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

BEFORE THE
PUBLIC UTILITY COMMISSION
FILING CLERK
OF TEXAS

**COMPLAINANT GILLESPIE'S THIRD REQUEST FOR INFORMATION TO
AVALON**

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 Third 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.

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Respectfully submitted,

GILBERT WILBURN, PLLC
7000 North MoPac Blvd., Suite 200
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By: Helen S. Gilbert
Helen S. Gilbert
State Bar No. 00786263
Randall B. Wilburn
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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 8th day of April 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, the Public Utility Commission of Texas regulations implementing those laws and the bylaws of Avalon Water Supply and Sewer Services Corporation.

(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.
5. "Member(s) meeting packet" means the same as the term "member meeting packet" used in Avalon's Election Procedures.
6. "Election Auditor" or "independent election auditor" means the same as the term "election auditor" used in Avalon's Election Procedures.

REQUESTS FOR ADMISSION

Request for Admission No. 2-1: Admit that the current election procedures applicable to Avalon's 2016 annual meeting have not been amended since April 9, 2012.

RESPONSE:

Request for Admission No. 2-2: Admit Avalon did not prepare a certified agenda, tape recording or both for the executive session held on May 12, 2011.

RESPONSE:

Request for Admission No. 2-3: Admit Avalon did not prepare a certified agenda, tape recording or both for the executive session held on September 8, 2011.

RESPONSE:

Request for Admission No. 2-4: Admit Avalon did not prepare a certified agenda, tape recording or both for the executive session held on September 13, 2011.

RESPONSE:

Request for Admission No. 2-5: Admit Avalon did not prepare a certified agenda, tape recording or both for the executive session held on November 10, 2011.

RESPONSE:

Request for Admission No. 2-6: Admit Avalon did not prepare a certified agenda, tape recording or both for the executive session held on January 12, 2012.

RESPONSE:

Request for Admission No. 2-7: Admit Avalon did not prepare a certified agenda, tape recording or both for the executive session held on February 9, 2012.

RESPONSE:

Request for Admission No. 2-8: Admit Avalon did not prepare a certified agenda, tape recording or both for the executive session held on March 8, 2012.

RESPONSE:

Request for Admission No. 2-9: Admit Avalon did not prepare a certified agenda, tape recording or both for the executive session held on April 9, 2012.

RESPONSE:

Request for Admission No. 2-10: Admit Avalon did not prepare a certified agenda, tape recording or both for the executive session held on April 30, 2012.

RESPONSE:

Request for Admission No. 2-11: Admit Avalon did not prepare a certified agenda, tape recording or both for the executive session held on May 10, 2012.

RESPONSE:

Request for Admission No. 2-12: Admit Avalon did not prepare a certified agenda, tape recording or both for the executive session held on June 14, 2012.

RESPONSE:

Request for Admission No. 2-13: Admit Avalon did not prepare a certified agenda, tape recording or both for the executive session held on July 12, 2012.

RESPONSE:

Request for Admission No. 2-14: Admit Avalon did not prepare a certified agenda, tape recording or both for the executive session held on August 9, 2012.

RESPONSE:

Request for Admission No. 2-15: Admit Avalon did not prepare a certified agenda, tape recording or both for the executive session held on September 13, 2012.

RESPONSE:

Request for Admission No. 2-16: Admit Avalon did not prepare a certified agenda, tape recording or both for the executive session held on October 11, 2012.

RESPONSE:

Request for Admission No. 2-17: Admit Avalon did not prepare a certified agenda, tape recording or both for the executive session held on November 1, 2012.

RESPONSE:

Request for Admission No. 2-18: Admit Avalon did not prepare a certified agenda, tape recording or both for the executive session held on November 8, 2012.

RESPONSE:

Request for Admission No. 2-19: Admit Avalon did not prepare a certified agenda, tape recording or both for the executive session held on December 13, 2012.

RESPONSE:

Request for Admission No. 2-20: Admit Avalon did not prepare a certified agenda, tape recording or both for the executive session held on January 10, 2013.

RESPONSE:

Request for Admission No. 2-21: Admit Avalon did not prepare a certified agenda, tape recording or both for the executive session held on February 14, 2013.

RESPONSE:

Request for Admission No. 2-22: Admit Avalon did not prepare a certified agenda, tape recording or both for the executive session held on March 14, 2013.

RESPONSE:

Request for Admission No. 2-23: Admit Avalon did not prepare a certified agenda, tape recording or both for the executive session held on April 11, 2013.

RESPONSE:

Request for Admission No. 2-24: Admit Avalon did not prepare a certified agenda, tape recording or both for the executive session held on April 18, 2013.

RESPONSE:

Request for Admission No. 2-25: Admit Avalon did not prepare a certified agenda, tape recording or both for the executive session held on May 9, 2013.

RESPONSE:

Request for Admission No. 2-26: Admit Avalon did not prepare a certified agenda, tape recording or both for the executive session held on June 11, 2013.

RESPONSE:

Request for Admission No. 2-27: Admit Avalon did not prepare a certified agenda, tape recording or both for the executive session held on July 11, 2013.

RESPONSE:

Request for Admission No. 2-28: Admit Avalon did not prepare a certified agenda, tape recording or both for the executive session held on August 8, 2013.

RESPONSE:

Request for Admission No. 2-29: Admit Avalon did not prepare a certified agenda, tape recording or both for the executive session held on September 12, 2013.

RESPONSE:

Request for Admission No. 2-30: Admit Avalon did not prepare a certified agenda, tape recording or both for the executive session held on March 13, 2014.

RESPONSE:

Request for Admission No. 2-31: Admit Avalon did not prepare a certified agenda, tape recording or both for the executive session held on June 19, 2014.

RESPONSE:

Request for Admission No. 2-32: Admit Avalon did not prepare a certified agenda, tape recording or both for the executive session held on June 30, 2014.

RESPONSE:

Request for Admission No. 2-33: Admit Avalon did not prepare a certified agenda, tape recording or both for the executive session held on August 14, 2014.

RESPONSE:

Request for Admission No. 2-34: Admit Avalon did not prepare a certified agenda, tape recording or both for the executive session held on September 25, 2014.

RESPONSE:

Request for Admission No. 2-35: Admit Avalon did not prepare a certified agenda, tape recording or both for the executive session held on October 9, 2014.

RESPONSE:

Request for Admission No. 2-36: Admit Avalon did not prepare a certified agenda, tape recording or both for the executive session held on October 23, 2014.

RESPONSE:

Request for Admission No. 2-37: Admit Avalon did not prepare a certified agenda, tape recording or both for the executive session held on November 13, 2014.

RESPONSE:

Request for Admission No. 2-38: Admit Avalon did not prepare a certified agenda, tape recording or both for the executive session held on November 20, 2014.

RESPONSE:

Request for Admission No. 2-39: Admit Avalon did not prepare a certified agenda, tape recording or both for the executive session held on August 13, 2015.

RESPONSE:

Request for Admission No. 2-40: Admit Avalon did not prepare a certified agenda, tape recording or both for the executive session held on September 10, 2015.

RESPONSE:

Request for Admission No. 2-41: Admit Avalon did not prepare a certified agenda, tape recording or both for the executive session held on October 8, 2015.

RESPONSE:

Request for Admission No. 2-42: Admit Avalon did not prepare a certified agenda, tape recording or both for the executive session held on November 12, 2015.

RESPONSE:

Request for Admission No. 2-43: Admit Avalon did not prepare a certified agenda, tape recording or both for the executive session held on November 17, 2015.

RESPONSE:

Request for Admission No. 2-44: Admit Avalon did not prepare a certified agenda, tape recording or both for the executive session held on December 10, 2015.

RESPONSE:

Request for Admission No. 2-45: Admit Avalon did not prepare a certified agenda, tape recording or both for the executive session held on December 17, 2015.

RESPONSE:

Request for Admission No. 2-46: Admit Avalon did not prepare a certified agenda, tape recording or both for the executive session held on February 25, 2016.

RESPONSE:

Request for Admission No. 2-47: Admit Avalon did not prepare a certified agenda, tape recording or both for the executive session held on March 10, 2016.

RESPONSE:

Request for Admission No. 2-48: Admit that Avalon did not send notice of opportunity to submit applications for directors' positions to all members at least 75 days before the April 11, 2016 annual meeting.

RESPONSE:

Request for Admission No. 2-49: Admit that Avalon did not mail notice of the April 11, 2016 annual meeting of the members in the member' meeting packets at least 30 days before April 11, 2016.

RESPONSE:

Request for Admission No. 2-50: Admit that Avalon did not select an independent auditor 30 days prior to April 11, 2016.

RESPONSE:

Request for Admission No. 2-51: Admit that Avalon has not made the voting roster available to its members in the corporation's office at least 28 days prior to April 4, 2016.

RESPONSE:

Request for Admission No. 2-52: Admit that Avalon has not made the voting roster available to its members in the corporation's office at least 28 days prior to the April 11, 2016.

RESPONSE:

Request for Admission No. 2-53: Admit that Avalon did not post the notice of membership meeting and the agenda at the Ellis County Courthouse at least 72 hours before the scheduled meeting time of 7:00 p.m. on April 11, 2016.

RESPONSE:

Request for Admission No. 2-54: Admit that Avalon did not post notice of the New Board of Director Meeting at the Ellis County Courthouse at least 72 hours before the scheduled meeting time of 7:00 p.m. on April 11, 2016.

RESPONSE:

Request for Admission No. 2-55: Admit that Avalon did not prepare an alphabetical list of the names and addresses of all its voting members ("voting roster") for the 2016 annual meeting of the members on or before March 11, 2016.

RESPONSE:

Request for Admission No. 2-56: Admit that Avalon directors, candidate for directors, employees, staff, or independent contractors opened the secured box between the time when the corporation began accepting ballot forms for the 2016 annual meeting of the members and April 4, 2016.

RESPONSE:

Request for Admission No. 2-57: Admit that Avalon directors, candidate for directors, employees, staff, or independent contractors opened the secured box between the time when the corporation began accepting ballot forms for the 2016 annual meeting of the members and April 11, 2016.

RESPONSE:

Request for Admission No. 2-58: Admit that Avalon's secured box does not have a lock and key.

RESPONSE:

Request for Admission No. 2-59: Admit that the secured box was not in the sole custody of the Election Auditor between 12:00 noon on April 1, 2016 and the 7:00 p.m. on April 4, 2016.

RESPONSE:

Request for Admission No. 2-60: Admit that the secured box was not in the sole custody of the Election Auditor between 12:00 noon on April 8, 2016 and 7:00 p.m. on April 11, 2016.

RESPONSE:

Request for Admission No. 2-61: Admit that the Election Auditor did not verify and has not verified whether members had already submitted a ballot on April 4, 2016.

RESPONSE:

Request for Admission No. 2-62: Admit that the Election Auditor did not open ballot envelopes received prior to April 4, 2016.

RESPONSE:

Request for Admission No. 2-63: Admit that Heather Howell (aka Heather Noles), is an Avalon employee or independent contractor engaged by the corporation as part of the corporation's regular course of business.

RESPONSE:

Request for Admission No. 2-64: Admit that Heather Howell (aka Heather Noles) is not the Election Auditor for Avalon.

RESPONSE:

Request for Admission No. 2-65: Admit that Heather Howell (aka Heather Noles) opened ballot envelopes prior to the April 4, 2016 meeting.

RESPONSE:

Request for Admission No. 2-66: Admit that Heather Howell (aka Heather Noles) opened ballot envelopes prior to the April 11, 2016 meeting.

RESPONSE:

Request for Admission No. 2-67: Admit that the ballot envelopes for the 2016 annual meeting were kept in the Avalon offices between the time the corporation began accepting ballot forms for the 2016 Director's election and April 4, 2016.

RESPONSE:

Request for Admission No. 2-68: Admit that the ballot envelopes for the 2016 annual meeting were kept in the Avalon offices between the time the corporation began accepting ballot forms for the 2016 Director's election and April 11, 2016.

RESPONSE:

Request for Admission No. 2-69: Admit that the notice for the April 4, 2016 meeting did not comply with Avalon's current bylaws or election procedures.

RESPONSE:

Request for Admission No. 2-70: Admit that the board was aware of the need for and/or wanted additional training from TCEQ staff relating to operational issues, customer relations, bylaws and tariff issues after December 5, 2013.

RESPONSE:

REQUESTS FOR PRODUCTION

Request for Production 3-1: Please provide a copy of the current bylaws of the corporation, including any amendments thereto.

RESPONSE:

Request for Production 3-2: Please provide a current, signed and dated copy of corporation's election procedures for members' meetings.

RESPONSE:

Request for Production 3-3: Please provide documentation showing that Avalon sent notice of opportunity to submit applications for directors' positions to all its member at least 75 days before April 4, 2016.

RESPONSE:

Request for Production 3-4: Please provide documentation showing that Avalon sent notice of opportunity to submit applications for directors' positions to all its member at least 75 days before April 11, 2016.

RESPONSE:

Request for Production 3-5: Please provide a copy of the meeting packet for the April 4, 2016 member meeting that was mailed to all members.

RESPONSE:

Request for Production 3-6: Please provide a copy of the meeting packet for the April 11, 2016 member meeting that was mailed to all members.

RESPONSE:

Request for Production 3-7: Please provide documentation showing the Board of Director's approval of the meeting packet for the April 4, 2016 member meeting.

RESPONSE:

Request for Production 3-8: Please provide documentation showing the Board of Directors' approval of the meeting packet for the April 11, 2016 member meeting.

RESPONSE:

Request for Production 3-9: Please provide documentation showing that the Board of Directors selected an independent auditor at least 30 days before April 4, 2016.

RESPONSE:

Request for Production 3-10: Please provide documentation showing that the Board of Directors selected an independent auditor at least 30 days before April 11, 2016.

RESPONSE:

Request for Production 3-11: Please provide documentation showing that Avalon made the voting roster available to its members in the corporation's office at least 28 days prior to the April 4, 2016 meeting.

RESPONSE:

Request for Production 3-12: Please provide documentation showing that Avalon made the voting roster available to its members in the corporation's office at least 28 days prior to the April 11, 2016 meeting.

RESPONSE:

Request for Production 3-13: Please provide a copy of the notice of the membership meeting and the agenda for the meeting scheduled for April 4, 2016.

RESPONSE:

Request for Production 3-14: Please provide a copy of the notice of the membership meeting and the agenda for the meeting scheduled for April 11, 2016.

RESPONSE:

Request for Production 3-15: Please provide a copy of the notice of the New Board of Director Meeting scheduled for April 4, 2016.

RESPONSE:

Request for Production 3-16: Please provide a copy of the notice of the New Board of Director meeting scheduled for April 11, 2016.

RESPONSE:

Request for Production 3-17: Please provide a copy of the alphabetical list of the names and addresses of all its voting members ("voting roster") prepared for the April 11, 2016 annual meeting.

RESPONSE:

Request for Production 3-18: Please provide a copy of the posted agenda for the new board of directors meeting original scheduled for April 4, 2016.

RESPONSE:

Request for Production 3-19: Please provide a copy of the posted agenda for the new board of directors meeting scheduled for April 11, 2016.

RESPONSE:

Request for Production 3-20: Please provide copies of the ballot for those members voting in person at the 2016 annual meeting of the members.

RESPONSE:

Request for Production 3-21: Please provide copies of any training exercises or other assistance provided to Avalon by the TCEQ or PUC or their contractors.

RESPONSE:

Request for Production 3-22: Please provide copies of Avalon's conflict of interest policy.

RESPONSE:

Request for Production 3-23: Please provide copies of Avalon's Credentials Committee's written procedures for conducting annual or special membership meetings, including any procedures for proper notification of the membership for annual or special meetings and delivery of the corporation's proxy forms.

RESPONSE: