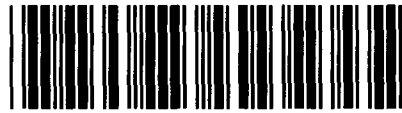




Control Number: 49261



Item Number: 11

Addendum StartPage: 0

**DOCKET NO. 49261**

**COMPLAINT OF MICHAEL E.  
MOORE AGAINST C WILLOW  
WATER COMPANY**

§  
§  
§

**PUBLIC UTILITY COMMISSION  
OF TEXAS**

2019-11-08 PM 1:09  
PUBLIC UTILITY COMMISSION  
FILING CLERK

**COMMISSION STAFF’S SUPPLEMENTAL STATEMENT OF POSITION**

**COMES NOW** the Staff of the Public Utility Commission of Texas (Staff), representing the public interest and files this Staff’s Supplemental Statement of Position. In support thereof, Staff shows the following:

**I. BACKGROUND**

On February 26, 2019, Michael E. Moore (Complainant) filed a complaint against C Willow Water Company (C Willow) regarding water billing and related charges. The complaint was filed pursuant to 16 Texas Administrative Code (TAC) § 22.242. On March 19, 2019, C Willow filed its response to the complaint.

On May 2, 2019, the administrative law judge (ALJ) issued Order No. 3, which required Staff to file a supplemental statement of position by May 8, 2019. Therefore, this pleading is timely filed.

**II. COMPLIANCE WITH INFORMAL RESOLUTION REQUIREMENTS**

As stated in the first Statement of Position, Staff confirms that Complainant has complied with all informal resolution requirements under Commission rules. Specifically, the applicable rule in this instance is 16 TAC § 22.242(c), which states, “[a] person must present a complaint to the commission for informal resolution before presenting the complaint to the commission.” In accordance with the aforementioned rule, on September 24, 2018, Complainant filed an informal complaint with the Commission. The informal complaint is referenced in the Commission’s Customer Protection Division (CPD) records as “CP2018110366.” The CPD was unable to resolve the informal complaint, and subsequently it was closed on December 6, 2018. Pursuant to 16 TAC § 22.242(d), “[i]f the dispute has not been resolved to the complainant's satisfaction within 35 days, the complainant may present the complaint to the commission.” Therefore, Staff confirms that Complainant complied with the requirements for informal resolution.

11

### III. JURISDICTION

As stated in the first Statement of Position, in the present complaint, Mr. Moore listed the address of the premises at issue as 303 Hickory Trail, La Vernia, Texas, 78121.<sup>1</sup> Staff verified that the address is not located within the incorporated limits of a municipality. Therefore, the Commission has original jurisdiction over this matter pursuant to Texas Water Code (TWC) § 13.042(e).

### IV. ALLEGATIONS RAISED IN THE COMPLAINT

Complainant asserts that he was overcharged on water bills for services provided by C Willow. Specifically, Complainant states that the gallonage usage at his new home was incorrectly recorded and thus the bills that he received were not correct.<sup>2</sup> Mr. Moore states he bought the new home on July 8, 2018.<sup>3</sup> On October 3, 2018, C Willow emailed Mr. Moore his first water bill in the amount of \$1,808.86, based on purported usage of 495,280 gallons of water.<sup>4</sup> Mr. Moore denies that neither he nor his wife used that much water, and further stated that the home does not have landscaping, a pool, or any leaks.<sup>5</sup> On October 8, 2018, Mr. Moore paid for a plumber to inspect his water lines, including running a scope through the pipes, and no leaks were found.<sup>6</sup> Mr. Moore believes that the charges are due to either a billing issue or a problem with the meter.<sup>7</sup>

### V. C WILLOW'S RESPONSE TO THE COMPLAINT

Order No. 1 required C Willow to file a response to the complaint no later than March 20, 2019. Specifically, the ALJ required C Willow to address (1) the Commission's jurisdiction over this proceeding; (2) allegations raised in the complaint; (3) applicable statutes, rules, orders, and tariff provisions; (4) copies of any rates or tariffs that are the subject of this complaint; and (5) any other matters relevant to the complaint.

---

<sup>1</sup> Complaint of Michael E. Moore against C Willow Water Company at 1 (February 26, 2019). (Complaint).

<sup>2</sup> Complaint at 1-2.

<sup>3</sup> *Id.*

<sup>4</sup> *Id.* at 1.

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

<sup>6</sup> *Id.* at 11.

<sup>7</sup> *Id.* at 2.

C Willow filed its response on March 19, 2019, and did not address jurisdiction or applicable statutes, rules, and orders. C Willow's response did, however, provide a portion of their tariff and a copy of its water service agreement. C Willow believes that the bill to Mr. Moore is correct and identifies several facts in support.<sup>8</sup> C Willow co-owner, David Strozier, asserts that the meter was calibrated from the manufacturer. Mr. Strozier also performed three "5 gallon bucket tests," per 16 TAC § 24.169(f), before the meter was placed into service. Further, Mr. Strozier asserts that he recently performed the same three "5 gallon bucket tests" and found the meter to be accurate. C Willow co-owner, Sandy Strozier, stated that on August, 27, 2018,<sup>9</sup> she and Mr. Strozier verified the meter reading four times, and that the Complainant and his wife confirmed the meter value.<sup>10</sup> C Willow believes that the bill is correct and that the usage could have been due to a leak, a running fixture (such as a toilet)<sup>11</sup> or due to the builder either using the water or leaving the water running.<sup>12</sup>

## VI. STAFF'S STATEMENT OF POSITION

As established above, the Commission has jurisdiction over the water billing complaint in this case. As a first impression, the contention that a running fixture or an unnoticed leak would account for 495,280 gallons within a relatively short period of time and without any unusual water usage, gives one pause. Staff served C Willow with discovery on April 18, 2019, and has now had an opportunity to review the discovery responses. As detailed in the attached memorandum of Kathryn Eiland of the Commission's Water Utility Regulation Division, Staff believes that the Complainant should receive a partial refund of his first bill in the amount of \$1,717.87. According to the response to Staff's RFI,<sup>13</sup> C Willow accepted Complainant's application on September 14, 2018. Pursuant to 16 TAC § 24.161(a), "[...]every retail public utility shall serve each qualified service applicant within its certificated area as soon as is practical *after* receiving a completed application." (Emphasis added.) Mr. Moore became a qualified applicant after C Willow accepted his application on September 14, 2018. Therefore, usage prior to that date should not be charged to the Complainant and instead be attributed to the

---

<sup>8</sup> Letter to Michael Moore at 1 (March 19, 2019).

<sup>9</sup> Letter to Michael Moore at 8.

<sup>10</sup> Id. at 25.

<sup>11</sup> Id. at 1.

<sup>12</sup> Id. at 10.

<sup>13</sup> Confidential - Response to Staff's RFI 1 -1 through Staff 1 -10 at 4 (April 26, 2019).

prior account holder. Mr. Moore should only be charged the usage that is properly attributable to him, which is \$31.44, and the rest of the billed amount should be refunded.

## VII. CONCLUSION

Staff confirms that the requirements for informal resolution have been met and that the Commission has jurisdiction over the present formal complaint. For the reasons stated above, Staff respectfully recommends an order that directs C Willow to refund the Complainant in the amount of \$1,717.87.

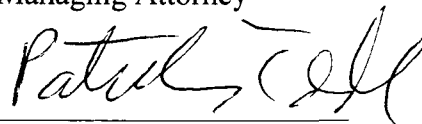
Dated: May 8, 2019

Respectfully Submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS  
LEGAL DIVISION**

Margaret Uhlig Pemberton  
Division Director

Karen S. Hubbard  
Managing Attorney



Patrick D. Todd  
State Bar No. 24106513  
1701 N. Congress Avenue  
P.O. Box 13326  
Austin, Texas 78711-3326  
(512) 936-7290  
(512) 936-7268 (facsimile)  
Patrick.Todd@puc.texas.gov

**DOCKET NO. 49261**

**CERTIFICATE OF SERVICE**

I certify that a copy of this document will be served on all parties of record on May 8, 2019 in accordance with 16 TAC § 22.74.

A handwritten signature in black ink, appearing to read "Patrick D. Todd", written over a horizontal line.

Patrick D. Todd

## PUC Interoffice Memorandum

---

**To:** Patrick Todd, Attorney  
Legal Division

**Thru:** Debi Loockerman, Manager  
Water Utility Regulation Division

**From:** Kathryn Eiland, Financial Analyst  
Water Utility Regulation Division

**Date:** May 8, 2019

**Subject:** **Docket No. 49261; Complaint of Michael E. Moore against C Willow Water Company**

On February 26, 2019, Michael E. Moore (Mr. Moore or Complainant) filed a complaint against C Willow Water Company (C Willow) regarding water billing and related charges. This complaint is filed pursuant to 16 Tex. Admin. Code (TAC) § 22.242(e). Mr. Moore would like C Willow to correct the October 3, 2018 bill by calculating an overall average of gallons used from all invoices, adjust his account accordingly, remove all late fees, and refund the difference.

Staff reviewed Mr. Moore's complaint and both C Willow's response to the Complainant and their Request for Information (RFI) response. Staff confirmed that Mr. Moore signed a water service agreement on September 13, 2018 with C Willow for service at 303 Hickory Trail in LaVernia, Texas.<sup>1</sup> Additionally, Mr. Moore paid a \$50 deposit and \$35 transfer fee that same day.<sup>2</sup> C Willow accepted the Complainant's application on September 14, 2018.<sup>3</sup> C Willow also obtained a meter read of 0504350<sup>4</sup> to end service for the builder's account. However, C Willow used a beginning meter read of 0006690 to initiate Mr. Moore's account.<sup>5</sup> C Willow issued Mr. Moore a bill dated September 1, 2018 in the amount of \$1,802.25 and usage of 495,280 gallons.<sup>6</sup>

Pursuant to 16 TAC § 24.161(a) except as provided for in subsection (e) of this section, every retail public utility shall serve each qualified service applicant within its certificated area as soon as is practical after receiving a completed application. A qualified service applicant is an applicant who has met all of the retail public utility's requirements contained in its tariff, schedule of rates, or service policies and regulations for extension of service including the delivery to the retail public utility of any service connection inspection certificates required by law. Moreover, under Section I, Purpose of the Water Service Agreement, it states that each customer must sign this agreement before C Willow will begin service.<sup>7</sup> Mr. Moore became a qualified applicant after C Willow accepted his application on September 14, 2018. Therefore, usage prior to that date should not be charged to Mr. Moore. Staff believes that Mr. Moore's request to average gallonage is inappropriate in this case because the meter readings are available to calculate the bill. Therefore, Staff recommends that the Commission order C Willow to do the following:

---

<sup>1</sup> Confidential - Response to Staff's RFI 1 -1 through Staff 1 -10 at 4 (April 26, 2019).

<sup>2</sup> *Id.* at 9.

<sup>3</sup> *Id.* at 5.

<sup>4</sup> *Id.* at 21.

<sup>5</sup> *Id.* at 28.

<sup>6</sup> *Id.*

<sup>7</sup> *Id.* at 4.

- (1) Adjust Mr. Moore's starting meter read to 0504350 on September 14, 2018;
- (2) Adjust Mr. Moore's initial charges for usage to \$31.88 (see attachment), which would coincide with (1) above;
- (3) Remove any late fees associated with the September 1, 2018 bill for usage of 495280 gallons not being paid by the due date; and
- (4) Refund the \$1717.87 overpayment (see attachment) in excess of the adjusted water charges.

89



## Attachment A

### Adjusted usage for service from September 14, 2018 to October 1, 2018

October 1, 2018 meter reading	0505600
September 14, 2018 meter reading	<u>-0504350</u>
Total usage in gallons	0001250
Total usage divided by 1,000 for billing	1.25

### C Willow Rate Schedule

#### Meter Size

5/8" or 3/4"	\$28.00
--------------	---------

#### Gallage charge (per 1,000 gallons)

0-5000	\$2.75
5001-150000	\$3.00
15001-20000	\$3.25
20001 and up	\$3.50

#### Charges for adjusted usage charges (per 1,000 gallons)

\$2.75 x 1.25	\$ 3.44
Charge for meter size	<u>+ 28.00</u>
Staff recommended charge	\$ 31.44

#### Refund calculation

Usage charges billed on September 01, 2018	\$1,749.75
Adjusted usage charges	<u>- 31.44</u>
Staff recommended refund	\$1,717.87