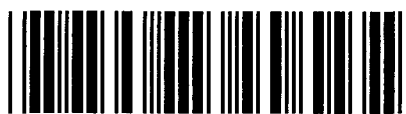




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COMPLAINT OF JEFF CONNORS  
AGAINST THE GALLERY  
APARTMENTS, ROSCOE PROPERTY  
MANAGEMENT, AND CONSERVICE

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§  
§  
§  
§

PUBLIC UTILITY COMMISSION  
OF TEXAS

### COMMISSION STAFF'S STATEMENT OF POSITION

COMES NOW the Commission Staff (Staff) of the Public Utility Commission of Texas (Commission), representing the public interest, and files this Statement of Position in response to Order No. 1. In support thereof, Staff would show the following:

#### I. BACKGROUND

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 December 16, 2020, the administrative law judge (ALJ) filed Order No. 1, requiring the Respondents to file a response to the complaint no later than January 7, 2021. Order No. 1 also required Staff to file a statement of position by January 14, 2021. Therefore, this pleading is timely filed.

#### II. 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).

### **III. 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.<sup>1</sup>

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. . . ." <sup>2</sup> 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." <sup>3</sup>

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.

### **IV. STATEMENT OF POSITION**

Staff is unable to make evaluative comments at this time because all of the Parties have not filed a response to the complaint. Staff recommends that the Respondents be ordered to file a

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<sup>1</sup> TWC § 13.042(a)-(b).

<sup>2</sup> TWC § 13.002(23)

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

response in compliance with Order No. 1 by January 28, 2021 and that Staff be required to file a supplemental statement of position by February 10, 2021.

## **V. CONCLUSION**

For the reasons discussed above, Staff respectfully requests that the ALJ find that Mr. Connors has satisfied the informal resolution requirements of 16 TAC § 22.242 and that the Commission has jurisdiction over the complaint and requests that an order be issued consistent with the Statement of Position included above.

Dated: January 14, 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 January 14, 2020 in accordance with the Order Suspending Rules, issued in Project No. 50664.

/s/ M. Justin Ackley  
M. Justin Ackley