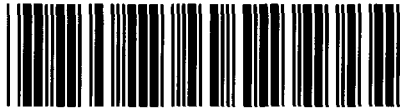




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PETITION OF THE CITIES OF
GARLAND, MESQUITE, PLANO AND
RICHARDSON APPEALING THE
DECISION BY NORTH TEXAS
MUNICIPAL WATER DISTRICT
AFFECTING WHOLESALE WATER
RATES

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BEFORE THE STATE OFFICE

OF

ADMINISTRATIVE HEARINGS

PUBLIC UTILITY COMMISSION
FILING CLERK

**NORTH TEXAS MUNICIPAL WATER DISTRICT'S RE-URGED MOTION TO
STRIKE THE DIRECT TESTIMONY OF HEIDI GRAHAM, OR, IN THE
ALTERNATIVE, REQUEST FOR LEAVE TO FILE CROSS-REBUTTAL TESTIMONY**

After conducting discovery related to Ms. Graham's testimony, the North Texas Municipal Water District ("District") re-urges its motion to strike the pre-filed direct testimony of Ms. Heidi Graham, filed on behalf of the Staff of the Public Utility Commission of Texas ("Commission"). Despite its best efforts, the District has been unable to determine any foundation upon which Ms. Graham's testimony rests, and Staff identified new information for the first time on Friday, June 15, 2018, that Ms. Graham relied upon. In the alternative, if Ms. Graham's testimony is not stricken, good cause exists to allow the District to file limited cross-rebuttal testimony.

Commission Procedural Rule 22.221 sets forth the standard for evaluating objections and motions to strike evidence and exhibits in a contested case hearing before the Commission and provides generally that the Texas Rules of Evidence and the Texas Rules of Civil Procedure "shall be followed in contested cases."¹ Texas Rule of Evidence 401 defines relevant evidence as that which has any tendency to make a fact that is of consequence in determining the action more or less probable. "Irrelevant evidence is not admissible."²

¹ 16 Tex. Admin. Code § 22.221(a) (TAC).

² Tex. R. Civil Evid. 401.

In addition, expert testimony – like all other evidence – must be relevant to be admitted.³ In addition, all “expert testimony should be shown to be reliable before it is admitted” under Texas Rule of Evidence 702.⁴ The District’s discovery related to Ms. Graham’s testimony confirms that her testimony continues to be inadmissible under the applicable evidentiary rules and should be stricken.

I. Re-urged Motion to Strike Direct Testimony of Heidi Graham

As the Petitioning Cities helpfully summarize in response to the District’s original Motion to Strike, “[t]he entire point of Ms. Graham’s testimony is that [the District’s cost allocation] is problematic and adversely affects the public interest under P.U.C. Subst. R. 24.133(a)(4) because it results in ‘certain customers paying more than their share of the costs.’”⁵ But Ms. Graham fails to articulate any basis for her conclusion that the District’s cost allocation is “problematic.” She cites no regulation or other legal authority that leads to that conclusion. She identifies no principles or methodologies she applied in formulating that determination. Ms. Graham’s testimony is, in short, her own subjective opinion.

The District does not challenge Ms. Graham’s resume or credentials.⁶ Ms. Graham, however, offers nothing aside from her credentials and subjective opinion, and when an expert brings to court little more than their credentials and a subjective opinion, it “is not evidence that would support a judgment.”⁷ With no basis to support her subjective opinion, Ms. Graham’s testimony lacks the reliable foundation required by Texas Rule of Evidence 702 to be admitted, and must be excluded.

³ Tex. R. Civil Evid. 402.

⁴ *Gammill v. Jack Williams Chevrolet, Inc.*, 972 S.W.2d 713, 726 (Tex. 1998).

⁵ The Petitioning Cities’ Response to NTMWD’s Objection to and Motion to Strike Direct Testimony of Heidi Graham at 5 (quoting Graham Direct at 6:13-17) (June 14, 2018) (Pet’g Cities’ Resp.).

⁶ *Contra* Pet’g Cities’ Resp. at 5-6.

⁷ *Merrell Dow Pharms., Inc. v. Havner*, 953 S.W.2d 706, 712 (Tex. 1997).

The focus of Ms. Graham's testimony seems to be on her disapproval of the way in which the Facilities Contract requires the District to assign costs to the Member Cities.⁸ While her opinion is not clear, it would appear that Ms. Graham believes that the Facilities Contract does not align with future demand projections the District uses to plan the operational and engineering aspects of its system.⁹ Based on this perceived disconnect, Ms. Graham concludes that the "Protested Rates" adversely affect the public interest because the "rate is unreasonably prejudicial and discriminatory towards cities with low projected future growth rates and unreasonably preferential towards cities with high projected future growth rates."¹⁰ Ms. Graham concludes that this purported disconnect "results in certain customers paying more than their share of the costs, and certain customers are paying less than their share of the costs."¹¹ The testimony also includes Ms. Graham's observations that the allocation method in the Facilities Contract "is not necessarily reflective of the District's actual fixed costs to serve that member,"¹² and she appears to rely on her Attachment HG-3 to support her testimony.¹³

With this in mind, the District issued written discovery to Commission Staff and deposed Ms. Graham. Staff's responses to discovery, including Ms. Graham's deposition testimony, did not provide parties with additional information necessary to understand the testimony.¹⁴

⁸ The "Facilities Contract" is the 1988 North Texas Municipal Water District Water Supply Facilities Amendatory Contract among the District and all Member Cities.

⁹ Direct Testimony of Heidi Graham at Attachment HG-3 relying on Projected Peak Day data (Graham Direct).

¹⁰ Graham Direct at 6:8-17.

¹¹ *Id.* at 6:15-17.

¹² *Id.* at 10:13-15.

¹³ *Id.* at 6:16-11:11; Attachment HG-3.

¹⁴ Each party that responded to the District's first motion to strike Ms. Graham's testimony observed that the District had an opportunity to conduct additional discovery on Staff's direct case. However, once the District objected to Ms. Graham's testimony, it became Staff's burden to demonstrate that her opinion was reliable. *See Guadalupe-Blanco River Auth. v. Kraft*, 77 S.W.3d 805, 807 (Tex. 2002) (citing *Gammill*, 972 S.W.2d at 718). As explained herein, Staff has not demonstrated or disclosed any additional information, data, methodology, or analysis that sheds any light on the foundation for Ms. Graham's opinions.

A. Testimony addressing cost allocation issues is prohibited cost of service testimony under Rule 24.133(b) and falls under Issues Not to Be Addressed in this case.

Despite vehement arguments put forth by Staff, Petitioning Cities and Royce City,¹⁵ there can be no dispute that cost allocation issues are a necessary aspect of determining the cost of service of a wholesale water provider. The Preliminary Order in this case includes various cost questions that the Commission expects to be considered including, as the Petitioning Cities note, what the proportionate shares of the annual requirement are for each Member City and how the District's costs are allocated among Member Cities.¹⁶ The answer to those questions is quite simple: the Annual Minimum requirement in the Facilities Contract provides the proportionate shares and how costs are allocated among the cities.¹⁷ That answer does not require consideration of cost of service issues.

Ms. Graham's testimony, however, is entirely based on issues prohibited from consideration at this stage of the hearing and is not limited to the scope of the issues identified in the Preliminary Order. For example, the testimony repeatedly states that the District's "projected rates year costs" result "in certain customers paying more than their share of the costs."¹⁸ Ms. Graham also attempts to match the District's allocation of costs using the Annual Minimum requirement with "the District's actual fixed costs to serve that member"¹⁹ and concludes that "each Petitioning City is allocated a higher percentage of the District's cost of service than their projected future demand caused the District to incur."²⁰

¹⁵ Commission Staff's Response to North Texas Municipal Water District's Objection to and Motion to Strike Direct Testimony of Heidi Graham at 1-4 (June 15, 2018); Pet'g Cities' Resp. at 1-3; Royce City's Brief in Opposition to North Texas Municipal District's Motion to Strike Testimony of PUC Staff Witness Heidi Graham at 1-2 (June 14, 2018).

¹⁶ Preliminary Order at Issues 19 and 21 (June 29, 2017).

¹⁷ Judd Sanderson Direct Testimony at 10:9-17, 13:9-19.

¹⁸ Graham Direct at 6:12-17.

¹⁹ *Id.* at 10:13-15.

²⁰ *Id.* at 9:22-10:2.

Ms. Graham's challenge to the allocation of each customer's "share of the costs" is a rate-setting exercise that is barred by Issue 12 in the List of Issues Not to Be Addressed as stated in the Preliminary Order.²¹ Issue 12 precludes Ms. Graham's analysis and states unequivocally that the following may not be considered: whether the challenged rates are no higher or lower than is necessary to match the cost of service.

In contrast to this prohibition, Ms. Graham concludes that certain Member Cities pay "more than their share of the costs, and certain customers are paying less than their share of the costs."²² She reiterates this point by opining that certain "Member Cities are paying more than their fair share."²³ Also, Ms. Graham defines the "Protested Rates," as the "total amount charged to each Member City minus any rebates received."²⁴ Her testimony is a stark illustration of an attempt to determine whether the "challenged rates" in the words of Issue 12 or the "Protested Rates" in Ms. Graham's own words are no higher or lower than is necessary to match the cost of service for each Member City. This position offends the Preliminary Order and falls outside the scope of the public interest inquiry in this case. Thus, her testimony must be stricken.

B. During the deposition, Ms. Graham identified supporting workpapers for the first time that should have been produced no later than the date she filed her testimony.

A testifying expert, such as Ms. Graham, is required to provide all documents, tangible things, reports, models or data compilations that have been provided to, reviewed by or prepared by or for the expert in anticipation of a testifying expert's testimony.²⁵ In fact, the District included that request in its First Request for Disclosure propounded to Commission Staff and every other

²¹ Preliminary Order at 26; Cf. 16 TAC 24.135(a) (requiring the Commission, as part of a rate-setting, to "allocate [] costs in calculating the cost of service.").

²² Graham Direct at 6:15-17.

²³ *Id.* at 10:18-19 & 11:9-11.

²⁴ *Id.* at 5:12-13.

²⁵ Tex. R. Civ. Proc. 192.3(e)(6).

party.²⁶ Ms. Graham failed to do so. Attachment HG-3 to Ms. Graham's testimony contains tables in which Ms. Graham compares a Member City's Annual Minimum for Water Year 2016 and its future demand in the form of projected peak day data. Nowhere on Attachment HG-3 itself, the supporting workpapers she identified, or in her testimony does Ms. Graham identify the source data for Attachment HG-3.

It was not until the deposition that Ms. Graham explained that the data is derived from two files: a Water Sales file the District produced in discovery and a Freese and Nichols Study from November 2013 that was filed with the workpapers of District witness Tom Gooch. Staff recompiled the data provided in those documents to produce the values that appear in Attachment HG-3. Staff's compilation of the data is new information that is critical to a full understanding of Ms. Graham's testimony. Commission Staff should have identified these workpapers in response to the District's Requests for Disclosure at or near the time of filing Ms. Graham's testimony on May 18, 2018.

In terms of trying to understand whether there is a reliable foundation for her testimony, Ms. Graham's deposition testimony also confirmed the following:

- Ms. Graham is unable to define the fundamental concept of "share of the costs" or "fair share of the costs" as she uses those terms in her testimony.

On page 6 of her testimony, Ms. Graham concludes that certain customers are paying more than their "share of the costs." Ms. Graham on page 10 of her pre-filed testimony concludes that Attachment HG-3 shows that the cost allocation method in the Facilities Contract, "results in certain Member Cities paying more than their fair share." In her testimony, Ms. Graham does not

²⁶ North Texas Municipal Water District's Request for Disclosure to the Public Utility Commission of Texas Staff, District RFD 1-1 (Sept. 20, 2017).

describe the basis of her conclusion. And, she did not reveal the basis of her conclusion during her deposition. By way of example, Ms. Graham testified as follows:

Q: I'm happy to have you tell me, because it's part of the basis for your recommendation in this case. So if there's other information in the answer on Page 6 that you think would be useful, we can talk about that. I'm just trying generally to understand what standard you're using to make the conclusion that certain customers are paying more [and] certain are paying less than their share of the costs.

A: And we're still talking about Allen?

Q: Sure, I mean you can pick any city. I'm just –

A: Honestly, I don't know how to answer your question.²⁷

- Attachment HG-3 includes data that is not related to 2016-2017 water year and is therefore not reliable.²⁸

Ms. Graham does not dispute that the analysis provided in the first chart on Attachment HG-3 is not related to the period applicable to the protested rates²⁹ at issue in this case.

Q: Okay. Why did you not use 2017 data in the top chart?

A: What we just talked about in the petition. The petition is in regard to 2016-2017 rates.

Q: Does your chart at the top of HG-3 incorporate 2016-2017 data?

A: I don't believe so.³⁰

²⁷ Rough Draft of Deposition of Heidi Graham, p. 141. (Draft Graham Deposition with excerpts attached hereto as Exhibit A.) All citations are to the unproofread, uncorrected, uncertified rough draft deposition of Heidi Graham. The District fully understands that deposition testimony will not be final until Ms. Graham is given the opportunity to review and sign the deposition. The rough draft excerpts in Exhibit A are provided as the only available document to verify the deposition testimony identified in this motion.

²⁸ "In order to constitute scientific knowledge which will assist the trier of fact, the proposed testimony must be relevant and reliable." *Gammill*, 972 S.W.2d at 720.

²⁹ The District does not dispute here the ambiguous description used by the Petitioning Cities and Staff to describe the "protested rates." The District here addresses only the temporal parameters used by Staff in its analysis.

³⁰ Draft Graham Deposition, p. 56.

- Ms. Graham is unable to identify all materials relied upon to make her recommendation.

In response to being asked to identify all materials relied upon to make her recommendation, Ms. Graham explained that there “is so much that I looked at, that I don’t – I think it would be voluminous to attach every single thing that I looked at.”³¹ She explained further as follows, “the whole docket. I mean, not that I looked at every single thing in the docket, but it – more than just the few pieces of paper that I attached to formulate my position or come up with my recommendation.”³²

- Attachment HG-3 is not provided as support for Ms. Graham’s conclusion that the protested rate adversely affects the public interest.

Ms. Graham on page 10 of her pre-filed testimony concludes that Attachment HG-3 shows that the cost allocation method in the Facilities Contract, “results in certain Member Cities paying more than their fair share.” When asked about how the first chart in Attachment HG-3 supports this conclusion, Ms. Graham stated as follows:

A: The purpose of this chart is for comparison purposes only. This is not something I based my recommendation on. It’s just for observation.³³

This is a point repeatedly made during the deposition:

Q: It [the top chart of HG-3] was part of what you considered?

A: That chart is a simple comparison. It doesn’t necessarily support any position and my testimony on my recommendation. It was just for observation or comparison purposes.³⁴

³¹ *Id.*, p. 121.

³² *Id.*, p. 122.

³³ *Id.*, p. 65.

³⁴ *Id.*, p. 48.

- Staff's assessment of whether a rate is unreasonable preferential, prejudicial, or discriminatory is an analysis Staff performs on a case-by-case basis.

The core issue the District sought to understand during discovery is what standard Staff applies when it analyzes whether a protested rate adversely affects the public interest and whether that standard is based on a Commission rule, relevant statute, or prior decision. Staff indicated in response to written discovery that Staff "reviews alleged discrimination, prejudice, or preference in wholesale water rates and their reasonableness on a case by case basis to determine if they are within the public interest."³⁵ This answer, without further support to describe the types of issues Staff considers, does not constitute a reliable foundation for Ms. Graham's expert testimony.

The discovery period has ended. There is no longer any avenue to explore the foundation for Ms. Graham's expert testimony. With no basis to support her subjective opinion, Ms. Graham's testimony lacks the reliable foundation required by Texas Rule of Evidence 702 to be admitted, and must be excluded.

II. Request to File Limited Cross-Rebuttal Testimony

If Ms. Graham's testimony is not stricken, good cause exists to allow the District to file limited cross-rebuttal testimony on July 9, 2018, responding to Commission Staff. The times for pre-filing testimony may be modified upon a showing of good cause.³⁶ Relatedly, the Commission's rules grant presiding officers the authority to allow late-filed testimony to be admitted "into evidence if the testimony is necessary for a full disclosure of the facts and admission of the testimony into evidence would not be unduly prejudicial to the rights of any party."³⁷ Staff's testimony raises issues that were not addressed by the Petitioning Cities in their pre-filed direct testimony. Specifically, whether the protested rate is unreasonably preferential, prejudicial or

³⁵ Commission Staff's Response to District RFI 2-58 (June 14, 2018).

³⁶ 16 TAC 22.225(a)(10).

³⁷ 16 TAC 22.225(a)(11).

discriminatory based on a comparison of how costs are currently assigned to the Member Cities compared to future growth projections. Moreover, Ms. Graham derives her calculations based on data provided by the District. Yet, she misapplies that data in crafting her opinions. Unlike with the Petitioning Cities' testimony, the District has not had an opportunity to respond to Staff's testimony.

The District has been unfairly surprised and prejudiced by Staff's failure to disclose the information upon which Ms. Graham relied in her testimony. Although the District has diligently sought to determine Staff's position, it was not until May 16, 2018, that the District became aware of Staff's ultimate conclusion. On that date, Staff updated its response to a Request for Disclosure first propounded by the District to Staff on September 20, 2017. This is the first time the District became aware of Staff's position. Staff's failure to timely provide this information interfered with the District's ability to attempt to fully explore the basis for Ms. Graham's testimony. On May 18, 2018 Staff filed its direct testimony in this case. As noted in the discussion above, the District did not become aware of documents Ms. Graham relied upon until the deposition, and, based on her testimony, it appears Ms. Graham may have reviewed additional documents that have not yet been produced.

As of June 15, 2018, there is no opportunity to conduct discovery on Staff's testimony. Written cross-rebuttal testimony is necessary to allow the District to respond to the new issues raised in Ms. Graham's testimony and to allow for a full disclosure of the facts associated with the District data upon which Ms. Graham relies. For these reasons, the District respectfully requests approval from the Administrative Law Judges to file cross-rebuttal testimony for the limited purpose of responding only to Staff's direct testimony.

The District's filing of limited cross-rebuttal testimony would not unduly prejudice the rights of any party.³⁸ The existing dates in the current procedural schedule do not need to be delayed. Following resumption of this case after a two-month abatement, the District assumes that the Petitioning Cities stand ready to file their rebuttal testimony on June 22, 2018. The hearing on the merits, however, is not scheduled until October 2018. If the District's request for filing limited cross-rebuttal testimony is granted, the District is not opposed to providing the Petitioning Cities with an opportunity to respond to the District's cross-rebuttal testimony. Because the Petitioning Cities have the burden of proof in this case it would be reasonable for them to request the opportunity to respond to the District's cross-rebuttal.

Under Texas Rule of Evidence 702, Ms. Graham's testimony is too unreliable to be admitted. It is not based on sound principles or methods.³⁹ It is not founded on sufficient data or facts.⁴⁰ And, based on Staff's responses to discovery and during the deposition, there is no indication that Ms. Graham reliably applied any accepted principles or methods to the data and facts she recites in her testimony.⁴¹ The District re-urges its original objection to Ms. Graham's testimony on the grounds that it is unreliable expert witness testimony and, therefore, is inadmissible under Texas Rule of Evidence 702.⁴² The District respectfully requests that Ms. Graham's testimony be stricken. In the alternative, the District respectfully requests that it be given an opportunity to file limited cross-rebuttal testimony on July 9, 2018, that responds only to Commission Staff's direct testimony.

³⁸ *Id.*

³⁹ *E.I. du Pont Nemours and Co. v. Robinson*, 923 S.W.2d 549, 556 (Tex. 1995).

⁴⁰ *Id.*

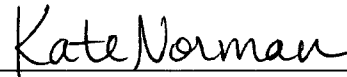
⁴¹ *Id.*

⁴² *Id.* at 557.

Respectfully submitted,

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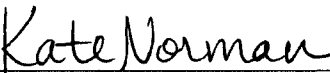


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**ATTORNEYS FOR NORTH TEXAS
MUNICIPAL WATER DISTRICT**

CERTIFICATE OF SERVICE

I hereby certify that true and correct copy of the foregoing document has been served on all parties of record on June 19, 2018 in accordance with 16 Tex. Admin. Code § 22.74.



Kate Norman

Kate Norman

From: Kennedy Reporting Service <order@kennedyreporting.com>
Sent: Monday, June 18, 2018 6:00 PM
To: Kate Norman
Cc: Emma Azarani; cdaniels@lglawfirm.com
Subject: Rough Draft: Heidi Graham - taken on June 15, 2018 - PUC Dkt. No. 46662
Attachments: 061518 Heidi Graham Rough Draft.txt

Ms. Norman,

Per your request, attached is the Rough Draft of the above-mentioned witness. Please let us know if we can be of additional assistance.

Thank you,

Amy Burt/Office Manager
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48

1 Q Have you worked on a docket at the PUC that
2 involved a contract with just two parties?

3 A Yes.

4 Q Do you remember whichever case it was?

5 A There are many cases that for let's say purposes I
6 would look at a contract. It might be for a
7 pass-through provision increase, and then there is a
8 contract and a new bill from the provider to a retail
9 public utility, and so we would look at -- vary the rate
10 that is being charged and maybe the volume that -- that
11 the -- well, that wouldn't be in the contract. Yeah,
12 for that limited purpose we might use to calculate a
13 pass-through.

14 Q Have you ever had to analyze public interest
15 issues in a case involving a contract with just two
16 parties?

17 A Well, in my testimony and in my list of cases,
18 I was the witness for West Travis County PUA.

19 Q And was that a case where --

20 TELECONFERENCE OPERATOR: Art Rodriguez
21 has left the conference.

22 Q (BY MS. NORMAN) And was that a case that
23 involved a contract with just two parties?

24 A Actually, no. There was only one petitioner,
25 which was Travis County MUD 12. And so the case

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56

1 Q So if I look at the footer, it says city's RFI
2 1-32, native Excel files, water sales, XLXS. I'm saying
3 that so other people know what we're looking at., and
4 this is something that the district priority in response
5 to the city's first RFIs. Okay. I'm going to pass that
6 back to you.

7 Q So we just looked the rate later that was
8 issued in September of 2016 that identified the rate
9 that was going to be charged for fiscal year 2017. Do
10 you remember that conversation?

11 A In the petition, yes.

12 Q Okay. Why did you not use 2017 data in the top
13 chart?

14 A What we just talked about in the petition. The
15 petition is in regard to 2016-2017 rates.

16 Q Does your chart at the top of HG-3 incorporate
17 2016 to 2017 data?

18 A I don't believe so.

19 Q Would you mind passing that back? I think I
20 have a copy of the same thick, but I'm not totally sure.
21 Okay. I'm going to pass you back your original sheet,
22 which again is from a native Excel file that the
23 district's influenced in response to city's RFI 1-32,
24 and in the upper right-hand corner, you sheet says water
25 sales 2016. I'm going to pass that back.

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65

1 difference between Plano's actual usage per 1,000
2 gallons per minute and actual dollars paid is
3 0.22 percent?

4 A Yes, for that calculation.

5 Q And for 2016, you calculated 1.59 percent.

6 Correct?

7 A Yes.

8 Q And so what does the difference between the
9 2017 and the 2016 numbers tell you, if anything?

10 A The difference is lower for 2017.

11 Q So did Plano pay closer to the amount it would
12 have bid had its costs been based on actuals in 2017
13 compared to 2016?

14 A Per that calculation, yes.

15 Q Okay. And did that calculation duplicate the
16 calculation you performed in HG-3 for 2016?

17 A Yes.

18 Q So using some of the terminology in your
19 testimony, is it fair to describe that situation as
20 Plano is paying closer to its fair share for 2017 than
21 it did for 2016?

22 A The purpose of this chart is for comparison
23 purposes only. This is not something I based my
24 recommendation on. It's just for observation.

25 Q And so what observation do you draw?

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121

1 cities, plural, if low projected future growth rates and
2 unreasonably preferential to discuss with high projected
3 growth rates.

4 Are you saying you only conducted an
5 analysis for Plano, an it's the Fish and Wildlife
6 Service only for Plano that I know forms that statement?

7 A No, that's not what I'm saying.

8 Q Okay. What is the base for this sentence on
9 Page 6 of your testimony?

10 A It's -- overall, that's my position that -- no.
11 Plano is not the only city that I analyzed or looked at,
12 but for that particular example in my testimony, I
13 analyzed more than just this particular peak chart to
14 reach that determination.

15 This particular sentence starting on
16 Page 9 is not only using the peak chart in HG-3. It is
17 over all, in everything that I looked at.

18 Q What else did you look at? What could I you
19 look at that you looked at so I can understand the
20 support for the statement on Page 6 of your testimony?

21 A There is so much that I looked at, that I
22 don't -- I think it would be voluminous to attach every
23 single thing that I looked at.

24 Q So are there materials that you've relied on
25 for your testimony that you have not identified?

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122

1 A The whole docket. I mean, not that I looked at
2 every single thing in the docket, but it -- more than
3 just the few pieces of paper that I attach to formulate
4 my position or come up with my recommendation.

5 Q Okay. So on Page 6 of your testimony at
6 Lines 8 to 11, this to me is a critical conclusion in
7 your testimony that goes to the heart of the issue that
8 all of the parties are trying to address.

9 Are you saying that there's information
10 you relied on that maybe you don't remember it in detail
11 or you don't know it in detail, but that you can't
12 describe to us how you reached the conclusion that's on
13 Page 6?

14 A So what is the question?

15 Q The question is. What are you relying on for
16 this ultimate conclusion in your testimony? You've got
17 your Plano analysis at the bottom of Page 10. For the
18 other 12 cities, what are you registry that the rate
19 either does or does not affect the public interest as to
20 that city?

21 A We're talking about Frisco in.

22 Q I'm happy to talk about any of them, but we can
23 go back to Frisco.

24 A So the way my understanding -- and what I mean
25 by -- better than my conditioned. What I mean by low

UNPROOFREAD, UNCORRECTED, UNCERTIFIED
ROUGH DRAFT ONLY

141

1 whether certainly customers are paying more than their
2 share of the costs or less than their share of the
3 costs. If I had a comparison, more or less, how would I
4 know where to put Allen or any of the other cities?

5 A So when you saw paying more or less, are we
6 talking in the context of today and the rate that is
7 protested, or are we talking about in 2040? What are we
8 talking about?

9 Q I'm happy to have you tell me, because it's
10 part of the basis for your recommendation in this case.
11 So if there's other information in the answer on Page 6
12 that you think would be useful, we can talk about that.
13 I'm just trying generally to understand what standard
14 you're using to make the conclusion that certain
15 customers are paying more an certain are paying less
16 than their share of the costs .

17 A And we're still talking about Allen?

18 Q Sure. I mean, you can pick any city. I'm
19 just --

20 A Honestly, I don't know how to answer your
21 question --

22 Q Okay.

23 A -- using Allen as an example or --

24 Q Okay.

25 A In the context that of your asked it.

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ROUGH DRAFT ONLY