



## 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> |

**RATEPAYER REPRESENTATIVES' RESPONSE TO WINDERMERE OAKS  
WATER SUPPLY CORPORATION'S FOURTH RFI**

Ratepayers' Representatives ("Ratepayers") files its Response to Windermere Oaks Water supply Corporation's Fourth Request for Information (RFI). The response to such request is attached and is numbered as in the request. The Discovery request was received on January 18, 2023. Pursuant to SOAH Order 23, Responses to RFIs are due 10 business days after receipt, therefore this response is timely filed.

Ratepayers believes the foregoing response is correct and complete as of the time of the response, however the Ratepayers will supplement, correct or complete the response if it becomes aware that the response is no longer true and complete, and the circumstance is such that failure to amend the answer is in substance misleading. The parties may treat this response as if it were filed under oath.

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 February 1, 2023.

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

Attorneys for Ratepayers

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**RATEPAYERS REPRESENTATIVES' RESPONSE TO WINDERMERE OAKS WATER  
SUPPLY CORPORATION'S FOURTH REQUEST FOR INFORMATION QUESTION  
NOS. 4-1 THROUGH 4-7**

**WOWSC 4-1**            State the total legal expenses incurred by Plaintiffs in *Double F Hanger Operations, LLC, Lawrence R. French, Jr., Patricia Flunker, and Mark A. McDonald v. Friendship Homes & Hangars, LLC, and Burnet County Commissioners Court*, Cause No. 48292, in the 33rd District Court, Burnet County, Texas. Please provide all supporting documentation.

**RESPONSE:**            This response is subject to a pending objection

Prepared by: Counsel

Sponsored by: Kathryn E. Allen

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**WOWSC 4-2**            State the total legal expenses incurred by Plaintiffs in *TOMA Integrity v. WOWSC*, Cause No. 47531, in the 33rd District Court, Burnet County, Texas. Please provide all supporting documentation.

**RESPONSE:**        This response is subject to a pending objection

Prepared by: Counsel

Sponsored by: Kathryn E. Allen

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**WOWSC 4-3**            State the total legal expenses incurred by Ratepayer Representatives in *Ratepayers Appeal of the Decision by Windermere Oaks Water Supply Corporation to Change Water and Sewer Rates*, PUC Docket No. 50788. Please provide all supporting documentation.

**RESPONSE:**            This response is subject to a pending objection

Prepared by: Counsel

Sponsored by: Kathryn E. Allen

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**WOWSC 4-4**      Please provide the engagement agreement with Katherine Allen for providing legal services in this rate appeal.

**RESPONSE:**      No responsive document exists.

Prepared by: Counsel

Sponsored by: Kathryn E. Allen

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**WOWSC 4-5**            Please provide the number of hours of legal work expended by non-lawyers in preparing and reviewing requests for information, testimony, and other filings in this rate appeal. Please provide all supporting documentation.

**RESPONSE:**            This response is subject to a pending objection

Prepared by: Counsel

Sponsored by: Kathryn E. Allen



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**WOWSC 4-6**            Please explain Ratepayers' position on whether WOWSC should collect rate case expenses for the costs related to defending this rate appeal.

**RESPONSE:**           Ratepayers' position is summarized as follows:

1. The 2020 rate increase meets none of the statutory standards: the rates are not just and reasonable, are unreasonably preferential, prejudicial and discriminatory and are in violation of the company's governing documents. The rate increase does not recover costs of service and provides no benefit to Windermere's ratepayers. The revenue from the rate increase has funded an alleged arrangement whereby Windermere amassed (and continues to have, but does not report) more debt for unpaid legal fees than its total debt to its institutional lender.
2. Windermere has not complied with its duties to its ratepayers. Windermere violated the governing documents by using assets and revenues to finance litigation for the benefit of a select group of current and former directors, which is not the legitimate purpose of a water supply or sewer service cooperative under IRC 501(c)(12).<sup>1</sup> Windermere provided misinformation to the ratepayers about the 2020 rate increase, misled the ratepayers about the massive legal costs the company was incurring and continues to owe, never properly notified the ratepayers of the appeal hearing, and has given multiple inconsistent stories about the development of the wasted ratepayers' resources attempting to defend rates it knows were not determined on the basis of any accepted methodology or reliable cost data.<sup>2</sup>
3. Windermere has not complied with its duties to the Commission. Windermere has been wholly uncandid about the development of the 2020 rates.<sup>3</sup> Considerable time and effort has been wasted analyzing 2019 costs and other data and developing just and reasonable rates that Windermere now indicates are wholly

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<sup>1</sup> See Articles of Incorporation of Windermere Oaks Water Supply Corporation, Article 6, Restrictions and Requirements

<sup>2</sup> See Windermere's Response to Staff's 8-3

<sup>3</sup> See Windermere's Response to Ratepayers 1-1 and Ratepayers 1-7. Ratepayers RFI 1-7 requesting total billing of 2019 legal expenses. Windermere replied with 2019 legal expense incurred of \$168,583.46. Windermere eventually, correct that statement stating they incurred an additional \$100,000 plus in legal expenses for 2019.

irrelevant.<sup>4</sup> During all this time, Windermere's board has continued its massive legal spending and its unreported law firm debt has grown.

4. The primary beneficiary of the 2020 rate increase was intended to be and has been Lloyd Gosselink. Lloyd Gosselink was also the company's general counsel advising it in connection with the rate increase,<sup>5</sup> which is at least the appearance of a conflict of interest. Based on the January 2020 and February 2020 Lloyd Gosselink invoices,<sup>6</sup> it is clear that Lloyd Gosselink actively participated in designing Windermere rates that would allow Windermere to be able to recover funds that were dedicated to Lloyd Gosselink. Because these rates are not just and reasonable, Lloyd Gosselink should not be able to recover expenses that they were involved with designing as unjust and unreasonable rates that were badly designed in order guarantee Lloyd Gosselink monthly payments from Windermere. Lloyd Gosselink should not have entered into an arrangement for legal fees that was calculated to result in the accumulation of enormous corporate debt for unpaid legal fees. Lloyd Gosselink should never have advised the company to implement a rate increase it knew was methodologically unsound and based on unreliable or nonexistent cost data. Lloyd Gosselink should not have participated in the expenditure of ratepayer resources in an effort to defend the appealed rates, and it certainly should not have misled the tribunal or the other parties in this proceeding. As between the ratepayers and Lloyd Gosselink, Lloyd Gosselink should bear the financial burden of its own conduct.

Prepared by: Counsel

Sponsored by: Kathryn E. Allen

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<sup>4</sup> See Windermere's Response to Staff's 8-8

<sup>5</sup> See highlighted text of Attachment 1

<sup>6</sup> *Id*

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**WOWSC 4-7**            Admit or deny that the amount of rate case expenses increases every time Ratepayers file RFIs and other responsive pleadings.

**RESPONSE:**            Ratepayers deny that this is a “rate case” or that any party has incurred “rate case expenses” in connection with this proceeding. Otherwise, Ratepayers state that a reasonable inquiry has been made but the information known or easily obtainable is insufficient to enable them to admit or deny this request. Insofar as Windermere’s expenses in these proceedings are concerned, clearly Windermere makes its own decisions on how to expend its ratepayers’ funds without any input or oversight from the Ratepayers.

Prepared by: Counsel

Sponsored by: Kathryn E. Allen

**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

March 30, 2020  
Invoice: 97508229

**PROFESSIONAL SERVICES RENDERED**

| <b>Date</b> | <b>Atty</b> | <b>Description Of Services Rendered</b>  | <b>Hours</b> |
|-------------|-------------|--|--------------|
| 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         |