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

**COMMISSION STAFF'S SUPPLEMENTAL STATEMENT OF POSITION AND
REQUEST FOR REFERRAL**

On December 14, 2020, Jeff Connors (Complainant) filed a formal complaint against the Gallery Apartments (Apartment), Roscoe Property Management (RPM), and Conservice (together, Respondents) regarding improper billing practices.¹ This complaint was filed under 16 Texas Administrative Code (TAC) § 22.242.

On September 14, 2021, the administrative law judge (ALJ) filed Order No. 10, requiring Staff (Staff) of the Public Utility Commission (Commission) to file a supplemental statement of position, addressing whether a summary decision or default order would be appropriate by October 25, 2021. Therefore, this pleading is timely filed.

I. COMPLAINT

On December 14, 2021, the Complainant filed a formal complaint with the Commission. The formal complaint alleges that the Respondents improperly charged residents of the property for irrigation costs.² The complaint included a twofold request for relief:

1. The Complainant requested copies of water bills from 2019 from before RPM began managing the property, and after RPM began managing the property. The Complainant specifically requested to review water bills for the 03/15/19 to 04/12/19 billing period, the 07/16/19 to 08/14/19 billing period, and the 09/08/19 to 10/03/19 billing period; and
2. An adjustment to his balance in the amount of \$216.72.³

On January 19, 2021, the Complainant filed a motion to amend the complaint, requesting permission to include additional evidence, explanations of bills, additional remarks to the new

¹ Complaint of Jeff Connors against The Gallery Apartments, Roscoe Property Management, and Conservice 1-69 (Dec. 14, 2020).

² *Id.*

³ *Id.* at 8-9.

evidence, and revising and deleting text in his original complaint based upon additional information later made available to him.⁴

On January 29, 2021, the Complainant filed copies of bills received from Conserve.⁵

On February 3, 2021, the Complainant filed a second motion to amend the complaint, claiming that he was overbilled for drainage and that RPM charged him improperly by shifting its billing cycles.⁶

On February 9, 2021, the Complainant filed a reply to a submission made by the Gallery on February 3, 2021, in which he alleges double billing by the Respondents for the City of Austin's bill for the period of 07/16/19-08/14/19.⁷

On June 7, 2021 the Complainant filed a motion to update information on the Gallery Apartments, detailing the change in management companies from RPM to another entity on February 19, 2021. That subsequent management company is not a party to this docket.⁸

On October 11, 2021, the Complainant filed a reply to the Respondent's response to the formal complaint, a response to the Respondent's motion for leave to serve discovery, as well as a motion to amend requested relief.⁹ In his motion to amend requested relief, the Complainant requested:

1. Copies of the total amount that RPM billed residents of the Gallery II for water and wastewater for the January 2020 to June 2020 monthly bills.
2. An updated calculation of the difference between his bills from 08/14/19 to 03/13/20 and what his bills were after RPM stopped its irrigation at the complex with the approximated amount that he was refunded on his June 2021 to September 2021 bills from Conserve subtracted from it. That updated amount is \$85.06.¹⁰

⁴ Motion to Amend Complaint at 2 (Jan. 19, 2021).

⁵ Response to a PUC claim that Them [sic] Gallery Apartments, RPM, and Conserve were not accurately billing back utilities 1-33 (Jan. 29, 2021).

⁶ Second Motion to Amend the Complaint at 1-2 (Feb. 3, 2021).

⁷ Reply to Submissions Made by the Gallery on 2/3/21 at 1-2 (Feb. 9, 2021).

⁸ Motion to Update Information on the Gallery Apartments at 1-2 (June 7, 2021).

⁹ Reply to Respondent's Response to Formal Complaint (Oct. 11, 2021); Response to Respondent's Motion for Leave to Serve Discovery (Oct. 11, 2021); Motion to Amend Requested Relief (Oct. 11, 2021).

¹⁰ Motion to Amend Requested Relief at 1-2 (Oct. 11, 2021).

II. RESPONDENTS' RESPONSE

Order No. 1 required Respondents to file a response to the complaint no later than January 7, 2021. Specifically, the ALJ required the Respondents to address:

1. the Commission's jurisdiction over this proceeding;
2. allegations raised in the complaint;
3. applicable statutes, rules, orders, and tariff provisions;
4. copies of any rates or tariffs that are subject of this complaint; and
5. any other matters relevant to the complaint.

The Apartment and RPM filed their response to the formal complaint and motion for leave to serve discovery on October 4, 2021.¹¹ In their response, the Apartment and RPM allege that until September 2019, they were not the entities responsible for the billing practices and they cannot speak to the billing practices conducted by the previous billing company.¹² The Apartment and RPM denied the Complainant's allegation that the increase of his water bills was due to contractors working on the apartment buildings.¹³ The Apartment and RPM also denied the allegation that the relevant billing allocation was improper and insisted that the methodology for allocating water service complied with Commission regulations.¹⁴ The Apartment and RPM further insisted that the increase in the Complainant's water bill was due to loss of occupancy influenced by the pandemic and not malfeasance or plumbing issues.¹⁵

III. COMMISSION STAFF'S STATEMENT OF POSITION AND REQUEST FOR REFERRAL

Staff has reviewed all of the filings in this docket and recommends that potential violations of Commission requirements are at issue in this docket. The Complainant alleges that the Respondents violated Commission regulations, and an evidentiary record needs to be developed. Staff recommends that this docket be referred to the State Office of Administrative Hearings for a

¹¹ The Gallery Apartments and Roscoe Property Management's Response to Formal Complaint and Motion for Leave to Serve Discovery (Oct. 4, 2021).

¹² *Id.* at 1-3.

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Id.*

determination on those issues, to develop an evidentiary record to assess any potential violations of Commission regulations, and to verify whether Respondents are in compliance with Commission regulations.

IV. CONCLUSION

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

Date: October 25, 2021

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 on October 25, 2021 in accordance with the Order Suspending Rules filed in Project No. 50664.

/s/ Phillip Lehmann
Phillip Lehmann