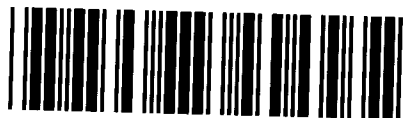




Control Number: 45870



Item Number: 9

Addendum StartPage: 0

COMPLAINT OF KER-SEVA LTD.  
AGAINST THE CITY OF FRISCO

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### COMMISSION STAFF'S STATEMENT OF POSITION

Commission Staff (Staff) of the Public Utility Commission of Texas (Commission) files its Statement of Position. Staff requests that the Commission refer this proceeding to the State Office of Administrative Hearings. In support of its Statement of Position, Staff states the following:

#### I. Background

Ker-Seva Ltd. (Ker-Seva) initiated this proceeding against the City of Frisco, requesting that the Commission order the City of Frisco to provide water and sewer service to certain property located in the City of Frisco's extraterritorial jurisdiction and certificated service area.<sup>1</sup> Ker-Seva asserts that the City of Frisco refuses to provide such service even though the Texas Water Code requires "any retail public utility that possesses or is required to possess a certificate of public convenience and necessity shall serve every consumer within its certified area and shall render continuous and adequate service within the area or areas."<sup>2</sup>

In response, the City of Frisco asserts that the Commission does not have jurisdiction over this proceeding. Additionally, the City of Frisco asserts that Ker-Seva has not complied with applicable ordinances regarding the procurement of water and sewer service.<sup>3</sup> Specifically, the City of Frisco asserts that Ker-Seva must pay the cost to extend water and sewer lines to its property prior to receiving water and sewer service from the City of Frisco.<sup>4</sup> According to the City

<sup>1</sup> See *Complaint of Ker-Seva Ltd. against the City of Frisco*, Docket No. 45870, Ker-Seva Complaint at 1-2 (Apr. 19, 2016).

<sup>2</sup> Tex. Water Code § 13.250(a).

<sup>3</sup> Docket No. 45870, City of Frisco Motion to Dismiss and Response at 2 (May 11, 2016).

<sup>4</sup> *Id.* at 4.

of Frisco, Ker-Seva is not a “qualified service applicant,”<sup>5</sup> as defined by the Commission’s substantive rules. Relatedly, the City of Frisco asserts that it does not have to provide service unless Ker-Seva complies with all of the applicable ordinances regarding the procurement of water and sewer service.<sup>6</sup>

## **II. Statement of Position**

Based on the assertions in Ker-Seva’s complaint and the City of Frisco’s response, Staff has determined that there are factual disputes that need to be adjudicated. Given these factual disputes, Staff requests that the Commission refer this proceeding to the State Office of Administrative Hearings.<sup>7</sup>

## **III. Conclusion**

Staff requests that the Commission refer this proceeding to the State Office of Administrative Hearings.

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<sup>5</sup> A “qualified service applicant” is defined as “an applicant who has met all of the retail public utility’s requirements contained in its tariff, schedule of rates, or service policies and regulations for extension of service . . . .”). 16 Tex. Admin. Code § 24.85(a). A “retail public utility” is defined as: “Any person, corporation, public utility, water supply or sewer service corporation, municipality, political subdivision or agency operating, maintaining, or controlling in this state facilities for providing potable water service or sewer service, or both, for compensation.” 16 Tex. Admin. Code § 24.3(58).

<sup>6</sup> Docket No. 45870, City of Frisco Reply at 1 (Jun. 2, 2016).

<sup>7</sup> See generally 16 Tex. Admin. Code § 22.207.

Date: June 8, 2016

Respectfully Submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS  
LEGAL DIVISION**

Margaret Uhlig Pemberton  
Division Director  
Legal Division

Stephen Mack  
Managing Attorney  
Legal Division



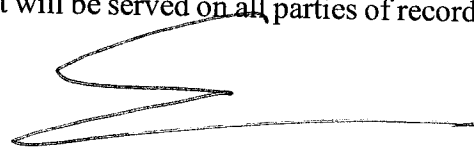
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**DOCKET NO. 45870**

**CERTIFICATE OF SERVICE**

I certify that a copy of this document will be served on all parties of record on June 8, 2016,  
in accordance with 16 TAC § 22.74.



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Sam Chang