



Control Number: 42866



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**SOAH DOCKET NO. 473-14-5144.WS
PUC DOCKET NO. 42866**

**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 §**

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**TRAVIS COUNTY MUNICIPAL UTILITY DISTRICT NO. 12'S
REPLY TO CITY OF BEE CAVE'S EXCEPTIONS**

TO THE HONORABLE COMMISSIONERS:

COMES NOW TCMUD 12 and files this, its Reply to City of Bee Cave's ("City's") Exceptions. TCMUD 12 urges the Commission to reject the City's Exceptions concerning Section VIII. A. 1. v. of the PFD ("Alternatives"), for the reasons set out in TCMUD 12's Exceptions. TCMUD 12 addresses herein and urges the Commission to reject, the City's Exceptions to Section VIII. C. of the PFD and proposed changes to Finding of Fact No. 76. Assuming that WTCPUA based the new methodology for the Monthly Charge on the recommendation of some wholesale customers, that is not persuasive or probative evidence of whether WTCPUA abused its monopoly power in dealings with TCMUD 12.

The analysis in the PFD cited by the City rests on a conclusory statement about a recommendation from the wholesale customer committee that the ALJ has found was considered by WTCPUA in establishing the methodology used to calculate the Monthly Charge. However, there is no evidence that the wholesale customer committee was authorized to represent TCMUD 12's interests, or that the wholesale customers who made a recommendation concerning methodology that WTCPUA alleges it accepted, had similar interests to TCMUD 12's that they were protecting. Instead, because each of the wholesale customers is in a different state of development, and the build-out status of each is a critical factor in the Monthly Charge computation methodology, those wholesale customers that were at or near completing their development in 2013 are not impacted by and had no reason to object to the methodology. TCMUD 12 is not near completing the development of The Highlands, is negatively affected by

the new methodology, and did not join with other wholesale customers in recommending the methodology that was adopted by WTCPUA.

Assuming *arguendo* WTCPUA accepted a recommendation from the wholesale customers concerning the methodology for calculating the Monthly Charge, that fact does not support a finding, such as the City of Bee Cave recommends, that WTCPUA did not abuse monopoly power over TCMUD 12. Accordingly, TCMUD 12 respectfully urges the Commission to reject the City of Bee Cave's argument for modifying Finding of Fact No. 76.

Respectfully Submitted,

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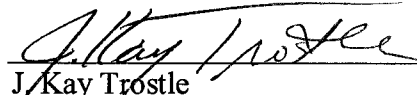
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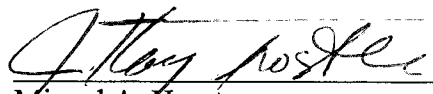
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**ATTORNEYS FOR TRAVIS COUNTY
MUNICIPAL UTILITY DISTRICT NO. 12**

CERTIFICATE OF SERVICE

I hereby certify that on this 22nd day of October, 2015, a true and correct copy of the above and foregoing document is being served via electronic mail, facsimile, U.S. mail and/or hand delivery to all parties of record.



Miguel A. Huerta