



Filing Receipt

Received - 2021-10-04 07:06:45 PM
Control Number - 51619
ItemNumber - 35

DOCKET NO. 51619

COMPLAINT OF JEFF CONORS	§	PUBLIC UTILITY COMMISSION
AGAINST THE GALLERY	§	
APARTMENTS, ROSCOE PROPERTY	§	OF TEXAS
MANAGEMENT, AND CONSERVICE	§	

**THE GALLERY APARTMENTS AND ROSCOE PROPERTY MANAGEMENT’S
RESPONSE TO FORMAL COMPLAINT AND MOTION FOR LEAVE TO SERVE
DISCOVERY**

The Gallery Apartments and Roscoe Property Management (“RPM”) (collectively, the “Respondent”) respectfully submit this response to the Complaint of Jeff Connors.

I. Jurisdiction

The Commission has jurisdiction over this Complaint.

II. Background

Jeff Connors (“Complainant”) filed his formal complaint on December 14, 2020 against The Gallery Apartments (The Gallery I and The Gallery II), Roscoe Property Management, and Conservice regarding billing practices for water services. Prior to filing his formal complaint, Complainant filed an informal complaint alleging essentially the same claims against The Gallery II Apartments. The informal complaint was investigated by the Consumer Protection Division of the PUC and the result of the investigation was determined in The Gallery II’s favor, finding that The Gallery II “acted consistently with Substantive Rule §24.277 Owner Registration and Records and §24.281 Charges and Calculations. See Exhibit 1. Additionally, the Consumer Protection Division informed the Complainant that Respondent Conservice provided an explanation of how the water and sewer bills are calculated, and that the explanation was also in line with Substantive Rule §24.281 Charges and Calculations. See Exhibit 1.

III. Allegations

Complainant alleges that RPM refused to provide copies of water bills for the period that RPM did not manage the property and did not contract the third party that was responsible for billing during the period that RPM did not manage the property. The Consumer Protection Division of the PUC has indicated to the Complainant that when RPM took over operations of The Gallery and Gallery II on July 25, 2019, “the company did not bill utilities until September 2019 for an October 2019 payment month,” and even explained to the Complainant that “Respondent Roscoe cannot speak to the previous management company’s practices nor to the billing practices conducted by Performance Utility Management and Billing.” See Exhibit 1. The Complainant was instructed to refer any issues before July 25, 2019 to Valiant Residential at 214-522-1310 or Performance Utility Management & Billing at 512-394-8359.

Complainant also alleges that the increase of his water bills is due to contractors working on the apartment buildings. In support of his claim, Complainant provided a typed-out list of bills he claims to have received since RPM took over operations of the property. RPM denies this allegation. RPM also denies that Complainant’s water bill ever reached the amount of \$70.08. The highest bill the Complainant received from Conservice was \$52.26 in May 2020, which resulted from the occupancy rate at the property decreasing by 44% since October 2019. The Gallery II’s methodology for allocating water complied with Substantive Rule §24.281 and the allocation formula used is heavily influenced by the occupancy rate. The slight increase in the Complainant’s water bill was due to the steady loss of occupancy experienced during the beginning of the pandemic, not malfeasance or leak.

IV. Applicable Rules

Complainant's allegations are subject to PUC Substantive Rule §24.281 Charges and Calculations. There are no rates or tariffs that are the subject of this complaint. There are no other matters relevant to this complaint.

V. Conclusion

The methods used by RPM through its third-party billing contractor, Conservice, for water allocations are in compliance with PUC rules and guidelines. Respondent was substantially in compliance with Complainant's request for records. Complainant was advised that not all records can be provided to him for review due to privacy issues. As such, Respondent respectfully requests that the Commission Staff makes the same determination as Investigator Isabel Ford with the Consumer Protection Division and finds that RPM has acted consistent with the PUC Substantive Rule §24.281.

RESPONDENT'S MOTION FOR LEAVE TO SERVE DISCOVERY

Respondent, by and through its undersigned counsel and pursuant to PUC Procedural Rules §22.141(a), hereby moves for leave to serve discovery upon Complainant. In support of its request, RPM submits the following:

1. Complainant filed his formal complaint on December 14, 2020 against Respondent seeking documents that have already been provided to him or otherwise provided an explanation of Respondent's inability to provide certain requested records due to privacy issues.
2. Complainant's formal complaint again seeks the same records and \$216.72 in damages.
3. Although by no means of admitting fault, Respondent has repeatedly offered Complainant the damages he sought in a good faith effort to make him feel whole again. However, Complainant not only refused any "settlement talks" but also continues to make unfounded assumptions regarding Respondent's billing practices.

4. Respondent is filing its response to the Commission Staff's First Request for Information.

Yet, Respondent has not been able to conduct any discovery on its own to investigate the grounds for Complainant's allegations.

5. As such, Respondent hereby seeks leave to obtain discovery of Complainant's claims in the formal complaint.

WHEREFORE, Respondent, respectfully requests that this Court grant leave for Respondent to serve its discovery on Complainant and for any further relief to which Respondent may show themselves justly entitled.

Respectfully submitted,

HOOVER SLOVACEK LLP

By: /s/Daniel S. Edmunds
Daniel S. Edmunds
Texas Bar Number: 24115624
edmunds@hooverslovacek.com
Xinyi (Cindy) Liu
Texas Bar Number: 24121726
liu@hooverslovacek.com
5051 Westheimer, Suite 1200
Houston, Texas 77056
Telephone: (713) 977-8686;
Facsimile: (713) 977-5395

ATTORNEYS FOR RPM

CERRTIFICATE OF SERVICE

I hereby certify by my signature below that a true and correct copy of the foregoing document was filed through the Interchange on this the 4th day of October, 2021.

/s/Xinyi (Cindy) Liu

Xinyi (Cindy) Liu

MR JEFF CONNORS
3506 MANCHACA ROAD APT 239
AUSTIN TX 78704

DeAnn Walker
Chairman

Arthur C. D'Andrea
Commissioner

Shelly L. Botkin
Commissioner

Thomas J. Gleeson
Executive Director



Greg Abbott
Governor

Public Utility Commission of Texas

1/11/2021

Mr Jeff Connors
3506 Manchaca Road Apt 239
Austin TX 78704

RE: Complaint # CP2020101118

Dear Mr Connors:

The Customer Protection Division received the response from THE GALLERY II APARTMENTS (The Gallery II) on 01/05/21 concerning the allocation of your water service. We have reviewed the documentation presented by both you and The Gallery II in order to ensure the company acted consistently with applicable Substantive Rules.

The Gallery II has tasked the billing of your water and sewer service to Conservice since Roscoe Property Management took over operations of The Gallery and Gallery II on 07/25/19. The company did not bill utilities until September 2019 for an October 2019 payment month. Conservice provided an explanation of how the water and sewer bills are calculated which are in line with Substantive Rule §24.281 Charges and Calculations. Roscoe Property Management cannot speak to the previous management company's practices nor to the billing practices conducted by Performance Utility Management & Billing and any issues before 07/25/19 should be referred to Valiant Residential at 214-522-1310 or Performance Utility Management & Billing at 512-394-8359.

The company will not release billing information for other residents due to privacy issues, but the company may provide you the total amount billed to all tenants each month which would not include specific tenant details.

The Customer Protection Division has determined The Gallery II acted consistently with Substantive Rule §24.277 Owner Registration and Records and §24.281 Charges and Calculations. The account appears to have been allocated consistently with our Substantive Rules and the company has advised not all records can be provided for you to review due to



privacy issues; however, the following are the records which should be made readily available to you once you make your request of the company:

- (1) a current and complete copy of TWC, Chapter 13, Subchapter M;
- (2) a current and complete copy of this subchapter;
- (3) a current copy of the retail public utility's rate structure applicable to the owner's bill;
- (4) information or tips on how tenants can reduce water usage;
- (5) the bills from the retail public utility to the owner;
- (6) for allocated billing: (A) the formula, occupancy factors, if any, and percentages used to calculate tenant bills; (B) the total number of occupants or equivalent occupants if an equivalency factor is used under §24.281(e)(2) of this title (relating to Charges and Calculations); and (C) the square footage of the tenant's dwelling unit or rental space and the total square footage of the apartment house, manufactured home rental community, or multiple use facility used for billing if dwelling unit size or rental space is used;
- (7) for sub metered billing: (A) the calculation of the average cost per gallon, liter, or cubic foot; (B) if the unit of measure of the submeters or point-of-use submeters differs from the unit of measure of the master meter, a chart for converting the tenant's submeter measurement to that used by the retail public utility; (C) all submeter readings; and (D) all submeter test results;
- (8) the total amount billed to all tenants each month;
- (9) total revenues collected from the tenants each month to pay for water and wastewater service; and
- (10) any other information necessary for a tenant to calculate and verify a water and wastewater bill.

We have previously discussed the option of you filing a formal complaint against The Gallery II Apartments and this option is still available to you should you disagree with the determination made by the Customer Protection Division.

Thank you for the opportunity to address your concerns. If we can assist you with future utility concerns, please contact us toll free through our Customer Assistance Call Center at 1-888-782-8477.

Sincerely,

Isabel Ford
Customer Protection Division
Public Utility Commission of Texas

cc: THE GALLERY II APARTMENTS