



Control Number: 42867



Item Number: 31

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.

SOAH DOCKET NO. 582-13-4617
TCEQ DOCKET NO. 2013-0865-UCR

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

WELLS BRANCH MUNICIPAL UTILITY DISTRICT'S
FIRST AMENDED RESPONSE TO CITY OF AUSTIN'S AMENDED
FIRST SET OF INTERROGATORIES

TO: City of Austin, by and through its attorney of record, Stephen P. Webb and Gwendolyn Hill Webb, Webb & Webb, 712 Southwest Tower, 211 East 7th Street, Austin, Texas 78701.

COMES NOW, Wells Branch Municipal Utility District ("Wells Branch" or "Petitioner"), in the above-styled and numbered cause, and serves this, its First Amended Response to the City of Austin's Amended First Set of Interrogatories.

Respectfully submitted,

Randall B. Wilburn, Attorney at Law
State Bar No. 24033342
3000 South IH 35, Suite 150
Austin, Texas 78704
Telephone: (512) 535-1661
Fax: (512) 535-1678

John Carlton
State Bar No. 03817600
The Carlton Law Firm, P.L.L.C.
2705 Bee Cave Road, Suite 200
Austin, Texas 78746
Telephone: (512) 614-0901
Fax: (512) 900-2855

By: 

JOHN J. CARLTON

COUNSEL FOR PETITIONER

CERTIFICATE OF SERVICE

I 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 below on the 14th day of August, 2014.

Gwendolyn Webb
Stephen P. Webb
Webb & Webb
P.O. Box 1329
Austin, Texas 78767
Telephone: 512-472-9990
Fax: 512-472-3183
Email: g.hill.webb@webbwebblaw.com

Hollis Henley, Staff Attorney
Environmental Law Division
P.O. Box 13087 – MC-173
Austin, Texas 78711-3087
Telephone: 512-239-0602
Fax: 512-239-0606
Email: hollis.henley@tceq.texas.gov

Clark Cornwell, Assistant Attorney
City of Austin
P.O. Box 1088
Austin, Texas 78767-1088
Telephone: 512-974-6482
Fax: 512-974-6490
Email: clark.cornwell@austintexas.gov

TCEQ Chief Clerk, MC 105
P.O. Box 13087
Austin, Texas 78711-3087
Telephone: 512-239-3300
Fax: 512-239-3311

Garrett Arthur
TCEQ Office of Public Counsel, MC 103
P.O. Box 13087
Austin, Texas 78711-3087
Telephone: 512-239-5757
Fax: 512-239-6377
Email: garrett.arthur@tceq.texas.gov



JOHN J. CARLTON

INTERROGATORIES

1. For the current year and past five (5) years, please describe, with specificity, Wells Branch's method for allocating each year's overall operating expenses into various categories of services that are provided by Wells Branch. Please explain the rationale and percentage basis for assigning each expense to water.

Objection: Wells Branch objects to this interrogatory on the following independent bases: the interrogatory is compound, seeking additional information in the second sentence, and the Petitioner counts three separate inquires in this one interrogatory; the interrogatory is irrelevant and overbroad, as this Petitioner does not have the burden of proof; the interrogatory is irrelevant to the underlying matter and is simply a fishing expedition; the interrogatory is overbroad, as it has no relation to whether the City of Austin's ("City") rates are just and reasonable; the interrogatory is overbroad in its time frame; and, the interrogatory is irrelevant and is not reasonably calculated to lead to the discovery of admissible evidence (*K-Mart Corp. v. Sanderson*, 937 S.W.2d 429, 431-32 (Tex. 1996); *see also* Tex. R. Civ. P. 192.3).

Answer: Notwithstanding and without waiving the above objections, the District does not allocate operating expenses. Rather, the District records actual operating expenses in individual cost categories specific to the expense incurred.

2. For the current year and past five (5) years, please describe, with specificity, Wells Branch's method for allocating each year's overall capital expenses into various categories of services that are provided by Wells Branch. Please explain the rationale and percentage basis for assigning each expense to water.

Objection: Wells Branch objects to this interrogatory on the following independent bases: the interrogatory is compound, seeking additional information in the second sentence, and the Petitioner counts three separate inquires in this one interrogatory; the interrogatory is irrelevant and overbroad, as this Petitioner does not have the burden of proof; the interrogatory is irrelevant to the underlying matter and is simply a fishing expedition; the interrogatory is overbroad, as it has no relation to whether the City of Austin's ("City") rates are just and reasonable; the interrogatory is overbroad in its time frame; and, the interrogatory is irrelevant and is not reasonably calculated to lead to the discovery of admissible evidence (*K-Mart Corp. v. Sanderson*, 937 S.W.2d 429, 431-32 (Tex. 1996); *see also* Tex. R. Civ. P. 192.3).

Answer: Notwithstanding and without waiving the above objections, the District does not allocate capital expenses. Rather, the District records actual capital expenses in individual cost categories specific to the expense incurred.

3. Please describe, with specificity, how Wells Branch non-utility services are fully excluded from water or sewer costs.

Objection: Wells Branch objects to this interrogatory on the following independent bases: the interrogatory is both vague and overbroad, as it is not limited in time; the interrogatory is irrelevant and overbroad, as this Petitioner does not have the burden of proof; the interrogatory is irrelevant to the underlying matter and is simply a fishing expedition; the interrogatory is irrelevant and is not reasonably calculated to lead to the

discovery of admissible evidence (*K-Mart Corp. v. Sanderson*, 937 S.W.2d 429, 431-32 (Tex. 1996); *see also* Tex. R. Civ. P. 192.3); and the interrogatory is overbroad, as it has no relation to whether the City's rates are just and reasonable.

Answer: Notwithstanding and without waiving the above objections, the District's non-utility service expenses are recorded as separate line items.

4. Please describe how often detailed water rate studies are performed that explicitly address direct and common cost allocations between the various Wells Branch service functions and water.

Objection: Wells Branch objects to this interrogatory on the following independent bases: the interrogatory is irrelevant and overbroad, as this Petitioner does not have the burden of proof; the interrogatory is irrelevant to the underlying matter and is simply a fishing expedition; the interrogatory is overbroad, as it has no relation to whether the City's rates are just and reasonable; the interrogatory is irrelevant and is not reasonably calculated to lead to the discovery of admissible evidence (*K-Mart Corp. v. Sanderson*, 937 S.W.2d 429, 431-32 (Tex. 1996); *see also* Tex. R. Civ. P. 192.3); and the interrogatory contains the term "direct and common cost allocations" that is neither a term of art nor defined in a manner that would allow this Petitioner to provide an answer.

Answer: Notwithstanding and without waiving the above objections, the District does not perform detailed water rate studies.

5. Please describe, in detail, the methodology by which your District's water and sewer rates are adjusted in the intervening years between detailed rate studies.

Objection: Wells Branch objects to this interrogatory on the following independent bases: the interrogatory is compound, making inquiry on two separate issues; the interrogatory is irrelevant and overbroad, as this Petitioner does not have the burden of proof; the interrogatory is irrelevant to the underlying matter and is simply a fishing expedition; the interrogatory is irrelevant and is not reasonably calculated to lead to the discovery of admissible evidence (*K-Mart Corp. v. Sanderson*, 937 S.W.2d 429, 431-32 (Tex. 1996); *see also* Tex. R. Civ. P. 192.3); and the interrogatory is overbroad, as it has no relation to whether the City's rates are just and reasonable.

Answer: Notwithstanding and without waiving the above objections, the District does not perform detailed water rate studies. The District reviews existing costs, the City of Austin's proposed annual rate increases, and adjusts the volumetric and base charges as necessary.

6. Please describe, with specificity, what facilities owner [sic] by the City of Austin do you use to comply with the Texas Commission on Environmental Quality's ("TCEQ") 0.6 gpm water delivery and gals/fire and reliability connection water storage requirements.

Objection: Wells Branch objects to this interrogatory on the following independent bases: the interrogatory is compound, making inquiry on three separate issues; the interrogatory is irrelevant and overbroad, as this Petitioner does not have the burden of proof; the interrogatory is irrelevant to the underlying matter and is simply a fishing expedition; the interrogatory is irrelevant, as the underlying matter is not an enforcement case; the interrogatory is irrelevant and is not reasonably calculated to lead to the

discovery of admissible evidence (*K-Mart Corp. v. Sanderson*, 937 S.W.2d 429, 431-32 (Tex. 1996); *see also* Tex. R. Civ. P. 192.3); and the interrogatory is overbroad, as it has no relation to whether the City's rates are just and reasonable.

Answer: Notwithstanding and without waiving the above objections, the District relies on its consent agreement with the City of Austin, as amended, wherein the City is obligated to provide water service to the District and maintain the capability to deliver to the District a minimum of 10,000 gpm (*see* Consent Agreement at page 4) with a delivery pressure at the master meters sufficient to deliver at least 35 psi to each retail meter within the District. (*See* 3rd amendment to the Consent Agreement.) Potable water is delivered to the District from the City of Austin's Martin Hill Reservoir via 48 to 36-in transmission mains extending along FM 1325. The Martin Hill Reservoir, which is located adjacent and immediately west and across FM 1325 generally receives potable water from the City of Austin's Davis Water Treatment Plant.

7. Please list all water capital items (>\$10k) funded over the last five (5) years and the source of funds (cash or debt) used to pay for each project.

Objection: Wells Branch objects to this interrogatory on the following independent bases: this interrogatory is compound, seeking response to two separate inquiries; the interrogatory is irrelevant and overbroad, as this Petitioner does not have the burden of proof; the interrogatory is irrelevant to the underlying matter and is simply a fishing expedition; the interrogatory is overbroad in its time frame; the interrogatory is irrelevant and is not reasonably calculated to lead to the discovery of admissible evidence (*K-Mart Corp. v. Sanderson*, 937 S.W.2d 429, 431-32 (Tex. 1996); *see also* Tex. R. Civ. P. 192.3); and the interrogatory is overbroad, as it has no relation to whether the City's rates are just and reasonable.

Answer: Notwithstanding and without waiving the above objections, the District funded pump station upgrades in 2011 for \$12,000 using general operating funds.

8. Please provide the percent of your annual water revenue requirement for water capital facilities that are funded through available reserves.

Objection: Wells Branch objects to this interrogatory on the following independent bases: the interrogatory is both vague and overbroad, as it is not limited in time; the interrogatory is irrelevant and overbroad, as this Petitioner does not have the burden of proof; the interrogatory is irrelevant to the underlying matter and is simply a fishing expedition; the interrogatory is overbroad in its time frame; the interrogatory is irrelevant and is not reasonably calculated to lead to the discovery of admissible evidence (*K-Mart Corp. v. Sanderson*, 937 S.W.2d 429, 431-32 (Tex. 1996); *see also* Tex. R. Civ. P. 192.3); the interrogatory is overbroad, as it has no relation to whether the City's rates are just and reasonable; and the interrogatory contains the term "available reserves" that is neither a term of art nor defined in a manner that would allow this Petitioner to provide an answer.

Answer: Notwithstanding and without waiving the above objections, the District does not have an annual water revenue requirement for water capital facilities.

VERIFICATION

I, Donna Howe, President and a duly authorized representative of Wells Branch Municipal Utility District, states that I have read the foregoing Answers to Interrogatories Nos. 1-5 and 7-8, and that the factual statements therein are true and correct to the best of my knowledge.

Date: 8/12/14

Signature: Donna Howe

VERIFICATION

I, David Malish, District Engineer and a duly authorized representative of Wells Branch Municipal Utility District, states that I have read the foregoing Answers to Interrogatory No. 6, and that the factual statements therein are true and correct to the best of my knowledge.

Date: 12 AUG 14

Signature: David Malish