



Control Number: 42867



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SOAH DOCKET NO. 473-14-5138  
PUC DOCKET NO. 42857

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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. 473-14-5138  
PUC DOCKET NO. 42867

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

**PETITIONERS' SECOND MOTION TO COMPEL RESPONSES TO PETITIONERS'**  
**THIRD REQUEST FOR PRODUCTION AND REQUEST FOR SANCTIONS**

TO THE HONORABLE JUDGES BIERMAN AND SHENOY:

COME NOW North Austin Municipal Utility District No. 1, Northtown Municipal Utility District, Travis County Water Control and Improvement District No. 10, and Wells Branch Municipal Utility District are Petitioners (the "Petitioners") in SOAH Docket No. 473-

46

14-5138 and file this Motion to Compel Responses and Request for Sanctions. This motion is filed due to the failure of the City of Austin (the "City") to produce documents in response to Petitioners' Third Request for Production served on August 21, 2014, as ordered by Order No. 11 in this case. The City does not have any good cause for its failure to respond and defiance of Order No. 11. In support of this Motion, Petitioners respectfully show the following:

1. On August 21, 2014, pursuant to Order No. 9, Petitioners served its third set of discovery requests on the City via email.<sup>1</sup> The evidence attached to this Motion demonstrates that Petitioners' discovery request was served on the City's counsel at her email address of record on Thursday, August 21, 2014, at 10:47 a.m.<sup>2</sup> Therefore, the City's deadline for submitting objections and responses to Petitioners' discovery request was September 10, 2014. The City did not submit any objections or discovery responses on that date.

2. The Third Request for Production included requests for "source documentation" (a term that is defined in the discovery) related to the prefiled testimony of the City's witnesses. The first 63 requests specifically identified the witness and either the specific testimony for which source documentation was being requested or identified the study or document being requested. The remaining requests specifically identify the documents requested that relate to the City's various cost of service studies and source documentation for figures or statements referenced in the City's prefiled testimony.

3. The City's contemptuous disregard of the requirements to produce responses to these discovery requests, the Petitioners are unfairly prejudiced in their ability to prepare a direct case that addresses the unsupported claims of the City's witnesses as set forth in the City's prefiled testimony.

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<sup>1</sup> A true and correct copy of Petitioner's Third Request for Production is attached hereto as Attachment "A."

<sup>2</sup> See Attachment "B," the evidence of service via email.

4. A party that does not timely object or respond to a discovery request waives its objections to the request and must produce the discovery. *See* Tex. R. Civ. P. 193.1 and 193.2(e). The waiver is mandatory unless the party proves that it had good cause for not timely objecting. *See* Tex. R. Civ. P. 193.2(e); *see also* *Remington Arms Co. v. Canales*, 837 S.W.2d 624, 625 (Tex. 1992).

5. On September 17, 2014, the ALJ held a telephonic pre-hearing conference with the parties and granted the Petitioners' Motion to Compel in all respects, except for the requested delay in the Petitioners' deadline to prefile its direct testimony.

6. On September 17, 2014, Administrative Law Judges Bierman and Shenoy ("ALJs") issued Order No. 11 that stated, in part, "[t]he City is **ORDERED** to produce responses to the third set of discovery requests (originally due September 10, 2104) no later than **September 19, 2014.**" (*Emphasis in original*).

7. On September 17, 2014, the City filed responses and objections to the Petitioners Third Requests for Production, but produced no documents.

8. On September 18, 2014, the Petitioners notified the City by letter that the City was required to produce all documents responsive to the Petitioners' Third Requests for Production by 5pm on Friday, September 19, 2014, and that the City's objections had been waived by their failure to timely respond and by Order No. 11.

9. On September 18, 2014, the City responded to Petitioners notice by letter stating that the City was only required to "*provide discovery responses*" (*italics in original*) and that the City was reasserting its objections.

10. On September 19, 2014, the City produced a limited number of documents that were responsive to only 13 of the 115 specific requests in the Petitioners Third Request for Production.

11. As of September 24, 2014, the City has failed to produce any other documents in response to the Petitioners Third Request for Production. The City's failure to produce any other documents implies that the City is unable to substantiate their proposed rates and claims of costs for their water and wastewater systems.

12. The City's defiance of Order No. 11 and blatant refusal to produce documents has made it impossible for the Petitioners to prepare their direct, written testimony. As the ALJ noted in Order No. 3, the City has the sole burden of proof in this matter. More importantly, the City is the only party with control over all of the relevant evidence related to the costs of providing water and wastewater service to the Petitioners. These are the reasons why the the City is required to file its written, direct testimony prior to any discovery. Because the City is refusing to produce relevant documents to support its proposed rates, the City is obstructing the prosecution of this matter, prejudicing the Petitioners ability to prepare their case, and concealing relevant evidence from the Petitioners and the ALJs.

13. By failing to answer the Petitioners Third Request for Production and failing to produce documents as required by Order No. 11, the City is abusing the discovery process by resisting discovery for purposes of delay.

WHEREFORE, PREMISES CONSIDERED, Petitioners pray the following:

1. the ALJs confirm that any objections of the City have been overruled and compel the City to immediately, but in no event later than 5:00 PM, Friday, September

26, 2014, produce documents in response to every request for production set forth in the Petitioners' Third Request for Production; and

2. the ALJs sanction City for its failure to comply with the terms of Order No. 11 in accordance with Texas Rules of Civil Procedure 215.2 and 16 TAC 22.161 and require the City to pay the Petitioners Attorneys' Fees and Costs incurred in order to compel production of responses to the Petitioners' Third Request for Production, disallow further discovery of any kind by the City from the Petitioners, allow the Petitioners to supplement their prefiled testimony during the hearing, and impose such other sanctions upon the City as justice may required.

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  
Telecopier: (512) 535-1678

John J. 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  
Telecopier: (512) 900-2855

By: 

John J. Carlton

**ATTORNEYS FOR PETITIONERS**

**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 on the 24<sup>th</sup> of September, 2014.



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JOHN J. CARLTON

**CERTIFICATE OF CONFERENCE**

I certify that a reasonable effort was made to resolve the dispute regarding the Petitioners' Second Motion To Compel Responses To Petitioners' Third Request For Production And Request For Sanctions without the necessity of ALJ intervention, and the effort failed.



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JOHN J. CARLTON



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

PETITION OF NORTH AUSTIN § BEFORE THE STATE OFFICE  
MUNICIPAL UTILITY DISTRICT NO. 1, §  
NORTHTOWN MUNICIPAL UTILITY §  
DISTRICT, TRAVIS COUNTY WATER §  
CONTROL AND IMPROVEMENT §  
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DISTRICT FROM THE RATEMAKING §  
ACTIONS OF THE CITY OF AUSTIN §  
AND REQUEST FOR INTERIM RATES §  
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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

**PETITIONERS' THIRD REQUEST FOR PRODUCTION TO  
THE CITY OF AUSTIN**

TO: The City of Austin, by and through its attorney, Gwendolyn Webb, Webb & Webb,  
P.O. Box 1329, Austin, Texas 78767.

COMES NOW, Petitioners, Wells Branch MUD, Travis County WCID No. 10, Northtown MUD, and North Austin Municipal Utility District No. 1 and serves this, their Third Request for Production to the City of Austin pursuant to Chapter 2001 of the Texas Government Code, the Texas Rules of Civil Procedure, and applicable rules and regulations of the Texas Commission on Environmental Quality and the State Office of Administrative Hearings.

You are hereby requested to answer in complete detail and in writing each of the following requests for production, as well as produce the requested documents, within 20 days of

service of this request. Applicant may and is encouraged to produce responsive documents in an electronic format.

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: \_\_\_\_\_

Randall B. Wilburn

**COUNSEL FOR PETITIONERS**

### 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 21st day of August 2014.

Gwendolyn Webb  
Stephen P. Webb  
Webb & Webb  
P.O. Box 1329  
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Fax: 512-472-3183  
Email: [g.hill.webb@webbwebblaw.com](mailto:g.hill.webb@webbwebblaw.com)

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Randall B. Wilburn

## **DEFINITIONS**

1. "You," "your" and "City" means and refers to City of Austin, as well as your officers, employees, affiliates, and expert witnesses.
2. "AWU" means and refers to Austin Water Utility as an entity as well as its employees, managers, officers, and expert witnesses.
3. "Petitioners" means and refers to Wells Branch MUD, Travis County WCID No. 10, Northtown MUD, and North Austin Utility District No. 1.
4. "Document" or "documents" means and refers to all writings, data, data compilations, correspondence, electronic transmissions, email, electronically stored data and data compilations, and all versions and modifications of same.
5. "Petition" means and refers to the petition that is the subject of SOAH Docket No. 582-13-4617 and TCEQ Docket No. 2013-0865-UCR.
6. "Budget Document" means and refers to the complete set of documents, attachments, appendices and exhibits that make up the budget proposed for the City for FY 2013.
7. "FY 2013" means and refers to the City's 2013 fiscal year.
8. "Approved Budget" means and refers to the actual budget, including all attachments, exhibits, appendices and exhibits, approved and adopted by the Austin City Council for FY 2013.
9. "Source documentation" means and refers to all documents that provide evidence or support the transaction, budget entry, or business deal, including invoices, receipts, cash slips, deposit slips, check registers, ledgers, and work papers.
10. "Staffing study" means and refers to any analysis, assessment, report, examination, or investigation regarding the employee levels, numbers, efficiencies, salaries, workload, organization, management, leadership, or accountability.
11. "Compensation study" means and refers to any analysis, assessment, report, examination, or investigation regarding any type of employee compensation.

## **REQUESTS FOR PRODUCTION**

**REQUEST FOR PRODUCTION NO. 3-1.** Please provide the source documentation for the \$285,419,961 in Transmission Mains shown on page "PFT of Greg Meszaros-5129" (Table 220 of Water COS FY 2013 Tables) on Exhibit 19 of the prefiled testimony of Greg Meszaros.

**REQUEST FOR PRODUCTION NO. 3-2.** Please provide the source documentation for the \$261,042,637 in Distribution Mains shown on page "PFT of Greg Meszaros-5129" (Table 220 of Water COS FY 2013 Tables) on Exhibit 19 of the prefiled testimony of Greg Meszaros.

**REQUEST FOR PRODUCTION NO. 3-3.** Please provide the source documentation for the 52.2% in Transmission Mains shown on page "PFT of Greg Meszaros-5129" (Table 220 of Water COS FY 2013 Tables) on Exhibit 19 of the prefiled testimony of Greg Meszaros.

**REQUEST FOR PRODUCTION NO. 3-4.** Please provide the source documentation for the 47.8% in Distribution Mains shown on page "PFT of Greg Meszaros-5129" (Table 220 of Water COS FY 2013 Tables) on Exhibit 19 of the prefiled testimony of Greg Meszaros.

**REQUEST FOR PRODUCTION NO. 3-5.** Please provide the source documentation for the 51.6% in Transmission Mains shown on page "PFT of Greg Meszaros-5129" (Table 220 of Water COS FY 2013 Tables) on Exhibit 19 of the prefiled testimony of Greg Meszaros.

**REQUEST FOR PRODUCTION NO. 3-6.** Please provide the source documentation for the 48.4% in Distribution Mains shown on page "PFT of Greg Meszaros-5129" (Table 220 of Water COS FY 2013 Tables) on Exhibit 19 of the prefiled testimony of Greg Meszaros.

**REQUEST FOR PRODUCTION NO. 3-7.** Please provide the source documentation for the 45.8% in Transmission Mains shown on page "PFT of Greg Meszaros-5129" (Table 220 of Water COS FY 2013 Tables) on Exhibit 19 of the prefiled testimony of Greg Meszaros.

**REQUEST FOR PRODUCTION NO. 3-8.** Please provide the source documentation for the 54.2% in Distribution Mains shown on page "PFT of Greg Meszaros-5129" (Table 220 of Water COS FY 2013 Tables) on Exhibit 19 of the prefiled testimony of Greg Meszaros.

**REQUEST FOR PRODUCTION NO. 3-9.** Please provide the source documentation for the 53.7% in Transmission Mains shown on page "PFT of Greg Meszaros-5129" (Table 220 of Water COS FY 2013 Tables) on Exhibit 19 of the prefiled testimony of Greg Meszaros.

**REQUEST FOR PRODUCTION NO. 3-10.** Please provide the source documentation for the 46.3% in Distribution Mains shown on page "PFT of Greg Meszaros-5129" (Table 220 of Water COS FY 2013 Tables) on Exhibit 19 of the prefiled testimony of Greg Meszaros.

**REQUEST FOR PRODUCTION NO. 3-11.** Please provide the inventory of Water Transmission Mains from 2012 showing length of pipe by diameter.

**REQUEST FOR PRODUCTION NO. 3-12.** Please provide the inventory of Water Distribution Mains from 2012 showing length of pipe by diameter.

**REQUEST FOR PRODUCTION NO. 3-13.** Please provide the source documentation for the 50/50 debt/equity ratio shown on page “PFT of Greg Meszaros-5322” (Table 293 of Water COS FY 2013 Tables) on Exhibit 19 of the prefiled testimony of Greg Meszaros.

**REQUEST FOR PRODUCTION NO. 3-14.** Please provide the source documentation for the 6% cost of debt shown on page “PFT of Greg Meszaros-5322” (Table 293 of Water COS FY 2013 Tables) on Exhibit 19 of the prefiled testimony of Greg Meszaros.

**REQUEST FOR PRODUCTION NO. 3-15.** Please provide the source documentation for the 9% cost of equity shown on page “PFT of Greg Meszaros-5322” (Table 293 of Water COS FY 2013 Tables) on Exhibit 19 of the prefiled testimony of Greg Meszaros.

*The following requests pertain to the prefiled direct testimony of David Anders:*

**REQUEST FOR PRODUCTION NO. 3-16.** Please provide the documents related to the allocation factors used in FY 2013 referenced on page 15, lines 9-22 pry Mr. Anders’ testimony.

**REQUEST FOR PRODUCTION NO. 3-17.** Provide the documents related to any assistance provided by the “One-Stop Shop” to any Petitioner during 2012 and 2013.

**REQUEST FOR PRODUCTION NO. 3-18.** Provide the documents supporting the “utility-level revenue requirement amounts and other information” input into the cost of service rate models as referenced on page 24, lines 15-17 of Mr. Anders’ testimony.

**REQUEST FOR PRODUCTION NO. 3-19.** Provide the documents justifying the allocation of adjusted costs to Raw Water (Production and Transmission) as discussed on page 26, lines 5-17 of Mr. Anders’ testimony.

**REQUEST FOR PRODUCTION NO. 3-20.** Provide the documents justifying the allocation of adjusted costs to Treatment –Average Day as discussed on page 26, lines 5-17 of Mr. Anders’ testimony.

**REQUEST FOR PRODUCTION NO. 3-21.** Provide the documents justifying the allocation of adjusted costs to Treatment Facilities as discussed on page 26, lines 5-17 of Mr. Anders’ testimony.

**REQUEST FOR PRODUCTION NO. 3-22.** Provide the documents justifying the allocation of adjusted costs to Pump Stations and Booster Stations as discussed on page 26, lines 5-17 of Mr. Anders’ testimony.

**REQUEST FOR PRODUCTION NO. 3-23.** Provide the documents justifying the allocation of adjusted costs to Pump Station Power as discussed on page 26, lines 5-17 of Mr. Anders’ testimony.

**REQUEST FOR PRODUCTION NO. 3-24.** Provide the documents justifying the allocation of adjusted costs to Tanks/Reservoir as discussed on page 26, lines 5-17 of Mr. Anders’ testimony.

**REQUEST FOR PRODUCTION NO. 3-25.** Provide the documents justifying the allocation of adjusted costs to Transmission Mains as discussed on page 26, lines 5-17 of Mr. Anders' testimony.

**REQUEST FOR PRODUCTION NO. 3-26.** Provide the documents justifying the allocation of adjusted costs to Distribution Mains as discussed on page 26, lines 5-17 of Mr. Anders' testimony.

**REQUEST FOR PRODUCTION NO. 3-27.** Provide the documents justifying the allocation of adjusted costs to Direct Fire as discussed on page 26, lines 5-17 of Mr. Anders' testimony.

**REQUEST FOR PRODUCTION NO. 3-28.** Provide the documents justifying the allocation of adjusted costs to Retail Meters & Services as discussed on page 26, lines 5-17 of Mr. Anders' testimony.

**REQUEST FOR PRODUCTION NO. 3-29.** Provide the documents justifying the allocation of adjusted costs to Meters and Services as discussed on page 26, lines 5-17 of Mr. Anders' testimony.

**REQUEST FOR PRODUCTION NO. 3-30.** Provide the documents justifying the allocation of adjusted costs to Watershed Land Purchases as discussed on page 26, lines 5-17 of Mr. Anders' testimony.

**REQUEST FOR PRODUCTION NO. 3-31.** Provide the documents justifying the allocation of adjusted costs to LCRA Water Rights as discussed on page 26, lines 5-17 of Mr. Anders' testimony.

**REQUEST FOR PRODUCTION NO. 3-32.** Provide the documents justifying the allocation of adjusted costs to Customer Service as discussed on page 26, lines 5-17 of Mr. Anders' testimony.

**REQUEST FOR PRODUCTION NO. 3-33.** Provide the documents justifying the allocation of adjusted costs to Small Calls as discussed on page 26, lines 5-17 of Mr. Anders' testimony.

**REQUEST FOR PRODUCTION NO. 3-34.** Provide the documents justifying the allocation of adjusted costs to Wholesale Services as discussed on page 26, lines 5-17 of Mr. Anders' testimony.

**REQUEST FOR PRODUCTION NO. 3-35.** Provide the documents justifying the allocation of adjusted costs to Revenue-Based Fixed Charge as discussed on page 26, lines 5-17 of Mr. Anders' testimony.

**REQUEST FOR PRODUCTION NO. 3-36.** Provide the documents justifying the allocation of adjusted costs to Revenue-Based Volume Charge as discussed on page 26, lines 5-17 of Mr. Anders' testimony.

**REQUEST FOR PRODUCTION NO. 3-37.** Provide the documents justifying the allocation of adjusted costs to Indirect Costs as discussed on page 26, lines 5-17 of Mr. Anders' testimony.

**REQUEST FOR PRODUCTION NO. 3-38.** Provide the documents justifying the allocation of adjusted costs to the wastewater functions discussed on page 26, lines 19-27 of Mr. Anders' testimony.

**REQUEST FOR PRODUCTION NO. 3-39.** Please provide the documents supporting Mr. Anders' assertion on page 36, lines 1-2 that Fiscal Year 2012 is viewed as the test year in this proceeding.

**REQUEST FOR PRODUCTION NO. 3-40.** Provide the documents setting forth the plan outlined to the rating agencies referenced on page 46, lines 15-16 of Mr. Anders' testimony.

**REQUEST FOR PRODUCTION NO. 3-41.** Provide the documents showing the cost/benefit of complying with the plan outlined to the rating agencies as discussed on page 46, lines 16-18 of Mr. Anders' testimony.

**REQUEST FOR PRODUCTION NO. 3-42.** Provide the documents justifying the reclassification of the Contract Management Department from capital expense to Administrative Support – City as discussed on page 41, lines 16-27 and on page 44, lines 6-17 of Mr. Anders' testimony.

**REQUEST FOR PRODUCTION NO. 3-43.** Provide all documents supporting Mr. Anders' statement on page 52, line 8 of his testimony that, "Cash funding of capital projects is an accepted industry practice."

**REQUEST FOR PRODUCTION NO. 3-44.** Provide all documents supporting Mr. Anders' statement on page 52, lines 10-11 of his testimony that, "Most utilities will cash fund between 20 and 50 percent of their capital spending using cash."

**REQUEST FOR PRODUCTION NO. 3-45.** Provide all documents supporting Mr. Anders' statement on page 53, lines 4-6 of his testimony: "If the Revenue Stability Reserve Fund was not approved, Austin Water would have had to increase its ending fund balance to have sufficient reserves to operate."

**REQUEST FOR PRODUCTION NO. 3-46.** Provide the documents proving that Austin Water's building at 625 E. 10<sup>th</sup> Street is not exempt from the Downtown Austin Alliance tax assessments as asserted on page 54, lines 20-23 of Mr. Anders' testimony.

**REQUEST FOR PRODUCTION NO. 3-47.** Provide all documents quantifying the Green Choice Electrical Power Program costs of \$4,622,644 shown on page 60, line 25 of Mr. Anders' testimony.

*The following requests pertain to the prefiled direct testimony of Michael P. Castillo:*



**REQUEST FOR PRODUCTION NO. 3-48.** Please provide all meeting minutes, meeting notes (including any notes taken by anyone in attendance at the meeting), meeting handouts and e-mails among meeting attendees relating the issues covered by the Executive Team at the Team's meeting referenced on Bates Stamp "PFT of Michael Castillo-738."

**REQUEST FOR PRODUCTION NO. 3-49.** Please provide all meeting minutes, meeting notes (including any notes taken by anyone in attendance at the meeting), meeting handouts and e-mails among meeting attendees relating the issues covered by the Executive Team at the Team's meeting referenced on Bates Stamp "PFT of Michael Castillo-745."

**REQUEST FOR PRODUCTION NO. 3-50.** Please provide all meeting minutes, meeting notes (including any notes taken by anyone in attendance at the meeting), meeting handouts and e-mails among meeting attendees relating the issues covered by the Executive Team at the Team's meeting referenced on Bates Stamp "PFT of Michael Castillo-755" relating to Water and Wastewater (documents relating solely to Rate Design may be omitted).

**REQUEST FOR PRODUCTION NO. 3-51.** Please provide the documents supporting the change in the estimated BOD concentrations of domestic sewage from 144 mg/l in the 1999 Cost of Service Study (reference Bates page "PFT of Michael Castillo-476") to 200 mg/l in the 2013 Cost of Service Study (reference Bates page "PFT of Greg Meszaros-6059").

**REQUEST FOR PRODUCTION NO. 3-52.** Please provide any documents supporting the statement that "...impact fees can mitigate the limitations of the case [sic] basis to align costs with utility users..." on pp.21-22 of Mr. Meszaros.

**REQUEST FOR PRODUCTION NO. 3-53.** Provide all documents which addressed the following concern raised by the wholesale customer representative on page 24, lines 2-8 of Michael P. Castillo's prefiled testimony: "the City's impact fee policies and how these affect rates to rate payers."

**REQUEST FOR PRODUCTION NO. 3-54.** Provide all documents which addressed the following concern raised by the wholesale customer representative on page 24, lines 2-8 of Michael P. Castillo's prefiled testimony: "the City's policy pertaining to new development and new growth and how this growth may impact rate payers."

**REQUEST FOR PRODUCTION NO. 3-55.** Provide all documents which addressed the following concern raised by the wholesale customer representative on page 24, lines 2-8 of Michael P. Castillo's prefiled testimony: "reserve fund policies and how annual over/under impacts reserve funds."

*The following requests pertain to the prefiled direct testimony of Drema Gross:*

**REQUEST FOR PRODUCTION NO. 3-56.** Please provide any documents showing the same type of data as shown on Ms. Gross' Exhibit 8 for all of AWU's customers.

**REQUEST FOR PRODUCTION NO. 3-57.** Please provide any documents showing the time period covered for the data presented in Ms. Gross' Exhibit 8.

**REQUEST FOR PRODUCTION NO. 3-58.** Provide the documents showing the current unit cost of any conservation programs listed in the first column on Ms. Gross' Exhibit 8.

*The following request pertains to the prefiled direct testimony of Joe Healy:*

**REQUEST FOR PRODUCTION NO. 3-59.** Please provide all documents related to the changes to the models referenced on page 4, lines 8-9 of Mr. Healy's testimony.

*The following request numbers 3-60, 3-61, 3-62 and 3-63 pertain to the prefiled direct testimony of Richard Giardina:*

**REQUEST FOR PRODUCTION NO. 3-60.** Please provide the Professional Services Agreement dated September 4, 2013, referenced on page 6, line 9 of Mr. Giardina's testimony.

**REQUEST FOR PRODUCTION NO. 3-61.** Provide copies of all invoices, including all source documentation, provided by Mr. Giardina's firm in connection with the Professional Services Agreement referenced in the previous request.

**REQUEST FOR PRODUCTION NO. 3-62.** Please provide all documents supporting the statements made on page 18, lines 3-7 of Mr. Giardina's testimony.

**REQUEST FOR PRODUCTION NO. 3-63.** Please provide all documents supporting the statement made on page 21, lines 22-23 of Mr. Giardina's testimony that "...this range of cash funding is fairly typical in the local government utility industry."

**REQUEST FOR PRODUCTION NO. 3-64.** Provide all staffing studies conducted by outside firms for AWU for the past five years.

**REQUEST FOR PRODUCTION NO. 3-65.** Provide all compensation studies conducted by outside firms for AWU for the past five years.

**REQUEST FOR PRODUCTION NO. 3-66.** Provide all source documentation on any rate case expenses related to this docket for which the City is requesting any cost recovery (during or subsequent to this docket) from Petitioners.

**REQUEST FOR PRODUCTION NO. 3-67.** Please provide a copy of all proposals received by the City to conduct the 2008 Cost of Service Study.

**REQUEST FOR PRODUCTION NO. 3-68.** Please provide any "score sheets" or point system tabulations used to determine the professional services firm selected to conduct the 2008 Cost of Service Study.

**REQUEST FOR PRODUCTION NO. 3-69.** Provide the contract between Red Oak Consulting and the City for the 2008 Cost of Service Study.

**REQUEST FOR PRODUCTION NO. 3-70.** Provide the contract between Black & Veatch and the City for the 1999 Cost of Service Study.

**REQUEST FOR PRODUCTION NO. 3-71.** Provide the City's request for proposal to conduct the 2008 Cost of Service Study.

**REQUEST FOR PRODUCTION NO. 3-72.** Provide the City's request for proposal to conduct the 1999 Cost of Service Study.

**REQUEST FOR PRODUCTION NO. 3-73.** Provide the source documentation of the \$922,827 in "Collection System Operation & Maintenance – Lift Stations – Electrical" costs in the 2008 Cost of Service Study (shown in Bates "PFT of Greg Meszaros-3579").

**REQUEST FOR PRODUCTION NO. 3-74.** Provide the source documentation of the \$922,827 in "Collection System Operation & Maintenance – Lift Stations – Electrical" costs in the 2013 Cost of Service schedules (shown in Bates "PFT of Greg Meszaros-6085").

**REQUEST FOR PRODUCTION NO. 3-75.** Provide the source documentation of the \$30,347 in "Commission on Debt" costs in the 2008 Cost of Service Study (shown in Bates "PFT of Greg Meszaros-3580").

**REQUEST FOR PRODUCTION NO. 3-76.** Provide the source documentation of the \$30,347 in "Commission on Debt" costs in the 2013 Cost of Service schedules (shown in Bates "PFT of Greg Meszaros-6086").

**REQUEST FOR PRODUCTION NO. 3-77.** Please provide the documents and the source documentation for the Fixed Asset records used in the City's FY2013 Cost of Service analysis.

**REQUEST FOR PRODUCTION NO. 3-78.** Please provide the documents and source documentation for the Trial Balance reports used in the City's FY2013 Cost of Service analysis.

**REQUEST FOR PRODUCTION NO. 3-79.** Please provide the documents showing the beginning balances for the operating and capital funds used in the City's FY2013 Cost of Service analysis.

**REQUEST FOR PRODUCTION NO. 3-80.** Please provide the Chart of Accounts used in the City's FY2013 Cost of Service analysis.

**REQUEST FOR PRODUCTION NO. 3-81.** Please provide the Inventory of Fire Hydrants, Water Lines, and Mains (by size) used in the City's FY2013 Cost of Service analysis.

**REQUEST FOR PRODUCTION NO. 3-82.** Please provide the Inventory of Wastewater Interceptors and Collection Lines (by size) used in the City's FY2013 Cost of Service analysis.

**REQUEST FOR PRODUCTION NO. 3-83.** Please provide any documents showing the removal efficiency rates for primary/secondary treatment at each wastewater treatment plant used in the City's FY2013 Cost of Service analysis.

**REQUEST FOR PRODUCTION NO. 3-84.** Please provide the source documentation for the contributed flow amounts shown on page "PFT of Greg Meszaros-6044" (Table 15 of Wastewater COS FY 2013 Tables) on Exhibit 21 of the prefiled testimony of Greg Meszaros.

**REQUEST FOR PRODUCTION NO. 3-85.** Please provide the source documentation for the 10.5% I/I shown on page “PFT of Greg Meszaros-6058” (Table 27 of Wastewater COS FY 2013 Tables) on Exhibit 21 of the prefiled testimony of Greg Meszaros.

**REQUEST FOR PRODUCTION NO. 3-86.** Please provide the source documentation for the wastewater concentration amounts shown on page “PFT of Greg Meszaros-6059” (Table 28 of Wastewater COS FY 2013 Tables) on Exhibit 21 of the prefiled testimony of Greg Meszaros.

**REQUEST FOR PRODUCTION NO. 3-87.** Please provide the source documentation for the 20,637.6 surcharge BOD lbs/day shown on page “PFT of Greg Meszaros-6061” (Table 30 of Wastewater COS FY 2013 Tables) on Exhibit 21 of the prefiled testimony of Greg Meszaros.

**REQUEST FOR PRODUCTION NO. 3-88.** Please provide the source documentation for the 111.0 surcharge TSS lbs/day shown on page “PFT of Greg Meszaros-6062” (Table 31 of Wastewater COS FY 2013 Tables) on Exhibit 21 of the prefiled testimony of Greg Meszaros.

**REQUEST FOR PRODUCTION NO. 3-89.** Please provide all reports, studies, and presentations on inflow/infiltration by customer class in 2009, 2010, 2011, 2012, and 2013.

**REQUEST FOR PRODUCTION NO. 3-90.** Please provide all reports, studies, and presentations on total wastewater system inflow/infiltration in 2009, 2010, 2011, 2012, and 2013.

**REQUEST FOR PRODUCTION NO. 3-91.** Please provide the detailed budget (showing Department Code, Unit Code, Unit Name, Object Code, Object Name, Amount, and Justification, i.e., in a format similar to that provided by the City in the City of Austin’s First Supplemental Response to Petitioners’ First Request for Production) supporting each O&M amount shown on pages “PFT of Greg Meszaros-6085-6086” (Table 54 of Wastewater COS FY 2013 Tables) on Exhibit 21 of the prefiled testimony of Greg Meszaros. Table 54 is based on proposed budget data. If the requested documentation is not available for the proposed budget data shown on Table 54, the data supporting the final adopted budget data will suffice instead to adequately respond to this request.

**REQUEST FOR PRODUCTION NO. 3-92.** Please provide the documents showing the development of the FY 2013 Transfer to Water Construction Fund/Capital Outlay of \$10,000,000 shown on page “PFT of Greg Meszaros-6097” (Table 61 of Wastewater COS FY 2013 Tables) on Exhibit 21 of the prefiled testimony of Greg Meszaros.

**REQUEST FOR PRODUCTION NO. 3-93.** Please provide the documents showing the FY 2013 debt service detail for each debt service instrument that comprises the \$102,519,207 in debt service requirements shown on page “PFT of Greg Meszaros-6097” (Table 61 of Wastewater COS FY 2013 Tables) on Exhibit 21 of the prefiled testimony of Greg Meszaros.

**REQUEST FOR PRODUCTION NO. 3-94.** For each debt issue pertaining to the last question, provide the documents showing the detail of the actual uses of the proceeds from each issue.

**REQUEST FOR PRODUCTION NO. 3-95.** Please provide the documents showing the development of the FY 2013 Other Transfers amount of \$769,366 shown on page “PFT of Greg

Meszaros-6097" (Table 61 of Wastewater COS FY 2013 Tables) on Exhibit 21 of the prefiled testimony of Greg Meszaros.

**REQUEST FOR PRODUCTION NO. 3-96.** Please provide the source documentation for the \$1,950,291 in Transfer from CRFs shown on page "PFT of Greg Meszaros-6098" (Table 62 of Wastewater COS FY 2013 Tables) on Exhibit 21 of the prefiled testimony of Greg Meszaros.

**REQUEST FOR PRODUCTION NO. 3-97.** Please provide the source documentation for the \$8,357,927 Increase in Operating Reserves shown on page "PFT of Greg Meszaros-6098" (Table 62 of Wastewater COS FY 2013 Tables) on Exhibit 21 of the prefiled testimony of Greg Meszaros.

**REQUEST FOR PRODUCTION NO. 3-98.** Please provide the source documentation for the \$5,726,788 Increase in Operating Reserves shown on page "PFT of Greg Meszaros-6098" (Table 62 of Wastewater COS FY 2013 Tables) on Exhibit 21 of the prefiled testimony of Greg Meszaros.

**REQUEST FOR PRODUCTION NO. 3-99.** Please provide the source documentation for each allocation percentage and basis for allocation for the data shown on page "PFT of Greg Meszaros-6104" (Table 68 of Wastewater COS FY 2013 Tables) on Exhibit 21 of the prefiled testimony of Greg Meszaros.

**REQUEST FOR PRODUCTION NO. 3-100.** Please provide the source documentation for each allocation percentage and basis for allocation for the data shown on page "PFT of Greg Meszaros-6106" (Table 70 of Wastewater COS FY 2013 Tables) on Exhibit 21 of the prefiled testimony of Greg Meszaros.

**REQUEST FOR PRODUCTION NO. 3-101.** Please provide the source documentation for each allocation percentage and basis for allocation for the data shown on page "PFT of Greg Meszaros-6119" (Table 83 of Wastewater COS FY 2013 Tables) on Exhibit 21 of the prefiled testimony of Greg Meszaros.

**REQUEST FOR PRODUCTION NO. 3-102.** Please provide the source documentation for the revenue data shown on page "PFT of Greg Meszaros-6280-6281" (Table 154 of Wastewater COS FY 2013 Tables) on Exhibit 21 of the prefiled testimony of Greg Meszaros.

**REQUEST FOR PRODUCTION NO. 3-103.** Please provide the source documentation for the original cost data shown on page "PFT of Greg Meszaros-6369" (Table 197 of Wastewater COS FY 2013 Tables) on Exhibit 21 of the prefiled testimony of Greg Meszaros.

**REQUEST FOR PRODUCTION NO. 3-104.** Please provide the source documentation for the annual depreciation data shown on page "PFT of Greg Meszaros-6369" (Table 197 of Wastewater COS FY 2013 Tables) on Exhibit 21 of the prefiled testimony of Greg Meszaros.

**REQUEST FOR PRODUCTION NO. 3-105.** Please provide the source documentation for the accumulated depreciation data shown on page "PFT of Greg Meszaros-6369" (Table 197 of Wastewater COS FY 2013 Tables) on Exhibit 21 of the prefiled testimony of Greg Meszaros.

**REQUEST FOR PRODUCTION NO. 3-106.** Please provide any depreciation studies used to develop the data shown on page “PFT of Greg Meszaros-6369” (Table 197 of Wastewater COS FY 2013 Tables) on Exhibit 21 of the prefiled testimony of Greg Meszaros.

**REQUEST FOR PRODUCTION NO. 3-107.** Please provide the documents supporting the contributed capital amounts included in the amounts shown on page “PFT of Greg Meszaros-6369” (Table 197 of Wastewater COS FY 2013 Tables) on Exhibit 21 of the prefiled testimony of Greg Meszaros.

**REQUEST FOR PRODUCTION NO. 3-108.** Please provide the source documentation for each allocation factor shown on page “PFT of Greg Meszaros-6370” (Table 198 of Wastewater COS FY 2013 Tables) on Exhibit 21 of the prefiled testimony of Greg Meszaros.

**REQUEST FOR PRODUCTION NO. 3-109.** Please provide the source documentation for the collection main and interceptor data shown on page “PFT of Greg Meszaros-6375” (Table 203 of Wastewater COS FY 2013 Tables) on Exhibit 21 of the prefiled testimony of Greg Meszaros.

**REQUEST FOR PRODUCTION NO. 3-110.** Please provide the source documentation for each allocation factor shown on page “PFT of Greg Meszaros-6377” (Table 205 of Wastewater COS FY 2013 Tables) on Exhibit 21 of the prefiled testimony of Greg Meszaros.

**REQUEST FOR PRODUCTION NO. 3-111.** Please provide the source documentation for each allocation factor shown on page “PFT of Greg Meszaros-6379” (Table 207 of Wastewater COS FY 2013 Tables) on Exhibit 21 of the prefiled testimony of Greg Meszaros.

**REQUEST FOR PRODUCTION NO. 3-112.** Please provide the source documentation for each allocation factor shown on page “PFT of Greg Meszaros-6392” (Table 220 of Wastewater COS FY 2013 Tables) on Exhibit 21 of the prefiled testimony of Greg Meszaros.

**REQUEST FOR PRODUCTION NO. 3-113.** Please provide the source documentation for the 50/50 debt/equity ratio shown on page “PFT of Greg Meszaros-6563” (Table 271 of Wastewater COS FY 2013 Tables) on Exhibit 21 of the prefiled testimony of Greg Meszaros.

**REQUEST FOR PRODUCTION NO. 3-114.** Please provide the source documentation for the 6% cost of debt shown on page “PFT of Greg Meszaros-6563” (Table 271 of Wastewater COS FY 2013 Tables) on Exhibit 21 of the prefiled testimony of Greg Meszaros.

**REQUEST FOR PRODUCTION NO. 3-115.** Please provide the source documentation for the 9% cost of equity shown on page “PFT of Greg Meszaros-6563” (Table 271 of Wastewater COS FY 2013 Tables) on Exhibit 21 of the prefiled testimony of Greg Meszaros.

**Amy Loera**

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**From:** Amy Loera  
**Sent:** Thursday, August 21, 2014 10:48 AM  
**To:** Gwen Webb; s.p.webb@webbwebblaw.com; clark.cornwell@austintexas.gov; hollis.henley@tceq.texas.gov; garrett.arthur@tceq.texas.gov  
**Cc:** john@carltonlawaustin.com; kelli@carltonlawaustin.com; Randall B. (Randy) Wilburn  
**Subject:** TCEQ Docket No. 2013-0865-UCR & 2014-0489-UCR; Petitioner's Third RFP to COA  
**Attachments:** Petitioners' Third RFP to COA.pdf

Attached please find Petitioner's Third Request for Production to the City of Austin.

Please let me know if you have any questions or have difficulty opening the attached.

*Amy L. Loera*



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