



Control Number: 50788



Item Number: 406

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Interim Chair

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## *Public Utility Commission of Texas*

**TO:** Darryl Tietjen, Rate Regulation

**FROM:** Shelah Cisneros, Commission Counsel 

**DATE:** January 3, 2024

**RE:** Request for number run based on December 14, 2023 Open Meeting Discussion regarding Proposal for Decision in Docket No. 50788, SOAH Docket No. 473-20-4071.WS, *Ratepayers Appeal of the Decision by Windermere Oaks Water Supply Corporation to Change Water and Sewer Rates*

At its December 14, 2023 open meeting, the Commission adopted in part and rejected in part the proposal for decision filed in this docket by the State Office of Administrative Hearings (SOAH) administrative law judges (ALJs). The Commission also delegated responsibility to Commission Counsel to request that Commission Staff conduct a number run consistent with the Commission's decisions at the open meeting.

In an appeal under Texas Water Code § 13.043(b), the Commission evaluates appealed rates to determine if they are in the public interest and sets new rates if the appealed rates are not in the public interest. The Commission agreed with the SOAH ALJs' recommendation that the appealed rates are not in the public interest.

The Commission determined Windermere should have fixed base rates that recover a net revenue requirement of \$359,378 (\$3,000 in legal expenses and Commission Staff's calculation of \$356,378 in net other operating expenses). The Commission also determined that Windermere should have fixed a 12-month surcharge to recover its outstanding 2019 legal debt. The Commission specified that the total amount to be collected under the 12-month surcharge be determined using Windermere's 2019 general ledger entries for category 63000 - *Legal/Appraisal*<sup>1</sup> and Windermere's invoices for 2019 legal expenses.<sup>2</sup> The Commission also determined that new volumetric and fixed rates should be calculated using the net revenue requirement. The

<sup>1</sup> See WOWSC GL Detail 2019, Ratepayers HOM-2 Ex. 74 (providing Windermere's payments for legal expenses for the 2019 calendar year under category 63000 - *Legal/Appraisal*).

<sup>2</sup> See Direct Testimony of Mike Nelson, WOWSC Ex. 7, Workpaper MN-1 (providing invoices sent by Enoch Kever PLLC; Lloyd Gosselink Rochelle & Townsend, P.C.; and g3 Public Relations to Windermere); WOWSC's Response to Ratepayers' Third Request for Information, Ratepayers Ex. 17 at 069-096 (providing invoices sent by Enoch Kever PLLC and Lloyd Gosselink Rochelle & Townsend, P.C. to Windermere).

Commission specified that 60% of the net revenue requirement should be allocated to water service and the remaining 40% to sewer service. The Commission also specified that Commission Staff should identify which costs in the net revenue requirement are fixed and variable and assign those costs to fixed and variable rates accordingly.

Because the Commission's determination of a net annual revenue requirement is lower than the revenues Windermere collected under the appealed rates, the Commission determined Windermere must refund the difference to its ratepayers. The Commission specified that the total refund amount should be determined based on the difference between the revenues Windermere collected under the appealed rates, effective March 23, 2020, and the net annual revenue requirement approved by the Commission, effective December 14, 2023. According to the Commission, the revenues collected under the appealed rates should be calculated using Windermere's calendar-year 2019 utility usage data. The Commission further determined the total refund amount should be offset by the 12-month surcharge for the outstanding 2019 legal debt and that any remaining amount be credited to Windermere's ratepayers over the same period that the appealed rates were in effect.

Lastly, the Commission agreed with the SOAH ALJs' recommendation that Windermere be allowed to recover \$478,184.04 in rate-case expenses through a surcharge. But the Commission declined to adopt the SOAH ALJs' recommended 42-month assessment period for the surcharge and instead approved an assessment period equal to the number of months the appealed rates were in effect.

Please conduct the requested number run consistent with the decisions described in this memorandum and file a response by Wednesday, January 31, 2023, that includes all applicable schedules or documentation to support the number run. If additional time is needed for your response or if there are clarifying questions, please file a response to this memorandum.

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