



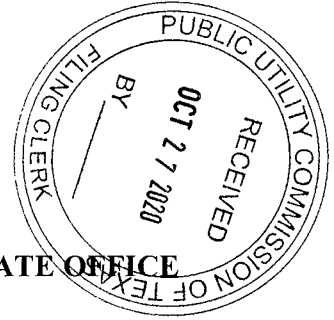
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SOAH DOCKET NO. 473-19-5674.WS
PUC DOCKET NO. 49351



**RATEPAYERS APPEAL OF THE
DECISION BY BEAR CREEK SPECIAL
UTILITY DISTRICT TO CHANGE
RATES**

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**BEFORE THE STATE OFFICE
OF
ADMINISTRATIVE HEARINGS**

**BEAR CREEK SPECIAL UTILITY DISTRICT'S
FIRST REQUEST FOR INFORMATION TO COMMISSION STAFF**

To: Public Utility Commission of Texas, by and through its Legal Division, Kourtnee Jinks, 1701 N. Congress Avenue, Austin, Texas 78711.

COMES NOW, Bear Creek Special Utility District ("Bear Creek") and serves this, its First Request for Information to the Staff of the Public Utility Commission of Texas ("Commission Staff") pursuant to 16 Tex. Admin. Code Ann. § 22.144 (TAC), and requests the following information and answers to the following questions be provided under oath.

Respectfully submitted,

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ATTORNEYS FOR BEAR CREEK SPECIAL
UTILITY DISTRICT

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 27th day of October 2020.



John J. Carlton

**SOAH DOCKET NO. 473-19-5674.WS
PUC DOCKET NO. 49351**

**BEAR CREEK SPECIAL UTILITY DISTRICT'S
FIRST REQUEST FOR INFORMATION TO COMMISSION STAFF**

**I.
DEFINITIONS**

The following definitions apply herein unless otherwise indicated by the content or expressly stated:

1. The words “and” and “or” shall be construed either conjunctively or disjunctively, as required by the context, to bring within the scope of these discovery requests any response or document that might be deemed outside its scope by another construction.
2. “Appeal” means and refers to the Ratepayers’ appeal that is the subject of SOAH Docket No. 473-19-5674.WS and PUC Docket No. 49351.
3. “Bear Creek” or “District” means and refers to Bear Creek Special Utility District.
4. “Communication” shall mean and include every manner or means of transmittal, disclosure, transfer, or exchange of information, and every form of transmission, disclosure, transfer or exchange of information, whether orally, electronically, or by document, and whether face-to-face, by telephone, mail, personal delivery, computer or otherwise.
5. “Concerning,” “relating to,” or “regarding,” and similar terms mean addressing, analyzing, referring, discussing, mentioning in any way, explaining, supporting, describing, forming the basis for, or being logically or casually connected in any way with the subject of these discovery requests.
6. “Describe” or “describe in detail” means to give a complete and full description concerning the matter about which the inquiry is made in narrative form, including all facts and opinions known and held relating to what is requested to be described, and (i) to identify of each person or entity involved or having any knowledge of each fact or opinion that relates to what is so described, (ii) to identify each document evidencing the answer or response given or relating, referring or pertaining to said subject-matter in any way, and (iii) all relevant or material dates and time periods, specifying the way in which said dates or time periods are pertinent to the subject-matter described.
7. “Document” means any documents or tangible items made discoverable by Texas Rule of Civil Procedure 192.3, and includes all originals, electronic and non-identical copies of any and all documents, papers, books, accounts, writings, drawings, graphs, charts, maps, surveys, photographs, electronic or videotape recordings, electronic mail (e-mail), phone records, recordings, models, data and other data compilations from which information can be obtained and translated by you, if necessary, into reasonably useable form and tangible things. Documents and data are “electronic” if they exist in a medium that can be read

through the use of computers. Such media include cache memory, magnetic disks (such as computer hard drives or floppy disks), optical disks (such as DVDs or CDs), and magnetic tapes. *See* Tex. R. Civ. P. 192.3 (2019).

8. To “identify” an individual means to state the following about that individual: (i) the person’s full name; (ii) the person’s job title or former job title; (iii) the person’s job (or former job) duties and responsibilities; (iv) the individual’s superior(s); (v) current or last known telephone number(s); and (vi) current or last known business and home addresses.
9. To “identify” a person as defined herein, other than an individual, means to provide the following information: (i) the entity’s full and correct legal name; (ii) the nature of the entity’s structure and/or organization; (iii) the address and telephone number of its principal offices and, if applicable, the state in which it is incorporated; and (iv) its principal line(s) of business or activity.
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.
11. To “identify” a document means the following: (i) the electronic file name, if any; (ii) to identify its author; (iii) to identify its addressees, if any; (iii) to state the date of its preparation; and (iv) to describe its subject matter.
12. “Person” or “Persons” means any natural person, corporation, association, firm, partnership, or other business or legal entity and officers, employees, agents, attorneys, servants or representatives of such entity, as the context requires.
13. “PUC” or “Commission” refers to the Public Utility Commission of Texas and all predecessor agencies with similar responsibilities, including the Texas Commission on Environmental Quality, Texas Natural Resource Conservation Commission, Texas Water Commission, and Texas Department of Health.
14. “Ratepayers” means and refers to the ratepayers of Bear Creek Special Utility District having brought the Appeal that is the subject of SOAH Docket No. 473-19-5674.WS and PUC Docket No. 49351.
15. “Relate” or “relating to” means making or including a statement about, discussing, describing, reflecting, consisting of, constituting, comprising or in any way concerning in whole or in part the subject or thing.
16. “Statement” means and includes any written or graphic statement signed or otherwise adopted or approved by the user in making it, and stenographic, mechanical, electrical or other recording or transcription thereof, which is a substantially verbatim recital of an oral statement by the person making it and contemporaneously recorded.
17. “You” and “your” means and refers to the Public Utility Commission Staff.

II. **INSTRUCTIONS**

1. These discovery requests must be answered in strict compliance with the orders of the Administrative Law Judge hearing this Docket, the Texas Rules of Civil Procedure, and the rules of the PUC.
2. Your answers to the discovery requests must be answered separately and fully in writing, and the answers must be signed and verified under oath by the person making the answers.
3. In those instances when the responding party chooses to answer a discovery request by referring to a specific document or record, the specification must be in sufficient detail to permit the requesting party to locate and identify the records and/or documents from which the answer is to be ascertained as readily as the party served with the request.
4. Whenever you are asked in these discovery requests to describe, identify, or produce documents, the term “documents” is not limited to documents in your actual or constructive possession, custody or control (as defined by Tex. R. Civ. P. 192.7(b)), but also includes all documents that you know to exist or which have existed or which you have reason to suspect to be in existence or to have been in existence, irrespective of whether the document is one intended for or transmitted internally by you or intended for or transmitted to any other person or entity, including without limitation any governmental agency, department, administrative entity, or their personnel.
5. Whenever you are asked in these discovery requests to describe or identify documents that once existed, but which no longer exist, in addition to identifying the documents, please indicate the approximate date and the circumstances under which the documents ceased to exist. Whenever you are asked in these discovery requests to describe or identify documents that are not in your actual or constructive possession, custody or control, as those terms are defined in Tex. R. Civ. P. 192.7(b), please identify (by name, address and telephone number) the person whom you believe to have such possession, custody or control.
6. If a discovery request calls upon you to state your legal or factual contentions and/or the legal or factual basis for your contentions in this lawsuit, you should respond in accordance with Tex. R. Civ. P. 192.3(j). Such requests do not seek to require you to marshal all of your evidence.
7. If a discovery request calls upon you to produce an electronic document that is a data compilation or model, produce the document in its native electronic format and identify the software necessary to obtain or translate, if necessary, into a reasonably useable form or tangible thing.
8. As used in these discovery requests, the singular and masculine form of a noun or pronoun includes the plural form, the feminine, or the neuter form, where appropriate.

9. As used in these discovery requests, the past tense includes the present tense where the express meaning of the request is not distorted by that usage, and the verb form of a noun or pronoun may be used as appropriate in a particular context.

**III.
DUTY TO SUPPLEMENT**

You are under a duty to supplement any responses that are incomplete or incorrect when made. Furthermore, you are under a duty to amend your responses within a reasonable time after you obtain information on the basis of which you know that a response either (1) was incorrect or incomplete when made or (2) although correct and complete when made, is no longer correct and complete, and the circumstances are such that failure to amend the response is in substance misleading.

**IV.
REQUESTS FOR INFORMATION**

BEAR CREEK’S REQUEST TO STAFF 1-1. Regarding Ms. Loockerman’s testimony on miscellaneous revenues, please identify the source documentation for the quote that appears on page 7 (Bates Page 0000008), beginning on line 7 of Debi Loockerman’s direct testimony: “expenses used to generate the revenue in each account are included in the annual financial statements except receipts for 4555 Contributions, which has no associated expenses, only associated capital costs.”(citing Bear Creek SUD’s Response to Commission Staff’s Third RFI at 11 (July 11, 2019)). The quote does not appear at the cited location.

BEAR CREEK’S REQUEST TO STAFF 1-2. Regarding Ms. Loockerman’s testimony on miscellaneous revenues, with regard to the quote referenced in Request to Staff 1-1 above, please describe your understanding of the explanation provided by Bear Creek SUD in response to Commission Staff’s Third RFI, 3-9, as found in the production at Bates page BCSUD000805 for Account 4555, which states:

2 Developer Member Contributions	TOTAL	Staff 3-9	Explanation
4500 Aid to Construct	227,408.00	Developer/Member Contributions	Income from Aid to Construction for new meter installations
4555 Contribution	95,075.00	Developer/Member Contributions	Reimbursement from County for Engineering fees for the relocation of Pump Station 1 due to highway widening
TOTAL	322,483.00		

BEAR CREEK’S REQUEST TO STAFF 1-3. Regarding Ms. Sears’ testimony on debt service coverage,¹ please explain your opinion that Bear Creek should not have adopted rates sufficient to generate a debt service coverage ratio of 1.25 considering that the General Manager for the Greater Texoma Utility Authority (“GTUA”) testified that GTUA “required Bear Creek to adopt a rate increase resolution as evidence of their ability to repay”² based on his evaluation of “(p)ossible rate increase numbers ... in order to determine what would be sufficient to provide adequate debt service coverage based on the requirements of the Authority and the TWDB, with the emphasis being on the lowest coverage years of 2020-2023. That coverage level was

¹ Direct Testimony of Emily Sears (Sears Direct) at 3, line 9 (October 19, 2020).
² Direct Testimony of Drew Satterwhite (Satterwhite Direct) at 16, lines 12-13 (August 3, 2020).

sufficiently achieved if I increased the Minimum Monthly Bill by \$10/meter/month in 2019 and by an additional \$5/meter/month in 2020.”³

BEAR CREEK’S REQUEST TO STAFF 1-4. Regarding Ms. Sears’ testimony on debt service coverage, please describe how Bear Creek could have secured funding for its capital improvement projects from GTUA without complying with the requirements imposed by GTUA?

BEAR CREEK’S REQUEST TO STAFF 1-5. Regarding Ms. Sears’ testimony on debt service coverage, please describe your understanding of the requirements of 17 CFR § 240.15c2-12 - Municipal securities disclosure, Section (5)(i)(C) as it relates to disclosure of material events by an issuer of municipal securities.

BEAR CREEK’S REQUEST TO STAFF 1-6. Please admit or deny that drawing on a debt service reserve fund because of insufficient water sales would be a reportable material event under 17 CFR § 240.15c2-12 - Municipal securities disclosure, Section (5)(i)(C). If your answer is anything other than an unqualified admit, please describe in detail the reasons for your answer.

BEAR CREEK’S REQUEST TO STAFF 1-7. Regarding Ms. Sears’ testimony on debt service coverage, please describe your understanding of the impact of reporting a material event notice pursuant to 17 CFR § 240.15c2-12 - Municipal securities disclosure, Section (5)(i)(C) on the ability of an issuer of municipal securities to obtain future financing?

BEAR CREEK’S REQUEST TO STAFF 1-8. Regarding Ms. Sears’ testimony on debt service coverage, assuming that Bear Creek had not secured funding from GTUA for its capital improvement projects because it could not meet the debt service coverage test required by GTUA, what other source of financing could Bear Creek have secured that would have been as financially advantageous to Bear Creek as the Texas Water Development Board Drinking Water State Revolving Fund loans, which offered a 1.35% interest rate subsidy and approximate \$1,805,000 savings over the life of the loan?⁴

BEAR CREEK’S REQUEST TO STAFF 1-9. Regarding Mr. Pokhrel’s testimony on rate design, please provide his recommended rates under the following scenarios:

- A. if \$95,075 was added to the revenue requirement because Ms. Loockerman’s recommended adjustment for miscellaneous revenues was reversed.
- B. if \$73,427 was added to Bear Creek’s revenue requirement because Ms. Sears’ recommend adjustment to the debt service coverage ratio was reversed.
- C. if \$95,075 was added to the revenue requirement because Ms. Loockerman’s recommended adjustment for miscellaneous revenues was reversed and \$73,427 was added to Bear Creek’s revenue requirement because Ms. Sears’ recommend adjustment to the debt service coverage ratio was reversed.

³ Satterwhite Direct at 16, lines 5-9.

⁴ Satterwhite Direct at 10, lines 7-9.