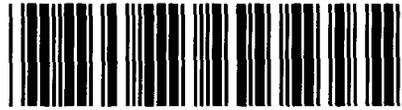




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DOCKET NO. 49367

PETITION BY OUT OF DISTRICT § PUBLIC UTILITY COMMISSION
RATEPAYERS APPEALING THE §
WATER RATES ESTABLISHED BY § OF TEXAS
THE EL PASO WATER CONTROL §
AND IMPROVEMENT DISTRICT NO. 4 §

OBJECTIONS OF EL PASO COUNTY WATER CONTROL AND IMPROVEMENT DISTRICT NO. 4 TO COMMISSION STAFF'S SECOND REQUEST FOR INFORMATION

COMES NOW, El Paso Water Control and Improvement District No. 4 ("District") and files these objections to Commission Staff's Second Request for Information, and would respectfully show as follows:

I. BACKGROUND

Counsel of Record for the District received the Commission Staff's Second Request for Information directed to the District on Monday, May 27, 2019. On May 30, 2019, counsel of record for the District filed an unopposed request for extension of time to file objections and responses to Staff's Second Request for Information. The District's deadline to file its objections to Staff's Second Request for Information is June 17, 2019, and its deadline to otherwise respond is July 8, 2019. These objections are timely filed.

Prior to the filing of these objections, counsel for the District and Commission Staff negotiated diligently and in good faith and were able to resolve some objections, but were unable to reach a clear agreement on all objections to the discovery requests. Therefore, the District objects to the following Requests for Information on the grounds stated below.

II. GENERAL OBJECTION

The District generally objects to Staff's Second Request for Information to the extent it seeks information that falls outside the scope of the relevant time period of this rate appeal. Specifically, Requests for Information 2-1, 2-3, 2-4, 2-5, 2-6, 2-7, 2-8, 2-9, and 2-10, all request

information for the years 2015 through 2018. However, the District made its decision with respect to: (1) the rate differentials that Petitioners attempt to appeal; and (2) the 5% across-the-board rate increase that Petitioners attempt to appeal – on December 15, 2015. The Commission’s appellate jurisdiction over this rate appeal is set forth in Section 13.043, Water Code. *See* Tex. Water Code § 13.043(b)(4). On appeal, the Commission “may consider only the information that was available to the governing body at the time the governing body made its decision.” *See* Tex. Water Code § 13.043(b)(4). Accordingly, the District objects to any discovery requests that seek production of information that was not available to the Board of Directors of the District as of December 15, 2015, because such requests are not reasonably calculated to lead to the discovery of admissible evidence.

Discovery requests that seek information that was not available to the Board of Directors of the District as of December 15, 2015, are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. *See* Tex. R. Civ. P. 192.3(a); 16 TAC § 22.141(a). Discovery must also be reasonably tailored to the subject matter of the case without allowing the discovery process to turn into an impermissible fishing expedition. *Dillard Dep’t Stores, Inc. v. Hall*, 909 S.W.2d 491, 492, 38 Tex. Sup. Ct. J. 1042 (Tex. 1995).

Counsel for the District has discussed this general objection with counsel for the Commission during a good faith attempt to negotiate the scope of the discovery requests. The District will make a reasonable attempt to respond to Staff’s Second Request for Information, subject to this general objection, but otherwise the District’s general objection should be sustained.

III. SPECIFIC OBJECTIONS

Staff Request for Information 2-7: Provide monthly operations reports for the years 2015 through 2018.

The District’s Objection: The District objects to this request because the term “monthly operations” is not defined by Commission Staff, and is overly broad, vague, and ambiguous.

Counsel for the District has discussed this specific objection with counsel for Commission Staff during a good faith attempt to seek clarification of the term “monthly operations.” The District will make a reasonable attempt to respond to Staff’s Request for Information 2-7, subject to its general and specific objections, but otherwise the District’s general and specific objections should be sustained.

IV. CONCLUSION

For the reasons discussed herein, the District respectfully requests that its objections to Staff’s Second Request for Information be sustained and that it be granted such other relief to which it has shown itself entitled to.

Respectfully submitted,

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ATTORNEYS FOR EL PASO
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NO. 4

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 17th day of June 2019, including:

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