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RATEPAYERS APPEAL OF THE BEFORE THE STATE OFFICE DECISION BY WINDERMERE OAKS WATER SUPPLY CORPORATION TO CHANGE WATER AND SEWER RATES	§ § § § §	BEFORE THE STATE OFFICE OF ADMINISTRATIVE HEARINGS
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RATEPAYERS' REPLY BRIEF

Respectfully Submitted,

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**TO THE HONORABLE CHRISTIAAN SIANO AND DANIEL WISEMAN,
ADMINISTRATIVE LAW JUDGES:**

THE REPRESENTATIVES OF THE RATEPAYERS OF WINDERMERE OAKS
WATER SUPPLY CORPORATION (“Ratepayers”) file this their Reply Brief and would show as follows.

**I. WOWSC FAILED TO PROVIDE REQUIRED NOTICE TO CUSTOMERS (In
Reply to WOWSC Part II; Pertinent to Issue 2)**

The WOWSC admits it did not provide written notice of the hearing to all affected customers in the form prescribed by the Commission.¹

No evidence was offered or admitted during the hearing that any notice at all was given to the WOWSC’s customers. The unsworn statements of the WOWSC’s counsel, reflected on pages 589-90 of the Transcript, are not evidence. Had the WOWSC’s counsel been placed under oath and purported to testify concerning the contents of written meeting agendas and/or written minutes, such testimony would not have been admissible. Likewise, even had she taken an oath, the WOWSC’s counsel would not have been permitted to testify concerning statements that are hearsay and of which she has no first-hand knowledge.

Even had counsel’s statements been offered and admitted into evidence, the “notice” the Board claims to have given is, at best, nothing more than a passing reference to the December appeal hearing during a Board meeting in August 2020 at which none of the customers were present. Ratepayers find no authority to support the proposition that such “notice,” even had it occurred, is sufficient to satisfy the requirement that the WOWSC give written notice to all its ratepayers of the hearing in this appeal proceeding.

¹ Transcript at 589:18-9.

The Board's failure to give its ratepayers written notice of the hearing, or any meaningful notice at all, is part of its continuing effort to keep the membership uninformed, or misinformed, about its activities concerning rates. Among other things, the failure to comply with the Commission's notice requirement is yet another basis upon which to refuse to pass the Board's legal and other costs on to the ratepayers in any form or fashion.

II. SECTIONS 13.043(e) AND (j) REQUIRE THAT THE COMMISSION SET NEW BASE RATES AT OR BELOW THE RATES RECOMMENDED BY PUC STAFF (In Reply to WOWSC Initial Brief Part IV; Pertinent to Issues 4 – 8, 10 and 11).

The WOWSC's bold assertion in its Initial Brief that the Board's "rate methodology is transparent, clear, sufficient, equitable and certainly not unreasonably preferential, prejudicial or discriminatory"² is astonishing. The WOWSC's own evidence conclusively establishes just the opposite and that this was not the result of inadvertence. The evidence also establishes that the WOWSC representatives and the lawyers at Lloyd Gosselink have been anything but candid or transparent with the Commission and its staff in this proceeding.

A. The 2020 rate increase was neither legitimate nor transparent.

In January and February 2020, the Board represented to the membership that the Texas Rural Water Authority ("TRWA"), which it portrayed as an authority on small utility ratemaking, had analyzed the WOWSC's 2019 financials and had determined the WOWSC needed to increase rates. They claimed the TRWA rate analysis generated new "minimum charges" for water service and for wastewater service and that the Board was voting to implement those rates. From the customers' viewpoint, everything seemed to be on the up and up.

² Initial Brief at 14.

It was not. The Board did not implement any rate generated by TRWA or developed through any accepted ratemaking methodology, but rather calculated and implemented its own rate increase for an entirely different purpose.

i. The TRWA “rate analysis” that was falsely portrayed as having generated the 2020 rates.

According to WOWSC General Manager George Burris, he asked TRWA staff member James Smith to perform a rate analysis in late 2018 or early 2019.³ Burris claims that he furnished TRWA’s James Smith with the company’s year-end financials for 2019 for purposes of the analysis.⁴ Those financials allocate revenues and expenses to water service and to wastewater service.⁵ For reasons that remain unknown, however, Smith did not run separate rate models for water and wastewater. The TRWA analysis generated only a “Water Revenue Requirement and Rate Design.”⁶ Smith also included cost amounts (i.e., \$56,000 for depreciation) for which the 2019 financials reported \$0 expense and expenses (i.e., \$42,700 for barge repairs) that had already been fully reimbursed by outside sources.

The TRWA rate analysis generated a “minimum charge” for water service of \$174.59 per meter per month to meet a calculated systemwide revenue requirement of \$576,192. The TRWA revenue requirement was not forward looking. It did not include either the balance of unpaid charges that had been carried forward into 2019 or the amounts invoiced in early 2020. It did not include debt service over and above the principal and interest payments. It did not include any

³ Burris at 43-44.

⁴ Burris at 43.

⁵ See Nelson Direct Attachment MN-3

⁶ See Nelson Direct Attachment MN-2. If the TRWA model is run separately for water and wastewater using the cost data from the 2019 financials and omitting only depreciation (which is not allowable in “cash needs” ratemaking), both the base rate and the fixed cost recovery amount are significantly less for each type of service than the 2020 rates.

additions to the maintenance reserve or the capital reserve. Accordingly, the “water rate” generated by the TRWA model was not designed to recoup those costs.

Burris testified that Smith told him as early as January 2019 that the WOWSC needed to raise its monthly water availability charge to at least \$170 in order to keep operating. The Board did not raise rates until more than a year later, in March 2020, and even then did not implement the TRWA-recommended rate. No steps were taken in the interim to contain or avoid additional expense for outside legal costs.⁷ To the contrary, the Board has authorized the law firms to bill whatever amounts they see fit and have obligated the WOWSC to pay for all of it -- indefinitely.⁸ The directors who authorized those expenditures were also the WOWSC customers who benefitted from them.⁹

ii. The WOWSC Board’s “rate analysis” that was approved and implemented.

In the interim, the WOWSC continued to incur an ever-increasing amount of outside legal costs that the Board knew the WOWSC did not have the money to pay and its existing rate revenue would never be adequate to cover.¹⁰ During that time, the Board and the lawyers (including general counsel Lloyd Gosselink) worked out an arrangement to allow the WOWSC to pay “a minimum portion” of the outside legal costs and to accrue an unlimited amount of debt for the unpaid invoice balances -- indefinitely.¹¹ That arrangement was not approved during any open Board meeting and was not otherwise disclosed to the WOWSC’s customers.

⁷ Burris at 46-7.

⁸ Gimenez at 274-5 & 353-4. Board Secretary-Treasurer Nelson admitted that the Board had no idea when it authorized this work how much the tab might ultimately be. Nelson at 226-7. The Board has no earthly idea of the amount it has obligated the company to pay each month until someone receives the monthly invoices. Nelson at 192.

⁹ Nelson at 231.

¹⁰ Burris at 45-6.

¹¹ Burris at 45-6; Gimenez at 316-8.

Toward the end of 2019, the Board appears to have become concerned that the WOWSC would not have sufficient excess revenue to pay the monthly “minimum portion” going forward. That would have brought an abrupt halt to the unlimited legal work being furnished by Lloyd Gosselink and Enoch Kever. It would not have presented a big issue for the WOWSC itself; none of the plaintiffs in either member-initiated lawsuit have monetary or other relief vis-à-vis the company’s resources.¹² According to the hearing testimony of Board President Gimenez, the WOWSC has taken and continues to take a “neutral stance” regarding the outcome of these member challenges.¹³ The same was not so, however, for the current and former directors who benefitted from and/or facilitated the March 2016 land transfer to sitting director Martin or the October 2019 “correction deed” that transferred even more valuable surplus WOWSC property for nothing. The director parties faced exposure for personal liability for the full fair market value of the properties transferred and for other financial losses to the ratepayers resulting from the transfers.¹⁴ Those parties were the beneficiaries of the unlimited outside legal services and were determined to avoid paying the legal fees themselves.¹⁵

In early 2020, the Board determined the WOWSC needed to generate additional monthly cash flow for the foreseeable future to pay the monthly “minimum portion” of the outside legal costs. No attention appears to have been given to the debt burden this would inevitably place on the company. As Nelson described it:

Q (BY MS. ALLEN) So, how the heck were you going to pay the \$120- or \$150,000 in legal fees for 2019 that you hadn’t paid?

¹² See Gimenez Rebuttal Attachment JG-25, particularly pages 2 and 11. This is the First Amended Original Petition in the Double F litigation, which makes clear the plaintiffs do not seek recovery against the company’s resources.

¹³ Gimenez at 298-9.

¹⁴ *Id.*

¹⁵ As discussed below, the director litigants assert that the company has a “legal duty” to provide them with unlimited legal services and that this “legal duty” has priority over the company’s obligation to operate and maintain the members’ assets to provide them with safe and adequate potable water and sewer service at or near cost.

A (BY MR. NELSON) We were going to – we worked with our legal law firms on an agreement to where we could increase rates to pay them \$10,000 a month once the rates kicked in, and so that’s what we’ve been doing, is paying Lloyd Gosselink and Enoch Kever \$10,000 per month since the rates increased.

Q Are you telling us that the rates that the Board adopted in 2020 were not ever designed to recoup the actual expenses that included the legal fees for 2019?

A They were increased to pay down the balance – legal balances until the legal balance are gone, and then we were to revisit the rates and reduce them. . . . So the concept was to look at 2019, right, use it in a rate study to understand how high we could increase rates and then see if we could meet the \$10,000 a month per law firm. And so that’s where we were able to do that, so at a lower amount than the TRWA analysis --¹⁶

The “legal balance” to which Nelson was referring was comprised of the law firm debt the WOWSC had already accrued, which was at least \$150,000, and the law firm debt it would accrue in the future, which was anyone’s guess. The “legal balance” was expected to increase each month until all litigation matters (including litigation initiated by the Board itself) pertaining to the land transfers were fully and finally resolved. Then, and only then, would the monthly “minimum portion” amount be applied to slowly pay down the “legal balance” until it was retired. Board President Gimenez explained:

Q . . . If the company has its way, this rate increase will stay in place until such time as all of the legal expenses from all of the lawsuits that have to do with the 2016 land transaction have been paid in full. Correct?

A That was the intent of the Board at the time.¹⁷

iii. The deception involving the rate increase.

This is not a legitimate ratemaking objective and there is no accepted rate methodology by which to accomplish it.¹⁸ Instead of being transparent about that, the Board claimed (and, despite

¹⁶ Nelson at 198-9.

¹⁷ Gimenez at 318. The lawsuits include a suit initiated by the directors to recover insurance proceeds to which they claim they are personally entitled. Gimenez at 316.

¹⁸ When asked whether this “cash flow” methodology is an acceptable rate design practice, the WOWSC’s hired expert Grant Rabon testified that he would not characterize it as any kind of rate design practice. Rabon at 414.

the testimony of its representatives, continues to claim) that the new rates were developed by TRWA using the “cash needs” model. They were not, and Nelson finally admitted as much in hearing testimony:

Q (BY MS. ALLEN) Now, the Board didn’t settle on the rates that were recommended or yielded by this [TRWA] rate model. Right?

A (BY MR. NELSON) Correct.

Instead, the Board and its general counsel Lloyd Gosselink made an entirely different set of calculations that did not involve any calculated revenue requirement:

Q Explain for us the additional analysis the Board did in order to make adjustments to arrive at the rates it adopted.

A So, my understanding was we wanted to increase our monthly cash flow or revenue by, say, almost \$16-\$17,000 per month so we could make legal payments of \$20,000 , 10,000 to both law firms. And so when we looked at that, that meant increasing base rates by around \$65 or so. And so we split the \$65 60 percent/40 percent, 60 percent for water and 40% for wastewater. And so we added -- so we multiplied that and added that to the previous base rates, came up with the new base rate, combined about \$156, and that was below the 174.59 here in this model. And so we felt like we could work with our legal teams and with a \$10,000 a month payment, and so we did not increase rates above that once we felt like we could achieve the \$10,000 monthly payments to both law firms.

Q But that business about the \$10,000 a month monthly payments is not anywhere in the [TRWA] rate design, right, that we see here?

A Oh, correct. . . . that TRWA model there -- was to show of high could we increase rates. We did not increase rates that high.¹⁹

There was never a “TRWA rate analysis” that concluded to the 2020 rates. The new “minimum water rate” of \$174.59 that the TRWA model did generate was completely disregarded.²⁰ The TRWA exercise was little more than an elaborate charade intended to cloak

¹⁹ Nelson at 204-5; see also Ratepayers’ Exhibit 41.

²⁰ The customers were told this figure pertained to gallonage charges. The PUC Staff was told this figure had to do with updated depreciation rates. Neither story was true.

the Board's new base rates with legitimacy they did not have and to allow the Board to pat itself on the back for its "conservative" rate increase.

One would have expected the WOWSC's general counsel to be integrally involved in the largest rate increase in company history implemented on the basis of outside legal costs that were not costs of service. The Lloyd Gosselink lawyers were uniquely qualified to do just that. Their invoices reflect that they billed the WOWSC for a variety of tasks related to the 2020 rate increase before and after its approval.²¹ These time entries reflect, among other things, that the Lloyd Gosselink lawyers interfaced directly with TRWA personnel on the rate analysis, researched Water Code Chapter 67 and other statutes and regulations applicable to the rate increase, reviewed the Tariff provisions and prepared PUC filings.

The time entries reflect that Lloyd Gosselink lawyers also prepared and/or edited communications to the membership about the rate increase; these included notices, newsletters and a Frequently Asked Questions document. These communications represented that the 2020 rate increase was determined by TRWA through an analysis of all operating expenses incurred by the company for 2019.²² These communications portrayed that the rate increase would enable the WOWSC to pay the outside legal costs when due and would prevent the company from experiencing a loss in 2020. There was no mention that the WOWSC would accrue an unlimited and completely unknown amount of law firm debt indefinitely or that this debt would burden current and future customers for years to come.

The time entries for General Counsel work also reflect that when the 2020 rate increase was appealed by the members, the Lloyd Gosselink lawyers, including Ms. Mauldin, promptly

²¹ See invoices linked to Gimenez Rebuttal Attachment JG-41. Examples in hard copy are attached hereto.

²² See, e.g., Ratepayers' Exhibits 18 and 33.

began strategizing about how to preserve the 2020 rates and what the Board should communicate to the membership.²³

iv. The Devastating Consequences for the WOWSC and its customers.

In fact, the “cash flow” methodology applied by the Board and its lawyers dispensed with any prudence and fiscal restraint the Board would otherwise have been required to exercise about its outside legal costs. The additional monthly cash flow generated by the 2020 rates and the “minimum portion” arrangement with the law firms eliminated all financial constraints on the outside legal costs. The Board created the functional equivalent of a credit card backed by the WOWSC having no credit limit and requiring only modest monthly “minimum” payments to continue charging on it indefinitely.

By design, the bulk of the outside legal costs have accrued as additional debt.²⁴ The WOWSC’s debt has increased, and continues to increase, every month. That trend will continue until all the litigation related to the 2016 land sale to a sitting director (including litigation the directors have brought for their own financial benefit) is fully and finally determined.²⁵ That could take years. Only then will the “minimum” payments begin to reduce the law firm debt. To retire it entirely will take even more years.

Further, the WOWSC’s ever-increasing law firm debt is completely “off the books.” Neither its customers nor its lenders are alerted that it exists.²⁶ The Board never voted at any open meeting to authorize the WOWSC to incur law firm debt. The Board never voted at any

²³ By way of example, see entries on June 25, 2020 General Counsel invoice (linked to Gimenez Rebuttal Attachment JG-41), a hard copy of which is attached.

²⁴ Gimenez at 379-81. See also Nelson at 228 – the rate increase was “what we needed to do to meet the agreement of minimal legal payments towards our balances.”

²⁵ Gimenez at 318.

²⁶ Burris at 39-40. Only the Board has this information.

open meeting to authorize the WOWSC to enter into a “minimum portion” payment plan with the law firms. The law firm debt is not reflected on any of the WOWSC’s financial reports.²⁷ The law firm debt is not taken into account for purposes of any of the WOWSC’s internal “metrics” or its loan covenants (if it actually has any).

The WOWSC’s law firm debt may have been as high as \$500,000 by the end of 2020,²⁸ which is more than the company’s then-outstanding debt to institutional lenders. None of the Board’s hearing representatives purported to know how large the law firm debt has become since then, but they confirm that additional debt has continued to accrue and will continue to increase until all litigation pertaining to the 2016 land sale to a sitting director (including litigation the directors are pursuing in their own names) is fully and finally resolved.

The practice of incurring debt for so-called “operating expenses” is widely condemned as the antithesis of prudent management and financial sustainability. Even Grant Rabon, the WOWSC’s expert hired to defend the 2020 rate increase, agrees.²⁹ The harm to the WOWSC and its customers is magnified here by the fact that the outside legal costs contribute nothing to the WOWSC’s provision of water and wastewater services.³⁰

The 2020 rate increase has resulted in the confiscation of the customers’ property. The Board itself acknowledges that the members-customers are the owners of this utility and the assets it operates to provide them with services. As a matter of law and the WOWSC’s governing documents, excess revenues (revenues in excess of costs of service and any needed additions to

²⁷ Gimenez at 336-7.

²⁸ Gimenez at 260-2, 265 & 268.

²⁹ Rabon Rebuttal at 10. Rabon has never reviewed the design for the 2020 rates, however, and therefore is not aware that the accrual of unlimited debt for an indefinite time to cover so-called operating expenses is one of the intended consequences.

³⁰ Burris at 71-2. Water utility funds should not be diverted to uses unrelated to water utility services. AWWA Manual of Water Supply Practices – M54--Edition 2, *Developing Rates for Small Systems*, p. x.

reasonable reserves related to service) are the property of the customers; those funds do not belong to the nonprofit entity that operates the utility.³¹

The WOWSC nonprofit entity is authorized to receive and retain rate revenues only to the extent necessary (i) to pay the costs to provide the water and wastewater services that generate the revenue [Bylaws, Art. 4; I.R.C. § 501(c)(12)] and (ii) to maintain a reasonable reserve fund for system maintenance, operation and replacements [Bylaws, Art. 5 § 1; § 67.008, Tex. Water Code]. The WOWSC is not permitted to accumulate revenues in excess of the reasonable needs of the WOWSC's legitimate business.³² Any such accumulation is considered an overpayment and must be returned to the members-customers who made the overpayment; it cannot be held by the entity.³³

The WOWSC entity holds those revenues as an agent for the customers who own them.³⁴ Those customers have not authorized the Board to take their money and use it for the benefit of a handful of current and former directors who are alleged to have breached duties to them and thereby to have caused them a considerable financial loss. WOWSC expert Grant Rabon could not think of any instance in which that would be in the ratepayers' best interests.³⁵

The inclusion of the 2020 rate increase entirely within base rates applicable to all customers has resulted in unfairness and inequity.³⁶ It requires the 99+% of customers who do

³¹The WOWSC's governing documents require it to operate consistently with I.R.C. Section 501(c)(12)(A) and related federal regulations, rulings and procedures. Bylaws, Art. 4 and Art. 5 § 3 [Ratepayers' Exhibit 27]. Excess revenues are not taxable to the nonprofit entity because they are owned by the customers.

³² Rev. Rul. 72-36.

³³ See, e.g., *Puget Sound Plywood, Inc. v. Commissioner*, 44 T.C. 305, 319 (1965). That is why the WOWSC's governing documents require that excess revenues must be annually returned to, or credited to the accounts of, customers who have during the past year transacted business with the WOWSC, in direct proportion to the amount of business so transacted. Bylaws, Art. 5 §§ 1 & 2 [RX 27]; Rev. Rul. 72-36; § 67.008, Tex. Water Code. In all likelihood, the company would be required by its governing documents to refund any overpayment resulting from the 2020 rate increase, whether or not the Commission ordered a refund.

³⁴ Rev. Rul. 72-36.

³⁵ Rabon at 39.

³⁶ The WOWSC's claim in its Initial Brief that "it is virtually impossible" for the 2020 rates to be unreasonably preferential, prejudicial or discriminatory because it has only one class of customer [Initial Brief at 7] is nonsense. If

not receive legal services at company expense to subsidize the delivery of those valuable benefits for a handful of director-customers. The outside legal costs are brought into existence as a direct result of the WOWSC's provision of legal services for the director-customers. These costs are avoided if the outside legal services are not provided. Appropriate rate setting would alleviate this unfairness and inequity by allocating the outside legal costs to the director-customers who "caused" the costs and receive the benefits of these WOWSC expenditures.³⁷

The 2020 base rate increase is also in direct violation of the WOWSC Tariff, which provides in Section G, paragraph 27:

Other Fees. All services outside the normal scope of utility operations that the Corporation may be compelled to provide at the request of a customer or Member shall be charged to the recipient based on the cost of providing such service.

The provision of hundreds of thousands of dollars in outside legal services to a handful of customers sued in their capacities as current or former directors for unauthorized, illegal or fraudulent dispositions of surplus company property is, at best, a service outside the normal scope of utility operations. The same is true for the provision of tens of thousands of dollars in legal services to a handful of customers who have sued the WOWSC's insurance company to recover insurance benefits to which they claim they are personally entitled.³⁸ The select few customers who are receiving those services insist the WOWSC is compelled to provide them, have requested them and have claimed by written undertakings to be entitled to receive them.³⁹ The WOWSC's cost to provide the outside legal services has been incurred to prevent the recovery of the

a utility could immunize its rates that easily, no utility would ever have more than one class of customer and the statutory prohibition would be surplusage.

³⁷ AWWA Manual M54 at p. 5.

³⁸ The lawsuit against the insurance company is exclusively for the personal financial benefit of the directors/customers who initiated it. The WOWSC takes the position that, as a result of what it now refers to as the "WOWSC's summary judgment" [Initial Brief at 17], none of them can be required to pay over any of the insurance benefits to the company. Gimenez Rebuttal at 19; Gimenez at 315-6.

³⁹ See, e.g., Ratepayers' Exhibits 52 and 53.

WOWSC's surplus land from the director-customer who received it, to prevent the imposition of personal liability on the benefitting director-customer and the handful of directors-customers who approved the transactions and/or to enable the same director-customers to recover insurance proceeds to which they claim they are personally entitled.⁴⁰

The law firms (including WOWSC general counsel Lloyd Gosselink) actively participated in and approved of that plan.⁴¹ They and the directors who acted in concert with them were (and continue to be) the direct beneficiaries of it.

B. The “cash needs” charade was continued before the Commission in an effort to cloak the 2020 rate increase with legitimacy it does not deserve.

When called upon to defend their “cash flow” rate increase in this appeal proceeding, those same directors and the same lawyers falsely represented to the Commission and its Staff that the 2020 rates were designed by TRWA using a “cash needs” methodology. These misrepresentations were presented in the form of filings, sworn testimony and discovery responses. They insisted until two days before the appeal hearing that the TRWA rate analysis determined a new base water rate of \$116.68 per month and that this was the rate they used.⁴² They side-stepped requests for a TRWA rate study that concluded to the rates approved by the Board,⁴³ because they knew there was not one. They manufactured rate calculations and claimed they were attributable to TRWA.⁴⁴ They carefully skirted the details about how the “cash needs” methodology was supposedly applied.⁴⁵ The categories and expense items claimed to have been

⁴⁰ Gimenez at 371-2.

⁴¹ Nelson at 192 & 231.

⁴² Two days before the appeal hearing, Board Secretary-Treasurer Nelson filed an “errata” to his direct testimony in which he testified that the TRWA monthly base rate was \$174.59, rather than \$116.68 as he and the other Board members had insisted since early 2020. Nelson Errata at 7.

⁴³ Mendoza at 549.

⁴⁴ Ratepayers’ Exhibit 41.

⁴⁵ See, e.g., RX 41.

included or considered in the rate analysis were a moving target right up until the time of the hearing.

As explained above, the 2020 rates were not generated by TRWA or by any accepted rate design methodology. The Board's representatives and the WOWSC's appeal lawyers were well-aware of that. There were irregularities with the Board's version of events that raised a few eyebrows among PUC Staff. However, PUC Staff was not expecting that a regulated utility and its sophisticated rate lawyers might try to portray a rate increase as something it was not. Accordingly, PUC Staff accepted these representations and performed their analyses based on the model and cost data the WOWSC provided. In the absence of separate analyses for water and wastewater, PUC Staff used the same 60-40 split the Board claimed TRWA had used.

PUC Staff disallowed the outside legal costs but otherwise recalculated the WOWSC's revenue requirement and recommended rates exactly the way the Board and its lawyers claimed TRWA had done it. PUC Staff's analysis concluded to new base rates lower than the 2019 rates. TRWA reached exactly the same conclusion in February 2020 when, at the Board's request, it generated "cash needs" rates using \$0 for "Legal/Accounting" costs.⁴⁶ Before the 2020 rate increase, the Board used that TRWA analysis to portray to the other members that base rates could be lowered, rather than raised, if the members bringing suit would just stop their efforts to hold the directors accountable.

Ironically, the alleged deficiencies and errors in PUC Staff's analysis and conclusions are the natural and foreseeable consequence of the Board's conscious decision not to implement legitimate "cash needs" rates.

⁴⁶ See Gimenez Rebuttal Attachment JG-39 at page 2 of 6, item 3.c.ii.1. To pressure (and to persuade others to pressure) the plaintiffs to abandon their efforts to hold the directors accountable, the Board had TRWA generate several "what if" scenarios. The scenario with \$0 legal costs generated base rates lower than the then existing base rates.

They have complained that, without regard to the disallowance of the outside legal costs, PUC Staff's recommended rates will not recover TRWA's calculated systemwide revenue requirement. It is now clear, however, that the Board made a conscious decision to adopt a rate increase that was not designed to meet TRWA's systemwide revenue requirement or any other revenue requirement. The Board was aware from the TRWA analysis itself the 2020 rates were inadequate to recoup more than the fixed cost portion of the TRWA's revenue requirement. The Board did not care because, by its calculations, the 2020 rates were adequate to generate \$16,000 to \$18,000 in additional monthly cash flow indefinitely so the Board could continue to pay the "minimum portion" of the outside legal costs and accrue company debt for the rest.

They have complained that PUC Staff's recommended rates are not adequate to recoup the budgeted shortfall for 2020. The 2020 rates, however, were not designed to recoup the budgeted shortfall. Moreover, the Board and its lawyers were less than candid in sworn testimony and discovery responses about the budget for professional fees including the outside legal costs. In truth, the budget of \$250,000 was not based on a "guesstimate" as to what the actual costs were expected to be for the year, guidance from George Burris or any of the other items identified by Nelson in his sworn direct testimony.⁴⁷ The budget was (and continues to be) based on the amounts needed to pay the "monthly minimum" against the ever-increasing total of law firm debt that burdens the WOWSC and its current and future ratepayers.⁴⁸ Had the Board and its lawyers been transparent at the appropriate time in this proceeding, it would have been readily apparent that the 2020 rates were not "cash needs" based.

The Board and its lawyers have complained that Staff's recommended rates do not properly account for costs and revenue requirement associated with varying levels of water usage.

⁴⁷ See Nelson Direct at 7 and 15-6

⁴⁸ Nelson at 267.

PUC Staff member Michael Mendoza commented in his testimony that when a systemwide revenue requirement is used then generally it changes the rates systemwide.⁴⁹ He could not explain why, in those circumstances, the Board decided to implement changes to the base rate only. Mr. Mendoza was clear, however, that the Board made a conscious decision in early 2020 to raise only the base rates and to leave gallonage charges as they were. It is also clear that at least one of the reasons for that Board decision was to give every member-customer a financial incentive to pressure on the member-plaintiffs and the member-requestors to drop their efforts to hold current and former directors accountable.⁵⁰

The effort to portray the 2020 rates as something they are not is not just unethical. It has resulted in an enormous waste of resources and has unduly confused and complicated this proceeding. There is no telling how much time and effort PUC Staff spent to perform a careful and thorough review of the voluminous invoices, pleadings, PIA requests and other materials pertaining to the \$171,337 in “Accounting and Legal” costs and to evaluate whether those costs (or any of them) should be allowed in the rates, when the truth is that none of those costs was included in the 2020 rates. Similarly, PUC Staff spent time and resources to determine the rates the Board should have set using the “cash needs” approach as the Board claims to have applied it, when in truth the Board did not apply the “cash needs” approach at all.

Ratepayers know they spent an enormous amount of time on these matters. They also spent considerable time trying to get straight answers to clear and direct questions such as how much the WOWSC paid for outside legal services in 2019 and certain other years for each of the

⁴⁹ Mendoza at 559.

⁵⁰ See, e.g., Ratepayers’ Exhibit 33, a newsletter to members encouraging them to convince the “small group” to stop the lawsuits, failing in which there would be more rate increases and perhaps even bankruptcy in the WOWSC’s future.

litigation matters at issue. Ratepayers now understand that the obfuscation was intentional, and the confusion it created ramped up the complexity of the appeal proceeding exponentially.

In the course of this appeal, the Board's representatives and its lawyers have been less than candid in other respects that transcend the bounds of zealous advocacy.

The Board represented in filings and discovery that the 2020 rates included additional debt service coverage required by CoBank and/or that the WOWSC was obligated by a loan covenant to maintain a specified debt service coverage ratio. The WOWSC's lawyers filed sworn testimony from Nelson and Gimenez to the effect that such loan covenants existed and that a rate reduction or refund might jeopardize the company's ability to remain in compliance with them.

Both the representations and the sworn testimony were false. The TRWA rate analysis reflects on its face that it did not include additional debt service in the calculated revenue requirement and did not mention any required DSCR.⁵¹ The WOWSC's loan documents with CoBank⁵² do not include any such loan covenants. The WOWSC cannot default on loan covenants that simply do not exist.

According to PUC Staff, a utility's actual debt covenants are critical pieces of information to have when evaluating a rate that includes debt service coverage or the potential impact of a loan covenant that requires the utility to maintain certain financial performance.⁵³ At least two PUC Staff members looked high and low for loan covenants requiring additional debt coverage or a DSCR, but found none.⁵⁴ They asked the WOWSC's lawyers to direct them to the loan covenants, but no one ever cleared that up for them.⁵⁵ One PUC Staff member apparently

⁵¹ The TRWA rate analysis included \$49,882 for debt service, which was greater than the amount reflected on the 2019 year-end financials but exactly the amount Board Secretary-Treasurer Mike Nelson testified was paid in principal and interest for 2019. Nelson Rebuttal at 8-9.

⁵² Gimenez Rebuttal Attachment JG-19.

⁵³ Filarowicz at 458-9.

⁵⁴ Filarowicz at 456-8.

⁵⁵ *Id.*

analyzed the 2020 rates as though the WOWSC was required to maintain a 1.0 DSCR and filed written testimony.⁵⁶ A second PUC Staff member, Mark Filarowicz, performed another analysis based on Nelson's and Gimenez's sworn testimony regarding a 1.1 DSCR requirement and revised the PUC Staff's testimony in that regard. During the hearing, the WOWSC's lawyer represented an entirely different requirement, which also is nonexistent. She pressed Filarowicz to agree that the WOWSC is required by CoBank to maintain a 1.25 DSCR.⁵⁷ Filarowicz asked to be directed to the loan covenant itself, but the lawyer declined to oblige his request.

The Board and its lawyers also represented in filings, sworn testimony and discovery responses that the 2020 rates included additional reserves for anticipated capital expenditures and extraordinary maintenance items during 2020. For purposes of this appeal proceeding, the Board claimed these additional reserve amounts were required in connection with the purchase of a new generator and a new clarifier, repair expenses for a barge, and to fund the WOWSC's share of a water conservation project with LCRA. The Board and its lawyers claimed that the WOWSC's ability to fund the capital projects would be jeopardized if there were a rate reduction or refund.

Those representations were false. The TRWA rate analysis reflects on its face that its revenue requirement did not include any additional reserve amount in its calculated revenue requirement.⁵⁸ Moreover, the truth is that more than $\frac{3}{4}$ of the generator costs were paid before the rate increase, loan proceeds have been earmarked and are readily available for purchase of the clarifier, an insurance payment received in 2019 fully reimbursed the barge repairs with \$17,000

⁵⁶ Filarowicz at 446-7.

⁵⁷ Filarowicz at 455.

⁵⁸ The TRWA improperly included depreciation expense, but this apparently was an error and none of the depreciation amount was earmarked as an addition to reserves. Accordingly, PUC Staff recommended that these revenues be reclassified.

extra cash left over and the Board determined before the rate increase that the WOWSC had cash on hand sufficient to fund the conservation project.

C. The Rates the Board Should Have Set Are Rates At Or Below Those Recommended by PUC Staff.

i. The Outside Legal Costs Were Properly Disallowed.

Ratepayers do not suggest that a utility's outside legal costs may *never* be passed on to its customers. They do not believe PUC Staff member Maxine Gilford suggested that either. The evidence in this proceeding shows, however, that the circumstances in which it may be appropriate to pass on outside legal costs are few and far between. No one knowledgeable has suggested that outside legal costs are properly considered "costs of service" – not even Grant Rabon, the WOWSC's hired expert. Not even Mr. Rabon could think of any other utility that has attempted to recover outside legal costs for civil litigation in its rates.⁵⁹

The circumstances before the Commission in this proceeding do not come anywhere near "appropriate."

a. No evidence of an amount for outside legal costs that meets the basic criteria.

To have outside legal costs included (in whole or in part) in the rates or any other charge the Commission might set in this proceeding, the WOWSC was required to prove that such costs are eligible to be passed on to the customers.⁶⁰ Otherwise, such costs cannot be passed on in the form of rates, surcharges, assessments or any other form.⁶¹

⁵⁹ Rabon at 433.

⁶⁰ Gilford at 542 – 3. As Ms. Gilford explained, among other things expenses must be actually incurred, prudently incurred and reasonable.

⁶¹ *Id.* "Rate" is broadly defined to include essentially any charge to the customers. As discussed below, however, the WOWSC's authority to charge members is prescribed in its governing documents. The WOWSC is not authorized to levy surcharges or assessments.

As Ms. Gilford explained, the Commission requires proof of actual costs in exact amounts that are reasonable, prudent and actually incurred. The legal invoices themselves do not prove any of those matters. At best, they show that lawyers billed the WOWSC in connection with tasks they recorded on timesheets. To further confuse the matter, the invoices do not segregate tasks and costs, by lawsuit or in any other manner.⁶² Lloyd Gosselink apparently did not even maintain “files” for the Double F litigation, for either of the lawsuits the WOWSC filed against the Attorney General or for the lawsuit the directors filed against Allied (the WOWSC’s insurance carrier). If those costs are recorded, they are dispersed throughout the “files” for “General Counsel” or “TOMA Integrity litigation.”

The Board representatives who testified made it abundantly clear that they did not have either the knowledge or the expertise to explain what (if anything) the lawyers did in connection with any given matter, whether any of the legal work was reasonable or appropriate in the circumstances or the cost for services claimed to be compliant. Mr. Gimenez changed his story on the day he testified at the hearing.⁶³ The WOWSC offered no evidence from the lawyers who did the work or from anyone else qualified to speak to these matters.

The WOWSC’s filings, discovery responses and sworn testimony concerning what work was performed for what lawsuit and what costs had been paid for the work were not consistent, with each other or with the supporting documentation. For example, the WOWSC gave a number of different cost figures for outside legal services in 2019, including \$171,337, \$166,583.36 and some unspecified lesser amount. The WOWSC’s records, however, reflect that only \$115,995.88 was paid for outside legal costs in 2019.⁶⁴

⁶² Ratepayers’ Exhibit 51.

⁶³ See Gimenez at 252-6.

⁶⁴ See Ratepayers’ Exhibit 40. When this exhibit was admitted, the WOWSC’s counsel stated that she would offer records of additional payments, if any, under the rule of optional completeness. No such records were ever offered.

The WOWSC was asked in discovery to state the amount paid in 2020 for outside legal services. The WOWSC provided at least 2 different amounts. Its supplemental discovery response served on the eve of the hearing stated that the WOWSC “incurred” \$516,144.92 for outside legal costs in 2020.⁶⁵ Board President Gimenez, who sponsored the response, did not know what that figure included or what amount (if any) had been paid.

As discussed above, the Board’s effort to portray the 2020 rates as “cash needs” rates when they were not has only further complicated this issue and has stymied other parties’ efforts to get to the truth. The WOWSC cannot take advantage of mayhem and confusion to avoid its burden of proof.

b. Conclusive proof that the outside legal costs benefitted only a handful of current and former directors at the expense of the other customers.

The WOWSC acknowledges that the outside legal costs were expended to frustrate the efforts of member-customers, funded exclusively with their own personal resources, to make the company whole for the illegal, fraudulent and unauthorized acts of its directors by requiring those directors to be accountable for what they had done. As a result of the WOWSC’s “victory” in the TOMA Integrity litigation, the company incurred substantial outside legal costs and did not recover its land from the sitting director who acquired it for a fraction of its market value. As a result of the WOWSC’s “victory” in the AG lawsuit, the company has substantial law firm debt it cannot pay and the records it refused to produce are on the internet. If the WOWSC were to “prevail” in the Double F litigation, the company will have substantial law firm debt it does not have resources to pay, will not be reimbursed for any of the outside legal costs by the directors who received the benefit, and will not recover either the land or compensation for its value from the directors who caused the loss.

⁶⁵ Gimenez at 261-4.

There is no rational basis upon which to claim that these outcomes, or the substantial expense to “win” them, benefit the WOWSC or its customers or are in their best interests.⁶⁶ These outcomes benefit no one other than the current and former directors who will retain the improper benefits of valuable land and cost-free legal services while avoiding liability for the consequences of their misconduct. The directors who benefit from a “victory” are, for the most part, the same directors who appropriated company resources and obligated the company for unlimited debt to obtain them.

Moreover, before the TOMA Integrity lawsuit was filed, the Board knew from the company’s own legal counsel that the 2016 land transaction was fraught with violations of the Texas Open Meeting Act and other misconduct.⁶⁷ Nevertheless, the Board spent substantial company resources in an effort to prove otherwise even though they knew it wasn’t true. Before the Double F plaintiffs joined the WOWSC and some of the directors in that litigation, the Board new from the company’s own legal counsel and valuation professional that the 2016 transaction was illegal, fraudulent and unfair and resulted in a loss to the company of more than half a million dollars.⁶⁸ The Board itself determined that the unfairness of the transaction and the circumstances under which it was approved were too egregious to be ignored.⁶⁹ When new directors, including one who was involved in the land deal, got on the Board, however, substantial company resources were used (and continue to be used) in an effort to prove otherwise even though they know it is not true.

⁶⁶ The excuses that have been proffered in the past are fictitious and appear to have now been abandoned. Board President Gimenez insisted in hearing testimony that the WOWSC has taken and continues to take a “neutral stance” in these matters. The testimony is not true, and Mr. Gimenez’s further testimony that the WOWSC has spent \$500,000 or more to take a “neutral stance” is incredible. This change in the Board’s story, however, is acknowledgement that neither the company nor its customers have benefitted from the aggressive opposition funded by the outside legal costs.

⁶⁷ Ratepayers’ Exhibit 6.

⁶⁸ Gimenez Rebuttal Attachment JG-28.

⁶⁹ Meeting minutes

There were no efforts to settle with the member-plaintiffs in 2019 or for some time thereafter. There was a mediation, but the member-plaintiffs were not invited. Instead, in October 2019 the Board made a deal with the director who got the property in 2016 that allowed her to keep it and even transferred additional land to her for no consideration.⁷⁰ This deal could not reasonably have been expected to accomplish anything in the Double F litigation other than to pour fuel on the fire.

These are anything but “routine” or “ordinary” legal matters that arise “in the normal course of business” for a utility. These matters have not been handled in a manner that is “routine” or “ordinary.” The outside legal services procured to manage these matters have been directed by fiduciaries who insist their personal interest in avoiding accountability trump their legal duties to the company or its member-customers. No one could make this stuff up.

It is not surprising that the WOWSC lawyers elected not to provide their expert Grant Rabon with any information about them. Ignorance is not bliss, however, for a party that has the burden of proof.

ii. There is evidence to suggest that PUC Staff’s recalculated revenue requirement may be overstated.

PUC Staff’s recommended base rates are squarely in line with the results of a TRWA “cash needs” analysis, prepared at the Board’s request in early 2020, that omitted all “Accounting & Legal” costs from the revenue requirement. Ratepayers defer to Staff’s expertise on these issues. Ratepayers note, however, that there is evidence to suggest PUC Staff’s recalculated revenue requirement may be overstated.

⁷⁰ Gimenez Rebuttal Attachment JG-23 at pp. 2-8.

The recalculated revenue requirement may include expenses that are not allowable, expenses that are already in the revenue requirement in other categories or expenses that simply do not exist. For example, Staff's revenue requirement includes depreciation expense,⁷¹ which should not be included in a "cash needs" analysis.⁷² The depreciation cost was not included as a proxy for additional reserves. The WOWSC had a cash reserve for capital expenditures of approximately \$42,000 at the end of 2019.⁷³ This exceeded the 10% maximum for purposes of Rule 24.34(c)(E).

Staff's revenue requirement includes – in the "Repairs and Maintenance" category -- more than \$42,000 in barge repair expense that was fully reimbursed (and then some) during 2019.⁷⁴ As Ratepayers understand it, reimbursed costs should be excluded.

Staff's revenue requirement includes a number of cost categories that are subsumed within the monthly compensation to Water Management for "routine operation and regulatory duties," which is accounted for in the revenue requirement as "Contract Labor."⁷⁵ The payment to Water Management includes "all payments to . . . billing subcontractors."⁷⁶ According to Mr. Burris, the "billing subcontractor" cost includes all costs for billing and collection, office operations and telephone and membership services.⁷⁷ These expenses are identified in the recalculated revenue requirement as Office Expenses Billing, Office Supplies, Telephone and Postage and Freight, and

⁷¹ Gilford Direct Attachment MG-3.

⁷² Filarowicz at 461-2.

⁷³ The WOWSC had a separate maintenance reserve in excess of \$60,000 at the end of 2019. See Nelson Direct Attachment MN-3, p. 1.

⁷⁴ Gilford Direct Attachment MG-3. The \$71,060 for Repairs and Maintenance includes \$42,747 for barge repairs. Nelson Direct Attachment MN-3, p. 8. In 2019, the WOWSC received a \$59,855.84 insurance payment that more than reimbursed this expense. Nelson Direct at 12.

⁷⁵ Nelson Direct at 9.

⁷⁶ Burris Direct Attachment GB-1.

⁷⁷ Burris Direct at 5.

perhaps in other categories. As Ratepayers understand it, costs should be included in the revenue requirement only once.

III. The WOWSC’s “financial integrity” is not in jeopardy; to the extent the WOWSC’s financial condition may be harmed by just and reasonable rates and/or refunds of overcharges, that is directly attributable to Board mismanagement.

The WOWSC’s Initial Brief misconstrues the “financial integrity” standard. That standard is not applied as a license to supplant just and reasonable rates; rather, it is a means by which to achieve them.

i. The “financial integrity” standard is very high.

The requirement that a utility be able to maintain its financial integrity is part and parcel of the “just and reasonable rate” analysis. As the court of appeals explained in *Gulf States Utilities Co. v. Coalition of Cities for Affordable Utility Rates*, 883 S.W.2d 739, 749 (Tex. App. - Austin 1994), *rev’d on other grounds sub nom., Gulf States Utilities Co. v. Public Utility Com’n of Texas*, 947 S.W.2d 887 (Tex. 1997):

A utility is unquestionably entitled to recover rates that will enable it to operate successfully, to maintain its financial integrity, to attract capital, and to compensate investors for the risk assumed. However, the utility’s fiscal security is assured only through proof that it has prudently invested those monies that it seeks to recover from the public.

While the Commission has limited authority to make temporary accommodations if it determines that a utility’s financial integrity will be jeopardized without them, the standard is quite high. In connection with the utility’s application for deferred accounting treatment of certain expenses during the “regulatory lag” period pending a formal ratemaking, the Commission articulated the standard as follows:

1. Whether the company’s current financial integrity is *so fragile that it would not have access to the capital markets on reasonable terms* unless it is allowed to continue to accrue AFUDC and defer the expenses associated with a new plant

during the period of operation before rates are in effect that reflect the cost of the plant.

Office of Public Utility Counsel v. Public Utility Com'n of Texas, 888 S.W.2d 804, 809 (Tex. 1994) (emphasis added). The utility had also urged before the Commission that deferred accounting treatment could be allowed if the company's financial condition would be "measurably harmed" during the deferral period. The Texas Supreme Court specifically rejected the lower "measurable harm" standard and determined that for the Commission to authorize interim deferred accounting treatment on that basis would be an abuse of discretion.

The Supreme Court also emphasized that the "financial integrity" standard is not applied to relax or avoid traditional ratemaking criteria. The Court noted that "the Commission's final order approving deferred accounting treatment explicitly provides that the deferred costs will be subject to review at a subsequent rate hearing and will be included in the rate base only to the extent that they are prudent, reasonable and necessary and are related to property that is used and useful in providing service." *Id.* at 808.

Finally, the Water Code does not require the Commission to fix overall revenues at a level that will preserve the financial integrity of a utility when its fiduciaries have irresponsibly managed its finances.⁷⁸

ii. The WOWSC has not met the "financial integrity" standard.

The WOWSC has not met its burden of proof under the "financial integrity" standard. Indeed, the evidence here would not meet the lower "measurable harm" standard.

The CoBank Loans.

⁷⁸ *Order on Application of Deer Creek Ranch Water Co., LLC.*, TCEQ Docket No. 2009-0929-UCR at pp. 30-1.

The Board does not credibly contend the WOWSC cannot pay its debt service. As discussed above, the Board suggests the WOWSC may be unable to fulfill loan covenants it claims require additional debt coverage and/or the maintenance of a specified debt service coverage ratio (“DSCR”) or may not be able to draw loan proceeds needed for capital projects.

The loan documents for the three CoBank loans are in evidence and they are the best evidence of the terms of those loans.⁷⁹ These documents reflect that the WOWSC has received approval for the loans the Board considers necessary for its capital projects and that the loans either have been funded or must be funded in the future upon the company’s presentation of a draw request. These include the \$300,000 loan for the clarifier and funds for other capital projects discussed by Board representatives.

None of these loans permit CoBank to withhold advances of loan proceeds in the event of a rate decrease or a refund order. None of these loans permit CoBank to declare a default in the event of a rate decrease or a refund order. Since the Commission clearly has jurisdiction and authority to set lower rates and to order refunds in a rate appeal such as this one, it would have been imprudent at best for the Board to have procured a loan for which those events might constitute an event of default or otherwise impair the availability of the credit. Apart from that, the Board itself insisted when it approved the rate increase that it intended to lower the rates, perhaps as early as September 2020.

As discussed, there are no “additional debt coverage” or “debt service coverage ratio” covenants in these loan documents.⁸⁰

⁷⁹ Gimenez Rebuttal Attachment JG-19.

⁸⁰ If such covenants existed, the WOWSC’s accrual of substantial law firm debt would likely have violated them long ago.

This record is devoid of any evidence that the Commission's setting of lower rates or ordering of some form of refund in this appeal will impact the CoBank loans in any way. CoBank has specifically prohibited the company's use of loan proceeds to pay outside legal costs for any of the litigation matters or any other purpose. CoBank clearly is already well aware of the Directors' legal difficulties and the burden their burgeoning outside legal costs have placed (and continue to place) on the company.

Payment of Outside Legal Costs

The WOWSC clearly has no duty to prevent current and future directors from being held liable for the consequences of their acts and omissions as fiduciaries. It is hard to imagine a worse public policy, and this case illustrates why that is so. Even Mr. Rabon can appreciate this.⁸¹

The WOWSC has no duty even to provide legal services for current and future directors who are named as parties in litigation.

The WOWSC does have a duty to operate and maintain the member-customers' facilities to provide them with safe and adequate drinking water and wastewater service. The WOWSC does have a duty to prudently and faithfully manage the funds and other resources it holds in trust. This is the WOWSC's legitimate business. Even Mr. Rabon could not think of anything that should have higher priority for a board of directors than making sure the company fulfills these duties.⁸²

This record contains no evidence to suggest that the WOWSC's legitimate interests cannot be adequately represented in the Double F litigation with a modest amount of resources. According to Mr. Gimenez, the company is "neutral" regarding this case.

To the extent the WOWSC does not have sufficient surplus resources to provide reasonable legal services for current and former directors, its governing documents prohibit the Board from

⁸¹ Rabon at 393.

⁸² Rabon at 398.

authorizing such expenditures. Any discretionary decision to the contrary is beyond the Board's authority and beyond the corporate powers. If the Board, in the exercise of prudence and care consistent with the directors' duties, determines that surplus funds are available and that the expenditures would benefit all of its customers, then consideration could be given to reasonable advances; provided, however, that the director-customers who receive them must bear the cost.

The accrual of debt to law firms on the company's credit in these circumstances is beyond the corporate purposes and beyond the Board's authority. Everyone who deals with the WOWSC is on notice of the limitations on the power of the company and the authority of its directors as set forth in its governing documents, particularly the WOWSC's general counsel. Further, it is hard to imagine that the law firms who participated in a rate fraud to get their invoices paid would be anxious to pursue debt collection efforts against the utility they defrauded.

IV. THE COMMISSION SHOULD NOT REQUIRE RATEPAYERS TO PAY FEES BILLED BY LLOYD GOSSELINK OR GRANT RABON OR ANY OTHER EXPENSE INCURRED BY WOWSC FOR THIS APPEAL.

The 2020 rate increase was not an unintentional overcharge by people who thought they were doing the right thing. The 2020 rate increase was designed and implemented by fiduciaries – including directors and attorneys -- who sought to thwart efforts by their principals to hold them accountable at the expense of those very principals. To that end, the fiduciaries implemented a rate increase to pass on the “minimum portion” of the expense. They have caused the WOWSC to accrue debt for the larger and ever-increasing remainder, and now insist that this debt has been passed on to the ratepayers as well.

These fiduciaries have not been honest or transparent with the customers or the Commission about what they did or what has happened as a result. The level of their deception transcends the

bounds of zealous advocacy. PUC Staff did not expect that, but they were not taken in. Staff has recommended that much lower base rates are just and reasonable for the WOWSC.

The Commission has discretion to require the customers to pay the costs incurred by the utility in an appeal proceeding. The Commission should not exercise its discretion so as to punish the WOWSC customers for pursuing the only regulatory remedy they have in these circumstances.

Maxine Gilford, who addressed this topic for PUC Staff, has not been involved in any other proceeding with a water supply corporation. She is not familiar with the standards for the exercise of discretion regarding appeal case expenses. She is familiar with utilities that cannot implement a rate change without filing a rate case and having the proposed rate vetted by the Commission. She knows that in rate cases the Commission is required to make adequate provision for reasonable rate case expenses to be passed on to customers. She agreed that this appeal is a fundamentally different proceeding.

Ms. Gilford agreed that the filing of a rate case, the Commission's vetting process, the requirement for bonded rates, the requirement for refund and other protections inherent in the rate case process provide substantial benefits to ratepayers.⁸³ She opined that this appeal provides benefits to the ratepayers because the rates will be lowered as a result.⁸⁴ She acknowledged, however, the none of the WOWSC's appeal case expenses have been incurred for the purpose of lowering the rates. She could not identify any activity by the company or its lawyers in the appeal proceeding that she believes has been for the benefit or in the best interests of the ratepayers.⁸⁵

Ms. Gilford also opined that, as a general matter, ratepayers shouldn't be required to cover expenses incurred to prevent management from being held liable for the consequences of its bad

⁸³ Gilford at 475-9.

⁸⁴ Gilford at 488-9.

⁸⁵ Gilford at 494.

acts.⁸⁶ That is particularly true when management's bad acts are directed to the customers it is obligated to serve.⁸⁷ She also opined that a general practice in the utility industry is that the cost of providing special services is recovered from the customers who received the benefit.⁸⁸

Ms. Gilford is correct that the WOWSC's Board representatives, lawyers and consultants are not here to lower the rates. The 2020 rate increase benefits the Board representatives (whose outside legal costs are borne by the other customers) and the WOWSC's lawyers (whose fees are being at least partially paid), and they have a vested personal interest in seeing that the rates remain in place. That does not benefit the WOWSC's customers.

To that end, the Board representatives and their lawyers have been neither candid nor transparent in this proceeding. They have sponsored filings, sworn testimony and discovery responses that were, at best, misleading and in some instances false. They have misled witnesses and mischaracterized evidence.

They engaged an "expert" named Grant Rabon to opine that the outside legal costs are allowable, and he did that. However, Rabon could not identify an instance in which any utility had included outside legal costs in rates. Unlike Ms. Gilford, Rabon made no investigation whatsoever of these costs or the matters to which they pertained. He opined that the costs were incurred prudently and in the ordinary course of business, but he knows nothing about them. Because the lawyers told him nothing about the litigation matters or the legal costs, Mr. Rabon was able to testify that he was not aware of any information to suggest there were not allowable. Rabon made no review of the TRWA rate analysis or of the outside legal costs that were included in the revenue requirement.

⁸⁶ Gilford at 536.

⁸⁷ Gilford at 511.

⁸⁸ Gilford at 544.

Some of these activities are likely unethical and none of them benefit the ratepayers, the Commission or the integrity of the appeal process. These circumstances clearly do not warrant an exercise of discretion to tax appeal proceeding expenses against the WOWSC's customers.

Respectfully Submitted,

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Attorneys for Ratepayers

Certificate of Service

I hereby certify that, unless otherwise ordered by the Presiding Officer, notice of this filing was provided to all parties of record via electronic mail on December 30, 2021.

/s/ Kathryn E. Allen

ATTACHMENT #1

February 27, 2020

Windermere Oaks Water Supply Corporation
Attn Joe Gimenez
Board President
424 Coventry Road
Spicewood, TX 78669

Invoice: 97507116
Client: 3870
Matter: 0
Billing Attorney: MAG

INVOICE SUMMARY

For professional services and disbursements rendered through January 31, 2020:

RE: General Counsel

Professional Services	\$ 9,127.00
Total Disbursements	<u>\$.00</u>
TOTAL THIS INVOICE	\$ 9,127.00

Lloyd Gosselink Rochelle & Townsend, P.C.

Windermere Oaks Water Supply Corporation
General Counsel
I.D.3870-0-MAG

February 27, 2020
Invoice: 97507116

PROFESSIONAL SERVICES RENDERED

Date	Atty	Description Of Services Rendered	Hours
1/02/20	MAG	Review correspondence and follow up with J. de la Fuente regarding options.	.30
1/07/20	JTB	Review of client correspondence with TRWA counsel regarding special assessment; review of tariff and Water Code provisions regarding same.	1.30
1/08/20	JTB	Continue review of tariff and PUC regulations regarding rate increase process and requirements for WSC.	1.40
1/10/20	JTB	Conference call with J. de la Fuente and client regarding draft agenda and related issues; review tariff and business organizations code in preparation for same; draft edits to agenda following call.	1.40
1/15/20	JTB	Phone call with client regarding path forward on special assessment and other action items facing board; confer with J. de la Fuente and M. Gershon regarding same; review applicable laws and regulations and TRWA guidance for special assessments; correspondence with J. Smith at TRWA regarding same.	4.00
1/16/20	MAG	No Charge - Office conference with Board agenda.	.20
1/16/20	JEF	Review issues relating to meeting agenda and plan for same.	.20
1/16/20	JTB	Review and revise agenda for upcoming meeting; confer with J. de la Fuente regarding pending client issues; continue research on special assessment and rate increase requirements.	2.30
1/17/20	JEF	Follow up on communications with Attorney General.	.20
1/17/20	JTB	Phone call with J. Smith with TRWA regarding pending issues before WOWSC, path forward, and upcoming meeting with WOWSC manager and Board members; draft outline of guidance for client regarding same.	1.30
1/17/20	AAC	Review and respond to correspondence from Attorney General's Office regarding PIA appeal.	.20
1/20/20	JEF	Review and comment on draft agenda.	.20
1/21/20	JEF	Work on topics to address at executive session.	.30
1/21/20	JTB	Conference call with Board President, Treasurer, Manager and TRWA representative regarding WOWSC financial state and path forward; preparation for same; work session with J. de la Fuente regarding same and addressing other pending client matters.	2.20
1/21/20	AAC	Case file management; review files for correspondence from M. Zeppa.	.20
1/22/20	JTB	Review of WOWSC tariff; review PUC regulations regarding rate approval; phone call with client regarding same.	1.50
1/22/20	AAC	Search client DMS folders for information regarding M. Zeppa's prior correspondence; email litigation team regarding same.	.50
1/23/20	MAG	Work with D. Norton and conference call with G. Burriss and D. Norton regarding decommissioning of old plant and related regulatory compliance liability-limiting options.	.50
1/23/20	JTB	Review Tariff regarding rate amendment process and requirements; review PUC rules regarding WSC tariff revision and required notice; phone call to client	2.30

Lloyd Gosselink Rochelle & Townsend, P.C.

Windermere Oaks Water Supply Corporation
General Counsel
I.D.3870-0-MAG

February 27, 2020
Invoice: 97507116

Date	Atty	Description Of Services Rendered	Hours
		regarding same.	
1/24/20	MAG	Work on litigants' request/demand for opportunity to make PP presentation, in light of new statutory law under Texas Open Meetings Act.	.20
1/24/20	JEF	Review proposed agenda item from plaintiffs and comment on same.	.30
1/24/20	JEF	Follow up with Attorney General on documents.	.30
1/24/20	JTB	Review Chapter 22 of the Business Organizations Code, WOWSC Bylaws, and applicable Attorney General opinions regarding ability of WSC members to demand items be placed on membership meetings.	1.80
1/24/20	JTB	No Charge - Review Chapter 22 of the Business Organizations Code, WOWSC Bylaws, and applicable Attorney General opinions regarding ability of WSC members to demand items be placed on membership meetings.	1.00
1/24/20	AAC	Coordinate with litigation practice group regarding documents for AG appeal; email documents to opposing counsel.	.60
1/27/20	JTB	Review state law and Bylaws and Tariff regarding membership fees and amendment process; draft email to client relaying same and suggested path forward; review draft agenda and edits thereto; confer with J. de la Fuente regarding same.	1.80
1/28/20	JTB	Revise and edit draft agendas for annual member and Director meetings; revisions to member correspondence from litigation subcommittee; confer with J. de la Fuente regarding same; phone calls with client regarding same.	3.40
1/28/20	JTB	No Charge - Revise and edit draft agendas for annual member and director meetings; revisions to member correspondence from litigation subcommittee; confer with J. de la Fuente regarding same; phone calls with client regarding same.	1.00
1/29/20	JEF	Review response regarding agenda items at member meeting.	.30
1/29/20	JTB	Review member correspondence regarding requested agenda item; confer with client and J. de la Fuente regarding same; phone calls with client to discuss member vote and ballots at upcoming meeting.	1.10
1/30/20	JTB	Review client and member correspondence regarding status of lawsuit and claims against WOWSC; confer with J. de la Fuente on appropriate response.	1.30
2/05/20	MAG	Strategy/work session with J. de la Fuente and T. Brewer.	1.00
2/07/20	JEF	Revise and comment on agenda.	.30
2/18/20	JEF	Review invoices and confer with AG regarding same; email to client regarding same.	.50

TOTAL PROFESSIONAL SERVICES

\$ 9,127.00

SUMMARY OF PROFESSIONAL SERVICES

Name	Staff Level	Rate	Hours	Amount	N/C Hr	N/C \$
Michael A Gershon	Principal	320.00	2.00	640.00	.20	64.00
Jose E de la Fuente	Principal	320.00	2.60	832.00	.00	.00
J Troupe Brewer	Associate	275.00	27.10	7,452.50	2.00	600.00
Audrey A Cooper	Paralegal	135.00	1.50	202.50	.00	.00

Lloyd Gosselink Rochelle & Townsend, P.C.

Windermere Oaks Water Supply Corporation
General Counsel
I.D.3870-0-MAG

February 27, 2020
Invoice: 97507116

TOTALS	33.20	\$ 9,127.00	2.20	\$ 664.00
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TOTAL THIS INVOICE **\$ 9,127.00**

ATTACHMENT #2

March 30, 2020

Windermere Oaks Water Supply Corporation
Attn Joe Gimenez
Board President
424 Coventry Road
Spicewood, TX 78669

Invoice: 97508229
Client: 3870
Matter: 0
Billing Attorney: MAG

INVOICE SUMMARY

For professional services and disbursements rendered through February 29, 2020:

RE: General Counsel

Professional Services	\$ 12,163.00
Total Disbursements	<u>\$.00</u>
TOTAL THIS INVOICE	\$ 12,163.00

Lloyd Gosselink Rochelle & Townsend, P.C.

Windermere Oaks Water Supply Corporation
General Counsel
I.D.3870-0-MAG

March 30, 2020
Invoice: 97508229

PROFESSIONAL SERVICES RENDERED

Date	Atty	Description Of Services Rendered	Hours
2/01/20	JTB	Attend WOWSC Annual Members and Directors meetings; travel to and from Spicewood; preparation for same.	5.50
2/03/20	JTB	Review and edit draft correspondence to members regarding rate increase; review WOWSC Tariff regarding required customer notice; confer with client regarding same; review POA architectural requirements regarding issue of compliance for new generator and infrastructure; review of state law and regulations regarding same and required setbacks for such facilities; draft release non admission document for J. Grissom regarding resolution of dispute over grinder pump.	4.10
2/04/20	JTB	Review draft of customer notice regarding rate increase; draft revisions thereto and email same to client for review; phone calls with client regarding same; review J. de la Fuente draft of response points to TOMA integrity email and video; review of Burnet County property records regarding easement recording issue with G. Marwieh; review POA architectural guidelines document for purposes of same.	3.80
2/05/20	JTB	Review draft documents provided by client regarding rate increase; phone calls with client regarding same.	1.10
2/06/20	JTB	Continued work on draft member correspondence regarding rate increase; work on response points to TOMA Integrity email to members and associated video; draft email to client regarding same; continued review of POA restrictions and guidelines review regarding WOWSC easement issue; search Burnet County property records for purposes of same.	2.50
2/10/20	JTB	Review insurance counsel proposal and related correspondence from client.	.80
2/10/20	AAC	Case file management; calendar PIA requests for 10 business day deadline.	.20
2/11/20	JEF	Review and edit letter regarding rate change; work on response letter regarding recent plaintiff actions; prepare for upcoming executive session; review items regarding real property analysis.	.80
2/11/20	JTB	Continue work on member correspondence drafts and rate increase resolution; prepare for board meeting; participate in executive session by conference call.	3.50
2/11/20	AAC	Review tariff and bylaws for information regarding rate changes; research chapter 67 of the Texas Water Code for rate change provisions; case file management.	.80
2/12/20	JEF	Follow up on meeting control issues.	.20
2/12/20	JTB	Draft settlement and release document for grinder pump issue; review Texas Government Code provisions and AG opinions regarding intimidating conduct at public meetings under open meetings act; email correspondence and phone calls with client regarding same.	3.40
2/13/20	JEF	Emails with assistant AG regarding potential for settlement.	.20
2/13/20	JTB	Continue work on draft settlement agreement and mutual release.	1.80
2/14/20	JTB	Email correspondence with client regarding pending PIA requests; review requests and potentially responsive documents.	1.40
2/17/20	JTB	Research District documents and applicable law and regulation regarding invalid	2.50

Lloyd Gosselink Rochelle & Townsend, P.C.

Windermere Oaks Water Supply Corporation
General Counsel
I.D.3870-0-MAG

March 30, 2020
Invoice: 97508229

Date	Atty	Description Of Services Rendered	Hours
		memberships and false representation of membership to WSC; phone call with client regarding same and other outstanding WSC action items; work on PUC filing for newly revised tariff.	
2/18/20	JTB	Review, edit, and comment on FAQ document for WOWSC website; phone calls with client regarding same.	1.70
2/18/20	KWM	Office conference with J. de la Fuente regarding PIA request for upcoming phone call with D. Gordon.	.30
2/18/20	AAC	Case file management.	.30
2/19/20	MAG	Work with D. Norton on next steps.	.10
2/19/20	DCN	Work regarding decommissioned wastewater treatment facilities; review and follow up regarding document forward by client.	1.00
2/19/20	AAC	Case file management.	.10
2/20/20	JTB	Continue work on draft settlement and mutual release.	1.20
2/24/20	JTB	Work on chapter 22 ratification outline; continued research on issue of illegal tap and voting without membership;	2.70
2/26/20	JTB	Research regarding open meeting requirements and ability to record private meeting; research Aqua Texas utility rates and issues in light of upcoming meeting between members and Aqua TX.	2.50
2/26/20	AAC	Case file management.	.10
2/27/20	JTB	Phone call with client; search Texas Comptroller online database and Burnet County records regarding Paradise City Holdings, LLC.	1.80

TOTAL PROFESSIONAL SERVICES

\$ 12,163.00

SUMMARY OF PROFESSIONAL SERVICES

Name	Staff Level	Hours	Rate	Total
Michael A Gershon	Principal	.10	320.00	32.00
Duncan C Norton	Principal	1.00	420.00	420.00
Jose E de la Fuente	Principal	1.20	320.00	384.00
J Troupe Brewer	Principal	40.30	275.00	11,082.50
Karen W Mallios	Litigation Support Specia	.30	140.00	42.00
Audrey A Cooper	Paralegal	1.50	135.00	202.50
TOTALS		44.40		\$ 12,163.00

TOTAL THIS INVOICE

\$ 12,163.00

ATTACHMENT #3

Lloyd Gosselink Rochelle & Townsend, P.C.

Windermere Oaks Water Supply Corporation
General Counsel
I.D.3870-0-MAG

April 29, 2020
Invoice: 97509686

PROFESSIONAL SERVICES RENDERED

Date	Atty	Description Of Services Rendered	Hours
3/09/20	JEF	Edit member communication.	.40
3/09/20	JTB	Review client correspondence regarding Aqua Texas meeting and circulating to members third-party information; review and edit to proposed member communication regarding same; research Aqua Texas presence in central Texas.	3.00
3/10/20	JTB	Continue review of draft client correspondence; edits to same and review correspondence regarding same; review documents from previous Board meetings regarding rates and ongoing litigation.	2.50
3/13/20	JEF	Email with client regarding media process.	.30
3/16/20	JTB	Review TOMA integrity Inc information to develop response points; email correspondence with client regarding same.	1.60
3/24/20	JEF	Review proposed briefing schedule, email to client regarding same; email to opposing counsel regarding suggested revisions to same.	.40
3/24/20	JTB	Review proposed Rule 11 Agreement from Attorney General staff; phone call with J. de la Fuente to discuss same and proposed amendments thereto.	.50
3/24/20	CCR	Prepare advisory regarding COVID-19, including agency rule exceptions and recommendations.	1.40
3/27/20	CCR	Update advisory regarding COVID-19, including agency guidelines, rule exceptions and other orders regarding declared state of disaster.	1.00
3/31/20	AAC	Case management.	.10

TOTAL PROFESSIONAL SERVICES

\$ 3,007.50

SUMMARY OF PROFESSIONAL SERVICES

Name	Staff Level	Hours	Rate	Total
Jose E de la Fuente	Principal	1.10	320.00	352.00
J Troupe Brewer	Principal	7.60	275.00	2,090.00
Christian Cole Ruiz	Associate	2.40	230.00	552.00
Audrey A Cooper	Paralegal	.10	135.00	13.50
TOTALS		11.20		\$ 3,007.50

TOTAL THIS INVOICE

\$ 3,007.50

ATTACHMENT #4

June 25, 2020

Windermere Oaks Water Supply Corporation
Attn Joe Gimenez
Board President
424 Coventry Road
Spicewood, TX 78669

Invoice: 97511190
Client: 3870
Matter: 0
Billing Attorney: MAG

INVOICE SUMMARY

For professional services and disbursements rendered through May 31, 2020:

RE: General Counsel

Professional Services	\$ 15,075.50
Total Disbursements	<u>\$ 20.00</u>
TOTAL THIS INVOICE	\$ 15,095.50

Lloyd Gosselink Rochelle & Townsend, P.C.

Windermere Oaks Water Supply Corporation
General Counsel
I.D.3870-0-MAG

June 25, 2020
Invoice: 97511190

PROFESSIONAL SERVICES RENDERED

Date	Atty	Description Of Services Rendered	Hours
5/01/20	JTB	Phone calls with client regarding PUC Appeal, AG suit, upcoming Board meeting, and other recent developments; review PUC Order setting schedule for WOWSC response to appeal; review proposed settlement from AG and additional authorized redactions to legal bills subject of D. Flunker PIA request; confer with J. de la Fuente regarding same and path forward for client.	3.80
5/02/20	JTB	Continue review of proposed additional redactions to be authorized by AG; email correspondence with J. de la Fuente regarding same and recommended path forward for client.	.80
5/04/20	JTB	Finalize 10 day AG notice for request for determination regarding Flunker PIA request for privileged information; review PIA request filed by D. Flunker on 5/4/2020 and client correspondence related to same; review provisions of the Texas Government Code regarding redundant and repetitious requests; draft email to client to advise on path forward.	1.60
5/04/20	JTB	Work on AG brief outline for latest Flunker request; review previous filing for purposes of same; review tariff provisions regarding non-payment of bills following indications from members that such non-payment could be forthcoming.	1.30
5/04/20	AAC	Draft 10 day Office of the Attorney General request for decision on April 24th PIA request from D. Flunker; review and prepare all attachments for filing; forward draft request for decision to J. Brewer.	.80
5/05/20	JTB	Work on Flunker 10 day notification letter to AG; review briefing for previous PIA request for attorney invoices; begin work on brief for current request.	1.80
5/06/20	JTB	Call with D. Taylor and J. Gimenez regarding Monday board meeting by teleconference; draft edits to notice document following same; finalize Flunker 10 day AG notice.	1.60
5/06/20	AAC	Case management.	.20
5/07/20	JEF	Work on draft notice and agenda for executive session items.	.20
5/07/20	JTB	Finalize agenda for upcoming board meeting; phone call with client regarding same; review J. de la Fuente edits to same; review AG e-filing system and finalize notice for request for determination on Flunker 4.24.2020 PIA request; work on brief to AG regarding same.	1.80
5/07/20	AAC	Phone call with Attorney General Open Records Division regarding filing procedure during COVID-19; verify filing method and prepare letter and exhibits for filing; discussion with J. Brewer regarding filing of request for decision and client action items.	1.30
5/08/20	MAG	Follow up on Governor's and PUC's disaster-related orders, WWTP matter, TOMA, and rate matters, and upcoming Board agenda.	.50
5/08/20	JEF	Work on advice to client regarding utility billing dispute issues; work on meeting notice/agenda.	.50
5/08/20	JTB	Multiple calls with client regarding upcoming board meeting by Zoom, agenda for	3.20

Lloyd Gosselink Rochelle & Townsend, P.C.

Windermere Oaks Water Supply Corporation
General Counsel
I.D.3870-0-MAG

June 25, 2020
Invoice: 97511190

Date	Atty	Description Of Services Rendered	Hours
		same, and pending issues and action items; finalize notice and agenda document; internal correspondence regarding same; work session with J. de la Fuente and D. Klein to develop cost estimate and strategy moving forward for PUC rate appeal; ensure filing of AG request for determination for D. Flunker PIA request; work on brief regarding same.	
5/08/20	DJK	Phone conference with T. Brewer and J. de la Fuente regarding case strategy.	.50
5/08/20	CCR	Provide PUC guidance regarding service disconnects under current state of emergency rule exceptions to T. Brewer, J. De la fuente, and M. Gershon.	1.20
5/08/20	AAC	Final substantive review of 10 day Attorney General request for decision filing; e-file request for decision and forward confirmation to J. Brewer; review insurance policy records for client for Directors and Officers coverage.	1.50
5/11/20	JTB	WOWSC Board meeting and Executive Session; preparation for same; work on brief to the OAG regarding D. Flunker PIA request.	4.50
5/12/20	JTB	Work on Flunker 15 Day brief to AG; review Governor's proclamation regarding extension of disaster declaration; email to client regarding same.	1.70
5/13/20	MAG	Address pending TPIA request.	.30
5/13/20	JTB	Continue work on brief to AG regarding D. Flunker PIA request.	1.10
5/13/20	AAC	Pull and review responsive documents for April 24 PIA request from D. Flunker; bates number exhibits and prepare attachments for 15 day Attorney General brief; forward documents to J. Brewer; review correspondence from client regarding May 4 PIA request.	1.80
5/14/20	JTB	Draft and finalize brief to OAG regarding Flunker PIA request for attorney bills; email correspondence with J. de la Fuente and A. Cooper regarding same; prepare same for filing.	3.60
5/15/20	JEF	Work on public information act briefing and potential settlement.	.40
5/15/20	JTB	Assist client in finalizing agenda for upcoming meeting; finalize and file brief with the Attorney General regarding D. Flunker PIA request for invoices for legal services; email correspondence with Requestor, client, J. de la Fuente, and A. Cooper regarding same.	3.50
5/15/20	AAC	Prepare 15 day brief for filing with the Attorney General's Office; pull and label exhibits for filing with brief; substantive review of letter brief in preparation for filing; correspondence with J. Brewer and J. de la Fuente regarding brief; e-file 15 day brief and email confirmation to J. Brewer.	2.60
5/16/20	JTB	Email and phone correspondence with client regarding agenda draft and easement issue; review documents prepared by J. Gimenez for presenting to Board and members at upcoming meeting; correspondence regarding same.	2.00
5/18/20	JEF	Review email on settlement terms.	.20
5/18/20	JTB	Review correspondence from assistant Attorney General regarding proposed settlement and path forward regarding appeal and latest Flunker PIA request implicating related issues; internal correspondence regarding same; preparation for Board meeting by Zoom video conference.	1.20
5/19/20	JTB	Review audio files from 5/11 meeting to assist D. Taylor edit and finalize draft	4.30

Lloyd Gosselink Rochelle & Townsend, P.C.

Windermere Oaks Water Supply Corporation
General Counsel
I.D.3870-0-MAG

June 25, 2020
Invoice: 97511190

Date	Atty	Description Of Services Rendered	Hours
5/20/20	JTB	minutes; phone call with client regarding same; participate in client zoom meeting and executive session; preparation for same; review P. Flunker PIA request. Phone calls with client to discuss issues following Board meeting; review D. Flunker PIA request; review internal files for responsive documents; internal correspondence regarding same; prepare large file transfer to client of public meeting recordings; email correspondence with client regarding potentially responsive documents; review same; review potentially responsive documents pertaining to P. Flunker request.	2.20
5/20/20	AAC	Review May 20 public information act request from D. Flunker and pull responsive documents; review legal invoices for line entries related to removal petition and email J. Brewer regarding same; review May 19 public information act request from P. Flunker; calendar PIA response deadlines.	1.40
5/21/20	JTB	Review invoices to identify responsive information to D. Flunker 5/20/2020 PIA request; internal correspondence regarding same.	.80
5/22/20	DJK	Phone conference with T. Brewer regarding next steps in defense of rate appeal; follow up phone conference with T. Brewer and J. Mauldin regarding the same and case strategy.	.80
5/26/20	JTB	Review client edits to J. Grissom release; edits and finalize same; review correspondence from plaintiff's attorney regarding D. Flunker allegation related to participating in Zoom board meeting.	1.60
5/28/20	JTB	Review draft member correspondence regarding increased rates, PUC appeal, and member messages sent with recent bills; phone calls with client regarding same.	1.60
5/29/20	JTB	Multiple calls with client regarding member correspondence drafts; work session with A. Cooper to determine responsive elements of LG invoices.	1.70
5/29/20	AAC	Phone call with J. Brewer regarding responsive documents for 5/20 PIA request from D. Flunker; review responsive documents and prepare redactions to invoices; case management.	1.00

TOTAL PROFESSIONAL SERVICES**\$ 15,075.50****SUMMARY OF PROFESSIONAL SERVICES**

Name	Staff Level	Hours	Rate	Total
Michael A Gershon	Principal	.80	320.00	256.00
Jose E de la Fuente	Principal	1.30	300.00	390.00
David J Klein	Principal	1.30	295.00	383.50
J Troupe Brewer	Principal	45.70	270.00	12,339.00
Christian Cole Ruiz	Associate	1.20	230.00	276.00
Audrey A Cooper	Paralegal	10.60	135.00	1,431.00
TOTALS		60.90		\$ 15,075.50

Lloyd Gosselink Rochelle & Townsend, P.C.

Windermere Oaks Water Supply Corporation
General Counsel
I.D.3870-0-MAG

June 25, 2020
Invoice: 97511190

DISBURSEMENTS

Date	Description	Amount
5/08/20	Audrey Cooper Check # - 009907079 Filing Fee E-filing fee for 10-day notice with the Office of the Attorney General.	15.00
5/15/20	Audrey Cooper Check # - 009907079 Filing Fee E-filing fee for 15-day brief with the Office of the Attorney General.	5.00

TOTAL DISBURSEMENTS **\$ 20.00**

TOTAL THIS INVOICE **\$ 15,095.50**