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SOAH DOCKET NO. 473-15-2123.WS  
PUC DOCKET NO. 44010

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PUBLIC UTILITY COMMISSION  
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<b>PETITION OF THE RATEPAYERS OF</b>	<b>§</b>	<b>BEFORE THE</b>
<b>THE RIVER PLACE WATER AND</b>	<b>§</b>	<b>PUBLIC UTILITY COMMISSION</b>
<b>WASTEWATER SYSTEMS APPEALING</b>	<b>§</b>	<b>OF TEXAS</b>
<b>THE RETAIL WATER AND</b>	<b>§</b>	
<b>WASTEWATER RATES OF THE</b>	<b>§</b>	
<b>CITY OF AUSTIN</b>	<b>§</b>	

**CITY OF AUSTIN'S LIST OF ISSUES**

TO THE HONORABLE PUBLIC UTILITY COMMISSION OF TEXAS:

Comes now the City of Austin ("Austin"), Respondent in the above styled and docketed matter, pursuant to Order No. 1 files this List of Issues. Austin respectfully shows the Public Utility Commission of Texas ("Commission") the following:

**I. Introduction**

The Original Petition Appealing Retail Water and Wastewater Rates of the City of Austin and Motion for Interim Rates is an appeal by Austin retail water and wastewater ratepayers within the River Place area. These ratepayers were formerly served water and wastewater utilities by River Place Municipal Utility District ("MUD"). The Petitioners have recently become retail customers of Austin's Water Utility by virtue of the Agreement for Water and Wastewater Service and Operations Management of Facilities between the City of Austin and the River Place Municipal Utility District; and Amendment to Agreement for Emergency Water Service dated September 7, 2009 ("Agreement for Water and Wastewater Service"). Through the Agreement for Water and Wastewater Service, the MUD transferred ownership and operation of its water and wastewater utility system to the City of Austin along with the accounts of the customers being served. On October 1, 2014, the customers of the transferred system became

retail customers of the City of Austin, and as agreed, were from the point forward subject to Austin's existing rates for retail water and wastewater service. Unquestionably, the rates complained of by the Petitioners are rates set pursuant to a contract. With respect to the appeal of the change in rates that occurred on November 1, 2104, there is no jurisdiction because ratepayers did not comply with requirements in Texas water Code §13.043 (b), (c) and (d).

## **II. Issues to be Addressed**

1. Does the Commission have jurisdiction to consider Original Petition Appealing Retail Water and Wastewater Rates of the City of Austin and Motion for Interim Rates by River Place ("the River Place Petition") under Texas Water Code, §13.043?
2. Do the retail customers of a municipal utility district being transferred by agreement to a municipally owned utility's retail service constitute ratepayers of the municipally owned utility "whose rates have been changed" for the purpose of establishing Commission jurisdiction for appeal under Texas Water Code §13.304 (c)?
3. Are the applicable Austin retail rates for water and wastewater service that became effective at the time of the transfer of service from the MUD to Austin on October 1, 2014, in accordance with the Agreement for Water and Wastewater Service, considered a change in rates?
4. Is River Place MUD, the political subdivision that approved the transfer to City retail water and wastewater rates that are the subject of the River Pace Petition, a necessary party to this proceeding?
5. Does the River Place Petition meet the requirements of P.U.C. SUBST. R. 24.130, 16 Tex. Admin. Code, §24.130?
6. Pursuant to PUC SUBST. R. §24.29(e), 16 Tex. Admin. Code §24.29, when should SOAH consider interim rates pursuant to TWC §13.043(h)?

7. Is the October 1, 2014 application of the City of Austin water and wastewater rates set pursuant to a written contract?
8. Can Petitioner meet its burden of proof under PUC SUBST. R. 24.146, 16 TEX. ADMIN. CODE §24.136, by demonstrating that the charge sought to be imposed adversely affects the public interest by violating at least one of the public interest criteria listed in PUC Subst. R. 24.133(a), 16 Tex. Admin. Code §24.133(a)?
  - a. What are the bases for determining if the Austin retail water and wastewater rate of October 1, 2014 and increase of November 1, 2014 do not adversely affect the public interest as required by PUC SUBST. R. §24.134(a), 16 Tex. Admin. Code §24.134(a)?
  - b. What are the bases for determining Austin retail water and wastewater rate of October 1, 2014 and increase of November 1, 2014 adversely affect the public interest as required by PUC SUBST. R. §24.134(e), 16 Tex. Admin. Code §24.134(e)?
9. What are reasonable expenses incurred by Austin in this proceeding? Texas Water Code §13.304 (e) and 16 Tex. Admin. Code § 24.41(e) (2).

This proposed list of issues is not intended to be exhaustive, the City of Austin reserves the right to raise or address or other issues in the proceeding.

### **III. List of Issues Not be Addressed**

At this time, any issues related to cost of service or rate design for the City's water and wastewater rates are not to be addressed. The City reserves the right to identify other issues that should not be addressed.

#### **IV. Conclusion and Prayer**

WHEREFORE, PREMISES CONSIDERED, the City of Austin respectfully requests that the Commission address the Preliminary Issues identified above, find that the Austin retail water and wastewater rate of October 1, 2014 and increase of November 1, 2014:

1. Are rates charged pursuant to a written contract, and therefore require a public interest determination
2. Additionally, Austin requests that the Commission ultimately consider the River Place Petition and ultimately find and conclude:
  - a. That Austin retail water and wastewater rate of October 1, 2014 and increase of November 1, 2014 are not adverse to the public interest;
  - b. That Interim Rates are not justified, and that a cost of service hearing would be an impairment of the contractual obligations of Austin and River Place, and therefore prohibited by the Texas Constitution; and
  - c. If a cost of service hearing is required, that Austin retail water and wastewater rate of October 1, 2014 and increase of November 1, 2014 reasonably reflect Austin's cost of providing retail water and wastewater utility service to River Place.

Respectfully submitted,

**CITY OF AUSTIN**

By: Maria Sanchez

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**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing document was served on all parties of record in this proceeding on this the 11<sup>th</sup> day of February 2015, by first class, U.S. Mail, postage prepaid.

Maria Sanchez  
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