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COMPLAINT OF CAROL D. §
GILLESPIE AGAINST AVALON §
WATER SUPPLY AND SEWER §
SERVICES CORPORATION §

BEFORE THE STATE OFFICE
PUBLIC UTILITIES COMMISSION
ADMINISTRATIVE HEARINGS
FILING CLERK

COMMISSION STAFF’S MOTION TO STRIKE

COMES NOW the Staff (Staff) of the Public Utility Commission of Texas (Commission), representing the public interest, and files this Motion to Strike and would show the following:

I. BACKGROUND

On July 7, 2016, SOAH Order No. 6 was issued requiring that Complainant Carol D. Gillespie (Gillespie) file a verified brief (regarding the factual allegations) by July 22, 2016, that addressed the legal authority and remedy for each and every deficiency allegedly committed by Avalon Water Supply and Sewer Services Corporation (Avalon). Order No. 6 also required Staff and Avalon to submit responses and/or motions to dismiss by August 15, 2016.

II. STAFF’S MOTION TO STRIKE

On August 22, 2016, Gillespie filed a response to the responses from Avalon and Staff. Gillespie states that '[t]his reply is timely filed within five (5) business days of the other parties' responses.¹ Gillespie does not provide a citation for this statement, although Staff assumes that Gillespie is relying on '16 Tex. Admin. Code § 22.78(a) (TAC), which states, in part: 'Unless otherwise specified by statute, by this chapter, or by order of the presiding officer, a responsive pleading, if made, shall be filed by a party within five working days after receipt of the pleading to which the response is made.

SOAH Order No. 6 sets out the briefing schedule and only provides for Gillespie’s initial verified brief and the response from Staff and Avalon. It does not provide for an additional response by Gillespie. Because the schedule for this round of briefs was 'otherwise specified. .by order of the presiding officer, Gillespie’s response is outside of the schedule set in SOAH Order

¹ Complainant Gillespie’s Reply to Responses of Avalon, Commission Staff and the Texas Rural Water Association at 1 (Aug. 22, 2016).

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No. 6. There is no authority for a response to a response and Staff requests that Gillespie's response be struck and not considered by the Administrative Law Judge.

Dated: August 22, 2016

Respectfully Submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS
LEGAL DIVISION**

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

CERTIFICATE OF SERVICE

I certify that a copy of this document will be served on all parties of record on August 22, 2016, in accordance with 16 TAC § 22.74.



Jason Haas