



Control Number: 51856



Item Number: 366

Barry R. McBee, *Chairman*
R. B. "Ralph" Marquez, *Commissioner*
John M. Baker, *Commissioner*
Dan Pearson, *Executive Director*



S-0117

TEXAS NATURAL RESOURCE CONSERVATION COMMISSION

Protecting Texas by Reducing and Preventing Pollution

January 3, 1996

Ms. Patricia Miller
The Breedland Company
901 East Young Ave. #188
Temple, Texas 76501

Dear Ms. Miller:

Re: Submetering of Utility Services at Pebble Creek MHP(906 S. Main, Hutchins, Tx. 75141)
Registration No. S0117

Thank you for advising the Texas Natural Resource Conservation Commission (Commission) that you are submetering. Please use the number noted above when corresponding with the Commission.

A copy of the Commission's rules for submetering is enclosed. However, please note that amendments to the Texas Property Code appear to nullify TNRCC rules which permit the disconnection of utility service for nonpayment of submetered bills. The enclosed rules regarding *Utility Submetering* provide for the discontinuance of service for nonpayment of utility bills and allow the collection of a reconnect fee when service is disconnected. However, §92.008(b) of the Property Code states:

. . . a landlord may not interrupt or cause the interruption of water [or] wastewater . . . service furnished to a tenant by the landlord as an incident of the tenancy **or by other agreement** unless the interruption results from bona fide repairs, construction, or an emergency. (Emphasis added.)

It is generally understood that statutory provisions (such as those in the Property Code) take precedence over administrative regulations (such as those found in agency rules). You are, therefore, encouraged to familiarize yourself with these changes to the Property Code and cease following the disconnection practices permitted by TNRCC rules.

Condominium associations may not be affected by the foregoing. A submetering facility manager or owner needing additional guidance may want to consult his or her attorney. For more information about TNRCC jurisdiction, please call the Consumer Assistance Team at 512/239-6100.

Sincerely,

Lisa Mejia for Kate Wilkins
Kate Wilkins, Team Leader
Consumer Assistance
Water Utilities Division

Enclosure

cc: TNRCC Region Office No. 4

Self

