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

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**PUBLIC UTILITY COMMISSION
OF TEXAS**
FILED IN CASE NO. 51224 ON
FILING CLERK

**MERCY WATER SUPPLY CORPORATION'S
MOTION TO COMPEL RESPONSE TO MERCY'S
FIRST REQUEST FOR INFORMATION TO COMPLAINANT**

COMES NOW Mercy Water Supply Corporation ("Mercy") and files this Motion to Compel Complainant to Respond to Mercy's First Request for Information. In support thereof, Mercy respectfully show as follows:

I. PROCEDURAL HISTORY

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

On October 1, 2020, Commission Staff ("Staff") filed a Statement of Position, recommending additional discovery and an extension to file a Supplemental Statement of Position. Mercy replied to the Staff's Statement of Position on October 6, 2020, recommending against additional discovery and an extension. On October 8, the Administrative Law Judge ("ALJ") issued Order No. 6, granting Staff's extension and requiring the Parties to propose a discovery schedule by October 23, 2020. On October 23, 2020, the Parties filed an Agreed Proposed Discovery Schedule and Limits, which the ALJ adopted on October 26, 2020 in Order No. 7.

On November 18, 2020, Mercy filed its First Request for Information to Complainant. On November 19, 2020, counsel for Mercy received an email that Mr. Blalock would not respond to all the requests for information made by Mercy (the "Objection"). While this Objection was not filed with the Commission, Mercy is treating it as an objection under Order No. 7 and the Commission Rules out of an abundance of caution. Five working days after November 19, 2020 is December 1, 2020. This pleading is timely filed.

**Mercy Water Supply Corporation's
Motion to Compel Response to Mercy's
First Request for Information to Complainant**

II. COMPLAINANT'S OBJECTION IS NOT PROPER AND SHOULD BE OVERRULED

Mercy requests the ALJ overrule Mr. Blalock's Objection for three separate reasons. First, the Objection was not filed with the Commission, as required by Commission Rules¹ and agreed to in the Parties' Agreed Proposed Discovery Schedule and Limits, which was adopted in Order No. 7.² Mercy filed its First Request for Information to Complainant on November 18, 2020. Commission Rules require an objection to be filed within ten calendar days of the request.³ Ten calendar days expired Saturday, November 28, 2020, and the next working day was Monday, November 30, 2020.⁴ Mercy does not intend to further address this argument in a separate section of the pleading because no timely filing was made and the time for filing an objection in accordance with the Commission Rules and Order No. 7 elapsed. Mr. Blalock's Objection is waived and should therefore be overruled.

Second, Mr. Blalock's Objection to Mercy's First RFI is general and is not tied to a specific RFI. As such, it is no objection at all. Mr. Blalock generally objects to an unknown number of the requests all at once, does not specifically identify any RFI to which he objects, and does not list the grounds for any question, as required by Commission Rules. Here, too, Mr. Blalock's Objection should be overruled.

Third, contrary to Mr. Blalock's belief, Mercy's RFI 1-1, which Mr. Blalock references as an example so Mercy will treat as a specific objection out of an abundance of caution, falls within the agreed limitations established in Order No. 7. This RFI is directly related to Mercy's service to the Northern and Southern Tract and is properly tailored in time. For these reasons, Mr. Blalock's Objection should be overruled.

¹ 16 Tex. Admin. Code § 22.144(d) (TAC).

² Order No. 7 at 2 (Oct. 26, 2020).

³ See 16 TAC § 22.144(d).

⁴ See *id.*

A. Mr. Blalock's Objection is General and Should Be Overruled as a Matter of Law.

Mr. Blalock's Objection to Mercy's First RFI is general and is not tied to a specific RFI. General objections that are not tied to a specific RFI are no objection at all. The Rules of Civil Procedure require a party to "state specifically the legal or factual basis for the objection and the extent to which the party is refusing to comply with the request."⁵ Commission Rules also states the RFI "to which an objection is being filed shall be stated and the specific grounds for the objection shall be separately listed for each question" and "[a]ll arguments upon which the objecting party relies shall be presented in full in the objection."⁶ Mr. Blalock's Objection fails to meet any of these requirements.

On November 19, 2020, Mercy received an email indicating that Mr. Blalock would not respond in full to Mercy's First Request for Information. As stated above, while this Objection was not filed with the Commission, Mercy is treating it as an objection under the Commission Rules out of an abundance of caution. Mr. Blalock's Objection states:

After reviewing the RFI, Mr. Blalock, my father, will only be answering the request within the RFI that he believes to be within the limitations for discovery requests set by Order NO. 7. Such questions as all the places he has lived since August 1 of 1995 are not within the aforementioned limitations, and will not be answered on the basis that they are not within the set limitations and would have no weight on the complaint before the PUC. Therefore, they should not have been asked.

This refusal to answer certain questions in not him not being forthcoming with information, but him wanting to stay within the rules of the Commission and within what the Judge has ordered. As noted by the fact that he has only requested information to do with the water service from Mercy WSC to the Northern and

⁵ Tex. R. Civ. P. 193.2(a).

⁶ 16 TAC § 22.144(d)(1).

Southern Tracts, and the facilities directly used to supply such service.⁷

Mr. Blalock fails to specifically identify any RFI he intends to object to within the Objection and also fails to separately list the grounds for each question. Instead, he generally objects to an unknown number of the requests all at once. The emailed Objection only partially identifies the text of Mercy's RFI 1-1 as an objectionable RFI. Mercy's RFI 1-1 states "Please identify the addresses, physical locations, and dates of residence for each place you lived between August 1, 1995 and March 17, 2020."⁸ However, Mercy is unable to respond with specificity to any other potential objection. Consequently, Mr. Blalock's general Objection to Mercy's RFIs is improper and should be overruled.

B. Mercy's RFI 1-1 is Tailored to Order No. 7 and Complainant's Objection Should be Overruled

While Mr. Blalock did not specifically identify RFI 1-1 in the Objection, because he used some of the language from RFI 1-1 as an example in his Objection, Mercy will address RFI 1-1 as if he had made a specific objection to RFI 1-1.⁹

Mercy's RFI 1-1 states:

Please identify the addresses, physical locations, and dates of residence for each place you lived between August 1, 1995 and March 17, 2020.

The Objection states that Mr. Blalock believes RFIs such as RFI 1-1 would not fall within the limitations of Order No. 7.¹⁰ This is untrue. Contrary to Mr. Blalock's belief, Mercy's RFI 1-1 is related and relevant to the service to the Northern and Southern Tract and is properly tailored

⁷ Nov 19, 2020 Email, Exhibit B (Nov. 19, 2020) ("Objection").

⁸ Mercy's First Request for Information to Complainant at 6 (Nov. 18, 2020).

⁹ See Objection, Exhibit B.

¹⁰ *Id.*

in time. Mercy therefore requests Mr. Blalock's Objection be overruled and he be compelled to respond to Mercy's RFIs.

Relevance in this proceeding is governed by the Commission Rules, Texas Rules on Civil Procedure, Texas Rules of Evidence, and the agreed limitations laid out in Order No. 7. Commission Procedural Rule § 22.221(a) states, "Parties may obtain discovery regarding any matter, not privileged or exempted under the Texas Rules of Evidence, the Texas Rules of Civil Procedure, or other law or rule, that is relevant to the subject matter in the proceeding."¹¹ Relevance is "liberally construed to allow the litigants to obtain the fullest knowledge of the facts and issues prior to trial," but it still must be "reasonably calculated to lead to the discovery of admissible evidence."¹²

Texas Rules of Evidence further explain information is "relevant" if it has "any tendency to make a fact more or less probable than it would be without the evidence."¹³ Discovery requests may nevertheless be denied if "no possible relevant, discoverable testimony, facts, or material to support or lead to evidence" that would support a claim or defense at issue in this case.¹⁴

Finally, Order No. 7 specifically tailored the scope of what may be relevant at this stage of Discovery by requiring "[a]ll discovery requests . . . be limited to Mercy Water Supply Corporation's service to the Northern and Southern Tracts and the facilities directly used to provide such service."¹⁵

Here, Mercy seeks information directly relevant to Mercy Water Supply Corporation's service to the Northern and Southern Tracts and the facilities directly used to provide such service. Specifically, Mercy served RFI 1-1 on Mr. Blalock for two purposes: First, to determine the residency history of Mr. Blalock for both the Northern and Southern Tracts, to include the timelines for such residency. The residency of these tracts during the specified time period, whether Mercy's water was used, and the means by which the Northern and Southern Tracts'

¹¹ *Id.* § 22.221(a) (emphasis added).

¹² *Ford Motor Co. v. Castillo*, 279 S.W.3d 656, 664 (Tex. 2009); Tex. R. Civ. P. 192.3(a).

¹³ Tex. R. Evid. 401.

¹⁴ *Castillo*, 279 S.W.3d at 664.

¹⁵ Order No. 7 at 2 (Oct. 26, 2020).

residents received water are all relevant to this proceeding and directly relate to Mercy's service to the Northern and Southern Tract. As such, Mercy's request is proper.

Second, Mercy served RFI 1-1 to determine whether Mr. Blalock was otherwise eligible or ineligible for Service or Membership based on his previous residency or account status. For example, Mr. Blalock repeatedly claims he was not able to transfer Ms. Ivey's account because of a previous balance on Ms. Ivey's account.¹⁶ While Mercy's Tariff specifically states "[d]elinquency in payment for service by a previous member or occupant of the premises to be served" is insufficient cause to refuse service, the individual's own delinquency on another account may be sufficient cause to deny service.¹⁷ Under Mercy's Tariff, if Mr. Blalock left an outstanding balance on an account in his name, his delinquency may be a barrier to transferring any Northern Tract Membership to Mr. Blalock. For these reasons, RFI 1-1 directly relates to Mercy's service to the Northern and Southern Tract as required by Order No. 7, and Mr. Blalock's Objection should be overruled.

Finally, Mercy specifically tailored the scope of the request from August 1, 1995, the month Ms. Ivey's account first opened, to March 17, 2020, when Mr. Rodz purchased the Southern Tract. This tailoring ensures Mercy's request is properly narrow, not overly broad, and complies with Order No. 7's restrictions. For all these reasons, Mercy requests the ALJ overrule Mr. Blalock's Objection and compel his response to Mercy's First RFIs.

III. CONCLUSION

Mercy respectfully requests the ALJ overrule Mr. Blalock's Objection and compel his response to Mercy's First RFIs for three distinct reasons. First, the Objection was not filed with the Commission, as agreed to and adopted in Order No. 7. Second, Mr. Blalock's Objection to Mercy's First Set of RFIs is general and is not tied to any specific RFI. Mr. Blalock generally

¹⁶ See, e.g., Mr. Blalock's Response to Mercy Water Supply Corporation's Reply to Staff's at 2 (Oct. 7, 2020).

¹⁷ Mercy Water Supply Corporation's Response to Complaint at 32 (Sept. 24, 2020), Exhibit A at 22.

objects to an unknown number of the requests all at once rather than specifically identifying which RFI he objects to and separately listing the grounds for each question as required by Commission Rules. As a result, his Objection is no objection at all. Third, Mercy's RFI 1-1, some of the text of which Mr. Blalock references as an example and therefore Mercy treats as a specific objection out of an abundance of caution, is properly related to Mercy's service to the Northern and Southern Tract and is tailored in time. For any and all of the reason described herein, Mr. Blalock's Objection should be overruled and he should be compelled to answer each of Mercy's First RFIs.

IV. PRAYER

For these reasons, Mercy respectfully requests the ALJ overrule Mr. Blalock's Objection and compel his response to Mercy's First Requests for Information to Complainant.

Respectfully submitted,

By:

Katelyn A. Hammes

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ATTORNEYS FOR MERCY WATER SUPPLY
CORPORATION

**Mercy Water Supply Corporation's
Motion to Compel Response to Mercy's
First Request for Information to Complainant**

CERTIFICATE OF SERVICE

I hereby certify that I have served or will serve a true and correct copy of the foregoing document via hand delivery, facsimile, electronic mail, overnight mail, U.S. mail and/or Certified Mail Return Receipt Requested to all parties on this the 1st day of December, 2020.

Katelyn A. Hammes

Exhibit B



Katelyn Hammes <katelyn@carltonlawaustin.com>

Mercy Water Supply Corporation's First Request for Information to Complainant

Allie Blalock <allieblalock97@gmail.com>

Thu, Nov 19, 2020 at 11:31 AM

To: Katelyn Hammes <katelyn@carltonlawaustin.com>

Cc: "Adkins, Justin" <Justin.Adkins@puc.texas.gov>, John Carlton <john@carltonlawaustin.com>, Katy Hennings <katy@carltonlawaustin.com>

After reviewing the RFI, Mr. Blalock, my father, will only be answering the request within the RFI that he believes to be within the limitations for discovery requests set by Order NO. 7. Such questions as all the places he has lived since August 1 of 1995 are not within the aforementioned limitations, and will not be answered on the basis that they are not within the set limitations and would have no weight on the complaint before the PUC. Therefore, they should not have been asked.

This refusal to answer certain questions in not him not being forthcoming with information, but him wanting to stay within the rules of the Commission and within what the Judge has ordered. As noted by the fact that he has only requested information to do with the water service from Mercy WSC to the Northern and Southern Tracts, and the facilities directly used to supply such service.

On 11/18/20, Katelyn Hammes <katelyn@carltonlawaustin.com> wrote:

> Good afternoon, Parties.

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> This email is sent to notify you that the attached *Mercy Water Supply Corporation's First Request for Information to Complainant *was filed today > in Docket No. 51224.

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> On March 16, 2020, the Commission issued an Order Suspending the Rules in > Project No. 50664. Under the Order, all parties must file any pleading or > document with the Commission solely through the Interchange on the > Commission's website and provide notice, by email, to all other parties > that the pleading or document has been filed with the Commission, unless > otherwise ordered by the presiding officer. It will be incumbent upon all > other parties to obtain a copy of the pleading or document by accessing the > Interchange.

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> To access a copy of the filing, go to > <http://interchange.puc.texas.gov/>, enter > the five-digit docket number in the box marked "Control Number," and hit > Search. This is the only way to access this document. You will not > receive a hard copy in the mail.

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> The Commission will continue to use Docket No. 50664 to issue information > relevant to PUC filing procedures as well as general information. Please > check this project regularly to stay informed. You can access > all filings made in Docket No. 50664 using the instructions above.

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> Best Regards,

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