



Control Number: 49189



Item Number: 131

Addendum StartPage: 0

RECEIVED
OCT 17 PM 2:21
THE STATE OFFICE
FBI - DENVER

BEFORE THE STATE OFFICE

OF

ADMINISTRATIVE HEARINGS

DISTRICTS' 9TH REQUEST FOR INFORMATION

131

I. BACKGROUND

Districts filed their Ninth Request for Information on the City on September 23, 2019 (“Request”). The Request generally sought the City’s Cost of Service models that had been created by Raftelis in 2017.¹

A party may obtain discovery regarding any matter that is not privileged and is relevant to the subject matter of the pending action, and may obtain discovery of information that is reasonably calculated to lead to the discovery of admissible evidence.² Districts’ Request was intended to be comprehensive and provide meaningful responses in advance of Districts’ deadline to file testimony in this case (October 18, 2019).

The City’s rate filing package and direct case in this matter initially consisted of 3,731 pages of material,³ and the City’s response to Districts’ discovery in this matter resulted in 271 additional documents of 8,100 pages which include 83 additional Excel spreadsheets with 516 tabs. The Commission’s rules set the framework for production of documents by requiring the producing party to provide a detailed index of the documents being produced when that production is 100 pages or more.⁴ The Commission intended the rule to prevent abuse of the discovery process by a party producing voluminous records that require the requesting party to review thousands of pages in order to glean the relevant and responsive information.

The City responded to the Districts’ Requests, however, its production is inadequate under Commission rules and SOAH Order No. 5.

II. RESPONSE TO CITY’S PRODUCTION

City produced its Response to Districts’ Ninth Request on October 14, 2019 and provided the Districts with a hardcopy of the models sought. The documents are voluminous and were transmitted

¹ See City of Austin’s Response to Districts’ Ninth Request for Information, Questions 9-9 through 9-20, Docket No. 49189, Item 120 (Oct. 14, 2019), attached as Exhibit A (specifically City’s Response to Request 9-9), City of Austin’s Index of Voluminous Materials Filed in Response to Districts’ Ninth Request for Information, Questions 9-9 through 9-20, Docket No. 49189, Item 119 (Oct. 14, 2019), attached as Exhibit B (specifically City’s Response to Requests 9-26), City of Austin’s Response to Districts’ Ninth Request for Information, Docket No. 49189, Item 116 (Oct. 14, 2019), attached as Exhibit C (specifically City’s Response to Requests 9-26), and City of Austin’s Index of Voluminous Materials Filed in Response to Districts’ Ninth Request for Information, Docket No. 49189, Item 115 (Oct. 14, 2019), attached as Exhibit D (specifically City’s Response to Requests 9-26).

² Tex. R. Civ. Proc. 192.3; 16 TAC § 22.141(a).

³ See Application of the City of Austin D/B/A Austin Water for Authority to Change Water and Wastewater Rates, Docket No. 49189, Item 2 (April 15, 2019).

⁴ 16 TAC § 22.144(h)(4).

to the Districts electronically, however, the documents are scanned versions of the excel files that were sought. As a result, the Districts do not have the native excel files of the City's Cost of Service models that were requested.

Districts' purpose in requesting the Cost of Service models for 2017 and 2018 was to inspect the excel files to understand how the rate calculations changed between those years. If the Districts can only inspect that information in PDF format, there is no way to glean what formulas that the City used in its individual excel cells. Providing the documents as PDFs does not constitute proper production under Commission's rules because it obfuscates the formulas that are integral to understanding how the models are calculated.

The City does, or should, understand that by providing the documents in this manner that it has not properly responded to the Districts' Request and that its actions will unduly delay the Districts' analysis of case documents. The Districts are left with no recourse but to file this Motion to Compel so that its Requests may be properly responded to under Commission's rules. By taking this action, the City has expressly gone against SOAH Order No. 5 which stated: "A party should not cause an opponent delay receiving discovery or have to file a pleading or the ALJs to rule on a dispute that arises only because the party failed to comply with a Commission discovery rule."⁵

III. PRAYER

WHEREFORE, PREMISES CONSIDERED, Districts North Austin Municipal Utility District No. 1, Northtown Municipal Utility District, Travis County Water Control & Improvement District No. 10, and Wells Branch Municipal Utility District pray that the Administrative Law Judges issue an Order Compelling the City to respond to Districts' Ninth Request for Information and grant Districts other such relief to which they may be entitled.

⁵ SOAH Order No.5- *Ruling on Districts' Motion to Compel Austin Water to Respond to Districts' 1ST, 2ND, 3RD, 4TH, and 5TH RFI's and Setting Deadline for Objections to the City of Austin's Direct Testimony*, Docket No. 49189, Item 103 at 8 (Oct. 10, 2019).

Respectfully submitted,



John J. Carlton

Randall B. Wilburn
State Bar No. 24033342
Helen S. Gilbert
State Bar No. 00786263
GILBERT WILBURN PLLC
7000 North MoPac Blvd., Suite 200
Austin, Texas 78731
Telephone: (512) 535-1661
Facsimile: (512) 535-1678

John J. Carlton
State Bar No. 03817600
Kelli A. N. Carlton
State Bar No. 15091175
The Carlton Law Firm, P.L.L.C.
4301 Westbank Drive, Suite B-130
Austin, Texas 78746
Telephone: (512) 614-0901
Facsimile: (512) 900-2855

ATTORNEYS FOR DISTRICTS

CERTIFICATE OF SERVICE

I hereby certify that I have served or will serve 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 to all parties on this the 17th day of October, 2019.



John J. Carlton

**SOAH DOCKET NO. 473-19-6297.WS
PUC DOCKET NO. 49189**

APPLICATION OF THE CITY OF	§	BEFORE THE STATE OFFICE
AUSTIN DBA AUSTIN WATER FOR	§	
AUTHORITY TO CHANGE WATER	§	OF
AND WASTEWATER RATES	§	ADMINISTRATIVE HEARINGS

**CITY OF AUSTIN D/B/A AUSTIN WATER'S
RESPONSE TO DISTRICTS' NINTH
REQUEST FOR INFORMATION, QUESTIONS 9-9 THROUGH 9-20**

To: North Austin Municipal Utility District No. 1, Northtown Municipal Utility District, Travis County Water Control and Improvement District No. 10 and Wells Branch Municipal Utility District, by and through their attorneys of record, Randall B. Wilburn, Gilbert Wilburn, PLLC, 7000 North MoPac Blvd., Suite 200, Austin, Texas 78731 and John Carlton, 4301 Westbank Drive., Suite B-130, Austin, Texas 78746.


COMES NOW the City of Austin (City) doing business as Austin Water (Austin Water or AW) and files this Response to North Austin Municipal Utility District No. 1, Northtown Municipal Utility District, Travis County Water Control and Improvement District No. 10, and Wells Branch Municipal Utility District's (collectively Districts) Ninth Request for Information (RFI) to Austin Water, Questions 9-9 through 9-20. By responding to these questions, Austin Water is withdrawing its objections filed on October 3, 2019.

If responsive documents exceed 99 pages, the response will indicate that the attachment is voluminous, and pursuant to 16 TAC § 22.144(h)(2), the document will be made available for inspection at the offices of Austin Water's attorneys, Lloyd Gosselink Rochelle & Townsend, P.C., located at 816 Congress Avenue, Suite 1900, Austin, Texas 78701. Please call Sam Weaver at 512-322-5883 during regular business hours, to make an appointment to review the documents.

Respectfully submitted,

**LLOYD GOSSELINK ROCHELLE
& TOWNSEND, P.C.**

816 Congress Avenue, Suite 1900
Austin, Texas 78701
(512) 322-5800
(512) 472-0532 (Fax)



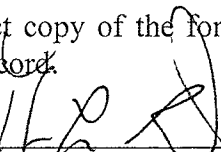
THOMAS L. BROCATO
tbrocato@lglawfirm.com
State Bar No. 03039030

W. PATRICK DINNIN
pdinnin@lglawfirm.com
State Bar No. 24097603

ATTORNEYS FOR CITY OF AUSTIN

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document was served by email on October 14, 2019, to the parties of record.


THOMAS L. BROCATO

**SOAH DOCKET NO. 473-19-6297.WS
PUC DOCKET NO. 49189**

**AUSTIN WATER'S RESPONSE TO
DISTRICTS' NINTH RFI, QUESTIONS 9-9 THROUGH 9-20**

DISTRICTS 9-9: Produce the Raftelis Cost of Service Models for water and wastewater identified in Mr. Giardina's letter to AWU dated November 13, 2017 attached as Attachment 1.

RESPONSE: Please see AW Districts 9-9, Attachment Nos. 1 and 2, which are the water and wastewater cost of service (COS) models identified in the November 13, 2017 letter. The responsive documents are voluminous.

Prepared by: Richard Giardina
Sponsored by: Richard Giardina

**SOAH DOCKET NO. 473-19-6297.WS
PUC DOCKET NO. 49189**

APPLICATION OF THE CITY OF	§	BEFORE THE STATE OFFICE
AUSTIN DBA AUSTIN WATER FOR	§	OF
AUTHORITY TO CHANGE WATER	§	
AND WASTEWATER RATES	§	ADMINISTRATIVE HEARINGS

**CITY OF AUSTIN D/B/A AUSTIN WATER'S
INDEX OF VOLUMINOUS MATERIALS
FILED IN RESPONSE TO DISTRICTS'
NINTH REQUEST FOR INFORMATION, QUESTIONS 9-9 THROUGH 9-20**

TABLE OF CONTENTS

VOLUMINOUS INDEX.....	3
1. Attachments to Districts' RFI No. 9-9	3

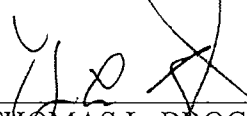
In accordance with 16 Tex. Admin. Code (TAC) § 22.144(h)(4), the City of Austin doing business as Austin Water (Austin Water or AW) files this index of voluminous attachments filed in Austin Water's Response to North Austin Municipal Utility District No. 1, Northtown Municipal Utility District, Travis County Water Control & Improvement District No. 10, and Wells Branch Municipal Utility District's (Districts) Ninth Request for Information (RFI), Questions 9-9 through 9-20.

An index of the voluminous documents is attached. This index includes: (a) information sufficient to locate each individual document by page number; (b) the date of each document, if applicable; (c) the title or description of the document; (d) the name of the preparer or sponsor, if known; and (e) length of each document. The voluminous documents will be made available for inspection at the offices of Austin Water's attorneys, Lloyd Gosselink Rochelle & Townsend, P.C., located at 816 Congress Avenue, Suite 1900, Austin, Texas 78701, 512-322-5883.

Respectfully submitted,

**LLOYD GOSSELINK
ROCHELLE & TOWNSEND, P.C.**

816 Congress Avenue, Suite 1900
Austin, Texas 78701
(512) 322-5800
Fax: (512) 472-0532



THOMAS L. BROCATO
tbrocato@lglawfirm.com
State Bar No. 03039030

W. PATRICK DINNIN
pdinnin@lglawfirm.com
State Bar No. 24097603

ATTORNEYS FOR AUSTIN WATER

CERTIFICATE OF SERVICE

I hereby certify that on October 14, 2019, a true and correct copy of the foregoing document was transmitted electronic mail to the parties of record.



THOMAS L. BROCATO

***Districts' Motion to Compel City of Austin to Respond to Districts' Ninth Request for Information
Exhibit B***

VOLUMINOUS INDEX

1. Attachments to Districts' RFI No. 9-9

No.	Date	Title or Description	Preparer or Sponsor	Page Range	No. of Pages
1.	12/7/2017	AW Districts 9-9, Attachment 1-RFC Austin Water Model_Combined PIC_WIC_Update.xlsm	John Wright and Richard Giardina	3-323	320
2.	3/1/2019	AW Districts 9-9, Attachment 2-RFC Austin Wastewater Model Combined_PIC_WIC_Update.xlsm	John Wright and Richard Giardina	324-1,124	800

**SOAH DOCKET NO. 473-19-6297.WS
PUC DOCKET NO. 49189**

APPLICATION OF THE CITY OF	§	BEFORE THE STATE OFFICE
AUSTIN DBA AUSTIN WATER FOR	§	
AUTHORITY TO CHANGE WATER	§	OF
AND WASTEWATER RATES	§	ADMINISTRATIVE HEARINGS

**CITY OF AUSTIN D/B/A AUSTIN WATER'S
RESPONSE TO DISTRICTS'
NINTH REQUEST FOR INFORMATION**

To: North Austin Municipal Utility District No. 1, Northtown Municipal Utility District, Travis County Water Control and Improvement District No. 10 and Wells Branch Municipal Utility District, by and through their attorneys of record, Randall B. Wilburn, Gilbert Wilburn, PLLC, 7000 North MoPac Blvd., Suite 200, Austin, Texas 78731 and John Carlton, 4301 Westbank Drive., Suite B-130, Austin, Texas 78746.

The City of Austin (City) doing business as Austin Water (Austin Water or AW) files its Responses to North Austin Municipal Utility District No. 1, Northtown Municipal Utility District, Travis County Water Control and Improvement District No. 10, and Wells Branch Municipal Utility District's (collectively Districts) Ninth Request for Information (RFI) to Austin Water received on September 23, 2019. This response is timely filed. Pursuant to 16 Tex. Admin. Code (TAC) § 22.144(c)(2)(F), Austin Water agrees and stipulates that all parties may treat the responses as if the answers were filed under oath.

If responsive documents exceed 99 pages, the response will indicate that the attachment is voluminous, and pursuant to 16 TAC § 22.144(h)(2), the document will be made available for inspection at the offices of Austin Water's attorneys, Lloyd Gosselink Rochelle & Townsend, P.C., located at 816 Congress Avenue, Suite 1900, Austin, Texas 78701. Please call Sam Weaver at 512-322-5883 during regular business hours, to make an appointment to review the documents.

Respectfully submitted,

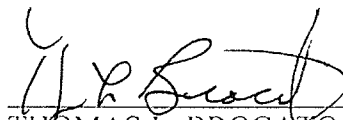
**LLOYD GOSSELINK ROCHELLE
& TOWNSEND, P.C.**

816 Congress Avenue, Suite 1900

Austin, Texas 78701

(512) 322-5800

(512) 472-0532 (Fax)



THOMAS L. BROCATO

tbrocato@lglawfirm.com

State Bar No. 03039030

W. PATRICK DINNIN

pdinnin@lglawfirm.com

State Bar No. 24097603

ATTORNEYS FOR CITY OF AUSTIN

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document was served by email on October 14, 2019, to the parties of record.



THOMAS L. BROCATO

**SOAH DOCKET NO. 473-19-6297.WS
PUC DOCKET NO. 49189**

AUSTIN WATER'S RESPONSE TO DISTRICTS' NINTH RFI

DISTRICTS 9-26: Please provide all reports, studies, or presentations on total water system lost and unaccounted for water in 2017, 2018, and 2019.

RESPONSE: Please see AW Districts 9-26, Attachment Nos. 1-9 for studies and presentations on water loss for 2017 and 2018. Water loss calculations for 2019 have not been completed at this time. The responsive documents are voluminous.

Prepared by: Robert Rowan
Sponsored by: David Anders and Joseph Gonzalez

**SOAH DOCKET NO. 473-19-6297.WS
PUC DOCKET NO. 49189**

APPLICATION OF THE CITY OF AUSTIN DBA AUSTIN WATER FOR AUTHORITY TO CHANGE WATER AND WASTEWATER RATES	§ § § §	BEFORE THE STATE OFFICE OF ADMINISTRATIVE HEARINGS
--	----------------------------	---

**CITY OF AUSTIN D/B/A AUSTIN WATER'S
INDEX OF VOLUMINOUS MATERIALS
FILED IN RESPONSE TO DISTRICTS'
NINTH REQUEST FOR INFORMATION**

TABLE OF CONTENTS

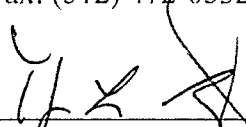
VOLUMINOUS INDEX.....	3
1. Attachments to Districts' RFI No. 9-21	3
2. Attachments to Districts' RFI No. 9-26	3

In accordance with 16 Tex. Admin. Code (TAC) § 22.144(h)(4), the City of Austin doing business as Austin Water (Austin Water or AW) files this index of voluminous attachments filed in Austin Water's Response to North Austin Municipal Utility District No. 1, Northtown Municipal Utility District, Travis County Water Control & Improvement District No. 10, and Wells Branch Municipal Utility District's (Districts) Ninth Request for Information (RFI).

An index of the voluminous documents is attached. This index includes: (a) information sufficient to locate each individual document by page number; (b) the date of each document, if applicable; (c) the title or description of the document; (d) the name of the preparer or sponsor, if known; and (e) length of each document. The voluminous documents will be made available for inspection at the offices of Austin Water's attorneys, Lloyd Gosselink Rochelle & Townsend, P.C., located at 816 Congress Avenue, Suite 1900, Austin, Texas 78701, 512-322-5883.

Respectfully submitted,

LLOYD GOSSELINK
ROCHELLE & TOWNSEND, P.C.
816 Congress Avenue, Suite 1900
Austin, Texas 78701
(512) 322-5800
Fax: (512) 472-0532



THOMAS L. BROCATO
tbrocato@lglawfirm.com
State Bar No. 03039030

W. PATRICK DINNIN
pdinnin@lglawfirm.com
State Bar No. 24097603

ATTORNEYS FOR AUSTIN WATER

CERTIFICATE OF SERVICE

I hereby certify that on October 14, 2019, a true and correct copy of the foregoing document was transmitted electronic mail to the parties of record.



THOMAS L. BROCATO

VOLUMINOUS INDEX

1. Attachments to Districts' RFI No. 9-21

No.	Date	Title or Description	Preparer or Sponsor	Page Range	No. of Pages
1.	10/8/19	AW 9-21, Attachment 1-FY2017 Support Services Cost Allocation Plan.pdf	Diana Thomas, Songli Floyd, David Anders, and Joseph Gonzales	1-93	93
2.	10/8/19	AW 9-21, Attachment 2-FY2018 Support Services Cost Allocation Plan.pdf	Songli Floyd, David Anders, and Joseph Gonzales	94-189	96
3.	10/8/19	AW 9-21, Attachment 3-FY2019 Support Services Cost Allocation Plan.pdf	Songli Floyd, David Anders, and Joseph Gonzales	190-286	97

2. Attachments to Districts' RFI No. 9-26

No.	Date	Title or Description	Preparer or Sponsor	Page Range	No. of Pages
1.	7/26/18	AW Districts 9-26, Attachment 1- 4372 Component Analysis Model 2017 water loss.xlsm	Robert Rowan, David Anders, and Joseph Gonzales	287-324	38
2.	5/31/19	AW Districts 9-26, Attachment 2-4372 Component Analysis Model 2018 water loss.xlsm	Robert Rowan, David Anders, and Joseph Gonzales	325-362	38
3.	10/22/18	AW Districts 9-26, Attachment 3-AWWA water loss audit Austin 2017.xlsx	Andrew Chastain-Howley, Alain Lalonde, George Kunkel, David Sayers, Robert Rowan, David Anders, and Joseph Gonzales	363-391	29
4.	3/15/19	AW Districts 9-26, Attachment 4-AWWA water loss audit Austin 2018.xlsx	Andrew Chastain-Howley, Alain Lalonde, George Kunkel, David Sayers, Robert Rowan, David Anders, and Joseph Gonzales	392-420	29

5.	6/25/18	AW Districts 9-26, Attachment 5-TWDB Water Loss Report 2017 AW final.xls	Robert Rowan, David Anders, and Joseph Gonzales	421-428	8
6.	8/1/18	AW Districts 9-26, Attachment 6-Water Loss Calculation Worksheet 2017 Final.xlsx	Robert Young, Robert Rowan, David Anders, and Joseph Gonzales	429-435	7
7.	10/8/19	AW Districts 9-26, Attachment 7-Water Loss Calculation Worksheet 2018 Final.xlsx	Robert Young, Robert Rowan, David Anders, and Joseph Gonzales	436-442	7
8.	2/13/19	AW Districts 9-26, Attachment 8-Water Loss Primer.pptx	Dan Strub, Robert Rowan, David Anders, and Joseph Gonzales	443-453	11
9.	10/9/17	AW Districts 9-26, Attachment 9-Water Loss WWWC Oct 2017_Final A.pptx	Dan Strub, Robert Rowan, David Anders, and Joseph Gonzales	454-464	11