

Control Number: 42866



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PETITION OF TRAVIS COUNTY  
MUNICIPAL UTILITY DISTRICT  
NO. 12 APPEALING CHANGE OF  
WHOLESALE WATER RATES  
IMPLEMENTED BY WEST TRAVIS  
COUNTY PUBLIC UTILITY  
AGENCY, CITY OF BEE CAVE,  
TEXAS HAYS COUNTY, TEXAS  
AND WEST TRAVIS COUNTY  
MUNICIPAL UTILITY DISTRICT  
NO. 5

BEFORE THE PUBLIC UTILITY COMMISSION  
FILING CLERK

OF

ADMINISTRATIVE HEARINGS

**WEST TRAVIS COUNTY PUBLIC UTILITY AGENCY'S MOTION  
TO COMPEL TRAVIS COUNTY MUNICIPAL UTILITY DISTRICT NO. 12 TO  
RESPOND TO ITS THIRD REQUESTS FOR INFORMATION**

TO THE HONORABLE ADMINISTRATIVE LAW JUDGE:

The West Travis County Public Utility Agency ("**WTCPUA**") files this Motion to Compel Travis County Municipal Utility District No. 12 ("**TCMUD 12**") to Respond to Its Third Requests for Information.

**I. PROCEDURAL HISTORY**

On March 5, 2015, WTCPUA propounded its Third Requests for Information ("**RFT**") on TCMUD 12, and on March 30, 2015 TCMUD 12 objected to WTCPUA's RFI No. 3-3 on the bases of relevancy under Texas Rule of Evidence 401, and unduly burdensome. Accordingly, WTCPUA files this Motion to Compel ("**Motion**") to request the Administrative Law Judge to deny TCMUD 12's objections and direct TCMUD 12 to respond WTCPUA's discovery request in accordance with the Public Utility Commission's ("**PUC**") procedural rules and the Texas Rules of Civil Procedure. This Motion is timely filed.

## **II. RESPONSE TO OBJECTIONS TO WTCPUA RFI 3-3**

TCMUD 12's relevancy and unduly burdensome objections to WTCPUA's RFI No. 3-3 should be denied and TCMUD 12 should be directed to respond to such discovery request in accordance with the PUC's procedural rules. RFI 3-3 provides the following:

RFI 3-3 For the November 5, 2012, October 19, 2012, October 30, 2012, January 28, 2013 and March 25, 2013 meetings of the Wholesale Customer Committee that a representative of TCMUD 12 did *not* attend, as stated in TCMUD 12's responses to WTCPUA's First Requests for Admissions numbers 1-25, 1-27, 1-29, 1-33 and 1-35, provide an explanation for such nonattendance.

### **1. RFI 3-3 Is a Relevant Discovery Request**

The information requested by WTCPUA in RFI 3-3 is relevant to the subject matter of this proceeding. Texas Rule of Evidence 401 provides that "relevant evidence" means evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence. In this proceeding, TCMUD 12 has alleged, thereby calling into question, that WTCPUA's contracted wholesale water treatment service rate charged to TCMUD 12, as adopted by the WTCPUA Board of Directors on November 21, 2013, constitutes an abuse of WTCPUA's monopoly power (if WTCPUA is a monopoly) because WTCPUA has abused its disparate bargaining power (if such power exists) over TCMUD 12. WTCPUA has responded, in relevant part, that in 2012 and 2013, it held several meetings with its wholesale water treatment service customers, including TCMUD 12, to cooperate with and seek input from those customers regarding amendments to the WTCPUA's wholesale water treatment service rates. An issue has arisen as to whether these meetings were meaningful with respect to such bargaining power, and yet TCMUD 12 has responded through other discovery requests that it did not attend some of those sessions. It is relevant to understand why TCMUD 12 chose not to attend such meetings, given that those were critical events where WTCPUA worked with its customers to develop the

rates ultimately adopted by the WTCPUA Board of Directors, and whether TCMUD 12 made an effort to participate in these meetings.

**2. RFI 3-3 Is Not an Unduly Burdensome Discovery Request**

The information sought by WTCPUA in RFI 3-3 does not constitute a unduly burdensome request on TCMUD 12. As noted above, there were a number of meetings held by WTCPUA with its wholesale water treatment service customer Committee, including TCMUD 12, and this discovery request is limited to 5 of those meetings. Typically, the same several individuals attended such Committee meetings, and WTCPUA would expect that at some point, TCMUD 12 would have made a decision to have one or more representatives attend these Committee meetings, and those that are the subject of this RFI 3-3. The whereabouts of such individuals on those 5 dates does not constitute an overly burdensome discovery request. TCMUD 12 fails to cite to any Texas Rule of Civil Procedure in support of its objection or explain how this discovery request is duplicative, obtainable from an alternate source, or unduly expensive. Further, as to timing, it is reasonable for WTCPUA to request information that is approximately 2 years old, given that the protested rates were adopted approximately a year and a half ago.

**III. CONCLUSION**

WTCPUA respectfully requests that the Administrative Law Judge deny TCMUD 12's objections to WTCPUA RFI No. 3-3, grant this Motion to Compel TCMUD 12 to Respond to WTCPUA's Third Requests for Information, and grant WTCPUA any and all other relief to which it is justly entitled.

Respectfully submitted,

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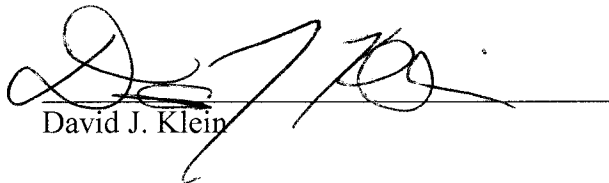
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**ATTORNEYS FOR WEST TRAVIS COUNTY  
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**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing document was transmitted by e-mail, fax, hand-delivery and/or regular, first class mail on this 6<sup>th</sup> day of April, 2015, to the parties of record.



David J. Klein