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Public Utility Commission of Texas

TO: Stephen Journeay
Commission Counsel

All Parties of Record

FROM: Christina Denmark 
Administrative Law Judge

RE: **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*

DATE: August 10, 2022

Enclosed is the 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 August 24, 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. 53225

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

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 number 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 Travis County.

Commission Staff's Second Amended 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 number 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. 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.

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

Notice

7. Lodge Acres' last known address in the Commission's records is: 9016 Mountain Lake C, Austin, Texas 78750.
8. 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.
9. 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).
10. The second amended petition also notified Lodge Acres that it was entitled to request a hearing within 30 days after the filing of the second 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

11. In Order No. 7 filed on August 4, 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 August 1, 2022 motion to admit evidence.

Motion for Disposition by Default

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

13. 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

14. More than 30 days have passed since service of the petition to Lodge Acres
15. Lodge Acres did not request a hearing on the merits and did not respond to the second amended petition.
16. More than 30 days have passed since service of the motion for default.
17. 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 authority 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 CCN number 11070 under TWC § 13.254(a)(1) and 16 TAC § 24.45(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 § 22.183(b).
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 takes official notice of its records that contain the last-known address of Lodge Acres.
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 MCADAMS, COMMISSIONER

LORI COBOS, COMMISSIONER

JIMMY GLOTFELTY, COMMISSIONER

KATHLEEN JACKSON, COMMISSIONER