

Control Number: 49189



Item Number: 141

Addendum StartPage: 0

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

2019 OCT 21 PM 12:39

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' MOTION TO COMPEL RESPONSES TO
DISTRICTS' TENTH REQUEST FOR INFORMATION

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**CITY OF AUSTIN D/B/A AUSTIN WATER’S
RESPONSE TO DISTRICTS’ MOTION TO COMPEL
RESPONSES TO DISTRICTS’ TENTH REQUEST FOR INFORMATION**

COMES NOW, the City of Austin (City) d/b/a Austin Water (AW or Austin Water) and files this 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) Motion to Compel the City of Austin to Respond to Districts’ Tenth Request for Information (Motion to Compel) filed on October 14, 2019. As detailed below, the Requests for Information (RFIs) are not relevant to the subject matter of this proceeding, therefore, the Motion to Compel should be denied.

I. ARGUMENT

A. Districts’ RFI No. 10-1

Austin Water objected to this request because the customer class assigned to the State of Texas is not relevant to whether Austin Water’s proposed wholesale water and wastewater rates are just and reasonable.¹

In their Motion to Compel, Districts claim that this RFI is relevant because “AWU’s classification impacts the Districts’ rates due to AWU’s actions to ‘functionalize, allocate, and equitably distribute...costs to the different types of customer classes served by the utility.’”² Districts also claim that Austin Water challenges who among customer classes is paying their “fair

¹ Austin Water’s Objections to Districts’ Tenth RFI at 3 (Oct. 7, 2019) (AW’s Objections to 10th RFI).

² North Austin Municipal Utility District No. 1, Northtown Municipal Utility District, Travis County Water Control & Improvement District No. 10, and Wells Branch Municipal Utility Districts’ Motion to Compel City of Austin to Respond to Districts’ 10th Request for Information at 4 (Oct. 14, 2019) (Motion to Compel).

share” and argues that other customers subsidize Districts’ rates.³ Districts discuss how they suspect that Austin Water is not charging other classes properly, and that failure to allocate and charge the State of Texas and other customers could result in prejudicial treatment and discriminatory rates.⁴

How Austin Water allocates debt service coverage (DSC) between wholesale and retail classes is a relevant issue in this proceeding; however, Districts’ request does not relate to how Austin Water allocates DSC between wholesale and retail classes. The customer class which Austin Water assigns the State of Texas has no bearing on Austin Water’s DSC allocation between wholesale and retail. Districts are requesting information specific to a single customer, not how Austin Water allocates DSC to an entire class of customers. The State of Texas receives no special treatment from Austin Water. While retail customers must subsidize costs that are excluded from wholesale customers (such as distribution costs), wholesale customers do not subsidize costs that are discounted or excluded from certain retail classes. Austin Water’s classification of the State of Texas does not affect Districts’ rates, therefore, this RFI is not relevant to this proceeding.

B. Districts’ RFI No. 10-2

Austin Water objected to this request because the DSC assigned to the State of Texas is not relevant to whether Austin Water’s proposed wholesale water and wastewater rates are just and reasonable.⁵

In their Motion to Compel, Districts claim that this RFI is relevant because “how much debt service coverage AWU charges the State of Texas as a customer as well as additional customers other than Districts is important, because AWU’s classification impacts the Districts’ rates due to AWU’s actions to ‘functionalize, allocate, and equitably distribute...costs to the different types of customer classes served by the utility.’”⁶ Additionally, Districts cite to Austin

³ *Id.*

⁴ *Id.*

⁵ AW’s Objections to 10th RFI at 3-4.

⁶ Motion to Compel at 5.

Water's statement that it used the DSC method "to determine and ensure all customer classes provide sufficient revenue to achieve AW's targeted coverage level."⁷ Districts also claim that Austin Water challenges who among customer classes is paying their "fair share" and argues that other customers subsidize Districts' rates.⁸ Districts discuss how they suspect that Austin Water is not charging other classes properly, and that failure to allocate and charge the State of Texas and other customers could result in prejudicial treatment and discriminatory rates.⁹

How Austin Water allocates DSC between wholesale and retail classes is a relevant issue in this proceeding; however, Districts' request does not relate to how Austin Water allocates DSC between wholesale and retail classes. Districts are requesting information specific to a single customer, not how Austin Water allocates DSC to the wholesale and retail classes. The State of Texas receives no special treatment from Austin Water. While retail customers must subsidize costs that are excluded from wholesale customers (such as distribution costs), wholesale customers do not subsidize costs that are discounted or excluded from certain retail classes. The amount of DSC which Austin Water collects from the State of Texas does not affect Districts' rates in any way, therefore, this RFI is not relevant to this proceeding.

C. Districts' RFI No. 10-3

Austin Water objected to this request because the amount of water Austin Water sold the State of Texas in the test year is not relevant to whether Austin Water's proposed wholesale water and wastewater rates are just and reasonable.¹⁰

In their Motion to Compel, Districts claim that this RFI is relevant because "[h]ow much water AWU sold to the State of Texas as well as additional customers other than Districts is important, because it impacts the rates AWU charges to the District."¹¹ Districts cite to references

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

¹⁰ AW's Objections to 10th RFI at 6-7.

¹¹ Motion to Compel at 6.

by Austin Water's witnesses to the M1 Manual with respect to cost allocation to classes. Districts also claim that Austin Water challenges who among customer classes is paying their "fair share" and argues that other customers subsidize Districts' rates.¹² Districts discuss how they suspect that Austin Water is not charging other classes properly, and that failure to allocate and charge the State of Texas and other customers could result in prejudicial treatment and discriminatory rates.

How Austin Water allocates DSC between wholesale and retail classes is a relevant issue in this proceeding; however, Districts' request does not relate to how Austin Water allocates DSC between wholesale and retail classes. Districts are requesting information specific to a single customer, not how Austin Water allocates DSC to the wholesale and retail classes. The State of Texas receives no special treatment from Austin Water. While retail customers must subsidize costs that are excluded from wholesale customers (such as distribution costs), wholesale customers do not subsidize costs that are discounted or excluded from certain retail classes. The amount of water which Austin Water sold to the State of Texas during the test year does not affect Districts' rates in any way, therefore, this RFI is not relevant to this proceeding.

D. Districts' RFI No. 10-4

Austin Water objected to this request because the rates which Austin Water charged the State of Texas in the test year and in FY2020 are not relevant to whether Austin Water's proposed wholesale water and wastewater rates are just and reasonable.¹³ Austin Water also noted in its Objections¹⁴ that the FY2020 rates are especially irrelevant because future rates are not included in Austin Water's Application for Authority to Change Water and Wastewater Rates (Application).¹⁵

In their Motion to Compel, Districts claim that this RFI is relevant because "[h]ow much AWU charges the State of Texas and other customers impacts the total amount of revenue deducted

¹² *Id.* at 7.

¹³ AW's Objections to 10th RFI at 4.

¹⁴ *Id.*

¹⁵ Application of the City of Austin DBA Austin Water for Authority to Change Water and Wastewater Rates (Apr. 15, 2019) (Application).

from AWU's overall revenue requirement, which remaining costs are used to calculated [sic] the Districts' rate."¹⁶ Districts cite to references by Austin Water's witnesses to the M1 Manual with respect to cost allocation to classes. Districts then misrepresents statements from Austin Water's Application. Districts claim that "AWU recognizes that the rates for each customer class can be calculated using the revenue requirement for a customer," citing Richard Giardina's testimony in Austin Water's Application.¹⁷ Mr. Giardina does not state that the rates for each customer class can be calculated using the revenue requirement **for a customer**; he states that rates can be calculated **for each customer class**.¹⁸ Districts also claim that Austin Water challenges who among customer classes is paying their "fair share," and argues that other customers subsidize Districts' rates.¹⁹ Districts discuss how they suspect that Austin Water is not charging other classes properly, and that failure to allocate and charge the State of Texas and other customers could result in prejudicial treatment and discriminatory rates.

How Austin Water allocates DSC between wholesale and retail classes is a relevant issue in this proceeding; however, Districts' request does not relate to how Austin Water allocates DSC between wholesale and retail classes. Districts are requesting information specific to a single customer, not how Austin Water allocates DSC to the wholesale and retail classes. The State of Texas receives no special treatment from Austin Water. While retail customers must subsidize costs which are excluded from wholesale customers (such as distribution costs), wholesale customers do not subsidize costs that are discounted or excluded from certain retail classes. The rates which Austin Water charged the State of Texas in the test year and in FY2020 do not affect Districts' rates in any way, therefore, this RFI is not relevant to this proceeding.

Additionally, Austin Water re-urges its argument that FY2020 rates are completely irrelevant to this proceeding. Austin Water has not included any FY2020 rates in its Application,

¹⁶ Motion to Compel at 8.

¹⁷ Motion to Compel at 8 (citing Application at 248).

¹⁸ Application at 248, lines 7-9.

¹⁹ Motion to Compel at 9.

therefore, they are not relevant to a determination of whether Austin Water's proposed wholesale water and wastewater rates are just and reasonable.

E. Districts' RFI No. 10-5

Austin Water objected to this request because the Raftelis Cost of Service models, identified in Mr. Giardina's 2017 letter to AW, are not relevant to whether Austin Water's proposed wholesale water and wastewater rates are just and reasonable.²⁰

In their Motion to Compel, Districts claim that Austin Water is confused about the rate case expense requirements, yet Districts cite no authority for its claim. Districts only argue that rate case expenses were important in the prior case, and that they are concerned about subsidizing expenses to calculate the entire Cost of Service model that was used to calculate all customer rates.

Austin Water argues that it is Districts who are confused about the rate case expense requirements. Austin Water is not required to obtain Commission approval before charging rate case expenses to the Districts. Further, Austin Water did not include such rate case expenses related to the Cost of Service models (referenced in Districts' request) in Austin Water's Application. Therefore, this request is not relevant to this proceeding.

F. Districts' RFI No. 10-8

Austin Water objected to this request because the rates which Austin Water charges other wholesale customers other than Districts are not relevant to the determination of whether Austin Water's proposed wholesale water and wastewater rates are just and reasonable.²¹ Austin Water also explained how the Commission's jurisdiction in this case extends only to the Districts, being that they were Petitioners in Docket No. 42857, and not to other wholesale customers.²²

²⁰ AW's Objections to 10th RFI at 5.

²¹ *Id.* at 6.

²² *Id.*

In their Motion to Compel, Districts claim that this RFI is relevant because

[w]hether AWU made decreases for other districts that are wholesale customers consistent with the reductions ordered in Docket No. 42857 is important to ensure that the Districts are not being asked to subsidize expenses to calculate the entire Cost of Service model that was used to calculate all customer rates.²³

Districts also claim that Austin Water challenges who among customer classes is paying their “fair share,” and argues that other customers subsidize Districts’ rates.²⁴ Districts discuss how they suspect that Austin Water is not charging other classes properly, and that failure to allocate and charge the State of Texas and other customers could result in prejudicial treatment and discriminatory rates.²⁵

Whether Austin Water made decreases for other districts that are wholesale customers consistent with the reductions ordered in Docket No. 42857, is not relevant to whether Austin Water’s proposed wholesale water and wastewater rates are just and reasonable. The Commission’s Order in Docket No. 42857 does not apply to Austin Water’s other wholesale customers, and the Commission has no jurisdiction over how Austin Water determined their rates. While Districts make several arguments about the importance of AW’s treatment of these other wholesale customers, its RFI does not request information that would prove the points that they are arguing. Districts’ RFI simply requests whether Austin Water has changed other wholesale customers’ rates consistent with the reductions that the Commission ordered in Docket No. 42857, and that question is irrelevant because the Order only applies to Districts. Therefore, this RFI is not relevant to this proceeding.

G. Districts’ RFI No. 10-20

Austin Water objected to this request because Austin Water’s specific treatment of the State of Texas, specifically, whether Austin Energy provides the State of Texas with “Green

²³ Motion to Compel at 10.

²⁴ *Id.*

²⁵ *Id.* at 10-11.

Choice” electricity, is not relevant to the determination of whether Austin Water’s proposed wholesale water and wastewater rates are just and reasonable.²⁶

In their Motion to Compel, Districts claim that this RFI is relevant because

[w]hether AWU is charging the State of Texas for Green Choice electricity is important to ensure that AWU is not asking the Districts to pay for Commission-disallowed expenses, especially if other AWU customers are not paying for those same expenses through the rates that AWU charges those other customers.²⁷

Districts also claim that Austin Water challenges who among customer classes is paying their “fair share,” and argues that other customers subsidize Districts’ rates.²⁸ Districts discuss how they suspect that Austin Water is not charging other classes properly, and that failure to allocate and charge the State of Texas and other customers could result in prejudicial treatment and discriminatory rates.²⁹

Austin Energy’s classification of Green Choice electricity is not relevant to whether Austin Water’s proposed wholesale water and wastewater rates are just and reasonable. Districts make no attempt to explain how electricity charges are relevant to Austin Water’s proposed wholesale water and wastewater rates.

How Austin Water allocates DSC between wholesale and retail classes is a relevant issue in this proceeding; however, Districts’ request does not relate to how Austin Water allocates DSC between wholesale and retail classes. Districts are requesting information specific to a single customer, not how Austin Water allocates DSC to the wholesale and retail classes. The State of Texas receives no special treatment from Austin Water. While retail customers must subsidize costs which are excluded from wholesale customers (such as distribution costs), wholesale customers do not subsidize costs that are discounted or excluded from certain retail classes.

²⁶ AW’s Objections to 10th RFI at 6.

²⁷ Motion to Compel at 11.

²⁸ *Id.*

²⁹ *Id.* at 11-12.

Whether Austin Water classifies electricity sold to the State of Texas as “Green Choice” or not does not affect Districts’ rates in any way, therefore, this RFI is not relevant to this proceeding.

H. Districts’ RFI No. 10-21

Austin Water objected to this request because Austin Water’s specific treatment of Travis County, specifically, whether Austin Energy provides Travis County with “Green Choice” electricity, is not relevant to the determination of whether Austin Water’s proposed wholesale water and wastewater rates are just and reasonable.³⁰

In their Motion to Compel, Districts claim that this RFI is relevant because “[w]hether AWU is charging Travis County for Green Choice electricity is important to ensure that AWU is not asking the Districts to pay for Commission-disallowed expenses, especially if other AWU customers are not paying for those same expenses through the rates that AWU charges those other customers.”³¹ Districts also claim that Austin Water challenges who among customer classes is paying their “fair share,” and argues that other customers subsidize Districts’ rates.³² Districts discuss how they suspect that Austin Water is not charging other classes properly, and that failure to allocate and charge Travis County and other customers could result in prejudicial treatment and discriminatory rates.³³

Austin Energy’s classification of Green Choice electricity is not relevant to whether Austin Water’s proposed wholesale water and wastewater rates are just and reasonable. Districts make no attempt to explain how electricity charges are relevant to Austin Water’s proposed wholesale water and wastewater rates. Additionally, whether other customers are paying for Green Choice electricity has no bearing on Austin Water’s proposed rates for the Districts. Therefore, this RFI is not relevant to this proceeding.

³⁰ AW’s Objections to 10th RFI at 6-7.

³¹ Motion to Compel at 12.

³² *Id.*

³³ *Id.* at 12-13.

How Austin Water allocates DSC between wholesale and retail classes is a relevant issue in this proceeding; however, Districts' request does not relate to how Austin Water allocates DSC between wholesale and retail classes. Districts are requesting information specific to a single customer, not how Austin Water allocates DSC to the wholesale and retail classes. Travis County receives no special treatment from Austin Water. While retail customers must subsidize costs which are excluded from wholesale customers (such as distribution costs), wholesale customers do not subsidize costs that are discounted or excluded from certain retail classes. Whether Austin Water classifies electricity sold to Travis County as "Green Choice" or not does not affect Districts' rates in any way, therefore, this RFI is not relevant to this proceeding.

I. Districts' RFI No. 10-25

Austin Water objected to this request because the amount of additional debt Austin Water will incur in the future for its water system is not relevant to the determination of whether Austin Water's proposed wholesale water and wastewater rates are just and reasonable.³⁴

In their Motion to Compel, Districts claim that this RFI is relevant because "[h]ow much additional debt AWU will incur for its water system in FY2020 is important, because it impacts AWU's overall revenue requirement that AWU says "functionalize, allocate, and equitably distribute... costs to the different types of customer classes served by the utility.""³⁵ Districts claim that this request goes to the issue of DSC, which is the methodology Austin Water has made central to its Application.³⁶ Districts also claim that Austin Water challenges who among customer classes is paying their "fair share," and argues that other customers subsidize Districts' rates.³⁷ Districts discuss how they suspect that Austin Water is not charging other classes properly, and

³⁴ AW's Objections to 10th RFI at 7.

³⁵ Motion to Compel at 13.

³⁶ *Id.*

³⁷ *Id.*

that failure to allocate and charge the State of Texas and other customers could result in prejudicial treatment and discriminatory rates.³⁸

Austin Water re-urges its objection that future water system debt is not relevant to this proceeding, and that any estimate of future indebtedness would be entirely speculative. Districts make no attempt to explain Austin Water's future water system debt has any relevance to Austin Water's proposed wholesale water and wastewater rates, which does not include future debt. Therefore, this RFI is not relevant to this proceeding.

J. Districts' RFI No. 10-26

Austin Water objected to this request because the amount of additional debt Austin Water will incur in the future for its wastewater system is not relevant to the determination of whether Austin Water's proposed wholesale water and wastewater rates are just and reasonable.³⁹

In their Motion to Compel, Districts claim that this RFI is relevant because "[h]ow much additional debt AWU will incur for its wastewater system in FY2020 is important, because it impacts AWU's overall revenue requirement that AWU says "functionalize, allocate, and equitably distribute... costs to the different types of customer classes served by the utility.""⁴⁰ Districts claim that this request goes to the issue of DSC, which is the methodology Austin Water has made central to its Application.⁴¹ Districts also claim that Austin Water challenges who among customer classes is paying their "fair share," and argues that other customers subsidize Districts' rates.⁴² Districts discuss how they suspect that Austin Water is not charging other classes properly, and that failure to allocate and charge the State of Texas and other customers could result in prejudicial treatment and discriminatory rates.⁴³

³⁸ *Id.* at 13-14.

³⁹ AW's Objections to 10th RFI at 7.

⁴⁰ Motion to Compel at 14.

⁴¹ *Id.*

⁴² *Id.* at 13.

⁴³ *Id.* at 14-15.

Austin Water re-urges its objection that future wastewater system debt is not relevant to this proceeding, and that any estimate of future indebtedness would be entirely speculative. Districts make no attempt to explain why Austin Water's future wastewater system debt has any relevance to Austin Water's proposed wholesale water and wastewater rates, which does not include future debt. Therefore, this RFI is not relevant to this proceeding.

K. Districts' RFI No. 10-37

Austin Water objected to this request because the annual subsidy for the AWU Residential Customer Assistance Program (CAP) is not relevant to whether Austin Water's proposed wholesale water and wastewater rates are just and reasonable.⁴⁴

In their Motion to Compel, Districts claim that this RFI is relevant because "[w]hat AWU charges annually for its Residential CAP Program is important because it impacts AWU's overall revenue requirement that AWU says 'functionalize, allocate, and equitably distribute. . . costs to the different types of customer classes served by the utility.'"⁴⁵ Districts also claim that Austin Water challenges who among customer classes is paying their "fair share" and argues that other customers subsidize Districts' rates.⁴⁶ Districts discuss how they suspect that Austin Water is not charging other classes properly, and that failure to allocate and charge the State of Texas and other customers could result in prejudicial treatment and discriminatory rates.⁴⁷

How Austin Water allocates DSC between wholesale and retail classes is a relevant issue in this proceeding; however, Districts' request does not relate to how Austin Water allocates DSC between wholesale and retail classes. The annual subsidy for the AWU Residential CAP has no bearing on Austin Water's DSC allocation, therefore, this RFI is not relevant to this proceeding. The Residential CAP is a discount given to certain low income customers. While retail customers must subsidize costs that are excluded from wholesale customers (such as distribution costs),

⁴⁴ AW's Objections to 10th RFI at 8.

⁴⁵ Motion to Compel at 15.

⁴⁶ *Id.*

⁴⁷ *Id.* at 15-16.

wholesale customers do not subsidize costs that are discounted or excluded from certain retail classes.

L. Districts' RFI No. 10-40

Austin Water objected to this request because the amount Austin Water charges the State of Texas is not relevant to whether Austin Water's proposed wholesale water and wastewater rates are just and reasonable.⁴⁸

In their Motion to Compel, Districts claim that this RFI is relevant because "[w]hat drainage fee costs were charged to the State of Texas and additional customers other than the Districts is information necessary to ensure that the Districts are not being asked to subsidize expenses to calculate the entire Cost of Service Model which was used to calculate all customer rates."⁴⁹ Districts also claim that Austin Water challenges who among customer classes is paying their "fair share" and argues that other customers subsidize Districts' rates.⁵⁰ Districts discuss how they suspect that Austin Water is not charging other classes properly, and that failure to allocate and charge the State of Texas and other customers could result in prejudicial treatment and discriminatory rates.⁵¹

How Austin Water allocates debt service coverage between wholesale and retail classes is a relevant issue in this proceeding; however, Districts' request does not relate to how Austin Water allocates DSC between wholesale and retail classes. The amount Austin Water charges the State of Texas has no bearing on Austin Water's DSC allocation. Districts are requesting information specific to a single customer, not how Austin Water allocates DSC to an entire class of customers. Districts do not explain how Austin Water's amount of drainage fees charged to the State of Texas would require Districts to "subsidize expenses to calculate the entire Cost of Service model which was used to calculate all customer rates," as Districts claim is the importance of this question. The

⁴⁸ AW's Objections to 10th RFI at 8.

⁴⁹ Motion to Compel at 16.

⁵⁰ *Id.*

⁵¹ *Id.* at 16-17.

State of Texas receives no special treatment from Austin Water. The State of Texas receives no special treatment from Austin Water. While retail customers must subsidize costs that are excluded from wholesale customers (such as distribution costs), wholesale customers do not subsidize costs that are discounted or excluded from certain retail classes. The amount of drainage fees Austin Water charges to the State of Texas does not affect Districts' rates in any way, therefore, this RFI is not relevant to this proceeding.

II. CONCLUSION

Austin Water respectfully requests that Districts' Motion to Compel be denied, that its objections be sustained, and that it be granted any other relief to which it may be entitled.

Respectfully submitted,

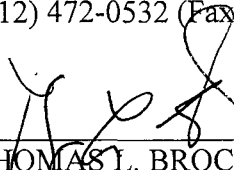
**LLOYD GOSSELINK ROCHELLE
& TOWNSEND, P.C.**

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

CHRISTOPHER L. BREWSTER

cbrewster@lglawfirm.com

State Bar No. 24043570

W. PATRICK DINNIN

pdinnin@lglawfirm.com

State Bar No. 24097603

ATTORNEYS FOR AUSTIN WATER

CERTIFICATE OF SERVICE

I hereby certify that on October 21, 2019, a true and correct copy of the foregoing document has been served on all parties of record via electronic mail.



THOMAS L. BROCATO