



Control Number: 42867



Item Number: 19

Addendum StartPage: 0

House Bill (HB) 1600 and Senate Bill (SB) 567 83rd
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.

RECEIVED

2014 SEP -5 AM 9: 25

SOAH DOCKET NO. 582-13-4617

TCEQ DOCKET NO. 2013-0865-UCR

MUNICIPAL UTILITY COMMISSION
FILING CLERK

PETITION OF NORTH AUSTIN § BEFORE THE STATE OFFICE
UTILITY DISTRICT NO. 1, §
NORTHTOWN MUNICIPAL UTILITY §
DISTRICT, TRAVIS COUNTY WATER §
CONTROL AND IMPROVEMENT §
DISTRICT NO. 10 AND WELLS § OF
BRANCH MUNICIPAL UTILITY §
DISTRICT, FROM THE RATEMAKING §
ACTIONS OF THE CITY OF AUSTIN §
AND REQUEST FOR INTERIM RATES §
IN WILLIAMSON AND TRAVIS §
COUNTIES § ADMINISTRATIVE HEARINGS

SOAH DOCKET NO. 582-14-3145

TCEQ DOCKET NO. 2014-0489-UCR

PETITION OF NORTH AUSTIN § BEFORE THE STATE OFFICE
MUNICIPAL UTILITY DISTRICT NO. §
1, NORTHTOWN MUNICIPAL §
UTILITY DISTRICT, AND WELLS §
BRANCH MUNICIPAL UTILITY §
DISTRICT FROM THE RATEMAKING § OF
ACTIONS OF THE CITY OF AUSTIN §
AND REQUEST FOR INTERIM RATES §
IN WILLIAMSON AND TRAVIS §
COUNTIES § ADMINISTRATIVE HEARINGS

**CITY OF AUSTIN'S AMENDED FIRST REQUEST FOR PRODUCTION OF
DOCUMENTS PROPOUNDED TO NORTH AUSTIN UTILITY DISTRICT NO. 1**

TO: North Austin Utility District No. 1, care of Randall B. Wilburn, Attorney at Law, 3000
South I.H. 35, Suite 150, Austin, Texas 78704, Phone 512-535-1661, Fax 512-535-1678;

and

North Austin Utility District No. 1, care of John Carlton, The Carlton Law Firm,
P.L.L.C., 2705 Bee Cave Road, Suite 200, Austin, Texas 78746, Phone 512-614-0901,
Fax 512-900-2855

The City of Austin ("the City," "Austin," or "Respondent"), serves this Amended Request for Production of Documents on Petitioner, North Austin Utility District No. 1 ("North Austin" or "District" or "Petitioner"), as allowed by Texas Rules of Civil Procedure 196. *North Austin must respond to the following requests, in writing, within 20 days after service, in accordance with the Administrative Law Judge's Order No. 9.* North Austin must produce all requested documents (as they are kept in the ordinary course of business or organized and labeled to correspond with categories in each request) for inspection and copying, nor more than 20 days after the service of this request.

This Request for Production is continuing in nature. If further or different information is made available to the party upon whom this Request is made, such information is to be made available at the office of the City of Austin's attorneys during usual business hours within a reasonable time after North Austin receives the information.

This document reflects the ruling of the Administrative Law Judge in Order No. 9 and a conference with Petitioners' counsel on April 29, 2014. These production requests are a re-issuance of the production requests propounded to Petitioner on March 3, 2014.

I. INSTRUCTIONS

1. Answer each request for documents by separately listing the documents and by describing them as defined below. If a document already has been provided in response to a previous document request, the subsequent response need simply identify such document.

2. The singular shall be deemed to include the plural and vice versa so as to bring within the scope of this request all documents which might otherwise be construed to be outside the scope.

3. If any document is withheld under a claim of privilege, provide the following information with respect to any such document so as to aid in determining the validity of the claim of privilege:

- a. The identity of the person(s): (i) who prepared the document; (ii) who signed the document, and (iii) over whose name it was sent or issued;
- b. The identity of the person(s) to whom the document was directed;
- c. The identity of the person(s) who has custody of, or control over, the document and each copy thereof;

- d. The identity of each person to whom a copy of the document was furnished;
- e. The job title(s) of each person named in (a) (b), (c) and (d) above;
- f. The nature and substance of the document, with sufficient particularity to enable the Court and the parties to identify the document;
- g. The date of the document; the number of pages of the document;
- h. The basis on which any privilege is claimed, including the statute, rule, or decision, which is claimed to give rise to the privilege.
- i. Whether any non-privileged matter is included in the document; and

4. In the case of any document relating in any way to a meeting or conversation, provide the date and place of such meeting or conversation and a list of the participants thereto.

5. For a document that no longer exists or that cannot be located, identify the document; state how and when it passed out of existence, or when it could no longer be located, and the reasons for the disappearance. Also, identify each person having knowledge about the disposition or loss of the document, and identify any other document evidencing the lost document's existence or any facts about the lost document.

6. North Austin should supplement as soon as possible the responses to these requests as additional documents become available or come into existence.

II. DEFINITIONS

The following definitions shall have the following meanings, unless the context provides otherwise:

1. "North Austin Utility District No. 1" or "District" or "North Austin" means Petitioner, its agents, representatives, and all other persons acting in concert with it, or under its control, whether directly or indirectly, including any attorney.

2. "Austin" or "the City" means the City of Austin, Texas, its agents, representatives, and all other persons acting in concert with it, or under its control, whether directly or indirectly, including any attorney.

3. "You" or "your" means the North Austin Utility District No. 1, its successors, predecessors, divisions, subsidiaries, present and former officers, agents, employees, consultants, and all other persons acting on behalf of North Austin, including successors, predecessors, divisions, and subsidiaries.

4. The term "document" is used in its broadest sense to mean all writings or records of any kind, including but not limited to the original, any drafts, and all non-identical copies (whether different from originals by reason of notation made on such copies or otherwise) of all correspondence, letters, emails, memoranda, telegrams, diaries, appointment calendars, books, reports, records, handwritten notes, working papers, statements, journals, worksheets, charts, plans, diagrams, sketches, brochures, pamphlets, manuals, newspapers, magazines, bulletins, circulars, contracts, proposals, written agreements, interoffice communications, photographs, pictures, slides, films, microfilm, voice recordings, tapes, videotapes, computer input and output material, electronic data and other writings or communications of any kind or description whatsoever, in the possession, custody or control of North Austin, its attorneys, officers, employees and/or agents.

5. "Relating to" means consisting of, referring to, reflecting, containing, discussing, describing, evidencing, substantiating, memorializing, prepared in connection with, used in preparation for, pertaining to, having any relationship to, or in any way being factually, legally, or logically connected to, in whole or in part, the stated subject matter. "Relating to" also means, without limitation, embodying, mentioning or concerning, directly or indirectly, the subject matter identified in the request.

6. "Possession, custody, or control" of an item means that the person either has physical possession of the item or has a right to possession that is equal or superior to the person who has physical possession of the item.

7. "File" means any collection or group of documents maintained, held, stored, or used together, including, without limitation, all collections of documents maintained, held or stored in folders, notebooks, or other devices for separating or organizing documents.

8. "Person" means any natural person, corporation, firm association, partnership, joint venture, proprietorship, governmental body, or any other organization, business, or legal entity, and all predecessors or successors in interest.

9. "Concerning" means, in whole or in part, directly or indirectly, referring to, relating to, connected with, commenting on, responding to, showing, describing, analyzing, reflecting, and constituting.

10. "Communication" means any oral or written communication of which North Austin has knowledge, information, or belief.

11. "Date" means the exact date, month, year, if ascertainable, or, if not, the best available approximation.

12. "Describe" and "identify," when referring to a person, are defined to require that you state the following:

- a. The full name;
- b. The present or last known residential address;
- c. The present or last known residential and office telephone numbers;
- d. The present occupation, job title, employer, and employer's address at the time of the event or period referred to in each particular request; and
- e. In the case of any person other than an individual, identify the officer, employee, or agent most closely connected with the subject matter of the request and identify the officer who is responsible for supervising that officer or employee.

13. "Describe" and "identify," when referring to a document, are defined to require that you state the following:

- a. The nature (e.g., letter, handwritten note) of the document;
- b. The title or heading that appears on the document;
- c. The date of the documents and the date of each addendum, supplement, or other addition or change;
- d. The identity of the author and of the signor of the document, and of the person on whose behalf or at whose request or direction the document was prepared or delivered; and
- e. The present location of the document, and the name, address, position, or title, and telephone number of the person or person having custody of the document.

14. The word "and" means "and/or."

15. The word "or" means "or/and."

III. PRODUCTION REQUESTS

1. Please provide budgets formally adopted by North Austin for current year and previous five (5) years. Please include all back up data for each budget formally adopted by North Austin.
2. Please provide copies of the budgeted water revenue for North Austin versus actual water revenue reports for the past five (5) completed fiscal years.
3. Please provide copies of all revenue forecast models used by North Austin for the last five (5) years.
4. Please provide copies of the resolutions or orders to establish water rates that have been formally adopted by North Austin for current year and previous five (5) years.
5. Please provide documents that show the number of customers served by North Austin by each customer class for current year and previous five (5) years.
6. Please provide line item detail of each operating and capital expense assigned to the water rate revenue requirements of North Austin for current year and previous five (5) years.
7. Please provide copies of all water rate studies completed by North Austin or at the direction of North Austin, within last five (5) years.
8. Please provide all documents which describe, with specificity, the North Austin's state approved water conservation plan.
9. Please provide dated "screen shot" copies of North Austin's web pages advertising the availability of water conservation programs to their customers.
10. Please provide documents, reports, memoranda, and pamphlets that describe North Austin's current financial reserves fund policy; its treatment of reserve funds, and its use of such funds for new construction and operations and maintenance. Provide copies of documents that describe said policy.

Respectfully submitted,

KAREN KENNARD,
City Attorney

D. CLARK CORNWELL
Assistant City Attorney

WEBB & WEBB
712 Southwest Tower
211 East Seventh Street
Austin, Texas 78767
Tel: (512) 472-9990
Fax: (512) 472-3183

By:


Stephen P. Webb
State Bar No. 21033800
s.p.webb@webbwebblaw.com

Gwendolyn Hill Webb
State Bar No. 21026300
g.hill.webb@webbwebblaw.com

ATTORNEYS FOR CITY OF AUSTIN

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document has been served via hand delivery, facsimile, electronic mail, overnight mail, U.S. mail and/or Certified Mail Return Receipt Requested on all parties whose names appear on the attached mailing list on this the 23rd day of July, 2014.

FOR JUDGE SHENOY:

Honorable Pratibha J. Shenoy
Administrative Law Judge

Honorable Beth Bierman
Administrative Law Judge

State Office of Administrative Hearings
300 W. 15th Street, Suite 504
Austin, Texas 78701
Phone: 512-475-4993
Fax: 512-322-2061
via Electronic Upload

FOR THE SOAH DOCKET CLERK:

Ms. Monica Luna, Docketing Clerk
State Office of Administrative Hearings
300 W. 15th Street, Suite 504
Austin, Texas 78701
Phone: 512-475-4993
Fax: 512-322-2061
via Electronic Upload

FOR THE TCEQ CHIEF CLERK:

Ms. Bridget Bohac, Chief Clerk
Texas Commission on Environmental Quality
P.O. Box 13087, MC 105
Austin, Texas 78711-3087
Phone: 512-239-3300
Fax: 512-239-3311
Via Electronic Upload


STEPHEN P. WEBB

FOR PETITIONERS:

Mr. Randall B. Wilburn, Attorney at Law
3000 South I.H. 35, Suite 150
Austin, Texas 78704
Phone: 512-535-1661
Fax: 512-535-1678
rbw@randallwillburnlaw.com

Mr. John Carlton, Attorney at Law
The Carlton Law Firm, P.L.L.C.
2705 Bee Cave Road, Suite 200
Austin, Texas 78746
Phone: 512-614-0901
Fax: 512-900-2855
john@carltonlawaustin.com

FOR THE OPIC:

Mr. Garrett Arthur, Attorney at Law
Texas Commission on Environmental Quality
P.O. Box 13087, MC 175
Austin, Texas 78711-3087
Phone: 512-239-6363
Fax: 512-239-6377
Garrett.arthur@tceq.texas.gov

FOR THE TCEQ EXECUTIVE DIRECTOR:

Mr. Hollis Henley, Staff Attorney
Environmental Law Division, MC-173
Texas Commission on Environmental Quality
PO Box 13087
Austin, Texas 78711-3087
Phone: 512-239-0602
Fax: 512-239-0606
Hollis.Henley@tceq.texas.gov