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DOCKET NO. 49337

FILED

**APPLICATION OF WOODLAND
HILLS WATER, LLC FOR
AUTHORITY TO CHANGE RATES**

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**PUBLIC UTILITY COMMISSION
OF TEXAS**

2019 007
MAY 2 4 3

**COMMISSION STAFF’S MOTION TO COMPEL WOODLAND HILLS WATER, LLC
TO RESPOND TO STAFF’S FIRST REQUEST FOR INFORMATION**

COMES NOW the Staff of the Public Utility Commission of Texas (Staff), representing the public interest and files this Motion to Compel pursuant to 16 Texas Administrative Code (TAC) § 22.144(e). In support thereof, Staff shows the following:

I. BACKGROUND

On March 4, 2019, Woodland Hills Water, LLC (Applicant) filed an application with the Public Utility Commission of Texas (Commission) for a rate change under Certificate of Convenience and Necessity (CCN) No. 12388 in Montgomery County.

On September 4, 2019, Staff filed its First Requests for Information (RFI) Question Nos. 1-1 Through 1-14. Specifically, Staff’s RFI Question 1-8 (Question 1-8) asked the Applicant to “Please provide the complete tax returns which reflect the applicant’s federal taxable income for the years 2012-2018.”

On September 30, 2019, Applicant filed its responses to Staff’s First RFI. Within this response, Applicant stated that it objected to Question No. 1-8. Under Texas Administrative Code 22.144(e), “a party seeking discovery shall file a motion to compel no later than five working days after the objection is received.” Therefore, this pleading is timely filed.

II. GOOD FAITH NEGOTIATIONS

Staff has conferred with counsel for Applicant, Mr. John Stover, with regard to Applicant’s objections to Question No. 1-8. Upon receiving notice from Applicant’s counsel that Applicant intended to object to Question No. 1-8, Staff made an offer in compromise, but Applicant did not respond.

III. ARGUMENT

Overall Legal Standard

A party may obtain discovery regarding any matter that is not privileged and is relevant to the subject matter of the pending action, and may obtain discovery of information that is reasonably calculated to lead to the discovery of admissible evidence.¹ Additionally, to the extent a party has an objection to a discovery request, a party must state specifically the legal or factual basis for its objection and the extent to which the party is refusing to comply with the discovery request.² Further, the Commission's procedural rules also require that "[a]ll argument upon which the objecting party relies shall be presented in full in the objection."³

Response to Relevance Objection

Applicant made a relevance objection to Staff's RFI Question 1-8 "because the federal tax returns are not material or relevant to the issues in this case. The tax returns will not lead to the discovery of relevant information and is an unwarranted invasion of the privacy of Applicant. The tax returns do not contain information that is material or relevant to this proceeding."⁴

Staff's RFI Question 1-8 seek information that is clearly relevant to this proceeding. Staff requested this information in part to calculate any impacts of the Tax Cuts and Jobs Act of 2017 on federal taxes included in the Applicant's cost of service as required by the Commission's direction in the Second Order in Docket No. 47945, which states in part:

"The Commission directs the Commission Staff to review each class B water and sewer investor-owned utility in Texas that has more than 2300 connections and, with input from interested stakeholders, and on a case-by-case basis, determine the appropriate mechanism to adjust those utilities rates to reflect the changes under the newly enacted federal income tax law."⁵

If Applicants are concerned about privacy, all such documents may be filed confidentially.

¹ Tex. R. Civ. Proc. 192.3; 16 TAC § 22.141(a).

² Tex. R. Civ. Proc. 193.2(a).

³ 16 TAC § 22.144(d)(1).

⁴ Woodland Hills Water's Response to the Staff's First Request for Information at 3.

⁵ *Proceeding to Investigate and Address the Effects of Tax Cuts and Jobs Act of 2017 on the Rates of Texas Investor Owned Utility Companies*, Docket No. 47945, Second Order (August 30, 2018).

Without a ruling compelling Applicant to respond to Question 8-1, Staff will be unable to verify the Applicant's compliance with the Second Order in Docket No. 47945. Consequently, it would be feasible for the Applicant to collect more than its authorized return if, for example, accelerated depreciation and deferred taxes were being calculated under the previous tax code. If that is indeed the case, an adjustment to the revenue requirement would be required. However, as previously stated, Staff cannot verify this information without an order compelling Applicant to respond to Staff's RFI Question 1-8.

IV. CONCLUSION

Staff respectfully requests the entry of an order consistent with this pleading and overruling the Applicant's objections to Staff's First Requests for Information Question No. 1-8

October 1, 2019

**PUBLIC UTILITY COMMISSION OF
TEXAS LEGAL DIVISION**

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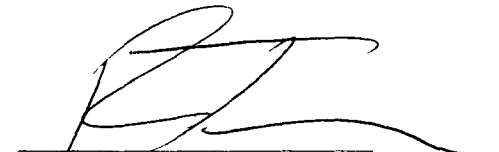


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CERTIFICATE OF SERVICE

I certify that a copy of this document will be served on all parties of record on October 1, 2019 in accordance with 16 TAC § 22.74.



Rustin Tawater