

Control Number: 43146



Item Number: 13

Addendum StartPage: 0

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COMPLAINT OF CAROLE GILLESPIE §
 AGAINST AVALON WATER SUPPLY §
 AND SEWER SERVICES §
 CORPORATION §

PUBLIC UTILITY COMMISSION
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 OF TEXAS
 FILING CLERK

COMMISSION STAFF'S RESPONSE TO ORDER NO. 2 AND REQUEST FOR ADDITIONAL INFORMATION

COMES NOW the Staff of the Public Utility Commission of Texas, representing the public interest and files this Response to Order No. 2 and Request for Additional Information.

I. BACKGROUND

On August 25, 2014, Carol Gillespie (Complainant) filed a complaint against Avalon Water Supply and Sewer Serviced Corporation regarding alleged violations of the Texas Open Meetings Act by Avalon. That docket was later transferred to the PUC, and Complainant amended her complaint by letters dated September 29, 2014 (filed September 30, 2014), October 1, 2014 (filed October 6, 2014), January 31, 2015 (filed February 3, 2015) and July 14, 2014 (filed February 6, 2015).

On February 2, 2015, the Commission Administrative Law Judge (ALJ) issued Order No. 1, requiring Avalon to file a response no later than February 20, 2015 and Staff to file a statement of position no later than March 6, 2015. Complainant subsequently amended her complaint, so in Order No. 2, issued February 6, 2015, the ALJ extended Avalon's deadline to file a response to February 27, 2015, and Staff's statement of position to March 13, 2015. While Staff and Complainant received email service of Avalon's response timely, Avalon's response was not filed with the Commission until March 4, 2015. In reviewing the amended complaint, it is not clear to Staff that Ms. Gillespie has alleged violations of TWC §13.004 and more specifically violations of TWC §67.007 as referenced in TWC 13.004. Staff respectfully asks that the ALJ require the Complainant to provide the below information by March 27, 2015, and grant Staff an extension until April 10, 2015 to file a statement of position.

II. REQUEST FOR ADDITIONAL INFORMATION

In order to determine the scope of Ms. Gillespie's complaint and whether the PUC has jurisdiction over her complaint, Staff respectfully asks that the ALJ require Ms. Gillespie to provide the following information:

- 1) Is Ms. Gillespie alleging that Avalon violated 67.007 of the Water Code? If so, which provision of 67.007, and how was that provision violated? (That section is provided below).

Sec. 67.007. ANNUAL OR SPECIAL MEETING OF RETAIL CORPORATION.

(a) The annual meeting of the members or shareholders of the corporation must be held between January 1 and May 1 at a time specified by the bylaws or the board.

(a-1) A quorum for the transaction of business at a meeting of the members or shareholders is a majority of the members and shareholders present. In determining whether a quorum is present, all members and shareholders who mailed or delivered ballots to the independent election auditor or the corporation on a matter submitted to a vote at the meeting are counted as present.

(b) The board shall adopt written procedures for conducting an annual or special meeting of the members or shareholders in accordance with this section and Sections 67.0052, 67.0053, and 67.0054. The procedures shall include the following:

- (1) notification to eligible members or shareholders of the proposed agenda, location, and date of the meeting;
- (2) director election procedures, including candidate application procedures;
- (3) approval of the ballot form to be used; and
- (4) validation of eligible voters, ballots, and election results.

(c) The board shall adopt an official ballot form to be used in conducting the business of the corporation at any annual or special meeting. No other ballot form will be valid. Ballots from members or shareholders are confidential and are exempted from disclosure by the corporation until after the date of the relevant election.

(d) The board shall select an independent election auditor not later than the 30th day before the scheduled date of the annual meeting. The independent election auditor is not required to be an experienced election judge or auditor and may serve as an unpaid volunteer. At the time of selection and while serving in the capacity of an independent election auditor, the independent election auditor may not be associated with the corporation as:

- (1) an employee;
- (2) a director or candidate for director; or

- (3) an independent contractor engaged by the corporation as part of the corporation's regular course of business.
- (e) This section applies only to a corporation that provides retail water or sewer service.


III. CONCLUSION

Staff respectfully asks that the ALJ require Ms. Gillespie to provide the above information by March 27, 2015, and grant Staff an extension until April 10, 2015 to file a statement of position.

Respectfully Submitted,

Margaret Uhlig Pemberton
Division Director
Legal Division


Shelah J. Cisneros
Managing Attorney-Legal Division



Katherine Lengieza Gross
Attorney-Legal Division
State Bar No. 24065610
(512) 936-7277
(512) 936-7268 (facsimile)
Public Utility Commission of Texas
1701 N. Congress Avenue
P.O. Box 13326
Austin, Texas 78711-3326

CERTIFICATE OF SERVICE

I certify that a copy of this document will be served on all parties of record on March 13, 2015, in accordance with P.U.C. Procedural Rule 22.74.



Katherine Lengieza Gross