

Filing Receipt

Received - 2023-02-28 10:53:15 AM Control Number - 50788 ItemNumber - 303

RATEPAYERS APPEAL OF THE	§	BEFORE THE STATE OFFICE
DECISION BY WINDERMERE OAKS	§	
WATER SUPPLY CORPORATION TO	§	OF
CHANGE WATER AND SEWER	ş	Α ΒΛΙΙΝΙΟΤΕ Α ΤΙΥΓΕ ΠΕ Α ΒΙΝΟΟ
RATES	8	ADMINISTRATIVE HEARINGS

RATEPAYER REPRESENTATIVES' MOTION TO PRECLUDE ADMISSION OR CONSIDERATION OF EVIDENCE OR, ALTERNATIVELY, TO COMPEL A COMPLETE RESPONSE TO RATEPAYERS' <u>REQUEST FOR INFORMATION AMENDED 6-9</u>

TO THE HONORABLE ADMINISTRATIVE LAW JUDGES:

THE REPRESENTATIVES OF THE RATEPAYERS OF WINDERMERE OAKS WATER SUPPLY CORPORATION ("Ratepayers") file this Motion to Preclude Admission or Consideration of Evidence or, Alternatively, to Compel a Complete Response to Ratepayers' Request for Information Amended 6-9 and would show as follows.

1. On January 20, 2023, Ratepayers filed and served their Amended Sixth Request for Information on Windermere Oaks Water Supply Corporation ("Windermere). Windermere served its responses on February 6, 2023 and its supplemental responses on February 23, 2023. Windermere did not object to Ratepayers' Amended 6-4. Despite diligent follow up by Ratepayers' counsel, Windermere has failed to comply with its duty to make a complete response.¹ Both Rule §22.144(e) and SOAH Order No. 23 establish a deadline for the filing of a motion to compel where objection has been made, however neither establish a

¹ Pursuant to Rule 193.1, Windermere has a duty to make a complete response, based on all information reasonably available to Windermere or its attorneys at the time the response was made. Windermere has a duty to supplement its response as and to the extent required pursuant to Rule 193.5(a).

deadline for the filing of this Motion in these circumstances. Accordingly, this Motion is timely.

Background

2. From the commencement of this rate appeal up to the appeal hearing, Windermere claimed that TRWA designed the appealed rates using a "cash needs" methodology based on a revenue requirement comprised of its total costs *paid* (not incurred) during 2019.² Mr. Nelson stated in prefiled testimony that the primary information available to the board at the time of the rate increase was the result of the TRWA rate analysis, and that other available data were the 2019 year-end financials, the 2020 budget, recent legal invoices and a "guesstimate" of anticipated legal costs for 2020.³ Mr. Nelson alluded to a \$240,000 budgeted cost for "Legal/Appraisal" for 2020, but Windermere presented no rate analysis that included such amount in its revenue requirement. He testified that TRWA concluded to a new base rate of \$116.69, which was then allocated between water and wastewater and added to the existing base rates to become the appealed rates.⁴ Neither Mr. Nelson nor any other Windermere witness disclosed any other rate design or any alleged "minimum payment plan" with the law firms at any point prior to the hearing.

3. At the hearing, Mr. Nelson testified that TRWA did not design the appealed rates, using a "cash needs" methodology or any other approach. Instead, the board designed the appealed rates to generate cash flow to fund an alleged "minimum payment plan" with the law firms. Pursuant to such "minimum payment plan," Windermere was to pay the law

² See Attachment MN-2 (WOWSC Exhibit 7 at bates 024-5) and excerpt of direct testimony, included within Exhibit <u>1</u> attached hereto.

³ Mike Nelson Direct Testimony (WOWSC Exhibit 7) at p. 7, lines 14-20, included within Exhibit 1.

⁴ *Id.* at p. 7, line 21 – p. 8, line 4.

firms \$20,000 toward the invoice balances and would accrue corporate debt for the rest.⁵ Mr. Nelson revealed that the \$240,000 budgeted cost was not a "guesstimate" the cost of outside legal services expected to be rendered in 2020, as he had previously testified, but rather the aggregate of the "minimum payments" he claimed the board had agreed to pay the law firms in 2020.⁶

4. In response to recent discovery propounded by PUC Staff, Windermere has sponsored yet a third, and fundamentally different, rate design theory. In response to Staff 8-8, Windermere stated that the appealed rates were designed to cover a budgeted "shortfall" of \$174,515, based on the 2020 budget attached as Attachment Staff 8-5.⁷ In response to Ratepayers' discovery requests, Windermere confirmed that this "shortfall" was the difference between its total projected revenue and its total projected expenses for 2020, including "Legal/Appraisal."⁸ That is, Windermere now says the appealed rates were intended to recover the much larger \$643,565 budgeted revenue requirement reflected in Attachment Staff 8-5, and not the \$576,192 revenue requirement used for purposes of the TRWA study. PUC Staff witness Stephen Mendoza had anticipated that the appealed rates were designed to recover a revenue requirement "decidedly different" from the TRWA revenue requirement; he just did not anticipate the magnitude of the difference.⁹

5. Windermere's budget cost data for 2020 was greater than the costs paid in 2019 in most expense categories; examples are reflected in the spreadsheet attached as <u>Exhibit 6</u>.

⁵ Excerpt of Nelson Hearing Testimony, Transcript Day 1 at p. 198, line 1 - p. 199, line 25 & p. 204, line 23 - p. 206, line 4, attached as <u>Exhibit 2</u>.

⁶ Id.

⁷ Excerpts of Windermere's responses to Staff's RFIs are attached as Exhibit 3.

⁸ Excerpts of Windermere's responses to Ratepayers' RFIs are attached as <u>Exhibit 4</u>.

⁹ See Excerpt from Supplemental Direct Testimony of Stephen Mendoza, p. 8, line 15 - p. 9, line 8 and p. 16, line 13 - p. 17, line 7, attached as <u>Exhibit 5</u>.

Ratepayer Representatives' Motion to Preclude Admission or Consideration of Evidence or, Alternatively, to Compel a Complete Response to Ratepayers' Amended 6-9 Page 3

Very little of the budgeted cost data has been collected, much less scrutinized. Ironically, this has been largely due to Windermere's steadfast insistence that cost data for 2020 and later years is irrelevant and that only its expenses paid (but not additional expenses incurred) in 2019 are relevant in this proceeding.¹⁰

Ratepayers' Amended 6-9

6. To show that budget data is reliable evidence of an appealed rate's revenue requirement, Windermere must prove that its budget data was a reasonable approximation of its actual costs of providing service and that the budgeted costs are reasonable and necessary to provide service to customers.¹¹ Since Windermere was sponsoring a different rate design at the time of the hearing, Windermere did not attempt to meet this burden of proof. Now, Windermere contends that its 2020 year-end financials [Attachment GR-2 to the Rebuttal Testimony of Grant Rabon] constitutes such proof.

7. Windermere's hearing testimony made clear that its financial reports do not accurately report the results of operations; rather, they show those costs the board elected to pay in 2020, regardless when the goods and services were provided and regardless how much of the cost remains unpaid at year end.¹² Without the underlying documentation, the data reflected on Windermere's financials cannot be properly understood. Further, Windermere's financials (including its year-end financials) do not provide anywhere near the level of detail

¹⁰ Windermere Oaks Water Supply Corporation's Objection Objections to Ratepayers' Third Request for Information; Objections

¹¹ Order on Appeal of SOAH Order No. 17, *Petition of Paloma Lake Municipal Utility District No. 1 et al. Appealing the Ratemaking Actions of the City of Round Rock in Travis and Williamson Counties,* Docket 48836, pp. 3-4. As previously briefed, Windermere's representatives have acknowledged in hearing testimony that Windermere's outside legal costs have nothing to do with its provision of water or wastewater services. From an abundance of caution, however, Ratepayers intend to show that Windermere cannot meet its burden to prove its budgeted costs are not a reasonable approximation of the actual costs of providing the outside legal services.

¹² By way of illustration, in 2020 the board paid general manager Burris Water Management more than \$5,000 for "Hours not previously billed for storm Oct. 2018." See invoices attached as <u>Exhibit 7</u>.

required to determine whether Windermere has met its burden of proof. Windermere has the underlying documentation required for a proper analysis; the other parties do not.

8. To properly prepare for the upcoming hearing, Ratepayers propounded Amended RFI 6-9 to obtain discovery of the budgeted cost data on which Windermere's most recent iteration of its rate model is claimed to be based. This request seeks information concerning each expense within each cost category set forth on Attachment Staff 8-5:

RATEPAYERS' AMENDED 6-9:

For each projected expenditure within each line item/expense category set forth on Attachment Staff 8-5, please provide the following information available at the time the rate increase was approved:

- a. The amount and a detailed description of the goods and/or services expected to be purchased or acquired;
- b. How Windermere allocated such projected expenditure as between water service and sewer service, if it did;
- c. An explanation as to why such projected expenditure is reasonable and necessary, if Windermere so contends;
- d. An explanation as to how such projected expenditure is a cost of providing utility service, if Windermere so contends; and
- e. An explanation as to how the amount of such projected expenditure could have been anticipated with reasonable certainty at the time of the rate increase.

For clarity, this RFI seeks the foregoing information as to each and every projected expenditure within each line item (examples of line items are "Total 50000 – COS Operator" and "Total 63000 – Legal/Appraisal") on Windermere's 2020 budget (Attachment Staff 8-5).

9. Windermere did not object to Ratepayers' Amended 6-9. Windermere's response, which is reproduced within <u>Exhibit 4</u>, falls far short of compliance with its duty to provide a complete response, based on all information reasonably available to Windermere or its attorney. Attachment GR-2 and Attachment Ratepayers 4-6 certainly do not constitute a complete response to Ratepayers' Amended 6-9.

10. Using the expense category "Legal/Appraisal" for purposes of illustration, the information heretofore provided reflects significant discrepancies between Windermere's year-end financials and its budgeted cost data. Windermere admits that the board had no idea when it approved the budget or the rate increase whether its budgeted cost for "Legal/Appraisal" was a reasonable approximation of the actual costs for outside legal services (setting aside they are not costs of service) to be provided in 2020 or in any year thereafter.¹³ Based on invoices and payment records Windermere has recently produced, the actual costs for outside legal services rendered in 2020 alone was more than twice the budgeted amount.¹⁴ Windermere admits to having more than \$121,000 in legal debt at the end of 2019, and also admits its 2020 budget did not include any amount for this legal debt.¹⁵ Further, it appears Windermere did not perform some alleged "minimum payment plan" to pay \$20,000 per month against its unpaid balances during 2020. Finally, the recently produced payment records also reflect that, for the most part, the board did not allocate payments to specific invoices, to particular files or even to particular matters. Instead, Windermere sent lump sum payments and ceded to its lawyers the authority to apply the funds to pay for whatever the lawyers saw fit, including work done in the prior year.

¹³ Windermere's response to Ratepayers' Amended 6-11 is included within Exhibit 4.

¹⁴ See summary spreadsheet attached as <u>Exhibit 8</u>.

¹⁵ See Windermere's response to Ratepayers' Amended 6-10, included within Exhibit 4.

Ratepayer Representatives' Motion to Preclude Admission or Consideration of Evidence or, Alternatively, to Compel a Complete Response to Ratepayers' Amended 6-9 Page 6

11. Again using the expense category "Legal/Appraisal" for purposes of illustration, the services provided were significantly different from those provided in 2019. For example, Windermere initiated two new lawsuits in 2020 (the suit against Allied and a suit against the Attorney General). In 2020, Windermere became active in a lawsuit it had filed against the Attorney General in 2019. As was the case for time and expenses invoiced in 2019, the Lloyd Gosselink invoices for 2020 continued to comingle services for various matters and proceedings. Lloyd Gosselink did not even maintain billing files in 2020 to segregate work or expenses pertaining to the PIA requests, the Attorney General lawsuits or the Double F lawsuit, respectively; it does not appear Lloyd Gosselink has ever maintained any such files.

Motion to Preclude Admission or Consideration of Evidence or, Alternatively, to Compel a Complete Response

12. Ratepayers have been diligent in their efforts not only to nail down the rate design methodology Windermere claims to have used, but also to gather the information necessary to assist the factfinder to properly evaluate Windermere's application of that methodology. For almost 3 years, Windermere portrayed that the appealed rates were designed by TRWA using the TRWA spreadsheet and Windermere's 2019 year-end financials¹⁶, when Windermere knew that was not true. A great deal of time and expense was wasted during that time.

¹⁶ See, e.g., Windermere's Initial Brief filed December 30, 2021 [IV. JUST AND REASONABLE RATES (ISSUES 4, 5, 6, 7, 8, 10, AND 11)] - "The rates established by the Texas Rural Water Association (TRWA) and effective in March 2020 are just and reasonable."

13. Windermere recently changed its "rate design" tune dramatically.¹⁷ Windermere's revelation is particularly prejudicial at this late date. Windermere's aggressive efforts for the better part of three years have foreclosed inquiry into any cost data other than the 2019 paid costs used in the TRWA rate study.

14. Ratepayers required, and promptly sought, discovery concerning this latest iteration of Windermere's rate design. Windermere did not lodge an objection to Ratepayers' discovery. Instead, Windermere wholly failed to comply with its duty to provide a complete response.

15. Pursuant to Rule 193.6, Windermere may not introduce in evidence the material and information that was not timely disclosed unless the court finds (1) there was good cause for the failure to timely make the discovery response, or (2) the failure to timely make the response will not unfairly surprise or unfairly prejudice the other parties. Rule 193.6, T.R.C.P. The exclusion is automatic. The good cause exception permits the court to excuse a failure to comply in difficult or impossible circumstances. The automatic exclusion is not a discretionary sanction and is not subject to the requirements set forth in *Transamerica Natural Gas Corp. v. Powell. Chrysler Corp.*, 841 S.W.2d 844, 849 (Tex.1992). *See, e.g., White v. Browning*, 2006 WL 151980, at *5 (Tex. App. – Austin 2006, pet. denied) and cases cited therein. The court has no discretion to admit evidence excluded by the rule without a showing of good cause. *Alvarado v. Farah Mfg. Co.*, 830 S.W.2d 911, 914 (Tex. 1992).

16. Attachment GR-2 was previously admitted for the purpose of attempting to show that Windermere lacks the financial wherewithal to make refunds of overcollections to

¹⁷ Windermere has yet to produce a rate study demonstrating its newly revealed rate design. Accordingly, it is not known whether this version of the rate design would, if it were used, actually achieve any particular revenue requirement.

its ratepayers.¹⁸ Neither that Attachment nor Mr. Rabon's testimony related to it was offered in an effort to prove that the 2020 budgeted costs were a reasonable approximation of Windermere's actual costs of providing service or that the budgeted costs were reasonable and necessary to provide service to customers.

17. Likewise, neither the budgets previously admitted as Attachment MN-4 and MN-5, nor the related testimony, were offered in an effort to prove that the budgeted costs were a reasonable approximation of Windermere's actual costs of providing service or that the budgeted costs were reasonable and necessary to provide service to customers. Instead, they were offered to show Windermere's board had budgets and that, as a mathematical matter, based on these budgets Windermere could calculate a projected net loss in 2020 and later years.¹⁹

18. None of the budget data previously admitted was either disclosed or admitted into evidence for the purpose of attempting to prove that the appealed rates meet statutory standards. Windermere has failed to comply with its duty to provide complete information concerning its budgeted costs; thus, it may not now rely upon previously admitted evidence for that purpose.

19. In the alternative, Ratepayers are entitled to a complete response to Ratepayers' Amended 6-9. They move alternatively for an order compelling Windermere to provide all the requested information and materials immediately. Ratepayers reserve their right to pursue further relief, including, without limitation, a continuance of the hearing currently set for

¹⁸ See excerpt of Grant Rabon Rebuttal Testimony (WOWSC Exhibit 9) at p. 13, line 19 - p. 14, line 2, and Attachment GR-2, attached as <u>Exhibit 9</u>.

¹⁹ See Mike Nelson Direct Testimony (WOWSC Exhibit 7) at p. 8, lines 6-20, included within Exhibit 1.

March 22, 2023 and/or sanctions, as necessary to enable them to analyze the discovery materials and to properly prepare their case.

20. The undersigned certifies that she has made diligent efforts to resolve this dispute informally, as reflected by the email exchanges attached hereto as <u>Exhibit 10</u>, but that such efforts were not successful.

21. The following exhibits are attached hereto and are incorporated herein by reference:

Exhibit 1: Excerpts – Mike Nelson direct testimony;
Exhibit 2: Excerpt – Mike Nelson hearing testimony;
Exhibit 3: Excerpts – WOWSC Responses to Staff's Eighth RFIs;
Exhibit 4: Excerpts – WOWSC Responses to Ratepayers' Amended Sixth RFIs;
Exhibit 5: Excerpts – Stephen Mendoza Supplemental Direct Testimony;
Exhibit 6: Spreadsheet – illustrative differences between TRWA revenue requirement and 2020 budgeted cost data;
Exhibit 7: Selected Burris Water Management invoices;
Exhibit 8: Spreadsheet – 2020 legal costs and payments;
Exhibit 9: Excerpts – Grant Rabon Rebuttal Testimony; and Exhibit 10: Email exchanges between counsel.

WHEREFORE, premises considered, Ratepayers respectfully request that this Motion

be granted in all respects, and that they be awarded the relief requested above and such other

and further relief, at law or in equity, to which they may show themselves justly entitled.

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 28, 2023.

/s/ Kathryn E. Allen

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

Attorneys for Ratepayers

§

\$

RATEPAYERS APPEAL OF THE DECISION BY WINDERMERE OAKS WATER SUPPLY CORPORATION TO CHANGE WATER AND SEWER RATES **BEFORE THE STATE OFFICE**

OF

ADMINISTRATIVE HEARINGS

DIRECT TESTIMONY

OF

MIKE NELSON

ON BEHALF OF

WINDERMERE OAKS WATER SUPPLY CORPORATION

FECERAES 2021 MAR TO FRIES FRIESE SU

MARCH 10, 2021



Exhibit 1

1

HAS WOWSC USED TRWA TO DETERMINE RATES IN THE PAST? О.

2 A. Yes, WOWSC used TRWA to determine the rate increase approved in 2018. According to TRWA's website, TRWA's Mission is "to serve, represent and support 3 member water and wastewater utilities." TRWA is a statewide educational and trade 4 association that represents the full spectrum of the rural water community. They are 5 dedicated to helping water and wastewater systems provide efficient service and clean, 6 7 safe drinking water to their customers. They have an active membership of 8 approximately 750 retail public utilities that provide water and wastewater service to 9 three million customers throughout Texas. They also have nearly 200 water/wastewater industry suppliers that make up our Associate Membership. Since 10 11 1969, TRWA has been well-respected in the industry for the high-quality support they provide to their members helping them meet the ever-changing challenges facing the 12 industry. 13

14

WHAT INFORMATION WAS AVAILABLE TO WOWSC AT THE TIME OF О. **ITS DECISION TO INCREASE RATES?** 15

- 16 The primary information available to WOWSC was the results of TRWA's rate Α. analysis. Other information included 2019 year-end financials, the 2020 budget, recent 17 18 legal invoices, and an updated guesstimate of legal costs for 2020. WOWSC's 2019 year-end financials were used in the TRWA rate analysis, and a copy of these financials 19 20 is attached here as Attachment MN-3.
- 21 WHAT WERE THE RESULTS OF THE TRWA STUDY? О.
- The TRWA rate analysis used WOWSC's 2019 year-end financials and determined a 22 A. 23 base water rate of \$116.68 per month using 253 customers. The number of customers

1		used in the analysis should have been 271 and not 253. This error was missed during
2		review. 253 customers was a remnant in TRWA's rate sheet from the previous
3		WOWSC Year 2018 rate analysis. TRWA employee James Smith used TRWA's rate
4		sheet for the analysis. TRWA's rate sheet uses the cash needs basis methodology.
5		III. WOWSC'S BUDGET
6	Q.	WHAT WAS THE BUDGET AT THE TIME THE RATES WERE
7		INCREASED?
8	А.	WOWSC updated the 2020 budget at the WOWSC Board Meeting on January 23,
9		2020. This budget indicated total income of \$469,050, total COGS of \$178,725, and
10		total expenses less COGS of \$427,840. This resulted in a net ordinary income loss of
11		\$137,515. WOWSC also budgeted other expenses of \$37,000 for loan principal
12		payments, resulting in a budgeted net loss of \$174,515. A copy of this budget is
13		included here as Attachment MN-4.
14	Q.	DOES WOWSC ANTICIPATE ANY FUTURE INCREASES OR OTHER
15		CHANGES IN THAT BUDGETED AMOUNT?
16	A.	WOWSC's 2021 budget indicates total income of \$621,617, total COGS of \$192,000,
17		and total expenses less COGS of \$455,288.84. A copy of this budget is included here
18		at Attachment MN-5. This results in a net ordinary income loss of \$25,671.84.
19		WOWSC also budgeted other expenses of \$23,709.41 for loan principal payments,
20		resulting in a budgeted net loss of \$49,381.25.
21	Q.	HOW DOES WOWSC DEVELOP THE BUDGET EACH YEAR?

8

DIRECT TESTIMONY

MIKE NELSON

Attachment MN-2 Page 1 of 2

WATER REVENUE REQUIREMENT & RATE DESIGN

UTILITY

REVENUE REQUIREMENT BUDGET/COST OF SERVICE ITEM	Item Cost	%	Fixed	%	Variable
SALARIES	C	78	0	22	0
CONTRACT LABOR	117,865	75	88,399	25	29,466
CHEMICALS AND TREATMENT	12,035		7,221	40	4,814
UTILITIES	20,922		14,645	30	6,277
REPAIRS AND MAINTENANCE	71,060		35,530		35,530
OFFICE EXPENSES BILLING	15,679		7,056		8,623
ACCOUNTING & LEGAL	171,337		85,669		85,669
HEALTHINSURANCE	C		0		0
OFFICE SUPPLIES	4,707		2,118		2,589
TANK REPAIRS			2,0		0
BAD DEBT	Č		Ő		0
PAYROLL TAXES	ũ		õ		ŏ
TELEPHONE	6,549		2,620		3,929
TRUCK & EQUIP EXPENSE	0,040		2,020		0,020
TRAVEL & ENTERTAINMENT	1,130		565	50	565
EQUIPMENT RENTAL	250		125		125
INSURANCE - WC & LIABILITY	14,160		9,912		4,248
LICENSE & DUES	178		5,512		4,240
POSTAGE & FREIGHT	2,710		1,355		1,355
ADVERTISINĜ	2,710		1,555		1,333
SAMPLING	8,459		4,230		4,230
EDUCATION	0,458		4,230		4,230
DEPRECIATION	56,273		•		22,509
	•		•		
MATERIALS & SUPPLIES	6,730				3,365
SECURITY	0		0 625		0 625
MISCELLANEOUS	1,250			• •	
	49,882		49,882		0
PURCHASED WATER	8,490		3,821	55	4,670
SLUG REMOVAL	2,363		1,182		1,182
BOOKKEEPING	4,163		2,082		2,082
	C		0		0
	0	••	0	•••	0
SUB-TOTAL (LESS FIT & RETURN)	576,192		354,252		221,940
% OF TOTAL (FIXED + VARIABLE)		63		37	
PRINC & INTEREST - WATER	C		0 00		0 00
MAINTENANCE RESERVE*	C		0 00		0 00
LESS OTHER REVENUE	\$C		0 00		0 00
TOTAL	\$576,192		\$354,252		\$221,940

Attachment MN-2 Page 2 of 2

RATE CALCULATION

GALLONAGE CHARGE Vanable Cost/Test Year Gallons/1,000 =======>		17.07 /TH.GAL.	PROPOSED RATE USE -> \$3.55 /TH.GAL.
		Ψ	Nμ
MINIMUM BILL			
Fixed Cost/12/CustomerEquivalents ========>		116 68 /MO.	YIELDS -> \$174.59 /MO.
		116.68 /MO. incl. min. gallons	174.59 /MO.
Avg Test-Yr Customer Equivalents =	253		inc. min. gall
Gallons Included In Minimum Bill =	0		-
Test Year Gallons Billed (x 1,000) =	13,000		
REVENUES GENERATED			
		Minimum Bill	
Connection Size	# of Connections	Min Bill Including Gals Rev /Month	Rev Mear
5/8", 3/4"	253	\$174 59 \$174 59 \$44,170	\$530,042
3/4"	0	\$261 88 \$ 261 88 \$0	\$0
1"	0	\$ 436 46 \$ 436 46 \$0	\$0
1-1/2"	0	\$ 872 93 \$ 872 93 \$0	\$0
2"	0	\$ 1,396 69 \$ 1,396 69 \$0	\$0 * 7
2-1/2"	0	\$ 1,396 69 \$ 1,396 69 \$0	\$0 \$0
3" 4"	U	\$ 1,745 86 \$ 1,745 86 \$0 \$ 1,264 64 \$ 1,264 64 \$0	\$0 \$0
4 6"	0	\$ 4,364 64 \$ 4,364 64 \$0 \$ 8,729 28 \$ 8,729 28 \$0	\$0 \$0
U	U	\$ 8,729 28 \$ 8,729 28 \$0	ΦU

GALLONAGE CHARGES=>	TOTAL REVENUE GENER	13,000	/UM CHARGES=> @	\$3 55	/1,000 GAL	\$530,042 46,150 \$576,192
	Printed on		tme			

NOTES

SOAH DOCKET NO. 473-20-4071.WS PUC DOCKET NO. 50788 RATEPAYERS APPEAL OF THE) BEFORE THE STATE OFFICE DECISION BY WINDERMERE OAKS WATER SUPPLY OF CORPORATION TO CHANGE WATER AND SEWER RATES) ADMINISTRATIVE HEARINGS HEARING ON THE MERITS December 1, 2021 (Via Zoom Videoconference) BE IT REMEMBERED THAT at 9:05 a.m., on Wednesday, the 1st day of December 2021, the above-entitled matter came on for hearing at the State Office of Administrative Hearings, William P. Clements, Jr. Building, 300 West 15th Street, Austin, Texas, before CHRISTIAAN SIANO and DANIEL WISEMAN, Administrative Law Judges, and the following proceedings were reported by Mary Carol Griffin and Janis Simon, Certified Shorthand Reporters. Volume 1 Pages 1 - 242

198

1	Q Okay. And so, when the board raised the rates,
2	it said: And we're going to have another 250 in legal
3	fees in 2020. Right?
4	A That was our projection, yes, and
5	(Simultaneous discussion)
6	Q (BY MS. ALLEN) So, how the heck were you going
7	to pay the 120- or \$150,000 in legal fees for 2019 that
8	you hadn't paid?
9	A We were going to we worked with our legal
10	law firms on an agreement to where we could increase
11	rates to pay them \$10,000 a month once the rates kicked
12	in, and so that's what we've been doing, is paying Lloyd
13	Gosselink and Enoch Kever \$10,000 per month since the
14	rates increased.
15	Q Are you telling us that the rates that the
16	board adopted in 2020 were not ever designed to recoup
17	the actual expenses that included the legal fees for
18	2019?
19	A They were increased to pay down the balance
20	legal balances until the legal balances are gone, and
21	then we were to revisit the rates and reduce them.
22	Q Your
23	A So, the concept was
24	(Simultaneous discussion)
25	Q (BY MS. ALLEN) Okay. So
I	KENNEDY REPORTING SERVICE INC

1	A So, the concept was to look at 2019, right, use
2	it in a rate study to understand how high we could
3	increase rates and then see if we could meet the \$10,000
4	a month per law firm. And so that's where we were able
5	to do that, so at a lower amount than the TRWA
6	analysis
7	(Simultaneous discussion)
8	Q (BY MS. ALLEN) Okay. So okay. I got it.
9	So, you designed these rates to enable you to meet a
10	budget of 10,000 a month per law firm going forward?
11	A Yep.
12	Q Okay. Without regard to what the actual legal
13	expenses might be?
14	A Well, we were already in balance, so we were
15	and we didn't have the cash on hand to pay off those
16	balances.
17	Q You were not in balance at the end of 2019.
18	A I said
19	(Simultaneous discussion)
20	Q (BY MS. ALLEN) You just said that.
21	A we had legal balances.
22	Q Okay. That's what you mean by in balance? You
23	owed money.
24	A I didn't say in balance. I said we had legal
25	balances.

204

1	are totals for Windermere Oaks Water Supply Corporation.
2	So, you see the total down there, the 576,192. It's the
3	total.
4	Q Okay. And I'm going to scroll down to the rate
5	calculation part, and what I see here is that the
6	minimum bill based for the base rate is calculated at
7	\$116.68. Is that right?
8	A No. That is what you're looking at, \$116.68
9	per month, is a fixed cost portion of the base rate.
10	Q Okay. The Company did not alter its rates for
11	gallonage charges. Correct?
12	A Correct.
13	Q So, it was not trying in early 2020, excuse me,
14	to analyze revenue requirements and things such as that
15	for variable expenses. Correct?
16	A Correct. The
17	Q Okay.
18	A idea was we were a small Water Supply
19	Corporation, you know, 271 members at the time or so,
20	and we wanted for all the members to participate in the
21	higher base rates, disparate the higher base rate
22	(Simultaneous discussion)
23	Q (BY MS. ALLEN) Okay. All right. Now, the
24	board didn't settle on the rates that were recommended
25	or yielded by this rate model. Right?
I	KENNEDY BEDODTING SEBUICE INC

1 Α Correct. Explain for us the additional analysis that the 2 Ο board did in order to make adjustments to arrive at the 3 rates that it adopted. 4 So, my understanding was we wanted to increase Α 5 our monthly cash flow or revenue by, say, almost 6 16-\$17,000 per month so we could make legal payments of 7 \$20,000, 10,000 to both law firms. And so when we 8 looked at that, that meant increasing base rates by 9 10 around \$65 or so. And so we split the \$65 60 percent/40 percent, 60 percent for water and 11 12 40 percent for wastewater. And so we added -- so we multiplied that and added that to the previous base 13 rates, came up with the new base rate, combined about 14 \$156, and that was below the 174.59 here in this model. 15 16 And so we felt like we could work with our legal teams 17 and with a \$10,000 a month payment, and so we did not 18 increase rates above that once we felt like we could 19 achieve the \$10,000 monthly payments to both law firms. Okay. But that business about the \$10,000 a 20 0 month monthly payments is not anywhere in the rate 21 design, right, that we see here? 22 Oh, correct. 23 А 24 0 Okay. 25 Yeah, that TRWA model there --Α

206

1		(Simultaneous discussion)
2	Q	(BY MS. ALLEN) Okay.
3	A	was to show of high could we increase rates.
4	Q	Okay.
5	A	We did not increase rates that high.
6	Q	Has the Company, in fact, used the increased
7	revenues	to pay its legal costs?
8	A	Yes.
9	Q	Has it used the increased revenues for any
10	other pu	rpose?
11	A	Not that I'm aware.
12	Q	Okay. So, what that means is that so,
13	Ratepaye	r Mike Nelson paid an extra how much a month?
14	A	65ish.
15	Q	So, Mike Nelson paid 65 a month extra, and the
16	Company	covered his legal expenses. Right?
17	A	For me being sued, my they covered my legal
18	defense a	as a volunteer board director, yes, for my
19	defense.	
20	Q	Josie Fuller paid an extra \$65 a month, and she
21	got exac	tly the same service she had always gotten.
22	Right?	
23	A	As all members.
24	Q	All members
25		(Simultaneous discussion)

§

§

§ §

§

RATEPAYERS APPEAL OF THE DECISION BY WINDERMERE OAKS WATER SUPPLY CORPORATION TO CHANGE WATER AND SEWER RATES

BEFORE THE STATE OFFICE

OF

ADMINISTRATIVE HEARINGS

WINDERMERE OAKS WATER SUPPLY CORPORATION'S RESPONSE TO COMMISSION STAFF'S EIGHTH REQUEST FOR INFORMATION

Windermere Oaks Water Supply Corporation (WOWSC) files this Response to the Eighth Request for Information (RFI) filed by the Staff of the Public Utility Commission of Texas (Staff). The discovery request was received by WOWSC on December 14, 2022; therefore, these responses are timely filed. Pursuant to 16 Tex. Admin. Code (TAC) § 22.144(c)(2)(F), these responses may be treated as if they were filed under oath.

Respectfully submitted,

LLOYD GOSSELINK ROCHELLE & TOWNSEND, P.C. 816 Congress Avenue, Suite 1900 Austin, Texas 78701 (512) 322-5800

(512) 522-5800 (512) 472-0532 (Fax)

JAMIE L/MAULDIN State Bar No. 24065694 jmauldin@lglawfirm.com

RICHARD A. ARNETT II State Bar No. 24131230 rarnett@lglawfirm.com

ATTORNEYS FOR WINDERMERE OAKS WATER SUPPLY CORPORATION

Exhibit 3

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 January 9, 2023, in accordance with the Order Suspending Rules, issued in Project No. 50664.

JAMIE L. MAULDIN

WOWSC'S RESPONSE TO STAFF'S EIGHTH RFI

- **STAFF 8-5:** For the test year, for each amount listed above, please state whether the amount for a) tap fees; b) stand-by fees; c) equity buy-in fees; and d) membership fees was deducted from the revenue requirement used to set the appealed rates.
- **RESPONSE:** Based on previous years' experience, WOWSC estimated that roughly \$73,750 from the fees above would support the 2020 budget and that amount was included in the 2020 Income section of the budget. The 2020 budget shows a projected \$174,515 shortfall. The rates were ultimately raised to address that projected shortfall. Thus, the amount for the fees above were incorporated into the budget and rates were raised to address the projected shortfall.

See Attachment Staff 8-5.

Prepared by: Mike Nelson Sponsored by: Mike Nelson

	Windermere Oaks Water Supply Corporation 2020 Budget		2020 Budg
Ordinary Income	/Expense		
Income			
400	00 - Standby Fees		
Tol	al 40000 · Standby Fees		33,000.0
	al 40200 · Water & Sewer Services		390,000.0
To	al 40300 - Late Charges		5,000.0
	al 40410 · Membership Transfer Fees		2,800.0
Tot	al 40500 · Equity Buy-in Fees		27,600.
Tol	al 40600 - Water & Sewer Taps		10,350.0
Tot	al 46400 · Reconnect fee		0.
Tot	al 41000 · Interest Income		300.
Total In			469,050.
		++	
Cost of	Goods Sold		
	al 50000 · COS-Operator		123,375.
	al 57000 · COS-Chemicals		12,450.
	al 57500 · COS-Electricity	+	22,400.
	al 58000 · COS-Sludge Removal	++	5,000.
	al 58500 · LCRA - Raw Water Fee		9,000.
	al 59000 · COS-Lab Fees		6,500.
Total C			178,725.
			170,723.
Expens	a	+	
· · · · · · · · · · · · · · · · · · ·	al 77600 · Website	_	E00.
			500.
	al 59610 · Install New Service Taps al 62000 · Bank Charges		7,200.
	al 62400 · Bookkeeping		600.
			4,800.
	al 62500 - Accounting		13,000.
	al 62600 · Billing Services al 62800 · Total Contract Services		20,000.
			9,000.
	al 63000 - Legal/Appraisal	-	250,000.
	al 63500 · Dues & Subscriptions		4,000.
	al 64000 · Regulatory System Fee		2,100.
	al 65500 · Insurance		21,000.
	al 65900 · Meals & Entertainment		500.
····	al 66000 · Office Supplies	+	3,400.
	al 66500 · Telephone and Internet	+	6,000.
	al 67000 · Postage & Shipping Expense		5,000.
	al 68000 · Equipment Rental Expense		1,500.
	al 68500 · Repairs & Maintenance		50,000.
	al 68600 · Repair Parts	~	16,000.
	al 69000 · Printing Expense		1,500.
	al 71500 · Interest Expense		14,000.
	al 72100 · Taxes-Property		40.
	al 77500 · Meetings/Conferences		2,500.
	pense less COGS		427,840.
Net Ordinary Inc		_	-137,515.
	L		
Other Exper	1	_	
	Loan Principal Payments (Balloon pymt \$171523.00 Due 5/2021)		37,000.
	Net Profit/Loss		-174,515.

WOWSC'S RESPONSE TO STAFF'S EIGHTH RFI

- **STAFF 8-8:** Are Windermere's rates designed to recover \$240,000 per year in legal and accounting expenses as reflected in the testimony of Mike Nelson, or are they designed to recover \$171,337 in legal and accounting expenses as reflected in the TRWA rate design?
- **RESPONSE:** Not applicable. In its 2020 budgeting process, WOWSC projected a shortfall of \$174,515. See Attachment Staff 8-5. It subsequently implemented base rates to recover this amount.

Prepared by: Mike Nelson Sponsored by: Mike Nelson

§

§

§

§ §

RATEPAYERS APPEAL OF THE DECISION BY WINDERMERE OAKS WATER SUPPLY CORPORATION TO CHANGE WATER AND SEWER RATES

BEFORE THE STATE OFFICE

OF

ADMINISTRATIVE HEARINGS

WINDERMERE OAKS WATER SUPPLY CORPORATION RESPONSE TO RATEPAYERS' AMENDED SIXTH REQUEST FOR INFORMATION

Windermere Oaks Water Supply Corporation (WOWSC) files this Response to the Amended Sixth Request for Information (RFI) filed by Ratepayers. The discovery request was received by WOWSC after the filing deadline on January 20, 2023; therefore, these responses are timely filed. Pursuant to 16 Tex. Admin. Code (TAC) § 22.144(c)(2)(F), these responses may be treated as if they were filed under oath.

Respectfully submitted,

LLOYD GOSSELINK ROCHELLE & TOWNSEND, P.C.

816 Congress Avenue, Suite 1900 Austin, Texas 78701 (512) 322-5800 (512) 472-0532 (Fax)

JAMIE L/MAULDIN State Bar No. 24065694 jmauldin@lglawfirm.com

RICHARD A. ARNETT II State Bar No. 24131230 rarnett@lglawfirm.com

ATTORNEYS FOR WINDERMERE OAKS WATER SUPPLY CORPORATION

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 6, 2023, in accordance with the Order Suspending Rules, issued in Project No. 50664.

_____ JAMIE MÁULDIN

WOWSC'S RESPONSE TO RATEPAYERS AMENDED SIXTH RFI

RATEPAYERS AMENDED 6-1:	Please reference Windermere's response to Staff 8-8. Admit or deny that the "shortfall of \$174,515" is the difference between Windermere's budgeted costs and projected income for 2020 as reflected on Attachment Staff 8-5, and is calculated as follows:
	 \$178,725 – Total COGS, plus \$427,840 – Total Expense less COGS, plus \$37,000 – Loan Principal Payments, equals \$643,565 – Budgeted Costs for 2020, minus \$469,050 – Projected Total Income for 2020, equals \$174,515 – Projected shortfall for 2020
	For clarity, each category and amount referred to above is highlighted on the attached copy of Attachment Staff 8-5.
RESPONSE:	Admit.

Prepared by:	Mike Nelson
Sponsored by:	Mike Nelson

WOWSC'S RESPONSE TO RATEPAYERS AMENDED SIXTH RFI

RATEPAYERS AMENDED 6-2: If Ratepayers' Amended 6-1 is denied (in whole or in part), describe in detail how the "shortfall of \$174,515" was calculated and the data used to calculate it and produce the documents reflecting such data.

RESPONSE:

Not applicable.

Prepared by:Mike NelsonSponsored by:Mike Nelson

WOWSC'S RESPONSE TO RATEPAYERS AMENDED SIXTH RFI

RATEPAYERS AMENDED 6-3: Please reference Windermere's response to Staff 8-8. Admit or deny that the appealed rates were designed to recover a budgeted revenue requirement of \$643,565 based on the projected cost data set forth in Windermere's 2020 budget.

RESPONSE:

Deny.

Prepared by:Mike NelsonSponsored by:Mike Nelson

WOWSC'S RESPONSE TO RATEPAYERS AMENDED SIXTH RFI

RATEPAYERS AMENDED 6-4: If Ratepayers' Amended 6-3 is denied (in whole or in part):

- a. State the dollar amount of the revenue requirement the appealed rates were designed to recover;
- b. Describe how such revenue requirement was determined;
- c. Describe and quantify each expense within each expense category of such revenue requirement;
- d. Produce the documents reflecting each such expense.
- **RESPONSE:** a. Not applicable. WOWSC did not set its revenue requirement to recover a specific amount. Rather, WOWSC increased rates to pay legal representation \$10,000 a month.
 - b. In 2019, WOWSC budgeted \$38,000 for legal fees, which is roughly \$3,000 a month. In 2020, WOWSC required \$20,000 a month for legal fees and, therefore, implemented rates to add between \$16,000 and \$17,000 a month.
 - c. The \$20,000 monthly expense related to outside legal counsel payment plans.
 - d. See Attachment GR-2 to the Rebuttal Testimony of Grant Rabon.

Prepared by:	Mike Nelson
Sponsored by:	Mike Nelson

WOWSC'S RESPONSE TO RATEPAYERS AMENDED SIXTH RFI

RATEPAYERS AMENDED 6-5: Please reference Windermere's response to Staff 8-8. Admit (or deny) that Windermere has not produced evidence showing that the budgeted cost data reflected in Attachment Staff 8-5 is a reasonable approximation of its actual costs of providing service.

RESPONSE:

Deny.

Prepared by:Mike NelsonSponsored by:Mike Nelson

WOWSC'S RESPONSE TO RATEPAYERS AMENDED SIXTH RFI

RATEPAYERS AMENDED 6-6: If Ratepayers' Amended 6-5 is not admitted (in whole or in part), identify the evidence in the record Windermere contends shows that the budgeted cost data reflected in Attachment Staff 8-5 is a reasonable approximation of its actual costs of providing service.

RESPONSE: See Attachment GR-2 to the Rebuttal Testimony of Grant Rabon at 6.

Prepared by:	Mike Nelson
Sponsored by:	Mike Nelson

WOWSC'S RESPONSE TO RATEPAYERS AMENDED SIXTH RFI

RATEPAYERS AMENDED 6-7: Please reference Windermere's response to Staff 8-8. Admit (or deny) that Windermere has not produced evidence showing that the budgeted costs reflected in Attachment Staff 8-5 are reasonable and necessary to provide water and/or sewer service to customers.

RESPONSE:

Deny.

Prepared by:Mike NelsonSponsored by:Mike Nelson

WOWSC'S RESPONSE TO RATEPAYERS AMENDED SIXTH RFI

RATEPAYERS AMENDED 6-8: If Ratepayers' Amended 6-7 is not admitted (in whole or in part), identify the evidence in the record Windermere contends shows that each of the budgeted costs reflected in Attachment Staff 8-5 is reasonable and necessary to provide service to customers.

RESPONSE: See Attachment GR-2 to the Rebuttal Testimony of Grant Rabon.

Prepared by:	Mike Nelson
Sponsored by:	Mike Nelson

WOWSC'S RESPONSE TO RATEPAYERS AMENDED SIXTH RFI

RATEPAYERS AMENDED 6-9:	For each projected expenditure within each line item/expense category set forth on Attachment Staff 8-5, please provide the following information available at the time the rate increase was approved:
	a. The amount and a detailed description of the goods and/or services expected to be purchased or acquired;
	b. How Windermere allocated such projected expenditure as between water service and sewer service, if it did;
	c. An explanation as to why such projected expenditure is reasonable and necessary, if Windermere so contends;
	d. An explanation as to how such projected expenditure is a cost of providing utility service, if Windermere so contends; and
	e. An explanation as to how the amount of such projected expenditure could have been anticipated with reasonable certainty at the time of the rate increase.
	For clarity, this RFI seeks the foregoing information as to each and every projected expenditure within each line item (examples of line items are "Total 50000 – COS Operator" and "Total 63000 – Legal/Appraisal") on Windermere's 2020 budget (Attachment Staff 8-5).
RESPONSE:	a. See Attachment GR-2 to the Rebuttal Testimony of Grant Rabon
	b. See Attachment Ratepayers 4-6 at p. 5-9. See Columns "YTD Budget" and "Annual Budget" to see the budgeted allocation of costs between water and wastewater services.
	c. See Attachment GR-2 to the Rebuttal Testimony of Grant Rabon.
	d. WOWSC is a nonprofit corporation without shareholders. Therefore, all expenditures related to provision of water and wastewater service are a cost of providing utility service.
	e. To project its expenditures, WOWSC reviews expenditures from the prior year and assesses its future

WOWSC'S RESPONSE TO RATEPAYERS AMENDED SIXTH RFI

needs. Based on this review and assessment, it projects the upcoming year's expenditures and implements rates to recover capital accordingly.

Prepared by:Mike NelsonSponsored by:Mike Nelson

WOWSC'S RESPONSE TO RATEPAYERS AMENDED SIXTH RFI

RATEPAYERS AMENDED 6-10: Reference Windermere's Response to Ratepayers' 3-6 for the following questions. a. Admit or deny that when the board approved the 2020 rate increase Windermere owed at least \$121,659.17 for outside legal services rendered in 2019; b. If (a) above is denied, state the dollar amount Windermere owed for outside legal services rendered in 2019 at the time the board approved the rate increase; and c. State whether \$250,000 the budget for "Legal/Appraisal" as reflected on Attachment Staff 8-5

c. State whether the \$250,000 budget for "Legal/Appraisal" as reflected on Attachment Staff 8-5 included Windermere's unpaid balance owed for outside legal services rendered in 2019.

RESPONSE: a. Admit.

- b. Not applicable.
- c. The \$250,000 budget for "Legal/Appraisal" as reflected on Attachment Staff 8-5 did not include WOWSC's unpaid balance owed for outside legal services rendered in 2019.

Prepared by:	Mike Nelson
Sponsored by:	Mike Nelson

WOWSC'S RESPONSE TO RATEPAYERS AMENDED SIXTH RFI

RATEPAYERS AMENDED 6-11: Admit or deny that at the time the 2020 rate increase was approved Windermere's board could not reasonably anticipate the actual costs Windermere would incur and would become obligated to pay for outside legal services on a monthly or yearly basis during:

- a. 2020;
- b. 2021; or
- c. 2022.

For clarity, this RFI seeks information concerning the costs reflected by the amounts invoiced for outside legal services, and not some "minimum amount" Windermere claims it may have arranged to pay toward the invoiced amounts.

RESPONSE: a. Admit.

- b. Admit.
- c. Admit.

Prepared by:Joe GimenezSponsored by:Joe Gimenez

§

§

§

§ §

RATEPAYERS APPEAL OF THE DECISION BY WINDERMERE OAKS WATER SUPPLY CORPORATION TO CHANGE WATER AND SEWER RATES **BEFORE THE STATE OFFICE**

OF

ADMINISTRATIVE HEARINGS



SUPPLEMENTAL DIRECT TESTIMONY OF

STEPHEN J. MENDOZA

RATE REGULATION DIVISION

PUBLIC UTILITY COMMISSION OF TEXAS

JANUARY 10, 2023

Exhibit 5

SOAH Docket No. 473-20-4071.WS PUC Docket No. 50788

1	A.	Yes. In response to Staff 1-16, WOWSC stated that approximately 60% of its service
2		revenue is for water while approximately 40% of its service revenue is for wastewater. ⁹
3	Q.	Has WOWSC made it clear that the revenue requirement of \$576,192 identified in
4		the TRWA rate analysis includes costs associated with water and wastewater
5		volumetric service?
6	A.	Yes. In response to Staff 5-8, WOWSC affirmed that costs associated with both water
7		and wastewater volumetric service are included in the TRWA rate analysis. ¹⁰
8	Q.	Did WOWSC implement new volumetric water and wastewater service rates in
9		response to the TRWA rate analysis?
10	A.	No. It is my understanding that WOWSC only implemented new monthly base rates
11		(minimum charge) for water (\$90.39/month) and wastewater (\$66.41/month) as a result
12		of the TRWA rate analysis. As I previously mentioned in my testimony, these new
13		monthly base rates (minimum charge) for water and wastewater are not identified
14		anywhere in the TRWA rate analysis.
15	Q.	If the TRWA rate analysis includes costs associated with water and wastewater
16		volumetric service, is it appropriate that WOWSC only proposed new base rates
17		(minimum charge) for water and wastewater with no newly proposed rates for
18		volumetric water and wastewater service?
19	A.	I don't believe so. Given that the TRWA rate analysis involves a revenue requirement
20		that includes system-wide costs associated with providing water and wastewater service,

⁹ Windermere Oaks Water Supply Corporation's Response to Commission Staff's First Request for Information at 18 (Nov. 9, 2020).

¹⁰ Windermere Oaks Water Supply Corporation's Response to Commission Staff's Fifth Request for Information at 10 (Nov. 8, 2022).

SOAH Docket No. 473-20-4071.WS PUC Docket No. 50788

1	then I believe that it is reasonable to presume that the revenue requirement for the test
2	year in the TRWA rate analysis should result in new monthly base rates (minimum
3	charge) for water and wastewater, along with new volumetric rates for water and
4	wastewater service. If only new monthly base rates (minimum charge) are implemented
5	for water and wastewater, then you are left with a scenario where the unchanged
6	volumetric water and wastewater rates are recovering a different revenue requirement
7	than what was established under the TRWA rate analysis. This appears to be what is
8	happening under WOWSC's current proposed rates.

9

10 V. RATE DESIGN

11 Q. Has Staff recommended a water revenue requirement for WOWSC?

A. Yes. Staff witness Anna Givens has recommended a water revenue requirement in the
 amount of \$213,826 for WOWSC.¹¹ Please see Ms. Givens' supplemental testimony for
 an explanation of how she arrived at the water revenue requirement for WOWSC.

Q. Have you calculated a new monthly water base rate (minimum charge) using Staff's
 water revenue requirement?

17 A. Yes.

Q. What is the just and reasonable monthly water base rate (minimum charge) for water service for WOWSC?

- A. Please refer to Attachment SJM-3 for the calculation of Staff's monthly water base rate
- 21 (minimum charge) of \$40.43 for WOWSC. This calculated rate is based on the revenue

¹¹ Supplemental Direct Testimony of Anna Givens at 6 (January 10, 2023) (Givens Supplemental Direct).

- 1Q.Using the test year meter connection counts and gallonage billing units provided by2WOWSC, please demonstrate what WOWSC's current rates are projected to3recover.
- Using the test year meter connection counts provided by WOWSC,³¹ WOWSC's current 4 A. rates for the water and wastewater base rates (minimum charge) are projected to recover 5 6 approximately \$489,194. Using the test year gallonage billing units provided by WOWSC in Mr. Nelson's Revised Attachment MN-6, WOWSC's current volumetric 7 rates for water and wastewater service are projected to recover approximately \$108,056. 8 9 Combining both projected recovery amounts results in a total projected recovery of approximately \$597,250 (\$489,194 + \$108,056 = \$597,250). Please see Attachment 10 SJM-6 for a detailed calculation of WOWSC's projected revenue recovery using current 11 12 rates.
- Q. Does the projected revenue recovery using WOWSC's current rates match the
 revenue requirement identified in the TRWA rate analysis originally provided by
 WOWSC?
- A. No. The TRWA rate analysis originally provided by WOWSC identified a revenue requirement amount of approximately \$576,192. As discussed above, WOWSC's current rates appear to recover a projected amount of \$597,250. While the difference is not extreme, I point it out only to demonstrate that it is possible that WOWSC's current volumetric rates for water and wastewater are designed to recover a proportionate revenue amount that is decidedly different than the revenue requirement amount of \$576,192 identified in the TRWA rate analysis. All of this is assuming the current

³¹ See WOWSC replies to Staff 1-8 and Staff 1-15, (Nov. 9, 2020).

SOAH Docket No. 473-20-4071.WS PUC Docket No. 50788

1		monthly water and wastewater base rates (minimum charges) have been designed to
2		recover the revenue requirement identified in the TRWA rate analysis. Consistent with
3		the discussion earlier in my testimony, it is my opinion that the current monthly water
4		and wastewater base rates (minimum charges) have not been designed to properly
5		recover the revenue requirement identified in the TRWA rate analysis. Conversely, my
6		proposed rates have been designed to reasonably recover Staff's proposed revenue
7		requirement of \$356,378.
8		
9	VI.	CONCLUSION
10	Q.	What is your recommendation with respect to the monthly water base rate
11		(minimum charge) that is currently being charged by WOWSC?
12	A.	Based upon my review of materials in this proceeding, along with the water revenue
13		requirement established by Ms. Givens, I recommend a new monthly water base rate
14		(minimum charge) of \$40.43. I also recommend that the Commission order WOWSC to
15		replace the current monthly water base rate (minimum charge) with Staff's proposed
16		monthly water base rate (minimum charge) of \$40.43.
17	Q.	What is your recommendation with respect to the wastewater base rate (minimum
18		charge) that is currently being charged by WOWSC?
19	A.	Based upon my review of materials in this proceeding, along with the wastewater
20		revenue requirement established by Ms. Givens, I recommend a new monthly wastewater
21		base rate (minimum charge) of \$29.81. I also recommend that the Commission order
22		WOWSC to replace the current monthly wastewater base rate (minimum charge) with
23		Staff's proposed monthly wastewater base rate (minimum charge) of \$29.81.

Illustrations - Sources of "Shortfall"

Cost Category	2019 Cost (per TRWA Rate Sheet)	2020 Budgeted Cost	"Shortfall" (Illustrations)
Contract Labor	117,865	132,375	14,510
Utilities	20,922	22,400	1,478
Repairs & Maintenance	28,313	50,000	21,687
Office Expenses Billing	15,679	20,000	4,321
Accounting & Legal Equipment Rental Insurance	171,337 250 14,160	263,000 1,500 21,000	91,663 1,250 6,840
License & Dues	178	6,100	5,922
Postage & Freight	2,710	5,000	2,290
Materials & Supplies	6,730	16,000	9,270
Sludge Removal	2,363	5,000	2,637
Bookkeeping		4,800	637
Website		500	500
Printing Expense		1,500	1,500
Interest Expense		14,000	14,000

Notes

COS - Operator + Total Contract Services

C5 is expense after \$42,747 ins. reimb. for casualty loss

2020 Budget - Accounting (13,000) + Legal/Appraisal (250,000)

2020 Budget - Dues & Subscriptions (4,000) + Regulatory System Fee (2,100)

2020 Budget - Repair Parts

January 31, 2020

PO Box 790 Marble Falls, TX 78654 Email: watermgmt@yahoo.com (830) 613-8137

Invoice

50000-5	Managament convices for language 2020	<u>,</u>	0 400 07
50000-6	Management services for January 2020	\$	2,133.25
66500-6	Management services for January 2020 Tennis Village alarm phone		2,133.25
66500-5	Grasshopper		40.00
66500-6	Grasshopper		21.01
57000-5			21.01
67000-5	Treatment chemicals for water plant		898.50
59610-5	Postage for submitting WWTP permit renewal documents		13.65
68522-5	Pipe and fittings for new taps		1,161.16
65500-5	(Hours not previously billed for Emergency pump in storm Oct. 2018)		1,125.00
68500-6	Liability insurance		350.00
59610-6	Repaired sewer leak at 1006 Coventry		250.00
68500-6	Met with builder at 407 Kendall to determine tap locations		100.00
15402-5	Repaired and tuned-up two utility pumps at sewer plant		275.00
15402-5	Assisted unloading new generator at water plant		250.00
	Remove and reinstall plant fence to accommodate generator		645.00
68500-6	Pumped-out east side of lagoon at sewer plant		2,175.00
	Subtotal	: \$	11,591.83
F0000 F	Corix		
50000-5	Corix operations for January 2020	\$	4,462.50
50000-6	Corix operations for January 2020		1,487.50
59610-6	Excavation for installation of water & sewer mains to CCI		1,127.70
68500-6	Repair of sewer leak at 1006 Coventry		556.20
	Subtotal: Corix	κŞ	7,633.90
	Lori Cantrell		
62600-5	Billing services for December 2019	\$	500.00
62600-6	Billing services for December 2019	*	500.00
67000-5	Postage		150.00
67000-6	Postage		150.00
62600-5	Special projects		200.00
62600-6	Special projects		200.00
	Subtotal: Lori Cantrel	1 \$	1,700.00
			,
	Bookkeeping Services		
62400-5	Norden & Salinas CPA, January 2020	\$	175.00
62400-6	Norden & Salinas CPA, January 2020		175.00
	Subtotal: Bookkeeping Services		350.00
	ΤΟΤΑ	L \$	21,275.73

Exhibit 7

February 29, 2020

-

PO Box 790 Marble Falls, TX 78654 Email: watermgmt@yahoo.com (830) 613-8137

Invoice

50000-5	Management services for February 2020	\$	2,133.25
50000-6	Management services for February 2020	Ŷ	2,133.25
66500-6	Tennis Village alarm phone		40.00
66500-5	Grasshopper		21.01
66500-6	Grasshopper		21.01
15402-5	Backfill material for Generator propane tank		960.53
68500-6	Gravel for repair of road to sewer plant		265.47
68500-6	Dug up 3" master meter at sewer plant, disassembled & cl	leaned	1,095.00
68500-5	Repaired leak ar 407 Kendall		200.00
65500-5	Repaired leak on Coventry across from Pavillion		250.00
15402-5	Dug ditch for fuel line from propane tank to Generator		480.00
15402-5	Dug hole for propane tank		380.00
15042-5	Assisted in installation of propane tank		400.00
15402-5	Installed valve at 112 Topspin Drive		100.00
68522-5	(Hours not previously billed for storm 2018)		1,125.00
65500-5	Liability Insurance		350.00
		Subtotal: \$	9,954.52
	Corix		
50000-5	Corix operations for February 2020	\$	4,462.50
50000-6	Corix operations for February 2020		1,487.50
50000-5	Calibration of instruments at water plant		231.75
15402-5	Monitored water plant during installation of transfer swite	ch	208.50
	Pumped sludge at airport & tennis village lift stations		934.65
	Sub	total: Corix \$	7,324.90
	Lori Cantreli		
62600-5	Billing services for February 2020	\$	750.00
62600-6	Billing services for February 2020		750.00
67000-5	Postage		250.00
67000-6	Postage		250.00
	Subtotal: L	ori Cantrell \$	2,000.00
	Bookkeeping Services		
62400-5	Nordon & Salinas CDA Fabruary 2020	<u>ـ</u>	

	ΤΟΤΑΙ	. \$	19,779.42
	Subtotal: Bookkeeping Services	\$	500.00
62400-6	Norden & Salinas CPA, February 2020		250.00
62400-5	Norden & Salinas CPA, February 2020	\$	250.00
	bookkeeping services		

June 30, 2020

PO Box 790 Marble Falls, TX 78654 Email: watermgmt@yahoo.com (830) 613-8137

Invoice

50000-5	Management services for June 2020	\$	2,133.25
50000-6	Management services for June 2020		2,133.25
66500-6	Tennis Village alarm phone		40.00
66500-5	Grasshopper		20.91
66500-6	Grasshopper		20.91
68500-5	Cleaned water plant		300.00
68500-6	Mowed irrigation field and sewer plant		480.00
68500-6	Worked on repairing drip lines to trees along Exe	eter	240.00
68500-5	Mowed water plant		240.00
68500-6	Set up and monitored sludge pump at WWTP po	onds	250.00
68000-5	Backhoe rental to remove dirt at water plant		500.00
68000-6	Backhoe rental to repair road to sewer plant		500.00
68000-6	Pump rental to work on ponds at sewer plant		306.91
66000-5	Ordered new checks from Intuit		286.82
68500-5	Weed eat at water plant, haul off debris		225.00
68500-5	Repaired broken water main at airport		450.00
68500-6	Transferred dirt from Marweigh line to sewer pla	ant	225.00
68500-6	Completed installation of screens in WWTP pond	t de la constante de	1,500.00
59610-5	Excavated Fitzler water tap site		550.00
68500-5	Fabricated copper screen sleeve for raw water p	ump	150.00
68600-5	Materials for raw water pump sleeve		726.88
68600-5	Replacement pump for raw water intake		3,367.41
68600-5	Repaired leak at 5J Holdings hangar and replaced meter		225.00
68600-6	Replacement pump for irrigation at sewer plant		4,739.29
67000-5	Overnighted check to mediation attorney; stamp	DS	81.35
68522-5	(Hours not previously billed for storm Oct. 2018))	1,125.00
65501	Liability insurance		350.00
		Subtotal: \$	21,166.98
	Corix		
50000-5	Corix operations for June 2020	\$	4,462.50
50000-6	Corix operations for June 2020		1,487.50
		Subtotal: Corix \$	5,950.00
	Lori Cantrell		
62600-5	Billing services for June 2020	\$	500.00
62600-6	Billing services for June 2020		500.00
67000-5	Postage		100.00
67000-6	Postage		100.00
62600-5	Special projects		50.00
62600-6	Special projects		50.00
	Su	ıbtotal: Lori Cantrell \$	1,300.00
	Bookkeeping Services		
62400-5	Norden & Salinas CPA, June 2020	\$	200.00
62400-6	Norden & Salinas CPA, June 2020	÷	200.00
	-	Bookkeeping Services \$	400.00
		TOTAL \$	28,816.98
			20,010.38

May 31, 2020

I.

.

PO Box 790 Marble Falls, TX 78654 Email: watermgmt@yahoo.com (830) 613-8137

Invoice

50000-5	Management services for May 2020	\$	2,133.25
50000-6	Management services for May 2020		2,133.25
66500-6	Tennis Village alarm phone		40.00
66500-5	Grasshopper		20.91
66500-6	Grasshopper		20.91
68500-5	Cleaned water plant		150.00
57000-5	Treatment chemicals for water plant		2,246.01
57000-5	Installed sewer main on Bedford: Pipe + Fittings		2,675.82
57000-5	Installed sewer main on Bedford: Trencher rental		499.91
57000-5	Installed sewer main on Bedford: Labor		400.00
68500-5	Repaired leak at Tennis Village		175.00
68500-5	Lab analysis raw water for pretreatment		115.00
59610-5	Installed water tap at Blackberry residence		350.00
59610-5	Installed water tap at Neumann residence		443.37
68500-5	Repaired leak on Eaton		250.00
68500-5	Replaced meter box at Penner residence		350.00
68500-6	New Weed Eater, oil, fuel and cord		608.03
68500-6	Repaired distribution valves at irrigation field		650.00
68500-6	Repaired and reinstalled spray heads on sprinklers		935.00
68500-6	Monitored irrigation pumps to prevent run-off		475.00
59610-5	installed water tap at Marwei property		450.00
68522-5	(Hours not previously billed for storm Oct. 2018)		1,125.00
65501	Liability insurance		350.00
00001	Subtotal:	<u>خ</u>	16,596.46
	Corix		
50000-5	Corix operations for May 2020	\$	4,462.50
50000-6	Corix operations for May 2020		1,487.50
68500-5	Repaired leak on Hill Circle		247.20
68500-5	Responded to control issues with high service pumps		690.37
14700	Installed water main around Marwei property		2,116.64
	Subtotal: Corix	\$	9,004.21
	Lori Cantrell		
62600-5	Billing services for May 2020	\$	500.00
62600-6	Billing services for May 2020		500.00
67000-5	Postage		100.00
67000-6	Postage		100.00
62600-5	Special projects	\$	150.00
62600-6	Special projects	\$	150.00
	Subtotal: Lori Cantrell	\$	1,500.00
	Bookkeeping Services		
62400-5	Norden & Salinas CPA, May 2020	\$	200.00
62400-6	Norden & Salinas CPA, May 2020		200.00
	Subtotal: Bookkeeping Services	\$	400.00
	TOTAL	\$	27,500.67

April 30, 2020

PO Box 790 Marble Falls, TX 78654 Email: watermgmt@yahoo.com (830) 613-8137

Invoice

50000-5	Management services for Apr 2020	\$	2,133.25
50000-6	Management services for Apr 2020		2,133.25
66500-6	Tennis Village alarm phone		40.00
66500-5	Grasshopper		20.91
66500-6	Grasshopper		20.91
66000-5	Office Supplies		52.28
66000-6	Office Supplies		52.28
67000-5	Postage		33.45
68500-5	Cleaned water plant		150.00
63500-5	TRWA		200.00
63500-6	TRWA		200.00
67000-5	Shipped water sample for analysis		91.56
68500-6	Repaired sewer leak at 612 Coventry		65.00
68500-5	Repaired water leak at 100 Kendall		300.00
68500-5	Removed water service line at Neumann residence		225.00
68500-6	Installed outlet screen for East Pond at WWTP		1,035.00
68600-6	Material for outlet screen		1,124.47
68600-5	Meter boxes, values, & fittings		941.40
68600-6	Meter boxes, values, & fittings		941.40
14700-5	Worked with Corix operators to intall marwei pipe		1,025.00
14700-5	Collier material for backfill for marwei pipe		550.06
68522-5	(Hours not previously billed for storm Oct 2018)		1,125.00
65501	Liability Insurance		350.00
	Subtotal:	\$	12,810.22
	Corix		
50000-5	Corix operations for Apr 2020	\$	4,462.50
50000-6	Corix operations for Apr 2020		1,487.50
68500-5	Energency call-out: Low clear well		173.75
68500-5	Leak on Coventry		172.96
59610-5	tap for water meter for Lot 258		556.20
15402-5	Assit in check- out of New Generator		139.05
	Subtotal: Corix	\$	6,991.96
			,
	Lori Cantrell		
62600-5	Billing services for Apr 2020	\$	500.00
62600-6	Billing services for Apr 2020		500.00
67000-5	Postage		71.25
67000-6	Postage		71.25
62600-5	Special projects	\$	105.41
62600-6	Special projects	\$	105.40
	Subtotal: Lori Cantrell	\$	1,353.31
	Bookkeeping Services		
62400-5	Norden & Salinas CPA, Apr 2020	ć	200.00
62400-6	Norden & Salinas CPA, Apr 2020 Norden & Salinas CPA, Apr 2020	\$	200.00
22.000		ć	200.00
	Subtotal: Bookkeeping Services TOTAL		400.00
	TOTAL	· <u> </u>	21,555.49

.

Cost for Outside Legal Services Provided in 2020

			Lloyd Gosselink 3870-0 (General Counsel)	Payments for 3870-0	Lloyd Gosselink 3870-1 (TOMA Integrity Litigation)	Payments for 3870-1		i Payments for 3870-3		Payments for 3870-4	Unallocated Payments to Lloyd Gosselink	l Enoch Kever (Land Sale Litigation)	Payments to (Insurance	to	Notes
x	1/20/2020 Payment												14488.33		ck 1651 - no memo
х	1/31/2020 Enoch Kever	10670		_								7,32	0		
x x	2/27/2020 Lloyd Gosselink 2/28/2020 Lloyd Gosselink	97507116 97507343	9,12	.7	22,299.4	1									
х	2/28/2020 Eloyd Gosselink 2/29/2020 Enoch Kever	97507545			22,299.4	1						234	0		Invoice Missing
х	3/13/2020 Lloyd Gosselink	97507927			1,841.4	6							•		
x x	3/22/2020 Payment 3/22/2020 Payment										10,000.00)	10,000.00		ck 1687 - "February & March 2020 payments" ck 1688 - "February & March 2020 payments"
х	3/30/2020 Lloyd Gosselink	97508229	12,16	53											
х	3/31/2020 Enoch Kever	10910										8,74	5		
x	4/2/2020 Payment 4/2/2020 Payment 4/16/2020 Lloyd Gosselink	97506700 10670 97509397			4,20	500	0						5,000		ck 1691 - "April 2020 PYMT INV #97506700" - legal services performed in 2019 ck 1689 - "APRIL 2020 PAYMENT INV. #10670" - not the same amount
x	4/29/2020 Lloyd Gosselink	97509686	3,007.5	50	4,20	0									
x	4/30/2020 Enoch Kever	11063	5,007.0									5,28	0		
	5/5/2020 Payment 5/5/2020 Payment										10,000		5,000		ck 1707 - "May 2020 Legal Fees" ck 1709 - "May 2020 Legal Fees"
	5/19/2020 Lloyd Gosselink	97510541	5,18	0											
х	5/22/2020 Lloyd Gosselink	97510679					1,05	0			10.00				
x	5/22/2020 Payment 5/26/2020 Lloyd Gosselink	97510250			1,81	5					10,000	,			ck 1719 - no memo
x	5/31/2020 Enoch Kever	11203			1,01	5						4,312.8	2		
	6/9/2020 Payment 6/9/2020 Payment 6/9/2020 Payment										10,000		10,000.00	9,754	ck 1723 - "Legal Fees - June 2020" ck 1724 - "Legal Fees - June 2020" ck 1725 - "Legal Fees"
х	6/22/2020 Lloyd Gosselink	97511429			3,98	1									
x	6/25/2020 Lloyd Gosselink	97511190 97511347	15,095.5	50					7.77						
x x	6/26/2020 Lloyd Gosselink 6/30/2020 Enoch Kever	97511347 11342							7,67	4		19,874.8	5		
x	7/8/2020 Lloyd Gosselink	97512426							1.27	5		15,874.8	5		
	7/16/2020 Payment 7/16/2020 Payment								_,		17,647	7		513.5	ck 1736 - no memo ck 1738 - "July 2, 2020 Invoice #45808"
х	7/23/2020 Lloyd Gosselink	97512452			18,789.5	0									
х	7/24/2020 Lloyd Gosselink	97512412		_			476.0	0							
x x	7/30/2020 Lloyd Gosselink 7/31/2020 Enoch Kever	97513244 11475	7,71	.ю								12,893.8	2		
^	8/11/2020 Payment	114/2									19,467		2		ck 1749 - no memo
x	8/24/2020 Lloyd Gosselink	97513408			2,863.5	0					10,401				is inclusive
x	8/24/2020 Lloyd Gosselink	97513690	10,22	29	-,										
х	8/26/2020 Lloyd Gosselink	97513856							5,110.5	0					
х	8/31/2020 Enoch Kever	11693										4,78	5		
x	9/29/2020 Lloyd Gosselink 9/30/2020 Enoch Kever	97514760	10,981.5	50								111	0		Missing invoice
	5, 50/2020 ENGUL KEVEL											111	~		ck 1781 - "August 31, 2020 Invoice # 11693" -
	10/6/2020 Payment												10,785		not the same amount .ck 1782 - "July 2020 Invoice 3870-0, 3870-1
	10/6/2020 Payment										20,203	3			and 387" - not the same amount ck 1783 - "Invoice 46079 October 5, 2020" -
x	10/6/2020 Payment 10/22/2020 Lloyd Gosselink	46079 97515385							68,601.8	0				316	missing

			Lloyd Gosselink 3870-0 (General Counsel)	Payments for 3870-0	Lloyd Gosselink 3870-1 (TOMA Integrity Litigation)	Payments for 3870-1		Payments for 3870-3	Lloyd Gosselink 3870-4 (PUC Rate Appeal)		to Lloyd	Kever (Land Sale	Shidlofsky Payments to (Insurance Enoch Kever Coverage)		Notes
	10/27/2020 Lloyd Gosselink 10/31/2020 Enoch Kever 11/3/2020 Payment 11/3/2020 Payment	97515468			3,98	1						45586.5	5	533	ck 1797 - "Invoice #46370" - missing ck 1794 - ""September 30, 2020 Legal Fees"
	11/12/2020 Lloyd Gosselink	97516427							8,820)					
	11/25/2020 Lloyd Gosselink 11/25/2020 Lloyd Gosselink	97518159 97515984	16,17	3	6,32	•									
	11/25/2020 Lloyd Gosselink 11/30/2020 Enoch Kever	97515984			6,32	8						24789.17	7		
	12/22/2020 Payment										50,000				ck 1815 - "December 2020 Payment"
	12/22/2020 Payment												10,000.00		ck 1814 - "December 2020 Payment"
	12/22/2020 Lloyd Gosselink	97518766				_			29,925.53	2					
	12/22/2020 Lloyd Gosselink 12/23/2020 Lloyd Gosselink	97518327 97518469	20,017.1	0	7,58	0									
	12/31/2020 Enoch Kever	12185	20,017.1	0								28,603.90	0		
x	1/11/2020 Lloyd Gosselink	97519431							4,213.00)		20,000.01	- -		
х	1/19/2021 Lloyd Gosselink	97519013			24,792.4	6									
х	1/27/2021 Lloyd Gosselink	97519150	15,051.6	0											
	2020 Totals		124,74	1	0 98,471.3	3 5,000.0	0 1,526.00	0.00) 125619.82	2 0.0	0 147,317.40	165,642	1 75,383	0 11116.5	
	Costs	515,999													
	Payments	238,817													
	Legal Debt (2020 Services)	277,182.18													
	Legal Debt (Carried Forward from 2019)	121,659.17													
	1101112019)	121,009.17													
	Total Legal Debt as of 12.31.2020	398,841.35													

RATEPAYERS APPEAL OF THE § DECISION BY WINDERMERE OAKS § WATER SUPPLY CORPORATION TO § CHANGE WATER AND SEWER RATES §

4

BEFORE THE STATE OFFICE

OF

ADMINISTRATIVE HEARINGS

REBUTTAL TESTIMONY

OF

GRANT RABON

ON BEHALF OF

WINDERMERE OAKS WATER SUPPLY CORPORATION



JUNE 7, 2021

Exhibit 9

1 Public policy based on this rationale would imply that even if a board member has done 2 absolutely nothing wrong, legal expenses should not be recovered from ratepayers. While 3 that may be an acceptable policy for IOUs, who have equity investors to bear this cost, it 4 does not serve the public interest for water supply corporations. Board members at water 5 supply corporations should be allowed to defend themselves and the utility without being expected to pay out-of-pocket for the defense of actions they took on behalf of ratepayers 6 7 in their role as board members. Thus, Ms. Gilford's recommendation on this issue does 8 not make good public policy or serve the interests of water supply corporation ratepayers 9 in my opinion.

10

V. FINANCIAL IMPACT OF REFUNDS

Q. IF THE COMMISSION ULTIMATELY AGREES WITH COMMISSION STAFF
AND DISALLOWS THE RECOVERY OF OUTSIDE LEGAL EXPENSES,
SHOULD THE COMMISSION ORDER REFUNDS FOR THE AMOUNT THEY
DETERMINE WAS OVERCHARGED TO RATEPAYERS?

15 A. No.

16 **Q. WHY NOT**?

- 17 A. Refunds would result in significant financial harm that would impair WOWSC's financial18 integrity.
- 19 Q. WHAT SUPPORTS THIS CONCLUSION?

A. WOWSC reporting less than \$4,200 in net income in 2020, as shown in Attachment GR-2,
supports this conclusion. If not for the rate increase effective March 23, 2020, WOWSC
would have lost approximately \$150,000 in 2020, which is a significant amount for a utility

23 of WOWSC's size. Further, it is my understanding that the only reason WOWSC was able

to "break even" in 2020 is due to WOWSC being able to pay some of its outstanding legal
 bills on a payment plan that stretches the payments out over time.

3

4

Since the end of 2020, WOWSC's cash balance¹³ has decreased from \$235,782 as of December 31, 2020 to \$205,588 as of April 30, 2021 despite the current rates.

WHY SHOULDN'T WOWSC USE ITS REMAINING CASH BALANCE TO PAY

5

6

O.

REFUNDS TO CUSTOMERS?

7 Assuming the Commission agrees with my calculation of revised base rates, as outlined A. 8 earlier in my testimony, the disallowance of outside legal expenses represents a \$31.61 9 reduction in the water base rate and a \$23.31 reduction in the wastewater base rate. 10 Considering only the 271 water connections and 245 wastewater connections utilized in 11 the rate study, this would amount to a refund of greater than \$200,000 as of the end of June 12 2021. This is essentially equivalent to all of the cash WOWSC had as of April 30, 2021. 13 With cash balances decreasing, it is doubtful WOWSC would even have enough cash on 14 hand to pay the refunds. Further, WOWSC has committed to reserve some of its cash as 15 part of its CoBank loan commitments. Finally, the utility needs operating cash and 16 liquidity in reserve for emergencies or unplanned increases in expenses or decreases in 17 revenues.

18 Q. WHY DOESN'T WOWSC JUST USE THE CURRENTLY UNUTILIZED 19 COBANK LOAN FOR \$300,000 TO FUND THE REFUNDS?

A. Assuming that loan would still be available to WOWSC after the Commission decision to
 reduce rates, which is doubtful, as previously mentioned WOWSC has committed to
 CoBank that those funds will only be used for capital projects. Further, WOWSC needs

14

¹³ References to cash in this testimony include other liquid investments, such as money market accounts.

Attachment GR-2 Page 1 of 8

Windermere Oaks WSC Summary of Income/Expense December 31, 2020

.

.

Income Expenses			\$	53,772.15 (95,131.68)
			\$	(41,359.53)
Net Income/(Loss)			Ş	(41,559.55)
Bank Account Balances				
Checking			\$	58,333.02
MM+				135,466.63
Capital Expenditure Reserve				41,982.58
Total:			\$	235,782.23
CoBank Loan			\$	149,164.71
CoBank Loan - Refinance				190,599.56
Total long-term debt			\$	339,764.27
Debt to service coverage ratio:	YTD	2020		2019
Net operating income		4,129.14		41,158.66
Debt service		970.55		37,419.39
DSCR		4.25		1.10
Debt to capital ratio:	YTD			
Debt		339,764.27		224,546.24
Total capital		1,445,091.64		1,444,903.66
Debt to capital		0.24		0.16
Days cash on hand:				
Cash on hand	MTH	235,782.23		150,994.44
Budgeted annual expense less depre	ciation	432,640		394,215
Days cash on hand		198.92 *		139.80

* Assumption here is that no additonal income will be received through the end of the year.

Attachment GR-2 Page 2 of 8

Windermere Oaks W.S.C. Balance Sheet As of December 31, 2020

2:22 PM 01/20/21

.

.

Cash Basis

+		Dec 31, 20
	ASSETS	
	Current Assets	
	Checking/Savings	
	10200 Cash in Bank-2100725	58,333 02
	10205 · Capital Expenditures Reserve	41,982.58
	10400 · MM/Contingency Funds-128546	135,466.63
	Total Checking/Savings	235,782.23
1	Total Current Assets	235,782.23
	Fixed Assets	
	15000 · Furniture & Fixtures	2,572.62
	15100 · Equipment	109,418.15
	15200 · Fence	19,017.66
	15300 · Water Treatment Facility	191,994.20
	15310 · 2004 Water Plant Expansion	6,500.00
	15315 - Water Plant Computer Upgrade	14,861.50
	15340 · 3-Phase Electrical Upgrade	8,699 00
	15350 · 2004 Water Storage Tank	70,649.95
	15400 · Improvements	34,888.96
1	15401 · Tennis Village Lift Station (Replace Lift Station)	59,341.90
	15402 · Water Plant Generator (New Generator)	88,715.03
	15403 · Security System - Water Plant	11,008.04
	15500 · Building	3,377.58
	15600 · Sewer Plant	125,233 87
	15610 · Wastewater Recycling Project	28,184.08
	15650 · Barge Replacement	652.27
	15700 · Hydrotank Foundation	9,599.19
	15750 · Boat	4,000 00
	15800 · Decant Lagoon	18,475.51
	15850 · 2014 WW Treatment Plant (Expenditures for WWTP) 15851 · Total Land	788,648.35
	16800 · Lot 253 16900 · Land	6,403.75 54,705.69
	Total 15851 · Total Land	61,109.44
	15900 · Sewer Plant Bldg new	18,277.70
i.	15950 · 2007 Water Treatment Plant	679,210.33
	17000 · Accumulated Depreciation	-1,019,207.75
	Total Fixed Assets	1,335,227.58
	Other Assets 19300 · Standby Fees Delinquent	34 93
	Total Other Assets	34.93
ı	TOTAL ASSETS	1,571,044.74
	LIABILITIES & EQUITY	
t L	Liabilities	
	Current Liabilities	
	Other Current Liabilities	
1	25000 · Water & Sewer Taxes Payable	6,202.80
	Total Other Current Liabilities	6,202 80
	Total Current Liabilities	6,202.80
		-,
	Long Term Liabilities	
	27500 · Membership Fees Refundabl	119,727.75
	27756 · Loan COBank ACB Denver	149,164.71
ļ	27757 · Note Payable CoBank - Refinance	190,599 56
T	Total Long Term Liabilities	459,492.02
	Total Liabilities	465,694.82

024 Page 1

Attachment GR-2 Page 3 of 8

2:22 PM

.

.

01/20/21 Cash Basis

1

Windermere Oaks W.S.C. Balance Sheet As of December 31, 2020

	Dec 31, 20
Equity	
39005 · Retained Earnings	1,101,198 23
Net Income	4,151.69
Total Equity	1,105,349 92
TOTAL LIABILITIES & EQUITY	1,571,044.74

025 Page 2

Exhibit 9: Excerpts – Grant Rabon Rebuttal Testimony Attachment GR-2

Page 4 of 8

2:29 PM

01/20/21 Cash Basis

Windermere Oaks W.S.C. Profit & Loss Budget Performance

December 2020

	Dec 20	Budget	Jan - Dec 20	YTD Budget	Annual Budget
ary Income/Expense		-			· · · · · · · · · · · · · · · · · · ·
40000 · Standby Fees					
40000-5 · Standby Fees - Water	2,980 80	1,375 00	20,629.84	16,500.00	16,500 00
40000-6 · Standby Fees - Sewer	2,980 80	1,375 00	20,555 07	16,500 00	16,500 00
Total 40000 · Standby Fees	5,961 60	2,750 00	41,184 91	33,000 00	33,000
40200 · Water & Sewer Services					
40200-5 · Water Services	28,974.06	19,500.00	327,395.88	234,000 00	234,000 00
40200-6 · Sewer Services	18,251 51	13,000.00	207,557 64	156,000 00	156,000 00
Total 40200 · Water & Sewer Services	47,225.57	32,500 00	534,953.52	390,000 00	390,000
40300 · Late Charges					
40300-5 · Late Charges - Water 40300-6 · Late Charges - Sewer	261.15	250 00	4,707.92	3,000 00	3,000 00
40300 · Late Charges - Sewer 40300 · Late Charges - Other	157 74 0 00	166.66	3,115 59 5 90	2,000 00	2,000 00
Total 40300 · Late Charges	418.89	416 66	7,829 41	5,000 00	5,000
40400 · Membership Fees	0 00	200 00	0.00	2,400.00	2,400
•	0.00	200.00	0.00	2,100,00	2,40
40410 · Membership Transfer Fees 40410-5 · Membership Transfer Fees-Water	0.00	16 66	40.26	200 00	200 00
40410-6 · Membership Transfer Fees-Sewer	0.00	16 66	40.20	200.00	200 00
40410 · Membership Transfer Fees - Other	40 25	,	120.75	200,00	200 00
Total 40410 · Membership Transfer Fees	40.25	33.32	201 25	400 00	40
40500 · Equity Buy-in Fees					
40500-5 · Équity Buy-in Fees - Water	0 00	1,150 00	29,900.00	13,800 00	13,800 00
40500-6 · Equity Buy-In Fees - Sewer	0 00	1,150 00	29,900.00	13,800.00	13,800 00
Total 40500 · Equity Buy-in Fees	0.00	2,300 00	59,800.00	27,600.00	27,60
40600 · Water & Sewer Taps					
40600-5 · Water Taps	0 00	431 25	9,582.71	5,175.00	5,175 00
40600-6 · Sewer Taps 40600 · Water & Sewer Taps - Other	0 00	431 25	10,264.69	5,175.00	5,175 00
·	0 00		862 50		
Total 40600 · Water & Sewer Taps	0 00	862.50	20,709.90	10,350 00	10,35
44000 · Regulatory Assessment fee refun					
44000-6 · Regulatory Assess Fee Ref-Sewer	28 29		28 29		
44000 · Regulatory Assessment fee refun - Other	0.00	-	-1,876.00		
Total 44000 · Regulatory Assessment fee refun	28.29		-1,847 71		
46400 · Reconnect fee					
46400-5 · Reconnect Fee - Water	75 00	_	75.00		
Total 46400 · Reconnect fee	75 00		75.00		
48000 · Miscellaneous Income	0.00		14,134 00		
Fotal Income	53,749 60	39,062 48	677.040 28	468,750 00	468,750

Cost of Goods Sold 50000 · COS-Operator

Page 1

Exhibit 9: Excerpts – Grant Rabon Rebuttal Testimony Attachment GR-2

Page 5 of 8

2:29 PM

01/20/21

Cash Basis

Windermere Oaks W.S.C. Profit & Loss Budget Performance

December 2020

	Dec 20	Budget	Jan - Dec 20	YTD Budget	Annual Budget
50000-5 · COS Operator - Water 50000-6 · COS Operator - Sewer	6,595.75 3,620.75	6,682.83 3,598 41	78,297.50 45,340 75	80,194 00 43,181 00	80,194 00 43,181 00
Total 50000 · COS-Operator	10,216.50	10,281.24	123,638.25	123,375 00	123,375.00
57000 · COS-Chemicals 57000-5 · COS Chemicals - Water 57000-6 · COS Chemcials - Sewer	2,217 30 0 00	1,016 66 20 83	14,641 76 0 00	12,200.00 250 00	12,200.00 250 00
Total 57000 · COS-Chemicals	2,217 30	1,037 49	14,641.76	12,450 00	12,450 00
57500 · COS-Electricity 57500-5 · COS Electricity -Water 57500-6 · COS Electricity -Sewer	844 17 905.09	933 33 933 33	12,551.36 10,991 77	11,200 00 11,200 00	11,200 00 11,200.00
Total 57500 · COS-Electricity	1,749 26	1,866 66	23,543 13	22,400 00	22,400 00
58000 · COS-Sludge Removal 58000-5 · COS-Sludge Removal - Water 58000-6 · COS-Sludge Removal - Sewer	0 00 0 00	166 66 250 00	2,918 75 8,258 38	2,000 00 3,000 00	2,000 00 3,000 00
Total 58000 · COS-Sludge Removal	0 00	416.66	11,177 13	5,000.00	5,000 00
58500 · LCRA - Raw Water Fee 58500-5 · COS-LCRA Raw Water Fee - Water 58500-6 · COS-LCRA Raw Water Fee - Sewer	0 00	450 00 300.00	8,931 03 3,211 94	5,400 00 3,600.00	5,400.00 3,600 00
Total 58500 · LCRA - Raw Water Fee	0.00	750.00	12,142 97	9,000 00	9,000 00
59000 · COS-Lab Fees 59000-5 · COS Lab Fees - Water 59000-6 · COS Lab Fees - Sewer	0 00 0 00	250.00 291.66	3,583.90 3,772.00	3,000 00 3,500 00	3,000.00 3,500.00
Total 59000 · COS-Lab Fees	0 00	541 66	7,355 90	6,500 00	6,500 00
Total COGS	14,183 06	14,893 71	192,499 14	178,725.00	178,725.00
Gross Profit	39,566.54	24,168.77	484,541.14	290,025 00	290,025.00
Expense 77600 · Website 77600-5 · Website - Water 77600-6 · Website - Sewer	0 00 0 00	20.83 20.83	208.73 208.73	250 00 250 00	250.00 250.00
Total 77600 · Website	0 00	41 66	417.46	500 00	500.00
59610 · Install New Service Taps 59610-5 · Install New Service Taps-Water 59610-6 · Install New Service Taps-Sewer	770 00 00000000000000000000000000000000	300.00 300.00	11,098.73 4,876 28	3,600.00 3,600.00	3,600.00 3,600.00
Total 59610 · Install New Service Taps	770 00	600 00	15,975 01	7,200 00	7,200.00
61600 · Bad Debt Expense 61600-6 · Bad Debt Expense - Sewer 61600-5 · Bad Debt Expense - Water	19.00 19.00	_	19 00 19.00		
Total 61600 · Bad Debt Expense	38 00		38 00		
62000 · Bank Charges 62000-5 · Bank Charges - Water	46 02	25 00	714 85	300.00	300 00

Page 2

Exhibit 9: Excerpts – Grant Rabon Rebuttal Testimony
Attachment GR-2

Page 6 of 8

.

2:29 PM

01/20/21 Cash Basis

Windermere Oaks W.S.C. Profit & Loss Budget Performance

December 2020

	Dec 20	Budget	Jan - Dec 20	YTD Budget	Annual Budget
62000-6 · Bank Charges - Sewer	46 03	25 00	1,970 26	300 00	300.00
Total 62000 · Bank Charges	92 05	50.00	2,685 11	600 00	600.0
62400 · Bookkeeping					
62400-6 · Bookkeeping - Sewer	200.00	200 00	2,400.00	2,400 00	2,400 00
62400-5 · Bookkeeping - Water	200.00	200 00	3,248.55	2,400 00	2,400.00
Total 62400 · Bookkeeping	400.00	400 00	5,648.55	4,800.00	4,800
62500 · Accounting					
62501 · Accounting - Other	0 00	916 66	0 00	11,000.00	11,000.00
62500-5 · Accounting - Water	0 00	83.33	735.00	1,000.00	1,000 00
62500-6 · Accounting - Sewer	0 00	83 33	735 00	1,000 00	1,000 00
Total 62500 · Accounting	0 00	1,083.32	1,470.00	13,000.00	13,000
62600 · Billing Services 62600-5 · Billing - Water	667 91	833 33	9 779 99	10,000 00	10,000 00
62600-6 · Billing - Sewer	667 91	833 33	8,773 32 7,517 91	10,000 00	10,000.00
•					
Total 62600 · Billing Services	1,335.82	1,666.66	16,291.23	20,000.00	20,000
62800 · Total Contract Services			0.00	0 500 00	0 500 00
62804-5 · Professional Engineer - Water 62804-6 · Professional Engineer - Sewer	0 00 0 00	208 33 208.33	0.00	2,500.00 2,500.00	2,500.00 2,500.00
62806-5 · Consulting Fees - Water	0.00	∠08.33 166.66	3,438.00 840.00	2,000.00	2,500.00
62806-6 · Consulting Fees - Sewer	0 00	166 66	840.00	2,000 00	2,000.00
Total 62800 · Total Contract Services	0 00	749.98	5,118.00	9,000 00	9,000.
63000 · Legal/Appraisal					
63001 · Legal/Appraisal -Other	-832.00	1,000 00	-832 00	12,000 00	12,000 00
63000-5 · Legal/Appraisal - Water	0 00	600 00	0 00	7,200 00	7,200.00
63000-6 · Legal/Appraisal - Sewer	0 00	600.00	0 00	7,200 00	7,200.00
63100-5 · Lawsuit 2017/18-Water (2017/18 Lawsuit)	28,336.00	9,316 66	120,600.61	111,800 00	111,800.00
63100-6 · Lawsuit 2017/18-Sewer	28,336 00	9,316 66	120,600.62	111,800 00	111,800.00
63000 · Legal/Appraisal - Other	0 00		416 00		
Total 63000 · Legal/Appraisal	55,840.00	20,833 32	240,785 23	250,000.00	250,000
63200 · Public Information Officer exp					
63200-5 · PIO Expense - Water	2,496.00		2,496 00		
63200-6 · PIO Expense - Sewer	2,496.00	-	2,496 00		
Total 63200 · Public Information Officer exp	4,992 00		4,992.00		
63500 · Dues & Subscriptions		405.00	540.00	4 500 00	
63500-5 · Dues/Subscriptions - Water	0.00	125.00	543 00	1,500 00	1,500 00
63500-6 · Dues/Subscriptions · Sewer 63501 · CTWC Subscription	0 00 0 00	125.00 83 33	543.00 0 00	1,500 00 1,000 00	1,500 00 1,000 00
·		······································			······
Total 63500 · Dues & Subscriptions	0.00	333 33	1,086.00	4,000.00	4,000
64000 · TCEQ System Fee	4 040 50	60.00	1 006 74	600.00	600.00
64000-5 · TCEQ System Fee - Water	1,312 50	50 00	1,906.74 1,250.00	600.00	600 00
64000-6 · TCEQ System Fee - Sewer	0 00	125 00	1,250.00	1,500.00	1,500.00

Exhibit 9: Excerpts – Grant Rabon Rebuttal Testimony
Attachment GR-2

Page 7 of 8



01/20/21 Cash Basis

Windermere Oaks W.S.C. Profit & Loss Budget Performance December 2020

	2000111011				
	Dec 20	Budget	Jan - Dec 20	YTD Budget	Annual Budget
Total 64000 · TCEQ System Fee	1,312 50	175 00	3,156.74	2,100 00	2,100 00
65500 · Insurance					
65501 · Insurance - Other	350 00	416 66	2,800 00	5,000 00	5,000 00
65500-5 · Insurance - Water	0 00	666 66	8,804 00	8,000 00	8,000 00
65500-6 · Insurance - Sewer	0 00	666 66	7,781 00	8,000.00	8,000 00
Total 65500 · Insurance	350.00	1,749.98	19,385.00	21,000 00	21,000 00
65900 · Meals & Entertainment	0 00	41 66	0 00	500.00	500 00
66000 · Office Supplies			2.00	100.00	400.00
66001 · Office Supplies - Other	0.00	33 33	0 00	400 00	400 00
66000-5 · Office Supplies - Water	0 00	125 00	779.22	1,500.00	1,500 00
66000-6 · Office Supplies - Sewer	0 00	125 00	88.39	1,500 00	1,500 00
Total 66000 · Office Supplies	0.00	283.33	867.61	3,400.00	3,400 00
66500 · Telephone and Internet					
66500-5 · Telephone/Internet - Water	549 64	250 00	2,979 41	3,000 00	3,000 00
66500-6 · Telephone/Internet - Sewer	217 26	250 00	2,487 09	3,000.00	3,000 00
66500 · Telephone and Internet - Other	0.00		0 00		
Total 66500 · Telephone and Internet	766 90	500 00	5,466.50	6,000 00	6,000 00
67000 · Postage & Shipping Expense					
67000-5 · Postage & Shipping - Water	42 53	208 33	1,712 27	2,500 00	2,500 00
67000-6 · Postage & Shipping - Sewer	42 52	208 33	1,493 19	2,500 00	2,500 00
Total 67000 · Postage & Shipping Expense	85.05	416 66	3,205.46	5,000 00	5,000 00
68000 · Equipment Rental Expense					
68000-5 · Equip Rental Expense - Water	0,00		1,525.95		
68000-6 · Equip Rental Expense - Sewer	0 00		806 91		
68000 · Equipment Rental Expense - Other	0.00	125.00	0 00	1,500 00	1,500 00
Total 68000 · Equipment Rental Expense	0 00	125 00	2,332 86	1,500 00	1,500 00
68500 · Repairs & Maintenance					
68500-5 · Repairs & Maintenance - Water	7,430 08	2,916 66	36,958.87	35,000 00	35,000 00
68500-6 · Repairs & Maintenance - Sewer	381,35	1,250 00	27,063 19	15,000 00	15,000 00
68522-5 Barge Storm Damage 10/16/18 (Barge only storm damage)	0 00		5,625 00		
Total 68500 · Repairs & Maintenance	7,811 43	4,166 66	69,647.06	50,000.00	50,000 00
68600 · Repair Parts					
68600-5 · Repair Parts - Water	0 00	933 33	5,771 60	11,200 00	11,200 00
68600-6 · Repair Parts - Sewer	116 75	400 00	6,921.91	4,800 00	4,800.00
Total 68600 · Repair Parts	116 75	1,333.33	12,693 51	16,000.00	16,000.00
69000 · Printing Expense					
69000-5 · Printing Expense - Water	0 00	62.50	119 52	750 00	750.00
69000-6 · Printing Expense - Sewer	0.00	62.50	119 52	750.00	750 00
Total 69000 · Printing Expense	0 00	125.00	239 04	1,500.00	1,500 00
71500 · Interest Expense					
71500-5 · Interest Expense - Water	351 21		562 14		
······································	00121				

Page 4

Exhibit 9: Excerpts – Grant Rabon Rebuttal Testimony Attachment GR-2

Page 8 of 8

٨

2:29 PM

01/20/21

Cash Basis

Windermere Oaks W.S.C. Profit & Loss Budget Performance

December 2020

	Dec 20	Budget	Jan - Dec 20	YTD Budget	Annual Budget
71500-6 · Interest Expense - Sewer	715.43	1,166 66	9,842 88	14,000 00	14,000 00
Total 71500 · Interest Expense	1,066.64	1,166 66	10,405 02	14,000 00	14,000.00
72100 · Taxes-Property 77500 · Meetings/Conferences	0.00	3 33	0.00	40 00	40 00
77500-5 · Meetings/Conferences-Water 77500-6 · Meetings/Conferences-Sewer	0 00 00 00	104 16 104 16	348 75 73 75	1,250 00 1,250 00	1,250 00 1,250 00
Total 77500 · Meetings/Conferences	0.00	208 32	422 50	2,500 00	2,500.00
79000 · Uncategorized	0 00		0 00		
Total Expense	74,977 14	36,053.20	422,327 89	432,640 00	432,640 00
Net Ordinary Income	-35,410 60	-11,884 43	62,213.25	-142,615 00	-142,615.00
Other Income/Expense Other Income 41000 - Interest Income	22 55	25 00	167.20	300 00	300.00
Total Other Income	22 55	25 00	167 20	300 00	300 00
Other Expense 72500 · Depreciation Expense	5,971 48		58,228.76		
Total Other Expense	5,971 48		58,228.76		
Net Other Income	-5,948 93	25 00	-58,061 56	300 00	300 00
Net Income	-41,359.53	-11,859.43	4,151.69	-142,315.00	-142,315.00

RE: Docket 50788

Jamie Mauldin <jmauldin@lglawfirm.com> Wed 2/15/2023 9:15 AM To: kathryn allen <kallen@keallenlaw.com> Cc: Lander, Merritt <Merritt.Lander@puc.texas.gov> Kathryn,

We are looking into this and will respond soon.

Jamie

JAMIE MAULDIN
Principal
 512-322-5890 Direct
512-771-5232
Lloyd Gosselink Rochelle & Townsend, P.C.
816 Congress Ave., Suite 1900, Austin, TX 78701
www.lglawfirm.com 512-322-5800

Your text here!

****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.

CONFIDENTIALITY NOTICE:

This email (and all attachments) is confidential, legally privileged, and covered by the Electronic Communications Privacy Act. Unauthorized use or dissemination is prohibited. If you have received this message in error please delete it immediately. For more detailed information click http://www.lglawfirm.com/email-disclaimer/.

NOT AN E-SIGNATURE:

No portion of this email is an "electronic signature" and neither the author nor any client thereof will be bound by this e-mail unless expressly designated as such as provided in more detail at www.lglawfirm.com/electronic-signature-disclaimer/.

From: kathryn allen <kallen@keallenlaw.com> Sent: Wednesday, February 15, 2023 7:56 AM To: Jamie Mauldin <jmauldin@lglawfirm.com> Cc: Lander, Merritt <Merritt.Lander@puc.texas.gov> Subject: Docket 50788

Jamie,

This is an effort to confer regarding Windermere's response to Ratepayers' Amended Sixth RFI. Please let me know promptly Windermere's position on these matters.

<u>Amended 6-9</u>: Windermere has not produced the information requested in Ratepayers' Amended 6-9. Please let us know whether Windermere is prepared to produce such information.

<u>Amended 6-14</u>: A copy of each legal invoice is requested. Confidential Attachment Ratepayers 4-9 does not appear to include any invoices, but only summary reminder statements. Confidential Attachment Ratepayers 6-14 appears to include only selected invoices for the latter part of 2022. To the extent invoices have in fact been previously furnished, please refer me to those productions. Otherwise, please let us know whether Windermere is prepared to

produce copies of all invoices as requested. Please confirm that Windermere is prepared to supplement its response when the requested information for 2023 is available.

<u>Amended 6-15</u>: Please confirm that Windermere is prepared to supplement its response when the requested information for 2023 is available.

<u>Amended 6-16, 6-17 and 6-20</u>: Pursuant to Rule 197.2(c), Windermere is permitted to respond by reference to records only if the answer is ascertainable from the records furnished and the burden of doing so is substantially the same for Ratepayers. Confidential Attachments Amended Ratepayers 6-16, 6-17 and 6-20 do not reconcile with the payment records Windermere provided in response to Amended 6-15. Thus, neither criterion of the Rule is met. Please advise whether Windermere will provide the requested information. Please confirm that Windermere is prepared to supplement its response when the requested information for 2023 is available.

<u>Amended 6-23</u>: This request seeks the number of customers who paid the monthly base charge for water and sewer service, respectively, in each month during which the appealed rates have been charged. Pursuant to Rule 197.2(c), Windermere is permitted to respond by reference to records only if the answer is ascertainable from the records furnished and the burden of doing so is substantially the same for Ratepayers. Ratepayers cannot rule out that the requested information might be ascertainable from Attachment Ratepayers Amended 6-23, but that certainly is not readily apparent. Please advise whether Windermere is prepared to direct Ratepayers to the relevant data on the records within the Attachment or, better yet, simply to respond by providing the requested information.

I look forward to hearing from you at your earliest convenience.

Thanks.

114 W. 7th Street, Suite 1100
Austin, Texas 78701
0. (512) 495-1400
m. (512) 422-5541
f. (512) 499-0094
kallen@keallenlaw.com

This electronic communication (including any attached material) may contain privileged and/or confidential information. If you are not an intended recipient of this communication, please be advised that any disclosure, dissemination, distribution, copying, or other use of this communication or any attached material is strictly prohibited. If you have received this communication in error, please notify the sender immediately by reply e-mail and promptly destroy all electronic and printed copies of this communication and any attached material.

RE: Docket 50788

Jamie Mauldin <jmauldin@lglawfirm.com>

Thu 2/16/2023 2:19 PM

To: kathryn allen <kallen@keallenlaw.com>

Cc: Lander, Merritt < Merritt.Lander@puc.texas.gov>;Richard Arnett < rarnett@lglawfirm.com>

Kathryn,

See my responses in red, below. I am trying very hard to limit unnecessary expenditures of rate case expenses so I am willing to work on resolving these issues informally. Let me know if you'd like to discuss any of this over the phone. WOWSC will supplement where and if we can over the next few days based on your notes below.

Let me know if you have any questions or want to discuss.

Jamie

JAMIE MAULDIN Principal 512-322-5890 Direct 512-771-5232 Lloyd Gosselink Rochelle & Townsend, P.C. 816 Congress Ave., Suite 1900, Austin, TX 78701 www.lglawfirm.com | 512-322-5800

Your text here!

****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.

CONFIDENTIALITY NOTICE:

This email (and all attachments) is confidential, legally privileged, and covered by the Electronic Communications Privacy Act. Unauthorized use or dissemination is prohibited. If you have received this message in error please delete it immediately. For more detailed information click http://www.lglawfirm.com/email-disclaimer/.

NOT AN E-SIGNATURE:

No portion of this email is an "electronic signature" and neither the author nor any client thereof will be bound by this e-mail unless expressly designated as such as provided in more detail at www.lglawfirm.com/electronic-signature-disclaimer/.

From: kathryn allen <kallen@keallenlaw.com> Sent: Wednesday, February 15, 2023 7:56 AM To: Jamie Mauldin <jmauldin@lglawfirm.com> Cc: Lander, Merritt < Merritt.Lander@puc.texas.gov> Subject: Docket 50788

Jamie,

This is an effort to confer regarding Windermere's response to Ratepayers' Amended Sixth RFI. Please let me know promptly Windermere's position on these matters.

Amended 6-9: Windermere has not produced the information requested in Ratepayers' Amended 6-9. Please let us know whether Windermere is prepared to produce such information.

 WOWSC's Response to Ratepayers' Amended 6-9 is all the relevant information the Company has in its possession. Therefore, there is no additional information to produce. 070

<u>Amended 6-14:</u> A copy of each legal invoice is requested. Confidential Attachment Ratepayers 4-9 does not appear to include any invoices, but only summary reminder statements. Confidential Attachment Ratepayers 6-14 appears to include only selected invoices for the latter part of 2022. To the extent invoices have in fact been previously furnished, please refer me to those productions. Otherwise, please let us know whether Windermere is prepared to produce copies of all invoices as requested. Please confirm that Windermere is prepared to supplement its response when the requested information for 2023 is available.

• WOWSC will supplement its response

<u>Amended 6-15</u>: Please confirm that Windermere is prepared to supplement its response when the requested information for 2023 is available.

• WOWSC will supplement its response when records are available

<u>Amended 6-16, 6-17 and 6-20</u>: Pursuant to Rule 197.2(c), Windermere is permitted to respond by reference to records only if the answer is ascertainable from the records furnished and the burden of doing so is substantially the same for Ratepayers. Confidential Attachments Amended Ratepayers 6-16, 6-17 and 6-20 do not reconcile with the payment records Windermere provided in response to Amended 6-15. Thus, neither criterion of the Rule is met. Please advise whether Windermere will provide the requested information. Please confirm that Windermere is prepared to supplement its response when the requested information for 2023 is available.

• WOWSC will supplement its response to include calculations and numbers

<u>Amended 6-23</u>: This request seeks the number of customers who paid the monthly base charge for water and sewer service, respectively, in each month during which the appealed rates have been charged. Pursuant to Rule 197.2(c), Windermere is permitted to respond by reference to records only if the answer is ascertainable from the records furnished and the burden of doing so is substantially the same for Ratepayers. Ratepayers cannot rule out that the requested information might be ascertainable from Attachment Ratepayers Amended 6-23, but that certainly is not readily apparent. Please advise whether Windermere is prepared to direct Ratepayers to the relevant data on the records within the Attachment or, better yet, simply to respond by providing the requested information.

• The requested information is on the first page of each month Director's Report. Specifically, the information is roughly a quarter of the page down from the top of each Directors Report's first page. Here, there are two columns titled "Total WATER" and "Total Sewage." Two columns over from these columns is a column titled "# Of Accounts." The requested information is found in this column.

I look forward to hearing from you at your earliest convenience.

Thanks.

The Law Office of Kathryn E. Allen, PLLC

114 W. 7th Street, Suite 1100

Austin, Texas 78701

0. (512) 495-1400

m. (512) 422-5541

f. (512) 499-0094

kallen@keallenlaw.com

Jamie Mauldin <jmauldin@lglawfirm.com>

Tue 2/21/2023 3:35 PM

To: kathryn allen <kallen@keallenlaw.com>

Cc: Lander, Merritt <Merritt.Lander@puc.texas.gov>;Richard Arnett <rarnett@lglawfirm.com>

Kathryn,

Thanks for sending this. We are working on the supplemental responses to the RFIs and will file them hopefully by the 23rd. As for your email below and proposed Rule 11, I have been tied up in meetings all day but hope to get you a response tomorrow. My associate, Rick Arnett, is looking through these and making sure we don't have any additional concerns or questions before we sign the Rule 11. We will be in touch tomorrow.

Thanks, Jamie

JAMIE MAULDIN Principal 512-322-5890 Direct 512-771-5232 Lloyd Gosselink Rochelle & Townsend, P.C. 816 Congress Ave., Suite 1900, Austin, TX 78701 www.lglawfirm.com | 512-322-5800

Your text here!

****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.

CONFIDENTIALITY NOTICE:

This email (and all attachments) is confidential, legally privileged, and covered by the Electronic Communications Privacy Act. Unauthorized use or dissemination is prohibited. If you have received this message in error please delete it immediately. For more detailed information click http://www.lglawfirm.com/email-disclaimer/.

NOT AN E-SIGNATURE:

No portion of this email is an "electronic signature" and neither the author nor any client thereof will be bound by this e-mail unless expressly designated as such as provided in more detail at www.lglawfirm.com/electronic-signature-disclaimer/.

From: kathryn allen <kallen@keallenlaw.com>
Sent: Tuesday, February 21, 2023 8:48 AM
To: Jamie Mauldin <jmauldin@lglawfirm.com>
Cc: Lander, Merritt <Merritt.Lander@puc.texas.gov>
Subject: Docket 50788 - discovery follow up

Jamie,

This is in response to your emails responding to our concerns regarding Ratepayers' Amended Sixth RFI and Ratepayers' Seventh RFI. Matters on which I believe we have agreement are addressed in the attached draft Rule 11 letter; please let me know if any revisions are needed.

<u>Amended 6-9:</u> Windermere claims the appealed rates were designed to recover enough revenue to recover its budgeted costs for 2020, based on the projected "shortfall" reflected on Attachment Staff 8-5. A copy of Attachment Staff 8-5 is attached. It reflects over 25 categories and amounts of costs, most of which exceed the expenses paid by the company in 2019 as reflected on its year end financials. To facilitate an evaluation as to 073

whether the 2020 costs are recoverable, this request seeks information concerning all of them. We do not assume Windermere's board simply pulled the 2020 budget out of thin air, particularly since it now claims to have been counsel. planning any number of specific repair and maintenance items and capital improvements at the time. Accordingly, we expect the requested information should be available, but we appreciate that may not be the case.

<u>Amended 6-23</u>: For clarity, please see attached Directors Report for 5.31.2020. Please confirm that this report reflects that for the month of May 2020, 276 customers paid the base charge for water service and 252 customers paid the base charge for sewer service.

<u>Ratepayers 7-9:</u> Please see Rule 11 for proposed handling of these matters. We understand that Ms. Burris' wife recently passed away after a lengthy illness and we do not mean to be insensitive. We would not expect Mr. Burris to do more than deliver the requested files to Windermere. That said, these are very important matters and it has become clear we cannot go forward without the requested materials.

<u>Ratepayers' 7-27 and 7-29</u>: Candidly, I still don't understand Windermere's response. That said, I will continue to study the materials to which you have directed me and will let you know if we believe we must press this further. I don't want to hold up the resolution of the other issues in the interim.

Thanks very much.

The Law Office of Kathryn E. Allen, PLLC

114 W. 7th Street, Suite 1100

Austin, Texas 78701

0. (512) 495-1400

m. (512) 422-5541

f. (512) 499-0094

kallen@keallenlaw.com

Jamie Mauldin <jmauldin@lglawfirm.com>

Wed 2/22/2023 4:48 PM

To: kathryn allen <kallen@keallenlaw.com>

Cc: Lander, Merritt <Merritt.Lander@puc.texas.gov>;Richard Arnett <rarnett@lglawfirm.com>

Kathryn,

See my comments below, in red, on your questions. I also attached a Rule 11 with minor changes. WOWSC is supplementing its responses in an effort to confer and avoid further discovery disputes. Some of this information is burdensome to put together and is taking additional time. Let me know if you can agree to the revised Rule 11.

Thanks, Jamie

JAMIE MAULDIN Principal 512-322-5890 Direct 512-771-5232 Lloyd Gosselink Rochelle & Townsend, P.C. 816 Congress Ave., Suite 1900, Austin, TX 78701 www.lglawfirm.com | 512-322-5800

Your text here!

****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.

CONFIDENTIALITY NOTICE:

This email (and all attachments) is confidential, legally privileged, and covered by the Electronic Communications Privacy Act. Unauthorized use or dissemination is prohibited. If you have received this message in error please delete it immediately. For more detailed information click http://www.lglawfirm.com/email-disclaimer/.

NOT AN E-SIGNATURE:

No portion of this email is an "electronic signature" and neither the author nor any client thereof will be bound by this e-mail unless expressly designated as such as provided in more detail at www.lglawfirm.com/electronic-signature-disclaimer/.

From: kathryn allen <kallen@keallenlaw.com>
Sent: Tuesday, February 21, 2023 8:48 AM
To: Jamie Mauldin <jmauldin@lglawfirm.com>
Cc: Lander, Merritt <Merritt.Lander@puc.texas.gov>
Subject: Docket 50788 - discovery follow up

Jamie,

This is in response to your emails responding to our concerns regarding Ratepayers' Amended Sixth RFI and Ratepayers' Seventh RFI. Matters on which I believe we have agreement are addressed in the attached draft Rule 11 letter; please let me know if any revisions are needed.

<u>Amended 6-9:</u> Windermere claims the appealed rates were designed to recover enough revenue to recover its budgeted costs for 2020, based on the projected "shortfall" reflected on Attachment Staff 8-5. A copy of Attachment Staff 8-5 is attached. It reflects over 25 categories and amounts of costs, most of which exceed the expenses paid by the company in 2019 as reflected on its year end financials. To facilitate an evaluation as to whether the 2020 costs are recoverable, this request seeks information concerning all of them. We do not assume

Windermere's board simply pulled the 2020 budget out of thin air, particularly since it now claims to have been planning any number of specific repair and maintenance items and capital improvements at the time. Accordingly, we expect the requested information should be available, but we appreciate that may not be the case.

• WOWSC's response to Amended 6-9 is not changing and will not be supplemented.

<u>Amended 6-23:</u> For clarity, please see attached Directors Report for 5.31.2020. Please confirm that this report reflects that for the month of May 2020, 276 customers paid the base charge for water service and 252 customers paid the base charge for sewer service.

• WOWSC is putting more information together to calculate the number of customers. WOWSC does not keep its records to show the requested information and because putting this information together is incredibly burdensome, WOWSC will provide this information next week.

<u>Ratepayers 7-9:</u> Please see Rule 11 for proposed handling of these matters. We understand that Ms. Burris' wife recently passed away after a lengthy illness and we do not mean to be insensitive. We would not expect Mr. Burris to do more than deliver the requested files to Windermere. That said, these are very important matters and it has become clear we cannot go forward without the requested materials.

• WOWSC is supplementing this response.

<u>Ratepayers' 7-27 and 7-29</u>: Candidly, I still don't understand Windermere's response. That said, I will continue to study the materials to which you have directed me and will let you know if we believe we must press this further. I don't want to hold up the resolution of the other issues in the interim.

• WOWSC is supplementing this response with some clarifying information.

Thanks very much.

The Law Office of Kathryn E. Allen, PLLC

114 W. 7th Street, Suite 1100

Austin, Texas 78701

0. (512) 495-1400

m. (512) 422-5541

f. (512) 499-0094

kallen@keallenlaw.com

Jamie Mauldin <jmauldin@lglawfirm.com>

Thu 2/23/2023 1:40 PM

To: kathryn allen <kallen@keallenlaw.com>

Cc: Lander, Merritt <Merritt.Lander@puc.texas.gov>;Richard Arnett <rarnett@lglawfirm.com> Kathryn,

See my earlier email for discussion on 6-23.

Regarding 6-9, WOWSC relied on previous years P&L statements to establish the budget. We can supplement those but otherwise, there are no other documents responsive to your request.

For 7-21, your request has greatly expanded the original request so we will supplement the original request with our supplemental filing. We will not agree to expand on your original request as stated in the Rule 11. I've revised the Rule 11.

It is taking quite some time to process all of these requests and supplemental documents. My team and I have been working full-time to get this completed by the end of the day but it may be tomorrow before we can file our supplemental responses to your 7th RFIs, therefore I changed the date on the Rule 11.

Thanks, Jamie

	JAMIE MAULDIN		
	Principal		
	512-322-5890 Direct		
	512-771-5232		
	Lloyd Gosselink Rochelle & Townsend, P.C.		
	816 Congress Ave., Suite 1900, Austin, TX 78701		
	www.lglawfirm.com 512-322-5800		
Your text here!			

****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.

CONFIDENTIALITY NOTICE:

This email (and all attachments) is confidential, legally privileged, and covered by the Electronic Communications Privacy Act. Unauthorized use or dissemination is prohibited. If you have received this message in error please delete it immediately. For more detailed information click http://www.lglawfirm.com/email-disclaimer/.

NOT AN E-SIGNATURE:

No portion of this email is an "electronic signature" and neither the author nor any client thereof will be bound by this e-mail unless expressly designated as such as provided in more detail at www.lglawfirm.com/electronic-signature-disclaimer/.

From: kathryn allen <kallen@keallenlaw.com>
Sent: Thursday, February 23, 2023 9:22 AM
To: Jamie Mauldin <jmauldin@lglawfirm.com>
Cc: Lander, Merritt <Merritt.Lander@puc.texas.gov>; Richard Arnett <rarnett@lglawfirm.com>
Subject: Re: Docket 50788 - discovery follow up

Jamie,

Thank you for your prompt response.

With regard to Ratepayers' Amended 6-9, I encourage you to help me understand the basis on which you contend this information is not discoverable. Otherwise, we will need to move to compel on this request.

I've revised the Rule 11 to incorporate your revisions, as well as your responses below. As to Ratepayers' 7-21, per my email to you I've included appraisals/opinions of value; as previously stated, we assume CoBank required appraisals of the property in connection with the lending. For everyone's convenience, I'm providing the draft in Word format. Please revise as you feel necessary to make it accurate and send back to me.

Thank you.

The Law Office of Kathryn E. Allen, PLLC 114 W. 7th Street, Suite 1100 Austin, Texas 78701 o. (512) 495-1400 *m*. (512) 422-5541 *f*. (512) 499-0094

kallen@keallenlaw.com

This electronic communication (including any attached material) may contain privileged and/or confidential information. If you are not an intended recipient of this communication, please be advised that any disclosure, dissemination, distribution, copying, or other use of this communication or any attached material is strictly prohibited. If you have received this communication in error, please notify the sender immediately by reply e-mail and promptly destroy all electronic and printed copies of this communication and any attached material.

From: Jamie Mauldin <jmauldin@lglawfirm.com>
Sent: Wednesday, February 22, 2023 4:47 PM
To: kathryn allen <kallen@keallenlaw.com>
Cc: Lander, Merritt <<u>Merritt.Lander@puc.texas.gov</u>>; Richard Arnett <<u>rarnett@lglawfirm.com</u>>
Subject: RE: Docket 50788 - discovery follow up

Kathryn,

See my comments below, in red, on your questions. I also attached a Rule 11 with minor changes. WOWSC is supplementing its responses in an effort to confer and avoid further discovery disputes. Some of this information is burdensome to put together and is taking additional time. Let me know if you can agree to the revised Rule 11.

Thanks, Jamie

JAMIE MAULDIN Principal <u>512-322-5890</u> Direct 512-771-5232 Lloyd Gosselink Rochelle & Townsend, P.C. 816 Congress Ave., Suite 1900, Austin, TX 78701

www.lglawfirm.com | 512-322-5800

Your text here!

****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.

CONFIDENTIALITY NOTICE:

This email (and all attachments) is confidential, legally privileged, and covered by the Electronic Communications Privacy Act. Unauthorized use or dissemination is prohibited. If you have received this message in error please delete it immediately. For more detailed information click <u>http://www.lglawfirm.com/email-disclaimer/</u>.

NOT AN E-SIGNATURE:

No portion of this email is an "electronic signature" and neither the author nor any client thereof will be bound by this e-mail unless expressly designated as such as provided in more detail at <u>www.lglawfirm.com/electronic-signature-disclaimer/</u>.

From: kathryn allen <kallen@keallenlaw.com>
Sent: Tuesday, February 21, 2023 8:48 AM
To: Jamie Mauldin <jmauldin@lglawfirm.com>
Cc: Lander, Merritt <<u>Merritt.Lander@puc.texas.gov</u>>
Subject: Docket 50788 - discovery follow up

Jamie,

This is in response to your emails responding to our concerns regarding Ratepayers' Amended Sixth RFI and Ratepayers' Seventh RFI. Matters on which I believe we have agreement are addressed in the attached draft Rule 11 letter; please let me know if any revisions are needed.

<u>Amended 6-9:</u> Windermere claims the appealed rates were designed to recover enough revenue to recover its budgeted costs for 2020, based on the projected "shortfall" reflected on Attachment Staff 8-5. A copy of Attachment Staff 8-5 is attached. It reflects over 25 categories and amounts of costs, most of which exceed the expenses paid by the company in 2019 as reflected on its year end financials. To facilitate an evaluation as to whether the 2020 costs are recoverable, this request seeks information concerning all of them. We do not assume Windermere's board simply pulled the 2020 budget out of thin air, particularly since it now claims to have been planning any number of specific repair and maintenance items and capital improvements at the time. Accordingly, we expect the requested information should be available, but we appreciate that may not be the case.

• WOWSC's response to Amended 6-9 is not changing and will not be supplemented.

<u>Amended 6-23:</u> For clarity, please see attached Directors Report for 5.31.2020. Please confirm that this report reflects that for the month of May 2020, 276 customers paid the base charge for water service and 252 customers paid the base charge for sewer service.

• WOWSC is putting more information together to calculate the number of customers. WOWSC does not keep its records to show the requested information and because putting this information together is incredibly burdensome, WOWSC will provide this information next week.

<u>Ratepayers 7-9:</u> Please see Rule 11 for proposed handling of these matters. We understand that Ms. Burris' wife recently passed away after a lengthy illness and we do not mean to be insensitive. We would not expect Mr. Burris to do more than deliver the requested files to Windermere. That said, these are very important matters and it has become clear we cannot go forward without the requested materials.

• WOWSC is supplementing this response.

<u>Ratepayers' 7-27 and 7-29</u>: Candidly, I still don't understand Windermere's response. That said, I will continue to study the materials to which you have directed me and will let you know if we believe we must press this furtheory

don't want to hold up the resolution of the other issues in the interim.

Thanks very much.

The Law Office of Kathryn E. Allen, PLLC 114 W. 7th Street, Suite 1100 Austin, Texas 78701 o. (512) 495-1400 m. (512) 422-5541 f. (512) 499-0094 kallen@keallenlaw.com

Jamie Mauldin <jmauldin@lglawfirm.com>

Thu 2/23/2023 2:14 PM

To: kathryn allen <kallen@keallenlaw.com>

Cc: Lander, Merritt < Merritt.Lander@puc.texas.gov>;Richard Arnett <rarnett@lglawfirm.com>

See my earlier email for discussion on 6-23. Let's keep working on this one. I'm confident we can get the information needed without undue burden.

Regarding 6-9, WOWSC relied on previous years P&L statements to establish the budget. We can supplement those but otherwise, there are no other documents responsive to your request. Understood. We will address this formally.

For 7-21, your request has greatly expanded the original request so we will supplement the original request with our supplemental filing. We will not agree to expand on your original request as stated in the Rule 11. I've revised the Rule 11. This request has not been "expanded." This request (as initially propounded) included a specific request for value information and we are entitled to such information. If Windermere is sitting on appraisals or other value opinions prepared in connection with the CoBank loans or for some other purpose, then it cannot credibly claim that the requested information "does not exist in the Corporation's records." We can modify the Rule 11 to set the value aspect of the request aside for formal resolution, or we can excise this request from the Rule 11 entirely -- your call.

The original request states: "Reference the chart below listing parcels of real property shown on the Burnet County tax rolls as property of Windermere. For each parcel, please provide the requested information concerning (i) its fair market value and (ii) the portion used for operations or occupied by an incomplete improvement to be used for operations."

Your new request asks us to produce all appraisals/opinions concerning the properties listed. We are supplementing with the appraisals used to complete this response but there are no other documents in the Company's possession beyond that. Our supplement will have value amounts and whatever appraisals used to complete it.

It is taking quite some time to process all of these requests and supplemental documents. My team and I have been working full-time to get this completed by the end of the day but it may be tomorrow before we can file our supplemental responses to your 7th RFIs, therefore I changed the date on the Rule 11. The date change is fine.

JAMIE MAULDIN Principal 512-322-5890 Direct 512-771-5232

512-771-5232 Lloyd Gosselink Rochelle & Townsend, P.C. 816 Congress Ave., Suite 1900, Austin, TX 78701 www.lglawfirm.com | 512-322-5800

Your text here!

****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.

CONFIDENTIALITY NOTICE:

This email (and all attachments) is confidential, legally privileged, and covered by the Electronic Communications Privacy Act. Unauthorized use or dissemination is prohibited. If you have received this message in error please delete it immediately. For more detailed information click http://www.lglawfirm.com/email-disclaimer/.

No portion of this email is an "electronic signature" and neither the author nor any client thereof will be bound by this e-mail unless expressly designated as such as provided in more detail at www.lglawfirm.com/electronic-signature-tistignature-tistignation expressly designated as such as provided in more detail at www.lglawfirm.com/electronic-signature-tistignature-tistignation expressly designated as such as provided in more detail at www.lglawfirm.com/electronic-signature-tistignature-tistignation expressly designated as such as provided in more detail at www.lglawfirm.com/electronic-signature-tistignature-tistignation expressly designated as such as provided in more detail at www.lglawfirm.com/electronic-signature-tistignature-tis

From: kathryn allen <kallen@keallenlaw.com>
Sent: Thursday, February 23, 2023 2:03 PM
To: Jamie Mauldin <jmauldin@lglawfirm.com>
Cc: Lander, Merritt <Merritt.Lander@puc.texas.gov>; Richard Arnett <rarnett@lglawfirm.com>
Subject: Re: Docket 50788 - discovery follow up

Jamie, please see my comments in red below..

The Law Office of Kathryn E. Allen, PLLC

114 W. 7th Street, Suite 1100

Austin, Texas 78701

0. (512) 495-1400

m. (512) 422-5541

f. (512) 499-0094

kallen@keallenlaw.com

This electronic communication (including any attached material) may contain privileged and/or confidential information. If you are not an intended recipient of this communication, please be advised that any disclosure, dissemination, distribution, copying, or other use of this communication or any attached material is strictly prohibited. If you have received this communication in error, please notify the sender immediately by reply e-mail and promptly destroy all electronic and printed copies of this communication and any attached material.

From: Jamie Mauldin <jmauldin@lglawfirm.com>
Sent: Thursday, February 23, 2023 1:39 PM
To: kathryn allen <kallen@keallenlaw.com>
Cc: Lander, Merritt <<u>Merritt.Lander@puc.texas.gov</u>>; Richard Arnett <<u>rarnett@lglawfirm.com</u>>
Subject: RE: Docket 50788 - discovery follow up

Kathryn,

See my earlier email for discussion on 6-23. Let's keep working on this one. I'm confident we can get the information needed without undue burden.

Regarding 6-9, WOWSC relied on previous years P&L statements to establish the budget. We can supplement those but otherwise, there are no other documents responsive to your request. Understood. We will address this formally.

For 7-21, your request has greatly expanded the original request so we will supplement the original request with our supplemental filing. We will not agree to expand on your original request as stated in the Rule 11. I've revised the Rule 11. This request has not been "expanded." This request (as initially propounded) included a specific request for value information

and we are entitled to such information. If Windermere is sitting on appraisals or other value opinions prepared in connection with the CoBank loans or for some other purpose, then it cannot credibly claim that the requested information we can modify the Rule 11 to set the value aspect of the request aside for formal resolution, or we can excise this request from the Rule 11 entirely -- your call.

It is taking quite some time to process all of these requests and supplemental documents. My team and I have been working full-time to get this completed by the end of the day but it may be tomorrow before we can file our supplemental responses to your 7th RFIs, therefore I changed the date on the Rule 11. The date change is fine.

Thanks, Jamie

JAMIE MAULDIN		
Principal		
<u>512-322-5890</u> Direct		
<u>512-771-5232</u>		
 Lloyd Gosselink Rochelle & Townsend, P.C.		
816 Congress Ave., Suite 1900, Austin, TX 78701		

Your text here!

****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.

<u>www.lglawfirm.com</u> | 512-322-5800

CONFIDENTIALITY NOTICE:

This email (and all attachments) is confidential, legally privileged, and covered by the Electronic Communications Privacy Act. Unauthorized use or dissemination is prohibited. If you have received this message in error please delete it immediately. For more detailed information click <u>http://www.lglawfirm.com/email-disclaimer/</u>.

NOT AN E-SIGNATURE:

No portion of this email is an "electronic signature" and neither the author nor any client thereof will be bound by this e-mail unless expressly designated as such as provided in more detail at www.lglawfirm.com/electronic-signature-disclaimer/.

From: kathryn allen <<u>kallen@keallenlaw.com</u>>
Sent: Thursday, February 23, 2023 9:22 AM
To: Jamie Mauldin <<u>jmauldin@lglawfirm.com</u>>
Cc: Lander, Merritt <<u>Merritt.Lander@puc.texas.gov</u>>; Richard Arnett <<u>rarnett@lglawfirm.com</u>>
Subject: Re: Docket 50788 - discovery follow up

Jamie,

Thank you for your prompt response.

With regard to Ratepayers' Amended 6-9, I encourage you to help me understand the basis on which you contend this information is not discoverable. Otherwise, we will need to move to compel on this request.

I've revised the Rule 11 to incorporate your revisions, as well as your responses below. As to Ratepayers' 7-21, per my email to you I've included appraisals/opinions of value; as previously stated, we assume CoBank required appraisals of the property in connection with the lending. For everyone's convenience, I'm providing the draft in Word format. Please revise as you feel necessary to make it accurate and send back to me.

Thank you.

The Law Office of Kathryn E. Allen, PLLC 114 W. 7th Street, Suite 1100 Austin, Texas 78701 o. (512) 495-1400 m. (512) 422-5541 f. (512) 499-0094 kallen@keallenlaw.com

This electronic communication (including any attached material) may contain privileged and/or confidential information. If you are not an intended recipient of this communication, please be advised that any disclosure, dissemination, distribution, copying, or other use of this communication or any attached material is strictly prohibited. If you have received this communication in error, please notify the sender immediately by reply e-mail and promptly destroy all electronic and printed copies of this communication and any attached material.

From: Jamie Mauldin <jmauldin@lglawfirm.com>
Sent: Wednesday, February 22, 2023 4:47 PM
To: kathryn allen <<u>kallen@keallenlaw.com</u>>
Cc: Lander, Merritt <<u>Merritt.Lander@puc.texas.gov</u>>; Richard Arnett <<u>rarnett@lglawfirm.com</u>>
Subject: RE: Docket 50788 - discovery follow up

Kathryn,

See my comments below, in red, on your questions. I also attached a Rule 11 with minor changes. WOWSC is supplementing its responses in an effort to confer and avoid further discovery disputes. Some of this information is burdensome to put together and is taking additional time. Let me know if you can agree to the revised Rule 11.

Thanks, Jamie

JAMIE MAULDIN Principal 512-322-5890 Direct 512-771-5232 Lloyd Gosselink Rochelle & Townsend, P.C. 816 Congress Ave., Suite 1900, Austin, TX 78701 www.lglawfirm.com | 512-322-5800

Your text here!

****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.

CONFIDENTIALITY NOTICE:

This email (and all attachments) is confidential, legally privileged, and covered by the Electronic Communication is prohibited. If you have received this message in error please delete it immediately. For more detailed information click <u>http://www.lglawfirm.com/email-disclaimer/</u>.

NOT AN E-SIGNATURE:

No portion of this email is an "electronic signature" and neither the author nor any client thereof will be bound by this e-mail unless expressly designated as such as provided in more detail at <u>www.lglawfirm.com/electronic-signature-disclaimer/</u>.

From: kathryn allen <kallen@keallenlaw.com>
Sent: Tuesday, February 21, 2023 8:48 AM
To: Jamie Mauldin <jmauldin@lglawfirm.com>
Cc: Lander, Merritt <<u>Merritt.Lander@puc.texas.gov</u>>
Subject: Docket 50788 - discovery follow up

Jamie,

This is in response to your emails responding to our concerns regarding Ratepayers' Amended Sixth RFI and Ratepayers' Seventh RFI. Matters on which I believe we have agreement are addressed in the attached draft Rule 11 letter; please let me know if any revisions are needed.

<u>Amended 6-9:</u> Windermere claims the appealed rates were designed to recover enough revenue to recover its budgeted costs for 2020, based on the projected "shortfall" reflected on Attachment Staff 8-5. A copy of Attachment Staff 8-5 is attached. It reflects over 25 categories and amounts of costs, most of which exceed the expenses paid by the company in 2019 as reflected on its year end financials. To facilitate an evaluation as to whether the 2020 costs are recoverable, this request seeks information concerning all of them. We do not assume Windermere's board simply pulled the 2020 budget out of thin air, particularly since it now claims to have been planning any number of specific repair and maintenance items and capital improvements at the time. Accordingly, we expect the requested information should be available, but we appreciate that may not be the case.

• WOWSC's response to Amended 6-9 is not changing and will not be supplemented.

<u>Amended 6-23:</u> For clarity, please see attached Directors Report for 5.31.2020. Please confirm that this report reflects that for the month of May 2020, 276 customers paid the base charge for water service and 252 customers paid the base charge for sewer service.

• WOWSC is putting more information together to calculate the number of customers. WOWSC does not keep its records to show the requested information and because putting this information together is incredibly burdensome, WOWSC will provide this information next week.

<u>Ratepayers 7-9:</u> Please see Rule 11 for proposed handling of these matters. We understand that Ms. Burris' wife recently passed away after a lengthy illness and we do not mean to be insensitive. We would not expect Mr. Burris to do more than deliver the requested files to Windermere. That said, these are very important matters and it has become clear we cannot go forward without the requested materials.

• WOWSC is supplementing this response.

<u>Ratepayers' 7-27 and 7-29</u>: Candidly, I still don't understand Windermere's response. That said, I will continue to study the materials to which you have directed me and will let you know if we believe we must press this further. I don't want to hold up the resolution of the other issues in the interim.

• WOWSC is supplementing this response with some clarifying information.

Thanks very much.

The Law Office of Kathryn E. Allen, PLLC 114 W. 7th Street, Suite 1100 Austin, Texas 78701 o. (512) 495-1400 m. (512) 422-5541 f. (512) 499-0094 kallen@keallenlaw.com

The Law Office of Kathryn E. Allen, P.L.L.C.

114 W. 7th Street, Suite 1100 Austin, Texas 78701 512.495.1400 (Office) 512.499.1499 (Fax)

Kathryn E. Allen kallen@keallenlaw.com Board Certified – Civil Trial Texas Board of Legal Specialization

February 20, 2023

Via email

Ms. Jamie Mauldin Lloyd Gosselink Rochelle & Townsend, P.C. 816 Congress Ave., Suite 1900 Austin, TX 78701

Re: Docket 50788; Ratepayers' Amended Sixth RFI and Ratepayers' Seventh RFI

Dear Jamie:

This will memorialize our agreements concerning the referenced matters, based on our email exchanges attached hereto.

<u>Ratepayers' Amended 6-14</u>: No later than February 23, 2023, Windermere will supplement its response to provide copies of all invoices for outside legal services for the years requested.

<u>Ratepayers' Amended 6-15</u>: Within five (5) days after receipt, Windermere will supplement its response to provide copies of all invoices for outside legal services for 2023.

<u>Ratepayers' Amended 6-16, 6-17 and 6-20:</u> No later than February 23, 2023, Windermere will supplement its response to provide the calculations and amounts responsive to these requests. Within five (5) days after receipt of invoice(s) for 2023, Windermere will supplement its response to provide the calculations and amounts for the period covered by such invoice(s).

<u>Ratepayers' 7-1 - 7-3 and 7-11 - 7-14</u>: These requests are admitted.

Ms. Jamie Mauldin February 20, 2023 Page 2

<u>Ratepayers' 7-9:</u> No later than February 23, 2023, Windermere will (i) produce unredacted copies of all materials circulated to TRWA or any other third party, (ii) provide a privilege log that includes all materials withheld or redacted under a claim of privilege, and (iii) produce responsive materials in the physical possession of its general manager Water Management.

<u>Ratepayers' 7-21:</u> No later than February 23, 2023, Windermere will supplement its response to state the portion of each property used for operations or occupied by an incomplete improvement to be used for operations.

<u>Ratepayers' 7-28</u>: No later than February 23, 2023, Windermere will supplement its response to provide the requested cost estimates and records of expenses paid or incurred in connection with the referenced projects.

<u>Attachment Ratepayers' 7-18, pp. 3 - 7:</u> No later than February 23, 2023, Windermere will withdraw this settlement exchange from the record.

If the foregoing accurately states our agreement concerning these matters, please execute this letter in the space provided and return it to me for filing as a Rule 11 agreement.

Sincerely,

Kathryn E. Allen

KEA/ks

AGREED:

Jamie Mauldin	
Counsel for Windermere Oaks	Water Supply Corporation