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COMPLAINT OF JOHN	SOAH DOCKET: 473-	PUBLIC UTILITY
BLALOCK AGAINST	21-1880.WS	COMMISSION OF
MERCY WATER		TEXAS
SUPPLY		
CORPORATION		

**JOHN BLALOCK’S RESPONSE TO COMMISSION STAFF’S RESPONSE
TO MERCY WSC’S MOTION FOR SUMMARY DECISION**

COMES NOW John Blalock (hereinafter “Mr. Blalock”) to respond to the response of the Commission Staff to Mercy Water Supply Corporation’s (hereinafter “Mercy”) Motion for Summary Decision:

I.

**MR. BLALOCK’S AWARENESS OF THE NECESSITY TO COMPLETE A
MEMBERSHIP APPLICATION FORM**

Commission Staff states, “... Mr. Blalock has not availed himself of the means to become a full member of Mercy WSC, a fact that he himself has admitted at multiple times during this proceeding.” and “Mr. Blalock has been aware of the necessity to complete a membership application form and pay the fees to become a member, both of which are required for membership under the Texas Water Code and Mercy WSC's tariff.”

As with Mercy, Commission Staff is leaving out Mercy's duty to act to inform Mr. Blalock of these requirements, which was not acted on in the 5 years after Reba Ivey's (hereinafter "Ms. Ivey") death in January of 2015. Mr. Blalock, prior to the Informal and Formal Complaints, was not made aware of Mercy's tariff or the full requirements required by said tariff. As such, Mr. Blalock would not have known about the provision allowing him to acquire an ownership interest in a membership, so he would not have been able to take advantage of that. As stated by Mr. Blalock in multiple filings, it would be unjust to victimize Mr. Blalock due to Mercy's failure to act. This fact is supported by no dispute of the fact that Mr. Blalock has inquired but was not informed by Mercy's Staff.

Had Mr. Blalock been aware of the requirements and the necessary paperwork required by Mercy's tariff, he would have filled it out. This has been stated multiple times, even when he filed the paperwork needed to open an account for temporary service at the start of the Formal Complaint process. Due to certain parts of Mr. Blalock's employment history (if needed, DD214 and DAC reports can be made available with appropriate time) it can be supported that he has a willingness to meet requirements set forth by policy/regulation/law. Some of which would be considered stringent by the average individual, such as filling out a log book every 4 (four) hours or less anytime whether he was under a load or not.

II.

THE VERBAL AGREEMENT/CONTRACT

It should be undisputed by all parties, that State Law overrules any Commission Rule or any statement in Mercy's Tariff. And, in turn, Federal Law overrules any State Law. Both Federal and State Law recognize verbal contracts being legally binding. And, one way to prove a legally binding verbal contract is to provide evidence that one party completed/met their requirements within the contract. Mr. Blalock has pointed to, or provided, evidence that shows that he met what was required of him in the verbal agreement between him and Mercy, through the records provided by Mercy. These same records also prove that Mercy was meeting the requirements of them for the contract. This verbal agreement is enforceable under the Texas Statute of Frauds as: (1) as each bill is paid within a year; (2) it is not a contract that involves a marriage or non-marital cohabitation; (3) it is not a contract to pay another individual's debt as Mr. Blalock is the one using the service, the account is in his mother's name; (4) it is not a lease that is for more than one year; (5) it is not a contract for a sale of real estate; (6) it is not a loan agreement for more than \$50,000; (7) it is not a contract for medical care; and (8) it is not a contract for commission from certain oil, gas, or mineral sales. As it does not meet any of the requirements for the contract to be in writing, it is enforceable. And, upon entering this agreement, Mercy, through their staff, waived their ability to use their tariff or the Texas Water Codes as justification to terminate

water service, as it would be a violation of the verbal agreement/contract to terminate water service as Mr. Blalock was paying any reconnection fees and late fees on top of the regular bill.

III.

THE LEGAL BASIS OF THIS COMPLAINT

TWC 13.250(b)(4) states, "...other similar reasons in the usual course of business." Mr. Blalock contends that breach of verbal agreements/contracts is not in the usual course of business for any corporation, let alone a water supply corporation such as Mercy. But, the use of verbal contracts/agreements are in use by corporations not just in the State of Texas, but across the country. As such, since the termination of water service would constitute a breach of contract on Mercy's behalf, it would nullify TWC 13.250(b)(4) as it would not be in the usual course of business. And, a contract cannot be dismissed unless both parties to the contract are notified and are in agreement that the contract has been completed.

IV.

COMMISSION STAFF'S CONTRADICTING STATEMENTS

Commission Staff in their response state that Mercy has demonstrated the absence of genuine issues of material fact and has met their burden for summary disposition. Commission Staff state this as a fact. If this was the case, Commission

Staff would not also be stating they support mediation, which would require for Commission Staff to have some belief based on evidence that Mercy has not fully met their burden.

V.

CONCLUSION

Commission Staff in their response to Mercy's MSD are not considering all possibilities that the evidence supports, claiming no contract/agreement exist despite not providing evidence to the contrary, not considering all applicable state and federal laws/policies, while also making contradicting statements on if Mercy has met their burden for an MSD.

RESPECTFULLY SUBMITTED BY,

/s/ John Blalock