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## ARE THE STATE OFFICE

**DIRECT TESTIMONY AND ATTACHMENTS OF DAVID A. ANDERS**

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

<b>APPLICATION OF THE CITY OF</b>	<b>§</b>	<b>BEFORE THE STATE OFFICE</b>
<b>AUSTIN FOR AUTHORITY TO</b>	<b>§</b>	
<b>CHANGE THE WATER AND</b>	<b>§</b>	
<b>WASTEWATER RATES FOR NORTH</b>	<b>§</b>	
<b>AUSTIN MUNICIPAL UTILITY</b>	<b>§</b>	
<b>DISTRICT NO. 1, NORTHTOWN</b>	<b>§</b>	
<b>MUNICIPAL UTILITY DISTRICT,</b>	<b>§</b>	<b>OF</b>
<b>TRAVIS COUNTY WATER CONTROL</b>	<b>§</b>	
<b>AND IMPROVEMENT DISTRICT NO.</b>	<b>§</b>	
<b>10, AND WELLS BRANCH</b>	<b>§</b>	
<b>MUNICIPAL UTILITY DISTRICT IN</b>	<b>§</b>	
<b>WILLIAMSON AND TRAVIS</b>	<b>§</b>	
<b>COUNTIES</b>	<b>§</b>	<b>ADMINISTRATIVE HEARINGS</b>

**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' OBJECTIONS TO AND MOTION TO STRIKE  
DIRECT TESTIMONY AND ATTACHMENTS OF DAVID A. ANDERS**

TO THE HONORABLE JUDGE SIANO AND JUDGE DREWS:

COME NOW, 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 (collectively, the "Districts") and file this Objection to and Motion to Strike the Direct Testimony and Attachments of David A. Anders and would respectfully show the following:

**I. BACKGROUND**

The City of Austin dba Austin Water ("City" or "AW") filed with the Public Utility Commission ("Commission") a Statement of Intent to Change Rates for Wholesale Water and Wastewater Service on April 15, 2019 (the "Application").<sup>1</sup> Included in the City's Application is the Direct Testimony and Attachments of David A. Anders.<sup>2</sup> SOAH Order No. 9, issued on

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<sup>1</sup> Statement of Intent to Change Rates for Wholesale Water and Wastewater Service (April 15, 2019).

<sup>2</sup> *Id.* at 14.

October 23, 2019, establishes a deadline of November 1, 2019, for filing objections to the City's Direct Testimony.<sup>3</sup> Therefore, the Districts filed this Objection and Motion to Strike timely.

## II. PROCEDURAL BASIS

Rule 701 governs the role of opinion testimony by lay witnesses and specifies that “if the witness is not testifying as an expert, the witness’ testimony in the form of opinions or inferences is limited to those opinions or inferences which are (a) rationally based on the perception of the witness and (b) helpful to a clear understanding of the witness’ testimony or the determination of a fact in issue.”<sup>4</sup> The lay witness must have personal knowledge of the matter and may not rely on what another has said about an experience.<sup>5</sup> Rule 701 further bars speculative lay opinion testimony because the witness has no specialized knowledge or personal experience.<sup>6</sup>

Rule 702 states: “A witness who is qualified as an expert by knowledge, skill, experience, training, or education may testify in the form of an opinion or otherwise if the expert’s scientific, technical, or other specialized knowledge will help the trier of fact to understand the evidence or to determine a fact in issue.”<sup>7</sup> The burden is on the proponent of the witness to show that they are an expert in their particular field.<sup>8</sup> A witness may qualify as an expert if they have the sufficient knowledge, skill, experience, training, or education.<sup>9</sup> However, generalized experience in a particular field may not qualify the witness as an expert.<sup>10</sup> Occupational status alone generally will not suffice to show that a particular witness is qualified as an expert witness.<sup>11</sup>

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<sup>3</sup> SOAH Order No. 9, Memorializing Second Prehearing Conference; Adopting Second Revised Procedural Schedule at 2 (October 23, 2019).

<sup>4</sup> Tex. R. Civ. Evid. § 701.

<sup>5</sup> See *Bigby v. State*, 892 S.W.2d 864, 888 (Crim. App. 1994).

<sup>6</sup> *E-Z Mart Stores, Inc. v. Havner*, 832 S.W.2d 368, 374 (Tex. App. —Texarkana 1992, den.).

<sup>7</sup> Tex R. Civ. Evid. § 702.

<sup>8</sup> *General Motors Corp. v. Iracheta*, 161 S.W.3d 462, 470 (Tex. 2005).

<sup>9</sup> See, e.g., *Negrini v. State*, 853 S.W.2d 128, 130-31 (Tex. App.—Corpus Christi 1993, no pet.); *Massey v. State*, 933 S.W.2d 141, 156-57 (Crim. App. 1996); *Sciarrilla v. Osborne*, 946 S.W.2d 919 (Tex. App.—Beaumont 1997, den.).

<sup>10</sup> Cf. *Houghton v. Port Terminal R.R. Ass’n*, 999 S.W.2d 39, 49 (Tex. App.—Houston [14th Dist.] 1999, no writ).

<sup>11</sup> *Broders v. Heise*, 924 S.W.2d 148, 153-53 (Tex. 1996).

Rules 801 and 802 lay out the definition of hearsay and prohibit hearsay from admission as evidence. Rule 801 states:

**“(a) Statement.** “Statement” means a person’s oral or written verbal expression, or nonverbal conduct that a person intended as a substitute for verbal expression.

**(b) Declarant.** “Declarant” means the person who made the statement.

**(c) Matter Asserted.** “Matter asserted” means:

- (1) any matter a declarant explicitly asserts; and
- (2) any matter implied by a statement, if the probative value of the statement as offered flows from the declarant’s belief about the matter.

**(d) Hearsay.** “Hearsay” means a statement that:

- (1) the declarant does not make while testifying at the current trial or hearing; and
- (2) a party offers in evidence to prove the truth of the matter asserted in the statement.

**(e) Statements That Are Not Hearsay.** A statement that meets the following conditions is not hearsay:

**(1) *A Declarant-Witness’s Prior Statement.*** The declarant testifies and is subject to cross-examination about a prior statement, and the statement:

**(A)** is inconsistent with the declarant’s testimony and:

- (i)** when offered in a civil case, was given under penalty of perjury at a trial, hearing, or other proceeding or in a deposition; or
- (ii)** when offered in a criminal case, was given under penalty of perjury at a trial, hearing, or other proceeding—except a grand jury proceeding—or in a deposition;

**(B)** is consistent with the declarant’s testimony and is offered to rebut an express or implied charge that the declarant recently fabricated it or acted from a recent improper influence or motive in so testifying; or

**(C)** identifies a person as someone the declarant perceived earlier.

**(2) *An Opposing Party’s Statement.*** The statement is offered against an opposing party and:

- (A)** was made by the party in an individual or representative capacity;
- (B)** is one the party manifested that it adopted or believed to be true;
- (C)** was made by a person whom the party authorized to make a statement on the subject;

(D) was made by the party's agent or employee on a matter within the scope of that relationship and while it existed; or

(E) was made by the party's coconspirator during and in furtherance of the conspiracy."<sup>12</sup>

Rule 802, meanwhile, states: "Hearsay is not admissible unless any of the following provides otherwise: (a) a statute; (b) these rules; or (c) other rules prescribed under statutory authority. Inadmissible hearsay admitted without objection may not be denied probative value merely because it is hearsay."<sup>13</sup>

### **III. SPECIFIC OBJECTIONS TO DIRECT TESTIMONY**

#### **A. Anders Testimony at page 9, lines 22 through 23.**

##### ***Q. WHAT FACILITIES DOES AW OWN AND OPERATE?***

*The Reclaimed Water System is a critical component in AW's Water Forward integrated water supply plan.*

The Districts object to the referenced testimony, because it is opinion testimony prohibited under Tex. R. Civ. Evid. 701 and 702. Mr. Anders is the Assistant Director of Financial Services for Austin Water. He is not an engineer or expert in reclaimed water. By testifying as he did above, Mr. Anders is offering his opinion on a matter for which he has no knowledge, skill, experience, training, or education that would qualify him as an expert. Given that Mr. Anders is not an expert on reclaimed water his opinion testimony must be: "(a) rationally based on the witness's perception; and (b) helpful to clearly understanding the witness's testimony or to determining a fact in issue." Tex. R. Civ. Evid. 701. Mr. Anders testimony does not explain the basis for his perception, nor does it aid in understanding his testimony or assist in determining a fact in issue, because he has no specialized knowledge regarding reclaimed water.

The Districts further object to the referenced testimony, because it is prohibited hearsay under Tex R. Civ. Evid. 801 and 802. Mr. Anders states his opinion on an issue, and he provides no testimony regarding his personal knowledge about the matter. No foundation has been laid for

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<sup>12</sup> Tex. R. Civ. Evid. § 801.

<sup>13</sup> Tex. R. Civ. Evid. § 802.

Mr. Anders to provide his opinion regarding reclaimed wastewater. Mr. Anders is offering an opinion that is not rationally based on his perception, because has no foundation on which to base his opinion.

**B. Anders Testimony at page 13, lines 17 through 18.**

***Q. IF THIS BROADER CONTEXT IS GONE, HOW SHOULD WHOLESALE SERVICE TO THE MUDS BE VIEWED?***

*Wholesale service to the MUDs should be viewed as a regular commercial transaction by a municipally-owned water utility.*

The Districts object to the referenced testimony, because it is opinion testimony prohibited under Tex. R. Civ. Evid. 701 and 702. Mr. Anders is the Assistant Director of Financial Services for Austin Water. He is not an expert in wholesale service to Municipal Utility Districts (“MUDs”). By testifying as he did above, Mr. Anders is offering his opinion on a matter for which he has no knowledge, skill, experience, training, or education that would qualify him as an expert. Given that Mr. Anders is not an expert on wholesale service to MUDs, his opinion testimony must be: “(a) rationally based on the witness’s perception; and (b) helpful to clearly understanding the witness’s testimony or to determining a fact in issue.” Tex. R. Civ. Evid. 701. Mr. Anders testimony does not explain the basis for his perception, nor does it aid in understanding his testimony or assist in determining a fact in issue, because he has no specialized knowledge regarding wholesale service to MUDs.

The Districts further object to the referenced testimony, because it is prohibited hearsay under Tex R. Civ. Evid. 801 and 802. Mr. Anders states his opinion on an issue, and he provides no testimony regarding his personal knowledge about the matter. No foundation has been laid for Mr. Anders to provide his opinion regarding wholesale service to MUDs. Mr. Anders is offering an opinion that is not rationally based on his perception because has no foundation on which to base his opinion.



**C. Anders Testimony at page 22, lines 14 through 16, and lines 19 through 21.**

***Q. ARE YOU FAMILIAR WITH THE INTERNAL PROCESS OF HOW AN INVESTOR-OWNED UTILITY WOULD ARRIVE AT THE NEED FOR A RATE CHANGE?***

*Yes. Though I have never managed such a process for an investor-owned utility, my professional involvement in the field of water utility management has given me a general sense of how such processes occur within an investor-owned utility (IOU)... As a municipal utility, AW has afforded its wholesale and retail customers a degree of transparency and engagement in its COS that is unusual among investor-owned utilities.*

The Districts object to the referenced testimony, because it is opinion testimony prohibited under Tex. R. Civ. Evid. 701 and 702. Mr. Anders is the Assistant Director of Financial Services for Austin Water. He admits he is not an expert in the developing a rate change application for Investor-Owned Utilities. By testifying that “[a]s a municipal utility, AW has afforded its wholesale and retail customers a degree of transparency and engagement in its COS that is unusual among investor-owned utilities,” Mr. Anders is offering his opinion on a matter for which he has no knowledge, skill, experience, training, or education that would qualify him as an expert. Given that Mr. Anders is not an expert on the needs of Investor-Owned Utilities for a rate change, his opinion testimony must be: “(a) rationally based on the witness’s perception; and (b) helpful to clearly understanding the witness’s testimony or to determining a fact in issue.” Tex. R. Civ. Evid. 701. Mr. Anders testimony does not explain the basis for his perception, nor does it aid in understanding his testimony or assist in determining a fact in issue, because he has no specialized knowledge regarding the need for a rate change.

The Districts further object to the referenced testimony, because it is prohibited hearsay under Tex R. Civ. Evid. 801 and 802. Mr. Anders states his opinion on an issue, and he provides no testimony regarding his personal knowledge about the matter. No foundation has been laid for Mr. Anders to provide his opinion regarding the need for a rate change. Furthermore, Mr. Anders himself states that “Though I have never managed a [rate change] for an investor-owned utility, my professional involvement in the field of water utility management has given me a *general* sense of how such processes occur within an investor-owned utility.” (emphasis added). Mr. Anders

then goes on to state that “AW has afforded its wholesale and retail customers a degree of transparency and engagement in its COS that is unusual among investor-owned utilities.” This statement is impermissible opinion testimony from a non-expert in violation of Tex. R. Civ. Evid. 701 and 702. Mr. Anders is offering an opinion that is not rationally based on his perception, because has no foundation on which to base his opinion.

**D. Anders Testimony at page 23, lines 6 through 11.**

***Q. WHAT METHOD DOES AW PROPOSE TO USE TO ESTABLISH WHOLESALE WATER AND WASTEWATER RATES IN THIS CASE?***

*In addition to this methodology, AW has utilized a DSC methodology to determine and ensure all customer classes provide sufficient revenue to achieve AW's targeted coverage levels. While the revenue requirements were calculated using the Cash Needs Method, the DSC methodology provides an additional check on the appropriateness of the rates to be set in this case.*

The Districts object to the referenced testimony, because it is opinion testimony prohibited under Tex. R. Civ. Evid. 701 and 702. Mr. Anders is the Assistant Director of Financial Services for Austin Water, but he is not an expert in debt service coverage methodologies and their use in establishing rates. By testifying as he did above, Mr. Anders is offering his opinion on a matter for which he has no knowledge, skill, experience, training, or education that would qualify him as an expert. Given that Mr. Anders is not an expert on debt service coverage methodologies, his opinion testimony must be: “(a) rationally based on the witness’s perception; and (b) helpful to clearly understanding the witness’s testimony or to determining a fact in issue.” Tex. R. Civ. Evid. 701. Mr. Anders testimony does not explain the basis for his perception, nor does it aid in understanding his testimony or assist in determining a fact in issue, because he has no specialized knowledge regarding debt service coverage methodologies

The Districts further object to the referenced testimony, because it is prohibited hearsay under Tex R. Civ. Evid. 801 and 802. Mr. Anders states his opinion on an issue, and he provides no testimony regarding his personal knowledge about the matter. No foundation has been laid for Mr. Anders to provide his opinion regarding debt service coverage methodologies. Mr. Anders is

offering an opinion that is not rationally based on his perception because has no foundation on which to base his opinion.

**E. Anders Testimony at page 23, lines 18 through 19.**

***Q. ARE BOTH THE CASH NEEDS METHOD AND DSC METHOD PERMISSIBLE MEANS OF ESTABLISHING A REVENUE REQUIREMENT AT THE COMMISSION?***

*Although I am not an attorney, my understanding is that both methods are an acceptable means of substantiating a municipally-owned utility's (MOU) revenue requirement.*

The Districts object to the referenced testimony, because it is opinion testimony prohibited under Tex. R. Civ. Evid. 701 and 702. Mr. Anders is the Assistant Director of Financial Services for Austin Water, but he is not an expert in debt service coverage methodologies. By testifying that as he did above, Mr. Anders is offering his opinion on a matter for which he has no knowledge, skill, experience, training, or education that would qualify him as an expert. Given that Mr. Anders is not an expert on debt service coverage methodologies, his opinion testimony must be: “(a) rationally based on the witness’s perception; and (b) helpful to clearly understanding the witness’s testimony or to determining a fact in issue.” Tex. R. Civ. Evid. 701. Mr. Anders testimony does not explain the basis for his perception, nor does it aid in understanding his testimony or assist in determining a fact in issue because he has no specialized knowledge regarding debt service coverage methodologies

The Districts further object to the referenced testimony, because it is prohibited hearsay under Tex R. Civ. Evid. 801 and 802. Mr. Anders states his opinion on an issue, and he provides no testimony regarding his personal knowledge about the matter. No foundation has been laid for Mr. Anders to provide his opinion regarding debt service coverage methodologies. Mr. Anders is offering an opinion that is not rationally based on his perception because has no foundation on which to base his opinion.

**F. Anders Testimony at page 24, lines 2 through 5, lines 7 through 8, and lines 15 through 19.**

***Q. WHAT IS THE RELATIONSHIP BETWEEN THE GFT ISSUE LITIGATED IN DOCKET NO. 42857 AND THE DSC ANALYSIS PRESENTED IN THIS CASE?***

*Among other reasons, a GFT is the equivalent of a return, and as such is comparable, in principle, to amounts collected by an investor-owned utility in both water and electric rates approved by the Commission.*

*Moreover, the decision is at odds with state law and extensive Commission precedent authorizing the collection of a GFT.*

*As Mr. Wilkerson and Mr. Gonzales both testify in this case, under the rates set by the Commission in Docket No. 42857, the Petitioners provided a DSC ratio ranging from 0.74x to 0.84x for water service, and from 1.36x to 1.42x for wastewater service. In contrast, AW's overall DSC ratio for water during the test year was 1.58x for retail water and 1.80x for retail wastewater.*

The Districts object to the referenced testimony, because it is opinion testimony prohibited under Tex. R. Civ. Evid. 701 and 702. Mr. Anders is the Assistant Director of Financial Services for Austin Water, but he is not an expert in debt service coverage methodologies. Mr. Anders is offering his opinion on a matter for which he has no knowledge, skill, experience, training, or education that would qualify him as an expert. Given that Mr. Anders is not an expert on debt service coverage methodologies, his opinion testimony must be: “(a) rationally based on the witness’s perception; and (b) helpful to clearly understanding the witness’s testimony or to determining a fact in issue.” Tex. R. Civ. Evid. 701. Mr. Anders testimony does not explain the basis for his perception, nor does it aid in understanding his testimony or assist in determining a fact in issue, because he has no specialized knowledge regarding debt service coverage methodologies

The Districts further object to the referenced testimony, because it is prohibited hearsay under Tex R. Civ. Evid. 801 and 802. Mr. Anders states his opinion on an issue, and he provides no testimony regarding his personal knowledge about the matter, only stating that he is using information from Mr. Wilkerson and Mr. Gonzales. No foundation has been laid for Mr. Anders

to provide his opinion regarding debt service coverage methodologies. Mr. Anders is offering an opinion that is not rationally based on his perception, because has no foundation on which to base his opinion.

**G. Anders Testimony at page 24, lines 23 through 24.**

***Q. WHAT IS THE SIGNIFICANCE OF THESE RATIOS?***

*The Petitioners are the beneficiary of a subsidy provided by the rest of AW's retail and wholesale customers.*

The Districts object to the referenced testimony, because it is opinion testimony prohibited under Tex. R. Civ. Evid. 701 and 702. Mr. Anders is the Assistant Director of Financial Services for Austin Water, but he is not an expert in debt service coverage methodologies. By testifying as he did above, Mr. Anders is offering his opinion on a matter for which he has no knowledge, skill, experience, training, or education that would qualify him as an expert. Given that Mr. Anders is not an expert on debt service coverage methodologies, his opinion testimony must be: “(a) rationally based on the witness’s perception; and (b) helpful to clearly understanding the witness’s testimony or to determining a fact in issue.” Tex. R. Civ. Evid. 701. Mr. Anders testimony does not explain the basis for his perception, nor does it aid in understanding his testimony or assist in determining a fact in issue, because he has no specialized knowledge regarding debt service coverage methodologies

The Districts further object to the referenced testimony, because it is prohibited hearsay under Tex R. Civ. Evid. 801 and 802. Mr. Anders states his opinion on an issue, and he provides no testimony regarding his personal knowledge about the matter. No foundation has been laid for Mr. Anders to provide his opinion regarding debt service coverage methodologies. Mr. Anders is offering an opinion that is not rationally based on his perception because has no foundation on which to base his opinion.

**H. Anders Testimony at page 25, lines 2 through 4.**

***Q. IS A DSC REQUIREMENT OF 1.85x APPROPRIATE?***

*Yes. As discussed by AW expert Dennis Waley, a DSC target of 1.85x is modest compared to comparable utilities, and a failure to meet that target is of concern to the credit rating agencies.*

The Districts object to the referenced testimony, because it is opinion testimony prohibited under Tex. R. Civ. Evid. 701 and 702. Mr. Anders is the Assistant Director of Financial Services for Austin Water. He is not an expert in debt service coverage methodologies and is not a licensed or trained financial advisor on tax-exempt bond issuance. By testifying as he did above, Mr. Anders is offering his opinion on a matter for which he has no knowledge, skill, experience, training, or education that would qualify him as an expert. Given that Mr. Anders is not an expert on debt service coverage methodologies, his opinion testimony must be: “(a) rationally based on the witness’s perception; and (b) helpful to clearly understanding the witness’s testimony or to determining a fact in issue.” Tex. R. Civ. Evid. 701. Mr. Anders testimony does not explain the basis for his perception, nor does it aid in understanding his testimony or assist in determining a fact in issue because he has no specialized knowledge regarding debt service coverage methodologies

The Districts further object to the referenced testimony, because it is prohibited hearsay under Tex R. Civ. Evid. 801 and 802. Mr. Anders states his opinion on an issue, and he provides no testimony regarding his personal knowledge about the matter and only references the testimony of Mr. Waley. No foundation has been laid for Mr. Anders to provide his opinion regarding debt service coverage methodologies. Mr. Anders is offering an opinion that is not rationally based on his perception because has no foundation on which to base his opinion.

**I. Anders Testimony at page 25, lines 7 through 8.**

***Q. DO THE RATES PROPOSED BY AW IN THIS CASE BRING AW TO A DSC RATIO OF 1.85X?***

*Yes. The rates proposed in this case for each of the wholesale customers ensure a 1.85x debt service coverage for water and wastewater service.*

The Districts object to the referenced testimony, because it is opinion testimony prohibited under Tex. R. Civ. Evid. 701 and 702. Mr. Anders is the Assistant Director of Financial Services for Austin Water. He is not an expert in debt service coverage methodologies and is not a licensed or trained financial advisor on tax-exempt bond issuance. By testifying as he did above, Mr. Anders is offering his opinion on a matter for which he has no knowledge, skill, experience, training, or education that would qualify him as an expert. Given that Mr. Anders is not an expert on debt service coverage methodologies, his opinion testimony must be: “(a) rationally based on the witness’s perception; and (b) helpful to clearly understanding the witness’s testimony or to determining a fact in issue.” Tex. R. Civ. Evid. 701. Mr. Anders testimony does not explain the basis for his perception, nor does it aid in understanding his testimony or assist in determining a fact in issue because he has no specialized knowledge regarding debt service coverage methodologies

The Districts further object to the referenced testimony, because it is prohibited hearsay under Tex R. Civ. Evid. 801 and 802. Mr. Anders states his opinion on an issue, and he provides no testimony regarding his personal knowledge about the matter. No foundation has been laid for Mr. Anders to provide his opinion regarding debt service coverage methodologies. Mr. Anders is offering an opinion that is not rationally based on his perception because has no foundation on which to base his opinion.

**J. Anders Testimony at page 27, lines 7 through 12.**

***Q. NOTWITHSTANDING THE COMMISSION'S DECISION IN DOCKET NO. 42857, ARE THE RECLAIMED WATER SYSTEM'S CAPITAL COSTS AND EXPENSES COSTS ASSOCIATED WITH THE PROVISION OF WATER SERVICE TO AW'S CUSTOMERS?***

*The reclaimed water system is a cost-effective water source which extends AW's current water supply portfolio. The reclaimed water system enhances the total amount of water available to all customers, both retail and wholesale. The reclaimed water system is a key component of AW's recently completed Water Forward 100-year integrated water supply plan. The reclaimed water system will be a critical component for providing and meeting future water supply needs.*

The Districts object to the referenced testimony, because it is opinion testimony prohibited under Tex. R. Civ. Evid. 701 and 702. Mr. Anders is the Assistant Director of Financial Services for Austin Water. He is not a licensed professional engineer or an expert in reclaimed water, water supplies, or system planning. By testifying that “[t]he reclaimed water system is a key component of AW's recently completed Water Forward 100-year integrated water supply plan. The reclaimed water system will be a critical component for providing and meeting future water supply needs,” Mr. Anders is offering his opinion on a matter for which he has no knowledge, skill, experience, training, or education that would qualify him as an expert. Given that Mr. Anders is not an expert on reclaimed water his opinion testimony must be: “(a) rationally based on the witness’s perception; and (b) helpful to clearly understanding the witness’s testimony or to determining a fact in issue.” Tex. R. Civ. Evid. 701. Mr. Anders testimony does not explain the basis for his perception, nor does it aid in understanding his testimony or assist in determining a fact in issue because he has no specialized knowledge regarding reclaimed water.

The Districts further object to the referenced testimony, because it is prohibited hearsay under Tex R. Civ. Evid. 801 and 802. Mr. Anders states his opinion on an issue, and he provides no testimony regarding his personal knowledge about the matter. No foundation has been laid for Mr. Anders to provide his opinion regarding reclaimed wastewater. Mr. Anders is offering an



opinion that is not rationally based on his perception because has no foundation on which to base his opinion.

**K. Anders Testimony at page 27, line 15 through page 28, line 23.**

***Q. DO THE RECLAIMED WATER SYSTEM CAPITAL COSTS AND EXPENSES BENEFIT AW'S WHOLESALE CUSTOMERS?***

*The reclaimed water system provides significant benefits to all customer classes of the water system including wholesale customers. These benefits include the extension of AW's water supply, saving potable drinking water supplies, deferring the need for additional water supplies, deferring the need for the expansion of treatment and distribution facilities, and providing for drought resistant water supplies.*

*The reclaimed water system is also a required component of the State mandated water supply planning process, particularly the Region K Plan that covers Austin.*

The Districts object to the referenced testimony, because it is opinion testimony prohibited under Tex. R. Civ. Evid. 701 and 702. Mr. Anders is the Assistant Director of Financial Services for Austin Water. He is not an engineer or expert in reclaimed water, water supplies, or system planning. By testifying that “[t]hese benefits include the extension of AW's water supply, saving potable drinking water supplies, deferring the need for additional water supplies, deferring the need for the expansion of treatment and distribution facilities, and providing for drought resistant water supplies,” Mr. Anders is offering his opinion on a matter for which he has no knowledge, skill, experience, training, or education that would qualify him as an expert. Given that Mr. Anders is not an expert on reclaimed water his opinion testimony must be: “(a) rationally based on the witness’s perception; and (b) helpful to clearly understanding the witness’s testimony or to determining a fact in issue.” Tex. R. Civ. Evid. 701. Mr. Anders testimony does not explain the basis for his perception, nor does it aid in understanding his testimony or assist in determining a fact in issue because he has no specialized knowledge regarding reclaimed water.

The Districts further object to the referenced testimony, because it is prohibited hearsay under Tex R. Civ. Evid. 801 and 802. Mr. Anders states his opinion on an issue, and he provides no testimony regarding his personal knowledge about the matter. No foundation has been laid for

Mr. Anders to provide his opinion regarding reclaimed water, water supplies, or system planning. Mr. Anders is offering an opinion that is not rationally based on his perception because has no foundation on which to base his opinion.

**L. Anders Testimony at page 28, lines through 15 through 19.**

***Q. WHAT DO YOU CONCLUDE REGARDING THE RECLAIMED WATER SYSTEM COSTS?***

*Based on my testimony and the more detailed reasons stated in Mr. Coonan's and Mr. Giardina's testimony, the reclaimed water system benefits all customer classes including wholesale customers. The water supply benefits of the reclaimed water system provide benefits to all customers, regardless of whether a customer is directly connected to the reclaimed system.*

The Districts object to the referenced testimony, because it is opinion testimony prohibited under Tex. R. Civ. Evid. 701 and 702. Mr. Anders is the Assistant Director of Financial Services for Austin Water. He is neither a licensed profession engineer nor an expert in reclaimed water, water supplies, or system planning. By testifying as he did above, Mr. Anders is offering his opinion on a matter for which he has no knowledge, skill, experience, training, or education that would qualify him as an expert. Given that Mr. Anders is not an expert on reclaimed water his opinion testimony must be: “(a) rationally based on the witness’s perception; and (b) helpful to clearly understanding the witness’s testimony or to determining a fact in issue.” Tex. R. Civ. Evid. 701. However, Mr. Anders testimony does not explain the basis for his perception, nor does it aid in understanding his testimony or assist in determining a fact in issue, because he has no specialized knowledge regarding reclaimed water.

The Districts further object to the referenced testimony, because it is prohibited hearsay under Tex R. Civ. Evid. 801 and 802. Mr. Anders states his opinion on an issue, and he provides no testimony regarding his personal knowledge about the matter. No foundation has been laid for Mr. Anders to provide his opinion regarding reclaimed water, water supplies, or system planning. Mr. Anders is offering an opinion that is not rationally based on his perception because has no foundation on which to base his opinion.

**M. Anders Testimony at page 31, lines 21 through 24.**

***Q. HOW DID AW PRESENT THE DRAINAGE FEES CHARGED TO AW BY THE CITY'S DRAINAGE UTILITY?***

*These costs are appropriately allocated to all AW customer classes, including wholesale customers. Mr. Giardina also offers testimony in support of these costs as inclusions in the revenue requirements for all customers: retail and wholesale alike.*

The Districts object to the referenced testimony, because it is opinion testimony prohibited under Tex. R. Civ. Evid. 701 and 702. Mr. Anders is the Assistant Director of Financial Services for Austin Water. He is neither a licensed profession engineer nor an expert in drainage fees. By testifying as he did above, Mr. Anders is offering his opinion on a matter for which he has no knowledge, skill, experience, training, or education that would qualify him as an expert. Given that Mr. Anders is not an expert on drainage fees his opinion testimony must be: “(a) rationally based on the witness’s perception; and (b) helpful to clearly understanding the witness’s testimony or to determining a fact in issue.” Tex. R. Civ. Evid. 701. Mr. Anders testimony does not explain the basis for his perception, nor does it aid in understanding his testimony or assist in determining a fact in issue because he has no specialized knowledge regarding drainage fees.

The Districts further object to the referenced testimony, because it is prohibited hearsay under Tex R. Civ. Evid. 801 and 802. Mr. Anders states his opinion on an issue, and he provides no testimony regarding his personal knowledge about the matter and even relies on Mr. Giardina’s testimony. No foundation has been laid for Mr. Anders to provide his opinion regarding drainage fees. Mr. Anders is offering an opinion that is not rationally based on his perception because has no foundation on which to base his opinion.

N.      **Anders Testimony at page 32, lines 11 through 16.**

***Q. NOTWITHSTANDING THE COMMISSION'S DECISION IN DOCKET NO 42857, ARE THE DRAINAGE FEES AN APPROPRIATE COST ASSOCIATED WITH THE PROVISION OF WATER SERVICE TO AW'S CUSTOMERS?***

*The drainage fees are an assessed fee for all property owners in the City limits. The facilities and buildings owned by AW are critical to providing water service to our customers. The drainage fees collected by the City's Watershed Protection Department protects lives, property and the environment by reducing the impact of flood, erosion, and water pollution. These services, especially flood protection, provide service to AW and its customers.*

The Districts object to the referenced testimony, because it is opinion testimony prohibited under Tex. R. Civ. Evid. 701 and 702. Mr. Anders is the Assistant Director of Financial Services for Austin Water. He is neither a licensed professional engineer nor an expert in drainage fees. By testifying that “[t]he facilities and buildings owned by AW are critical to providing water service to our customers. The drainage fees collected by the City's Watershed Protection Department protects lives, property and the environment by reducing the impact of flood, erosion, and water pollution. These services, especially flood protection, provide service to AW and its customers,” Mr. Anders is offering his opinion on a matter for which he has no knowledge, skill, experience, training, or education that would qualify him as an expert. Given that Mr. Anders is not an expert on drainage fees his opinion testimony must be: “(a) rationally based on the witness’s perception; and (b) helpful to clearly understanding the witness’s testimony or to determining a fact in issue.” Tex. R. Civ. Evid. 701. Mr. Anders testimony does not explain the basis for his perception, nor does it aid in understanding his testimony or assist in determining a fact in issue because he has no specialized knowledge regarding drainage fees.

The Districts further object to the referenced testimony, because it is prohibited hearsay under Tex R. Civ. Evid. 801 and 802. Mr. Anders states his opinion on an issue, and he provides no testimony regarding his personal knowledge about the matter. No foundation has been laid for Mr. Anders to provide his opinion regarding drainage fees. Mr. Anders is offering an opinion that is not rationally based on his perception because has no foundation on which to base his opinion.

**O. Anders Testimony at page 32, lines 18 through 19.**

***Q. DOES THE DRAINAGE FEES BENEFIT AW'S WHOLESALE CUSTOMERS?***

*The drainage fees and the associated protections of AW's facilities and buildings benefit all customers, including AW's wholesale customers.*

The Districts object to the referenced testimony, because it is opinion testimony prohibited under Tex. R. Civ. Evid. 701 and 702. Mr. Anders is the Assistant Director of Financial Services for Austin Water. He is neither an engineer nor expert in drainage fees. By testifying as he did above, Mr. Anders is offering his opinion on a matter for which he has no knowledge, skill, experience, training, or education that would qualify him as an expert. Given that Mr. Anders is not an expert on drainage fees his opinion testimony must be: “(a) rationally based on the witness’s perception; and (b) helpful to clearly understanding the witness’s testimony or to determining a fact in issue.” Tex. R. Civ. Evid. 701. Mr. Anders testimony does not explain the basis for his perception, nor does it aid in understanding his testimony or assist in determining a fact in issue because he has no specialized knowledge regarding drainage fees.

The Districts further object to the referenced testimony, because it is prohibited hearsay under Tex R. Civ. Evid. 801 and 802. Mr. Anders states his opinion on an issue, and he provides no testimony regarding his personal knowledge about the matter. No foundation has been laid for Mr. Anders to provide his opinion regarding drainage fees. Mr. Anders is offering an opinion that is not rationally based on his perception because has no foundation on which to base his opinion.

**P. Anders Testimony at page 33, lines 2 through 6.**

***Q. WHAT DO YOU CONCLUDE REGARDING THE DRAINAGE FEES?***

*The drainage fees are costs of doing business within the City of Austin. All businesses, utilities and residents pay drainage fees based on their property, impervious cover, and the rate. AW is required to pay these fees based on our property characteristics, and therefore there are costs associated with providing water service to our customers, including wholesale customers.*

The Districts object to the referenced testimony, because it is opinion testimony prohibited under Tex. R. Civ. Evid. 701 and 702. Mr. Anders is the Assistant Director of Financial Services for Austin Water. He is neither an engineer nor expert in drainage fees. By testifying that as he did above, Mr. Anders is offering his opinion on a matter for which he has no knowledge, skill, experience, training, or education that would qualify him as an expert. Given that Mr. Anders is not an expert on drainage fees his opinion testimony must be: “(a) rationally based on the witness’s perception; and (b) helpful to clearly understanding the witness’s testimony or to determining a fact in issue.” Tex. R. Civ. Evid. 701. Mr. Anders testimony does not explain the basis for his perception, nor does it aid in understanding his testimony or assist in determining a fact in issue because he has no specialized knowledge regarding drainage fees.

The Districts further object to the referenced testimony, because it is prohibited hearsay under Tex R. Civ. Evid. 801 and 802. Mr. Anders states his opinion on an issue, and he provides no testimony regarding his personal knowledge about the matter. No foundation has been laid for Mr. Anders to provide his opinion regarding drainage fees. Mr. Anders is offering an opinion that is not rationally based on his perception because has no foundation on which to base his opinion.

**Q. Anders Testimony at page 34, lines 2 through 6.**

***Q. NOTWITHSTANDING THE COMMISSION'S DECISION IN DOCKET NO. 42857, IS THE REVENUE STABILITY RESERVE FUND A COST ASSOCIATED WITH THE PROVISION OF WATER SERVICE TO AW'S CUSTOMERS?***

*Yes. For this reason, AW has allocated the Revenue Stability Reserve Fund surcharge to all customer classes including wholesale customers.*

The Districts object to the referenced testimony, because it is opinion testimony prohibited under Tex. R. Civ. Evid. 701 and 702. Mr. Anders is the Assistant Director of Financial Services for Austin Water. He is not an expert in ratemaking. By testifying as he did above, Mr. Anders is offering his opinion on a matter for which he has no knowledge, skill, experience, training, or education that would qualify him as an expert. Given that Mr. Anders is not an expert on ratemaking his opinion testimony must be: “(a) rationally based on the witness’s perception; and (b) helpful to clearly understanding the witness’s testimony or to determining a fact in issue.” Tex. R. Civ. Evid. 701. Mr. Anders testimony does not explain the basis for his perception, nor does it

aid in understanding his testimony or assist in determining a fact in issue because he has no specialized knowledge regarding ratemaking.

The Districts further object to the referenced testimony, because it is prohibited hearsay under Tex R. Civ. Evid. 801 and 802. Mr. Anders states his opinion on an issue, and he provides no testimony regarding his personal knowledge about the matter. No foundation has been laid for Mr. Anders to provide his opinion regarding ratemaking. Mr. Anders is offering an opinion that is not rationally based on his perception because has no foundation on which to base his opinion.

**R. Anders Testimony at page 34, lines 10 through 11.**

***Q. DOES THE REVENUE STABILITY RESERVE FUND BENEFIT AW'S WHOLESALE CUSTOMERS?***

*Appropriate levels of reserves are important to AW maintaining its current AA bond ratings.*

The Districts object to the referenced testimony, because it is opinion testimony prohibited under Tex. R. Civ. Evid. 701 and 702. Mr. Anders is the Assistant Director of Financial Services for Austin Water. He is not an expert in bond ratings. By testifying as he did above, Mr. Anders is offering his opinion on a matter for which he has no knowledge, skill, experience, training, or education that would qualify him as an expert. Given that Mr. Anders is not an expert on bond ratings his opinion testimony must be: “(a) rationally based on the witness’s perception; and (b) helpful to clearly understanding the witness’s testimony or to determining a fact in issue.” Tex. R. Civ. Evid. 701. Mr. Anders testimony does not explain the basis for his perception, nor does it aid in understanding his testimony or assist in determining a fact in issue, because he has no specialized knowledge regarding bond ratings.

The Districts further object to the referenced testimony, because it is prohibited hearsay under Tex R. Civ. Evid. 801 and 802. Mr. Anders states his opinion on an issue, and he provides no testimony regarding his personal knowledge about the matter. No foundation has been laid for Mr. Anders to provide his opinion regarding bond ratings. Mr. Anders is offering an opinion that is not rationally based on his perception because has no foundation on which to base his opinion.

**S. Anders Testimony at page 35, lines 3 through 5.**

***Q. WHAT DO YOU CONCLUDE REGARDING THE REVENUE STABILITY RESERVE FUND?***

*The Revenue Stability Reserve Fund presents benefits to all of AW's customers, including its wholesale customers. A portion of these costs are reasonably and appropriately allocated to wholesale customers.*

The Districts object to the referenced testimony, because it is opinion testimony prohibited under Tex. R. Civ. Evid. 701 and 702. Mr. Anders is the Assistant Director of Financial Services for Austin Water. He is not an expert in bond ratings. By testifying as he did above, Mr. Anders is offering his opinion on a matter for which he has no knowledge, skill, experience, training, or education that would qualify him as an expert. Given that Mr. Anders is not an expert on bond ratings his opinion testimony must be: “(a) rationally based on the witness’s perception; and (b) helpful to clearly understanding the witness’s testimony or to determining a fact in issue.” Tex. R. Civ. Evid. 701. Mr. Anders testimony does not explain the basis for his perception, nor does it aid in understanding his testimony or assist in determining a fact in issue because he has no specialized knowledge regarding bond ratings.

The Districts further object to the referenced testimony, because it is prohibited hearsay under Tex R. Civ. Evid. 801 and 802. Mr. Anders states his opinion on an issue, and he provides no testimony regarding his personal knowledge about the matter. No foundation has been laid for Mr. Anders to provide his opinion regarding bond ratings. Mr. Anders is offering an opinion that is not rationally based on his perception because has no foundation on which to base his opinion.

**T. Anders Testimony at page 36, lines 16 through 19.**

***Q. DOES THE RECLAIMED WATER SYSTEM BENEFIT AW'S WHOLESALE CUSTOMERS?***

*Yes. As described in the testimony above regarding the reclaimed water system capital and O&M expenses and in testimony of Steve Coonan, these costs go towards activities that benefit AW's wholesale customers. These additional administrative O&M costs similarly benefitted wholesale customers during the test year.*



The Districts object to the referenced testimony, because it is opinion testimony prohibited under Tex. R. Civ. Evid. 701 and 702. Mr. Anders is the Assistant Director of Financial Services for Austin Water. He is not an expert in reclaimed water. By testifying as he did above, Mr. Anders is offering his opinion on a matter for which he has no knowledge, skill, experience, training, or education that would qualify him as an expert. Given that Mr. Anders is not an expert on reclaimed water his opinion testimony must be: “(a) rationally based on the witness’s perception; and (b) helpful to clearly understanding the witness’s testimony or to determining a fact in issue.” Tex. R. Civ. Evid. 701. Mr. Anders testimony does not explain the basis for his perception, nor does it aid in understanding his testimony or assist in determining a fact in issue because he has no specialized knowledge regarding reclaimed water.

The Districts further object to the referenced testimony, because it is prohibited hearsay under Tex R. Civ. Evid. 801 and 802. Mr. Anders states his opinion on an issue, and he provides no testimony regarding his personal knowledge about the matter and even cites the testimony of Mr. Coonan. No foundation has been laid for Mr. Anders to provide his opinion regarding reclaimed water. Mr. Anders is offering an opinion that is not rationally based on his perception because has no foundation on which to base his opinion.

**U. Anders Testimony at page 37, lines 3 through 5.**

***Q. WHAT DO YOU CONCLUDE REGARDING THE ALLOCATION OF O&M EXPENSES OF THE RECLAIMED WATER SYSTEM?***

*The reclaimed water system presents benefits to all of AW's customers, including its wholesale customers. A portion of these costs are reasonably and appropriately allocated to wholesale customers.*

The Districts object to the referenced testimony, because it is opinion testimony prohibited under Tex. R. Civ. Evid. 701 and 702. Mr. Anders is the Assistant Director of Financial Services for Austin Water. He is not an expert in reclaimed water. By testifying as he did above, Mr. Anders is offering his opinion on a matter for which he has no knowledge, skill, experience, training, or education that would qualify him as an expert. Given that Mr. Anders is not an expert on reclaimed water his opinion testimony must be: “(a) rationally based on the witness’s perception; and (b) helpful to clearly understanding the witness’s testimony or to determining a

fact in issue.” Tex. R. Civ. Evid. 701. Mr. Anders testimony does not explain the basis for his perception, nor does it aid in understanding his testimony or assist in determining a fact in issue because he has no specialized knowledge regarding reclaimed water.

The Districts further object to the referenced testimony, because it is prohibited hearsay under Tex R. Civ. Evid. 801 and 802. Mr. Anders states his opinion on an issue, and he provides no testimony regarding his personal knowledge about the matter. No foundation has been laid for Mr. Anders to provide his opinion regarding reclaimed water. Mr. Anders is offering an opinion that is not rationally based on his perception because has no foundation on which to base his opinion.

**V. Anders Testimony at page 37, line 21 through page 38, line 6.**

***Q. NOTWITHSTANDING THE COMMISSION'S DECISION IN DOCKET NO. 42857, IS THE GOVALLE PLANT STILL USED IN THE PROVISION OF WATER AND WASTEWATER SERVICE TO AW'S CUSTOMERS?***

*Since the decommissioning of the Govalle Plant, buildings located at the site are used by AW for various treatment support functions, emergency wastewater flow diversion, and for storage of treatment plant and infrastructure assets. The administrative and other buildings on the Govalle property are also used to provide training to AW's pipeline and treatment staff. This training includes classroom instruction, confined space training, respiratory training, and other training needs. The clarification basins on the site provide emergency storage for wastewater influent headed toward the South Austin Regional Wastewater Treatment Plant. Govalle was used in these capacities during the test year presented in this case, and through the current time.*

The Districts object to the referenced testimony, because it is opinion testimony prohibited under Tex. R. Civ. Evid. 701 and 702. Mr. Anders is the Assistant Director of Financial Services for Austin Water. He is not an expert in water supply systems. By testifying as he did above, Mr. Anders is offering his opinion on a matter for which he has no knowledge, skill, experience, training, or education that would qualify him as an expert. Given that Mr. Anders is not an expert on water supply systems his opinion testimony must be: “(a) rationally based on the witness’s perception; and (b) helpful to clearly understanding the witness’s testimony or to determining a

fact in issue.” Tex. R. Civ. Evid. 701. Mr. Anders testimony does not explain the basis for his perception, nor does it aid in understanding his testimony or assist in determining a fact in issue because he has no specialized knowledge regarding water supply systems.

The Districts further object to the referenced testimony, because it is prohibited hearsay under Tex R. Civ. Evid. 801 and 802. Mr. Anders states his opinion on an issue, and he provides no testimony regarding his personal knowledge about the matter. No foundation has been laid for Mr. Anders to provide his opinion regarding water supply systems. Mr. Anders is offering an opinion that is not rationally based on his perception because has no foundation on which to base his opinion.

**W. Anders Testimony at page 38, lines 12 through 16.**

***Q. DOES THE UTILIZATION OF THE GOVALLE SITE BENEFIT AW'S WHOLESALE CUSTOMERS?***

*All customers benefit from the activities conducted at Goyalle. The facilities' use as a training and backup effluent storage site provides benefits to the AW system as a whole. While it no longer treats wastewater, the site is not idle, and remains in use to provide service to AW's customers—a different use than before it was decommissioned, but an important use nonetheless.*

The Districts object to the referenced testimony, because it is opinion testimony prohibited under Tex. R. Civ. Evid. 701 and 702. Mr. Anders is the Assistant Director of Financial Services for Austin Water. He is not an expert in water supply systems. By testifying as he did above, Mr. Anders is offering his opinion on a matter for which he has no knowledge, skill, experience, training, or education that would qualify him as an expert. Given that Mr. Anders is not an expert on water supply systems his opinion testimony must be: “(a) rationally based on the witness’s perception; and (b) helpful to clearly understanding the witness’s testimony or to determining a fact in issue.” Tex. R. Civ. Evid. 701. Mr. Anders testimony does not explain the basis for his perception, nor does it aid in understanding his testimony or assist in determining a fact in issue because he has no specialized knowledge regarding water supply systems.

The Districts further object to the referenced testimony, because it is prohibited hearsay under Tex R. Civ. Evid. 801 and 802. Mr. Anders states his opinion on an issue, and he provides no testimony regarding his personal knowledge about the matter. No foundation has been laid for Mr. Anders to provide his opinion regarding water supply systems. Mr. Anders is offering an opinion that is not rationally based on his perception because has no foundation on which to base his opinion.

**X. Anders Testimony at page 38, lines 18 through 19.**

***Q. WHAT DO YOU CONCLUDE REGARDING THE GOVALLE SITE?***

*As a facility that assists in AW's provision of service to the Petitioners, its costs should be allocated to customers and recovered through rates as proposed in AW's COS Study.*

The Districts object to the referenced testimony, because it is opinion testimony prohibited under Tex. R. Civ. Evid. 701 and 702. Mr. Anders is the Assistant Director of Financial Services for Austin Water. He is not an expert in water supply systems. By testifying as he did above, Mr. Anders is offering his opinion on a matter for which he has no knowledge, skill, experience, training, or education that would qualify him as an expert. Given that Mr. Anders is not an expert on water supply systems his opinion testimony must be: “(a) rationally based on the witness’s perception; and (b) helpful to clearly understanding the witness’s testimony or to determining a fact in issue.” Tex. R. Civ. Evid. 701. Mr. Anders testimony does not explain the basis for his perception, nor does it aid in understanding his testimony or assist in determining a fact in issue because he has no specialized knowledge regarding water supply systems.

The Districts further object to the referenced testimony, because it is prohibited hearsay under Tex R. Civ. Evid. 801 and 802. Mr. Anders states his opinion on an issue, and he provides no testimony regarding his personal knowledge about the matter. No foundation has been laid for Mr. Anders to provide his opinion regarding water supply systems. Mr. Anders is offering an opinion that is not rationally based on his perception because has no foundation on which to base his opinion.

**Y. Anders Testimony at page 39, lines 7 through 9.**

***Q. HOW DOES AW PRESENT COSTS ASSOCIATED WITH THE BERL L. HANDCOX, SR. WATER PLANT (FORMERLY WTP4)?***

*AW operates its water treatment and distribution system as an integrated system. The Handcox WTP provides reliable water service to our existing and future water customers, including our wholesale customers.*

The Districts object to the referenced testimony, because it is opinion testimony prohibited under Tex. R. Civ. Evid. 701 and 702. Mr. Anders is the Assistant Director of Financial Services for Austin Water. He is not an expert in water supply systems. By testifying as he did above, Mr. Anders is offering his opinion on a matter for which he has no knowledge, skill, experience, training, or education that would qualify him as an expert. Given that Mr. Anders is not an expert on water supply systems his opinion testimony must be: “(a) rationally based on the witness’s perception; and (b) helpful to clearly understanding the witness’s testimony or to determining a fact in issue.” Tex. R. Civ. Evid. 701. Mr. Anders testimony does not explain the basis for his perception, nor does it aid in understanding his testimony or assist in determining a fact in issue because he has no specialized knowledge regarding water supply systems.

The Districts further object to the referenced testimony, because it is prohibited hearsay under Tex R. Civ. Evid. 801 and 802. Mr. Anders states his opinion on an issue, and he provides no testimony regarding his personal knowledge about the matter. No foundation has been laid for Mr. Anders to provide his opinion regarding water supply systems. Mr. Anders is offering an opinion that is not rationally based on his perception because has no foundation on which to base his opinion.

**Z. Anders Testimony at page 39, lines 16 through 19.**

***Q. NOTWITHSTANDING THE COMMISSION'S DECISION IN DOCKET NO. 42857, IS THE HANDCOX WTP USED IN THE PROVISION OF WATER SERVICE TO AW'S CUSTOMERS?***

*The Handcox WTP is a critical component of providing water service to all of AW's customers...Since November 2014, the Handcox plant has continuously been used and useful to AW's water system.*

The Districts object to the referenced testimony, because it is opinion testimony prohibited under Tex. R. Civ. Evid. 701 and 702. Mr. Anders is the Assistant Director of Financial Services for Austin Water. He is not an expert in water supply systems. By testifying as he did above, Mr. Anders is offering his opinion on a matter for which he has no knowledge, skill, experience, training, or education that would qualify him as an expert. Given that Mr. Anders is not an expert on water supply systems his opinion testimony must be: “(a) rationally based on the witness’s perception; and (b) helpful to clearly understanding the witness’s testimony or to determining a fact in issue.” Tex. R. Civ. Evid. 701. Mr. Anders testimony does not explain the basis for his perception, nor does it aid in understanding his testimony or assist in determining a fact in issue because he has no specialized knowledge regarding water supply systems.

The Districts further object to the referenced testimony, because it is prohibited hearsay under Tex R. Civ. Evid. 801 and 802. Mr. Anders states his opinion on an issue, and he provides no testimony regarding his personal knowledge about the matter. No foundation has been laid for Mr. Anders to provide his opinion regarding water supply systems. Mr. Anders is offering an opinion that is not rationally based on his perception because has no foundation on which to base his opinion.

**AA. Anders Testimony at page 39, lines 22 through 23.**

***Q. DOES THE UTILIZATION OF THE HANDCOX WTP BENEFIT AW'S WHOLESALE CUSTOMERS?***

*Yes, it does. The Handcox WTP benefits all AW water customers, including AW's wholesale customers.*

The Districts object to the referenced testimony, because it is opinion testimony prohibited under Tex. R. Civ. Evid. 701 and 702. Mr. Anders is the Assistant Director of Financial Services for Austin Water. He is not an expert in water supply systems. By testifying as he did above, Mr. Anders is offering his opinion on a matter for which he has no knowledge, skill, experience, training, or education that would qualify him as an expert. Given that Mr. Anders is not an expert on water supply systems his opinion testimony must be: “(a) rationally based on the witness’s perception; and (b) helpful to clearly understanding the witness’s testimony or to determining a fact in issue.” Tex. R. Civ. Evid. 701. Mr. Anders testimony does not explain the basis for his perception, nor does it aid in understanding his testimony or assist in determining a fact in issue because he has no specialized knowledge regarding water supply systems.

The Districts further object to the referenced testimony, because it is prohibited hearsay under Tex R. Civ. Evid. 801 and 802. Mr. Anders states his opinion on an issue, and he provides no testimony regarding his personal knowledge about the matter. No foundation has been laid for Mr. Anders to provide his opinion regarding water supply systems. Mr. Anders is offering an opinion that is not rationally based on his perception because has no foundation on which to base his opinion.

**BB. Anders Testimony at page 40, lines 14 through 16.**

***Q. WHAT DO YOU CONCLUDE REGARDING THE COSTS FOR THE HANDCOX WTP?***

*The Handcox WTP costs benefit all customer classes including wholesale customers, and therefore a portion of the O&M and capital costs associated with the plant have been properly allocated to wholesale customers.*

The Districts object to the referenced testimony, because it is opinion testimony prohibited under Tex. R. Civ. Evid. 701 and 702. Mr. Anders is the Assistant Director of Financial Services for Austin Water. He is not an expert in water supply systems. By testifying as he did above, Mr. Anders is offering his opinion on a matter for which he has no knowledge, skill, experience, training, or education that would qualify him as an expert. Given that Mr. Anders is not an expert on water supply systems his opinion testimony must be: “(a) rationally based on the witness’s perception; and (b) helpful to clearly understanding the witness’s testimony or to determining a fact in issue.” Tex. R. Civ. Evid. 701. Mr. Anders testimony does not explain the basis for his perception, nor does it aid in understanding his testimony or assist in determining a fact in issue because he has no specialized knowledge regarding water supply systems.

The Districts further object to the referenced testimony, because it is prohibited hearsay under Tex R. Civ. Evid. 801 and 802. Mr. Anders states his opinion on an issue, and he provides no testimony regarding his personal knowledge about the matter. No foundation has been laid for Mr. Anders to provide his opinion regarding water supply systems. Mr. Anders is offering an opinion that is not rationally based on his perception because has no foundation on which to base his opinion.

**CC. Anders Testimony at page 41, lines 1 through 3.**

***Q. PLEASE EXPLAIN AW'S USE OF GREEN CHOICE ELECTRICITY FROM AUSTIN ENERGY.***

*The City's decision for AW to purchase 100% renewable energy as part of the Climate Action Plan is a valid operating cost for AW. These efforts towards climate protection benefit all customer classes.*

The Districts object to the referenced testimony, because it is opinion testimony prohibited under Tex. R. Civ. Evid. 701 and 702. Mr. Anders is the Assistant Director of Financial Services for Austin Water. He is not an expert in environmental science. By testifying as he did above, Mr. Anders is offering his opinion on a matter for which he has no knowledge, skill, experience, training, or education that would qualify him as an expert. Given that Mr. Anders is not an expert on environmental science his opinion testimony must be: “(a) rationally based on the witness’s perception; and (b) helpful to clearly understanding the witness’s testimony or to determining a



fact in issue.” Tex. R. Civ. Evid. 701. Mr. Anders testimony does not explain the basis for his perception, nor does it aid in understanding his testimony or assist in determining a fact in issue because he has no specialized knowledge regarding environmental science.

The Districts further object to the referenced testimony, because it is prohibited hearsay under Tex R. Civ. Evid. 801 and 802. Mr. Anders states his opinion on an issue, and he provides no testimony regarding his personal knowledge about the matter. No foundation has been laid for Mr. Anders to provide his opinion regarding environmental science. Mr. Anders is offering an opinion that is not rationally based on his perception because has no foundation on which to base his opinion.

**DD. Anders Testimony at page 41, lines 14 through 17.**

***Q. NOTWITHSTANDING THE COMMISSION'S DECISION IN DOCKET NO. 42857, ARE THE GREEN CHOICE ENERGY COSTS USED IN THE PROVISION OF WATER SERVICE TO AW'S CUSTOMERS?***

*Yes. Energy costs are a critical component of any water system operation. The use of 100% renewable energy is an important part of the City's Climate Action Plan. The efforts towards climate protection benefit all customer classes including wholesale customers.*

The Districts object to the referenced testimony, because it is opinion testimony prohibited under Tex. R. Civ. Evid. 701 and 702. Mr. Anders is the Assistant Director of Financial Services for Austin Water. He is not an expert in environmental science. By testifying as he did above, Mr. Anders is offering his opinion on a matter for which he has no knowledge, skill, experience, training, or education that would qualify him as an expert. Given that Mr. Anders is not an expert on environmental science his opinion testimony must be: “(a) rationally based on the witness’s perception; and (b) helpful to clearly understanding the witness’s testimony or to determining a fact in issue.” Tex. R. Civ. Evid. 701. Mr. Anders testimony does not explain the basis for his perception, nor does it aid in understanding his testimony or assist in determining a fact in issue because he has no specialized knowledge regarding environmental science.

The Districts further object to the referenced testimony, because it is prohibited hearsay under Tex R. Civ. Evid. 801 and 802. Mr. Anders states his opinion on an issue, and he provides

no testimony regarding his personal knowledge about the matter. No foundation has been laid for Mr. Anders to provide his opinion regarding environmental science. Mr. Anders is offering an opinion that is not rationally based on his perception because has no foundation on which to base his opinion.

**EE. Anders Testimony at page 42, lines 3 through 6.**

***Q. WHAT DO YOU CONCLUDE REGARDING THE GREEN CHOICE ENERGY COSTS?***

*The cost of 100% renewable energy for AW operations benefits all customer classes and is a component of the City's Climate Action Plan. The reduced greenhouse gas emissions from using 100% renewable energy provides long-term benefits to AW's customers.*

The Districts object to the referenced testimony, because it is opinion testimony prohibited under Tex. R. Civ. Evid. 701 and 702. Mr. Anders is the Assistant Director of Financial Services for Austin Water. He is not an expert in environmental science. By testifying as he did above, Mr. Anders is offering his opinion on a matter for which he has no knowledge, skill, experience, training, or education that would qualify him as an expert. Given that Mr. Anders is not an expert on environmental science his opinion testimony must be: “(a) rationally based on the witness’s perception; and (b) helpful to clearly understanding the witness’s testimony or to determining a fact in issue.” Tex. R. Civ. Evid. 701. Mr. Anders testimony does not explain the basis for his perception, nor does it aid in understanding his testimony or assist in determining a fact in issue because he has no specialized knowledge regarding environmental science.

The Districts further object to the referenced testimony, because it is prohibited hearsay under Tex R. Civ. Evid. 801 and 802. Mr. Anders states his opinion on an issue, and he provides no testimony regarding his personal knowledge about the matter. No foundation has been laid for Mr. Anders to provide his opinion regarding environmental science. Mr. Anders is offering an opinion that is not rationally based on his perception because has no foundation on which to base his opinion.

**FF. Anders Testimony at page 43, lines 12 through 16.**

***Q. WHAT DO YOU CONCLUDE REGARDING THE GFT?***

*AW has decided to not include a GFT in its revenue requirement. AW does include a debt service coverage amount to ensure that all customer classes contribute sufficient revenue to achieve the appropriate DSC target. If AW's proposed revenue requirement is approved, the wholesale customers would not be responsible for a specific GFT amount, but only the amount sufficient to produce the appropriate level of DSC.*

The Districts object to the referenced testimony, because it is opinion testimony prohibited under Tex. R. Civ. Evid. 701 and 702. Mr. Anders is the Assistant Director of Financial Services for Austin Water. He is not an expert in debt service coverage methodologies. By testifying as he did above, Mr. Anders is offering his opinion on a matter for which he has no knowledge, skill, experience, training, or education that would qualify him as an expert. Given that Mr. Anders is not an expert on debt service coverage methodologies, his opinion testimony must be: “(a) rationally based on the witness’s perception; and (b) helpful to clearly understanding the witness’s testimony or to determining a fact in issue.” Tex. R. Civ. Evid. 701. Mr. Anders testimony does not explain the basis for his perception, nor does it aid in understanding his testimony or assist in determining a fact in issue because he has no specialized knowledge regarding debt service coverage methodologies

The Districts further object to the referenced testimony, because it is prohibited hearsay under Tex R. Civ. Evid. 801 and 802. Mr. Anders states his opinion on an issue, and he provides no testimony regarding his personal knowledge about the matter. No foundation has been laid for Mr. Anders to provide his opinion regarding debt service coverage methodologies. Mr. Anders is offering an opinion that is not rationally based on his perception because has no foundation on which to base his opinion.

**GG. Anders Testimony at page 43, lines 21 through 23.**

***Q. DID AW INCLUDE ANY COSTS ASSOCIATED WITH DEPRECIATION WITHIN ITS WHOLESALE REVENUE REQUIREMENT PRESENTED IN THIS CASE?***

*Because AW is a municipal utility that uses the cash flow method and DSC method to quantify its revenue requirement, depreciation expense is not included in AW's rates.*

The Districts object to the referenced testimony, because it is opinion testimony prohibited under Tex. R. Civ. Evid. 701 and 702. Mr. Anders is the Assistant Director of Financial Services for Austin Water. He is neither an expert in debt service coverage methodologies nor rate design. By testifying as he did above, Mr. Anders is offering his opinion on a matter for which he has no knowledge, skill, experience, training, or education that would qualify him as an expert. Given that Mr. Anders is not an expert on debt service coverage methodologies, his opinion testimony must be: “(a) rationally based on the witness’s perception; and (b) helpful to clearly understanding the witness’s testimony or to determining a fact in issue.” Tex. R. Civ. Evid. 701. Mr. Anders testimony does not explain the basis for his perception, nor does it aid in understanding his testimony or assist in determining a fact in issue because he has no specialized knowledge regarding debt service coverage methodologies.

The Districts further object to the referenced testimony, because it is prohibited hearsay under Tex R. Civ. Evid. 801 and 802. Mr. Anders states his opinion on an issue, and he provides no testimony regarding his personal knowledge about the matter. No foundation has been laid for Mr. Anders to provide his opinion regarding debt service coverage methodologies. Mr. Anders is offering an opinion that is not rationally based on his perception because has no foundation on which to base his opinion.

**HH. Anders Testimony at page 46, lines 8 through 9.**

***Q. DID AW ENCOUNTER ANY DIFFICULTY IN USING THE COMMISSION'S RFP?***

*AW is a MOU that calculated its revenue requirement using methods that are permissible for MOUs.*

The Districts object to the referenced testimony, because it is opinion testimony prohibited under Tex. R. Civ. Evid. 701 and 702. Mr. Anders is the Assistant Director of Financial Services for Austin Water. He is not an expert in methods permissible for Municipal Owned Utilities. By testifying as he did above, Mr. Anders is offering his opinion on a matter for which he has no knowledge, skill, experience, training, or education that would qualify him as an expert. Given that Mr. Anders is not an expert on methods permissible for Municipal Owned Utilities, his opinion testimony must be: “(a) rationally based on the witness’s perception; and (b) helpful to clearly understanding the witness’s testimony or to determining a fact in issue.” Tex. R. Civ. Evid. 701. Mr. Anders testimony does not explain the basis for his perception, nor does it aid in understanding his testimony or assist in determining a fact in issue because he has no specialized knowledge regarding methods permissible for Municipal Owned Utilities.

The Districts further object to the referenced testimony, because it is prohibited hearsay under Tex R. Civ. Evid. 801 and 802. Mr. Anders states his opinion on an issue, and he provides no testimony regarding his personal knowledge about the matter. No foundation has been laid for Mr. Anders to provide his opinion regarding methods permissible for Municipal Owned Utilities. Mr. Anders is offering an opinion that is not rationally based on his perception because has no foundation on which to base his opinion.

**II. Anders Testimony at page 47, lines 13 through 14.**

***Q. DID AW ENCOUNTER ANY OTHER ISSUES IN USING THE IOU RFP FOR THIS CASE?***

*AW's chart of accounts provides a level of detail which is consistent with the NARUC system*

The Districts object to the referenced testimony, because it is opinion testimony prohibited under Tex. R. Civ. Evid. 701 and 702. Mr. Anders is the Assistant Director of Financial Services for Austin Water. He is not an expert in the NARUC system. By testifying that “AW's chart of accounts provides a level of detail which is consistent with the NARUC system,” Mr. Anders is offering his opinion on a matter for which he has no knowledge, skill, experience, training, or education that would qualify him as an expert. Given that Mr. Anders is not an expert on the NARUC system, his opinion testimony must be: “(a) rationally based on the witness’s perception;

and (b) helpful to clearly understanding the witness's testimony or to determining a fact in issue." Tex. R. Civ. Evid. 701. Mr. Anders testimony does not explain the basis for his perception, nor does it aid in understanding his testimony or assist in determining a fact in issue because he has no specialized knowledge regarding the NARUC system.

The Districts further object to the referenced testimony, because it is prohibited hearsay under Tex R. Civ. Evid. 801 and 802. Mr. Anders states his opinion on an issue, and he provides no testimony regarding his personal knowledge about the matter. No foundation has been laid for Mr. Anders to provide his opinion regarding the NARUC system. Mr. Anders is offering an opinion that is not rationally based on his perception because has no foundation on which to base his opinion.

#### **IV. OBJECTIONS TO ATTACHMENTS**

##### **A. Attachment DAA-2 to Anders Testimony.**

The City has failed to authenticate the exhibit as a public record. The City failed to provide evidence to support self-authentication under Tex. R. Civ. EVID. 902 and 1005 and made no attempt to have the witness prove up the authenticity of the evidence referred to in the witness' testimony. The evidence should be excluded.

#### **V. PRAYER**

WHEREFORE, PREMISES CONSIDERED, the Districts respectfully request that the Administrative Law Judges sustain Districts' objections, enter an order excluding and striking the Direct Testimony and Attachments of David A. Anders as requested above and grant such other relief to which Districts may be entitled.

Respectfully submitted,



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John J. Carlton

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**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 1<sup>st</sup> day of November, 2019.



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John J. Carlton