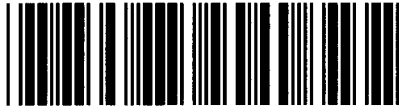


Control Number: 43551



Item Number: 67

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.

Robert J. Huston, *Chairman*
R. B. "Ralph" Marquez, *Commissioner*
Kathleen Hartnett White, *Commissioner*
Jeffrey A. Saitas, *Executive Director*



TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY

2002 SEP 12 AM 11:31

CHIEF CLERKS OFFICE

RECEIVED
2004 OCT 27 AM 10:55
PUBLIC UTILITY COMMISSION
FILING CLERK

TEXAS NATURAL RESOURCE CONSERVATION COMMISSION

Protecting Texas by Reducing and Preventing Pollution

September 11, 2002

John E. Carlton
Armbrust & Brown, LLP
100 Congress, Suite 1300
Austin, Texas 78701

Re: Applications from City of Austin to Obtain a Sewer and Water Certificate of Convenience and Necessity in Travis, Hays & Williamson Counties;
SOAH Docket No. 582-02-3056; TCEQ Docket No. 2002-0189-UCR

Dear Mr. Carlton:

Enclosed please find the Executive Director's First Request for Disclosure, Interrogatories & Production to Hornsby Bend in the above-referenced matter.

Sincerely,

A handwritten signature in black ink, appearing to read "John E. Deering".

John E. Deering
Staff Attorney
Environmental Law Division

cc: Mailing List

Enclosure

67

2002 SEP 12 AM 11:31

SOAH DOCKET NO. 582-02-3056
TCEQ DOCKET NO. 2002-0189-UCR CHIEF CLERKS OFFICE

IN THE MATTER OF THE	§	BEFORE THE STATE OFFICE
APPLICATIONS OF THE CITY OF	§	
AUSTIN FOR A WATER	§	
CERTIFICATE OF CONVENIENCE	§	OF
AND NECESSITY (NO. 33562-C) AND	§	
A WASTEWATER CERTIFICATE OF	§	
CONVENIENCE AND NECESSITY	§	ADMINISTRATIVE HEARINGS
(NO. 33563-C)	§	

**EXECUTIVE DIRECTOR'S FIRST REQUEST FOR DISCLOSURE,
INTERROGATORIES & PRODUCTION**

TO: HORNSBY BEND WATER COMPANY, BY AND THROUGH ITS ATTORNEY,
JOHN J. CARLTON, ARMBRUST & BROWN, LLP, 100 CONGRESS, SUITE 1300,
AUSTIN, TEXAS 78701.

Pursuant to §2001 *et seq.* of the Administrative Procedure Act ("APA"), GOVERNMENT CODE (Vernon), Rules 190-197 of the Texas Rules of Civil Procedure and 30 Texas Administrative Code ("TAC") § 80.151, and TAC Title 1, Part VII, Section 155.23, you are required to answer in complete detail and in writing each of the following requests for disclosure and interrogatories and to produce documents, as the case may be, responsive to the requests. You are required to sign your answers to the questions or requests, to swear to the truth of your responses before a Notary Public or other judicial officer, and to deliver a complete, signed, and notarized copy of your answers to John E. Deering and Geoffrey P. Kirshbaum, Staff Attorneys, Environmental Law Division, MC 173, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087, by 30 days after service of this request, in accordance with the Administrative Law Judge's directive. Should there be additional parties to these proceedings, you are to provide copies to such additional parties in the same manner and at the same time as set forth previously. If you fail to comply with the requirements above, the Commission may order you to do so and you will be subject to those sanctions authorized by statute and by the rules of the Commission and SOAH for failure to comply.

I.

DEFINITIONS

As used herein, the terms "you," "your," or "yourself," refer to the Hornsby Bend Water Company, the party to whom these requests are addressed, as well as to each of its parents, predecessors, subsidiaries and affiliates, each of its present and former officers, employees, agents, representatives and attorneys, and each person acting or purporting to act on its behalf.

REPRESENTATIVE

As used herein, the term "representative" means any and all agents, employees, servants, officers, directors, attorneys, or other persons acting or purporting to act on your behalf.

PERSON

As used herein, the term "person" means any natural individual in any capacity whatsoever or any entity or organization, including divisions, departments and other units therein, and shall include, but not be limited to, a public or private corporation, partnership, joint venture, voluntary or unincorporated association, organization, proprietorship, trust, estate, governmental agency, commission, bureau, municipality or department.

DOCUMENT

As used herein, the term "document" means any medium upon which information can be recorded or retrieved, and includes, without limitation, the original and each copy, regardless of origin and location, of any book, pamphlet, periodical, letter, memorandum (including any memorandum or report of a meeting or conversation), invoice, bill, order form, receipt, financial statement, accounting entry, diary, calendar, telex, telegram, cable, facsimile transmission, report, record, contract, agreement, study, handwritten note, draft, working paper, chart, paper, print, laboratory record, drawing, sketch, graph, index, list, tape, photograph, microfilm, data sheet or data processing card, computer tape or disk, or any other written, recorded, transcribed, punched, taped, filmed or graphic matter, however produced or reproduced, which is in your possession, custody or control, or which has been, but is no longer, in your possession, custody, or control. The term "document" further means a copy of any document, as referred to above, if such copy contains notes, writings or is in any way different from or an alteration of the original document.

COMMUNICATION

As used herein, the term "communication" means any oral or written utterance, notation or statement of any nature whatsoever, by and to whomsoever made, including, but not limited to, correspondence, conversations, dialogues, discussions, interviews, consultations, agreements and other understandings between or among two or more persons.

IDENTIFICATION

As used herein, the terms "identification," "identify," or "identity," when used in reference to: (a) a natural individual - require you to state his or her full name and residential and business address; (b) a corporation - require you to state its full corporate name and any names under which it does business, its state of incorporation, the address of its principal place of business, and the addresses of all of its offices; (c) a business -require you to state the full name or style under which the business is conducted, its business address or addresses, the types of businesses in which it is engaged, the geographic areas in which it conducts those business, and the identity of the person or persons who own, operate, and control the business; (d) a document - require you to state the number of pages and the nature of the document (e.g., letter or memorandum), its title, its date, the name or names of its authors and recipients, and its present location and custodian; (e) a communication - require you, if any part of the communication was written, to identify the document or documents which refer to or evidence the communication, and, to the extent that the communication was non-written, to identify the persons participating in the communication and to state the date, manner, place and substance of the communication.

II.

INSTRUCTIONS

IDENTIFICATION OF DOCUMENTS

With respect to each request, in addition to supplying the information requested, you are to identify all documents that support, refer to or evidence the subject matter of each request and your answer thereto.

If any or all documents identified herein are no longer in your possession, custody or control because of destruction, loss or any other reason, then do the following with respect to each and every such document: (a) describe the nature of the document (e.g., letter or memorandum); (b) state the date of the document; (c) identify the persons who sent and received the original and a copy of the document; (d) state in as much detail as possible the contents of the document; and (e) state the manner and date of disposition of the document.

If you contend that any material or information responsive to any of the interrogatories is privileged, state in response that: (a) the information or material responsive to the interrogatories has been withheld; (b) the interrogatory to which the information or material relates; and (c) the privilege or privileges asserted.

CONTENTION REQUESTS

When a request requires you to "state the basis of" a particular claim, contention, or allegation, state in your answer the identity of each and every communication and each and every legal theory that you think supports, refers to, or evidences such claim, contention, or allegation.

CONTINUING REQUESTS

These requests are to be considered continuing in nature and you are under a duty to timely supplement any response given to such request(s) as required by Rule 166(b) of the Texas Rules of Civil Procedure.

III.

REQUEST FOR DISCLOSURE

Pursuant to Texas Rule of Civil Procedure 194, you are requested to disclose by May 13, 1999, the information or material described in Rule 194.2 (c),(e), (f), (h), and (i).

IV.

INTERROGATORIES

1. For each person the Hornsby Bend Water Company expects to call as a fact witness at the evidentiary hearing in this matter, please provide: (a) the person's name and business address and telephone number; and (b) a brief description of the testimony Hornsby Bend Water Company expects that person to provide.
2. For each expert not listed in the response to the Request for Disclosure whom Hornsby Bend Water Company has consulted and whose mental impressions and opinions have been reviewed by an expert Hornsby Bend Water Company expects to testify in this matter, please provide: (a) the consulting expert's name and business address and telephone number; (b) the facts known by the expert that relate to or form the basis of the expert's mental impressions and opinions formed or made in connection with this matter, regardless of when and how the factual information was acquired; (c) the expert's mental impressions and opinions formed or made in connection with this matter and any methods used to derive them; and (d) a curriculum vitae or other detailed description of the expert's qualifications.
3. If Hornsby Bend Water Company proposes to provide water service only in any of the proposed area, please describe how sewer service will be provided in that area.
4. Please describe the proximity of the area covered by Hornsby Bend Water Company application to any existing facilities currently operated by Hornsby Bend Water Company or to any facilities Hornsby Bend Water Company proposes to construct.
5. Please describe whether Hornsby Bend Water Company has written requests for service from potential customers in the proposed area.
6. If there are no requests for service in the proposed area, please describe in detail the need for service in the Hornsby Bend Water Company proposed area.
7. Please state whether, to the best of your knowledge, if people are already living in the area Hornsby Bend Water Company has requested to add to its certificate of convenience and necessity ("CCN"). If so, please state whether those people are currently receiving water and/or sewer utility service and identify the service provider(s).
8. Please describe in detail the ability of Hornsby Bend Water Company to provide adequate water service to proposed area.

9. Please state your position concerning the effect of the granting of a water CCN to the City of Austin with respect to the area that overlaps the proposed area of Hornsby Bend Water Company. This should include the financial consequences, both current and projected, changes in customer base, potential changes in rates charge by both entities.
10. Please describe the approximate time frame in which Hornsby Bend Water Company could provide water service in compliance with all applicable Commission rules and statutes to the proposed area including the outer boundaries of the requested area.
11. Please describe in detail any effects on environmental integrity if the Commission approves Hornsby Bend Water Company CCN amendment application.
12. Please describe the amount and type of all initial and long-term facility costs that will be passed on to customers in the proposed area if Hornsby Bend Water Company becomes the service provider for the proposed area.
13. Please describe the probable improvement in service or lowering of costs to consumers in the area proposed by Hornsby Bend Water Company if Hornsby Bend Water Company becomes the service provider for the proposed area that overlaps the portion of the area the City of Austin proposes to serve. Include historical data concerning water service reliability, historical water quality, and current and projected costs to consumers in the proposed area.
14. Please describe in detail why you object to the amendments the City of Austin representative have requested in their certificates of convenience and necessity ("CCN").
15. Please describe the method for determining water rates for the Hornsby Bend Water Company proposed area.

V.

REQUEST FOR PRODUCTION

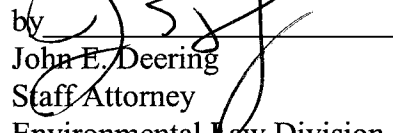
1. Please provide a Preliminary Engineering Report prepared by a registered engineer for Hornsby Bend Water Company.
2. Please provide any and all estimates of the capital costs for Hornsby Bend Water Company to increase the water plant capacity to provide service to the requested area.
3. Please provide any and all existing capital asset acquisition budgets.
4. Please provide any and all estimates of the capital costs for the line extension to provide service to the requested area.
5. Please provide any and all documents that contain or discuss the method and terms of financing the capital acquisition costs for Hornsby Bend Water Company.
6. Please provide map(s) of all water facilities currently in place in or within two miles of the requested service area for Hornsby Bend Water Company
7. Please provide any and all written requests for service from any person in the proposed area.
8. Please provide any and all maps showing the location or locations of those persons requesting service in the Hornsby Bend Water Company proposed area.
9. Please provide any and all maps which indicate or show where Hornsby Bend Water Company is currently serving outside of its current certificated service area.
10. Please provide any and all responses from Hornsby Bend Water Company to the Texas Commission on Environmental Quality regarding the most recent inspection of the water system that is potentially going to be used to provide service to the requested area and any notices of violations thereof.
11. Please produce copies of any and all documents identified in your responses to Interrogatories Nos. one (1) through sixteen (16) listed above or used to assist you in responding to Interrogatories one (1) through sixteen (16).

Respectfully submitted,

TEXAS NATURAL RESOURCE
CONSERVATION COMMISSION

Jeffrey A. Saitas, P.E.
Executive Director

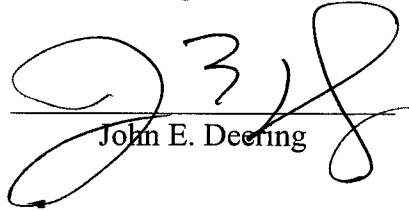
Stephanie Bergeron, Director
Environmental Law Division

by 
John E. Deering
Staff Attorney
Environmental Law Division

THE EXECUTIVE DIRECTOR'S FIRST REQUEST
FOR DISCLOSURE, INTERROGATORIES & PRODUCTION
TO HORNSBY BEND WATER COMPANY
PAGE 10

CERTIFICATE OF SERVICE

I hereby certify that on this 11th day of August, 2002, a true and correct copy of the foregoing Executive Director's First Request for Disclosure, Interrogatories & Production was sent by first class mail, agency mail and/or facsimile to all persons on the attached mailing list.



John E. Deering

MAILING LIST
SOAH DOCKET NO. 582-02-3056
TCEQ DOCKET NO. 2002-0189-UCR

Ms. Holly Wise, Natural Resources Docket Clerk
State Office of Administrative Hearings
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Austin, Texas 78701

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Representing: City of Austin

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Creedmoor-Maha WSC, and City of
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Representing: Lower Colorado River
Authority

Representing the Executive Director of the
Texas Natural Resource Conservation
Commission

Representing the Public Interest Counsel of
the Texas Natural Resource
Conservation Commission