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| RATEPAYERS APPEAL OF THE | § | BEFORE THE |
| DECISION BY WINDERMERE OAKS | § | |
| WATER SUPPLY CORPORATION | § | PUBLIC UTILITY COMMISSION |
| TO CHANGE WATER AND SEWER | § | |
| RATES | § | OF TEXAS |

**WINDERMERE OAKS WATER SUPPLY CORPORATION’S RESPONSE
TO COMMISSION STAFF’S RESPONSE TO THE PROPOSAL FOR DECISION’S
REQUEST FOR RATES BASED ON ITS PROPOSED REVENUE REQUIREMENT**

Windermere Oaks Water Supply Corporation (WOWSC, or the Corporation) timely files this Response to Commission Staff’s Response to the Proposal for Decision’s Request for Rates Based on its Proposed Revenue Requirement (Commission Staff’s Response) and respectfully shows as follows:

I. INTRODUCTION

In the June 29, 2023, Proposal for Decision (PFD), the administrative law judges (ALJs) recommended a revenue requirement of \$527,714.¹ This amount removes \$48,478 related to late and standby fees from the \$576,192 revenue requirement WOWSC used to establish the appealed rates.² The ALJs subsequently recommended that “Staff submit number running consistent with the above recommendations to be available for the Commission open meeting to consider this matter.”³

Despite the ALJs’ narrow request, Commission Staff filed a four-page pleading that unnecessarily complicates an otherwise straightforward calculation. Commission Staff’s Response amounts to improper briefing. In contrast to Commission Staff’s assertions, it is not “mathematically impossible to submit ‘number running consistent with the [PFD’s] recommendations.’”⁴ Rather, as detailed below, WOWSC suggests a practical and direct method to establish rates consistent with the ALJs’ recommended revenue requirement.

¹ Proposal for Decision at 57 (Jun. 29, 2023) (PFD).

² *Id.*

³ *Id.* at 57.

⁴ Commission Staff’s Response to the Proposal for Decision’s Request for Rates Based on its Proposed Revenue Requirement at 4 (Sept. 1, 2023) (Commission Staff’s Response) (quoting PFD at 57).

II. IMPROPER BRIEFING

Commission Staff's Response alleges that the PFD's revenue requirement results in rates "not supported by evidence in the record" that violate "the Commission's rate filing package."⁵ These statements are misleading and mischaracterize the PFD. More importantly, however, the statements are legal arguments that Commission Staff should have raised in briefing and exceptions. Instead, it chooses to raise these additional legal arguments in a number run that Commission Staff ordinarily limits to mathematical calculations. Further prejudicing WOWSC, Commission Staff raises the claims only two weeks before the Commissioners are scheduled to rule on the PFD. In sum, Commission Staff's Response is inappropriate briefing—filed four months after briefing and three weeks after exceptions—and should be dismissed accordingly.

III. PROPOSED RATES CONSISTENT WITH THE PFD'S RECOMMENDATIONS

Commission Staff alleges it is "mathematically impossible" to calculate rates consistent with the PFD's recommendation due in large part to the resulting fixed and variable cost allocation and inconsistencies with the Commission's rate filing package.⁶ These concerns are irrelevant. First, the ALJs recommended that Commission Staff calculate rates with a particular revenue requirement based on WOWSC's existing rates.⁷ In contrast to Commission Staff's interpretation of the PFD, the ALJs did not request Commission Staff to conduct a cost-of-service study with the Texas Rural Water Association (TRWA) model.⁸ Commission Staff's fixed versus variable cost allocation concerns are therefore irrelevant. Second, WOWSC is a non-profit water supply corporation that, pursuant to the Texas Water Code (TWC), is not subject to an investor-owned utility's ratemaking requirements and has far greater ratemaking discretion compared to other utilities.⁹ WOWSC is not subject to the Public Utility Commission of Texas's (Commission) original jurisdiction.¹⁰ Commission Staff's reliance on Commission rate filing package is therefore irrelevant and would apply only if the WOWSC were filing a Statement of Intent

⁵ *Id.* at 2, 3.

⁶ *Id.* at 2-3, 4.

⁷ PFD at 57 (recommending that Commission Staff "submit number running consistent with" WOWSC's existing revenue requirement minus WOWSC's late and standby fees).

⁸ See Commission Staff's Response at 1-3.

⁹ Tex. Water Code Ann. (TWC) §§ 13.181(a), 13.044.

¹⁰ TWC § 13.004; see also 16 Tex. Admin. Code § 24.47.

application to change base rates with the PUC. Furthermore, Staff's argument that the PFD doesn't set a revenue requirement is false. Commission Staff's concerns should be dismissed accordingly.¹¹

Because Commission Staff unnecessarily complicates WOWSC's rates and the PFD's recommendations, the Commission should consider WOWSC's number run.¹² Rather than adjust volumetric rates, WOWSC's number run applies the PFD's revenue requirement offset exclusively to WOWSC's base rates.¹³ Specifically, it divides the \$48,478 revenue requirement offset by 12 months and divides the resulting figure by 271, the number of WOWSC members.¹⁴ This results in a \$14.91 per month reduction to WOWSC's existing base rates.¹⁵ It subsequently applies the PFD's 60% water and 40% wastewater revenue requirement allocation to the \$14.91 reduction and subtracts the resulting figures from the existing water and wastewater rates, respectively.¹⁶ This results in monthly water and wastewater base rates of \$81.45 and \$60.45, respectively.¹⁷ WOWSC's number run is an accurate and straightforward method to adjust base rates consistent with the PFD's recommendations.

IV. CONCLUSION

For the foregoing reasons, WOWSC requests that Commission Staff's Response be rejected. It further requests that the Commission consider WOWSC's number run attached as Attachment A. Finally, WOWSC requests that it be granted all other relief to which it is entitled.

¹¹ Commission Staff's Response at 3.

¹² WOWSC's number run consistent with the PFD's recommendations is attached as Attachment A.

¹³ Attachment A.

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.*; PFD at 57 (stating that "[t]he ALJs recommend allocating 60% of this revenue requirement to water, or \$316,628.40, and 40% to sewer, or \$211,085.60.").

¹⁷ Attachment A.

Respectfully submitted,

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**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 September 8, 2023, in accordance with the Order Suspending Rules, issued in Project No. 50664.



JAMIE L. MAULDIN

| | Current Fixed Rate |
|-----------------------|--------------------|
| Water Rate | \$90.39 |
| Sewer Rate | \$66.41 |
| Total Rate | \$156.80 |
| Number of Members | 271 |
| ALJ Over Payment/Year | \$48,478.00 |

| Correction | PFD Suggested Rate |
|------------|--------------------|
| \$8.94 | \$81.45 |
| \$5.96 | \$60.45 |
| \$14.91 | \$141.90 |
| | |