



Control Number: 42867



Item Number: 73

Addendum StartPage: 0

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

RECEIVED

2014 OCT 31 PM 2:58  
PUBLIC UTILITY COMMISSION  
FILING CLERK

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

SOAH DOCKET NO. 473-14-5138  
PUC DOCKET NO. 42867

PETITION OF NORTH AUSTIN §  
MUNICIPAL UTILITY DISTRICT NO. 1, §  
NORTHTOWN MUNICIPAL UTILITY §  
DISTRICT, 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

**NORTHTOWN MUNICIPAL UTILITY DISTRICT'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 7<sup>th</sup> Street, Austin, Texas 78701.

COMES NOW, Northtown Municipal Utility District ("Northtown" or "Petitioner"), 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.

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

73

02 541 18 1314.05

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 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 Northtown for current year and previous five (5) years. Please include all back up data for each budget formally adopted by Northtown.

**Objection:** Northtown 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 Northtown versus actual water revenue reports for the past five (5) completed fiscal years.

**Objection:** Northtown 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 Northtown for the last five (5) years.

**Objection:** Northtown 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 Northtown for current year and previous five (5) years.

**Objection:** Northtown 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 Northtown by each customer class for current year and previous five (5) years.

**Objection:** Northtown 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 Northtown for current year and previous five (5) years.

**Objection:** Northtown 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, after a diligent search, no items were identified that are responsive to the request.**

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

**Objection:** Northtown 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, after a diligent search, no items were identified that are responsive to the request.**

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

**Objection:** Northtown 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 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.

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

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

**Objection:** Northtown 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 Northtown’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:** Northtown 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.**