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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  
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. 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 FROM THE RATEMAKING § OF  
ACTIONS OF THE CITY OF AUSTIN §  
AND REQUEST FOR INTERIM RATES §  
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COUNTIES § ADMINISTRATIVE HEARINGS

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

TO: North Austin Municipal 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 Municipal 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

Subject to its pending Motion to Strike the Pre-filed Testimony ("Motion") on behalf of North Austin Municipal Utility District No. 1 ("NAMDI") and without waiving said Motion, the City of Austin ("the City," "Austin," or "Respondent"), serves this Third Request for Production of Documents Propounded to North Austin Municipal Utility District No. 1, as allowed by Texas Rules of Civil Procedure 196. *North Austin Municipal Utility District No. 1 must respond to the*

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*following requests, in writing, within 20 days after service, in accordance with the Administrative Law Judge's Order No. 9.* Petitioners 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, not 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 Petitioners' receive the information.

### **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. Branch 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 Municipal Utility District No. 1" or "NAMD1" means Petitioner, its agents, representatives, and all other persons acting in concert with it, or under its control, whether directly or indirectly, including any consultant or attorney.

2. "Austin," "the City," or "Respondent" 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 Municipal 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 Municipal Utility District No. 1, 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 Municipal Utility District No. 1, 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 Wells Branch 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 required that you state the following:

- a. The full name;
- b. The present or last known residential address;
- c. The present of 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**

*The following requests pertain to the written prefiled testimony of Jay Joyce for North Austin Municipal Utility District No. 1.*

25. Please provide all documents that form the bases for your testimony regarding for the general ratemaking principles and the rules and regulations referred to on Page 8, Line 26.

26. Please provide all documents that form the bases for your statement that "the City unfairly overburdens the water and wastewater utilities" on page 14, lines 12 and 13.

27. Please provide all documents that form the bases for your statement that the Petitioners receive no benefit from the reclaimed water system on page 15, line 22.

28. Please provide all documents that form the bases for the statement that the "Green Choice" assets and activities are not reasonable or necessary to provide service to wholesale customers on page 17, lines 5 and 6.

29. Please provide all documents that form the bases the conclusion that the SWAP Debt Administration item should be capitalized as referenced on page 17, lines 12-20.

30. Please provide all documents that form the bases for the conclusion that the Contract Management item should be capitalized instead of expensed as referenced on page 18, lines 1-20.

31. Please provide all documents that form the bases for your statement that Austin proposes to allocate rate case expenses to "all customers" on page 28, line 11.

32. Please provide all documents that form the bases for the statement that "the utility must prove that its budget approximates actual cost adjusted for known and measurable changes." As referenced on page 31, lines 14-15.

33. Please provide all documents that form the bases for the adjustment that reduces by 10% all staffing costs as referenced on page 33, lines 2-4.

34. Please provide all documents that form the bases for your conclusion that because the Austin Police Department pay schedule is one of the highest in the State of Texas and the nation, that the Austin Water staff is overpaid as referenced on page 33, lines 8-25.

35. Please provide all documents that form the bases for your adjustment that reduces by 5% all staffing costs as referenced on page 33, lines 23-25.

36. Please provide all documents that form the bases for your statement that using "net asset values" to allocate water costs between water transmission and distribution systems is not consistent with industry standards as referenced on page 41, lines 5-10.

37. Please provide all documents that form the bases for your statement that the water model you developed is accurate; as referenced on page 46, lines 2-3.

38. Please provide a copy of your water model.

39. Please provide all documents that form the bases for your statement that the wastewater model you developed is accurate; as referenced on page 49, lines 14-15.

40. Please provide all documents that support your adjustment of \$2,420,086 on page 45 of your testimony. The documents should provide detail for the dollar breakdown of each of the 39 issues by adjustment, for each Petitioner.

41. Please provide the source documentation that underlies: 1. your debt service calculation for the water system assets totaling \$1,780,346; 2. cash capital outlay for the water system assets totaling \$802,919; and 3. your depreciation expense for the water system totaling \$746,327, as asserted on page 14 of Jay Joyce's testimony.

42. Please provide all documents that form the bases for your conclusion that the cost of service was inflated by reclassifying SWAP Debt Administration and Commercial Paper Administration from a capitalized cost to an expensed cost. Please include all documentation upon which you relied to conclude that this reclassification "unreasonably" raised current revenue requirements, as asserted on page 17 of Jay Joyce's testimony.

43. Please provide all documents that form the bases for your conclusion that drainage fees paid by the water and wastewater systems is not a reasonable or necessary cost for the provision of water and wastewater service to ratepayers, as asserted on page 19 of Jay Joyce's testimony.

44. Please provide all documents that form the bases for your conclusion that 311 services for Utility Cut Repair and Water Waste Reports would not benefit wholesale customers, as asserted on pages 21 and 22 of Jay Joyce's testimony.

45. Please provide all documents that form the bases for your statement that the General Fund transfer is not cost-based; has no standard industry practices; and is not needed for debt service coverage, as asserted on page 23 of Jay Joyce's testimony.

46. Please provide all documents that form the bases for Mr. Joyce's conclusion on pages 24 and 25 of his testimony that the Austin Energy General Fund Transfer is considered reasonable, but that there is no support for AWU's General Fund transfer ("GFT").



47. Please provide all documents that support Mr. Joyce's statement that the utility included a factor for profit in its cost of service analysis, on page 25 of his testimony.

48. Please provide all documents that form the bases for Mr. Joyce's conclusion on page 26 of his testimony that the Transfer to the Austin Fire Department for "Hazmat to prevent hazardous materials from going into the water/wastewater systems" appears to be "another excuse" to fund Austin's general government.

49. Please provide supporting documentation that supports the removal of \$641,811 and how it relates to the current rate case, as asserted on page 28 of Jay Joyce's testimony.

50. Please provide supporting documentation that explains how Mr. Joyce developed the factors for the cost allocation attributable to Reuse, as asserted on page 30 of his testimony.

51. Please provide supporting documentation and basis for how Mr. Joyce developed and applied the following factors to O&M costs: Pump Station Factor to Pump Station & Reservoir Maintenance Cost and Pump Station & Reservoir Operations; Pipeline Factor to Pipeline Maintenance, Valves, Distribution System Support O&M costs; Water Composite Factor to Support Services, Special Support, Operating Transfers, and Other Transfers O&M Costs. Please include the same documentation for applying the Wastewater Fact to Wastewater Treatment and Wastewater Treatment Support O&M, as asserted on page 30 of his testimony.

52. Please provide all supporting documentation that shows the Joint Committee agreeing with Mr. Joyce's assessment that the costs of the reclaimed System should be fully recognized, as asserted on page 31 of Jay Joyce's testimony.

53. Please provide all documents that support Mr. Joyce's conclusion on page 32 of his testimony, that the City is overstaffed. Please all documents that support Mr. Joyce's conclusion that the City should conduct a staffing study every five years.

54. Please provide all documents that support Mr. Joyce's conclusion on page 33 of his testimony, that the City compensation is excessive.

55. Since all City employees are not part of the Austin Police Department, please provide other supporting documentation, besides the Austin Police Department pay schedule, to support the basis that the City overpays its employees, as asserted on page 33 of Jay Joyce's testimony.

56. Please provide all documents that specifically show a hidden transfer from AWU to the City via Austin Energy, which was asserted on page 34 of Jay Joyce's testimony.

57. Please provide all documents that support why Mr. Joyce's disagreement with the City's method of including depreciation in the cash basis. Please provide details as to how: 1) It unnecessarily adds to the complexity of the calculations; 2) It "does not make sense;" and 3) It has a minimal impact on the overall customer class cost allocation, as asserted on page 35 of Jay Joyce's testimony.

58. Please provide all documents that support Mr. Joyce's conclusion on page 36 of his testimony, that the costs for Lobbyists are not necessary to provide service to wholesale customers.

59. Mr. Joyce states that the City's position for supporting the Revenue Stability Reserve Fund is a "ridiculous" position since the ONLY document provided shows absolutely no support for it. Please provide all documents that show that AWU does not need a reserve fund or an ending balance to have sufficient reserves to operate, as asserted on page 39 of his testimony.

60. Please provide supporting documentation for Mr. Joyce's conclusion that Austin Water should receive all of the profit from the sale of Green WTP instead of the City's General Fund. Please include documents that show that AWU owned the land where Green WTP was located, on page 40 of Jay Joyce's testimony.

61. Please provide all documents that show AWU's "Utility-Wide Contingency" is an additional amount of "fluff;" as Mr. Joyce characterizes the line item, as asserted on page 44 of his testimony.

*The following requests pertain to the written prefiled testimony of David Malish for North Austin Municipal Utility District No. 1.*

62. Please provide all documents that form the bases for the statement that, "It actually took approximately two years to obtain City approval of the booster stations before construction could begin."

63. Please provide all documents that demonstrate that NAMD1 had to pay all City of Austin review fees for the booster stations.

64. Please provide all documents that form the bases for the statements: "If suction water pressures ever fall below 20 psi under routine operation, NAMD1 will be required to construct two ground storage tanks, two domestic and fire demand pump stations, backup power generation facilities, and a 2.7 Million Gallon elevated storage tank to meet TCEQ design rules."

65. Please provide all documents that form the bases for the statement: "It is the City's current policy to require a minimum of 50 psi for approval of water systems to serve future subdivisions."

66. Please provide all documents that demonstrate instances in which "pressures near 30 psi at times on our continuous recorders at the master meters."

67. Please provide all documents that indicate the City has accepted responsibility for meeting all State Standards including pumping, pressure, capacity, and fire flow within NAMD1 boundaries directly to NAMD1 retail customers.

Respectfully submitted,

**KAREN KENNARD,**  
City Attorney

**D. CLARK CORNWELL**  
Assistant City Attorney

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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, US mail and/or Certified Mail Return Receipt Requested on all parties whose names appear on the mailing list below on this 17th day of November, 2014.

FOR THE PUBLIC UTILITY COMMISSION:

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