



Control Number: 50788



Item Number: 86

Addendum StartPage: 0

RATEPAYERS APPEAL OF THE DECISION BY WINDERMERE OAKS WATER SUPPLY CORPORATION TO CHANGE WATER AND SEWER RATES	§ § § § § § §	BEFORE THE STATE OFFICE OF THE ADMINISTRATIVE HEARINGS
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**RATEPAYER REPRESENTATIVES'
OBJECTIONS TO AND MOTION TO STRIKE THE DIRECT
TESTIMONY OF JOE GIMENEZ ON BEHALF OF
RATEPAYERS**

COMES NOW, Ratepayer Representatives (the "Representatives") and files this, its Objections to and Motion to Strike the Direct Testimony of Joe Gimenez on behalf of Ratepayers, and in support thereof, would show the following:

I. BACKGROUND

On March 10, 2021, Windermere Oaks Water Supply Corporation (WOWSC) filed direct testimony for Mr. Joe Gimenez. On February 2, 2021, the presiding officer issued SOAH Order No. 7, which established March 16, 2021 as the deadline parties to file objections to the WOWSC prefiled direct testimony and evidence related to rate-case expenses. Therefore, this pleading is timely filed.

In this proceeding, the Commission issued its Preliminary Order on July 16, 2020¹, in which it provided the following issues that it will consider in the ratepayer appeal:

1. Did the petition appealing the rate change by Windermere Oaks Water Supply Corporation follow the requirements of TWC §§ 13.043(6), (c), and (d); 16 Texas Administrative Code (TAC) §§ 24.101(6), (c), and (d); and TAC §§ 24.103(a) and (b)?

¹ https://interchange.puc.texas.gov/Documents/50788_18_1075795.PDF

- a. Was the petition filed within 90 days after the effective date of the rate change as required by TWC § 13.043(c) and 16 TAC § 24.101(b)?
 - b. What number of ratepayers had their rates changed and eligible to appeal the rates in accordance with TWC § 13.043(b)(3) and (d) and 16 TAC§ 24.101(c) and (d)?
 - c. Did the lesser of 10,000 or 10% of those ratepayers file valid protests to the rate change in accordance with TWC § 13.043(c); and 16 TAC§ 24.101(b) and 24.102(a) and (b)?
2. Did Windermere Oaks provide written notice of the hearing to all affected customers as required by 16 TAC § 24.101(c)(6)?
3. Should the Commission establish or approve interim rates under TWC § 13.043(h) and 16 TAC § 24.101(e)(6) and (h) to be in effect until a final decision is made?
4. Do the retail water rates being charged to petitioners by Windermere Oaks fulfill the requirements of TWC § 13.043(j) and 16 TAC § 24.101(i)? In addressing this question, evaluate the following:
 - a. Are the rates just and reasonable?
 - b. Are the rates not unreasonably preferential, prejudicial, or discriminatory?
 - c. Are the rates sufficient, equitable, and consistent in application to each class of customers?
5. If the rates being charged by Windermere Oaks meet the requirements of TWC § 13.043(j), must this appeal be dismissed?

If the rates being charged to petitioners by Windermere Oaks do not meeting the requirements of TWC § 13.043(j), address the following issues:

6. What information was available to Windermere Oaks at the time it made its decision to increase the water utility service rates under TWC § 13.043(e).
7. Considering only the information available to Windermere Oaks at the time of its decision, what are the just and reasonable rates for Windermere Oaks customers that are sufficient, equitable, and consistent in application to each customer class and that are not unreasonably preferential, prejudicial, or discriminatory under TWC § 13.043(e) and (j) and 16 TAC § 24.101(e) and (i)?
 - a. What is the appropriate methodology to determine just and reasonable rates for Windermere Oaks customers?
 - b. What is the revenue requirement that would give Windermere Oaks sufficient funds to provide adequate retail water and sewer service to petitioners?
 - c. What is the appropriate allocation of the revenue to customer classes?
 - d. What is the appropriate design of rates for each class to recover Windermere Oaks revenue requirement?
8. Were Windermere Oaks outside legal expenses related to defending civil suits included in the rates appealed? If so, what amount of outside legal expenses was included in the rates appealed?
9. What are the reasonable expenses incurred by Windermere Oaks in this proceeding under TWC § 13.043(e) and 16 TAC § 24.101(e)(2) and (5)?
 - a. Should the Commission allow recovery of these reasonable expenses?
 - b. If so, what is the appropriate recovery mechanism?
10. What is the appropriate effective date of the rates fixed by the Commission in this proceeding under TWC § 13.043(e) and 16 TAC § 24.101(e)(3)?
11. If the Commission establishes rates different from the rates set by Windermere Oaks, should the Commission order refunds or allow surcharges to recover lost revenues under TWC § 13.043(e) and 16 TAC § 24.101(e)(4)? If so, what is the appropriate amount and over what period should the refund

or surcharge be in place?

II. PROCEDURAL BASIS

Nothing in Mr. Gimenez testimony will help the Commission decide the issues described in the Preliminary Order. His testimony is irrelevant on several points and will only confuse the factual issues before the presiding officer and the Commission. Therefore, the Ratepayer Representatives generally objects to Mr. Gimenez testimony because it is irrelevant to the issues in this proceeding and speculative. Mr. Gimenez testimony is irrelevant because it will not help determine any "fact in issue" in this litigation. Tex. R. Evid. 701. When the main substance of the witness's testimony is not based on application of the witness's specialized knowledge, skill, experience, training, or education to his familiarity to the [subject matter], then the witness's testimony must be excluded if it goes beyond the facts into the realm of opinion. Any opinion testimony by Mr. Gimenez as a lay witness is limited by Rule 701, which states:

If a witness is not testifying as an expert, testimony in the form of an opinion is limited to one that is:

- a. rationally based on the witness's perception; and
- b. helpful to clearly understanding the witness's testimony or to determining a fact in issue. Tex. R. Evid. 701.

Petitioners' make the following objections to portions of Mr. Gimenez's prefiled testimony and exhibits. Petitioners move to strike each portion of the testimony referenced below.

II. OBJECTIONS TO DIRECT TESTIMONY

Objections Based On Speculation

Page	Answer Lines	Page	Answer Lines
5	5-10	16	1-24
8	5-8	17	1-6
8	10-24	17	9-20

9	1-2	18	1-2
9	8-24	19	18-23
10	1-24	20	1-10
11	1-2	20	13-15
11	10-24	20	18-24
12	1-24	21	1-9
13	1-4	21	20-22
13	18-20	22	1-11
13	22-23	22	14-21
14	1-24	23	1-5
15	1-23	23	9-22
		23	1-3

The Ratepayers object to the questions and testimony answers listed above as the question and answers relate to and contain speculation. The witness was not properly designated as a testifying expert, the question seeks an opinion from the witness, and the witness offers an opinion in response. As a fact witness, this witness must only testify to factual matters on which the witness has personal knowledge. TEX. R. Civ. Evidence 602. "When the main substance of the witness' testimony is based on application of the witness' specialized knowledge, skill, experience, training, or education to his familiarity to the [subject matter], then the testimony will generally be expert testimony within the scope of Rule 702. A witness giving such testimony must be properly disclosed and designated as an expert and the witness' testimony is subject to scrutiny [as an expert]. Any other principle would allow parties to conceal expert testimony by claiming the witness is one whose opinions are merely for the purpose of explaining the witness' perceptions and testimony." Reid Rd. MUD v. Speedy Stop Food Stores, 337 S.W.3d 846, 851-52 (Tex. 2011).

Mr. Gimenez' speculative testimony about whether the WOWSC had not increased the rates the WOWSC would not be able to provide safe and adequate water and sewer service should

be stricken. Mr. Gimenez is not a rate analysis expert nor be upfront of the mechanism in the WOWSC tariff to with regard to providing for special assessments to cover losses for the system. The Ratepayers point directly to the WOWSC's exhibits JG-1 WOWSC Tariff, offered in Mr. Gimenez's testimony. Page 43, #11 Assessments *"If at the end of the fiscal year, or in the event of emergency repairs, the Board of Directors determines the total amount derived from the collection of water or wastewater charges to be insufficient for the payment of all costs incident to the operation of the Corporation's system during the year in which such charges are collected, the Board shall make and levy an assessment against each Member of the Corporation as the Board may determine or as may be required by Rural Development, so that the sum of such assessments and the amount collected from water and other charges is sufficient to fully pay all costs of the operation, maintenance, replacement and repayment on indebtedness for the year's operations. (See Article XVIII of USDA Model Bylaws, Section 1)"* Mr. Gimenez' testimony to his question on Line 7 page 11 states "if the WOWSC had not increased the rates, would have been able to provide safe and adequate water sewer service" Mr. Gimenez replied no. Clearly, the tariff allows for assessments to offset debt rather than increase rates for legal fees.

Furthermore, Mr. Gimenez testifies on page 10 on line item 1 that on average the WOWSC ratepayers use 10,000 gallons of water each month. Using the tier pricing along with the base rate for the total of 271 customers this would net the WOWSC \$1,000,000 in revenues each year. This testimony conflicts with WOWSC Director Mike Nelson's testimony of \$469,050.

Objections Based On Irrelevant To The Rate Case Appeal

Page	Answer Lines	Page	Answer Lines
3	10-17	16	1-24

4	1-7	17	1-6
4	9-10	18	4-21
5	12-20	19	1-15
6	9-23	19	18-23
7	3-9	20	1-10
7	17-23	21	12-17
8	1-2	21	20-22
8	10-24	22	1-11
13	7-14	22	14-21
13	22-23	23	1-5
14	1-24	23	9-22
15	1-23	24	1-3

The Ratepayers object to the questions and testimony answers listed above as they relate to irreverent facts regarding this rate appeal. The answers listed above and their corresponding answer lines do not help the fact finder resolve the issue at hand: whether the rates are just and reasonable. Representatives objects to Mr. Gimenez testimony because it is irrelevant to the issues the Commission will consider in this rate appeal, as it does not provide any evidence that will help decide the issues in the Preliminary Order issues on July 16, 2020, Tex. R. Evidence 701.

III. PRAYER

WHEREFORE, PREMISES CONSIDERED, The Ratepayer Representatives respectfully requests that the Administrative Law Judge sustain its objections, enter an order excluding and striking the Direct Testimony of Joe Gimenez as requested above, and grant such other relief to which Ratepayer Representatives may be entitled.

Respectfully submitted,

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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 email on March 17, 2021, in accordance with the Order Suspending Rules, issued in Project No. 50664.

Josephine Fuller

Josephine Fuller, Ratepayer Representative

Patti Flunker

Patti Flunker, Ratepayer Representative

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

RATEPAYERS APPEAL OF THE DECISION BY WINDERMERE OAKS WATER SUPPLY CORPORATION TO CHANGE WATER AND SEWER RATES	§ § § § § § §	BEFORE THE STATE OFFICE OF THE ADMINISTRATIVE HEARINGS
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**RATEPAYER REPRESENTATIVES'
OBJECTIONS TO TESTIMONY OF JAMIE MAULDIN
REGARDING STATEMENT OF FEES AND EXPENSES OF
ATTORNEY FEES FOR WINDERMERE OAKS WATER
SUPPLY CORPORATION RATE APPEAL DEFENSE COST**

COMES NOW, Ratepayer Representatives (the "Representatives") and files this,
its Objections to and Motion to Strike the Direct Testimony of Jaimie Mauldin.

BACKGROUND

On March 10, 2021, Windermere Oaks Water Supply Corporation (WOWSC) filed direct testimony for Ms. Jamie Mauldin, Attorney with Lloyd Gosselink Law Firm representing the WOWSC in this rate appeal. On February 2, 2021, the presiding officer issued SOAH Order No. 7, which established March 16, 2021 as the deadline parties to file objections to the WOWSC prefiled direct testimony and evidence related to rate-case expenses. Therefore, this pleading is timely filed.

In this proceeding, the Commission issued its Preliminary Order on July 16, 2020¹, in which it provided the following issue that it will consider in the ratepayer appeal related

¹ https://interchange.puc.texas.gov/Documents/50788_18_1075795.PDF

to reasonable expenses in the proceeding:

9. What are the reasonable expenses incurred by Windermere Oaks in this proceeding under TWC § 13.043(e) and 16 TAC § 24.101(e)(2) and (5)?
 - a. Should the Commission allow recovery of these reasonable expenses?

II. OBJECTION TO TESTIMONY OF JAMIE MAULDIN

Objection is made to the Testimony of Jamie Mauldin as to the reasonableness and necessity of her firm's legal fee claims in this rate appeal. It is the opinion of the Ratepayers that the attorney invoices for WOWSC Rate Appeal Representation are extreme and unreasonable for the reasons listed below.

Throughout the rate appeal the Representatives have consistently pointed out to the WOWSC and their attorneys the inconsistencies and flaws with the WOWSC 2019 rate analysis used on the computation of the new water and sewer rates being appealed. Rather than attempt to address the flaws the WOWSC attorneys have stood firm on defending a position that that water system exercised due diligence in their application of just and reasonable fees and data in the analysis. We now through the testimony of Director Mike Nelson a he has testified that the WOWSC has applied the wrong number of taps in the 2019 water and sewer rate study. This undoubtedly will affect the water rates. The WOWSC and their attorneys have egregiously put forth a narrative that the water system would not be able to provide water service if not for the rate hike. This narrative is evident in the testimony of Joe Gimenez² and Mike Nelson³. It appears the WOWSC attorneys are promoting this narrative which the Ratepayers believe is

² https://interchange.puc.texas.gov/Documents/50788_81_1115578.PDF

³ https://interchange.puc.texas.gov/Documents/50788_82_1115576.PDF

irresponsible and costly to the WOWSC ratepayers in legal fees and therefore should not be recoverable expenses. The WOWSC's Tariff⁴ clearly gives the WOWSC Board authority to pass onto members an assessment. This mechanism requires the WOWSC to recover shortfalls when the total amount derived from the collection of water and wastewater charges are insufficient to the payments of all cost incident to the operations of the Corporation. According to the WOWSC Tariff, the board shall make and levy an assessment against each member of the Corporation as the Board may determine or as may be required by Rural Development, so that the monies collected will be enough to fully pay all the cost of operations, maintenance, replace and repayment of indebtedness for the year's operations. Had the WOWSC and their attorneys referenced the WOWSC Tariff there be no need for this rate appeal and attorney fees to defend the unjust and unreasonable water and sewer rate increase.

There are substantial legal expenses incurred in this rate appeal to prevent parties from obtaining legal invoices so they could verify and validate whether the 2019 legal litigation fees passed onto the Ratepayers via water and sewer rates included in the 2019 rate study were just and reasonable. It is our position that the legal expense to prevent the Ratepayers from accessing these legal invoices from 2019 were avoidable legal expenses and should not be allowed in this rate case. It is our contention that Jamie Mauldin along with her firms experience in rate cases at the PUC should have the knowledge that a fundamental requirement in a rate case appeal is justifying the rates with documentation to support your position of their just and reasonable rates. The attorneys and the WOWSC purposely prolonged denying the PUC Legal Staff and the Representatives access to these invoices for many months only to do an about face position and

⁴ https://www.wowsc.org/documents/778/Tariff_WOWSC_2.11.20.pdf

on January 28, 2021 and release the invoices to the Representatives. WOWSC's position that sharing the 2019 legal invoices would compromise the WOWSC's legal strategy was unwarranted and did nothing but stall this rate appeal and compromise the potential of a successful mediation. The defense cost on the part of the WOWSC attorneys preventing access to 2019 legal invoices were not reasonable or necessary in this rate case expenses and should not be recoverable.

The WOWSC is a small utility in comparison to other utilities in Texas, with just under 275 taps. The legal billing is excessive for such a small utility system, including billing for the month of September 2020 of \$68,535.00 which included many of the excessive and unnecessary charges for review and correspondence of privilege issues and a needless motion to abate that served no purpose but to obstruct the Representatives right of a Rate Appeal under TWC § 13.043(b).

PRAYER

WHEREFORE, PREMISES CONSIDERED, The Ratepayer Representatives respectfully requests that the Administrative Law Judge sustain its objections, enter an order excluding the Direct Testimony of Jaimie Mauldin as to the reasonable and just legal expense that has been incurred in this rate appeal and grant such other relief to which Ratepayer Representatives may be entitled.

Respectfully submitted,

Josephine Fuller

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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 email on March 17, 2021, in accordance with the Order Suspending Rules, issued in Project No. 50664.

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RATEPAYERS APPEAL OF THE DECISION BY WINDERMERE OAKS WATER SUPPLY CORPORATION TO CHANGE WATER AND SEWER RATES	§ § § § § § §	BEFORE THE STATE OFFICE OF THE ADMINISTRATIVE HEARINGS
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**RATEPAYER REPRESENTATIVES'
OBJECTIONS TO AND MOTION TO STRIKE THE DIRECT
TESTIMONY OF GEORGE BURRISS ON BEHALF OF
RATEPAYERS**

COMES NOW, Ratepayer Representatives (the "Representatives") and files this, its Objections to and Motion to Strike the Direct Testimony of Mike Nelson on behalf of Ratepayers, and in support thereof, would show the following:

I. BACKGROUND

On March 10, 2021, Windermere Oaks Water Supply Corporation (WOWSC) filed direct testimony for Mr. Mike Nelson. On February 2, 2021, the presiding officer issued SOAH Order No. 7, which established March 16, 2021 as the deadline parties to file objections to the WOWSC prefiled direct testimony and evidence related to rate-case expenses. Therefore, this pleading is timely filed.

In this proceeding, the Commission issued its Preliminary Order on July 16, 2020¹, in which it provided the following issues that it will consider in the ratepayer appeal:

1. Did the petition appealing the rate change by Windermere Oaks Water Supply Corporation follow the requirements of TWC §§ 13.043(6), (c), and (d); 16 Texas Administrative Code (TAC) §§ 24.101(6), (c), and (d); and TAC §§ 24.103(a) and (b)?

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- a. Was the petition filed within 90 days after the effective date of the rate change as required by TWC § 13.043(c) and 16 TAC § 24.101(b)?
 - b. What number of ratepayers had their rates changed and eligible to appeal the rates in accordance with TWC § 13.043(b)(3) and (d) and 16 TAC§ 24.101(c) and (d)?
 - c. Did the lesser of 10,000 or 10% of those ratepayers file valid protests to the rate change in accordance with TWC § 13.043(c); and 16 TAC§ 24.101(b) and 24.102(a) and (b)?
2. Did Windermere Oaks provide written notice of the hearing to all affected customers as required by 16 TAC § 24.101(c)(6)?
3. Should the Commission establish or approve interim rates under TWC § 13.043(h) and 16 TAC § 24.101(e)(6) and (h) to be in effect until a final decision is made?
4. Do the retail water rates being charged to petitioners by Windermere Oaks fulfill the requirements of TWC § 13.0430(j) and 16 TAC § 24.101(i)? In addressing this question, evaluate the following:
 - a. Are the rates just and reasonable?
 - b. Are the rates not unreasonably preferential, prejudicial, or discriminatory?
 - c. Are the rates sufficient, equitable, and consistent in application to each class of customers?
5. If the rates being charged by Windermere Oaks meet the requirements of TWC § 13.043(j), must this appeal be dismissed?

If the rates being charged to petitioners by Windermere Oaks do not meeting the requirements of TWC § 13.043(j), address the following issues:

6. What information was available to Windermere Oaks at the time it made its decision to increase the water utility service rates under TWC § 13.043(e).
7. Considering only the information available to Windermere Oaks at the time of its decision, what are the just and reasonable rates for Windermere Oaks customers that are sufficient, equitable, and consistent in application to each customer class and that are not unreasonably preferential, prejudicial, or discriminatory under TWC § 13.043(e) and (j) and 16 TAC § 24.101(e) and (i)?
 - a. What is the appropriate methodology to determine just and reasonable rates for Windermere Oaks customers?
 - b. What is the revenue requirement that would give Windermere Oaks sufficient funds to provide adequate retail water and sewer service to petitioners?
 - c. What is the appropriate allocation of the revenue to customer classes?
 - d. What is the appropriate design of rates for each class to recover Windermere Oaks revenue requirement?
8. Were Windermere Oaks outside legal expenses related to defending civil suits included in the rates appealed? If so, what amount of outside legal expenses was included in the rates appealed?
9. What are the reasonable expenses incurred by Windermere Oaks in this proceeding under TWC § 13.043(e) and 16 TAC § 24.101(e)(2) and (5)?
 - a. Should the Commission allow recovery of these reasonable expenses?
 - b. If so, what is the appropriate recovery mechanism?
10. What is the appropriate effective date of the rates fixed by the Commission in this proceeding under TWC § 13.043(e) and 16 TAC § 24.101(e)(3)?
11. If the Commission establishes rates different from the rates set by Windermere Oaks, should the Commission order refunds or allow surcharges to recover lost revenues under TWC § 13.043(e) and 16 TAC § 24.101(e)(4)?

If so, what is the appropriate amount and over what period should the refund or surcharge be in place?

II. PROCEDURAL BASIS

Petitioners' make the following objections to portions of Mr. Burriss prefiled testimony and exhibits. Petitioners move to strike each portion of the testimony referenced below.

II. OBJECTIONS TO DIRECT TESTIMONY

Objections Based On Speculation

Page 6, Question How Does WOWSC Allocate Cost Between Water and Sewer?

The Ratepayers object to the questions and testimony answers listed above as the question and answers. Mr. Burriss distorts the facts of what analysis is used when the WOWSC determined the rate increase in 2019. Mr. Burriss as stated in the official WOWSC Minutes he used a 60/40 rule to separate out water expense from sewer expenses²

III. PRAYER

WHEREFORE, PREMISES CONSIDERED, The Ratepayer Representatives respectfully requests that the Administrative Law Judge sustain its objections, enter an order excluding and striking the Direct Testimony of George Burriss as requested above, and grant such other relief to which Ratepayer Representatives may be entitled.

Respectfully submitted,

Josephine Fuller

Josephine Fuller, Ratepayer Representative
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² https://www.wowsc.org/documents/778/2020-02-01_WOWSC_Annual_Board_Meeting_Minutes_Approved.pdf

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II. PROCEDURAL BASIS

Nothing in Mr. Nelson's testimony will help the Commission decide the issues described in the Preliminary Order. His testimony is irrelevant on several points and will only confuse the factual issues before the presiding officer and the Commission. Therefore, the Ratepayer Representatives generally objects to Mr. Nelson's testimony because it is irrelevant to the issues in this proceeding and speculative. Mr. Nelson's testimony is irrelevant because it will not help determine any "fact in issue" in this litigation. Tex. R. Evid. 701. When the main substance of the witness's testimony is not based on application of the witness's specialized knowledge, skill, experience, training, or education to his familiarity to the [subject matter], then the witness's testimony must be excluded if it goes beyond the facts into the realm of opinion. Any opinion testimony by Mr. Nelson as a lay witness is limited by Rule 701, which states:

If a witness is not testifying as an expert, testimony in the form of an opinion is limited to one that is:

- a. rationally based on the witness's perception; and
- b. helpful to clearly understanding the witness's testimony or to determining a fact in issue. Tex. R. Evid. 701.

Petitioners' make the following objections to portions of Mr. Nelson's prefiled testimony and exhibits. Petitioners move to strike each portion of the testimony referenced below.

II. OBJECTIONS TO DIRECT TESTIMONY

Objections Based On Speculation

Page	Answer Lines	Page	Answer Lines
7	16-20	14	13
7	22-23	14	16-17

9	6-13	18	12-16
9	17-22	19	3
13	12	19	5
13	7-8	19	11-13
13	4	19	22
14	5-7	19	20

The Ratepayers object to the questions and testimony answers listed above as the question and answers relate to and contain speculation. The witness was not properly designated as a testifying expert, the question seeks an opinion from the witness, and the witness offers an opinion in response. As a fact witness, this witness must only testify to factual matters on which the witness has personal knowledge. TEX. R. Civ. Evidence 602. "When the main substance of the witness' testimony is based on application of the witness' specialized knowledge, skill, experience, training, or education to his familiarity to the [subject matter], then the testimony will generally be expert testimony within the scope of Rule 702. A witness giving such testimony must be properly disclosed and designated as an expert and the witness' testimony is subject to scrutiny [as an expert]. Any other principle would allow parties to conceal expert testimony by claiming the witness is one whose opinions are merely for the purpose of explaining the witness' perceptions and testimony." Reid Rd. MUD v. Speedy Stop Food Stores, 337 S.W.3d 846, 851-52 (Tex. 2011).

Mr. Nelson's speculative testimony about why the budget estimates indicate a rate increase was necessary is misplaced as the WOWSC tariff provides for special assessments to cover losses for the system. The Ratepayers point directly to the WOWSC's exhibit, JG-1 WOWSC Tariff, offered in Mr. Gimenez's testimony. Page 43, #11 Assessments *"If at the end of the fiscal year, or in the event of emergency repairs, the Board of Directors determines the total amount derived from the collection of water or wastewater charges to be insufficient for the*

payment of all costs incident to the operation of the Corporation's system during the year in which such charges are collected, the Board shall make and levy an assessment against each Member of the Corporation as the Board may determine or as may be required by Rural Development, so that the sum of such assessments and the amount collected from water and other charges is sufficient to fully pay all costs of the operation, maintenance, replacement and repayment on indebtedness for the year's operations. (See Article XVIII of USDA Model Bylaws, Section 1)" Cleary, the tariff allows for assessments to offset debt rather than increase rates for legal fees.

Mr. Nelson's testimony that the WOWSC's operating budget is \$621,617 on page 8 line contradicts Mr. Gimenez testimony that on average the WOWSC ratepayers use 10,000 gallons of water each month. Using the tier pricing along with the base rate for the total of 271 customers this would net the WOWSC \$1,000,000 in revenues each year.

Objections Based On Irrelevant To The Rate Case Appeal

Page	Answer Lines	Page	Answer Lines
8	16-20	10	14-19

The Ratepayers object to the questions and testimony answers listed above as they relate to irreverent facts regarding this rate appeal. The answers listed above and their corresponding answer lines do not help the fact finder resolve the issue at hand: whether the rates are just and reasonable. Representatives objects to Mr. Nelson's testimony because it is irrelevant to the issues the Commission will consider in this rate appeal, as it does not provide any evidence that will help decide the issues in the Preliminary Order issues on July 16, 2020, Tex. R. Evidence 701.

III. PRAYER

WHEREFORE, PREMISES CONSIDERED, The Ratepayer Representatives respectfully requests that the Administrative Law Judge sustain its objections, enter an order excluding and striking the Direct Testimony of Mike Nelson as requested above, and grant such other relief to which Ratepayer Representatives may be entitled.

Respectfully submitted,

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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 email on March 17, 2021, in accordance with the Order Suspending Rules, issued in Project No. 50664.

Josephine Fuller

Josephine Fuller, Ratepayer Representative

Patti Flunker

Patti Flunker, Ratepayer Representative