate water service.
5. 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.

Notice

6. Horseshoe Lake POA's last known address in the Commission's records is:

Mr. Jesse Grady
PO Box 8014
Smithville, TX 78957
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 Horseshoe Lake POA'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 Horseshoe Lake POA's last known address identified above on April 1, 2022.
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 April 1, 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 Horseshoe Lake POA 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 April 1, 2022, Commission Staff filed a motion for entry of a default order.
17. The motion for default was served on Horseshoe Lake POA 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 Horseshoe Lake POA.
19. Horseshoe Lake POA 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. 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 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. Horseshoe Lake POA is the holder of water CCN No. 12601.
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 Horseshoe Lake POA 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 Horseshoe Lake POA's CCN No. 12601 under TWC § 13.254(a)(1) and 16 TAC § 24.245(d)(1)(A).
8. Adequate notice was provided to Horseshoe Lake POA in compliance with Texas Government Code §§ 2001.052 and 2001.054 and 16 TAC § 22.183.
9. 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).
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. Horseshoe Lake POA'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

PETER M. LAKE, CHAIRMAN

WILL MCADMAS, COMMISSIONER

LORI COBOS, COMMISSIONER

JIMMY GLOTFELTY, COMMISSIONER