



Control Number: 31455



Item Number: 5

Addendum StartPage: 0

DOCKET NO. 31455

2005 SEP -1 PM 1:32

COMPLAINT OF OLGA TALAVERA
DE MAGANA AGAINST CENTRAL
POWER & LIGHT AND AMERICAN
ELECTRIC POWER

§
§
§
§

PUBLIC UTILITY COMMISSION

FILED CLERK

OF TEXAS

COMMISSION STAFF'S RESPONSE TO ORDER NO. 1

NOW COMES Staff of the Public Utility Commission of Texas ("Commission Staff" or "Staff"), representing the public interest, in the above titled and numbered cause, to submit this Response to Order No. 1.

I. BACKGROUND

On August 4, 2005, Olga Talavera de Magana ("Complainant") filed a formal complaint against CPL and AEP Texas Central Company ("TCC") alleging metering/billing irregularities at the residence of her mother, Mercedes Talavera. The complaint was docketed as a formal complaint, but Order No. 1 incorrectly identified the retail electric provider as Central Power & Light Company ("CPL"), rather than CPL Retail Energy ("CPL Retail").¹ Order No. 1 was issued on August 10, 2005 requiring CPL and TCC to file responses to the complaint no later than August 25, 2005. To date, TCC filed its response on August 25, 2005; however, the company identified as CPL has not filed a response.

II. COMPLAINT

Staff identified an apparent deficiency with the complaint. It appears that the Complainant did not provide copies of the formal complaint to the parties from whom relief is sought, as required by P.U.C. PROC. R. 22.242(f). When CPL Retail did not submit a response by August 25, 2005 as required by Order No. 1, Staff contacted regulatory staff at CPL Retail regarding this docket. Staff is authorized to represent that the regulatory staff of CPL Retail did not receive a copy of the formal complaint. Upon further investigation, counsel on behalf of TCC stated that Complainant did not provide a copy of the formal complaint to TCC, rather that TCC became aware of the formal complaint by monitoring the daily filings at the P.U.C. CPL Retail may not have been put on notice by the filing of Order No. 1 because the order listed Central Power & Light Company as a party rather than CPL Retail.

II. RECOMMENDATION


Staff believes that the Complainant may not have provided a copy of the formal complaint to all parties, as required by P.U.C. PROC. R. 22.242(f). However, Staff proposes that the administrative law judge waive the notice requirement, *supra*, for good cause because the waiver will not materially affect the rights of any other party. The combination of (1) Staff's filing of this response and service of it upon CPL Retail, and (2) Staff's proposal that the policy development division ("PDD") issue a subsequent order clarifying that CPL Retail is a proper party to this proceeding should effectively give notice to CPL Retail of the formal complaint and this proceeding. Staff further proposes that, in Order No. 2, PDD require CPL Retail to respond to the complaint no later than September 22, 2005² and address the issues identified in Order No. 1.

DATE: September 1, 2005

Respectfully submitted,

Thomas S. Hunter
Division Director - Legal and Enforcement Division

Keith Rogas
Director – Legal and Enforcement Division,
Electric Section


Shelah J. Cisneros
Attorney, State Bar No. 24045661
Public Utility Commission of Texas
1701 North Congress Avenue
P.O. Box 13326
Austin, Texas, 78711-3326
Tel. 512 936 7292
Facs. 512 936 7268

¹ Although the complaint identified the party only as "CPL," the Complainant attached a bill from CPL Retail indicating her intent to join CPL Retail as a party to this proceeding. See *Complaint of Olga Talavera de Magana Against Central Power & Light Company and American Electric Power* (August 4, 2005) at page 3.

² Pursuant to P.U.C. PROC. R. 22.78(b) which requires that responsive pleadings to complaints be filed within 21 days of receipt of the complaint.

CERTIFICATE OF SERVICE

I certify that a copy of this document was served on all parties of record by first class U.S. mail, postage pre-paid on this date, September 1, 2005, in accordance with P.U.C. Procedural Rule 22.74.



Shelah J. Cisneros