

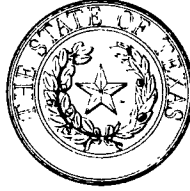
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State Office of Administrative Hearings



Lesli G. Ginn
Chief Administrative Law Judge

March 21, 2017

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PUBLIC UTILITY COMMISSION
FILING CLERK

**TO: Stephen Journeay, Director
Commission Advising and Docket Management
William B. Travis State Office Building
1701 N. Congress, 7th Floor
Austin, Texas 78701**

Courier Pick-up

**RE: SOAH Docket No. 473-16-1108.WS
PUC Docket No. 45207**

Complaint of J. Hinken Against Bastrop West Water and Paul Klaus

Enclosed is the Proposal for Decision (PFD) in the above-referenced case. By copy of this letter, the parties to this proceeding are being served with the PFD.

Please place this case on an open meeting agenda for the Commissioners' consideration. There is no deadline in this case. Please notify me and the parties of the open meeting date, as well as the deadlines for filing exceptions to the PFD, replies to the exceptions, and requests for oral argument.

Sincerely,

Stephanie Frazee
Administrative Law Judge

Enclosure

xc: All Parties of Record

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

| | | |
|---------------------------------------|---|--------------------------------|
| COMPLAINT OF J. HINKEN AGAINST | § | BEFORE THE STATE OFFICE |
| BASTROP WEST WATER AND | § | |
| PAUL KLAUS | § | OF |
| | § | |
| | § | ADMINISTRATIVE HEARINGS |

PROPOSAL FOR DECISION

On September 30, 2015, J. Hinken (Complainant) filed a complaint against Bastrop West Water and its owner, Paul Klaus (together, BWB), pursuant to 16 Texas Administrative Code § 22.242. Complainant alleged that BWB improperly pursued charges against her for costs related to damage to BWB's waterline and for fees related to the installation of a meter on a property formerly owned by Complainant.

I: JURISDICTION AND PROCEDURAL HISTORY

Jurisdiction is addressed in the findings of fact and conclusions of law.

On November 9, 2015, the Public Utility Commission of Texas (Commission) referred this case to the State Office of Administrative Hearings (SOAH). After several continuances of the hearing date, the Administrative Law Judge (ALJ) issued SOAH Order No. 15 on December 20, 2016, which set the date for the hearing on the merits for January 31, 2017. BWB and Staff appeared at the hearing, but Complainant did not appear. At the hearing, the parties offered exhibits into evidence, which were admitted.¹ Staff moved to dismiss the case due to lack of prosecution, and the ALJ granted the motion. The parties agreed to submit proposed findings of fact and conclusions of law by March 1, 2017. After the hearing, Staff filed a motion to dismiss. No response was filed, and the ALJ granted the motion in SOAH Order No. 16 on February 23, 2017. Staff submitted agreed proposed findings of fact and conclusions of law on March 1, 2017, and the record closed that day.

¹ Staff Ex. A, BWB Direct Testimony, and Staff Ex. B, BWB Responses to Discovery, were admitted.

II. FINDINGS OF FACT

1. On September 30, 2015, J. Hinken (Complainant) filed a formal complaint against Bastrop West Water and its owner, Paul Klaus (together, BWB), disputing charges for meter damage and installation.
2. Complainant disputed a \$225 charge for one-half of the installation cost of a new meter on property previously owned by and adjacent to property currently owned by Complainant. Complainant also disputed a \$430 charge in relation to damage allegedly caused to BWB's main service line on 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. After several continuances, SOAH Order No. 15 set the date for the hearing on the merits on January 31, 2017.
7. The hearing convened at 9:00 a.m. 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 Staff appeared at the hearing. Despite receiving sufficient notice of the hearing, Complainant did not appear.
8. At the hearing, Staff moved to dismiss the case for lack of prosecution. Later the same day, Staff filed a motion to dismiss the hearing. No response to the motion was filed.
9. Over 20 days elapsed after Staff filed its motion to dismiss, and, on February 23, 2017, the ALJ granted the motion in SOAH Order No. 16.

III. CONCLUSIONS OF LAW

1. The Commission has jurisdiction over this matter pursuant to the Public Utility Regulatory Act (PURA), Texas Utilities Code §§ 14.001, .051, 15.051, and Texas Water Code § 13.041.

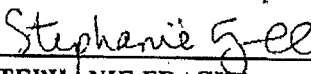
2. SOAH has jurisdiction over matters relating to the conduct of the hearing in this case, including the preparation of a proposal for decision with findings of fact and conclusions of law. Tex. Gov't Code § 2003.049; PURA § 14.053; Tex. Water Code § 13.041.
3. Notice of the hearing was provided consistent with Texas Government Code § 2001.052-.053 and 16 Texas Administrative Code subchapter D.
4. The complaint is dismissed under 16 Texas Administrative Code § 22.181(d)(6) for Complainant's failure to appear at the January 31, 2017 hearing on the merits and her failure to prosecute her complaint.

IV. PROPOSED ORDERING PARAGRAPHS

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

1. The complaint filed by Complainant against BWW is dismissed.
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.

SIGNED March 21, 2017.



STEPHANIE FRAZEE
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS