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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**

COMMISSION STAFF'S 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. In support thereof, Staff shows the following:

I. BACKGROUND

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 August 12, 2020, the Administrative Law Judge (ALJ) issued Order No. 1, requiring Staff to file a statement of position by September 8, 2020. Therefore, this pleading is timely filed.

II. COMMENTS ON INFORMAL RESOLUTION COMPLIANCE

The Commission's procedural rules state that "[a]ny affected person may complain to the commission...setting forth any act or thing done or omitted to be done by any person under the jurisdiction of the commission in violation or claimed violation of any law which the commission has jurisdiction to administer or of any order, ordinance, rule, or regulation of the commission."¹ Under the procedural rules, a complaint must be presented for informal resolution as a prerequisite to filing a formal complaint. Specifically, with a few defined exceptions, "[a] person must present a complaint to the commission for informal resolution before presenting the complaint to the commission."²

Additionally, the procedural rules define the circumstances in which an informal resolution terminates. The Commission attempts to resolve informal complaints within 35 days of receipt.³

¹ 16 Tex. Admin Code (TAC) § 22.242(a).

² 16 TAC § 22.242(c).

³ 16 TAC § 22.242(d).

The Commission shall notify the parties in writing regarding the status of the complaint at the conclusion of the 35 day period.⁴ Thereafter, “[i]f the dispute has not been resolved to the complainant’s satisfaction within 35 days, the complainant may present the complaint to the commission.”⁵

Prior to filing this formal complaint, Ms. Baker initiated an informal complaint against The Veranda with the Commission’s Customer Protection Division (CPD) on February 5, 2020.⁶ Staff reviewed CPD records and confirmed that the informal complaint matches the subject matter of this formal complaint. DPFC was not a party to the informal complaint, but Ms. Baker has alleged that the property records of the Denton Central Appraisal District list DFPC as the owner of The Veranda. CPD concluded its investigation on February 26, 2020, whereby it notified both parties in writing regarding the status of the informal complaint. Therefore, Ms. Baker has complied with the Commission’s informal complaint prerequisite prior to filing this formal complaint.

III. COMPLAINT

Ms. Baker asserts that she has been overcharged for water service to her apartment unit, beginning in October 2019 and continuing to the present. Ms. Baker alleges that this overbilling is the result of a significant, ongoing water or fluid leak in the complex that began in September 2019 and which has continued for months.⁷ She states that she has lived in the complex since November 2017 and does not mention any problems with water overbilling until October 2019.⁸

Ms. Baker provided a history of her attempts to have the overbilling addressed and rectified, including contacting the apartment’s property manager and Conservice, the apartment’s utility representative.⁹ She states that a Conservice advisor told her to request that The Veranda inspect her unit for any visible water leaks, and that it took three months for such an inspection to

⁴ *Id.*

⁵ *Id.*

⁶ Complaint No. CP2020020102.

⁷ Ms. Baker states that she observed water flowing out of a manhole in the parking lot close to her apartment building, Building #1. Complaint of Shaneka L. Busby Baker Against the Veranda Apartments and Denton Public Facility Corporation (Complaint) at 1-2, 5 (Aug. 10, 2020).

⁸ *Id.*

⁹ *Id.* at 2-3.

occur.¹⁰ She alleges The Veranda personnel replaced her water meter on March 12, 2020, but she has continued to receive excessive water bills.¹¹ She later contacted Conservice and spoke with a representative who told her that their records showed a continued high daily usage, up to 800 gallons of water, on both March 12 and 17, 2020.¹²

In support of her complaint, Ms. Baker provided a number of documents, including a copy of her letter to The Veranda staff;¹³ pictures of the manhole leak location;¹⁴ letters from NRP Group, managers of The Veranda, requesting payment of overdue charges;¹⁵ her letter to DPFC regarding the leak and charges;¹⁶ emails back and forth with The Veranda staff;¹⁷ and selected monthly water bills from June 1, 2018 through August 1, 2020.¹⁸

IV. STATEMENT OF POSITION

Respondents have failed to file a response by the date required by Order No. 1, and by the date of this pleading. As such, Staff is unable to formulate a position at this time. Staff respectfully requests additional time to allow Respondents to file a response and to conduct discovery to more fully develop the evidentiary record in this proceeding. Staff respectfully proposes a deadline of December 2, 2020 be established for Staff to file a supplemental statement of position, after receipt of Respondents response as required by Order No. 1, submission of discovery requests to Ms. Baker and Respondents, and review of the responses to same.

¹⁰ *Id.* at 2.

¹¹ *Id.* at 3.

¹² Of note, Ms. Baker remarks that she was not home on March 12, 2020. *Id.*

¹³ *Id.* at 8.

¹⁴ *Id.* at 9-13.

¹⁵ *Id.* at 14-16.

¹⁶ *Id.* at 17-20.

¹⁷ *Id.* at 21-26.

¹⁸ *Id.* at 27-52.

V. CONCLUSION

Staff respectfully requests the entry of an order establishing a new deadline for Respondents to respond to the complaint and a deadline of December 2, 2020 for Staff to file a supplemental statement of position to allow Staff time to engage in discovery and review any response filed by Respondents.

Dated September 8, 2020

Respectfully Submitted,

**PUBLIC UTILITY COMMISSION OF
TEXAS LEGAL DIVISION**

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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 September 8, 2020, in accordance with the Order Suspending Rules, issued in Project No. 50664.

/s/ Justin C. Adkins
Justin C. Adkins