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

2020 DEC -8 AM 9:16

PUBLIC UTILITY COMMISSION  
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**PUBLIC UTILITY  
COMMISSION OF  
TEXAS**

**JOHN BLALOCK'S RESPONSE TO MERCY'S AMENDED MOTION TO**

**COMPEL RESPONSE**

**ARE MR. BLALOCK'S OBJECTIONS PROPER?**

Mr. Blalock's objections may have not been formatted/filed properly as defined by the Texas Administrative Code, but the American Bar Association does allow for accommodations to be made for individuals without it violating rule 2.2. Mr. Blalock believes that the Administrative Law Judge is in his right to allow accommodations, so that Mr. Blalock can have his matter fairly heard.

Mr. Blalock was acting in good faith on his understanding of TAC Title 6 Part 2 Chapter 22 Subchapter H (d), and his experience in previous court proceedings he has been part of, which resulted in the formatting of his objections not to be in line with what is required.

Mr. Blalock contends that his filing was in a timely manner, and that Mercy, through their legal representation, has agreed to this fact in their letter filed December 3 of 2020 (Docket No. 51224 Item No. 40).

**ARE MR. BLALOCK'S OBJECTIONS GENERAL OR SPECIFIC?**

Mr. Blalock contends that his objections are formatted specifically for each request that the objection goes for, unless the request(s) shared common subject matter. The objections were filed under the request that the objection was for, except for request that shared subject matter with a previous request. The objections specified on what the basis for the objection was for (e.g. stating that the request was not related to Mercy's water service to the Northern or Southern Tracts, nor the facilities to provide such a service).

So, Mr. Blalock contends that his objections were specific to each request, except in cases that the request shared subject matter with a previous request or were along the same lines.

Mercy, through their legal representation, has stated that Mr. Blalock's objections were specific. The mention of this can be found in the letter filed on December 3 of 2020 (Docket No. 51224, Item No. 40).

**DID MR. BLALOCK FAIL TO ANSWER MERCY'S RFIS AS  
REQUESTED?**

Mr. Blalock contends that he did not fail to answer as he was in objection to the questions, and Mercy was notified via email the following day as a way to open communication so that the parties could have a conversation over the matter before involving the ALJ as required by Order No. 7. And, raising an objection to a

question is not failing to answer it. Raising an objection in relation to a question is stating that there may or may not be an issue with the question or the way that it was asked. In the same way that pleading the 5<sup>th</sup> and refusing to self-incriminate is not failure to answer a question.

### **The Email from November 18 of 2020**

As was mentioned, the email in question was sent with the intention of opening communication between Mercy's legal representation and Mr. Blalock, by stating that Mr. Blalock had objections and at that time would only be answering the questions he believed to be within the scope of discovery granted by Order No. 7. Mercy, through their legal representation, never responded to the email inquiring about what the objections were, or to see what was needed for Mr. Blalock to answer them. This is a failure on the part of Mercy to follow the requirement for parties to "...confer and attempt in good faith to resolve any procedural dispute prior to seeking a ruling from the ALJ..." (Docket No. 51224, Item No. 27, filed October 26 of 2020). It is also required for by Texas Administrative Code, that "Parties shall negotiate diligently and in good faith concerning any discovery dispute prior to filing an objection," which Mr. Blalock attempted in good faith to do.

### **The Eligibility of Mr. Blalock for Service**

Mercy claims that the following RFIs would be used to determine if Mr. Blalock is/is not eligible for service: 1-1, 1-2, 1-17.

But in the document titled *MERCY WATER SUPPLY CORPORATION'S RESPONSE TO STAFF'S POSITION* in section II. Introduction (Docket No. 51224, Item No. 21) it is stated that "...Mr. Blalock's status as a non-member who is neither qualified nor eligible for Membership as an applicant or transferee...", meaning Mercy has already made a decision on Mr. Blalock's eligibility for Membership.

In the same document, in section III. Legal Standing, it is stated, "...Mr. Blalock has not complied with any of these requirements. He is not a Member or qualified or entitled to membership with Mercy at this time." It also states, "...qualification for service is a prerequisite to membership eligibility for new Applicants or continued Membership for Transferees...".

From these statements, as being made as statements of fact, it can be inferred that Mercy Water Supply Corporation had already made a determination on the status of Mr. Blalock's eligibility for membership and/or water service. Making the argument that the information would be used determine if he was eligible for membership and/or service moot and irrelevant, as a determination had already been reached.

## **RESIDENCY AND ACCOUNT HISTORY**

Mr. Blalock's residency history does not pertain to Mercy's service to the Northern and Southern tract, nor the facilities used to provide such a service. Mercy's tariff in the requirements for service (Section E Paragraph 27) do not include a requirement for the individual receiving service to be actively living on the property. Therefore, Mr. Blalock contends that since his residency on the property is not required for service, then it should not have a relevance in the complaint before the Public Utility Commission.

Mr. Blalock would also like to point to such documents as *MERCY WATER SUPPLY CORPORATION'S RESPONSE TO STAFF'S POSITION* (Docket No. 51224, Item No. 21, filed October 6 of 2020) and *MERCY WATER SUPPLY CORPORATION'S RESPONSE TO COMPLAINT* (Docket No. 51224, Item No. 13). In the response to the complaint, it is stated as fact that Mr. Blalock has never had an account with Mercy, which was restated in Mercy's response(s) to the Staff's RFI to them.

## **THE WITNESS STATEMENT**

Mr. Blalock did include a witness statement with his responses to Mercy's RFI to him. He just did not know how to put it into the document. It was filed with his responses on the same day.

## **ARGUMENTS NOT PREVIOUSLY COVERED**

### **RFI 1-4 and 1-5:**

Mr. Blalock specifically used the word 'private' to construe the meaning that the conversations would not be something that Mercy would/should be privy to, and made this objection to protect the privacy of individuals that are not parties to the complaint and given their permission to be identified (e.g. Permission for their personal information to be used). And, since Mr. Blalock objected to 'RFI 1-4' there would be no reason to file documents for relation to the conversations, as asked for by 'RFI 1-5'.

### **RFI 1-6 and 1-7:**

By record any meter for the Southern Tract would have been removed in 2001, as reflected by the records provided by Mercy for Gloria Meeks in response to 'Staff 1-15'. In the mentioned records, the meter for the Southern Tract would have been removed as documented by the 'Work Order' included in the records.

Therefore, Mr. Blalock contends that Mercy knew which property/residence they were servicing, and are trying to mislead the Commission Staff along with the ALJ.

### **RFI 1-10:**

Mr. Blalock contends that he did answer the request to the best of his ability and according to the records he had at the time. And, as one cannot logically prove a negative, Mr. Blalock contends that his answer of there would be no documentation as adequate.

**RFI 1-14**

Mr. Blalock did describe the location of the faucet to the best of his ability, and also stated that the faucet had been removed following damage caused by workers hired by Mr. Rodz.

**RFI 1-15**

Mr. Blalock did not include personal information on the basis that he did not receive permission to use such information, and would constitute a violation of the mentioned neighbor's right to privacy.

**RFI 1-16**

Mr. Blalock contends that he did provide the information needed for 'RFI 1-16' in his response to 'RFI 1-14'. Mr. Blalock did describe the purpose for the faucet in his response to 'RFI 1-14', which was for watering animals and fire control.



Mr. Blalock contends that for him to be compelled to respond to each RFI as Mercy refers to as appropriate, it would be unfair as Mercy answered RFIs from Staff in the same manner (e.g. Mercy's response to 'Staff 1-12').

#### **RFI 1-17**

Mr. Blalock's belief on the status of the property of belonging to him or not, does not have a relevance to the complaint, as according to records submitted by Mercy in response the RFIs sent by both Mr. Blalock and Commission Staff, it is evident that the meter was installed to service the Northern Tract. And, that the position of installation of the meter was determined by the Corporation per all documentation, excluding statements from Mercy Staff.

Mr. Blalock also contends that any merger would have been done after Ms. Ivey's passing in 2015, which would have not had any relevance as the properties would still be one property. And, that the partition of the property took place 9 years before the 'Application and Agreement for Service' was signed by Ms. Ivey, which would also prove that the request has no relevance.

#### **CONCLUSION**

Mr. Blalock contends that with all previous documentation/statement(s) that have been filed, there is no need for the information to be made known as it would have no relevance on the complaint before the Public Utility Commission. Mr.

Blalock contends that making him fully adhere to 16 TAC 22.144 (d) while allowing for Mercy to disregard the requirements for negotiation, which Mr. Blalock attempted to adhere to, would create an unfair hearing.

### **REQUEST FOR RELIEF**

Mr. Blalock respectfully request that Mercy's motion to compel, either in its original or amended state, be denied on the basis that the arguments are without merit and Mercy further disregarded requirements set by Order No. 7 and 16 TAC 22.144 (d) for parties to negotiate diligently and in good faith concerning any discovery dispute before Objections could be filed or the ALJ was asked to compel.

Respectfully Submitted By,

/s/ John Preston Blalock.