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SOAH DOCKET NO. 473-17-2457.WS
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**APPLICATION OF SUBURBAN
UTILITY COMPANY, INC. FOR
AUTHORITY TO CHANGE RATES**

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**STATE OFFICE OF
ADMINISTRATIVE HEARINGS**

**COMMISSION STAFF'S RESPONSE IN SUPPORT OF OPUC'S MOTION
TO COMPEL RESPONSES TO ITS THIRD RFIS TO SUBURBAN**

COMES NOW the Staff ("Staff") of the Public Utility Commission of Texas ("Commission"), representing the public interest, and files this Response.

Staff has reviewed Suburban Utility Company, Inc.'s ("Suburban") objections to the Office of Public Utility Counsel's ("OPUC") Requests for Information ("RFIs") 3-12, 3-13, 3-15, and 3-16 and OPUC's motion to compel responses to those RFIs.¹ Generally, the issues raised by Suburban and OPUC involve whether the Commission should compel discovery of information necessary to assess transactions between Suburban and its affiliates. Staff supports OPUC's motion to compel for the reasons discussed below.

The Commission is granted broad jurisdiction over the transactions between affiliates of retail public utilities, "including access to all accounts and records of those affiliated interests relating to such transactions."² This jurisdiction is necessary, as the Texas Water Code sets out strict requirements for the recovery of affiliate expenses.³ Further, Suburban is the appropriate

¹ Suburban Utility Company, Inc.'s Objections to Office of Public Utility Counsel's Third Request for Information (Mar. 14, 2017); Office of Public Utility Counsel's Motion to Compel Response to Third Request for Information to Suburban Utility Company, Inc. (Mar. 20, 2017) ("OPUC's Motion to Compel").

² The Commission has jurisdiction over affiliated interests having transactions with utilities under the Commission's jurisdiction to the extent of access to all accounts and records of those affiliated interests relating to such transactions, including but in no way limited to accounts and records of joint or general expenses, any portion of which may be applicable to those transactions. Tex. Water Code § 13.341 (West 2008 & Supp. 2016) ("TWC").

³ TWC § 13.185(e).

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party in this proceeding on which to serve these discovery requests because the same people are principals of Suburban and its affiliates.⁴

Suburban's objections seek to create a precedent that may impair the Commission's ability to assess affiliate transactions generally. Staff respectfully requests that the presiding officer grant OPUC's motion to compel and overrule Suburban's objections.

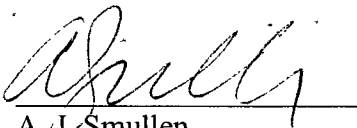
Date: March 21, 2017

Respectfully Submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS
LEGAL DIVISION**

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⁴ OPUC's motion establishes that Mitchell and Michael Martin are the principals of Suburban and its affiliates. OPUC's Motion to Compel at 5-6. Under the Commission's rules, discovery is properly served on a person if the material sought is within that person's constructive or actual possession, custody, or control. 16 Tex. Admin. Code § 22.141(a). A person has possession, custody, or control of material as long as the person has a superior right to compel the production from a third party and can obtain possession of the document or tangible thing with reasonable effort. *Id.*

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CERTIFICATE OF SERVICE

I certify that a copy of this document will be served on all parties of record on March 21, 2017 in accordance with 16 TAC § 22.74.

A handwritten signature in black ink, appearing to read 'A. J. Smullen', is written over a horizontal line.

A. J. Smullen