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SOAH DOCKET NO. 473-16-1108.WS

PUC DOCKET NO. 45207

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COMPLAINT OF J. HINKEN AGAINST
BASTROP WEST WATER AND PAUL
KLAUS

§
§
§
§

BEFORE THE STATE OFFICE
OF
ADMINISTRATIVE HEARINGS

**COMMISSION STAFF'S PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF
LAW**

COMES NOW the Staff (Staff) of the Public Utility Commission of Texas (Commission), representing the public interest, and files this Proposed Findings of Fact and Conclusions of Law. In support thereof, Staff would show the following:

I. BACKGROUND

On September 30, 2015, J. Hinken (Hinken) filed a complaint against Bastrop West Water and its owner, Paul Klaus (collectively, BWB) pursuant to Texas Admin. Code § 22.242 (TAC). On November 9, 2015, the Commission referred this case to the State Office of Administrative Hearings (SOAH). On December 20, 2016, SOAH Order No. 15 set the date for the hearing on the merits for January 31, 2017. Hinken did not appear at the hearing, and on that same date, Staff filed a motion to dismiss for failure to prosecute pursuant to 16 Texas Administrative Code § 22.181(d)(6). On February 23, 2017, the SOAH ALJ granted the motion to dismiss and ordered the parties to submit a proposed findings of fact and conclusions of law by March 1, 2017. Staff consulted with BWB in the preparation of this pleading.

**II. PROPOSED FINDINGS OF FACT, CONCLUSIONS OF LAW, AND
ORDERING PARAGRAPHS**

A. Findings of Fact

1. On September 30, 2015, J. Hinken (Complainant) filed a formal complaint against Bastrop West Water (BWB) disputing a charge for meter damage and installation.
2. Complainant disputes the \$225 charge that BWB billed her for one-half of the installation cost of a new meter on a neighboring property. Complainant also disputes a \$430 charge

in relation to damage allegedly caused to BWB's main service line to Complainant's property by a handyman hired by Complainant.

3. On November 9, 2015, the Public Utility Commission of Texas (Commission) referred the complaint to the State Office of Administrative Hearings (SOAH) and requested the assignment of an administrative law judge (ALJ) to conduct a hearing and issue a proposal for decision.
4. On December 18, 2015, the Commission issued a preliminary order identifying the issues to be addressed in this proceeding.
5. On June 10, 2016, Complainant filed her Direct Testimony. On July 7, 2016, BWB filed its Direct Testimony. On August 8, 2016, Commission Staff filed a Statement of Position.
6. SOAH Order No. 15 set the date for the hearing on the merits for Jan. 31, 2017. The hearing convened at 9:00 AM on January 31, 2017, before ALJ Stephanie Frazee at SOAH in the William P. Clements Building, 300 West 15th Street, Fourth Floor, Austin, Texas. BWB and Commission Staff appeared at the hearing. The Complainant did not appear at the hearing.
7. On January 31, 2017, Commission Staff filed a motion to dismiss this proceeding for Complainant's failure to attend the January 31, 2017 hearing on the merits and prosecute her complaint. Complainant did not respond to the motion.
8. On February 23, 2017, the SOAH ALJ granted the motion to dismiss.

B. Conclusions of Law

1. The Commission has jurisdiction over this matter pursuant to Texas Utilities Code §§ 14.001, 14.051, and 15.051, and Texas Water Code § 13.041.
2. SOAH has jurisdiction over matters related to the hearings of this proceeding, including the preparation of a proposal for decision with findings of fact and conclusions of law, pursuant to Texas Government Code § 2003.049 and Texas Utilities Code § 14.053, and Texas Water Code § 13.041.
3. Notice of the hearing was provided consistent with Texas Government Code § 2001.052 and subchapter D, of the Commission's procedural rules at 16 Texas Administrative Code.
4. The complaint is dismissed under 16 Texas Administrative Code § 22.181(d)(6) for Complainant's failure to attend the January 31, 2017 hearing on the merits and prosecute her complaint.

C. Ordering Paragraphs

In accordance with these findings of fact and conclusions of law, the Commission issues the following orders:

1. The complaint filed by J. Hinken against BWB is dismissed with prejudice.
2. All other motions, requests for entry of specific findings of fact and conclusions of law, and any other requests for general or specific relief, if not expressly granted, are denied.

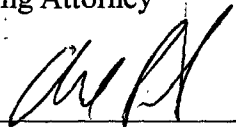
Dated March 1, 2017

Respectfully Submitted,

**PUBLIC UTILITY COMMISSION OF
TEXAS LEGAL DIVISION**

Margaret Uhlig Pemberton
Division Director

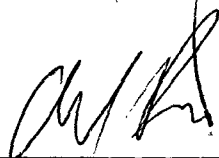
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CERTIFICATE OF SERVICE**

I certify that a copy of this document will be served on all parties of record on March 1, 2017, in accordance with 16 TAC § 22.74.



Alexander Petak