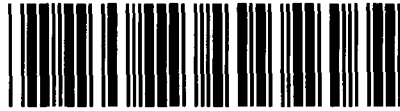


Control Number: 49189



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Addendum StartPage: 0

RECEIVED

APPLICATION OF THE CITY OF §
 AUSTIN DBA AUSTIN WATER FOR §
 AUTHORITY TO CHANGE WATER §
 AND WASTEWATER RATES FOR §
 NORTH AUSTIN MUNICIPAL §
 UTILITY DISTRICT NO. 1, §
 NORTHTOWN MUNICIPAL UTILITY §
 DISTRICT, TRAVIS COUNTY WATER §
 CONTROL AND IMPROVEMENT §
 DISTRICT NO. 10, AND WELLS §
 BRANCH MUNICIPAL UTILITY §
 DISTRICT IN WILLIAMSON AND §
 TRAVIS COUNTIES §

BEFORE THE 1:49
2019 MAY 29 PMPUBLIC UTILITY COMMISSION
FILING CLERK

PUBLIC UTILITY COMMISSION

OF TEXAS

DISTRICTS' RESPONSE TO CITY OF AUSTIN'S
MOTION FOR RECONSIDERATION OF COMMISSION ORDER NO. 2
AND EXTENSION OF DEADLINE TO FILE LIST OF ISSUES

COME NOW North Austin Municipal Utility District No. 1, Northtown Municipal Utility District, Travis County Water Control and Improvement District No. 10, and Wells Branch Municipal Utility District (collectively the "Districts"), and file this Response to the City of Austin ("City" or "AW") request for Reconsideration of the Commission's Order No. 2 and Extension of Deadline to File List of Issues. *See Motion for Reconsideration of Commission Order No. 2 and Extension of Deadline to File List of Issues ("Motion for Reconsideration")* (May 21, 2019). The Districts' response is timely filed pursuant to 16 Tex. Admin. Code § 22.78(a), which provides that a response to a pleading is due five working days after receipt. *See* 16 Tex. Code Admin. § 22.78(a) (2019). In support thereof, the Districts would show as follows:

On April 15, 2019, the City filed an Application for Authority to Change Water and Wastewater Rates ("Application to Change Rates").¹ *See Application of the City for Authority to Change Water and Wastewater Rates* (Apr. 15, 2019). The Commission thereafter issued an Order

¹ The City's Application to Change Rates was filed pursuant to Tex. Water Code § 13.044 (2019) and in compliance with the Commission's Order on Rehearing in Case No. 42857. *See Petition of North Austin Municipal Utility District No. 1, Northtown Municipal Utility District, Travis County Water Control and Improvement District No. 10, and Wells Branch Municipal Utility District, from the Ratemaking Actions of the City of Austin and Request for Interim Rates in Williamson and Travis Counties*, Docket No. 42857, Order on Rehearing (Jan. 14, 2016) (Commission upheld ALJ finding that AW did not meet its burden of proof under Tex. Water Code § 13.044 to show that the water and wastewater rates it charges petitioners are just and reasonable).

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that invited the City, Commission Staff, and any other interested party to file a list of rate-specific and threshold legal and policy issues to be addressed in the docket by May 17, 2019. *See Order Requesting List of Issues* (May 3, 2019).

The Districts filed a Motion to Intervene on May 14, 2019, and two days later, Commission Staff issued a Recommendation on Administrative Completeness and Procedural Schedule, which recommended that the City's Application to Change Rates be found Administratively Incomplete. *See Motion to Intervene* (May 14, 2019); *Recommendation on Administrative Completeness and Procedural Schedule* ("Recommendation on Administrative Completeness"), (May 16, 2019). Specifically, in the Recommendation on Administrative Completeness, Commission Staff indicated that the City's Application to Change Rates contained deficiencies in "application content, financial, and technical information," stated that the application should be found administratively incomplete, and suggested the City should be permitted until May 29, 2019 to supplement the application. *See Recommendation on Administrative Completeness*, at 1-2 (Commission Staff attached a 15-point memorandum detailing deficiencies in the City's application). Commission Staff also asked that the Commission extend the deadline for a list of issues to be filed to June 17, 2019, to provide time for the City to submit the requested supplemental information and for Staff and parties to review it. *See Commission Staff's Request for Extension of Time* (May 17, 2019).


On May 17, 2019, the Commission entered Order No. 2, Finding Application Administratively Incomplete and Establishing Opportunity to Cure, which indicated that the City's application is not presently considered filed, because it is not considered administratively complete. *See Order No. 2* (May 17, 2019). The Commission ordered the City to amend its application to cure the deficiencies described in the Commission Staff's recommendation by May 29, 2019 and indicated that Commission Staff must file a supplemental recommendation regarding administrative completeness, along with a proposed schedule, by June 10, 2019. *See id.* The Commission also granted the Staff's request and entered an Order indicating that the list of issues is due on June 17, 2019. *See Order Granting Request and Extending Deadline to File List of Issues* (May 17, 2019). The City thereafter filed a Motion for Reconsideration of the Commission Staff's Recommendation, and, on May 22, the Commission entered an order granting Districts intervenor status. *See Order No. 3* (May 22, 2019).

The City's Motion for Reconsideration argued that the supplemental information that Commission Staff requested is "akin to discovery and should be treated as a Request for Information," and also maintained that declaring that an application is administratively incomplete is "irrelevant" because "there is no statutory deadline or effective date." *See Motion for Reconsideration*, at 3. Nonetheless, the City indicated that it is working with Commission Staff to provide any information necessary for the Commission to determine if the rates for the Districts are just and reasonable. *See id.*

The Districts support the Commission Staff's position in the Recommendation on Administrative Completeness, and the Commission's Order No. 2, Finding the City's Application Administratively Incomplete, and Commissioner's Order Granting Request and Extending Deadline to File List of Issues to June 17, 2019. *See Recommendation on Administrative Completeness; Order No. 2; Order Granting Request and Extending Deadline to File List of Issues.*

However, if the Commission reconsiders its position determining that the City's application is administratively complete, or alters the date that the list of issues is due, the Districts request the opportunity to file a list of issues. The Districts had prepared a list of issues to file on the original due date, but withheld that list based upon Commission Staff's Recommendation on Administrative Completeness and Request for Extension of Time, Order No. 2, and the Order Granting Request and Extending Deadline to File List of Issues. *See id.; Commission Staff's Request for Extension of Time* (May 17, 2019).

Respectfully submitted,

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DISTRICT, TRAVIS COUNTY WATER
CONTROL & IMPROVEMENT DISTRICT NO.
10, AND WELLS BRANCH MUNICIPAL
UTILITY DISTRICT

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 29th day of May, 2019



John Carlton