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PUC DOCKET NO. 51224
SOAH DOCKET NO. 473-21-1880.WS

2021 APR -9 PM 3:38

COMPLAINT OF JOHN BLALOCK § PUBLIC UTILITY COMMISSION
AGAINST MERCY WATER SUPPLY §
CORPORATION § OF TEXAS

MERCY WATER SUPPLY CORPORATION'S PROPOSED LIST OF ISSUES

COMES NOW, Mercy Water Supply Corporation ("Mercy") and files this, its List of Issues in response to the Order of Referral and, in support thereof, would respectfully show the following:

I. BACKGROUND

On August 27, 2020, John Blalock filed a complaint ("Complaint") against Mercy¹ under 16 Texas Administrative Code (TAC) § 22.242 regarding water service, essentially complaining that Mercy improperly discontinued his water service. On April 5, 2021, Commission Counsel Stephen Journeay issued an Order of Referral, referring this Docket to the State Office of Administrative Hearings ("SOAH") to conduct a hearing and issue a proposal for decision if necessary to resolve any contested issues. The Order of Referral also set a deadline of April 9, 2021, for Mercy and Mr. Blalock to file their list of issues to consider in this docket. This pleading is timely filed.

II. PROPOSED LIST OF ISSUES

The Commission is required to provide to the ALJ a list of issues that the ALJ must address in any proceeding referred to SOAH.² Mercy has identified the following issues to be addressed in this proceeding. This list is not intended to be exhaustive, and Mercy reserves the right to address additional issues raised by other parties or that may arise in the future and are not set forth below.

1. Whether Mr. Blalock is the legal owner of 1611 Bowen Loop, Cleveland, TX 77328 (the "Northern Tract").

¹ Complaint of John Blalock Against Mercy Water Supply Corporation (Aug. 27, 2020).

² 30 TAC § 50.115.

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2. Whether Mr. Blalock ever produced to Mercy proof of his ownership of the Northern Tract.
3. Whether Mr. Blalock is or has ever been a “member” of Mercy, as defined by Mercy’s tariff, under which an applicant is entitled to water utility service only after application has been made, terms and conditions of service and membership have been met and continue to be met, and all fees have been paid.
4. Whether Mr. Blalock ever validly transferred Ms. Ivey’s membership in Mercy to himself.
5. Whether Mr. Blalock ever validly transferred any other membership in Mercy to himself.
6. Whether, as both Mercy and Commission Staff agree,³ Mercy has complied with the law and its tariff in ceasing water service to the Northern Tract.
7. Whether Mr. Blalock is entitled to receive water service from Mercy to the Northern Tract.
8. Whether Mr. Blalock is entitled to have Mercy install a new meter to the Northern Tract at no expense to him.
9. Whether Mr. Blalock must pay the fees associated with membership in Mercy.
10. Whether Mr. Blalock must pay the fees associated with installing a water meter to the Northern Tract.
11. Whether the water meter located at 1601 Bowen Loop, Cleveland, TX 77328 (the “Southern Tract”) was installed to service the Northern Tract.
12. Whether Mr. Blalock is entitled to receive water service from Mercy to the Northern Tract based on the water meter installed on the Southern Tract.
13. Whether Mr. Blalock failed to furnish complete responses to discovery, necessitating that Mercy file more than one motion to compel against him.
14. Whether Mercy’s motion for sanctions⁴ against Mr. Blalock under 16 TAC § 22.161(b) should be granted and Mr. Blalock ordered to pay Mercy’s reasonable expenses, including attorney’s fees, in an amount up to \$7,205.24 for the 50.1 hours of work expended due to his abuse of the discovery process and violations of Commission Rule 22.2(a) in filed documents and correspondence with parties.⁵

³ Commission Staff’s Supplemental Statement of Position at 2-6 (Feb. 8, 2021); Mercy Water Supply Corporation’s Response to Staff’s Supplemental Statement of Position at 3 (Feb. 16, 2021).

⁴ Mercy Water Supply Corporation’s Motion for Sanctions (Feb. 16, 2021).

⁵ *Id.* at 4-10 (detailing abuse of discovery process and other dilatory tactics and the amount of time required to respond to each).

III. ISSUES NOT TO BE ADDRESSED

1. Mercy has not identified any issues not to be addressed in this proceeding.

IV. THRESHOLD LEGAL OR POLICY ISSUES

1. Whether Order No. 3,⁶ which required Mercy to restore water service to the Northern Tract, should be withdrawn, based on Mercy and Commission Staff's establishing that Mr. Blalock is not a member of Mercy and is not entitled to service, and Commission Staff's recommendation that Mercy should not be compelled to restore water service to the Northern Tract.
2. Whether Mercy's motion for summary disposition⁷ should be granted based on Mr. Blalock's admissions that he has not met and has never met the legal requirements to be a member of Mercy and Mercy and Commission Staff's establishing that Mr. Blalock is not a member of Mercy and is not entitled to service.
3. Alternatively, whether Mercy's motion to dismiss Mr. Blalock's complaint with prejudice⁸ should be granted because, as Commission Staff⁹ and Mercy have established, he is not and has never been a member of Mercy.

V. PRAYER

WHEREFORE, PREMISES CONSIDERED, Mercy Water Supply Corporation respectfully prays that the Commission enter a Preliminary Order consistent with the issues set forth above.

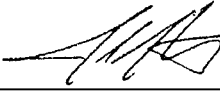
⁶ Order No. 3 Requiring Mercy Water Supply Corporation to Restore Water Service (Sept. 14, 2020).

⁷ Mercy Water Supply Corporation's Response to Staff's Supplemental Statement of Position at 3 (Feb. 16, 2021).

⁸ *Id.* at 5.

⁹ Commission Staff's Supplemental Statement of Position at 2-6 (Feb. 8, 2021) ("Mr. Blalock has not complied with the [Texas Water Code] or Mercy WSC's Tariff to effectuate either the establishment of a new membership nor transfer of [another] membership to himself. As such, he cannot be considered a member and is therefore not entitled to water service from Mercy WSC at the Northern Tract.").

Respectfully submitted,

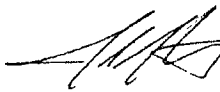
By: _____

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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 9th day of April 2021.

_____
John Carlton