



Control Number: 49189



Item Number: 6

Addendum StartPage: 0

PUC DOCKET NO. 49189

**APPLICATION OF THE CITY OF
AUSTIN FOR AUTHORITY TO
CHANGE THE 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**

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BEFORE THE
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PUBLIC UTILITY COMMISSION
PUBLIC UTILITY COMMISSION
OF TEXAS

**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 INTERVENE**

TO THE HONORABLE COMMISSIONERS:

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 Motion to Intervene ("Motion") in this docket for the Application filed by the City of Austin ("City" or "AWU") requesting authority to change the water and wastewater rates of the Districts. In support of their Motion, the Districts will respectfully show the following:

I. INTRODUCTION AND BACKGROUND

1. On April 12, 2013, the Districts originally appealed the wholesale rates that the City charged them.¹ That appeal proceeded under Section 13.044 of the Texas Water Code.

¹ *Petition of 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 from the Ratemaking Actions of the City of Austin and Request for Interim Rates in Williamson and Travis Counties*, Docket No. 42857 (this appeal began as a proceeding before the Texas Commission on Environmental Quality, but the Commission assumed jurisdiction when the Legislature transferred water and sewer regulatory authority to the Commission under SB 567. (Acts 2013, 83rd Leg., R.S., Ch. 171 (S.B. 567), Sec. 16, eff. September 1, 2013.))

2. On January 14, 2016, the Public Utility Commission of Texas (“Commission”) issued an Order on Rehearing in Docket No. 42857 (“Final Order”) in which the Commission ordered AWU to not increase water or wastewater rates for the Districts without prior Commission approval.²
3. As part of that Final Order, the Commission found the following cost categories inappropriate for inclusion in the reasonable and necessary costs for provided water and wastewater service to the Districts:
 - a. General fund transfer;
 - b. Rate case expenses;
 - c. Reclaimed water system (capital and O&M costs);
 - d. City’s reclassification of SWAP and commercial paper administration costs from capital to expense;
 - e. Drainage fees;
 - f. Allocation of O&M expenses for reclaimed water utility;
 - g. Depreciation;
 - h. Green Water Treatment Plant capital costs;
 - i. Revenue Stability Reserve Fund;
 - j. Barton Springs Edwards Aquifer Conservation District;
 - k. Govalle Wastewater Treatment Plant (capital and O&M costs);
 - l. Utility-Wide contingency costs;
 - m. Water Treatment Plant No. 4; and
 - n. Green Choice electricity.³

² *Petition of 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 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, Ordering Paragraph 5 (Jan. 14, 2016).

³ Docket No. 42857, Order on Rehearing, Finding of Fact 52 (Jan. 14, 2016).

4. On March 29, 2016, the City filed its Original Petition for Judicial Review with the District Court in Travis County, Texas.⁴
5. On May 25, 2017, Judge Livingston of the 53rd Judicial Court of Travis County, Texas issued a Final Judgment denying the City's appeal and affirming the Commission's Order on Rehearing.⁵
6. As required by §13.044(b) of the Texas Water Code, on April 15, 2019, the City filed an Application for Authority to Change Water and Wastewater Rates in this docket (the "Application").
7. The Application seeks to change the water and wastewater rates that the City may charge the Districts. The proposed change to these rates would directly and uniquely impact the Districts.

II. MOTION TO INTERVENE

8. Because the outcome of this proceeding may adversely affect a justiciable interest of the Districts, the Districts hereby move to intervene in this docket and request party status as Intervenors.

⁴ *City of Austin v. Pub. Util. Comm'n of Texas*, No. D-1-GN-16-001344 (201st Dist. Ct, Travis County, Tex., Mar. 29, 2016).

⁵ *City of Austin v. Pub. Util. Comm'n of Texas*, No. D-1-GN-16-001344, Final Judgment (53rd Dist. Ct, Travis County, Tex., May 25, 2016).

III. NOTICE OF APPEARANCE

9. Pursuant to 16 TAC § 22.101(a), Randall B. Wilburn and Helen S. Gilbert of Gilbert Wilburn, PLLC and John J. Carlton of The Carlton Law Firm hereby enter an appearance as counsel on behalf of the Districts in this docket. Accordingly, documents filed in this case, orders, service, and correspondence to the Districts should be directed as follows:

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IV. PRAYER

WHEREFORE PREMISES CONSIDERED, the Districts request that the Commission grant this Motion to Intervene and recognize the Districts as a full party to this proceeding and any other relief to which the Districts are entitled.

Respectfully submitted,

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By: _____

Randall B. Wilburn

ATTORNEYS FOR THE DISTRICTS

CERTIFICATE OF SERVICE

I hereby certify that I have served a true and correct copy of the foregoing document via hand delivery, facsimile, electronic mail, overnight mail, U.S. mail, or Certified Mail Return Receipt Requested on all parties on the 14th of May 2019.

Randall B. Wilburn