

Control Number: 45870



Item Number: 62

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

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PUBLIC UTILITY COMMISSION
OF TEXAS
FILING CLERK

**KER-SEVA, LTD., ADC WEST RIDGE, L.P. AND CENTER FOR HOUSING
RESOURCES, INC.'S MOTION TO COMPEL AND RESPONSE TO OBJECTIONS OF
THE CITY OF FRISCO**

TO THE HONORABLE ADMINISTRATIVE LAW JUDGES:

Ker-Seva, Ltd., ADC West Ridge, L.P. and Center for Housing Resources, Inc. ("Complainants") file this Motion to Compel and Response to Objections of the City of Frisco to Complainants' Third Set of Requests for Information and Requests for Admission, and in support thereof, would respectfully show as follows:

On October 28, 2016, the City of Frisco, Texas ("Frisco") filed Objections to Complainants' Third Set of Requests for Information ("RFIs") and Requests for Admission. This Motion to Compel and Response to Objections is timely filed.¹

RFI No. 71: Please produce a map identifying the location of the Rowlett Sanitary Sewer Interceptor Line and the location of the City of Frisco metering station and tap as described in the Interlocal Agreement attached as Exhibit "B" hereto.

RFI No. 72: Please produce a map identifying the location of the City of Frisco's Pont or Points of Delivery as defined in Section 6 of the water supply agreement attached hereto as Exhibit "C."

RFI No. 73: [AMENDED AS AGREED] Please produce all documents relating to any agreements currently in effect between Frisco and any other person or entity which relates to the use of a water line not owned by the City of Frisco or provides authorization for use of any water lines.

RFI No. 74: Please produce all documents identifying Frisco's existing water lines, whether located within Frisco's CCN or outside. For purposes of this

¹ 16 Tex. Admin. Code § 22.144(e) ("TAC").

request, Frisco's "existing water lines" means any lines for which Frisco owns, operates, has authorization to use, or any portion is reserved to serve Frisco's needs, for provision of water service.

RFI No. 75: Please produce all documents identifying Frisco's existing sewer lines, whether located within Frisco's CCN or outside. For purposes of this request, Frisco's "existing sewer lines" means any lines for which Frisco owns, operates, has authorization to use, or any portion is reserved to serve Frisco's needs, for provision of sewer service.

Objection: The City objects to RFI Nos. 71-75 on the same grounds. Each request asks Frisco to identify items related to wholesale service it receives. Frisco objects to the request as it is overly broad and burdensome. This instant matter relates to retail water and sewer service. Thus the location of lines to convey wholesale sewer or received [sic] wholesale water service is wholly irrelevant to the retail issues referred to in the PUC's list of issues to be addressed.

While the parties' dispute centers on whether Frisco is refusing to provide retail water and sewer service to Complainants, Frisco's wholesale service is relevant. How Frisco receives water into its system and conveys sewer out of its system is relevant to determining how and where retail water and sewer service may be made available to applicants, like Complainants. Specifically, Frisco's wholesale service – and the locations of lines, points of delivery, and meters – is relevant to determining whether the existing infrastructure adjacent to – and stubbed out on – Complainants' property may be used to provide retail water and sewer service to Complainants. A request is relevant if it will lead to the discovery of evidence that has a tendency "to make the existence of any fact that is of consequence to the determination of the action more or less probable."² These requests may lead to the discovery of evidence that would tend to make the existence of facts related to Frisco's ability to provide water and sewer service to Complainants' property through existing infrastructure more or less probable.

In addition, these requests are narrowly tailored to specific documents identifying existing water and sewer lines in which Frisco has an interest and agreements related to such

²*In re National Lloyds Ins.*, 449 S.W.3d 486, 489 (Tex. 2014).

lines. They are not overly broad and unduly burdensome – for example, RFIs Nos. 71 and 72 identify exactly which lines and points of delivery Complainants seek to have identified on a map. Further, in discussions with counsel, Complainants agreed that in response to most of the requests a single map would suffice as long as that map identified the lines and points sought. Finally, counsel agreed that RFIs 74 and 75 could be limited to a three-mile radius from Complainants' property to further narrow the request. Even without these additional limitations offered by Complainants, these requests are narrowly tailored to seek relevant information and are not overly broad or unduly burdensome.

Because RFIs 71-75 seek only to have Frisco identify the location of existing water and sewer lines and any agreements related to those lines, these requests are not overly broad or unduly burdensome. Further, they are relevant and reasonably calculated to lead to the discovery of admissible evidence. For these reasons, Complainants request the Administrative Law Judges compel Frisco to respond to RFIs 71-75 and overrule Frisco's objections to RFIs 71-74.

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 4th day of November 2016:

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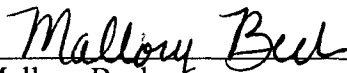
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