



Control Number: 55815



Item Number: 40

PUC DOCKET NO. 55815
SOAH DOCKET NO. 473-25-00483

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PUBLIC UTILITY COMMISSION
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**COMPLAINT OF KEN ZAPALAC
AGAINST Z ISLANDER**

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**PUBLIC UTILITY COMMISSION
OF TEXAS**

PRELIMINARY ORDER

Ken Zapalac filed a complaint against Z Islander located in Bryan, Texas regarding retail electric utility service and billing for his son's apartment. This preliminary order identifies the issues that must be addressed in this proceeding.

I. Procedural History

Mr. Zapalac filed the complaint naming Conservice as the respondent party on November 8, 2023. On December 5, 2023, Commission Staff filed a statement of position recommending dismissal of Mr. Zapalac's complaint for failing to meet the the Commission's informal resolution requirements after determining that Mr. Zapalac's earlier informal complaint before the Commission named only Z Islander as the respondent party but did not include Conservice. On December 15, 2023, Mr. Zapalac filed an amended version of his formal complaint naming Z Islander as the respondent party. Mr. Zapalac has supplemented his complaint a number of times since then. On March 8, 2024, a Commission administrative law judge (ALJ) filed an order finding that the amended complaint satisfied the Commission's informal resolution requirements. On June 19, 2024, Mr. Zapalac requested referral to the State Office of Administrative Hearings (SOAH).

Mr. Zapalac and Z Islander were directed, and Commission Staff and other interested persons were allowed, to file by July 17, 2024, a list of issues to be addressed in the docket and also identify any issues not to be addressed and any threshold legal or policy issues that should be addressed. Z Islander and Commission Staff each timely filed a list of issues.

II. Issues to be Addressed

The Commission must provide to the SOAH ALJ a list of issues or areas to be addressed in any proceeding referred to SOAH.¹ After reviewing the pleadings submitted by the parties, the Commission identifies the following issues that must be addressed in this docket:

1. Does the Commission have jurisdiction over this complaint?
2. What is the time period during which the alleged violations occurred?

Please address the following issues with respect to the time period when the alleged violations occurred.

3. Who were the owners of Z Islander?² Include the names of the individuals, managers, firms, or corporations identified in the lease agreements.
4. Please identify who the tenant or tenants were of apartment 1714 during the relevant time period.³
5. Does Ken Zapalac's complaint state a claim for which the Commission may grant relief?
6. Is Ken Zapalac the guarantor of Ethan Zapalac's apartment at Z Islander?
7. Is Ken Zapalac authorized to pursue this complaint as an authorized representative?⁴
8. Is Ken Zapalac an affected person for the purposes of bringing this complaint?⁵
9. What allegations, if any, is Ken Zapalac making regarding the electric billing practices of Z Islander's owners?
10. Did the owners comply with the Commission's requirements related to records and reports?⁶

¹ Tex. Gov't Code § 2003.049(e).

² 16 TAC § 25.142(b)(5).

³ 16 TAC § 25.5(131).

⁴ 16 TAC § 22.101(a).

⁵ 16 TAC § 22.242(a).

⁶ 16 TAC § 25.142(c).

11. Did the owners comply with the Commission's billing requirements by correctly rendering and formulating the necessary billing records of the tenant's electricity usage during the relevant time period?⁷
12. Did the owners comply with Commission rules by promptly investigating complaints regarding the billing for electricity usage at apartment 1714?⁸
13. Did the owners comply with Commission rules regarding allowing tenants to review and copy the master billing of Z Islander's electricity usage?⁹
14. Have the tenants of apartment 1714 been billed improperly for electricity service during the relevant time period?
15. If the tenants of apartment 1714 were overbilled for electricity service, what amount of refund, if any, is due to them?
16. Was the submeter at apartment 1714 replaced at any point during the relevant time period? If the submeter was replaced during the relevant time period, please address the following sub-issues:
 - a. When was the submeter replaced?
 - b. Did the owners meet the Commission's submeter testing requirements?¹⁰
 - c. Did the owners meet the accuracy requirements for submeters?¹¹
 - d. After being replaced, was the submeter tested in accordance with American National Standards Institute (ANSI) regulations?¹²
 - e. Were the tools used to test the submeter calibrated in accordance with ANSI regulations?¹³

⁷ 16 TAC § 25.142(d)(1).

⁸ 16 TAC § 25.142(d)(3).

⁹ 16 TAC § 25.142(d)(4).

¹⁰ 16 TAC § 25.142(f)(8).

¹¹ 16 TAC § 25.142(f)(9).

¹² 16 TAC § 25.142(f).

¹³ *Id*

17. If the submeter was not replaced during the relevant time period, did the submeter operate within the guidelines established by ANSI and as required under Commission rules?¹⁴
18. Did the owners conduct a submeter test at apartment 1714 during the relevant time period in accordance with Commission rules?¹⁵
 - a. If the owners did conduct a submeter test at the apartment, what were the results of those tests?
19. During the relevant time period, were any forms of maintenance or repairs performed on the submeter for apartment 1714?
20. During the relevant time period, did the meter comply with the requirements of 16 TAC § 25.121?
21. How often have the owners tested the meter currently installed at the property?
 - a. Does the meter test period conform to current ANSI standards?¹⁶
22. What is the appropriate remedy, if any?

This list of issues is not intended to be exhaustive. The parties and the ALJ are free to raise and address any issues relevant in this docket that they deem necessary, subject to any limitations imposed by the ALJ or by the Commission in future orders issued in this docket. The Commission may identify and provide to the ALJ in the future any additional issues or areas that must be addressed, as permitted under Texas Government Code § 2003.049(e).

III. Effect of Preliminary Order

This Order is preliminary in nature and is entered without prejudice to any party expressing views contrary to this Order before the SOAH ALJ at hearing. The SOAH ALJ, upon his or her own motion or upon the motion of any party, may deviate from this Order when circumstances dictate that it is reasonable to do so. Any ruling by the SOAH ALJ that deviates from this Order may be appealed to the Commission. The Commission will not address whether this Order should

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ 16 TAC § 25.124(b).

be modified except upon its own motion or the appeal of a SOAH ALJ's order. Furthermore, this Order is not subject to motions for rehearing or reconsideration.

Signed at Austin, Texas the 12th day of September 2024.

PUBLIC UTILITY COMMISSION OF TEXAS


LORI COBOS, COMMISSIONER


JIMMY GLOTFELTY, COMMISSIONER


KATHLEEN JACKSON, COMMISSIONER