



## Filing Receipt

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**DOCKET NO. 52912**

<b>COMPLAINT OF LILI AND THOMAS</b>	<b>§</b>	<b>PUBLIC UTILITY COMMISSION</b>
<b>MCDEVITT AGAINST LEVI WATER</b>	<b>§</b>	
<b>SUPPLY CORPORATION</b>	<b>§</b>	<b>OF TEXAS</b>

**COMMISSION STAFF’S SUPPLEMENTAL STATEMENT OF POSITION**

On December 2, 2021, Lili and Thomas McDevitt (Complainants) filed a formal complaint against Levi Water Supply Corporation (Levi WSC) related to Levi WSC’s refusal to provide Complainants water service to their newly renovated barn.<sup>1</sup> The complaint was filed under 16 Texas Administrative Code (TAC) § 22.242. Levi WSC filed a response on January 7, 2022.<sup>2</sup> On March 16, 2022, Levi WSC filed its responses to Staff’s First Request for Information.<sup>3</sup> On April 5, 2022, Complainants filed supplemental information.<sup>4</sup>

On March 30, 2022, the administrative law judge (ALJ) filed Order No. 5, granting an extension and requiring the Staff (Staff) of the Public Utility Commission of Texas (Commission) to file a supplemental statement of position no later than April 14, 2022. Therefore, this pleading is timely filed.

**I. COMPLAINT**

Complainants assert that Levi WSC refused to provide water service to their newly renovated barn.<sup>5</sup> They allege that they filed a formal application for a new water meter with Levi WSC in April of 2021 and were informed in May of 2021 that they would be denied a water meter and subsequent water service to their barn.<sup>6</sup> Complainants claim that they were denied a water

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<sup>1</sup> Complaint of Lili and Thomas McDevitt Against Levi Water Supply Corporation (Dec. 2, 2021) (Complaint).

<sup>2</sup> Levi Water Supply Corporation’s Response to Complaint (Jan. 7, 2022) (Response).

<sup>3</sup> Levi Water Supply Corporation’s Response to Commission Staff’s First Request for Information (Mar. 16, 2022).

<sup>4</sup> Complainant’s Supplemental information (Apr. 5, 2022).

<sup>5</sup> Complaint at 2.

<sup>6</sup> *Id.*

meter to their barn because Levi's WSC's feared that additional meters would exceed permitted usage allocation.<sup>7</sup> Complainants renewed their request for a new water meter a second time, but this request was denied at the Levi WSC monthly meeting held on November 12, 2021.<sup>8</sup>

## **II. RESPONSE FROM LEVI WATER SUPPLY CORPORATION**

Levi WSC responded to the Complaints, asserting that the company refused to provide water service to the Complainants for good cause.<sup>9</sup> Specifically, Levi WSC asserts that the company is not able to provide a new water meter for Complainants' barn because capacity modeling forecasted that providing more than three new meters to the community would lead to exceeding the permitted pumping allowance which could cause permit violations and other consequences.<sup>10</sup> Levi WSC states that Complainants must apply for a meter per Levi WSC's tariff given the fact that the newly renovated barn was second residence known as a "barndominium".<sup>11</sup> Levi WSC states it is currently looking for other sources of water that will be able to accommodate the increased need for water in their area.<sup>12</sup>

## **III. SUPPLEMENTAL STATEMENT OF POSITION**

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<sup>7</sup> *Id.*

<sup>8</sup> *Id.* at 3.

<sup>9</sup> Response at 6.

<sup>10</sup> *Id.* at 8.

<sup>11</sup> *Id.* at 3-4.

<sup>12</sup> *Id.* at 7-8.

Under 16 TAC § 24.161(a), a retail public utility is required to provide service to every “qualified service applicant within its certificated area as soon as is practical after receiving a completed application,” a qualified service applicant is defined as one who “has met all of the retail public utility’s requirements contained in its tariff, schedule of rates, or service policies and regulations for extension of service including the delivery to the retail public utility of any service connection inspection certificates required by law.”

Staff recommends that the information submitted to date supports that the facts of this case are in dispute. Most notable is the dispute over the forecasted water capacity that Levi WSC relied on to limit its new water meter allocation.

Accordingly, Staff recommends the referral of this matter to the State Office of Administrative Hearings (SOAH) for a hearing on the merits.

#### **IV. PROCEDURAL SCHEDULE**

Staff requests that this docket be referred to SOAH. Due to Staff’s request for referral to SOAH, Staff does not propose a procedural schedule at this time. Staff will work with the parties to develop a proposed procedural schedule to present to SOAH once the case is referred.

#### **V. CONCLUSION**

For the reasons discussed above, Staff respectfully requests referral to SOAH.

Dated: April 14, 2022

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 April 14, 2022, in accordance with the Order Suspending Rules, issued in Project No. 50664.

/s/ Andy Aus  
Andy Aus