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SOAH DOCKET NO. 473-20-4071.WS  
PUC DOCKET NO. 50788

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

**WINDERMERE OAKS WATER SUPPLY CORPORATION'S RESPONSE TO  
COMMISSION STAFF'S MOTION TO COMPEL**

Windermere Oaks Water Supply Corporation (WOWSC) files this Response to Commission Staff's Motion to Compel, and would respectfully show as follows:

**I. PROCEDURAL HISTORY**

State Office of Administrative Hearings (SOAH) Order No. 5 stayed discovery in this proceeding.<sup>1</sup>

The Staff of the Public Utility Commission of Texas (Staff) served their First Request for Information (RFI) to WOWSC on October 16, 2020. WOWSC timely filed objections to Commission Staff's First RFI and served parties with notice of the filing on October 28, 2020, within the Public Utility Commission's (Commission) deadline for filing objections.

Commission Staff filed their Motion to Compel WOWSC to Commission Staff's First RFI (Motion to Compel) and served WOWSC at 12:53 p.m. on November 4, 2020.

WOWSC now timely files this Response to Commission Staff's Motion to Compel.<sup>2</sup>

**II. INTRODUCTION**

WOWSC has previously provided extensive explanation and argument regarding the importance of upholding WOWSC's attorney-client and work product privilege claimed to protect documents that are responsive to Staff and Ratepayers of WOWSC's (Ratepayers) RFIs.<sup>3</sup>

<sup>1</sup> SOAH Order No. 5 at 6 (Oct. 8, 2020)

<sup>2</sup> See 16 TAC § 22.144(f).

<sup>3</sup> Windermere Oaks Water Supply Corporation's Objections to Ratepayers' First Request for Information at 7-15 (Sep. 9, 2020); Windermere Oaks Water Supply Corporation's Response to Ratepayer's Motion to Compel at 5-11 (Sep. 22, 2020); Windermere Oaks Water Supply Corporation's Objections to Commission Staff's First Request for Information (Oct. 23, 2020); Windermere Oaks Water Supply Corporation's Motion to Abate Proceeding (Sep. 28, 2020).

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In the interest of conserving time and limiting legal expenses in this case, WOWSC now urges the same arguments made in its previous pleadings.<sup>4</sup> Protecting the attorney invoices at issue is important to prevent disclosure of the privileged documents, which would undermine the Attorney General's opinion and waive privilege in the ongoing active litigation currently in the district courts.

### III. ARGUMENT

Commission Staff has requested that the SOAH Administrative Law Judge (ALJ) should enter an order compelling WOWSC to respond to Staff's First RFIs.<sup>5</sup> Staff explained that the ALJ has already ruled on the matter, referring the matter to mediation.<sup>6</sup> Staff argues that it cannot evaluate WOWSC's existing revenue requirement and the resulting rates, arguing that because a de novo review of all information available to WOWSC at the time it set the rates that are subject of this appeal is required, therefore, the legal invoices sought are not privileged.

Staff has not presented any argument regarding exceptions to the privileges claimed by WOWSC, but has simply argued that the documents at issue are important to Staff's determination and the disposal of Ratepayers' appeal. WOWSC recognizes that Staff must review WOWSC's attorney invoices to complete a de novo review because WOWSC included legal fees in its rates. However, as WOWSC has extensively argued in previous pleadings, the timing of the disclosure of these privileged invoices is of utmost importance in this proceeding because Ratepayers and related parties are engaged in active, ongoing litigation regarding the same invoices in state court. Requiring WOWSC to disclose these invoices in this proceeding, before the conclusion of the other ongoing proceedings have been finalized, would waive privilege and prejudice WOWSC's other pending matters in district court

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<sup>4</sup> Windermere Oaks Water Supply Corporation's Objections to Ratepayers' First Request for Information at 7-15 (Sep 9, 2020), Windermere Oaks Water Supply Corporation's Response to Ratepayer's Motion to Compel at 5-11 (Sep. 22, 2020), Windermere Oaks Water Supply Corporation's Objections to Commission Staff's First Request for Information (Oct 23, 2020), Windermere Oaks Water Supply Corporation's Motion to Abate Proceeding (Sep 28, 2020)

<sup>5</sup> Commission Staff's Motion to Compel at 3 (Nov 4, 2020)

<sup>6</sup> Commission Staff's Motion to Compel at 2 (Nov. 4, 2020)

Therefore, WOWSC continues to request that its objections be sustained and Staff's Motion to Compel be denied.

**IV. PRAYER**

WOWSC respectfully requests Commission Staff's Motion to Compel be denied, that WOWSC's objections be sustained, and that it be granted any other relief to which it may show itself justly entitled.

Respectfully submitted,

**LLOYD GOSSELINK ROCHELLE  
& TOWNSEND, P.C.**

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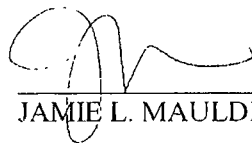
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**ATTORNEYS FOR WINDERMERE OAKS  
WATER SUPPLY CORPORATION**

**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 November 11, 2020, in accordance with the Order Suspending Rules, issued in Project No. 50664.



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JAMIE L. MAULDIN