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**OF**

## ADMINISTRATIVE HEARINGS

## I. BACKGROUND

***Districts' Reply to City's Response to Districts' Motion to Compel City to Respond to Districts' First and Second Requests for Information***



obtain discovery of information that is reasonably calculated to lead to the discovery of admissible evidence.<sup>1</sup>

The City Objected to Districts' Requests and the Districts timely filed a Motion to Compel because the Districts are entitled to responses to their requests. The City filed its Response to Districts' Motion to Compel Responses to First and Second Requests for Information on September 26, 2019. The Districts now file this timely response within five working days of its receipt of City's Response to Districts' Motion to Compel.<sup>2</sup> The Commission's rules allow the Districts to file written pleadings in support of its Motion to Compel.<sup>3</sup> There is no rule that forbids the Districts from replying to the City's Response to Districts' Motion to Compel.

## **II. REPLY TO CITY'S RESPONSE TO MOTION TO COMPEL**

City repeats the claim it has made in response to every Request for Information in this case. City argues that, by providing the Districts with a scanned image of the DVD and a list of the file names, City has complied with the requirements of Commission Procedural Rule 22.144(h)(4). City also argues that the Districts motion to compel was untimely.

In response to the Districts' First and Second Requests for Information, the City provided documents to the Districts that included 115 documents containing approximately 7529 pages and 54 excel workbooks with approximately 476 tabs. The Districts received these responsive documents, without the indices, on Wednesday, August 28 and Tuesday, September 3, 2019. City's responses to Districts' First and Second Requests merely contained of copy of the images of the DVDs with lists of the file names for the files included on each DVD, which City has asserted should be sufficient. The Districts informally requested that the City provide the indices. The City refused. Districts then spent two weeks trying to sift through the voluminous responses before filing its motion to compel on September 19, 2019.

Under the requirements of 16 TAC § 22.144(h)(4), the City should have included in their Response: (1) information sufficient to locate each individual document by page number, file number, and box number; (2) the date of each document; (3) the title of the document or description

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<sup>1</sup> Tex. R. Civ. Proc. 192.3; 16 TAC § 22.141(a).

<sup>2</sup> See 16 TAC § 22.144(e) ("The presiding officer may rule on the motion to compel based on written pleadings without allowing additional argument.").

<sup>3</sup> *Id.*

of the document; (4) the name of the preparer of each document; and (4) the length of each document. The City has failed to comply with the rule. It has not included a simple list of the documents, their location, the date they were created, a title or description of the documents, who prepared them, nor the length. City has insisted that its production of a photocopy of the DVD and list of file names is sufficient to comply with 16 TAC § 22.144(h)(4), but the City's production is clearly not. Furthermore, the City has admitted that the DVDs contain voluminous documents as it used that exact wording to describe the discs in response to the Third, Fourth, and Fifth Requests.

Districts urge the Administrative Law Judges to grant the Districts' Motion to Compel to force the City to fully comply with the requirements of 16 TAC § 22.144(h)(4) and include an index.

### **III. PRAYER**

WHEREFORE, PREMISES CONSIDERED, Districts 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 pray that the Administrative Law Judges grant its Motion to Compel City to respond to Districts' First and Second Requests for Information and grant Districts other such relief to which they may be entitled.

Respectfully submitted,



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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 2<sup>nd</sup> day of October 2019.



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John J. Carlton