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DOCKET NO. 53811

COMPLAINT OF ARIZONA	§	PUBLIC UTILITY COMMISSION
TRADERS COMPANY AGAINST EL	§	
PASO WATER UTILITIES PUBLIC	§	OF TEXAS
SERVICE BOARD	§	

COMMISSION STAFF’S SUPPLEMENTAL STATEMENT OF POSITION

On July 11, 2012, the Complainant, John C. Gilliland (Mr. Gilliland), filed a formal complaint on behalf of Arizona Traders Company (Arizona Traders) against El Paso Water Utilities Public Service Board (El Paso Water) for wrongful disconnection of water service. This complaint was filed under 16 Texas Administrative Code (TAC) § 22.242.

In Order No. 4 issued on August 11, 2022, the Administrative Law Judge (ALJ) abated the complaint because the Public Utility Commission of Texas (Commission) does not have jurisdiction over El Paso Water until Arizona Traders exhausts its administrative remedies with El Paso Water, a municipally owned utility which has not ceded original jurisdiction to the Commission.

I. STAFF’S SUPPLEMENTAL STATEMENT OF POSITION

In the complaint and in subsequent filings, Arizona Traders request the Commission to open a criminal investigation into El Paso Water employees Nancy Nye and Sonia Wyatt for various violations, including wrongful termination of water service and fabricated El Paso Water violations committed by Arizona Traders Company.¹

While it seems clear from Arizona Traders’ filings that it has no intentions of dismissing its complaint against El Paso Water, Staff cannot identify any issues of material fact that can be addressed by the Commission at this time.

The primary complaints alleged by Arizona Traders, other than those regarding wrongful termination of water service, which the Commission does not currently have jurisdiction over, are either criminal or civil in nature, neither of which are within Commission’s jurisdiction. 16 TAC § 22.242(e) states “[a]ny affected person may complain to the commission, either in writing or by

¹ Complaint at 1, 4, 5 (July 11, 2022); *see also* Arizona Traders’ Monthly Report at 1 (Aug. 12, 2022); Request for Investigation on El Paso Water at 1 (Aug. 16, 2022); *and* Request for New Formal Complaint Against Nancy Nye and Sonia Wyatt at 1 (Aug. 22, 2022).

telephone, setting forth any act or thing done or omitted to be done by any person under the jurisdiction of the commission in violation or claimed violation of *any law which the commission has jurisdiction to administer*² or of any order, ordinance, rule, or regulation of the commission.” Arizona Traders’ complaint regarding wrongful termination of water service cannot be addressed until Arizona Traders has exhausted its administrative remedies with El Paso Water. The legislature has not charged the Commission with the authority to prosecute criminal matters, or to litigate civil complaints. Until Arizona Traders exhausts its administrative remedies with El Paso Water, and the Commission has jurisdiction over that portion of the complaint, Arizona Traders has made no allegations towards El Paso Water that the Commission has jurisdiction over.

It is the position of Staff, that although Arizona Traders remains clearly frustrated with El Paso Water, that there is nothing that can currently be accomplished in this docket. Accordingly, Staff feels that dismissal under 16 TAC § 22.181(d)(1) and 16 TAC § 22.181(d)(8) would be appropriate for Arizona Traders’ criminal and civil violation allegations against Nancy Nye and Sonia Wyatt. The Commission does not have jurisdiction over civil or criminal matters, even those that are alleged to have been committed by a utility otherwise regulated by the Commission.

Staff further recommends that Arizona Traders provide an update on the status of exhausting its administrative remedies with El Paso Water regarding termination of water service as well as any updates regarding the status of Arizona Traders’ Texas Commission on Environmental Quality (TCEQ) violations.

II. CONCLUSION

For the reasons discussed above, Staff respectfully requests an order dismissing the portions of the complaint related to criminal and civil allegations from this docket for failure to state a claim for which relief can be granted, on a matter that falls within the jurisdiction of the Commission. Staff further recommends that Arizona Traders be ordered to file the above-mentioned updates.

² 16 TAC § 22.242(a) (emphasis added).

Dated: October 13, 2022

Respectfully Submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS
LEGAL DIVISION**

Keith Rogas
Division Director

John Harrison
Managing Attorney

/s/ Margaux Fox
Margaux Fox
State Bar No. 24120829
1701 N. Congress Avenue
P.O. Box 13326
Austin, Texas 78711
(512) 936-7021
(512) 936-7268 (facsimile)
Margaux.Fox@puc.texas.gov

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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 13, 2022, in accordance with the Second Order Suspending Rules, filed in Project No. 50664.

/s/ Margaux Fox
Margaux Fox