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DOCKET NO. 52273

COMPLAINT OF TEXAS COTTON	§	PUBLIC UTILITY COMMISSION
GINNERS ASSOCIATION MEMBERS	§	
AGAINST MIDAMERICAN ENERGY	§	OF TEXAS
SERVICES, LLC	§	

COMMISSION STAFF’S SUPPLEMENTAL STATEMENT OF POSITION

On June 25, 2021, members of the Texas Cotton Ginners Association (TCGA Members) filed a formal complaint against MidAmerican Energy Services, LLC (MidAmerican). The complaint alleges unauthorized charges for electric service. The complaint was filed under 16 Texas Administrative Code (TAC) § 22.242.

On September 15, 2021, the administrative law judge (ALJ) filed Order No. 4 setting a deadline of September 30, 2021 for the Staff of the Public Utility Commission of Texas (Staff) to file a Supplemental Statement of Position in this matter addressing whether TCGA Members have met the informal disposition requirements under 16 TAC § 22.242(c) and (e)(1). Therefore, this pleading is timely filed.

I. COMPLIANCE WITH INFORMAL RESOLUTION REQUIREMENTS

Staff incorporates its initial statement of position filed July 26, 2021 (AIS Item No. 5) by reference herein. Order No. 1 directed Staff to confirm whether TCGA Members complied with the requirements for informal resolution in accordance with 16 TAC § 22.242(c), which states: “A person **must** present a complaint to the commission for informal resolution before presenting the complaint to the commission.” If informal resolution fails, the complainant may present a formal complaint to the Commission.¹

Staff recommends that TCGA Members have failed to comply with the informal resolution requirements of 16 TAC § 22.242(c). Specifically, the TCGA Members have requested a good cause exception stating that the matters at issue in this TCGA Members complaint proceeding are the same matters at issue in the formal complaint filed by the Thigbe Group in Docket No. 52221, so requiring the TCGA Members to pursue informal resolution under 16 TAC § 22.242(c) would be “a waste of time and effort.” However, MidAmerican’s

¹ See 16 TAC § 22.242 et seq (emphasis added).

response to Staff's motion to consolidate indicates that MidAmerican does not believe that the same matters are at issue in this complaint and the Thigbe complaint. Therefore, Staff recommends that a good cause exception is not appropriate for this complaint. Staff respectfully recommends that TCGA Members pursue the informal complaint process before pursuing the formal complaint in the immediate matter before us.

Staff recommends that TCGA Members is not required to satisfy the requirements of 16 TAC § 22.242(e) since MidAmerican is a retail electric provider (REP) and REPs do not fall under the definition of "electric utility" provided in 16 TAC § 25.5(41).

II. CONCLUSION

Staff respectfully recommends the issuance of an Order requiring that TCGA Members conform with the informal resolution requirements as outlined under 16 TAC § 22.242(c) and that the TCGA Members are not required to satisfy the requirements of 16 TAC § 22.242(e).

Dated: September 30, 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 via electronic mail on September 30, 2021, in accordance with the Order Suspending Rules, issued in Project No. 50664.

/s/ Kevin R. Bartz
Kevin R. Bartz