

Control Number: 43146



Item Number: 33

Addendum StartPage: 0

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OPEN MEETING COVER SHEET

PUBLIC UTILITY COMMISSION
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MEETING DATE: March 3, 2016

DATE DELIVERED: February 25, 2016

AGENDA ITEM NO.: 27

CAPTION: Docket No. 43146; SOAH Docket No. 473-16-2033.WS -
Complaint of Carol D. Gillespie Against
Avalon Water Supply and Sewer Services
Corporation (37985-1)

ACTION REQUESTED: Discussion and possible action with respect
to Draft Preliminary Order.

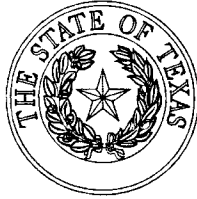
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Public Utility Commission of Texas

TO: Chairman Donna L. Nelson
Commissioner Kenneth W. Anderson, Jr.
Commissioner Brandy Marty Marquez

All Parties of Record

FROM: Carlos Carrasco, Commission Advising CC

RE: March 3, 2016 Open Meeting Agenda Item No. 27
Draft Preliminary Order, P.U.C. Docket No. 43146, SOAH Docket No. 473-16-2033.WS – *Complaint of Carol D. Gillespie Against Avalon Water Supply and Sewer Services Corporation (37985-I)*

DATE: February 25, 2016

Please find enclosed the draft preliminary order filed by Commission Advising in the above-referenced docket. The Commission will consider this draft preliminary order at the March 3, 2016 open meeting. Parties shall not file responses or comments addressing this draft preliminary order.

Any modifications to the draft preliminary order that are proposed by one or more Commissioners will be filed simultaneously prior to the consideration of the matter at the March 3, 2016 open meeting.

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SOAH DOCKET NO. 473-16-2033.WS
PUC DOCKET NO. 43146

COMPLAINT OF CAROL D. GILLESPIE	§	PUBLIC UTILITY COMMISSION
AGAINST AVALON WATER SUPPLY	§	
AND SEWER SERVICES	§	OF TEXAS
CORPORATION (37985-I)	§	

DRAFT PRELIMINARY ORDER

On August 24, 2014, Carol Gillespie filed a complaint with the Texas Commission on Environmental Quality against Avalon Water Supply and Sewer Services Corporation regarding alleged violations of Texas Water Code (TWC) § 13.004. Avalon is a Texas Water Code chapter 67 water supply and sewer service company located Avalon, Texas and serves approximately 340 customers.¹ Ms. Gillespie alleges that Avalon violated TWC § 13.004(a)(1) and (2) by not operating in accordance with the bylaws or in a manner that complies with the requirements for classification as a nonprofit water service corporation water supply corporation.²

On September 1, 2014, this case transferred to the Public Utility Commission of Texas (Commission).³ This docket was referred to the State Office of Administrative Hearings (SOAH) on January 25, 2016. Lists of issues were timely filed by Carol Gillespie, Avalon, and Commission Staff.

I. Issues to be Addressed

The Commission must provide to the administrative law judge (ALJ) a list of issues or areas to be addressed in any proceeding referred to SOAH.⁴ After reviewing the pleadings

¹ Response of Avalon Water Supply and Sewer Services Corporation to the Complaint of Carol Gillespie at 2 (March 4, 2015).

² Letter from Carol Gillespie, Response to Order No. 3 at 2 (March 27, 2015).

³ Act of May 13, 2013, 83rd Leg., R.S., ch. 170 (HB 1600), § 2.96, 2013 Tex. Gen. Laws 725, 730; Act of May 13, 2013, 83rd Leg., R.S., ch. 171 (SB 567), § 96, 2013 Tex. Gen. Laws 772.

⁴ Tex. Gov't Code Ann. § 2003.049(e) (West 2011).

submitted by the parties, the Commission identifies the following issues that must be addressed in this docket:

1. Is Avalon failing to comply with TWC § 13.004?
2. Is Avalon failing to conduct annual or special meetings in compliance with Section 67.007? TWC § 13.004(a)(1).
3. Is Avalon operating in a manner that fails to comply with the requirements for classification as a nonprofit water supply or sewer service corporation as prescribed by TWC §§ 13.002(11) and (24)? TWC § 13.004(a)(2).
4. What should the Commission require of Avalon if it is failing to comply with TWC § 13.004?

This list of issues is not intended to be exhaustive. The parties and the ALJ are free to raise and address any issues relevant in this docket that they deem necessary, subject to any limitations imposed by the ALJ or by the Commission in future orders issued in this docket. The Commission reserves the right to identify and provide to the ALJ in the future any additional issues or areas that must be addressed, as permitted under Tex. Gov't Code Ann. § 2003.049(e).

II. Effect of Preliminary Order

This Order is preliminary in nature and is entered without prejudice to any party expressing views contrary to this Order before the SOAH ALJ at hearing. The SOAH ALJ, upon his or her own motion or upon the motion of any party, may deviate from this Order when circumstances dictate that it is reasonable to do so. Any ruling by the SOAH ALJ that deviates from this Order may be appealed to the Commission. The Commission will not address whether this Order should be modified except upon its own motion or the appeal of a SOAH ALJ's order. Furthermore, this Order is not subject to motions for rehearing or reconsideration.

SIGNED AT AUSTIN, TEXAS the _____ day of March 2016.

PUBLIC UTILITY COMMISSION OF TEXAS

DONNA L. NELSON, CHAIRMAN

KENNETH W. ANDERSON, JR., COMMISSIONER

BRANDY MARTY MARQUEZ, COMMISSIONER

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