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SOAH DOCKET NO. 473-14-5138
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PETITION OF 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 §
FROM THE RATEMAKING ACTIONS §
OF THE CITY OF AUSTIN §
AND REQUEST FOR INTERIM RATES §
IN WILLIAMSON AND TRAVIS §
COUNTIES §
BEFORE THE STATE OFFICE
OF
ADMINISTRATIVE HEARINGS

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TRAVIS COUNTY WATER CONTROL AND IMPROVEMENT DISTRICT NO. 10'S
FIRST AMENDED RESPONSE TO CITY OF AUSTIN'S AMENDED
FIRST REQUEST FOR PRODUCTION OF DOCUMENTS

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

COMES NOW, Travis County Water Control and Improvement District No. 10 ("Travis WCID," "Petitioner" or "District"), in the above-styled and numbered cause, and serves this, its First Amended Response to the City of Austin's Amended First Request for Production of Documents.

10/31/14
12:18 PM

Respectfully submitted,

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By: 
JOHN J. CARLTON

COUNSEL FOR PETITIONER

CERTIFICATE OF SERVICE

I certify that I served a true and correct copy of the foregoing document on all parties of record in tis proceeding on October 31, 2014 via hand delivery, facsimile, electronic mail, overnight mail, U.S. mail and/or certified mail.


JOHN J. CARLTON

PRODUCTION REQUESTS

1. Please provide budgets formally adopted by Travis WCID for current year and previous five (5) years. Please include all back up data for each budget formally adopted by Travis WCID.

Objection: Travis WCID objects to this request on the following independent bases: the request is overbroad in its time frame; the request is irrelevant, because this Petitioner does not have the burden of proof and its budgets are not a basis for the underlying rate action; the request seeks information that is neither relevant nor 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 request is irrelevant and unduly burdensome as it is simply a part of a fishing expedition (*In re American Optical Corp.*, 988 S.W. 2d 711, 713-14 (Tex. 1998) and cases cited therein); and the request is overbroad as it requests "all back up data" which is not limited in scope or time, and would likely include documents protected by attorney work product or attorney-client privileges.

Response: Notwithstanding and without waiving the objections noted above, responsive and non-privileged documents will be produced.

2. Please provide copies of the budgeted water revenue for Travis WCID versus actual water revenue reports for the past five (5) completed fiscal years.

Objection: Travis WCID objects to this request on the following independent bases: the request is overbroad in its time frame; the request is irrelevant, because this Petitioner does not have the burden of proof and its budgeted and actual water revenues are not a basis for the underlying rate action; the request seeks information that is neither relevant nor 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 request is irrelevant and unduly burdensome as it is simply a part of a fishing expedition (*In re American Optical Corp.*, 988 S.W. 2d 711, 713-14 (Tex. 1998) and cases cited therein).

Response: Notwithstanding and without waiving the objections noted above, responsive documents will be produced.

3. Please provide copies of all revenue forecast models used by Travis WCID for the last five (5) years.

Objection: Travis WCID objects to this request on the following independent bases: the request is overbroad in its time frame; the request is irrelevant, because this Petitioner does not have the burden of proof and its budgeted and actual water revenues are not a basis for the underlying rate action; the request seeks information that is neither relevant nor 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 request is irrelevant and unduly burdensome as it is simply a part of a fishing expedition (*In re American Optical Corp.*, 988 S.W. 2d 711, 713-14 (Tex. 1998) and cases cited therein).

Response: Notwithstanding and without waiving the objections noted above, after a diligent search, no items were identified that are responsive to the request.

4. Please provide copies of the resolutions or orders to establish water rates that have been formally adopted by Travis WCID for current year and previous five (5) years.

Objection: Travis WCID objects to this request on the following independent bases: the request is overbroad in its time frame; the request is irrelevant, because this Petitioner does not have the burden of proof; the request seeks information that is neither relevant nor 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 request is irrelevant as it is simply a part of a fishing expedition (*In re American Optical Corp.*, 988 S.W. 2d 711, 713-14 (Tex. 1998) and cases cited therein).

Response: Notwithstanding and without waiving the objections noted above, responsive documents will be produced.

5. Please provide documents that show the number of customers served by Travis WCID by each customer class for current year and previous five (5) years.

Objection: Travis WCID objects to this request on the following independent bases: the request is overbroad in its time frame; the request is irrelevant, because this Petitioner does not have the burden of proof and its customer numbers and customer classes are not a basis for the underlying rate action; the request seeks information that is neither relevant nor 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 request is irrelevant and unduly burdensome as it is simply a part of a fishing expedition (*In re American Optical Corp.*, 988 S.W. 2d 711, 713-14 (Tex. 1998) and cases cited therein).

Response: Notwithstanding and without waiving the objections noted above, responsive documents will be produced.

6. Please provide line item detail of each operating and capital expense assigned to the water rate revenue requirements of Travis WCID for current year and previous five (5) years.

Objection: Travis WCID objects to this request on the following independent bases: the request is overbroad in its time frame; the request is irrelevant, because this Petitioner does not have the burden of proof and its water rate revenue requirements are not a basis for the underlying rate action; the request seeks information that is neither relevant nor 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 request is overbroad and unduly burdensome in that it requires Petitioner to create documents in order to respond; and the request is irrelevant and unduly burdensome as it is simply a part of a fishing expedition (*In re American Optical Corp.*, 988 S.W. 2d 711, 713-14 (Tex. 1998) and cases cited therein).

Response: Notwithstanding and without waiving the objections noted above, responsive documents will be produced.

7. Please provide copies of all water rate studies completed by Travis WCID or at the direction of Travis WCID, within last five (5) years.

Objection: Travis WCID objects to this request on the following independent bases: the request is overbroad in its time frame; the request is irrelevant, because this Petitioner does not have the burden of proof and its water rate studies, if any, are not a basis for the underlying rate action; the request seeks information that is neither relevant nor 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 request is irrelevant and unduly burdensome as it is simply a part of a fishing expedition (*In re American Optical Corp.*, 988 S.W. 2d 711, 713-14 (Tex. 1998) and cases cited therein).

Response: Notwithstanding and without waiving the objections noted above, responsive documents, to the extent any exist, will be produced.

8. Please provide all documents which describe, with specificity, the Travis WCID's state approved water conservation plan.

Objection: Travis WCID objects to this request on the following independent bases: the request is overbroad as it is not limited in time; the request is irrelevant, because this Petitioner does not have the burden of proof and its water conservation programs are not a basis for the underlying rate action; the request seeks information that is neither relevant nor 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 request is irrelevant and unduly burdensome as it is simply a part of a fishing expedition (*In re American Optical Corp.*, 988 S.W. 2d 711, 713-14 (Tex. 1998) and cases cited therein); the request is overbroad as it requests "all documents" which is not limited in scope or time, and could include documents protected by attorney work product or attorney-client privileges; and the City has equal access to those documents related to the City's water conservation plan.

Response: Notwithstanding and without waiving the objections noted above, after a diligent search, no items were identified that are responsive to the request.

9. Please provide dated "screen shot" copies of Travis WCID's web pages advertising the availability of water conservation programs to their customers.

Objection: Travis WCID objects to this request on the following independent bases: the request is overbroad as it is not limited in time; the request is irrelevant, because this Petitioner does not have the burden of proof and its water conservation programs are not a basis for the underlying rate action; the request seeks information that is neither relevant nor 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 request is irrelevant and unduly burdensome as it is simply a part of a fishing

expedition (*In re American Optical Corp.*, 988 S.W. 2d 711, 713-14 (Tex. 1998) and cases cited therein); and the request is unduly burdensome, as the Petitioner's web page is equally available to the City, the City can create its own "screen shot," and the Petitioner is not required to create documents in order to respond to a request.

Response: Notwithstanding and without waiving the objections noted above, after a diligent search, no items were identified that are responsive to the request.

10. Please provide documents, reports, memoranda, and pamphlets that describe Travis WCID'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.

Objection: Travis WCID objects to this request on the following independent bases: the request is overbroad as it is not limited in time; the request is irrelevant, because this Petitioner does not have the burden of proof and its reserve funds are not a basis for the underlying rate action; the request seeks information that is neither relevant nor 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 request is irrelevant and unduly burdensome as it is simply a part of a fishing expedition (*In re American Optical Corp.*, 988 S.W. 2d 711, 713-14 (Tex. 1998) and cases cited therein); and the request is overbroad as it requests "documents" which is not limited in scope, and could include documents protected by attorney work product or attorney-client privileges.

Response: Notwithstanding and without waiving the objections noted above, responsive and non-attorney/client privileged documents will be produced.