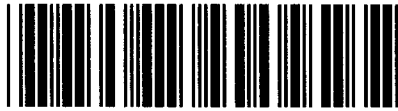


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COMPLAINT OF CAROL D. GILLESPIE §
 AGAINST AVALON WATER SUPPLY §
 AND SEWER SERVICES §
 CORPORATION §

PUBLIC UTILITY COMMISSION: 28
 PUBLIC UTILITY COMMISSION
 OF TEXAS
 FILING CLERK

COMMISSION STAFF'S MOTION FOR ISSUANCE OF AN ORDER REQUIRING INFORMATION FROM AVALON

COMES NOW the Staff of the Public Utility Commission of Texas, representing the public interest and files this Motion for Issuance of an Order Requiring Information from Avalon.

I. BACKGROUND

On August 25, 2014, Carol Gillespie (Complainant) filed a complaint with the Texas Commission on Environmental Quality against Avalon Water Supply and Sewer Services Corporation regarding violations of the Texas Open Meetings Act by Avalon. On September 1, 2014, that docket was transferred to the Commission, and Ms. Gillespie 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. Ms. Gillespie 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 Ms. Gillespie received email service of Avalon's response timely, Avalon's response was not filed with the Commission until March 4, 2015. On March 16, 2015, the ALJ in Order No. 3 requested additional information from Ms. Gillespie, and required that information to be filed by March 27, 2015. The ALJ extended the deadline for Staff to file a statement of position to April 10, 2015. Ms. Gillespie timely filed additional information as required by Order No. 3 and Staff timely filed its statement of position on April 10, 2015. Staff filed a revised statement of position on June 5, 2015, requesting specific information from Avalon.

II. MOTION FOR ISSUANCE OF AN ORDER REQUIRING INFORMATION FROM AVALON

For the reasons laid out in Staff's June 5, 2015 revised statement of position, Staff asserts that Avalon should be required to provide the following information:

- 1) A copy of Avalon's current bylaws, and an acknowledgement from Avalon, if true, that those bylaws require Avalon to follow the Texas Open Meetings Act.¹ If the bylaws do require Avalon to follow the Texas Open Meetings Act, Staff would assert that Avalon be required to additionally provide items 2-5, below.
- 2) A copy of the notice of potential violation from TCEQ dated April 17, 2014 (the exit interview form attached to Avalon's Response to Ms. Gillespie's complaint is from March 5, 2014), or other documentation that shows that the May 8, 2014 emergency meeting called by Avalon was necessary due to an "imminent threat to public health and safety."
- 3) Documentation that David Waishes was present at the May 8 or May 15 2014 open meetings, and if not, the specific legal basis for signing the May 8, 2014 Corporate Resolution.
- 4) Documentation that Jimmy Brown and Matilda Williams were present at the February 24, 2015 monthly meeting of Avalon, and if not, the specific legal basis of signing any resolutions passed at that meeting.
- 5) Documentation that the hiring of a CPA firm on or before August of 2014 was voted on at a public meeting, and if not, the justification for not doing so.
- 6) Documentation that checks made by Avalon for the last three months have been signed according to Avalon's bylaws.

¹Ms. Gillespie alleges that Avalon's bylaws require Avalon to follow the Texas Open Meetings Act and that Avalon has violated the Texas Open Meetings Act. This allegation, if true, would give the Commission jurisdiction over Avalon because TWC § 13.004 authorizes the Commission to exercise jurisdiction over certain water supply corporations (WSCs,) specifically if the WCS "is operating in a manner that does not comply with the requirements for classifications as a nonprofit water supply or sewer service corporation prescribed by Sections 13.002(11) and (24)." TWC § 13.002(24) defines a WSC as a nonprofit corporation that, among other things, is operating in accordance with by-laws that ensure that it is member-owned and member-controlled.

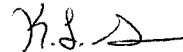
III. CONCLUSION

For the reasons discussed in Staff's revised statement of position, Staff recommends that Avalon be ordered to provide the information requested above.

Respectfully Submitted,

Margaret Uhlig Pemberton
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Legal Division

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CERTIFICATE OF SERVICE

I certify that a copy of this document will be served on all parties of record on August 7, 2015, in accordance with 16 TAC 22.74.



Katherine Lengieza Gross