

Control Number: 43732



Item Number: 20

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

SOAH DOCKET NO. 582-10-0350  
TCEQ DOCKET NO. 2009-1381-UCR

IN RE SEWER RATE/TARIFF CHANGE  
APPLICATION OF TALL TIMBERS  
UTILITY COMPANY, INC., CCN NO.  
20694, IN SMITH COUNTY, TEXAS,  
APPLICATION NO. 36385-R

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BEFORE THE STATE OFFICE  
  
OF  
  
ADMINISTRATIVE HEARINGS

**TALL TIMBERS UTILITY COMPANY, INC. DBA LIBERTY WATER's  
REQUESTS FOR INFORMATION TO ALL OTHER PARTIES**

To the following named parties of record (collectively and individually "Opposing Party"):

Office of Public Interest Counsel, Blas J. Coy, Jr., MC-103, Texas Commission on Environmental Quality, PO Box 13087, Austin, Texas 78767.

City of Tyler, by and through its attorney of record, Joe Freeland, Mathews & Freeland, PO Box 1568, Austin, Texas 78768-1568

Executive Director, by and through his attorney of record, James Aldredge, Texas Commission on Environmental Quality, MC 175, PO Box 13087, Austin, TX 78711-3087

Leonard Kent, Leonard Kent Property Management, 16028 Dixon Road, Tyler, Texas 75703

Katherine Carter, 6283 Lavista Drive, Dallas, Texas 75214

James and Olivia Sellers, 22057 Rita Lane, Mineola, Texas 75773

Thomas and Rosalind Keith, Investment Property Owners, 4022 Post Oak, Tyler, Texas 75701

Pursuant to 30 TAC 80.151 and Texas Rules of Civil Procedure, Tall Timbers Utility Company, Inc. dba Liberty Water (Liberty Water) propounds the following requests for information (RFIs) consisting of: (a) requests for production, (b) requests for disclosure, (c) requests for admissions and (d) interrogatories on each Opposing Party. All parties are being asked to respond to the same requests for information. Each party is expected to provide its own answers to each request as they relate to that party's knowledge, position or possession of documents requested. The designated representative for each party must solicit the answers to these RFIs from each individual member of their designated group (if applicable) and include that information in each answer. Documents, disclosures, admissions, and other tangible items requested hereunder shall be delivered to the undersigned attorney for Liberty Water at his address printed below within thirty (30) days of the date of receipt. If the requested documents are voluminous, i.e., more than 25 pages for an individual request or 100 total pages, please designate the custodian, location and hours when such documents may be inspected and copied in a manner agreed to by the parties. Please

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designate a period of not less than 21 days when the documents will be available for inspection and copying or contact the undersigned for another arrangement.

All definitions and instructions governing discovery in the Texas Rules of Civil Procedures, the procedural rules of the Texas Commission on Environmental Quality (TCEQ) and the State Office of Administrative Hearings (SOAH) and the presiding ALJ's orders shall apply to these RFIs. Unless written requests for clarification are received by the undersigned, it shall be presumed that all requests are fully and completely understood.

If the items requested to be produced herein have already been provided in other discovery answers to Liberty Water or to another party, it shall not be necessary to duplicate their production. It shall be sufficient that the answer containing the requested information is clearly identified. Where only a portion of the requested information has been previously provided, this shall be disclosed and all information necessary to fully and completely answer this discovery request shall be provided in the answer. If the answer to any request consists of a document(s) obtained by the answering party from Liberty Water, it shall not be necessary to produce the document. It shall only be necessary to describe the document by identifying the page and volume of the rate change application where the document is located. If the document is not part of the rate change application, the answering party shall describe the document, its date, subject matter and when/how it was obtained from Liberty Water. If the requested document is found in the public records of the TCEQ or other governmental agency, the answering party shall describe the exact location, file name and custodian from whom the specific referenced document can be obtained.

All requests for information are limited to those portions of Liberty Water's certificated service areas that are subject to the instant rate change application and rate appeal.

#### **WHAT IS DISCOVERABLE UNDER TEXAS RULES OF CIVIL PROCEDURE**

The following are quoted from the Texas Rules of Civil Procedure. If there is a conflict between the following rules and the other instructions in these RFIs, these rules shall prevail:

##### **192.1. Forms of Discovery**

Permissible forms of discovery are:

- (a) requests for disclosure;
- (b) requests for production and inspection of documents and tangible things;
- (c) requests and motions for entry upon and examination of real property;
- (d) interrogatories to a party;
- (e) requests for admission;
- (f) oral or written depositions; and
- (g) motions for mental or physical examinations.

### 192.3. Scope of Discovery

(a) *Generally.* In general, a party may obtain discovery regarding any matter that is not privileged and is relevant to the subject matter of the pending action, whether it relates to the claim or defense of the party seeking discovery or the claim or defense of any other party. It is not a ground for objection that the information sought will be inadmissible at trial if the information sought appears reasonably calculated to lead to the discovery of admissible evidence.

(b) *Documents and Tangible Things.* A party may obtain discovery of the existence, description, nature, custody, condition, location, and contents of documents and tangible things (including papers, books, accounts, drawings, graphs, charts, photographs, electronic or videotape recordings, data, and data compilations) that constitute or contain matters relevant to the subject matter of the action. A person is required to produce a document or tangible thing that is within the person's possession, custody, or control.

(c) *Persons with Knowledge of Relevant Facts.* A party may obtain discovery of the name, address, and telephone number of persons having knowledge of relevant facts, and a brief statement of each identified person's connection with the case. A person has knowledge of relevant facts when that person has or may have knowledge of any discoverable matter. The person need not have admissible information or personal knowledge of the facts. An expert is "a person with knowledge of relevant facts" only if that knowledge was obtained first-hand or if it was not obtained in preparation for trial or in anticipation of litigation.

(d) *Trial Witnesses.* A party may obtain discovery of the name, address, and telephone number of any person who is expected to be called to testify at trial. This paragraph does not apply to rebuttal or impeaching witnesses the necessity of whose testimony cannot reasonably be anticipated before trial.

(e) *Testifying and Consulting Experts.* The identity, mental impressions, and opinions of a consulting expert whose mental impressions and opinions have not been reviewed by a testifying expert are not discoverable. A party may discover the following information regarding a testifying expert or regarding a consulting expert whose mental impressions or opinions have been reviewed by a testifying expert:

(1) the expert's name, address, and telephone number;

(2) the subject matter on which a testifying expert will testify;

(3) 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 the case in which the discovery is sought, regardless of when and how the factual information was acquired;

(4) the expert's mental impressions and opinions formed or made in connection with the case in which discovery is sought, and any methods used to derive them;

(5) any bias of the witness;

(6) all documents, tangible things, reports, models, or data compilations that have been provided to, reviewed by, or prepared by or for the expert in anticipation of a testifying expert's testimony;

(7) the expert's current resume and bibliography.

(f) *Indemnity and Insuring Agreements.* Except as otherwise provided by law, a party may obtain discovery of the existence and contents of any indemnity or insurance agreement under which any person may be liable to satisfy part or all of a judgment rendered in the action or to indemnify or reimburse for payments made to satisfy the judgment. Information concerning the indemnity or insurance agreement is not by reason of disclosure admissible in evidence at trial.

(g) *Settlement Agreements.* A party may obtain discovery of the existence and contents of any relevant portions of a settlement agreement. Information concerning a settlement agreement is not by reason of disclosure admissible in evidence at trial.

(h) *Statements of Persons with Knowledge of Relevant Facts.* A party may obtain discovery of the statement of any person with knowledge of relevant facts—a "witness statement"—regardless of when the statement was made. A witness statement is (1) a written statement signed or otherwise adopted or approved in writing by the person making it, or (2) a stenographic, mechanical, electrical, or other type of recording of a witness's oral statement, or any substantially verbatim transcription of such a recording. Notes taken during a conversation or interview with a witness are not a witness statement. Any person may obtain, upon written request, his or her own statement concerning the lawsuit, which is in the possession, custody or control of any party.

(i) *Potential Parties.* A party may obtain discovery of the name, address, and telephone number of any potential party.

(j) *Contentions.* A party may obtain discovery of any other party's legal contentions and the factual bases for those contentions.

#### 192.5. Work Product

(a) *Work Product Defined.* Work product comprises:

(1) material prepared or mental impressions developed in anticipation of litigation or for trial by or for a party or a party's representatives, including the party's attorneys, consultants, sureties, indemnitors, insurers, employees, or agents; or

(2) a communication made in anticipation of litigation or for trial between a party and the party's representatives or among a party's representatives, including the party's

attorneys, consultants, sureties, indemnitors, insurers, employees, or agents.

**(b) *Protection of Work Product.***

**(1) Protection of Core Work Product-Attorney Mental Processes.** Core work product—the work product of an attorney or an attorney's representative that contains the attorney's or the attorney's representative's mental impressions, opinions, conclusions, or legal theories—is not discoverable.

**(2) Protection of Other Work Product.** Any other work product is discoverable only upon a showing that the party seeking discovery has substantial need of the materials in the preparation of the party's case and that the party is unable without undue hardship to obtain the substantial equivalent of the material by other means.

**(3) Incidental Disclosure of Attorney Mental Processes.** It is not a violation of subparagraph (1) if disclosure ordered pursuant to subparagraph (2) incidentally discloses by inference attorney mental processes otherwise protected under subparagraph (1).

**(4) Limiting Disclosure of Mental Processes.** If a court orders discovery of work product pursuant to subparagraph (2), the court must—insofar as possible—protect against disclosure of the mental impressions, opinions, conclusions, or legal theories not otherwise discoverable.

**(c) *Exceptions.*** Even if made or prepared in anticipation of litigation or for trial, the following is not work product protected from discovery:

**(1)** information discoverable under Rule 192.3 concerning experts, trial witnesses, witness statements, and contentions;

**(2)** trial exhibits ordered disclosed under Rule 166 or Rule 190.4;

**(3)** the name, address, and telephone number of any potential party or any person with knowledge of relevant facts;

**(4)** any photograph or electronic image of underlying facts (e.g., a photograph of the accident scene) or a photograph or electronic image of any sort that a party intends to offer into evidence; and

**(5)** any work product created under circumstances within an exception to the attorney-client privilege in Rule 503(d) of the Rules of Evidence.

**(d) *Privilege.*** For purposes of these rules, an assertion that material or information is work product is an assertion of privilege.

**192.7. Definitions (from TRCP)**

As used in these rules—

(a) *Written Discovery* means requests for disclosure, requests for production and inspection of documents and tangible things, requests for entry onto property, interrogatories, and requests for admission.

(b) *Possession, Custody, or Control* of an item means that the person either has physical possession of the item or has a right to possession of the item that is equal or superior to the person who has physical possession of the item.

(c) A *Testifying Expert* is an expert who may be called to testify as an expert witness at trial.

(d) A *Consulting Expert* is an expert who has been consulted, retained, or specially employed by a party in anticipation of litigation or in preparation for trial, but who is not a testifying expert.

I.

## RFI DEFINITIONS

### YOU

As used herein, the terms "you," "your," or "yourself," refer to the party to whom these requests are addressed, as well as to each of its members, its employees, 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.

Any answer stating the requested document or information will be provided only in prefiled testimony is insufficient and violates the discovery rules covering these proceedings. Liberty Water is interested in learning what documents or information underlies and supports the opinions and facts the Opposing Party will be presenting at trial in its prefiled testimony. This information must be presented before prefiled testimony and supplemented up to the trial.

#### 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 193 of the Texas Rules of Civil Procedure.

#### IDENTIFICATION OF ANSWER PREPARER(S) AND SPONSORS

Identify all persons involved in the preparation of each RFI answer at the end of that answer. Identify the witness(es) that will sponsor each RFI answer at trial at the end of that answer.

### III.

## **REQUESTS FOR PRODUCTION**

**REQUEST FOR PRODUCTION NO. 1.** Provide copies of all documents, tangible items and other demonstrative evidence to be used by the Opposing Party at trial.

**REQUEST FOR PRODUCTION NO. 2.** Provide copies of all studies, reports, compilations, treatises, contracts, correspondence, photographs, graphs, diagrams, maps, charts, financial statements, invoices, bids, checks, governmental records, test results, audits, and other documents reviewed and relied upon by any witness for the Opposing Party in this cause.

**REQUEST FOR PRODUCTION NO. 3.** Provide copies of all documentation in the possession or control of the Opposing Party that demonstrates that Liberty Water cannot provide continuous and adequate sewer service to any portion of its certificated service area subject to this rate change. Please indicate on the

document, if not already discernible, which portion of Liberty Water's certificated service area is receiving inadequate service.

**REQUEST FOR PRODUCTION NO. 4.** Provide copies of all documents, studies, treatises, reports, compilations, computer programs (with associated databases), charts, diagrams, maps, pictures, text books and other tangible materials reviewed by each testifying expert witness for the Opposing Party used or relied upon by that Opposing Party's expert witness in formulating any opinion to be offered at trial by the Opposing Party as expert witness testimony. "Expert witness" shall be defined by Tex. R. Evid. 702 subject to the Texas Supreme Court's holding in *E. I. DuPont de Nemours and Co. v. Robinson*, 923 S. W. 2d 549 (Tex. 1997) and the United States Supreme Court's holding in *Daubert v. Merrell Dow Pharmaceuticals, Inc.*, 509, U. S. 579, 113 S. Ct. 2786 (1993). With respect to each produced or identified items, please identify which expert witness reviewed the item and with which opinion of that expert witness the item is associated.

**REQUEST FOR PRODUCTION NO. 5.** Provide copies of all documents, studies, treatises, reports, compilations, computer programs (with associated databases), charts, diagrams, maps, pictures, text books and other tangible materials reviewed by a non-testifying expert for the Opposing Party used or relied upon by that Opposing Party's expert witness in formulating any opinion to be offered at trial by the Opposing Party as expert witness testimony. "Expert witness" shall be defined by Tex. R. Evid. 702 subject to the Texas Supreme Court's holding in *E. I. DuPont de Nemours and Co. v. Robinson*, 923 S. W. 2d 549 (Tex. 1997) and the United States Supreme Court's holding in *Daubert v. Merrell Dow Pharmaceuticals, Inc.*, 509, U. S. 579, 113 S. Ct. 2786 (1993). With respect to each produced or identified items, please identify which non-testifying expert reviewed the item and with which opinion of the Opposing Party's expert witness the item is associated.

**REQUEST FOR PRODUCTION NO. 6.** Provide copies of all documentation in the possession or control of the Opposing Party that demonstrate that any item or plant or investment in Liberty Water's proposed sewer utility rate base (aka invested capital) is not reasonably priced or includable for ratemaking purposes. With respect to each item produced, identify with specificity which individual item of plant or investment is being challenged and the expert witness that will sponsor that document and this opinion evidence at trial.

**REQUEST FOR PRODUCTION NO. 7.** Provide copies of all documentation in the possession or control of the Opposing Party that demonstrate that any item of plant or investment in Liberty Water's proposed sewer utility rate base is not used and useful for ratemaking purposes. With respect to each item produced, identify with specificity which individual item of plant or investment is being challenged and the expert witness that will sponsor that document and this opinion evidence at trial.

**REQUEST FOR PRODUCTION NO. 8.** Provide copies of all documentation in the possession or control of the Opposing Party that demonstrate that Liberty Water should not be allowed to recover acquisition costs/expense booked in Liberty Water's proposed sewer utility rate base (if any) for ratemaking purposes. With respect to each item produced, identify with specificity which acquisition cost/expense is being challenged and the expert witness that will sponsor that document and this opinion evidence at trial.

**REQUEST FOR PRODUCTION NO. 9.** Provide copies of all documentation in the possession or control of the Opposing Party that demonstrate that any component of Liberty Water's proposed capital structure is inappropriate for sewer utility ratemaking purposes in this docket. With respect to each item produced,

identify with specificity which component is being challenged and the expert witness that will sponsor that document and this opinion evidence at trial.

**REQUEST FOR PRODUCTION NO. 10.** Provide copies of all documentation in the possession or control of the Opposing Party that demonstrate that any component of Liberty Water's proposed sewer rate design is inappropriate for utility ratemaking purposes in this docket. With respect to each item produced, identify with specificity which rate design component is being challenged and the expert witness that will sponsor that document and this opinion evidence at trial.

**REQUEST FOR PRODUCTION NO. 11.** Provide copies of all documentation in the possession or control of the Opposing Party that demonstrate the Party's position on the phase-in of sewer rates. With respect to each item produced, identify with specificity which rate is being challenged and the expert witness that will sponsor that document and this opinion evidence at trial.

**REQUEST FOR PRODUCTION NO. 12.** Provide copies of all documentation in the possession or control of the Opposing Party that demonstrate that any non-service fee or charge (sewer tariff) proposed by Liberty Water is inappropriate. With respect to each item produced, identify with specificity which fee or charge is being challenged and the expert witness that will sponsor that document and this opinion evidence at trial.

**REQUEST FOR PRODUCTION NO. 13.** Provide copies of all documentation in the possession or control of the Opposing Party that demonstrate that any component, section or provision of Liberty Water's proposed sewer utility tariff should not be approved in this docket. With respect to each item produced, identify with specificity which tariff component, section or provision is being challenged and the expert witness that will sponsor that document and this opinion evidence at trial.

**REQUEST FOR PRODUCTION NO. 14.** Provide copies of all documents in the possession or control of the Opposing Party that demonstrate that Liberty Water has facilities used to provide sewer service to the public that do not meet the public health, design, construction or operation standards of the TCEQ's rules. Identify where these facilities are located and where your documents indicate this deficiency. Identify which rule is purportedly violated.

**REQUEST FOR PRODUCTION NO. 15.** Provide copies of all documentation in the possession or control of the Opposing Party that demonstrate that any individual or entity represented by the Opposing Party has received poor quality sewer service from Liberty Water during or since the test year. With respect to each item produced, identify with specificity which customer was poorly served, when and the expert witness that will sponsor that document and this opinion evidence at trial.

**REQUEST FOR PRODUCTION NO. 16.** Provide copies of all documentation in the possession or control of the Opposing Party that demonstrate that any individual or entity represented by the Opposing Party has received inadequate sewer service from Liberty Water during or since the test year. With respect to each item produced, identify with specificity which customer was poorly served, when and the expert witness that will sponsor that document and this opinion evidence at trial.

**REQUEST FOR PRODUCTION NO. 17.** Provide copies of all documentation in the possession or control of the Opposing Party that demonstrate that any individual or entity represented by the Opposing Party has received poor customer service from Liberty Water during or since the test year. With respect to each item

produced, identify with specificity which customer was poorly served, when and the expert witness that will sponsor that document and this opinion evidence at trial.

**REQUEST FOR PRODUCTION NO. 18.** Provide copies of all documentation in the possession or control of the Opposing Party that demonstrate which rate case expenses incurred by Liberty Water should be recoverable through rates. With respect to each item produced, identify with specificity which expenses and the expert witness that will sponsor that document and this opinion evidence at trial.

**REQUEST FOR PRODUCTION NO. 19.** Provide copies of all documentation in the possession or control of the Opposing Party that demonstrate how rate case expenses incurred by Liberty Water should be recovered through rates, i.e., included in the revenue requirement or surcharged. With respect to each item produced, identify with specificity which expenses and the expert witness that will sponsor that document and this opinion evidence at trial.

**REQUEST FOR PRODUCTION NO. 20.** Provide copies of all documentation in the possession or control of the Opposing Party that identify each person or entity that the Opposing Party asserts is an "affiliate interest" of Liberty Water as the term is defined by Texas Water Code, §13.002(2). With respect to each item produced, identify with specificity which person or entity is the "affiliate interest" and the expert witness that will sponsor that document and this opinion evidence at trial.

**REQUEST FOR PRODUCTION NO. 21.** Provide copies of all documentation in the possession or control of the Opposing Party that identify each individual payment to an affiliate interest of Liberty Water for "costs of any services, or any property, right or thing, or for interest expense" per Texas Water Code, §13.185(e). With respect to each item produced, identify with specificity each the "affiliate transaction" and the expert witness that will sponsor that document and this opinion evidence at trial.

**REQUEST FOR PRODUCTION NO. 22.** Provide copies of all documentation in the possession or control of the Opposing Party that identify each individual payment to an affiliate interest of Liberty Water for "costs of any services, or any property, right or thing, or for interest expense" per Texas Water Code, §13.185(e) that the Opposing Party asserts should not be recoverable through rates. With respect to each item produced, identify with specificity each the "affiliate transaction" and the expert witness that will sponsor that document and this opinion evidence at trial.

**REQUEST FOR PRODUCTION NO. 23.** Provide copies of all documentation in the possession or control of the Opposing Party that identify any sewer utility cost of service allocations proposed by Liberty Water that the Opposing Party believes are incorrect or otherwise inappropriate for ratemaking purposes in this docket. With respect to each item produced, identify with specificity each the challenged allocation and the expert witness that will sponsor that document and this opinion evidence at trial.

**REQUEST FOR PRODUCTION NO. 24.** Provide copies of all documentation in the possession or control of the Opposing Party that identify any sewer utility rate base allocations proposed by Liberty Water that the Opposing Party believes are incorrect or otherwise inappropriate for ratemaking purposes in this docket. With respect to each item produced, identify with specificity the challenged allocation and the expert witness that will sponsor that document and this opinion evidence at trial.

**REQUEST FOR PRODUCTION NO. 25.** Provide copies of all documentation in the possession or control of the Opposing Party that identify any sewer utility rate design allocations proposed by Liberty Water that

the Opposing Party believes are incorrect or otherwise inappropriate for ratemaking purposes in this docket. Included within the intent of this request, are all documents that support the Opposing Party's opinion that system-wide or utility-wide rates as proposed by Liberty Water are not appropriate in this docket. With respect to each item produced, identify with specificity the challenged allocation and the expert witness that will sponsor that document and this opinion evidence at trial.

**REQUEST FOR PRODUCTION NO. 26.** Provide a hard copy of your answers and an electronic file of your answers. Microsoft Word and Excel are the preferred formats to be used. If you can only provide your answers in these formats, Corel Word Perfect and Quatro Pro may be used. Use of any other format(s) will require the consent of the undersigned counsel. It shall not be necessary to provide supplemental electronic copies of invoices, maps, checks, billing statements, supporting narrative answers if hard copies are delivered to the undersigned. Liberty Water will make its own PDF copies of your support exhibits from those hard copies.

#### IV.

### REQUESTS FOR DISCLOSURE

Please disclose the information and material described in Tex. R. Civ. Proc. 194.2(a), (b), (c), (e), (f) and (i). [Copy of rule is inserted below.]

TRCP 194.2. Requests for Disclosures.

A party may request disclosure of any or all of the following:

- (a) the correct names of the parties to the lawsuit;
- (b) the name, address, and telephone number of any potential parties;
- (c) the legal theories and, in general, the factual bases of the responding party's claims or defenses (the responding party need not marshal all evidence that may be offered at trial);
- (e) the name, address, and telephone number of persons having knowledge of relevant facts, and a brief statement of each identified person's connection with the case;
- (f) for any testifying expert:
  - (1) the expert's name, address, and telephone number;
  - (2) the subject matter on which the expert will testify;
  - (3) the general substance of the expert's mental impressions and opinions and a brief summary of the basis for them, or if the expert is not retained by, employed by, or otherwise subject to the control of the responding party, documents reflecting such information;
  - (4) if the expert is retained by, employed by, or otherwise subject to the control of the responding

party:

(A) all documents, tangible things, reports, models, or data compilations that have been provided to, reviewed by, or prepared by or for the expert in anticipation of the expert's testimony; and

(B) the expert's current resume and bibliography;

(i) any witness statements described in Rule 192.3(h);

V.

## REQUESTS FOR ADMISSIONS

**Please admit or deny:**

**REQUEST FOR ADMISSION NO. 1.** Admit that Liberty Water provided continuous and adequate sewer utility service to all qualified service applicants within its certificated service areas during the test year.

Admit \_\_\_\_\_

Deny \_\_\_\_\_

**Detailed reasons why party cannot admit or deny:**

**REQUEST FOR ADMISSION NO. 2** Admit that Liberty Water is providing continuous and adequate sewer utility service to all qualified service applicants within its certificated service areas at this time.

Admit \_\_\_\_\_

Deny \_\_\_\_\_

**Detailed reasons why party cannot admit or deny:**

**REQUEST FOR ADMISSION NO. 3.** Admit that Liberty Water has never refused to provide sewer utility service to a qualified service applicant, as defined by 30 TAC §291.85(a), for any property located within Liberty Water's certificated service area under the terms of Liberty Water's lawful tariff.

Admit \_\_\_\_\_

Deny \_\_\_\_\_

**Detailed reasons why party cannot admit or deny:**

**REQUEST FOR ADMISSION NO. 4.** Admit that Liberty Water is a regional public sewer service provider as defined on page 5 of the TCEQ's Regionalization Policy Guidance Document RG-357.

Admit \_\_\_\_\_

Deny \_\_\_\_\_

Detailed reasons why party cannot admit or deny:

**REQUEST FOR ADMISSION NO. 5.** Admit that all of Liberty Water's wastewater treatment plant capacity is used and useful to public service.

Admit \_\_\_\_\_

Deny \_\_\_\_\_

Detailed reasons why party cannot admit or deny

**REQUEST FOR ADMISSION NO. 6.** Admit that all of Liberty Water's collection system capacity is used and useful to public service.

Admit \_\_\_\_\_

Deny \_\_\_\_\_

Detailed reasons why party cannot admit or deny

**REQUEST FOR ADMISSION NO. 7.** Admit that public utility plant required to be constructed to maintain compliance with TCEQ and or USEPA rules, is *de facto* "used and useful" for ratemaking purposes under Water Code Chapter 13, Subchapter F.

Admit \_\_\_\_\_

Deny \_\_\_\_\_

Detailed reasons why party cannot admit or deny

**REQUEST FOR ADMISSION NO. 8.** Admit that public utility plant required to be constructed to maintain compliance with TCEQ and or USEPA rules, is *de jure* "used and useful" for ratemaking purposes under Water Code Chapter 13, Subchapter F.

Admit \_\_\_\_\_

Deny \_\_\_\_\_

Detailed reasons why party cannot admit or deny

**REQUEST FOR ADMISSION NO. 9.** Admit that no sewer rate is *de jure* "unreasonable" if it was set following the ratemaking methodologies and criterion in Water Code Chapter 13, Subchapter F.

Admit \_\_\_\_\_

Deny \_\_\_\_\_

Detailed reasons why party cannot admit or deny

**REQUEST FOR ADMISSION NO. 10.** Admit that no sewer rate is *de facto* "unreasonable" if it was set following the ratemaking methodologies and criterion in Water Code Chapter 13, Subchapter F.

Admit \_\_\_\_\_

Deny \_\_\_\_\_

Detailed reasons why party cannot admit or deny

**REQUEST FOR ADMISSION NO. 11.** Admit that sewer rates must be set according the ratemaking methodologies and criterion in Water Code Chapter 13, Subchapter F.

Admit \_\_\_\_\_

Deny \_\_\_\_\_

Detailed reasons why party cannot admit or deny

**REQUEST FOR ADMISSION NO. 12.** Admit that customers' personal opinions or preferences about sewer rates are irrelevant and may not be considered under the ratemaking methodologies and criterion in Water Code Chapter 13, Subchapter F.

Admit \_\_\_\_\_

Deny \_\_\_\_\_

Detailed reasons why party cannot admit or deny

VI.

## INTERROGATORIES

**INTERROGATORY NO. 1.** Identify each individual possessing personal knowledge of facts that you will be presenting in your prefiled testimony or used in cross examination of other parties' witnesses by name, address, phone number and, if employed, work days and hours when said individual is not available for deposition or informal questioning by Liberty Water.

**INTERROGATORY NO. 2.** Identify each legal authority (local, state or federal) that you believe is controlling in this docket.

**INTERROGATORY NO. 3.** Identify each requested item of operations and maintenance expense that you believe should be disallowed in ratemaking and explain why you hold this opinion.

**INTERROGATORY NO. 4.** Identify each requested item of depreciation expense that you believe should be disallowed in ratemaking and explain why you hold this opinion.

**INTERROGATORY NO. 5.** Identify each requested item of tax that you believe should be disallowed in ratemaking and explain why you hold this opinion.

**INTERROGATORY NO. 6.** Identify each individual component in Liberty Water's proposed capital structure you believe should not be included in ratemaking formulas in this docket and explain why you hold this opinion.



**INTERROGATORY NO. 7.** Identify each rate of return on each component of Liberty Water's proposed capital structure you believe should not be included in ratemaking formulas in this docket and explain why you hold this opinion.

**INTERROGATORY NO. 8.** Identify each individual element of Liberty Water's proposed rate design or rate design methodology you believe is not appropriate for ratemaking in this docket and explain why you hold this opinion.

**INTERROGATORY NO. 9.** Identify all alternative rate design methodologies you believe are more appropriate for use in this docket. Explain why you hold this opinion.

**INTERROGATORY NO. 10.** Identify each individual affiliate transaction you believe should not be approved and recovered through rates in this docket. Explain all reasons why you hold this opinion for each transaction identified.

**INTERROGATORY NO. 11.** Identify each cost of service allocation proposed by Liberty Water that you believe should not be approved. Explain why you hold this opinion for each identified allocation. Identify every alternative allocation methodology you believe is more appropriate for use in this docket. Explain why you hold this opinion for each identified alternative allocation.

**INTERROGATORY NO. 12.** Identify each rate base allocation proposed by Liberty Water that you believe should not be approved. Explain why you hold this opinion for each identified allocation. Identify every alternative allocation methodology you believe is more appropriate for use in this docket. Explain why you hold this opinion for each identified alternative allocation.

**INTERROGATORY NO. 13.** Identify each rate design allocation proposed by Liberty Water that you believe should not be approved. Explain why you hold this opinion for each identified allocation. Identify every alternative allocation methodology you believe is more appropriate for use in this docket. Explain why you hold this opinion for each identified alternative allocation.

**INTERROGATORY NO. 14.** For each person you expect 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 you expect that person to provide.

**INTERROGATORY NO. 15.** For each expert not listed in the response to the Request for Disclosure whom the Opposing Party has consulted and whose mental impressions and opinions have been reviewed by an expert the Opposing Party 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 vita or other detailed description of the expert's qualifications.

**INTERROGATORY NO. 16.** Identify the sewer rates you believe that Liberty Water should have and explain how those rates will recover all reasonable and necessary operating expenses, taxes, depreciation on used and useful utility plant dedicated to public service and provide a reasonable opportunity to earn a

fair return on that same plant while maintaining the utility's financial integrity. Identify each component of your cost of service that these rates are recovering.

Respectfully submitted,

By: 

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# CERTIFICATE OF SERVICE

I, Mark H. Zeppa, hereby certify that true and correct copies of the foregoing were provided to the following parties of record by mail, facsimile transmission, electronic transmission, and/or hand delivery on this the 12 January 2010.

  
Mark H. Zeppa

SOAH DOCKET NO. 582-10-0350  
TCEQ DOCKET NO. 2009-1381-UCR  
SERVICE LIST  
TALL TIMBERS UTILITY COMPANY

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Xc: Docket Clerk, SOAH

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