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APPLICATION OF COMMONS § PUBLIC UTILITY COMMISSION
WATER SUPPLY, INC. FOR §
AUTHORITY TO CHANGE RATES § OF TEXAS

**COMMONS WATER SUPPLY, INC.'S RESPONSES TO
COMMISSION STAFF'S MOTION TO COMPEL**

COMES NOW, Commons Water Supply, Inc. ("Commons"), and files this Response to Commission Staff's ("Staff") Motion to Compel. In support of this motion, Commons respectfully shows as follows:

Introduction

Commons filed its objections to RFI 5-8 on December 12, 2017.¹ On December 19, 2017, Staff filed its motion to compel.² This response is timely filed within five working days of Staff's motion to compel.³ For the reasons discussed below, the information Staff seeks regarding financial information from all of Commons' affiliates is not relevant to whether Commons' affiliate allocations are reasonable and necessary, nor is it likely to lead to discovery of such information. Moreover, the request is overly broad because it is not reasonably tailored to lead to the discovery of information relevant to the affiliate transaction standard.

RFIs

STAFF 5-8 Please provide balance sheets and income statements for the years 2015 and 2016 prepared for Signorelli Holdings, LTD. and each of the companies listed in the response to Staff RFI No. 5-7.

OBJECTION:

Commons has negotiated in good faith with staff to reach an agreement regarding its objection to this RFI, but has been unable to do so. Commons objects to this RFI because it is overbroad and unduly burdensome. Commons further objects because it is not relevant to the issues in this lawsuit, nor likely to lead to the discovery of admissible evidence.

¹ Docket Item No. 389.
² Docket Item No. 398.
³ 16 TAC 22.144(f).

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Arguments Supporting Objection

Contrary to Staff's assertions, balance sheets and income statements for Commons' affiliates would not lead to relevant information regarding the reasonableness of the salary expense allocations for Commons. Commons' salary expense allocations are based on the amount of time the employees of the management company actually spend on Commons' matters, which is the appropriate direct allocation method for affiliate transactions. Commons has provided those allocations, and has provided additional information regarding the specific tasks each employee does for Commons.

Staff argues that income statements and balance sheets would "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."⁴ Staff is apparently under the mistaken belief that revenue should be the basis of allocation of salaries, rather than actual time spent on specific tasks for specific companies. No doubt, had Commons simply allocated based on the revenues of the companies managed by Signorelli, Staff would argue that such an allocation method is completely arbitrary and fails to meet the affiliate transaction standard. Such an allocation method would result in salary costs of all Signorelli employees allocated to Commons, rather than only the nine employees that actually spend time on Commons' matters. Moreover, certain companies of Signorelli may generate large amounts of income, but require very little management and oversight. For example, Valley Ranch, which involves lot sales, and generates substantial income, requires a large amount of engineering work, which is contracted to a third party, but very little management and accounting as the engineers review and approve work orders and oversee the design and management of the development. It would be inequitable to allocate salary costs to this entity based solely on revenue of the company rather than on actual time spent working on specific tasks by specific employees. On the other hand, Commons does not have third parties to oversee the need for capital improvements and expansions. This is done by actual management personnel at Signorelli responsible for these tasks. Commons also does not have third parties to oversee regulatory requirements or overall financial strategy of the company. Commons does not have third party personnel to handle accounts payable or customer service issues. The employees at Signorelli that handle these responsibilities have allocated their salaries based on a percentage of their actual time spent on Commons' tasks. Staff cites to no authority

⁴ See Staff's Motion to Compel at p. 3.

that the revenue of affiliates is a reasonable method to allocate affiliate costs. In fact, it is contrary to this Commission's standard, which requires (1) a specific finding of the reasonableness and necessity of each item or class of items allowed; and (2) a finding that the price to the electric utility is not higher than the prices charged by the supplying affiliate to its other affiliates or divisions or to a nonaffiliated person for the same item or class of items.⁵ As for the first standard, an allocation based simply on revenues is not reasonable. Moreover, allocation of costs to Commons based simply on revenues could result in costs being allocated for employees that do not do any work for Commons; thus, such an allocation would not be reasonable or necessary. As for the second factor, reviewing income statements and balance sheets would in no way shed any light on whether Signorelli was charging more to Commons than to its other affiliates or divisions or to a nonaffiliated person for the same item or class of items during the test year. For this reason, this request is overly broad. Should Staff seek discovery on the issue of whether Signorelli is charging more to Commons than other affiliates, it should seek discovery specifically tailored to the salary costs of the employees doing work for Commons and whether the same salary amount was used for other affiliates. In fact, had Staff sought such specifically tailored discovery, it would reveal that Signorelli actually charges Commons *less* than other affiliates for the salary costs of employees working on Commons' tasks.

For these reasons, Commons asserts that Staff has not proffered any basis upon which the income statements and balance sheets of affiliate companies is relevant to the reasonableness of affiliate transactions. Staff relies on a completely unreasonable, unsupported and arbitrary method of allocation affiliate costs to support its motion to compel. Commons respectfully requests that the Commission deny Staff's motion to compel on this issue.

⁵ Texas Water Code Sec. 13.185(e).

Respectfully submitted,

COZEN O'CONNOR

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**ATTORNEYS FOR COMMONS WATER
SUPPLY, INC.**

CERTIFICATE OF SERVICE

I, Tammy Shea, certify that a copy of this document was served on all parties of record in this proceeding on December 28, 2017, by regular mail, facsimile transmission, e-mail or hand-delivery.

/s/ Tammy Shea

Tammy Wavle-Shea