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DOCKET NO. 56780

COMPLAINT OF CHRISTOPHER	§	PUBLIC UTILITY COMMISSION
VAZQUEZ AGAINST MOSCOW	§	
WATER SUPPLY CORPORATION	§	OF TEXAS

ORDER NO. 10
DENYING MOTION TO DISMISS, GRANTING MOTION TO SEVER, AND
ADDRESSING HEARING REQUEST

DOCKET NO. 58187

COMPLAINT OF SERGIO ZUNIGA	§	PUBLIC UTILITY COMMISSION
AGAINST MOSCOW WATER SUPPLY	§	
CORPORATION	§	OF TEXAS

ORDER NO. 1
DENYING MOTION TO DISMISS, GRANTING MOTION TO SEVER, AND SETTING
DEADLINE

This Order addresses Commission Staff's April 8, 2025 motion to sever and Moscow Water Supply Corporation's April 15, 2025 motion to dismiss under 16 Texas Administrative Code (TAC) § 22.181(d)(1) and (11) for lack of jurisdiction and other good cause shown.

In this matter, Christopher Vazquez alleges that Moscow WSC is wrongfully refusing to provide sewer service to his property. Mr. Vazquez claims that although he submitted a complete application for his property within Moscow WSC's certificated service area, Moscow WSC stated that it cannot provide sewer service to Mr. Vazquez's property and recommended that he install his own septic system. Mr. Vazquez argues that Moscow WSC's refusal to provide sewer service constitutes a violation of 16 TAC § 24.161(a).

In Order No. 5 filed on January 7, 2025, the administrative law judge (ALJ) granted the intervention of Sergio Zuniga. In his complaint, Mr. Zuniga alleges that Moscow WSC is wrongfully refusing to provide sewer service to his property that lies within Moscow WSC's certificated service area. Mr. Zuniga also argues that Moscow WSC's refusal to provide sewer service constitutes a violation of 16 TAC § 24.161(a).

I. Denying Motion to Dismiss

On April 15, 2025, Moscow WSC moved for dismissal of the complaints, for lack of jurisdiction and other good cause shown. Moscow WSC argues that the Commission's jurisdiction over Moscow WSC is limited under Texas Water Code (TWC) § 13.004(a)(1) and (a)(2) to whether it is failing to conduct annual or special meetings in accordance with TWC Chapter 67 or whether it is operating in a manner that does not comply with the requirements for classifications as a nonprofit water supply or sewer service corporation. Moscow WSC cites to the Commission's order in Docket No. 43146 to argue that the Commission's scope of inquiry under TWC § 13.004(a)(2) is limited to only whether a WSC is operating in accordance with its by-laws or articles of incorporation and not to day-to-day operations of a WSC.¹ Moscow WSC also alleges that good cause exists to dismiss the complaint because requiring service to Mr. Vazquez's and Mr. Zuniga's respective properties would exceed the permitted capacity under its wastewater discharge permit and that expanding its wastewater treatment plant is technically and financially impossible. Additionally, Moscow WSC argues that the complaints essentially constitute an enforcement case, that the complainants lack standing to bring an enforcement action, and thus good cause exists to dismiss this proceeding.

On April 21, 2025, Mr. Vazquez filed his response in opposition to Moscow WSC's motion to dismiss. Mr. Vazquez argues that the Commission has jurisdiction over Moscow WSC because Moscow WSC provides sewer service under a certificate of convenience and necessity (CCN) and is thus obligated to provide continuous and adequate service to customers in the certificated service area. Mr. Vazquez further argues that Moscow WSC's claims regarding its permitted capacity under its wastewater discharge permit and its claims regarding the technical and financial feasibility of expanding its wastewater treatment plant are factual issues that merit a hearing. Mr. Vazquez also generally argues that he has standing to bring his complaint against Moscow WSC and request relief including enforcement actions against Moscow WSC.

Commission Staff and Mr. Zuniga did not file a response to Moscow WSC's motion to dismiss.

¹ *Complaint of Carol D. Gillespie Against Avalon Water Supply and Sewer Services Corporation*, Docket No. 43146, Order (Mar. 9, 2017).

Having considered the arguments presented by Moscow WSC and Mr. Vazquez, the ALJ denies Moscow WSC's motion to dismiss.

First, the ALJ disagrees that the Commission lacks jurisdiction over this complaint. While Moscow WSC is a water supply corporation, it is also a retail public utility under the TWC. Under TWC § 13.002(19), a retail public utility means "any person, corporation, public utility, water supply or sewer service corporation, municipality, political subdivision or agency operating, maintaining, or controlling in this state facilities for providing potable water service or sewer service, or both, for compensation." Additionally, Moscow WSC provides sewer service under CCN number 20057. Under TWC § 13.250 and 16 TAC § 24.247(a), any retail public utility which possesses a CCN, such as Moscow WSC, is obligated to provide continuous and adequate service to every customer and every qualified applicant for service whose primary point of use is within the retail public utility's certificated service area. As a CCN holder, Moscow WSC is not only obligated to provide service to every qualified applicant within its certificated service area, but it is also subject to the Commission's jurisdiction to enforce a retail public utility's statutory obligations. No party disputes that Mr. Vazquez's and Mr. Zuniga's properties that they are requesting service for are within Moscow WSC's CCN service area. Thus, the ALJ denies Moscow WSC's motion to dismiss for lack of jurisdiction.

Second, the ALJ disagrees with Moscow WSC's argument that other good cause exists to dismiss the complaint. Moscow WSC states that other good cause exists because the provision of sewer service to Mr. Vazquez and Mr. Zuniga would violate its CCN and state law, that provision of service would be technically and financially impossible, and that the present proceeding constitutes an enforcement case that the complainants do not have standing to bring. Moscow WSC's assertions amount to factual disputes and are not established as a matter of law. Accordingly, the ALJ denies Moscow WSC's motion to dismiss for other good cause shown.

II. Granting Motion to Sever

On April 8, 2025, Commission Staff moved to sever this proceeding into two different dockets. On April 15, 2025, Moscow WSC filed its response opposing severance as part of its motion to dismiss and argued that severance was unnecessary because both complaints should be dismissed. On April 21, 2025, Mr. Vazquez filed his response stating that he disagreed with

severance but that he also would not formally oppose severance. Mr. Zuniga did not file a response to the motion to sever.

The ALJ finds that severance would serve the interest of efficiency. Accordingly, the ALJ grants Commission Staff's motion to sever and orders Docket No. 56780 to be severed into two different dockets, as follows:

1. Docket No. 56780 will address the complaint of Mr. Vazquez and will be styled: *Complaint of Christopher Vazquez Against Moscow Water Supply Corporation*;
2. Docket No. 58187 will address the complaint of Mr. Zuniga and will be styled: *Complaint of Sergio Zuniga Against Moscow Water Supply Corporation*; and
3. So that the record in both matters will be complete, the ALJ deems all documents filed prior to the date of this Order on the Commission's interchange in Docket No. 56780 to be incorporated by reference and also as part of the record for Docket No. 58187.

III. Addressing Hearing Request for Docket No. 56780

On April 21, 2025, Mr. Vazquez stated that a hearing was necessary in this proceeding as part of his response to Moscow WSC's motion to dismiss. The ALJ interprets Mr. Vazquez's statement as a request for a hearing on the merits and Mr. Vazquez's request for a hearing will be addressed in a future order.

IV. Setting Deadline for Docket No. 58187

To the extent that there are factual issues in dispute regarding Mr. Zuniga's complaint, a hearing could help resolve those disputes.

By June 23, 2025, each party is ordered to file a statement in this proceeding stating either that they want a hearing or that they do not want a hearing.

Signed at Austin, Texas on the 2nd day of June 2025.

PUBLIC UTILITY COMMISSION OF TEXAS



ERIC YOON
ADMINISTRATIVE LAW JUDGE