



Control Number: 42866



Item Number: 22

Addendum StartPage: 0

House Bill (HB) 1600 and Senate Bill (SB) 567 83<sup>rd</sup>  
Legislature, Regular Session, transferred the functions  
relating to the economic regulation of water and sewer  
utilities from the TCEQ to the PUC effective  
September 1, 2014.

42866

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SOAH DOCKET NO. 582-14-3382  
TCEQ DOCKET NO. 2014-0439-UCR 2014 SEP -5 AM 11:13

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; AND §  
WEST TRAVIS COUNTY MUNICIPAL §  
UTILITY DISTRICT NO. 5 §

PUBLIC UTILITY COMMISSION  
~~BEECAVE~~ STATE OFFICE

OF

ADMINISTRATIVE HEARINGS

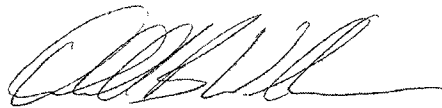
**WEST TRAVIS COUNTY MUNICIPAL UTILITY DISTRICT NO. 5'S  
RESPONSE TO REQUESTS FOR DISCLOSURE**

Pursuant to Order No. 1 in the above-referenced matter, West Travis County Municipal Utility District No. 5 hereby serves its responses to the Request for Disclosure under Rule 194 of the Texas Rules of Civil Procedure.

Respectfully submitted,

Randall B. Wilburn, Attorney-At-Law  
3000 South IH 35, Suite 150  
Austin, Texas 78704  
Telephone: (512) 535-1661  
Facsimile: (512) 535-1678

By: \_\_\_\_\_



Randall B. Wilburn  
State Bar No. 24033342

**ATTORNEYS FOR WEST TRAVIS COUNTY  
MUNICIPAL UTILITY DISTRICT NO. 5**

### CERTIFICATE OF SERVICE

This is to certify that the undersigned sent a true and correct copy of the foregoing Response to the Request for Disclosure in accordance with the applicable agency rules, as noted below, on this 18<sup>th</sup> day of August 2014 to the following parties:

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Randall B. Wilburn

## RESPONSES TO REQUEST FOR DISCLOSURE

### **1. Rule 194.2(a) the correct names of the parties to the lawsuit.**

RESPONSE: The parties named in this matter appear to be correct.

### **2. Rule 194.2 (b) the name, address, and telephone number of any potential parties.**

RESPONSE: West Travis County MUD No. 5 (the "District") is unaware aware of any potential parties regarding the public interest test that is the subject of this hearing.

### **3. Rule 194.2 (c) the legal theories and, in general, the factual bases of the responding party's claims or defenses (the responding party need not marshal all evidence that may be offered at trial).**

RESPONSE: The District does not sell raw water to Travis County Municipal Utility District 12 ("MUD 12"). The West Travis County PUA (the "PUA") treats MUD 12's raw water supply and charges MUD 12 for such water treatment services on a wholesale basis, under a certain "Wholesale Water Services Agreement." Under the Chapter 291 of Title 30 of the Texas Administrative Code, setting aside the Wholesale Water Service Agreement is not in the public interest. Specifically, MUD 12 cannot meet its sole burden of proof that the following public interest criteria have been violated:

(1) the protested rate impairs the seller's ability to continue to provide service, based on the seller's financial integrity and operational capability;

(2) the protested rate impairs the purchaser's ability to continue to provide service to its retail customers, based on the purchaser's financial integrity and operational capability;

(3) the protested rate evidences the seller's abuse of monopoly power in its provision of water or sewer service to the purchaser. In making this inquiry, the commission shall weigh all relevant factors. The factors may include:

(A) the disparate bargaining power of the parties, including the purchaser's alternative means, alternative costs, environmental impact, regulatory issues, and problems of obtaining alternative water or sewer service.

(B) the seller's failure to reasonably demonstrate the changed conditions that are the basis for a change in rates.

(C) the seller changed the computation of the revenue requirement or rate from one methodology to another.

(D) where the seller demands the protested rate pursuant to a contract, other valuable consideration received by a party incident to the contract.

(E) incentives necessary to encourage regional projects or water conservation measures.

(F) the seller's obligation to meet federal and state wastewater discharge and drinking water standards.

(G) the rates charged in Texas by other sellers of water or sewer service for resale.

(H) the seller's rates for water or sewer service charged to its retail customers compared to the retail rates the purchaser charges its retail customers as a result of the wholesale rate the seller demands from the purchaser.

(4) the protested rate is unreasonably preferential, prejudicial, or discriminatory, compared to the wholesale rates the seller charges other wholesale customers.

**4. Rule 194.2(d) the amount and any method of calculating economic damages.**

RESPONSE: Not applicable.

**5. Rule 194.2(e) the name, address, and telephone number of persons having knowledge of relevant facts, and a brief statement of each identified person's connection with the case.**

RESPONSE:

*Randall B. Wilburn, Attorney for West Travis County MUD No. 5  
3000 South IH 35, Suite 150  
Austin, Texas 78704  
(512) 535-1661*

Mr. Wilburn is the legal counsel for West Travis County Municipal Utility District No. 5

*Dr. Larry Fox, President  
Dr. David Williams, Vice-President  
Steve Leon, Secretary  
Marci O'Connell, Asst. Secretary  
Michael Johnson, Asst. Secretary  
Valerie Wheeler  
3910 Capistrano Trail  
Austin, Texas 78739  
(512) 280-6622*

Larry Fox, David Williams, Steve Leon, Marci O'Connell, and Michael Johnson are current members of the Board of Directors of the District. Valerie Wheeler, TUMCO, is the operations manager for the District.

*David J. Klein, Attorney  
Georgia N. Crump, Attorney  
Lauren J. Kalisek, Attorney  
Stefanie P. Albright, Attorney  
Lloyd Gosselink Rochelle & Townsend, P.C.  
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Mr. Klein, Ms. Crump, Ms. Dickenson, Ms. Kalisek, and Ms. Albright are attorneys for the PUA.

*Jerry Kyle, Attorney  
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111 Congress Avenue, Suite 1700  
Austin, Texas 78701  
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Mr. Kyle is the bond counsel for the PUA. Mr. Kyle assists the PUA with its bond issues.

*Nelisa Heddin  
Nelisa Heddin Consulting, LLC  
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(512) 589-1028*

Ms. Heddin is the Financial Advisor for the PUA.

*George Murfee, P.E.  
Murfee Engineering Company, Inc.  
1101 South Capital of Texas Highway, Suite D110  
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(512) 327-9204*

Mr. Murfee is a consulting engineer for the PUA.

*Garry Kimball  
Specialized Public Finance, Inc.  
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Mr. Kimball is the Financial Advisor for the PUA.

*Dr. Larry Fox, Ph.D., President of the PUA  
Michael Murphy, Vice President of the PUA  
Honorable Ray Whisenant, Jr., Secretary of the PUA  
Bill Goodwin, Director of the PUA  
Scott Roberts, Director of the PUA  
Don G. Rauschuber, P.E., General Manager of the WTCPUA  
West Travis County Public Utility Agency  
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Bee Cave, Texas 78738  
(512) 263-0100*

Dr. Fox, Mr. Murphy, Commissioner Whisenant, Councilman Goodwin, and Mr. Roberts are board members of the PUA. Mr. Rauschuber is the General Manager of the PUA.



*Autumn Phillips  
Municipal Accounts & Consulting, LP  
8834 N. Capital of Texas Hwy  
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Ms. Phillips is the lead contact for Municipal Accounts, the PUA's bookkeeper.

*Jim Haley, Attorney for City of Bee Cave, Texas  
Akers Law Firm, L.L.P.  
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Mr. Haley is the counsel for the City of Bee Cave, Texas.

Mark Kennedy, General Counsel for Hays County, Texas  
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Mr. Kennedy is the General Counsel for Hays County, Texas.

Ron Olson, Staff Attorney for TCEQ Executive Director  
Jessica Gray, Staff Attorney for TCEQ Executive Director  
TCEQ, MC-173  
Environmental Law Division  
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Mr. Olson and Ms. Gray are Staff Attorneys in the Environmental Law Division of the TCEQ Executive Director's Office of Legal Services.

Rudy Calderon, Staff Attorney for the TCEQ Office of Public Interest Counsel  
TCEQ, MC-103  
Office of Public Interest Counsel  
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Austin, Texas 78711  
(512) 239-3144

Mr. Calderon is the Staff Attorney for the TCEQ's Office of Public Interest Counsel.

**6. Rule 194.2(f) for any testifying expert:**

- (1) the expert's name, address, and telephone number;**
- (2) the subject matter on which the expert will testify;**
- (3) the general substance of the expert's mental impressions and opinions and a brief summary of the basis for them, or if the expert is not retained by, employed by, or otherwise subject to the control of the responding party, documents reflecting such information;**
- (4) if the expert is retained by, employed by, or otherwise subject to the control of the responding party:**
  - (A) all documents, tangible things, reports, models, or data compilations that have been provided to, reviewed by, or prepared by or for the expert in anticipation of the expert's testimony; and**
  - (B) the expert's current resume and bibliography.**

RESPONSE: The District has not identified any testifying or non-retained testifying expert witnesses at this time.

**7. Rule 194.2(g) any indemnity and insuring agreements described in Rule 192.3(f).**

RESPONSE: Not applicable.

**8. Rule 194.2(h) any settlement agreements described in Rule 192.3(g).**

RESPONSE: Not applicable.

**9. Rule 194.2(i) any witness statements described in Rule 192.3(h).**

RESPONSE: None.