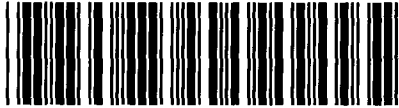




Control Number: 46674



Item Number: 299

Addendum StartPage: 0

SOAH DOCKET NO. 473-17-2457.WS:
PUC DOCKET NO. 46674

RECEIVED

2017 FEB 17 PM 1:09

APPLICATION OF SUBURBAN § BEFORE THE STATE OFFICE
UTILITY COMPANY, INC. FOR § OF PUBLIC UTILITY COMMISSION
AUTHORITY TO CHANGE RATES § ADMINISTRATIVE HEARINGS
FILING CLERK

TO: The Office of Public Utility Counsel, by and through Christiaan Siano, Assistant Public Counsel, Office of Public Interest Counsel, 1701 North Congress Avenue, Suite 9-180, P.O. Box 12397, Austin, Texas 78711-2397

Pursuant to 16 Tex. Admin. Code Ann. §§22.141 - 22.145, the Texas Rules of Civil Procedure, Procedure §§190 -198, and 1 TAC §155.251 of the rules of the State Office of Administrative Hearings, SUBURBAN UTILITY COMPANY, INC. ("SUBURBAN") requests that the Office of PUBLIC UTILITY COUNSEL ("OPUC") provide the following information and answer the following questions under oath. Documents, disclosures, admissions and other tangible items requested hereunder shall be delivered to the undersigned attorney of record for SUBURBAN at his address listed below within twenty (20) days of the receipt of these requests.

All definitions and instructions governing discovery in the Texas Rules of Civil Procedures, the procedural rules of the PUC and the procedural rules of the State Office of Administrative Hearings (SOAH) and the presiding Administrative Law Judge's orders shall apply to these Request for Information ("RFIs") Unless written requests for clarification are received by the undersigned, it shall be presumed that all requests are fully and completely understood.

If the answer to any request consists of a document(s) obtained by the answering party from SUBURBAN it shall not be necessary to produce the document. It shall only be necessary to describe the document by identifying the page and volume of the rate change application where the document is located. If the document is not part of the rate change application, the answering party shall describe the document, its date, subject matter and when and how it was obtained from SUBURBAN. If the requested document is found in the public records of the PUC or other governmental agency, the answering party shall describe the exact location, file name and custodian from whom the specific referenced document can be obtained.

These questions are continuing in nature, and if there is any relevant change in circumstances, the OPUC is to submit an amended and/or supplemented answer under oath to supplement each of its original answers to these questions. Please state the name of the witness(s) in this cause who will sponsor the answers to each question, and who can vouch for the truth of the answer.

299

Respectfully submitted this 7th day of February, 2017.

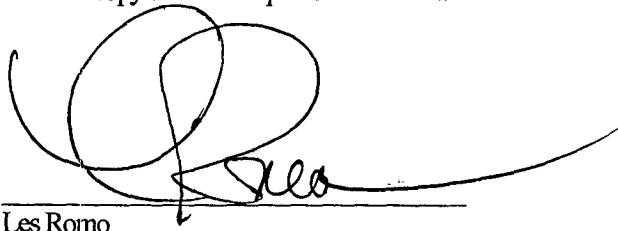


Les Romo
State Bar No. 17225800
Law Office of Les Romo
102 West Morrow Street, Suite 202
P.O. Box 447
Georgetown, Texas 78627
lesromo.lawoffice@gmail.com
Tel. 512.868-55600; Fax 512.591-7815

ATTORNEY FOR SUBURBAN UTILITY COMPANY, INC.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of these Requests for Information were served on all required parties on this 7th day of February, 2017.


Les Romo

SUBURBAN'S FIRST
REQUEST FOR INFORMATION TO THE OPUC

I.
DEFINITIONS

1. As used herein, the terms "you," "your," or "yourself," or "OPUC" refer to and mean the Office of Public Utility Counsel, its officers, directors, managers, employees, its attorneys and legal staff, and its Legal Staff as well as its agents and those working in association with and/or who are affiliated with the OPUC, as well as its associates, affiliates, employees, agents, representatives and each person acting or purporting to act on behalf of the OPUC.

2. As used herein, the term "representative" means any and all agents, employees, servants, officers, directors, attorneys, or other persons acting or purporting to act on your behalf.

3. As used herein, the term "person" means any natural individual in any capacity whatsoever or any entity or organization, including divisions, departments and other units therein, and shall include, but not be limited to, a public or private corporation, partnership, joint venture, voluntary or unincorporated association, organization, proprietorship, trust, estate, governmental agency, commission, bureau, municipality or department.

4. As used herein, the term "document" means any medium upon which information can be recorded or retrieved, and includes, without limitation, the original and each copy, regardless of origin and location, of any book, pamphlet, periodical, letter, memorandum (including any memorandum or report of a meeting or conversation), invoice, bill, order form, receipt, financial statement, accounting entry, diary, calendar, telex, telegram, cable, facsimile transmission, report, record, contract, agreement, study, handwritten note, draft, working paper, chart, paper, print, laboratory record, drawing, sketch, graph, index, list, tape, photograph, microfilm, data sheet or data processing card, computer tape or disk, or any other written, recorded, transcribed, punched, taped, filmed or graphic matter, however produced or reproduced, which is in your possession, custody or control, or which has been, but is no longer, in your possession, custody, or control. The term "document" further means a copy of any document, as referred to above, if such copy contains notes, writings or is in any way different from or an alteration of the original document.

5. As used herein, the term "communication" means any oral or written utterance, notation or statement of any nature whatsoever, by and to whomsoever made, including, but not limited to, correspondence, conversations, dialogues, discussions, interviews, consultations, agreements and other understandings between or among two or more persons.

6. As used herein, the terms "identification," "identify," or "identity," when used in reference to: (a) a natural individual- require you to state his or her full name and residential and business address; (b) a corporation - require you to state its full corporate name and any names under which it does business, its state of incorporation, the address of its principal place of business, and the addresses of all of its offices; (c) a business - require you to state the full name or style under which the business is conducted, its business address or addresses, the types of businesses in which it is engaged, the geographic areas in which it conducts those business, and the identity of the person or persons who own, operate, and control the business; (d) a document - require you to state the number of pages and the nature of the document (e.g., letter or memorandum), its title, its date, the name or names of its authors and recipients, and its present location and custodian; (e) a communication - require you, if any part of the communication was written, to identify the document or documents which refer to or evidence the communication,

and, to the extent that the communication was non-written, to identify the persons participating in the communication and to state the date, manner, place and substance of the communication.

7. As used herein the term “water utility tariff” means the rate change application filed by SUBURBAN in this case, which is the basis of this action.

8. As used herein, the term “TCEQ” means the Texas Commission on Environmental Quality.

9. As used herein, the term “PUC” means the Texas Commission on Environmental Quality.

II. **INSTRUCTIONS**

1. With respect to each request, in addition to supplying the information requested, you are to identify all documents that support, refer to or evidence the subject matter of each request and your answer thereto.

2. If any or all documents identified herein are no longer in your possession, custody or control because of destruction, loss or any other reason, then do the following with respect to each and every such document: (a) describe the nature of the document (e.g., letter or memorandum); (b) state the date of the document; (c) identify the persons who sent and received the original and a copy of the document; (d) state in as much detail as possible the contents of the document; and (e) state the manner and date of disposition of the document.

3. If you contend that any material or information responsive to any of the interrogatories is privileged, state in response that: (a) the information or material responsive to the interrogatories has been withheld; (b) the interrogatory to which the information or material relates; and (c) the privilege or privileges asserted.

4. Any answer stating the requested document or information will be provided only in prefiled testimony is insufficient and violates the discovery rules covering these proceedings. SUBURBAN is interested in learning what documents or information underlies and supports the opinions and facts the Opposing Party will be presenting at trial in its prefiled testimony. This information must be presented before prefiled testimony and supplemented up to the trial

5. These request are to be considered continuing in nature and you are under a duty to timely supplement any response given to such requests as required by PUC and SOAH procedural rules and pursuant to Rule 193 of the Texas Rules of Civil Procedure.

III. **REQUESTS FOR PRODUCTION**

REQUEST NO. 1 Please indicate whether or not the water rate structure proposed in SUBURBAN’s Rate/Tariff Change Application are appropriate. If not, what rate structure do you claim would be appropriate.

REQUEST No. 2 Please indicate if SUBURBAN should be allowed to recover reasonable and necessary rate case expenses in addition to its cost of service requested. Does the OPUC agree that

reasonable and necessary rate case expense should be recovered in the form of a monthly surcharge charged to the customers in addition to any cost of service? If not, what form should be used to recover reasonable and necessary rate case expense.

REQUEST NO. 3 Please identify if the OPUC and its Staff is recommending disallowance of any expenses included in the cost of service, please provide the name and amount of each expense for which the OPUC and its Staff recommends a change and the specific reasons for disallowing any expense.

REQUEST NO. 4 Please indicate what measures the OPUC and its Staff have taken in their analysis to fix an overall level of revenue that will permit SUBURBAN a reasonable opportunity to earn a reasonable return on its invested capital used and useful in rendering service to the public over and above its reasonable and necessary operating expenses and will preserve the financial integrity of this utility as provided for in the Texas Water Code § 13.183.

REQUEST NO. 5 If the percentage rate of return that the OPUC and its Staff recommends is different from what appears in SUBURBAN's Rate/Tariff Change Application, please indicate the reasons for the difference and the amount of the difference.

REQUEST NO. 6 If the net invested capital, or rate base, that the OPUC and its staff recommends is different from what appears in SUBURBAN's Rate/Tariff Change Application, please indicate the reasons for the difference and the amount of the difference.

REQUEST NO. 7 Please indicate any quality of service concerns the OPUC and its Staff have with the water service provided by SUBURBAN. Please identify each specific concern by indicating exactly what is the concern, the exact location of the concern and the length of time the quality of service concern has been occurring.

REQUEST NO. 8 If the OPUC and its staff is recommending that SUBURBAN not be allowed to recover the revenue requirement to perform necessary operational and billing services, please explain how SUBURBAN will be able to provide continuous and adequate service to its customers, both current and future, if this recommendation is adopted by the SOAH ALJ and by the PUC.

REQUEST NO. 9 Please provide the underlying rules, and provisions of the Texas Water Code, if any, as well as any other legal precedent, law or rule that you claim supports the use of data outside the test year and period of known and measurable change to determine the appropriate rate of return for an investor owned utility regulated by the PUC in the State of Texas if such claims are being made by the OPUC or if the OPUC plans to make such claims.

REQUEST NO. 10 Please provide the underlying rules, and provisions of the Texas Water Code, if any, as well as any other legal precedent, law or rule that you claim supports any claim by the OPUC that the proposed Capital Improvement Surcharge is not reasonable and necessary to provide facilities capable of providing adequate and continuous service by SUBURBAN to its customers.

REQUEST NO. 11 Please explain in detail how SUBURBAN's capital structure is atypical of other regulated investor owned utilities in the State of Texas, and give specific examples to support this testimony if the OPUC is making or plans to make such claim.

REQUEST NO. 12 Please identify each component of SUBURBAN as set forth in its proposed plan of improvements, repairs and upgrades that the OPUC claims is not necessary and/or needed in order for the company to provide continuous and adequate water service to its customers.

REQUEST NO. 13 Provide the sources of funding that the OPUC and its Staff claim are available to SUBURBAN in order for the company to pay for the water system improvements, upgrades and repairs as set forth in its water system improvement plans, if the OPUC and its Staff claim this instant rate change application should not be granted to SUBURBAN.

REQUEST NO. 14 Please identify any and all persons and experts that the OPUC has conferred with and/or used to review SUBURBAN's rate change application and to assist the OPUC is formulating discovery sent to SUBURBAN by the OPUC.

REQUEST NO. 15 Please identify any and all communications that the OPUC and its Staff, including its attorneys, have had with any persons, any water and sewer utilities and districts of any kind and nature and their representatives, with any attorneys either individually or who represent persons or entities or agencies, with any state and local agencies, with any state or local elected officials, and with any other entities and persons that in any way mention, reference, relate to and pertain to this rate change application by SUBURBAN and any issues involved in this proceeding, and that in any way relate, refer and pertain to SUBURBAN and its affiliates during the past two (2) years.

REQUEST FOR PRODUCTION

REQUEST FOR PRODUCTION NO. 1 Provide copies of all documents, tangible items and other demonstrative evidence to be used by the OPUC at the final hearing in this case, trial.

REQUEST FOR PRODUCTION NO. 2 Provide copies of all studies, reports, compilations, treatises, contracts, correspondence, photographs, graphs, diagrams, maps, charts, financial statements, invoices, bids, checks, governmental records, test results, audits, and other documents reviewed and relied upon by any witness for the OPUC in this cause. In providing the response to this request, please provide the original Staff work papers in their original format, i.e. Excel spreadsheet, Word documents, etc as they were reviewed by the OPUC's Staff and its attorneys

REQUEST FOR PRODUCTION NO. 3 Provide copies of all documents, studies, reports, compilations, computer programs (with associated data bases), charts, diagrams, maps, pictures, text books and other tangible materials reviewed by each testifying expert witness for the OPUC used or relied upon by that expert witness in formulating any opinion to be offered at the final hearing by the OPUC as expert witness testimony as well as was used by any such expert witness to support their testimony filed in this case. "Expert witness" shall be defined by Tex. R. Evid. 702 subject to the Texas Supreme Court's holding in *E. I. DuPont de Nemours and Co. v. Robinson*, 923 S. W. 2d 549 (Tex. 1997) and the United States Supreme Court's holding in *Daubert v. Merrell Dow Pharmaceuticals, Inc.*, 509, U. S. 579, 113 S. Ct. 2786 (1993). With respect to each produced or identified items, please identify which expert witness reviewed the item and with which opinion of that expert witness the item is associated.

REQUEST FOR PRODUCTION NO. 4 Provide copies of all documents, studies, treatises, reports, compilations, computer programs (with associated data bases), charts, diagrams, maps, pictures, text books and other tangible materials reviewed by a non-testifying expert for the OPUC used or relied upon by the OPUC's expert witnesses in formulating any opinion to be offered at trial by the PUC and its Staff as expert witness testimony. "Expert witness" shall be defined by Tex. R. Evid. 702 subject to the Texas Supreme Court's holding in *E. I. DuPont de Nemours and Co. v. Robinson*, 923 S. W. 2d 549 (Tex. 1997) and the United States Supreme Court's holding in *Daubert v. Merrell Dow Pharmaceuticals, Inc.*, 509, U. S. 579, 113 S. Ct. 2786 (1993). With respect to each

produced or identified items, please identify which on-testifying expert reviewed the item and with which opinion of the OPUC's expert witness the item is associated.

REQUEST FOR PRODUCTION NO. 6 Provide copies of all documentation in the possession or control of the OPUC and its Staff that demonstrate that any cost, tax, assessment or expense in SUBURBAN's proposed water utility cost of service (or revenue requirement) rate application is not reasonable and necessary. With respect to each item produced, identify with specificity which cost or expense is being challenged and the expert witness that will sponsor that document and this opinion evidence at trial.

REQUEST FOR PRODUCTION NO. 7 Provide copies of all documentation in the possession or control of the OPUC and its Staff that demonstrate that any item or plant or investment in SUBURBAN's proposed water utility rate base (a/k/a invested capital) is not reasonably priced or includable for ratemaking purposes. With respect to each item produced, identify with specificity which individual item of plant or investment is being challenged and the expert witness that will sponsor that document and this opinion evidence at trial.

REQUEST FOR PRODUCTION NO. 8 Provide copies of all documentation in the possession or control of the OPUC and its Staff that demonstrate that any item of plant or investment in SUBURBAN's proposed water utility rate base is not used and useful for ratemaking purposes. With respect to each item produced, identify with specificity which individual item of plant or investment is being challenged and the expert witness that will sponsor that document and this opinion evidence at trial.

REQUEST FOR PRODUCTION NO. 9 Provide copies of all documentation in the possession or control of the OPUC that demonstrate that any component of SUBURBAN's proposed capital structure is inappropriate for water utility ratemaking purposes in this docket. With respect to each item produced, identify with specificity which component is being challenged and the expert witness that will sponsor that document and this opinion evidence at trial.

REQUEST FOR PRODUCTION NO. 10 Provide copies of all documentation in the possession or control of the OPUC and its Staff that demonstrate that any of SUBURBAN's proposed rate of return on any component of its capital structure is inappropriate for water utility ratemaking purposes in this docket. With respect to each item produced, identify with specificity which rate of return on which component is being challenged and the expert witness that will sponsor that document and this opinion evidence at trial.

REQUEST FOR PRODUCTION NO. 11 Provide copies of all documentation in the possession or control of the OPUC and its Staff that demonstrate that any of SUBURBAN's proposed rate of return on any component of its capital structure is inappropriate for water utility ratemaking purposes in this docket. With respect to each item produced, identify with specificity which rate of return on which component is being challenged and the expert witness that will sponsor that document and this opinion evidence at trial.

REQUEST FOR PRODUCTION NO. 12 Provide copies of all documentation in the possession or control of the OPUC and its Staff that demonstrate that any component of SUBURBAN's proposed rate design is inappropriate for water utility ratemaking purposes in this docket. With respect to each item produced, identify with specificity which rate design component is being

challenged and the expert witness that will sponsor that document and this opinion evidence at trial.

REQUEST FOR PRODUCTION NO. 14 Provide copies of all documentation in the possession or control of the OPUC and its Staff that demonstrate that any non-service fee or charge (water tariff) proposed by SUBURBAN is inappropriate. With respect to each item produced, identify with specificity which fee or charge is being challenged and the expert witness that will sponsor that document and this opinion evidence at trial.

REQUEST FOR PRODUCTION NO. 15 Provide copies of all documentation in the possession or control of the OPUC and its Staff that demonstrate that any component, section or provision of SUBURBAN's proposed water utility tariff should not be approved in this docket. With respect to each item produced, identify with specificity which tariff component, section or provision is being challenged and the expert witness that will sponsor that document and this opinion evidence at trial.

REQUEST FOR PRODUCTION NO. 16 Provide copies of all documentation in the possession or control of the OPUC and its Staff that indicate that the improvements to SUBURBAN's water utility plant which are in SUBURBAN's plans for improvement in this case are not necessary and needed, and identify how SUBURBAN can obtain the necessary funding to make the upgrades, improvements and repairs the TCEQ would have SUBURBAN make to bring its water system into conformance with TCEQ rules, and indicate how this would be accomplished.

REQUEST FOR PRODUCTION NO. 17 Provide copies of all documentation in the possession or control of the OPUC and its Staff that indicate and show how the company can make improvements to SUBURBAN's water utility plant and facilities that the State of Texas would have the company bring it into conformance with TCEQ and PUC rules and with provisions of the Texas Water Code without the use of the instant rate increase and indicate how this would be accomplished.

REQUEST FOR PRODUCTION NO. 18 Provide copies of all documentation in the possession or control of the OPUC and its Staff that demonstrate which rate case expenses incurred by SUBURBAN should be recoverable through rates, i.e., included in the revenue requirement or surcharged. With respect to each item produced, identify with specificity which expenses and the expert witness that will sponsor that document and this opinion evidence at trial.

REQUEST FOR PRODUCTION NO. 19 Provide copies of all documentation in the possession or control of the OPUC and its Staff regarding any water utility cost of service allocations proposed by SUBURBAN that the OPUC and its Staff claim are incorrect or otherwise inappropriate for ratemaking purposes in this docket. With respect to each item produced, identify with specificity each the challenged allocation and the expert witness that will sponsor that document and this opinion evidence at trial.

REQUEST FOR PRODUCTION NO. 20 Provide copies of all documentation in the possession or control of the OPUC and its Staff that identify any water utility rate base allocations proposed by SUBURBAN that the OPUC and its Staff believe are incorrect or otherwise inappropriate for ratemaking purposes in this docket. With respect to each item produced, identify with specificity the challenged allocation and the expert witness that will sponsor that document and this opinion evidence at trial.

REQUEST FOR PRODUCTION NO. 21 Provide copies any and all documents, materials or other items that the OPUC claims that support any contention you may have that SUBURBAN cannot support the need for a customer rate surcharge to make necessary capital improvements to its

water utility system as set forth into its rate change application.

REQUEST FOR PRODUCTION NO. 22 Please provide the original source documents used, and reviewed by any OPUC witness to support their testimony filed in this case.

REQUEST FOR PRODUCTION NO 23 Please provide any and all documents that relate to the OPUC's and its Staff's responses to the following numbered SUBURBAN Request for Information listed above; these documents to include, but not be limited to, any document, report, memoranda, email messages and any other written or electronic materials that the OPUC and its Staff reviewed, used and/or know or presume that relate and/or were used to support or were reviewed in the process of the OPUC Staff attorney's testimony and/or stated positions as well as the OPUC's and its Staff's responses to the Request for Information listed above.

REQUEST FOR PRODUCTION NO. 25 Please provide copies of any and all correspondence, memoranda, letters, emails, documents, notes, messages, and any other materials received by and sent by the OPUC and any of its Staff, including its attorneys, from, with and to any other persons, any water and sewer utilities and districts of any kind and nature, attorneys either individually or who represent persons or entities or agencies, any state and local agencies and departments, including, but not limited to, the Public Utility Commission of Texas and its staff, including attorneys, the Texas Commission on Environmental Quality and its staff, including attorneys, and any other state and local agencies and departments, any state or local elected officials, and any other entities and persons that in any way mention, reference, relate to and pertain to this rate change application by SUBURBAN and any issues involved in this proceeding, and that in any way relate, refer and pertain to SUBURBAN and its affiliates during the past three (3) years.

IV. REQUESTS FOR DISCLOSURE

Please disclose the information and material described in Tex. R. Civ. Proc. 194.2(a), (b), (c), (e), (f) and (i). [Copy of the applicable provisions of the rule are inserted below.]

TRCP 194.2. Requests for Disclosures.

A party may request disclosure of any or all of the following:

- (a) the correct names of the parties to the lawsuit;
- (b) the name, address, and telephone number of any potential parties;
- (c) the legal theories and, in general, the factual bases of the responding party's claims or defenses (the responding party need not marshal all evidence that may be offered at trial);
- (e) the name, address, and telephone number of persons having knowledge of relevant facts, and a brief statement of each identified person's connection with the case;
- (f) for any testifying expert:
 - (1) the expert's name, address, and telephone number;
 - (2) the subject matter on which the expert will testify;

(3) the general substance of the expert's mental impressions and opinions and a brief summary of the basis for them, or if the expert is not retained by, employed by, or otherwise subject to the control of the responding party, documents reflecting such information;

(4) if the expert is retained by, employed by, or otherwise subject to the control of the responding party:

(A) 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 the expert's testimony; and

(B) the expert's current resume and bibliography;

(I) any witness statements described in Rule 192.3(h).