



Control Number: 44010



Item Number: 74

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

2015 JUL -8 PM 3:49

**PETITION OF RATEPAYERS OF
THE FORMER RIVER PLACE
WATER AND WASTEWATER
SYSTEMS APPEALING THE
RETAIL WATER AND
WASTEWATER RATES OF THE
CITY OF AUSTIN**

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BEFORE THE STATE OFFICE

PUBLIC UTILITY COMMISSION
FILING CLERK

OF

ADMINISTRATIVE HEARINGS

**CITY OF AUSTIN'S FIRST REQUEST FOR ADMISSIONS AND SECOND
REQUEST FOR INFORMATION TO COMMISSION STAFF**

TO: Public Utility Commission Staff, by and through their counsel of record, Jessica Gray and Thomas L. Tynes, Legal Division, Public Utility Commission of Texas, 1701 N. Congress Avenue, PO Box 13326, Austin, Texas 78711

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 Public Utility Commission of Texas Staff ("PUC Staff" or "Commission Staff"), 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. PUC Staff encouraged to produce responsive documents in an electronic format.

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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 PUC Staff receives the information.

I. INSTRUCTIONS

1. The City of Austin requests that the PUC Staff provide the following information and answer the following Request for Admissions and Request for Information under oath.

2. 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.

3. 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. PUC Staff 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. "PUC Staff" or "Commission Staff" means Public Utility Commission of Texas Staff, 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. "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.

4. "You" or "your" means the PUC Staff, their successors, predecessors, divisions, subsidiaries, present and former officers, agents, employees, consultants, and all other persons acting on behalf of PUC Staff, including successors, predecessors, divisions, and subsidiaries.

5. 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.

6. "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.

7. "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.

8. "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.

9. "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.

10. "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.

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

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

13. "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.

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

III. FIRST REQUEST FOR ADMISSIONS

REQUEST FOR ADMISSION NO. 1: Admit or deny that you have read the Austin Water Utility Cost of Service Rate Study 2008.

ADMIT _____ **DENY** _____

REQUEST FOR ADMISSION NO. 2: Admit or deny that you have read the September 7, 2009 Strategic Partnership Agreement Between the City of Austin and the River Place Municipal Utility District.

ADMIT _____ **DENY** _____

REQUEST FOR ADMISSION NO. 3: Admit or deny that you have read 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.

ADMIT _____ **DENY** _____

REQUEST FOR ADMISSION NO. 4: Admit or deny that you have reviewed the cost of service rate models for water and wastewater for 2014.

ADMIT _____ **DENY** _____

REQUEST FOR ADMISSION NO. 5: Admit or deny that you are able to determine the Petitioners' water and wastewater rates for 2014 by using the cost of service rate model.

ADMIT_____ **DENY**_____

REQUEST FOR ADMISSION NO. 6: Admit or deny that the Public Utility Commission ("PUC") does not have jurisdiction over the tax rates and property tax assessments of municipal utility districts.

ADMIT_____ **DENY**_____

REQUEST FOR ADMISSION NO. 7: Admit or deny that the PUC does not have jurisdiction over the rates set pursuant to a written contract absent a prior public interest determination.

ADMIT_____ **DENY**_____

REQUEST FOR ADMISSION NO. 8: 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. 9: 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. 10: 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. 11: 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. 2-1: Please identify all rules that PUC Staff will use in evaluating the revenue requirement in this contested case hearing.

RESPONSE:

REQUEST FOR INFORMATION NO. 2-2: Please identify all rules that PUC Staff will use in evaluating the rate design in this contested case hearing.

RESPONSE:

REQUEST FOR INFORMATION NO. 2-3: Please identify all rules that PUC Staff will use in evaluating whether rates are just and reasonable in this contested case hearing.

RESPONSE:

REQUEST FOR INFORMATION NO. 2-4: Please identify the rules that PUC Staff considers applicable to a hearing on rates set pursuant to a written contract.

RESPONSE:

REQUEST FOR INFORMATION NO. 2-5: Please identify the PUC rules which authorize the PUC to require Austin ratepayers to prepare for and pay for a contested case hearing when the agency has been advised before such costs are incurred that a valid petition has not been filed.

RESPONSE:

REQUEST FOR INFORMATION NO. 2-6: Please identify the PUC rules which authorize the PUC to require Austin ratepayers to prepare for and pay for a contested case hearing when the parties agree that rates are set pursuant to contract and no determination of the public interest has been made.

RESPONSE:

REQUEST FOR INFORMATION NO. 2-7: 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 of Austin 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. 2-8: Does PUC Staff assert that Petitioners have a 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 that such a right exists?

RESPONSE:

REQUEST FOR INFORMATION NO. 2-9: Does PUC Staff assert that Petitioners have a 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 that such a right exists?

RESPONSE:

REQUEST FOR INFORMATION NO. 2-10: Does PUC Staff seek a final order from the PUC that allows Austin to discriminate between the River Place Petitioners' rates and other outside City of Austin retail residential water and wastewater ratepayers?

RESPONSE:

REQUEST FOR INFORMATION NO. 2-11: Does PUC Staff believe that the PUC should issue a final order which allows Austin to discriminate between the River Place Petitioners' rates and other retail residential water and wastewater ratepayers? If the answer is yes, then please state the basis for the PUC Staff position.

RESPONSE:


Respectfully submitted,

ANNE L. MORGAN, Interim City Attorney

MARIA SANCHEZ, Assistant City Attorney

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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 8th day of July, 2015.

FOR THE PUBLIC UTILITY COMMISSION:

1701 N. Congress Avenue, 7th 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. 15th Street, Suite 504
Austin, Texas 78701
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Fax: 512-322-2061
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FOR THE SOAH DOCKET CLERK:

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