



Control Number: 47842



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DeAnn T. Walker
Chairman

Brandy Marty Marquez
Commissioner

Arthur C. D'Andrea
Commissioner

Brian H. Lloyd
Executive Director



Greg Abbott
Governor

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Public Utility Commission of Texas

TO: DeAnn T. Walker, Chairman
Brandy Marty Marquez, Commissioner
Arthur C. D'Andrea, Commissioner

All Parties of Record

FROM: Irene Montelongo
Director, Docket Management

RE: **Open Meeting of January 11, 2018**
Docket No. 47842 – *Agreed Settlement and Report to Commission Relating to Trinity Pecan Villa Mobile Home Park's Violation of 16 TAC § 24.123*

DATE: December 15, 2017

Enclosed is a copy of the Proposed Order in the above-referenced docket. The Commission will consider this docket at an open meeting presently scheduled to begin at 9:30 a.m. on Thursday, January 11, 2018, at the Commission's offices, 1701 North Congress Avenue, Austin, Texas. The parties shall file corrections or exceptions to the Proposed Order on or before Wednesday, January 3, 2018.

If there are no corrections or exceptions, no response is necessary.

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DOCKET NO. 47842

AGREED SETTLEMENT AND REPORT	§	PUBLIC UTILITY COMMISSION
TO COMMISSION RELATING TO	§	
TRINITY PECAN VILLA MOBILE HOME	§	OF TEXAS
PARK'S VIOLATION OF 16 TAC § 24.123	§	

PROPOSED ORDER

This Order approves the settlement agreement and report to Commission between Commission Staff and Trinity Pecan Villa Mobile Home Park (TPV) regarding Commission Staff's investigation of TPV for violation of 16 Texas Administrative Code (TAC) § 24.123(c) concerning changing the method by which a tenant is billed. The agreement resolves all of the issues between the parties to this proceeding. Commission Staff recommended an administrative penalty of \$3,000. TPV agreed to pay the recommended administrative penalty. The agreement is approved.

The Commission adopts the following findings of fact and conclusions of law:

I. Findings of Fact

1. TPV has 102 units that it can lease to tenants.
2. On September 15, 2016, TPV notified its tenants that it was changing the billing of dwelling units for water and sewer service from a submetered to an allocated methodology effective November 1, 2016.
3. On November 1, 2016, TPV began billing for water and sewer service using the allocated methodology.
4. TPV billed the new methodology to tenants who declined to sign the lease addendum.
5. As of June 30, 2017, TPV has received a signed lease addendum from all 102 units.
6. Commission Staff determined that TPV violated 16 TAC § 24.123(c).
7. TPV fully cooperated with Commission Staff's investigation.
8. TPV acknowledges the violations detailed in this Order.

9. TPV participated in one or more settlement discussions with Commission Staff to resolve this matter.
10. On December 1, 2017 the parties entered into the agreement resolving the violations. Commission Staff recommended, and TPV agreed to pay, an administrative penalty of \$3,000.
11. The agreement provides for a reasonable resolution of this matter.

II. Conclusions of Law

1. The Commission has jurisdiction over this matter under Texas Water Code §§ 13.041 and 13.502.¹
2. TPV is a manufactured home rental community as defined in TWC § 13.501(8) and 16 TAC § 24.121(c)(7) for purposes of TWC § 13.5031 and 16 TAC § 24.123.
3. TPV is an owner of a manufactured home rental community as defined in 16 TAC § 24.121(c)(10) for purposes of 16 TAC § 24.123.
4. Under TWC § 13.5031, the Commission is required to adopt rules and standards governing billing systems or methods used by manufactured home rental community owners for prorating or allocating among tenants nonsubmetered master metered utility service costs.
5. Under TWC § 13.5031(a)(1), the Commission must adopt rules that require the rental agreement to contain a clear written description of the method of calculation of the allocation of nonsubmetered master metered utilities for the manufactured home rental community.
6. Under 16 TAC § 24.123(c), an owner is prohibited from changing the method by which a tenant is billed unless the tenant has agreed to the change by signing a lease or other written agreement. Additionally, the owner shall provide notice of the proposed change at least 35 days prior to implementing the new method.
7. TWC § 13.4151 permits the Commission to assess an administrative penalty against an entity that violates a rule adopted under the TWC. The penalty may be in an amount not

¹ Tex. Water Code Ann. (West 2008 & Supp. 2017)(TWC).

- to exceed \$5,000 a day and each day a violation continues may be considered a separate violation.
8. TPV was provided proper notice of Commission Staff's investigation in this matter, the results of the investigation, information about its right to a hearing, and an opportunity to explain its activities.
 9. The agreement is a report of settlement to the Commission as required by 16 TAC § 22.246(h).
 10. This docket was processed in accordance with applicable statutes and Commission rules.
 11. The requirements for informal disposition under 16 TAC § 22.35 have been met in this proceeding.

III. Ordering Paragraphs

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

1. The agreement, provided with this Order as Attachment 1, is approved and the parties shall be bound by its terms.
2. TPV shall pay an administrative penalty to the Commission in the amount of \$3,000. TPV shall remit payment of the full amount of the administrative penalty on or before thirty calendar days after the date this Order is signed. Payment of the administrative penalty may be made by check payable to the Public Utility Commission of Texas and shall reference this docket. If paying by check, the check shall be sent to the following address:

Public Utility Commission of Texas
ATTN: Fiscal Services
P.O. Box 13326
Austin, Texas 78711
3. TPV shall file an affidavit of payment in this docket no later than five calendar days after the payment is made.
4. The Commission shall not be constrained in any manner from requiring additional action or penalties for violations that are not raised here.

5. Entry of this Order does not indicate the Commission's endorsement or approval of any principle or methodology that may underlie the agreement. Entry of this Order shall not be regarded as a binding holding or precedent as to the appropriateness of any principle or methodology underlying the agreement.
6. All other motions and any other requests for general or specific relief, if not expressly granted, are denied.

Signed at Austin, Texas the _____ day of January 2018.

PUBLIC UTILITY COMMISSION OF TEXAS

DEANN T. WALKER, CHAIRMAN

BRANDY MARTY MARQUEZ, COMMISSIONER

ARTHUR C. D'ANDREA, COMMISSIONER

DOCKET NO. 47842 -

AGREED SETTLEMENT AND	§	PUBLIC UTILITY COMMISSION
PROPOSED ORDER RELATING TO	§	
TRINITY PECAN VILLA MOBILE	§	
HOME PARK'S VIOLATION OF 16	§	OF TEXAS
TAC § 24.123	§	

SETTLEMENT AGREEMENT AND REPORT TO COMMISSION

Staff of the Public Utility Commission of Texas (Commission) and Trinity Pecan Villa Mobile Home Park (TPV) (together, Parties) enter into this Settlement Agreement and Report to Commission (Agreement). This Agreement resolves and concludes the investigation of TPV for violation of the Texas Administrative Code §§ 24.123(c) (TAC), related to tenant agreement to billing method changes.

The Parties agree as follows:

1. The Parties stipulate to the facts contained in the attached Proposed Order and request approval of the Order by the Commission.
2. Commission Staff recommended, and TPV agrees to pay, an administrative penalty of three thousand dollars (\$3,000) for TPV's violations described in the attached Proposed Order.
3. TPV admits to the jurisdiction of the Commission over the Parties to this proceeding and the subject matter of this Agreement.
4. TPV is a Manufactured home rental community as defined by Texas Water Code § 13.501(8) (TWC) and 16 TAC § 24.121(7) for the purposes of TWC § 13.5031 and 16 TAC § 24.123.
5. TPV is an Owner of a manufactured home rental community as defined by 16 TAC § 24.121(10) for the purposes of 16 TAC § 24.123.
6. Under the TWC § 13.5031, the Commission is required to adopt rules and standards governing billing systems or methods used by manufactured home rental community owners for prorating or allocating among tenants nonsubmetered master metered utility service costs.


7. Specifically, under TWC § 13.5031(1), the Commission must adopt rules that require the rental agreement to contain a clear written description of the method of calculation of the allocation of nonsubmetered master metered utilities for the manufactured home rental community.
8. Under 16 TAC § 24.123(c), an owner is prohibited from changing the method by which a tenant is billed unless the tenant has agreed to the change by signing a lease or other written agreement. Additionally, the owner shall provide notice of the proposed change at least 35 days prior to implementing the new method.
9. TPV has 102 units that it can lease to tenants.
10. On September 15, 2016, TPV notified its tenants that it was changing the billing of dwelling units for water and sewer service from a submetered to an allocated methodology effective November 1, 2016.
11. TPV began billing for water and sewer service using the allocated methodology on November 1, 2016. TPV billed the new methodology to tenants who had declined to sign the lease addendum.
12. From November through December, 2016, the Commission's Customer Protection Division received five complaints from tenants disputing the change in billing methodology.
13. TPV has subsequently received a signed lease addendum from all 102 units as of June 30, 2017.
14. TPV has cooperated with Staff's investigation.
15. TPV acknowledges that it has changed the billing methodology by which tenants are charged for water without having first obtained a signed lease or lease addendum for the new billing methodology, in violation of 16 TAC § 24.123(c).
16. TPV acknowledges that any bill issued pursuant to TPV's unlawful billing methodology change is considered to be in error and may be considered an Overcharge or Undercharge under 16 TAC § 24.125(k).
17. This Agreement resolves all claims related to Staff's investigation of TPV for changing the billing methodology by which tenants are charged for water without having first obtained a

signed lease or lease addendum for the new billing methodology from November 1 to December 31, 2016, in violation of 16 TAC § 24.123(c).

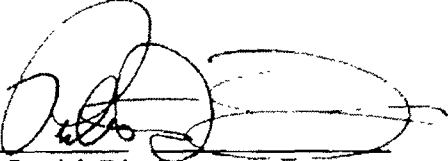
18. TPV has acknowledged that it has made institutional changes to prevent future violations of the same nature from happening going forward.
19. Unless specifically provided for in this Agreement, TPV waives any notice and procedures that might otherwise be authorized or required in this proceeding.
20. Nothing in this Agreement shall limit the Commission Staff's ability to perform its enforcement functions as set forth in the TWC and the TAC.
21. A Party's support of the resolution of this docket in accordance with this Agreement may differ from its position or testimony regarding contested issues of law, policy, or fact in other proceedings before the Commission or other forums. Because this is a settlement agreement, a Party is under no obligation to take the same position as set out in this Agreement in other proceedings not referenced in this Agreement whether those dockets present the same or a different set of circumstances. The Parties' agreement to entry of a final order of the Commission consistent with this Agreement should not be regarded as an agreement as to the appropriateness or correctness of any assumptions, methodology, or legal or regulatory principle that may have been employed in reaching this Agreement.
22. The Parties contemplate that this Agreement will be approved pursuant to 16 Tex. Admin. Code § 22.246(h)(1)(C). In the event the Commission materially changes the terms of this Agreement, the Parties agree that any Party adversely affected by that material alteration has the right to withdraw from this Agreement, thereby becoming released from its obligations arising hereunder, and to proceed as otherwise permitted by law to exercise all rights available under law. The right to withdraw must be exercised by providing the other Party written notice within 20 calendar days of the date the Commission files the final order acting on this Agreement. Failure to provide such notice within the specified time period shall constitute a waiver of the right to withdraw and acceptance of the material changes to this Agreement made by the Commission.

23. This Agreement is the final and entire agreement between the Parties regarding the violation of 16 TAC § 24.123(c) and supersedes all other communications among the Parties or their representatives regarding its terms.
24. Each person executing this Agreement represents that he or she has been authorized to sign on behalf of the Party represented. Copies of signatures are valid to show execution. If this Agreement is executed in multiple counterparts, each is deemed an original but all of which constitute the same Agreement.
25. TPV warrants that it has read this Agreement carefully, knows the contents thereof, and signs the same as its free act.

EXECUTED by the Parties by their authorized representatives designated below.


Cody Nicholson
General Partner
Trinity Pecan Villa Mobile Home Park
2040 Sens Rd. La Porte, TX 77571

Date: DEC 1, 2017


W. Patrick Dinnin
Attorney, Oversight and Enforcement Division
State Bar No. 24097603
Public Utility Commission of Texas
1701 N. Congress Avenue
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Austin, Texas 78711-3326
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Date: 12/4/2017