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DOCKET NO. 54666

COMPLAINT OF EVELYN	§	PUBLIC UTILITY COMMISSION
DANGERFIELD AGAINST HIGH	§	
POINT SPECIAL UTILITY DISTRICT	§	OF TEXAS

COMMISSION STAFF’S STATEMENT OF POSITION

I. INTRODUCTION

On February 17, 2023, Evelyn Dangerfield (Ms. Dangerfield or Complainant) filed with the Public Utility Commission of Texas (Commission) an appeal of the cost of obtaining service from High Point Special Utility District (High Point SUD) under Texas Water Code § 13.043(g) and 16 Texas Administrative Code (TAC) § 24.101(g). On November 9, 2023 the administrative law judge issued Order No. 9 restyling the docket as a formal complaint under 16 TAC § 22.242.

On November 9, 2023, the administrative law judge issued Order No. 9, requiring the Staff (Staff) of the Public Utility Commission of Texas (Commission) to file a statement of position regarding the complaint, including whether the Ms. Dangerfield complied with the requirement for informal resolution in accordance with 16 TAC § 22.242(c) and whether she is required to follow or meets the requirements of presenting her complaint against High Point SUD to a city before presenting the complaint to the Commission under 16 TAC § 22.242(e), by December 22, 2023. Therefore, this pleading is timely filed.

II. COMPLIANCE WITH REQUIREMENTS FOR INFORMAL DISPOSITION

Order No. 9 directed Staff to confirm whether Ms. Dangerfield complied with the informal resolution requirements under 16 TAC § 22.242(c), which states: “[a] person must present a complaint to the [C]ommission for informal resolution before presenting the complaint to the [C]ommission”. If informal resolution fails, the complainant may present the formal complaint to the Commission.¹

A search of the Commission’s informal complaint database found that an informal complaint involving the same parties and the same issues was closed by the Commission on March

¹ 16 TAC § 22.242(e).

16, 2022, under complaint no. CP2023030578. Therefore, Staff recommends that Ms. Dangerfield has complied with the informal resolution requirements of 16 TAC § 22.242(c).

III. COMPLIANCE WITH 16 TAC § 22.242(e)(1)

Under 16 TAC § 22.242(e), a complainant receiving water utility service within the limits of a city with original jurisdiction over the utility providing the service must present the complaint to the city before presenting the complaint to the Commission. Ms. Dangerfield, who receives service in the unincorporated area of Terrell, Texas, does not receive water utility service within the city limits of any municipality or city. As Ms. Dangerfield's address is not within the taxing jurisdiction of any municipality, Staff recommends that the requirements of 16 TAC § 22.242(e)(1) do not apply to this complaint.

IV. COMPLAINT

Ms. Dangerfield filed a complaint regarding High Point SUD's billing procedures. She alleges that, for initiating water service, there was a \$240 non-refundable deposit required for her account until service has permanently ended, that High Point SUD did not allow a letter of credit instead of the non-refundable deposit (which is permissible to electric providers), and that the deposit will not be returned after a set time of on-time payments.² Additionally, Ms. Dangerfield alleges that there was no prior notice given about a required \$50 charge for an inspection fee for new service customers.³ Ms. Dangerfield is requesting these ancillary charges be credited back to her since these charges were already paid as part of the initial bill in order to maintain service.⁴

V. RESPONSE TO COMPLAINT

High Point SUD argues that Texas Water Code (TWC) § 65.205(5) "authorizes special utility districts to adopt and enforce reasonable rules to 'provide and regulate a safe and adequate freshwater distribution system,' which includes rules to protect High Point SUD's fiscal viability such as requiring and keeping deposits to apply to unpaid or final bills."⁵ Specifically, High Point

² Commission Staff's Response to Order No. 2, at 8.

³ *Id.*

⁴ *Id.*

⁵ High Point Special Utility District's Response to Order No. 9, at 3.

SUD argues that Section G1.3(a) of High Point's Rate Order requires service applicants to pay a deposit that will be held by High Point SUD, without interest, until settlement of the customer's final bill. High Point SUD also argues that there is no statute in the TWC that requires retail public utilities to accept letter of credit or to refund deposits after a certain number of timely payments.⁶ Regarding the inspection fee, High Point argues that Section B.8 of their Rate Order requires High Point SUD "to perform a customer service inspection of private water distribution facilities for the purpose of providing, denying, or terminating water service."⁷

VI. STATEMENT OF POSITION

Staff has reviewed the complaint and High Point SUD's response, and recommends that the complaint be dismissed under 16 Texas Administrative Code (TAC) § 22.181(d)(8) for failure to state a claim for which relief can be granted. High Point SUD has established that its tariff supports the collection of the charges at issue in Ms. Dangerfield's complaint. Ms. Dangerfield does not cite any rules or regulations that support her allegations that High Point SUD should accept a letter of credit or refund her deposit before termination of service. Ms. Dangerfield only contrasts how High Point SUD operates compared to how electric providers operate. However, electric providers and water providers are governed by different rules and regulations that are exclusive to the respective type of utility; rules and regulations governing electric providers do not apply to water providers, and vice versa. As such, Staff recommends that Ms. Dangerfield's complaint be dismissed pursuant to 16 TAC § 22.181(d)(8) for failure to state a claim for which relief can be granted.

VII. CONCLUSION

For the reasons stated above, Staff respectfully recommends that the complaint be dismissed under 16 TAC § 22.181(d)(8) for failure to state a claim for which relief can be granted.

⁶ *Id.*

⁷ *Id.*

Dated: December 22, 2023

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 will be provided to all parties of record via electronic mail on December 22, 2023 in accordance with the Second Order Suspending Rules, filed in Project No. 50664.

/s/ Bradley Reynolds
Bradley Reynolds