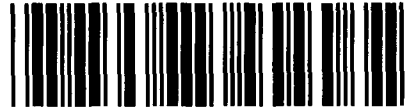


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DOCKET NO. 49370

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COMPLAINT OF CASSANDRA DENIS  
HARRIS AGAINST THE LANDINGS  
AT WILLOWBROOK AND REALPAGE  
UTILITY MANAGEMENT

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§

2019 JUL 18 10:26  
PUBLIC UTILITY COMMISSION  
OF TEXAS  
FILING CLERK

**ORDER NO. 2  
DENYING MOTION TO DISMISS AND  
REQUIRING PROCEDURAL SCHEDULE**

This Order addresses the motion to dismiss contained in Commission Staff’s Statement of Position filed on April 22, 2019. Commission Staff contends that, because the complainant did not first present her complaint to the City of Houston, the complaint should be dismissed without prejudice under 16 Texas Administrative Code (TAC) § 22.242(e)(1).

The administrative law judge (ALJ) concludes that the respondents do not constitute “utilities” within the meaning of 16 TAC § 22.242(e)(1).<sup>1</sup> Because an apartment complex does not provide water to the general public, provides water only for the use of its tenants as an incident of tenancy, and does not provide water for resale or redistribution, it does not fit the definition of “water and sewer utility,” “public utility,” or “utility,” under Texas Water Code (TWC) § 13.002(23) and 16 TAC § 24.3(51), (75) and (76). For the same reason, the ALJ concludes that the respondents do not constitute “water and sewer utilities” within the meaning of TWC § 13.042. Therefore, the subject matter of this complaint does not fall within the original jurisdiction of a municipality. This complaint concerns allocation of water costs among apartment tenants. Under Texas Utilities Code Chapter 184 and 16 TAC § 24.285, the subject matter of this complaint falls within the exclusive jurisdiction of the Commission.

For the above reasons, the ALJ denies Commission Staff’s motion to dismiss the complaint.

On or before July 15, 2019, the parties must file a procedural schedule for continued processing of this complaint.

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<sup>1</sup> The ALJ finds the definition of “utility” found in Texas Water Code (TWC) § 13.002(23) and 16 TAC § 24.3(75) which equate the term with “water and sewer utility,” to be applicable to this case. *See also* 16 TAC §§ 24.3 (51) and (76).

Signed at Austin, Texas the 15<sup>th</sup> day of July 2019.

**PUBLIC UTILITY COMMISSION OF TEXAS**



**STEVEN LEARY**  
**ADMINISTRATIVE LAW JUDGE**