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SOAH DOCKET NO. 473-16-2033.WS  
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COMPLAINT OF  
CAROL D. GILLESPIE AGAINST  
AVALON WATER SUPPLY AND  
SEWER SERVICES CORPORATION

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§

BEFORE THE STATE OFFICE  
ADMINISTRATIVE HEARINGS

2016 JUL 9 AM 9:18  
PUBLIC UTILITY COMMISSION  
FILING CLERK

SOAH ORDER NO. 6  
ADDRESSING PENDING MOTIONS AND  
REQUIRING ADDITIONAL BRIEFING

I. ADDRESSING MOTION TO DISMISS  
AND TO CERTIFY A QUESTION TO THE COMMISSION

On June 17, 2016, Avalon Water Supply and Sewer Services Corporation (Avalon) filed a Motion to Dismiss and Alternate Motion to Certify Question and Continue Temporary Abatement of Discovery and Hearing Schedule. On June 24, 2016, staff (Staff) of the Public Utility Commission of Texas (Commission) filed a response, which opposed the motion to dismiss but supported the motion to certify a question to the Commission. The same day, Carol D. Gillespie (Complainant) filed a response opposing both motions.

Having reviewed the motion and responses, the Administrative Law Judges (ALJs) find that dismissal is not appropriate at this time. However, the ALJs agree with Avalon that jurisdiction has not yet been established under Texas Water Code § 13.004. The question of jurisdiction has been referred to the ALJs by the Commission for determination. Specifically, the first question in the Commission’s preliminary order is whether Avalon is failing to comply with Texas Water Code § 13.004(a)(1). That provision states that the Commission has the same jurisdiction over a water supply or sewer service corporation that the Commission has over a water and sewer utility *if* the Commission finds that the water supply or sewer service corporation meets certain criteria.<sup>1</sup> The ALJs must determine whether Avalon meets those criteria.

<sup>1</sup> Tex. Water Code § 13.004(a)(1) (emphasis added).

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In order to make that determination, the ALJs require the parties to submit further filings as detailed below.

Complainant shall file, by **July 22, 2016**, a *verified brief* (regarding the factual allegations) that addresses the legal authority and remedy for each and every alleged deficiency committed by Avalon. Complainant's brief shall include a table as follows:

Alleged Deficiency (including factual background and date of occurrence)	Detailed Statutory Basis for Commission Jurisdiction	Legal Cause of Action	Remedy Description	Statutory and Regulatory Authority for Remedy
1.				
2.				
Etc.				

*The table in Complainant's brief shall set forth every alleged deficiency that forms her complaint.* The ALJs will consider the table in Complainant's brief to be an exhaustive list of the alleged deficiencies for purposes of the hearing as well as any further pleadings, motions, or briefs.<sup>2</sup>

The column addressing the statutory basis for jurisdiction, legal cause of action, and statutory and regulatory authority for each remedy shall address every applicable subsection of the statutory and regulatory authority. As for jurisdiction, in particular, it is not enough to simply refer to Texas Water Code § 13.004(a)(1). Complainant must cite and explain how the Commission has the same jurisdiction over Avalon as over a water and sewer utility, including the specific criteria.

Staff and Avalon shall submit responses and/or motions to dismiss by **August 15, 2016**.<sup>3</sup>

<sup>2</sup> Complainant will be required to amend her complaint if she presents alleged deficiencies in her brief that are not set forth in her complaint.

<sup>3</sup> This deadline accounts for Avalon's counsel's vacation per her June 15, 2016 vacation letter. The parties may file an agreed extension of these deadlines.

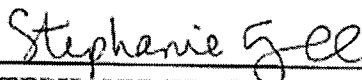
## II. ABATEMENT OF DISCOVERY SCHEDULE

The discovery schedule shall remain abated until otherwise ordered by the ALJs.

## III. GRANTING MOTION TO WITHDRAW

The Motion to Withdraw as counsel for Avalon filed by Aimee Hess on June 17, 2016, is granted.

SIGNED July 7, 2016.



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STEPHANIE FRAZEE  
ADMINISTRATIVE LAW JUDGE  
STATE OFFICE OF ADMINISTRATIVE HEARINGS



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TRAVIS VICKERY

ADMINISTRATIVE LAW JUDGE  
STATE OFFICE OF ADMINISTRATIVE HEARINGS