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Item Number: 25

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FORMAL COMPLAINT OF KER-SEVA
LTD. AGAINST THE CITY OF FRISCO,
TEXAS

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BEFORE THE
PUBLIC UTILITY COMMISSION
OF TEXAS

**COMPLAINANTS' MOTION TO COMPEL RESPONSES TO REQUESTS FOR
INFORMATION AND REQUESTS FOR ADMISSION**

COMES NOW, Ker-Seva, Ltd., ADC West Ridge, L.P.¹ and Center for Housing Resources, Inc. (hereinafter, "Complainants") and file this Motion to Compel Responses to Requests for Information and Requests for Admission, pursuant to PUC Procedural Rule 22.144 and would respectfully show as follows:

Ker-Seva, Ltd. filed the Original Complaint under Texas Water Code §§ 13.250 and 13.254 and 16 Texas Administrative Code §§ 22.85 and 24.114 requesting that the Commission order the City of Frisco, Texas ("Frisco"), to provide continuous and adequate water and sewer service to its property located at 9331 Westridge Boulevard (the "Property") on which an affordable-housing complex was planned.² After purchasing the Property, ADC West Ridge, L.P. and the sole member/manager of its general partner, Center for Housing Resources, Inc., joined in Ker-Seva Ltd.'s complaint in the Amended Complaint and Second Amended Complaint filed on June 17 and July 1, respectively.³

On June 30, Complainants filed and served their First Set of Requests for Information and Requests for Admission on Frisco. Complainants' requests seek information related to the

¹ It was recently brought to counsel's attention that ADC West Ridge, L.P. has been incorrectly referred to as ADC West Ridge Villas, L.P. throughout this proceeding.

² Complaint (April 19, 2016).

³ Amended Formal Complaint (June 17, 2016); Second Amended Formal Complaint (July 1, 2016). Any pleading may be amended at any time pursuant to 16 Tex. Admin. Code § 22.76. There is no prohibition of adding parties by amending the pleading where such parties are appropriate complainants. *See id.*

provision of water and sewer service by Frisco in the area surrounding the Property and seek information directly related to Frisco's decisions refusing to provide service to the Property. Complainants' requests are targeted to information relevant to the subject matter of this proceeding. After discussing the requests with Frisco, Complainants agreed to narrow the scope of certain requests. In spite of these efforts, Frisco filed Objections to Complainants' requests on July 11, 2016, pursuant to 16 Tex. Admin. Code § 22.144(d).⁴ This Motion to Compel is timely filed pursuant to 16 Tex. Admin. Code §§ 22.144(e) and 22.4.⁵

Frisco first incorporates its Motion for Protective Order into its objections and lays out two global objections which repeat its arguments from its Motion for Protective Order.⁶ Frisco repeats each of these global objections in response to each Request for Information and Request for Admission propounded by Complainants. First, Frisco argues that Complainants' discovery is irrelevant because the PUC has not confirmed its jurisdiction and because it has not yet issued a Preliminary Order identifying the issues to be addressed by the State Office of Administrative Hearings' administrative law judge. Second, Frisco argues that because the PUC has not granted interventions for ADC West Ridge, L.P. and Center for Housing Resources, Inc. any requests by these entities are beyond the scope of discovery. By incorporating its Motion for Protective Order, Frisco incorporates the affidavit of a Frisco employee that production will place an undue burden on Frisco when the scope of the issues to be addressed are undefined.

Complainants' incorporate their response to Frisco's Motion for Protective Order herein. Because there is no legitimate question regarding the PUC's jurisdiction over the complaint and

⁴ Frisco's Objections (July 11, 2016). It is notable that Frisco has already refused to provide information in response to public information act requests on the grounds that it is involved in "litigation" – this PUC proceeding – but now refuses to provide the same information through discovery in this proceeding on the grounds that this proceeding is illegitimate. This is a clear attempt by Frisco to continue to delay Complainants' affordable-housing project.

⁵ 16 Tex. Admin. Code §§ 22.144(e) and 22.4 ("TAC").

⁶ Frisco's Motion for Protective Order (July 11, 2016).

because Complainants' requests are targeted to the subject matter of the proceeding, there is no need to wait for a Preliminary Order from the PUC before propounding discovery. Discovery is intended to be broad and encompasses anything "relevant to the subject matter in the proceeding."⁷ There is no requirement that discovery is limited to the specific issues identified by the PUC in a preliminary order. The subject matter of this proceeding is the refusal to provide water and sewer service by Frisco to the Property. Complainants' requests are relevant to this matter. Complainants' requests are also targeted, and Complainants narrowed the scope of their requests in cooperation with Frisco. Therefore, the requests do not present an "undue burden" on Frisco. To Frisco's second point, after ADC West Ridge, L.P. and Center for Housing Resources purchased the Property, these entities were added as parties through the Amended Complaint and Second Amended Complaint. As complainants, they are not required to intervene.⁸ Furthermore, the requests are propounded equally by Ker-Seva, Ltd., the original complainant in this case, and therefore Frisco's objection is moot.

Because Frisco's objections are without merit, Frisco's objections should be overruled. Frisco should be compelled to respond to Complainants' requests in a timely manner.

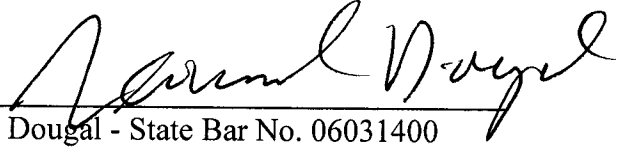
WHEREFORE, PREMISES CONSIDERED, Complainants respectfully request that Frisco be compelled to respond to Complainants' Requests for Information and Requests for Admission.

⁷ 16 TAC § 22.141(a).

⁸ 16 TAC §§ 22.2, 22.104(a). Out of an abundance of caution, ADC West Ridge Villas, L.P. and Center for Housing Resources, Inc. have filed a Motion to Intervene. *See* Motion to Intervene (July 13, 2016).

Respectfully submitted,

JACKSON WALKER L.L.P.

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CERTIFICATE OF SERVICE

I hereby certify that the above and foregoing document was served as shown below on
this 15th day of July 2016:

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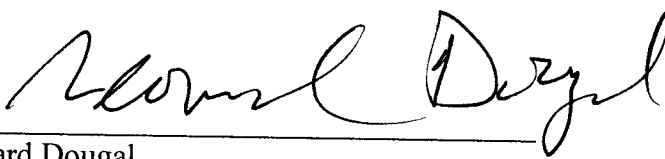
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