



## Filing Receipt

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

<b>RATEPAYERS APPEAL OF THE DECISION BY WINDERMERE OAKS WATER SUPPLY CORPORATION TO CHANGE WATER AND SEWER RATES</b>	§ § § §	<b>PUBLIC UTILITY COMMISSION  OF TEXAS</b>
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**COMMISSION STAFF’S RESPONSE TO WINDERMERE OAKS WATER SUPPLY  
CORPORATION’S FIRST REQUEST FOR INFORMATION  
QUESTION NOS. STAFF 1-1 THROUGH 1-15**

The Staff of the Public Utility Commission of Texas (Staff) files this Response to the First Request for Information (RFI) filed by Windermere Oaks Water Supply Corporation (WOWSC). The discovery request was received by Staff on January 18, 2023; therefore, this response is timely filed. The following response to request for information may be treated by all parties as if the answers were filed under oath.

Dated: February 1, 2023

Respectfully submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS  
LEGAL DIVISION**

Keith Rogas  
Division Director

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Managing Attorney

*/s/ Merritt Lander*  
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**CERTIFICATE OF SERVICE**

I certify that unless otherwise ordered by the presiding officer, notice of the filing of this document was provided to all parties of record via electronic mail on February 1, 2023 in accordance with the Second Order Suspending Rules, issued in Project No. 50664.

*/s/ Merritt Lander*  
Merritt Lander

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**WOWSC 1-1** Admit or deny that Anna Givens is adopting the live testimony of Maxine Gilford given at the hearing on the merits in this proceeding on December 3, 2021, specifically at Tr. at 529:1-532:2.

**RESPONSE:** Admit

Prepared by: Counsel

Sponsored by: Anna Givens

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**WOWSC 1-2**            Please refer to the Direct Testimony of Maxine Gilford at 12. Admit or deny that Anna Givens adopts Ms. Gilford's testimony that recommends "removing the entire \$171,337 for outside legal expenses from the revenue requirement to set Windermere's Appealed Rates."

**RESPONSE:**            Admit.

Prepared by:            Counsel

Sponsored by:          Anna Givens

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**WOWSC 1-3**            Please refer to the Direct Testimony of Maxine Gilford at 16. Admit or deny that Anna Givens adopts Ms. Gilford's testimony that states "if Windermere provides sufficient evidence in its rebuttal testimony to demonstrate that recovery of the outside legal expenses are necessary to preserve its financial integrity, then I recommend that the Commission consider that information."

**RESPONSE:**            Admit.

Prepared by:            Counsel

Sponsored by:          Anna Givens

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**WOWSC 1-4** Please refer to the Rebuttal Testimony of Mike Nelson at 5-6. Admit or deny that Windermere demonstrated that recovery of the outside legal expenses is necessary to preserve its financial integrity. If the answer is deny, please provide all evidence and documentation relied upon to reach this determination.

**RESPONSE:** Deny. See WOWSC's response to Ratepayers third RFI, Attachment Ratepayers 3-5f and the presentation of historical and actual financial information for the years 2017-2019 along with each year's resulting positive net cash flows. See WOWSC's response to Staff's sixth RFI and Attachment Staff 6-3(b).

Prepared by: Counsel

Sponsored by: Anna Givens

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**WOWSC 1-5**            Please refer to the Supplemental Direct Testimony of Anna Givens at 7. Admit or deny that Commission Staff does not know whether WOWSC will recover the proceeds from the 2019 insurance settlement with Allied World Specialty Insurance Company.

**RESPONSE:**            Deny.

Prepared by:            Counsel

Sponsored by:          Anna Givens



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**WOWSC 1-6**            If the answer to WOWSC 1-5 is admit, admit or deny that Commission Staff does not know when WOWSC will recover the proceeds from the 2019 insurance settlement with Allied World Specialty Insurance Company.

**RESPONSE:**            See Commission Staff's response to WOWS 1-5.

Prepared by:            Counsel

Sponsored by:           Anna Givens

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**WOWSC 1-7** Admit or deny that WOWSC is a members-only corporation that has no shareholders.

**RESPONSE:** Admit.

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**WOWSC 1-8** Admit or deny that the WOWSC board is made of volunteer members.

**RESPONSE:** Admit, based on Windermere's representations.

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**WOWSC 1-9** Admit or deny the Texas Business Organizations Code Section 8.051 requires a corporation to indemnify its volunteer directors.

**RESPONSE:** Texas Business Organizations Code Section 8.051 requires a corporation to “indemnify a governing person, former governing person, or delegate against reasonable expenses actually incurred by the person in connection with a proceeding in which the person is a respondent because the person is or was a governing person or delegate if the person is wholly successful, on the merits or otherwise, in the defense of the proceeding” (emphasis added).

Prepared by: Counsel

Sponsored by: Merritt Lander

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**WOWSC 1-10** Admit or deny that disallowing the \$171, 337 in legal expenses from rate base will render the utility unable to pay its legal expenses or other necessary costs.

**RESPONSE:** Deny.

Prepared by: Counsel

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**WOWSC 1-11** Admit or deny that it is Commission Staff's position that WOWSC should not pay its legal bills. If the answer is deny, please indicate specifically where the funds to pay legal bills should be recovered and how.

**RESPONSE:** Deny. See Maxine Gilford's alternate surcharge recommendation at page 17 of her May 5, 2021 direct testimony. See WOWSC's financial statements detailing its annual collection of tap fees, membership fees, standby fees, late charges, service fees, interest income, and other fees. Additionally, see Ratepayers Attachment 3-f as prepared by WOWSC in response to Ratepayers Third Request for Information, which provides WOWSC's presentation of net cash flows beginning with the calendar year 2017 and demonstrates cash on hand at the end of each year. Further, WOWSC could evaluate whether its \$862.50 tap fee for water service as well as for sewer service represents actual costs. If not, WOWSC could change its tariff so that tap fees are based on fully-loaded actual costs. Additionally, WOWSC could enact changes that reset its equity buy-in fees to generate additional revenue. WOWSC could pursue recovery of its legal expenses from those board members that gave rise to the legal defense. WOWSC could pursue \$70,000 in damages established by the 33rd District Court, Burnet County. WOWSC could sell land that it holds at fair market value. As an extreme resort, or in the event it becomes a distressed utility, WOWSC can sell itself to another functioning utility that possesses the financial, managerial, and technical capabilities to provide continuous and adequate service to its ratepayers.

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**WOWSC 1-12** Please refer to the Rebuttal Testimony of Joe Gimenez III at 5-6. Admit or deny that it is Commission Staff's position that WOWSC should not meet its loan covenants.

**RESPONSE:** Staff's scope in this proceeding does not include opining as to whether or not WOWSC's governing board should ensure that it meets its contractual obligations as part of the management of the utility.

Prepared by: Counsel

Sponsored by: Anna Givens

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**WOWSC 1-13** Please reference the Supplemental Direct Testimony of Anna Givens at 6. If Commission Staff recommends removing \$171,337 of legal fees from WOWSC's revenue requirement and the answers to WOWSC 1-5, 1-6, 1-7, 1-11, and 1-12 are deny, how does Commission Staff recommend that WOWSC pay its legal fees and loan covenants without jeopardizing its financial integrity?

**RESPONSE:** Because all five RFI responses listed in this information request are not "deny", the remainder of this information request is moot.

Prepared by: Counsel

Sponsored by: Anna Givens



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**WOWSC 1-14** Please refer to the Supplemental Direct Testimony of Maxine Gilford at 1. Admit or deny that Anna Givens adopts Ms. Gilford's testimony recommending that "the Commission allow recovery of rate-case expenses in the amount of \$281,575.65." If deny, please explain Ms. Givens updated proposal for the recovery of rate case expenses.

**RESPONSE:** Admit. The amount of recoverable rate-case expenses identified by Ms. Gilford through October 31, 2021 is \$281,575.65.

Prepared by: Counsel

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**WOWSC 1-15** Please refer to the Supplemental Direct Testimony of Maxine Gilford at 2-3. Admit or deny that Anna Givens adopts Ms. Gilford's testimony recommending "that the Administrative Law Judge leave the record open and allow Windermere to update its rate-case expenses after the hearing and closer to the time a final order is issued to limit the amount of trailing rate-case expenses resulting from this proceeding. For the expenses incurred after the close of the record, I recommend that Windermere request recovery of the trailing expenses in a compliance proceeding where its residual rate-case expenses can be reviewed."

**RESPONSE:** Admit.

Prepared by: Counsel

Sponsored by: Anna Givens