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

**COMMISSION STAFF AND RATEPAYERS' RESPONSE TO WINDERMERE OAKS
WATER SUPPLY CORPORATION'S MOTION TO REOPEN THE RECORD TO
ADMIT EVIDENCE RELATED TO RATE CASE EXPENSES**

On December 20, 2023, Windermere Oaks Water Supply Corporation (Windermere) filed a motion to reopen the record to admit evidence related to rate case expenses. Concurrently, it filed a supplemental affidavit of Jamie L. Mauldin related to rate case expenses. In its motion, Windermere argues that Commissioner Cobos's memo fails to adopt the meaning of the Proposal for Decision (PFD), and it requests that the Commission reopen the record so that it can recover an additional \$216,617.18 in rate case expenses. On behalf of itself and the Ratepayers, Staff strenuously objects and asks that the motion be denied.

Staff is confident that Commissioner Cobos read the PFD thoroughly and that she intended Windermere to recover exactly the amount stated in her memo. While there is language in the PFD that indicates that the State Office of Administrative Hearings (SOAH) administrative law judges (ALJs) intended that Windermere have the opportunity to recover trailing expenses,¹ Commissioner Cobos chose not to incorporate that language into her memo.² She recommended that the Commission adopt the PFD in part and reject the PFD in part.³ Trailing expenses were not adopted. Rather, Commissioner Cobos explicitly stated that Windermere should recover \$478,184.04 over the same number of months that the appealed rates were in effect.⁴ Staff suggests this is Windermere's typical pattern of seeking yet another bite at the apple. To reopen the record now so that Windermere can present new information, information that has not yet been subject to discovery, testimony, or cross examination, will only result in a delay in the relief the utility's

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

² Memorandum of Commissioner Cobos (Dec. 13, 2023).

³ *Id.* at 1.

⁴ *Id.* at 8.

customers are due. Given Windermere's history of constantly changing its revenue requirement, Staff has serious doubts about whether the expenses can simply be taken at face value.

Further, Staff maintains that almost \$700,000 is highly excessive for what could have been a very simple case. Had Windermere promulgated a reasonable rate design at any point in this proceeding, those costs could have been far lower. Under Texas Water Code (TWC) § 13.043(e), the Commission can consider "evidence of reasonable expenses incurred by the retail public utility in the appeal proceedings." There has been no evaluation of the reasonableness of the expenses that Windermere claims should now be admitted into the record. Staff therefore requests that Windermere's motion be denied and that recovery of rate case expenses be limited to the amount set forth in Commissioner Cobos's well-reasoned memo. Staff is authorized to represent that the Ratepayers are in agreement with this response.

Dated: December 21, 2023

Respectfully submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS
LEGAL DIVISION**

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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 December 21, 2023 in accordance with the Second Order Suspending Rules, issued in Project No. 50664.

/s/ Merritt Lander
Merritt Lander