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**DOCKET NO. 43146
SOAH DOCKET NO. 473-16-2033.W**

**COMPLAINT OF CAROL D.
GILLESPIE AGAINST AVALON
WATER SUPPLY AND SEWER
SERVICES CORPORATION
(37985-1)**

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2016 FEB 12 04
**BEFORE THE
PUBLIC UTILITY COMMISSION
OF TEXAS**

LIST OF ISSUES

TO THE HONORABLE COMMISSIONERS:

COMES NOW, Carol D. Gillespie (“Gillespie” or “Complainant”) and files this, her List of Issues in response to the Order of Referral and in support thereof, would respectfully show the following:

I. LIST OF ISSUES TO BE ADDRESSED

1. Whether the complaint¹ should be evaluated under Tex. Water Code Ann. § 13.004 (TWC) or some other statute² and/or rules³ of the Public Utility Commission of Texas (“Commission”).
2. What is the standard of review under TWC § 13.004.
3. What is the scope of review for a TWC § 13.004 proceeding, that is, does this type of hearing necessarily include an evaluation of compliance with Tex. Gov’t Code Ann. § 551.001 -.144 (“Texas Open Meetings Act”).
4. What party, Complainant, water supply or sewer service corporation, or PUC staff, bears the burden of proof in a proceeding under TWC § 13.004 and 16 TAC § 24.35.

¹ Carol D. Gillespie filed her original complaint with the Texas Commission on Environmental Quality (“TCEQ”) on July 14, 2014 that was later supplemented on August 14, 2014, August 20, 2014, September 30, 2014, October 6, 2014 and February 3, 2015.

² Tex. Water Code Ann. chs. 49 and 67 are specifically applicable to non-profit water supply or sewer service corporations as well as chapter 22 of the Texas Business Organizations Code (relating to non-profit corporations). *Also see* Tex. Water Code Ann. §§ 13.136, 13.139, 13.241, 13.246, 13.253 *et seq.* for the Commission’s broad authority over water supply or sewer service corporations.

³ *See* 16 Tex. Admin. Code § 24.35 (“TAC”).

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5. Should the Avalon Water Supply and Sewer Corporation (“Avalon” or “WSSC”) continue to be regarded by the Commission as a water supply or sewer service corporation or should Avalon lose its current non-profit status and be regarded as a water and sewer utility under TWC § 13.004 or other applicable statute or rule.
6. If the Commission finds Avalon is 1) failing to conduct annual or special meetings in compliance with Section 67.007 or 2) 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), what relief may be granted to Complainant. Can the Commission proceed *sua sponte* to a) receivership; b) enforcement; c) decertification, revocation of its Certificate of Convenience and Necessity, or both; d) referral to the Office of Attorney General; or d) other action (e.g., requirement of the development, implementation and following certain financial, managerial and technical practices).
7. If the Commission proceeds with some action as described immediately above, what is the scope of public participation afforded to Complainant as a member of the (former) water supply or sewer service corporation.

II. PRAYER

WHEREFORE, PREMISES CONSIDERED, Complainant Carol D. Gillespie prays that the Commission issue a Preliminary Order including the above issues to be briefed at the State Office of Administrative Hearings.

Respectfully submitted,

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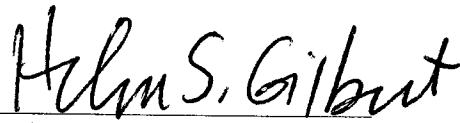
By:


Helen S. Gilbert

ATTORNEYS FOR GILLESPIE

CERTIFICATE OF SERVICE

I hereby certify that I have or will serve a true and correct copy of the foregoing document via hand delivery, facsimile, electronic mail, overnight mail, U.S. mail, or Certified Mail Return Receipt Requested on all parties on the 16th of February 2016.


Helen S. Gilbert