



Control Number: 42866



Item Number: 54

Addendum StartPage: 0

SOAH DOCKET NO. 473-14-5144

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PUBLIC UTILITY COMMISSION  
STATE OF TEXAS

PETITION OF TRAVIS COUNTY	§	BEFORE THE STATE OFFICE
MUNICIPAL UTILITY DISTRICT	§	
NO. 12 APPEALING CHANGE OF	§	
WHOLESALE WATER RATES	§	
IMPLEMENTED BY	§	
WEST TRAVIS COUNTY PUBLIC	§	OF
UTILITY AGENCY;	§	
CITY OF BEE CAVE, TEXAS;	§	
HAYS COUNTY, TEXAS; AND	§	
WEST TRAVIS COUNTY MUNICIPAL	§	
UTILITY DISTRICT NO. 5	§	ADMINISTRATIVE HEARINGS

**SOAH ORDER NO. 7  
DENYING MOTION TO COMPEL**

Travis County Municipal Utility District No. 12 (District 12) served request for production (RFP) No. 1-13 on West Travis County Public Utility Agency (WTCPUA). WTCPUA objected to producing nine of the responsive documents, claiming they are protected by the Attorney-Client Privilege or the Work Product Privilege. WTCPUA subsequently filed an index of the documents that it claims are privileged.

District 12 has filed a motion to compel WTCPUA to produce the nine documents. It asserts they are not privileged because they were prepared prior to WTCPUA's decision to change its rates and before this contested case was filed. District 12 also notes that WTCPUA did not request an *in camera* inspection of the nine documents, which District 12 claims is required by the PUC's rules.

WTCPUA responds that when the nine documents were created, it reasonably anticipated a rate challenge due to the recent history of rate disputes in Western Travis County. It cites recent cases to support that claim. It also contends that it was not required to seek an *in camera* inspection because the former rules of the Texas Commission on Environmental Quality still apply to this discovery dispute under the ALJ's ruling in SOAH Order No. 4.

54

The ALJ finds that no hearing or *in camera* inspection is necessary. He agrees with WTCPUA on all points. The motion to compel WTCPUA to produce the nine privileged documents is denied.

SIGNED October 9, 2014.



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WILLIAM G. NEWCHURCH  
ADMINISTRATIVE LAW JUDGE  
STATE OFFICE OF ADMINISTRATIVE HEARINGS