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SOAH DOCKET NO. 473-16-1108.WS
PUC DOCKET NO. 45207

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COMPLAINT OF J. HINKEN

§

BEFORE THE STATE OFFICE
PUBLIC UTILITY COMMISSION
FILING CLERK

AGAINST

§

§

OF

BASTROP WEST WATER AND
PAUL KLAUS

§

§

ADMINISTRATIVE HEARINGS

§

REPLY TO J HINKEN'S RESPONSE TO SOAH ORDER NO. 10

TO THE HONORABLE ADMINISTRATIVE LAW JUDGE:

COMES NOW Bastrop West Water and Paul Klaus (collectively BWB), through their attorney of record, and files this Reply to J Hinken's Response to SOAH Order No. 10 and shows the following:

1. BWB received J Hinken's Response to SOAH Order No. 10 DATED August 22 2016 on August 26, 2016.
2. The Staff of the Public Utility Commission (Commission) filed its Statement of Position on August 8, 2016, which included a Motion to Dismiss this case as Ms. Hinken has failed to state a claim upon which relief can be granted. BWB has no opposition to the motion and as such, did not file a response to SOAH Order No. 10.
3. BWB is in agreement with all legal assumptions contained within the 'Commissions' Statement of Position.
4. Ms. Hinken is requesting relief totaling \$730.00 and a written statement. An injunction can not be granted for the claims Ms. Hinken is requesting relief in her Response as the Commission has no authority or jurisdiction to grant such relief. The excerpt below is from a

consumer informational brochure the Commission has posted on its website¹. The Commission explains to consumers who file a complaint that it does not have the authority to award monetary damages.

What can I expect to happen after my formal complaint is filed?

Your formal complaint will be given a docket number, or control number, and an Administrative Law Judge (ALJ) will be assigned to the docket. The ALJ will issue a document called an order requiring the party that is the subject of your complaint to respond by a certain date and provide a deadline for PUC staff to make a recommendation on how the case should be handled. The ALJ will have to determine whether your requested relief is something that the PUC can order. The PUC can order a variety of corrective actions including adjustments to a customer's bill *but does not have the authority to award monetary damages*. [emphasis added].

Furthermore, neither SOAH nor PUC can grant injunctive relief such as requiring a written statement.

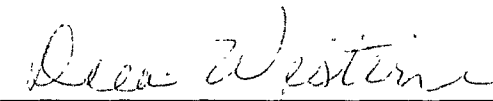
Respectfully submitted,



Deea Western
Attorney for BWB
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Red Rock, TX 78662
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SBN: 00785378

Certificate of Service

I certify that a copy of BWB's Reply to J Hinken's Response to SOAH Order No. 10 was served on the complainant and the Commission's attorney by email on August 30, 2016.



Deea Western

¹ Exhibit 1.

EXHIBIT 1

WHAT IS A FORMAL COMPLAINT?

When can I file a formal complaint at the PUC?

If you are a customer of an electric or telecommunications service provider who filed an informal complaint with the Public Utility Commission (PUC) and you are not satisfied with the resolution, you may file a formal complaint.

If your complaint is against your electric utility or local wires company, and you reside within the city limits, you may be required to first submit your complaint to the city in which you live. The utility or local wires company is the "company" that delivers electricity to a customer's home or business along the poles and wires.

If you live in a city that has not given up its authority to resolve complaints, you must first submit your complaint to the city. You may file a formal complaint with the PUC after the city has issued a decision on your complaint or a statement that it will not consider the complaint. If the city does not act on your complaint within 30 days you may request that PUC staff send an inquiry to the city about your case. If the city does not respond within 30 days to PUC staff's inquiry, then you may file a formal complaint with the PUC.

If your city has given up its authority to resolve complaints within the city limits, you may file a formal complaint directly with the PUC. You can see which cities have given up their authority to resolve complaints in their city limits at:

www.puc.state.tx.us/consumer/complaint/cedingCities.pdf

What is necessary to complete the complaint? Do I need to pay a fee to file a formal complaint?

In almost all cases, yes. The PUC is able to help most customers by resolving problems using the informal process.

What information do I need to include with my formal complaint?

To file a formal complaint with the PUC, you must file a document that includes the following information:

- Your name (the account holder), customer account number, billing and service addresses, telephone number, and fax number (if it is available). Note: The same information must be provided by any person representing you.
- The name of the electric or telecommunications service provider or other person against whom you have the complaint.
- A description of the facts leading to the complaint. You may attach supporting documents to your complaint.
- A statement of the relief that you are seeking, specifying the disputed amount if there is any.
- If your complaint is with a utility or local wires company, state whether the complaint relates to service that you received within the limits of a city.
- If you are seeking relief against a utility or local wires company within the limits of a city, describe any complaint proceedings conducted by the city and state what the city decided.
- State whether you have attempted an informal resolution through the PUC. Include the date on which the informal resolution concluded, or indicate if the time for attempting an informal resolution has passed. You must submit an original complaint plus 10 copies to the PUC Central Records.

Office. Each time you file a document you must file the original document plus the necessary number of copies as provided for in the PUC's procedural rules discussed in the "IMPORTANT PROCEDURAL INFORMATION" section at the end of this brochure.

Do I need to hire an attorney?

You are not required to have an attorney to participate in a PUC proceeding. If you file a formal complaint, you will be required to timely respond to requests for information from other parties, send copies of any documents you file to every party, and attend any prehearing conferences or hearings. If you file testimony, you must appear at the hearing to be cross-examined.

You may want to hire an attorney to advise you and help you present your case to the PUC.

Will the PUC staff help me?

A PUC staff attorney will be assigned to your complaint.

The staff attorney's job is to represent the public interest. He or she can answer questions about PUC rules and procedures. The staff attorney cannot advise you or represent you individually and may ultimately take a position adverse to yours.

Do not contact the Administrative Law Judge or the Commissioners and their staff by mail, telephone, or email. The law does not allow them to discuss pending cases with a party. The recommendations and decisions of these parties must be based on the evidence and arguments that are formally presented in the case.

THE FORMAL COMPLAINT PROCESS

What can I expect to happen after my formal complaint is filed?

Your formal complaint will be given a docket number or control number, and an Administrative Law Judge (ALJ) will be assigned to the docket. The ALJ will issue a document called an order requiring the party that is the subject of your complaint to respond by a certain date and provide a deadline for PUC staff to make a recommendation on how the case should be handled. The ALJ will have to determine whether your requested relief is something that the PUC can order. The PUC can order a variety of corrective actions including adjustments to a customer's bill but does not have the authority to award monetary damages.

Next, the PUC will determine whether the case can be decided based on the law or whether a hearing will be required in order for the PUC to decide any facts in dispute by the parties.

If there are factual disputes, the PUC will refer the case to the State Office of Administrative Hearings (SOAH) for a hearing. SOAH is a neutral and independent agency where Texas agencies like the PUC and private citizens or entities can resolve legal disputes.

What happens if a hearing is required?

The hearing is much like a trial where testimony and evidence can be admitted for the Administrative Law Judge's (ALJ) consideration in making a decision on the case. In a hearing, testimony is provided in written form and filed before the hearing. After considering the evidence admitted during the hearing, the ALJ will make a

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recommendation to the PUC on whether the complainant has provided sufficient proof to show that the utility or other entity was in compliance with or in violation of any PUC law, order, rule or regulation.

Usually the participants, also called Parties, in a complaint case are the complainant, the service provider, and PUC staff.

The basic steps of the hearing process are as follows:

- An Administrative Law Judge (ALJ) will set a schedule for the case, which will include a hearing date. A prehearing conference in Austin may be held for this purpose or to address other preliminary matters.
- The Parties will have the opportunity to conduct discovery, or obtain information about the case from each other.
- The Parties will file written testimony or a statement of position before the date of the hearing.
- The hearing is held in Austin, and witnesses must be present and able to be questioned by other Parties to the case.
- After the hearing, the Parties can file arguments or briefs, about the evidence presented at the hearing and why the ALJ ruling should be in the Parties' favor.

The Administrative Law Judge prepares a recommendation, or Proposal or Decision (P/D) which the PUC Commissioners will consider. Parties who disagree with the ALJ's recommendation may object to the recommendation by filing documents called "exceptions."

The Commissioners will discuss the case at a public meeting and make a decision.

to adopt the PED, modify and adopt the PED, or may make an entirely different decision. You are not required to attend the public meeting but are encouraged to do so because the Commissioners may ask questions about the case.

Once the decision has been made the Commissioners will issue a "final order." Parties who are dissatisfied with the PUC's decision may file motions for rehearing, asking the Commissioners to reconsider the decision.

Parties have the right to appeal the decision to district court in Travis County after they have filed a motion for rehearing.

What happens if I don't need a hearing?

If there is no disagreement about the facts of the case, the PUC's Administrative Law Judge may ask the Parties to file documents or briefs arguing whether the PUC should grant the relief you are requesting. The Commissioners will then consider a proposed order in a public meeting.

IMPORTANT PROCEDURAL INFORMATION

Where do I send documents about my formal complaint?

Unless you are instructed otherwise by an ALJ, send 10 copies of your documents to:

Public Utility Commission of Texas
Central Records
Attn: Filing Clerk
1701 N. Congress Avenue
P.O. Box 133265
Austin, TX 78711-3326

After filing your documents, they will be

assigned a docket number. Include this docket number on all future submissions.

Am I required to follow special rules?

You will be expected to comply with the PUC's procedural rules. A failure to comply with those rules may serve as grounds for your case to be dismissed.

Where can I get a copy of the rules?

A complete set of rules is available on the PUC's web site at www.puc.state.tx.us. From the site map go to "Rules and Laws," then "Procedural Rules" or "Sub Rules - Electric." You can review or download the rules by section or as a complete set.

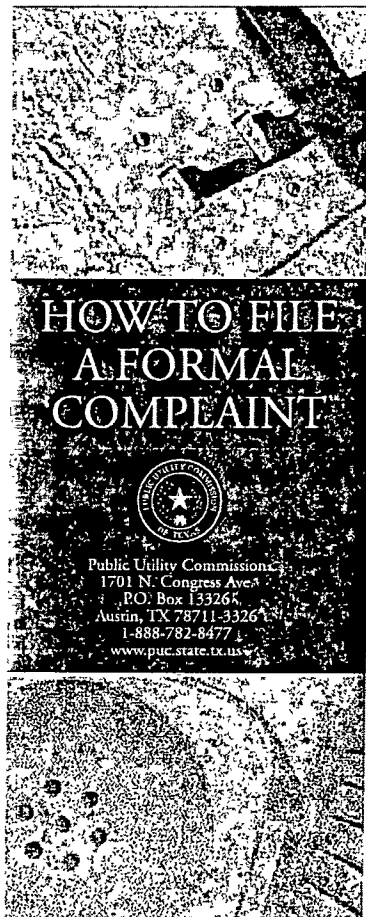
In addition, you may purchase copies of the PUC rules from Central Records or you may come to the PUC's office.

What do I need to include in a complaint number when I file documents with the PUC?

Always include the docket number, on all filings with the PUC. It is very important to provide the number so your documents can be filed correctly.

Each time you file additional documents, you must submit the correct number of copies to Central Records. Please refer to Procedural Rule 22.71 for document and filing requirements.

The information in this brochure is not intended to provide a complete and comprehensive guide to pursuing formal complaints at the PUC and the rights and duties of complainants before the PUC. This brochure is not a substitute for legal advice or the PUC's rules. July 2011.



HOW TO FILE A FORMAL COMPLAINT

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