

Decision No. R23-0649

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 23F-0315G

KRISTIN AND MATTHEW DEUTSCH,

COMPLAINANTS,

V.

HIGHMARK RESIDENTIAL, LLC,

RESPONDENT.

**RECOMMENDED DECISION OF
ADMINISTRATIVE LAW JUDGE
G. HARRIS ADAMS
GRANTING MOTION, VACATING HEARING,
AND DISMISSING COMPLAINT**

Mailed Date: September 29, 2023

I. STATEMENT

1. On June 14, 2023, Complainants Kristen and Matthew Deutsch filed a Complaint against Highmark Residential, LLC (Highmark Residential). Complainants generally allege that Highmark Residential, the owner of their apartment complex, uses a master meter for gas usage and has been overcharging for gas since taking over the property in late 2021.

2. On June 20, 2023, the Commission issued its Order Setting Hearing and Notice of Hearing (Notice), which set this matter for hearing on August 28, 2023, at 9:00 a.m., before an Administrative Law Judge (ALJ).

3. Also on June 20, 2023, the Commission issued its Order to Satisfy or Answer, which ordered Highmark Residential to satisfy the matters in the complaint or to answer the complaint in writing within 20 days from service of the order.

4. On June 28, 2023, the Commission referred this proceeding to an ALJ by minute entry.

5. By Decision No. R23-0512-I, issued August 3, 2023, the ALJ found that Trial Staff of the Public Utilities Commission (Trial Staff) was an indispensable party to this action and joined them as such to this proceeding. Trial Staff was ordered to enter an appearance into this proceeding within ten days of the Decision date and to conduct and complete an investigation into Highmark Residential based upon the Complaint, as prescribed by Rule 4805(b), 4 *Code of Colorado Regulations* (CCR) 723-4, within 30 days of the Decision date. Should 30 days be insufficient time to complete the investigation, Trial Staff was ordered to file a status report of the investigation within 21 days of the Decision date, indicating an appropriate time period within which the investigation could be completed.

6. Also by Decision No. R23-0512-I, the evidentiary hearing was rescheduled to October 9, 2023, given the joinder of Trial Staff to this proceeding.

7. On August 18, 2023, Trial Staff filed its Notice of Late Filed Intervention by Trial Staff of the Commission, Entry of Appearance, and Notice Pursuant to Rule 1007(a) and Rule 1401.

8. On August 24, 2023, Highmark Residential filed its Highmark Residential, LLC Entry of Appearance of Counsel.

9. Also on August 24, 2023, Trial Staff filed Trial Staff's First Status Report (First Status Report). In the First Status Report, Trial Staff reported that it had spoken with counsel for

Highmark Residential, who indicated that Highmark Residential would attempt to resolve this matter with Complainants. Additionally, Trial Staff indicated they planned to file a Second Status Report on September 1, 2023, containing how much additional time Trial Staff would need to complete its investigation.

10. On September 1, 2023, Trial Staff filed Trial Staff's Second Status Report (Second Status Report). In its Second Status Report, Trial Staff reported that counsel for Highmark Residential would be presenting the Complainants with an offer to resolve this matter. Trial Staff suggested that it would be best to allow the parties to resolve their dispute, and that a Third Status Report would be filed on September 11, 2023, as to the status of their investigation.

11. On September 8, 2023, Highmark Residential filed its Highmark Residential, LLC Notice of Settlement and Unopposed Motion to Dismiss Complaint and Vacate Hearing (Motion). The Motion states that Complainants and Highmark Residential have reached a mutual, voluntary agreement to resolve the Complaint and are requesting that the Complaint be dismissed and the evidentiary hearing vacated. Both Complainants and Highmark Residential signed the Motion. The Motion also states that Trial Staff does not oppose the Motion; therefore, the Motion also requests a waiver of response time pursuant to Rule 1308(c), 4 CCR 723-4.

12. The requested relief being agreed to by all parties, response time will be waived, and the request granted.

II. ORDER

A. The Commission Orders That:

1. Response time to the Highmark Residential, LLC Notice of Settlement and Unopposed Motion to Dismiss Complaint and Vacate Hearing filed on September 8, 2023, is waived and the request is granted.

2. The Complaint of Kristen and Matthew Deutsch filed against Highmark Residential, LLC (Highmark Residential) on June 14, 2023, is dismissed.

3. The evidentiary hearing scheduled to commence in this matter on October 9, 2023, is vacated.

4. Proceeding No. 23F-0315EG is closed.

5. This Recommended Decision shall be effective on the day it becomes the Decision of the Commission, if that is the case, and is entered as of the date above.

6. As provided by § 40-6-109, C.R.S., copies of this Recommended Decision shall be served upon the parties, who may file exceptions to it.

If no exceptions are filed within 20 days after service or within any extended period of time authorized, or unless the decision is stayed by the Commission upon its own motion, the recommended decision shall become the decision of the Commission and subject to the provisions of § 40-6-114, C.R.S.

If a party seeks to amend, modify, annul, or reverse basic findings of fact in its exceptions, that party must request and pay for a transcript to be filed, or the parties may stipulate to portions of the transcript according to the procedure stated in § 40-6-113, C.R.S. If no transcript or stipulation is filed, the Commission is bound by the facts set out by the administrative law judge and the parties cannot challenge these facts. This will limit what the Commission can review if exceptions are filed.

7. If exceptions to this Decision are filed, they shall not exceed 30 pages in length, unless the Commission for good cause shown permits this limit to be exceeded.

(S E A L)



ATTEST: A TRUE COPY

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

G. HARRIS ADAMS

Administrative Law Judge

Rebecca E. White,
Director