



Control Number: 46674



Item Number: 306

Addendum StartPage: 0

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

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APPLICATION OF SUBURBAN
UTILITY COMPANY, INC. FOR
AUTHORITY TO CHANGE RATES

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BEFORE THE STATE OFFICE
OF PUBLIC UTILITY COMMISSION
ADMINISTRATIVE HEARINGS

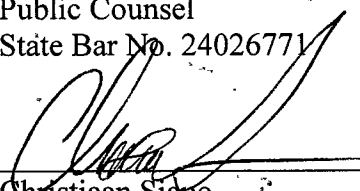
OFFICE OF PUBLIC UTILITY COUNSEL'S RESPONSE TO
SUBURBAN UTILITY COMPANY, INC.'S
FIRST REQUEST FOR INFORMATION

The Office of Public Utility Counsel (OPUC) stipulates that the following response(s) to request(s) for information may be treated by all parties as if the answers were filed under oath.

Dated: March 9, 2017

Respectfully submitted,

Tonya Baer
Public Counsel
State Bar No. 24026771


Christiaan Siano
Assistant Public Counsel
State Bar No. 24051335

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CERTIFICATE OF SERVICE

SOAH DOCKET NO. 473-17-2457.WS
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I hereby certify that today, March 9, 2017, a true copy of the Office of Public Utility Counsel's Response to Suburban Utility Company, Inc.'s First Request for Information was served on all parties of record via hand delivery, facsimile, or United States First-Class Mail.


Christiaan Siano

SOAH Docket No. 473-17-2457.WS
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OPUC's Response to
Suburban's First Request for Information

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.

RESPONSE:

OPUC's review of SUBURBAN's application is ongoing, OPUC does not have an opinion at this time.

Prepared By: Counsel
Sponsored By: Counsel

SOAH Docket No. 473-17-2457.WS
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OPUC's Response to
Suburban's First Request for Information

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 use to recover reasonable and necessary rate case expense.

RESPONSE:

A utility, such as Suburban, may recover reasonable rate-case expenses, pursuant to 16 TAC § 24.33. OPUC has not formed an opinion on the method of recovery of rate-case expenses, if any, in this docket.

Prepared By: Counsel ,
Sponsored By: Counsel

SOAH Docket No. 473-17-2457.WS
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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.

RESPONSE:

OPUC's review of SUBURBAN's application is ongoing, OPUC does not have an opinion at this time.

Prepared By: Counsel
Sponsored By: Counsel

SOAH Docket No. 473-17-2457.WS
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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.

RESPONSE:

OPUC's review of SUBURBAN's application is ongoing, OPUC does not have an opinion at this time.

Prepared By: Counsel
Sponsored By: Counsel

SOAH Docket No. 473-17-2457.WS
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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.

RESPONSE:

OPUC's review of SUBURBAN's application is ongoing, OPUC does not have an opinion at this time.

Prepared By: Counsel
Sponsored By: Counsel

SOAH Docket No. 473-17-2457.WS
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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.

RESPONSE:

OPUC's review of SUBURBAN's application is ongoing, OPUC does not have an opinion at this time.

Prepared By: Counsel
Sponsored By: Counsel

SOAH Docket No. 473-17-2457.WS
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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.

RESPONSE:

OPUC's review of SUBURBAN's application is ongoing, OPUC does not have an opinion at this time.

Prepared By: Counsel
Sponsored By: Counsel

SOAH Docket No. 473-17-2457.WS
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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.

RESPONSE:

OPUC's review of SUBURBAN's application is ongoing, OPUC does not have an opinion at this time.

Prepared By: Counsel
Sponsored By: Counsel

SOAH Docket No. 473-17-2457.WS
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OPUC's Response to,
Suburban's First Request for Information

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.

RESPONSE:

OPUC's review of SUBURBAN's application is ongoing, OPUC does not have an opinion at this time.

Prepared By: Counsel
Sponsored By: Counsel

SOAH Docket No. 473-17-2457.WS
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OPUC's Response to
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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.

RESPONSE:

OPUC's review of SUBURBAN's application is ongoing, OPUC does not have an opinion at this time.

Prepared By: Counsel
Sponsored By: Counsel

SOAH Docket No. 473-17-2457.WS
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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.

RESPONSE:

OPUC's review of SUBURBAN's application is ongoing, OPUC does not have an opinion at this time.

Prepared By: Counsel
Sponsored By: Counsel

SOAH Docket No. 473-17-2457.WS
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OPUC's Response to
Suburban's First Request for Information

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.

RESPONSE:

OPUC's review of SUBURBAN's application is ongoing, OPUC does not have an opinion at this time.

Prepared By: Counsel
Sponsored By: Counsel

SOAH Docket No. 473-17-2457.WS
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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.

RESPONSE:

This request is subject to a pending objection. Subject to that objection, OPUC's review of SUBURBAN's application is ongoing, OPUC does not have an opinion at this time.

Prepared By: Counsel
Sponsored By: Counsel

SOAH Docket No. 473-17-2457.WS
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OPUC's Response to
Suburban's First Request for Information

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.

RESPONSE:

This request is subject to a pending objection.

Prepared By: Counsel
Sponsored By: Counsel

SOAH Docket No. 473-17-2457.WS
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OPUC's Response to
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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.

RESPONSE:

This request is subject to a pending objection.

Prepared By: Counsel
Sponsored By: Counsel

SOAH Docket No. 473-17-2457.WS
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OPUC's Response to
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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.

RESPONSE:

This request is subject to a pending objection. Subject to that objection, OPUC has no responsive documents at this time.

Prepared By: Counsel
Sponsored By: Counsel

SOAH Docket No. 473-17-2457.WS
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OPUC's Response to
Suburban's First Request for Information

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.

RESPONSE:

OPUC has no responsive documents at this time.

Prepared By: Counsel
Sponsored By: Counsel

SOAH Docket No. 473-17-2457.WS
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OPUC's Response to
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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.

RESPONSE:

OPUC has no responsive documents at this time.

Prepared By: Counsel
Sponsored By: Counsel

SOAH Docket No. 473-17-2457.WS
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OPUC's Response to
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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.

RESPONSE:

OPUC has no knowledge of documents to be offered at trial by PUC and its Staff.

Prepared By: Counsel
Sponsored By: Counsel

SOAH Docket No. 473-17-2457.WS
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OPUC's Response to
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REQUEST FOR PRODUCTION NO. 5

[Suburban omitted a Request for Production No. 5]

RESPONSE:

Prepared By:
Sponsored By:

SOAH Docket No. 473-17-2457.WS
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OPUC's Response to
Suburban's First Request for Information

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.

RESPONSE:

Apart from Suburban's application and discovery responses, OPUC has no responsive documents at this time.

Prepared By: Counsel
Sponsored By: Counsel

SOAH Docket No. 473-17-2457.WS
PUC Docket No. 46674
OPUC's Response to
Suburban's First Request for Information

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.

RESPONSE:

Apart from Suburban's application and discovery responses, OPUC has no responsive documents at this time.

Prepared By: Counsel
Sponsored By: Counsel

SOAH Docket No: 473-17-2457.WS
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OPUC's Response to
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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.

RESPONSE:

Apart from Suburban's application and discovery responses, OPUC has no responsive documents at this time.

Prepared By: Counsel
Sponsored By: Counsel

SOAH Docket No. 473-17-2457.WS
PUC Docket No. 46674
OPUC's Response to
Suburban's First Request for Information

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.

RESPONSE:

Apart from Suburban's application and discovery responses, OPUC has no responsive documents at this time.

Prepared By: Counsel
Sponsored By: Counsel

SOAH Docket No. 473-17-2457.WS
PUC Docket No. 46674
OPUC's Response to
Suburban's First Request for Information

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.

RESPONSE:

Apart from Suburban's application and discovery responses, OPUC has no responsive documents at this time.

Prepared By: Counsel
Sponsored By: Counsel

SOAH Docket No. 473-17-2457.WS
PUC Docket No. 46674
OPUC's Response to
Suburban's First Request for Information

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.

RESPONSE:

Apart from Suburban's application and discovery responses, OPUC has no responsive documents at this time.

Prepared By: Counsel
Sponsored By: Counsel

SOAH Docket No. 473-17-2457.WS
PUC Docket No. 46674
OPUC's Response to
Suburban's First Request for Information

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.

RESPONSE:

Apart from Suburban's application and discovery responses, OPUC has no responsive documents at this time.

Prepared By: Counsel
Sponsored By: Counsel

**SOAH Docket No. 473-17-2457.WS
PUC Docket No. 46674
OPUC's Response to
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REQUEST FOR PRODUCTION NO. 13

[Suburban omitted a Request for Production No. 13]

RESPONSE:

Prepared By:
Sponsored By:

SOAH Docket No. 473-17-2457.WS
PUC Docket No. 46674
OPUC's Response to
Suburban's First Request for Information.

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.

RESPONSE:

Apart from Suburban's application and discovery responses, OPUC has no responsive documents at this time.

Prepared By: Counsel
Sponsored By: Counsel

SOAH Docket No. 473-17-2457.WS
PUC Docket No. 46674
OPUC's Response to
Suburban's First Request for Information

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.

RESPONSE:

Apart from Suburban's application and discovery responses, OPUC has no responsive documents at this time.

Prepared By: Counsel
Sponsored By: Counsel

SOAH Docket No. 473-17-2457.WS
PUC Docket No. 46674
OPUC's Response to
Suburban's First Request for Information

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.

RESPONSE:

OPUC has no responsive documents.

Prepared By: Counsel
Sponsored By: Counsel

SOAH Docket No. 473-17-2457.WS
PUC Docket No. 46674
OPUC's Response to
Suburban's First Request for Information

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.

RESPONSE:

Apart from Suburban's application and discovery responses, OPUC has no responsive documents at this time.

Prepared By: Counsel
Sponsored By: Counsel

SOAH Docket No. 473-17-2457.WS
PUC Docket No. 46674
OPUC's Response to
Suburban's First Request for Information

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.

RESPONSE:

Apart from Suburban's application and discovery responses, OPUC has no responsive documents at this time.

Prepared By: Counsel
Sponsored By: Counsel

SOAH Docket No. 473-17-2457.WS
PUC Docket No. 46674
OPUC's Response to
Suburban's First Request for Information

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:

RESPONSE:

Apart from Suburban's application and discovery responses, OPUC has no responsive documents at this time.

Prepared By: Counsel
Sponsored By: Counsel

SOAH Docket No. 473-17-2457.WS
PUC Docket No. 46674
OPUC's Response to
Suburban's First Request for Information

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.

RESPONSE:

Apart from Suburban's application and discovery responses, OPUC has no responsive documents at this time.

Prepared By: Counsel
Sponsored By: Counsel

SOAH Docket No. 473-17-2457.WS
PUC Docket No. 46674
OPUC's Response to
Suburban's First Request for Information

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.

RESPONSE:

Apart from Suburban's application and discovery responses, OPUC has no responsive documents at this time.

Prepared By: Counsel
Sponsored By: Counsel

SOAH Docket No. 473-17-2457.WS
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OPUC's Response to
Suburban's First Request for Information

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.

RESPONSE:

OPUC has no responsive documents at this time.

Prepared By: Counsel
Sponsored By: Counsel

SOAH Docket No. 473-17-2457.WS
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OPUC's Response to
Suburban's First Request for Information

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.

RESPONSE:

This is subject to a pending objection.

Prepared By: Counsel
Sponsored By: Counsel

SOAH Docket No. 473-17-2457.WS
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OPUC's Response to
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REQUEST FOR PRODUCTION NO. 24

[Suburban omitted a Request for Production No. 24]

RESPONSE:

Prepared By:
Sponsored By:

SOAH Docket No. 473-17-2457.WS
PUC Docket No. 46674
OPUC's Response to
Suburban's First Request for Information

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.

RESPONSE:

This is subject to a pending objection. Subject to that objection, OPUC is providing responsive, non-privileged documents. See Attachment Suburban RFP-1-25.

Prepared By: Counsel
Sponsored By: Counsel

SOAH Docket No. 473-17-2457.WS
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OPUC's Response to
Suburban's First Request for Information

REQUESTS FOR DISCLOSURE

Please disclose the information and material described in Tex. R. Civ. Proc. 194.2(a), (b), (c), (e), (f) and (i).

RESPONSE:

OPUC discloses the following information in response to the request:

- (a) the correct names of the parties to the contested case hearing;

Pursuant to 16 TAC § 22.144(c)(2)(D) the information can be obtained on the Public Utility Commission Interchange.

- (b) the name, address, and telephone number of any potential parties;

OPUC does not have any information regarding 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);

OPUC has identified some potential legal issues which were submitted in its List of Issues in this docket. OPUC' general legal theory is that Suburban's rates should be just and reasonable, not preferential, prejudicial, or discriminatory but shall be sufficient, equitable, and consistent in application to each class of consumers. TWC § 13.182. The rates should be fixed at a level that will permit the utility 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 preserve the financial integrity of the utility, TWC § 13.183(a), yet yield no more than a fair return on the invested capital used and useful in rendering service to the public. TWC § 13.184.

- (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;

OPUC has no information regarding persons with knowledge of relevant facts.

- (f) for any testifying expert:

- (1) the expert's name, address, and telephone number;
- (2) the subject matter on which the expert will testify;

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Suburban's First Request for Information

(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;

OPUC has not identified any testifying expert in the Suburban rate case at this time.

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

OPUC is not aware of any witness statement as described in Rule 192.3(h).

Prepared By: Counsel
Sponsored By: Counsel

Attachment

Suburban RFP-1-25

OPUC RUC No.	Request Date	Request Address	Request Phone	Request Email	Request Description	Request Type	Request Status	Request Notes	Request Complaint Number	Request Complaint Type	Request Complaint Status	Request Complaint Date	Request Complaint Status
92	1/11/2017	Suzette Becvar 13210 Shelburne Houston TX 77049 281-458-3383			MS: Customer received notice from Suburban Water regarding D-46674 proposed rate increase. She said the water has tested for high lead quality and people are getting sick including her. They need help fighting the proposed rate increase.	Water	Suburban	1/11/2017 11:21 BT - Explained that OPUC is participating in the proceeding and explained our role. For water quality complaints, she needs to contact TCEQ.			Resolved	1/11/2017	1/31/2017

Quinn, Cassandra

From: Siano, Christiaan
Sent: Friday, January 27, 2017 4:30 PM
To: Les Romo
Cc: Chang, Sam; Quinn, Cassandra
Subject: 46674 Discovery responses
Attachments: RFI Response Template.docx; OPUC's 2nd RFI to Suburban_FINAL.docx

Mr. Romo

Thank you for your discovery responses to our 1st set of RFIs. I request that you refile your responses in accordance with the instructions no. 7 and 8 and PUC rules 22.144(c)(2)(A) & (B). I am again attaching a template for you to use in preparing your responses.

I'm also attaching a word version of our 2nd set of RFI's filed today, for your convenience. They include a request for the final order in the district court case, docket no. No. D-1-GN-14-003376. It appears that you have already provided that in your response to our 1st set. If that is the case, I apologize for requesting that again.

Thank you,

Christiaan Siano
Office of Public Utility Counsel
PO Box 12397
Austin, Texas 78711-2397
(512) 936-7506
Fax: (512) 936-7525

Quinn, Cassandra

From: Lesromo.lawoffice@gmail.com
Sent: Friday, January 27, 2017 5:49 PM
To: Siano, Christiaan
Cc: Chang, Sam; Quinn, Cassandra
Subject: Re: 46674 Discovery responses

Mr. Siano. My client's responses are in complete accordance with the PUC rules. Please read the rules again. Nothing requires the responses be on separate pages. My client answered each request separately as required. Also, the identity of those providing the information is given just before the responses begin.

Sent from my iPhone

On Jan 27, 2017, at 4:29 PM, Siano, Christiaan <Christiaan.Siano@opuc.texas.gov> wrote:

Mr. Romo

Thank you for your discovery responses to our 1st set of RFIs. I request that you refile your responses in accordance with the instructions no. 7 and 8 and PUC rules 22.144(c)(2)(A) & (B). I am again attaching a template for you to use in preparing your responses.

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Christiaan Siano
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(512) 936-7506
Fax: (512) 936-7525

<RFI Response Template.docx>

<OPUC's 2nd RFI to Suburban_FINAL.docx>

Quinn, Cassandra

From: Siano, Christiaan
Sent: Monday, January 30, 2017 8:55 AM
To: Lesromo.lawoffice@gmail.com
Cc: Chang, Sam; Quinn, Cassandra
Subject: RE: 46674 Discovery responses

Mr. Romo

The rules require that "Each response to discovery under this subsection shall identify the preparer or person under whose direct supervision the response was prepared, and the sponsoring witness, if any." 16 TAC 22.144(c)(2)(A). Your responses do not do this.

Moreover, OPUC's RFI instructions 7 and 8 specifically require you to provide each response on a separate page.

I would appreciate your cooperation on this matter.

Christiaan Siano
Office of Public Utility Counsel
PO Box 12397
Austin, Texas 78711-2397
(512) 936-7506
Fax: (512) 936-7525

From: Lesromo.lawoffice@gmail.com [mailto:lesromo.lawoffice@gmail.com]
Sent: Friday, January 27, 2017 5:49 PM
To: Siano, Christiaan
Cc: Chang, Sam; Quinn, Cassandra
Subject: Re: 46674 Discovery responses

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Quinn, Cassandra

From: Lesromo.lawoffice@gmail.com
Sent: Monday, January 30, 2017 4:45 PM
To: Siano, Christiaan
Cc: Chang, Sam; Quinn, Cassandra
Subject: Re: 46674 Discovery responses

The PUC in adopting the amendments to the rules also specifically rejected each of the OPUC's objections to using email as a method of serving documents. I requested your cooperation with these rules and you refused. If you note my client's responses identify who provided the information to the responses. Using separate pages for each response is onerous, unreasonable and unduly burdensome and expensive to my client. Perhaps if you agree to comply with the PUS's email service we can come to an agreement. Let me know.

Sent from my iPhone

On Jan 30, 2017, at 8:54 AM, Siano, Christiaan <Christiaan.Siano@opuc.texas.gov> wrote:

Mr. Romo,

The rules require that "Each response to discovery under this subsection shall identify the preparer or person under whose direct supervision the response was prepared, and the sponsoring witness, if any." 16 TAC 22.144(c)(2)(A). Your responses do not do this.

Moreover, OPUC's RFI instructions 7 and 8 specifically require you to provide each response on a separate page.

I would appreciate your cooperation on this matter.

Christiaan Siano
Office of Public Utility Counsel
PO Box 12397
Austin, Texas 78711-2397
(512) 936-7506
Fax: (512) 936-7525

From: Lesromo.lawoffice@gmail.com [<mailto:lesromo.lawoffice@gmail.com>]
Sent: Friday, January 27, 2017 5:49 PM
To: Siano, Christiaan
Cc: Chang, Sam; Quinn, Cassandra
Subject: Re: 46674 Discovery responses

Mr. Siano. My client's responses are in complete accordance with the PUC rules. Please read the rules again. Nothing requires the responses be on separate pages. My client answered each request separately as required. Also, the identity of those providing the information is given just before the responses begin.

Sent from my iPhone

Siano, Christiaan

From: Les Romo <lesromo.lawoffice@gmail.com>
Sent: Wednesday, January 11, 2017 10:36 AM
To: Siano, Christiaan
Subject: Re: Suburban Utility Rate Case

Thank you. No, quite familiar with PUC pleading requirements, but thanks for the info.

On Wed, Jan 11, 2017 at 10:00 AM, Siano, Christiaan <Christiaan.Siano@opuc.texas.gov> wrote:

Les:

Attached is a Word version of our RFI's as well as an example of the response, in case you are unfamiliar with the format at the PUC. [See instructions 7 & 8 of the RFI request].

Yes, I agree to a response deadlines as set out in your email.

I cannot agree to service of documents and pleadings by email, although it's fine for general correspondence.

Christiaan Siano

Office of Public Utility Counsel

PO Box 12397

Austin, Texas 78711-2397

(512) 936-7506

Fax: (512) 936-7525

From: Les Romo [mailto:lesromo.lawoffice@gmail.com]

Sent: Wednesday, January 11, 2017 9:39 AM

To: Siano, Christiaan
Subject: Suburban Utility Rate Case

Christiaan: This email will confirm our conversation this morning regarding the Requests for Information you served on my client Suburban Utility Co in Docket No. 46674 pending before the Texas Public Utility Commission. As we discussed and you agreed, my client will have until January 30, 2017 to file its objections and responses to the Requests for Information you served on it on January 9, 2017, with the exception of the Request for Admission; the response and any objections to these will be filed on the deadline of January 19, 2017.

Also, you agreed to send me the Request for Information in Word format. Please do so at your earliest convenience.

Finally, do not know where this case is headed, but for future correspondence and pleadings, I request that your office and I be able to use email for purposes of sending such in this case. Please confirm your agreement to this mode of service of documents and pleadings between our offices in this case.

Please let me know if you have any questions. I look forward to your reply. - Les Romo

--
Law Office of Les Romo
102 West Morrow Street, Suite 202
P.O. Box 447
Georgetown, Texas 78627
(512) 868-5600; Fax: (512) 591-7815

This message and its attachments, if any, may contain confidential information which is legally privileged and intended for the recipient's eyes only. If you have received this message in error, please delete it and notify me immediately. You are further notified that unless you are the intended recipient of this message, any disclosure, copying, distribution or the taking of action in reliance upon the contents of this message or its attachments, if any, is strictly prohibited.

--
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Siano, Christiaan

From: Lesromo.lawoffice@gmail.com
Sent: Friday, January 27, 2017 5:49 PM
To: Siano, Christiaan
Cc: Chang, Sam; Quinn, Cassandra
Subject: Re: 46674 Discovery responses

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Sent from my iPhone

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I'm also attaching a word version of our 2nd set of RFI's filed today, for your convenience. They include a request for the final order in the district court case, docket no. No. D-1-GN-14-003376. It appears that you have already provided that in your response to our 1st set. If that is the case, I apologize for requesting that again.

Thank you,

Christiaan Siano
Office of Public Utility Counsel
PO Box 12397
Austin, Texas 78711-2397
(512) 936-7506
Fax: (512) 936-7525

<RFI Response Template.docx>

<OPUC's 2nd RFI to Suburban_FINAL.docx>

Siano, Christiaan

From: Chang, Sam <Sam.Chang@puc.texas.gov>
Sent: Thursday, February 09, 2017 1:20 PM
To: Siano, Christiaan
Subject: RE: D46674 SOAH ORDER NO 1

My work number is (512) 936-7261.

-----Original Message-----

From: Siano, Christiaan [<mailto:Christiaan.Siano@opuc.texas.gov>]
Sent: Wednesday, February 08, 2017 7:50 PM
To: Chang, Sam <Sam.Chang@puc.texas.gov>
Subject: FW: D46674 SOAH ORDER NO 1

WARNING: EXTERNAL SENDER. Always be cautious when clicking links or opening attachments. NEVER provide your user ID or password.

Sam, I see that we're supposed to confer by Feb. 10. I can defer to you on prehearing conference dates, etc. So if you want to just make the decision in conference with Les, I'll go along with what you come up with - so long as it's not the week of March 13-17. You can also call me on my cell at 512-731-1961, since I'm not in the office.

Also, please send me your work number, I didn't bring it home with me.

From: WorkCenter
Sent: Wednesday, February 08, 2017 1:33 PM
To: Quinn, Cassandra; Reyna, Rosie; Siano, Christiaan
Subject: D46674 SOAH ORDER NO 1

this fax was just received

Number of Images: 3
Attachment File Type: PDF

Device Name: Color 570
Device Location:

Siano, Christiaan

From: Chang, Sam <Sam.Chang@puc.texas.gov>
Sent: Thursday, February 09, 2017 1:20 PM
To: Siano, Christiaan; Les Romo
Subject: Suburban Utility rate case - Prehearing conference dates

Les, Christiaan:

Are these three dates workable for the pre-hearing conference?

1. March 27th
2. March 28th
3. March 29th

Sam Chang
Legal Division
Public Utility Commission of Texas
1701 North Congress Avenue
Austin, Texas 78701
P.O. Box 13326
(512) 936-7261
(512) 936-7268 (facsimile)
sam.chang@puc.texas.gov

Siano, Christiaan

From: Les Romo <lesromo.lawoffice@gmail.com>
Sent: Thursday, February 09, 2017 1:37 PM
To: Chang, Sam
Cc: Siano, Christiaan
Subject: Re: Suburban Utility rate case - Prehearing conference dates

These dates work for me.

On Thu, Feb 9, 2017 at 1:20 PM, Chang, Sam <Sam.Chang@puc.texas.gov> wrote:

Les, Christiaan:

Are these three dates workable for the pre-hearing conference?

1. March 27th
2. March 28th
3. March 29th

Sam Chang

Legal Division

Public Utility Commission of Texas

1701 North Congress Avenue

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(512) 936-7261

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sam.chang@puc.texas.gov

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Siano, Christiaan

From: Chang, Sam <Sam.Chang@puc.texas.gov>
Sent: Thursday, February 09, 2017 2:06 PM
To: Siano, Christiaan; Les Romo
Subject: RE: Suburban Utility rate case - Prehearing conference dates

Also, I was thinking about making the intervention deadlines the same.

From: Siano, Christiaan [mailto:Christiaan.Siano@opuc.texas.gov]
Sent: Thursday, February 09, 2017 1:42 PM
To: Les Romo <lesromo.lawoffice@gmail.com>; Chang, Sam <Sam.Chang@puc.texas.gov>
Subject: RE: Suburban Utility rate case - Prehearing conference dates

WARNING: EXTERNAL SENDER. Always be cautious when clicking links or opening attachments. NEVER provide your user ID or password.

Same here.

From: Les Romo [lesromo.lawoffice@gmail.com]
Sent: Thursday, February 09, 2017 12:37 PM
To: Chang, Sam
Cc: Siano, Christiaan
Subject: Re: Suburban Utility rate case - Prehearing conference dates

These dates work for me.

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2. March 28th*
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Sam Chang

Legal Division

Public Utility Commission of Texas

1701 North Congress Avenue

Austin, Texas 78701

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sam.chang@puc.texas.gov

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Siano, Christiaan

From: Chang, Sam <Sam.Chang@puc.texas.gov>
Sent: Thursday, February 09, 2017 2:15 PM
To: Siano, Christiaan; Les Romo
Subject: RE: Suburban Utility rate case - Prehearing conference dates

Correct.

From: Siano, Christiaan [mailto:Christiaan.Siano@opuc.texas.gov]
Sent: Thursday, February 09, 2017 2:14 PM
To: Chang, Sam <Sam.Chang@puc.texas.gov>; Les Romo <lesromo.lawoffice@gmail.com>
Subject: RE: Suburban Utility rate case - Prehearing conference dates

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Assuming notice is proper?

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Sent: Thursday, February 09, 2017 1:42 PM
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Siano, Christiaan

From: Lesromo.lawoffice@gmail.com
Sent: Friday, February 10, 2017 9:52 AM
To: Chang, Sam
Cc: Siano, Christiaan
Subject: Re: Suburban Utility rate case - Prehearing conference dates

Agreed

Sent from my iPhone

On Feb 9, 2017, at 2:15 PM, Chang, Sam <Sam.Chang@puc.texas.gov> wrote:

Correct.

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Sent: Thursday, February 09, 2017 2:14 PM
To: Chang, Sam <Sam.Chang@puc.texas.gov>; Les Romo <lesromo.lawoffice@gmail.com>
Subject: RE: Suburban Utility rate case - Prehearing conference dates

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To: Siano, Christiaan; Les Romo
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To: Les Romo <lesromo.lawoffice@gmail.com>; Chang, Sam <Sam.Chang@puc.texas.gov>
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Siano, Christiaan

From: Les Romo <lesromo.lawoffice@gmail.com>
Sent: Wednesday, February 22, 2017 11:07 AM
To: Quinn, Cassandra
Cc: Siano, Christiaan
Subject: Re: 46674 - Word version of 1st set to OPUC
Attachments: Suburban Utility's First RFIs to OPUC.rtf

Here are my client Suburban Utility Company, Inc.'s First RFIs to the Office of Public Interest Counsel in Word format. Let me know if you have any problems.

On Wed, Feb 22, 2017 at 10:17 AM, Quinn, Cassandra <Cassandra.Quinn@opuc.texas.gov> wrote:

Mr. Romo,

I was just following up on Christiaan's request below. Could you please send us a Word version of Suburban's 1st set of RFIs to OPUC?

Thank you,

Cassandra

Cassandra Quinn

Office of Public Utility Counsel

1701 Congress Avenue, Suite 9-180

P.O. Box 12397

Austin, Texas 78711-2397

(512) 936-7534 (Direct)

(512) 936-7525 (Fax)

cassandra.quinn@opuc.texas.gov

From: Slano, Christiaan
Sent: Friday, February 17, 2017 1:16 PM
To: Lesromo.lawoffice@gmail.com
Cc: Quinn, Cassandra
Subject: RFIs in Word

Les, attached is a word version of our Third Set of RFIs. Please forward me a word version of yours.

Thank you,

Christiaan

--
Law Office of Les Romo
102 West Morrow Street, Suite 202
P.O. Box 447
Georgetown, Texas 78627
(512) 868-5600; Fax: (512) 591-7815

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SOAR DOCKET NO. 473-17-2457.WS.
PUC DOCKET NO. 46674

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

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 witnesses in this cause who will sponsor the answers to each question, and who can vouch for the truth of the answer.

Respectfully submitted this _ day of February, 2017.

LesRomo
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 _ day of February, 2017.

LesRomo

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 requests 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 SOAR 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 in 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), (t) 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;
- (t) 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;

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