



Control Number: 43585



Item Number: 20

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

43585

2014 OCT 29 PM 3:28

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

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)	
(NO. 33563-C))	ADMINISTRATIVE HEARINGS
)	
APPLICATION OF HORNSBY)	BEFORE THE STATE OFFICE
BEND UTILITY COMPANY TO)	
AMEND CERTIFICATE OF)	OF
CONVENIENCE AND NECESSITY)	
NO. 20650)	ADMINISTRATIVE HEARINGS
)	
APPLICATION OF HORNSBY)	BEFORE THE STATE OFFICE
BEND UTILITY COMPANY TO)	
AMEND CERTIFICATE OF)	OF
CONVENIENCE AND NECESSITY)	
NO. 11978)	ADMINISTRATIVE HEARINGS

ORAL DEPOSITION OF

MIKE HOWELL

VOLUME 1

October 30, 2002

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CONSERVATION COMMISSION
UTILITIES AND DISTRICTS

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NO. 11978)	ADMINISTRATIVE HEARINGS

ORAL DEPOSITION OF

MIKE HOWELL

VOLUME 1

October 31, 2002

ORAL DEPOSITION of MIKE HOWELL, produced as a witness at the instance of the City of Austin, and duly sworn, was taken in the above-styled and numbered cause on the 31st day of October, 2002, from 9:08 a.m. to 12:13 p.m., before Lorrie A. Schnoor, Certified Shorthand Reporter in and for the State of Texas, and Registered Merit Reporter,

1 reported by computerized stenotype machine, at the
2 offices of Bracewell & Patterson, LLP, 111 Congress
3 Avenue, Suite 2100, Austin, Texas, pursuant to the
4 Texas Rules of Civil Procedure and the provisions
5 attached to the deposition of Michelle Abrams.

6 A P P E A R A N C E S

7 FOR THE CITY OF AUSTIN

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9 Bracewell & Patterson, LLP
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Austin, Texas 78701

10 FOR AQUASOURCE UTILITY, INC., AQUASOURCE DEVELOPMENT
11 COMPANY, CREEDMORE-MAHA WATER SUPPLY CORPORATION,
CITY OF MUSTANG RIDGE

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14 FOR THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

15 **Mr. John E. Deering**

16 **Mr. Geoffrey P. Kirshbaum**

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17 FOR HORNSBY BEND UTILITY COMPANY

18 **Mr. John J. Carlton**

19 Armbrust & Brown, L.L.P.
100 Congress Avenue, Suite 1300
Austin, Texas 78701

20 ALSO PRESENT:

21 Mr. Bart Jennings, City of Austin

22 Mr. Joe Strouse

23 Mr. Kamal Adhikari

24 Mr. Darryl Waldock

25

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EXHIBITS

(No Exhibits Marked)

1 **MIKE HOWELL,**
2 having been first duly sworn, testified as follows:

3 **EXAMINATION**

4 Q. (BY MS. JACOBS) Good morning. Would you
5 please state your name for the record.

6 A. My name is Mike Howell.

7 Q. And, Mike, we've met before. My name is
8 Monica Jacobs, and with me is Bart Jennings. This
9 is John Carlton. And I believe you know Mr. Zeppa
10 and everybody else in the room.

11 A. Yes. Uh-huh.

12 Q. Have you had your deposition taken before?

13 A. I never have.

14 Q. Okay. But you understand that I'm going to
15 be asking you questions to which you're going to
16 give me verbal responses under oath and it's the
17 same as testimony.

18 A. Yes.

19 Q. Right? If at any time I ask you something
20 and you don't understand the question, it's not
21 clear to you, you'd like me to rephrase it, just
22 stop me, ask me. There's no problem.

23 A. Okay.

24 Q. If you need to take a break, let me know.
25 Okay?

1 A. All right.

2 Q. Did you spend any time preparing for this
3 deposition?

4 A. I read over the interrogatories.

5 Q. Okay.

6 A. Yes.

7 Q. About how much time did you spend?

8 A. Oh, probably four hours.

9 Q. Okay. And are you here today because
10 you're serving as an expert witness for the
11 executive director --

12 A. Yes.

13 Q. -- in this case? And you will be
14 testifying regarding the City of Austin's CCN
15 applications?

16 A. Yes.

17 Q. And you are the person responsible for the
18 review of those applications on behalf of the TCEQ?

19 A. Yes.

20 Q. I always stumble over that, TCEQ.

21 Okay. Given that, let us take a
22 moment and -- or a couple of moments and run through
23 the applications briefly.

24 I'm going to start with the water one.
25 Okay. This is a copy -- I'm showing you a copy of

1 the application. Does this look like the copy that
2 you reviewed?

3 A. Yes, it does.

4 Q. Of the City of Austin's application to
5 obtain a water certificate convenience and
6 necessity?

7 (Mr. Darryl Waldock enters room)

8 MS. JACOBS: Can we take a moment off
9 the record.

10 (Recess taken from 9:10 a.m. to
11 9:11 a.m.)

12 Q. (BY MS. JACOBS) Okay. Let's just go
13 through this bit by bit. All right. The first
14 thing I want to show you is the letter to Doug
15 Holcomb from Chris Lippe that is the cover letter of
16 this application. Did you review this letter?

17 A. Yes, I did.

18 Q. Can you tell me what is your impression
19 or -- well, what's your impression of the purpose of
20 this letter and the contents of this letter?

21 A. The -- it's a cover letter that came with
22 the application stating the City of Austin is
23 proposing to serve an area basically over the
24 proposed 130 area.

25 Q. Okay. Let's go through this. Okay. I'm

1 showing you now the actual application to obtain the
2 water certificate of convenience and necessity. Did
3 you review this?

4 A. Yes, I did.

5 Q. Did you read every page?

6 A. Most of them.

7 Q. Which pages didn't you review?

8 A. No. I -- I read the application.

9 Q. Little -- little reviewer joke there, huh?

10 A. Yeah.

11 Q. Okay. I think we'll go through -- did you
12 form any opinions regarding the completeness of this
13 application?

14 A. I had -- once I reviewed the application, I
15 requested some additional information.

16 Q. Right. Okay. We'll get to that in a
17 moment. Okay. Did you review this list of
18 neighboring water public utilities?

19 A. Yes. I looked at that.

20 Q. Okay. Did you have any opinion about this?

21 A. About the neighboring utilities?

22 Q. Yes, about the completeness of the list

23 or --

24 A. Oh, it -- it seemed complete to me.

25 Q. Okay. Did you review the list of certified

1 operators?

2 A. Yeah. I looked over that, yes.

3 Q. Did you have any questions about this? Did
4 this seem complete?

5 A. Yes, it did seem complete.

6 Q. Okay. Did you review the summary analysis
7 of need for water service in the area proposed in
8 the City's CCN application from Craig Bell to Chris
9 Lippe?

10 A. Yes, I read through that.

11 Q. Did you read every page?

12 A. Can I see --

13 Q. Sure.

14 A. I did look through this when I first
15 received the application, which was quite a while
16 ago.

17 Q. Okay. All right. Can you tell me -- I'm
18 sorry. I feel like I'm leaning over the table here.
19 Can you tell me what your understanding of the
20 purpose of this -- the inclusion of this summary
21 analysis was in the application?

22 A. The City of Austin feels that there will be
23 a need for service in the proposed area.

24 Q. Okay. And can you summarize for me your
25 understanding of the -- the points that were made in

1 this memo regarding the need for service?

2 A. Repeat your question, please.

3 Q. Can you summarize for me your understanding
4 of what the points were that were made in this memo
5 regarding the need for service?

6 A. Could I review the memo again?

7 Q. I'd actually prefer that you just give me
8 your understanding of it -- of it right now as it
9 is -- as you sit here.

10 A. Okay. Well, the City of Austin states that
11 there is going to be growth in that area and they
12 would like to be the service provider to that area.

13 Q. Okay. Is there anything else that you
14 recall?

15 A. No.

16 Q. Okay. Okay. Do you recall reviewing the
17 draft Smart Growth Population Forecast?

18 A. I didn't review that entire application. I
19 just looked at it and --

20 Q. Uh-huh.

21 A. -- saw -- saw that it was there.

22 Q. Okay. So you did not read the Smart Growth
23 report?

24 A. Well, I -- I just thumbed through the pages
25 and -- and looked through it.

1 Q. Okay. Can you give me your impression of,
2 again, just the contents of -- of this report from
3 what you recall from thumbing through it?

4 A. It was sort of a -- a master plan that the
5 City of Austin had for the proposed area.

6 Q. Okay. Do you -- what is -- what is your
7 impression of why the City included this plan in the
8 application or this -- actually, this -- this --
9 I'm -- rephrase that -- this population forecast?

10 A. The City of Austin would have submitted the
11 population forecast to support the -- the -- that
12 there will be a need for service in the proposed
13 area.

14 Q. Okay. And the conclusion of the report,
15 can you tell me what you -- what the conclusion of
16 the report was? Do you recall?

17 A. The -- the City of Austin --

18 Q. Of this -- of this --

19 A. -- concluded --

20 Q. -- Smart Growth?

21 A. The City of Austin concluded that there is
22 need for service in that proposed area.

23 Q. And, again, I'm -- I'm not phrasing this
24 well, but I'm asking specifically about what the
25 conclusion of this report was.

1 A. I can't remember.

2 Q. Okay. Do you consider this report to be
3 a -- a valid, legitimate population forecast?

4 A. Well, when the -- the report was -- was
5 created, the economy was not in the same situation
6 that it is today.

7 Q. Uh-huh.

8 A. And so I -- I think that the -- the growth
9 projections were a projection at that time based on
10 the economy at that time.

11 Q. Okay. But you don't have any concerns
12 about the legitimacy of the methodology used in the
13 report or the data used in the report?

14 A. No.

15 Q. Okay. So your only concern about this
16 would be changing conditions that might affect the
17 forecast?

18 A. Yes.

19 Q. Okay. Do you see this as a -- as a
20 relevant factor in assessing the need for service in
21 the city's proposed areas?

22 A. Yes.

23 Q. Okay. I know this is tedious, but I've
24 just got to go through this.

25 Okay. Moving on to Appendix 2, which

1 is the -- excuse me -- CAMPO 2025 Transportation
2 Plan. Did you review this plan?

3 A. I looked through it.

4 Q. Okay. So you did not review every page?

5 A. I -- I did not read the document from front
6 to back.

7 Q. Okay. Can you tell me from what you did
8 review what your impression of the information or
9 what do you believe this document -- conclusions in
10 this document, what do you believe this was
11 conveying? Can you recall?

12 A. That document would convey the point that
13 the City of Austin feels there is going to be growth
14 in the proposed area.

15 Q. Okay. So another document similar to the
16 one that we just talked about?

17 A. Yes.

18 Q. Okay. Do you have any -- I'm going to ask
19 you again. Do you have any concerns about the --
20 the legitimacy of this document, the validity of it?

21 A. No.

22 Q. Okay. Do you consider this document to be
23 a relevant factor in assessing the need for service
24 in the area?

25 A. It is one of the items that I would review

1 that would help to demonstrate the need for service
2 in the proposed area.

3 Q. Uh-huh. Okay. But in your opinion, as a
4 reviewer, do you think that this is a relevant
5 factor --

6 A. Yes.

7 Q. -- in the need --

8 A. Yeah.

9 Q. Okay. Okay. I'm moving on to Appendix 3
10 here, which refers to the Region K reports, which I
11 believe I have over there. Are you familiar with
12 the Region K -- I'll get the complete title. It's
13 the Region K Water Supply Plan for the Lower
14 Colorado Regional Water Planning Group.

15 A. Yes, I have -- have seen that document.

16 Q. Okay. Have you reviewed the portions of
17 this document that were referenced in the
18 application?

19 A. I reviewed some of the pages in that -- in
20 that document. Which ones in particular, I can't --
21 can't confirm --

22 Q. Okay.

23 A. -- though.

24 Q. But there were pages that were referenced
25 in the document.

1 A. Uh-huh.

2 Q. So you believe that you reviewed the pages
3 that were referenced in -- in the application?

4 A. I can't say for sure that I did --

5 Q. Okay. You can't recall?

6 A. -- review those --

7 Q. That's fine.

8 A. -- pages.

9 Q. Okay. And without identifying the actual
10 pages, do you have a recollection of what those
11 pages that were referenced by the application were
12 conveying, were -- were concluding, what the -- what
13 the purpose of those pages was?

14 A. I cannot recall at this time.

15 Q. Okay. And this may be difficult for you to
16 answer given what you've just said, but do you
17 believe that, in your opinion as a reviewer, that
18 the pages that were referenced by the application
19 that are in the Region K report constitute a -- a
20 relevant factor in assessing the need for service in
21 the proposed areas?

22 A. If those pages were important to this -- to
23 the applicant, then I would imagine that they are --
24 they continue to -- well, they -- they -- I think
25 the applicant feels they are important.

1 Q. You're correct. But -- but -- so -- but
2 you have no opinion as a reviewer as to whether you
3 think that these are relevant to the need for
4 service issue because you can't recall or --

5 A. Yes.

6 Q. Okay. Got it. Okay. Moving on to
7 Appendix 4, we have the City of Austin's impact fee
8 report. Did you review this -- this impact fee
9 report? The subtitle is "Impact Fee Land Use
10 Assumptions and Impact Fee Capital Improvements
11 Plan."

12 A. I looked through it, but I did not read
13 every page of that document.

14 Q. Okay. Do you have any recollection as to
15 what the significance of this document is in terms
16 of the application, what the document says?

17 A. I cannot recall what that impact fee
18 document summarized.

19 Q. Okay. Do you have any feeling as to what
20 purpose -- for what purpose the applicant included
21 this document in the application?

22 A. I suppose that the fees that a potential
23 customer would pay to the City of Austin to receive
24 service.

25 Q. Okay. Make sure I don't miss a section

1 here. Okay. I'm moving on to Appendix 5, which
2 contains a map. And it is -- well, let me back up
3 for one second.

4 Do you believe or do you have any
5 feeling as to whether this impact fee report that we
6 were just discussing is relevant to the need for
7 service issue? Is it a relevant factor perhaps? Or
8 if you can't recall, that's fine.

9 A. I can't recall.

10 Q. Okay. Just -- okay. So again -- I'm
11 sorry. Moving on to Appendix 5, which is a map
12 entitled "City of Austin Wholesale Water Contracts."
13 Did you look at this map?

14 A. I believe I did, yes.

15 Q. Okay. Can you describe for me what you
16 believe this map shows?

17 A. I believe that map would show the utilities
18 that City of Austin would provide wholesale water
19 to.

20 Q. Okay. What is your opinion as to the
21 significance of this map in the application or -- if
22 any?

23 A. I don't believe the City of Austin proposed
24 to serve any of the areas where they were providing
25 wholesale water to an existing utility in their CCN.

1 Q. Okay.

2 A. Or within their proposed CCN.

3 Q. Right. Okay. Do you have an opinion as to
4 why the applicant included this map in the
5 application?

6 A. Just to show where in the proposed area
7 they provide wholesale service.

8 Q. Okay. Any -- any other purpose that you
9 can think of or perhaps I -- let me rephrase.

10 Do you think that this is a relevant
11 factor in determining the need for service in the
12 City's proposed areas?

13 A. The -- the map would show where there are
14 customers currently being served --

15 Q. Uh-huh.

16 A. -- in the proposed area --

17 Q. Uh-huh.

18 A. -- by other utilities.

19 Q. Okay. Do you -- do you see this as being
20 relevant to the need for service inquiry, though?

21 A. Repeat the question, please.

22 Q. I -- I -- all I want to do is get your
23 opinion, as the reviewer, of whether you think that
24 this map is a relevant factor in your analysis of
25 the need for service in the proposed area in the

1 City of Austin's proposed service area.

2 A. I don't think it does because the City of
3 Austin doesn't propose to serve those areas.

4 Q. Okay. Okay. I'm moving on to Appendix 6,
5 which is titled -- it's another map titled "Water
6 Service Extension Requests" from 1990 to 2001. Did
7 you review this map?

8 A. Yes.

9 Q. Okay. Do you recall what this map
10 demonstrates or illustrates?

11 A. Yes. This map demonstrates areas where the
12 City of Austin has received requests for service.

13 Q. The title is sort of a dead giveaway,
14 not -- not that you didn't know that. I'm just --
15 I'm just joking you.

16 In any case, do you -- what do you see
17 as the purpose of including this map in the
18 application?

19 A. This map demonstrates that there are --
20 there is a need for service in portions of the
21 proposed area.

22 Q. Okay. Do you see this map as being a
23 relevant factor in your analysis of the need for
24 service issue?

25 A. Yes, I do.

1 Q. Okay. . Okay. Moving on to Appendix 7,
2 which is referring us to City of Austin's Water
3 Distribution System, Long-Range Planning Guide.

4 A. Yes.

5 Q. Okay. Do you recall whether you reviewed
6 this -- this long-range planning guide?

7 A. Yes, I did review that.

8 Q. Okay. Did you read every page?

9 A. I did not read every page.

10 Q. Did you look at all the maps?

11 A. Yes, I looked at all the maps.

12 Q. Okay. Can you summarize for me your
13 impressions of this long-range planning guide, of
14 the contents of it?

15 A. The City of Austin proposes to serve the
16 proposed area because they feel that there will be
17 growth in that area. And I remember on a couple
18 pages, they mention that their cost of providing
19 service to potential customers in the proposed area
20 and the time that it would take them to provide
21 service to potential customers in the area. And I
22 believe that was on page 134 of the long-range
23 planning guide.

24 Q. Other than that, did you -- did you have
25 any other impressions or recollections regarding

1 the -- the contents of this document?

2 A. No, not really.

3 Q. Okay.

4 A. Just it's, once again, kind of a -- a
5 master plan for the City of Austin to provide
6 service to the proposed area.

7 Q. Okay. Did the -- did this master plan make
8 sense to you?

9 A. Yes.

10 Q. Okay. Do you believe that this is a
11 relevant factor in your analysis of the need for
12 service in the area?

13 A. Yes.

14 Q. Okay. Did you have any questions or
15 concerns about this long-range planning guide?

16 A. Well, this is looking into the future at
17 what might happen. And so it's -- you know, it's
18 not set in concrete that this will happen.

19 Q. It's, by definition, a plan.

20 A. Yes.

21 Q. Correct? Okay. But that would be your
22 only reservation regarding this plan?

23 A. Yes.

24 Q. Okay. Okay. Moving on to Appendix 8,
25 which is entitled "Austin Metropolitan Area

1 Transportation Plan, 2025 Update." Do you recall
2 whether or not you reviewed this plan?

3 A. I looked through the document, but I did
4 not read every page.

5 Q. Okay. Can you give me your impressions
6 of -- of what information this plan contains?

7 A. I cannot recall just what that document
8 summarized.

9 Q. Okay. So I'm going to assume, then, that
10 you have no opinion on why this document was
11 included in -- in the application.

12 A. The City of Austin would have submitted
13 the -- the document to prove or to support their --
14 their application that they want to serve this area.

15 Q. Right. Do you believe as a reviewer that
16 transportation plans or a transportation plan is a
17 relevant factor in the analysis for need for
18 service? And by "transportation plan," I'm
19 referring specifically to plans for roadways, major
20 thoroughfares.

21 A. Yes, I would agree, then.

22 Q. Okay.

23 A. That would be potential growth near those
24 roadways once they were constructed.

25 Q. Okay. Do you -- do you have any -- and

1 again, this is -- this may be difficult for you to
2 answer, but do you have any concerns about the
3 validity or legitimacy of this particular plan or
4 you're not sure?

5 A. I really am not sure.

6 Q. Okay. Okay. I'm moving on to part three
7 of the application, and it's a map entitled "City of
8 Austin Proposed Water Surface Area and Existing
9 Water Facilities." Do you recall reviewing this
10 map?

11 A. Yes.

12 Q. Okay. Did you have any impressions of the
13 information conveyed on this map?

14 A. There are requests for service in portions
15 of the proposed area.

16 Q. Okay. Did you have any impressions
17 regarding the existing water facilities on this map?

18 A. No.

19 Q. Okay. Okay. I'm moving on to part four of
20 the application. These are general highway map,
21 Hays County, Texas; general highway map, Williamson
22 County, Texas. Let me back up. That first one is
23 WRS-106. The second one is WRS-246. The third one
24 is WRS-246, Williamson County, Texas. And the
25 fourth one is Travis County, Texas, and I can't see

1 the WRS number. Did you review these maps?

2 A. Yes, I did.

3 Q. Okay. Did you look at each one?

4 A. Yes.

5 Q. Okay. Did you have any impressions of --
6 that you would like to convey regarding those maps?

7 A. Those maps show the area that the City of
8 Austin proposes to serve in the three counties and
9 those maps also show the existing utilities within
10 the boundary of the proposed area.

11 Q. Okay. Okay. I'm moving on to part five of
12 the application. The first part of this is -- well,
13 there's a number of letters in this section. The
14 first one is to Mr. Beauchamp, I think --

15 B E A U C A --

16 MR. JENNINGS: Beauchamp?

17 MS. JACOBS: Beauchamp. Thanks, Bart.

18 Q. (BY MS. JACOBS) And it's from Chris Lippe.
19 The next letter -- that first letter is dated
20 August 7th, 2000. The next letter is from -- is to
21 Mr. Lippe dated August 28th, 2000 from Carolyn
22 Runyeon. Do you recall reviewing these letters?

23 A. I vaguely remember the -- the sanitary
24 surveys that the region had submitted or that the
25 applicant had submitted.

1 Q. Okay. Did you review every page of this
2 section?

3 A. No. I have not reviewed every page of the
4 document.

5 Q. Okay. Did you have any impression of the
6 contents of this section regarding the application?

7 A. Repeat the question, please.

8 Q. Did you have any impression regarding the
9 contents of this section, vis-a-vis the application?

10 A. No. I -- I do know that the City of Austin
11 has a superior status for their water system, which
12 is very good.

13 Q. Okay. So you didn't have any issues with
14 this particular section of the application?

15 A. Not that I recall.

16 Q. Okay. Okay. I'm moving on to part six,
17 which is the Comprehensive Annual Financial Report
18 for the year ended September 30th, 2000. Do you
19 recall reviewing this report?

20 A. The financial and managerial documentation
21 that is submitted by the City of Austin I take to
22 our person who reviews financial managerial
23 information. They review this information, and then
24 they send a summary to me stating whether they feel
25 the applicant has financial and managerial

1 capability to provide service to the area they
2 propose to serve.

3 Q. Okay.

4 A. And the summary from Dan Smith of the TCEQ
5 stated that the City of Austin did have the
6 financial and managerial capability to provide
7 service to the area they provided -- they proposed
8 to serve.

9 Q. Okay. So Dan -- and you said Dan Smith was
10 the person that reviewed these documents?

11 A. Yes.

12 Q. Okay. Do you have that memo that Mr. Smith
13 sent to you?

14 A. Not with me.

15 Q. But -- but you have it in your possession?

16 A. Yes.

17 Q. I assume that you have some sort of working
18 file regarding the City's applications?

19 A. Yes.

20 Q. Okay.

21 A. I add that -- I add that document to the
22 box that the City of Austin gave me that contained
23 their application and the attachments to the
24 application.

25 Q. I see. Would you --

1 MS. JACOBS: And I guess this is for
2 Mr. Deering. Would you produce that memo to us?

3 MR. DEERING: Sure.

4 MS. JACOBS: Thank you.

5 Q. (BY MS. JACOBS) Okay. So I'm
6 understanding that you did not look at the financial
7 information at all. You just gave that to
8 Mr. Smith?

9 A. Yes.

10 Q. Okay. Well, that will speed this portion
11 up. Okay. Moving on to part seven of the
12 application, this is entitled "2000-2001 Fee
13 Schedule." Is this also information that you gave
14 to Mr. Smith, or did you review this information?

15 A. That, I would have given to Mr. Smith.

16 Q. Okay. And then you're going to rely on
17 Mr. Smith's assessment of this information in making
18 your determination --

19 A. Yes.

20 Q. -- regarding the applications? Okay.

21 Okay. Also included in that section
22 is Chapter 18-4 of the City code entitled "Utility
23 Service Regulations." Did you review this section
24 of the application?

25 A. I did not read every page of that document.

1 Q. Okay. Do you have any impression as to why
2 this document was included in the application?

3 A. Those would be the rules that the City of
4 Austin operates under and --

5 Q. Uh-huh.

6 A. -- they would like for us to have access to
7 those rules.

8 Q. Okay. And I'm going to ask you the same
9 question regarding Chapter 25-9, water and
10 wastewater. Did you review this section?

11 A. I did not read every page of that document
12 either.

13 Q. Okay. Is your answer regarding this and
14 your impressions the same as to what we just talked
15 about with the previous section?

16 A. Yes.

17 Q. Okay. Did you review this city ordinance
18 No. 000406-87?

19 A. I did not read every page of that document.

20 Q. Okay. Do you have any impression as to the
21 contents or purpose of this ordinance?

22 A. No.

23 Q. Okay.

24 MR. ZEPPA: Ms. Jacobs, could I ask
25 you to speak a little louder?

1 MS. JACOBS: Sure.

2 Q. (BY MS. JACOBS) Okay. I think we're done
3 with this portion of the binder. Okay. This
4 information -- the information that I'm going to
5 talk to you about now, first thing is a letter to
6 Dr. Victoria Harkins dated September 19th, 2001.
7 The letter is from Chris Lippe. Do you recall
8 seeing this letter?

9 A. Yes, I do recall seeing that letter.

10 Q. Okay. Did you read it?

11 A. Yes, I did.

12 Q. Okay. Do you -- what is -- what is your
13 impression of the -- the contents of this letter and
14 the purpose the letter was sent?

15 A. The applicant, when they had submitted
16 their original map, had overlapped some existing
17 areas. And the applicant submitted an updated map
18 showing that those existing areas are no longer
19 overlapped by the proposed area.

20 Q. Is it your understanding that the applicant
21 does not intend and did not intend to overlap any
22 existing utility service areas?

23 A. It -- yes.

24 Q. Did you review the maps that accompanied
25 this letter?

1 A. Yes, I did.

2 Q. Okay. Okay. We're going to move on to the
3 wastewater application. Okay. There's a lot of the
4 same information in here, so this should go a little
5 bit quicker.

6 A. Good.

7 Q. Okay. Okay. The cover letter -- again,
8 we're back at the cover letter. Did you read the
9 entire cover letter for the City of Austin's
10 wastewater CCN application?

11 A. Yes, I did.

12 Q. Okay. Did you note any differences between
13 the cover letter for the wastewater application and
14 the cover letter for the water application?

15 A. Did I notice any difference in the cover
16 letter of the two applications?

17 Q. Uh-huh.

18 A. I can't recall anything that was different
19 other than one wanted to provide water and the other
20 one wanted to provide sewer.

21 Q. Okay.

22 A. And the areas are not the same. The
23 proposed areas are different for water and sewer.

24 Q. Right. Okay. Did you review the
25 application to obtain the sewer certificates of

1 convenience and necessity?

2 A. Yes, I did.

3 Q. Did you review every part of this?

4 A. Yes, I did.

5 Q. Did you have any concerns with the
6 information contained in this application?

7 A. No.

8 Q. Okay. Did you review the City of Austin's
9 list of neighboring wastewater retail public
10 utilities?

11 A. Yes, I looked through that.

12 Q. Okay. Did you have any concerns regarding
13 this document, the completeness of it?

14 A. No, I do not.

15 Q. Okay.

16 MS. JACOBS: Am I not speaking loud
17 enough still?

18 MR. ZEPPA: No. You're fine now. You
19 were tailing off towards the end of your questions,
20 and it was a little hard at the end.

21 MS. JACOBS: Sorry.

22 Q. (BY MS. JACOBS) Okay. Do you recall
23 reviewing the City of Austin's water and wastewater
24 utility certified operator's document?

25 A. Yes.

1 Q. Okay. Do you recall reviewing the summary
2 analysis and need for wastewater service in the area
3 proposed in the City's CCN application from Craig
4 Bell to Chris Lippe?

5 A. Yes.

6 Q. Okay. Did you read this entire document?

7 A. I believe I -- I did read that entire
8 document.

9 Q. Okay. Do you have anything to add
10 regarding your impressions regarding the differences
11 between this document and the document included in
12 the water application?

13 A. No.

14 Q. Okay. Do you recall what the differences
15 were between the two documents?

16 A. Well, the -- the areas are -- are
17 different --

18 Q. Uh-huh.

19 A. -- that the -- that the City proposes to
20 serve.

21 Q. Okay.

22 A. But the City still feels there is need for
23 service in the proposed wastewater area.

24 Q. And do you -- oh, I'm sorry.

25 A. That's all right. Go ahead.

1 Q. Do you consider this to be a relevant
2 factor in your analysis of the need for service in
3 the proposed area?

4 A. Yes.

5 Q. Okay. I'm going to skip over appendix one.
6 We've already covered the Smart Growth, and I'm
7 assuming that your answers regarding this in the
8 context of the wastewater application are going to
9 be the same as your answers were for the water
10 application.

11 A. Yes.

12 Q. Okay.

13 MS. JACOBS: I'm sure much to
14 everyone's relief.

15 Q. (BY MS. JACOBS) Okay. Appendix two is
16 the, again, CAMPO 2025 transportation plan. Same
17 answers on this?

18 A. Yes.

19 Q. Okay. Appendix three. We have, once more,
20 the impact fee capital improvements plan. Same
21 answers on this document?

22 A. Yes.

23 Q. Okay. Okay. Appendix four is the City of
24 Austin wholesale wastewater contracts map. Did you
25 review this map?

1 A. The wholesale wastewater contracts map.

2 Q. Uh-huh.

3 A. Yes, I believe I did.

4 Q. Okay. And do you have any -- we're not
5 going to put that back in. Do you have any
6 impression regarding what this map conveyed?

7 A. Could I look at that map?

8 Q. Sure.

9 A. (Witness perusing document.)

10 This map shows the -- the area that
11 Austin proposes to serve wastewater service. It
12 shows generally the areas of the neighboring
13 utilities, and it shows where Austin provides, I
14 believe, wholesale service also.

15 Q. Okay. Now that you've refreshed your
16 memory regarding contents of that map, do you have
17 any opinion regarding whether this is a -- a
18 relevant factor in your assessment of the need for
19 service?

20 A. It shows where there are -- the Austin
21 proposes to serve, it shows where Austin provides
22 wholesale water service, and it shows existing
23 utilities within the proposed area.

24 Q. Okay.

25 A. Yes, it helps.

1 Q. As a reviewer, you think it's relevant?

2 A. Yes.

3 Q. Okay. Okay. Moving on to appendix five,
4 this is the -- entitled "Wastewater Service
5 Extension Request from 1990 to 2001." Do you recall
6 reviewing this map?

7 A. Yes, I do.

8 Q. Okay. What is your impression of what's
9 conveyed on this map?

10 A. There are requests for service within
11 portions of the proposed area.

12 Q. Okay. Do you also view this map as being a
13 relevant factor in your assessment of the need for
14 service?

15 A. Yes, I do.

16 Q. Okay. Do you have any concerns regarding
17 this map?

18 A. No.

19 Q. Okay. Okay. Back to the long-range plan,
20 appendix six. This is the wastewater collection
21 system long-range planning guide.

22 A. Uh-huh.

23 Q. Do you recall reviewing this?

24 A. Yes, I do.

25 Q. Okay. Did you read every page of this

1 document?

2 A. No, I did not.

3 Q. Did you look at all the maps?

4 A. Yes.

5 Q. Okay. Can you tell me -- again, this may
6 be a bit repetitive, but what your impression of
7 what this document conveys is?

8 A. It's sort of a master plan the City of
9 Austin has to serve the proposed area.

10 Q. Okay. Do you have any opinion as to --
11 what -- what do you think of the plan? Do you think
12 it's a good plan?

13 A. Yes. It's a good plan.

14 Q. Okay. Do you think that this is
15 relevant -- a relevant factor in your assessment of
16 the need for service?

17 A. Yes, I do.

18 Q. Okay. Okay. Appendix seven is the -- once
19 again, the Austin Metropolitan Area Transportation
20 Plan. Same answers regarding this as when we talked
21 about the water application?

22 A. Yes.

23 Q. Okay. Part three of the application is the
24 proposed Austin -- City of Austin proposed
25 wastewater service area and existing wastewater

1 facilities. Do you recall reviewing this map?

2 A. Yes.

3 Q. Okay. Did you have any impressions as
4 to -- did you have any impressions you want to
5 convey regarding this map, regarding your
6 conclusions about this map?

7 A. It shows the proposed area. It shows the
8 existing connections that City of Austin provides
9 service to at this time.

10 Q. Okay. Did you have any questions or
11 concerns regarding the City of Austin's existing
12 wastewater facilities?

13 A. Do I have concerns about the City of
14 Austin's existing wastewater facilities?

15 Q. As shown on this map? Any questions?

16 A. Well, I was concerned that the existing
17 utilities could provide service to the entire
18 proposed service area when the -- when the proposed
19 service area is a very large area.

20 Q. Right. Okay. Anything else?

21 A. No.

22 Q. Okay. Do you consider this to be a
23 relevant factor, the information on -- on this map
24 to be a relevant factor in your analysis of the
25 City's ability to serve?

1 A. Yes.

2 Q. Okay. Okay. I'm moving to part four.
3 These are, again, the maps that we talked about
4 before except they're the wastewater ones this time,
5 the county maps. Did you review all these maps?

6 A. Yes.

7 Q. Okay. Okay. Part five contains letters,
8 once again. This one is to Mr. Goss from Elston H.
9 Johnson. It's dated December 21st, 1999. The
10 second letter is to Mr. Goss dated August 24th,
11 1999, from Patricia -- it looks like R E E H. And
12 the subject lines of these are compliance evaluation
13 inspections and so on and so forth. Do you recall
14 reviewing this section of the application?

15 A. Yeah. I -- I read through those, yes.

16 Q. Okay, did you read through each page?

17 A. I believe I did.

18 Q. Okay.

19 A. It was quite a while ago.

20 Q. Okay. All right. Did you have any
21 questions or concerns regarding this section of the
22 application?

23 A. No, not really.

24 Q. Okay. Moving on to part six. Again, this
25 is the comprehensive annual financial report. This

1 is the information you stated before that you gave
2 to Mr. Smith?

3 A. Yes.

4 Q. Okay. So same answers regarding this
5 information?

6 A. Yes.

7 Q. All righty. Part seven in the application
8 is the 2000-2001 fee schedule. This is, again, what
9 you gave to Mr. Smith?

10 A. Yes.

11 Q. Same answers on this?

12 A. (Moving head up and down.)?

13 Q. Okay. And again, we come to the chapters
14 in the City code. Same answers regarding these --

15 A. Yes.

16 Q. -- sections? Okay.

17 And then we have again -- well,
18 actually it's a different ordinance. Ordinance No.
19 000406-87 relating to wastewater systems. Did you
20 read this ordinance?

21 A. I cannot recall what that ordinance
22 summarized.

23 Q. Okay. All righty. Almost done. It's sort
24 of unwieldy. Okay. And then, once again, the
25 supplement to the application, the letter to

1 Dr. Harkins, do you recall reviewing this letter?
2 It's dated September 19, 2001.

3 A. Can I --

4 Q. Sure.

5 A. -- read over that, please? (Witness
6 perusing document.)

7 Yes. That document mentioned the --
8 the overlaps on the original maps. And the City of
9 Austin, when they updated their area, their proposed
10 area, they also wanted to revise their notice, so
11 they updated their notice along with the map.

12 Q. Okay. So do you have any questions or
13 concerns regarding this update?

14 A. No.

15 Q. Okay. Would you like any water?

16 A. No, thank you.

17 Q. Okay. Let's talk for a moment about the
18 discovery process that's ongoing.

19 A. Yes.

20 Q. I'd like to talk about your involvement in
21 that. Are you aware that the City filed discovery
22 requests with the executive director?

23 A. Yes.

24 Q. Okay. Are you aware that the executive
25 director filed responses to these discovery

1 requests?

2 A. Yes.

3 Q. Okay. What -- what, if any, was your
4 involvement in the preparation of the responses?

5 A. I draft the responses to City of Austin.

6 Q. Okay. So --

7 A. Which --

8 Q. To -- to all of the -- let's take the
9 interrogatories first. Did you draft all of the
10 interrogatory answers?

11 A. Yes.

12 Q. Okay. Did anyone help you with that?

13 A. All of the -- my work is -- is proofread by
14 my team leader, Michelle Abrams, and the section
15 manager, Doug Holcomb.

16 Q. Okay. Anybody else?

17 A. Well, once the documents are -- are
18 approved by those two people, they go to the legal
19 group.

20 Q. Okay. Did the answers that you wrote
21 change once they got to the legal group? Did the
22 legal group change your answers in any significant
23 way?

24 A. No.

25 Q. Okay. Are you aware that the executive

1 director has sent a discovery request to the City?

2 A. Yes.

3 Q. Okay. What was your involvement in the
4 drafting of that discovery request?

5 A. I draft the requests.

6 Q. Okay.

7 A. Which then go to my team leader, to the
8 section manager and to legal.

9 Q. Okay. So in drafting the requests, this
10 was information that you, as the reviewer, want to
11 know?

12 A. Yes.

13 Q. From the City to -- in order to formulate
14 your opinions?

15 A. Yes.

16 Q. Okay. Let's go back for a moment -- and
17 did you -- and did you say that -- that your
18 supervisor, who is Michelle Abrams; is that correct?

19 A. Uh-huh.

20 Q. That both Michelle and Doug Holcomb
21 reviewed your responses and your discovery requests
22 before they were sent to legal?

23 A. That's what we try to do, yes.

24 Q. Did that happen in this case?

25 A. I believe everybody saw the -- the drafts

1 before they went to legal.

2 Q. Okay. Okay. Let's go back and talk for a
3 moment about your job and what it is that you do.
4 What is your current position?

5 A. I'm an engineer specialist one with TCEQ,
6 and I review CCN applications and rate applications.

7 Q. Okay. How many applications are you
8 currently managing?

9 A. Oh, probably somewhere between a couple
10 dozen and 30.

11 Q. Okay. How many applications have you
12 reviewed since you received the City of Austin's
13 application? And you can give me an approximate
14 number.

15 A. How many have I reviewed?

16 Q. Uh-huh.

17 A. That -- well, that have been final ordered?

18 Q. No, just how many have you worked on.

19 A. A couple dozen.

20 Q. Okay.

21 MS. JACOBS: I think now might be a
22 good time to -- we can go off the record just for a
23 second.

24 (Brief recess taken)

25 (Mr. Kamal Adhikari exited the

1 deposition room.)

2 Q. (BY MS. JACOBS) Let's talk about need for
3 service.

4 A. Okay.

5 Q. As a reviewer, why do you believe that it's
6 important to show a need for service before granting
7 a CCN application?

8 A. Because it is one of the criteria in the
9 291 rules for granting or denying a CCN 291.102.

10 Q. Okay. Okay. Aside from that, aside from
11 the fact that it's in the water code and that it's
12 in the rules, why do you think it's important?

13 A. That there be -- that the applicant
14 demonstrate a need for service?

15 Q. Exactly.

16 A. If an applicant were granted an area where
17 there were no needs for service, eventually someday
18 there may be need for service in the area and --
19 could you repeat the question, please?

20 Q. Absolutely. What I'm really trying to ask
21 you is: What do you believe -- why do you think
22 it's important that an application -- that an
23 applicant demonstrate a need for service in an area
24 before they get a CCN? And I'm asking you aside
25 from the fact that it is a requirement in the rules.

1 What do you think is -- is the -- the policy reason
2 behind that?

3 A. As time goes on and utilities amend their
4 CCN areas to acquire more and more property that
5 they're obligated to serve once they're granted a
6 CCN, if -- if an applicant were granted an area
7 where there is no need for service, there may be
8 neighboring utilities that are trying to expand
9 their existing boundaries and they -- they may want
10 to serve that area also someday.

11 Q. Okay. Are you aware of any written
12 formulations of policy regarding showing the need
13 for service?

14 A. I know of no rule that states what the
15 agency is to accept that demonstrates need for
16 service.

17 Q. Do you -- do you know of any other
18 documents, maybe informal documents that are used by
19 the staff that -- that state, "Here's what we look
20 for. Here's what we don't. Here's why"?

21 A. No.

22 Q. Okay. Have you discussed the need for
23 service issue with anyone at -- at TCEQ?

24 A. I discussed need for service with my
25 supervisor, with the section manager --

1 Q. Uh-huh. And they are?

2 A. -- with my coworkers.

3 Q. Okay. And they are?

4 A. Michelle Abrams, Doug Holcomb.

5 Q. And before Michelle Abrams, Victoria
6 Harkins?

7 A. Yes.

8 Q. Okay. I understand that you have peer
9 review groups.

10 A. Yes.

11 Q. Okay. Have you discussed the City's
12 applications in these peer review groups?

13 A. We've discussed requests for service and
14 need for service among staff.

15 Q. Uh-huh. And -- and what was the nature of
16 those discussions?

17 A. The -- the different items that -- that we
18 review from an applicant that demonstrate need for
19 service.

20 Q. Okay. Talking about those different items,
21 what -- what are those items that you discussed with
22 these -- with these other staff members?

23 A. A request for service from an applicant to
24 a utility.

25 Q. Uh-huh.

1 A. Request for service from a developer to a
2 utility, a list of people requesting service in an
3 area, their address, their phone number and a map
4 showing the location of these people requesting
5 service.

6 Q. Okay. Anything else?

7 A. Plans and specifications to -- to put in a
8 system to serve an area.

9 Q. Okay. So you're saying that the types of
10 evidence that you-all have discussed as being
11 adequate for showing need for service includes SERs,
12 service extension requests, letters of intent --
13 could you please say yes or no?

14 A. Yes. Yes.

15 Q. Okay. Development plans?

16 A. Yes.

17 Q. Engineering plans?

18 A. Yes.

19 Q. Population and growth projections?

20 A. Yes.

21 Q. Plans for roadways?

22 A. Yes.

23 Q. Okay. Anything else that you can think of?

24 A. Not at this time.

25 Q. Okay. Let's talk for a moment about the --

1 the scope of your testimony. You're going to be
2 testifying regarding your review and analysis of the
3 City's water and sewer CCN applications?

4 A. Yes.

5 Q. Okay. Will you be providing any testimony
6 regarding Hornsby Bend's applications?

7 A. I don't believe I will.

8 Q. Okay. Do you have any knowledge of Hornsby
9 Bend's applications?

10 A. Yes, I do know a little bit about the
11 applications.

12 Q. Okay. What -- can you -- can you tell us
13 what you know about them?

14 A. They proposed to serve within portions of
15 the proposed City of Austin water and sewer service
16 area boundaries.

17 Q. Okay. Do you have any knowledge about the
18 review of Hornsby's applications?

19 A. I don't -- I'm not assigned to that case,
20 so I'm not reviewing those applications, but I know
21 that Kamal is reviewing the applications.

22 Q. Okay. And you -- have you discussed this
23 with Kamal?

24 A. Yes.

25 Q. Okay. Have you discussed your opinions

1 regarding the City of Austin's applications with
2 Kamal?

3 A. We have talked about the items that the
4 City of Austin has submitted --

5 Q. Uh-huh.

6 A. -- and how they affect the -- the dispute
7 area between Hornsby Bend and -- and Austin.

8 Q. Okay. And -- and specifically, what --
9 what did you discuss? What did you-all say?

10 A. Oh, some of the discovery that Kamal
11 created, he asked me to -- to proofread because some
12 of the items in the discovery concerned the City of
13 Austin, and so that's where we visited.

14 Q. Okay. Have you discussed any of Hornsby's
15 applications with anyone else either at TCEQ or
16 otherwise?

17 A. Not in depth.

18 Q. At all?

19 A. Not that I can recall.

20 Q. Okay. Have you formulated any opinion
21 regarding Hornsby's applications?

22 A. No, I have not.

23 Q. Will you be providing any testimony
24 regarding AquaSource, either Development or
25 AquaSource Utility?