



## Filing Receipt

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**SOAH DOCKET NO. 473-20-4071.WS  
PUC DOCKET NO. 50788**

<b>RATEPAYERS APPEAL OF THE</b>	<b>§</b>	<b>BEFORE THE STATE OFFICE</b>
<b>DECISION BY WINDERMERE OAKS</b>	<b>§</b>	
<b>WATER SUPPLY CORPORATION TO</b>	<b>§</b>	<b>OF</b>
<b>CHANGE WATER AND SEWER</b>	<b>§</b>	
<b>RATES</b>	<b>§</b>	<b>ADMINISTRATIVE HEARINGS</b>

**RATEPAYERS’ REPRESENTATIVES FOURTH REQUEST FOR INFORMATION  
TO WINDERMERE OAKS WATER SUPPLY CORPORATION**

THE REPRESENTATIVES OF THE RATEPAYERS OF WINDERMERE OAKS WATER SUPPLY CORPORATION (“Ratepayers”) serve this Fourth Request for Information (“RFI”) on Windermere Oaks Water Supply Corporation (“Windermere” or “WOWSC”) pursuant to 16 TAC §22.144. Ratepayers’ RFIs are set forth on the attachment hereto, which is incorporated herein. Pursuant to SOAH Order No. 23, Windermere’s responses are due 20 business days after receipt of this Request. In all other respects, Windermere’s responses must comply with §22.144(c). Windermere has a continuing duty to supplement its responses as required by §22.144(i).

Respectfully Submitted,

THE LAW OFFICE OF KATHRYN E. ALLEN,  
PLLC  
114 W. 7th St., Suite 1100  
Austin, Texas 78701  
(512) 495-1400 telephone  
(512) 499-0094 fax

/s/ Kathryn E. Allen  
Kathryn E. Allen  
State Bar ID No. 01043100  
*kallen@keallenlaw.com*

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 November 4, 2022.

/s/ Kathryn E. Allen  
Kathryn E. Allen  
State Bar ID No. 01043100  
*kallen@keallenlaw.com*

Attorneys for Ratepayers

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**RATEPAYERS FOURTH REQUEST FOR INFORMATION  
TO WINDERMERE OAKS WATER SUPPLY CORPORATION**

**Definitions and Instructions**

1. “Windermere” refers to Windemere Oaks Water Supply and Sewer Corporation, and its affiliates, subsidiaries, and any person acting or purporting to act on their behalf, including without limitation, attorneys, agents, advisors, investigators, representatives, employees or other persons.

2. Document. The term “document” or “documents” as used herein shall be defined in the broadest sense and shall include any non-identical copies (whether different from the originals because of notes made on such copies or otherwise), of writings of every kind and description, whether inscribed or stored by hand, mechanical, electronic, microfilm, photographic, or other means, including, but not limited to, phonic (such as tape recordings) or visual reproduction of oral statements, conversations or events, and including, but not limited to, correspondence, transcripts, statements, teletype messages, electronic mail (e-mail or email), instant messages, text messages, blackberry or palm pilot messages, internal memoranda, notes, transcriptions, reports (including drafts, preliminary, intermediate and final reports), contracts, agreements, surveys, comparisons, charts, books, pamphlets, bulletins, records, accounts, checks, receipts, bills, minutes, calendar and diary entries, appointment books, time sheets, log sheets, ledgers, compilations, studies, tabulations, tallies, maps, diagrams, drawings, papers, plans, pictures, computer runs, summaries of computer runs, and any translations of any of the foregoing. The term “document” includes all electronically produced, generated, or stored records (including deleted information), including, but not limited to, computer disks (including floppy diskettes, zip disks, CD-ROMs, and hard drives), word processing files, website postings, PDF or tif files, slides, graphic material, tapes, computer databases and other data compilations, spreadsheets, schedules, and for all and each of the foregoing, including all non-identical copies, back-ups, or archival versions of same, whether located on-site or off-site. Designated documents shall be taken to include all attachments and enclosures.

3. Specific Request for Production of Electronically Stored Data and Information. The term “document” includes, and this Request seeks discovery of, data and information that exists or ever existed in electronic or magnetic form, including deleted material. Ratepayers request production of such data and information as follows:

a. Production Format for Electronically Stored Information (ESI). Production of all ESI not specifically addressed below is requested in native file format. Before being produced, all parent-level email and loose-file (non-email) ESI should be de-duplicated across all custodians and shared network drives based on MD5 hash value. Individual email attachments should not be separately de-duplicated. All ESI should be produced with a metadata field listing

all custodians where duplicate documents were found. All ESI documents with any text content should be produced with full extracted text in a corresponding TXT file.

b. Production of Email. Email should be produced in native format as individual, parent level, HTML files, and attachments to emails should sequentially follow their parent emails and be produced in native format as separate files. If any email cannot be produced in native format, such email should be produced in searchable image format, parent emails and their attachments should be produced as separate, contiguous documents. All email metadata should be processed in the Central time zone, and all metadata fields for date sent, time sent, date received, and time received should be converted to the same time zone.

c. Production of Excel™ Spreadsheets. Excel™ spreadsheets should be produced in native format if stored in that manner, and each native file should be named with a document production number as described below. If a spreadsheet contains privileged information, you may produce it as imaged ESI, with the privileged information redacted, provided that you make reasonable efforts in applying page layout settings to maximize document readability. Images of spreadsheets that contain multiple worksheets should be produced with worksheet names indicated in a header or footer. To the extent that print-outs or images of all or part of a spreadsheet were also maintained in the ordinary course of business in static form (e.g., as a pdf attachment), those documents should be produced as images.

d. Production of Database Information. Relevant information from a database should be produced as a report or data table, either in a static image format or in a popular database application, such as an Access™ database.

e. Production of ESI Commentary and Tracked Changes. Microsoft Word, Microsoft Excel, and similar file formats that provide for comments or tracked changes should be produced in a manner in which all comments and tracked changes are preserved, accessible, and viewable in their original color format. Such production may be in native format.

4. Pursuant to 16 TAC § 22.144(h)(4), if the response to any request is voluminous, please provide a detailed index of the voluminous material.

5. Privilege. For each document or item of information withheld under a claim of privilege, Windermere is requested to provide a description that includes the date, the identity of the originator, the identity of all parties to whom the document or item was circulated, the subject matter, the privilege claimed and the basis upon which such privilege is claimed.

6. Pursuant to 16 TAC § 22.144(c)(2), Ratepayers requests that answers to the requests for information be made under oath.

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**RATEPAYERS FOURTH REQUEST FOR INFORMATION  
TO WINDERMERE OAKS WATER SUPPLY CORPORATION  
QUESTIONS 4-1 TO 4-21**

**RATEPAYERS 4-1**

Please reference the hearing testimony of Mike Nelson (Transcript Day 1 at pp. 198-9 & 204-5) that the appealed rates are not the rates that were generated by the TRWA model using Windermere's 2019 financial information. Explain the calculation and identify the financial data (including, without limitation, each component and dollar amount included in the revenue requirement) that was used to develop the appealed rates.

**RATEPAYERS 4-2**

Produce the worksheets and other documents (if any) that reflect the calculation (if any) by which Windermere determined the amount and structure of the appealed rates. This RFI requests, without limitation, the calculation(s), if any, made by the company to determine the exact amount of the appealed rates and how the increase would be allocated among its customers.

**RATEPAYERS 4-3**

Please identify (by category and dollar amount) each cost Windermere determined was or should be attributed to the minimum charges (or base rate) for water and wastewater service, respectively, in connection with its approval of the appealed rates and explain the basis (if any) for each such determination.

**RATEPAYERS 4-4**

Please identify (by category and dollar amount) each cost Windermere determined was or should be attributed to volumetric charges for water and wastewater service, respectively, in connection with its approval of the appealed rates and explain the basis (if any) for each such determination.

**RATEPAYERS 4-5**

Produce all studies and/or analyses conducted at any time pertaining to the characteristics of Windermere's customers through December 31, 2019. This request includes, by way of illustration, information generated in an effort to assess customer service needs and service classifications.

**RATEPAYERS 4-6**

If Windermere contends the appealed rates were set within a range of reasonable cost values, describe in detail the bases (if any) for such contention and produce all calculations, studies and other materials Windermere contends support such contention.

**RATEPAYERS 4-7**

State the exact amount of outside legal costs the appealed rates were designed to recover and the period over which such recovery was expected to occur and explain the basis (if any) on which such amount was determined.

**RATEPAYERS 4-8**

State the amount of additional revenue Windermere has collected to date as a result of the increase reflected in the appealed rates for each month the appealed rates have been in effect.

**RATEPAYERS 4-9**

State the amount invoiced by each law firm providing outside legal services to Windermere for each matter/file for each month since January 1, 2020 through the present.

**RATEPAYERS 4-10**

State the amount Windermere has paid to each law firm for outside legal services for each matter/file in each month since January 1, 2020 through the present.

**RATEPAYERS 4-11**

If Windermere contends its costs for outside legal services are costs of service, explain specifically each service and each customer or category of customer to whom each such service is provided.

**RATEPAYERS 4-12**

Please describe the consideration (if any) Windermere gave prior to the approval of the appealed rates as to whether the appealed rates would recover its costs to provide services equitably from all who receive those services.

**RATEPAYERS 4-13**

For each meter on the system at any time between January 1, 2019 – December 31, 2019;

- a. provide the customer's name and membership number and the address served by the water meter.
- b. provide the water usage each month for each customer and provide the amount charged for water service each month.
- c. provide the customer's name and membership number and the address served by wastewater service.
- d. provide the wastewater charges each month for each customer
- e. identify each address served that was used (in whole or in part) for purposes of operating a business and describe the type of business, if any, that was operated.

- f. identify each address at which water was used for irrigation or other nonresidential purposes and state the amount of water so used in each month.
- g. identify each address at which the property is subject to a restrictive covenant or other restriction that prohibits its use or occupancy as a residence.
- h. identify each address at which service was or ever had been received through a shared meter and/or grinder pump. This request includes, without limitation, apartment houses, manufactured home rental communities, multiple use facilities, and condominiums, as well as “multiple connections
- i. identify each address at which service was or ever had been received through a shared meter and/or grinder pump. This request includes, without limitation, apartment houses, manufactured home rental communities, multiple use facilities, and condominiums, as well as “multiple connections.”
- j. at each service address occupied by one or more tenants, provide the usage and billing records for each month and explain how charges are allocated among the tenants.
- k. at an address having a “T-hanger,” “bus hangar”, or other improvement having multiple spaces suitable for use by one or more tenants, provide the usage and billing records for each month and identify who paid each bill.
- l. identify each customer who was billed gallonage charges for water service in excess of 2,001 gallons and state the amount consumed and the charge.
- m. identify each customer who was billed gallonage charges for wastewater service in excess of 10,000 gallons of water consumed, state the amount consumed and the charge.
- n. state the amount of water consumed by customers within each of the tiers set forth in the Tariff then in effect. For clarity, this request is directed to consumption by customers who were required to pay for service and does not inquire about usage by Windermere itself or any other non-revenue user.
- o. identify each user that consumed water from the system but was not charged the rate(s) set forth in the Tariff then in effect, in

whole or in part, and state the amount consumed by each user and the revenue, if any, generated from such user.

- p. state whether each customer identified on Windermere's membership list paid a membership fee, an equity buy-in fee or both.
- q. Identify each customer and address for a meter on the system for which the meter or grinder pump (if applicable) was not located on the real estate designated to receive service.
- r. Identify each customer and address that receives or is designated to receive non-standard service or master-metered service and provide the usage and billing records for each such customer.

**RATEPAYERS 4-14**

For each month between January 1, 2019 – December 31, 2019:

- a. identify each renter or lessee billed by Windermere and produce the Alternate Billing Agreement executed by the owner in connection with such billing.
- b. identify each customer that received no service and state whether such customer paid the base rate.
- c. identify each customer and address having a residential service connection.
- d. identify each customer and address having a commercial service connection.
- e. identify each customer and address having an industrial service connection.
- f. identify each customer and address for each property Windermere contends is a "residence," i.e., any structure which is being used for human habitation, or on which a business is conducted within a residence that does not require additional water.
- g. identify each customer and address for each property Windermere contends is a "commercial" facility, i.e., any structure or combination of structures at which any business, trade, occupation, profession or other activity is conducted.

**RATEPAYERS 4-15**

Admit that the document attached hereto as Exhibit A is a true and correct copy of an email from Troupe Brewer of Lloyd Gosselink,

Windermere's general counsel, to John DeLuca of CoBank transmitting as an attachment an unsigned opinion letter prepared in connection with a loan to be made by CoBank to Windermere and that the opinion letter was signed and delivered to CoBank without revision shortly thereafter.

**RATEPAYERS 4-16**

Produce all opinion letters provided to CoBank or any other lender by Windermere or its counsel after January 1, 2019.

**RATEPAYERS 4-17**

Admit or Deny

In the link <https://www.youtube.com/watch?v=-8Xah0M1120> (Windermere September 10, 2015 Board Meeting) included in Attachment JG-41 Page 2 of 2 Gimenez Rebuttal testimony beginning at 09:44 a Director states there are Spicewood Airport Hangars sharing sewer service.

**RATEPAYERS 4-18**

Admit or Deny

In the link <https://www.youtube.com/watch?v=-8Xah0M1120> (Windermere September 10, 2015 Board Meeting) included in Attachment JG-41 Page 2 of 2 Gimenez Rebuttal testimony beginning at 16:50 - 17:27 Directors cite to a letter from Windermere Attorney Mark Zeppa stating categorially do not allow for sharing of utility service.



joe.gimenez <1129jjg@gmail.com>

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## WOWSC Opinion of Counsel

5 messages

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**Troupe Brewer** <tbrewer@lglawfirm.com>

Mon, Sep 21, 2020 at 3:28 PM

To: "DeLuca, John" <JDeLuca@cobank.com>

Cc: Joe Gimenez <1129jjg@gmail.com>, Audrey Cooper <acooper@lglawfirm.com>

John,

As promised, please see the attached Opinion of Counsel I was able to finalize today. I'll be visiting our office tomorrow and will be able to print, sign, and send off a hard copy as well. Please let me know which address you'd like me to send it and to who's attention. Thanks John.

Troupe



**TROUPE BREWER**

Principal

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\*\*\*\*ATTENTION TO PUBLIC OFFICIALS AND OFFICIALS WITH OTHER INSTITUTIONS SUBJECT TO THE OPEN MEETINGS ACT \*\*\*\*

A "REPLY TO ALL" OF THIS EMAIL COULD LEAD TO VIOLATIONS OF THE TEXAS OPEN MEETINGS ACT. PLEASE REPLY ONLY TO LEGAL COUNSEL.



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Email: tbrewer@lglawfirm.com

September 21, 2020

CoBank, ACB  
6340 S. Fiddlers Green Circle  
Greenwood Village, CO 80111  
Attention: Water Services Banking Division

Re: \$680,000.00 from CoBank, ACB ("**CoBank**") to Windermere Oaks Water Supply Corporation (the "**Borrower**") – Opinion of Counsel

To Whom It May Concern:

My firm and I have acted as counsel for the Borrower, a nonprofit corporation, in connection with the documentation of the loan(s) described above. In connection with the loan(s), the Borrower has executed and delivered the following documents (collectively, the "**Loan Documents**"):

- Instruction Letter dated July 24, 2020
- Credit Agreement No. 00122964SLA dated as of July 24, 2020
- Single Advance Term Promissory Note No. 00122964T01 dated as of July 24, 2020, in the original principal amount of \$230,000.00
- Single Advance Term Promissory Note No. 00122964T02 dated as of July 24, 2020, in the original principal amount of \$150,000.00
- Multiple Advance Term Promissory Note No. 00122964T03 dated as of July 24, 2020, in the original principal amount of \$300,000.00
- Resolution of the Board of Directors dated August 27, 2020 authorizing the Loan Documents
- Incumbency Certificate dated September 4, 2020
- Security Agreement dated as of July 24, 2020

The terms defined in the Agreement and the Promissory Notes are used herein as defined therein.

In this connection, we have examined such corporate records, certificates, and other documents and instruments, and such questions of law as we have considered necessary or appropriate for the purposes of this opinion, including the Loan Documents. In our examination, we have assumed that all signatures (other than those of officers of the Borrower) on documents or instruments are genuine, that all documents submitted as originals are authentic, that all documents submitted as

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copies conform to the originals thereof, and that all documents have been duly authorized, executed, and delivered by each party thereto other than the Borrower.

Based upon the foregoing, and with due regard for such legal and other considerations as we deem appropriate, we are of the opinion that:

1. The Borrower is a nonprofit corporation duly organized, validly existing, and in good standing under the laws of the State of Texas, and is duly qualified to do business and is in good standing in each jurisdiction in which the transaction of its business makes such qualification necessary.
2. The Borrower has all requisite corporate and legal power and authority to own and operate its assets and to carry on its business and to enter into and perform the Loan Documents.
3. All corporate proceedings of the Borrower necessary to be taken in connection with the authorization, execution, delivery and performance of the Loan Documents have been duly taken and all such authorizations are presently in effect.
4. Each Loan Document has been duly executed and delivered by the Borrower and constitutes the valid and binding obligation of the Borrower enforceable against the Borrower in accordance with its terms, except as enforceability may be limited: (A) by applicable bankruptcy, insolvency, reorganization, moratorium, or similar laws relating to or affecting the rights of creditors generally; and (B) by general equitable principles which may limit the right to obtain the remedy of specific performance of obligation other than the obligation to pay money.
5. The execution, delivery, and performance by the Borrower of the Loan Documents do not and will not: (A) violate any provision of any law, rule or regulation, any judgment, order or ruling of any court or governmental agency, articles of organization, articles of incorporation, other charter documents, bylaws or operating agreement, as applicable, of the Borrower, or any agreement, indenture, mortgage, or other instrument to which the Borrower is a party or by which the Borrower or any of its properties is bound; or (B) be in conflict with, result in a breach of, or constitute with the giving of notice or passage of time, or both, a default under any such agreement, indenture, mortgage, or other instrument.
6. No consent, permission, authorization, order or license of any governmental authority is necessary in connection with the execution, delivery, performance, or enforcement of the Loan Documents, except such as have been obtained and are in full force and effect.
7. As discussed with CoBank representatives, myself and other attorneys at our firm are actively representing Borrower in two ongoing lawsuits and an administrative appeal, specifically Cause No. 48292 in Burnett County District Court pertaining to the 2016 sale of real property belonging to Borrower, Cause No. D-1-GN-19-006219 in Travis County District Court pertaining to the appeal of a determination of the Open Records Division of the Office of the Attorney General seeking protection of certain privileged information

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(pending settlement pursuant to agreement proposed by the Office of the Attorney General and agreed to by Borrower on the terms proposed), and Docket No. 50788 which action constitutes a rate appeal pending before the Public Utility Commission of Texas (with mediation scheduled for October 1, 2020). As discussed with CoBank representatives, on behalf of the Borrower we believe that each and every one of these pending actions will be resolved substantially in the Borrower's favor, and none of the aforementioned proceedings: (A) if adversely decided could have a material adverse effect on the Borrower's condition, financial or otherwise, existing operations, properties or business, or on its ability to perform its obligations under the Loan Documents; or (B) seek to rescind, terminate, modify, or suspend any consent, permission, authorization, order or license of any governmental authority referred to in paragraph 6 above.

As to matters of law, we limit our opinion to the laws of the State of Texas and the laws of the United States of America and our opinions are limited to the facts and law in existence on the date of this opinion and at no subsequent time. We note that certain of the Loan Documents purport to be governed by Colorado law. For purposes of giving the opinions set forth above, we have assumed that Colorado Law is the same law as the State of Texas.

Sincerely,

J. Troupe Brewer

JTB/ldp