



Control Number: 47897



Item Number: 114

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PUC DOCKET NO. 47897
SOAH DOCKET NO. 473-18-3008.WS

2018 MAY 13 PM 1:31
BEFORE THE
PUBLIC UTILITY COMMISSION
OF TEXAS

APPLICATION OF FOREST GLEN §
UTILITY COMPANY FOR AUTHORITY §
TO CHANGE RATES §

PUBLIC UTILITY COMMISSION
OF TEXAS

**FOREST GLEN UTILITY COMPANY'S FIRST
REQUESTS FOR INFORMATION TO FLEMING MITCHELL**

TO: Intervenor Fleming D. Mitchell, 163 Sunrise Hill, Castroville, Texas 78009

COMES NOW, Forest Glen Utility Company ("Utility" or "FGU") and serves this, its First Requests for Information, to Intervenor Fleming D. Mitchell ("Mitchell") pursuant to Chapter 2001 of the Texas Government Code, the Texas Rules of Civil Procedure, and applicable rules and regulations of the Public Utility Commission of Texas ("PUC" or "Commission") and the State Office of Administrative Hearings ("SOAH").

You are requested to answer in complete detail and in writing each of the following requests for information, as well as produce the requested documents, within 20 days of service in accordance with the Texas Rules of Civil Procedure and the Procedural Rules of the PUC at the offices of the undersigned counsel, or at such other time and place as agreed between counsel. Mitchell may and is encouraged to produce responsive documents in an electronic format.

Respectfully submitted,

GILBERT WILBURN, PLLC
7000 North MoPac Blvd., Suite 200
Austin, Texas 78731
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Helen S. Gilbert

By: _____
Helen S. Gilbert
State Bar No. 00786263
Randall B. Wilburn
State Bar No. 24033342

**ATTORNEYS FOR FOREST GLEN UTILITY
COMPANY**

CERTIFICATE OF SERVICE

I hereby certify that I have served a true and correct copy of the foregoing document via hand delivery, facsimile, electronic mail, overnight mail, U.S. mail, and/or Certified Mail Return Receipt Requested on all parties on the 18th day of May 2018.

By: *Helen S. Gilbert* _____
Helen S. Gilbert

INSTRUCTIONS

- a) Singular and masculine forms of any noun or pronoun shall embrace and be applied as the plural or as the feminine or neuter, as appropriate to the context, and vice versa.
- b) Each category following is to be construed and responded to independently and is not to be referenced to any other item herein for the purposes of limitation.
- c) Documents produced pursuant to this request shall be tendered either in the precise form or manner in which they are kept in the usual course of business or organized and labeled to correspond with the category that follows these requests.
- d) Any use herein of the word “including” shall be construed as “including, but not limited to.”
- e) Any use herein of the words “and” or “or” shall be construed either conjunctively or disjunctively as necessary to bring within the scope of these requests any documents that might otherwise be considered outside its scope.
- f) Any use herein of the words “any” or “all” shall be construed generally to mean “each and every,” but shall be construed either broadly or narrowly as necessary to bring within the scope of these requests any documents that might otherwise be considered outside its scope.
- g) The requirements of the Texas Rules of Civil Procedure shall be strictly complied with. All documents within the scope of these requests shall be as they are kept in the usual course of business or shall be organized and labeled to correspond to the categories of these requests.
- h) If any party named hereinabove has ever had any of the documents referred to herein in her possession, custody or control, but does not now, that party is requested to state the following with respect to each such document:
 - (1) The present location thereof, if known, or all reasons why the party cannot or does not know the location thereof;
 - (2) The date each such document left possession, custody or control of the party;
 - (3) The reasons why each such document is not now in the possession, custody or control of the party;
 - (4) The name and address of all persons having knowledge about the matters inquired about in the immediately preceding paragraphs (1) through (3).
- (i) If any document requested herein has been destroyed, you are requested to describe in detail the circumstances of and reasons for such destruction, and to produce all documents that relate to either the circumstances or the reasons for such destruction.
- (j) If any document requested herein is withheld under claim or privilege, or is not produced for whatever reason, you are requested:

(1) To state with specificity the claim of privilege or other reason used to withhold production; and,

(2) To identify each such document by date, author, and subject matter, without ruling on the privilege or other reason asserted.

You are further requested to produce those portions of any such document which are not subject to the claim of privilege or other reason for non-production by excising or otherwise protecting the portions for which a privilege is asserted, if such a technique does not result in disclosing the contents of the portions for which some privilege is asserted.

(k) These discovery requests are continuing in nature. If further information or documents come into your possession or are brought to your attention during preparation for trial or during trial, supplementation of your responses may be required.

(l) Except where otherwise specified or indicated by context, each category following requests information for the period from the time when you first had any contact or communication with the Respondent to the date of the production of the documents, subject to the duty to supplement.

(m) Unless otherwise defined, the specific terms used in these discovery requests shall have the same meaning as the definitions contained in chapter 13 of the Texas Water Code, the Public Utility Commission of Texas regulations implementing those laws and the bylaws of Avalon Water Supply and Sewer Services Corporation.

(n) Pursuant to 30 Tex. Admin. Code ("TAC") § 22.144(c)(2), answer to the requests for information shall be made under oath.

DEFINITIONS

1. "You" and "your" means Fleming D. Mitchell and Hilda L. Mitchell as well as your attorneys, employees, independent contractors, representatives, consultants, affiliates, and expert witnesses.

2. "FGU" means Forest Glen Utility Company, applicant in the above-docketed rate case.

3. "Commission" or "PUC" means the Public Utility Commission of Texas with jurisdiction over this matter, PUC Docket No. 47897.

4. "Document" or "documents" means and refers to all writings, data, data compilations, correspondence, electronic transmissions, email, electronically stored data and data compilations, and all versions and modifications of same.

REQUESTS FOR ADMISSION

Request for Admission No. 1-1: Admit that state law requires the PUC to fix FGU's sewer rates at a level that will allow FGU to earn a reasonable return on its invested capital.

RESPONSE:

Request for Admission No. 1-2: Admit that under state law, a reasonable return on FGU's invested capital is over and above its reasonable and necessary operating expenses.

RESPONSE:

Request for Admission No. 1-3: Admit that under state law, FGU is allowed to charge a sewer rate that preserves its financial integrity.

RESPONSE:

Request for Admission No. 1-4: Admit that under state law, FGU may collect additional revenue from its customers to provide funds for capital improvements necessary to provide facilities capable of providing adequate and continuous utility service.

RESPONSE:

Request for Admission No. 1-5: Admit that you have no evidence that FGU's operating expenses for the test year are either unreasonable or unnecessary.

RESPONSE:

Request for Admission No. 1-6: Admit that you have no evidence that FGU's cost of service is either unreasonable or unnecessary.

RESPONSE:

Request for Admission No. 1-7: Admit that you have no evidence that the rate of return used in the FGU Application is either unreasonable or unnecessary.

RESPONSE:

Request for Admission No. 1-8: Admit that you have no evidence that FGU has failed to provide accurate accounting to support the collection of additional revenues for capital improvement projects.

RESPONSE:

Request for Admission No. 1-9: Admit that new homeowners are moving into the Potranco Ranch Subdivision.

RESPONSE:

Request for Admission No. 1-10: Admit that new homeowners have moved into the Potranco Ranch Subdivision since you purchased your property.

RESPONSE:

Request for Admission No. 1-11: Admit that as an authorized retail public utility, FGU must provide adequate and continuous sewer service to all its wastewater customers within the boundary its Certificate of Convenience No. 21070.

RESPONSE:

Request for Admission No. 1-12: Admit that in order to serve the increasing customers in the Potranco Ranch Subdivision, FGU must expand its wastewater treatment plant ("WWTP").

RESPONSE:

Request for Admission No. 1-13: Admit that FGU has filed an application for a major amendment with the Texas Commission on Environmental Quality ("TCEQ") to accommodate a higher volume of wastewater (generated by more customers) at its WWTP (*see* Application to Amend and Renew TPDES Permit No. WQ0015030001).

RESPONSE:

Request for Admission No. 1-14: Admit that public notice of FGU's filing of its application for a major amendment with the TCEQ was published in the Hondo Anvil Herald on March 22, 2018.

RESPONSE:

Request for Admission No. 1-15: Admit that it is state policy that utilities like FGU should be maintained so they are financially stable and technically sound.

RESPONSE:

Request for Admission No. 1-16: Admit that you have no experience owning or operating a retail public utility providing wastewater services to the public in Texas.

RESPONSE:

Request for Admission No. 1-17: Admit that you have never filed an application with the PUC or predecessor agency seeking to increase utility rates.

RESPONSE:

REQUESTS FOR PRODUCTION

Request for Production No. 1-1: If you denied Request for Admission No. 1-5 that you have no evidence that FGU's operating expenses for the test year are either unreasonable or unnecessary, please produce the responsive documents relating to FGU's operating expenses that support your position.

RESPONSE:

Request for Production No. 1-2: If you denied Request for Admission No. 1-6 that you have no evidence that FGU's cost of service is either unreasonable or unnecessary, please produce the responsive documents relating to FGU's cost of service that support your position.

RESPONSE:

Request for Production No. 1-3: If you denied Request for Admission No. 1-7 that you have no evidence that FGU's rate of return is either unreasonable or unnecessary, please produce the responsive documents relating to FGU's rate of return that support your position.

RESPONSE:

Request for Production No. 1-4: If you denied Request for Admission No. 1-8 that you have no evidence that FGU's accounting is either unreasonable or unnecessary, please produce the responsive documents relating to FGU's accounting support of capital improvement projects that support your position.

RESPONSE:

REQUESTS DISCLOSURES UNDER RULE 194

(a) the correct names of the parties to the lawsuit;

RESPONSE:

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

RESPONSE:

(c) the legal theories and, in general, the factual bases of the responding party's claims or defenses.

RESPONSE:

- (d) 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;

RESPONSE:

- (e) 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;

RESPONSE:

- (f) any settlement agreements described in TRCP 192.3(g);

RESPONSE:

- (g) any indemnity and insuring agreements described in Rule 192.3(g);

RESPONSE:

- (i) any witness statements described in TRCP 192.3(h).

RESPONSE: