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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

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BEFORE THE STATE OFFICE
OF
ADMINISTRATIVE HEARINGS

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PUBLIC UTILITY COMMISSION
FILING CLERK

AUSTIN WATER'S MOTION TO STRIKE DISTRICTS'
REPLY TO AUSTIN WATER'S RESPONSE
TO DISTRICTS' MOTION TO COMPEL
RESPONSES TO DISTRICTS 1ST AND 2ND
REQUESTS FOR INFORMATION

COMES NOW, the City of Austin (City) d/b/a Austin Water (AW or Austin Water) and files this Motion to Strike 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's (collectively Districts) Reply to City of Austin d/b/a Austin Water's Response to Districts' Motion to Compel Responses to Districts' 1st and 2nd Requests for Information (Districts' Reply) filed on October 2, 2019.

I. ARGUMENT

Districts' Reply is not permissible under Public Utility Commission (Commission) rules, or any other law or statute, and is unfair to Austin Water. Therefore, Austin Water requests the Administrative Law Judges (ALJs) strike Districts' Reply.

16 Tex. Admin. Code (TAC) § 22.144 provides the discovery procedures for Requests for Information (RFI) and Requests for Admission (RFA).¹ 16 TAC § 22.144(e) provides an avenue for the party seeking discovery to file a motion to compel,² and 16 TAC § 22.144(f) provides an avenue for a party to respond to a motion to compel.³ However, no Commission rule provides an avenue for a party to file a reply to another party's response to a motion to compel. Districts make no effort to cite to any procedural rule or any other legal basis for its Reply, and, further, provide

¹ See 16 Tex. Admin Code § 22.144 (TAC).

² See 16 TAC § 22.144(e).

³ See 16 TAC § 22.144(f).

no justification for their baseless filing. Districts simply provide that “[t]here is no rule that forbids the Districts from replying to the City’s Response to Districts’ Motion to Compel.”⁴ Districts’ Reply is, therefore, impermissible under Commission rules and should be stricken.

Districts’ impermissible Reply disadvantages Austin Water because it continues to argue matters that are no longer arguable. Austin Water does not have a procedural avenue to respond to Districts’ Reply, and continuing to litigate each of Districts’ individual motions to compel would continue to distract from the central issue in this proceeding, which is the reasonableness of Austin Water’s proposed wholesale water and wastewater rates. Therefore, allowing Districts to file its Reply injures Austin Water, and accordingly, Districts’ Reply should be stricken. Notwithstanding the foregoing, Austin Water requests the opportunity to respond in the event the ALJs choose to consider the Districts’ new arguments.

II. CONCLUSION

Austin Water respectfully requests that Districts’ Reply be stricken, and that it be granted any other relief to which it may be entitled.

Respectfully submitted,

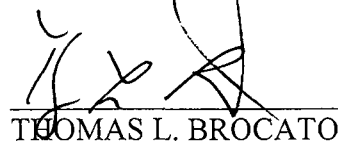
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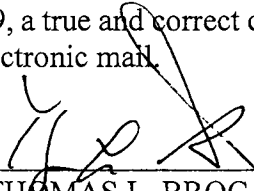
⁴ Motion to Strike North Austin Municipal Utility District No. 1, Northtown Municipal Utility District, Travis County Water Control & Improvement District No. 10, and Wells Branch Municipal Utility District’s Reply to City of Austin d/b/a Austin Water’s Response to Districts’ Motion to Compel Responses to Districts’ 1st and 2nd Requests for Information at 2 (Oct. 2, 2019).

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ATTORNEYS FOR AUSTIN WATER

CERTIFICATE OF SERVICE

I hereby certify that on October 3, 2019, a true and correct copy of the foregoing document has been served on all parties of record via electronic mail.



THOMAS L. BROCATO