

Control Number: 42862



Item Number: 184

Addendum StartPage: 0

SOAH DOCKET NO. 473-14-5139.WS
PUC DOCKET NO. 42862

2015 NOV 20 PM 1:25
PUBLIC UTILITY COMMISSION
FILING CLERK

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

§
§
§
§
§

BEFORE THE STATE OFFICE
OF
ADMINISTRATIVE HEARINGS

PROTESTANTS' EXCEPTIONS TO THE PROPOSAL FOR DECISION

Catherine Lewkowski
10228 Woodhollow Dr.
Conroe, Texas 77385
(936) 522-6186
clewkowski@gmail.com

.
.
.

November 19, 2015

184

**SOAH DOCKET NO. 473-14-5139.WS
PUC DOCKET NO. 42862**

APPEAL OF WATER AND SEWER RATES CHARGED BY THE TOWN OF WOODLOCH CCN NOS. 12312 AND 20141	§ § § § §	BEFORE THE STATE OFFICE OF ADMINISTRATIVE HEARINGS
---	----------------------------------	---

TABLE OF CONTENTS

II. CASE HISTORY	2
V. REVENUE REQUIREMENT.....	2
B. Discussion.....	2
1. O&M Expenses	2
(a) Account 440-Street Maintenance	2
3. The Contingency Proposals of the Town and Staff, and Woodloch's Financial Integrity	3
VII. RATE DESIGN	4
A. The Two-to-One OC/IC Rate Differential.....	4
B. The OC/IC Differential on Security Deposits.....	9
D. Rate Recalculation Requested	9
VIII. RATE CASE EXPENSES.....	9
A. Global Objection to Rate Case Expenses.....	9
X. FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDERING PARAGRAPHS 	11
A. Findings of Fact.....	11
C. Proposed Ordering Paragraphs	12
XI. ADDITIONS.....	13
A. Separate Accounting Books	13
B. Late Fees	14

SOAH DOCKET NO. 473-14-5139.WS

PUC DOCKET NO. 42862

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

§
§
§
§
§

**BEFORE THE STATE OFFICE

OF

ADMINISTRATIVE HEARINGS**

PROTESTANTS' EXCEPTIONS TO THE PROPOSAL FOR DECISION

COMES NOW Catherine Lewkowski on behalf of all the Outside City (OC) customers hereafter referred to as Protestants and respectfully submits these exceptions to the Proposal for Decision (PFD) issued on Thursday October 29, 2015 in the above captioned proceeding. The Protestants agree with many portions of the PFD and recognize that the ALJ issued a thorough PFD.

The Protestants submit minor clarifications as outlined below:

1. First, on Page 2, the PFD states that the case was abated by agreement of all parties, however, the Protestants did not agree to an abatement.
2. Next, on Page 4, the PFD states there are 244 connections with 72 connections inside the city limits. There are 250 meters and there are 73 homes inside the city limits.¹ The 244 number is the average of active connections for the test year² due to vacancies and the inability for some OC customers to pay their water/sewer bill.
3. On Page 25, it appears that a typographical error has occurred, in that, at the bottom of the schedule Water Service has been inserted instead of Sewer Service. In the percentage of cost, Water Service is listed twice. The last section should read Sewer Service.
4. And finally, on Page 36, in the description of the service area, the PFD omits the street of Woodhollow Drive.³ Woodhollow Drive is north of the town and runs west. The PFD states that River Oaks is closer to the water plant than any other

¹ Protestants' Ex. 5 (Lewkowski Direct) at 6; *see also* Protestants' Ex. 3; Protestants' Initial Brief at 5.

² Staff's Ex. 2 (Graham Direct) at 7.

³ Woodloch Ex. 4 (Mathena Direct) at 6 & 8; Protestants' Initial Brief at 6.

street. However, it is Woodhollow Drive that is closer as the Water plant sits on Woodhollow Drive.⁴

The Protestants are following the outline of the PFD, however, Protestants are including two additional sections at the end that were not addressed by the ALJ.⁵

1. Separate Accounting Books
2. Late Fees

As discussed in the following sections, Protestants take exception to certain findings and recommendations in the PFD. Protestants do not contest the adoption of the ALJ's recommendations on the issues not discussed in these exceptions.

II. CASE HISTORY

Protestants agree that the history of this case is convoluted. However, the Protestants wish to point out that a Motion for Interim Rates was filed by the Protestants on July 1, 2014 and an Amended Motion for Interim Rates was filed on August 13, 2014. The Interim Rate requested by the Protestants was similar to the recommendation in the PFD. The ALJ denied the interim rates on August 29, 2014.⁶

V. REVENUE REQUIREMENT

B. Discussion

1. O&M Expenses
 - (a) Account 440-Street Maintenance

The Protestants take exception to the PFD recommending this expense be included in the revenue requirement. The budget includes \$945 for "Account 440—Street Maintenance." Staff's

⁴ Woodloch Ex. 6. (*Map of Service Area*)

⁵ Protestants' Initial Brief at 34.

⁶ Protestants' Initial Brief at 5.

expert, Fred Bednarski III, recommended that the entire \$945 be disallowed because street maintenance is not an expense specific to providing water and wastewater service.⁷ Woodloch explained that the town has a system of categorizing and separating general town expenses from Water/Sewer Utility system expenses and the \$945 budgeted for street maintenance represents only the Water/Sewer Utility's portion of the total amount spent on street maintenance by the town. Mayor Lincoln testified that the \$945 attributed to the Utility is appropriate because activities like maintenance of streets, curbs, and utility yards are covered under the heading of "Street Maintenance."⁸ However, it was shown at the hearing that this expense is charged wholly to the Water/Sewer Utility with the town assuming no costs.⁹ It was also shown at the hearing that this expense was for mowing the town of Woodloch. The utility yard inside the town's limits is the town's storage yard for a trailer, back-hoe and a maintenance shed. This is not a Water/Sewer Utility expense, but rather, a town expense that is being imposed on the Water/Sewer Utility with the outside customers assuming 80% of these costs. Woodloch has no costs associated with maintaining streets, curbs, or vacant lots outside the city limits. The water supply plant and the lift stations all sit directly on county roads. There are no access roads to maintain.¹⁰ Montgomery County Precinct Four Maintenance Department maintains all county roads, curbs and vacant lots in the Water/Sewer Utility Service area outside the city limits of Woodloch. Account 440 – Street Maintenance is solely the cost to maintain the vacant FEMA lots inside the Town, therefore this expense should be disallowed as recommended by Staff and Protestants.¹¹

3. The Contingency Proposals of the Town and Staff, and Woodloch's Financial Integrity

Protestants take exception to the 1.75 debt coverage ratio as recommended in the PFD. Woodloch provided no evidence that the Water/Sewer Utility system had experienced numerous unanticipated problems such as vandalism and equipment breakdowns and failures other than Diane Lincoln's testimony. No police reports, invoices or payments were produced by Woodloch

⁷ Staff Ex. 1 (Bednarski Direct) at 11.

⁸ Tr. at 79-80.

⁹ Tr. at 33; Protestants' Ex. 18; Protestants' Initial Brief at 11-12.

¹⁰ Woodloch Ex. 4 at 25; Protestants' Ex. 2.

¹¹ Protestants' Initial Brief at 11; Staff's Ex. 1 (Bednarski Direct) at 11.

to support this claim.¹² Woodloch also provided no evidence that the town's tax revenues were drawn on to pay for these events. In fact, the evidence produced in Mayor Lincoln's direct testimony shows the opposite to be true.¹³

Neither of the two loans for the meters or the storage tank require a 1.75 debt coverage ratio. The debt coverage ratio for these loans is 1.0. Woodloch is currently using a 1.5 debt coverage ratio.¹⁴ Woodloch made statements but provided no evidence that the Water/Sewer Utility system has, over the years, experienced operational problems, equipment breakdowns and vandalism and that the town has been forced to use property tax revenues to cover these costs. There is no evidence of this being the case.¹⁵ Woodloch's tax revenues don't even cover town expenses much less any repairs to the Water/Sewer Utility service.

The 1.75 ratio and the 10% contingency recommended by Staff are similar.¹⁶ The 1.75 would generate \$28,015 revenue while the 10% contingency based on the PFD Revenue Requirement recommendation would generate \$22,096. The 10% contingency recommended by Staff is sufficient for Woodloch to build a reserve fund in order to cover unexpected expenses. Protestants request that the 10% contingency recommended by Staff be adopted, negating the 1.75 ratio, and reflected in the Commission's Final Order.

VII. RATE DESIGN

A. The Two-to-One OC/IC Rate Differential

The Protestants take exception to the PFD recommendation for a 1 to 1.7 OC/IC rate differential. In 1989, the Texas Natural Resource Conservation Commission (TNRCC) (the predecessor to the TCEQ) asked the town to take over a privately-owned water and sewer system that was serving OC customers.¹⁷ The town agreed to do so and, in 1994, received a grant in the

¹² Protestants' Reply Brief at 5.

¹³ Woodloch Ex. 1 (Lincoln Direct) at 5-6.

¹⁴ Protestants' Ex. .5 (Lewkowski Direct) at 26.

¹⁵ Protestants' Reply Brief at 5.

¹⁶ Staff Ex. 1 (Bednarski Direct) at 12.

¹⁷ Woodloch Ex. 1 (Lincoln Direct) at 11.

amount of \$350,000 to combine all systems into one system.¹⁸ Woodloch's well was destroyed in a flood, therefore, the new combined system also replaced Woodloch's well.¹⁹ The system now has two wells, two 5,000 gallon pressure tanks, one 94,000 gallon storage tank, an aeration tower, a control room, a chlorine room, a generator, 11 fire hydrants, and roughly three miles of water lines serving²⁰ all customers.

Every grant that Woodloch has procured is based on the low income, disadvantaged status of the outside customers. The town itself has not qualified in the past for these grants. Therefore, all improvements made with payments from grants were for OC customers.²¹ It is the IC customers that have old equipment because much of the OC customers' equipment (*i.e. water and sewer lines, fire hydrants, and lift stations*) has been repaired or replaced with grants.²²

Mayor Lincoln testified that expenses for OC customers are five times greater than those for IC customers (a 5:1 ratio).²³ The Mayor was not able to explain the town's accounting multipliers that allocate expenditures.²⁴ However, the general ledgers show the following:²⁵

- For expenditures that benefit both the town and the Water/Sewer Utility, 16% is allocated to the town's general fund, 16% is allocated to the IC customers, and 68% is allocated to the OC customers. For example, when the town buys office supplies, its accounting system allocates 68% of the cost of those supplies to the OC customers, 16% to the IC customers, and 16% to the town even when those supplies are for town use only.
- For expenditures that only benefit the Water/Sewer Utility but benefit the entire Water/Sewer Utility, typically 20% is allocated to the IC customers and 80% is allocated to the OC customers although the percentages vary quite frequently with the OC customers assuming 100% of some costs and at other times the allocation is 30% to IC customers and 70% to the OC customers.
- For expenditures that only benefit the IC portion of the Water/Sewer Utility, 100% is sometimes allocated to the OC customers and other times there is a 30% allocation to the IC and 70% to the OC.

¹⁸ Protestants' Initial Brief at 6-8

¹⁹ Protestants' Initial Brief at 8; Tr. at 15.

²⁰ Woodloch Ex. 1 (Lincoln Direct) at 10.

²¹ Tr. at 144-145.

²² Protestants' Initial Brief at 6-9.

²³ Woodloch Ex. 1 (Lincoln direct) at 18.

²⁴ Tr. at 67.

²⁵ Tr. at 26-35 & 65-73; *see also* Staff Ex. 5 at 77-80; Protestants' Initial Brief at 15-16; Protestants' Reply Brief at 3.

- For expenditures that benefit only the town, the split is usually 16% to the town, 16% to the IC customer and 68% to the OC. There are very few town expenses that are allocated 100% to the town because the majority of the town expenses are split.

Woodloch offers the following reasons in support of the 2:1 rate differential between OC and IC customers:

- (1) *There are 5 lift stations – four serve the outside and one serves the inside and the outside.*

Woodloch did not provide any evidence that it costs more to service the lift stations outside. However, the Protestants did submit one year's worth of invoices from the water/sewer service company (H2O) that services and maintains Woodloch's Water/Sewer Utility system.²⁶ Those invoices show that less than \$5,000 was spent on lift stations. The revenues from the OC customers more than cover this as the revenues are approximately \$226,000 more than the revenues generated from the IC customers. *(This is a four to one ratio of revenues.)*²⁷

- (2) *There are more OC customers than IC customers requiring more repairs.*

Mayor Lincoln conceded that, because there are more OC customers, the increased revenue from OC customers "sometimes" balances out the increased OC repairs.²⁸

- (3) *Historically, more problems and complaints have occurred from OC customers, thereby making the cost of service higher on a per customer basis for OC than for IC.*

However, the cost per customer is exactly the same whether the customer is IC or OC.²⁹ Therefore, on a per customer basis the costs of service are the same.

- (4) *The water and sewer system that was serving the OC customers and that the town took over in 1994 was poorly designed and had been poorly maintained. As a result, the town has experienced a disproportionately high number of problems with the parts of its system that were added in 1994 to serve OC customers.*

²⁶ Protestants' Ex. 7; Protestants' Initial Brief at 19.

²⁷ Woodloch Ex. 10 (Rubottom Direct) at 25

²⁸ Tr. at 61.

²⁹ Protestants' Ex. .5 (Lewkowski Direct) at 7-8.

However, all of these issues were addressed with over \$1.7 million dollars in grants.³⁰ Water lines, sewer lines, lift stations, and fire hydrants outside the town's limits have been replaced, repaired or rehabilitated with grant monies.

(5) *IC customers provide additional financial security for the town (because they pay property taxes), which allows the town to borrow money to address problems related to OC customers.*³¹

However, as has been previously shown, the town tax revenue is not sufficient to cover the town's costs much less provide any financial stimulation to the OC.

(6) *The town can obtain grants that benefit all customers, which OC customers would not otherwise be able to obtain.*

However, all of the grants were obtained due to the OC customers' low income, disadvantaged status. Without the OC customers, Woodloch would not have received these grants.³²

(7) *The town provides economies of scale by virtue of the fact that it shares office space and personnel used for other town services.*

Woodloch contracts with an outside agency, (H2O) to provide water and sewer services and to maintain equipment. That agency does not share any office space with Woodloch as they have their own offices. Water customers may drop off their bills in a drop box at the city hall but there are no water or sewer facilities available to customers in this building other than to drop off payments. *(Note: this building has been closed to the public since September 2015)*

Ms. Rubottom testified that she based her 1:1.7 ratio of expense by interviewing the mayor on how "she goes about booking costs in and out." The Mayor incorrectly allocates expenses in such a way that most expense is allocated to the OC *(whether or not it is an actual OC Water/Sewer Utility expense)*, therefore the ratio is skewed.³³ Ms. Rubottom did not do an audit, "just a sampling" of expenses.³⁴ She testified that she reviewed the larger invoices, *i.e.* H2O and electricity. However, she accepted Woodloch's allocation of those expenses. It was shown at the hearing and by the general ledgers that Woodloch allocated all of the electric expense for the sewer

³⁰ Protestants' Initial Brief at 6-9; Protestants' Reply Brief at 4-5.

³¹ Tr. at 62.

³² Protestants' Initial Brief at 10.

³³ Tr. at 171 and 176.

³⁴ Tr. at 176.

plant, the lift stations, and the town's swimming pool to the OC customers.³⁵ Ms. Rubottom also operated on the misguided assumption that Woodloch had maintenance costs outside the city related to maintaining roads, curbs, and mowing.³⁶ Woodloch maintains no roads, curbs, or lots outside the town's limits. The Montgomery County Precinct 4 Maintenance Department maintains the roads, the curbs and the vacant lots outside the town. There are no access roads to the town's water supply plant or lift stations. All water utilities sit directly on county roads.

There is no justification for the 1.7:1 ratio in the recommended rates. Staff's expert witness, Heidi Graham, stated that Woodloch provided no basis for different rates for IC and OC customers and, therefore, the rates charged to IC and OC customers should be the same.³⁷ Staff argues that the New Rates arbitrarily force the OC customers to bear more than their fair share of the Water/Sewer Utility's costs.³⁸ Staff agrees that the town provided some evidence of how its accounting system *allocates* costs between OC and IC customers, but argues that the town failed to provide the necessary explanation that would *justify* the allocation. The Protestants agree, arguing that the New Rates are unfair and discriminatory against OC customers. Woodloch did not provide any proof to support the claim that it costs disproportionately more to provide service to OC customers.³⁹ Water/Sewer Utility customers are residential customers receiving exactly the same type of services at the same cost from the Water/Sewer Utility.⁴⁰

With a 1.7:1 ratio enacted, the OC customers will be forced to continue extreme reduced water usage while the IC customers will be able to continue using extreme amounts of water at no extra charge. Example: If the IC customers' base rate for water and sewer combined is \$60; at 1.7x rate for the OC customers, their base rate would be \$102. If the tierage is \$2 for the first tierage, the OC customers' tierage would be \$3.40. Therefore 5,000 gallons would cost the IC customer \$66 but the rate for OC customer would be \$112.20. This allows IC customers to use approximately 25,000 gallons of water each month to the 5,000 gallons of water the OC customer can use at the same cost of usage. Woodloch's permitted usage as of 01-01-2016 is 25.2 million

³⁵ Tr. at 26-29.

³⁶ Tr. at 181-182.

³⁷ Staff Ex. 2 (Graham direct) at 8.

³⁸ Staff Initial Brief at 12-16.

³⁹ Protestants Initial Brief at 21-26.

⁴⁰ Woodloch Ex. 6; *see also* Staff Reply Brief at 12.

gallons annually.⁴¹ This ratio will do nothing to promote conservation of water by the IC customers. Again, only the OC customers will be forced to conserve. One class of customer allows for all customers to have fair and equitable water/sewer rates and promotes conservation by both IC and OC customers. Protestants request that there be only one class of customer as recommended by Staff and by Protestants reflected in Commission's Final Order.

B. The OC/IC Differential on Security Deposits

The PFD recommends that the security deposits be the same for IC and OC customers and the Protestants agree. However, the Protestants respectfully request that the security deposit be further reduced from the ALJ's recommended amount of \$200 to \$150 for both IC and OC customers, which is still more than one month's bill. Protestants further request that the security deposits be refunded after 18 months of timely payments.

D. Rate Recalculation Requested

The ALJ asks Staff to submit, in their exceptions to this PFD, a calculation of the appropriate water and sewer rates based on the ALJ's conclusions in this PFD. The Protestants will respond to Staff's recalculation in their replies to exceptions.

VIII. RATE CASE EXPENSES

Protestants argue that it would be unreasonable for Woodloch to recover their rate appeal expenses, given the context of this case.

A. Global Objection to Rate Case Expenses

Staff argues that Woodloch's rate case expenses are unreasonable in their entirety because the town failed to prove that it is entitled to any rate increase. As explained by Staff Witness,

⁴¹ Tr. 52 & 79; Protestants' Initial Brief at 20.

Ms. Guerrero, “if no rate increase can be justified, then any money expended defending an appeal of it is equally unjustified and unreasonable.”⁴² Alternatively, Ms. Guerrero and Staff contend that it would be unreasonable to award rate case expenses to Woodloch if the town ultimately proves it is entitled to only a small fraction of the rate increase it implemented.⁴³ The PFD states that a modest increase is justified.⁴⁴ The Protestants made a written offer to Woodloch in December 12, 2013 which would have generated annual revenues akin to the PFD’s recommendation.⁴⁵ This rate was for one class of customer and included a \$28 surcharge to cover the new loans. (*The \$28 surcharge included the TWDB loan that was never secured*) Woodloch’s response was to hire an additional attorney, Mr. Duncan Norton, to represent them, in addition to their retained City Attorney, and proceed to hearing. Thus, the rate case expenses soared. The PFD recognizes that the rate increase that has been in effect since February 2013 at a 2:1 ratio is unreasonably preferential, prejudicial, and discriminatory.⁴⁶ For this reason and the fact that Woodloch would not negotiate and continued to drag this case out for almost three years, which still resulted in a revenue requirement similar to the one offered by the Protestants in December, 2013, recovery of most, if not all, of these rate case expenses should be disallowed. Woodloch cannot and did not justify the rate increase imposed on the customers, therefore, the defense of the appeal is not justified.

By allowing Woodloch to recover almost all of their rate case appeal expenses, a message is sent that there is no reason for a municipally owned utility to try to negotiate or set a fair and equitable rate. It encourages the Water/Sewer Utility to spend years fighting an appeal with the foreknowledge that any attorney fees or litigation costs will be recovered through charges to the customers. For these reasons, the Protestants request that most, if not all, of the recovery of rate appeal expenses be disallowed in Commission’s Final Order.

⁴² Staff Ex. 3 (Guerrero Direct) at 12.

⁴³ Staff Ex. 3 (Guerrero Direct) at 12; Staff Initial Brief at 16.

⁴⁴ PFD at 40

⁴⁵ Protestants’ Exhibit 1 at 48

⁴⁶ PFD at 54 (Number 57)

**X. FINDINGS OF FACT, CONCLUSIONS OF LAW,
AND ORDERING PARAGRAPHS**

A. Findings of Fact

Cost of Service (the Utility's Revenue Requirement)

(a) O&M Expenses

24. Woodloch's budgeted O&M expenses include an expense of \$945 under the heading of "Account 440—Street Maintenance." This expense does not reflect reasonable and necessary expenditures for grounds maintenance around Water/Sewer Utility facilities as Woodloch does not maintain these areas. The Montgomery County Maintenance Department mows the areas around the lift stations and maintains the streets and curbs leading to the lift stations and water supply plant.

(c) The Town's Requested 1.75 Debt Coverage Ratio

38. In order to build a reasonable cash reserve account to address unanticipated operational problems in the future, Woodloch included, when calculating the New Rates, a 1.75 debt coverage ratio. This is more than what is required for a cash reserve account.
39. The use of a 1.75 debt coverage ratio is **not** the reasonable and appropriate method of enabling the Water/Sewer Utility to build up a cash reserve to deal with unanticipated future contingencies. The appropriate method is up to 10% of annual O&M expenses.⁴⁷
40. By use of the 10% contingency, \$22,002 should be included in the Water/Sewer Utility's revenue requirement for this rate proceeding. This would negate the 1.75 debt coverage ratio.

(e) Revenue Requirement Summary

43. The Water/Sewer Utility's total revenue requirement in this proceeding is \$242,021.

Rate Design

54. The rates that were put into effect are twice as high for OC customers as they are for IC customers (a 2:1 OC/IC ratio).

⁴⁷ Tex. Admin. Code 24.34 (c)(2)(E).

55. The costs to serve the IC customer is the same as the cost of service for the OC customer. It does not cost the Water/Sewer Utility 1.7 times as much to provide service to OC customers as it does to IC customers.
56. It is unreasonably preferential, prejudicial, and discriminatory for the Utility rates to include two classes of customers. All customers receive the same services at the same costs.
58. The Water/Sewer Utility's rates should be structured such that, as to the volumetric charges, the OC and the IC customers pay the same rates.
59. The Water/Sewer Utility should refund or credit to the OC customers the difference between the 2:1 ratio and the 1:1 ratio. The refunds or credits should be made over the same time period that the New Rates were collected.
63. The Water/Sewer Utility's rates should be structured such that OC and IC customers both pay \$150 for security deposits.

Rate Case Expenses

65. The Water/Sewer Utility's rate case expenses should not be recovered. The 2:1 ratio that Woodloch put in effect in February 2013 is unreasonably preferential to the IC customers and discriminatory against the OC customers. Woodloch refused all settlements offered by the OC customers. Those offers would have generated revenues akin to what the PFD is recommending. Woodloch decided to pursue the case to a hearing while increasing their rate appeal expenses over a three year period.

C. Proposed Ordering Paragraphs

Protestants take exception to Ordering Paragraph 3, which allows Woodloch to recover almost all of its rate case expense through a monthly surcharge.

XI. ADDITIONS

A. Separate Accounting Books

The Protestants request that the Town of Woodloch be required to keep separate books. This issue was part of the recommendations of the Protestants and the Staff.⁴⁸ Woodloch did not address this issue in any of its pleadings or at the hearing. The PFD also did not address this issue.

Woodloch currently keeps one General Ledger and claims it is required to allocate expenses according to stipulations dictated by the State Comptroller's Office.⁴⁹ However, this is not an accurate statement. The Texas State Comptrollers of Public Accounts Office supplies several documents and handbooks to help guide Texas cities in proper accounting methods and procedures that are acceptable to the Federal Accounting Standards and Advisory Board (FASAB) which includes the Generally Accepted Accounting Principles.⁵⁰

The handbook most resourceful to a municipality is the Budgeting Manual for Texas Cities.⁵¹ Based on testimony and documents provided by Woodloch, this is the methodology and terminology Woodloch uses to support their allocation factors. However, this manual does not address a municipality that provides water/sewer service to customers living outside the city limits nor does it mandate requirements as such. The misappropriation or manipulations of expenses do not justify Woodloch's stance or statements that the State Comptroller's Office *requires* the actions they have taken.

Woodloch has failed to provide any proof that the Town's tax revenue has been needed or used to support the Water/Sewer Utility. They have provided voluminous documentation that shows the opposite is true. It has been shown that Utility revenues are being used to support the town's expenses and salaries. Many town expenses are being allocated to the Utility and those expenses allocated unfairly to the OC customers.

In order to prevent the comingling of funds, Woodloch should be required to use separate general ledgers for the town and the Water/Sewer Utility. This will help track (1) the revenues

⁴⁸ Protestants' Ex. .5 (Lewkowski Direct) at 29; Protestants' Initial Brief at 34; *see also* Staff's Ex. 1 (Bednarski Direct) at 14 & 16.

⁴⁹ Tr. at 79-80.

⁵⁰ *FASAB Handbook of Federal Accounting Standards and Other Pronouncements, As Amended*.

⁵¹ Susan Combs, Texas Comptroller of Public Accounts, *Budgeting Manual for Texas Cities 2011*.

collected for each fund and (2) the expenses based on their purpose.⁵² Protestants request that Woodloch be required to keep separate general ledgers as recommended by Staff and by Protestants in the Commission's Final Order.

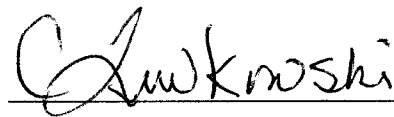
B. Late Fees

Woodloch presently assesses a 20% late fee. Protestants respectfully request that this be reduced to a 10% or \$10 (whichever is higher) late charge.⁵³ Woodloch did not address this issue in any of its pleadings or at the hearing. The PFD also did not address this issue. A 10% or \$10 late charge is requested by Protestants to be reflected in the Commission's Final Order.

PRAYER

Protestants respectfully pray that the Honorable Commission grant these exceptions, issue its Final Order in this docket in accordance with Protestants' Exceptions, and grant the Protestants such other and further relief to which it may be justly entitled.

Respectfully Submitted,



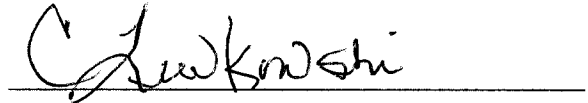
Catherine Lewkowski
10228 Woodhollow Dr.
Conroe, Texas 77385
(936) 522-6186
clewkowski@gmail.com

⁵² Staff Ex 1 (Bednarski Direct) at 14.

⁵³ Protestants' Ex. .5 (Lewkowski Direct) at 26.

CERTIFICATE OF SERVICE

I hereby certify that today, November 19, 2015, a true and correct copy of the Protestants' Exceptions to the PFD was served on all parties via Fed Ex or United States First Class Mail.

A handwritten signature in cursive script, appearing to read "C. Lewkowski", is written over a horizontal line.

Catherine Lewkowski