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2020 DEC -4 PM 1:55

COMPLAINT OF JOHN BLALOCK
AGAINST MERCY WATER SUPPLY
CORPORATION

§
§
§

PUBLIC UTILITY COMMISSION,
FILING CLERK
OF TEXAS

**MERCY WATER SUPPLY CORPORATION'S MOTION TO QUASH
COMPLAINANT'S SECOND REQUESTS FOR INFORMATION**

COMES NOW Mercy Water Supply Corporation ("Mercy") and files this Motion to Quash Complainant's Second Requests 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, the deadline to serve written discovery requests expired pursuant to Order No. 7. On November 24, 2020, Mr. Blalock filed his Second Request for Information ("Second Request"). Counsel for Mercy contacted Mr. Blalock and asked that he voluntarily withdraw his request on November 24, 2020. Mr. Blalock refused. The deadline to file objections to requests for information is ten calendar days. The deadline for this objection is December 4, 2020. This pleading is timely filed.

II. COMPLAINANT’S REQUEST IS NOT TIMELY SERVED AND SHOULD BE QUASHED

Mercy requests the ALJ quash Mr. Blalock’s Second Request for three reasons: First, Mr. Blalock did not serve the Second Request prior to the discovery period’s expiration set out in Order No. 7.¹ Order No. 7 specifically states, “The deadline to respond to all timely filed discovery requests is 20 days after receipt of the request in accordance with 16 TAC § 22.144(c)(1), with the last date to file discovery requests being November 18, 2020.”² Here, Mr. Blalock served the Second Request on November 24, 2020, which is six days after the deadline to serve all written discovery. Mr. Blalock refused to withdraw his Second Request.³

Second, because Mr. Blalock failed to file his Second Request timely, Mercy would be deprived of the full 20 days required by the Commission Rules and Order No. 7 to respond to requests for information if it were required to respond.⁴ 20 calendar days after November 24, 2020 would be December 14, 2020, well after the agreed to and ordered deadline of December 8, 2020.

Finally, Mr. Blalock agreed to these deadlines in the Party’s October 23, 2020 Agreed Proposed Discovery Schedule.⁵ Pursuant to that agreement, the ALJ issued Order No. 7, adopting the same schedule. A party cannot simply ignore the very agreement which they entered simply because they disagree with it later. Further, a Party cannot act contrary to the ALJ’s Order without the ALJ’s leave. No approval for such deviation has been filed.

For these three reasons, Mr. Blalock’s Second Request should be quashed.

III. PRAYER

For these reasons, Mercy respectfully requests the ALJ issue an order to quash Mr. Blalock’s Second Request.

¹ Order No. 7 at 1 (Oct. 26, 2020).

² *Id*

³ Nov. 24, 2020 Email, Exhibit A.

⁴ 16 Tex. Admin Code § 24.144(c)(1); Order No. 7 at 1 (Oct. 26, 2020)

⁵ Agreed Proposed Discovery Schedule (Oct. 23, 2020); Oct. 23, 2020 Emails, Exhibit B.

Respectfully submitted,

By: 

Katelyn A. Hammes

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ATTORNEYS FOR MERCY WATER SUPPLY
CORPORATION

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 4th day of December, 2020.



Katelyn A. Hammes

Exhibit A



Katelyn Hammes <katelyn@carltonlawaustin.com>

Docket: 51224

Allie Blalock <allieblalock97@gmail.com>

Tue, Nov 24, 2020 at 6:04 PM

To: Katelyn Hammes <katelyn@carltonlawaustin.com>

Disregard that previous email. I will not withdraw it on the basis that the questions that arose from the documentation requested in the first RFI was not produced until after the date for written request had passed, which I am sure was the strategy from your law office.

On 11/24/20, Allie Blalock <allieblalock97@gmail.com> wrote
> I will withdraw it as a request for a discovery request and reformat it as
> questions about the documentation submitted.
>
> On Tue, Nov 24, 2020, 5 59 PM Katelyn Hammes <katelyn@carltonlawaustin.com>
> wrote:
>
>> Good evening, Mr. Blalock,
>>
>> According to Order No. 7, which adopted our Agreed Discovery Schedule and
>> Limits, the deadline to serve written discovery requests was November 18,
>> 2020. Would you please withdraw your request for discovery to comply with
>> the Order?
>>
>> Thank you.
>>
>> Best Regards,
>>
>> *Katelyn Hammes*
>>
>>
>> *4301 Westbank Drive, Suite B-130**Austin, Texas 78746*
>>
>> *katelyn@carltonlawaustin.com <katelyn@carltonlawaustin.com>*
>>
>> *(512) 614-0901(o)*
>> *(512) 900-2855(f)*
>>
>> *CONFIDENTIALITY NOTICE: This e-mail transmission (and any attachments)
>> may contain confidential information belonging to the sender that is
>> protected by the attorney-client privilege. If you receive this in error
>> please contact the sender.*

[Quoted text hidden]

Exhibit B



Katelyn Hammes <katelyn@carltonlawaustin.com>

PUCT Docket No. 51224 - Discovery schedule

Adkins, Justin <Justin.Adkins@puc.texas.gov>
To: Allie Blalock <allieblalock97@gmail.com>
Cc: Katelyn Hammes <katelyn@carltonlawaustin.com>

Fri, Oct 23, 2020 at 1:12 PM

Good afternoon Mr. Blalock,

Please find attached the proposed discovery schedule Staff and Mercy's attorneys have agreed on. Please let us know if the terms are agreeable. If so, do we have your permission to sign on your behalf? The deadline for filing is ASAP, 3PM today.

Thank you.

**Justin C. Adkins***Attorney, Legal Division*

Public Utility Commission of Texas

W: (512)936-7289 | justin.adkins@puc.texas.gov

2020.10.23 - Procedural Schedule Final.docx

36K



Katelyn Hammes <katelyn@carltonlawaustin.com>

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2 messages

Allie Blalock <allieblalock97@gmail.com>

Fri, Oct 23, 2020 at 1:52 PM

To: "Adkins, Justin" <justin.adkins@puc.texas.gov>, katelyn@carltonlawaustin.com

My name can be signed for the discovery schedule to be finalized and submitted.

Adkins, Justin <Justin.Adkins@puc.texas.gov>

Fri, Oct 23, 2020 at 1:56 PM

To: Allie Blalock <allieblalock97@gmail.com>, "katelyn@carltonlawaustin.com" <katelyn@carltonlawaustin.com>

Thanks Mr. Blalock.

From: Allie Blalock <allieblalock97@gmail.com>

Sent: Friday, October 23, 2020 1:53 PM

To: Adkins, Justin <Justin.Adkins@puc.texas.gov>; katelyn@carltonlawaustin.com

Subject: Docket: 51224

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