



Control Number: 49261



Item Number: 30

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PUBLIC INFORMATION

OPEN MEETING COVER SHEET

DRAFT PRELIMINARY ORDER

MEETING DATE: December 13, 2019

DATE DELIVERED: December 9, 2019

AGENDA ITEM NO.: 34

CAPTION: Docket No. 49261; SOAH Docket No. 473-20-1120.WS –
Complaint of Michael E. Moore Against C.
Willow Water Company

DESCRIPTION: DRAFT PRELIMINARY ORDER

Distribution List:

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DeAnn T. Walker
Chairman

Arthur C. D'Andrea
Commissioner

Shelly Botkin
Commissioner

John Paul Urban
Executive Director



Greg Abbott
Governor

Public Utility Commission of Texas

TO: Chairman DeAnn T. Walker
Commissioner Arthur C. D'Andrea
Commissioner Shelly Botkin

All Parties of Record (*via electronic transmission*)

FROM: Austin Spraez
Commission Advising

AS

RE: *Complaint of Michael E. Moore against C Willow Water Company, Docket No. 49261, SOAH Docket No. 473-20-1120.WS, Draft Preliminary Order, December 13, 2019 Open Meeting, Item No. 34.*

DATE: December 9, 2019

Please find enclosed the draft preliminary order filed by Commission Advising in the above-referenced docket. The Commission will consider this draft preliminary order at the December 13, 2019 open meeting. Parties shall not file responses or comments addressing this draft preliminary order.

Any modifications to the draft preliminary order that are proposed by one or more Commissioners will be filed simultaneously prior to the consideration of the matter at the December 13, 2019 open meeting.

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**PUC DOCKET NO. 49261
SOAH DOCKET NO. 473-20-1120.WS**

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

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**PUBLIC UTILITY COMMISSION

OF TEXAS**

DRAFT PRELIMINARY ORDER

Michael E. Moore filed a complaint against C-Willow Water Company alleging that he was billed an excessive amount for water and seeking reimbursement for alleged overcharges. This preliminary order identifies the issues that must be addressed in this proceeding.

Formal Complaint

Mr. Moore purchased his new home on July 8, 2018; however, he did not submit an application for water service to C-Willow until September 13, 2019.³ The builder that constructed the home initiated service at the location in late 2017. It appears, however, that the homebuilder failed to terminate water service until early October 2018.⁴ C-Willow sent an initial bill to Mr. Moore on or around October 3, 2018, indicating he owed \$1,808.86 for usage of 495,280 gallons of water and related fees. This bill appears to cover the recorded usage of water at Mr. Moore's premises for the months of August and September. Between August 1, 2018 and September 1, 2018, the recorded water usage at Mr. Moore's premises increased from 6,690 gallons to 501,970 gallons.

The documents submitted in this proceeding include work order 101 that appears to be for a meter re-read. Work order 101, dated August 29, 2018, includes a hand-written note indicating a meter read of 504,350 gallons. This appears to be inconsistent with the handwritten initial meter read of 6,690 gallons on Mr. Moore's service application dated September 13, 2018.

On October 3, 2018, C-Willow informed Mr. Moore that unless he paid the \$1,808.86 charge promptly that C-Willow would disconnect his service and pull his meter, resulting in an additional \$75 fee. Mr. Moore denied that he or his wife used that much water, because their home

³ Complaint of Michael E. Moore at 1-3 (Feb. 26, 2019); and Shady Oaks Water, L.P.'s Confidential Response to Staff's RFI 1-1 through Staff 1-10. Response to RFI 1-2 at 4.

⁴ Shady Oaks Water, L.P.'s Letter to Michael Moore at 6 (Mar. 19, 2019).

does not have landscaping or a swimming pool. Mr. Moore stated that on October 8, 2018, he paid for a plumber to inspect his water lines, including running a scope through the pipes, and no leaks were found.⁹ Mr. Moore paid the disputed bill in full.¹⁰ C-Willow asserted that Mr. Moore moved into a new home without informing C-Willow of a need to transfer service, that the services at the property had been initiated by the builder prior to Mr. Moore's move-in, that C-Willow contacted the builder to see if they were aware of any high water usage or any leaks, and that C-Willow confirmed with the customer that the meter readings it conducted were correct.¹¹

Procedural History

The formal complaint was filed against C-Willow, though it appears that C-Willow is the assumed name of Shady Oaks Water, LP¹² and Hollow Ridge Water Company.¹³ On March 27, 2019, in response to Order No. 1, Commission Staff filed a statement of position in which Commission Staff stated that Mr. Moore complied with the informal resolution requirements of 16 Texas Administrative Code (TAC) § 22.242(c). Additionally, Commission Staff verified that Mr. Moore's residence was not located within a municipality and stated that the Commission has original jurisdiction over the complaint. Lastly, Commission Staff requested an extension until May 1, 2019, to file its statement of position regarding the formal complaint.¹⁵

On May 8, 2019, Commission Staff filed its supplemental statement of position recommending that Mr. Moore receive a partial refund of his first bill in the amount of \$1,717.87. Commission Staff stated that, according to C-Willow's response to Commission Staff's RFI, C-Willow accepted Mr. Moore's service application on September 14, 2018. Commission Staff further stated that Mr. Moore, therefore, became a qualified applicant after the date C-Willow accepted his application and the usage prior to that date should be attributed to the prior account

⁹ Complaint of Michael E. Moore against C Willow Water Company at 1-3 (Feb. 2, 2019).

¹⁰ Shady Oaks Water, L.P.'s Confidential Response to Staff's RFI 1-1 through Staff 1-10. Response to RFI 1-5 at 23-24.

¹¹ C Willow's Letter to Michael Moore at 1 (Mar. 19, 2019).

¹² Shady Oaks Water, L.P.'s Letter Regarding Complaint at 1 (May 16, 2019).

¹³ Shady Oaks Water, L.P.'s Confidential Response to Staff's RFI 1-1 through Staff 1-10. Response to RFI 1-2 at 4.

¹⁵ Commission Staff's Statement of Position at 1-3 (Mar. 27, 2019).

holder. Commission Staff recommended Mr. Moore be attributed usage in the amount of \$31.44, and that the rest of the billed amount should be refunded.¹⁶

On September 9, 2019, Mr. Moore requested,¹⁷ and Commission Staff recommended, referral to the State Office of Administrative Hearings (SOAH).¹⁸ On November 13, 2019, the Commission referred this proceeding to SOAH stating that it would consider and possibly adopt a preliminary order at the open meeting currently scheduled on December 13, 2019.¹⁹ Mr. Moore was directed, and Commission Staff and other interested persons were allowed, to file a list of issues to be addressed in the docket by December 2, 2019. Mr. Moore, C-Willow, and Commission Staff timely filed lists of issues.

I. Issues to be Addressed

The Commission must provide to the administrative law judge (ALJ) a list of issues or areas to be addressed in any proceeding referred to the State Office of Administrative Hearings (SOAH).²⁰ After reviewing the pleadings submitted by the parties, the Commission identifies the following issues that must be addressed in this docket:

1. Who is the water utility at issue in this complaint?
2. When did the homebuilder initiate service at 303 Hickory Trail?
3. When did the homebuilder terminate service at 303 Hickory Trail?
4. Following Mr. Moore's completed service application sent to C-Willow on or about September 13, 2018, on what date did C-Willow complete an initial meter read 303 Hickory Trail and what meter read was recorded?
5. What is the date that Mr. Moore's account was first charged a water service tap, reconnect, or transfer fee?

¹⁶ Commission Staff's Supplemental Statement of Position at 3-4 (Jun. 8, 2019).

¹⁷ Michael E. Moore's Response to Order 5 (Sep. 9, 2019).

¹⁸ Commission Staff's Response to Order No. 5 at 2 (Sep. 9, 2019).

¹⁹ Order of Referral (Nov. 13, 2019).

²⁰ Tex. Gov't Code Ann. § 2003.049(e) (Vernon 2016).

6. What person or entity was listed as the account holder for 303 Hickory Trail during the months of July, August, September, and October 2018, respectively?
7. What were the meter readings for 303 Hickory Trail on each of its monthly recording dates for the months of July, August, September, and October 2018?
8. Were there any estimated meter readings conducted between October 2017 through October of 2018 for 303 Hickory Trail?
 - a. If so, please indicate the months the estimated meter reads were conducted.
 - b. If so, were any estimated meter readings conducted in accordance with 16 TAC § 24.165?
9. In rendering Mr. Moore's initial bill for \$1,808.86, did C-Willow comply with 16 TAC § 24.165(e)?
 - a. What period of service time did Mr. Moore's initial bill cover?
 - b. Was the initial bill of \$1,808.86 calculated according to the rates included in C-Willow's current tariff in accordance with 16 TAC § 24.165(a)?
 - c. Was the form and rendering of the initial bill in accordance with 16 TAC § 24.165(e)?
 - d. If the initial bill included overbilling, did C-Willow calculate an adjustment in accordance with 16 TAC § 24.165(h)?
 - e. If the initial bill was for a partial month, was the bill calculated in accordance with 16 TAC § 24.165(j)?
 - f. Did Mr. Moore dispute the initial bill and did C-Willow comply with the requirements of 16 TAC § 24.165(l)? If so, was C-Willow in violation of 16 TAC § 24.165(l)(3) if it stated service would be terminated for nonpayment? Additionally, did C-Willow comply with the termination notice requirements of 16 TAC § 24.167(a)?
 - g. In assessing Mr. Moore any penalties or late fees as a result of the initial bill, did C-Willow violate 16 TAC § 24.165(c)?
10. If any portion of the initial bill charged to Mr. Moore included charges for water service provided to an account holder of the premises, did C-Willow violate 16 TAC § 24.167(c) if it stated Mr. Moore's service would be disconnected for failure to pay his initial bill?

11. Does C-Willow have any policies in place regarding how to request termination of water service? If C-Willow does not have a formal policy, what informal procedures does C-Willow use to manage the process for termination or transfer of water services?
12. Did the previous account holder for 303 Hickory Trail, prior to Mr. Moore, request termination of service, inform C-Willow of the need for an account transfer, or otherwise comply with C-Willow's policy or standard practices for termination or transfer of water service on move-out?
 - a. On what date did the previous account holder for 303 Hickory Trail communicate to C-Willow that it intended to terminate water service for the premises?
 - b. What date did the previous account holder for 303 Hickory Trail request for termination of water service?
 - c. What date was the water service terminated for the previous account holder for 303 Hickory Trail?
 - d. Was service to 303 Hickory Trail ever disconnected?
13. Did C-Willow comply with Mr. Moore's requests, if any, to test the accuracy of his meter in accordance with 16 TAC § 16.169(d)?
 - a. If so, who tested the meters?
 - b. If so, on which dates did the testing take place?
 - c. If so, was the meter tested in accordance with 16 TAC § 24.169(e)?
 - d. Were any calibrations necessary for either the meter or the testing equipment?
14. What actions gave rise to the creation of work order 101? When was the order created? When was the order conducted? When was the order closed?
 - a. Was work order 101 created, at least in part, to conduct a meter reread? If so, what was the date and usage recorded from the previous read, and why was no resulting meter read recorded in the completed work order?
 - b. Was work order 101 created, at least in part, in response to customer concerns regarding the meter's accuracy or a meter reading? If so, who requested the meter re-read and when did this communication occur?

15. In reading Mr. Moore's meter at its standard monthly intervals did C-Willow comply with 16 TAC § 24.169(2)(A)?
- a. Was the meter reading date for any bill more than two days from the standard reading date?
 - b. If C-Willow's meter reading date varied by more than two days from its standard date, did C-Willow bill Mr. Moore for volume usage at the lowest block charge on its approved tariff as required under 16 TAC § 24.169(b)(2)?

This list of issues is not intended to be exhaustive. The parties and the ALJ are free to raise and address any issues relevant in this docket that they deem necessary, subject to any limitations imposed by the ALJ, or by the Commission in future orders issued in this docket. The Commission may identify and provide to the ALJ in the future any additional issues or areas that must be addressed, as permitted under Tex. Gov't Code Ann. § 2003.049(e).

II. Effect of Preliminary Order

This order is preliminary in nature and is entered without prejudice to any party expressing views contrary to this order before the SOAH ALJ at hearing. The SOAH ALJ, upon his or her own motion or upon the motion of any party, may deviate from this order when circumstances dictate that it is reasonable to do so. Any ruling by the SOAH ALJ that deviates from this order may be appealed to the Commission. The Commission will not address whether this order should be modified except upon its own motion or the appeal of a SOAH ALJ's order. Furthermore, this order is not subject to motions for rehearing or reconsideration.

Signed at Austin, Texas the _____ day of December 2019.

PUBLIC UTILITY COMMISSION OF TEXAS

DEANN T. WALKER, CHAIRMAN

ARTHUR C. D'ANDREA, COMMISSIONER

SHELLY BOTKIN, COMMISSIONER

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