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Addendum StartPage: 0

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

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PUBLIC UTILITY COMMISSION

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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BEFORE THE STATE OFFICE

OF

ADMINISTRATIVE HEARINGS

**WTCPUA RESPONSE TO TCMUD 12'S MOTION TO COMPEL THE WTCPUA'S
RESPONSES TO TCMUD 12'S THIRD REQUESTS FOR INFORMATION**

COMES NOW the West Travis County Public Utility Agency ("**WTCPUA**"), by and through its attorneys of record, and files this Response ("**Response**") to Travis County Municipal Utility District No. 12's ("**TCMUD 12**") Motion to Compel the WTCPUA's Responses to TCMUD 12's Third Requests for Information ("**RFT**"), and would respectfully show as follows:

I. PROCEDURAL HISTORY

TCMUD 12 served its Third RFI to WTCPUA on September 18, 2014. Pursuant to Public Utility Commission ("**PUC**") Procedural Rules 22.144(d) and 22.4(a), objections are due within ten calendar days of TCMUD 12's receipt of the RFI. Despite TCMUD 12's assertion that the objections were filed "one day late," on September 26, 2014, WTCPUA and TCMUD 12 entered into a Rule 11 agreement, extending WTCPUA's deadline to file objections to September 30, 2014. Therefore, WTCPUA's objections were timely filed. On October 7, 2014, TCMUD 12 filed a Motion to Compel Responses to TCMUD 12's Third RFIs to WTCPUA. Accordingly, this Response is timely filed within five working days of that Motion to Compel pursuant to PUC Proc. R. 22.144(f). Contrary to TCMUD 12's introductory paragraph,

WTCPUA will assume, for efficiency, that TCMUD 12 intended for RF[I]s 3-1 and 3-2 to be considered together, not RF[I]s 3-2 and 3-3. WTCPUA submits this Response under such assumption.

Counsel for WTCPUA negotiated diligently and in good faith with TCMUD 12, but the parties were unable to reach an agreement regarding some of the RFIs, necessitating the filing of its objections. WTCPUA will continue to negotiate with TCMUD 12 on this and future RFIs, if any, and to the extent that any agreement is subsequently reached, WTCPUA will withdraw such applicable objections.

II. RESPONSE TO SPECIFIC REQUESTS FOR INFORMATION

- A) TCMUD 12 RFI 3-1. Identify any and all entities that provided assistance to the PUA in obtaining bond financing (for example, but not limited to, Assured Guaranty Municipal) or bond ratings services.**

TCMUD 12 RFI 3-2. Please refer to the “Acquisition, Water Supply, Wastewater Treatment and Conditional Purchase Agreement” by and among the West Travis County Public Utility Agency, the City of Bee Cave, Hays County, and West Travis County Municipal Utility District No. 5 (the “Acquisition Agreement”) to respond to the following requests for information:

- a) Identify any section or requirements of the Acquisition Agreement which were recommended or required by entities which provided assistance to the PUA in obtaining bond financing (for example, but not limited to, Assured Guaranty Municipal) or bond ratings services.**
- b) Please explain the purpose of any sections or requirements identified in response to Question 3-2(a) above.**
- c) Please explain what role such entities had (if any) in the drafting of the Acquisition Agreement and provide any correspondence between the drafters of the Agreement, signatories to the Agreement, and such organizations.**

As memorialized in its original objection to this RFI 3-1, WTCPUA objects to this discovery request on the grounds that the provision of assistance by third persons to WTCPUA

in obtaining bond financing or bond ratings for its series 2012 and 2013 bond issues is not relevant as to whether the protested wholesale water treatment rates approved by the WTCPUA Board of Directors on November 21, 2013 charged to TCMUD No. 12 violate the public interest criteria under P.U.C. SUBST. R. 24.133(a). Further, such remote information is not likely to lead to the discovery of admissible evidence that is relevant to the subject matter of the pending action, as required by Texas Rules of Civil Procedure (“*TRCP*”) 192.3(a). Similarly, WTCPUA objected to RFI 3-2 on the grounds that the recommendations by such third persons providing bond financing or bond ratings services to the WTCPUA and its consultants in the drafting of the Acquisition, Water Supply, Wastewater Treatment and Conditional Purchase Agreement (“*Acquisition Agreement*”) are also not relevant to the public interest criteria under P.U.C. SUBST. R. 24.133(a), and such information is not likely to lead to the discovery of admissible evidence that is relevant to the subject matter of the pending action, as required by *TRCP* 192.3(a).

As clarified by the Administrative Law Judge (“*ALJ*”) in Order No. 2, the first phase of this case concerns “whether WTCPUA’s protested wholesale rates adversely affect the public interest.”¹ Pursuant to P.U.C. SUBST. R. 24.132(b), discovery during this phase of this contested case hearing is limited to matters relevant to the evidentiary hearing on public interest. The relevant inquiry in this proceeding is whether the protested rates violate one of the public interest criteria listed in P.U.C. SUBST. R. 24.133(a). By specifically listing the public interest criteria in P.U.C. SUBST. R. 24.133(a), and following that list with the prohibition in P.U.C. SUBST. R. 24.133(b) (that “the Commission shall not determine whether the protested rate adversely affects the public interest based on an analysis of the seller’s cost of service”), the Commission has

¹ Order No. 2 Granting Motion for Clarification, at 1 (July 1, 2014), citing 30 Tex. Admin. Code §§ 291.133 and 291.134.

determined that cost of service-based information is not relevant.² As Your Honor has ruled in a previous case, PUC SUBST. R. 24.133(b)³ “specifically, clearly, and unambiguously renders [the seller’s] cost of service legally irrelevant to determining whether the public interest will be adversely affected by [the seller’s] rates.”⁴ Through this rule, the PUC has placed cost of service evidence “completely off the table” and “all cost-of-service evidence is irrelevant in the public-interest hearing.”⁵ Your Honor consistently applied this ruling again in SOAH Order No. 6 in this proceeding, sustaining WTCPUA’s objections to discovery requests that related to cost of service, including, but not limited to, RFP 1-29 (which pertained to the Acquisition Agreement).⁶

Here, TCMUD 12 argues that the third parties that assisted WTCPUA with its bond financing have an incentive to include provisions in the Acquisition Agreement “to protect the WTCPUA’s financial position in order to protect the revenues used to protect the Bond issuances.”⁷ TCMUD 12 asserts that because the Acquisition Agreement, namely, Section 7.07(h), addresses market entry and participation by entities other than the WTCPUA and its participants, the RFIs seek information related to the issue of abuse of monopoly power.⁸

These arguments are flawed and do not justify overruling WTCPUA’s objections to these two overreaching discovery requests. Contrary to TCMUD 12’s belief, the Acquisition Agreement does not define the relationship between WTCPUA and the City of Bee Cave, Hays

² PUC SUBST. R. 24.133(b).

³ Previously 30 Texas Administrative Code (“TAC”) §291.133(b).

⁴ *Appeal of Navarro County Wholesale Ratepayers to Review the Wholesale Rate Increase Imposed by the City of Corsicana, Certificate of Convenience and Necessity No. 10776, in Navarro County*, SOAH Docket No. 582-10-1944; TCEQ Docket No. 2009-1925-UCR, Proposal for Decision (“PFD”) at 16-17 (Aug. 17, 2011).

⁵ *Id.* at 22.

⁶ SOAH Order No. 6 Granting in Part and Denying in Part Motion to Compel at 1-2 (Oct. 1, 2014).

⁷ TCMUD 12’s Motion to Compel the WTCPUA responses to TCMUD 12’s Third Request for Information at 3 (Oct. 7, 2014).

⁸ *Id.*

County, and West Travis County Municipal Utility District No. 5. Instead, the concurrent ordinances and resolutions of those three entities are the instruments that created the WTCPUA. The Acquisition Agreement is a separate contract among these four parties- *and TCMUD 12 is not a party to such contract.* The nature of TCMUD 12's RFIs 3-1 and 3-2, that is, the discussions regarding how the Acquisition Agreement was drafted, cannot be relevant to TCMUD 12's complaint regarding the wholesale water treatment rates charged under the "Wholesale Water Services Agreement" between the Lower Colorado River Authority and TCMUD 12, as amended.⁹

Section 7.07(h) of the Acquisition Agreement, the subsection cited by TCMUD 12, proves this very point. In short, this subsection only pertains to the WTCPUA and its participating entities, not third parties (such as TCMUD 12), as provided below:

To the extent permitted by law, [Bee Cave, Hays County, and West Travis County MUD No. 5 (each, a "Participant")] will not grant any franchise or permit for the acquisition, construction, or operations of any competing facilities which might be used as a substitute for such *Participant's System's* facilities, and to the extent permitted by law, each Participant will prohibit any such competing facilities.¹⁰

This subsection has absolutely no connection to the *wholesale water treatment services* provided by WTCPUA to TCMUD 12 or the rate WTCPUA charges TCMUD 12 for such services. Rather, it addresses each Participant's decision to work with the WTCPUA and the other Participants with respect to providing *water service to retail customers*. In relevant part, a

⁹ This agreement was amended by the "Agreement regarding Transfer of Operations of the West Travis County Water System from the Lower Colorado River Authority, to the West Travis County Public Utility Agency."

¹⁰ Acquisition Agreement, § 7.07(h) (emphasis added).

“Participant’s System” is defined as a “Water Participant’s water works distribution system or combined water distribution and wastewater collection system...”¹¹

Further, in its Motion to Compel, TCMUD 12 only makes a general assertion about an alleged abuse of monopoly power, failing to identify which of the relevant factors under PUC SUBST. R. 24.133(a)(3) to which it alleges this information relates.

Ultimately, a list of the entities that provided assistance to the WTCPUA¹² in obtaining financing and ratings for the WTCPUA’s Series 2012 and Series 2013 revenue bonds has no bearing on, or relation to, whether the WTCPUA has abused any alleged monopoly power in its provision of water treatment services to TCMUD 12.¹³ Therefore, WTCPUA’s objection to RFI 3-1 should be sustained.

Just as the identity of the entities assisting the WTCPUA in issuing bonds in 2012 and 2013 are irrelevant, the extent to which such entities recommended or required the WTCPUA to include provisions in the Acquisition Agreement, or even participated in the drafting of the Acquisition Agreement is also irrelevant to the public interest criteria under P.U.C. SUBST. R. 24.133(a) concerning the WTCPUA’s November 21, 2013 wholesale water treatment rates. Therefore, WTCPUA’s objection to RFI 3-2 should also be sustained.

¹¹ Acquisition Agreement § 1.01. A copy of this page is attached hereto as Exhibit 1.

¹² After conducting a conference with counsel for TCMUD 12, said counsel indicated that “entities that provided assistance to the PUA” was limited to entities outside of the WTCPUA that were engaged by WTCPUA for the purpose of consulting the WTCPUA regarding bond financing and bond ratings.

¹³ P.U.C. SUBST. R. 24.133(a)(3).

B) **TCMUD 12 RFI 3-3.** Please refer to Attachment 1, which is the PUA's "FYE 2013 Budget Planning" spreadsheet, "Schedule 21 Wholesale Customer Count Projection" provided [t]o TCMUD No. 12 by Hays County in response to an earlier discovery request from TCMUD No. 12, Bates Stamped "Hays Co. – 494." Explain why the projected number of Living Unit Equivalents ("LUEs") for TCMUD No. 12 of 127 for FYE 2014 and 167 for FYE 2015 differs from the projected values of 165 and 340 for years 2014 and 2015, respectively, appearing the "FYE2014 Wholesale Customer Minimum Bill Analysis," on page WTCPUA00005545.

WTCPUA objected to this request on the grounds of relevancy and incorporates its arguments related to relevance made in its Response for RFIs 3-1 and 3-2, above. In response, TCMUD 12 argued that the request does not address the WTCPUA's cost of service because it is directed at capacity. TCMUD 12 further asserts that the methodology for determining capacity projections appears to be different in the two documents referenced in this RFI.¹⁴ Last, TCMUD 12 states that Doc. No. WTCPUA00005545 is not a draft as it is "identical" to Doc. No. WTCPUA00009767.

What is at issue in this first phase of this contested case hearing is whether the rates approved on November 21, 2013 violate the public interest criteria. Here, however, TCMUD 12 is seeking an explanation related to two draft *projections* of wholesale customer counts in 2012 and 2013. What the WTCPUA may have considered prior to the final version of the analysis and prior to adopting its protested rates is wholly irrelevant to the determination of whether there was actually a change in methodology or abuse of monopoly power. In SOAH Order No. 6, Your Honor previously sustained WTCPUA's objection to MUD 12's request for drafts of the Final Report – Wholesale Cost of Service and Rate Design Study in MUD 12's RFP 1-2.¹⁵

Further, this RFI seeks information related to the PUA's cost of service leading to the development of the wholesale water treatment rates. As set forth in the Response concerning

¹⁴ TCMUD 12's Motion to Compel the WTCPUA responses to TCMUD 12's Third Request for Information at 3-4 (Oct. 7, 2014).

¹⁵ SOAH Order No. 6 Granting in Part and Denying in Part Motion to Compel at 1 (Oct. 1, 2014).

RFIs 3-1 and 3-2, which is repeated and incorporated herein, the WTCPUA's cost of service is legally irrelevant under P.U.C. SUBST. R. 24.133(b), and cannot lead to the discovery of admissible evidence. The number of living unit equivalents (LUEs) is an issue related to the cost of service, which cannot be addressed in this proceeding. A change in the number of LUEs does not represent a change in methodology.

Furthermore, documents numbered WTCPUA00005545 and WTCPUA00009767 *are not identical*, as demonstrated in Exhibit 2. WTCPUA00005545 is a document provided in response to RFP 1-9, and is a document provided for the May 6, 2013 meeting between WTCPUA and its wholesale water treatment customers, and WTCPUA00009767 is a document provided in response to RFP 2-2, regarding the final analysis for the minimum bill for TCMUD 12.

TCMUD 12 also asserts that the number of LUEs is relevant to determining WTCPUA's ability to obtain an alternative supplier. This is incorrect. The agreement between TCMUD 12 and the WTCPUA itself determines whether there can be an alternate supplier (plus, WTCPUA is not a water supplier to TCMUD 12, it only treats TCMUD 12's raw water supply).

Accordingly, the projected number of LUEs is completely irrelevant to the public interest test as it relates to TCMUD 12. The number of LUEs will have no impact on TCMUD 12 or on the public interest criteria.

For each of these reasons, the WTCPUA's objections should be sustained.

- C) TCMUD 12 RFI 3-5. Please provide the proposed Engagement Letter to conduct a Cost of Service and Rate Design Study by Water Resources Management identified in the January 24, 2013 Minutes of the PUA Board (page WTCPUA0005159), along with any supporting proposal materials that originated from WRM and any documents by or between the PUA or its participants related to the engagement of Water Resources Management.**

The WTCPUA continues to object to this request on the grounds that it seeks documents that are not relevant to the public interest proceeding and are not likely to lead to the discovery of

admissible evidence that is relevant to the subject matter of this pending action, as required by TRCP 192.3(a) and by PUC PROC. R. 22.141(a). TCMUD 12 argues that the request seeks information regarding how WTCPUA framed the assignment given to Water Resources Management (“*WRM*”) and any goals or parameters set by the WTCPUA on WRM prior to the rate study, which TCMUD 12 argues relates to WRM’s autonomy and whether WTCPUA unduly influenced the rate study.¹⁶

The WTCPUA repeats its objections to this request on the grounds of relevancy and incorporates its arguments related to relevance made in its Response for RFIs 3-1 and 3-2, above. The engagement letter between WTCPUA and WRM, the supporting proposal materials, and documents by or between WTCPUA or its participants related to the engagement of WRM are not relevant to the final wholesale water treatment rates that the WTCPUA adopted on November 21, 2013, or the final report of Ms. Heddin.

TCMUD 12 also argues that the requested document may show discrimination between wholesale customers. However, an engagement letter for a rate consultant and other related documents have no bearing on whether a wholesale water treatment service rate charged to one of WTCPUA’s wholesale customers is discriminatory as compared to the wholesale water treatment service rate charged to other WTCPUA wholesale customers. In response to RFP 2-2, WTCPUA has already provided TCMUD 12 the final analysis pertaining to the wholesale water treatment service rates charged to each of WTCPUA’s wholesale water treatment service customers. The WRM engagement agreement and other requested documents are wholly irrelevant to the issue of whether there is any discrimination in the wholesale water treatment rates that were ultimately adopted by WTCPUA, and WTCPUA’s objection should be sustained.

¹⁶ TCMUD 12’s Motion to Compel the WTCPUA responses to TCMUD 12’s Third Request for Information at 5 (Oct. 7, 2014).

D) TCMUD 12 RFI 3-6 Please refer to Attachment 2, which is an email from Nelisa Heddin to several individuals including PUA Manager Don Rauschuber, dated May 10, 201[3] that was provided to TCMUD No. 12 by Hays County in response to an earlier discovery request from TCMUD No. 12, Bates stamped "Hays Co. – 441." As produced by Hays County, that email contains as an attachment a 110 page document titled "05 10 13 DRAFT Rate Study Model – Volumetric Rates.pdf." Page 59 of 110 of that document is "Schedule 26 – 2014 System-Wide Cost Allocation" which is Bates stamped "Hays Co. – 500." A copy of that page is included in Attachment 2.

- a) Admit or deny that page 59 is indeed a page from the document titled "05 10 13 DRAFT Rate Study Model – Volumetric Rates.pdf" attached to Nelisa Heddin's email dated May 10, 201[3].**
- b) If the PUA contends that page 59 is not a page from the document titled "05 10 13 DRAFT Rate Study Model – Volumetric Rates.pdf" attached to Nelisa Heddin's email dated May 10, 201[3], please provide a copy of that email attachment or if previously provided [by] the PUA, identify the Bates page range where the document may be found.**
- c) If the PUA contends that page 59 is not a page from the document titled "05 10 13 DRAFT Rate Study Model – Volumetric Rates.pdf" attached to Nelisa Heddin's email dated May 10, 201[3], please identify the document from which this page is taken and provide a true and correct copy of that document.**
- d) Please refer to Schedule 26, which is on page 59 of 110 provided as part of Attachment 2 and provide any documents supporting the 9% allocated water loss for TCMUD No. 12 as shown in Schedule 26.**

TCMUD 12 RFI 3-7 What is the PUA's assumed raw water loss percentage allocated to TCMUD No. 12 for water transported between the LCRA intake point and the water treatment plant? Please provide any documents supporting that raw water loss assumption. If the assumed percentage for raw water loss has changed or was different at certain times, please identify each assumed raw water loss percentage and the dates during which that assumed percentage was used.

TCMUD 12 RFI 3-8. What is the PUA's assumed treated water loss percentage allocated to TCMUD No. 12 for water transported between the water treatment plant and TCMUD No. 12's delivery point? Please provide any documents supporting that treated water loss assumption. If the assumed percentage for treated water loss has changed or was different at certain times, please identify each assumed treated water loss percentage and the dates during which that assumed percentage was used.

The WTCPUA continues to object to these three RFIs on the grounds that they request documents that are not relevant to the public interest proceeding and are not likely to lead to the discovery of admissible evidence that is relevant to the subject matter of the pending action, as required by TRCP 192.3(a) and by PUC PROC. R. 22.141(a).

In response, TCMUD 12 argues that the requests seek information related to raw and treated water loss assumptions by the WTCPUA that are relevant to determine what WTCPUA is charging TCMUD 12 under the contract and whether the inclusion of charges for lost water is a change in methodology.¹⁷ The WTCPUA repeats its objections to this request on the grounds of relevancy and incorporates its arguments related to relevance made in its objections to RFIs 3-1 and 3-2, above. A specific water loss percentage is part of the WTCPUA's cost of service, and based upon P.U.C. SUBST. R. 24.133(b), is not relevant to the public interest criteria analysis.

Contrary to TCMUD 12's assertion, a change in water loss percentage does not represent a "change in methodology" as contemplated by SUBST. R. 24.133(a)(3)(C). Rather, a change in the computation of the revenue requirement or rate from one methodology to another refers to

¹⁷ TCMUD 12's Motion to Compel the WTCPUA responses to TCMUD 12's Third Request for Information at 5-7 (Oct. 7, 2014).

looking at the revenue requirement on a cash basis or utility basis. Water loss percentages are completely irrelevant to choosing between those two methodologies for setting a revenue requirement.

Therefore, the WTCPUA's objections to these three RFIs should be sustained.

E) TCMUD 12 RFI 3-9. Please see Attachment 3, which is Page 9 from a May 30, 2014 invoice from Lloyd Gosselink Rochelle & Townsend, P.C., provided by Hays County in response to an earlier discovery request from TCMUD No. 12 and Bates stamped "Hays Co. – 1979." Please provide the "spreadsheet of wholesale customer contracts" identified in that invoice. If this spreadsheet has previously been produced by a party to this proceeding, please identify the relevant discovery response and pages.

A. Relevance Objection

The WTCPUA repeats its objections to this request on the grounds of relevancy and incorporates its arguments related to relevance made in its Response for RFIs 3-1 and 3-2, above. TCMUD 12 argues that the document sought is relevant in that it pertains to the WTCPUA's contracts with other wholesale customers. However, RFI 3-9 seeks a document created after the WTCPUA adopted its wholesale water treatment rates on November 21, 2013, and which does not pertain to the subject matter of this contested case hearing.

Additionally, TCMUD 12 asserts that the fact that the documents were created after the rates were set is immaterial because the document may show contract amendments prior to or contemporaneous with the rate change.¹⁸ However, only the existing contracts are relevant to that inquiry, and such contracts were already provided to TCMUD 12 in RFP No. 1-10.

¹⁸ TCMUD 12's Motion to Compel the WTCPUA responses to TCMUD 12's Third Request for Information at 7-8 (Oct. 7, 2014).

B. Attorney-Client Privilege

The requested document is not only irrelevant, but its contents are protected by attorney client privilege.

Legal Basis: Under the attorney-client privilege, “a client has the privilege to refuse to disclose and to prevent any other person from disclosing confidential communications made for the purpose of facilitating the rendition of professional legal services to the client: (A) between the client or a representative of the client and the client’s lawyer or a representative of the lawyer; (B) between the lawyer and the lawyer’s representative; (C) by the client or a representative of the client, or the client’s lawyer or a representative of the lawyer, to a lawyer or a representative of a lawyer representing another party in a pending action and concerning a matter of common interest therein; (D) between representatives of the client or between the client and a representative of the client; or (E) among lawyers and their representatives representing the same client.”¹⁹ Therefore, the attorney-client privilege protects from disclosure all confidential communications that fall within the scope of representation provided by the attorney to the client, so long as the client has not waived this privilege.

Factual Basis: The document that has been withheld by WTCPUA is a document created by counsel for WTCPUA, Lloyd Gosselink, for WTCPUA to assist the WTCPUA with a matter under which Lloyd Gosselink has been engaged by WTCPUA. WTCPUA timely submitted this document for in camera review on October 13, 2014.

Therefore, the WTCPUA’s objections and assertion of privilege should be sustained.

¹⁹ TEX. R. EVID. 503.

F) TCMUD 12 RFI 3-11. Please provide any studies or documents which sought to estimate the market value of the system which the PUA acquired from the LCRA prior to the PUA's acquisition.

The WTCPUA continues to object to this request on the grounds that studies or documents estimating the market value of the WTCPUA's water system are irrelevant to the public interest criteria under P.U.C. SUBST. R. 24.133(a). TCMUD 12 argues that documents that sought to estimate the market value of the system will somehow demonstrate changed conditions under PUC SUBST. R. 24.133(a)(3)(B).²⁰

The WTCPUA repeats its objections to this request on the grounds of relevancy and incorporates its arguments related to relevance made in its Response for RFIs 3-1 and 3-2, above. Documents providing hypothetical estimates of the market value of the water system have no bearing on the actual price that WTCPUA paid for such system; and the actual price paid by WTCPUA for the water system is the element that drives the portion of WTCPUA's wholesale water treatment rates that corresponds to annual costs relating to the purchase of the water system from LCRA.

Further, documents regarding the market value of the WTCPUA water system go to the costs of such system, which is directly related to the WTCPUA's cost of service. TCMUD 12 argues that it is seeking to establish a "baseline" from which the claims of changed conditions can be evaluated.²¹ Such an inquiry is inappropriate here, as it only pertains to the cost of providing the service, and not to any public interest inquiry.

Therefore, the WTCPUA's objections should be sustained.

²⁰ TCMUD 12's Motion to Compel the WTCPUA responses to TCMUD 12's Third Request for Information at 8 (Oct. 7, 2014).

²¹ *Id.*

III. PRAYER

WHEREFORE, PREMISES CONSIDERED, the WTCPUA requests that TCMUD 12's Motion to Compel be denied and the WTCPUA's objections sustained for the reasons stated herein. The WTCPUA also requests any other relief to which it may show itself justly entitled.

Respectfully submitted,

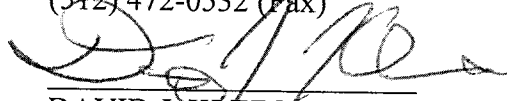
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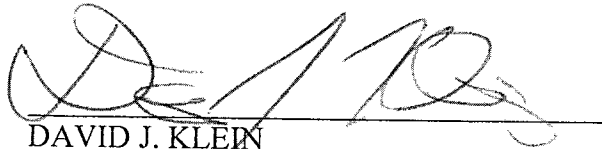
MELISSA LONG

Texas Bar No. 24063949

**ATTORNEYS FOR WEST TRAVIS COUNTY
PUBLIC UTILITY AGENCY**

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document was transmitted by fax, e-mail, hand-delivery and/or regular, first class mail on this 14 day of October, 2014, to the parties of record.



DAVID J. KLEIN

(b) services of the professional, technical, skilled and unskilled persons and firms engaged by or associated with the PUA, other than PUA staff personnel, together with their reimbursable expenses paid or required to be paid by the PUA;

(c) salaries of the PUA's staff attributable to the System or the Bonds based on time expended, as documented or reasonably estimated by the President of the Board of Directors of the PUA;

(d) the costs of preparing applications for and obtaining all approvals and authorizations required for the System or the Bonds from the regulatory authorities having jurisdiction;

(e) the cost of property casualty and public liability insurance, including any insurance deductible charged to or required to be paid by the PUA;

(f) all costs incurred in litigation involving or relating to the System; and

(g) any and all other costs and expenses, including out-of-pocket expenses, incurred by the PUA attributable to the System or the Bonds, whether enumerated above or not.

"Participant's Account" shall mean the account held by the PUA on behalf of each Participant for deposit of payments received from such Participant's customers.

"Participants" means any public entities that may participate in the PUA from time to time, after adoption of the Concurrent Ordinance or Order in accordance with Section 572.053, Local Government Code, including the City, the County and MUD 5.

"Participant's System" means and includes (i) a Water Participant's waterworks distribution system or combined water distribution and wastewater collection system, (ii) a Wastewater Participant's wastewater collection system or combined water distribution and wastewater collection system, and (iii) all future extensions, improvements, enlargements, and additions thereto, including, to the extent permitted by law, reclaimed water systems within such Participants' waterworks distribution system or wastewater disposal system, and all replacements thereof; provided that, notwithstanding the foregoing, and to the extent now or hereafter authorized or permitted by law, the term Participant's System shall not include any waterworks distribution facilities or wastewater collection facilities which are hereafter acquired or constructed by such Participant with the proceeds from the issuance of "special facilities obligations" and which are declared by a Participant not to be a part of such Participant's System, which are hereby defined as being special revenue obligations of such Participant which are not secured by or payable from the net revenues of the Participant's System, but which are secured by and are payable solely from special contract revenues, or payments received by the Participant, or any combination thereof, in connection with such facilities; and such revenues or payments shall not be considered as or constitute gross revenues of the Participant's System, unless and to the extent otherwise provided in the order, ordinance or resolution authorizing the issuance of such "special facilities obligations;" and provided further that, except with the prior

approval of the Board of Directors of the PUA, no such facilities may be connected to the System.

"Participant's Utility Bonds" means the appropriate Participant's bonds and notes outstanding from time to time, if any, secured by a lien on and pledge of the net revenues of the Participant's System or any part thereof, regardless of lien priority.

"Permitted Liens" means:

(a) the rights reserved to LCRA in the System and its revenues in the Purchase Contract;

(b) minor irregularities, charges, liens, encumbrances, defects, easements, licenses, rights-of-way, servitudes, restrictions, mineral rights, and clouds on title which, in the opinion of counsel to the PUA, a copy of which shall be forwarded to each of the Participants, do not materially impair the use of the System for the purposes for which it is designed;

(c) easements for roads (as used in this Agreement, the term "roads" shall include, without limitation, streets, curbs, gutters, drains, ditches, sewers, conduits, canals, mains, aqueducts, aerators, connections, ramps, docks, viaducts, alleys, driveways, parking areas, walkways, and trackage), utilities (which for purposes of this Agreement shall include, without limitation, water, sewer, electricity, gas, telephone, pipeline, railroad, and other collection, transportation, light, heat, power, and communication systems) and similar easements and other easements, rights-of-way, rights of flowage, flooding, diversion or outfall, licenses, restrictions, and obligations relating to the operation of the System which, in the opinion of counsel to the PUA, a copy of which shall be forwarded to each of the Participants, do not materially impair the use of the System for the purposes for which it is designed; and

(d) rights of the United States or any state or political subdivision thereof, or other public or governmental authority or agency or any other entity vested with the power of eminent domain to take or control property or to terminate any right, power, franchise, grant, license, or permit previously in force.

"Point(s) of Entry" means the point(s) designated in Exhibit B to this Agreement where wastewater will be received from Wastewater Participants into the System.

"Proportionate Share of the Annual Payment" shall be determined in accordance with the procedures described in Exhibit A hereto.

"Prudent Utility Practice" means any of the practices, methods, and acts, in the exercise of reasonable judgment, in the light of the facts, including but not limited to the practices, methods, and acts engaged in or approved by a significant portion of the public utility industry prior thereto, known at the time the decision was made, that would have been expected to accomplish the desired result at the lowest reasonable cost consistent with reliability, safety, and expedition. It is recognized that Prudent Utility Practice is not intended to be limited to the

West Travis County Public Utility Agency
 FYE2014 Wholesale Customer Minimum Bill Analysis

Sample: Individual Capital Amortization Schedule

Travis County MUD #12 (Rough Hollow)
 Series 2013 Debt Payment Schedule

	Series 2013	Series 2015	Series 2019	Total
Effective Interest Rate	4.60%	5.00%	5.00%	
Capital Cost Allocation	\$ 5,380,721	\$ 695,032	\$ 528,440	\$ 6,604,193
Plus Reserves	134,228	45,713	34,376	413,816
Plus Issuance Costs (2%)	114,299	14,805	11,256	140,360
Capital Cost Allocation	\$ 5,829,248	\$ 755,050	\$ 574,073	\$ 7,158,370
Build-out LUEs	2,125			
Current LUEs (January 2013)	95			
Annual Payment per LUE	\$ 240	\$ 29	\$ 20	\$ 289
Effective Impact Fee Credit		17%		

Series 2013	Projected LUEs	Beginning Balance	Interest Expense	Subtotal	Total Annual Debt Payment*	Ending Balance	Annual Minimum Bill Paid to PUA	Monthly Minimum per LUE
2014	165	\$ 5,829,248	\$ 268,145	\$ 6,097,393	\$ 39,549	\$ 6,057,844	\$ 42,618.58	\$ 21.52
2015	340	\$ 6,057,844	\$ 278,661	\$ 6,336,505	\$ 81,494	\$ 6,255,011	\$ 87,820.10	\$ 21.52
2016	515	\$ 6,255,011	\$ 287,711	\$ 6,542,742	\$ 123,439	\$ 6,419,302	\$ 133,021.62	\$ 21.52
2017	690	\$ 6,419,302	\$ 295,288	\$ 6,714,590	\$ 165,385	\$ 6,549,205	\$ 178,223.14	\$ 21.52
2018	865	\$ 6,549,205	\$ 301,263	\$ 6,850,469	\$ 207,330	\$ 6,643,138	\$ 223,424.66	\$ 21.52
2019	1,040	\$ 6,643,138	\$ 305,584	\$ 6,948,723	\$ 249,276	\$ 6,699,447	\$ 268,626.19	\$ 21.52
2020	1,215	\$ 6,699,447	\$ 308,175	\$ 7,007,621	\$ 291,221	\$ 6,716,400	\$ 313,827.71	\$ 21.52
2021	1,390	\$ 6,716,400	\$ 308,954	\$ 7,025,354	\$ 333,167	\$ 6,692,188	\$ 359,029.23	\$ 21.52
2022	1,565	\$ 6,692,188	\$ 307,841	\$ 7,000,028	\$ 375,112	\$ 6,624,916	\$ 404,230.75	\$ 21.52
2023	1,740	\$ 6,624,916	\$ 304,746	\$ 6,929,662	\$ 417,058	\$ 6,512,605	\$ 449,432.27	\$ 21.52
2024	1,915	\$ 6,512,605	\$ 299,580	\$ 6,812,184	\$ 459,003	\$ 6,353,181	\$ 494,633.80	\$ 21.52
2025	2,090	\$ 6,353,181	\$ 292,246	\$ 6,645,428	\$ 500,949	\$ 6,144,479	\$ 539,835.32	\$ 21.52
2026	2,125	\$ 6,144,479	\$ 282,646	\$ 6,427,125	\$ 509,338	\$ 5,917,787	\$ 548,875.62	\$ 21.52
2027	2,125	\$ 5,917,787	\$ 272,218	\$ 6,190,006	\$ 509,338	\$ 5,680,668	\$ 548,875.62	\$ 21.52
2028	2,125	\$ 5,680,668	\$ 261,311	\$ 5,941,979	\$ 509,338	\$ 5,432,641	\$ 548,875.62	\$ 21.52
2029	2,125	\$ 5,432,641	\$ 249,901	\$ 5,682,543	\$ 509,338	\$ 5,173,205	\$ 548,875.62	\$ 21.52
2030	2,125	\$ 5,173,205	\$ 237,967	\$ 5,411,172	\$ 509,338	\$ 4,901,835	\$ 548,875.62	\$ 21.52
2031	2,125	\$ 4,901,835	\$ 225,484	\$ 5,127,319	\$ 509,338	\$ 4,617,981	\$ 548,875.62	\$ 21.52
2032	2,125	\$ 4,617,981	\$ 212,427	\$ 4,830,409	\$ 509,338	\$ 4,321,071	\$ 548,875.62	\$ 21.52
2033	2,125	\$ 4,321,071	\$ 198,769	\$ 4,519,840	\$ 509,338	\$ 4,010,503	\$ 548,875.62	\$ 21.52
2034	2,125	\$ 4,010,503	\$ 184,483	\$ 4,194,986	\$ 509,338	\$ 3,685,648	\$ 548,875.62	\$ 21.52
2035	2,125	\$ 3,685,648	\$ 169,540	\$ 3,855,188	\$ 509,338	\$ 3,345,850	\$ 548,875.62	\$ 21.52
2036	2,125	\$ 3,345,850	\$ 153,909	\$ 3,499,759	\$ 509,338	\$ 2,990,422	\$ 548,875.62	\$ 21.52
2037	2,125	\$ 2,990,422	\$ 137,559	\$ 3,127,981	\$ 509,338	\$ 2,618,643	\$ 548,875.62	\$ 21.52
2038	2,125	\$ 2,618,643	\$ 120,458	\$ 2,739,101	\$ 509,338	\$ 2,229,763	\$ 548,875.62	\$ 21.52
2039	2,125	\$ 2,229,763	\$ 102,569	\$ 2,332,332	\$ 509,338	\$ 1,822,995	\$ 548,875.62	\$ 21.52
2040	2,125	\$ 1,822,995	\$ 83,858	\$ 1,906,852	\$ 509,338	\$ 1,397,515	\$ 548,875.62	\$ 21.52
2041	2,125	\$ 1,397,515	\$ 64,286	\$ 1,461,801	\$ 509,338	\$ 952,463	\$ 548,875.62	\$ 21.52
2042	2,125	\$ 952,463	\$ 43,813	\$ 996,276	\$ 509,338	\$ 486,938	\$ 548,875.62	\$ 21.52
2043	2,125	\$ 486,938	\$ 22,399	\$ 509,338	\$ 509,338	\$ 0	\$ 548,875.62	\$ 21.52
2044	2,125							
2045	2,125							
2046	2,125							
2047	2,125							
2048	2,125							

*Listed absorption for entire subdivision. However, Rough Hollow also has water from TCWCID#17. As such minimum per LUE is the average minimum across all LUE's just for the PUA portion of cost.

**Total Annual Minimum Bill = Total Annual Payment + (Total Annual Payment * 25% Times Coverage) - (Total Annual Payment * Impact Fee Credit)

West Travis County Public Utility Agency
 FYE2014 Wholesale Customer Minimum Bill Analysis

Sample: Individual Capital Amortization Schedule

Travis County MUD #12 (Rough Hollow)

Series 2013 Debt Payment Schedule

	Series 2013	Series 2015	Series 2019	Total
Effective Interest Rate	4.89%	5.00%	5.00%	
Capital Cost Allocation	\$ 10,782,804	\$ 1,410,712	\$ 1,072,587	\$ 13,267,114
Plus Reserves	692,490	91,769	69,773	854,033
Plus Insurance Costs (2%)	229,376	30,050	22,847	282,423
Capital Cost Allocation	\$ 11,705,820	\$ 1,532,541	\$ 1,165,208	\$ 14,403,569

Build-out LUEs 1,750

Current LUEs (January 2013) 95

Annual Payment per LUE \$ 549 \$ 68 \$ 46 \$ 663

Effective Impact Fee Credit 17%

Series 2013	Projected LUEs	Beginning Balance	Interest Expense	Subtotal	Total Annual Debt Payment*	Ending Balance	Annual Minimum Bill Payment PUA	Monthly Minimum per LUE
2014	165	\$ 11,705,820	\$ 572,061	\$ 12,277,881	\$ 90,554	\$ 12,187,327	\$ 97,590.68	\$ 49.34
2015	340	\$ 12,187,227	\$ 595,587	\$ 12,782,814	\$ 186,802	\$ 12,596,012	\$ 201,302.01	\$ 49.34
2016	515	\$ 12,596,012	\$ 615,364	\$ 13,211,376	\$ 282,949	\$ 12,928,427	\$ 304,913.33	\$ 49.34
2017	690	\$ 12,928,427	\$ 631,819	\$ 13,560,245	\$ 379,097	\$ 13,181,348	\$ 408,524.66	\$ 49.34
2018	865	\$ 13,181,348	\$ 644,169	\$ 13,825,517	\$ 475,245	\$ 13,350,272	\$ 512,135.99	\$ 49.34
2019	1,040	\$ 13,350,272	\$ 652,424	\$ 14,002,697	\$ 571,393	\$ 13,431,304	\$ 615,747.31	\$ 49.34
2020	1,215	\$ 13,431,304	\$ 656,384	\$ 14,087,688	\$ 667,541	\$ 13,420,147	\$ 719,358.64	\$ 49.34
2021	1,390	\$ 13,420,147	\$ 655,839	\$ 14,075,987	\$ 763,689	\$ 13,312,298	\$ 822,969.97	\$ 49.34
2022	1,565	\$ 13,312,298	\$ 650,509	\$ 13,962,807	\$ 859,837	\$ 13,103,030	\$ 926,581.29	\$ 49.34
2023	1,740	\$ 13,103,030	\$ 640,342	\$ 13,743,372	\$ 955,984	\$ 12,787,387	\$ 1,030,192.62	\$ 49.34
2024	1,750	\$ 12,787,387	\$ 624,916	\$ 13,412,304	\$ 961,479	\$ 12,450,825	\$ 1,036,113.27	\$ 49.34
2025	1,750	\$ 12,450,825	\$ 608,469	\$ 13,059,294	\$ 961,479	\$ 12,097,815	\$ 1,036,113.27	\$ 49.34
2026	1,750	\$ 12,097,815	\$ 591,217	\$ 12,689,033	\$ 961,479	\$ 11,727,554	\$ 1,036,113.27	\$ 49.34
2027	1,750	\$ 11,727,554	\$ 573,123	\$ 12,300,677	\$ 961,479	\$ 11,339,198	\$ 1,036,113.27	\$ 49.34
2028	1,750	\$ 11,339,198	\$ 554,144	\$ 11,893,342	\$ 961,479	\$ 10,931,863	\$ 1,036,113.27	\$ 49.34
2029	1,750	\$ 10,931,863	\$ 534,237	\$ 11,466,101	\$ 961,479	\$ 10,504,622	\$ 1,036,113.27	\$ 49.34
2030	1,750	\$ 10,504,622	\$ 513,358	\$ 11,017,980	\$ 961,479	\$ 10,056,502	\$ 1,036,113.27	\$ 49.34
2031	1,750	\$ 10,056,502	\$ 491,459	\$ 10,547,961	\$ 961,479	\$ 9,586,482	\$ 1,036,113.27	\$ 49.34
2032	1,750	\$ 9,586,482	\$ 468,489	\$ 10,054,971	\$ 961,479	\$ 9,093,492	\$ 1,036,113.27	\$ 49.34
2033	1,750	\$ 9,093,492	\$ 444,397	\$ 9,537,889	\$ 961,479	\$ 8,576,410	\$ 1,036,113.27	\$ 49.34
2034	1,750	\$ 8,576,410	\$ 419,127	\$ 8,995,537	\$ 961,479	\$ 8,034,059	\$ 1,036,113.27	\$ 49.34
2035	1,750	\$ 8,034,059	\$ 392,622	\$ 8,426,681	\$ 961,479	\$ 7,465,203	\$ 1,036,113.27	\$ 49.34
2036	1,750	\$ 7,465,203	\$ 364,823	\$ 7,830,025	\$ 961,479	\$ 6,868,547	\$ 1,036,113.27	\$ 49.34
2037	1,750	\$ 6,868,547	\$ 335,644	\$ 7,204,211	\$ 961,479	\$ 6,242,732	\$ 1,036,113.27	\$ 49.34
2038	1,750	\$ 6,242,732	\$ 305,081	\$ 6,547,813	\$ 961,479	\$ 5,586,334	\$ 1,036,113.27	\$ 49.34
2039	1,750	\$ 5,586,334	\$ 273,003	\$ 5,859,337	\$ 961,479	\$ 4,897,859	\$ 1,036,113.27	\$ 49.34
2040	1,750	\$ 4,897,859	\$ 239,357	\$ 5,137,216	\$ 961,479	\$ 4,175,737	\$ 1,036,113.27	\$ 49.34
2041	1,750	\$ 4,175,737	\$ 204,067	\$ 4,379,804	\$ 961,479	\$ 3,418,326	\$ 1,036,113.27	\$ 49.34
2042	1,750	\$ 3,418,326	\$ 167,053	\$ 3,585,378	\$ 961,479	\$ 2,623,900	\$ 1,036,113.27	\$ 49.34
2043	1,750	\$ 2,623,900	\$ 128,229	\$ 2,752,129	\$ 961,479	\$ 1,790,651	\$ 1,036,113.27	\$ 49.34
2044	1,750	\$ 1,790,651	\$ 87,509	\$ 1,878,159	\$ 961,479	\$ 916,681	\$ 1,036,113.27	\$ 49.34
2045	1,750	\$ 916,681	\$ 44,798	\$ 961,479	\$ 961,479	\$ 0	\$ 1,036,113.27	\$ 49.34
2046	1,750							
2047	1,750							
2048	1,750							

*Unstated absorption for entire subdivision. However, Rough Hollow also has water from TCWCID#17. As such minimum per LUE is the average minimum across all LUE's just for the PUA portion of costs.

**Total Annual Minimum Bill = Total Annual Payment + (Total Annual Payment * 25% Times Coverage) - (Total Annual Payment * Impact Fee Credit)