



## Filing Receipt

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**DOCKET NO. 53225**

<b>PETITION TO REVOKE LODGE</b>	<b>§</b>	<b>PUBLIC UTILITY COMMISSION</b>
<b>ACRES WATER SYSTEM</b>	<b>§</b>	
<b>CERTIFICATE OF PUBLIC</b>	<b>§</b>	<b>OF TEXAS</b>
<b>CONVENIENCE AND NECESSITY</b>	<b>§</b>	
<b>PURSUANT TO TEX. WATER CODE</b>	<b>§</b>	
<b>§ 13.254 AND 16 TAC § 24.245</b>	<b>§</b>	

**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 June 30, 2022, Commission Staff filed a second amended petition to revoke Certificate of Convenience and Necessity (CCN) No. 11070 belonging to Lodge Acres Water System (Lodge Acres). In its second amended petition, Commission Staff recommend, based on underlying supporting information, that Lodge Acres is no longer providing continuous and adequate water service to the certificated area of CCN 11070, that the facilities necessary to provide continuous and adequate water service to the certificated area are inactive, and that Lodge Acres' 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 second amended petition to Lodge Acres' 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 Lodge Acres that a default could be granted if Lodge Acres 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 Lodge Acres' CCN No. 11070.

## **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 second amended petition was sent by certified mail, return receipt requested, to Lodge Acres' last known address and shows that notice was given to Lodge Acres in accordance with Commission rules and the Administrative Procedure Act.<sup>1</sup> Ms. Ramirez's affidavit also attests 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: August 1, 2022

Respectfully submitted,

### **PUBLIC UTILITY COMMISSION OF TEXAS DIVISION OF COMPLIANCE & ENFORCEMENT**

Barksdale English  
Division Director

/s/Van Moreland  
Van Moreland  
1701 N. Congress Avenue  
P.O. Box 13326  
Austin, Texas 78711-3326  
(512) 936-7163  
(512) 936-7268 (facsimile)  
van.moreland@puc.texas.gov

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<sup>1</sup> Administrative Procedure Act, Tex. Gov't Code Ann. §§ 2001.001-.902 (West 2008 & Supp. 2014).

**DOCKET NO. 53225**

**CERTIFICATE OF SERVICE**

I certify that on August 1, 2022, a copy of this document was sent via certified mail, return receipt requested, to the Commission's last known address of Lodge Acres in accordance with 16 TAC § 22.183(b).

/s/Van Moreland  
Van Moreland

**ATTACHMENT ONE**  
**AFFIDAVIT OF ROSE RAMIREZ**

DOCKET NO. 53225

PETITION TO REVOKE LODGE  
ACRES WATER SYSTEM  
CERTIFICATE OF PUBLIC  
CONVENIENCE AND NECESSITY  
PURSUANT TO TEX. WATER CODE  
§ 13.254 AND 16 TAC § 24.245

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PUBLIC UTILITY COMMISSION  
  
OF TEXAS

AFFIDAVIT OF ROSE RAMIREZ

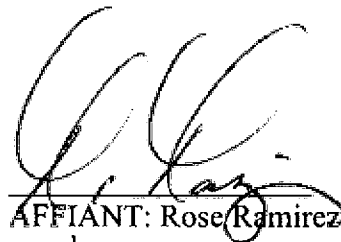
STATE OF TEXAS §  
TRAVIS COUNTY §

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.

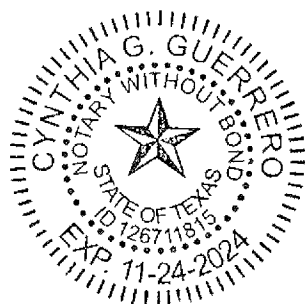
“My name is Rose Ramirez. I am the Legal Assistant in the Division of Compliance and Enforcement of the Public Utility Commission of Texas (Commission). I am over the age of twenty-one, and I am competent to make this Affidavit. In accordance with 16 Texas Administrative Code § 22.183(b), on June 30, 2022, I mailed, by certified mail, a copy of Commission Staff’s Second Amended Petition to Revoke Lodge Acres Water System’s Certificate of Convenience and Necessity and Notice of Opportunity for a Hearing, filed on June 30, 2022, to the Commission’s last known address of Lodge Acres.


“On August 1, 2022, I mailed by certified mail, a copy of Commission Staff’s Motion for a Default Order filed on August 1, 2022, to the Commission’s last known address of Lodge Acres. 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.

Lodge Acres Water System  
9016 Mountain Lake C  
Austin, TX 78750

  
AFFIANT: Rose Ramirez

SWORN TO AND SUBSCRIBED BEFORE ME THIS <sup>1st</sup> DAY OF AUGUST 2022.



  
Notary Public for the State of Texas

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

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ASRD Fee

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Lodge Acres Water System  
9016 Mountain Lake C  
Austin, TX 78750

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**Austin, TX. 78701-1494**

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1. 7021 2720 0002 6230 6462	Lodge Acres Water System 9016 Mountain Lake C Austin, TX 78750													
2.														
3.														
4.														
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 TWO**  
**PROPOSED DEFAULT ORDER**

**DOCKET NO. 53225**

<b>PETITION TO REVOKE LODGE</b>	<b>§</b>	<b>PUBLIC UTILITY COMMISSION</b>
<b>ACRES WATER SYSTEM</b>	<b>§</b>	
<b>CERTIFICATE OF PUBLIC</b>	<b>§</b>	<b>OF TEXAS</b>
<b>CONVENIENCE AND NECESSITY</b>	<b>§</b>	
<b>PURSUANT TO TEX. WATER CODE</b>	<b>§</b>	
<b>§ 13.254 AND 16 TAC § 24.245</b>	<b>§</b>	

**PROPOSED DEFAULT ORDER**

This Default Order addresses the June 30, 2022 second amended petition of Commission Staff to revoke the water certificate of convenience and necessity (CCN) of Lodge Acres Water System for violations of the Texas Water Code (TWC) and Commission rules. The Commission grants the second amended petition, by default, and revokes Lodge Acres' CCN No. 11070.

**I. Findings of Fact**

The Commission makes the following findings of fact.

**CCN Holder**

1. Lodge Acres holds CCN number 11070.
2. Under CCN number 11070, Lodge Acres 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**

3. On June 30, 2022, Commission Staff filed its second amended petition in this proceeding, in which it seeks to revoke Lodge Acres' CCN No. 11070 for failure to provide continuous and adequate water service.
4. The second amended petition alleges that Lodge Acres is no longer providing, and is incapable of providing, continuous and adequate water service and, therefore, its CCN should be revoked.
5. On November 1, 1979, the Commission granted water CCN number 11070 to Lodge Acres
6. A Commission Staff review of records related to CCN number 11070 indicates that Lodge Acres is no longer providing water utility service to customers, and any facilities previously

used by Lodge Acres to provide continuous and adequate water service are no longer active.

7. Lodge Acres does not provide, and is not capable of providing, continuous and adequate water service to customers in its certificate service area.

**Notice**

8. Lodge Acres' last known address in the Commission's records is: 9016 Mountain Lake C, Austin, Texas 78750.
9. On June 30, 2022, Commission Staff sent a copy of the second amended petition and notice of opportunity for a hearing, by certified mail, to Lodge Acres' address at 9016 Mountain Lake C, Austin, Texas 78750.
10. The second amended petition notified Lodge Acres 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).
11. The second amended petition also notified Lodge Acres that it was entitled to request a hearing within 30 days after the filing of the amended 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 Lodge Acres that the factual allegations in this petition could be deemed admitted and the relief sought herein granted by default if Lodge Acres fails to request a hearing within 30 days after service of this petition.**

**Evidentiary Record**

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 August 1, 2022 motion for entry of a default order,

**Motion for Disposition by Default**

13. On August 1, 2022, Commission Staff filed a motion for entry of a default order.

14. On August 1, 2022, Commission Staff sent a copy of the motion for default, by certified mail, to Lodge Acres' address at 9016 Mountain Lake C, Austin, Texas 78750.

**Grounds for Default**

15. More than 30 days have passed since service of the petition to Lodge Acres
16. Lodge Acres did not request a hearing on the merits and did not respond to the second amended petition.
17. More than 10 days have passed since service of the motion for default.
18. Lodge Acres did not respond to the motion for default.

**II. Conclusions of Law**

The Commission makes the following conclusions of law.

1. The Commission has jurisdiction over this petition under TWC § 13.254.
2. Lodge Acres 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, Lodge Acres, as the holder of CCN number 11070, 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 Lodge Acres' water service policies, and such service must be continuous and adequate.
4. Because Lodge Acres 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 Lodge Acres' CCN No. 11070 under TWC § 13.254(a)(1) and 16 TAC § 24.245(d)(1)(A).
5. Adequate notice was provided to Lodge Acres in compliance with Texas Government Code §§ 2001.052 and 2001.054 and 16 TAC §§ 22.54 and 22.183.
6. Lodge Acres 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 second amended petition as true.
2. The Commission grants Commission Staff's motion for default order and revokes Lodge Acres' CCN number 11070.
3. The Commission directs Commission Staff to update its records accordingly.
4. The Commission is not constrained in any manner from requiring additional action or penalties for violations that are not raised here.
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**