

Control Number: 43146



Item Number: 51

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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)

§ BEFORE THE
§
§ STATE OFFICE OF ADMINISTRATIVE
§
§ HEARINGS

RECEIVED
2016 APR 14 PM 2:45
PUBLIC UTILITY COMMISSION
HOUSTON, TEXAS

**RESPONDENT AVALON'S MOTION FOR PROTECTIVE ORDER
REGARDING COMPLAINANT GILLESPIE'S
THIRD REQUEST FOR INFORMATION**

TO THE HONORABLE ADMINISTRATIVE LAW JUDGE:

COMES NOW, undersigned counsel Mary K. Sahs on behalf of Avalon Water Supply and Sewer Services Corporation ("Avalon" or "Respondent") and pursuant to Texas Rules of Civil Procedure (TRCP), Rule 192.6 and Public Utility Commission Procedural Rules, Rule 22.142, files this Motion for Protective Order Regarding Complainant Gillespie's Third Request for Information in the above-docketed matter, and would show as follows:

Background

1. On March 25, 2016, Avalon received Complainant Gillespie's First Request for Information. It included requests for disclosures under TRCP 194.2 and requests for production of documents covering 6 years of documents for 25 categories of documents. A copy of Gillespie's First Request is attached as Exhibit A. Objections were filed. No motion to compel was filed. The response is due April 18 under a Rule 11 Agreement.
2. On April 1, 2016, Avalon received Complainant Gillespie's Second Request for Information. It included 119 requests for admission, 13 interrogatories (requests for information), and requests for production for 6 additional categories of documents. The information requested covers 7 years. A copy of Gillespie's Second Request is attached as Exhibit B. Objections were filed. The deadline for a motion to compel is April 15, 2016. Responses are due April 21, 2016.

3. On April 11, 2016, Avalon received Complainant Gillespie's Third Request for Information. A copy of Gillespie's Third Request is attached as Exhibit C. Gillespie's 3rd Request for Information includes 70 additional requests for admission and requests for production of 23 categories of documents. The information requested covers 6 years. Objections are due April 29, 2016. The response is due May 2, 2016.

Motion for Protective Order

4. This Motion for Protective Order is filed in accordance with Texas Rules of Civil Procedure (TRCP), Rule 192.6. Under rule 192.6, Avalon may move for an order protecting it from the discovery sought, as presented below. This Motion is filed within the time permitted for response to the discovery request. The response is due by 3:00 p.m. on May 2, 2016.

5. The Order is sought pursuant to Public Utility Commission Procedural Rule 22.142 and TRCP Rule 192.6 to protect Avalon from unreasonable and unwarranted discovery requests from Complainant Gillespie, especially in light of Complainant's discovery in this docket and Complainant's long continuing harassment of Respondent Avalon.

6. This proceeding is brought under Texas Water Code section 13.004. The Public Utility Commission has issued a Preliminary Order limiting the case to four issues. A copy of the Order is attached as Exhibit D.

7. The number of issues is extremely limited: four. Issues 1 – 3 are factual issues. The fourth issue is a question of law. See Exhibit D, PUC Preliminary Order, at p. 2.

8. These are not complex issues, although based on the breadth of Complainant's discovery requests and Complainant's complaints filed with the PUC, it appears that Complainant may intend to argue that the issues should be expanded to encompass factual issues not contemplated in the cited statutes and about which this tribunal may not have jurisdiction to make findings of fact. The cited statutes address only administrative requirements of a non-profit water supply corporation such as Avalon. A copy of the cited statutes is attached as Exhibit E.

9. This case is based on numerous broad-ranging complaints filed by Gillespie at the Texas Commission on Environmental Quality and at the PUC. Complainant has filed with the PUC many pages of complaints and Respondent has filed a many-paged response. Both parties' filings have included numerous exhibits and documentation. Thus both parties already possess, even without discovery, most of the admissible evidence needed to go forward.

10. The complaints raise issues on a much broader array of subjects than is contemplated by an inquiry under Texas Water Code section 13.004. Additionally, the complaints, as well as the discovery, seek information and documents going back to 2010. Thus, Complainant's discovery has been wide-ranging and all-encompassing.

11. Gillespie has propounded, thus far, 189 Requests for Admission. Although the number of Requests for Admission is not limited in the PUC Procedural Rules, reasonableness is the overall standard. Avalon seeks a Protective Order limiting the Requests for Admission to those included in Gillespie's Second Request because the serial requests are unreasonable and unwarranted and the number of Requests for Admission is unreasonable, particularly for a case of this nature.

12. The scope and complexity of this case do not warrant allowing this burdensome, unreasonable, and unwarranted abuse of the discovery process. Avalon, by Complainant's own statements, is a small rural water supply corporation with limited financial resources. It has limited staff and all Directors are volunteers. It supplies water and sewer services to a small rural community; approximately 337 active water meter connections and 96 active sewer connections. Continued harassment of Avalon through excessive discovery takes the staff and in some cases, the Directors, away from the very essential tasks of providing water and sewer service to its members and completing the administrative functions of the Corporation.

Prayer for Relief

Accordingly, Avalon respectfully requests that the administrative law judge rule as follows:

1. Issue a Protective Order that Complainant is limited to the Requests for Admission included in Complainant's Second Request for Information.
2. Include in the Protective Order that Respondent is not required to respond to the Requests for Admission included in Complainant's Third Request for Information.
3. Grant Avalon such other and further relief, whether legal or equitable, to which it may show itself to be justly and equitably entitled.

Respectfully submitted,
MARY K. SAHS, P.C.

609 Thrasher Lane
Austin, TX 78741
Telephone: 512-326-2556
Facsimile: 512-597-2516
marysahs@sahslaw.com

By: 
Mary K. Sahs
State Bar No. 17522300

ATTORNEY FOR RESPONDENT,
AVALON WATER SUPPLY AND
SEWER SERVICE CORP.

CERTIFICATE OF CONFERENCE

By my signature, below, I certify that counsel for Avalon Water Supply and Sewer Corporation, as required by PUC Rule 22.144(d), has made diligent and good faith efforts to negotiate resolution of this Motion for Protective Order with counsel for Carol D. Gillespie, Helen Gilbert.


Mary K. Sahs

CERTIFICATE OF SERVICE

I certify that, on April 14, 2016, I have served a copy of this filing upon all known parties of record via email with read receipt requested per SOAH Order No. 2.

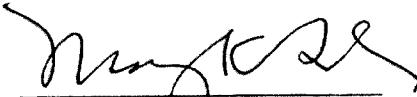

Mary K. Sahs

EXHIBIT A

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 23 10:11:10
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.

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

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

ATTORNEYS FOR COMPLAINTANT

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:

EXHIBIT B

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

RECEIVED
2016 APR -1 PM 2:03

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

COMPLAINANT GILLESPIE'S SECOND 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 Second 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@gwtxlaw.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 1st 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 and the Public Utility Commission of Texas regulations implementing those laws, the Texas Open Meetings Act, chapter 551 of the Texas Government Code 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"), directors, general manager, officers, employees, staff, independent contractors, representatives, consultants, affiliates, and expert witnesses.

2. "Complainant" means Carol D. Gillespie, member of Avalon Water Supply and Sewer Services Corporation.

3. "Board Meeting" means any meeting of the Board of Directors, including any public or open session, closed or executive session, regular, special, called, annual, emergency or member's meeting of the Board.

4. "Agenda" means the written or electronic public notice or posting of the items to be considered by the Board at any meeting.

5. "Gillespie property" means that real property owned by Mary Grace Bates, Marcia and Carol Gillespie identified by the Ellis County Appraisal District as Property IDs. 183054 and 183055 near Jack Eastham and Goodwyn Roads, respectively.

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

7. "TCEQ" means the Texas Commission on Environmental Quality and any predecessor agencies.

8. "Facilities" means any part of the water or wastewater system owned and operated by Avalon and used to provide water and wastewater services to its members.

9. "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 ADMISSIONS

Request for Admission No. 1: Admit that in October 2010, the Board of Directors ("Board") of Avalon authorized Patsy Russell to contact Carol Gillespie regarding the purchase or use of the Gillespie property as the potential site of a wastewater treatment facility.

RESPONSE:

Request for Admission No. 2: Admit that the Board appointed David Waishes to the Board in March 2012 to fill the vacated Board position of John Goodwyn.

RESPONSE:

Request for Admission No. 3: Admit that the Board elected David Waishes to be Vice-President of the Board at the annual meeting of the members in 2012.

RESPONSE:

Request for Admission No. 4: Admit that David Waishes never filed an application with the corporation to have his name placed on a ballot for a director's position of the Board before April 2012.

RESPONSE:

Request for Admission No. 5: Admit that previous Board President Patsy Russell adjourned the December 8, 2011 Board Meeting, advising or directing all persons to vacate the meeting except the Board Members.

RESPONSE:

Request for Admission No. 6: Admit that the public notice announcing the February 9, 2012 Board Meeting was posted on the afternoon of February 7, 2012.

RESPONSE:

Request for Admission No. 7: Admit that the Board agenda for its February 9, 2012 meeting did not list for Board consideration the hiring of Jesse Joe Munguia to represent Avalon.

RESPONSE:

Request for Admission No. 8: Admit that the Board agenda for its February 9, 2012 meeting did not list for Board consideration the hiring of an attorney to represent Avalon.

RESPONSE:

Request for Admission No. 9: Admit that prior to representing Avalon, attorney Jesse Joe Munguia had no prior experience or expertise providing legal counsel to a Water Supply and Sewer Corporation.

RESPONSE:

Request for Admission No. 10: Admit that prior to representing Avalon, attorney Jesse Joe Munguia had no prior experience or expertise providing legal counsel to a water or wastewater utility.

RESPONSE:

Request for Admission No. 11: Admit that prior to representing Avalon, attorney Jesse Joe Munguia had no expertise providing legal counsel to any political subdivision of the State of Texas.

RESPONSE:

Request for Admission No. 12: Admit that attorney Jesse Joe Munguia is the grandson of former Board President Patsy Russell.

RESPONSE:

Request for Admission No. 13: Admit that the agenda posted for the March 8, 2012 Board Meeting did not list or provide notice of the corporation's consideration of its "eminent domain" power or use of that power in connection with the Gillespie property.

RESPONSE:

Request for Admission No. 14: Admit that prior Board President Patsy Russell announced in the public meeting following the executive session on March 8, 2012, that the Board's constitutional authority would be used to "take" 500-800 feet of Gillespie property to satisfy the TCEQ buffer zone requirements.

RESPONSE:

Request for Admission No. 15: Admit that the Board did not vote in open meeting on March 8, 2012, following executive session, to use eminent domain to condemn the Gillespie property.

RESPONSE:

Request for Admission No. 16: Admit that the minutes from the March 8, 2012 Board Meeting, approved on April 9, 2012, do not state that the Board took a vote in open meeting to authorize the use of eminent domain to condemn the Gillespie property.

RESPONSE:

Request for Admission No. 17: Admit that the minutes from the March 8, 2012 Board Meeting were amended to add a statement that the Board voted in open session to authorize the use of eminent domain to condemn the Gillespie property.

RESPONSE:

Request for Admission No. 18: Admit that only three Board Members, Robin Donaldson, Denice Wimbish and Harrison Romero, were present at the March 8, 2012 Board Meeting.

RESPONSE:

Request for Admission No. 19: Admit that at the Board's meeting of May 12, 2012, more than three Board Members voted to amend the minutes from the March 8, 2012 Board Meeting

RESPONSE:

Request for Admission No. 20: Admit that upon the Board's adjourning to executive session on March 8, 2012, Maria Gillespie, Carol Gillespie, and Cindy Sutherland were asked to leave the Board Meeting.

RESPONSE:

Request for Admission No. 21: Admit that Avalon employee Gregg Rodriguez was not an attorney or member of the Board of Directors of Avalon when it held its March 8, 2012 Board Meeting.

RESPONSE:

Request for Admission No. 22: Admit that Avalon employee Gregg Rodriguez attended the executive session of the Board of Directors of Avalon on March 8, 2012.

RESPONSE:

Request for Admission No. 23: Admit that Avalon did not post Board Meeting notices with the County Clerk of Ellis County in 2011.

RESPONSE:

Request for Admission No. 24: Admit that Avalon did not post Board Meeting notices with the County Clerk of Ellis County in 2012.

RESPONSE:

Request for Admission No. 25: Admit that Avalon did not post Board Meeting notices with the County Clerk of Ellis County for the months of January through July of 2013.

RESPONSE:

Request for Admission No. 26: Admit that Avalon's Bylaws require the Board of Directors to elect a president, vice-president, and secretary-treasurer during the corporation's annual meeting of the members.

RESPONSE:

Request for Admission No. 27: Admit that Article IV, Section 1 of Avalon's Bylaws require the corporation to conduct the member's election of its Board of Directors on the fourth Thursday of March of each year.

RESPONSE:

Request for Admission No. 28: Admit that Avalon's Bylaws require the election of the Directors of the Board by its members at the corporation's annual meeting of the members.

RESPONSE:

Request for Admission No. 29: Admit that Article XI, Section 1 of Avalon's Bylaws require the corporation's annual meeting of the members to be held annually on the

second Monday of March to transact all business that may be properly before the corporation.

RESPONSE:

Request for Admission No. 30: Admit that the corporation held the 2011 annual meeting of the members on Monday, March 14, 2011.

RESPONSE:

Request for Admission No. 31: Admit that the corporation held the 2012 annual meeting of the members on April 9, 2012.

RESPONSE:

Request for Admission No. 32: Admit that the corporation held the 2013 annual meeting of the members on June 3, 2013.

RESPONSE:

Request for Admission No. 33: Admit that at the time of the 2013 annual meeting of the members, the Avalon Bylaws required the Board to appoint a credentials committee to oversee the election of directors.

RESPONSE:

Request for Admission No. 34: Admit that the Avalon Board did not appoint a credentials committee for the directors' election held in 2012.

RESPONSE:

Request for Admission No. 35: Admit that the Avalon Board did not appoint a credentials committee for the directors' election held in 2013.

RESPONSE:

Request for Admission No. 36: Admit there was not a quorum of Avalon Board Members present at the annual meeting of the members in 2013.

RESPONSE:

Request for Admission No. 37: Admit that the corporation did not mail each member a written notice of the 2013 annual meeting of the members.

RESPONSE:

Request for Admission No. 38: Admit that the corporation did not mail each member a written notice of the 2013 annual meeting of the members at least 30 days before the annual meeting.

RESPONSE:

Request for Admission No. 39: Admit, other than the election of a secretary-treasurer, the Board of Directors did not elect any other officers at the June 13, 2013 Board Meeting.

RESPONSE:

Request for Admission No. 40: Admit that the corporation held the 2014 annual meeting of the members on Thursday, April 10, 2014.

RESPONSE:

Request for Admission No. 41: Admit that the corporation did not hold the 2016 annual meeting of the members on March 14, 2016.

RESPONSE:

Request for Admission No. 42: Admit the posting for the April 9, 2012 executive session listed the discussion of health insurance for employee Gregg Rodriguez.

RESPONSE:

Request for Admission No. 43: Admit that the topic of employee health insurance is not a proper subject for closed session pursuant to the Texas Open Meetings Act.

RESPONSE:

Request for Admission No. 44: Admit that the minutes from the May 10, 2012 Board Meeting state that, "David Waishes informed the Board that he had received resignations from Patsy Russell and Santos Munguia."

RESPONSE:

Request for Admission No. 45: Admit that the minutes from the May 10, 2012 Board Meeting list Jimmy Brown and Jeremy Langley as Board Directors but do not list Patsy Russell and Santos Munguia as Board Members.

RESPONSE:

Request for Admission No. 46: Admit that notice for the Emergency Board Meeting of Friday, April 27, 2012 was originally posted on Thursday, April 26, 2012.

RESPONSE:

Request for Admission No. 47: Admit that under section 551.045 of the Texas Open Meetings Act, notice for an Emergency Board Meeting must be posted at least 2 hours prior to the meeting.

RESPONSE:

Request for Admission No. 48: Admit that on April 26, 2012, an imminent threat to public health and safety did not exist for the corporation.

RESPONSE:

Request for Admission No. 49: Admit that on April 26, 2012, a reasonably unforeseeable situation did not exist for the corporation.

RESPONSE:

Request for Admission No. 50: Admit that Article III of the Avalon Bylaws state that the Secretary-Treasurer and the President, or the Vice-President in the absence of the President, must both sign corporation checks.

RESPONSE:

Request for Admission No. 51: Admit that Harrison Romero was not President, Vice-President, or Secretary-Treasure of the Board on May 10, 2012.

RESPONSE:

Request for Admission No. 52: Admit that Harrison Romero was not President, Vice-President, or Secretary-Treasure of the Board during any time in which he served on the corporation's Board.

RESPONSE:

Request for Admission No. 53: Admit that Jeremy Langley was not President, Vice-President, or Secretary-Treasure of the Board on May 10, 2012.

RESPONSE:

Request for Admission No. 54: Admit that Jeremy Langley was not President, Vice-President, or Secretary-Treasure of the Board during any time in which he served on the corporation's Board.

RESPONSE:

Request for Admission No. 55: Admit that the posted agenda for the executive session of the Board Meeting held on June 14, 2012 included items related to the General Manager designation and health insurance for employee Gregg Rodriguez.

Request for Admission No. 56: Admit that at the June 14, 2012 Board meeting, Patsy Russell was not a director of the corporation.

RESPONSE:

Request for Admission No. 57: Admit that Patsy Russell attended the executive session meeting of the Board on June 14, 2012.

RESPONSE:

Request for Admission No. 58: Admit that during a July 2012 Board Meeting, the Board of Directors voted to move Mr. Miguel Palacios' water meter from 476 to 345 Tees Road.

RESPONSE:

Request for Admission No. 59: Admit that the during its June 14, 2012 executive session, the Board of Directors discussed the general manager designation and employee Gregg Rodriguez's Health Insurance.

RESPONSE:

Request for Admission No. 60: Admit that the agenda posting for the October 11, 2012 Board Meeting did not specify that the Board would be briefed on accounting issues during the open meeting.

RESPONSE:

Request for Admission No. 61: Admit that the agenda posting for the October 11, 2012 Board Meeting did not specify that the Board would be briefed on accounting issues during executive session.

RESPONSE:

Request for Admission No. 62: Admit that the during its December 13, 2012 executive session, the Board discussed Dean Carrell's contract renewal and "the sewer update/wastewater treatment plan improvements."

RESPONSE:

Request for Admission No. 63: Admit that the December 13, 2012 Meeting Minutes state that a motion was made by Jesse Munguia regarding Dean Carrell and the sewer update/wastewater treatment plan improvements to move this matter into executive session.

RESPONSE:

Request for Admission No. 64: Admit that during the executive session of the December 13, 2012 Board meeting, the Board voted to approve renewal of Mr. Carrell's wastewater consultant contract.

RESPONSE:

Request for Admission No. 65: Admit that Jesse Munguia has never been a member of the Board of Directors of Avalon.

RESPONSE:

Request for Admission No. 66: Admit that the Board did not vote during the open session of the Board Meeting on December 13, 2012 to renew Mr. Carrell's consultant contract.

RESPONSE:

Request for Admission No. 67: Admit that nothing is listed on the November 1, 2012 agenda as topics for discussion during executive session.

RESPONSE:

Request for Admission No. 68: Admit that during the Board meeting of November 1, 2012, the Board met in executive session from approximately 7:37 P.M. until 8:19 P.M.

RESPONSE:

Request for Admission No. 69: Admit that no purchases were listed on the Special Meeting agenda for November 1, 2012.

RESPONSE:

Request for Admission No. 70: Admit that during the open session of the November 1, 2012 Special Meeting, the Board voted to approve the purchase of a computer, a printer, and the "RVS" software package.

RESPONSE:

Request for Admission No. 71: Admit that the agenda for the July 11, 2013 Board meeting did not list for consideration the resignation or termination of wastewater operator/consultant Dean Carrell.

RESPONSE:

Request for Admission No. 72: Admit that the Board discussed the resignation or termination of Dean Carrell during the July 11, 2013 Board meeting.

RESPONSE:

Request for Admission No. 73: Admit that the agenda for the September 12, 2013 Board meeting does not contain any notice of the Board's consideration of repairs to its backhoe.

RESPONSE:

Request for Admission No. 74: Admit that a resolution or other document regarding the hiring of attorney Aimee Hess that was passed between Directors during the open session of the November 18, 2013 Special Meeting was not read aloud to the members/visitors present.

RESPONSE:

Request for Admission No. 75: Admit that Secretary-Treasurer, Robin Donaldson, is employed by the First State Bank, 100 W. Main, Italy, Texas 76651.

RESPONSE:

Request for Admission No. 76: Admit that the corporation has bank account(s) at the First State Bank, Italy, Texas.

RESPONSE:

Request for Admission No. 77: Admit that Avalon used member deposits as collateral for a \$35,000 loan it obtained from the First State Bank, Italy, Texas in December 2013.

RESPONSE:

Request for Admission No. 78: Admit that the corporation used funds acquired as part of its \$35,000 loan from the First State Bank, Italy, Texas obtained in December 2013 to pay Aimee Hess.

RESPONSE:

Request for Admission No. 79: Admit that prior to the February 13, 2014 meeting, Director Ricky Johnston approved minutes of an earlier Board Meeting outside of a noticed public meeting of the Board.

RESPONSE:

Request for Admission No. 80: Admit that the Board approved the 2012 Audit at the February 13, 2014 Board Meeting.

RESPONSE:

Request for Admission No. 81: Admit that the Board did not approve the 2013 Audit at the Annual Members' Meeting on April 10, 2014.

RESPONSE:

Request for Admission No. 82: Admit that the Board did not approve the 2014 Audit at the Annual Members Meeting on March 9, 2015.

RESPONSE:

Request for Admission No. 83: Admit that the Board circulated and signed a resolution during the May 8, 2014 meeting relating to the purchase of land from the Gillespie family.

RESPONSE:

Request for Admission No. 84: Admit that at the May 8, 2014 Board meeting, the Board did not read into the record the resolution relating to the purchase of land from the Gillespie family.

RESPONSE:

Request for Admission No. 85: Admit that David Waishes was not present at either the May 8, 2014 or the May 15, 2014 Board meetings.

RESPONSE:

Request for Admission No. 86: Admit that the agenda posting for the July 10, 2014 Board meeting did not specify that the Board would consider the appointment of a general manager.

RESPONSE:

Request for Admission No. 87: Admit that at the July 10, 2014 Board meeting, the Board voted to appoint Director Gary Low as the General Manager for Avalon.

RESPONSE:

Request for Admission No. 88: Admit that Avalon hired an accounting firm, Culpepper & Lawrence, CPAs, by action under its Consent Agenda at the August 14, 2014 Board meeting.

RESPONSE:

Request for Admission No. 89: Admit that Avalon's bylaws state that the Secretary-Treasurer shall keep minutes of all meetings of Members and Directors.

RESPONSE:

Request for Admission No. 90: Admit that after August 14, 2014 when the Board stopped taking written minutes of their meetings, that each director that voted to approve the corporation's meeting minutes had not listened to the entire digital or other recording of each meeting.

RESPONSE:

Request for Admission No. 91: Admit that Avalon's office staff's transcription of recordings of Board Meetings are not approved by the Board.

RESPONSE:

Request for Admission No. 92: Admit that the Board did not approve Avalon's 2012 Income Tax Return, filed on November 15, 2013, during any Board meeting.

RESPONSE:

Request for Admission No. 93: Admit that Avalon's Tariff states that any member may present "a letter to the Board of Directors stating the individual's grievance or concern and the desired result. The Board shall respond to the complaint by communicating the Board's decision in writing."

RESPONSE:

Request for Admission No. 94: Admit that Carol Gillespie filed a letter dated August 14, 2014 regarding concerns with Avalon's 2012 Income Tax Return.

RESPONSE:

Request for Admission No. 95: Admit that the Board has not responded in writing to Carol Gillespie's letter of August 14, 2014.

RESPONSE:

Request for Admission No. 96: Admit that the Board never voted during any Board meeting in open session to terminate Kendall Stone.

RESPONSE:

Request for Admission No. 97: Admit that the Board never voted during any Board meeting in open session to hire Misty Culpepper.

RESPONSE:

Request for Admission No. 98: Admit that Director Denice (or "Teresa") Wimbish has never been the Secretary-Treasurer, President, or Vice-President of Avalon.

RESPONSE:

Request for Admission No. 99: Admit that Denice (or "Teresa") Wimbish has signed checks on behalf of Avalon.

RESPONSE:

Request for Admission No. 100: Admit the Board never voted during open session of any Board meeting to extend the water line on W.W. Road.

RESPONSE:

Request for Admission No. 101: Admit that Joe Webster purchased his water meter from Avalon for \$6,000.

RESPONSE:

Request for Admission No. 102: Admit that Avalon used the services of a registered professional engineer only for the renewal of its TCEQ wastewater permit and for no other purpose.

RESPONSE:

Request for Admission No. 103: Admit the Board did not hold a meeting on February 12, 2015.

RESPONSE:

Request for Admission No. 104: Admit the Board held a Special Meeting on February 24, 2015.

RESPONSE:

Request for Admission No. 105: Admit that Director Jimmy Brown did not attend the Special Meeting held on February 24, 2015.

RESPONSE:

Request for Admission No. 106: Admit that Director Matilda Williams did not attend the Special Meeting held on February 24, 2015.

RESPONSE:

Request for Admission No. 107: Admit that Director Jimmy Brown signed a resolution dated either February 12, 2015 or February 24, 2015 to hire attorney Aimee Hess.

RESPONSE:

Request for Admission No. 108: Admit that Director Matilda Williams signed a resolution dated either February 12, 2015, or February 24, 2015 to hire attorney Aimee Hess.

RESPONSE:

Request for Admission No. 109: Admit that Director Gary Low did not sign a resolution dated either February 12, 2015, or February 24, 2015 to hire attorney Aimee Hess.

RESPONSE:

Request for Admission No. 110: Admit that the copy of the corporation's May 8, 2003 Tariff that the corporation filed with the PUC on March 4, 2015 is unsigned.

RESPONSE:

Request for Admission No. 111: Admit that Avalon has implemented rate, address, operational, management, and other changes since 2003 not reflected in the Tariff filed with the PUC on March 4, 2015.

RESPONSE:

Request for Admission No. 112: Admit that the corporation's members have not revised the corporation's Bylaws since March 10, 1997.

RESPONSE:

Request for Admission No. 113: Admit that from January 2013 through August 2015, the President of the Board has not specified orally or in writing what section of the Texas Opens Meetings Act authorizes the Board to conduct a closed meeting.

RESPONSE:

Request for Admission No. 114: Admit that the September 10, 2015 meeting agenda provided notice of an opportunity to "[a]ddress if the board wants to fill open board position or wait until voting at annual meeting."

RESPONSE:

Request for Admission No. 115: Admit that at the September 10, 2015 Board Meeting, David Waishes stated that the Board would conduct a closed session to consider the filling of a Director's vacancy because the matter involved personnel matters.

RESPONSE:

Request for Admission No. 116: Admit that at the September 10, 2015 Board Meeting, David Waishes stated that the Board would conduct a closed session to consider the filling of a Director's vacancy because the matter involved a security issue.

RESPONSE:

Request for Admission No. 117: Admit that the agenda for the November 20, 2014 Special Meeting lists the action item, "[g]o into executive session to discuss the resignation of board members Manuel Rodriguez and Ricky Johnston and the appointment of board members to fill the vacancies until the annual meeting."

RESPONSE:

Request for Admission No. 118: Admit that Avalon provides water service to its members from one groundwater well.

RESPONSE:

Request for Admission No. 119: Admit that Avalon is a public water system.

RESPONSE:

INTERROGATORIES

INTERROGATORY NO. 1: Please identify all witnesses Avalon intends to call to testify at the evidentiary hearing in accordance with TEX. R. CIV. P. 192.3(d).

ANSWER:

INTERROGATORY NO. 2: Please identify each person with whom Avalon consulted, or from whom Avalon sought expert advice relating to the subject matter of this case and who is not identified in response to the Requests for Disclosure, if such consultant's or expert's work product forms the basis, either in whole or in part, of the opinions of any expert Avalon anticipates calling or may call as a witness.

ANSWER:

INTERROGATORY NO. 3: Please state the full name, address, telephone number, job title, and employer of each person answering, supplying information, or assisting in answering these Interrogatories on behalf of Avalon.

ANSWER:

INTERROGATORY NO. 4: In what meeting did the Board vote to waive late fees for Avalon ISD?

ANSWER:

INTERROGATORY NO. 5: What month and year were the Fiscal Year 2011, 2012, 2013, 2014, 2015 audits submitted to TCEQ or PUC?

ANSWER:

INTERROGATORY NO. 6: How many connections does the Avalon water and wastewater system currently have?

ANSWER:

INTERROGATORY NO. 7: What is the total capacity, in gallons per minute per connection, of each groundwater well currently serving the members of Avalon?

ANSWER:

INTERROGATORY NO. 8: What is total ground storage tank capacity per connection for the Avalon water system used to provide water service to its members?

ANSWER:

INTERROGATORY NO. 9: What is total elevated storage tank capacity per connection for the Avalon water system used to provide water service to its members?

ANSWER:

INTERROGATORY NO. 10: What is the total pressure tank capacity, in gallons per connection, of the Avalon water system used to provide water service to its members?

ANSWER:

INTERROGATORY NO. 11: What is the pressure pump capacity in gallons per minute per connection at each pump station or pressure plane used by the Avalon water system to provide water service to its members?

ANSWER:

INTERROGATORY NO. 12: What is the capacity of Avalon's emergency power used by the Avalon water system to provide water service to its members?

ANSWER:

INTERROGATORY NO. 13: Has Avalon ever requested approval to meet alternative capacity requirements in lieu of the minimum capacity requirements specified by State law?

ANSWER:

REQUESTS FOR PRODUCTION

Request for Production 2-1: Please provide the list of voting members pursuant to Article XI, section 2 of Avalon's Bylaws, for each annual meeting since January 1, 2011.

RESPONSE:

Request for Production 2-2: Please provide the certificates of completion of training pursuant to section 551.005 of the Texas Government Code for each member of the Board since 2011.

RESPONSE:

Request for Production 2-3: Please provide the survey of the Gillespie property on W.W. Road depicting the Ellis County right-of-way where Avalon placed its wastewater line in October 2014.

RESPONSE:

Request for Production 2-4: Please provide any maps of the system showing the size of any lines and locations of Avalon's facilities, including its groundwater wells, ground or elevated storage tanks, collection lines, pump stations, force mains, wastewater treatment plant, lift stations, etc.

RESPONSE:

Request for Production 2-5: Please provide logs of any emergency power use and maintenance since January 1, 2011.

RESPONSE:

Request for Production 2-6: Please provide all correspondence between Avalon Board Directors, staff, attorney or any other Avalon representative and Lisa Fuentes, Fred Bednarski or any other TCEQ or PUC staff regarding Ms. Gillespie's complaint.

RESPONSE:

EXHIBIT C

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

RECEIVED

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

2016 APR 11 PM 1:44
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
Austin, Texas 78731
Telephone: (512) 494-5341
Telecopier: (512) 472-4014
hgilbert@gwtxlaw.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 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: