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SOAH DOCKET NO. 473-17-0529.WS
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PUBLIC UTILITY COMMISSION
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COMPLAINT OF PLAYA VISTA § BEFORE THE STATE OFFICE
CONROE, A CONDOMINIUM §
ASSOCIATION, INC. AGAINST C&R § OF
WATER SUPPLY, INC. §
§ ADMINISTRATIVE HEARINGS

**C&R WATER SUPPLY, INC.'S MOTION TO STRIKE COMMISSION STAFF'S RESPONSE
TO C&R WATER'S OBJECTIONS TO THE DIRECT TESTIMONY OF
REGINA LEE ON BEHALF OF PLAYA VISTA**

COMES NOW, C&R WATER SUPPLY, INC. ("C&R WATER SUPPLY") and hereby files this Motion to Strike the Commission Staff's Response to C&R WATER SUPPLY's Objections to the Direct Testimony of Regina Lee on Behalf of Playa Vista, and in support hereof would respectfully show as follows:

1. REGINA LEE has entered her appearance in this case as the representative for the Complainant PLAYA VISTA CONROE ("PLAYA VISTA") as permitted by applicable PUBLIC UTILITY COMMISSION of TEXAS ("PUC") rules.

2. Pursuant to applicable PUC Rule, 16 Tex. Admin. Code §22.2(10) the authorized representative of a person or party is that person or persons who enter an appearance on behalf of a party or person seeking to be a party or otherwise participate in a proceeding. At no time has the PUC nor its Legal Staff entered an appearance on behalf of PLAYA VISTA in this case as required by PUC Rule 16 Tex. Admin. Code §22.101(a) if the PUC and its Legal Staff intend to represent PLAYA VISTA in this case, and therefore, cannot file pleadings on its behalf. C&R WATER SUPPLY, pursuant to 16 Tex. Admin. Code §22.101(a) hereby requires that the Honorable Administrative Law Judge ("ALJ") require that PUC and its Legal Staff submit grounds and proof that the PUC Legal Staff has the authority to file pleadings on behalf of PLAYA VISTA in this case.

3. Moreover, the PUC and its Legal Staff cannot enter an appearance on behalf of PLAYA VISTA, because neither the PUC nor its Legal Staff can give assurance that a conflict will not arise between the interests of PLAYA VISTA and the PUC and/or the public in general and those persons whom the PUC is

bound by law to protect in this proceeding. The PUC's Legal Staff is making the presumption that the interests of PLAYA VISTA in this case are the same as those of the PUC and the public in general. This is a false presumption and one that cannot be supported by evidence by the PUC Legal Staff. During the course of this proceeding the interests of PLAYA VISTA and the PUC itself and/or the public in general whom the PUC is legally bound to protect my conflict, and this potential conflict is grounds to deny the PUC and its Legal Staff from filing pleadings on behalf of PLAYA VISTA in this case.

4. Pursuant to the Texas Disciplinary Rules of Professional Conduct §1.02 a lawyer is bound by the decisions of his or her client concerning the objectives and general methods of representation, and whether to accept an offer of settlement of a matter. Neither the PUC nor its legal Staff can let PLAYA VISTA make decisions about the issues in this case if such decisions will be in conflict with either the public welfare and common good or with those whom the PUC is bound to protect by applicable law and rules. Since neither the PUC nor its legal Staff can give assurance that a conflict of interest may not arise in the course of representing PLAYA VISTA, the PUC and its legal Staff are prohibited from filing pleadings on behalf of PLAYA VISTA or the legal Staff risks a violation of Texas Disciplinary Rules of Professional Conduct §1.06 which prohibits attorneys from being engaged in a conflict of interest with the interests of their client, the PUC.

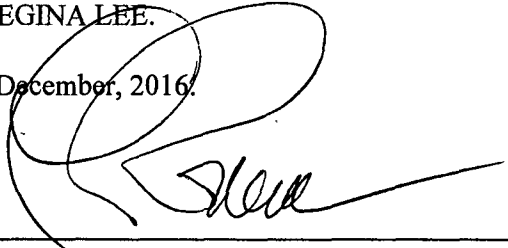
5. Although the PUC legal Staff may claim that they are acting in the "public welfare" in filing pleadings supporting the pleadings of PLAYA VISTA, this is a groundless claim in that it is merely an attempt to evade the requirements of the PUC rule that requires a representative of a party in a case to file an appearance on that party's behalf. Further, permitting pleadings filed by the PUC Legal Staff in favor of PLAYA VISTA poses as serious risk that the PUC and its legal Staff are engaged in actions that will lead to a conflict of interest, which would not only require the PUC legal Staff to withdraw from these proceedings, but the PUC may itself be forced to lose jurisdiction over these and other proceedings.

6. Ms. LEE is the only person who has entered an appearance on behalf of PLAYA VISTA in this

case, and she has filed a response to C&R WATER SUPPLY's Objection to her testimony. To permit the PUC and its Legal Staff to also file pleadings on behalf of PLAYA VISTA violates applicable PUC rules and the rules of the Texas State Bar.

WHEREFORE, based on the above, C&R WATER SUPPLY, INC. requests that the Honorable Administrative Law Judge strike the Response filed by the PUC Legal Staff to C&R WATER SUPPLY, INC.'s Objections to the Direct Testimony of REGINA LEE.

Respectfully submitted this 17th day of December, 2016.

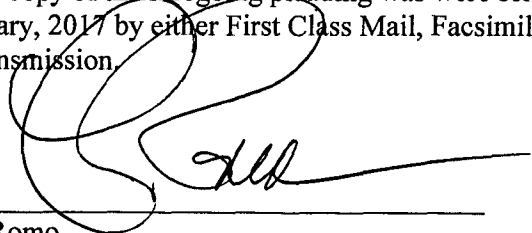


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FOR C&R WATER SUPPLY, INC.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing pleading was served on the attached Service List on the 17th day of February, 2017 by either First Class Mail, Facsimile Transmission, hand delivery, or electronic transmission.



Les Romo

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SERVICE LIST

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