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COMPLAINT OF JEFF CONNORS
AGAINST THE GALLERY
APARTMENTS, ROSCOE PROPERTY
MANAGEMENT, AND CONSERVICE

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PUBLIC UTILITY COMMISSION
OF TEXAS

COMMISSION STAFF'S SUPPLEMENTAL STATEMENT OF POSITION

On December 14, 2020, Jeff Connors (Mr. Connors) filed a formal complaint against the Gallery Apartments, Roscoe Property Management, and Conservice (together, Respondents) regarding billing practices for water services. This complaint was filed under 16 Texas Administrative Code (TAC) § 22.242. On January 19, 2021, Mr. Connors filed a Motion to Amend the Complaint. On February 3, 2021, the Respondents filed a response to the formal complaint. On February 3, 2021, Mr. Connors filed a second Motion to Amend the Complaint. Mr. Connors responded to the Respondents on February 9, 2021.

On February 11, 2021, the administrative law judge (ALJ) filed Order No. 4, requiring the Staff to file a supplemental statement of position and address whether a summary decision or default order would be appropriate by March 8, 2021. Therefore, this pleading is timely filed.

I. COMPLIANCE WITH REQUIREMENTS FOR INFORMAL RESOLUTION

Mr. Connors has complied with the informal resolution requirements under 16 TAC § 22.242(c). The formal complaint references informal complaint #CP2020101118. Staff has reviewed Consumer Protection Division (CPD) records and confirmed that informal complaint #CP2020101118 matches the parties and subject matter of this formal complaint. Staff recommends that Mr. Connors be found to have complied with the informal resolution requirements under 16 TAC § 22.242(c).

II. JURISDICTION

According to the Texas Water Code (TWC):

the governing body of each municipality has exclusive original jurisdiction over all water and sewer utility rates, operations, and services provided by a water and sewer utility within its corporate limits...The governing body of a municipality by ordinance may elect to have the utility commission exercise exclusive original

jurisdiction over the utility rates, operation, and services of utilities, within the incorporated limits of the municipality.¹

As Mr. Connors' complaint is against the Respondents, which are not water utilities, Staff recommends that he is not required to satisfy the requirements of 16 TAC § 22.242(e) and is not obligated to first "present any complaint concerning the electric, water, or sewer utility to the city before presenting the complaint to the commission." The TWC defines a "water and sewer utility," "public utility," or "utility" to mean any person or corporation "owning or operating for compensation in this state equipment or facilities for the transmission, storage, distribution, sale, or provision of potable water to the public or for the resale of potable water to the public. . . ."² This definition excludes any person or corporation "that furnishes the services or commodity only to itself or its employees or tenants as an incident of that employee service or tenancy when that service or commodity is not resold to or used by others."³

Further, Staff recommends that the Commission has jurisdiction over this complaint under Subchapter M of TWC Chapter 13, which addresses submetering and non-submetering for apartments

III. MR. CONNORS' COMPLAINT

In the complaint, Mr. Connors asserts that the Respondents improperly overcharged Mr. Connors for "building improvements" related to the irrigation system associated with the Respondent's property and did not provide Mr. Connor's with detailed calculations for an 8 month period beginning in October 2019 and ending in May 2020.

IV. RESPONDENTS' ANSWER

In the complaint, the Gallery Apartments, through their water and sewer billing service, Conservice, 1) properly billed water and sewer service; 2) provided detailed explanation of how

¹ TWC § 13.042(a)-(b).

² TWC § 13.002(23)

³ *Id.*

water and sewer bills were calculated; and 3) properly withheld only documents that were privileged due to outstanding privacy issues.

V. STATEMENT OF POSITION

Staff will need additional information from Respondents regarding allocation irrigation charges to its tenants and related billing practices. At this time, Staff does not recommend summary decision or a default order. Accordingly, Staff requests 90 days to conduct discovery so that it may request and review the relevant documentation and information. Staff requests that a deadline of June 8, 2021 be established for Staff to conduct discovery and issue a supplemental statement of position. In Staff's supplemental statement of position, Staff will also provide an additional recommendation on summary decision or default order.

VI. CONCLUSION

For the reasons discussed above, Staff respectfully requests that the ALJ find that Mr. Kline has satisfied the informal resolution requirements of 16 TAC § 22.242, that the Commission has jurisdiction over this complaint, and that Staff be given a deadline of June 8, 2021 to file a supplemental statement of position.

Dated: March 8, 2021

Respectfully submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS
LEGAL DIVISION**

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/s/ M. Justin Ackley - signed with permission by
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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 March 8, 2021 in accordance with the Order Suspending Rules, issued in Project No. 50664.

/s/ M. Justin Ackley - signed with permission by
/s/ Rashmin J. Asher
M. Justin Ackley