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**DOCKET NO. 51224**

**COMPLAINT OF JOHN BLALOCK §  
AGAINST MERCY WATER SUPPLY §  
CORPORATION §**

**PUBLIC UTILITY COMMISSION  
OF TEXAS**

**COMMISSION STAFF'S STATEMENT OF POSITION**

**COMES NOW** the Staff (Staff) of the Public Utility Commission of Texas (Commission), representing the public interest, and files this Statement of Position in response to Order No. 2. In support thereof, Staff shows the following:

**I. BACKGROUND**

On August 27, 2020, John Blalock (Mr. Blalock or Complainant) filed a complaint against Mercy Water Supply Corporation (Mercy WSC) under 16 Texas Administrative Code (TAC) § 22.242 regarding water service.

Order No. 1, issued on August 31, 2020, established a deadline of September 4, 2020 for Staff to file a recommendation on whether water service should be restored to Mr. Blalock under 16 TAC § 24.155 during the pendency of this proceeding. Order No. 1 also established a deadline of September 24, 2020, for Staff to file a statement of position. On September 4, 2020, Staff filed a request for extension to allow Staff to further analyze whether water service should be restored to Mr. Blalock. Order No. 2, issued on September 8, 2020, granted Staff's request for extension and established a new deadline of October 1, 2020 for Staff to file its statement of position. Therefore, this pleading is timely filed.

**II. COMMENTS ON INFORMAL RESOLUTION COMPLIANCE**

The Commission's procedural rules state that "[a]ny affected person may complain to the commission...setting forth any act or thing done or omitted to be done by any person under the jurisdiction of the commission in violation or claimed violation of any law which the commission has jurisdiction to administer or of any order, ordinance, rule, or regulation of the commission."<sup>1</sup>

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<sup>1</sup> 16 TAC § 22.242(a).

Under the procedural rules, a complaint must be presented for informal resolution as a prerequisite to filing a formal complaint. Specifically, with a few defined exceptions, “[a] person must present a complaint to the commission for informal resolution before presenting the complaint to the commission.”<sup>2</sup>

Additionally, the procedural rules define the circumstances in which an informal resolution terminates. The Commission attempts to resolve informal complaints within 35 days of receipt.<sup>3</sup> The Commission shall notify the parties in writing regarding the status of the complaint at the conclusion of the 35-day period.<sup>4</sup> Thereafter, “[i]f the dispute has not been resolved to the complainant’s satisfaction within 35 days, the complainant may present the complaint to the commission.”<sup>5</sup>

Prior to filing this formal complaint, Mr. Blalock initiated an informal complaint against Mercy WSC with the Commission’s Customer Protection Division (CPD) on August 10, 2020.<sup>6</sup> Staff reviewed CPD records and confirmed that the informal complaint matches the parties and subject matter of this formal complaint. CPD concluded its investigation on August 24, 2020, whereby it notified both parties in writing regarding the status of the informal complaint. Therefore, Mr. Blalock has complied with the Commission’s informal complaint prerequisite prior to filing this formal complaint.

### **III. JURISDICTION**

The Commission’s procedural rules state that if a person receives water utility service within the limits of a city that has original jurisdiction over the water utility providing service, the person must present any complaint concerning the water utility to the city before presenting the complaint to the Commission. Staff has determined that the property at issue is located in an unincorporated area in San Jacinto County north of the City of Cleveland. Therefore, Staff

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<sup>2</sup> 16 TAC § 22.242(c).

<sup>3</sup> 16 TAC § 22.242(d).

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

<sup>6</sup> Complaint No. CP2020080355.

recommends that Mr. Blalock does not need to present his complaint to the City of Cleveland, and that the Commission has jurisdiction over this claim.

#### **IV. COMPLAINT**

Mr. Blalock asserts that Mercy WSC locked the water meter that supplied water service to his home, thus disconnecting his water service without notice.<sup>7</sup> Mr. Blalock lives at 1611 Bowen Loop, Cleveland, Texas 77328 (Northern Tract).<sup>8</sup> He asserts that in 1995, a right-of-way easement was granted, and the meter in question was installed on the adjacent property, 1601 Bowen Loop (Southern Tract). Mr. Blalock states that in or around March 2020, the Southern Tract was sold at foreclosure to Mr. Adrian Rodz. Mr. Blalock states that on August 5, 2020, he received a late notice on his water bill with a 10-day disconnection notice. He states that he paid the bill the same day at Mercy WSC's office. He also states that on the same day, a worker hired by Mr. Rodz broke a pipe connecting the water meter to Mr. Blalock's home on the Northern Tract. Mr. Blalock states that he fixed the broken pipe. He states that Mr. Rodz then turned the meter off, disconnecting water to Mr. Blalock's home. Mr. Blalock states that he turned the meter back on; however, after a few days Mercy WSC locked the meter without notice.<sup>9</sup>

Mr. Blalock requests relief in the form of Mercy WSC restoring his water service and putting the meter back in his use. In the alternative, Mr. Blalock requests that Mercy WSC install a new meter at no cost to him.<sup>10</sup>

#### **V. RESPONSE FROM MERCY WSC**

Mercy WSC responded to Mr. Blalock's complaint, asserting that Mercy WSC did not disconnect service to Mr. Blalock, because Mr. Blalock was never a legal customer of Mercy WSC.<sup>11</sup> Mercy WSC asserts that the meter in question was installed on the Southern Tract to serve

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<sup>7</sup> See Complaint at 1.

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

<sup>11</sup> Docket No. 51224, Mercy Water Supply Corporation Response to Complaint (Response) at 4 (Sep. 24, 2020).

the Southern Tract.<sup>12</sup> Mercy WSC states that the connection from the meter to the Northern Tract was constructed illegally and in violation of Mercy WSC's tariff.<sup>13</sup> Mercy WSC also asserts that the account Mr. Blalock used was that of Ms. Reba Ivey, the account owner who originally entered into the service agreement with Mercy WSC.<sup>14</sup> Mercy WSC asserts that it has never received a request for service for the Northern Tract, nor has it ever installed a meter to serve the Northern Tract. Mercy WSC also states that it has never received a request for a line extension on the meter, nor has it transferred Ms. Ivey's account to Mr. Blalock.<sup>15</sup>

Mercy WSC asserts that it received proof of ownership of the Southern Tract by Mr. Rodz.<sup>16</sup> Mercy also states that Mr. Rodz properly completed the paperwork to transfer the meter to his name and signed a service application and agreement with Mercy WSC to take ownership of the account associated with the meter on the Southern Tract. Mercy WSC states that after Mr. Rodz signed the application agreement and at Mr. Rodz's request, Mercy WSC shut off the meter on the Southern Tract.<sup>17</sup>

## **VI. STATEMENT OF POSITION**

As presented by Mr. Blalock and Mercy WSC, the facts in this case are in dispute. Rather than immediately recommending referral to the State Office of Administrative Hearings (SOAH), Staff requests additional time to conduct discovery to more fully develop the evidentiary record in this proceeding. Staff respectfully requests that a deadline of January 8, 2021 be established for Staff to file a supplemental statement of position after submission of discovery requests to Mr. Blalock and Mercy WSC and a review of responses to the same.

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<sup>12</sup> *Id.* at 5.

<sup>13</sup> *Id.* at 5-6.

<sup>14</sup> *Id.* at 4.

<sup>15</sup> *Id.*

<sup>16</sup> *Id.* at 6.

<sup>17</sup> *Id.* at 6-7.

## **VII. CONCLUSION**

Staff respectfully requests time to conduct discovery so it may collect the relevant documentation and information for the record.

Dated: October 1, 2020

Respectfully submitted,

### **PUBLIC UTILITY COMMISSION OF TEXAS LEGAL DIVISION**

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### **CERTIFICATE OF SERVICE**

I certify that, unless otherwise ordered by the presiding officer, notice of the filing of this document was provided to all parties of record via electronic mail on October 1, 2020, in accordance with the Order Suspending Rules, issued in Project No. 50664.

/s/ David Hoard  
David Hoard