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Public Utility Commission of Texas

PUBLIC UTILITY COMMISSION
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TO: Stephen Journey
Commission Counsel

All Parties of Record

FROM: Isaac Ta *I.T.*
Administrative Law Judge

RE: Docket No. 49732 – *Complaint of Paul Hawkins Against Monarch Utilities I. L.P.*

DATE: February 7, 2020

Enclosed is the Proposal for Decision (PFD) in the above-referenced case. By copy of this memo, the parties to this proceeding are being served with the PFD.

Please place this docket 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 deadline for filing exceptions to the PFD, replies to the exceptions, and requests for oral argument.

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DOCKET NO. 49732

**COMPLAINT OF PAUL HAWKINS § PUBLIC UTILITY COMMISSION
AGAINST MONARCH UTILITIES I, §
L.P. § OF TEXAS**

PROPOSAL FOR DECISION

This Proposal for Decision (PFD) addresses the motion to dismiss filed in this matter by Commission Staff on November 12, 2019. For the reasons set forth herein, the PFD recommends that the Commission dismiss the complaint of Paul Hawkins for failure to amend an application such that it is sufficient after repeated determinations that the application is insufficient, under 16 Texas Administrative Code (TAC) § 22.181(d)(7). The administrative law judge (ALJ) recommends that the dismissal be without prejudice.

I. Background

Mr. Hawkins filed the complaint at issue in this docket on July 15, 2019. Mr. Hawkins' complaint, made without explanation or detail, appears to concern purchased pass-through water charges billed by Monarch Utilities I, L.P.

As detailed in the proposed findings of fact and conclusions of law, the ALJ has, on multiple occasions, deemed Mr. Hawkins' complaint deficient and instructed him to cure the deficiencies. Mr. Hawkins has failed to do so. For these reasons, the ALJ concludes that, under 16 TAC § 22.181(d)(7), Mr. Hawkins' complaint should be dismissed due to his failure to amend his complaint such that it was sufficient after repeated determinations that the complaint was insufficient.

II. Findings of Fact

The ALJ adopts the following findings of fact.

1. Mr. Hawkins filed the complaint at issue in this docket on July 15, 2019.
2. In his complaint, Mr. Hawkins submitted invoices from Monarch for water usage during February through June 2019 as his formal complaint.
3. Mr. Hawkins' formal complaint does not make specific allegations.

4. In Monarch's response filed on August 6, 2019, Monarch provided a detailed response to the complaint, denying that it had inappropriately applied its tariffed rates and inappropriately billed Mr. Hawkins purchased water pass-through charges.
5. In Commission Staff's statement of position filed on August 13, 2019, Commission Staff noted that Mr. Hawkins' complaint failed to include the information required under 16 TAC § 22.242(e)(2)(C)–(I) and requested that Mr. Hawkins be ordered to cure the deficiencies under 16 TAC § 22.242(e)(2).
6. In Order No. 2 filed on August 15, 2019, the ALJ ordered Mr. Hawkins to cure the deficiencies in his complaint by September 27, 2019.
7. Mr. Hawkins did not file anything in response to Order No. 2.
8. In Commission Staff's supplemental statement of position filed on October 11, 2019, Commission Staff moved to dismiss the complaint due to Mr. Hawkins' failure to meet the requirements of 16 TAC § 22.242(e)(2). Commission Staff alternatively recommended that Mr. Hawkins be ordered to supplement the record with the necessary response.
9. In Order No. 3 filed on October 14, 2019, the ALJ ordered Mr. Hawkins to cure the deficiencies in his complaint by October 30, 2019. Order No. 3 included the following admonition: *“If Mr. Hawkins fails to do so, this case may be dismissed by the Commission.”*¹
10. Mr. Hawkins did not file anything in response to Order No. 3.
11. In Commission Staff's second supplemental statement of position filed on November 12, 2019, Commission Staff re-urged dismissal of the complaint under 16 TAC § 22.181(d)(7).
12. More than 20 days have elapsed since Commission Staff served all parties with the motion to dismiss the complaint.
13. Mr. Hawkins did not respond to the motion to dismiss.
14. No hearing was held in this matter, and none is necessary, because the facts are established as a matter of law by the administrative record, of which the ALJ takes official notice.

¹ Emphasis in original.

III. Conclusions of Law

The ALJ adopts the following conclusions of law.

1. The Commission has jurisdiction over this matter under Texas Water Code § 13.041.
2. The ALJ may recommend to the Commission that it dismiss a proceeding with or without prejudice for, among other reasons, “failure to amend an application such that it is sufficient after repeated determinations that the application is insufficient.” 16 TAC § 22.181(d)(7).
3. Under 16 TAC § 22.2(6), application is defined to include complaint.
4. The ALJ must prepare a PFD when recommending dismissal of a case. The Commission must then consider the PFD as soon as is practicable in accordance with 16 TAC § 22.181(f)(2).
5. Commission Staff proved that dismissal is warranted for “failure to amend an application such that it is sufficient after repeated determinations that the application is insufficient” under 16 TAC § 22.181(d)(7).

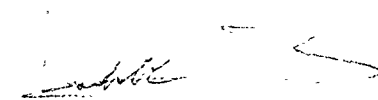
IV. Proposed Ordering Provisions

In light of the above findings of fact and conclusions of law, the ALJ proposes the following ordering paragraphs.

1. The complaint is dismissed, without prejudice.
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 herein, are denied.

Signed at Austin, Texas the _____ day of February 2020.

PUBLIC UTILITY COMMISSION OF TEXAS



**ISAAC TA
ADMINISTRATIVE LAW JUDGE**