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DOCKET NO. 52679

**COMPLAINT OF RICKY W. GASKILL § PUBLIC UTILITY COMMISSION
AGAINST UPTOWN HEIGHTS §
APARTMENTS § OF TEXAS**

COMMISSION STAFF’S STATEMENT OF POSITION

On October 5, 2021, Ricky W. Gaskill (Complainant) filed a complaint against Uptown Heights Apartments (Uptown Heights) regarding water billing.¹ The Complainant filed the formal complaint pursuant to 16 Texas Administrative Code (TAC) § 22.242.

On October 6, 2021, the administrative law judge (ALJ) filed Order No. 1, requiring the Staff (Staff) of the Public Utility Commission of Texas (Commission) to file a statement of position by November 3, 2021. Therefore, this pleading is timely filed.

I. COMMENTS ON INFORMAL RESOLUTION COMPLIANCE

Order No. 1 directed Staff to confirm whether the Complainant has complied with all of the requirements for informal resolution pursuant to 16 TAC § 22.242(c), which states, in part “[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.²

The formal complaint references informal complaint #CP2021080573. Staff has reviewed Consumer Protection Division (CPD) records and confirmed that informal complaint #CP2021080573 matches the parties and subject matter of this formal complaint. The CPD informal complaint file was closed on September 7, 2021.

Therefore, Staff recommends that the Complainant has complied with the informal resolution requirements under 16 TAC § 22.242.

¹ Complaint of Ricky W. Gaskill Against Uptown Heights Apartments at 1 (Oct. 4, 2021) (Complaint).

² 16 TAC § 22.242(e).

II. JURISDICTION

According to Texas Water Code (TWC) § 13.042(a)-(b):

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.³

The complaint is against Uptown Heights, which is not a water and sewer utility as defined in 16 TAC § 24.3(39). As such, Staff recommends that the Complainant is not required to satisfy the requirements of 16 TAC § 22.242(e).

III. STATEMENT OF POSITION

Order No. 1 required Uptown Heights to file a response to the complaint addressing certain issues by October 25, 2021. To date, Uptown Heights has not filed a response to the complaint. Staff is unable to provide a statement of position until Uptown Heights files a response to the complaint. Therefore, Staff recommends that Uptown Heights be ordered to file a response in compliance with Order No. 1 by November 17, 2021 and that Staff be ordered file a statement of position by December 1, 2021.

IV. REGISTERED AGENT FOR SERVICE

According to Uptown Heights' website, the property is operated by United Apartment Group. Further research from the Texas Secretary of State's (SOS) online database indicates that United Apartment Group is a registered agent of Forge Partners, LLC based in California. Forge Partners, LLC listed Tim Williams as its agent for service of process. The address listed for Tim Williams is P.O. Box 651 Rancho Santa Fe, CA 92067. Uptown Heights' Registration of Submetered or Allocated Utility Service indicates that Uptown Heights is owned by 2803 Woodbury Dr., LP.⁴ According to the Texas SOS, the registered agent for service for 2803 Woodbury Dr., LP is Curtis Thigpen and the address listed is 1509 Old W. 38th Street, Suite 3

³ TWC § 13.042(a)-(b).

⁴ *Registration of Submetered or Allocated Utility Service for 2020, Project No. 50431, Uptown Heights' Registration (Jan. 13, 2020).*

Austin, TX 78731. Staff is further investigating who the correct agent for service is in this situation and will provide updates as the issue is further assessed. For the time being, Staff recommends adding Mr. Williams and Mr. Thigpen to the service list for this docket.

V. CONCLUSION

For the reasons discussed above, Staff respectfully requests the entry of an order finding that the Complainant has satisfied the informal resolution requirements of 16 TAC § 22.242(c) and that the requirements of 16 TAC § 22.242(e) do not apply to this proceeding and directing Uptown Heights to file its response to the complaint as required by Order No. 1.

Dated: October 11, 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 October 11, 2021, in accordance with the Order Suspending Rules, issued in Project No. 50664.

/s/ Andy Aus
Andy Aus