



Control Number: 44303



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House Bill (HB) 1600 and Senate Bill (SB) 567 83rd
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

SOAH DOCKET NO. 582-09-5328
TCEQ DOCKET NO. 2009-0929-UCR 2010 FEB 26 PM 2: 48

APPLICATION OF DEER CREEK	§	BEFORE THE	CHIEF CLERK'S OFFICE
RANCH WATER CO., TO	§		
CHANGE ITS WATER RATES AND	§		
TARIFF UNDER CERTIFICATE OF	§	OF	
CONVENIENCE AND NECESSITY	§		
NO. 11241 IN TRAVIS AND HAYS	§		
COUNTIES	§	ADMINISTRATIVE HEARINGS	

**CERTIFICATE OF CONFERENCE RELATING TO
MOTION TO COMPEL APPLICANT TO
RESPOND TO REQUESTS FOR INFORMATION**

**TO THE HONORABLE ADMINISTRATIVE LAW JUDGE
WILLIAM G. NEWCHURCH:**

NOW COMES, AGX, Inc. and Anne Hawken, Protestants, and file this Certificate of Conference relating to Motion to Compel Applicant to Produce Documents and show the court the following:

1. Counsel for Protestants certifies that prior to the filing of the Protestant's Motion to Compel, Counsel for Protestants conferred with counsel for Applicant on February 5, 2010 regarding Applicant's failure to produce the documents requested in Requests for Production 7 and 9: Counsel for Applicant represented that the requested documents would be produced. In an effort to obtain a ruling by the Court at the February 12, 2010 pre-hearing conference, the Motion to Compel was filed on February 9, 2010. Only a portion of the requested documents was ever produced, as set forth in Protestants' Reply to Applicant's Response to the Motion to Compel.

2. To be clear, no conference between Counsel for Protestants and Counsel for Applicant was attempted relating to the other discovery requests set forth in the Motion to

Compel prior to filing the Motion to Compel. The Motion to Compel was filed in the hopes that it would provide incentive to the Applicant to comply with its discovery responsibilities. However, today, February 24, 2010, Counsel for Protestants attempted to confer with Counsel for Applicant regarding resolution of the discovery issues surrounding Interrogatories, 5-7 and 13-26 and Request for Production No. 21, however counsel for Applicant was not available.

3. Protestants are willing to withdraw their Motion to Compel relating to Interrogatories, 5-7 and 13-26 and Request for Production No. 21 and will again attempt to confer with counsel for Applicant and re-file the Motion to Compel if those conferences are not successful. However, that action does not seem to be the most efficient method of resolving this discovery dispute so that that this case can be decided on what the facts reveal, not by what facts are concealed. See, *Axelson, Inc. v. McIlhany*, 798 S.W.2d 550, 555 (Tex. 1990).

WHEREFORE, PREMISES CONSIDERED, Protestants pray that this Motion be granted, that Protestants be awarded reasonable and necessary attorney's fees incurred in the filing and hearing of this motion and for such other and further relief that may be awarded at law or in equity.

THE LAW OFFICE OF DAVID M. GOTTFRIED, P.C.

By: _____

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**ATTORNEY FOR AGX, INC.
AND ANNE HAWKEN**

CERTIFICATE OF SERVICE

This is to certify that the undersigned sent a true and correct copy of the foregoing document in accordance with the applicable agency rules, as noted below, on this 24th day of February 2010 to the following parties:

The Honorable William G. Newchurch, Administrative Law Judge

STATE OFFICE OF ADMINISTRATIVE HEARINGS

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Austin, Texas 78711-3025

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Telecopier: 475-4994

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Daloma Armentrout

AGX, INC.

PO. Box 160906

CERTIFICATE OF CONFERENCE

CHIEF CLERKS OFFICE

2010 FEB 26 PM 2:48

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