



Control Number: 49189



Item Number: 78

Addendum StartPage: 0

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

APPLICATION OF THE CITY OF AUSTIN DBA AUSTIN WATER FOR AUTHORITY TO CHANGE WATER AND WASTEWATER RATES	§ § § §	BEFORE THE STATE OFFICE OF ADMINISTRATIVE HEARINGS
--	----------------------------	---

**OBJECTIONS OF AUSTIN WATER TO
DISTRICTS' EIGHTH REQUEST FOR INFORMATION**

The City of Austin (City) doing business as Austin Water (Austin Water or AW), by and through its attorneys of record, files these Objections to 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's (collectively Districts) Eighth Request for Information (RFI) to Austin Water, and would respectfully show as follows:

I. PROCEDURAL HISTORY

Districts served its Eighth RFI to Austin Water on September 20, 2019. Pursuant to 16 Tex. Admin. Code (TAC) §§ 22.144(d) and 22.4(a), these objections are timely filed within 10 calendar days of Austin Water's receipt of the RFI. Counsel for Austin Water and Districts conducted good faith negotiations that failed to resolve the issues. While AW will continue to negotiate with Districts regarding these and any future objections, AW files these objections for preservation of its legal rights under the established procedures. To the extent any agreement is subsequently reached, AW will withdraw such objection.

II. GENERAL OBJECTIONS

Austin Water generally objects to these RFIs, including the Definitions and Instructions contained therein, to the extent they are overly broad and unduly burdensome.¹

III. SPECIFIC OBJECTIONS TO DEFINITIONS

Austin Water objects to Districts' definitions of the following terms:

¹ See Tex. R. Civ. Proc. 192.4.

DEFINITION NO. 6: “Describe” or “describe in detail” means to give a complete and full description concerning the matter about which the inquiry is made, including the full name, address, and telephone number(s) of the person(s) involved, dates, times, places, and other particulars, including all relevant documents and observations which make the answers to these written discovery requests fair and meaningful.

Objections:

Austin Water objects to this definition because it is unduly burdensome, unreasonable, and meant for the purpose of harassing Austin Water. Commission rules and the Texas Rules of Civil Procedure (TRCP) provide protection to parties from discovery requests that are unduly burdensome, unnecessarily expensive, or for the purpose of harassment.² Districts use the terms “describe” or “describe in detail” in several of their RFIs that already call for a large amount of information. In addition to producing all of the responsive documents that are within Austin Water’s possession, this definition of “describe” and “describe in detail” calls for Austin Water to provide a list of details for each individual document that are ultimately unnecessary to adequately describe the responsive document. Using this definition would require Austin Water to expend unnecessary time and expense to respond. Districts’ expansive definition burdens Austin Water with providing unnecessary information. Notwithstanding this objection, Austin Water will provide a response to each request using the commonly understood meaning of the term.

DEFINITION NO. 10: To “identify” an act, event, occurrence, or communication means the following: (i) to state its date; (ii) to identify the persons that were parties to and/or witnesses of the act, event, occurrence, or communication; (iii) to describe where and how it took place; and (iv) to identify any document that constitutes or refers to such act, event, occurrence, or communication.

² See 16 TAC § 22.142(a)(1)(D); *see also* Tex. R. Civ. Proc. 192.4.

Objections:

Austin Water objects to this definition because it is unduly burdensome, unreasonable, and meant for the purpose of harassing Austin Water. Commission rules and the TRCP provide protection to parties from discovery requests that are unduly burdensome, unnecessarily expensive, or are for the purpose of harassment.³ Districts use the term “identify” several times in this RFI. This definition of “identify” calls for Austin Water to provide four categories of detailed information for each individual act, event, occurrence, or communication. While, in some circumstances, some of these categories of information may fall within the normally understood meaning of “identify,” the requirement to “identify any document that constitutes or refers to such act, event, occurrence or communication” creates a substantial burden on Austin Water. Austin Water would be required to expend unnecessary time and expense to respond, when this information is not necessary to simply “identify” such act, event, occurrence, or communication. Therefore, Districts’ expansive definition burdens Austin Water with providing unnecessary information. Notwithstanding this objection, Austin Water will provide a response to each request using the commonly understood meaning of the term.

DEFINITION NO. 11: To “identify” a document means the following: (i) to identify all files in which it and all copies of it are found; (ii) to identify its author; (iii) to identify its addresses, if any; (iv) to identify those persons who received a copy thereof; (v) to identify its current custodian or the person that had last known possession, custody, or control thereof; (vi) to state the date of its preparation; and (vii) to state its general subject matter giving a reasonably detailed description thereof.

Objections:

Austin Water objects to this definition because it is unduly burdensome, unreasonable, and meant for the purpose of harassing Austin Water. Commission rules and the TRCP provide protection to parties from discovery requests that are unduly burdensome, unnecessarily

³ See 16 TAC § 22.142(a)(1)(D); *see also* Tex. R. Civ. Proc. 192.4.

expensive, or are for the purpose of harassment.⁴ Districts use the term “identify” in several of their RFIs that have potential for an enormous amount of information. In addition to producing all of the responsive documents that are within Austin Water’s possession, this definition of “identify” calls for Austin Water to provide seven categories of detailed information for each individual document. Using this definition would require Austin Water to expend unnecessary time and expense to respond. Even simply stating each document’s “general subject matter giving reasonably detailed description thereof,” as category (vii) requires, could take countless hours for a response that calls for numerous documents. Districts’ expansive definition burdens Austin Water with providing unnecessary information. Notwithstanding this objection, Austin Water will provide a response to each request using the commonly understood meaning of the term.

IV. PRAYER

WHEREFORE, PREMISES CONSIDERED, Austin Water requests these objections be sustained and Austin Water be relieved of responding to these RFIs. Austin Water also requests any other relief to which it may show itself justly entitled

Respectfully submitted,

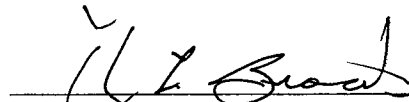
**LLOYD GOSSELINK ROCHELLE &
TOWNSEND, P.C.**

816 Congress Avenue, Suite 1900

Austin, Texas 78701

(512) 322-5800

(512) 472-0532 (Fax)



THOMAS L. BROCATO

tbrocato@lglawfirm.com

State Bar No. 03039030

⁴ See 16 TAC § 22.142(a)(1)(D); *see also* Tex. R. Civ. Proc. 192.4.

CHRISTOPHER L. BREWSTER

cbrewster@lglawfirm.com

State Bar No. 24043570

W. PATRICK DINNIN

pdinnin@lglawfirm.com State Bar No. 24097603

ATTORNEYS FOR CITY OF AUSTIN

CERTIFICATE OF CONFERENCE

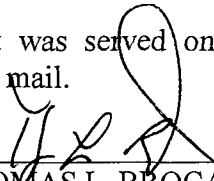
I hereby certify that I conferred with Mr. Andrew Snyder of The Carlton Law Firm, counsel for Districts, on September 26, 2019 concerning Austin Water's objections to Districts' Requests for Information. Mr. Snyder indicated that he believed Districts' requests were valid and that he understood that this motion may be filed.



W. PATRICK DINNIN

CERTIFICATE OF SERVICE

I certify that a copy of this document was served on all parties of record in this proceeding on September 30, 2019, by electronic mail.



THOMAS L. BROCATO