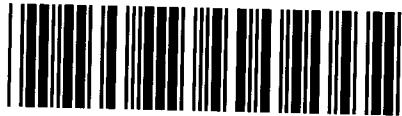


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PUBLIC UTILITY COMMISSION
BEFORE THE FILING CLERK

PETITION OF THE	§	
RATEPAYERS OF THE	§	
RIVER PLACE WATER AND	§	
WASTEWATER SYSTEMS	§	STATE OFFICE OF
APPEALING THE RETAIL WATER	§	
AND WASTEWATER RATES OF	§	
THE CITY OF AUSTIN	§	ADMINISTRATIVE HEARINGS

**PETITIONERS' RESPONSE
TO THE CITY OF AUSTIN MOTION TO STAY DISCOVERY**

TO THE PUBLIC UTILITY COMMISSION OF TEXAS:

COME NOW, the Ratepayers of the River Place Water and Wastewater Systems ("Ratepayers" or "Petitioners") and file this Response to the City's of Austin's ("City") Motion to Stay Discovery and would respectfully show the following:

I. BACKGROUND

On February 13, 2015, PUC Staff filed their First Request for Information with the City. Subsequently, the City filed a Motion to Dismiss the Petition with prejudice, claiming that the Petition did not meet the requirements of TEXAS WATER CODE § 13.043. Petitioners filed their Response to the City of Austin's Motion to Dismiss on March 2, 2015, which Petitioners filed timely pursuant to P.U.C. PROC. R. 22.181. On March 3, 2015, the City filed its Motion to Stay Discovery, asking that the Administrative Law Judge ("ALJ") stay discovery until such times as the ALJ rules on the City's Motion to Dismiss. Therefore, Petitioners response is timely.¹

¹ P.U.C. PROC. R. 22.78(a) (*requiring* party to respond to motions with five working days of filing with the Commission. The PUC did not receive the City's filing until March 3, 2015, as March 2, 2015 is a State of Texas holiday).

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II. ARGUMENT AND FACTS

The City of Austin failed to show any good cause to stay the PUC Staff's discovery until the ALJ rules on the City's Motion to Dismiss. P.U.C. PROC. R. 22.144(a) allows parties to serve written discovery requests at any time after Petitioners filed their petition with the Commission. Both the PUC Staff and Petitioners believe that the City's Motion to Dismiss is without merit, and the ALJ will deny the motion. Discovery is necessary to allow all of the parties with an opportunity to obtain the necessary information to perform a thorough review of all of the issues in this matter, including any future issues regarding jurisdiction.

The City claims that the filing of its Motion to Dismiss for lack of jurisdiction is the good cause basis for granting its Motion to Stay Discovery. However, a party, including the City, can raise jurisdictional issues at any time, by filing a motion to dismiss under P.U.C. PROC. R. 22.181. The ALJ can dismiss any matter should any party's discovery request uncover any concerns with the Commission's jurisdiction. If the ALJ were to follow City's argument to fruition, then any party could attempt to stay all discovery requests in every matter pending before the State Office of Administrative Hearings by simply filing a motion to dismiss, regardless of the merits of that motion.

III. CONCLUSION

For the reasons set out above, Petitioners respectfully request that the Administrative Law Judge deny the City's Motion to Stay and grant the Petitioners other and such relief to which Petitioners are entitled.

Respectfully submitted,

Randall B. Wilburn
Gilbert Wilburn, PLLC
State Bar No. 24033342
7000 North MoPac Blvd., Suite 200
Austin, Texas 78731
Telephone: (512) 535-1661
Telecopier: (512) 535-1678

By: 

Randall B. Wilburn

ATTORNEYS FOR PETITIONERS

CERTIFICATE OF SERVICE

I hereby certify that I have or will serve a true and correct copy of the foregoing document via hand delivery, facsimile, electronic mail, overnight mail, U.S. mail, and/or Certified Mail Return Receipt Requested on all parties on the 10th day of March 2015.

By: 

Randall B. Wilburn