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PETITION TO REVOKE LODGE	§	PUBLIC UTILITY COMMISSION
ACRES WATER SYSTEM	§	
CERTIFICATE OF PUBLIC	§	OF TEXAS
CONVENIENCE AND NECESSITY	§	
PURSUANT TO TEX. WATER CODE	§	
§13.254 AND 16 TAC §24.113	§	

ORDER NO. 5
DENYING SECOND MOTION FOR DEFAULT

On April 19, 2022, Commission Staff filed an amended petition in which it seeks to revoke Lodge Acres Water System’s certificate of convenience and necessity (CCN) number 11070 for failure to provide continuous and adequate water service.

On May 20, 2022, Commission Staff filed a second motion for entry of a default order. The motion included the affidavit of Rose Ramirez, legal assistant in the Commission’s Division of Compliance and Enforcement, dated May 20, 2022, attesting that a copy of Commission Staff’s amended petition to revoke Lodge Acres Water System’s CCN and notice of opportunity for a hearing was sent by certified mail to Lodge Acres Water System’s last known address; a copy of a page from the United States Postal Service (USPS) firm mailing book for accountable mail (PS Form 3877); and a proposed default order.

The Commission’s default rule, 16 Texas Administrative Code (TAC) § 22.183, specifies three methods by which proof can be made that the non-moving party was provided notice of the opportunity for a hearing, one of which is relevant here. Under 16 TAC § 22.183(b)(2)(A), a default order may be issued when the moving party can prove that the required notice was sent by certified mail to the non-movant’s “last known address in the Commission’s records, if the party has a . . . certificate . . . approved by the Commission.”

In the amended petition, Commission Staff states that the amended petition was sent by certified mail, return receipt requested, to Lodge Acres Water System’s “last known address in Commission records . . . 9016 Mountain Lake C Austin, TX 78957.” The affidavit of Ms. Ramirez also states that a copy of the default order was sent to Lodge Acres Water System’s “last known address” and the firm mailing shows that a package was delivered to 9016 Mountain Lake C,

Austin Texas 78957. However, the last known address for the company as shown in the Commission's records is 9016 Mountain Lake C, Austin TX 78750.¹

Thus, because adequate proof of notice has not yet been shown, Commission Staff's second motion for default is denied at this time.

Commission Staff is free to file a new motion for default if circumstances warrant it in the future.

By June 30, 2022, the parties must file a proposed schedule for further processing of this matter.

Signed at Austin, Texas the 16th day of June 2022.

PUBLIC UTILITY COMMISSION OF TEXAS



CHRISTINA DENMARK
ADMINISTRATIVE LAW JUDGE

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¹ <https://www.puc.texas.gov/WaterSearch/Utility?siteId=14966>. Under Tex. Gov't Code § 2001.090 and 16 TAC § 22.222, the administrative law judge takes official notice of the data listed for Lodge Acres Water System as shown in the Commission's records.