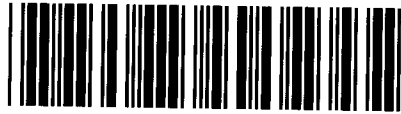


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DOCKET NO. 43146

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**COMPLAINT OF CAROL D.
GILLESPIE AGAINST AVALON
WATER SUPPLY AND SEWER
SERVICES CORPORATION (37985-I)**

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**PUBLIC UTILITY COMMISSION
OF TEXAS**

**ORDER NO. 4
REQUIRING INFORMATION FROM AVALON WATER SUPPLY CORPORATION AND
ESTABLISHING DEADLINES**

On August 7, 2015, Public Utility Commission of Texas (Commission) Staff filed a motion for issuance of an order consistent with its June 5, 2015 revised statement of position in the above styled and numbered docket. In this complaint, Ms. Carol D. Gillespie alleges that Avalon Water Supply Corporation (Avalon) is failing, in various ways, to operate in accordance with its bylaws; therefore, failing to conduct annual meetings in compliance with Tex. Water Code § 67.007 (TWC) or to operate in a manner that complies with the requirements for classification as a nonprofit water service corporation consistent with TWC § 13.002(24). On March 4, 2015, Avalon responded to this complaint, asserting that the Commission has no jurisdiction over Ms. Gillespie's claims, yet providing some responses. If Ms. Gillespie's claims are correct, pursuant to TWC § 13.004, the Commission has the same jurisdiction over Avalon as it does over a water or sewer utility under Chapter 13 of the TWC.

In its original position statement, filed on April 4, 2015, Commission Staff recommended dismissal for failure to state a claim upon which relief may be granted. However, upon further consideration, Commission Staff withdrew its dismissal recommendation and in its June 5, 2015 revised statement of position, recommended that a determination whether Avalon is operating in compliance with TWC § 13.004 is appropriate and recommended that Avalon be required to provide certain information. In its August 6, 2015 motion for issuance of an order, Commission Staff recommended that Avalon be ordered to provide the information identified in its June 5, 2015 statement of position, to demonstrate that it is conducting annual meetings in compliance with TWC § 67.007 and operating in a manner that complies with the requirements for classification as a nonprofit water service corporation.

Commission's Staff motion is granted. Avalon shall file, on or before **October 2, 2015**, 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. If the bylaws do require Avalon to follow the Texas Open Meetings Act, Commission Staff would assert that Avalon be required to additionally provide items 2-5, below.
- 2) A copy of the notice of potential violation from the Texas Commission on Environmental Quality 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 for their 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 issued by Avalon for the last three months have been signed according to Avalon's bylaws.

On or before **November 4, 2015**, Commission Staff shall file a supplemental recommendation in this proceeding and additional procedural schedule, if appropriate.

Parties are reminded that an original and 10 copies of documents relating to this proceeding must be filed with the Commission filing clerk according to 16 Tex. Admin. Code § 22.71. A copy of each document filed with the Commission must also be served on all parties.

Parties are also reminded that direct communications with the administrative law judges and presiding officer (collectively, ALJs) are prohibited. Questions concerning this Order or any other order must be submitted in writing, filed with the Commission, and served on all parties of record.

SIGNED AT AUSTIN, TEXAS the 2nd day of September 2015.

PUBLIC UTILITY COMMISSION OF TEXAS

A handwritten signature in black ink, appearing to read "Susan E. Goodson", is written over a horizontal line.

SUSAN E. GOODSON

ADMINISTRATIVE LAW JUDGE