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SOAH DOCKET NO. 473-19-6297.WS

PUC DOCKET NO. 49189

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APPLICATION OF THE CITY OF  
AUSTIN DBA AUSTIN WATER FOR  
AUTHORITY TO CHANGE WATER  
AND WASTEWATER RATES

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§

BEFORE THE STATE OFFICE  
OF  
ADMINISTRATIVE HEARINGS

**SOAH ORDER NO. 12  
RULING ON MOTIONS TO STRIKE;  
DISCUSSING WITHDRAWAL**

On November 1, 2019, the Districts<sup>1</sup> filed objections and motions to strike portions of the testimony of Austin Water<sup>2</sup> witnesses David A. Anders, Joseph H. Gonzales, Richard D. Giardina, Dan Wilkerson, Dennis P. Waley, Stephen J. Coonan, and Tab R. Urbantke, arguing variously that the witnesses are not qualified to testify on the specific issue that is the subject of the objection, or that the objected to language constitutes hearsay, is irrelevant, or would create unfair prejudice. On November 8, 2019, Austin Water responded that all its witnesses are experts and that the testimony is relevant. Having considered the motions and the arguments, the Districts' motions to strike are DENIED.

On November 19, 2019, and on November 22, 2019, Austin Water filed a motion to strike portions of District witness Jay Joyce's testimony, and Commission Staff witness Debi Loockerman's testimony on grounds that they are not qualified to offer a legal opinion. Districts and Staff responded that their witnesses are experts in the water regulatory field with decades of experience, which qualifies them to describe the standard upon which they rely in reaching their conclusions. The witnesses are experts in the water regulatory field but are not attorneys. Accordingly, Austin Water's motions to strike are DENIED, but the testimony that is the subject of the objection will be admitted only to establish the basis for their expert regulatory opinions on an ultimate issue, not as expert legal opinion.

<sup>1</sup> 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, Districts).

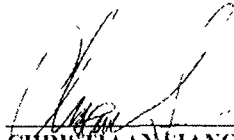
<sup>2</sup> City of Austin d/b/a Austin Water (Austin Water).

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On December 2, 2019, Austin Water filed a withdrawal of its application under 16 Texas Administrative Code § 22.181. The Administrative Law Judges intend to dismiss the matter based on withdrawal unless an objection is filed by December 6, 2019.

**SIGNED December 3, 2019.**



CHRISTIAAN SIANO  
ADMINISTRATIVE LAW JUDGE  
STATE OFFICE OF ADMINISTRATIVE HEARINGS



ELIZABETH DREWS  
ADMINISTRATIVE LAW JUDGE  
STATE OFFICE OF ADMINISTRATIVE HEARINGS