



Control Number: 43146



Item Number: 41

Addendum StartPage: 0

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) §
§

2016 MAR 25 11:11:43
BEFORE THE
PUBLIC UTILITY COMMISSION
FILING CLERK
PUBLIC UTILITY COMMISSION
OF TEXAS

COMPLAINANT GILLESPIE'S FIRST REQUEST FOR INFORMATION

TO: Avalon Water Supply and Sewer Services Corporation, by and through its attorney of record, Mary K. Sahs, 609 Thrasher Lane, Austin, Texas 78741.

COMES NOW, Carol D. Gillespie ("Gillespie" or "Complainant") and serves this, her First Request for Information to Avalon Water Supply and Sewer Services Corporation ("Avalon" or "corporation") pursuant to Chapter 2001 of the Texas Government Code, the Texas Rules of Civil Procedure, and applicable rules and regulations of the Public Utility Commission of Texas and the State Office of Administrative Hearings.

You are requested to answer in complete detail and in writing each of the following requests for information, as well as produce the requested documents, within 20 days of service in accordance with the Texas Rules of Civil Procedure and the Procedural Rules of the Public Utility Commission at the offices of the undersigned counsel, or at such other time and place as agreed between counsel. Avalon may and is encouraged to produce responsive documents in an electronic format.

Respectfully submitted,
GILBERT WILBURN, PLLC
7000 North MoPac Blvd., Suite 200
Austin, Texas 78731
Telephone: (512) 494-5341
Telecopier: (512) 472-4014
hgilbert@gwtvlaw.com

By: Helen S. Gilbert
Helen S. Gilbert
State Bar No. 00786263
Randall B. Wilburn
State Bar No. 24033342

ATTORNEYS FOR COMPLAINANT

CERTIFICATE OF SERVICE

I hereby certify that I have served a true and correct copy of the foregoing document via hand delivery, facsimile, electronic mail, overnight mail, U.S. mail, and/or Certified Mail Return Receipt Requested on all parties on the 25th day of March 2016

By: Helen S. Gilbert
Helen S. Gilbert

INSTRUCTIONS

- a) Singular and masculine forms of any noun or pronoun shall embrace and be applied as the plural or as the feminine or neuter, as appropriate to the context, and vice versa.
- b) Each category following is to be construed and responded to independently and is not to be referenced to any other item herein for the purposes of limitation.
- c) Documents produced pursuant to this request shall be tendered either in the precise form or manner in which they are kept in the usual course of business or organized and labeled to correspond with the category that follows these requests.
- d) Any use herein of the word "including" shall be construed as "including, but not limited to."
- e) Any use herein of the words "and" or "or" shall be construed either conjunctively or disjunctively as necessary to bring within the scope of these requests any documents that might otherwise be considered outside its scope.
- f) Any use herein of the words "any" or "all" shall be construed generally to mean "each and every," but shall be construed either broadly or narrowly as necessary to bring within the scope of these requests any documents that might otherwise be considered outside its scope.
- g) The requirements of the Texas Rules of Civil Procedure shall be strictly complied with. All documents within the scope of these requests shall be as they are kept in the usual course of business or shall be organized and labeled to correspond to the categories of these requests.
- h) If any party named hereinabove has ever had any of the documents referred to herein in her possession, custody or control, but does not now, that party is requested to state the following with respect to each such document:
 - (1) The present location thereof, if known, or all reasons why the party cannot or does not know the location thereof;
 - (2) The date each such document left possession, custody or control of the party;
 - (3) The reasons why each such document is not now in the possession, custody or control of the party;
 - (4) The name and address of all persons having knowledge about the matters inquired about in the immediately preceding paragraphs (1) through (3).
- (i) If any document requested herein has been destroyed, you are requested to describe in detail the circumstances of and reasons for such destruction, and to produce all documents that relate to either the circumstances or the reasons for such destruction.
- (j) If any document requested herein is withheld under claim or privilege, or is not produced for whatever reason, you are requested:

(1) To state with specificity the claim of privilege or other reason used to withhold production; and.

(2) To identify each such document by date, author, and subject matter, without ruling on the privilege or other reason asserted.

You are further requested to produce those portions of any such document which are not subject to the claim of privilege or other reason for non-production by excising or otherwise protecting the portions for which a privilege is asserted, if such a technique does not result in disclosing the contents of the portions for which some privilege is asserted.

(k) These discovery requests are continuing in nature. If further information or documents come into your possession or are brought to your attention during preparation for trial or during trial, supplementation of your responses may be required.

(l) Except where otherwise specified or indicated by context, each category following requests information for the period from the time when you first had any contact or communication with the Respondent to the date of the production of the documents, subject to the duty to supplement.

(m) Unless otherwise defined, the specific terms used in these discovery requests shall have the same meaning as the definitions contained in chapter 13 of the Texas Water Code and the Public Utility Commission of Texas regulations implementing those laws.

(n) Pursuant to 30 Tex. Admin. Code ("TAC") § 22.144(c)(2), answer to the requests for information shall be made under oath.

DEFINITIONS

1. "You" and "your" means the Avalon Water Supply and Sewer Services Corporation ("Avalon" or "corporation") as well as your Board of Directors ("board"), general manager, officers, employees, staff, independent contractors, representatives, consultants, affiliates, and expert witnesses.

2. "Complainant" means Carol D. Gillespie.

3. "Commission" or "PUC" means the Public Utility Commission of Texas with jurisdiction over this matter, PUC Docket No. 43146.

4. "Document" or "documents" means and refers to all writings, data, data compilations, correspondence, electronic transmissions, email, electronically stored data and data compilations, and all versions and modifications of same.

REQUESTS FOR DISCLOSURES UNDER RULE 194.2

(a) the correct names of the parties to the lawsuit;

RESPONSE:

(b) the name, address, and telephone number of any potential parties:

RESPONSE:

- (c) the legal theories and, in general, the factual bases of the responding party's claims or defenses.

RESPONSE:

- (e) the name, address, and telephone number of persons having knowledge of relevant facts, and a brief statement of each identified person's connection with the case;

RESPONSE:

- (f) for any testifying expert:
- (1) the expert's name, address, and telephone number;

RESPONSE:

- (2) the subject matter on which the expert will testify;

RESPONSE:

- (3) the general substance of the expert's mental impressions and opinions and a brief summary of the basis for them, or if the expert is not retained by, employed by, or otherwise subject to the control of the responding party, documents reflecting such information;

RESPONSE:

- (4) if the expert is retained by, employed by, or otherwise subject to the control of the responding party:
- (A) all documents, tangible things, reports, models, or data compilations that have been provided to, reviewed by, or prepared by or for the expert in anticipation of the expert's testimony; and

RESPONSE:

- B) the expert's current resume and bibliography;

RESPONSE:

- (h) any settlement agreements described in TRCP 192.3(g);

RESPONSE:

- (i) any witness statements described in TRCP 192.3(h).

RESPONSE:

REQUESTS FOR PRODUCTION

Request for Production 1-1. Please provide the ballot applications filed with the corporation for the elections that the corporation conducted in the years 2011, 2012, 2013, 2014, 2015, and 2016, including all director positions.

RESPONSE:

Request for Production 1-2. Please provide the corporation's notification to the members of the corporation of the ballot application deadline for the elections that the corporation conducted in the years 2011, 2012, 2013, 2014, 2015, and 2016.

RESPONSE:

Request for Production 1-3. Please provide the notice of the corporation's annual meetings for years 2011, 2012, 2013, 2014, 2015, and 2016.

RESPONSE:

Request for Production 1-4. Please provide the election ballot for the corporation's election that the corporation conducted in the years 2011, 2012, 2013, 2014, 2015, and 2016.

RESPONSE:

Request for Production 1-5. Please provide the statement of each candidate's qualifications, including biological information, for the corporation's elections that the corporation conducted in the years 2011, 2012, 2013, 2014, 2015, and 2016.

RESPONSE:

Request for Production 1-6. Please provide the board of the corporation's order or resolution calling the corporation's annual meeting for the years 2011, 2012, 2013, 2014, 2015, and 2016.

RESPONSE:

Request for Production 1-7. Please provide the board of the corporation's order or resolution calling the corporation's director elections that the corporation conducted in the years 2011, 2012, 2013, 2014, 2015, and 2016.

RESPONSE:

Request for Production 1-8. Please provide all ballots received for the corporation's director elections for the elections that the corporation conducted in the years 2011, 2012, 2013, 2014, 2015, and 2016.

RESPONSE:

Request for Production 1-9. Please provide the independent election auditor's written report of the election results for the elections that the corporation conducted in the years 2011, 2012, 2013, 2014, 2015, and 2016.

RESPONSE:

Request for Production 1-10. Please provide the written procedures that the corporation's board adopted for conducting the corporation's annual meeting in the years 2011, 2012, 2013, 2014, 2015, and 2016.

RESPONSE:

Request for Production 1-11. Please provide the board of the corporation's order or resolution approving the ballot form used for the corporation's annual or special meetings in the years 2011, 2012, 2013, 2014, 2015, and 2016.

RESPONSE:

Request for Production 1-12. Please provide the board of the corporation's order or resolution selecting the independent election auditor for the corporation's elections conducted in the years 2011, 2012, 2013, 2014, 2015, and 2016.

RESPONSE:

Request for Production 1-13. Please provide the board of the corporation's order or resolution adopting the corporation's budget for the fiscal years 2011, 2012, 2013, 2014, 2015, and 2016.

RESPONSE:

Request for Production 1-14. Please provide the board of the corporation's bank statements for the fiscal years 2011, 2012, 2013, 2014, 2015, and 2016.

RESPONSE:

Request for Production 1-15. Please provide the corporation's budget for the fiscal years 2011, 2012, 2013, 2014, 2015, and 2016.

RESPONSE:

Request for Production 1-16. Please provide each director candidate's signed statement of the person's qualifications, including a statement that the person has the qualifications prescribed by Texas Water Code Section 67.0051, for the corporation's elections conducted in the years 2011, 2012, 2013, 2014, 2015, and 2016.

RESPONSE:

Request for Production 1-17. Please provide each director candidate's written consent to serve for the corporation's director elections conducted in the years 2011, 2012, 2013, 2014, 2015, and 2016.

RESPONSE:

Request for Production 1-18. Please provide any notice of defects in the candidate applications for the corporation's director elections conducted in the years 2011, 2012, 2013, 2014, 2015, and 2016.

RESPONSE:

Request for Production 1-19. Please provide the drafts of the ballot that the credentials committee presented to the corporation's board for the elections conducted in the years 2011, 2012, 2013, 2014, 2015, and 2016.

RESPONSE:

Request for Production 1-20. Please provide the drafts of the annual meeting agenda that the credentials committee presented to the corporation's board for the elections conducted in the years 2011, 2012, 2013, 2014, 2015, and 2016.

RESPONSE:

Request for Production 1-21. Please provide the drafts of the meeting packets for the annual meeting the credentials committee presented to the corporation's board for the elections conducted in the years 2011, 2012, 2013, 2014, 2015, and 2016.

RESPONSE:

Request for Production 1-22. Please provide the voting roster for the corporation's elections conducted in the years 2011, 2012, 2013, 2014, 2015, and 2016.

RESPONSE:

Request for Production 1-23. Please provide the meeting packet that was mailed to each voting member for any member meeting that the corporation conducted in the years 2011, 2012, 2013, 2014, 2015, and 2016.

RESPONSE:

Request for Production 1-24. Please provide the certified agenda of each closed meeting or executive session of the corporation's board of directors for the years 2011, 2012, 2013, 2014, 2015, and 2016.

RESPONSE:

Request for Production 1-25. Please provide the recording of each closed meeting of the corporation's board of directors for the years 2011, 2012, 2013, 2014, 2015, and 2016.

RESPONSE:

Request for Production 1-26. Please provide a copy of the corporation's membership transfer book.

RESPONSE:

Request for Production 1-27. Please provide a copy of the corporation's annual report of financial activity for the years 2011, 2012, 2013, 2014, 2015, and 2016.

RESPONSE:

Request for Production 1-28. Please provide a copy of the corporation's federal tax return for the years 2011, 2012, 2013, 2014, 2015, and 2016.

RESPONSE:

Request for Production 1-29. Please provide all electronic mail or emails of Avalon staff to Directors of the Board and from Board Directors to Avalon staff from January 1, 2011-present.

RESPONSE:

Request for Production 1-30. Please provide all written, taped or videotaped minutes of member meetings, director meetings, annual, special and emergency meetings from January 1, 2011-present.

RESPONSE:

Request for Production 1-31. Please provide all notices of member meetings, director meetings, annual, special and emergency meetings from January 1, 2011-present.

RESPONSE:

Request for Production 1-32. Please provide all video tape recordings of all member meetings, director meetings, annual, special and emergency meetings from January 1, 2011-present.

RESPONSE:

Request for Production 1-33. Please provide all Board of Directors' notes from January 1, 2011-present.

RESPONSE:

Request for Production 1-34. Please provide all notes by Avalon staff from January 1, 2011-present.

RESPONSE:

Request for Production 1-35. Please provide all electronic mail or emails Directors of the Board from January 1, 2011-present.

RESPONSE: