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Filing Date - 2024-05-20 09:18:24 AM

Control Number - 56520

Item Number - 4

DOCKET NO. 56520

COMPLAINT OF DANIEL DEWEBER	§	PUBLIC UTILITY COMMISSION
AND PRAIRIE BRANCH PROPERTIES	§	
LLC AGAINST AMON CARTER LAKE	§	OF TEXAS
WATER SUPPLY CORPORATION	§	

COMMISSION STAFF'S STATEMENT OF POSITION, RESPONSE TO MOTION TO DISMISS, AND REQUEST FOR REFERRAL

On April 22, 2024, Daniel Deweber and Prairie Branch Properties LLC (collectively, Complainants) filed a formal complaint against Amon Carter Lake Water Supply Corporation (Amon Carter Lake WSC) alleging Amon Carter Lake WSC's refusal to provide adequate water services to his 60-acre development.

On April 23, 2024, the administrative law judge filed Order No. 1, directing the Staff (Staff) of the Public Utility Commission of Texas (Commission) to file a statement of position by May 20, 2024. Therefore, this pleading is timely filed.

I. COMPLIANCE WITH INFORMAL RESOLUTION REQUIREMENT

The Complainants have complied with all of the requirements for informal resolution in accordance with 16 Texas Administrative Code (TAC) § 22.242(c). Staff has reviewed Consumer Protection Division (CPD) records and confirmed that informal complaint #CP2024021461 matches the subject matter of this formal complaint. The CPD informal complaint was filed by the Complainants. The informal complaint file was closed on March 18, 2024. Therefore, Staff recommends that the Complainants be found to have complied with the informal resolution requirements under 16 TAC § 22.242(c).

II. JURISDICTION

According to the Texas Water Code (TWC):

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. . . 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.¹

¹ TWC § 13.042(a)-(b).

Staff has reviewed the application and determined that the Complainants are not required to meet the requirements of 16 TAC § 22.242(e)(1). The property that is the subject of this complaint is located at Choate Road, Bowie, Texas 76230. It is not located within the incorporated limits of the City of Bowie nor is it within the city's extraterritorial jurisdiction.² Therefore, the Complainants are not required to meet the requirements of 16 TAC § 22.242(e)(1) as he is not within the limits of a city that has original jurisdiction.

III. COMPLAINT

The Complainants allege that “for a lengthy period of time Complainant[s] [have] requested, attempted to apply for, and ultimately demanded water service from Amon Carter [Lake WSC]” for his 60-acre, 28-house development.³ Complainants also allege that “even after an informal complaint ruling in favor of Complainant[s], [Amon Carter Lake WSC] continues to refuse to provide water services to Complainant[s].”⁴

Complainant[s] seek “an order requiring Amon Carter [Lake WSC] to provide water services, together with all related PUC, regulatory, and contractual requirements to the property which is the subject of this Complaint – together with all other proper relief appropriate or necessary by the state o[f] Texas through the Public Utility Commission or other governing entities.”⁵

IV. AMON CARTER LAKE WSC'S RESPONSE

On May 11, 2024, Amon Carter Lake WSC filed a response to the formal complaint. Amon Carter Lake WSC alleges that on March 25, 2024, it discovered that it had been using an investor-owned utility tariff, rather than a non-profit tariff, which would be more appropriate for a water supply company, “for years.”⁶ Subsequently, Amon Carter Lake WSC alleges that it reached out to the Commission to help it in developing a more appropriate tariff.⁷ Amon Carter Lake WSC

² An interactive map of the boundaries of the City of Bowie is available on its website: <https://gissolutions.half.com/portal/apps/webappviewer/index.html?id=713aabee8f3043b8bfb4d8a36dfbbf47>.

³ COMPLAINT OF DANIEL DEWEBER AND PRAIRIE BRANCH PROPERTIES LLC AGAINST AMON CARTER LAKE WATER SUPPLY CORPORATION at 1 (Apr. 22, 2024).

⁴ *Id.* at 2.

⁵ *Id.*

⁶ Order No. 1 Required Response at 2 (May 11, 2024).

⁷ *Id.*

then alleges that on May 9, 2024, it provided the Commission with its updated, water supply corporation-appropriate tariff⁸ and that “[d]uring the long process of developing a new tariff, it was made quite clear we made a mistake in the refusal of service by not following the stated guidelines.”⁹ Amon Carter Lake WSC then states that their “engineer is currently working on solutions and cost estimates as well as anticipated expenses to be able to serve the new sub-division as we would very much like to resolve our conflict as soon as possible.”¹⁰

V. STATEMENT OF POSITION

For these reasons outlined above, there are facts that are in dispute and evidentiary records need to be developed. Accordingly, Staff recommends that this docket be referred to the State Office of Administrative Hearings (SOAH) for a hearing on the merits.

VI. CONCLUSION

For the reasons stated above, Staff respectfully recommends that this docket be referred to SOAH for a hearing on its merits.

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

Dated: May 20, 2024

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 May 20, 2024, in accordance with the Second Order Suspending Rules, issued in Project No. 50664.

/s/ David Skawin
David Skawin