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**SOAH DOCKET NO. 473-21-1880.WS
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**COMPLAINT OF JOHN BLALOCK § BEFORE THE STATE OFFICE
AGAINST MERCY WATER SUPPLY § OF
CORPORATION § ADMINISTRATIVE HEARINGS**

**SOAH ORDER NO. 6
MEMORIALIZING PRELIMINARY HEARING; GRANTING, IN PART, AND
DENYING, IN PART, MERCY'S MOTION FOR SANCTIONS; ADOPTING
PROCEDURAL SCHEDULE AND PROCEDURES; SETTING ZOOM HEARING; AND
REQUIRING PROCEDURES**

I. MEMORIALIZING PRELIMINARY HEARING

On June 18, 2021, a prehearing conference was held in this case. Administrative Law Judges (ALJs) Heather D. Hunziker and Meaghan Bailey co-presided. The following appeared and were admitted as parties:

PARTY	REPRESENTATIVE
John Blalock (Complainant)	<i>self represented</i>
Mercy Water Supply Corporation (Mercy)	Grayson McDaniel
Staff of the Public Utility Commission of Texas (Staff)	Justin Adkins and Rashmin Asher

**II. GRANTING, IN PART, AND DENYING, IN PART, MERCY'S MOTION FOR
SANCTIONS**

Mercy filed a motion for sanctions on February 16, 2021 (Motion for Sanctions) requesting Complainant be ordered to pay Mercy's legal expenses up to \$7,205.24. Complainant filed his response to Mercy's motion for sanctions on February 17, 2021. The Motion for Sanctions was heard during the June 18, 2021 prehearing conference.

Sanctions may be imposed against a party after notice and an opportunity for a hearing for: (1) filing a motion or pleading that was brought in bad faith, for the purpose of harassment, or for any other improper purpose, such as to cause unnecessary delay or needless increase in the cost of the proceeding; (2) abusing the discovery process in seeking, making or resisting discovery; or (3) failing to obey an order of an administrative law judge or the commission.¹ Such sanctions may include charging all or any part of the expenses of discovery against the offending party or its representative.²

Having considered Mercy's motion for sanctions, Complainant's response, and the applicable law, the ALJs find the motion valid as to Complainant's failure to obey an order of an administrative law judge—specifically, as to ALJ Ta's Order No. 8, compelling Complainant to provide a complete response to Mercy's RFI 1-13.³ As to the remaining discovery complaints for which Mercy seeks sanctions in the Motion for Sanctions, the ALJs find the motion insufficient to necessitate the requested sanctions totaling \$7,205.24. Therefore, Mercy's motion for sanctions is **GRANTED IN PART AND DENIED IN PART**.

The ALJs admonish the Complainant for his failure to follow orders issued in this case and comply with the Texas Rules of Civil Procedure.⁴ Accordingly, Complainant is hereby **SANCTIONED** and **ORDERED TO PAY** expenses related to Mercy's Motion for Sanctions, in the amount of two hundred fifty dollars (\$250).

III. ADOPTING PROCEDURAL SCHEDULE AND PROCEDURES

The parties agreed to a procedural schedule previously filed on June 4, 2021. That schedule

¹ 16 Texas Administrative Code § 22.161(b).

² 16 Texas Administrative Code § 22.161(c)(2).

³ As explained by ALJ Ta in PUC Order 10, at section I(d), Complainant's response to RFI 1-13 did not comply with Texas Rule of Civil Procedure 198.2(b).

⁴ The ALJs recognize that Complainant is a self-represented litigant, not an attorney. However, the ALJs stress that even self-represented litigants are charged with following administrative and procedural rules and Commission or SOAH issued orders.

is **ADOPTED** as set forth below, and the parties are directed to comply with the procedural schedule for the remainder of the proceeding.

EVENT	DATE
Blalock's Direct Testimony	July 8, 2021
Objections to Blalock's Direct Testimony	July 15, 2021
Reply to Objections to Blalock's Direct Testimony	July 22, 2021
Discovery Deadline for Blalock's Direct Testimony	July 22, 2021
Mercy's Direct Testimony	August 5, 2021
Objections to Mercy's Direct Testimony	August 12, 2021
Reply to Objections to Mercy's Direct Testimony	August 19, 2021
Discovery Deadline for Mercy's Direct Testimony	August 19, 2021
Staff's Direct Testimony	September 2, 2021
Objections to Staff's Direct Testimony	September 9, 2021
Reply to Objections to Staff's Direct Testimony	September 16, 2021
Discovery Deadline for Staff's Direct Testimony	September 16, 2021
Blalock's Rebuttal Testimony	September 23, 2021
Objections to Blalock's Rebuttal Testimony	September 30, 2021
Reply to Objections to Blalock's Rebuttal Testimony	October 7, 2021
Discovery Deadline for Blalock's Rebuttal Testimony	October 7, 2021
Dispositive Motions	October 14, 2021
Prefiling of Parties' Exhibits and Witness Lists, each party shall identify the witnesses the party intends to call to testify during the hearing, and, if applicable, identify the witnesses for whom the party has waived cross-examination	October 22, 2021
Hearing on the Merits	October 26, 2021
Initial Post-Hearing Briefs	November 18, 2021
Reply Post-Hearing Briefs	December 7, 2021

As agreed by the parties, with some additions by the ALJs, the following deadlines and procedures are also **ADOPTED**:

- Discovery responses regarding the parties' testimony will be due 10 days from the day the discovery is received.
- Drafts of Direct and Rebuttal Testimony sent by email, as well as the emails transmitting such Testimony, are undiscoverable.
- In addition to being served on all parties, testimony will be pre-filed by the date due in the schedule.
- No later than October 22, 2021, each party shall deliver *one hard (paper) copy for the ALJs and two hard (paper) appeal copies* of all exhibits the party intends to offer during the hearing to the State Office of Administrative Hearings (SOAH), Room 504, 5th Floor, William P. Clements Building, 300 West 15th Street, Austin, Texas, 78701. Additionally, the parties shall consult with the court reporter, if applicable, and arrange to provide *the record copy and an electronic copy (via CD or USB)* to the court reporter, along with a copy of the party's witness list and exhibit list.⁵ If a court reporter is not retained for this hearing, the parties shall deliver an additional hard (paper) copy to SOAH at the address identified above.

The parties may modify the procedural schedule by written agreement, except that the date for the evidentiary hearing can be changed only by order of the ALJs.

IV. SETTING ZOOM HEARING

In response to the COVID-19 pandemic, SOAH has temporarily discontinued most non-emergency, in-person hearings, and hearings are being convened remotely. Accordingly, the ALJs will conduct the hearing in this case using the Zoom videoconference platform (Zoom). Unless a party has a court reporter transcribe the hearing, the ALJ will make an audio recording of the hearing that will be the official record of the proceeding.

⁵ The parties may agree among themselves on the method of delivery to each other and may agree to forego delivery to each other of marked copies of exhibits they have already received, relying on the exhibit lists to identify the offering party and exhibit number.

Accordingly, **IT IS ORDERED** that the undersigned ALJs will convene a **hearing on the merits via Zoom on October 26, 2021, at 9:00 a.m. The hearing shall be limited to one day.** Participants using portable devices should ensure they have sufficient charge and/or a power source readily available.

Access via computer: To access the prehearing conference, go to <https://soah-texas.zoomgov.com/> or the Zoom application on your mobile device, then select “Join a Meeting” and enter the following information when prompted:

Meeting ID: 160 410 1060
Passcode: a1PqdU

Access via telephone: If you do not have access to a device that would allow videoconferencing capabilities, you may join by telephone by calling either number below and entering the following Meeting ID and passcode. Note that the passcode to join by telephone is different than the passcode to join via a computer or smart device.

(669) 254-5252 or (646) 828-7666

Meeting ID: 160 410 1060
Passcode: 496140

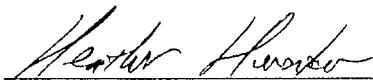
V. REQUIRING PROCEDURES

All exhibits **SHALL** be marked with the offering party’s name and the exhibit number. Exhibits should be numbered sequentially, and multipage documents shall be paginated or Bates-stamped. Exhibits not meeting a requirement in this order may not be admitted into the record absent good cause.

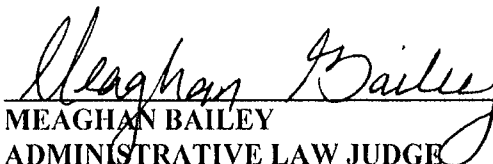
Prior to the hearing, the parties **SHALL** provide to witnesses all documents necessary for their effective participation in the hearing. Parties should also speak to the witnesses they intend to call to testify and provide them the necessary videoconferencing information.

A party who experiences technical difficulties with joining the hearing should contact SOAH's Docketing Division at (512) 475-4993, or the ALJ's legal secretary, Taryn Lovett, at 512475-4725 or Taryn.Lovett@soah.texas.gov. Routine procedural and logistical questions may also be directed to Ms. Lovett. SOAH support personnel may not provide advice or interpret orders or other legal authorities for the parties.

SIGNED June 24, 2021.



**HEATHER HUNZIKER
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS**



**MEAGHAN BAILEY
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS**