



Control Number: 51156



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**DOCKET NO. 51156**

**COMPLAINT OF SHANEKA L. BUSBY §  
BAKER AGAINST THE VERANDA §  
APARTMENTS AND DENTON PUBLIC §  
FACILITY CORPORATION §**

**PUBLIC UTILITY COMMISSION  
OF TEXAS**

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**COMMISSION STAFF'S SUPPLEMENTAL STATEMENT OF POSITION**

On August 10, 2020, Shaneka L. Busby Baker (Ms. Baker) filed a formal complaint against the Veranda Apartments (The Veranda) and Denton Public Facility Corporation (DPFC) (collectively, Respondents) for charges regarding water service.

On February 22, 2021, the administrative law judge filed Order No. 5, requiring Staff to file a supplemental statement of position by March 15, 2021. Therefore, this pleading is timely filed.

**I. SUPPLEMENTAL STATEMENT OF POSITION**

Staff has reviewed Ms. Baker's complaint and Respondents' responses to Staff's First Request for Information<sup>1</sup> and, as detailed in the attached memorandum of Kathryn Eiland of the Rate Regulation Division, recommends that The Veranda violated 16 Texas Administrative Code (TAC) § 24.281(d)(1) and (2) by billing Ms. Baker the City of Denton's water and wastewater volumetric rates, effective October 1, 2020, prior to the effective date. However, because these rates were lower than those in place before October 1, 2020, Staff does not recommend a billing adjustment to correct any underbilling relating to these rates.

Specifically, on October 1, 2020, the City of Denton began charging new water, sewer, and water base rates. The Veranda began billing these new rates to Ms. Baker for the August 22, 2020 through September 22, 2020 and September 22, 2020 through October 22, 2020 billing periods, resulting in a reduction in billing costs for those periods ranging from \$0.02 for water service up to \$0.55 for sewer service. The Veranda has acknowledged that from approximately October 2019 until August 2020, there was heightened water usage with correspondingly higher water bills tied to Ms. Baker's meter.<sup>2</sup> The Veranda stated that no issues with the meter were identified, and The

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<sup>1</sup> Veranda Apartments Response to Commission Staff's First Request for Information Question Nos. 1-1 through 1-16 (Jan. 19, 2021).

<sup>2</sup> Veranda Apartments Supplemental Response to Order No. 2 at 1-2. (Dec. 18, 2020) (Veranda Supplement).

Veranda personnel did not locate any leaks after checking the meter twice and sending a service unit to identify any problems, including leaks.<sup>3</sup> However, Ms. Baker has asserted that there was a water leak from a manhole in the parking lot close to her unit, beginning in September 2019.<sup>4</sup> The Veranda provided data showing elevated water usage and charges beginning in October 2019, which corresponds approximately to the date of the leak. Staff is unable to opine on the existence or severity of the purported leak; however, Staff believes the timing of this leak along with the elevated usage and charges acknowledged by The Veranda suggest that at least a portion of the elevated charges are a result of this leak.

The Veranda has stated it is willing to resolve the dispute with Ms. Baker regardless of the existence and severity of the purported leak and proposes a payment plan for Ms. Baker to pay the charges remaining after a deduction of approximately \$73.00 per month for the months of October 2019 through July 2020.<sup>5</sup> This deduction is based off of average water and sewer billing costs for Ms. Baker's unit prior to October 2019 of approximately \$20.48 per month.<sup>6</sup> As a result, the proposed payment plan assists in reducing Ms. Baker's elevated water charges from October 2019 through July 2020 during the time of the purported leak.

Staff recommends that The Veranda and Ms. Baker enter into the proposed payment plan by which Ms. Baker would pay the outstanding monthly bills for the period of October 2019 through July 2020 adjusted downward by approximately \$73.00 dollar a month. Staff has reached out to Ms. Baker who has indicated she may be agreeable to this plan and is willing to file a statement in the docket subsequent to Staff's supplemental statement of position.

Additionally, on March 11, 2021, Ms. Baker filed a Notice to Vacate sent to her by The Veranda on the grounds that she has unpaid bills due to the complex for both unpaid rent and utility charges.<sup>7</sup> To the extent that Ms. Baker remains liable for utility charges at issue in this docket,

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<sup>3</sup> *Id.*

<sup>4</sup> Complaint of Shaneka Busby Baker Against the Veranda Apartments and Denton Public Facility Corporation at 2. (Aug. 10, 2020).

<sup>5</sup> Veranda Supplement at 2.

<sup>6</sup> *Id.*

<sup>7</sup> Notice to Vacate for Non-Payment of Rent, Utilities or Other Sums for TDHCA-Regulated Affordable Housing at 2 (Mar. 11, 2021) (Notice to Vacate).

Staff recommends that The Veranda be ordered by the ALJ to stay all eviction proceedings until the unpaid utility charge at issue in this docket are resolved.

## **II. CONCLUSION**

Staff respectfully recommends that Ms. Baker and The Veranda enter into a payment plan to address the outstanding water and sewer charges, that any eviction proceedings related to nonpayment of outstanding utility charges at issue in this docket be stayed until such charges are resolved, and that an order be issued consistent with these recommendations.

Dated March 15, 2021

Respectfully Submitted,

**PUBLIC UTILITY COMMISSION OF  
TEXAS LEGAL DIVISION**

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**DOCKET NO. 51156**  
**CERTIFICATE OF SERVICE**

I certify that, unless otherwise ordered by the presiding officer, notice of the filing of this document was provided to all parties of record via electronic mail on March 15, 2021, in accordance with the Order Suspending Rules, issued in Project No. 50664.

/s/ Justin C. Adkins  
Justin C. Adkins

# *Public Utility Commission of Texas*

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## **Memorandum**

**TO:** Justin Adkins, Attorney  
Legal Division

**FROM:** Kathryn Eiland, Financial Analyst  
Rate Regulation Division

**DATE:** March 15, 2021

**RE:** Docket No. 51156: *Complaint of Shaneka L. Busby Baker Against The Veranda Apartments and Denton Public Facility Corporation*

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On August 10, 2020, Shaneka L. Busby Baker (Ms. Baker), filed a formal complaint against the Veranda Apartments (The Veranda) and Denton Public Facility Corporation (DPFC) for charges regarding water service.

Under 16 Texas Administrative Code (TAC) § 24.277(a), an owner who intends to bill tenants for submetered or allocated utility service, or who changes the method used to bill tenants for utility service shall register with the Commission in a form prescribed by the Commission. According to the *Registration of Submetered or Allocated Utility Service* filed in Docket No. 46908, tenants of The Veranda are billed based on submetered water and wastewater service.<sup>1</sup>

16 TAC § 24.281(d)(1) and (2) outline that the tenant's submetered charges must include the dwelling unit base charge and customer service charge, if applicable, and the gallonage charge must be calculated each month as follows:

- For water utility service: the retail public utility's total monthly charges for water service (less dwelling unit base charges or customer service charges, if applicable), divided by the total monthly water consumption measured by the retail public utility to obtain an average water cost per gallon, liter, or cubic foot, multiplied by the tenant's monthly consumption or the volumetric rate charged by the retail public utility to the owner multiplied by the tenant's monthly water consumption;
- For wastewater utility service: the retail public utility's total monthly charges for wastewater service (less dwelling unit base charges or customer service charges, if applicable), divided by the total monthly water consumption measured by the retail public utility, multiplied by the tenant's monthly consumption or the volumetric wastewater rate charged by the retail public utility to the owner multiplied by the tenant's monthly water consumption;

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<sup>1</sup> *Registration of Submetered or Allocated Utility Service for 2017*, Docket No. 46908, Registration of Submetered or Allocated Utility Service – the Veranda (Nov. 16, 2017).

In response to Staff's request for information,<sup>2</sup> The Veranda provided copies of the work orders for Ms. Baker's meter, Ms. Baker's tenant water and wastewater bills, Ms. Baker's apartment lease contracts, water and wastewater bills issued by the City of Denton, and rate information.

The work orders show that Ms. Baker's meter was checked on January 15, 2020, February 5, 2020, and February 7, 2020, and that no leaks or issues with the meter were found. On March 12, 2020, the meter was replaced as an extra precaution to address Ms. Baker's concerns regarding her water bills.

The water and wastewater bills to Ms. Baker were issued from October 13, 2018 through December 16, 2020. Each bill shows that each new monthly reading had advanced beyond the previous monthly reading. Additionally, the consumption shown on each bill correlates to the difference between the start read and the end read displayed on that particular bill.

The City water and wastewater bills were issued from December 3, 2018 through December 3, 2020. These bills shows the previous reading, current reading, and usage on four meters, as well as the charges for water, wastewater, and drainage.

The rate information shows that The Veranda uses the facility charge (meter charge) and volume charge (gallage charge) billed by the City of Denton (City) to calculate Ms. Baker's submetered water and wastewater charges. The most recent commercial utility rate schedule was available on the City's website. This document states that the rates were effective starting October 1, 2020; however, The Veranda applied the new rates to the August 22, 2020 through September 22, 2020 and September 22, 2020 through October 22, 2020 service periods. The following table shows a comparison of Ms. Baker's water, sewer, and water base charges for the two service periods using both rates.

**Table 1 – Rate Comparison**

<b>Service period</b>	<b>Water charge using new rate effective Oct. 1, 2020</b>	<b>Water charge using old rate effective before Oct. 1, 2020</b>	<b>Water Base Charge new rate effective Oct. 1, 2020</b>	<b>Water Base Charge using old rate effective before Oct. 1, 2020</b>	<b>Sewer Charge using new rate effective Oct. 1, 2020</b>	<b>Sewer charge using old rate effective before Oct. 1, 2020</b>
Aug. 22, 2020 – Sep. 22, 2020	\$8.46	\$8.63	\$2.58	\$2.60	\$8.99	\$9.54
Sep. 22, 2020 – Oct. 22, 2020	\$6.81	\$6.99	\$2.58	\$2.60	\$7.24	\$7.68

The rate information from The Veranda also showed that the sewer rate decreased in October 2018 from \$0.00489 per gallon to \$0.00461 per gallon. There was no other rate change found between October 2018 and October 2020.

I recommend that The Veranda be found in violation of 16 TAC § 24.281(d)(1) for billing the City's new water volumetric rate before the effective date. I also recommend that The Veranda be found in violation of 16 TAC § 24.281(d)(2) for billing the City's new wastewater volumetric rate before the effective date. Since billing the new rates before the effective date reduced Ms.

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<sup>2</sup> Commission Staff's First Request for Information to The Veranda Apartments (Dec. 1, 2020).

Busby's charges and was a benefit to her, I do not recommend a billing adjustment to correct the underbilling.

While The Veranda believes that the metering of the water usage at the unit is accurate, and that the corresponding billing is correct, they are willing work with Ms. Baker to settle their dispute. The Veranda stated that the average billing for water and sewer use at the unit prior to October 2019 was approximately \$20.48 per month. By applying this average billing to the months of October 2019 through July 2020, the bill would be adjusted downward by approximately \$73.00 per month. The Veranda states further that they are willing to enter a payment plan to resolve the amount owed for the adjusted billing.<sup>3</sup>

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<sup>3</sup> Veranda Apartments Supplemental Response to Order No. 2 at 2 (Dec. 18, 2020).