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SOAH DOCKET NO. 473-18-1093.WS
PUC DOCKET NO. 47275

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APPLICATION OF THE COMMONS § BEFORE THE STATE OFFICE
WATER SUPPLY, INC. FOR § OF
AUTHORITY TO CHANGE RATES § ADMINISTRATIVE HEARINGS

COMMISSION STAFF'S MOTION TO COMPEL

COMES NOW the Staff of the Public Utility Commission of Texas (Staff), representing the public interest, and files this Motion to Compel and would show the following:

I. BACKGROUND

On June 30, 2017, The Commons Water Supply, Inc. (The Commons) filed an application for a Class B rate and tariff change. More than 10% of the ratepayers served by The Commons filed protests, and the docket was referred to the State Office of Administrative Hearings (SOAH) on September 18, 2017. A prehearing conference was held on November 9, 2017, and no additional parties intervened.

In SOAH Order No. 2, the SOAH Administrative Law Judge adopted the parties' agreed procedural schedule, which set a deadline of five business days for all responses to discovery. Staff RFI Nos. 5-1 through 5-9 were received by The Commons on December 4, 2017. Staff agreed to extend the response deadline to December 12, 2017, and Staff received The Commons responses—along with its objections to Staff RFI No. 5-8—on that date.

Pursuant to 16 Tex. Admin. Code § 22.144(e) (TAC), a party seeking discovery must file a motion to compel no later than five working days after an objection is received. Five working days after December 12, 2017, is December 19, 2017. Therefore, this pleading is timely filed.

II. ARGUMENT

Staff respectfully requests that The Commons be compelled to respond to Staff RFI No. 5-8, which requested the production of balance sheets and income statements for the years 2015 and 2016 prepared for Signorelli Holdings, LTD (SH, LTD) and all of the companies owned by SH, LTD. The Commons' objections assert that this request is overbroad, unduly burdensome, and not

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likely to lead to the discovery of admissible evidence. Staff disagrees because this information is critical to Staff's analysis of the \$150,000 in affiliate costs requested by The Commons, which is the largest operations and maintenance expense included in the application.

Operations and maintenance expenses are a major component of a utility's cost of service.¹ The Commons contracts with a third party for the day-to-day, onsite operations and maintenance of its water system and customer billing and requested a \$33,599 expense for this contract labor. In addition, the application requested a \$90,000 expense for management salaries and a \$60,000 expense for office salaries all of which was paid to an affiliate of The Commons called The Signorelli Company (Signorelli). In response to Staff RFI No. 5-7, The Commons stated that Signorelli is responsible for managing all of the subsidiaries of SH, LTD.² The response also provided a list of the 12 companies owned by SH, LTD in addition to The Commons and Signorelli.

The Commission's jurisdiction over affiliated interests extends to all accounts and records of the affiliated interest relating to transactions with a utility under the Commission's jurisdiction.³ Texas Water Code § 13.185(e) (TWC) sets forth the standard for evaluating payments to affiliated interests as follows:

Payment to affiliated interests for costs of any services, or any property, right or thing, or for interest expense may not be allowed either as capital cost or as expense except to the extent that the regulatory authority finds that payment to be reasonable and necessary. A finding of reasonableness and necessity must include specific statements setting forth the cost to the affiliate of each item or class of items in question and a finding that the price to the utility is no higher than prices charged by the supplying affiliate to its other affiliates or divisions for the same item or items, or to unaffiliated persons or corporations.

¹ 16 TAC § 24.31(b)(1)(A).

² Commons Water Supply, Inc.'s Responses to Commission Staff's Fifth Request for Information at 35 (Dec. 12, 2017).

³ 16 TAC § 24.24(a).

To determine whether the \$150,000 paid to Signorelli meets this standard, Staff propounded RFI Nos. 3-9, 3-10, and 3-14.⁴ In response to RFI Nos. 3-9 and 3-10, Staff received two invoices, which revealed nothing more than the fact that the \$60,000 and \$90,000 were paid to Signorelli in quarterly installments of equal amounts.⁵ The response to RFI No. 3-14 revealed that The Commons and Signorelli do not have a cost allocation manual or other written policy for allocating costs to affiliates and failed to provide any other information about the calculations used to make the allocations or the studies, comparisons, schedules or other documents supporting the assertion that the allocated costs meet the standard in TWC § 13.185(e).⁶ After conferring with counsel for The Commons, Staff was able to obtain the 2016 balance sheet for Signorelli and a spreadsheet showing that the allocations were based on the percentage of time spent on tasks related to The Commons by nine different Signorelli employees.⁷

In an attempt to get a more complete picture of the other companies Signorelli manages, as well as the specific types of management services it provides to The Commons, Staff posed RFI Nos. 5-1 through 5-9. The specific financial records requested in RFI No. 5-8 will show where The Commons falls in the revenue/expense scheme of the companies managed by Signorelli, which should correlate to the percentage of time/salary allocated to The Commons. Like all of the RFIs related to Signorelli and SH, LTD. and its subsidiaries, RFI No. 5-8 is calculated to lead to evidence fundamental to evaluating whether the \$150,000 affiliate expense is reasonable and necessary under TWC § 13.185(e). And answering this question is directly relevant to Issue Nos. 5 and 25 in the Commission's Preliminary Order for this proceeding.⁸ Furthermore, this expense

⁴ Commission Staff's Third Request for Information to The Commons Water Supply, Inc. at 6 (Nov. 13, 2017).

⁵ Commons Water Supply Inc.'s Responses to Commission Staff's Third Set Request for Information at 54-59 (Nov. 21, 2017) (Response to Staff's Third RFIs).

⁶ Response to Staff's Third RFIs at 64.

⁷ Commons Water Supply, Inc.'s Second Supplemental Response to Commission Staff's Third Set Request for Information at 65-70 (Dec. 14, 2017).

⁸ See Preliminary Order at 2 ("What is the reasonable and necessary cost of providing service?"), 4 ("Has the utility made any payments to affiliates? a. For affiliate transactions that affect the cost of service, are these transactions reasonable and necessary? b. For all affiliated transactions affecting the cost of service, what are the costs to the affiliate of each item or class of items in question, and is the price for each transaction no higher than prices

comprises 31% of the total \$476,696 requested for operations and maintenance expenses, and it is about five times the amount requested for contract labor. The contract labor expense covers the costs associated with the direct provision of service to the ratepayers, and The Commons has not explained why overseeing the contractor costs significantly more than actually serving its customers.

The discovery sought is relevant to the subject matter of this docket, is not privileged and is reasonably calculated to lead to the discovery of admissible evidence.⁹ This discovery will assist Staff in making a fully-informed evaluation of affiliate costs and is essential to Staff's role in representing the public interest in this proceeding.

III. CONCLUSION

Staff has negotiated with counsel for The Commons in an attempt to reach an agreement about other documents or information that may satisfy RFI No. 5-8, but these negotiations have been unsuccessful. Therefore, Staff respectfully requests the entry of an Order granting this motion and compelling The Commons to respond to Staff RFI No. 5-8 for the reasons discussed above.

charged by the supplying affiliate to its other affiliates or divisions for the same item or items, or to unaffiliated persons or corporations?") (Oct. 11, 2017).

⁹ Tex. R. Civ. Proc. 192.3

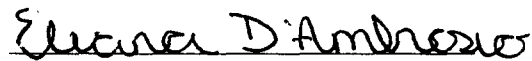
Dated: December 19, 2017

Respectfully Submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS
LEGAL DIVISION**

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CERTIFICATE OF SERVICE

I certify that a copy of this document will be served on all parties of record on December 19, 2017, in accordance with 16 TAC § 22.74.


Eleanor D'Ambrosio