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PUC DOCKET NO. 52380

PETITION BY SWWC UTILITIES, INC.	§	
D/B/A HORNSBY BEND UTILITY	§	
COMPANY, INC. AND CITY OF	§	
AUSTIN, TEXAS, FOR TEXAS WATER	§	BEFORE THE PUBLIC UTILITY
CODE § 13.248 APPROVAL AND	§	
ENFORCEMENT OF A CONTRACT	§	COMMISSION OF TEXAS
AND ITS AMENDMENTS	§	
DESIGNATING WATER AND	§	
WASTEWATER SERVICE AREAS IN	§	
TRAVIS COUNTY, TEXAS	§	

CITY OF AUSTIN’S RESPONSE TO ORDER NOS. 5 AND 6

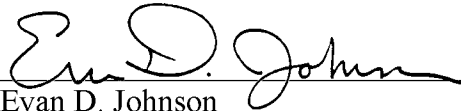
The City of Austin (the “City”) submits this Response to Order Nos. 5 and 6. The presiding officer directed parties to file responses to Order Nos. 5 and 6 by November 23, 2021; accordingly, this response is timely filed.

The City has reviewed the responses of SWWC Utilities, Inc. d/b/a Hornsby Bend Utility Company, Inc. (“SWWC”) to Order Nos. 5 and 6 and supports SWWC’s desire to reach a timely resolution of this matter. As stated in previous pleadings in this proceeding, inconsistencies in the statutory and regulatory language in Texas Water Code § 13.248 and Tex. Admin. Code § 24.253 regarding the enforceability of contracts that designate service area and the necessity of Commission approval have created uncertainty and confusion as to whether the City’s agreements with the SWWC are enforceable. Because the City is a municipality, it is not required to seek approval from the Commission to amend its certificate of convenience and necessity (“CCN”) to capture the unserved areas within its jurisdiction that it intends to serve as part of its agreements with SWWC. Therefore, filing for a CCN amendment to capture those changes is not contemplated as part of its agreements with SWWC and should not be necessary to ensure the agreements with SWWC are enforceable under TWC § 13.248. The City continues to believe that the current proceeding is the appropriate vehicle to resolve this dispute or, otherwise, get

clarity as to contracting parties' obligations under the statute and rule when parties reach agreements that designate service areas but do not intend to concurrently file a CCN amendment.

For these reasons, the City requests that the Commission grant the relief requested in the original petition and in SWWC's responses to Order Nos. 5 and 6 and grant such other relief to which the City has shown itself to be entitled.

Respectfully submitted,

By:  _____

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ATTORNEYS FOR THE CITY OF AUSTIN

CERTIFICATE OF SERVICE

I certify that, unless otherwise ordered by the presiding officer, notice of the filing of this document was provided to all parties of record via electronic mail on November 23, 2021, in accordance with the Orders Suspending Rules issued in Project No. 50664.

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Evan D. Johnson