



Control Number: 43121



Item Number: 25

Addendum StartPage: 0

**PUC DOCKET NO. 43121**

**REQUEST BY EDE AND RANDY  
BULLOCK FOR DETERMINATION OF  
RCH WATER SUPPLY  
CORPORATION'S COMPLIANCE  
WITH TEXAS WATER CODE § 13.004  
(37766-I)**

§  
§  
§  
§  
§  
§

**PUBLIC UTILITY COMMISSION  
OF TEXAS**

2015 JAN 15 AM 11:24  
PUBLIC UTILITY COMMISSION  
FILING CLERK

**COMMISSION STAFF'S FINAL RECOMMENDATION**

COMES NOW the Staff of the Public Utility Commission of Texas (Staff), representing the public interest, and files this Final Recommendation, and would show the following:

**I. BACKGROUND**

On October 14, 2013, Ede and Randy Bullock (Petitioners) filed a petition with the Texas Commission on Environmental Quality (TCEQ) to investigate RCH Water Supply Corporation (RCH) pursuant to TEX. WATER CODE (TWC) § 13.004. On November 18, 2015, Order No. 5 was issued, requiring that, on or before January 15, 2016, Staff shall file a final recommendation or request a hearing in this docket.

**II. STAFF'S FINAL RECOMMENDATION**

Mr. Bullock filed his complaint under TWC § 13.004, which gives the Commission jurisdiction over a water supply or sewer service corporation in only very limited circumstances. As set forth below, Staff finds that these circumstances are not met in this situation, and that the Commission does not have the jurisdiction to address this complaint.

Mr. Bullock's main complaint is of a billing dispute involving his property that he was leasing to a third party. According to his complaint, Mr. Bullock leased out property he owned in the district, and the bill was transferred to the leasee. After the lease expired and Mr. Bullock attempted to transfer the bill back to his name, Mr. Bullock was informed by RCH that the tenant at Mr. Bullock's property had not paid a water bill, and that Mr. Bullock was liable for the delinquent balance, as set out in the RCH tariff.<sup>1</sup> Mr. Bullock states that he has followed the Grievance Policy in the RCH tariff to dispute the charge.<sup>2</sup> The grievance process is set out in RCH's tariff, and requires that the concerns be presented

<sup>1</sup> Bullock Letter to the PUC at 2 (March 20, 2015); See RCH Water Supply Corporation Response to Order No. 2 And Request For Extension Of Time, Exhibit A, Tariff for the RCH Water Supply Corporation, Section E.7 (Oct. 15, 2015).

<sup>2</sup> Bullock Letter at 2.

to the authorized staff member, and if not resolved to the satisfaction of the aggrieved party, then it is presented to the Board of Directors.<sup>3</sup> The Board of Directors is required to communicate its decision in writing, and that any contested charges are suspended until a final decision is made. However, Mr. Bullock states that the dispute has not been resolved, and that RCH refuses to cash the checks he has submitted for his current bills. Further, RCH will not transfer the bill to the current tenant of the property, and adds additional late charges to each bill.<sup>4</sup> Mr. Bullock also raised issues including RCH's nonprofit status, failure to provide notice of meetings, and other issues related to tariff violations or potential conflicts of interest.<sup>5</sup>

In its responses, RCH provided the most recent minutes to two annual meetings and an affidavit noting the dates of the annual meetings in 2014 and 2015.<sup>6</sup> RCH also provided information relating to its status as a nonprofit corporation, including its reinstatement in October 2015.<sup>7</sup> RCH did not provide any information directly relating to the billing dispute with Mr. Bullock.

The Commission's jurisdiction in this proceeding is based on TEX. WATER CODE § 13.004 (TWC). As noted by RCH, the Commission has limited jurisdiction over water supply corporations.<sup>8</sup> Under TWC § 13.004(a), the Commission has jurisdiction only if the water supply corporation “(1) is failing to conduct annual or special meetings in compliance with Section 67.007; or (2) is operating in a manner that does not comply with the requirements for classifications as a nonprofit water supply or sewer service corporation prescribed by Sections 13.002(11) and (24).” TWC § 13.002(24) defines a water supply or sewer service corporation as “a nonprofit corporation organized and operating under Chapter 67 that provides potable water service or sewer service for compensation and that has adopted and is operating in accordance with by-laws or articles of incorporation which ensure that it is member-owned and member-controlled.”

If Staff found that a complainant had identified violations of TWC §§ 13.002(11) and (24), then Staff could file a petition that would request that the water supply and sewer service corporation be found to be out of compliance with TWC § 13.004. Such a petition, if successful, would result in that entity

---

<sup>3</sup> RCH Tariff Section B.9.

<sup>4</sup> Bullock Letter at 3-4.

<sup>5</sup> *Id.*

<sup>6</sup> RCH's Response to Order No. 1 at 3-4, Exhibit 4.

<sup>7</sup> RCH Water Supply Corporation's Supplemental Response to Order No. 2 at 2-4 (Oct. 21, 2015).

<sup>8</sup> RCH Water Supply Corporation Response to Order No. 1 at 1 (Sept. 24, 2015)

losing its status as a water supply and sewer service corporation and being subject to regulation as a water utility.

Based on the information presented in this proceeding, this appears to be a billing dispute. Staff does not find that RCH is violating any of the conditions under TWC § 13.004 that would give the Commission authority over RCH. Staff finds that RCH is conducting its annual meeting appropriately and is complying with the requirements for classification as a nonprofit water supply corporation under TWC §§ 13.002(11) and (24). Only if RCH is in violation of these sections does the Commission have the same jurisdiction over a water service corporation as it has over a water and sewer utility.<sup>9</sup> Staff recommends that the Commission does not have the jurisdiction over RCH as a water supply corporation to investigate Mr. Bullock's billing dispute complaint.

While Staff does not find that the Commission has the authority to investigate the billing dispute complaint, Staff does have concerns with the way his complaint has been treated by RCH, and Mr. Bullock raises several issues relating to his billing dispute that Staff will address. One issue is that "[r]efusal of service due to a past due debt from a previous account does not meet TCEQ Rule 30 TAC 291.83(c)(1) [now PUC rule 16 TAC § 24.83(c)(1)]."<sup>10</sup> However, this requirement is only applicable to "water and sewer utilities." The definition of "water and sewer utilities" does not include a water supply corporation, and the rule is not applicable to this situation.<sup>11</sup> A second issue is that Mr. Bullock states he never signed an "Alternate Billing Agreement" guaranteeing payment.<sup>12</sup> RCH's current tariff includes a section on "Owners and Renters," which states that "the Member is fully responsible for any and all unpaid bills left by the renter/lessee." This section also states that the "owner shall be required to sign an Alternate Billing Agreement."<sup>13</sup> RCH confirmed that this section of the tariff reads the same as it did in June 2010, which is when Mr. Bullock leased out his property.<sup>14</sup> RCH has not provided a copy of the "Alternate Billing Agreement," and Mr. Bullock states that RCH never asked him to sign the form.<sup>15</sup> In addition, while RCH states that Mr. Bullock's complaint was set on the Board of Director's meeting several times, RCH has not provided a copy of the written response to Mr. Bullock on its final

---

<sup>9</sup> TWC § 13.004(a).

<sup>10</sup> Bullock Letter at 4.

<sup>11</sup> 16 TAC § 24.3(73).

<sup>12</sup> Bullock Letter at 2.

<sup>13</sup> RCH Tariff, Section E.7.

<sup>14</sup> RCH Water Supply Corporation Response To Order No. 4, Exhibit A, Affidavit from Odis Lowe (Nov. 10, 2015).

<sup>15</sup> Bullock Letter at 2.

decision as required in the grievance process.<sup>16</sup> RCH has also not suspended the disputed charges, as required in the grievance process, and has included an additional late charge each month even though Mr. Bullock has attempted to pay his current charges.<sup>17</sup> Although there may be concerns about these items relating to the requirements found in RCH's tariff, Staff finds that the Commission lacks the jurisdiction to investigate.

### III. CONCLUSION

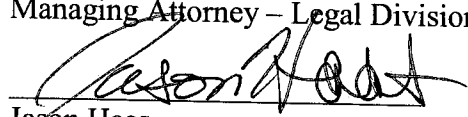
Staff finds that RCH is not in violation of the requirements of TWC § 13.004(a) that would give the Commission jurisdiction to address Mr. Bullock's complaint. Therefore, Staff recommends that this complaint be dismissed.

**Dated: January 15, 2016**

Respectfully Submitted,

Margaret Uhlig Pemberton  
Division Director – Legal Division

Karen S. Hubbard  
Managing Attorney – Legal Division

  
\_\_\_\_\_  
Jason Haas  
Attorney-Legal Division  
State Bar No. 24032386  
(512) 936-7295 (telephone)  
(512) 936-7268 (facsimile)  
Public Utility Commission of Texas  
1701 N. Congress Avenue  
P.O. Box 13326  
Austin, Texas 78711-3326

### CERTIFICATE OF SERVICE

I certify that a copy of this document will be served on all parties of record on January 15, 2016, in accordance with 16 Tex. Admin. Code § 22.74.

  
\_\_\_\_\_  
Jason Haas

---

<sup>16</sup> *Id.*

<sup>17</sup> Bullock Response to RCH Response to Order No. 4 at 2 (Dec. 31, 2015).