



Control Number: 49225



Item Number: 107

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SOAH DOCKET NO. 473-20-1554.WS
PUC DOCKET NO. 49225



PETITION BY OUTSIDE CITY
RATEPAYERS APPEALING THE
WATER AND WASTEWATER RATES
ESTABLISHED BY THE CITY OF
CELINA

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PUBLIC UTILITY COMMISSION

OF TEXAS

**OBJECTIONS OF OUTSIDE CITY RATEPAYERS' TO CITY OF CELINA'S FIRST
REQUEST FOR INFORMATION AND FIRST REQUEST FOR ADMISSIONS**

TO THE HONORABLE JUDGES SIANO AND QUINN:

COME NOW, the Outside City Ratepayers of the City of Celina ("Petitioners") and file these Objections to the City of Celina's First Request for Information and First Request for Admissions, which Petitioners received on May 21, 2020. As required by Section 22.144(d) of 16 Tex. Admin. Code ("TAC"), counsel for Petitioners has negotiated in good faith with City's counsel and such negotiations were unsuccessful.

I. BACKGROUND

On May 21, 2020, the City filed and served its First Request for Information ("RFIs") and First Request for Admissions ("RFAs") to Petitioners, the Outside City Ratepayers. Pursuant to 16 TAC § 22.144(d), "objections to requests for information, if any, shall be filed within ten calendar days of receipt of the request for information." Ten days from May 21, 2020, is Sunday, May 31, 2020; therefore, Petitioners' Objections are due on Monday, June 1, 2020, and are timely filed.

II. OBJECTIONS TO CITY'S REQUESTS FOR INFORMATION

A. CITY'S REQUEST TO RATEPAYERS 1-2: Please identify each fact witness that will testify in this proceeding

Petitioners and the City have agreed that RFI 1-2 is repetitive of RFI 1-12 and need not be answered.

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- B. CITY'S REQUEST TO RATEPAYERS 1-7:** Please produce all documents relevant to this matter that were provided, reviewed, or created by or relied upon by each testifying expert.

The Petitioners and the City have agreed that RFI 1-7 is repetitive of RFI 1-5(4) and need not be answered.

- C. CITY'S REQUEST TO RATEPAYERS 1-8:** Please produce all documents relevant to this matter that were provided, reviewed, or created by or relied upon by any consulting expert whose mental impressions or opinions have been reviewed by a testifying expert.

The Petitioners object to this request on the following independent basis: The request is cumulative and duplicative, rendering a response unduly burdensome, an annoyance, and an unnecessary expense. *See* Tex. R. Civ. P. 192.4 (2019). On May 21, 2020, the City submitted a request for the same information in City's Request to Ratepayers 1-5. *See City of Celina's First Request for Information and First Request for Admissions to Outside City Ratepayers*, Docket No. 49225, at 6 (May 21, 2020). Specifically, in Request 1-5(4)(a), the City asked Petitioners to provide "all documents, tangible things, reports, models, or data compilations that have been provided to, reviewed by, or prepared by or for the expert in anticipation of the expert's testimony" *Id.* This request merely requests again the very same documents that the testifying expert reviewed, which increases its burden and unreasonableness. *See* Tex. R. Civ. P. 192.4(a) (indicating that discovery should be limited if the discovery sought is unreasonably cumulative or duplicative); *In re American Optical Corp.*, 988 S.W.2d 711, 713 (Tex. 1998) (instructing that a "trial court must make an effort to impose reasonable discovery limits" and providing examples where discovery requests were "too broad").

- D. CITY'S REQUEST TO RATEPAYERS 1-10:** Please provide copies of any articles, publications, regulatory decisions (outside of Texas), reference material, and documents relied upon by any expert to develop the opinions that the expert may express in this proceeding. If the referenced source is a book, please provide a copy of the relevant section of the book.

The Petitioners and the City have agreed that RFI 1-10 is repetitive of RFI 1-5(4) and need not be answered.

- E. CITY'S REQUEST TO RATEPAYERS 1-11:** Please identify all documents you intend to introduce as exhibits at the hearing on the merits. Provide an index of all voluminous materials.

Petitioners object to this request on the following independent bases: The request is overbroad, unduly burdensome, and would require the Petitioners to marshal all evidence they intend to offer at hearing. "Requests for production may properly ask a party to provide 'all,' 'each,' or 'every' document pertaining to a *relevant, narrow subject* of the litigation." *In re Allstate*, 227 S.W.3d 667, 669 (Tex. 2007) (orig. proceeding) (emphasis added). This request is neither narrow or tailored to any subject of this proceeding—rather, the request is to separately and repetitively "state the date, subject and substance, author, type of document . . . , its present location and the identity of each of its present custodians" for any and all documents that may be introduced as exhibits at the hearing on the merits, including those documents that Petitioners claim are privileged and are already filed or disclosed. *See City of Celina's First Request for Information and First Request for Admissions to Outside City Ratepayers*, Docket No. 49225, at 2 (May 21, 2020) (defining "Identify"). Such an overbroad and burdensome request not only requires Petitioners to develop voluminous materials, but also causes unnecessary additional costs and requires Petitioners to marshal to marshal all evidence they intend to offer. *See Tex. R. Civ. P.* 194.2, 197.1.

As already discussed, the City's definition of "Document" is extremely broad and includes extensive categories of materials, regardless of form. *See City of Celina's First Request for Information and First Request for Admissions to Outside City Ratepayers*, Docket No. 49225, at 2 (May 21, 2020). According to the City's definition, "Document" means "any written, typed, printed, recorded, graphic or photographic matter, or sound reproductions, however produced or reproduced, including copies, or computer or data processing inputs or outputs in whatever form, or any means of electronic storage of information" and includes a variety of materials such as:

[originals and copies that have commentary, whether electronic or magnetic, of] all letters, telegrams, cables, wires, notes, studies, memoranda, accounts, invoices, ledgers, books, publications, diagrams, statements, drafts, transcripts, agreements, contracts, minutes, records, diaries, voice recordings, journals, logs, work papers, manuals, calendars, governmental forms, computer or data processing inputs or printouts, microfiche or microfilm recordings, statistical compilations, slides, photographs, negatives, motion pictures or other films, samples or other physical objects of whatever nature, whether originals or reproductions, now or formerly in your possession, custody or control, or in the possession, custody or control of any employee, agent, representative, servant or attorney acting on your behalf.

Id. The City fails to limit its broad request to a relevant, narrow subject in this proceeding, creating an overbroad and burdensome request that saddles Petitioners with excessive costs and unnecessary and likely duplicative work. This request ultimately would require the Petitioners to gather nearly all, if not in fact every piece, of evidence they intend to present at hearing for this single request—regardless of whether it had already been filed or provided. Accordingly, Petitioners object to this overbroad and excessively burdensome request.

F. CITY'S REQUEST TO RATEPAYERS 1-13: Please identify and provide a copy of the agreement or agreements, in whatever form, between the attorneys representing the Outside City Ratepayers in this proceeding.

The Petitioners object to this request on the following independent bases: The request is not relevant to the subject matter of this docket and the request seeks information that is neither

relevant nor reasonably calculated to lead to the discovery of admissible evidence. *K-Mart Corp. v. Sanderson*, 937 S.W.2d 429, 431-32 (Tex. 1996); *see also* Tex. R. Civ. P. 192.3. Texas courts have repeatedly emphasized that discovery may not be used as a fishing expedition. *See K Mart Corp.*, 937 S.W.2d at 431; *Dillard Dep't Stores, Inc. v. Hall*, 909 S.W.2d 491, 492 (Tex. 1995); *Texaco, Inc. v. Sanderson*, 898 S.W.2d 813, 815 (Tex. 1995). Requests for discovery may not be used simply to explore. *Dillard*, 909 S.W.2d at 492 (citing *Loft v. Martin*, 776 S.W.2d 145 (Tex. 1998)). They must be reasonably tailored to include only matters relevant to the case and must show a reasonable expectation of obtaining information that will aid in the dispute's resolution. *See In re American Optical*, 988 S.W.2d 711, 713 (Tex. 1998); *Texaco*, 898 S.W.2d at 815. Here, copies of the agreement or agreements between the attorneys representing the Ratepayers have no bearing on whether the City's rates are just, reasonable, or based on the actual cost of providing service to Petitioners. *See* TWC § 13.043(j). Further, this request does not seek information that would aid in the dispute's resolution.

Additionally, the request seeks information that is protected by attorney client privilege and these privileges and protections have not been waived. *See* Tex. R. Evid. 503; Tex. R. Civ. P. 192.5; *In re XL Specialty Ins. Co.*, 373 S.W. 3d 46, 50 (Tex. 2012); *National Tank Co. v. 30th Judicial Dist. Court*, 851 S.W.2d 193, 202 (Tex. 1993) (adopting the federal interpretation of work product). Texas attorney client privilege protects discourse between the lawyer, the client, and the client's representatives. *See* Tex. R. Evid. 503; Tex. R. Civ. P. 192.5; *XL Specialty Ins. Co.*, 373 S.W.3d at 49 (citing Tex. R. Evid. 503). Because Petitioners also object to the relevance of the request, as well as invoke privilege, Petitioner also objects to filing a privilege log or index. *See* 16 Tex. Admin. Code § 22.144(d)(3) (2019). Petitioners have demonstrated good cause for postponement of the filing of the index and request a hearing on this matter and an in camera

review before any order is entered denying Petitioners' objections or ordering the filing of a privilege index. See Tex. R. Civ. P. 193.4(a) (permitting a party to request a hearing on an objection or claim of privilege and in camera review of discovery).

G. CITY'S REQUEST TO RATEPAYERS 1-14: Please provide a copy of all invoices for legal service delivered by, or on behalf of, the attorneys representing the Outside City Ratepayers in this proceeding, with any privileged or confidential information redacted, other than the name(s) and address(s) to whom the invoice is addressed.

The Petitioners object to this request on the following independent bases: The request is not relevant to the subject matter of this docket and the request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. *K-Mart Corp.*, 937 S.W.2d at 431-32 (Tex. 1996); *see also* Tex. R. Civ. P. 192.3. Texas courts have repeatedly emphasized that discovery may not be used as a fishing expedition. See *K Mart Corp.*, 937 S.W.2d at 431; *Dillard*, 909 S.W.2d at 492 (Tex. 1995); *Texaco*, 898 S.W.2d at 815. Requests for discovery may not be used simply to explore. *Dillard*, 909 S.W.2d at 492 (citing *Loft*, 776 S.W.2d at 145). They must be reasonably tailored to include only matters relevant to the case and must show a reasonable expectation of obtaining information that will aid in the dispute's resolution. See *American Optical*, 988 S.W.2d at 713; *Texaco*, 898 S.W.2d at 815. Here, copies of legal invoices and to whom they were delivered have no bearing on whether the City's rates are just, reasonable, or based on the actual cost of providing service to Petitioners. See TWC § 13.043(j). Further, this request does not seek information that would aid in the dispute's resolution.

Additionally, the request seeks information that is protected by attorney client privilege and these privileges and protections have not been waived. See Tex. R. Evid. 503; Tex. R. Civ. P. 192.5; *XL Specialty Ins. Co.*, 373 S.W. 3d at 50; *National Tank Co.*, 851 S.W.2d at 202 (adopting the federal interpretation of work product). Texas attorney client privilege protects discourse between the lawyer, the client, and the client's representatives. See Tex. R. Evid. 503; Tex. R. Civ.

P. 192.5; *XL Specialty Ins. Co.*, 373 S.W.3d at 49 (citing Tex. R. Evid. 503). Because Petitioners also object to the relevance of the request, as well as invoke privilege, Petitioner also objects to filing a privilege log or index. See 16 Tex. Admin. Code § 22.144(d)(3) (2019). Petitioners have demonstrated good cause for postponement of the filing of the index and request a hearing on this matter and an in camera review before any order is entered denying Petitioners' objections or ordering the filing of a privilege index. See Tex. R. Civ. P. 193.4(a) (permitting a party to request a hearing on an objection or claim of privilege and in camera review of discovery).

H. CITY'S REQUEST TO RATEPAYERS 1-15: Please provide a copy of each check or evidence of other form of payment of each invoice produced in response to the City's RFI 1-14 above, with the routing and account number redacted.

The Petitioners object to this request on the following independent bases: The request is not relevant to the subject matter of this docket and the request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. *K-Mart Corp.*, 937 S.W.2d at 431-32 (Tex. 1996); *see also* Tex. R. Civ. P. 192.3. Texas courts have repeatedly emphasized that discovery may not be used as a fishing expedition. See *K Mart Corp.*, 937 S.W.2d at 431; *Dillard*, 909 S.W.2d at 492 (Tex. 1995); *Texaco*, 898 S.W.2d at 815. Requests for discovery may not be used simply to explore. *Dillard*, 909 S.W.2d at 492 (citing *Loft*, 776 S.W.2d at 145). They must be reasonably tailored to include only matters relevant to the case and must show a reasonable expectation of obtaining information that will aid in the dispute's resolution. See *American Optical*, 988 S.W.2d at 713; *Texaco*, 898 S.W.2d at 815. Here, copies of the physical checks or other evidence of payment of legal services has no bearing on whether the City's rates are just, reasonable, or based on the actual cost of providing service to Petitioners. See TWC § 13.043(j). Further, this request does not seek information that would aid in the dispute's resolution.

Additionally, the request seeks information that is protected by attorney client privilege and these privileges and protections have not been waived. *See* Tex. R. Evid. 503; Tex. R. Civ. P. 192.5; *XL Specialty Ins. Co.*, 373 S.W. 3d at 50; *National Tank Co.*, 851 S.W.2d at 202 (adopting the federal interpretation of work product). Texas attorney client privilege protects discourse between the lawyer, the client, and the client's representatives. *See* Tex. R. Evid. 503; Tex. R. Civ. P. 192.5; *XL Specialty Ins. Co.*, 373 S.W.3d at 49 (citing Tex. R. Evid. 503). Because Petitioners also object to the relevance of the request, as well as invoke privilege, Petitioner also objects to filing a privilege log or index. *See* 16 Tex. Admin. Code § 22.144(d)(3) (2019). Petitioners have demonstrated good cause for postponement of the filing of the index and request a hearing on this matter and an in camera review before any order is entered denying Petitioners' objections or ordering the filing of a privilege index. *See* Tex. R. Civ. P. 193.4(a) (permitting a party to request a hearing on an objection or claim of privilege and in camera review of discovery).

I. CITY'S REQUEST TO RATEPAYERS 1-16: Among all of the Outside City Ratepayers, identify those persons who are authorized, or who have been, to make decisions and representations on behalf of the Outside City Ratepayers in this proceeding.

The Petitioners object to this request on the following independent bases: The request is not relevant to the subject matter of this docket and the request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. *K-Mart Corp.*, 937 S.W.2d at 431-32 (Tex. 1996); *see also* Tex. R. Civ. P. 192.3. Texas courts have repeatedly emphasized that discovery may not be used as a fishing expedition. *See K Mart Corp.*, 937 S.W.2d at 431; *Dillard*, 909 S.W.2d at 492 (Tex. 1995); *Texaco*, 898 S.W.2d at 815. Requests for discovery may not be used simply to explore. *Dillard*, 909 S.W.2d at 492 (citing *Loft*, 776 S.W.2d at 145). They must be reasonably tailored to include only matters relevant to the case and must show a reasonable expectation of obtaining information that will aid in the dispute's resolution. *See*

American Optical, 988 S.W.2d at 713; *Texaco*, 898 S.W.2d at 815. Here, documents designating who is or has been authorized to make decisions and representations on behalf of the Outside City Ratepayers in this proceeding has no bearing on whether the City's rates are just, reasonable, or based on the actual cost of providing service to Petitioners. *See* TWC § 13.043(j). Further, this request does not seek information that would aid in the dispute's resolution.

Additionally, the request seeks information that is protected by attorney client privilege and these privileges and protections have not been waived. *See* Tex. R. Evid. 503; Tex. R. Civ. P. 192.5; *XL Specialty Ins. Co.*, 373 S.W. 3d at 50; *National Tank Co.*, 851 S.W.2d at 202 (adopting the federal interpretation of work product). Texas attorney client privilege protects discourse between the lawyer, the client, and the client's representatives. *See* Tex. R. Evid. 503; Tex. R. Civ. P. 192.5; *XL Specialty Ins. Co.*, 373 S.W.3d at 49 (citing Tex. R. Evid. 503). Because Petitioners also object to the relevance of the request, as well as invoke privilege, Petitioner also objects to filing a privilege log or index. *See* 16 Tex. Admin. Code § 22.144(d)(3) (2019). Petitioners have demonstrated good cause for postponement of the filing of the index and request a hearing on this matter and an in camera review before any order is entered denying Petitioners' objections or ordering the filing of a privilege index. *See* Tex. R. Civ. P. 193.4(a) (permitting a party to request a hearing on an objection or claim of privilege and in camera review of discovery).

- J. CITY'S REQUEST TO RATEPAYERS 1-17:** Produce a copy of each electric, gas, water, or wastewater cost of service study or rate study prepared in whole or in part by Jay Joyce for any Texas municipally-owned utility or a Texas conservation and reclamation district for the past ten years, or direct testimony filed by Jay Joyce with the Texas Commission on Environmental Quality or the Public Utility Commission of Texas in which divided customers between customers within the city's or district's boundary and customers located outside of the city's or district's boundary recommended a higher rate for the class of customers located outside of the city's or district's boundaries, or did not recommend that the city or district cease charging a higher rate for the city's or district's customers located outside of the boundaries.

The Petitioners and the City have agreed that this request will be limited to rate studies or testimony of Jay Joyce in situations where the dispute involved a study/testimony related to rates that were different for retail customers within the city/district jurisdiction and retail customers of the city/district that were outside the city/district jurisdiction.

- K. CITY'S REQUEST TO RATEPAYERS 1-18:** Please identify each Outside City Ratepayer who is a party to this proceeding who resides within the boundaries of Collin County Municipal Utility District No. 1.

The Petitioners object to this request on the following independent bases: The request is not relevant to the subject matter of this docket and the request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. *K-Mart Corp.*, 937 S.W.2d at 431-32 (Tex. 1996); *see also* Tex. R. Civ. P. 192.3. Texas courts have repeatedly emphasized that discovery may not be used as a fishing expedition. *See K Mart Corp.*, 937 S.W.2d at 431; *Dillard*, 909 S.W.2d at 492 (Tex. 1995); *Texaco*, 898 S.W.2d at 815. Requests for discovery may not be used simply to explore. *Dillard*, 909 S.W.2d at 492 (citing *Loft*, 776 S.W.2d at 145). They must be reasonably tailored to include only matters relevant to the case and must show a reasonable expectation of obtaining information that will aid in the dispute's resolution. *See American Optical*, 988 S.W.2d at 713; *Texaco*, 898 S.W.2d at 815. Here, whether Petitioners reside within or outside the boundaries of Colling County Municipal Utility District No. 1 has no bearing on whether the City's rates are just, reasonable, or based on the actual cost of providing service to

Petitioners or the resulting Petitioners' subsidy of in-City customers. *See* TWC § 13.043(j).

Further, this request does not seek information that would aid in the dispute's resolution.

L. CITY'S REQUEST TO RATEPAYERS 1-19: Please identify each Outside City Ratepayer who is a party to this proceeding who resides outside of the boundaries of Collin County Municipal Utility District No. 1.

The Petitioners object to this request on the following independent bases: The request is not relevant to the subject matter of this docket and the request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. *K-Mart Corp.*, 937 S.W.2d at 431-32 (Tex. 1996); *see also* Tex. R. Civ. P. 192.3. Texas courts have repeatedly emphasized that discovery may not be used as a fishing expedition. *See K Mart Corp.*, 937 S.W.2d at 431; *Dillard*, 909 S.W.2d at 492 (Tex. 1995); *Texaco*, 898 S.W.2d at 815. Requests for discovery may not be used simply to explore. *Dillard*, 909 S.W.2d at 492 (citing *Loft*, 776 S.W.2d at 145). They must be reasonably tailored to include only matters relevant to the case and must show a reasonable expectation of obtaining information that will aid in the dispute's resolution. *See American Optical*, 988 S.W.2d at 713; *Texaco*, 898 S.W.2d at 815. Here, whether Petitioners reside within or outside the boundaries of Colling County Municipal Utility District No. 1 has no bearing on whether the City's rates are just, reasonable, or based on the actual cost of providing service to Petitioners or the resulting Petitioners' subsidy of in-City customers. *See* TWC § 13.043(j). Further, this request does not seek information that would aid in the dispute's resolution.

- M. CITY'S REQUEST TO RATEPAYERS 1-22:** Please provide all documents reflecting communications between any and all Outside City Ratepayers and the Outside City Ratepayers' consultant(s) or agent(s), and between any and all Outside City Ratepayers' consultant(s) or agent(s) and other Outside City Ratepayers' Consultant(s) or agent(s), that concern or reflect the analysis performed by an Outside City Ratepayer or any Outside City Ratepayers' consultant or agent, used to determine which water and wastewater facilities are not used and useful in rendering service to the public.

The Petitioners and the City have agreed that this does not include privileged communications. However, the Petitioners object to this request on the following basis: This request is overbroad, unduly burdensome, and the expense to respond with the proposed discovery vastly outweighs its likely benefit. *See* Tex. R. Civ. P. 192.4. As discussed above, the City's definition of "Document" is extremely broad and includes extensive categories of materials and regardless of form. *See City of Celina's First Request for Information and First Request for Admissions to Outside City Ratepayers*, Docket No. 49225, at 2 (May 21, 2020). "Document" includes originals and copies of any physical, electronic, or magnetic "written, typed, printed, recorded, graphic or photographic matter, or sound reproductions," however produced, reproduced, or stored. *Id.* The City requests this broad category of materials reflecting communications not only between the Petitioners as a whole with their consultant(s) or agent(s), but between each of the 322 individual petitioners and the consultant(s) or agent(s). Producing such a swath of materials from Petitioners as a whole and from each individual petitioner would be unduly burdensome for the Petitioners to attempt to comply, and the expense to respond with the proposed discovery would vastly outweigh its likely benefit. *See* Tex. R. Civ. P. 192.4. Petitioners in no way assert that there are such documents by lodging this objection in the duty of completeness.

- N. CITY'S REQUEST TO RATEPAYERS 1-23:** Please identify the Outside City Ratepayers who are authorized to make decisions relating to this proceeding on behalf of all the Outside City Ratepayers and produce a copy of any document that designates that ratepayer, or ratepayers, to make those decisions.

The Petitioners object to this request on the following independent basis: The request is cumulative and duplicative, rendering a response unduly burdensome, an annoyance, and an unnecessary expense. *See* Tex. R. Civ. P. 192.4 (2019). On May 21, 2020, the City submitted a request for the same information in City's Request to Ratepayers 1-16. *See City of Celina's First Request for Information and First Request for Admissions to Outside City Ratepayers*, Docket No. 49225, at 8 (May 21, 2020). Specifically, in Request 1-16, the City asked Petitioners to identify "those persons who are authorized, or who have been, to make decisions and representations on behalf of the Outside City Ratepayers in this proceeding." *Id.* The City has merely altered current the request to specify and request any document that designates that ratepayer or ratepayers to make such decisions, which increases its burden and unreasonableness. *See* Tex. R. Civ. P. 192.4(a) (indicating that discovery should be limited if the discovery sought is unreasonably cumulative or duplicative); *In re American Optical Corp.*, 988 S.W.2d 711, 713 (Tex. 1998) (instructing that a "trial court must make an effort to impose reasonable discovery limits" and providing examples where discovery requests were "too broad").

- O. CITY'S REQUEST TO RATEPAYERS 1-24:** Please provide a copy of the professional services agreement entered into by the Outside City Ratepayers with Gilbert Wilburn PLLC, with any privileged or confidential information redacted.

The Petitioners object to this request on the following independent bases: The request is not relevant to the subject matter of this docket and the request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. *K-Mart Corp.*, 937 S.W.2d at 431-32 (Tex. 1996); *see also* Tex. R. Civ. P. 192.3. Texas courts have repeatedly emphasized that discovery may not be used as a fishing expedition. *See K Mart Corp.*, 937 S.W.2d

at 431; *Dillard*, 909 S.W.2d at 492 (Tex. 1995); *Texaco*, 898 S.W.2d at 815. Requests for discovery may not be used simply to explore. *Dillard*, 909 S.W.2d at 492 (citing *Loft*, 776 S.W.2d at 145). They must be reasonably tailored to include only matters relevant to the case and must show a reasonable expectation of obtaining information that will aid in the dispute's resolution. *See American Optical*, 988 S.W.2d at 713; *Texaco*, 898 S.W.2d at 815. Here, the professional services agreement has no bearing on whether the City's rates are just, reasonable, or based on the actual cost of providing service to Petitioners or the resulting Petitioners' subsidy of in-City customers. *See* TWC § 13.043(j). Further, this request does not seek information that would aid in the dispute's resolution.

Additionally, the request seeks information that is protected by attorney client privilege and these privileges and protections have not been waived. *See* Tex. R. Evid. 503; Tex. R. Civ. P. 192.5; *XL Specialty Ins. Co.*, 373 S.W. 3d at 50; *National Tank Co.*, 851 S.W.2d at 202 (adopting the federal interpretation of work product). Texas attorney client privilege protects discourse between the lawyer, the client, and the client's representatives. *See* Tex. R. Evid. 503; Tex. R. Civ. P. 192.5; *XL Specialty Ins. Co.*, 373 S.W.3d at 49 (citing Tex. R. Evid. 503). Because Petitioners also object to the relevance of the request, as well as invoke privilege, Petitioner also objects to filing a privilege log or index. *See* 16 Tex. Admin. Code § 22.144(d)(3) (2019). Petitioners have demonstrated good cause for postponement of the filing of the index and request a hearing on this matter and an in camera review before any order is entered denying Petitioners' objections or ordering the filing of a privilege index. *See* Tex. R. Civ. P. 193.4(a) (permitting a party to request a hearing on an objection or claim of privilege and in camera review of discovery).

P. CITY'S REQUEST TO RATEPAYERS 1-25: Please provide a copy of all invoices received from Gilbert Wilburn PLLC by the Outside City Ratepayers, with any privileged or confidential information redacted.

The Petitioners object to this request on the following independent bases: The request is not relevant to the subject matter of this docket and the request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. *K-Mart Corp.*, 937 S.W.2d at 431-32 (Tex. 1996); *see also* Tex. R. Civ. P. 192.3. Texas courts have repeatedly emphasized that discovery may not be used as a fishing expedition. *See K Mart Corp.*, 937 S.W.2d at 431; *Dillard*, 909 S.W.2d at 492 (Tex. 1995); *Texaco*, 898 S.W.2d at 815. Requests for discovery may not be used simply to explore. *Dillard*, 909 S.W.2d at 492 (citing *Loft*, 776 S.W.2d at 145). They must be reasonably tailored to include only matters relevant to the case and must show a reasonable expectation of obtaining information that will aid in the dispute's resolution. *See American Optical*, 988 S.W.2d at 713; *Texaco*, 898 S.W.2d at 815. Here, copies of legal invoices and to whom they were delivered have no bearing on whether the City's rates are just, reasonable, or based on the actual cost of providing service to Petitioners. *See* TWC § 13.043(j). Further, this request does not seek information that would aid in the dispute's resolution.

Additionally, the request seeks information that is protected by attorney client privilege and these privileges and protections have not been waived. *See* Tex. R. Evid. 503; Tex. R. Civ. P. 192.5; *XL Specialty Ins. Co.*, 373 S.W. 3d at 50; *National Tank Co.*, 851 S.W.2d at 202 (adopting the federal interpretation of work product). Texas attorney client privilege protects discourse between the lawyer, the client, and the client's representatives. *See* Tex. R. Evid. 503; Tex. R. Civ. P. 192.5; *XL Specialty Ins. Co.*, 373 S.W.3d at 49 (citing Tex. R. Evid. 503). Because Petitioners also object to the relevance of the request, as well as invoke privilege, Petitioner also objects to filing a privilege log or index. *See* 16 Tex. Admin. Code § 22.144(d)(3) (2019). Petitioners have demonstrated good cause for postponement of the filing of the index and request a hearing on this

matter and an in camera review before any order is entered denying Petitioners' objections or ordering the filing of a privilege index. See Tex. R. Civ. P. 193.4(a) (permitting a party to request a hearing on an objection or claim of privilege and in camera review of discovery).

Q. CITY'S REQUEST TO RATEPAYERS 1-26: Please provide a copy of the professional services agreement entered into by the Collin County Municipal Utility District No. 1 with Gilbert Wilburn PLLC, with any privileged or confidential information redacted.

The Petitioners object to this request on the following independent bases: The request is not relevant to the subject matter of this docket and the request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. *K-Mart Corp.*, 937 S.W.2d at 431-32 (Tex. 1996); *see also* Tex. R. Civ. P. 192.3. Texas courts have repeatedly emphasized that discovery may not be used as a fishing expedition. See *K Mart Corp.*, 937 S.W.2d at 431; *Dillard*, 909 S.W.2d at 492 (Tex. 1995); *Texaco*, 898 S.W.2d at 815. Requests for discovery may not be used simply to explore. *Dillard*, 909 S.W.2d at 492 (citing *Loft*, 776 S.W.2d at 145). They must be reasonably tailored to include only matters relevant to the case and must show a reasonable expectation of obtaining information that will aid in the dispute's resolution. See *American Optical*, 988 S.W.2d at 713; *Texaco*, 898 S.W.2d at 815. Here, the professional services agreement have no bearing on whether the City's rates are just, reasonable, or based on the actual cost of providing service to Petitioners or the resulting Petitioners' subsidy of in-City customers. See TWC § 13.043(j). Further, this request does not seek information that would aid in the dispute's resolution.

Additionally, the request seeks information that is protected by attorney client privilege and these privileges and protections have not been waived. See Tex. R. Evid. 503; Tex. R. Civ. P. 192.5; *XL Specialty Ins. Co.*, 373 S.W. 3d at 50; *National Tank Co.*, 851 S.W.2d at 202 (adopting the federal interpretation of work product). Texas attorney client privilege protects discourse

between the lawyer, the client, and the client's representatives. See Tex. R. Evid. 503; Tex. R. Civ. P. 192.5; *XL Specialty Ins. Co.*, 373 S.W.3d at 49 (citing Tex. R. Evid. 503). Because Petitioners also object to the relevance of the request, as well as invoke privilege, Petitioner also objects to filing a privilege log or index. See 16 Tex. Admin. Code § 22.144(d)(3) (2019). Petitioners have demonstrated good cause for postponement of the filing of the index and request a hearing on this matter and an in camera review before any order is entered denying Petitioners' objections or ordering the filing of a privilege index. See Tex. R. Civ. P. 193.4(a) (permitting a party to request a hearing on an objection or claim of privilege and in camera review of discovery).

R. CITY'S REQUEST TO RATEPAYERS 1-27: Please provide a copy of all invoices received from Gilbert Wilburn PLLC by the Collin County Municipal Utility District No. 1, with any privileged or confidential information redacted.

The Petitioners object to this request on the following independent bases: The request is not relevant to the subject matter of this docket and the request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. *K-Mart Corp.*, 937 S.W.2d at 431-32 (Tex. 1996); *see also* Tex. R. Civ. P. 192.3. Texas courts have repeatedly emphasized that discovery may not be used as a fishing expedition. See *K Mart Corp.*, 937 S.W.2d at 431; *Dillard*, 909 S.W.2d at 492 (Tex. 1995); *Texaco*, 898 S.W.2d at 815. Requests for discovery may not be used simply to explore. *Dillard*, 909 S.W.2d at 492 (citing *Loft*, 776 S.W.2d at 145). They must be reasonably tailored to include only matters relevant to the case and must show a reasonable expectation of obtaining information that will aid in the dispute's resolution. See *American Optical*, 988 S.W.2d at 713; *Texaco*, 898 S.W.2d at 815. Here, copies of legal invoices and to whom they were delivered has no bearing on whether the City's rates are just, reasonable, or based on the actual cost of providing service to Petitioners. See TWC § 13.043(j). Further, this request does not seek information that would aid in the dispute's resolution.

Additionally, the request seeks information that is protected by attorney client privilege and these privileges and protections have not been waived. *See* Tex. R. Evid. 503; Tex. R. Civ. P. 192.5; *XL Specialty Ins. Co.*, 373 S.W. 3d at 50; *National Tank Co.*, 851 S.W.2d at 202 (adopting the federal interpretation of work product). Texas attorney client privilege protects discourse between the lawyer, the client, and the client's representatives. *See* Tex. R. Evid. 503; Tex. R. Civ. P. 192.5; *XL Specialty Ins. Co.*, 373 S.W.3d at 49 (citing Tex. R. Evid. 503). Because Petitioners also object to the relevance of the request, as well as invoke privilege, Petitioner also objects to filing a privilege log or index. *See* 16 Tex. Admin. Code § 22.144(d)(3) (2019). Petitioners have demonstrated good cause for postponement of the filing of the index and request a hearing on this matter and an in camera review before any order is entered denying Petitioners' objections or ordering the filing of a privilege index. *See* Tex. R. Civ. P. 193.4(a) (permitting a party to request a hearing on an objection or claim of privilege and in camera review of discovery).

- S. **CITY'S REQUEST TO RATEPAYERS 1-28:** Please provide a copy of the professional services agreement entered into by the Outside City Ratepayers with The Carlton Law Firm, PLLC, with any privileged or confidential information redacted.

The Petitioners object to this request on the following independent bases: The request is not relevant to the subject matter of this docket and the request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. *K-Mart Corp.*, 937 S.W.2d at 431-32 (Tex. 1996); *see also* Tex. R. Civ. P. 192.3. Texas courts have repeatedly emphasized that discovery may not be used as a fishing expedition. *See K Mart Corp.*, 937 S.W.2d at 431; *Dillard*, 909 S.W.2d at 492 (Tex. 1995); *Texaco*, 898 S.W.2d at 815. Requests for discovery may not be used simply to explore. *Dillard*, 909 S.W.2d at 492 (citing *Loft*, 776 S.W.2d at 145). They must be reasonably tailored to include only matters relevant to the case and must show a reasonable expectation of obtaining information that will aid in the dispute's resolution. *See*

American Optical, 988 S.W.2d at 713; *Texaco*, 898 S.W.2d at 815. Here, the professional services agreement has no bearing on whether the City's rates are just, reasonable, or based on the actual cost of providing service to Petitioners or the resulting Petitioners' subsidy of in-City customers. See TWC § 13.043(j). Further, this request does not seek information that would aid in the dispute's resolution.

Additionally, the request seeks information that is protected by attorney client privilege and these privileges and protections have not been waived. See Tex. R. Evid. 503; Tex. R. Civ. P. 192.5; *XL Specialty Ins. Co.*, 373 S.W. 3d at 50; *National Tank Co.*, 851 S.W.2d at 202 (adopting the federal interpretation of work product). Texas attorney client privilege protects discourse between the lawyer, the client, and the client's representatives. See Tex. R. Evid. 503; Tex. R. Civ. P. 192.5; *XL Specialty Ins. Co.*, 373 S.W.3d at 49 (citing Tex. R. Evid. 503). Because Petitioners also object to the relevance of the request, as well as invoke privilege, Petitioner also objects to filing a privilege log or index. See 16 Tex. Admin. Code § 22.144(d)(3) (2019). Petitioners have demonstrated good cause for postponement of the filing of the index and request a hearing on this matter and an in camera review before any order is entered denying Petitioners' objections or ordering the filing of a privilege index. See Tex. R. Civ. P. 193.4(a) (permitting a party to request a hearing on an objection or claim of privilege and in camera review of discovery).

- T. CITY'S REQUEST TO RATEPAYERS 1-29:** Please provide a copy of all invoices received from The Carlton Law Firm, PLLC by the Outside City Ratepayers, with any privileged or confidential information redacted.

The Petitioners object to this request on the following independent bases: The request is not relevant to the subject matter of this docket and the request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. *K-Mart Corp.*, 937 S.W.2d at 431-32 (Tex. 1996); see also Tex. R. Civ. P. 192.3. Texas courts have repeatedly

emphasized that discovery may not be used as a fishing expedition. See *K Mart Corp.*, 937 S.W.2d at 431; *Dillard*, 909 S.W.2d at 492 (Tex. 1995); *Texaco*, 898 S.W.2d at 815. Requests for discovery may not be used simply to explore. *Dillard*, 909 S.W.2d at 492 (citing *Loft*, 776 S.W.2d at 145). They must be reasonably tailored to include only matters relevant to the case and must show a reasonable expectation of obtaining information that will aid in the dispute's resolution. See *American Optical*, 988 S.W.2d at 713; *Texaco*, 898 S.W.2d at 815. Here, copies of legal invoices and to whom they were delivered have no bearing on whether the City's rates are just, reasonable, or based on the actual cost of providing service to Petitioners. See TWC § 13.043(j). Further, this request does not seek information that would aid in the dispute's resolution.

Additionally, the request seeks information that is protected by attorney client privilege and these privileges and protections have not been waived. See Tex. R. Evid. 503; Tex. R. Civ. P. 192.5; *XL Specialty Ins. Co.*, 373 S.W. 3d at 50; *National Tank Co.*, 851 S.W.2d at 202 (adopting the federal interpretation of work product). Texas attorney client privilege protects discourse between the lawyer, the client, and the client's representatives. See Tex. R. Evid. 503; Tex. R. Civ. P. 192.5; *XL Specialty Ins. Co.*, 373 S.W.3d at 49 (citing Tex. R. Evid. 503). Because Petitioners also object to the relevance of the request, as well as invoke privilege, Petitioner also objects to filing a privilege log or index. See 16 Tex. Admin. Code § 22.144(d)(3) (2019). Petitioners have demonstrated good cause for postponement of the filing of the index and request a hearing on this matter and an in camera review before any order is entered denying Petitioners' objections or ordering the filing of a privilege index. See Tex. R. Civ. P. 193.4(a) (permitting a party to request a hearing on an objection or claim of privilege and in camera review of discovery).

- U. **CITY'S REQUEST TO RATEPAYERS 1-30:** Please provide a copy of the professional services agreement entered into by the Collin County Municipal Utility District No. 1 with The Carlton Law Firm, PLLC, with any privileged or confidential information redacted.

The Petitioners object to this request on the following independent bases: The request is not relevant to the subject matter of this docket and the request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. *K-Mart Corp.*, 937 S.W.2d at 431-32 (Tex. 1996); *see also* Tex. R. Civ. P. 192.3. Texas courts have repeatedly emphasized that discovery may not be used as a fishing expedition. *See K Mart Corp.*, 937 S.W.2d at 431; *Dillard*, 909 S.W.2d at 492 (Tex. 1995); *Texaco*, 898 S.W.2d at 815. Requests for discovery may not be used simply to explore. *Dillard*, 909 S.W.2d at 492 (citing *Loft*, 776 S.W.2d at 145). They must be reasonably tailored to include only matters relevant to the case and must show a reasonable expectation of obtaining information that will aid in the dispute's resolution. *See American Optical*, 988 S.W.2d at 713; *Texaco*, 898 S.W.2d at 815. Here, the professional services agreement has no bearing on whether the City's rates are just, reasonable, or based on the actual cost of providing service to Petitioners or the resulting Petitioners' subsidy of in-City customers. *See* TWC § 13.043(j). Further, this request does not seek information that would aid in the dispute's resolution.

Additionally, the request seeks information that is protected by attorney client privilege and these privileges and protections have not been waived. *See* Tex. R. Evid. 503; Tex. R. Civ. P. 192.5; *XL Specialty Ins. Co.*, 373 S.W. 3d at 50; *National Tank Co.*, 851 S.W.2d at 202 (adopting the federal interpretation of work product). Texas attorney client privilege protects discourse between the lawyer, the client, and the client's representatives. *See* Tex. R. Evid. 503; Tex. R. Civ. P. 192.5; *XL Specialty Ins. Co.*, 373 S.W.3d at 49 (citing Tex. R. Evid. 503). Because Petitioners also object to the relevance of the request, as well as invoke privilege, Petitioner also objects to filing a privilege log or index. *See* 16 Tex. Admin. Code § 22.144(d)(3) (2019). Petitioners have

demonstrated good cause for postponement of the filing of the index and request a hearing on this matter and an in camera review before any order is entered denying Petitioners' objections or ordering the filing of a privilege index. See Tex. R. Civ. P. 193.4(a) (permitting a party to request a hearing on an objection or claim of privilege and in camera review of discovery).

V. CITY'S REQUEST TO RATEPAYERS 1-31: Please provide a copy of all invoices received from The Carlton Law Firm, PLLC by the Collin County Municipal Utility District No. 1, with any privileged or confidential information redacted.

The Petitioners object to this request on the following independent bases: The request is not relevant to the subject matter of this docket and the request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. *K-Mart Corp.*, 937 S.W.2d at 431-32 (Tex. 1996); *see also* Tex. R. Civ. P. 192.3. Texas courts have repeatedly emphasized that discovery may not be used as a fishing expedition. See *K Mart Corp.*, 937 S.W.2d at 431; *Dillard*, 909 S.W.2d at 492 (Tex. 1995); *Texaco*, 898 S.W.2d at 815. Requests for discovery may not be used simply to explore. *Dillard*, 909 S.W.2d at 492 (citing *Loft*, 776 S.W.2d at 145). They must be reasonably tailored to include only matters relevant to the case and must show a reasonable expectation of obtaining information that will aid in the dispute's resolution. See *American Optical*, 988 S.W.2d at 713; *Texaco*, 898 S.W.2d at 815. Here, copies of legal invoices and to whom they were delivered have no bearing on whether the City's rates are just, reasonable, or based on the actual cost of providing service to Petitioners. See TWC § 13.043(j). Further, this request does not seek information that would aid in the dispute's resolution.

Additionally, the request seeks information that is protected by attorney client privilege and these privileges and protections have not been waived. See Tex. R. Evid. 503; Tex. R. Civ. P. 192.5; *XL Specialty Ins. Co.*, 373 S.W. 3d at 50; *National Tank Co.*, 851 S.W.2d at 202 (adopting the federal interpretation of work product). Texas attorney client privilege protects discourse

between the lawyer, the client, and the client's representatives. See Tex. R. Evid. 503; Tex. R. Civ. P. 192.5; *XL Specialty Ins. Co.*, 373 S.W.3d at 49 (citing Tex. R. Evid. 503). Because Petitioners also object to the relevance of the request, as well as invoke privilege, Petitioner also objects to filing a privilege log or index. See 16 Tex. Admin. Code § 22.144(d)(3) (2019). Petitioners have demonstrated good cause for postponement of the filing of the index and request a hearing on this matter and an in camera review before any order is entered denying Petitioners' objections or ordering the filing of a privilege index. See Tex. R. Civ. P. 193.4(a) (permitting a party to request a hearing on an objection or claim of privilege and in camera review of discovery).

W. CITY'S REQUEST TO RATEPAYERS 1-32: Please provide the complete applications by the Collin County Municipal Utility District No. 1 filed with the Texas Commission on Environmental Quality requesting approval to issue the bonds, including but not limited to the engineer's report and the market study, but excluding the plans and specs and contract documents for facilities.

The Petitioners object to this request on the following basis: The request is overbroad and not properly limited in time, scope, or relation to the facts at issue in this proceeding since the requests are for information occurring over the course of Collin County Municipal Utility District No. 1's life. See Tex. R. Civ. P. 192.4; *American Optical Corp.*, 988 S.W.2d at 713 (noting that an overly broad order compelling discovery well outside proper bounds is reviewable by mandamus). Requesting all bond applications and associated engineer's reports and market studies is overbroad and burdensome. See Tex. R. Civ. P. 192.4.

Additionally, the request is unduly burdensome because it is obtainable from other sources that are more convenient, less burdensome, and less expensive. *Brewer & Pritchard, P.C. v. Johnson*, 167 S.W.3d 460, 466 (Tex. App.—Houston [14th Dist.] 2005, pet. denied). As the request concedes in its request, the records are publicly available through the TCEQ. As such, the

City may obtain these requested public records in a more convenient, less burdensome, and less expensive manner.

- X. CITY'S REQUEST TO RATEPAYERS 1-33:** Please provide all documents related to the reimbursement report(s) submitted by or on behalf of the developer(s) and other persons to Collin County Municipal Utility District No. 1 requesting reimbursement from the proceeds of the bonds and any audit(s) of those reports.

The Petitioners object to this request on the following basis: The request is overbroad and not properly limited in time, scope, or relation to the facts at issue in this proceeding since the requests are for information occurring over the course of Collin County Municipal Utility District No. 1's life. *See* Tex. R. Civ. P. 192.4; *American Optical Corp.*, 988 S.W.2d at 713 (noting that an overly broad order compelling discovery well outside proper bounds is reviewable by mandamus). As discussed above, the City's definition of "Document" is broad and includes extensive categories of materials in all forms. *See City of Celina's First Request for Information and First Request for Admissions to Outside City Ratepayers*, Docket No. 49225, at 2 (May 21, 2020). This combined with an unlimited time frame creates an overbroad and unduly burdensome request. Requesting all documents related to the reimbursement report(s) submitted by or on behalf of the developer(s) and other persons to Collin County Municipal Utility District No. 1 who requested reimbursement from the proceeds of the bonds and any audit(s) of those reports is overbroad and burdensome. *See* Tex. R. Civ. P. 192.4.

Additionally, the request is unduly burdensome because it is obtainable from other sources that are more convenient, less burdensome, and less expensive. *Brewer & Pritchard, P.C. v. Johnson*, 167 S.W.3d 460, 466 (Tex. App.—Houston [14th Dist.] 2005, pet. denied). As the request concedes in its request, the records are publicly available through the TCEQ. As such the City may obtain these requested public records in a more convenient, less burdensome, and less expensive manner.

III. OBJECTION TO CITY'S REQUESTS FOR ADMISSION

- A. **CITY'S REQUEST FOR ADMISSION TO RATEPAYERS 1-1:** Admit or deny that the Outside Ratepayers who own land within the boundaries of Collin County Municipal District No. 1 are successors or assigns of the signatories to the Amended and Restated Development Agreement dated March 12, 2007 and filed in the public records of Collin County, Texas as document no. 20071101001489980.

The Petitioners object to this request on the following independent bases: The Petitioners object to this request on the following independent bases: The request is not relevant to the subject matter of this docket and the request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. *K-Mart Corp.*, 937 S.W.2d at 431-32 (Tex. 1996); *see also* Tex. R. Civ. P. 192.3. Requests must be reasonably tailored to include only matters relevant to the case and must show a reasonable expectation of obtaining information that will aid in the dispute's resolution. *See American Optical*, 988 S.W.2d at 713; *Texaco*, 898 S.W.2d at 815.

Further, this request exceeds the scope permissible under Tex. R. Civ. P. 198.1 and is therefore improper. Requests for admission may be used to elicit "statements of opinion or of fact or the application of law to fact." Tex. R. Civ. P. 198.1. Requests of Petitioners to admit the validity of their claims and concede any defenses are not intended to be resolved through requests for admission. *Marino*, 355 S.W.3d at 632; *Stelly*, 927 S.W.2d at 622. Requests for admission were meant to eliminate "matters about which there is no real controversy, but which may be difficult or expensive to prove." *Stelly*, 927 S.W.2d at 622. Discovery rules were not designed as traps for the unwary, nor should they be construed to prevent Petitioners from presenting the truth. *Id.*

This request for admission has no bearing on whether the City's rates are just, reasonable, or based on the actual cost of providing service to Petitioners or the resulting Petitioners' subsidy

of in-City customers, nor does it seek information that would aid in the dispute's resolution. *See* TWC § 13.043(j). Accordingly, Petitioners object to this request.

B. CITY'S REQUEST FOR ADMISSION TO RATEPAYERS 1-2: Admit or deny that Section 6.3 of the Amended and Restated Development Agreement described in Request for Admission 1-1 states:

6.3 Rates. The retail water rates charged to customers located within the RPG Property shall not exceed 150% of those rates duly adopted and uniformly charged by the City for "in-city" service. The retail wastewater rates charged to customers located within the RPG Property shall be the same as those duly adopted and uniformly charged by the City for "in-city" services. Each end-buyer (as defined in Section 12.14(a) below) takes title to its portion of the Property, subject to these rates, and acknowledges that such rates are reasonable.

The Petitioners object to this request on the following independent basis: The Petitioners object to this request on the following independent bases: The request is not relevant to the subject matter of this docket and the request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. *K-Mart Corp.*, 937 S.W.2d at 431-32 (Tex. 1996); *see also* Tex. R. Civ. P. 192.3. Requests must be reasonably tailored to include only matters relevant to the case and must show a reasonable expectation of obtaining information that will aid in the dispute's resolution. *See American Optical*, 988 S.W.2d at 713; *Texaco*, 898 S.W.2d at 815. This request for admission has no bearing on whether the City's rates are just, reasonable, or based on the actual cost of providing service to Petitioners or the resulting Petitioners' subsidy of in-City customers, nor does it seek information that would aid in the dispute's resolution. *See* TWC § 13.043(j).

Further, this request exceeds the scope permissible under Tex. R. Civ. P. 198.1 and is therefore improper. Requests for admission may be used to elicit "statements of opinion or of fact or the application of law to fact." Tex. R. Civ. P. 198.1. Requests of Petitioners to admit the validity

of their claims and concede any defenses are not intended to be resolved through requests for admission. *Marino v. King*, 355 S.W.3d 629, 632 (Tex. 2011); *Stelly v. Papania*, 927 S.W.2d 620, 622 (Tex. 1996). Requests for admission were meant to eliminate “matters about which there is no real controversy, but which may be difficult or expensive to prove.” *Stelly*, 927 S.W.2d at 622. Whether Section 6.3 of the Amended and Restated Development Agreement described in Request for Admission 1-1 states what the City excerpted is best verified and proved by the document itself, rather than a request for admission. Accordingly, Petitioners object to this request.

C. CITY’S REQUEST FOR ADMISSION TO RATEPAYERS 1-3: Admit or deny Section 6.3 of the Amended and Restated Development Agreement, as described in Request for Admission 1-1 above provides that the signatories to the Amended and Restated Development Agreement described in Request for Admission 1-1, and the successors and assigns of those signatories, have agreed that the water rates charged to the Ratepayers that are up to 150% of the rates duly adopted and uniformly charged by the City for “in city” service are reasonable.

The Petitioners object to this request on the following independent basis: The Petitioners object to this request on the following independent bases: The request is not relevant to the subject matter of this docket and the request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. *K-Mart Corp.*, 937 S.W.2d at 431-32 (Tex. 1996); *see also* Tex. R. Civ. P. 192.3. Requests must be reasonably tailored to include only matters relevant to the case and must show a reasonable expectation of obtaining information that will aid in the dispute’s resolution. *See American Optical*, 988 S.W.2d at 713; *Texaco*, 898 S.W.2d at 815. The referenced contract has no bearing on whether the City’s changed rates are just, reasonable, or based on the actual cost of providing service to Petitioners or the resulting Petitioners’ subsidy of in-City customers, nor does it seek information that would aid in the dispute’s resolution. *See* TWC § 13.043(j).

Further, this request exceeds the scope permissible under Tex. R. Civ. P. 198.1 and is therefore improper. Requests for admission may be used to elicit “statements of opinion or of fact or the application of law to fact.” Tex. R. Civ. P. 198.1. Requests of Petitioners to admit the validity of their claims and concede any defenses are not intended to be resolved through requests for admission. *Marino*, 355 S.W.3d at 632; *Stelly*, 927 S.W.2d at 622. Requests for admission were meant to eliminate “matters about which there is no real controversy, but which may be difficult or expensive to prove.” *Stelly*, 927 S.W.2d at 622. Discovery rules were not designed as traps for the unwary, nor should they be construed to prevent Petitioners from presenting the truth. *Id.* Whether the City’s rates are just, reasonable, or based on the actual cost of providing service to Petitioners or the resulting subsidy of in-City customers by Petitioners goes to the heart of this issue and cannot be disposed of in a request for admission. *See id.* Accordingly, Petitioners object to this request.

D. CITY’S REQUEST FOR ADMISSION TO RATEPAYERS 1-4: Admit or deny Section 2.10 of the First Amended and Restated Development Agreement described in Request for Admission 1-1 above states the following:

2.10 Waiver. RPG, the East Commercial Property Owner and the West Commercial Property Owner (a) waive any and all claims against the City regarding validity or enforceability of the Development Fees and easement and site donations described in this Agreement, and (b) release any claims that RPG, the East Commercial Property Owner and the West Commercial Property Owner may have against the City regarding such fees and donations (whether such claim exists on the Effective Date or arises in the future). In addition, RPG, the East Commercial Property Owner and the West Commercial Property Owner on behalf of themselves and their respective assigns and successors in interest, including subsequent owners of the Property (a) waive any and all claims against the City regarding validity or enforceability of the Park Fee, Water Impact Fee, and Sewer Impact Fee, and water rates described in this Agreement, and (b) release any claims that RPG, the East Commercial Property Owner and the West Commercial Property Owner, and their respective assigns and successors in interest may have against the City regarding the collection of such fees and the payment of all or part of such fees to RPG.

The Petitioners object to this request on the following independent basis: The Petitioners object to this request on the following independent bases: The request is not relevant to the subject matter of this docket and the request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. *K-Mart Corp.*, 937 S.W.2d at 431-32 (Tex. 1996); *see also* Tex. R. Civ. P. 192.3. Requests must be reasonably tailored to include only matters relevant to the case and must show a reasonable expectation of obtaining information that will aid in the dispute's resolution. *See American Optical*, 988 S.W.2d at 713; *Texaco*, 898 S.W.2d at 815. This request for admission has no bearing on whether the City's rates are just, reasonable, or based on the actual cost of providing service to Petitioners or the resulting Petitioners' subsidy of in-City customers, nor does it seek information that would aid in the dispute's resolution. *See* TWC § 13.043(j).

Further, this request exceeds the scope permissible under Tex. R. Civ. P. 198.1 and is therefore improper. Requests for admission may be used to elicit "statements of opinion or of fact or the application of law to fact." Tex. R. Civ. P. 198.1. Requests of Petitioners to admit the validity of their claims and concede any defenses are not intended to be resolved through requests for admission. *Marino*, 355 S.W.3d at 632; *Stelly*, 927 S.W.2d at 622. Requests for admission were meant to eliminate "matters about which there is no real controversy, but which may be difficult or expensive to prove." *Stelly*, 927 S.W.2d at 622. Discovery rules were not designed as traps for the unwary, nor should they be construed to prevent Petitioners from presenting the truth. *Id.* Whether Section 2.10 of the First Amended and Restated Development Agreement described in Request for Admission 1-1 states what the City excerpted is best verified and proved by the document itself, rather than a request for admission. Accordingly, Petitioners object to this request.

- E. CITY'S REQUEST FOR ADMISSION TO RATEPAYERS 1-5:** Admit or deny RPG, the East Commercial Property Owner and West Commercial Property Owner, on behalf of themselves and their respective assigns and successors in interest, including subsequent owners of the Property, waive any and all claims against the City regarding validity or enforceability of the Park Fee, Water Impact Fee, Sewer Impact Fee, and water rates described in the First Amended and Restated Development Agreement described in Request for Admission 1-1 above.

The Petitioners object to this request on the following independent basis: The Petitioners object to this request on the following independent bases: The request is not relevant to the subject matter of this docket and the request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. *K-Mart Corp.*, 937 S.W.2d at 431-32 (Tex. 1996); *see also* Tex. R. Civ. P. 192.3. Requests must be reasonably tailored to include only matters relevant to the case and must show a reasonable expectation of obtaining information that will aid in the dispute's resolution. *See American Optical*, 988 S.W.2d at 713; *Texaco*, 898 S.W.2d at 815. This request for admission has no bearing on whether the City's rates are just, reasonable, or based on the actual cost of providing service to Petitioners or the resulting Petitioners' subsidy of in-City customers, nor does it seek information that would aid in the dispute's resolution. *See* TWC § 13.043(j).

Further, this request exceeds the scope permissible under Tex. R. Civ. P. 198.1 and is therefore improper. Requests for admission may be used to elicit "statements of opinion or of fact or the application of law to fact." Tex. R. Civ. P. 198.1. Requests of Petitioners to admit the validity of their claims and concede any defenses are not intended to be resolved through requests for admission. *Marino*, 355 S.W.3d at 632; *Stelly*, 927 S.W.2d at 622. Requests for admission were meant to eliminate "matters about which there is no real controversy, but which may be difficult or expensive to prove." *Stelly*, 927 S.W.2d at 622. Discovery rules were not designed as traps for the unwary, nor should they be construed to prevent Petitioners from presenting the truth. *Id.* Whether or not the claims outlined in this request were waived is an improper request and therefore

the Petitioners object. Requests for admission were simply never intended for this purpose. *See Marino*, 355 S.W.3d at 632. Accordingly, Petitioners object to this request.

IV. CONCLUSION

WHEREFORE, PREMISES CONSIDERED, Petitioners, Outside City Ratepayers of the City of Celina, respectfully request the Administrative Law Judges sustain Petitioners' objections to the City of Celina's First Request for Information and First Request for Admissions, and for such other further relief to which Petitioners may be entitled.

Respectfully submitted,

By: _____

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ATTORNEYS FOR PETITIONERS

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 1st day of June 2020.

A handwritten signature in black ink, appearing to read 'J. Carlton', is written over a horizontal line.

John J. Carlton