

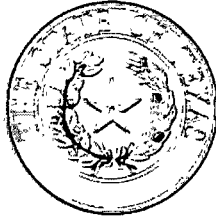


Control Number: 49370



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State Office of Administrative Hearings

Kristofer Monson
Chief Administrative Law Judge

May 11, 2020

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

VIA EFILE TEXAS

**RE: SOAH Docket No. 473-20-3121.WS
PUC Docket No. 49370**

Complaint of Cassandra Denis Harris Against The Landings at Willowbrook and RealPage Utility Management

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,

**STEVEN H. NEINAST
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS**

Enclosure
xc: All Parties of Record

**SOAH DOCKET NO. 473-20-3121.WS
PUC DOCKET NO. 49370**

COMPLAINT OF CASSANDRA DENIS	§	BEFORE THE STATE OFFICE
HARRIS AGAINST THE LANDINGS AT	§	
WILLOWBROOK AND REALPAGE	§	OF
UTILITY MANAGEMENT	§	
	§	ADMINISTRATIVE HEARINGS

**PROPOSAL FOR DECISION
RECOMMENDING DISMISSAL WITH PREJUDICE FOR FAILURE TO PROSECUTE**

I. DISCUSSION

On March 25, 2019, Cassandra Denis Harris (Complainant) filed a complaint with the Public Utility Commission of Texas (Commission) against The Landings at Willowbrook and RealPage Utility Management (collectively, RealPage) regarding allocated water and sewer services and related charges. Complainant has not contacted Commission Staff or RealPage since initiating her complaint, including failing to contact Commission Staff to convene a settlement conference in accordance with Commission Order No. 3. The procedural history, jurisdiction and notice, and attempts to contact Complainant are not contested and are set out primarily in the following Findings of Fact and Conclusions of Law.

On April 13, 2020, as a result of Complainant's failure to prosecute her complaint, the undersigned State Office of Administrative Hearings Administrative Law Judge (ALJ) issued an order moving to dismiss this docket on his own motion in accordance with 16 Texas Administrative Code (TAC) § 22.181(a), (d), and (e). Complainant failed to respond to the order within 20 days as required by 16 TAC § 22.181(e)(3). Through this Proposal for Decision prepared in accordance with 16 TAC § 22.181(f)(2), the ALJ recommends that the Commission dismiss this case with prejudice.

II. FINDINGS OF FACT

1. On March 25, 2019, Cassandra Denis Harris (Complainant) filed a complaint against The Landings at Willowbrook and RealPage Utility Management (collectively, RealPage) with the Public Utility Commission of Texas (Commission).
2. On July 15, 2019, Commission Order No. 3 was issued, requiring Complainant and RealPage to contact Commission Staff (Staff) to schedule a settlement conference.
3. Commission Order No. 3 also directed that Staff was to file an agreed settlement or request a referral to the State Office of Administrative Hearings (SOAH), or Complainant was to withdraw her complaint by October 1, 2019.
4. On September 27, 2019, Staff filed a request for referral to SOAH stating that it had not been contacted by either Complainant or RealPage to schedule a settlement conference.
5. As of October 1, 2019, Complainant had not filed a notice of withdrawal of her complaint.
6. Prior to and after October 1, 2019, RealPage responded to data requests filed by Staff.
7. On March 20, 2020, the Commission referred this case to SOAH and directed Complainant and RealPage to file proposed lists of issues by March 26, 2020.
8. On March 26, 2020, RealPage filed a proposed list of issues. Complainant did not file a proposed list of issues as required by the referring order.
9. On April 3, 2020, SOAH Order No. 1 scheduled a prehearing conference to be convened telephonically on April 8, 2020.
10. On April 8, 2020, Staff and RealPage appeared at the prehearing conference; Complainant did not appear.
11. As of April 8, 2020, Complainant had not contacted Staff or RealPage since filing her Complaint.
12. On April 13, 2020, in SOAH Order No. 2, the undersigned Administrative Law Judge (ALJ) on his own motion moved to dismiss the complaint for failure to prosecute, and directed that Complainant had 20 days from the date of receipt of SOAH Order No. 2 to respond to the order in accordance with 16 Texas Administrative Code (TAC) § 22.181(e)(3).
13. SOAH Order No. 2 also stated that if Complainant did not respond or withdraw her complaint within 20 days, the undersigned ALJ would prepare a Proposal for Decision (PFD) recommending that the Commission dismiss this case in accordance with 16 TAC § 22.181(d)(6).

14. On April 17, 2020, the Commission filed a Preliminary Order in this docket, listing 15 issues that were to be addressed.
15. As of the date of this PFD, Complainant has not responded to SOAH Order No. 2.
16. Because a procedural schedule was not set at SOAH, a date for a hearing on the merits was not established.


III. CONCLUSIONS OF LAW

1. The Commission has jurisdiction over this matter pursuant to Texas Water Code §§ 13.505(b) and 13.041(b)-(c).
2. SOAH has jurisdiction over matters related to the hearing of this proceeding, including the preparation of a PFD with findings of fact and conclusions of law, pursuant to Texas Government Code § 2003.049, Texas Water Code § 13.041(c-1), and Texas Utilities Code § 14.053.
3. Under 16 TAC § 22.181(a) and (d)(6), the ALJ may recommend to the Commission that it dismiss the proceeding with or without prejudice for failure to prosecute.
4. When the presiding officer recommends dismissal of a case for failure to prosecute, he or she must prepare a PFD. The Commission shall consider the PFD recommending dismissal for failure to prosecute as soon as is practicable. 16 TAC § 22.181(f)(2).
5. Complainant's failure to participate in this case, including her failure to appear at the telephonic prehearing conference convened on April 8, 2020, and failure to file a response to SOAH Order No. 2, justifies dismissal with prejudice for failure to prosecute.

IV. PROPOSED ORDERING PARAGRAPHS

1. Docket No. 49370 is **DISMISSED** with prejudice for failure to prosecute.
2. All other motions, requests for entry of specific findings of fact, conclusions of law, and ordering paragraphs, and any other requests for general or specific relief, if not expressly granted, are denied.

SIGNED: May 11, 2020.



STEVEN H. NEINAST
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS

STATE OFFICE OF ADMINISTRATIVE HEARINGS

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STYLE/CASE: CASSANDRA DENIS HARRIS & THE LANDING AT
WILLOWBROOK & REALPAGE UTILITY MGMT
SOAH DOCKET NUMBER: 473-20-3121.WS
REFERRING AGENCY CASE: 49370

**STATE OFFICE OF ADMINISTRATIVE
HEARINGS**

**ADMINISTRATIVE LAW JUDGE
ALJ STEVEN NEINAST**

REPRESENTATIVE / ADDRESS

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