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DOCKET NO. 56826

**COMPLAINT OF HELEN ELAM
AGAINST UNDINE TEXAS, LLC**

**§ PUBLIC UTILITY COMMISSION
§
§ OF TEXAS**

**ORDER NO. 3
FINDING FORMAL COMPLAINT REMAINS DEFICIENT, REQUIRING
CLARIFICATION, AND MOTION TO DISMISS**

This Order addresses the July 16, 2024 filing by Helen Elam. It appears that Ms. Elam's intent is to initiate a formal complaint against Undine Texas, LLC regarding billing and rates for water service. The administrative law judge (ALJ) has, therefore, treated the filing as a formal complaint brought under 16 Texas Administrative Code (TAC) § 22.242. The filing is available on the Commission's Interchange webpage at <https://interchange.puc.texas.gov>.

I. Finding Formal Complaint Remains Deficient and Requiring Clarification

In Order No. 1 filed on August 27, 2024, the ALJ found the complaint deficient and ordered the complainant to file clarification by September 10, 2024. The complainant filed nothing in response to Order No. 1.

In Order No. 2 filed on October 10, 2024, the ALJ found the complaint remained deficient and ordered the complainant to file clarification by October 22, 2024. To date, the complainant filed nothing in response to Order No. 2.

The ALJ continues to find that the complaint deficient. The ALJ requires additional information from the complainant before the complaint can be processed.

Under 16 TAC § 22.242(e)(2), a formal complaint must include the following information:

- (A) the name of the complainant or complainants;
- (B) the name of the complainant's representative, if any;
- (C) the address, telephone number, and facsimile transmission number, if available, and, unless the person has filed a statement under § 22.106 of this title (relating to Statement of No Access), the email address of the complainant or the complainant's representative;
- (D) the name of the person against whom the complainant is seeking relief;

- (E) if the complainant is seeking relief against an electric, water, or sewer utility, a statement of whether the complaint relates to service that the complainant is receiving within the limits of a city;
- (F) if the complainant is seeking relief against an electric, water, or sewer utility within the limits of a city, a description of any complaint proceedings conducted by the city, including the outcome of those proceedings;
- (G) a statement of whether the complainant has attempted informal resolution through the commission staff and the date on which the informal resolution was completed or the time for attempting the informal resolution elapsed;
- (H) a description of the facts that gave rise to the complaint; and
- (I) a statement of the relief that the complainant is seeking.

A copy of the rule, 16 TAC § 22.242, is attached to this Order for the complainant's convenience.

Additionally, under 16 TAC § 22.242(f), the complainant is required to provide a copy of their formal complaint to the target of the complaint, Undine Texas. There is no indication that this has been done.

By December 9, 2024, the complainant must:

1. file with the Commission an amended formal complaint that includes all the information required by 16 TAC § 22.242(e)(2);
2. provide a copy of the formal complaint to Undine Texas and file with the Commission documentation that they provided said copy; and
3. clarify whether the filing was intended to be filed in Docket No. 53827¹ as a comment or protest.

II. Motion to Dismiss

Ms. Elam filed her complaint on July 16, 2024. In Order No. 1 filed on August 27, 2024, the ALJ found the complaint deficient and ordered the complainant to file clarification by September 10, 2024. The complainant did not file clarification by September 10, 2024, or otherwise response to Order No. 1.

¹ *Application of Undine Texas, LLC and Nitsch and Son Utility Company, Inc. for Sale, Transfer, or Merger of Facilities and Certificate Rights in Harris County*, Docket No. 53827 (pending).

In Order No. 2 filed on October 10, 2024, the ALJ found the complaint remained deficient and ordered the complainant to file clarification by October 22, 2024. The complainant did not file clarification by October 22, 2024, or otherwise response to Order No. 2.

In the present order, the ALJ again finds the complaint remains deficient.

Ms. Elam has filed nothing in this docket since filing her complaint on July 16, 2024.

The ALJ is of the opinion that this matter should be dismissed under 16 TAC § 22.181(d)(6), because Ms. Elam has filed to prosecute her complaint, and under 16 TAC § 22.1819(d), because Ms. Elam has failed to amend her complaint such that it is sufficient after repeated determinations that the complaint is insufficient. The bases for dismissal and the material facts supporting dismissal under 16 TAC § 22.181(d)(6) and (7) are summarized in this Order.

Under 16 TAC § 22.181(a) and (e), dismissal of a proceeding may be made upon the motion of the ALJ. This Order constitutes such a motion.

Responses to the motion to dismiss, if any, must be filed by December 9, 2024.

Signed at Austin, Texas on the 18th day of November 2024.

PUBLIC UTILITY COMMISSION OF TEXAS

A handwritten signature in black ink, appearing to read 'Isaac TA', with a long horizontal flourish extending to the right.

**ISAAC TA
ADMINISTRATIVE LAW JUDGE**

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§22.242. Complaints.

- (a) **Records of complaints.** Any affected person may complain to the commission, either in writing or by 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 or of any order, ordinance, rule, or regulation of the commission. The commission staff may request a complaint made by telephone be put in writing if necessary to complete investigation of the complaint. The commission shall keep information about each complaint filed with the commission. The commission shall retain the information in conformance with the agency's records retention schedule as approved by the Texas State Library and Archives Commission. The information shall include:
- (1) the date the complaint is received;
 - (2) the name of the complainant;
 - (3) the subject matter of the complaint;
 - (4) a record of all persons contacted in relation to the complaint;
 - (5) a summary of the results of the review or investigation of the complaint; and
 - (6) for complaints for which the commission took no action, an explanation of the reason the complaint was closed without action.
- (b) **Access to complaint records.** The commission shall keep a file about each written complaint filed with the commission that the commission has the authority to resolve. The commission shall provide to the person filing the complaint and to the persons or entities complained about the commission's policies and procedures pertaining to complaint investigation and resolution. The commission, at least quarterly and until final disposition of the complaint, shall notify the person filing the complaint and each person or entity complained of about the status of the complaint unless the notice would jeopardize an undercover investigation.
- (c) **Informal resolution required in certain cases.** A person must present a complaint to the commission for informal resolution before presenting the complaint to the commission.
- (1) **Exceptions.** A complainant may present a formal complaint to the commission, without first referring the complaint for informal resolution, if:
 - (A) the complainant is commission staff, the Office of Public Utility Counsel, or any city;
 - (B) the complaint is filed by a qualifying facility and concerns rates paid by an electric utility for power provided by the qualifying facility, the terms and conditions for the purchase of such power, or any other matter that affects the relations between an electric utility and a qualifying facility;
 - (C) the complaint is filed by a person alleging that an electric utility or a telecommunications utility has engaged in anti-competitive practices;
 - (D) the complaint has been the subject of a complaint proceeding conducted by a city;
 - (E) the complaint is filed by a person alleging that a water or sewer utility has abandoned the service of the utility; or
 - (F) the complaint is filed by a person alleging that a wholesale water or sewer provider has discontinued, reduced, or impaired its wholesale water or sewer service to its customers for reasons other than those specified in §24.88 of this title (relating to Discontinuance of Service).
 - (2) For any complaint that is not listed in paragraph (1) of this subsection, the complainant may submit to the commission a written request for waiver of the requirement for attempted informal resolution. The complainant shall clearly state the reasons informal resolution is not appropriate. The commission staff may grant the request for good cause.
- (d) **Termination of informal resolution.** The commission staff shall attempt to informally resolve all complaints within 35 days of the date of receipt of the complaint. The commission staff shall notify, in writing, the complainant and the person against whom the complainant is seeking relief of the status of the dispute at the end of the 35-day period. If the dispute has not been resolved to the complainant's

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satisfaction within 35 days, the complainant may present the complaint to the commission. The commission staff shall notify the complainant of the procedures for formally presenting a complaint to the commission.

- (e) **Formal Complaint.** If an attempt at informal resolution fails, or is not required under subsection (c) of this section, the complainant may present a formal complaint to the commission.
 - (1) **Requirement to present complaint concerning electric, water, or sewer utility to a city.** 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.
 - (A) The person may present the complaint to the commission after:
 - (i) the city issues a decision on the complaint; or
 - (ii) the city issues a statement that it will not consider the complaint or a class of complaints that includes the person's complaint.
 - (B) If the city does not act on the complaint within 30 days, the commission may send the city a letter requesting that the city act on the complaint. If the city does not respond or act within 30 days from the date of the letter, the complaint shall be deemed denied by the city and the commission shall consider the complaint.
 - (2) The commission staff may permit a complainant to cure any deficiencies under this subsection and may waive any of the requirements of this subsection for good cause, if the waiver will not materially affect the rights of any other party. A formal complaint shall include the following information:
 - (A) the name of the complainant or complainants;
 - (B) the name of the complainant's representative, if any;
 - (C) the address, telephone number, and facsimile transmission number, if available, and, unless the person has filed a statement under §22.106 of this title (relating to Statement of No Access), the email address of the complainant or the complainant's representative;
 - (D) the name of the person against whom the complainant is seeking relief;
 - (E) if the complainant is seeking relief against an electric, water, or sewer utility, a statement of whether the complaint relates to service that the complainant is receiving within the limits of a city;
 - (F) if the complainant is seeking relief against an electric, water, or sewer utility within the limits of a city, a description of any complaint proceedings conducted by the city, including the outcome of those proceedings;
 - (G) a statement of whether the complainant has attempted informal resolution through the commission staff and the date on which the informal resolution was completed or the time for attempting the informal resolution elapsed;
 - (H) a description of the facts that gave rise to the complaint; and
 - (I) a statement of the relief that the complainant is seeking.
- (f) **Copies to be provided.** A complainant shall file the required number of copies of the formal complaint as required by §22.71 of this title (relating to Filing of Pleadings, Documents, and Other Materials). A complainant shall provide a copy of the formal complaint to the person from whom relief is sought.
- (g) **Docketing of complaints.** Any complaint that substantially complies with the requirements of this section shall be docketed.
- (h) **Continuation of service during processing of complaint.** In any case in which a formal complaint has been filed and an allegation is made that a person is threatening to discontinue a customer's service, the presiding officer may, after notice and opportunity for hearing, issue an order requiring the person to continue to provide service during the processing of the complaint. The presiding officer may issue

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such an order for good cause, on such terms as may be reasonable to preserve the rights of the parties during the processing of the complaint.

- (i) **List of cities without regulatory authority.** The commission shall maintain and make available to the public a list of the municipalities that do not have exclusive original jurisdiction over all electric rates, operations, and services provided by an electric utility within its city or town limits and a list of the municipalities that have surrendered to the commission original jurisdiction over the rates charged by a utility for retail water or sewer service within the corporate boundaries of the municipality.