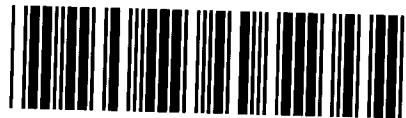


Control Number: 44010



Item Number: 71

Addendum StartPage: 0

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

2015 JUN 26 AM 9:11  
FILED CLERK

<b>PETITION OF RATEPAYERS OF THE FORMER RIVER PLACE WATER AND WASTEWATER SYSTEMS APPEALING THE RETAIL WATER AND WASTEWATER RATES OF THE CITY OF AUSTIN</b>	§ § § § § § §	<b>BEFORE THE STATE OFFICE      OF    ADMINISTRATIVE HEARINGS</b>
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**CITY OF AUSTIN'S FIRST REQUEST FOR ADMISSIONS AND SECOND  
REQUEST FOR INFORMATION TO PETITIONERS**

TO: Petitioners, by and through their counsel of record, Randall B. Wilburn of Gilbert Wilburn PLLC, 7000 North MoPac Boulevard, Suite 200, Austin, Texas 78731

COMES NOW, the City of Austin (hereinafter referred to as "the City," "Austin," "Respondent"), in the above styled and docketed water rate appeal proceeding, pursuant to P.U.C. Proc. R. 22.141(b), Rule 194 of the Texas Rules of Civil Procedure, Chapter 2001 of the Texas Government Code, and applicable rules and regulations of the Public Utility Commission of Texas and the State Office of Administrative Hearings requests that Petitioners, provide within 20 days of service of this request, the information or material described in Rule 194.2 (a)-(l):

You are requested to answer in complete detail and in writing each of the following requests for information, as well as produce the requested documents, within 20 days of service in accordance with the Texas Rules of Civil Procedure and the Procedural Rules of the Public Utility Commission at the offices of the undersigned counsel, or at such other time and place as agreed between counsel. Petitioners are encouraged to produce responsive documents in an electronic format.

These requests are continuing in nature. If further or different information is made available to the party upon whom these requests are made, such information is to be made

available at the office of the City of Austin's attorneys during usual business hours within a reasonable time after Petitioners receives the information.

### **I. INSTRUCTIONS**

1. Answer each request for documents by separately listing the documents and by describing them as defined below. If a document already has been provided in response to a previous document request, the subsequent response need simply identify such document.

2. The singular shall be deemed to include the plural and vice versa so as to bring within the scope of this request all documents which might otherwise be construed to be outside the scope.

3. If any document is withheld under a claim of privilege, provide the following information with respect to any such document so as to aid in determining the validity of the claim of privilege:

- a. The identity of the person(s): (i) who prepared the document; (ii) who signed the document, and (iii) over whose name it was sent or issued;
- b. The identity of the person(s) to whom the document was directed;
- c. The identity of the person(s) who has custody of, or control over, the document and each copy thereof;
- d. The identity of each person to whom a copy of the document was furnished;
- e. The job title(s) of each person named in (a) (b), (c) and (d) above;
- f. The nature and substance of the document, with sufficient particularity to enable the Court and the parties to identify the document;
- g. The date of the document; the number of pages of the document;

- h. The basis on which any privilege is claimed, including the statute, rule, or decision, which is claimed to give rise to the privilege.
  - i. Whether any non-privileged matter is included in the document; and
- 4. In the case of any document relating in any way to a meeting or conversation, provide the date and place of such meeting or conversation and a list of the participants thereto.
- 5. For a document that no longer exists or that cannot be located, identify the document; state how and when it passed out of existence, or when it could no longer be located, and the reasons for the disappearance. Also, identify each person having knowledge about the disposition or loss of the document, and identify any other document evidencing the lost document's existence or any facts about the lost document.
- 6. Petitioners should supplement as soon as possible the responses to these requests as additional documents become available or come into existence.

## **II. DEFINITIONS**

The following definitions shall have the following meanings, unless the context provides otherwise:

- 1. "River Place Petitioners" means Petitioners, their agents, representatives, and all other persons acting in concert with them or under their control, whether directly or indirectly, including any attorney.
- 2. "Austin" or "the City" means the City of Austin, Texas, its agents, representatives, and all other persons acting in concert with it, or under its control, whether directly or indirectly, including any attorney.
- 3. "You" or "your" means the Petitioners, their successors, predecessors, divisions, subsidiaries, present and former officers, agents, employees, consultants, and all other persons acting on behalf of Petitioners, including successors, predecessors, divisions, and subsidiaries.

4. The term “document” is used in its broadest sense to mean all writings or records of any kind, including but not limited to the original, any drafts, and all non-identical copies (whether different from originals by reason of notation made on such copies or otherwise) of all correspondence, letters, emails, memoranda, telegrams, diaries, appointment calendars, books, reports, records, handwritten notes, working papers, statements, journals, worksheets, charts, plans, diagrams, sketches, brochures, pamphlets, manuals, newspapers, magazines, bulletins, circulars, contracts, proposals, written agreements, interoffice communications, photographs, pictures, slides, films, microfilm, voice recordings, tapes, videotapes, computer input and output material, electronic data and other writings or communications of any kind or description whatsoever, in the possession, custody or control of Petitioners, their attorneys, officers, employees and/or agents.

5. “Relating to” means consisting of, referring to, reflecting, containing, discussing, describing, evidencing, substantiating, memorializing, prepared in connection with, used in preparation for, pertaining to, having any relationship to, or in any way being factually, legally, or logically connected to, in whole or in part, the stated subject matter. “Relating to” also means, without limitation, embodying, mentioning or concerning, directly or indirectly, the subject matter identified in the request.

6. “Possession, custody, or control” of an item means that the person either has physical possession of the item or has a right to possession that is equal or superior to the person who has physical possession of the item.

7. “File” means any collection or group of documents maintained, held, stored, or used together, including, without limitation, all collections of documents maintained, held or stored in folders, notebooks, or other devices for separating or organizing documents.

8. “Person” means any natural person, corporation, firm association, partnership, joint venture, proprietorship, governmental body, or any other organization, business, or legal entity, and all predecessors or successors in interest.

9. "Concerning" means, in whole or in part, directly or indirectly, referring to, relating to, connected with, commenting on, responding to, showing, describing, analyzing, reflecting, and constituting.

10. "Communication" means any oral or written communication of which Petitioners has knowledge, information, or belief.

11. "Date" means the exact date, month, year, if ascertainable, or, if not, the best available approximation.

12. "Describe" and "identify," when referring to a person, are defined to required that you state the following:

- a. The full name;
- b. The present or last known residential address;
- c. The present of last known residential and office telephone numbers;
- d. The present occupation, job title, employer, and employer's address at the time of the event or period referred to in each particular request; and
- e. In the case of any person other than an individual, identify the officer, employee, or agent most closely connected with the subject matter of the request and identify the officer who is responsible for supervising that officer or employee.

13. "Describe" and "identify," when referring to a document, are defined to require that you state the following:

- a. The nature (e.g., letter, handwritten note) of the document;
- b. The title or heading that appears on the document;
- c. The date of the documents and the date of each addendum, supplement, or other addition or change;
- d. The identity of the author and of the signor of the document, and of the person on whose behalf or at whose request or direction the document was prepared or delivered; and
- e. The present location of the document, and the name, address, position, or title, and telephone number of the person or person having custody of the document.

14. The word "and" means "and/or."  
15. The word "or" means "or/and."

### **III. FIRST REQUEST FOR ADMISSIONS**

REQUEST FOR ADMISSION NO. 1: Admit or deny that all Petitioners are residents of River Place Municipal Utility District ("MUD").

**ADMIT**\_\_\_\_\_ **DENY**\_\_\_\_\_

REQUEST FOR ADMISSION NO. 2: Admit or deny that all Petitioners are members of the River Place Residential Community Association, Inc.

**ADMIT**\_\_\_\_\_ **DENY**\_\_\_\_\_

REQUEST FOR ADMISSION NO. 3: Admit or deny that the River Place MUD was acting on behalf of the rate payers of the River Place subdivision, in which the Petitioners reside, when it executed the Strategic Partnership Agreement with Austin in 2009.

**ADMIT**\_\_\_\_\_ **DENY**\_\_\_\_\_

REQUEST FOR ADMISSION NO. 4: Admit or deny that the retail residential water and wastewater rates charged to River Place Petitioners are the same rates charged to all City of Austin retail residential ratepayers.

**ADMIT**\_\_\_\_\_ **DENY**\_\_\_\_\_

REQUEST FOR ADMISSION NO. 5: Admit or deny that the City's retail residential water and wastewater rates are the same rates charged to all retail residential ratepayers residing outside the City of Austin.

**ADMIT**\_\_\_\_\_ **DENY**\_\_\_\_\_

REQUEST FOR ADMISSION NO. 6: Admit or deny that Petitioners are beneficiaries of the Strategic Partnership Agreement between the City of Austin and the River Place Municipal Utility District.

**ADMIT**\_\_\_\_\_ **DENY**\_\_\_\_\_

REQUEST FOR ADMISSION NO. 7: Admit or deny that Petitioners are beneficiaries of the Agreement for Water and Wastewater Service and Operations Management of Facilities between the City of Austin and the River Place MUD.

**ADMIT**\_\_\_\_\_ **DENY**\_\_\_\_\_

**IV. SECOND REQUEST FOR INFORMATION**

REQUEST FOR INFORMATION NO. 1. Please identify all persons who participated in answering these Requests for Information.

**RESPONSE:**

REQUEST FOR INFORMATION NO. 2. Please provide the assumed name of the Petitioner group or organization, if there is a group or organization and an assumed name.

**RESPONSE:**

REQUEST FOR INFORMATION NO. 3. Please provide all documents relating to the River Place Petitioners' group or organization.

**RESPONSE:**

REQUEST FOR INFORMATION NO. 4. Please state the names of all Petitioners or members of the River Place Petitioners' group who organized these appeals of Austin's retail residential water and wastewater rates, and explain all reasons for the appeals.

**RESPONSE:**

REQUEST FOR INFORMATION NO. 5. Please state the relief requested by the Petitioners in this contested case hearing before the Public Utility Commission ("PUC") and the State Office of Administrative Hearings ("SOAH").

**RESPONSE:**

REQUEST FOR INFORMATION NO. 6. Please provide the names of Petitioners' representatives with authority to enter into and bind the Petitioners and/or Petitioners' group or organization to any agreement with the City of Austin regarding water and wastewater rates.

**RESPONSE:**

REQUEST FOR INFORMATION NO. 7. Please state whether or not Petitioners Lee Writland, Scott Crosby and Wick Tobias are authorized to enter into an agreement with the City of Austin resolving this rate dispute, and, also, binding "the Ratepayers of the River Place Water and Wastewater Systems" to the terms and conditions of any such agreement.

**RESPONSE:**

REQUEST FOR INFORMATION NO. 8. Please provide all documents, files, emails, sign-up sheets, and any other documents relating to the River Place Petitioners' organization and prosecution of this appeal of Austin's retail residential water and wastewater rates, and describe the objectives of these appeals, including relief outside of the pending contested case hearing.

**RESPONSE:**

REQUEST FOR INFORMATION NO. 9. Please disclose and describe all participation by both the officers and membership of the River Place Residential Community Association, Inc. and the officers and directors of the River Place MUD in organizing, promoting or assisting in the instant water and wastewater rate appeals.

**RESPONSE:**

REQUEST FOR INFORMATION NO. 10. Do you assert that the current rates that are applicable to the Petitioners are different from the water and wastewater rates charged to other outside city residential customers? If the answer is yes, please explain your understanding of the difference in the water and wastewater rates.

**RESPONSE:**

REQUEST FOR INFORMATION NO. 11. Please provide a copy of the attorney engagement agreement between Petitioners and their attorneys pertaining to this rate appeal.

**RESPONSE:**

REQUEST FOR INFORMATION NO. 12. Please provide all reasons why the River Place Petitioners should not pay the retail residential water and wastewater rates agreed to between the City of Austin and the River Place MUD.

**RESPONSE:**

REQUEST FOR INFORMATION NO. 13. Do you assert the right to be charged different retail residential water and wastewater rates from other Austin Water Utility residential water and wastewater ratepayers? If the answer is yes, on what bases do you assert such a right?

**RESPONSE:**

REQUEST FOR INFORMATION NO. 14. Do you assert the right to be charged different retail residential water and wastewater rates from other Austin Water Utility outside city residential water and wastewater ratepayers? If the answer is yes, on what bases do you assert such a right?

**RESPONSE:**

REQUEST FOR INFORMATION NO. 15. Do you seek a final order from the PUC that allows Austin to discriminate between the River Place Petitioners' rates and other retail residential water and wastewater ratepayers?

**RESPONSE:**

REQUEST FOR INFORMATION NO. 16. Do you seek a final order from the PUC that allows Austin to discriminate between the River Place Petitioners' rates and other outside city retail residential water and wastewater ratepayers.

**RESPONSE:**

REQUEST FOR INFORMATION NO. 17. Please identify all Petitioners who are now or have ever been officers, employees, or consultants to the River Place Residential Community Association, Inc. or the River Place MUD, and indicate the dates that such identified persons served or serve in such capacities with the River Place MUD or the River Place Residential Community Association, Inc.

**RESPONSE:**

REQUEST FOR INFORMATION NO. 18. Please provide copies of all water and wastewater bills paid by all the Petitioners for the months of March and April, 2015.

**RESPONSE:**

REQUEST FOR INFORMATION NO. 19. Please provide copies of all documents, including email communications, between representatives of the River Place Residential Community Association, Inc. and the River Place MUD and any of the Petitioners regarding the instant rate appeals.

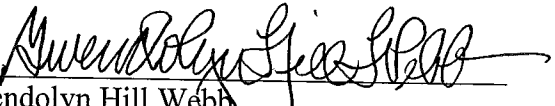
**RESPONSE:**

Respectfully submitted,

**KAREN KENNARD,**  
City Attorney

**MARIA SANCHEZ,**  
Assistant City Attorney

**WEBB & WEBB**  
712 Southwest Tower  
211 East Seventh Street  
Austin, Texas 78767  
Tel: (512) 472-9990  
Fax: (512) 472-3183

By:   
Gwendolyn Hill Webb  
State Bar No. 21026300

Stephen P. Webb  
State Bar No. 21033800

ATTORNEYS FOR CITY OF AUSTIN

## CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document has been served via hand delivery, facsimile, electronic mail, overnight mail, US mail and/or Certified Mail Return Receipt Requested on all parties whose names appear on the mailing list below on this 25<sup>th</sup> day of June, 2015.

FOR THE PUBLIC UTILITY COMMISSION:

1701 N. Congress Avenue, 7<sup>th</sup> Floor  
PO Box 13326  
Austin, Texas 78711-3326  
Via Electronic Upload

FOR THE ADMINISTRATIVE LAW JUDGES:

Honorable Lilo D. Pomerleau  
Honorable William B. Newchurch  
Administrative Law Judges  
State Office of Administrative Hearings  
300 W. 15<sup>th</sup> Street, Suite 504  
Austin, Texas 78701  
Phone: 512-475-4993  
Fax: 512-322-2061  
Via Electronic Upload

FOR THE SOAH DOCKET CLERK:


Ms. Monica Luna, Docketing Clerk  
State Office of Administrative Hearings  
300 W. 15<sup>th</sup> Street, Suite 504  
Austin, Texas 78701  
Phone: 512-475-4993  
Fax: 512-322-2061  
Via Electronic Upload

FOR PETITIONERS:

Mr. Randall B. Wilburn, Attorney at Law  
3000 South IH 35, Suite 150  
Austin, Texas 78704  
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[rbw@randallwilburnlaw.com](mailto:rbw@randallwilburnlaw.com)

FOR THE PUC STAFF:

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512-936-7297  
Public Utility Commission of Texas  
1701 N. Congress Avenue  
PO Box 13326  
Austin, Texas 78711-3326  
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GWENDOLYN HILL WEBB