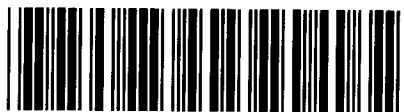




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APPEAL OF WATER AND SEWER  
RATES CHARGE BY THE TOWN OF  
WOODLOCH CCN NOS. 12312  
AND 20141

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§  
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§

BEFORE THE STATE OFFICE  
OF  
ADMINISTRATIVE HEARINGS

**TOWN OF WOODLOCH'S OBJECTIONS  
TO SUPPLEMENTAL DIRECT TESTIMONY OF CATHY LEWKOWSKI**

**TO THE HONORABLE ADMINISTRATIVE LAW JUDGE:**

The Town of Woodloch ("Woodloch") supplements its objections to certain portions of the Direct Testimonies of Public Utility Commission of Texas ("PUC") staff witnesses, Fred Bednarski ("Bednarski"), and Heidi Graham ("Graham") and of Catherine Lewkowski, filed March, 27, 2015 with the following objections to the Supplemental Direct Testimony of Catherine Lewkowski ("Lewkowski"). Woodloch would therefore move to strike selected portions of Lewkoski's testimony for the reasons set out below:

**1) The Supplemental Testimony of Cathy Lewkowski Contains Impermissible Lay Opinion.**

In its earlier objections to Lewkowski's testimony, Woodloch argued that Lewkowski's testimony contained multiple instances of impermissible opinion by a lay witness. Woodloch adopts by reference that earlier argument and reasoning here, as applied to Lewkowski's supplemental testimony (See Town of Woodloch's Objections to the Direct Testimonies of Fred Bednarski, Heidi Graham, and Cathy Lewkowski pp. 4-6). In the context of Woodloch's surcharge and rate case expense testimony, Lewkowski has not established any foundation for her qualifying herself to be an expert on these issues, just as she is not qualified to provide expert testimony on rate case expenses and rate design. Similarly she has no personal knowledge of the matter of the attorneys' and consultants' incursion of rate case expenses on behalf of Woodloch in this matter. Nor does she identify any background or experience which qualifies her to opine on the reasonableness of attorneys' or consultants' work or fees for this matter.

Woodloch, therefore, objects to and would move to strike the testimony specifically outlined below, as impermissible lay testimony:

- Supplemental Direct Testimony of Cathy Lewkowski at page 3 beginning with “II. Summary of Recommendations” through the end of page 3.
  - Supplemental Direct Testimony of Cathy Lewkowski at page 4, line 7 through page 8, line 5;
  - Supplemental Direct Testimony of Cathy Lewkowski with regard to the 2<sup>nd</sup>, 3<sup>rd</sup>, 5<sup>th</sup> and 6<sup>th</sup> questions and corresponding answers beginning on page 4 and ending at the top of page 5 (through sentence ending with “...I have made adjustments on the invoices.”);
  - Supplemental Direct Testimony of Cathy Lewkowski with regard to the 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup>, and 5<sup>th</sup> questions and corresponding answers beginning on page 5 and ending at the top of page 6 (through sentence ending with “Yes. I recommend disallowing all of Bleyl Engineering Fees as presented by Mike Mathena.”);
  - Supplemental Direct Testimony of Cathy Lewkowski with regard to the 1<sup>st</sup>, 2<sup>nd</sup>, and 3<sup>rd</sup> questions and corresponding answers beginning on page 6 and ending at the top of page 7 (through sentence ending with “...The outside customers have been paying an unusually high rate for water the entire time and then we were assessed a surcharge in addition...”);
  - Supplemental Direct Testimony of Cathy Lewkowski with regard to the 1<sup>st</sup> and 2<sup>nd</sup> questions and corresponding answers beginning on page 7, and continuing on with line of questions and corresponding answers on pages 8 through 10 (through sentence ending with “...(4) The rate appeal costs submitted by Mike Mathena be disallowed.”);
  - Exhibit 15 (Marcia Tillman Invoices marked up by Lewkowski) to Supplemental Testimony of Cathy Lewkowski;
  - Exhibit 16 (Duncan Norton Invoices marked up by Lewkowski) to Supplemental Testimony of Cathy Lewkowski.
- 2) **The Testimony of Cathy Lewkowski Contains Information and Opinion Not Relevant to Any Issue to be Determined in This Proceeding.**

Further, Woodloch also objects to and would move to strike the following testimony specifically highlighted below, as irrelevant and improper settlement negotiations discussion:

- Supplemental Direct Testimony of Cathy Lewkowski with regard to the statement made in the answer beginning at top of page 7, said statement identified in the bold and underline text as follows
  - A. No. This case has taken over two years by being postponed continuously by other parties. The outside customers have been paying an unusually high rate for water the entire time and then we were assessed a surcharge in addition. **We tried to settle the case through mediation and through settlement conferences but to no avail. In every instance Woodloch just wanted to increase the rates we are appealing. I believe part of the reason this case has dragged on for so long is that Woodloch was unwilling to reach a fair and reasonable compromise. Also, because there was no compromise, the case fell into the time of transfer from TCEQ to PUC which further delayed the case.**

WHEREFORE, PREMISES CONSIDERED, the Town of Woodloch respectfully objects to the aforementioned portions of Cathy Lewkowski's Supplemental Direct Testimony and requests the Honorable ALJ strike the listed portions of such testimony in addition to the previous requests found in Woodloch's earlier Objections. Woodloch additionally requests any and all other relief to which it may be justly entitled.

Respectfully submitted,

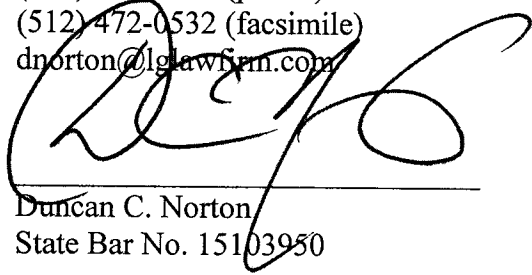
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Duncan C. Norton  
State Bar No. 15103950

ATTORNEY FOR TOWN OF WOODLOCH

## CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document was transmitted by e-mail, fax and/or regular, first class mail on this 12<sup>th</sup> day of May, 2015 to the parties of record.

  
DUNCAN C. NORTON

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