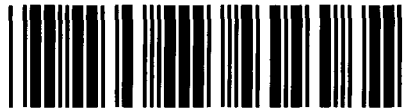
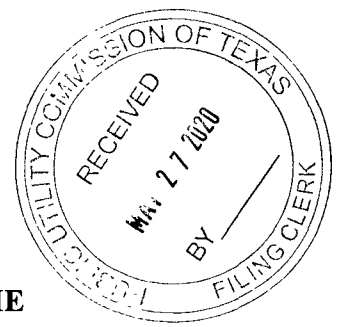


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Item Number: 5

Addendum StartPage: 0



PUC DOCKET NO. 50788

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

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**BEFORE THE
PUBLIC UTILITY COMMISSION
OF TEXAS**

**WINDERMERE OAKS WATER SUPPLY CORPORATION'S
RESPONSE TO ORDER NO. 1**

COMES NOW, Windermere Oaks Water Supply Corporation ("WOWSC") hereby files this Response to Order No. 1 and would respectfully show the following:

I. PROCEDURAL STATUS

On April 27, 2020, certain ratepayers of the WOWSC ("Petitioners") filed a petition purporting to appeal certain rates for water and wastewater services provided by the WOWSC. In its cover letter that encloses the signed petitions, representative for Petitioners appeal a retail water and sewer rate increase that went into effect on March 23, 2020.

On April 29, 2020, Administrative Law Judge Isaac Ta issued Order No. 1 Requiring Responses and Addressing Other Procedural Matters. Order No. 1 states that the WOWSC may file a response to Petitioners' petition by May 27, 2020, and requires the parties to file recommendations regarding how to proceed with the petition and recommendations regarding a procedural schedule. Accordingly, this Response is timely filed.

II. INTRODUCTION AND BACKGROUND

Petitioners bring this appeal under Texas Water Code §13.043(b), contesting the recent water and sewer rate increases passed by the 2020 WOWSC Board of Directors. As referenced in the petition, a minority of WOWSC ratepayers have brought several lawsuits against WOWSC and its Board of Directors, past and present, related to a transaction wherein WOWSC sold a piece

of real property in 2016 (“2016 Land Transaction”). The first of these lawsuits sought to void the transaction, but the Sixth Court of Appeals favored with the lower court and declined to void the 2016 Land Transaction. On December 13, 2019, and again on February 14, 2020, the Texas Supreme Court denied hearing an appeal of that decision by the appellate court.¹ Additionally, the other lawsuits are related to the 2016 Land Transaction.² In addition to these lawsuits, WOWSC has had to respond to dozens of Public Information Act (PIA) requests, requiring extensive legal guidance and an ongoing appeal related to these PIA requests.³

WOWSC has kept its members fully informed of the need for the March 23, 2020 rate increase, communicating with its customers as early as July 2019 that the ongoing litigation threatened the financial health of the utility and that WOWSC would likely need to raise rates in order to pay the mounting and ongoing legal bills related to the 2016 Land Transaction.⁴ In November 2019, WOWSC undertook a rate study in cooperation with the Texas Rural Water Association (TRWA). As stated in the Notice to customers in a letter dated February 11, 2020, the rate analysis considered all operating expenses, including \$169,000 in legal fees.⁵ The rate analysis supported the base rate increase for water and wastewater service.

WOWSC has not raised its rates since 2018. It achieved perfect results for water quality in 2019 from the Texas Commission on Environmental Quality. Put plainly, the magnitude of the rate increase is primarily the result of the persistent and excessive litigation brought against WOWSC by a small subset of ratepayers over a real property transaction that occurred in 2016. As is clear from the petition, the Petitioners are seeking to litigate this very same issue at the

¹ Attachment A, December 13, 2019 and February 14, 2020 Order Denying Hearing Appeal.

² Attachment B, Letter from WSOSC to Members, dated July 10, 2019; Attachment C, Letter from WSOSC to Members, dated January 2, 2019.

³ Attachment D, Windermere Oaks Water Supply Corporation v. The Honorable Ken Paxton, Attorney General of Texas, Cause No. D-1-GN-19-006219, 201st Judicial District Court, Travis County, Texas.

⁴ Attachments B and C.

⁵ Attachment E, Notice to Customers, dated February 11, 2020.

Commission. Petitioners go so far as to argue that WOWSC should be required to sell its real estate assets to cover litigation costs—relief far beyond the Commission’s ability to grant here.⁶ WOWSC has had to hire legal counsel to defend itself in these various lawsuits and will again incur legal fees in order to defend itself in this rate appeal. In essence, Petitioners appeal a rate increase caused by what the Petition even recognizes as “immense legal expenses for the defense of the alleged...actions of the past and current WOWSC board members.”⁷ WOWSC’s rate increase for water and sewer customers is justified, just and reasonable.

III. STANDARD OF REVIEW

In an appeal brought forth under Texas Water Code § 13.043(b), the Commission is required to hear an appeal de novo, and shall be limited to considering only the information that was available to the governing body at the time the governing body made its decision, and may consider evidence of reasonable expenses incurred by the retail public utility in the appeal proceedings.⁸ In this appeal, the Commission shall ensure that the rates charged by WOWSC are just and reasonable, and not unreasonably preferential, prejudicial, or discriminatory and consistent in application to each class of customers.⁹ Additionally, the Commission shall use a methodology that preserves the financial integrity of the utility.¹⁰

IV. GENERAL DENIAL AND RESPONSE TO PETITION

WOWSC does not contest the timeliness of the Petition and whether the signatures meet the ten percent threshold as required in Texas Water Code §13.043(b) and 16 Tex. Admin. Code § 24.101(b).

⁶ Texas Water Code §13.043(e); 16 Tex. Admin. Code § 24.101.

⁷ Petition at 2.

⁸ Texas Water Code §13.043(e); 16 Tex. Admin. Code § 24.101(e);

⁹ Texas Water Code §13.043(j).16 Tex. Admin. Code § 24.101(i).

¹⁰ *Id.*

The March 23, 2020 rate increases are just and reasonable. Furthermore, WOWSC denies each and every, all and singular, allegations contained in the Petition and demands strict proof thereof. Further, the majority of the allegations are at issue in trial court—the venue where such issues are properly resolved, and therefore many of the stated bases for this appeal are not within the Commission’s jurisdiction to consider. WOWSC also specifically denies that it has mismanaged its corporate and utility system finances.

This appeal should proceed solely on the issues of whether the rate increase properly adjusted WOWSC’s rates to account for the excessive legal fees WOWSC has incurred to date and which are budgeted to incur by defending the ongoing lawsuits brought by the a small subset of Petitioners. Before the rate increase, WOWSC’s legal bills absorbed the vast majority available funds for the operation, maintenance, and necessary upgrades to the system. Furthermore, in deliberating upon and ultimately setting the rates at issue, WOWSC consulted with representatives of TRWA and performed a rate analysis that supports the necessary rate increase to cover legal expenses incurred by WOWSC in defending itself in multiple venues from lawsuits all involving the same small minority of disgruntled members, most of whom are signatories to this appeal as demonstrated in the exhibits attached to the appeal petition. The rate increase is necessary to preserve the financial integrity of the utility and to allow WOWSC to operate its systems safely and reliably. Further, the Commission should consider the additional fees WOWSC must incur defending this rate appeal, as is specifically allowed under 16 TAC §24.101(e).

III. RECOMMENDATIONS REGARDING HOW TO PROCEED AND REGARDING A PROPOSED SCHEDULE

On May 26, 2020, Public Utility Commission Staff filed a Request for an Extension to file its recommendation on administrative completeness and proposed procedural schedule until June

17, 2020. In anticipation of the Administrative Law Judge granting this request, WOWSC respectfully requests the same extension on proposal of a procedural schedule in order to confer with Staff and Petitioners on a proposed. If the Request for Extension is denied, and the Commission determines that the petition is valid and takes jurisdiction, then WOWSC recommends that the Commission refer the case to the State Office of Administrative Hearings as soon as possible for efficient processing of the petition.


IV. CONCLUSION

For the foregoing reasons, WOWSC prays that the only if the Commission concludes that it has jurisdiction to consider the petition: (1) limit the issues to whether the rate increase properly adjusted WOWSC's rates to account for the excessive legal fees WOWSC has incurred to date and which are budgeted to incur by defending the ongoing lawsuits brought by the a small subset of Petitioners; and (2) to all other relief which WOWSC is entitled.

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

DAVID J. KLEIN
State Bar No. 24041257
dklein@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 May 27, 2020, in accordance with the Order Suspending Rules, issued in Project No. 50664.



Jamie L. Mauldin

ATTACHMENT A

December 13, 2019 and February 14, 2020 Order Denying Hearing Appeal

FILE COPY

RE: Case No. 19-0731

DATE: 12/13/2019

COA #: 06-19-00005-CV

TC#: 47531

STYLE: TOMA INTEGRITY, INC v. WINDERMERE OAKS WATER SUPPLY
CORP.

Today the Supreme Court of Texas denied the petition
for review in the above-referenced case.

MR. BILL ALESHIRE
ALESHIRELAW, P.C.
700 LAVACA STREET, SUITE 1400
AUSTIN, TX 78701
* DELIVERED VIA E-MAIL *

FILE COPY

RE: Case No. 19-0731

DATE: 12/13/2019

COA #: 06-19-00005-CV

TC#: 47531

STYLE: TOMA INTEGRITY, INC v. WINDERMERE OAKS WATER SUPPLY
CORP.

Today the Supreme Court of Texas denied the petition
for review in the above-referenced case.

MR. MICHAEL ALLAN GERSHON
LLOYD, GOSSELINK, BLEVINS, ROCHELLE &
TOWNSEND, P.C.
816 CONGRESS, SUITE 1900
AUSTIN, TX 78701
* DELIVERED VIA E-MAIL *

FILE COPY

RE: Case No. 19-0731

DATE: 12/13/2019

COA #: 06-19-00005-CV

TC#: 47531

STYLE: TOMA INTEGRITY, INC v. WINDERMERE OAKS WATER SUPPLY
CORP.

Today the Supreme Court of Texas denied the petition
for review in the above-referenced case.

MR. JOSEPH R. LARSEN
GREGOR CASSIDY PLLC
700 LOUISIANA ST., SUITE 3950
HOUSTON, TX 77002-2859
* DELIVERED VIA E-MAIL *

FILE COPY

RE: Case No. 19-0731

DATE: 12/13/2019

COA #: 06-19-00005-CV

TC#: 47531

STYLE: TOMA INTEGRITY, INC v. WINDERMERE OAKS WATER SUPPLY
CORP.

Today the Supreme Court of Texas denied the petition
for review in the above-referenced case.

MS. DEBBIE AUTREY
CLERK, SIXTH COURT OF APPEALS
100 N. STATE LINE AVE., SUITE 20
TEXARKANA, TX 75501
* DELIVERED VIA E-MAIL *

FILE COPY

RE: Case No. 19-0731

DATE: 12/13/2019

COA #: 06-19-00005-CV

TC#: 47531

STYLE: TOMA INTEGRITY, INC v. WINDERMERE OAKS WATER SUPPLY
CORP.

Today the Supreme Court of Texas denied the petition
for review in the above-referenced case.

DISTRICT CLERK BURNET COUNTY
BURNET COUNTY COURTHOUSE ANNEX
1701 E POLK ST, SUITE 90
BURNET, TX 78611-2757
* DELIVERED VIA E-MAIL *

FILE COPY

RE: Case No. 19-0731

DATE: 12/13/2019

COA #: 06-19-00005-CV

TC#: 47531

STYLE: TOMA INTEGRITY, INC v. WINDERMERE OAKS WATER SUPPLY
CORP.

Today the Supreme Court of Texas denied the petition
for review in the above-referenced case.

JOSE E. DE LA FUENTE
LLOYD GOSSELINK ROCHELLE & TOWNSEND,
P.C.
816 CONGRESS AVENUE, SUITE 1900
AUSTIN, TX 78701-2478
* DELIVERED VIA E-MAIL *

FILE COPY

RE: Case No. 19-0731

DATE: 2/14/2020

COA #: 06-19-00005-CV

TC#: 47531

STYLE: TOMA INTEGRITY, INC v. WINDERMERE OAKS WATER SUPPLY
CORP.

Today the Supreme Court of Texas denied the motion for
rehearing of the above-referenced petition for review.

MR. BILL ALESHIRE
ALESHIRELAW, P.C.
700 LAVACA STREET, SUITE 1400
AUSTIN, TX 78701
* DELIVERED VIA E-MAIL *

FILE COPY

RE: Case No. 19-0731

DATE: 2/14/2020

COA #: 06-19-00005-CV

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MR. MICHAEL ALLAN GERSHON
LLOYD, GOSSELINK, BLEVINS, ROCHELLE &
TOWNSEND, P.C.
816 CONGRESS, SUITE 1900
AUSTIN, TX 78701
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* DELIVERED VIA E-MAIL *

FILE COPY

RE: Case No. 19-0731

DATE: 2/14/2020

COA #: 06-19-00005-CV

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STYLE: TOMA INTEGRITY, INC v. WINDERMERE OAKS WATER SUPPLY
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Today the Supreme Court of Texas denied the motion for
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LLOYD GOSSELINK ROCHELLE & TOWNSEND,
P.C.
816 CONGRESS AVENUE, SUITE 1900
AUSTIN, TX 78701-2478
* DELIVERED VIA E-MAIL *

ATTACHMENT B

Letter from WSOSC to Members, dated July 10, 2019



July 10, 2019

Dear Water Supply Corporation Customer,

We would like to share with you some good news regarding your water company as well as some developments we are working to resolve.

First, we have recently posted the results of the Consumer Confidence Report for 2018. This summary recounts our compliance with Environmental Protection Agency regulations as monitored by the Texas Commission on Environmental Quality. In all 12 areas monitored, no violations were found. We are pleased with the continuing effort of our manager and operating company to produce water which meets or exceeds state and federal water quality requirements.

Secondly, our water intake pumping barge went back online in April. Temporary pumps had supplied water to our system after the October 16 flood severely damaged the barge. There were concerns that normal summer time decreases in lake levels could impact the temporary pumps' efficiency. The hard work of our manager removed these concerns and the repaired pumps have been operating well.

Third, our financial position is very strong. We base this statement on new reviews we initiated to evaluate our financial health. Our debt to service coverage ratio, debt to capital ratio, days cash on hand are all very positive. Without going into a lot technical detail here about what they mean, you should put aside any doubts which may have arisen in the last few years about our financial situation.

Fourth, in mid-June, an appellate court ruled in favor of WOWSC and sided with the lower trial court's judgment rendered last year with regards to a land sale by WOWSC in 2016 and related agenda items. In sum, while a previous board did not properly post parts of the agenda items related to the land sale, the violation did *not* warrant the court's intervention in voiding the land sale. This is a victory for WOWSC because voiding the land sale would have had serious financial implications for WOWSC.

Unfortunately, the Board is now dealing with yet another, *new* lawsuit that was filed in late May against WOWSC and former Board members. The plaintiffs claim various rights as 'shareholders' against the former Board members as related to the land sale in 2016.

As a result of the various lawsuits filed against WOWSC (which remain ongoing) and our continuing compliance with responses to numerous Public Information Act requests, WOWSC's 5-month expenditures on legal services have already totaled \$63,000, exceeding our 12-month budget by \$25,000. We are concerned about this steep additional cost for 2019 and will be attempting various measures to contain those costs going forward.

In our next letter to you, we hope to have more good news about operational improvements we've made. Several are in the works. For now, we hope this letter succeeds in giving you an idea about developments at your water supply company.

Sincerely,

Your Windermere Oaks Water Supply Corporation Board of Directors

ATTACHMENT C

Letter from WSOSC to Members, dated January 2, 2019



Windermere Oaks Water Supply Corporation

Committed to Providing Clean Safe Water for All Our Residents

January 2, 2020

Dear WOWSC Member,

Your Board of Directors is dedicated to the continuing success of the water company in 2020. We look forward to the New Year and the hope it brings for resolution of dissensions of the past and the beginnings of community cooperation and peace. We hope with this letter to update you on significant events relating to 2019 and our look forward.

Of great importance, our Board in November initiated a rate analysis process which may result in higher water and sewer rates in 2020. We feel compelled to explain why. In the three years since the sale of WOWSC land reduced debt after completion of the wastewater treatment plant, a small but persistent and insistent group of members have launched multi-faceted offensives against our non-profit corporation and Board, resulting in the significant expense of WOWSC funds. As 2019 ended, we estimate our total legal fees neared \$175,000, far exceeding the \$38,000 originally budgeted.

The good news is that the group's first lawsuit seems pretty much resolved in WOWSC's favor. On December 13, the Texas Supreme Court denied hearing an appeal of a decision by the 6th Court of Appeals that favored our company with regard to execution of the 2016 land transaction (that is, the court declined to void that transaction as the plaintiffs had requested). The litigants have indicated they will appeal to the Texas Supreme Court to reconsider its denial in 2020. We believe their effort will be denied, again. But in defending our corporation in just that lawsuit and appeal, we spent approximately \$40,000 this year alone. Adding in previous year's expenses, our successful defense against this suit cost WOWSC nearly \$100,000.

In May, the group filed yet another lawsuit and expanded it in November. We don't want to belabor every allegation in their 50+page petition that, among other things, seeks money damages against ten current and former directors, out of their own pockets. We do believe that the litigants' claims against the water company, and its directors, are completely without merit. We believe that the members who brought the suit don't even have legal standing to bring most of the claims alleged. That hasn't yet stopped them, and we are being forced to deal with these matters at the courthouse. There is a large gap between the opinion of these members that the WOWSC got a "bad deal" out of the 2016 sale and their severe allegations against the company and its directors compared to the opinion of nearly every one of the current and former directors. (There is also an equally large gap between respectful discourse in public comment, and the relentless antagonistic and downright threatening behavior of these same members at our meetings.)

The legal costs in defense against the active lawsuit are even more staggering than the first lawsuit. They have required our current and former directors' participation in three full-day depositions, and they have issued requests for several more. They've heaped discovery requests upon us in wide-ranging fishing expeditions looking for anything to allege wrongdoing. Our legal bills to defend our corporation and directors in this case alone, including the costs related to responding to an avalanche of discovery and depositions, are nearing \$100,000.

Adding to our costs is the legal guidance we must routinely seek in order to respond to other aspects of the group's persistent aggressions. We have employed our legal team to guide us through the 46 Public Information Act requests filed this year alone, most from this small group. Because we are in litigation with this group, we had to file, in Travis County District Court, an appeal of an Attorney General staff attorney's letter ruling on an issue related to privileged communications regarding the lawsuits. We also had to secure

services from one of our Board members to serve as the Public Information Officer, at \$416 per month, to reduce the costs of otherwise relying on paralegals who would charge \$150 per hour. While individuals do have the legal right to submit Public Information Act requests to WOWSC, and WOWSC endeavors to comply with Texas law in responding to each such request, that process has costs.

In December, we were required to hold, by this small group's petition effort, a rare members' meeting, complete with mailed ballots, for the purpose of addressing this group's recall petition against Director Joe Gimenez. WOWSC took painstaking efforts to conduct this unusual proceeding according to the letter of the law. They gained only 56 votes, far short of the 127 votes needed to remove a director. But here too, legal and other expenses related to the process, calling, and conducting the meeting exceeded \$15,000.

Suffice it to say that we understand that there may be disagreements as to any course of action the WSC's Board of Directors may take with respect to any issue; we understand that not every member will agree with every decision a Board makes. The Board itself often has its own internal disagreements, and we encourage honest and civil discussion and debate. However, based on the information known by the current board, both this board and former members of WOWSC boards have, at all times, acted in the best interests of the corporation. Our strong financial position, the high quality of our water, and the long-term planning for asset replacement and upgrades attests to this.

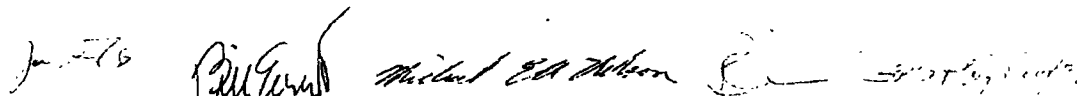
Sadly, this small group of members have persisted against the Board because they have an "axe to grind" against a third party, leaving the corporation and directors stuck in the middle. The 2016 real estate deal is directly or indirectly involved in every single one of the above-mentioned situations where the WOWSC is forced to defend itself through the expense of funds on legal advice or compliance with legal requirements of discovery and the like. Lawsuits, lawful responses to PIA requests, and response to the recall petition are related and involve one or more of the same individuals.

Moving forward, our immediate goal is to bring these pointless suits to a close and therefore end the corresponding expenditure of your water company's funds. But until this group stops or the courts finally put an end to things, we must continue to defend against these lawsuits. We must continue to respond to their Public Information requests. And we will continue to communicate with our members about the misinformation that the group spreads in the neighborhood. All this costs money – your money. And it may cost even more in 2020. We unfortunately must evaluate this possibility through the rate analysis process.

Meanwhile, we are trying our best to keep the water company moving forward. We amended the 2016 land contract to fix a number of flaws, and as part of the new agreement could gain \$20,000 from the title company if all the litigation is resolved this year. That would happen if the litigants were to withdraw their lawsuits, or once we prevail in court. This year we finished repair of our pumping barge and recouped \$59,000 from the insurance company. We purchased a generator to comply with state regulations. We were granted \$14,000 by the LCRA for a \$34,000 WOWSC investment in a backwash process that will reduce WOWSC use of water and save us an estimated three percent per year on this investment. We agreed on a no-cost expansion plan for a dispersant field through an agreement with the Spicewood Airport Pilot's Association. We earned approval for a lower rate loan to eventually pay off a higher rate balloon note which comes due in 2021. And we've returned our focus to a five-year plan for infrastructure repair and replacement. The plan has gone mostly untended in the last three years.

Our board is dedicated to the continuing success of the water company. After all, water is a necessity of life and becomes more precious as this region grows. Unfortunately, the most significant challenge we face is the cost involved in defending against the ongoing legal maneuvers of this small group of people. We will continue our defense for the long-term survival of our water company, but we sincerely hope that these continued expenditures will cease to be necessary someday soon.

Sincerely,



ATTACHMENT D

Windermere Oaks Water Supply Corporation v. The Honorable Ken Paxton, Attorney General of
Texas, Cause No. D-1-GN-19-006219, 201st Judicial District Court, Travis County, Texas

9/16/2019 2:31 PM

Velva L. Price
District Clerk
Travis County
D-1-GN-19-006219
Victoria Benavides

CAUSE NO. D-1-GN-19-006219

WINDERMERE OAKS WATER
SUPPLY CORPORATION

Plaintiff,

v.

THE HONORABLE KEN PAXTON,
ATTORNEY GENERAL OF TEXAS

Defendant.

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IN THE DISTRICT COURT OF

TRAVIS COUNTY, TEXAS

201ST

JUDICIAL DISTRICT

**WINDERMERE OAKS WATER SUPPLY CORPORATION'S
ORIGINAL PETITION FOR DECLARATORY RELIEF**

TO THE HONORABLE JUDGE OF THE COURT:

Plaintiff Windermere Oaks Water Supply Corporation (the "WOWSC" or "Plaintiff") files this Original Petition seeking a declaratory judgment pursuant to Section 552.324 of Chapter 552 of the Texas Government Code (the "Texas Public Information Act" or the "Act").

I. EXECUTIVE SUMMARY

1. WOWSC seeks a declaratory judgment from the Court to allow it to withhold from release to the public invoices detailing legal services provided to WOWSC from March 7, 2018 to May 28, 2019 (the requested information is the "Legal Invoices") because the Legal Invoices are properly excepted from disclosure under Texas Government Code Section 552.022 and, more specifically, pursuant to the privileges provided by Rule 503 of the Texas Rules of Evidence ("Rule 503") and Rule 192.5 of the Texas Rules of Civil Procedure ("Rule 192.5"). Specifically, § 552.022 and Rules 503 and 192.5 allow a governmental entity to withhold information contained in a legal invoice pursuant to the attorney-client and the work product privileges.

3/26/2020 2:31 PM

Velva L. Price
District Clerk
Travis County
D-1-GN-19-006219
Kyla Crumley

CAUSE NO. D-1-GN-19-006219

WINDERMERE OAKS WATER
SUPPLY CORPORATION,
Plaintiff,

v.

THE HONORABLE KEN PAXTON,
ATTORNEY GENERAL OF TEXAS.
Defendant.

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§

IN THE DISTRICT COURT OF

TRAVIS COUNTY, TEXAS

201ST JUDICIAL DISTRICT

RULE 11 SCHEDULING AGREEMENT

Pursuant to Rule 11 of the Texas Rules of Civil Procedure, the parties agree to the following schedule:

1. Motions for summary judgment are due no later than **May 22, 2020**;
2. Responses to motions for summary judgment are due no later than **June 19, 2020**; and
3. A hearing on summary judgment motions will be set for **July 22, 2020** at 2:00p.m.

The parties may agree to modify the terms of this scheduling agreement in accordance with Rule 11 of the Texas Rules of Civil Procedure.

AGREED:

/s/ Jose E. de la Fuente w/ permission
J. TROUPE BREWER
State Bar No. 24082728
tbrewer@lglawfirm.com

JOSE E. de la FUENTE
State Bar No. 00793605
jdelafuente@lglawfirm.com

LLOYD GOSSELINK ROCHELLE &
TOWNSEND, P.C.
816 Congress Avenue, Suite 1900
Austin, Texas 78701
Telephone: (512) 322-5800
Facsimile: (512) 472-0532

ATTORNEYS FOR PLAINTIFF

/s/ David G. Gordon
DAVID G. GORDON
State Bar No. 24085337
Assistant Attorney General
Administrative Law Division
P.O. Box 12548, Capitol Station
Austin, Texas 78711-2548
Telephone: (512) 936-1660
Facsimile: (512) 320-0167
david.gordon@oag.texas.gov

ATTORNEY FOR DEFENDANT

ATTACHMENT E

Notice to Customers, Dated February 11, 2020



Windermere Oaks Water Supply Corporation

Committed to Providing Clean Safe Water for All Our Residents

DATE: February 11, 2020

TO: ALL WINDERMERE OAKS WSC MEMBERS & CUSTOMERS

RE: NOTICE OF RATE/TARIFF CHANGES EFFECTIVE MARCH 23, 2020

At its February 1, 2020 Annual Board meeting, the Board of Directors of WOWSC voted unanimously to increase water and wastewater utility rates and revise our Tariff accordingly. The new rates will be in effect beginning for utility service between March 23 through the April 2020 reading, and will be reflected on bills you receive in late April/early May. The rate changes are detailed below.

The amount of the rate increase was determined through an analysis of the Corporation's 2019 operating expenses by the Texas Rural Water Association. The rate analysis considered all the operating expenses we incurred, including \$169,000 in legal fees. This historically high amount reflected legal defense costs incurred due in large part to two lawsuits brought against WOWSC by TOMA Integrity, Inc. and by Rene Ffrench, John Richard Dial, and Stuart Bruce Sorgen. The Board also committed to revisiting these rates again in September. If the legal battles continue, or if other operational expenses arise, the Board may need to increase rates again. The Board also committed to reducing rates once the suits against it are dropped, settled, or decided in its favor.

The following sections of the Tariff, modified:

Section G. Rates and Service Fees

7. Monthly Charges

a.—Base Rate / Service Availability Charge

(1) Water Service

The minimum water Service Availability Charge

(5/8" x 3/4" & 3/4 " meter) shall be \$90.39

(2) Sewer Service

The minimum sewer Service Availability Charge

(5/8" x 3/4" & 3/4 " meter) shall be \$66.41

OLD RATES:

Section G. Rates and Service Fees

7. Monthly Charges

a.—Base Rate / Service Availability Charge

(1) Water Service

The minimum water Service Availability Charge

(5/8" x 3/4" & 3/4 " meter) shall be \$50.95

(2) Sewer Service

The minimum sewer Service Availability Charge

(5/8" x 3/4" & 3/4 " meter) shall be \$40.12

The above new rates become effective MARCH 23, 2020

The Windermere Oaks Water Supply Corporation achieved perfect results for water quality in 2019 from the Texas Commission on Environmental Quality. The legal expenses we are incurring to defend our corporation far exceed the expenses necessary to continue to provide clean drinking water and to effectively treat our effluent. It is our hope that once the legal expenses subside, we can lower these rates to a level reflective of those costs *without* ongoing litigation. If you have any questions, please email WindermereWater@gmail.com or call (830) 613-8137 and someone will get back to you. A copy of the revised tariff will be filed with the Water Utilities Division, Public Utility Commission of Texas, PO Box 13326, Austin, Texas 78711-3326.

From the Board of Directors of Windermere Oaks Water Supply Corporation.

Windermere Oaks Water Supply Corporation
424 Coventry Rd. Spicewood, Texas 78669
Billing Questions: (830) 598-7511 Ext 1
Water or Sewer Emergency: Phone (830) 598-7511 Ext 2

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Windermere Oaks Water Supply Corporation
424 Coventry Rd. Spicewood, TX 78669
Fee Schedule Summary

The monthly charge assessed each lot of any subdivision in the Corporation's lawful service area where a real estate covenant, deed restriction or other agreement in the landowner's chain of title creates an obligation for the landowner to pay a monthly fee pending the initiation of actual water and/or sewer service.

The Standby Fee is \$14.95 per month for water and \$14.95 per month for sewer.
(If the annual Standby Fees are paid in a lump sum by January 31st, the Standby Fee for water is \$124.20 and the Standby Fee for sewer is \$124.20.)

The Windermere Oaks Water Supply Corporation is a member-owned, non-profit corporation established to provide potable water and/or wastewater utility services to its members. Membership in the corporation is a prerequisite for eligibility for services. Membership fees are associated with each property for which service is provided. Memberships may be surrendered or transferred if the associated property is sold.

Membership Fee	\$ 402.50
Membership Transfer Fee	\$ 40.25

In addition to the Membership Fee, each Applicant for new service where a new service tap is necessary shall be required to achieve parity with the contributions to the construction of the Corporation's facilities capacity that have been made previously by existing Members. This fee shall be assessed prior to providing or reserving service on a per service unit basis for each property and shall be assigned and restricted to that property for which the service was originally requested.

Equity Buy-In Fee	\$ 4,600
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A Customer Service Inspection is required. Also the Corporation shall charge an installation fee (also known as "tap fee") for services as follows: **Standard Service** shall include all labor, materials, engineering, legal, customer service inspection, and administrative costs necessary to provide individual metered water and/or wastewater service, and shall be charged on a per tap basis. The Corporation **Customer Service Inspection Fee is \$350.00. The Installation Fee for water service is \$862.50, and the Installation Fee for wastewater service is \$862.50.** **Non-Standard Service** Installation Fee(s) shall be as determined by the Corporation on a case-by-case basis in accordance with the terms of the Corporation's Tariff.

Water Service: Effective March 23, 2020 the monthly charge for metered water service ("Base Charge") is **\$ 90.39**. Additional gallonage charges apply as follows:

0 through 2000 gallons	\$ 3.55 per 1,000 gallons
2,001 through 4,000 gallons	\$ 6.50 per 1,000 gallons
4,001 through 8,000 gallons	\$ 9.75 per 1,000 gallons
8,001 through 15,000 gallons	\$13.00 per 1,000 gallons
15,001 or more	\$15.00 per 1,000 gallons

Wastewater (Sewer) Service: Effective March 23, 2020 the monthly charge is **\$66.41**. Additional water consumption gallonage charges apply as follows:

0 through 10,000 gallons	\$ 3.94 per 1,000 gallons of water consumed
10,0001 or More	No additional charge

PLUS applicable state taxes.

APPROVED February 1, 2020

The Corporation reserves the right to amend the above fees at any time.

Rates Effective 3.23.2020 3.11.20