



## **Filing Receipt**

**Filing Date - 2023-11-01 10:16:19 AM**

**Control Number - 55635**

**Item Number - 3**

**DOCKET NO. 55635**

**COMPLAINT OF ERIC ELLIS AGAINST  
WESTLAKE GARDEN APARTMENTS**

§  
§  
§

**PUBLIC UTILITY COMMISSION  
OF TEXAS**

**COMMISSION STAFF'S RESPONSE TO ORDER NO. 1**

On October 3, 2023, Eric Ellis (Complainant) filed a formal complaint against Westlake Garden Apartments (Westlake) for its alleged refusal to disclose its utility allocation methods to Complainant, which induced him into a transaction he would not have entered into had the information been disclosed. The complaint was filed by the Complainant under 16 Texas Administrative Code (TAC) § 22.242.

On October 18, 2023, the ALJ issued Order No. 1, requiring Staff to file a statement of position. Therefore, this pleading is timely filed.

**I. INFORMAL RESOLUTION COMPLIANCE**

Order No. 1 directed Staff to confirm whether the Complainant has complied with all of the requirements for informal resolution under 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, or is not required under 16 TAC § 22.242(c), the complainant may present a formal complaint to the Commission.<sup>1</sup>

Staff has reviewed Consumer Protection Division (CPD) records and confirmed that informal complaint #CP2023082289 matches the parties and subject matter of this formal complaint. The CPD informal complaint file was closed on September 26, 2023. Staff contends that the Complainant has complied with the informal resolution requirements under 16 TAC § 22.242.

<sup>1</sup> 16 TAC § 22.242(c).

## **II. JURISDICTION**

Under the 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. Further, 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. Additionally, under 22 Tex. Admin. Code §22.242(e)(1), if a person receives electric, water, or sewer utility service or has applied to receive electric, water, or sewer utility service within the limits of a city that has original jurisdiction over the electric, water, or sewer utility providing service or requested to provide service, the person must present any complaint concerning the electric, water, or sewer utility to the city before presenting the complaint to the commission.

The instant complaint is against Westlake, which is not a water or sewer utility as defined in TWC § 13.002(23) or 16 TAC § 24.3(38). As such, Staff contends that the Complainant is not required to satisfy the requirements of 16 TAC § 22.242(e)(1)-(2).

## **III. STATEMENT OF POSITION**

Order No. 1 required Westlake to file a response to the complaint addressing certain issues by October 25, 2023. At the time of this filing, Westlake has not filed a response to the complaint. Staff is unable to provide a statement of position until Westlake files a response to the complaint. Simultaneous with this filing, Staff has filed its First Request for Information to Westlake. Responses will be due on November 21, 2023. Staff respectfully requests at least fourteen (14) days from November 21, 2023, to review Westlake's response before being required to file a supplemental statement of position.

---

#### **IV. CONCLUSION**

For the reasons discussed above, Staff respectfully requests that the ALJ find that Complainant has satisfied the informal resolution requirements of 16 TAC § 22.242(c) and that the requirements of 16 TAC § 22.242(e)(1)-(2) do not apply to this proceeding. Additionally, Staff respectfully requests that the ALJ direct Westlake to file its response to the complaint as required by Order No. 1.

Dated: November 1, 2023

Respectfully submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS  
LEGAL DIVISION**

Marisa Lopez Wagley  
Division Director

/s/ Jena R. Abel  
Jena R. Abel, Deputy Division Director  
Board Certified – Administrative Law –  
Texas Board of Legal Specialization  
State Bar No. 24036103  
1701 N. Congress Avenue  
P.O. Box 13326  
Austin, Texas 78711-3326  
(512) 936-7325  
(512) 936-7268 (facsimile)  
[jena.abel@puc.texas.gov](mailto:jena.abel@puc.texas.gov)

**DOCKET NO. 55635**

**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 November 1, 2023, in accordance with the Second Order Suspending Rules, issued in Project No. 50664.

/s/ Jena R. Abel  
Jena R. Abel