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

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PUBLIC UTILITY COMMISSION
~~BEFORE THE~~
PUBLIC UTILITY COMMISSION
OF TEXAS

**COMPLAINANT GILLESPIE'S VERIFIED BRIEF IN RESPONSE TO
ORDER NO. 6**

**TO THE HONORABLE JUDGES STEPHANIE FRAZEE AND TRAVIS
VICKERY:**

COMES NOW, Carol D. Gillespie ("Gillespie" or "Complainant") and files this Verified Brief in Response to Order No. 6 and in support of which Complainant respectfully shows the following:

I. BACKGROUND

1. On July 14, 2014, Carol D. Gillespie filed her original complaint against Avalon Water Supply and Sewer Services Corporation (AWSSSC) with the Texas Commission on Environmental Quality ("TCEQ"), which complaint was supplemented by additional complaint letters and other information on August 14, 2014, August 20, 2014, September 30, 2014, October 6, 2014, and February 3, 2015.

2. After jurisdiction was transferred to the Public Utility Commission of Texas ("Commission") on September 1, 2014, Ms. Gillespie's complaint was referred to the State Office of Administrative Hearings ("SOAH") for hearing on January 25, 2016.

3. SOAH Order No. 2 was issued on March 18, 2016, establishing a hearing schedule.

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4. On March 22, 2016, the Commission issued a Preliminary Order establishing a list of issues to be addressed in the hearing before SOAH, including whether AWSSSC was failing to comply with Texas Water Code §§ 13.002, 13.004 and 67.007 (“TWC”).

5. On April 21, 2016, after the parties moved jointly to abate this proceeding for settlement negotiations, Order No. 3 was issued abating the discovery and hearing schedule until a status report was filed on May 20, 2016.

6. After various status reports and abatements, AWSSSC filed a Motion to Dismiss and Alternate Motion to Certify Question and Continue Temporary Abatement of Discovery and Hearing Schedule (“Motions to Dismiss and Certify Question”) on June 17, 2016.

10. On June 24, 2016, Complainant filed a Response to Avalon Water Supply and Sewer Services Corporation’s Motions to Dismiss and Certify Question.

11. On July 7, 2016, Order No. 6 was issued requiring Gillespie to file a verified brief by July 22, 2016 setting forth alleged deficiencies, which form the basis of her complaint and invoke the Commission’s jurisdiction. This response brief is timely filed.

II. DISCUSSION

As set out in Complainant’s Response to Avalon Water Supply and Sewer Services Corporation’s Motions to Dismiss and Certify Question and its earlier Motion to Compel answers to her second requests for information,¹ Complainant showed that jurisdiction was proper if AWSSSC violated its bylaws and the Texas Open Meetings Act (“TOMA”). That is, PUC has jurisdiction to treat AWSSSC like any other water and sewer utility – with original rate jurisdiction and authority to dissolve the board and appoint a receiver among other things – if AWSSSC failed to conduct elections properly or failed to comply with its bylaws – violations of either of the TWC § 13.004(a)

¹ Complainant Gillespie’s Response to Avalon Water Supply and Sewer Services Corporation’s Motions to Dismiss and Certify Question and its earlier Motion to Compel are incorporated herein for all purposes as if set out in full.

subsections.²

Section 13.004(a) states that the Commission has the same jurisdiction over a water supply or sewer service corporation ("WSC") if the Commission finds the WSC:

(1) is failing to conduct annual or special meetings in compliance with Section 67.007; or

(2) is operating in a manner that does not comply with the requirements for classifications as a nonprofit water supply or sewer service corporation prescribed by Sections 13.002 (11) and (24).³

The Water Code goes on to define a water supply or sewer service corporation in Section 13.002(24):

(24) "Water supply or sewer service corporation" means **a nonprofit corporation organized and operating under Chapter 67** that provides potable water service or sewer service for compensation and **that has adopted and is operating in accordance with by-laws** or articles of incorporation which ensure that it is member-owned and member-controlled. The term does not include a corporation that provides retail water or sewer service to a person who is not a member, except that the corporation may provide retail water or sewer service to a person who is not a member if the person only builds on or develops property to sell to another and the service is provided on an interim basis before the property is sold.⁴

Section 67.007 specifically requires a WSC to comply with certain requirements when holding its annual member meetings, including the elections of its board of directors - everything from how a notice or ballot is prepared and mailed to how the final vote count is tallied. These specifics are set forth in further detail in the written election procedures required of all WSCs:

a) The annual meeting of the members or shareholders of the corporation must be held between January 1 and May 1 at a time specified by the bylaws or the board.

² This case does not focus on TWC § 13.004(b), as Complainant is unaware of any AWSSSC plans to convert to a special utility district.

³ TWC § 13.004(a).

⁴ TWC § 13.002(24)(emphasis added).

(a-1) A quorum for the transaction of business at a meeting of the members or shareholders is a majority of the members and shareholders present. In determining whether a quorum is present, all members and shareholders who mailed or delivered ballots to the independent election auditor or the corporation on a matter submitted to a vote at the meeting are counted as present.

(b) The board shall adopt written procedures for conducting an annual or special meeting of the members or shareholders in accordance with this section and Sections 67.0052, 67.0053, and 67.0054. The procedures shall include the following:

(1) notification to eligible members or shareholders of the proposed agenda, location, and date of the meeting;

(2) director election procedures, including candidate application procedures;

(3) approval of the ballot form to be used; and

(4) validation of eligible voters, ballots, and election results.

(c) The board shall adopt an official ballot form to be used in conducting the business of the corporation at any annual or special meeting. No other ballot form will be valid. Ballots from members or shareholders are confidential and are exempted from disclosure by the corporation until after the date of the relevant election.

(d) The board shall select an independent election auditor not later than the 30th day before the scheduled date of the annual meeting. The independent election auditor is not required to be an experienced election judge or auditor and may serve as an unpaid volunteer. At the time of selection and while serving in the capacity of an independent election auditor, the independent election auditor may not be associated with the corporation as:

(1) an employee;

(2) a director or candidate for director; or

(3) an independent contractor engaged by the corporation as part of the corporation's regular course of business.

(e) This section applies only to a corporation that provides retail

water or sewer service.⁵

Chapter 67 also incorporates the Texas Non-Profit Corporation Act,⁶ and additional statutory requirements for elections, including certain other details for ballots, officers, notices, annual meetings, and qualifications for directors.⁷ If AWSSSC failed to comply with the TWC § 67.007 requirements on their face, its own adopted election procedures, or those requirements incorporated through the Texas Non-Profit Corporation Act and Chapter 67 generally (as incorporated through TWC § 13.002(24)), then the Commission has the same jurisdiction over the corporation as it does over other problematic utilities.

AWSSSC bylaws include requirements such as preparing annual financial audit reports and federal tax returns,⁸ conducting all meetings in accordance with TOMA, chapter 551 of the Texas Government Code,⁹ adopting a conflict of interest policy,¹⁰ and ensuring all financial transactions are conducted in a manner that protects the financial integrity of the corporation.¹¹ If AWSSSC fails to operate in compliance with any of these bylaw requirements, then the Commission has the same jurisdiction over AWSSSC as it does over any other problematic water and sewer utilities.

Importantly, TWC § 13.004(a) does *not* state that a WSC must fail to hold its annual meetings properly (TWC § 13.004(a)(1)) or operate in non-compliance with its bylaws and/or TOMA (TWC § 13.004(a)(2)) one, a dozen times or one hundred times to lose its WSC status. Moreover, it is not a defense under the statute for a WSC that is violating TWC § 13.004(a) to be small, rural, voluntary or well-meaning. Indeed, it is precisely these types of WSCs for which Commission supervision and/or receivership is most appropriate and makes the most fiscal and management sense. Nevertheless, as the

⁵ TWC § 67.007.

⁶ TWC § 67.004.

⁷ See *id.* §§ 67.005, 67.0051, 67.0052, 67.0053, 67.0054, 67.0055, 67.006, 67.007, and 67.0075.

⁸ *Complaint Of Carol D. Gillespie Against Avalon Water Supply And Sewer Services Corporation*, Docket No. 43146, *Response of Avalon Water Supply and Sewer Service Corporation to Complaint of Carol Gillespie, Exhibit I; Bylaws, Article XIX, paragraph 2* (March 4, 2015)(hereinafter “Bylaws”).

⁹ *Id.* at Article V, Section 1.

¹⁰ *Id.* at Article IV, Section 4.

¹¹ *Id.* at Article III.

attached tables of deficiencies show, and as Complainant's expert and fact witnesses will demonstrate at hearing through evidence, there are numerous uncontroverted violations over a period of several years, including even its most recent elections, which confirm that AWSSSC has not acted like a member-owned, member controlled entity that can remain unchecked.

III. TABLE OF DEFICIENCIES

In accordance with Order No. 6, Complainant's verified tables of alleged deficiencies are attached as Exhibit A and Exhibit B, which illustrate in detail AWSSSC's numerous violations over a long period of time. Exhibit A, verified by Complainant Carol Gillespie, sets out AWSSSC's failure to comply with annual meeting and election requirements, which are violations of TWC § 13.004(a)(1) as it relates to TWC § 67.007. Exhibit A also lists AWSSSC's failure to operate in a manner that complies with the requirements for a nonprofit WSC (i.e, failure to comply with nonprofit corporation bylaws), which is a violation of TWC § 13.004(a)(2) of a WSC as defined by TWC § 13.002(24).

Exhibit B, verified by Complainant's expert Judge Bill Aleshire, includes AWSSSC's violations of TOMA,¹² which compliance is required under AWSSSC's bylaws. Again, bylaw noncompliance is by definition failure to comply with the requirements for a WSC as set out in TWC § 13.004(a)(2) and TWC § 13.002(24). As an aside, Tex. Gov't Code Ann. § 551.001(k) defines a water supply or sewer service corporation organized under TWC Chapter 67 to be a governmental body, and Tex. Gov't Code Ann. § 551.002 requires every regular, special, or called meeting of a governmental body to be open to the public.

Reading both Exhibit A and B tables left to right, the first column breaks out in detail AWSSSC's deficiencies in failing to adhere to its election procedures, bylaws, and TOMA, including but not limited to its failure to provide proper notices of the annual and

¹² Exhibits A and B have been compiled without the benefit of completion of discovery. In fact, when this case was originally abated on April 21, 2016, Complainant had only received partial answers to its first round of discovery and hundreds of pages of requested documents are missing. Also because of the abatements, Gillespie has yet to receive any answers to either her second or third requests for information.

special meetings, proper ballots, proper director's applications,¹³ proper meeting packets, voting rosters, and election reports. AWSSSC has similarly failed to have a conflict of interest policy or appoint a credentials committee and independent auditors who comply with its election procedures while neglecting its financial management obligations in the meantime. In terms of TOMA compliance, AWSSSC has shown a pattern and practice of walking quorums, not posting meeting notices with specificity, discussing items not specifically noticed, improperly posting its closed meeting notices, improper consultation during those closed meetings, and illegal action thereafter. Certified agendas, recordings, and minutes are frequently deficient if not non-existent.

The second column of both the Exhibit A and B tables provides the specific corresponding citations to the statutory or bylaw provision(s) that AWSSSC has violated. The third column, legal cause of action, explains how the violation described in the first column and cited in the second column is either a violation of TWC §§ 67.007 or 13.002(24) which in turn all constitute violations under TWC § 13.004(a) evoking the Commission's jurisdiction over WSCs. The fourth column, repeated throughout the table, explains that the Commission has the same jurisdiction over water and sewer utilities as WSCs which violate TWC §13.004(a)(1) or (2). These columns' entries are repeated. Regardless of whether AWSSSC violates TWC § 67.007, its bylaws or TOMA, the remedy remains the same: PUC is authorized to treat AWSSSC like any water or sewer utility and would have wide discretion to do various things like dissolve the board, put the WSC under Commission supervision, impose receivership, approve or deny rate changes, etc. The fifth and final column provides the legal authority for the Commission to take original jurisdiction over a WSC and treat them as any water or sewer utility. Just as the remedy remains the same, the statutory and regulatory authority for the remedy - TWC §13.004(a) and 16 TAC §§ 24.35 and 24.141 - are likewise the same despite the various types of alleged deficiencies.

The Legislature exempted WSCs from many Commission regulations because the corporations are intended to be member-owned and member-controlled through an elected board of directors. The statutes require these nonprofit corporations to make their

¹³ Where director's applications have been received by AWSSSC, they are likewise incomplete.

decisions in the full light of day. AWSSSC's chronic failure to follow its bylaws, Chapter 67 annual meeting and election requirements, and TOMA, however, show a blatant disregard for the law and disdain for public oversight regarding its decision-making. AWSSSC's actions and incompetence regarding the law support the Commission's supervision, imposition of a receiver, or both. AWSSSC can no longer ignore the basic rules of public governance that apply to all other WSCs across Texas.

Finally, because there was no rule or policy guidance directing the style and content of Gillespie's original July 14, 2014 complaint and follow-up letters, Ms. Gillespie made her original filings pro se, without the aid of discovery responses, and under the informal direction of Commission staff. Accordingly, the allegations cited herein supersede and replace the allegations in Gillespie's 2014-2015 complaint letters and should be considered the basis for jurisdiction in this docket.

III. CONCLUSION

WHEREFORE, PREMISES CONSIDERED, Complainant prays that the ALJs deny Avalon's Motion to Dismiss, Motion to Certify the Question, Motion to Continue the Abatement and Motion for Discovery Schedule Hearing, and issue an order resuming the hearing schedule proposed by Commission staff, and for all other relief to which Complainant may be entitled.

Respectfully submitted,

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ATTORNEYS FOR COMPLAINANT

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document has been served via hand delivery, facsimile, electronic mail, overnight mail, U.S. mail and/or Certified Mail Return Receipt Requested on all parties on the 22ND of July 2016.

By: Helen S. Gilbert
Helen S. Gilbert

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

**COMPLAINT OF CAROL D.
GILLESPIE AGAINST AVALON
WATER SUPPLY AND SEWER
SERVICES CORPORATION (37985-
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**BEFORE THE

PUBLIC UTILITY COMMISSION

OF TEXAS**

VERIFICATION

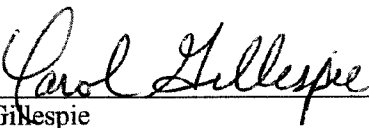
STATE OF TEXAS

COUNTY OF ELLIS

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My name is Carol Gillespie, my date of birth is March 26, 1958, and my address is 3921 Bobbin Lane, Addison, Texas 75001. in the United States. Pursuant to Tex. Civ. Prac. & Rem. Code § 132.001(a), I, Carol Gillespie, do verify under penalty of perjury, that:

My name is Carol Gillespie. I am over the age of 18 years, of sound mind, and competent to make this affidavit. I am a member of the Avalon Water Supply and Sewer Services Corporation and have attended every annual meeting since 2012, except for 2015, and voted in each of the meetings where an election was held since 2013. I have read the foregoing Verified Brief and Response to Order No. 6 and the facts stated in them are true and correct. I make this statement based upon my personal knowledge and upon information received from other persons.



Carol Gillespie

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
AWSSSC failed to obtain ballot applications for board directors for elections conducted in 2011- 2016.	AWSSSC's Election Procedures for Members' Meetings ("Election Procedures"), paragraph 4 at 1.	TWC §§ 13.004(a) and 67.007 (annual meetings)	PUC may exercise original jurisdiction over AWSSSC, including the dissolution of the board, the imposition of a receiver, and original rate jurisdiction.	TWC §13.004(a), 16 TAC §§ 24.35 and 24.141.
AWSSSC failed to provide notifications to the members of the ballot application deadline for elections conducted in 2011-2016.	Election Procedures, paragraph 4 at 1.	TWC §§ 13.004(a) and 67.007 (annual meetings).	PUC may exercise original jurisdiction over AWSSSC, including the dissolution of the board, the imposition of a receiver, and original rate jurisdiction.	TWC §13.004(a), 16 TAC §§ 24.35 and 24.141.
AWSSSC failed to obtain statements of each candidate's qualifications, including biological information, for	Election Procedures, paragraph 4.	TWC §§ 13.004(a) and 67.007 (annual meetings).	PUC may exercise original jurisdiction over AWSSSC, including the dissolution of the board, the imposition	TWC §13.004(a), 16 TAC §§ 24.35 and 24.141.

elections conducted in 2011-2016.			of a receiver, and original rate jurisdiction.	
AWSSSC failed to adopt or approve orders or resolutions approving the annual meeting packet in 2011-2016.	Amendment to Bylaws , page 1; Election Procedures, paragraph 2.	TWC §§ 13.004(a) and 67.007 (annual meetings).	PUC may exercise original jurisdiction over AWSSSC, including the dissolution of the board, the imposition of a receiver, and original rate jurisdiction.	TWC §13.004(a), 16 TAC §§ 24.35 and 24.141.
AWSSSC failed to adopt or approve orders or resolutions calling for board directors' elections in 2011-2016.		TWC §§ 13.004(a) and 67.007 (annual meetings).	PUC may exercise original jurisdiction over AWSSSC, including the dissolution of the board, the imposition of a receiver, and original rate jurisdiction.	TWC §13.004(a), 16 TAC §§ 24.35 and 24.141.
AWSSSC failed to obtain an independent election auditor's written report for election results for elections conducted in 2011, 2012 and	Election Procedures, paragraph 13.	TWC §§ 13.004(a) and 67.007 (annual meetings).	PUC may exercise original jurisdiction over AWSSSC, including the dissolution of the board, the imposition of a receiver, and original rate	TWC §13.004(a), 16 TAC §§ 24.35 and 24.141.

¹ All citations to bylaws include amendments to bylaws, except as explicitly noted.

2016. AWSSSC failed to adopt written procedures for conducting annual or special meetings in 2011-2012.	TWC § 67.007(b); Bylaws Article XI, Section 3.	TWC §§ 13.004(a) and 67.007 (annual meetings).	jurisdiction. PUC may exercise original jurisdiction over AWSSSC, including the dissolution of the board, the imposition of a receiver, and original rate jurisdiction.	TWC §13.004(a), 16 TAC §§ 24.35 and 24.141.
AWSSSC failed to adopt or approve orders or resolutions approving the ballot form used for annual or special meetings in 2011-2016.	TWC § 67.007(b); Election Procedures, paragraph 2.	TWC §§ 13.004(a) and 67.007 (annual meetings).	PUC may exercise original jurisdiction over AWSSSC, including the dissolution of the board, the imposition of a receiver, and original rate jurisdiction.	TWC §13.004(a), 16 TAC §§ 24.35 and 24.141.
AWSSSC failed to adopt or approve orders or resolutions selecting the independent election auditor for elections conducted in 2011-2016. exist.	TWC § 67.007(d); Election Procedures, paragraph 5.	TWC §§ 13.004(a) and 67.007 (annual meetings).	PUC may exercise original jurisdiction over AWSSSC, including the dissolution of the board, the imposition of a receiver, and original rate jurisdiction.	TWC §13.004(a), 16 TAC §§ 24.35 and 24.141.
AWSSSC failed to adopt or approve	Bylaws Article XIX, second paragraph.	TWC §§ 13.004(a)	PUC may exercise original jurisdiction	TWC §13.004(a),

orders or resolutions adopting a budget for fiscal years 2011-2015.			over AWSSSC, including the dissolution of the board, the imposition of a receiver, and original rate jurisdiction.	16 TAC §§ 24.35 and 24.141.
AWSSSC failed to obtain board director candidates' sworn statement of qualifications for elections conducted in 2011-2016.	Election Procedures, paragraph 4, vi.	TWC §§ 13.004(a) and 67.007 (annual meetings).	PUC may exercise original jurisdiction over AWSSSC, including the dissolution of the board, the imposition of a receiver, and original rate jurisdiction.	TWC §13.004(a), 16 TAC §§ 24.35 and 24.141.
AWSSSC failed to obtain board director candidates' written consent to serve for elections conducted in 2011-2016.	Election Procedures, paragraph 4, viii.	TWC §§ 13.004(a) and 67.007 (annual meetings).	PUC may exercise original jurisdiction over AWSSSC, including the dissolution of the board, the imposition of a receiver, and original rate jurisdiction.	TWC §13.004(a), 16 TAC §§ 24.35 and 24.141.
AWSSSC failed to obtain board director candidates' statement of eligibility for elections conducted in 2011-2016.	Election Procedures, paragraph 4, vii.	TWC §§ 13.004(a) and 67.007 (annual meetings).	PUC may exercise original jurisdiction over AWSSSC, including the dissolution of the board, the imposition	TWC §13.004(a), 16 TAC §§ 24.35 and 24.141.

AWSSC failed to approve the ballot forms to be used in annual elections from 2011-2016, including any drafts of ballot forms presented by the credentials committee.	TWC § 67.007(b)(3); Election Procedures, paragraph 2.	TWC §§ 13.004(a) and 67.007 (annual meetings).	of a receiver, and original rate jurisdiction. PUC may exercise original jurisdiction over AWSSSC, including the dissolution of the board, the imposition of a receiver, and original rate jurisdiction.	TWC §13.004(a), 16 TAC §§ 24.35 and 24.141.
AWSSC failed to obtain and approve drafts of the annual meeting agenda that the credentials committee must present to the board for elections conducted in 2011-2016.	Election Procedures, paragraph 2.	TWC §§ 13.004(a) and 67.007 (annual meetings).	PUC may exercise original jurisdiction over AWSSSC, including the dissolution of the board, the imposition of a receiver, and original rate jurisdiction.	TWC §13.004(a), 16 TAC §§ 24.35 and 24.141.
AWSSC failed to obtain and approve draft meeting packets for elections conducted in 2011-2016.	Election Procedures, paragraph 2.	TWC §§ 13.004(a) and 67.007 (annual meetings).	PUC may exercise original jurisdiction over AWSSSC, including the dissolution of the board, the imposition of a receiver, and original rate jurisdiction.	TWC §13.004(a), 16 TAC §§ 24.35 and 24.141.

AWSSSC failed to prepare voting rosters for elections conducted in 2011-2016 exist.	Bylaws Article XI, Section 2; Election Procedures, paragraph 8.	TWC §§ 13.004(a) and 67.007 (annual meetings).	PUC may exercise original jurisdiction over AWSSSC, including the dissolution of the board, the imposition of a receiver, and original rate jurisdiction.	TWC §13.004(a), 16 TAC §§ 24.35 and 24.141.
AWSSSC failed to mail complete meeting packets to voting members for member meetings conducted in 2011- 2016.	Amendment to Bylaws, page 1; Election Procedures, paragraph 6.	TWC §§ 13.004(a) and 67.007 (annual meetings).	PUC may exercise original jurisdiction over AWSSSC, including the dissolution of the board, the imposition of a receiver, and original rate jurisdiction.	TWC §13.004(a), 16 TAC §§ 24.35 and 24.141.
AWSSSC failed to provide its members 30-day written notice of its annual meetings in 2013 and 2016.	Amendment to Bylaws, page 1; Election Procedures, paragraph 6.	TWC §§ 13.004(a) and 67.007 (annual meetings).	PUC may exercise original jurisdiction over AWSSSC, including the dissolution of the board, the imposition of a receiver, and original rate jurisdiction.	TWC §13.004(a), 16 TAC §§ 24.35 and 24.141.
AWSSSC does not maintain a membership transfer book.	Bylaws Article IX.	TWC §§ 13.004(a).	PUC may exercise original jurisdiction over AWSSSC, including the	TWC §13.004(a), 16 TAC §§ 24.35 and

				dissolution of the board, the imposition of a receiver, and original rate jurisdiction.	24.141.
AWSSSC failed to prepare annual reports of financial activity in 2011-2016.	Bylaws Article XIX, second paragraph.	TWC §§ 13.004(a).	PUC may exercise original jurisdiction over AWSSSC, including the dissolution of the board, the imposition of a receiver, and original rate jurisdiction.	TWC §13.004(a), 16 TAC §§ 24.35 and 24.141.	
AWSSSC failed to adopt or approve federal tax returns in 2011-2016.	Bylaws Article XIX.	TWC §§ 13.004(a).	PUC may exercise original jurisdiction over AWSSSC, including the dissolution of the board, the imposition of a receiver, and original rate jurisdiction.	TWC §13.004(a), 16 TAC §§ 24.35 and 24.141.	
Mr. David Waishes was installed as a board director without filing an application or having his name placed on a ballot for the 2012	Election Procedures, paragraph 4.	TWC §§ 13.004(a) and 67.007 (annual meetings).	PUC may exercise original jurisdiction over AWSSSC, including the dissolution of the board, the imposition of a receiver, and original rate	TWC §13.004(a), 16 TAC §§ 24.35 and 24.141.	

elections. AWSSSC does not have a conflict of interest policy, written or otherwise.	Bylaws Article IV, Section 4.	TWC §§ 13.004(a).	PUC may exercise original jurisdiction over AWSSSC, including the dissolution of the board, the imposition of a receiver, and original rate jurisdiction.	TWC §13.004(a), 16 TAC §§ 24.35 and 24.141.
AWSSSC board members have had conflicts of interest which impede the business of the corporation and deserve the interests of the membership, including in August 2014 relating to its banker and Secretary-Treasurer.	Bylaws Article IV, Section 4.	TWC §§ 13.004(a).	PUC may exercise original jurisdiction over AWSSSC, including the dissolution of the board, the imposition of a receiver, and original rate jurisdiction.	§13.004(a), 16 TAC §§ 24.35 and 24.141.
AWSSSC members are frequently videotaped in the audience, prohibited from asking questions and asked to leave board meetings.	Bylaws Article V, Section 3.	TWC §§ 13.004(a).	PUC may exercise original jurisdiction over AWSSSC, including the dissolution of the board, the imposition of a receiver, and original rate jurisdiction.	TWC §13.004(a), 16 TAC §§ 24.35 and 24.141.

AWSSSC failed to hold its annual member meetings timely from 2011-2013.	Bylaws Article XI; Election Procedures, paragraph 1.	TWC §§ 13.004(a) and 67.007 (annual meetings).	PUC may exercise original jurisdiction over AWSSSC, including the dissolution of the board, the imposition of a receiver, and original rate jurisdiction.	TWC §13.004(a), 16 TAC §§ 24.35 and 24.141.
AWSSSC failed to appoint a credentials committee prior to its 2012 and 2013 directors' elections.	Bylaws Article XI, Section 3.	TWC §§ 13.004(a).	PUC may exercise original jurisdiction over AWSSSC, including the dissolution of the board, the imposition of a receiver, and original rate jurisdiction.	TWC §13.004(a), 16 TAC §§ 24.35 and 24.141.
AWSSSC has installed new board members without election, proper notice or memorialization in minutes, including the changes on March 2012.	Bylaws Articles IV and XI; Election Procedures, paragraph 4.	TWC §§ 13.004(a) and 67.007 (annual meetings).	PUC may exercise original jurisdiction over AWSSSC, including the dissolution of the board, the imposition of a receiver, and original rate jurisdiction.	TWC §13.004(a), 16 TAC §§ 24.35 and 24.141.
Approximately 178 AWSSSC checks are signed by 1 director and/or by	Bylaws Article III.	TWC §§ 13.004(a).	PUC may exercise original jurisdiction over AWSSSC, including the	TWC §13.004(a), 16 TAC §§ 24.35 and

unauthorized personnel who are not officers of the board or dutifully appointed employees, including check numbers: 3266 3279 3291 3294-3302 3312-3321 3347-3355 3364-3373 3382-3391 3397-3406 3414 3416-3426 3454-3455 3456-3462 3475 3639-3648 3655 3661-3671 3678 3691-3694 1001 1003-1008 1022-1025 1027			dissolution of the board, the imposition of a receiver, and original rate jurisdiction.	24.141.
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1043-1048 1051-1052 1054 1056 1035 1049-1050 1053 1072-1073 1078-1083 1074-1077 1099-1102 1960 2017-2019 2067 2342 2380 2409 1227 1229-1233 1235-1245				
AWSSSC board has voted on motions made by non-board directors, including motions made by Jesse Munguia on December 13, 2012.	TWC §13.002(24) incorporates by reference TWC § 67.004, which incorporates the Texas Business Organizations Code § 22.214 that acts of a board of directors of a corporation are only made by a majority of the directors present in person or by proxy.	TWC §§ 13.004(a).	PUC may exercise original jurisdiction over AWSSSC, including the dissolution of the board, the imposition of a receiver, and original rate jurisdiction.	TWC §13.004(a), 16 TAC §§ 24.35 and 24.141.
AWSSSC failed to approve its audits at	Bylaws Article XIX.	TWC §§ 13.004(a).	PUC may exercise original jurisdiction	TWC §13.004(a),

annual meetings, in 2013-2016.			over AWSSSC, including the dissolution of the board, the imposition of a receiver, and original rate jurisdiction.	16 TAC §§ 24.35 and 24.141.
AWSSSC does not reply in writing to member grievances or concerns, including to the letter it received on August 14, 2014.	Bylaws Article V, Section 3.	TWC §§ 13.004(a).	PUC may exercise original jurisdiction over AWSSSC, including the dissolution of the board, the imposition of a receiver, and original rate jurisdiction.	TWC §13.004(a), 16 TAC §§ 24.35 and 24.141.
AWSSSC violated the minimum capacity for public water systems under 30 TAC § 290.45.	Bylaws Articles X and XVIII	TWC §§ 13.004(a).	PUC may exercise original jurisdiction over AWSSSC, including the dissolution of the board, the imposition of a receiver, and original rate jurisdiction.	TWC §13.004(a), 16 TAC §§ 24.35 and 24.141.
AWSSSC failed to prepare a list of all its voting members from 2011-2016.	Election Procedures, paragraph 8.	TWC §§ 13.004(a) and 67.007 (annual meetings).	PUC may exercise original jurisdiction over AWSSSC, including the dissolution of the board, the imposition	TWC §13.004(a), 16 TAC §§ 24.35 and 24.141.

AWSSSC failed to send notice of opportunity to submit directors' applications 75 days prior to its April 11, 2016 annual meeting.	Amendment to Bylaws, p. 1; Election Procedures, paragraph 4.	TWC §§ 13.004(a) and 67.007 (annual meetings).	PUC may exercise original jurisdiction over AWSSSC, including the dissolution of the board, the imposition of a receiver, and original rate jurisdiction.	TWC §13.004(a), 16 TAC §§ 24.35 and 24.141.
AWSSSC failed to mail the members' meeting packet notices of its April 11, 2016 annual meeting 30 days before the meeting.	Amendment to Bylaws, p. 1; Election Procedures, paragraph 6.	TWC §§ 13.004(a) and 67.007 (annual meetings).	PUC may exercise original jurisdiction over AWSSSC, including the dissolution of the board, the imposition of a receiver, and original rate jurisdiction.	TWC §13.004(a), 16 TAC §§ 24.35 and 24.141.
AWSSSC failed to select an independent auditor 30 days prior to the April 11, 2016 annual meeting.	Amendment to Bylaws, p. 1; Election Procedures, paragraph 5.	TWC §§ 13.004(a) and 67.007 (annual meetings).	PUC may exercise original jurisdiction over AWSSSC, including the dissolution of the board, the imposition of a receiver, and original rate jurisdiction.	TWC §13.004(a), 16 TAC §§ 24.35 and 24.141.
AWSSSC failed to	Amendment to Bylaws, p. 1; Election	TWC §§ 13.004(a) and	PUC may exercise	TWC

make its voting roster available to its members in its offices at least 28 days prior to April 11, 2016.	Procedures, paragraph 8.	67.007 (annual meetings).	original jurisdiction over AWSSSC, including the dissolution of the board, the imposition of a receiver, and original rate jurisdiction.	§13.004(a), 16 TAC §§ 24.35 and 24.141.
AWSSSC failed to prepare an alphabetical list of names and addresses for all its voting members on or before March 11, 2016 for its 2016 annual meeting.	Bylaws Article XI, Section 2; Election Procedures, paragraph 8.	TWC §§ 13.004(a) and 67.007 (annual meetings).	PUC may exercise original jurisdiction over AWSSSC, including the dissolution of the board, the imposition of a receiver, and original rate jurisdiction.	TWC §13.004(a), 16 TAC §§ 24.35 and 24.141.
AWSSSC failed to maintain a secure ballot box, and multiple directors, candidates, office staff, independent contractors and others had access to the box between the time it began accepting ballot forms and the meeting of members on April 11, 2016.	Election Procedures, paragraph 13.	TWC §§ 13.004(a) and 67.007 (annual meetings).	PUC may exercise original jurisdiction over AWSSSC, including the dissolution of the board, the imposition of a receiver, and original rate jurisdiction.	TWC §13.004(a), 16 TAC §§ 24.35 and 24.141.

AWSSSC failed to use a ballot box for the 2016 elections which was a secure box with lock and key.	Election Procedures, paragraph 13.	TWC §§ 13.004(a) and 67.007 (annual meetings).	PUC may exercise original jurisdiction over AWSSSC, including the dissolution of the board, the imposition of a receiver, and original rate jurisdiction.	TWC §13.004(a), 16 TAC §§ 24.35 and 24.141.
AWSSSC failed to keep the ballot box in the sole possession of the election auditor between April 1 at 12:00 noon and April 11, 2016 at 7:00 pm.	Election Procedures, paragraph 13.	TWC §§ 13.004(a) and 67.007 (annual meetings).	PUC may exercise original jurisdiction over AWSSSC, including the dissolution of the board, the imposition of a receiver, and original rate jurisdiction.	TWC §13.004(a), 16 TAC §§ 24.35 and 24.141.
AWSSSC failed to have its election auditor verify and its auditor did not verify whether members had previously submitted ballots on April 11, 2016.	Election Procedures, paragraphs 9 and 10.	TWC §§ 13.004(a) and 67.007 (annual meetings).	PUC may exercise original jurisdiction over AWSSSC, including the dissolution of the board, the imposition of a receiver, and original rate jurisdiction.	TWC §13.004(a), 16 TAC §§ 24.35 and 24.141.
AWSSSC's staff, not the election auditor, opened ballot envelopes prior to	Election Procedures, paragraph 13.	TWC §§ 13.004(a) and 67.007 (annual meetings).	PUC may exercise original jurisdiction over AWSSSC, including the	TWC §13.004(a), 16 TAC §§ 24.35 and

the April 11, 2016 meeting.			dissolution of the board, the imposition of a receiver, and original rate jurisdiction.	24.141.
AWSSSC kept ballot envelopes at its offices from the time it began accepting them until sometime before the April 11, 2016 meeting.	Election Procedures, paragraph 9.	TWC §§ 13.004(a) and 67.007 (annual meetings).	PUC may exercise original jurisdiction over AWSSSC, including the dissolution of the board, the imposition of a receiver, and original rate jurisdiction.	TWC §13.004(a), 16 TAC §§ 24.35 and 24.141.
AWSSC failed to maintain a current signed version of AWSSSC's Election Procedures.	Bylaws Article XI, Section 3; TWC § 67.007(b).	TWC §§ 13.004(a) and 67.007 (annual meetings).	PUC may exercise original jurisdiction over AWSSSC, including the dissolution of the board, the imposition of a receiver, and original rate jurisdiction.	TWC §13.004(a), 16 TAC §§ 24.35 and 24.141.
AWSSSC failed to hold an annual meeting in 2013.	Bylaws Article XI, Section 1.	TWC §§ 13.004(a) and 67.007 (annual meetings).	PUC may exercise original jurisdiction over AWSSSC, including the dissolution of the board, the imposition of a receiver, and original rate	TWC §13.004(a), 16 TAC §§ 24.35 and 24.141.

AWSSSC has denied access to members to regular monthly meetings, including through its legal counsel's correspondence in September 2014.	Bylaws Article V, Section 3.	TWC §§ 13.004(a) and 67.007 (annual meetings).	jurisdiction. PUC may exercise original jurisdiction over AWSSSC, including the dissolution of the board, the imposition of a receiver, and original rate jurisdiction.	TWC §13.004(a), 16 TAC §§ 24.35 and 24.141.
AWSSSC's general manager has made unauthorized hiring and termination decisions, including those decisions made in July-August 2014.	Bylaws Article XIII.	TWC §§ 13.004(a) and 67.007 (annual meetings).	PUC may exercise original jurisdiction over AWSSSC, including the dissolution of the board, the imposition of a receiver, and original rate jurisdiction.	TWC §13.004(a), 16 TAC §§ 24.35 and 24.141.
AWSSSC office staff has made or approved unauthorized purchases without the approval of the board of directors, in at least August 2014, December 2014 and August 2015.	Bylaws Article XIII.	TWC §§ 13.004(a) and 67.007 (annual meetings).	PUC may exercise original jurisdiction over AWSSSC, including the dissolution of the board, the imposition of a receiver, and original rate jurisdiction.	TWC §13.004(a), 16 TAC §§ 24.35 and 24.141.
AWSSSC has failed to keep required	Bylaws Article XIX.	TWC §§ 13.004(a) and 67.007 (annual meetings).	PUC may exercise original jurisdiction	TWC §13.004(a),

records and has destroyed records maintained on the corporation's computer(s), including in November 2014.		meetings).	over AWSSC, including the dissolution of the board, the imposition of a receiver, and original rate jurisdiction.	16 TAC §§ 24.35 and 24.141.
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DOCKET NO. 43146
SOAH DOCKET NO. 473-16-2033.WS

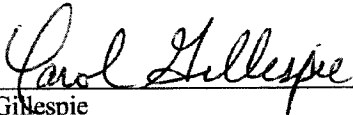
COMPLAINT OF CAROL D.	§	BEFORE THE
GILLESPIE AGAINST AVALON	§	
WATER SUPPLY AND SEWER	§	PUBLIC UTILITY COMMISSION
SERVICES CORPORATION (37985-	§	
1)	§	OF TEXAS

VERIFICATION

STATE OF TEXAS	§	
	§	
COUNTY OF ELLIS	§	

My name is Carol Gillespie, my date of birth is March 26, 1958, and my address is 3921 Bobbin Lane, Addison, Texas 75001. in the United States. Pursuant to Tex. Civ. Prac. & Rem. Code § 132.001(a), I, Carol Gillespie, do verify under penalty of perjury, that:

My name is Carol Gillespie. I am over the age of 18 years, of sound mind, and competent to make this affidavit. I am a member of the Avalon Water Supply and Sewer Services Corporation and have attended every annual meeting since 2012, except for 2015, and voted in each of the meetings where an election was held since 2013. I have read the foregoing Verified Brief and Response to Order No. 6 and the facts stated in them are true and correct. I make this statement based upon my personal knowledge and upon information received from other persons.



Carol Gillespie

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
AWSSSC's meeting notices, including subjects such as "General Manager's Report," "Operator's Report," "President's Report" and "Financials" are in flagrant violation of the TOMA meeting notice requirements as specifically interpreted in Tex. Att'y Gen. Op. GA-0668 (Oct. 6, 2008) (declaring TOMA violation for agenda subjects "City Manager's Report," "Mayor's Update" and "Council and Other Reports"). The violations are significant because they could subject all actions taken in violation of TOMA to being voided by court order and injunction against future violations even if no action was voted on by the board. (TOMA § 551.141). AWSSSC violations of this board meeting notice requirement occurred on: (2016) January 14, 2016 February 11, 2016 February 25, 2016 March 10, 2016 April 4, 2016 (membership meeting, "President's Report") April 11, 2016 (membership meeting, "President's Report") April 14, 2016 May 12, 2016 June 9, 2016 July 14, 2016 (2015) January 8, 2015 February 24, 2015 March 9, 2015 April 9, 2015 May 14, 2015	Bylaws Article V, Sections 1 & 4. TOMA §§ 551.041 (notice requirement); 551.141; Tex. Att'y Gen. Op. GA-0668 (Oct. 6, 2008).	TWC § 13.004(a)(2) (including TWC § 13.002(24) and bylaws).	PUC may exercise original jurisdiction over AWSSSC, including the dissolution of the board, the imposition of a receiver, and original rate jurisdiction.	TWC § 13.004(a), 16 TAC §§ 24.35 and 24.141

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
June 18, 2015 July 9, 2015 August 13, 2015 September 10, 2015 October 8, 2015 November 12, 2015 December 10, 2015 (2014) January 9, 2014 February 13, 2014 February 27, 2014 March 13, 2014 April 10, 2014 (member meeting) May 8, 2014 June 19, 2014 July 10, 2014 August 14, 2014 September 11, 2014 October 9, 2014 November 13, 2014 December 11, 2014				

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
On May 8, 2014, the AWSSSC Board failed to give 72-hour notice of its meeting and improperly used the "Emergency Notice" provision of TOMA § 551.045 without complying with the provision of that section. The board met for a purpose not covered by § 551.045 (which is limited to an "emergency or an urgent public necessity") for the purpose of "authorizing the purchase of approximately 1.01 acres of land adjacent to the AWSSSC [] Treatment Plant." §551.045(c) requires the notice of an emergency meeting to "clearly identify the emergency or urgent public necessity" which the AWSSSC notice also failed to do.	Bylaws Article V, Sections 1 & 4. TOMA §§ 551.041 (notice requirement); 551.045; 551.141.	TWC § 13.004(a)(2) (including TWC § 13.002(24) and bylaws).	PUC may exercise original jurisdiction over AWSSSC, including the dissolution of the board, the imposition of a receiver, and original rate jurisdiction.	TWC § 13.004(a), 16 TAC §§ 24.35 and 24.141
On September 25, 2014 the AWSSSC Board conducted an unlawful closed meeting for a purpose not authorized by TOMA. According to the meeting notice, the Board went into executive session "to allow Heather Howell to discuss past payroll issues and the Audit." There is no exception to TOMA's open meeting requirement which permits such discussion of an audit in a closed meeting. In addition, apparently no tape recording or certified agenda of the closed meeting was created and retained.	Bylaws Article V, Sections 1 & 4. TOMA §§ 551.002; 551.103; 551.104; 551.144; 551.145.	TWC § 13.004(a)(2) (including TWC § 13.002(24) and bylaws).	PUC may exercise original jurisdiction over AWSSSC, including the dissolution of the board, the imposition of a receiver, and original rate jurisdiction.	TWC § 13.004(a), 16 TAC §§ 24.35 and 24.141

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
On March 10, 2016, the Board approved in a "Consent" motion backhoe repairs in the amount of \$4,500 - \$4,800, a subject that was not listed on the meeting notice. This violates the meeting notice requirement of TOMA § 551.041.	Bylaws Article V, Sections 1 & 4. TOMA § 551.041.	TWC § 13.004(a)(2) (including TWC § 13.002(24) and bylaws).	PUC may exercise original jurisdiction over AWSSSC, including the dissolution of the board, the imposition of a receiver, and original rate jurisdiction.	TWC § 13.004(a), 16 TAC §§ 24.35 and 24.141
Gillespie alleges that AWSSSC failed to post public meeting notices with the County Clerk from 2011-2013 as required by TOMA.	Bylaws Article V, Section 4. TOMA § 551.054.	TWC § 13.004(a)(2) (including TWC § 13.002(24) and bylaws).	PUC may exercise original jurisdiction over AWSSSC, including the dissolution of the board, the imposition of a receiver, and original rate jurisdiction.	TWC § 13.004(a), 16 TAC §§ 24.35 and 24.141

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
On December 10, 2015, the AWSSSC Board voted to give Christmas bonuses to AWSSSC employees when no such subject appeared on the meeting notice. This violates the meeting notice requirement of TOMA § 551.041.	Bylaws Article V, Sections 1 & 4. TOMA § 551.041.	TWC § 13.004(a)(2) (including TWC § 13.002(24) and bylaws).	PUC may exercise original jurisdiction over AWSSSC, including the dissolution of the board, the imposition of a receiver, and original rate jurisdiction.	TWC § 13.004(a), 16 TAC §§ 24.35 and 24.141
The AWSSSC board meeting minutes of January 5, 2012 indicate that the Board received information about and deliberated "needed expenditures for improvements/upgrading and repair to the sewer plant." This subject was not adequately, or arguably was omitted entirely, from the meeting notice in violation of TOMA.	Bylaws Article V, Sections 1 & 4. TOMA §§ 551.041 (notice requirement); 551.141; Tex. Att'y Gen. Op. GA-0668 (Oct. 6, 2008).	TWC § 13.004(a)(2) (including TWC § 13.002(24) and bylaws).	PUC may exercise original jurisdiction over AWSSSC, including the dissolution of the board, the imposition of a receiver, and original rate jurisdiction.	TWC § 13.004(a), 16 TAC §§ 24.35 and 24.141

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
Gillespie alleges that AWSSSC did not post public notice for 72 hours before its February 9, 2012 meeting.	Election Procedures, paragraph 7. Bylaws Article V, Section 4. TOMA §§ 551.041; 551.043(a).	TWC § 13.004(a)(2) (including TWC § 13.002(24) and bylaws).	PUC may exercise original jurisdiction over AWSSSC, including the dissolution of the board, the imposition of a receiver, and original rate jurisdiction.	TWC § 13.004(a), 16 TAC §§ 24.35 and 24.141
AWSSSC's notice of its February 9, 2012 board meeting included a legally inadequate subject called "executive session" that failed to give proper notice of the subject of Board's deliberation or action related thereto. This is a TOMA violation.	Bylaws Article V, Sections 1 & 4. TOMA §§ 551.041 (notice requirement); 551.141; Tex. Att'y Gen. Op. GA-0668 (Oct. 6, 2008).	TWC § 13.004(a)(2) (including TWC § 13.002(24) and bylaws).	PUC may exercise original jurisdiction over AWSSSC, including the dissolution of the board, the imposition of a receiver, and original rate jurisdiction.	TWC § 13.004(a), 16 TAC §§ 24.35 and 24.141

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
Gillespie alleges that AWSSSC's presiding officer did not announce under which TOMA provision it was authorized to meet in a closed meeting on March 8, 2012 and no vote was taken in open meeting following the closed meeting to authorize the installation of a sewer line that did occur thereafter.	Bylaws Article V, Section 4. TOMA § 551.101(2).	TWC § 13.004(a)(2) (including TWC § 13.002(24) and bylaws).	PUC may exercise original jurisdiction over AWSSSC, including the dissolution of the board, the imposition of a receiver, and original rate jurisdiction.	TWC § 13.004(a), 16 TAC §§ 24.35 and 24.141
AWSSSC's meeting notice has included notice of closed meetings without indicating what subjects were to be discussed in the closed meetings or having the presiding officer indicate which items listed on the agenda meeting notice were being discussed in the closed meeting. Examples include agenda item "Executive Session (if required)" on January 10, 2013; February 14, 2013; March 14, 2013; April 11, 2013; April 18, 2013; May 9, 2013; June 13, 2013 ("to discuss hiring another employee" which subject was not listed on the meeting notice); and, August 8, 2013.	Bylaws Article V, Sections 1 & 4. TOMA §§ 551.041 (notice requirement); 551.141; Tex. Att'y Gen. Op. GA-0668 (Oct. 6, 2008).	TWC § 13.004(a)(2) (including TWC § 13.002(24) and bylaws).	PUC may exercise original jurisdiction over AWSSSC, including the dissolution of the board, the imposition of a receiver, and original rate jurisdiction.	TWC § 13.004(a), 16 TAC §§ 24.35 and 24.141

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
AWSSSC's meeting notice of November 14, 2013 listed a subject "Presentation by Todd Watson of J.L. Myers Co regarding well #2" but did not indicate that the Board would take any action other than to receive the presentation. The minutes shows that Board acted to authorize payment to J. L. Myers to inspect the well for a total cost of \$5,400, a matter that was not listed on the meeting the meeting notice. This is a TOMA violation.	Bylaws Article V, Sections 1 & 4. TOMA §§ 551.041 (notice requirement); 551.141; Tex. Att'y Gen. Op. GA-0668 (Oct. 6, 2008).	TWC § 13.004(a)(2) (including TWC § 13.002(24) and bylaws).	PUC may exercise original jurisdiction over AWSSSC, including the dissolution of the board, the imposition of a receiver, and original rate jurisdiction.	TWC § 13.004(a), 16 TAC §§ 24.35 and 24.141
Ironically, AWSSSC's meeting minutes of November 14, 2013 indicate that there was a recommendation received by the Board from the General Manager to have a TOMA workshop, a subject that was not listed on the meeting notice. This is a TOMA violation.	Bylaws Article V, Sections 1 & 4. TOMA §§ 551.041 (notice requirement); 551.141; Tex. Att'y Gen. Op. GA-0668 (Oct. 6, 2008).	TWC § 13.004(a)(2) (including TWC § 13.002(24) and bylaws).	PUC may exercise original jurisdiction over AWSSSC, including the dissolution of the board, the imposition of a receiver, and original rate jurisdiction.	TWC § 13.004(a), 16 TAC §§ 24.35 and 24.141

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
Gillespie alleges that AWSSC's presiding officer failed to identify under which TOMA provision it was authorized to meet in closed session on many occasions from 2013-2015 and on April 9 and June 14, 2012. For example it failed to identify the TOMA provision which allows closed session deliberation on the issue of employee health insurance.	Bylaws Article V, Section 4. TOMA § 551.101(2).	TWC § 13.004(a)(2) (including TWC § 13.002(24) and bylaws).	PUC may exercise original jurisdiction over AWSSC, including the dissolution of the board, the imposition of a receiver, and original rate jurisdiction.	TWC § 13.004(a), 16 TAC §§ 24.35 and 24.141

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
Gillespie alleges that AWSSSC held an emergency board meeting on April 27, 2012 when no emergency existed (no imminent threat to public health and safety or no unforeseeable situation).	Bylaws Article V, Sections 1 & 4. TOMA §§ 551.041 (notice requirement); 551.045; 551.141.	TWC § 13.004(a)(2) (including TWC § 13.002(24) and bylaws).	PUC may exercise original jurisdiction over AWSSSC, including the dissolution of the board, the imposition of a receiver, and original rate jurisdiction.	TWC § 13.004(a), 16 TAC §§ 24.35 and 24.141
Gillespie alleges that a quorum of the board met in secret on December 8, 2011 after adjournment by then-president Patsy Russell. Deliberation about AWSSSC business by a quorum of the Board outside of a posted meeting violates TOMA.	Bylaws Article V, Section 4. TOMA §§ 551.002; 551.143; 551.144.	TWC § 13.004(a)(2) (including TWC § 13.002(24) and bylaws).	PUC may exercise original jurisdiction over AWSSSC, including the dissolution of the board, the imposition of a receiver, and original rate jurisdiction.	TWC § 13.004(a), 16 TAC §§ 24.35 and 24.141
No certified agendas or tape recordings exist for the closed sessions occurring during the two-year period prior to the filing of the Gillespie Complaint (July 14, 2014) for closed meetings on: August 9, 2012 September 13, 2012 October 11, 2012	Bylaws Article V, Sections 1 & 4. TOMA §§ 551.103; 551.104; 551.145.	TWC § 13.004(a)(2) (including TWC § 13.002(24) and bylaws).	PUC may exercise original jurisdiction over AWSSSC, including the	TWC § 13.004(a), 16 TAC §§ 24.35 and 24.141

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
November 1, 2012 November 8, 2012 December 13, 2012 January 10, 2013 February 14, 2013 March 14, 2013 April 11, 2013 April 18, 2013 May 9, 2013 June 11, 2013 July 11, 2013 August 8, 2013 September 12, 2013 March 13, 2014 June 19, 2014 June 30, 2014 August 14, 2014 September 25, 2014 October 9, 2014 October 23, 2014 November 13, 2014 November 20, 2014 August 13, 2015 September 10, 2015 October 8, 2015 November 12, 2015 November 17, 2015 December 10, 2015 December 17, 2015 February 25, 2016 March 10, 2016			dissolution of the board, the imposition of a receiver, and original rate jurisdiction.	

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
Gillespie alleges that not all board members have taken the mandatory TOMA training. This is a TOMA violation.	Bylaws Article V, Section 4. TOMA § 551.005.	TWC § 13.004(a)(2) (including TWC § 13.002(24) and bylaws).	PUC may exercise original jurisdiction over AWSSSC, including the dissolution of the board, the imposition of a receiver, and original rate jurisdiction.	TWC § 13.004(a), 16 TAC §§ 24.35 and 24.141
On June 14, 2012 the AWSSSC Board met in a closed meeting to obtain attorney advice under TOMA section 551.071 but permitted Patsy Russell—a person who was not at that time an Avalon director, officer or employee—to attend the closed meeting. Since Ms. Russell does not qualify as an appropriate attendee at such a closed meeting, this is a TOMA violation. (See cited Attorney General Opinion on point).	Bylaws Article V, Sections 1 & 4. TOMA §§ 551.002; 551.071 Tex. Att’y Gen. Op. No. JC-0506 (2002).	TWC § 13.004(a)(2) (including TWC § 13.002(24) and bylaws).	PUC may exercise original jurisdiction over AWSSSC, including the dissolution of the board, the imposition of a receiver, and original rate jurisdiction.	TWC § 13.004(a), 16 TAC §§ 24.35 and 24.141

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
At some point between February 12, 2015 and February 24, 2105, six of the AWSSC Board members executed a Corporate Resolution to retain legal services of Aimee Hess without giving the required TOMA notice of a meeting or meeting in public to take such action. At its February 24, 2015 board meeting the President admitted that the Corporate Resolution had been signed without a public meeting of the Board and that was the reason the Board had an agenda item "to ratify" the unlawfully approved resolution retaining legal counsel. Approval of the hiring of legal counsel without an open meeting in accordance with TOMA is a TOMA violation.	Bylaws Article V, Sections 1 & 4. TOMA §§ 551.002 (open meeting requirement) 551.041 (notice requirement).	TWC § 13.004(a)(2) (including TWC § 13.002(24) and bylaws).	PUC may exercise original jurisdiction over AWSSC, including the dissolution of the board, the imposition of a receiver, and original rate jurisdiction.	TWC § 13.004(a), 16 TAC §§ 24.35 and 24.141