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COMPLAINT OF CHAD SWAHN
AGAINST SHADY OAKS WATER
SUPPLY COMPANY, LLC

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PUBLIC UTILITY COMMISSION
OF TEXAS

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COMMISSION STAFF’S SUPPLEMENTAL STATEMENT OF POSITION

COMES NOW the Staff (Staff) of the Public Utility Commission of Texas (Commission), representing the public interest, and files this Statement of Position. Staff recommends that this docket be referred to the State Office of Administrative Hearings for a hearing on the merits. In support thereof, Staff would show the following:

I. BACKGROUND

On December 16, 2019, Chad Swahn (Swahn) filed a complaint against Shady Oaks Water Supply Company, LLC (Shady Oaks) alleging overcharges for water service.

On January 13, 2020, the Administrative Law Judge (ALJ) in this case issued Order No. 2 giving Staff until January 24, 2020 to file a statement of position regarding the complaint and to determine whether Swahn complied with the requirements for informal resolution and consultation with the municipality in which the complainant may live, in accordance with 16 Texas Administrative Code (TAC) § 22.242(c) and (e).

On February 5, 2020 the ALJ issued Order No. 3 giving Staff until March 3, 2020 to file a supplemental statement of position. Thus, this pleading is timely filed.

II. COMPLIANCE WITH INFORMAL RESOLUTION PROCESS

Under 16 TAC § 22.242(c) a party filing a complaint must first present the complaint for informal resolution before they can present a formal complaint before the Commission. Further, under 16 TAC § 22.242(e) a complainant must, if they live within the limits of a city that has original jurisdiction, present the complaint to the city before presenting the complaint to the Commission. Swahn filed an informal complaint on September 18, 2019 with Complaint No. CP2019090958. The informal complaint was resolved on October 3, 2019 with the Commission’s Customer Protection Division finding in favor of Swahn regarding his informal complaint.¹ Thus,

¹ *Complaint No. CP2019090958*, Letter of Kenneth Wilson to Chad Swahn (October 3, 2019).

Swahn has met the requirements of 16 TAC § 22.242(c). Swahn does not live within the city limits of any municipality or city and thus 16 TAC § 22.242(e) does not apply to Swahn’s complaint.

III. COMPLAINT

Swahn signed a formal contract with Shady Oaks on April 25, 2019 and paid a \$100 deposit to begin service.² Swahn alleges that he was charged for water usage by Shady Oaks that occurred before he began service with Shady Oaks.³ This bill totaled \$328.34 for water usage from when Swahn bought the home on July 27, 2018, but had not begun receiving service from Shady Oaks until April 25, 2019.⁴ Swahn did not pay the \$328.34 that Shady Oaks alleged he owed and instead only paid what Swahn believed was his water usage.⁵ Swahn alleges this action led Shady Oaks to shut off his water service in September of 2019. After this, Swahn contacted Shady Oaks and was informed he still owed \$800 for previous service.⁶

IV. SHADY OAK’S RESPONSE

Shady Oaks responded to the complaint disputing the overcharges on Swahn’s bill and further disputing any claims of liability for damages to Swahn’s water heater.⁷ Shady Oak’s further responds that an individual, Megan Leslie, whom they allege has some relationship to Swahn is living at the home while Swahn is away for work.⁸ They further allege that Megan Leslie is turning the water meter on every time Shady Oaks turns the meter off for nonpayment.⁹

Shady Oaks claims that they sent Swahn a bill for his monthly usage, and that when Swahn denied receiving his bill they sent him last notice via certified mail which he signed and returned.¹⁰ They claim that Swahn did not pay any bills for service and that after this they locked the meter at Swahn’s residence on September 18, 2019 and that there has been no usage since.¹¹

² Complaint of Chad Swahn against Shady Oaks Water Supply Company, LLC (Complaint) at 1 (December 16, 2020).

³ *Id.*

⁴ *Id.*

⁵ *Id.*

⁶ *Id.*

⁷ Response of Shady Oaks Water Supply Company, LLC to Chad Swahn’s Complaint (Response) at 1 (January 25, 2020).

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.*

V. STAFF STATEMENT OF POSITION

For these reasons, there are facts that are in dispute and an evidentiary record needs to be developed. Accordingly, Staff recommends that this docket be referred to the State Office of Administrative Hearings for a hearing on the merits.

VI. CONCLUSION

For the reasons stated above, Staff respectfully recommends that this docket be referred to the State Office of Administrative Hearings for a hearing on the merits.

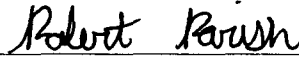
Dated: March 3, 2020

Respectfully submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS
LEGAL DIVISION**

Rachelle Nicolette Robles
Division Director

Heath D. Armstrong
Managing Attorney

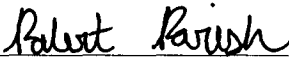


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CERTIFICATE OF SERVICE

I certify that a copy of this document will be served on all parties of record on March 3, 2020, in accordance with 16 TAC § 22.74.



Robert Dakota Parish