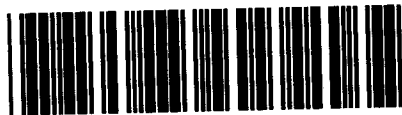


Control Number: 43945



Item Number: 16

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

43945

RECEIVED

SOAH DOCKET NO. 582-06-2023  
TCEQ DOCKET NO. 2006-0272-UCR

2011 DEC 12 AM 7:57

PUBLIC UTILITY COMMISSION  
FILING CLERK

APPLICATION OF THE CITY OF §  
LINDSAY TO AMEND WATER AND §  
SEWER CERTIFICATES OF §  
CONVENIENCE AND NECESSITY §  
(CCN) NOS. 13025 AND 20927 IN §  
COOKE COUNTY, TEXAS §  
APPLICATION NOS. 35096-C & 35097-C §

BEFORE THE STATE OFFICE

OF

ADMINISTRATIVE HEARINGS

DIRECT TESTIMONY

OF

JACK E. STOWE

ON BEHALF OF

THE CITY OF LINDSAY

JUNE 9, 2008

LINDSAY EXHIBIT APP EX. 4

16

**SOAH DOCKET NO. 582-06-2023  
TCEQ DOCKET NO. 2006-0272-UCR**

<b>APPLICATION OF THE CITY OF LINDSAY TO AMEND WATER AND SEWER CERTIFICATES OF CONVENIENCE AND NECESSITY (CCN) NOS. 13025 AND 20927 IN COOKE COUNTY, TEXAS APPLICATION NOS. 35096-C &amp; 35097-C</b>	<b>§ § § § § § §</b>	<b>BEFORE THE STATE OFFICE  OF  ADMINISTRATIVE HEARINGS</b>
---	--	---

**TABLE OF CONTENTS**

<b>I.</b>	INTRODUCTION AND QUALIFICATIONS .....	1
<b>II.</b>	PURPOSE AND SCOPE.....	2
<b>III.</b>	FINANCIAL CAPABILITY AND STABILITY OF LINDSAY .....	5
<b>IV.</b>	ENVIRONMENTAL AND ECONOMIC EFFECTS OF GRANTING LINDSAY'S APPLICATION TO AMEND ITS WATER AND SEWER CCN .....	15
<b>V.</b>	CONCLUSIONS.....	23

## ATTACHMENTS

JACK E. STOWE, JR., EXPERT WITNESS TESTIMONY RESUME .....	ATTACHMENT JES-1
CITY OF LINDSAY, AUDITED FINANCIAL STATEMENT EXCERPTS, FISCAL YEAR ENDING OCTOBER 31, 2004.....	ATTACHMENT JES-2
CITY OF LINDSAY, AUDITED FINANCIAL STATEMENT EXCERPTS, FISCAL YEAR ENDING OCTOBER 31, 2005 .....	ATTACHMENT JES-3
CITY OF LINDSAY, AUDITED FINANCIAL STATEMENT EXCERPTS, FISCAL YEAR ENDING SEPTEMBER 30, 2006 .....	ATTACHMENT JES-4
CITY OF LINDSAY, AUDITED FINANCIAL STATEMENT EXCERPTS, FISCAL YEAR ENDING SEPTEMBER 20, 2007 .....	ATTACHMENT JES-5
FEDERAL RESERVE STATISTICAL RELEASE, H. 15, SELECTED INTEREST RATES, MAY 12, 2008 .....	ATTACHMENT JES-6
COOKE COUNTY APPRAISAL DISTRICT, CURRENT TAX RATES .....	ATTACHMENT JES-7
STUDY TO DETERMINE THE MAGNITUDE OF, AND REASONS FOR, CHRONICALLY MALFUNCTIONING ON-SITE SEWAGE FACILITY SYSTEMS IN TEXAS, EXECUTIVE SUMMARY .....	ATTACHMENT JES-8
COMPARATIVE STUDY OF COSTS OF OSSF SYSTEMS, OLD RULES VERSUS NEW RULES, EXCERPTED TABLE .....	ATTACHMENT JES-9
ON-SITE SEWERAGE FACILITIES, RULES OF HARRIS COUNTY, TEXAS FOR ON-SITE SEWERAGE FACILITIES, INFORMATION GUIDE.....	ATTACHMENT JES-10
TEXAS AGRICULTURAL EXTENSION SERVICE, ON-SITE WASTEWATER TREATMENT SYSTEMS, LEACHING CHAMBERS .....	ATTACHMENT JES-11
CITY OF AUSTIN – ONSITE TREATMENT (PRETREATMENT) SYSTEM FACT SHEETS, AERATED TANKS (AEROBIC UNITS).....	ATTACHMENT JES-12
CITY OF LINDSAY ORDINANCE NO. 0805-3 .....	ATTACHMENT JES-13

**SCHEDULES**

WATER AND SEWER UTILITY, DEBT-EQUITY RATIO.....SCHEDULE A

GOVERNMENTAL FUNDS, WORKING CAPITAL RATIO .....SCHEDULE B

WATER AND SEWER UTILITY, WORKING CAPITAL RATIO .....SCHEDULE C

RESIDENTIAL WATER RATE COMPARISON.....SCHEDULE D

RESIDENTIAL WASTEWATER RATE COMPARISON.....SCHEDULE E

**SOAH DOCKET NO. 582-06-2023  
TCEQ DOCKET NO. 2006-0272-UCR**

<b>APPLICATION OF THE CITY OF LINDSAY TO AMEND WATER AND SEWER CERTIFICATES OF CONVENIENCE AND NECESSITY (CCN) NOS. 13025 AND 20927 IN COOKE COUNTY, TEXAS APPLICATION NOS. 35096-C &amp; 35097-C</b>	<b>§ § § § § § §</b>	<b>BEFORE THE STATE OFFICE  OF  ADMINISTRATIVE HEARINGS</b>
---	--	---

**DIRECT TESTIMONY OF  
JACK E. STOWE**

**I. INTRODUCTION AND QUALIFICATIONS**

1  
2     **Q.     PLEASE STATE YOUR NAME, OCCUPATION, AND BUSINESS ADDRESS.**

3     A.     My name is Jack E. Stowe. I am the Founder and President of J. Stowe & Co., a sole  
4             proprietorship. My business address is 1560 J. Place, Suite 379, Plano, Texas 75074.

5  
6     **Q.     ON WHOSE BEHALF ARE YOU PRESENTING TESTIMONY IN THIS**  
7             **PROCEEDING?**

8     A.     I am presenting testimony on behalf of the City of Lindsay ("Lindsay" and/or "City").

9  
10    **Q.     PLEASE OUTLINE YOUR EDUCATIONAL AND PROFESSIONAL**  
11             **BACKGROUND.**

12    A.     I am a graduate of North Texas State University (now the University of North Texas)  
13             with a degree in Accounting. From 1975 until May 1984, I was a member of the  
14             National Regulatory Consulting Group of Touche Ross & Co. (now Deloitte Touche),

1 where I ultimately held the title of Manager. From 1984 through July 1985, I served  
2 as the Chief Financial Officer/Treasurer of International Investment Advisors, Inc.  
3 (IIA, Inc.) and its subsidiaries and affiliates. IIA, Inc. was primarily engaged in real  
4 estate investment and development. In July 1985, I founded the consulting firm of  
5 Aries Resource Management (Aries). Aries was contracted by the international  
6 consulting firm of Pannell Kerr Forester (PKF) to establish a municipal consulting  
7 practice within their Dallas, Texas office. Upon the expiration of the professional  
8 service contract with PKF, Aries entered into a Partnership Agreement with Reed  
9 Municipal Services, Inc. to form Reed, Stowe & Co., Inc. In December 1997, Reed,  
10 Stowe & Co. Inc. was acquired by the publicly traded consulting firm of Metzler &  
11 Associates (now Navigant Consulting, Inc. (NCI)) which is publicly traded on the  
12 NYSE. While at NCI, I served as a Director of the firm's national Energy and Water  
13 Consulting Division. In October 2000, I reacquired my consulting practice from NCI  
14 with the formation of Reed, Stowe & Yanke, LLC. In March 2003, Reed, Stowe &  
15 Yanke, LLC was acquired by R.W. Beck, Inc. In April 2008, I left R.W. Beck and  
16 formed J. Stowe & Co., a sole proprietorship.

## 17 II. PURPOSE AND SCOPE

18 Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY IN THIS PROCEEDING?

19 A. The purpose of my testimony is to provide my opinion as to Lindsay's financial  
20 stability and capabilities to provide continuous and adequate water and sewer service  
21 to the requested area. In addition, I will provide my opinion as to the environmental  
22 and economic effects of granting the amendments to the City's water and sewer  
23 certificates of convenience and necessity ("CCN").

1 Q. HAVE YOU PREVIOUSLY TESTIFIED BEFORE THE COMMISSION  
2 REGARDING CERTIFICATES OF CONVENIENCE AND NECESSITY?

3 A. Yes. Please see Attachment JES-1 which provides a list of my testifying experience  
4 before the Commission, its predecessors, and other jurisdictions.  
5

6 Q. MR. STOWE, ON WHAT BASIS HAVE YOU DEVELOPED YOUR  
7 OPINIONS AND CONCLUSIONS CONTAINED WITHIN YOUR  
8 TESTIMONY?

9 A. Texas Administrative Code, Title 30, § 291.102 lists several factors to consider in  
10 granting a new or amended CCN. The list contained in 30 TEX. ADMIN. CODE  
11 § 291.102 (d) are factors that determine if an applicant has the financial, managerial,  
12 and technical ability to provide continuous and adequate service to its requested  
13 service area. Additionally, although not expressed in those terms, subsections  
14 § 291.102 (d)(3), (4), and (6) specifically require the Commission to look at the  
15 applicant's financial, managerial, and technical ability to provide continuous and  
16 adequate service to the requested service area. It is these factors that I used to come  
17 to my conclusions in this testimony.



1 Q. WHEN YOU REFERENCE TCEQ RULE § 291.102 IN YOUR PREVIOUS  
2 RESPONSE, ARE YOU AWARE THAT THE TCEQ RULES HAVE  
3 CHANGED SINCE THE CITY'S APPLICATION WAS FILED?

4 A. Yes, I am. The City received notice that its CCN Application was accepted for filing  
5 on November 5, 2005. The new § 291.102 rules became effective on January 5,  
6 2006. Thus, I understand that the rules as applicable on November 5, 2005, govern  
7 this proceeding.

8  
9 Q. MR. STOWE, EVEN IF THE § 291.102 RULE EFFECTIVE ON JANUARY 5,  
10 2006, APPLIED TO THIS PROCEEDING, WOULD IT AFFECT THE  
11 ANALYSIS AND CONCLUSION THAT YOU DRAW?

12 A. No.

13

14 Q. WHY NOT?

15 A. The newer § 291.102 rules built on the standards that existed before. My analysis  
16 contained herein looks at the City's Application utilizing both the older rules and the  
17 newer rules. Under both rules, my analysis and conclusions remain the same. My  
18 conclusions and analysis are provided below.

1           **III.   FINANCIAL CAPABILITY AND STABILITY OF LINDSAY**

2   **Q.   MR. STOWE, WHAT FINANCIAL DOCUMENTS HAVE YOU REVIEWED**  
3           **IN YOUR ASSESSMENT OF THE FINANCIAL CAPABILITY OF LINDSAY**  
4           **TO PROVIDE CONTINUOUS AND ADEQUATE WATER AND**  
5           **WASTEWATER SERVICE?**

6   **A.   I have reviewed and am relying upon Lindsay's audited financial statements for FY**  
7           **2004 through FY 2007, excerpts of which I have attached hereto as follows:**

8                   - Attachment JES – 2, Lindsay Audited Financial Statements, FY 2004

9                   - Attachment JES – 3, Lindsay Audited Financial Statements, FY 2005

10                  - Attachment JES – 4, Lindsay Audited Financial Statements, FY 2006

11                  - Attachment JES – 5, Lindsay Audited Financial Statements, FY 2007

12  
13   **Q.   WHAT ANALYSIS HAVE YOU CONDUCTED USING LINDSAY'S**  
14           **AUDITED FINANCIALS?**

15   **A.   I analyzed the debt-equity ratio and working capital ratio for the City's Governmental**  
16           **Funds, as well as the water and sewer utility fund. According to 30 TEX. ADMIN.**  
17           **CODE §291.102 (d), one of the issues the Commission must consider in granting or**  
18           **amending a CCN is the financial stability of the applicant, which may include the**  
19           **adequacy of the applicant's debt-equity ratio.**

1   **Q.   PLEASE DESCRIBE THE DEBT-EQUITY RATIO AND WHAT YOU**  
2       **CONSIDER TO BE AN ADEQUATE DEBT-EQUITY RATIO FOR AN**  
3       **APPLICANT.**

4   A.   The debt-equity ratio is calculated by dividing an applicant's debt by its equity. The  
5       debt-equity ratio is considered a solvency ratio, which assists in discerning an  
6       applicant's ability to meet its long-term obligations as well as its ability to obtain  
7       additional borrowings. Essentially, the debt-equity ratio is comparing what an  
8       applicant owes to what it owns. The lower the component of debt within a utility's  
9       capital structure, the less the utility is exposed to financial risk.

10

11   **Q.   WHAT IS THE DEBT-EQUITY RATIO FOR LINDSAY'S**  
12       **GOVERNMENTAL FUNDS?**

13   A.   As illustrated in Attachments JES – 2 through JES – 5, from FY 2004 through  
14       FY 2007, Lindsay has not issued any debt within its Governmental Funds, thus the  
15       debt-equity ratio is 0 and the capital structure for the Governmental Funds is 100%  
16       equity. This indicates that there is no financial risk under the debt-equity ratio  
17       associated with the City's Governmental Funds.

18

19   **Q.   WHAT IS THE DEBT-EQUITY RATIO FOR LINDSAY'S WATER AND**  
20       **SEWER UTILITY?**

21   A.   The debt-equity ratio and capital structure for Lindsay for FY 2004 through FY 2007  
22       is as follows:

**TABLE 1**  
**Debt / Equity Ratio and Capital Structure**

	Debt / Equity	Capital Structure	
	<u>Ratio</u>	<u>Debt</u>	<u>Equity</u>
FY 2004	0.51	33.9%	66.1%
FY 2005	0.42	29.6%	70.4%
FY 2006	0.34	25.5%	74.5%
FY 2007	0.28	21.7%	78.3%

Detailed schedules illustrating the calculation of the Debt/Equity Ratio and Capital Structure are included herein as Schedule JES – A.

**Q. IN YOUR OPINION, WHAT DOES YOUR ANALYSIS OF LINDSAY'S DEBT/EQUITY RATIO AND CAPITAL STRUCTURE INDICATE REGARDING LINDSAY'S FINANCIAL CAPABILITIES?**

A. The analysis of Lindsay's Debt/Equity ratio and capital structure indicates that the City has a low degree of financial risk. As illustrated, there is currently no outstanding debt on the City's Governmental Funds. Additionally, for the water and sewer utility the debt/equity ratio has decreased every year for the past four years. This indicates the City's ability to pay-off existing debt, and also indicates that the City has capacity to issue more debt to fund capital improvements, should the need arise.

**Q. PLEASE DESCRIBE LINDSAY'S LONG-TERM OBLIGATIONS.**

A. Currently, the City has a single long-term capital lease agreement, which it entered into in FY 1995 for the construction of a new water well. This capital lease will expire in 2015, at which time title to the well will pass to the City. As indicated on

1 Page 11 (Bates page APP0321) of Attachment JES – 5, as of September 30, 2007, the  
2 outstanding balance of the capital lease was \$317,554. The City has no other general  
3 government or water and sewer utility outstanding debt or long-term obligations.  
4

5 **Q. DOES LINDSAY MAINTAIN RESTRICTED FUNDS TO PAY FOR THIS**  
6 **CAPITAL LEASE?**

7 A. Yes. As illustrated on Page 1 of Attachment JES – 5, the City has a capital lease  
8 reserve of \$39,955, which is roughly equivalent to the annual lease payment, \$41,160  
9 in FY 2008, or approximately 12.6% ( $\$39,955 / \$317,554$ ) of the outstanding balance  
10 of the Capital Lease as of September 30, 2007.  
11

12 **Q. PLEASE DESCRIBE THE WORKING CAPITAL RATIO AND WHAT YOU**  
13 **CONSIDER TO BE AN ADEQUATE WORKING CAPITAL RATIO FOR AN**  
14 **APPLICANT.**

15 A. The working capital ratio, also known as the current ratio, is calculated by dividing an  
16 applicant's current assets by its current liabilities. The working capital ratio is  
17 considered a liquidity ratio, which assists in discerning an applicant's ability to meet  
18 its short-term obligations. It is generally accepted that a working capital ratio of 2:1  
19 is adequate.

1 Q. WHAT IS THE WORKING CAPITAL RATIO FOR LINDSAY'S  
2 GOVERNMENTAL FUNDS?

3 A. The working capital ratio for Lindsay's General Fund for FY 2004 through FY 2007  
4 is as follows:

5 **TABLE 2**  
6 **Working Capital Ratio – Governmental Funds**

	Current <u>Assets</u>	Current <u>Liabilities</u>	Working Capital <u>Ratio</u>
FY 2004	743,185	61,129	12.16
FY 2005	752,941	49,672	15.16
FY 2006	833,250	138,433	6.02
FY 2007	868,101	97,051	8.94

7  
8 Detailed schedules illustrating the calculation of the Working Capital Ratio  
9 for the General Fund are included herein as Schedule JES – B.

10  
11 Q. WHAT IS THE WORKING CAPITAL RATIO FOR LINDSAY'S WATER  
12 AND SEWER UTILITY?

13 A. The working capital ratio for Lindsay's water and sewer utility for FY 2004 through  
14 FY 2007 is as follows:

15 **TABLE 3**  
16 **Working Capital Ratio – Water and Sewer Utility**

	Current <u>Assets</u>	Current <u>Liabilities</u>	Working Capital <u>Ratio</u>
FY 2004	375,636	40,703	9.23
FY 2005	401,217	40,287	9.96
FY 2006	505,045	42,583	11.86
FY 2007	623,699	55,576	11.22

17  
18 Detailed schedules illustrating the calculation of the Working Capital Ratio  
19 are included herein as Schedule JES – C.

1 Q. WHAT DOES THE ANALYSIS OF LINDSAY'S WORKING CAPITAL  
2 RATIO INDICATE?

3 A. Lindsay's Working Capital Ratio for the City's Governmental Funds has been at or  
4 above 6.02, while the ratio for the Water and Sewer utility has been at or above 9.23  
5 for the past four (4) fiscal years. The high working capital ratio of Lindsay indicates  
6 that it has the ability to timely pay its debts as they come due. To creditors, a high  
7 working capital ratio would indicate a low repayment risk, thus potentially enabling  
8 the City to receive better financing terms (i.e., a lower interest rate) should the need  
9 arise to issue debt.

10

11 Q. PLEASE DESCRIBE THE CASH FLOWS FOR LINDSAY'S WATER AND  
12 SEWER UTILITIES?

13 The table below illustrates the cash flow provided by operating activities of Lindsay's  
14 water and sewer utility for FY 2004 through FY 2007:

15

16

**TABLE 4**  
**Cash Flow Provided by Operating Activities – Water and Sewer Utility**

	Net Cash Provided by Operating Activities	Depreciation	Net Cash Less Depreciation
FY 2004	70,661	(31,946)	38,715
FY 2005	86,330	(34,186)	52,144
FY 2006	89,985	(23,329)	66,656
FY 2007	96,790	(29,795)	66,995

17

18 As illustrated, the water and sewer utility had positive net cash provided by  
19 operating activities for the past four fiscal years. Additionally, removing  
20 depreciation, a non-cash expense, the City still maintained positive net operating cash  
21 flow. This indicates that the City was capable of generating sufficient cash flow from

1 its operations to fund replacement of the loss of the value of its existing system and  
2 assist in offsetting the depletion of its asset base.  
3

4 **Q. WHAT ARE LINDSAY'S AVAILABLE CASH AND CASH EQUIVALENTS**  
5 **OF THE WATER AND SEWER UTILITY TO MEET OPERATION AND**  
6 **MAINTENANCE EXPENSES?**

7 A. As of September 30, 2007, Lindsay's water and sewer utility has \$123,756 in  
8 unrestricted Cash and Cash Equivalents and \$487,286 in unrestricted Certificates of  
9 Deposit, which could be liquidated quickly should the need arise. Taken together, the  
10 utility has approximately \$611,042 in unrestricted funds to pay current operation and  
11 maintenance expenses. Additionally, Lindsay's Governmental Funds, as of  
12 September 30, 2007, included \$86,839 in unrestricted Cash and Cash Equivalents and  
13 \$666,754 in unrestricted Certificates of Deposit. Taken together, the Governmental  
14 Funds include approximately \$753,593 in unrestricted funds that could also be  
15 accessed by the utility should the need arise.  
16

17 **Q. DOES LINDSAY'S WATER AND SEWER UTILITY HAVE SUFFICIENT**  
18 **OPERATING RESERVES TO MEET ITS DAY-TO-DAY OPERATION AND**  
19 **MAINTENANCE EXPENSES?**

20 A. Yes. It is typical within the water and wastewater industry to maintain at least 45-  
21 days of operating reserves. In addition, some municipal bond covenants require a  
22 minimum of 60-days of operating reserves. Considering just Cash and Cash  
23 equivalents, as of September 30, 2007, Lindsay's Water and Sewer Utility has



1 sufficient operating funds to cover approximately 243 days ( $\$123,756 / (\$185,770 /$   
2  $365))$ , or over 8 months, of operating and maintenance expenses. If you include the  
3 utility's funds invested in Certificates of Deposit, which could be liquidated in a  
4 timely manner, the utility could cover 1,200 days ( $\$611,042 / (\$185,770 / 365))$ , or  
5 over 3 years, worth of operating and maintenance expenses. The amount of \$185,770  
6 used in the two equations above is the City's total operating expenses, including  
7 depreciation, for the City's water and sewer utilities. See Page 9 (Bates page  
8 APP0312) of Attachment JES-5. To measure the duration of the City's water and  
9 sewer utilities' operating reserves, I divided the City's liquid assets (i.e., Cash and  
10 Cash Equivalents and Certificates of Deposit) by the daily operating expenditures  
11 necessary to operate the system. The City's Cash and Cash Equivalents and  
12 Certificates of Deposit for the Water and Sewer Utility can be found on Page 8 (Bates  
13 page APP0311) of Attachment JES-5.

14  
15 **Q. MR. STOWE, WHAT FINANCIAL RESOURCES ARE AVAILABLE TO**  
16 **LINDSAY TO FUND CAPITAL IMPROVEMENTS?**

17 **A.** Municipalities may issue revenue bonds, certificates of obligation, and/or general  
18 obligation bonds for long-term financing. In addition, municipalities may issue  
19 anticipation notes and/or commercial paper for shorter term financing requirements,  
20 such as during construction. In most cases, these financial instruments provide tax-  
21 exempt income to the holders of these financial instruments, which result in a lower  
22 cost of debt for the issuer. According to the Federal Reserve, and as illustrated on  
23 Attachment JES - 6, for the week ending May 9, 2008, a corporate bond with the

1 highest credit rating of Aaa averaged an interest rate of 5.57% and a corporate bond  
2 with a credit rating of Baa averaged an interest rate of 6.89%, similar to the rates an  
3 investor-owned water supply corporation would be subject to in the market. On the  
4 other hand, the 20-year bond average for general obligation bonds of mixed quality,  
5 as issued by state and local governments, was 4.62%, which the City of Lindsay  
6 could potentially receive on a bond issuance.

7 The above referenced financial instruments can be funded by municipalities  
8 through multiple revenue sources, such as property tax, sales tax, water and sewer  
9 rates and fees, and/or impact fees. Capital improvements may be funded on a “pay-  
10 as-you-go” method, which funds capital improvements as revenue sources become  
11 available, or they can be funded through developer contributions. Each of these  
12 funding options is available to Lindsay.

13  
14 **Q. WHAT IS LINDSAY’S CURRENT PROPERTY TAX RATE?**

15 A. As illustrated on Attachment JES – 7, Lindsay’s current property tax rate is \$0.2216  
16 per \$100 of taxable value.

17  
18 **Q. WHAT IS THE MAXIMUM PROPERTY TAX RATE LINDSAY CAN LEVY?**

19 A. Lindsay is a general law city and, thus, by State law has a maximum property tax rate  
20 of \$1.50 per \$100 of taxable value.

1 Q. MR. STOWE, IN YOUR OPINION, IS LINDSAY AND ITS WATER AND  
2 SEWER UTILITY FINANCIALLY STABLE?

3 A. Yes.  
4

5 Q. IN YOUR OPINION, IS LINDSAY FINANCIALLY CAPABLE OF  
6 PROVIDING CONTINUOUS AND ADEQUATE WATER AND SEWER  
7 SERVICE TO THE SERVICE AREA IT HAS REQUESTED IN ITS CCN  
8 APPLICATION?

9 A. Yes, Lindsay has at its disposal numerous financial instruments to fund the necessary  
10 improvements that will be required to provide continuous and adequate water and  
11 sewer service to the area requested in its CCN application. In addition, as evidenced  
12 by the margin between Lindsay's current property tax rate and its current maximum  
13 property tax rate, \$1.2784 (\$1.50 – \$0.2216), Lindsay has sufficient funding  
14 flexibility to provide continuous and adequate water and sewer service to the area  
15 requested in its CCN application.  
16

17 Q. MR. STOWE, HOW DO LINDSAY'S WATER AND SEWER RATES  
18 COMPARE TO OTHER CITIES OF APPROXIMATELY THE SAME SIZE?

19 A. According to the Texas Municipal League ("TML") 2007 Water and Wastewater  
20 Survey for Texas cities in the 2,000 or less population category, Lindsay's water rates  
21 rank approximately 52 and 56 out of 265 cities for 5,000 and 10,000 gallons of  
22 Residential water consumption, respectively. This analysis is detailed in Schedule  
23 JES – D. For wastewater, Lindsay ranks approximately 77 and 109 out of 247 cities

1 for 5,000 and 10,000 gallons of residential wastewater flow, respectively. This  
2 analysis is detailed in Schedule JES – E. Please note that for these comparisons, I  
3 have updated Lindsay’s water and sewer rates to those effective in FY 2008; as such,  
4 it is likely that Lindsay would rank more favorably if the comparisons were based on  
5 each cities’ rates effective in FY 2008; however, TML has not yet published this  
6 information on its website.  
7

8 **Q. IN YOUR OPINION, ARE LINDSAY’S RATES FAIR?**

9 **A. Yes.**

10 **IV. ENVIRONMENTAL AND ECONOMIC EFFECTS OF GRANTING LINDSAY’S**  
11 **APPLICATION TO AMEND ITS WATER AND SEWER CCN**

12 **Q. MR. STOWE, WHY IS IT IMPORTANT FOR THE COMMISSION TO**  
13 **CONSIDER THE ENVIRONMENTAL AND ECONOMIC EFFECTS OF**  
14 **GRANTING LINDSAY’S AMENDMENT TO ITS WATER AND SEWER**  
15 **CERTIFICATES OF CONVENIENCE AND NECESSITY?**

16 **A. TCEQ rule §291.102(d) lists several factors to consider in granting a new or amended**  
17 **CCN. The newer § 291.102(d) provides that a factor to consider is the environmental**  
18 **and economic effects of granting a new CCN or amending an existing CCN.**

1    **Q.    IN YOUR OPINION, WHAT WILL BE THE ENVIRONMENTAL EFFECT**  
2       **OF GRANTING LINDSAY'S APPLICATION TO AMEND ITS WATER**  
3       **CCN?**

4    A.   At the present time, it is my understanding that both the requested area and the City  
5       rely on groundwater wells as their primary water source. As such, there is a neutral  
6       environmental impact of granting the City's requested CCN. In the long term  
7       however, there could be additional environmental benefits associated with granting  
8       the CCN, as the City, per Ordinance 0805-3 (Bates Page APP0465), requires anyone  
9       seeking sewer service to also be connected to its water system. Ordinance 0805-3 is  
10      contained herein as Attachment JES-13. By enacting this requirement, the City is  
11      enabling itself to better coordinate regional water system development.

12  
13   **Q.    IN YOUR OPINION, WHAT WILL BE THE ECONOMIC EFFECT ON THE**  
14       **AREA BEING REQUESTED IF LINDSAY'S APPLICATION TO AMEND ITS**  
15       **WATER CCN IS GRANTED?**

16   A.   Again, as the requested area and Lindsay both utilize groundwater wells, there is a  
17       neutral impact. However, beyond economic considerations, the provision of water  
18       service by Lindsay will increase the reliability of water service to the requested area.  
19       For example, if a resident in the requested area suffered a water well malfunction,  
20       they would be without water until such time as the well could be fixed. They would  
21       also have to bear the potentially significant capital costs associated with this repair.  
22       On the other hand, the City maintains three groundwater wells, as well as 140,000  
23       gallons of ground storage capacity and 150,000 gallons of elevated storage capacity.

1 Therefore, if one of the City's water wells failed, there is a greater likelihood that  
2 customers would not see an interruption of water service. Additionally, the City,  
3 which has a wider variety of financial resources at its disposal, would also bear the  
4 responsibility and liability of fixing the well.  
5

6 **Q. IN YOUR OPINION, WHAT WILL BE THE ENVIRONMENTAL EFFECT**  
7 **OF GRANTING LINDSAY'S APPLICATION TO AMEND ITS SEWER CCN?**

8 A. Currently, it is my understanding that customers in the City's requested service area  
9 are not provided retail sewer utility service. As such, they must rely upon on-site  
10 sewage facilities ("OSSF") to provide wastewater treatment. However, with the  
11 granting of the amendment to the City's sewer CCN, customers will be provided the  
12 opportunity to receive service from the City's wastewater collection and treatment  
13 facilities.  
14

15 **Q. MR. STOWE, CAN YOU PLEASE EXPLAIN WHAT AN OSSF FACILITY**  
16 **IS?**

17 A. The TCEQ defines an on-site sewage facility as a system of treatment devices and  
18 disposal facilities that do not treat or dispose of more than 5,000 gallons of sewage  
19 each day and are used only for disposal of sewage produced on a site where any part  
20 of the system is located. On-site sewage facilities can consist of conventional septic  
21 systems, aerobic systems, evapotranspiration systems, etc.

1    **Q.    WHAT IMPACTS DO OSSF SYSTEMS HAVE ON THE ENVIRONMENT?**

2    A.    OSSFs are prone to failure, which results in the discharge of untreated effluent with  
3           pollutant concentrations exceeding water quality standards. Discharge from a failed  
4           system contains bacteria and viruses that are potentially harmful to humans, animals,  
5           and aquatic life. In addition, pollutant levels can be such that ground and surface  
6           water can be adversely affected.

7

8    **Q.    HAVE YOU REVIEWED ANY DOCUMENTS OR STUDIES THAT**  
9           **DEMONSTRATE THE FAILURE RATE OF OSSF SYSTEMS?**

10   A.    Yes. In 2000 - 2001, Reed, Stowe & Yanke, L.L.C., a former company of mine,  
11           conducted a study of OSSF systems across the state of Texas for the Texas On-Site  
12           Wastewater Treatment Research Council, of which I have attached the Executive  
13           Summary to my testimony as Attachment JES-8. As part of this study, a survey was  
14           made of Designated Representatives throughout the State. Designated  
15           Representatives are individuals who work for an authorized agent of the TCEQ and  
16           perform on-site investigations, complaint investigations, system evaluations, and  
17           system inspections. This study found that an estimated 13% of OSSF systems in the  
18           State not just failed, but chronically failed. The region in which the City is located  
19           had a chronic failure rate of 12%, with soil quality being the highest contributor to  
20           OSSF malfunction. It should be noted that the chronic failure rates represents those  
21           identified by the Designated Representatives and does not incorporate the failures the  
22           Designated Representatives may not have been able to identify. According to the  
23           Environmental Protection Agency ("EPA"), the recognition of system failures is

1 limited by reliance on individual on-site inspections and the lack of techniques for  
2 detecting system failures; therefore, the chronic failure rates could be understated.  
3

4 **Q. WHAT WILL BE THE ENVIRONMENTAL IMPACT OF THE CITY**  
5 **PROVIDING WASTEWATER SERVICE TO THE AREA BEING**  
6 **REQUESTED IN THIS APPLICATION?**

7 A. The wastewater service that will be provided by the City is required by State and  
8 Federal law to comply with routine and systematic testing and inspections to ensure  
9 compliance with the State's water quality standards. The wastewater facilities of the  
10 City are managed by professionals licensed to operate and perform work on  
11 wastewater facilities. With the City providing wastewater service, the need for  
12 OSSFs in the area to be added to the City's sewer CCN will eventually be eliminated  
13 resulting in an improvement to the current, as well as future, environmental integrity  
14 of the requested CCN service area.  
15

16 **Q. IN YOUR OPINION, WHAT WILL BE THE ECONOMIC EFFECT ON THE**  
17 **AREA BEING REQUESTED IF LINDSAY'S APPLICATION TO AMEND ITS**  
18 **SEWER CCN IS GRANTED?**

19 A. By granting the amendment to the City's sewer CCN, new customers to the area and  
20 existing customers in the area who have to replace their OSSF system due to failure  
21 would not have to install OSSF systems. In a study conducted by the Guadalupe  
22 Wastewater Company for the Texas On-Site Wastewater Treatment Research  
23 Council, the estimated installation cost in the Central Texas Region for four types of



1 OSSF systems ranged from a low of \$3,169.36 for a conventional septic system to a  
2 high of \$8,562.41 for an evapotranspiration bed system. The relevant table from this  
3 study is attached to my testimony as Attachment JES-9. These cost estimates were  
4 for a three-bedroom house with 1,800 square feet. It should be noted that these cost  
5 estimates most likely underestimate the installation costs that would be experienced  
6 by similar customers today in the area in question since the cost figures are from  
7 1998. As illustrated in Attachment JES-10, as of May 2006, the Harris County Public  
8 Infrastructure Department estimates that an OSSF for a single family dwelling would  
9 cost from \$5,000 to \$10,000 to install.

10  
11 **Q. HOW DO THE INSTALLATION COSTS FOR THESE OSSF SYSTEMS**  
12 **COMPARE TO THE COSTS FOR CUSTOMERS IN THE CITY'S**  
13 **REQUESTED SERVICE AREA TO ACCESS THE CITY'S WASTEWATER**  
14 **SERVICES?**

15 A. As discussed above and shown in Attachments JES-9 and JES-10, the estimated  
16 installation cost for a residential septic system ranges from a low of \$3,169.36 to a  
17 high of approximately \$10,000. On the other hand, a customer wishing to connect to  
18 the City's wastewater system would be responsible for the pro rata cost associated  
19 with the construction or relocation of the line or main necessary to serve the subject  
20 property. This pro rata cost will be dependent upon the size, distance, kind, and  
21 character of the pipe involved. In addition, according to City Staff, customers would  
22 also be responsible for a \$500.00 tap fee to access the City's wastewater collection  
23 system.

1    **Q.    ARE THERE ANY OPERATION AND MAINTENANCE COSTS**  
2    **ASSOCIATED WITH THESE OSSF SYSTEMS?**

3    A.    Yes.    According to the Texas Agricultural Extension Service, as illustrated in  
4    Attachment JES – 11, conventional septic systems cost about \$75 per year.  
5    Additionally, according to information from the City of Austin, Texas, as illustrated  
6    in Attachment JES – 12, annual operation and maintenance costs for aerobic septic  
7    systems, which are required for Class IV soil textures and have been required under  
8    current deed restrictions in Cooke County, can run as high as \$760.20.

9  
10   **Q.    HOW DO THESE OPERATION AND MAINTENANCE COSTS COMPARE**  
11   **TO THE ANNUAL PAYMENT CUSTOMERS WOULD MAKE FOR**  
12   **WASTEWATER SERVICE FROM THE CITY UNDER THE CITY'S**  
13   **CURRENT WASTEWATER RATES?**

14   A.    The City bases the wastewater volume charged to its customers on the total monthly  
15   water consumption. Assuming a range of 4,000 to 6,000 gallons are billed per month,  
16   which represents the approximate annual water usage of a typical residential  
17   customer, annual payment to the City for wastewater service under current rates  
18   would range from \$144.00 to \$168.00

19  
20   **Q.    ARE THERE ANY ADDITIONAL COSTS ASSOCIATED WITH AN OSSF**  
21   **SYSTEM?**

22   A.    An OSSF system represents a liability for the owner in that the owner is liable for the  
23   operation of the OSSF. The potential exists for an owner to be subject to penalties

1 and fines for failing to comply with State requirements. With the City providing  
2 wastewater service, the liability is transferred from the owner of the OSSF system to  
3 the City.  
4

5 **Q. IN YOUR OPINION, WHAT WILL BE THE ECONOMIC EFFECT ON THE**  
6 **CITY OF GRANTING LINDSAY'S APPLICATION TO AMEND ITS SEWER**  
7 **CCN?**

8 A. The City would be able to provide centralized wastewater service to the requested  
9 area, which would help to promote development in and around the City. Without  
10 centralized wastewater service, developers are limited to land area requirements  
11 associated with OSSF systems or they may attempt to permit small package treatment  
12 plants, which could be potentially contested and/or denied, thus limiting or even  
13 eliminating development. In addition, as development density can increase with the  
14 provision of centralized wastewater treatment service, land values will also most  
15 likely rise. This will increase the value to property owners, as well as increase the  
16 taxable property base. As the taxable property base increases, the City could reduce  
17 the property tax burden on citizens, while maintaining the same property tax revenue  
18 stream.

1    **Q.    MR. STOWE, TO CONCLUDE, IN YOUR OPINION, IS THERE A POSITIVE**  
2           **ENVIRONMENTAL AND ECONOMIC EFFECT TO THE REQUESTED**  
3           **AREA AND TO THE CITY SHOULD THE CITY'S APPLICATION TO**  
4           **AMEND ITS WATER AND SEWER CCN BE APPROVED?**

5    A.    Yes, it is my opinion that there are overwhelming environmental and economic  
6           benefits associated with the City's provision of water and sewer service to the  
7           requested area.

8

9

**V. CONCLUSIONS**

10   **Q.    IN YOUR OPINION, WHAT WILL BE THE EFFECT OF GRANTING THE**  
11           **AMENDED CERTIFICATES AS REQUESTED BY LINDSAY?**

12   A.    The granting of the requested amended CCNs to Lindsay will allow its leaders to  
13           more effectively regulate, manage, and facilitate growth in its proposed service  
14           territory. It will also improve environmental stewardship of the area by reducing the  
15           need for OSSFs.

16

17   **Q.    MR. STOWE, WHAT WILL BE THE EFFECT ON OTHER RETAIL PUBLIC**  
18           **UTILITIES OF THE SAME KIND SERVING IN THE PROXIMATE AREA**  
19           **BY THE GRANTING OF LINDSAY'S PROPOSED TERRITORY AS**  
20           **REQUESTED BY THEM?**

21   A.    According to the City's application, there are no other utilities providing service to  
22           the requested service area. As such, no other retail public utility will be impacted by  
23           the granting of the City's request.

1 In addition, from an economic standpoint, the City is not an island unto itself. The  
2 economic health of the City affects the surrounding areas, including other retail  
3 public utilities serving the proximate area. With the granting of the CCNs, the City  
4 will have an improved ability to coordinate development in and around the City,  
5 which will help to promote development. The increase in development will not only  
6 benefit the City economically, but also will benefit the area surrounding the City,  
7 including the other retail public utilities serving the proximate area.  
8

9 **Q. BASED UPON YOUR ANALYSIS, IS IT YOUR OPINION THAT LINDSAY**  
10 **POSSESSES THE FINANCIAL CAPABILITY TO PROVIDE CONTINUOUS**  
11 **AND ADEQUATE WATER AND SEWER SERVICE TO THE REQUESTED**  
12 **AREA?**

13 A. Yes. Based upon the criteria as set forth by the Commission, it is my opinion that  
14 Lindsay possesses the financial capability to provide continuous and adequate water  
15 and sewer service.  
16

17 **Q. IN YOUR OPINION, IS THERE AN ENVIRONMENTAL NEED FOR**  
18 **ADDITIONAL SERVICE IN THE REQUESTED SERVICE AREA? IF SO,**  
19 **PLEASE EXPLAIN.**

20 A. Yes. As I previously discussed in my testimony, OSSF systems, which are currently  
21 the only wastewater service option in the requested area, are prone to failure which  
22 results in the discharge of untreated effluent with pollutant concentrations exceeding  
23 water quality standards. Discharge of untreated effluent can be harmful to humans,

1 animals, and aquatic life, as well as ground and surface water. If the City is granted  
2 the amendments to its CCNs, the need for OSSF systems in the requested area will  
3 eventually be eliminated resulting in an improvement to the current, as well as future,  
4 environmental integrity of the requested area.  
5

6 **Q. IN YOUR OPINION, IS THERE AN ECONOMIC NEED FOR ADDITIONAL**  
7 **SERVICE IN THE REQUESTED SERVICE AREA? IF SO, PLEASE**  
8 **EXPLAIN.**

9 A. Yes. The City's application would provide potable water and centralized sewer  
10 service to an area that has not historically received these services. Currently, the only  
11 option available for customers in the requested area for wastewater service is an  
12 OSSF system. As I previously discussed in my testimony, without centralized  
13 wastewater service developers are limited to land area requirements associated with  
14 OSSF systems. With centralized wastewater service, developers are able to increase  
15 density development for both residential and commercial development, thus  
16 enhancing the attractiveness and potential of development and helping to encourage  
17 economic growth. In my experience working with municipalities and utilities across  
18 the State, when new sewer or water service is made available to an area that did not  
19 receive such service previously, growth tends to follow. In addition to encouraging  
20 economic growth, customers receiving centralized wastewater service do not have the  
21 financial and economic burden of having to maintain and replace an OSSF system, as  
22 well as the exposure to penalties and/or fines for failure to comply with State OSSF  
23 requirements.

1    **Q.    DOES THIS CONCLUDE YOUR TESTIMONY?**

2    A.    Yes.  However, due to ongoing discovery updates, with the Administrative Law  
3           Judge's permission I would request the right to amend, delete and/or add to my  
4           testimony as additional facts become known.

**JACK E. STOWE, JR.**  
**EXPERT WITNESS RESUME**

<b>CASE</b>	<b>JURISDICTION</b>	<b>TOPIC</b>
Docket No. 17751, Phase I, Texas-New Mexico Power Company	Public Utility Commission of Texas	Test Year Cost of Service, Revenue Requirements, Rate of Return
Docket No. 17751, Phase II, Texas-New Mexico Power Company	Public Utility Commission of Texas	Transition to Competition
City of Lacy Lakeview vs. City of Waco	Texas Natural Resource Conservation Commission	Ratemaking Methodology, Cost of Service, Rate Design
Cause No. 96-1702-4, Lee Washington vs. Checker Bag Company	170th District Court, McLennan County	Damages, Product Liability
Walker County Water Supply Corporation vs. City of Huntsville, Texas	Federal Court, Houston, Texas	Application of Federal Law 1926B, System Valuation under Texas Water Code 13.255
Cause No. 97-00070, Garland Independent School District vs. Lone Star Gas Company	14th District Court	Damages - Breach of Contract
City of Parker, Texas vs. City of Murphy, Texas	Collin County District Court	Identification of Water-Related Stranded Investment
Cause No. 95-5530, Tal-Tex, Inc. vs. Southland Corporation	State District Court	Damages - Gross Negligence
Cause No. H-94-4106, StarTel, Inc. vs. TCA, Inc., et. al.	Federal Court, Houston, Texas	Damages - Predatory Pricing, Anti-Trust
Docket No. 15560, Texas-New Mexico Power Company	Public Utility Commission of Texas	Community Choice - Competitive Transition Plan
No. 67-164085-96, Tarrant Regional Water District vs. City of Bridgeport, Texas	67th Judicial District	Damages - Breach of Contract
GUD No. 8664, Statement of Intent Filed by Lone Star Gas Company to Increase Intracompany City Gate Rate	Railroad Commission of Texas	System Revenue Requirements, Class Cost of Service Allocations, Unbundling, Cost of Gas Sold
Docket No. 95-0132-UCR, Cameron County FWSD #1 (now Laguna Madre Water District)	Texas Natural Resource Conservation Commission	Conservation Rate Making Policies
Docket No. 95-0295-MWD, Dallas County Water Control and Improvement District No. 6	Texas Natural Resource Conservation Commission	Wastewater Permitting, Concepts of Regionalization
Cause No. H-94-1265, Canyon Services, Inc. vs. Southwestern Bell, et. al.	Federal Court, Houston, Texas	Damages - Anti-Trust
GUD No. 8623, Dallas Independent School District Appeal of City of Dallas Rate Decision	Railroad Commission of Texas	Cost of Service, 2nd Rate Design, Public Free Schools
Docket No. 12900, Texas-New Mexico Power Company	Public Utility Commission of Texas	Revenue Requirements, Cost of Service, Prudence
No. 89-CV-0240, Metro- Link vs. Southwestern Bell Telephone Company, et. al.	56th Judicial District Court, Galveston County, Texas	Lost Profits and Market Value from Breach of Contract



**JACK E. STOWE, JR.**  
**EXPERT WITNESS RESUME**  
**(continued)**

<b>CASE</b>	<b>JURISDICTION</b>	<b>TOPIC</b>
Docket No. 10200, Texas-New Mexico Power Company	Public Utility Commission of Texas	Revenue Requirements, System Cost of Service, Prudence
Cause No. 95-50259-367, GTE of the Southwest, Inc. vs. City of Denton, Texas	367th Judicial District Court, Denton County, Texas	Damages - Breach of Franchise Agreement
Cause No. 91-1519, Trinity Water Reserve, Inc., et. al. vs. Texas Water Commission, et. al.	126th Judicial District Court, Travis County, Texas	Temporary Injunction Eminent, Probable, and Irreparable Damages
Docket No. 12065, Houston Lighting & Power Company Section 42	Public Utility Commission of Texas	Accounting Issues, Actual Taxes, FASB 106 and 112, Nuclear Decommissioning, Depreciation Rates, Street Lighting Cost of Service and Rate Design
Docket No. 8748-A and 9261-A, City of Arlington, Texas vs. City of Fort Worth, Texas	Texas Natural Resource Conservation Commission	Interim Rate Hearing, Rate Case, Public Interest
Arkansas Oklahoma Gas Corporation on behalf of the Oklahoma Attorney General	Oklahoma Corporation Commission	Cost of Service Determination and Rate Design
Cause No. PUD 001346, Arkansas Oklahoma Gas Corporation	Oklahoma Corporation Commission	Affiliated Transactions
Cause No. 89-4703-F, City of Sachse and City of Rowlett, Texas vs. City of Garland, Texas	116th Judicial District Court	Contract Pricing Violation
Docket No. 8293-M, Sharyland Water Supply Corporation vs. United Irrigation District	Texas Natural Resource Conservation Commission	Revenue Requirements, System Cost of Service
Docket No. 9892, Denton County Electric Cooperative, Inc.	Public Utility Commission of Texas	Rate Case Increase Application, Revenue Requirements
Docket No. 10034, Texas-New Mexico Power Company	Public Utility Commission of Texas	Deferred Accounting Treatment for Unit 2
Docket No. 8291-A, City of Arlington, Texas vs. City of Fort Worth, Texas	Texas Natural Resource Conservation Commission	Wholesale Service Pricing
Docket No. 8388-M, Devers Canal Rice Producers Association, Inc., et. al. vs. Trinity Water Reserve, Inc., et al.	Texas Natural Resource Conservation Commission	Interim Rate Relief and Test Year Cost of Service and Rate Design
Docket Nos. 7796-M and 7831-M, City of Kilgore, Texas vs. City of Longview, Texas	Texas Natural Resource Conservation Commission	Wholesale Service Pricing
Docket No. 9491, Texas-New Mexico Power Company	Public Utility Commission of Texas	Revenue Requirements, System Cost of Service, Prudence
Docket No. 8338-A, City of Highland Village, Texas vs. City of Lewisville, Texas	Texas Natural Resource Conservation Commission	Wholesale Service Pricing

**JACK E. STOWE, JR.**  
**EXPERT WITNESS RESUME**  
**(continued)**

<b>CASE</b>	<b>JURISDICTION</b>	<b>TOPIC</b>
Docket No. 8585, Petition of the General Counsel to Inquire into the Reasonableness of the Rates and Services of Southwestern Bell	Public Utility Commission of Texas	Current System Revenues Treatment of Unprotected Excess Deferred Income Taxes Consolidated Tax Saving
Cause No. 3-89-0115-T, City of Mesquite, Texas vs. Southwestern Bell Telephone Company	Federal Court	Breach of Franchise Agreement
Cause No. D-142, 176, City of Port Arthur, et.al., vs. Southwestern Bell Telephone Company	136 <sup>th</sup> Judicial District, Jefferson County, Texas	Breach of Franchise Agreement
Docket No. 8928, Texas-New Mexico Power Company	Public Utility Commission of Texas	Revenue Requirements, System Cost of Service
Docket No. 8095, Texas-New Mexico Power Company	Public Utility Commission of Texas	Revenue Requirements, System Cost of Service
House Bill 2734	House of Representatives Sub-Committee on Natural Resources	Statutory Clarification
Cause No. 17-173694-98, Computer Translation Systems Support vs. EDS	17 <sup>th</sup> Judicial District Tarrant County, Texas	Damages due to breach of Intellectual Property Contract
City of Lacy Lakeview vs. City of Waco	Texas Natural Resource Conservation Commission	Motion to compel service under just and reasonable rates
A.R. No.: 2005/1999 Coastal Aruba Refining Co. N.V. vs. Water-EN ENGERGIEBEDRIJF ARUBA NV.	Court of First Instance of Aruba	Breach of Contract, Damage Calculations
Edwards Machine and Tool vs. Time-Condor, Inc.	District Court McLennan County	Breach of Contract, Damage Calculations
Jerry Lefler and Larry West vs. ERGOBILT, ERGOGONIKS et. al.	Arbitration	Damages due to breach of Intellectual Property of contract
Docket No. 582-01-1618 Mustang Water Supply Corporation vs. Little Elm, Texas	Texas Natural Resource Conservation Commission	CCN application - Ability to serve
Docket No. 2000-0817-UCR SOAH Docket No. 582-01-0802 Sun Communities, Inc. vs. Maxwell Water Supply Corporation	Texas Natural Resource Conservation Commission	Breach of contract, cost of service and rate design
Fort Worth Independent School District vs. City of Fort Worth	348 <sup>th</sup> Judicial District Tarrant County, Texas	Valuation of Easements, Rebuttal testimony
San Antonio Zoo vs. Edwards Aquifer Authority	Texas Natural Resource Conservation Commission	Permitted annual allotment of water from Edwards Aquifer
Docket No. 2001-1583-UCR Docket No. 582-02-2470 City of McAllen v. Hidalgo County WCID #3	Texas Commission on Environmental Quality	Public Interest
Docket No. 2001-1220-DIS Docket No. 582-02-2664 Platinum Ocean v. Montgomery County, MUD No. 15	Texas Commission on Environmental Quality	Stand-by fees

**JACK E. STOWE, JR.**  
**EXPERT WITNESS RESUME**  
**(continued)**

<b>CASE</b>	<b>JURISDICTION</b>	<b>TOPIC</b>
Docket No. 2001-1298-UCR Docket No. 582-02-1255 East Medina Valley SUD v. Old Hwy 90 WSC	Texas Commission on Environmental Quality	CCN Application
Cause No. 200115173 Seabrook Partners LTD v. City of Seabrook	215th Judicial District Court Harris County, Texas	Damage Calculations
City of Uvalde vs. Edwards Aquifer Authority	Texas Commission on Environmental Quality	Permitted annual acre-feet of water from Edwards Aquifer
Clarksville City vs. City of Gladewater TCEQ Docket No. 2002-1260-UCR Docket No. 582-03-1252	Texas Commission on Environmental Quality	Incremental cost to serve and capacity constraints water and wastewater
Canyon Regional Water Authority and Bexar Metropolitan Water District vs. Guadalupe Blanco River Authority TCEQ Docket No. 2002-1400-UCR SOAH Docket No. 582-03-1991	Texas Commission on Environmental Quality	Public Interest
City of Garland Transmission Cost of Service Rate Application PUCT Docket No. 28090	Public Utility Commission of Texas	Transmission Cost of Service Rate Application
Bill Burch and International Mercantile Incorporated vs. Nextel Communications	Arbitration Tarrant County, Texas	Breach of contract
GUD No. 9400 – Statement of Intent filed by TXU Gas Company to Change Rates	Railroad Commission of Texas	Rate Design
Docket No. 2003-0153-UCR; Appeal of Tall Timbers Utility Company, Inc. to review the Rate Making Actions of the City of Tyler	Texas Commission on Environmental Quality	Retail Wastewater Cost of Service, Rate Design, and Cost Allocation
Docket Nos. 2001-1300-UCR, 2001-0813-UCR, 2002-1278-UCR, & 2002-1281-UCR Cities of McKinney, Melissa, and Anna vs. North Collin Water Supply Corporation	Texas Commission on Environmental Quality	CCN Application – Ability to Provide Service
Application of Denton Municipal Electric to Change Rates for Wholesale Transmission Service, PUCT Docket No. 30358	Public Utility Commission of Texas	Transmission Cost of Service Rate Application
Application of San Antonio City Public Service to Change Rates for Wholesale Transmission Service, PUCT Docket No. 28475	Public Utility Commission of Texas	Transmission Cost of Service Rate Application
Application of City of Garland for Update of Wholesale Transmission Rates Pursuant to PUC Subst. R 25.192(g)(1), PUCT Docket No. 31617	Public Utility Commission of Texas	Interim Transmission Cost of Service Rate Application
Docket Nos. 582-05-7095 and 582-05-7096; Application of the City of Leander to Amend Certificate of Convenience and Necessity No. 10302 and Sewer CCN No. 20626	Texas Commission on Environmental Quality	CCN Application – Ability to Provide Service
Docket No. 582-06-0968; Application from the City of Shenandoah to Obtain Water and Sewer Certificates of Convenience and Necessity in Montgomery County. Applications Nos. 34997-C and 34998-C.	Texas Commission on Environmental Quality	CCN Application – Ability to Provide Service

**JACK E. STOWE, JR.**  
**EXPERT WITNESS RESUME**  
**(continued)**


<b>CASE</b>	<b>JURISDICTION</b>	<b>TOPIC</b>
Petition for Review of Municipal Actions Regarding ATMOS Energy Corp., Mid-Texas Division's Annual Gas Reliability Infrastructure Program Rate Adjustment, GUD Docket Nos. 9598, 9599, 9603	Railroad Commission of Texas	Gas Reliability Infrastructure Program
Cease and Desist Petition of Wax Mid, Inc. against the City of Midlothian, SOAH Docket No 582-06-2332, TCEQ Docket No. 2006-0487-UCR	Texas Commission on Environmental Quality	Response to Cease and Desist Motion
Woodcreek Ratepayers Coalition Petition To Appeal the City of Woodcreek's Decision to Establish Water and Sewer Rates Charged by Aqua Utilities, SOAH Docket No. 582-06-1366, TCEQ Docket No. 2006-0072-UCR	Texas Commission on Environmental Quality	Cost of Service, Revenue Requirements, Cost Allocation, Rate Design

In the State of Texas

§  
§  
§

County of Cooke

I, Betsy Fleitman, City Secretary for the City of Lindsay, Texas, hereby certify that the attached document is a true and correct copy of a document taken from the official City files of the City of Lindsay, Texas, and is maintained in the regular course of business of the City of Lindsay, Texas. Given under my hand and the seal of office on June 3, 2008.

  
\_\_\_\_\_  
City Secretary  
City of Lindsay, Texas

**CITY OF LINDSAY**  
**STATEMENT OF NET ASSETS**  
**OCTOBER 31, 2004**

	Primary Government		
	Governmental Activities	Business-type Activities	Total
<b>ASSETS</b>			
Current assets:			
Cash and cash equivalents	\$ 14,793	\$ 70,162	\$ 84,955
Certificates of deposit	648,000	297,000	945,000
Receivables			
Accounts		8,048	8,048
Property taxes (net)	67,428		67,428
Sales taxes	5,881		5,881
Due from state	6,243		6,243
Accrued interest	840	426	1,266
Total current assets	<u>743,185</u>	<u>375,636</u>	<u>1,118,821</u>
Restricted assets:			
Cash - meter deposits	-	600	600
Certificate of deposit - meter deposits		10,600	10,600
Lease reserve		39,955	39,955
Total restricted assets	<u>-</u>	<u>51,155</u>	<u>51,155</u>
Capital assets:			
Buildings and improvements (net)	368,070	-	368,070
Plant and equipment (net)	14,578	515,795	530,373
Streets (net)	71,812		71,812
Land	23,700	10,000	33,700
Total capital assets	<u>478,160</u>	<u>525,795</u>	<u>1,003,955</u>
Total assets	<u>1,221,345</u>	<u>952,586</u>	<u>2,173,931</u>
<b>LIABILITIES</b>			
Current liabilities:			
Accounts payable	1,818	9,503	11,321
Accrued payroll taxes	1,014		1,014
Customer deposits		11,200	11,200
Deferred revenue	324		324
Current lease payable		39,935	39,935
Less: discount on lease payable		(19,935)	(19,935)
Total current liabilities	<u>3,156</u>	<u>40,703</u>	<u>43,859</u>
Long term liabilities:			
Lease payable	-	392,297	392,297
Less: discount on lease payable		(110,123)	(110,123)
Total long term liabilities	<u>-</u>	<u>282,174</u>	<u>282,174</u>
Total liabilities	<u>3,156</u>	<u>322,877</u>	<u>326,033</u>
<b>NET ASSETS</b>			
Invested in capital assets, net of related debt	478,160	223,621	701,781
Restricted for lease reserve		39,955	39,955
Unrestricted	740,029	366,133	1,106,162
Total net assets	<u>\$ 1,218,189</u>	<u>\$ 629,709</u>	<u>\$ 1,847,898</u>

See accompanying notes to financial statements.

**CITY OF LINDSAY**  
**STATEMENT OF ACTIVITIES**  
**FOR THE YEAR ENDED OCTOBER 31, 2004**

Functions/Programs	Expenses	Program Revenues		Net (Expense) Revenue
		Charges for Services	Operating Grants and Contributions	
Governmental activities:				
General government	\$ 56,587	\$ 3,957		\$ (52,630)
Public safety:				
Court	9,465	16,264		6,799
Police	53,731		1,479	(52,252)
Fire	5,659			(5,659)
Recreation	2,103	925		(1,178)
Streets	30,241			(30,241)
Total governmental activities	<u>157,786</u>	<u>21,146</u>	<u>1,479</u>	<u>(135,161)</u>
Business-type activities:				
Water and sewer utilities	114,004	132,904	-	18,900
Solid waste management	36,324	33,161		(3,163)
Total business-type activities	<u>150,328</u>	<u>166,065</u>	<u>-</u>	<u>15,737</u>
Total primary government	<u>\$ 308,114</u>	<u>\$ 187,211</u>	<u>\$ 1,479</u>	<u>\$ (119,424)</u>

See accompanying notes to financial statements.

**CITY OF LINDSAY**  
**STATEMENT OF ACTIVITIES (continued)**  
**FOR THE YEAR ENDED OCTOBER 31, 2004**

	Primary Government		
	Governmental Activities	Business-type Activities	Total
Change in net assets:			
Net (expense) revenue	\$ (135,161)	\$ 15,737	\$ (119,424)
General revenues:			
Taxes:			
Property	80,911		80,911
Franchise (fees)	33,695	6,391	40,086
Liquor	4,901		4,901
Sales	73,177		73,177
Interest income	13,388	5,469	18,857
Transfers	(36,299)	36,299	-
Total general revenues and transfers	169,773	48,159	217,932
Change in net assets	34,612	63,896	98,508
Net assets - beginning	1,183,577	565,813	1,749,390
Net assets - ending	\$ 1,218,189	\$ 629,709	\$ 1,847,898

See accompanying notes to financial statements.



**CITY OF LINDSAY**  
**BALANCE SHEET - GOVERNMENTAL FUNDS**  
**OCTOBER 31, 2004**

	General Fund	Other Governmental Fund	Total Governmental Funds
<b>ASSETS</b>			
Cash and cash equivalents	\$ 14,472	\$ 321	\$ 14,793
Certificates of deposit	648,000		648,000
Property taxes receivable (net)	67,428		67,428
Sales taxes receivable	5,881		5,881
Due from state	6,243		6,243
Accrued interest	840		840
Total assets	<u>\$ 742,864</u>	<u>\$ 321</u>	<u>\$ 743,185</u>
<b>LIABILITIES</b>			
Accounts payable	\$ 1,818	\$ -	\$ 1,818
Accrued payroll taxes	1,014		1,014
Deferred revenue	57,976	321	58,297
Total liabilities	<u>60,808</u>	<u>321</u>	<u>61,129</u>
<b>FUND BALANCES</b>			
Unreserved	682,056	-	682,056
Total fund balances	<u>682,056</u>	<u>-</u>	<u>682,056</u>
Total liabilities and fund balances	<u>\$ 742,864</u>	<u>\$ 321</u>	<u>\$ 743,185</u>

See accompanying notes to financial statements.

**CITY OF LINDSAY**  
**RECONCILIATION OF THE GOVERNMENTAL FUNDS BALANCE**  
**SHEET TO THE STATEMENT OF NET ASSETS**  
**OCTOBER 31, 2004**

Total fund balances - governmental funds balance sheet	\$ 682,066
Amounts reported for governmental activities in the statement of net assets are difference because:	
Capital assets used in governmental activities are not reported in the funds.	478,160
Property taxes receivable unavailable to pay for current period expenditures are deferred in the funds.	<u>57,973</u>
Net assets of governmental activities - statement of net assets	<u>\$ 1,218,189</u>

See accompanying notes to financial statements.

**CITY OF LINDSAY**  
**STATEMENT OF REVENUES, EXPENDITURES, AND CHANGES**  
**IN FUND BALANCES - GOVERNMENTAL FUNDS**  
**FOR THE YEAR ENDED OCTOBER 31, 2004**

	General Fund	Other Governmental Fund	Total Governmental Funds
<b>REVENUES</b>			
Property taxes	\$ 67,354	\$ -	\$ 67,354
Franchise taxes (fees)	33,695		33,695
Liquor taxes	4,901		4,901
Sales taxes	73,177		73,177
Licenses and permits	3,258		3,258
Fees	17,888		17,888
Grants and donations	200	1,279	1,479
Interest	13,388		13,388
Total revenues	<u>213,861</u>	<u>1,279</u>	<u>215,140</u>
<b>EXPENDITURES</b>			
General government	49,762	-	49,762
Public safety			
Court	8,314		8,314
Police	45,918	1,279	47,197
Fire	4,971		4,971
Recreation	1,847		1,847
Streets	26,564		26,564
Total expenditures	<u>137,376</u>	<u>1,279</u>	<u>138,655</u>
Excess (deficiency) of revenues over (under) expenditures	76,485	-	76,485
<b>OTHER FINANCING SOURCES (USES)</b>			
Transfers to other fund	(36,299)	-	(36,299)
Total other financing sources (uses)	<u>(36,299)</u>	<u>-</u>	<u>(36,299)</u>
Net change in fund balances	40,186	-	40,186
Fund balances - beginning	641,870	-	641,870
Fund balances - ending	<u>\$ 682,056</u>	<u>\$ -</u>	<u>\$ 682,056</u>

See accompanying notes to financial statements.

**CITY OF LINDSAY**  
**RECONCILIATION OF THE STATEMENT OF REVENUES, EXPENDITURES**  
**AND CHANGES IN FUND BALANCES OF GOVERNMENTAL FUNDS**  
**TO THE STATEMENT OF ACTIVITIES**  
**FOR THE YEAR ENDED OCTOBER 31, 2004**

Net change in fund balances - total governmental funds	\$ 40,186
Amounts reported for governmental activities in the statement activities ("SOA") are different because:	
Capital outlays are not reported as expenses in the SOA	180
Loss on disposal of assets are not reported in the funds.	(141)
The depreciation of capital assets used in governmental activities is not reported in the funds	(19,170)
Certain property tax revenues are deferred in the funds. This is the change in these amounts for this year.	<u>13,557</u>
Change in net assets of governmental activities - statement of activities	<u>\$ 34,612</u>

See accompanying notes to financial statements.

**CITY OF LINDSAY**  
**STATEMENT OF FUND NET ASSETS**  
**PROPRIETARY FUND**  
**OCTOBER 31, 2004**

	<u>Water and Sewer Utilities</u>
<b>ASSETS</b>	
Current assets:	
Cash and cash equivalents	\$ 70,162
Certificates of deposit	297,000
Accounts receivable	8,048
Accrued interest	426
Total current assets	<u>375,636</u>
Restricted assets:	
Cash - meter deposits	600
Certificate of deposit - meter deposits	10,600
Lease reserve	39,955
Total restricted assets	<u>51,155</u>
Capital assets:	
Plant and equipment (net)	515,795
Land	10,000
Total capital assets	<u>525,795</u>
Total assets	<u>952,586</u>
<b>LIABILITIES</b>	
Current liabilities:	
Accounts payable	9,503
Customer deposits	11,200
Current lease payable	39,935
Less: discount on lease payable	<u>(19,935)</u>
Total current liabilities	<u>40,703</u>
Long term liabilities:	
Lease payable	392,297
Less: discount on lease payable	<u>(110,123)</u>
Total long term liabilities	<u>282,174</u>
Total liabilities	<u>322,877</u>
<b>NET ASSETS</b>	
Invested in capital assets, net of related debt	223,621
Restricted for lease reserve	39,955
Unrestricted	366,133
Total net assets	<u>\$ 629,709</u>

See accompanying notes to financial statements.

**CITY OF LINDSAY**  
**STATEMENT OF REVENUES, EXPENSES, AND**  
**CHANGES IN FUND NET ASSETS**  
**PROPRIETARY FUND**  
**FOR THE YEAR ENDED OCTOBER 31, 2004**

	<u>Water and Sewer Utilities</u>
<b>OPERATING REVENUES</b>	
Charges for services:	
Water and sewer charges	\$ 129,778
Water connection fees	3,128
Sanitation charges	33,161
Franchise fees	6,391
Total operating revenues	<u>172,456</u>
<b>OPERATING EXPENSES</b>	
Depreciation	31,946
General and administrative	5,991
Labor	8,479
Payroll expenses	10,898
Repairs and maintenance	12,873
Supplies	1,045
Testing	2,572
Utilities	55,565
Total operating expenses	<u>129,169</u>
Operating income	<u>43,287</u>
<b>NONOPERATING REVENUES (EXPENSES)</b>	
Interest income	5,469
Interest expense	(21,159)
Total nonoperating revenues (expenses)	<u>(15,690)</u>
Net income before contributions and transfers	27,597
Transfers from other funds	36,299
Change in net assets	<u>63,896</u>
Net assets - beginning	565,813
Net assets - ending	<u>\$ 629,709</u>

See accompanying notes to financial statements.

**CITY OF LINDSAY**  
**STATEMENT OF CASH FLOWS**  
**INCREASE (DECREASE) IN CASH AND CASH EQUIVALENTS**  
**PROPRIETARY FUND**  
**FOR THE YEAR ENDED OCTOBER 31, 2004**

Cash flows from operating activities:	
Cash received from customers	\$ 170,313
Cash payments to suppliers for goods and services	(80,275)
Cash payments to employees and contractors for services	(19,377)
Net cash provided (used) by operating activities	<u>70,661</u>
Cash flows from capital and related financing activities:	
Principal payments on capital lease	(20,000)
Interest paid on capital lease	(21,159)
Operating transfers in from general fund	36,299
Net cash provided (used) capital and related financing activities	<u>(4,860)</u>
Cash flows from investing activities:	
Interest income	5,355
Net (purchases)/maturities of certificates of deposits	(41,000)
Net cash provided (used) by investing activities	<u>(35,645)</u>
Net increase (decrease) in cash and cash equivalents	30,156
Cash and equivalents, beginning	<u>40,606</u>
Cash and equivalents, ending	<u>\$ 70,762</u>
Reconciliation of operating income to net cash provided (used) by operating activities:	
Operating income	\$ 43,287
Adjustments to reconcile operating income (loss) to net cash provided (used) by operating activities:	
Depreciation	31,946
(Increase) Decrease in accounts receivable	(2,473)
Increase (Decrease) in accounts payable	(2,429)
Increase (Decrease) in customer deposits	330
Net cash provided (used) by operating activities	<u>\$ 70,661</u>

Noncash investing, capital, and financing activities:

There were no significant noncash investing, capital, and financing activities during the reported period.

	Current Assets	Restricted Assets	Statement of Cash Flows Total
Cash and cash equivalents - beginning	\$ 39,336	\$ 1,270	\$ 40,606
Net increase (decrease)	30,826	(670)	30,156
Cash and cash equivalents - ending	<u>\$ 70,162</u>	<u>\$ 600</u>	<u>\$ 70,762</u>

See accompanying notes to financial statements.

**CITY OF LINDSAY**  
**NOTES TO THE FINANCIAL STATEMENTS**  
**FOR THE YEAR ENDED OCTOBER 31, 2004**

Depreciation was charged to functions as follows:

Water and sewer utilities \$ 31,946

**D. Transfers To and From Other Funds**

Transfers to and from other funds at October 31, 2004, consisted of the following:

<u>Transfers From</u>	<u>Transfers To</u>	<u>Amount</u>	<u>Reason</u>
General fund	Water and sewer fund	\$ 36,299	Supplement other fund sources

**E. Commitments under Capitalized Leases**

During the fiscal year 1995, the City entered into a contract to construct and acquire a new water well under the provisions of a long-term capital lease agreement. Upon final payment (fiscal year 2015) the title of the water well will pass to the City.

Future obligations over the primary terms of the City's capital lease as of October 31, 2004 are as follows:

<u>Year Ending</u> <u>October 31,</u>	<u>Amount</u>
2005	\$39,935
2006	38,697
2007	39,522
2008	41,026
2009	41,486
2010-2014	206,647
2015	24,920
Total	\$432,233

The effective interest rate on the capital lease is 6.55%.

**F. Risk Management**

The City is exposed to various risks of loss related to torts, theft, damage or destruction of assets, errors and omissions, injuries to employees, and natural disasters. During fiscal year 2004, the City purchased commercial insurance to cover general liabilities. There were not significant reductions in coverage in the past fiscal year and there were not settlements exceeding insurance coverage for each of the past three fiscal years.

**G. Restricted Assets**

As of October 31, 2004, the City had restricted assets of \$51,155. The City restricts assets and reserves a portion of its retained earnings to meet the requirements of its capital lease. The City restricts the money held on deposit for meter deposits.




In the State of Texas

§  
§  
§

County of Cooke

I, Betsy Fleitman, City Secretary for the City of Lindsay, Texas, hereby certify that the attached document is a true and correct copy of a document taken from the official City files of the City of Lindsay, Texas, and is maintained in the regular course of business of the City of Lindsay, Texas. Given under my hand and the seal of office on June 3, 2008.

  
\_\_\_\_\_  
City Secretary  
City of Lindsay, Texas

**CITY OF LINDSAY**  
**STATEMENT OF NET ASSETS**  
**OCTOBER 31, 2005**

	Primary Government		
	Governmental Activities	Business-type Activities	Total
<b>ASSETS</b>			
Current assets:			
Cash and cash equivalents	\$ 43,362	\$ 32,088	\$ 75,450
Certificates of deposit	619,000	357,000	976,000
Receivables			
Accounts		11,369	11,369
Property taxes (net)	80,647		80,647
Sales taxes	8,885		8,885
Accrued interest	1,047	780	1,807
Total current assets	<u>752,941</u>	<u>401,217</u>	<u>1,154,158</u>
Restricted assets:			
Cash - meter deposits	-	1,830	1,830
Certificate of deposit - meter deposits		10,800	10,800
Lease reserve		39,955	39,955
Total restricted assets	<u>-</u>	<u>52,385</u>	<u>52,385</u>
Capital assets:			
Buildings and improvements (net)	400,072	-	400,072
Plant and equipment (net)	21,939	548,814	570,753
Streets (net)	76,968		76,968
Land	23,700	10,000	33,700
Total capital assets	<u>522,679</u>	<u>558,814</u>	<u>1,081,493</u>
Total assets	<u>1,275,620</u>	<u>1,012,416</u>	<u>2,288,036</u>
<b>LIABILITIES</b>			
Current liabilities:			
Accounts payable	1,628	7,857	9,485
Accrued payroll taxes	1,119		1,119
Customer deposits		12,430	12,430
Deferred revenue	789		789
Current lease payable		38,697	38,697
Less: discount on lease payable		(18,697)	(18,697)
Total current liabilities	<u>3,536</u>	<u>40,287</u>	<u>43,823</u>
Long term liabilities:			
Lease payable	-	353,600	353,600
Less: discount on lease payable		(91,426)	(91,426)
Total long term liabilities	<u>-</u>	<u>262,174</u>	<u>262,174</u>
Total liabilities	<u>3,536</u>	<u>302,461</u>	<u>305,997</u>
<b>NET ASSETS</b>			
Invested in capital assets, net of related debt	522,679	276,640	799,319
Restricted for lease reserve		39,955	39,955
Unrestricted	749,405	393,360	1,142,765
Total net assets	<u>\$ 1,272,084</u>	<u>\$ 709,955</u>	<u>\$ 1,982,039</u>

See accompanying notes to financial statements.