

Control Number: 43585



Item Number: 19

Addendum StartPage: 0

House Bill (HB) 1600 and Senate Bill (SB) 567 83<sup>rd</sup>  
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

43585

SOAH DOCKET NO. 582-02-3056  
TCEQ DOCKET NOS. 2002-0189-UCR and 2000-0112-UCR

IN THE MATTER OF THE  
APPLICATIONS OF THE CITY OF  
AUSTIN FOR A WATER  
CERTIFICATE OF CONVENIENCE  
AND NECESSITY (NO. 33562-C) AND  
A WASTEWATER CERTIFICATE OF  
CONVENIENCE AND NECESSITY  
(NO. 33563-C)

§ BEFORE THE STATE OFFICE  
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§  
§ OF  
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§ ADMINISTRATIVE HEARINGS  
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§

APPLICATION OF HORNSBY  
BEND UTILITY COMPANY  
TO AMEND CERTIFICATE  
OF CONVENIENCE AND  
NECESSITY NO. 20650

§ BEFORE THE STATE OFFICE  
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§ ADMINISTRATIVE HEARINGS  
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APPLICATION OF HORNSBY  
BEND UTILITY COMPANY  
TO AMEND CERTIFICATE  
OF CONVENIENCE AND  
NECESSITY NO. 11978

§ BEFORE THE STATE OFFICE  
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§ ADMINISTRATIVE HEARINGS  
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RECEIVED

OCT 29 2002

TEXAS NATURAL RESOURCE  
CONSERVATION COMMISSION  
UTILITIES AND DISTRICTS

**CITY OF AUSTIN'S SECOND SET OF  
INTERROGATORIES AND REQUESTS FOR  
PRODUCTION TO EXECUTIVE DIRECTOR  
TEXAS COMMISSION ON ENVIRONMENTAL QUALITY**

TO: Executive Director, Texas Commission on Environmental Quality, by and through its designated representatives, John Deering and Geoffrey Kirshbaum, Office of Legal Services, P.O. Box 13087 (MC 173), Austin, Texas 78711-3087

Pursuant to Rule 196 of the Texas Rules of Civil Procedure, and 1 TAC § 155.31, the City of Austin ("City") submits this Second Set of Interrogatories and Requests for Production to the Executive Director, and requests that the Executive Director respond in writing to the following interrogatories and requests and produce and permit the City to inspect and copy each of the documents, records, materials, and tangible things designated below. The City requests

19

that production be made at the law offices of Bracewell & Patterson, L.L.P., 111 Congress Avenue, Suite 2300, Austin, Texas 78701, within thirty (30) days of service of this request, or at such other reasonable time, place, and manner agreed to by the parties and/or their respective attorneys in advance of the time for production.

## **DEFINITIONS**

1. **Document:** The term "document" includes, but is not limited to, any papers, books, accounts, personal notes, internal memoranda, emails, notebooks, drawings, graphs, charts, photographs, calendar, report, study, invoice, electronic or video tape recordings, data and data compilations in the possession, custody or control of the respondents or which has been, but is no longer, in the respondent's possession, custody or control. The term "document" also includes data or information in electronic or magnetic form, which is to be produced on IBM formatted diskettes. "Documents" includes drafts, copies (including non-identical copies), reproductions, and marginal or other comments on any document in the possession, custody or control of the respondent.

2. **Person:** The words "person" or "persons" means all natural persons and all entities, including, but not limited to, corporations, associations, companies, partnerships, municipalities, departments, banks, joint ventures, federal, state and local governmental bodies, voluntary or unincorporated associations, or any other business or legal entity and all others acting or purporting to act on behalf of such person or entity.

3. **City's Proposed Water Service Area**" refers to those areas designated in the City's Application for a Water Certificate of Convenience and Necessity (Application No. 33562-C).

4. **"City's Proposed Sewer Service Area"** refers to those areas designated in the City's Application for a Sewer Certificate of Convenience and Necessity (Application No. 33563-C).

5. **TCEQ:** The terms "TCEQ" and "Commission" refer to the Texas Commission on Environmental Quality and its predecessor agencies.

6. **Identification:** The words "Identify," "Identification," "Identity," "Describe," and "Description" mean:

a. when used with respect to documents, require you to: (a) describe the nature of the document (e.g., letter, memorandum, report, handwritten notes, published book, monograph or article, deed, contract, etc.); (b) provide the full name of its author and all addressees and recipients; (c) provide the date of the document; and (d) state the name, address and telephone number of the custodian of the original of said document, or if a copy is relied upon, then of the custodian of the copy upon which the respondent relies;

b. when used with respect to an individual or natural person, require you to state: (a) the name and present or last known business and personal address of such person; (b) the position(s) of employment held by the person at the time to which the question relates and at the present time; (c) the name and address of his or her employer at the time to which the question relates and at the present time; and (d) the present or last known telephone number at which the person may be reached;

c. when used with respect to a corporation or non-natural person, require you to state: (a) its full legal name; its physical address and the address of all its officers; (b) its organizational and legal form; (c) its principal place of business and state of incorporation; (d) its mailing address; and (e) its principal executive official by name and business address;

d. when used in reference to any act, occurrence, communication, occasion, meeting, transaction, or conduct, require you to state: its location, date, the persons participating, present or involved, the substance of any discussion which took place and to identify any document that refers to or evidences the act, occurrence, etc.;

7. Relating to: The term "relating to" means discussing, describing, referring to, reflecting, containing, comprising, constituting, setting forth or concerning, in whole or in part.

8. State: The term "State" refers to the State of Texas and its governmental agencies and representatives including the State Office of Administrative Hearings ("SOAH").

### INSTRUCTIONS

1. These interrogatories and requests cover all information and documents in the possession, control, or custody of the respondent and any elected officials, officers, directors, employees, agents, representatives, contractors, consultants or attorneys of the respondent.

2. If you currently lack information to answer any interrogatory or request completely, state:

- a. the responsive information currently available;
- b. the responsive information currently unavailable;
- c. the efforts which you intend to make to secure the information currently unavailable;
- d. when you anticipate receiving the information currently unavailable;
- e. with respect to each interrogatory and 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 interrogatory or request and your answer thereto; and
- f. if you contend that any material or information responsive to any of the interrogatories or requests 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.

3. If anything is deleted from a document produced in response to an interrogatory or request, state the reason for the deletion and the subject matter of the deletion.

4. When these interrogatories or requests call for a document which was, but is no longer, in the possession of the respondent, state (1) what disposition was made of such

document; (2) the date such disposition was made; (3) who made the decision to so dispose of such documents; (4) the basis for such decision; (5) the identification and description of such document's contents; (6) the present location and custodian of the document; (7) its author; (8) its date; and (9) the purpose for which the document was prepared.

5. Words used in the plural shall also be taken to mean and include the singular.

Words used in the singular shall also be taken to mean and include the plural.

6. "And" and "or" shall be construed both disjunctively and conjunctively as necessary to make the request inclusive rather than exclusive.

7. "Each" shall be construed to include the word "every," and "every" shall be construed to include the word "each."

8. "Any" shall be construed to include "all," and "all" shall be construed to include "any."

9. The present tense shall be construed to include the past tense, and the past tense shall be construed to include the present tense.

10. These interrogatories and requests are continuing in nature and must be supplemented pursuant to Rule 193.5 of the Texas Rules of Civil Procedure.

## **INTERROGATORIES**

### **INTERROGATORY NO. 1:**

Please explain the differences in terms of information required from the applicant and criteria used by TCEQ to evaluate the application when TCEQ reviews uncontested CCN applications versus contested CCN applications.

### **INTERROGATORY NO. 2:**

Please list, by applicant name and CCN and application numbers, all CCN applications filed by municipalities and considered by the Commission since January 1, 1997.

### **INTERROGATORY NO. 3:**

For every CCN application listed in response to Interrogatory No. 2, please indicate the ED's position regarding whether the applicant's application should be approved or denied and the criteria used to make that evaluation.

### **INTERROGATORY NO. 4:**

Please list all persons who reviewed the City's CCN applications and Request for Information ("RFI") response. Please indicate which section(s) of these materials were reviewed by each person.

### **INTERROGATORY NO. 5:**

Please list all persons who reviewed Hornsby Bend Utility Company, Inc.'s ("Hornsby") applications and any RFI responses. Please indicate which section(s) of these materials were reviewed by each person.



## **REQUESTS FOR PRODUCTION**

### **REQUEST FOR PRODUCTION NO. 1:**

Please produce working files used or kept by TCEQ engineers and other Water Supply Division staff concerning the City's water and sewer applications.

### **REQUEST FOR PRODUCTION NO. 2:**

Please produce working files used or kept by TCEQ engineers and other Water Supply Division staff concerning Hornsby Bend Utility Company's three water and sewer applications.

### **REQUEST FOR PRODUCTION NO. 3:**

Please produce any Sale, Transfer, Merger applications filed by LCRA or any of the other parties to this proceeding within the last year.

### **REQUEST FOR PRODUCTION NO. 4:**

Please produce all documents filed with or copied to the Chief Clerk's Office or TCEQ central records rooms by the Water Supply Division staff regarding the City's CCN applications.

### **REQUEST FOR PRODUCTION NO. 5:**

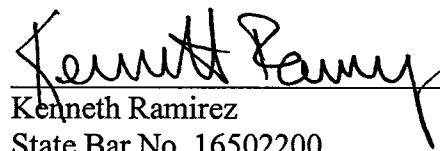
Please produce all documents filed with or copied to the Chief Clerk's Office or TCEQ central records rooms by the Water Supply Division staff regarding Hornsby's applications.

### **REQUEST FOR PRODUCTION NO. 6:**

Please produce any telephone logs of conversations with any person concerning the City's or Hornsby's applications.

Respectfully submitted,

BRACEWELL & PATTERSON, L.L.P.  
111 Congress Avenue, Suite 2300  
Austin, Texas 78701-4043  
Telephone: (512) 472-7800  
Facsimile: (512) 472-9123



Kenneth Ramirez  
State Bar No. 16502200  
Monica Jacobs  
State Bar No. 24007433

*-and-*

Ronnie Jones  
State Bar No. 00786003  
Assistant City Attorney  
City of Austin  
P.O. Box 1546  
Austin, Texas 78767-1546  
Telephone: (512) 974-2568  
Facsimile: (512) 974-2912

ATTORNEYS FOR THE CITY OF AUSTIN

## CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document has been sent by Facsimile and Regular U.S. Mail, on this 21st day of October, 2002, to the following:

Mark Zeppa  
Law Offices of Mark H. Zeppa, P.C.  
4833 Spicewood Springs Road, Suite 202  
Austin, Texas 78759-8436

Representing: AquaSource Utility, Inc.,  
AquaSource Development Company,  
Creedmoor-Maha WSC, and City of  
Mustang Ridge

John J. Carlton  
Ambrust, Brown, & Davis, L.L.P.  
100 Congress Avenue, Suite 1300  
Austin, Texas 78701-3087

Representing: Hornsby Bend Utility  
Company, Inc.

John Deering  
Geoffrey Kirshbaum  
Legal Services Division  
Texas Commission on Environmental  
Quality  
P.O. Box 13087, MC-173  
Austin, TX 78711-3087

Representing: The Executive Director

Madison Jechow  
Lower Colorado River Authority  
P.O. Box 220  
Austin, Texas 78767-0220

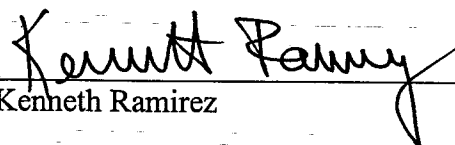
Representing: Lower Colorado River  
Authority

Ronald J. Freeman  
Freeman & Corbett, LLP  
2304 Hancock, Suite 6  
Austin, Texas 78756

Representing: Lower Colorado River  
Authority

Scott Humphrey  
Public Interest Counsel  
Texas Commission on Environmental  
Quality  
P.O. Box 13087, MC-103  
Austin, Texas 78711-3087

Representing: Office of Public Interest  
Counsel

  
Kenneth Ramirez