

SOAH DOCKET NO. 473-20-4071.WS

PUC DOCKET NO. 50788

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

HEARING ON THE MERITS

Friday, December 3, 2021

(Via Zoom Videoconference)

BE IT REMEMBERED THAT at 10:07 a.m., on Friday, the 3rd day of December 2021, the above-entitled matter came on for hearing at the State Office of Administrative Hearings, William P. Clements, Jr. Building, 300 West 15th Street, Austin, Texas, before CHRISTIAAN SIANO and DANIEL WISEMAN, Administrative Law Judges, and the following proceedings were reported by Mary Carol Griffin and Kim Pence, Certified Shorthand Reporters.

Volume 3

Pages 469 - 591

## P R O C E E D I N G S

FRIDAY, DECEMBER 3, 2021

(10:07 a.m.)

JUDGE WISEMAN: Okay. We are back on the record, then, in day three of our Hearing on the Merits. I believe there are -- there's at least one preliminary matter before we continue with the presentation of the evidence.

Ms. Allen.

MS. ALLEN: Your Honor, the Ratepayers ended their direct case yesterday, and I believe that PUC Staff began. But you're asking me about the exhibit.

Your Honor, the Ratepayers wish to withdraw -- in the interest of efficiency, the Ratepayers wish permission to withdraw their Exhibit 45. There's an optional completeness issue with logistical problems about an exhibit that can't be found, and it's not important enough to belabor this tribunal's time. So we are asking permission to withdraw Exhibit 45.

JUDGE WISEMAN: Okay. Ms. Katz?

MS. MAULDIN: Yeah, this is Ms. Mauldin. Sorry to jump around.

JUDGE WISEMAN: That's okay.

MS. MAULDIN: We are okay with Ms. Allen

1 withdrawing her Exhibit 45. I just want to clarify for  
2 the record, it's not a matter of finding the attachment.  
3 It's a matter of us being able to review it, but we're  
4 fine with her withdrawing it.

5 JUDGE WISEMAN: Thank you. Ms. Lander?

6 MS. LANDER: Staff is also fine with  
7 Ms. Allen withdrawing 45.

8 JUDGE WISEMAN: Okay. Thank you. So  
9 Ratepayer Exhibit 45 is withdrawn.

10 MS. ALLEN: Your Honor, the only other  
11 housekeeping matter would be that yesterday Ratepayers  
12 asked for an opportunity to withhold ruling on Staff  
13 Exhibit 5, the last Staff Exhibit. We've now had some  
14 clarity on that being a routine procedural filing that's  
15 done all the time, and we withdraw our objection to  
16 No. 5, Staff No. 5.

17 JUDGE WISEMAN: Okay. And I'll ask,  
18 Ms. Lander, is it still your case to put on at this  
19 point? Do you wish to offer your Exhibit No. 5?

20 MS. LANDER: Yes, Your Honor.

21 JUDGE WISEMAN: Okay. Any objection,  
22 Ms. Katz?

23 MS. KATZ: No, Your Honor.

24 JUDGE WISEMAN: And Ms. Allen, I  
25 understand that you don't have an objection any longer?

1 MS. ALLEN: That is correct, Your Honor.

2 JUDGE WISEMAN: Okay.

3 MS. ALLEN: I made clear that Ratepayers  
4 have withdrawn their objection.

5 JUDGE WISEMAN: Okay. Thank you. So that  
6 is admitted, then, as Staff Exhibit No. 5.

7 (Exhibit Staff No. 5 admitted)

8 JUDGE WISEMAN: And unless there's  
9 anything else, I think we're ready to proceed with your  
10 witnesses, Ms. Lander.

11 MS. LANDER: Yes, Your Honor. Thank you.  
12 Staff calls Ms. Maxine Gilford to the  
13 stand, please.

14 JUDGE WISEMAN: Okay. Ms. Gilford, good  
15 morning. Will you please raise your right hand?

16 MS. GILFORD: Good morning.

17 (Witness sworn)

18 THE WITNESS: I do.

19 JUDGE WISEMAN: Okay. Thank you.

20 You may proceed, Ms. Lander.

21 PRESENTATION ON BEHALF OF COMMISSION STAFF (CONTINUED)

22 MAXINE GILFORD,

23 having been first duly sworn, testified as follows:

24 DIRECT EXAMINATION

25 BY MS. LANDER:

1 Q Good morning, Ms. Gilford. How are you doing?

2 A I am good. How are you?

3 Q Doing well. Doing well.

4 Do you have in front of you a copy of your  
5 supplemental testimony that has been admitted as Staff  
6 Exhibit 5?

7 A Yes.

8 Q And would the answers provided in your  
9 testimony be the same today as in your prefiled  
10 testimony?

11 A Yes.

12 MS. LANDER: Thank you.  
13 Staff submits the witness for  
14 cross-examination.

15 JUDGE WISEMAN: Thank you, Ms. Lander.

16 I believe Ms. Allen is up next. Do you  
17 have any cross-examination questions for this witness?

18 CROSS-EXAMINATION

19 BY MS. ALLEN:

20 Q Ms. Gilford, can you hear me all right?

21 A Yes.

22 Q Excellent. Have you seen very many rate  
23 appeals involving water supply corporations in your time  
24 with the Commission?

25 A I have not.

1 Q Have you seen any?

2 A I have seen one.

3 Q Do you happen to recall what that case was?

4 A I'm looking at my testimony here because I  
5 think I filed -- no, I'm sorry. I thought I did. I've  
6 got a lot of cases in my head, but, no, I have not.

7 Q Fair enough. So is it fair to say that you --  
8 have you been involved in a rate appeal involving a  
9 water supply corporation?

10 A I don't recall that.

11 Q Have you been involved in any kind of  
12 proceeding involving a water supply corporation?

13 A I don't recall that at this moment.

14 Q And all I'm trying to understand is whether in  
15 your work in your experience you've had occasion to kind  
16 of figure out how these water supply corporations  
17 operate. Have you done that?

18 A I have in my previous experience as a --  
19 working with the Water Development Board, and I did  
20 loans to water supply corporations, infrastructure  
21 loans.

22 Q Okay.

23 A I've done that.

24 Q All right. But is it fair to say that at least  
25 at the Public Utility Commission, rate appeals involving

1 water supply corporations are few and far between?

2 A I don't know that it's fair to say that they're  
3 few and far between. I can just say that I haven't  
4 worked many that I recall.

5 Q And I think you also said that you weren't  
6 aware of any. Is that also true?

7 A I don't recall that I'm aware of any.

8 Q Okay. I'm not trying to put you on the spot.  
9 I just kind of want to know what you know. Okay.

10 A I understand.

11 Q I am asking in part because it's my  
12 understanding that in your testimony you rely on an  
13 Administrative Regulation 24.44. Have I got that right?

14 A That's right.

15 Q And that is a regulation that applies to rate  
16 case expenses for a Class A or a Class B utility. Am I  
17 right about that?

18 A That is right.

19 Q What is a Class A utility?

20 A I can't remember at this time.

21 Q Okay. Do you know whether or not a Class A  
22 utility is similar to a water supply corporation or not?

23 A I don't know.

24 Q Okay. How about a Class B utility?

25 A I don't know.

1 Q I'm asking these because, as I understand it,  
2 and you help me if I've got this wrong, but you're using  
3 a statute that does apply only to a Class A or a Class B  
4 utility and not to a water supply corporation and you're  
5 analogizing to this case. Isn't that right?

6 A Yes. Yes.

7 Q Okay. So --

8 A I'm using the standard as a guide. That's all  
9 I'm doing with this.

10 Q I understand. And so here's what I want to do.  
11 Let me see if I can find that. Here we go.

12 So I want to make sure, Ms. Gilford, that  
13 I am looking at the right thing, if you'll help me out  
14 with that. So I'm trying to share my screen with you to  
15 show you 24.44. Have I got the right regulation that  
16 you're using?

17 A Yes.

18 Q Okay. And this regulation governs, not rate  
19 appeals, but rate case expenses. Right?

20 A Right.

21 Q Expenses incurred because the utility filed a  
22 rate change application. Correct?

23 A Right.

24 Q Okay. So I want to look for a moment -- let me  
25 see if I can find this quickly. I want to see if we can



1 understand what that regulation -- what that rate  
2 proceeding involves for a Class A utility. Let me see  
3 if I can find that, and I want to make sure that I've  
4 got the right provision. The provision I'm looking for  
5 is 13.187. Right? Is that right?

6 A Yes, ma'am.

7 Q Okay. So have I got 13.187 pulled up?

8 A I see that.

9 Q Okay. So the kind of proceeding that is  
10 governed by 24.44 is described in 13.187. Right?

11 A That's right.

12 Q Okay. And here we see that we are dealing with  
13 a utility that cannot make changes in its rates until it  
14 does certain things. Correct?

15 A Correct.

16 Q Okay. So this Class A utility, if it wants to  
17 raise its rates so that it can fund expenses, it has to  
18 ask permission. Correct?

19 A That is correct.

20 Q So what it has to do, if I understand it -- and  
21 I just want to look a little bit at the process -- it  
22 has to make an application to change its rates. Right?

23 A Yes.

24 Q And the application has to include a lot of  
25 information. Correct?

1 A Yes.

2 Q Cost and rate schedules, written testimony, and  
3 anything else that the Commission thinks it needs.  
4 Right?

5 A Yes, that's right.

6 Q If this utility does not file all of that  
7 detailed information, then its rate case can be  
8 dismissed. Right?

9 A That's correct.

10 Q All right. And then this provision -- this  
11 utility, there's going to be a hearing on its request to  
12 change its rates. Correct?

13 A Yes.

14 Q Okay. And if I've got it right that this  
15 utility -- let's see -- ah, so under (h), the question  
16 that the regulatory authority is going to ask is whether  
17 the rates are unreasonable or in violation of the law.  
18 Right?

19 A Yes.

20 Q Okay. And then if I understand it, the utility  
21 can implement its rate change, can put a rate change  
22 into effect before there is a Commission decision, this  
23 Class A utility. Correct?

24 A Yes.

25 Q But it's got to file a bond. Isn't that right?

1 A Yes.

2 Q Okay. And this utility is subject to a statute  
3 that says that it shall refund or credit in certain  
4 circumstances. Correct?

5 A Yes.

6 Q Okay. Are you aware that a water supply  
7 corporation is not an ask-permission-type of entity,  
8 it's an ask-forgiveness kind of entity?

9 A Yes.

10 Q A water supply corporation does not have to  
11 make an application to the Commission ahead of time in  
12 order to start not just charging but collecting higher  
13 rate revenue from its customers. You know that. Right?

14 A I do.

15 Q Now, would you agree with me that we can  
16 readily see the benefit to the ratepayers of a Class A  
17 utility of having careful PUC scrutiny of a proposed  
18 rate change ahead of time? That would be a huge --  
19 that's a huge benefit to the ratepayers, isn't it?

20 A I think so.

21 Q That benefit let's it get right the first time,  
22 and we don't have to do it again, and we end up with  
23 rates that are just and reasonable before we're ever  
24 writing a check to pay them. Isn't that right?

25 A That could be true.

1 Q Well, that's what we hope, isn't it? What we  
2 hope is that the vetting process that is required of a  
3 Class A utility will enable the PUC to provide proper  
4 regulation of those rates. Right?

5 A Correct.

6 Q And the benefit to the ratepayer is that all of  
7 this detail gets filed with the Commission ahead of time  
8 and all of this detail gets considered so that we --  
9 if -- we hope that the right result is reached before  
10 ratepayers come out-of-pocket. Correct?

11 A That's correct.

12 Q And there's no question but that that is a  
13 benefit for the ratepayers. Right?

14 A That's a benefit.

15 Q And there is really no question but that it is  
16 in the public interest to make sure that this Class A  
17 utility has the resources to do what this vetting  
18 process requires of it. Wouldn't you agree?

19 A That's true.

20 Q Because if the vetting process works, at the  
21 end of the day we end up with just and reasonable rates  
22 that have been fully vetted before customers are asked  
23 to pay them. Correct?

24 A Correct.

25 Q Now, a water supply company is not required to

1 go through that vetting process, is it?

2 A That's right.

3 Q A water supply company is allowed to, not just  
4 change it's rates, but require its ratepayers to pay new  
5 rates without any PUC ever looking over its shoulder.  
6 Isn't that right?

7 A That's right.

8 Q And the burden is on the ratepayers to notice  
9 that maybe the new rates don't pass the smell test.  
10 Isn't that right?

11 MS. LANDER: Your Honor, I'm going to have  
12 to object here. I believe this is outside the scope of  
13 Ms. Gilford's testimony.

14 MS. ALLEN: Your Honor, she's applying  
15 standards, and we need to understand the differences in  
16 the circumstances here between rate cases that are  
17 brought by a Class A utility so that it can change its  
18 rates and all of the vetting that goes along with that,  
19 versus a rate appeal. The processes are different and  
20 the standards are and should be different and one of the  
21 questions that we are going to have to answer -- and it  
22 is Question 9A is, should the Commission allow recovery  
23 of rate case expenses here. There are factors to be  
24 considered and this witness is proffered on that topic.

25 THE REPORTER: Judge, you're muted.

1 JUDGE WISEMAN: Thank you.

2 I think you're getting ahead into a legal  
3 argument that you could be making in your closing briefs  
4 to the extent this is a contested issue.

5 If you could limit your questions to  
6 specific issues that are in Ms. Gilford's testimony,  
7 please. You may proceed.

8 Q (BY MS. ALLEN) Okay. Ms. Gilford, let me just  
9 ask it this way. We've talked -- we talked briefly  
10 about the benefit of the rate application process for  
11 the Class A utility. Can you direct me to any benefit  
12 that you really have seen to the Ratepayers of the  
13 Windermere Oaks Water Supply Corporation that has come  
14 from this rate appeal process?

15 A I can speak to the legal expenses that are  
16 included in my testimony.

17 Q Okay.

18 A And that those don't benefit the Ratepayers --  
19 that those don't benefit the Ratepayers.

20 Q So the rate case expenses, in your opinion, do  
21 not benefit the Ratepayers?

22 A No, I --

23 Q You say it how you want to.

24 A Can you just ask your question one more time?

25 Q Yes, ma'am. Look, you -- we have talked about

1 how we can see a benefit from the Class A utility rate  
2 application process, which is what 24.44 is directed to?

3 A Right.

4 Q Okay. When 24.44 talks about awarding rate  
5 case expenses, it's talking about the vetting process  
6 that we just discussed. Correct?

7 A Right.

8 Q And we know that that's not the process that is  
9 applicable to a water supply company. Right?

10 A Right.

11 Q And so I'm just wanting to know whether you can  
12 see any benefit to the Ratepayers from this appeal  
13 proceeding involving these rates?

14 A I don't think I know what you're asking. I  
15 don't.

16 Q Okay. Are you basing your opinion about rate  
17 case expenses on any conclusion that there is a benefit  
18 to the Ratepayers by virtue of this rate appeal process?

19 A The rate case expenses that I evaluated and  
20 that are part of my testimony and my supplemental  
21 testimony, I believe those are reasonable in this  
22 case --

23 Q Okay.

24 A -- at this point.

25 Q And I just want to understand: Are you just --

1 are you telling us that I've looked at the bills and  
2 I've looked at the tasks, and I've looked at the hours  
3 and those don't seem out of line to me. Is that what  
4 you're saying?

5 A For the -- in my testimony, I did. I looked at  
6 the -- this is what I looked at. I looked at the size  
7 of the utility, the number of the customers, the  
8 complexity of the issues, and now we're in a hearing.  
9 And so up until the hearing, I looked at the fees. I  
10 looked to see if they looked like they were in line.  
11 And in my opinion, up until -- through my supplemental  
12 direct testimony, those rate case expenses are  
13 reasonable.

14 Q Okay. But you cannot -- is it fair to say that  
15 you cannot identify for us any benefit that has been  
16 generated for the Ratepayers of Windermere on account of  
17 this appeal process. Is that right?

18 A This appeal process, no, it has not benefited  
19 your Ratepayers.

20 Q Okay. That's what I wanted to be sure I  
21 understood.

22 Now, you did some analysis on the invoices  
23 that correspond to the legal fees that were included in  
24 the rates. Right?

25 A Right.



1 Q Okay. And you were able to ascertain that the  
2 litigation matters had nothing to do with --

3 MS. MAULDIN: Not yet. Object.

4 THE REPORTER: I'm sorry. I didn't get  
5 that. Did someone object?

6 MS. KATZ: Not yet, but I'm about to.

7 THE REPORTER: Okay. I thought I heard  
8 you say something. I'm sorry.

9 MS. ALLEN: Do I want to finish my  
10 question, Your Honor, or do we want to entertain the  
11 objection?

12 JUDGE WISEMAN: There hasn't been an  
13 objection yet, so you may continue with your question.

14 Q (BY MS. ALLEN) Okay. I get off track,  
15 Ms. Gilford, so bear with me.

16 So were you able to confirm that none of  
17 the litigation matters for which legal expenses were  
18 paid had anything to do with the system itself or the  
19 provision of service to customers.

20 MS. KATZ: Objection, Your Honor. This is  
21 friendly cross. This is the definition of friendly  
22 cross.

23 JUDGE WISEMAN: Yes, Ms. Allen, do you  
24 have a response to that?

25 MS. ALLEN: I don't even know what

1 friendly cross is, but I think I -- really it's  
2 important for me to -- I don't know this person, and  
3 it's important for me to understand what she does and  
4 doesn't know because that is the basis of her opinion.

5 JUDGE WISEMAN: I think this is an issue  
6 on which you don't disagree with Staff's position here,  
7 so I do find that it is friendly cross. And we  
8 discussed this in the first day of the hearing, so I'm  
9 going to sustain the objection.

10 MS. ALLEN: Your Honor, I'm respectful of  
11 the Court's ruling. I just want to say that the  
12 Ratepayers are completely at odds with the Staff's  
13 position, if they have one, that ratemaking or rate  
14 appeal expenses ought to be awarded here. If I haven't  
15 made that clear, I just didn't want that to --

16 JUDGE WISEMAN: I understand that. I  
17 think this question related to the legal expenses that  
18 were included in rates, and that's why it's considered  
19 friendly cross.

20 MS. ALLEN: All right.

21 Q (BY MS. ALLEN) Ms. Gilford, I don't know if  
22 you know this, but yesterday Mr. Gimenez itemized a  
23 handful, maybe six or so, invoices for legal services  
24 that were rendered in 2019 but were not included in  
25 their rate model.

1                   Are you aware there were legal expenses  
2 for 2019 that were not included in the rate model?

3           A       Yes, I heard that.

4           Q       You heard that at the hearing?

5           A       Yes. And then I think that was a -- was it an  
6 RFI that stated that.

7           Q       Okay. Were you able to review records  
8 concerning those legal expenses to try to make a  
9 judgment about them?

10          A       I will tell you what I reviewed, which is the  
11 \$171,000, the legal expenses -- you're talking about  
12 legal expenses -- right -- not rate case expenses?

13          Q       That's right. And thank you for making that  
14 distinction. Because you have opinions about both  
15 things. Right?

16          A       Right.

17                   MS. KATZ: Your Honor, then I would object  
18 to her opinion as to the legal expenses that Ms. Allen  
19 is asking about because that would be friendly cross. I  
20 do not have an objection to Ms. Allen asking her  
21 question regarding rate case expenses.

22                   JUDGE WISEMAN: Okay. I sustain the  
23 objection.

24          Q       (BY MS. ALLEN) Okay. Let me see.

25                   Ms. Gilford let me do this: Have you been

1 listening to this hearing?

2 A I have. I just thought of something. Is there  
3 a way for me to go back and talk about something we  
4 talked about earlier or do we have to wait?

5 Q Well, I don't mind, but I think it's the  
6 decision of the Court.

7 A Oh, okay.

8 JUDGE WISEMAN: Well, Ms. Allen, if you  
9 don't have an objection, we can let the witness  
10 continue. But it's your witness at this point.

11 A I wanted to mention what -- I think the  
12 question was what benefit does this appeal do for the  
13 Ratepayers, well, there are some benefits. One of them  
14 is the legal fees, which we would like to have  
15 disallowed, which would reduce the base rate and that --  
16 since those are legal fees that are not an ongoing cost  
17 of service, they're not included in the base rate. They  
18 won't be part of the revenue requirement. So to me that  
19 is a benefit to the Ratepayers. So I wanted to make  
20 sure that I got that out there. I don't think I said  
21 that.

22 Q (BY MS. ALLEN) I appreciate that. Is there  
23 anything else that you need to clarify?

24 A No, not at this second.

25 Q All right. Ms. Gilford, you do understand that

1 the Lloyd-Gosselink firm has not been involved in this  
2 rate appeal for the purpose of reducing the rates.  
3 Right?

4 A For the purpose of reducing the rates?

5 Q Let me ask it differently.

6 The Company is here in this rate appeal  
7 trying to keep the rates at the higher level. Right?

8 A Okay. Yes.

9 Q Okay. And I hear you that if the Ratepayers  
10 are successful in persuading the Commission that these  
11 rates are not just and reasonable, they will get a  
12 benefit. I'm with you on that. But you appreciate that  
13 it's not the Company trying to confer that benefit on  
14 them. Right?

15 A Correct.

16 Q Okay. So did you get an understanding from  
17 listening to what you heard in this hearing as to how  
18 the Company actually figured this rate increase?

19 MS. KATZ: Objection, Your Honor. I think  
20 this is also -- would be outside the scope of her  
21 testimony. Also, I would object to friendly cross  
22 because I anticipate the answer would lead to a friendly  
23 cross answer.

24 JUDGE WISEMAN: What are you trying to --  
25 (Simultaneous discussion)

1 MS. ALLEN: Your Honor, I have no earthly  
2 idea what she's going to say. But there's been  
3 information that has been shared in the course of this  
4 hearing, and it might or might not impact her opinions.  
5 I have no idea.

6 JUDGE WISEMAN: Okay. I'm going to allow  
7 the question, but I am mindful of the friendly cross  
8 objection, and we'll keep an eye on that.

9 Q (BY MS. ALLEN) So, Ms. Gilford, did you -- and  
10 maybe you didn't. I just can't know unless I ask -- did  
11 you get an understanding from listening to the testimony  
12 about how the Company actually calculated the rates?

13 A I heard that information. At this moment, I  
14 don't recall the exact calculations. That's all I know  
15 at this point. I didn't take any of that information  
16 and try to apply it differently to the testimony that  
17 I've already presented.

18 Q Fair enough. You know that there was a rate  
19 model that the Company sponsored at the time that the  
20 board made the decision to raise these rates. Correct?

21 A Right.

22 Q And there was a same model the Company was  
23 sponsoring at the time that it appeared in this appeal  
24 proceeding for the purpose of preserving those rates.  
25 Correct?

1           A       Can you say that again? I'm sorry.

2           Q       Yes. The same rate model -- the Company was  
3 sponsoring the same rate model when it appeared in this  
4 case for the purpose of trying to preserve these rates.  
5 Right?

6           A       I think that's right.

7           Q       Do you have an understanding as to whether the  
8 Company continues to sponsor that rate model?

9           A       I don't know that.

10          Q       If the Company, in fact, used a different rate  
11 model at the time that it made the decision to increase  
12 these rates, a model that was different from what it  
13 told its Ratepayers and different from what it told the  
14 PUC when this appeal began, if it used a rate model  
15 different from what it claimed, would that be something  
16 that you would take into account when you were analyzing  
17 rate case expenses?

18                   MS. LANDER: Objection, Your Honor. I  
19 believe that rate design is outside the scope of  
20 Ms. Gilford's testimony.

21                   JUDGE WISEMAN: Ms. Allen?

22                   MS. ALLEN: I'll withdraw it, Your Honor.

23                   JUDGE WISEMAN: Okay.

24          Q       (BY MS. ALLEN) Ms. Gilford, in order for you  
25 to perform the function that the law sets aside to you,

1 is it fair to say that you depend on the utility to be  
2 candid and straightforward with you?

3 A Of course, yes.

4 Q You depend on the utility to provide accurate  
5 information at every stage of this proceeding, don't  
6 you?

7 A Yes, I do.

8 Q You depend on the utility to be forthcoming  
9 with the information when you ask for it, don't you?

10 A Yes.

11 Q Because if the utility does not do those things  
12 then you cannot effectively do your job to represent the  
13 public interest, can you?

14 A That's right.

15 Q The appeal under Subsection B, just reading the  
16 statute, is de novo. The statute uses the word  
17 "de novo." Are you familiar with that?

18 A No, I am not.

19 Q Okay. I take it you've not been involved in a  
20 de novo review at the Commission?

21 A No, I don't know what you mean by "de novo."

22 Q Have you ever heard of there being a de novo  
23 review at the Commission?

24 A I don't know.

25 Q I won't use the right words but -- let me back



1 up.

2                   What are the criteria for determining  
3 whether expenses ought to be included in rates?

4           A        You're talking about -- you're not talking  
5 about rate case expense?

6           Q        Right. I am not. I am not. I am talking  
7 about expenses that go to bill the rate?

8           A        Okay.

9                   MS. KATZ: I'm going to object, Your  
10 Honor, to friendly cross with this line of questioning.

11                   JUDGE WISEMAN: Sustained. It's  
12 sustained.

13           Q        (BY MS. ALLEN) Are you aware of there being  
14 any authority or precedent for the idea that a Company's  
15 legal expenditures should be judged by some different  
16 standard than any of its other expenditures for  
17 ratemaking purposes?

18                   MS. KATZ: I'm going to object, Your  
19 Honor, to friendly cross again. They don't have a  
20 differing opinion on this.

21                   JUDGE WISEMAN: Sustained.

22                   MS. ALLEN: Okay. Then -- okay. There's  
23 nothing in her testimony about this. Am I not allowed  
24 to explore whether there's precedent here?

25                   JUDGE WISEMAN: Your question is

1 concerning an issue which you don't disagree, and that  
2 is violating that friendly cross that we have in place.

3 MS. ALLEN: So just to avoid further  
4 irritating the panel, because this is -- friendly cross  
5 is something I have never heard of. If we agree with  
6 the general conclusion that she makes about the legal  
7 costs that were included in the rates, we are prohibited  
8 from examining her on any topic concerning that?

9 JUDGE WISEMAN: In an issue that you don't  
10 have a dispute with, that's correct.

11 Q (BY MS. ALLEN) Okay. Is it fair to say,  
12 Ms. Gilford, that if the Commission were to decide that  
13 the criteria for deciding whether and to what extent to  
14 award rate case expenses involved consideration of  
15 whether the Company's activities in the rate appeal  
16 benefited the ratepayer, if that were so, is it fair to  
17 say that your analysis does not look at that?

18 A No, my analysis does look at what benefits the  
19 ratepayer receives.

20 Q Okay. Can you identify for us any activity of  
21 the Company or its attorneys in connection with this  
22 rate appeal process that you believe has been for the  
23 benefit of or in the best interest of the Ratepayers?

24 A I cannot at this moment.

25 Q Okay. You do acknowledge that the -- there is

1 a regulation that speaks to rate case expenses in a rate  
2 appeal. Right?

3 A Yes.

4 Q What is that regulation? Do you know? Did you  
5 hear me? I'm sorry. Did you here me?

6 A Say that one more time.

7 Q I said what is that regulation, the regulation  
8 that is applicable in a rate appeal like this with  
9 respect to rate case expenses?

10 A 24.44, 16 TAC, 24.44.

11 Q I thought you told me -- I'm sorry. I thought  
12 you told me that was a regulation that was applicable in  
13 a rate application proceeding by a Class A utility?

14 A Right. But we use this as a guide when we're  
15 looking at rate case expense.

16 Q Okay. My question, though, is that you do know  
17 that there actually is a regulation that governs rate  
18 case expenses in an appeal like this. Right?

19 A Yes, and I believe that's 24.44, so maybe I  
20 don't know. I don't know what you're asking me.

21 Q What about 24.101. Let's see. Hang on one  
22 second here. There we go. Can you see it, Ms. Gilford?

23 A Yes.

24 Q Okay. And this is the regulation that actually  
25 does apply to an appeal of a ratemaking decision.

1 Correct? Do I have the right one?

2 A Yes.

3 Q 24.101, is that what I'm showing you?

4 A Yes. Yes.

5 Q It doesn't always work for me.

6 A Yes, I'm sorry. It's on Page 4 of my testimony  
7 24.101, yes.

8 Q Yes, ma'am. Yes, ma'am. Okay. So this  
9 regulation says the Commission -- that -- hear the  
10 appeal de novo -- I'm not going to ask you about that --  
11 and fix the rates the governing body should have, and  
12 then it says here, "The Commission may." Do you see  
13 that?

14 A Yes.

15 Q In an appeal under (b) it says, included -- I  
16 bet it means include -- reasonable expenses incurred by  
17 the retail public utility in the appeal proceedings.  
18 Right?

19 A Right.

20 Q This is not the statute that you applied -- or  
21 the regulation that you applied. Correct? Ms. Gilford,  
22 I'm sorry. I can't hear you.

23 A Hold on. I looked at 24.44.

24 Q Okay. All right. So let me ask you: Are you  
25 aware of the factor -- let me back up.

1                   This regulation says, "may," and so what I  
2 want to know is whether you're aware of any instances in  
3 which the Commission has analyzed whether or not to  
4 award reasonable expenses to a utility in a rate appeal  
5 like this one?

6           A        Could you show me 13.043(e)?

7           Q        I thought I was. Am I not?

8           A        Yes. Yes, and I have --

9           Q        I thought that is what I was showing you.

10          A        And I reference it on Page 5 of my direct  
11 testimony. There's a footnote to it.

12          Q        Yes, ma'am. I understand. But here's -- but  
13 my question is: Are you aware of the standards that the  
14 Commission applies, if it has them, when it makes a  
15 discretionary decision under (e) whether or not to award  
16 the expenses in a rate appeal like this one?

17          A        I don't know.

18                   MS. ALLEN: Okay. Pass the witness.

19                   JUDGE WISEMAN: Okay. Thank you,  
20 Ms. Allen.

21                   Ms. Mauldin or Katz?

22                   MS. KATZ: Yes, Your Honor.

23                                   CROSS-EXAMINATION

24 BY MS. KATZ:

25          Q        Good morning, Ms. Gilford.

1 A Good morning.

2 Q Can y'all hear me okay? Sorry. Okay.

3 Ms. Gilford, you have both of your  
4 testimonies in front of you. Right? I just want to  
5 make sure you do.

6 A Yes, I do. My direct and my supplemental, yes.

7 Q Okay. Great. I guess the first question I  
8 want to ask of you is: Do you know who filed this  
9 appeal to spark the appellate process? In other words,  
10 was it Ratepayers or was it the Corporation who filed  
11 the appeal.

12 A The Ratepayers appeal.

13 Q Okay. Thank you. And the standard for  
14 reasonable rates that you cited in your testimony is to  
15 ensure that every rate was not preferential,  
16 prejudicial, or discriminatory. Is that correct?

17 A And you're talking about the base rate --  
18 volumetric rate, you're talking about.

19 Q Yes.

20 A Right. Yes.

21 Q Okay. And in your testimony you did not state  
22 anywhere that you found that these rates are  
23 specifically preferential, prejudicial, or  
24 discriminatory. Correct?

25 A I did not state that.

1 Q Okay. And you mentioned that you aren't an  
2 attorney. Right?

3 A I am not an attorney.

4 Q Okay. That's not a bad thing.

5 (Laughter)

6 Q (BY MS. KATZ) So you would not be able to  
7 define the legal definition, and I know that came up in  
8 your cross-examination before. But you would also not  
9 be able to define the legal definition of preponderance  
10 of the evidence. Is that right?

11 A That's right. That is right.

12 Q Okay. Okay. And you would also probably have  
13 a difficult time defining what an intentional tort is.  
14 Is that right?

15 A That's right.

16 Q Okay. And same thing for the definition of  
17 employee misconduct, the legal definition?

18 A The legal definition, yes.

19 Q Okay. However, you did use several of these  
20 legal terms to form your opinion on the reasonableness  
21 of the rates, in your testimony at least. Is that  
22 right?

23 A The reasonableness of the rates or the -- which  
24 rates? The base and volumetric rates again?

25 Q Yes, I apologize for not clarifying. Correct,

1 yes?

2 A Uh-huh.

3 Q Was that a "yes"? I'm sorry.

4 A I did mention those words, yes.

5 Q Okay. And are you -- and you may not be -- but  
6 are you aware of the Judge's order concerning the  
7 limitation of Ms. Allen's testimony to only issues that  
8 have been listed in the Preliminary Order?

9 A Yes.

10 Q Okay. And you cited several outside litigation  
11 matters and the details within those matters from  
12 Ms. Allen's testimony when you arrived at your  
13 recommendation. Isn't that right?

14 A Yes, I have footnotes that talk about that,  
15 yes.

16 Q Okay. And so you're relying upon her  
17 interpretation -- Ms. Allen's interpretation and her  
18 testimony of a specific details of legal issues from  
19 other pending cases and previous litigation in order to  
20 draw your conclusion?

21 A Yes. As she's footnoted there, yes.

22 Q Okay. And you would agree with me that in the  
23 Preliminary Order that you mentioned that you are  
24 familiar with outlining the list of issues, and the  
25 Judge's Order No. 9 limiting and ruling on Ms. Allen's



1 testimony, that there's really no -- there's several --  
2 of the issues that you opine to in your testimony refer  
3 to issues that are -- that should not be included in the  
4 recommendation. Is that fair to say?

5 A Yes.

6 Q Okay. Okay so let's switch gears. You  
7 mentioned Docket 35717. Do you remember mentioning  
8 that?

9 A I do remember it. What page is that?

10 Q I believe that's on Page 13, if I'm correct, of  
11 your testimony?

12 A Yes. Yes.

13 Q Okay. All right. And some of the legal terms  
14 that I asked you if you're familiar with, such as  
15 employee misconduct and intentional tort, are -- in your  
16 opinion -- referencing your recommendation and  
17 referencing this docket number. Isn't that correct?

18 A Yes. Correct.

19 Q Okay. Ms. Gilford, are you familiar with what  
20 an investor-owned utility is?

21 A Yes.

22 Q Okay. And we're still -- and just to give you  
23 an umbrella idea of what we're talking about here.  
24 We're still talking about that area of your testimony  
25 discussing that docket number.

1 A Yes.

2 Q Would you agree with me that that specific  
3 Docket No. 35717 concerns an electric IOU,  
4 investor-owned utility?

5 A Yes, it does.

6 Q Okay. And in our case today, we're focusing on  
7 a nonprofit water corporation. Would you agree with  
8 that?

9 A That is correct.

10 Q And would you agree with me that the structure  
11 of an IOU, or investor-owned utility, and the rules  
12 applicable to those are not the same as rules applicable  
13 to nonprofit water corporations?

14 A I agree.

15 Q Okay. And would --

16 MS. ALLEN: Your Honor, I want to object  
17 on the grounds that this witness told me in testimony  
18 that she did not know how a water supply company  
19 operated.

20 JUDGE WISEMAN: Okay. I'm going to  
21 overrule the objection.

22 MS. KATZ: Thank you.

23 Q (BY MS. KATZ) Ms. Gilford, would you agree  
24 with me that investor-owned utilities have sort of a  
25 special structure whereby they have investors who may

1 theoretically be in a position to pick up the tab, for  
2 example, for any shortfalls that occur with the  
3 corporation?

4 A That's correct.

5 Q Okay. And would you agree with me that a  
6 nonprofit water corporation is made up of a volunteer  
7 board that doesn't get paid and doesn't take money from  
8 the corporation?

9 A That's correct.

10 Q Okay. So in other words, the board members for  
11 this water corporation, the subject of this case  
12 Windermere Oaks, are in a drastically different  
13 financial and frankly legal position than an  
14 investor-owned utility and because here they're  
15 volunteers who serve the members. Would you agree with  
16 me on that?

17 A Yes.

18 Q Okay. And when you reviewed your testimony and  
19 in your testimony, you aren't suggesting that these  
20 volunteers pay for the water corporation expenses  
21 themselves, are you?

22 A No. I'm not.

23 Q Okay. And would you -- would you agree with  
24 me, if you know, that owners/investors in an IOU and  
25 ratepayers in a nonprofit water corporation can have

1 different and potentially opposing interests? And I can  
2 give you an example, if that doesn't make sense to you.

3 A Yes, please give me an example.

4 Q Sure. So in an IOU, would you agree with me  
5 that the owners generally want higher profits whereas  
6 ratepayers generally want lower rates, which can be at  
7 odds within an IOU, they might have different interests?

8 A Correct.

9 Q Okay. And do you believe that in a nonprofit  
10 water corporation that -- or would you agree with me  
11 that there would not be necessarily the same conflicting  
12 interest because you have volunteer members serving on  
13 the board who are not getting paid and are not looking  
14 to earn a profit and were, in fact, members and  
15 ratepayers themselves with the general population of  
16 ratepayers?

17 A Will you say that one more time, please?

18 Q Sure. I guess I'll try to simplify that.  
19 Would you agree with me that in a nonprofit water  
20 corporation, such as Windermere Oaks, that those  
21 competing interests are likely to be nonexistent?

22 A I agree.

23 Q Okay. And, Ms. Gilford, would you agree with  
24 me that it would be good public policy to have volunteer  
25 board members, as opposed to paid board members, for

1 water supply corporations?

2 A Well, if they're volunteer, they're not paid so  
3 that would be less of an expense to the corporation. I  
4 don't know that it's -- I mean, it's better in that  
5 sense.

6 Q Okay. But I guess referring back to the  
7 competing interest. Right?

8 A Okay.

9 Q So when we're thinking --

10 A Yeah.

11 Q So would you say maybe its public -- good  
12 public policy to have volunteers serve on the board  
13 versus, say, paid members -- or I'm sorry -- paid owners  
14 of an investor-owned utility?

15 A Okay. I can see that.

16 Q Okay. And who do you think should pay for the  
17 legal defense of board members that are sued based on  
18 prudent decisions that were made on behalf of the  
19 Ratepayers, in good faith, and without any conflict of  
20 interest? In other words --

21 MS. LANDER: Objection.

22 MS. ALLEN: Objection, Your Honor. My  
23 goodness. That would be --

24 MS. KATZ: I'm sorry. There were two  
25 objections so...

1 MS. ALLEN: Ms. Lander, I'll defer to you.

2 MS. LANDER: Objection. Well outside the  
3 scope of the witness's testimony.

4 JUDGE WISEMAN: Okay. Ms. Katz?

5 MS. KATZ: Sure. Well, in Ms. Gilford's  
6 testimony she is recommending a disallowance of legal  
7 expenses and my question goes to that. If she's  
8 recommending a disallowance, I'm asking for her opinion  
9 on who should be paying for that, especially since she  
10 just opined on about public policy of having volunteer  
11 board members who are not being paid.

12 JUDGE WISEMAN: Okay. I overrule the  
13 objection.

14 MS. KATZ: Ms. Gilford, do you want -- and  
15 from Ms. Allen had an objection. I don't know if you  
16 want to hear that.

17 MS. ALLEN: I deferred to Ms. Lander and  
18 her objection has been ruled on.

19 JUDGE WISEMAN: Can you answer the  
20 requests, Ms. Gilford.

21 A Can you tell me the question once more? I'm  
22 sorry.

23 Q (BY MS. KATZ) Sure. So my question was, for  
24 legal defenses --

25 A Uh-huh.

1 Q -- against a board for a nonprofit water supply  
2 corporation, when they're being sued based on prudent  
3 decisions made on behalf of the ratepayers, made in good  
4 faith, and without that conflict of interest, because we  
5 mentioned there shouldn't be that conflict of interest,  
6 if the ratepayers are not funding that legal defense,  
7 who do you expect that defense to be funded by?

8 A Well, there are different ways that they could  
9 do that. I mean, they could look at the sale of assets.  
10 They could do certain things -- other things -- just  
11 other things that they could do to pay for it, but I  
12 don't know if you're equating the decisions of this  
13 board as being prudent. Is that what you're trying to  
14 say? Or are you just saying if I just had a board that  
15 was prudent they had reasonable expenses, then that's  
16 okay?

17 Q That's what I'm saying. I'm not asking you to  
18 make --

19 (Simultaneous discussion)

20 A You can talk --

21 Q (BY MS. KATZ) -- a conclusion that --

22 A I'm sorry.

23 Q I'm not asking you to make a conclusion that  
24 this board was reasonable or prudent. I'm asking you if  
25 a board's decision was a reasonable and prudent decision

1 to defend themselves being sued, if it's not funded by  
2 the ratepayers, how would that board pay for defending  
3 themselves and the corporation? And if you don't know,  
4 that's fine too.

5 A Yeah, I think that board would have to look at  
6 all the options available to them, whatever they are. I  
7 mean, that would be their job. That would be their job.  
8 They would be tasked with that to figure out other ways  
9 to pay their bills.

10 Q Okay. So going back to the public policy  
11 question that you answered. If board members are forced  
12 to pay to defend themselves in these circumstances,  
13 let's say, would you agree with me that it would be a  
14 little more difficult to induce people to serve as board  
15 members?

16 A I think that could be possible.

17 Q Okay. So when you were discussing the 35717  
18 docket, and we talked a little bit about the differences  
19 between this docket being focused on an electric IOU and  
20 our proceeding being focused of a nonprofit water  
21 corporation, would you agree with me that Docket  
22 No. 35717 isn't necessarily a one-size-fits-all  
23 position?

24 A I would say -- not necessarily.

25 Q Okay. And would you agree with me -- and you



1 may not know the answer to this as well and that's  
2 fine -- that volunteer board members of a nonprofit  
3 water supply corporation are not employees. Right?

4 A That's right.

5 Q Okay. And so in looking at your reference to  
6 that docket in those few pages, would you agree with me  
7 that your reference to employee misconduct would then be  
8 misplaced because volunteers at a water supply  
9 corporation, volunteer board members, are not employees.  
10 Does that make sense?

11 A I see where you're going, yeah.

12 Q Okay. And would you also agree with me that  
13 regarding your reference to intentional torts and  
14 employee misconduct that you have not come across any  
15 court ruling that would suggest that Windermere Oaks has  
16 committed these acts?

17 A I haven't seen a court ruling that showed that  
18 from Windermere, no.

19 Q Okay. And, again, you're using the premise  
20 under Ms. Allen's testimony of the legal details and her  
21 perspective to help formulate your opinion in this case?

22 A In my opinion, to disallow the legal expenses.  
23 Is that what you mean?

24 Q Yes, ma'am. Yes, ma'am.

25 A I am -- well, let me just say this: I'm

1 disallowing those legal fees because I don't believe  
2 there's a benefit to the ratepayers. Those lawsuits and  
3 things that had to do with those legal expenses to me  
4 did not represent an ongoing cost of service to the  
5 water and wastewater ratepayers. And so that --

6 Q So Ms. Gilford --

7 A I'm sorry.

8 Q No, that's okay. I was going to clarify what  
9 you had just said.

10 But the ins and outs, the details of those  
11 outside legal expenses, the information that you relied  
12 upon primarily came from the summary of Ms. Allen's  
13 testimony surrounding the details as you mentioned when  
14 I was talking with you just a few minutes ago. Is that  
15 correct?

16 A You're correct, yes.

17 Q Okay. Okay. Then I understand. Okay. On  
18 Page 14 of your testimony -- of your initial testimony,  
19 not your supplemental --

20 A Okay.

21 Q -- Lines 15 and 16, you state that the  
22 disallowance of legal costs protects ratepayers from  
23 board and -- these are your words, correct me if I'm  
24 wrong -- from board member behavior that is unreasonable  
25 and contrary to public policy?

1           A       Uh-huh.

2           Q       By recommending the disallowance of legal  
3 costs, are you inherently making a determination that  
4 there was a board -- there was board member behavior  
5 that was unreasonable or contrary to public policy?

6           A       Okay. I see your sentence: "I believe my  
7 recommendation to disallow Windermere's outside legal  
8 expenses protects its ratepayers from board member  
9 behavior that is unreasonable and contrary to public  
10 policy." That's what I'm saying.

11          Q       Right. So are you making a determination that  
12 there was board member behavior that was unreasonable or  
13 contrary to public policy?

14          A       Yes.

15          Q       Okay. Then would you explain this, other than  
16 what you determined from Ms. Allen's testimony?

17          A       Okay. When you look at the litigation matter  
18 regarding the public information act request -- let me  
19 find it. I think that's the one where the corporation  
20 sued the AG's office and there's a bunch of  
21 back-and-forth going on and eventually they did decide  
22 to allow for that public information to be available on  
23 the website. I believe that's what happened at the end  
24 of it. So, to me, that was bad board member behavior to  
25 me.

1 Q Okay. So would you agree with me that the  
2 decision by the AG's office was actually that the board  
3 members didn't have to release that information?

4 A That is true.

5 Q Okay. So would you agree with me that it would  
6 be reasonable to assume that pursuing that course of  
7 legal action was reasonable in and of itself simply  
8 because the AG's office agreed with the board originally  
9 withholding that information. Does that make sense?

10 MS. LANDER: Objection, Your Honor. This  
11 is asking Ms. Gilford to make -- to assert a legal  
12 opinion as to the AG's decision.

13 JUDGE WISEMAN: I agree. I'll sustain the  
14 objection.

15 Q (BY MS. KATZ) Would you agree with me,  
16 Ms. Gilford, that if Windermere Oaks never released the  
17 information after the AG said they didn't need to, that  
18 they would have been just simply following the attorney  
19 general's ruling?

20 A They would have been.

21 Q Okay. And so would you agree with me that  
22 Windermere Oaks went above and beyond by providing  
23 information to its ratepayers, even though it didn't  
24 have to?

25 A In that particular case, is that what you're

1 saying.

2 Q Yes. Correct.

3 A It did it, yeah, and it didn't have to. But  
4 there's things that went on back and forth was  
5 unnecessary, because eventually at the end they did  
6 produce it.

7 Q Okay. So would you agree with me that it is  
8 not unreasonable for an entity to defend itself when  
9 it's being sued?

10 A It is not unreasonable, no.

11 Q Okay. So we'll switch gears again. We'll get  
12 away from that 35717.

13 We talked a little about legal  
14 proficiencies and that you're not an attorney. Would  
15 you agree with me that you're also not proficient in  
16 real estate law?

17 A That is correct.

18 Q Okay. And you'd be guessing if you commented  
19 on the legal ability to sell land. Right?

20 A That's right.

21 Q Okay. But if somebody you know, and again, you  
22 may not know this. But I'm just talking about general  
23 knowledge, not necessarily legal knowledge right now.

24 A Okay.

25 Q If you're familiar, if somebody has a lien, for

1 example, placed on your house or even a car, that person  
2 is unable to sell it until the lien is lifted. Is that  
3 your understanding? If you know it.

4 A I know it. That is correct.

5 Q Okay. And, again, you may not know the answer  
6 to this either, but I'll ask it. Do you know what the  
7 term "lis pendens" is?

8 A I do not know.

9 Q Okay. And would you have any reason not to  
10 believe me that if I were to tell you that it means a  
11 notice of action regarding a real estate transaction  
12 which prevents the sale of land under litigation?

13 A I have no reason not to believe you.

14 Q Okay. In your testimony you insinuate, and  
15 even today in your testimony, you insinuated that the  
16 Corporation -- or a corporation may be able to sell its  
17 land or a piece of its land that it owns, but if that  
18 land -- wouldn't you agree with me -- that if that land  
19 had a lis pendens or some sort of a lien placed against  
20 it, they would be unable to sell it at the time?

21 MS. ALLEN: Again, Your Honor, I'm going  
22 to object to that as, first, it's a mischaracterization  
23 of the law, and, second, I don't think this witness has  
24 indicated she has any knowledge from which her testimony  
25 would be helpful. With all due respect, she has

1 knowledge about a great many things, this is not one of  
2 them.

3 JUDGE WISEMAN: Ms. Katz.

4 MS. KATZ: Your Honor, she testified about  
5 this today about mentioning being able to sell a piece  
6 of land. She had some of that in her previously filed  
7 testimony that's been admitted into evidence, and she  
8 also just mentioned that she's aware of what the term  
9 "lien" means and has no reason to disagree with me about  
10 what lis pendens means.

11 JUDGE WISEMAN: Okay. I overrule the  
12 objection. You may answer.

13 MS. ALLEN: Okay.

14 Q (BY MS. KATZ) And I can ask that again, if you  
15 need me to.

16 A Please. Please.

17 Q Okay. So would you agree with me that if a  
18 water supply corporation -- in this case it would be  
19 Windermere Oaks -- had a piece of land, and that piece  
20 of land had a lis pendens or a lien on it, they are  
21 unable to sell that piece of land?

22 A That would be correct. Now --

23 (Simultaneous discussion)

24 MS. ALLEN: I'm sorry, Your Honor. Is  
25 that a legal -- I'm objecting to the legal opinion by a

1 nonqualified person. But as long as I'm able to  
2 cross-examine on it, I will not object.

3 JUDGE WISEMAN: Okay. There's no  
4 objection, then.

5 Q (BY MS. KATZ) Okay. Ms. Gilford --

6 A Can I also add something else? When I was  
7 talking about the extra land for sale, that is only  
8 something that they could consider. It's not something  
9 I'm saying they need to go out and do today.

10 Q I understand.

11 A But there are other ways that they can raise  
12 money to pay for their litigation cost. One of them may  
13 be extra land for sale, one of them may be a surcharge  
14 or one of them may be a special assessment, one of them  
15 may be to look at their budget, reduce some of their  
16 costs other ways. That's all I'm trying to say. But  
17 I'm not trying to be a lawyer or anything like that.

18 Q I understand. I understand. Thank you for the  
19 clarification.

20 So since you mentioned you're not a lawyer  
21 and that was only sort of conjecture and a potential  
22 avenue to pay for legal expenses, you wouldn't be able  
23 to provide a legal opinion -- I think I know the answer  
24 to this -- as far as breach of contract if someone were  
25 to sell a piece of land that they weren't supposed to



1 sell. Is that fair to say?

2 A That is fair.

3 Q Okay. And you can't provide a legal opinion on  
4 whether a certain purchase or sale of a property was  
5 reasonable, could you?

6 A That is correct.

7 Q Okay. Would you agree with me that your role  
8 in this case and your position is to determine whether  
9 the rates themselves were reasonable based on the cost  
10 of the lawsuits and not a position to determine whether  
11 the subject matter of the lawsuits was reasonable.

12 A Say that -- I'm looking over at my scope right  
13 quick here.

14 Would you say that question one more time?  
15 I'm sorry.

16 Q Sure. Your role isn't to determine if the  
17 subject matters of the lawsuits were reasonable, but  
18 your position is to determine whether the rates  
19 themselves are reasonable based upon costs of the  
20 lawsuits. Correct?

21 A Correct.

22 Q And you had an opportunity to review the  
23 testimony and discover -- I'm assuming you had an  
24 opportunity to review the testimony and discovery  
25 responses that have been filed in the case?

1           A       Can you say that again?

2           Q       Sure. Did you have an opportunity to review  
3 the discovery responses and the testimony that have been  
4 filed in this case?

5           A       Yes. Yes.

6           Q       Okay. And would you agree with me that prior  
7 to 2019 the PIA requests -- the Public Information Act  
8 requests -- were few and far between, minimal?

9           A       The Public Information Act requests that are  
10 mentioned in my testimony you're talking?

11          Q       Yes.

12          A       Okay. Yes.

13          Q       Okay. And would you agree with me that at some  
14 point in 2019 and beyond, those number of requests that  
15 were coming in to the corporation skyrocketed and didn't  
16 let up?

17          A       They -- I don't know. I don't know that.

18          Q       That's okay. Would you agree with me that the  
19 amount of legal expenses to respond to and handle the  
20 Public Information Act requests was drastically higher  
21 in 2019 and beyond than previously?

22          A       I believe that's correct.

23          Q       Okay. And would you agree with me that the --  
24 when you were reviewing the discovery and coming to your  
25 conclusion, that those legal expenses concerning the PIA

1 requests that occurred over several months and beyond  
2 were requests by the same person or small group of  
3 people? And if you don't know, that's okay, too. But  
4 this was part of discovery.

5 A I don't know. I just don't remember.

6 Q That's okay. But you do believe that  
7 responding to the public information requests and the  
8 legal expenses that have been spent on that should be  
9 recovered through the rates, in your testimony? I think  
10 that last phrase probably should have come before, so do  
11 you want me to restate that, Ms. Gilford?

12 A Yes, please.

13 Q Sure. So in your testimony --

14 A On page what?

15 Q Let's see. Let's go to Page 15 of 20.

16 A Okay.

17 Q And if you look at Lines 11 through 15.

18 A Yes.

19 Q And then I guess your entire answer, would you  
20 agree with me that these expenses you would recommend be  
21 included in the rates, the PIA expenses that the board  
22 was required to respond to and needed legal counsel to  
23 assist with?

24 A I think I did not include them because they  
25 were an estimate.

1 Q And I'm not asking you for a number. I'm  
2 asking you whether you believe, according to your  
3 testimony, that the portion of this amount attributable  
4 to Public Information Act responses would be reasonable  
5 and necessary and recoverable in rates?

6 MS. LANDER: Objection, Your Honor --  
7 (Simultaneous discussion)

8 A It is --

9 MS. LANDER: -- Ms. Gilford's testimony.

10 JUDGE WISEMAN: Could you repeat that  
11 objection, please?

12 Ms. Lander, could you repeat your  
13 objection?

14 MS. LANDER: Yes, Your Honor. Objection  
15 mischaracterizes the testimony of Ms. Gilford.

16 JUDGE WISEMAN: Can you clarify your  
17 question, please, Ms. Katz?

18 Q (BY MS. KATZ) Sure. Ms. Gilford, do you see  
19 Page 15 of 20 in your testimony, the portion that I was  
20 referring to previously?

21 A Yes.

22 Q Okay. Would you agree with me that a portion  
23 of the requested rates that Windermere Oaks is seeking  
24 to recover attributable to PIA requests should be  
25 recoverable in rate case expenses -- I'm sorry -- in the

1 rates?

2 A Yes. However, since we did not know the  
3 amounts, we did not include them.

4 Q I understand. Did you have an opportunity to  
5 review the rebuttal testimony of Mr. Gimenez where he  
6 explains the response to Staff's RFI 2-3 specifically  
7 addressing that amount?

8 A I have his rebuttal testimony in front of me.  
9 Can you tell me what page you're talking about?

10 Q Sure. Sure. So if you go to his rebuttal  
11 testimony on Page 21, Lines 7 through 18.

12 A Yeah. Yes, I have it.

13 Q Then would you agree with us that there is an  
14 explanation of the amount of the \$44,862?

15 A Yes.

16 Q Okay. And is that -- was that response to  
17 Staff's Second RFI 2-3?

18 A I believe that is so.

19 Q Okay. And does that explain the amount of PIA  
20 request expenses?

21 A It says that -- Mr. Gimenez is saying that the  
22 Corporation took a conservative approach in coming up  
23 with the \$44,000 figure. So they think that's an "at  
24 least" number.

25 But I'm saying that I needed the actual

1 amount to include it, so that's why I disallowed it. I  
2 did not have an actual amount. I had estimates.

3 Q Okay. And so it's your opinion that to  
4 disallow -- even though you state that PIA request  
5 expenses should be recoverable because they potentially  
6 underestimated, you're going to disallow all of it. Is  
7 that your testimony?

8 A My testimony is that, yes, they should be  
9 recoverable. I don't have specific dollar amounts for  
10 that and so I am disallowing it.

11 Q Okay. Let's talk about the CoBank loan that  
12 you testify about. And I believe that is on page --  
13 well, you may find it before me.

14 A Yes, is it Page 16? Is that where --

15 Q Yeah, I had it down as 16. But, yes -- yes,  
16 you're right. Middle of Page 16 between Lines 8 and 14.  
17 Thank you.

18 Are you prepared to answer some questions?

19 A I'm there.

20 Q Okay. Did you have an opportunity to review  
21 the loan documents?

22 A No, I did not review the loan documents.

23 Q Okay. So if you did not review the loan  
24 documents, you would agree that you did testify to the  
25 loan documents and the amount Windermere was preapproved

1 for?

2 A Yes, I got that from Mr. Gimenez's testimony.

3 Q Okay. And you testified that you had an  
4 opportunity to review the discovery and the testimony  
5 that's been prefiled in this case. Right?

6 A Yes.

7 Q Okay. So you mention that you didn't review  
8 the CoBank documents and that's okay, so you may not be  
9 aware of this, but I'm still going to ask.

10 Are you aware of the restrictions on what  
11 the funds could be used for that were a part of the  
12 CoBank loan?

13 A I am not.

14 MS. LANDER: Your Honor, asked and  
15 answered. Ms. Gilford has already said that she did not  
16 review the CoBank loans.

17 JUDGE WISEMAN: Sustained.

18 Q (BY MS. KATZ) Okay. So, Ms. Gilford, did you  
19 want to change your testimony regarding what you did and  
20 did not review as far as the testimony that was prefiled  
21 in this case in the discovery responses?

22 A What -- I'm sorry. What did you say?

23 Q Sure. Previously you testified that you  
24 reviewed the discovery responses and the testimony in  
25 this case. Remember that?

1 A Yes.

2 Q Okay. Did you want to revise that testimony to  
3 indicate that you did not review the testimony or  
4 discovery responses in this case -- or at least all of  
5 them?

6 A Yes, I guess I'll have to say not all of them.

7 Q Okay. And so do you have any reason to not  
8 believe Mr. Gimenez's testimony or me when I say that  
9 there were restrictions on the loan covenants and the  
10 way that the loans could be spent in the CoBank loans?

11 A I don't have any reason not to believe you.

12 Q Would it surprise you that the loans that  
13 Windermere Oaks received from CoBank cannot be used to  
14 pay for legal expenses?

15 A I'm not surprised at that.

16 Q Okay. Because you, yourself, mentioned that  
17 you have experience in that industry. Right?

18 A Right.

19 Q Okay. And in your testimony you discuss  
20 amortization. Right?

21 A Uh-huh.

22 Q And you reference -- and I will try to find  
23 this for you unless you find it more quickly than I  
24 can --

25 A Uh-huh.



1 Q -- you reference 2016?

2 A Yes.

3 Q Okay. But would you agree with me that the  
4 expenses for the legal expenses, the subject of this  
5 proceeding, didn't start accruing until 2018? And if  
6 you don't know, that's fine, too.

7 A Stated in my testimony on -- is that where you  
8 are, Page 16, Line 19?

9 Q Yes.

10 A "The expenses began to accrue in 2016 and  
11 Windermere implemented its appealed rates in March 2020.  
12 Because the expenses at issue accumulated over four  
13 years, I recommended the Commission spread a potential  
14 recovery over the same time period of four years."  
15 And --

16 Q So you mentioned -- I'm sorry. I'll let you  
17 continue.

18 A So -- excuse me. The expenses began to accrue  
19 in 2016. So in '16, wasn't that the land sale in 2016?

20 Q Well, I'm asking you if that 2016 number is  
21 accurate if you've reviewed legal expenses and so on  
22 and --

23 A I'm sorry.

24 Q That's okay. Go ahead.

25 A The transaction that was leading to litigation

1 started then, in 2016. It's my understanding that the  
2 land sale took place in 2016. That's my understanding.

3 Q Okay. Would you --

4 A And so that's why I said, well, if the land  
5 sale took place, in 2016 more than over -- you know  
6 there's legal documents going on, expenses are  
7 happening, at that time. So from '16 to '20 is four  
8 years, and that's how I got that.

9 Q So would you agree with me that a sale of land  
10 is not the same time that the legal actions -- or you  
11 know, lawsuits or litigation or what have you --  
12 occurred?

13 A Right.

14 Q Okay. Would you agree with me that that -- the  
15 litigation lawsuits, differences in opinion, occurred on  
16 paper in 2018, according to court documents that you may  
17 or may not have reviewed and the legal invoices?

18 A That could be true, but you're probably having  
19 other legal costs associated with that land in 2016 when  
20 you're working on that transaction.

21 Q Okay.

22 A And that's why I went there, and the four years  
23 is better for the ratepayers.

24 MS. KATZ: Okay. So let's -- and we're --  
25 just for time purposes -- I'm wrapping up Judges,

1 Ms. Gilford, and Ms. Lander.

2 Q (BY MS. KATZ) Regarding your recommendation on  
3 refunds --

4 A Yes.

5 Q -- would you agree with me that if a  
6 corporation is operating on a deficit, if these rates  
7 aren't approved, it would be impossible to issue  
8 refunds?

9 A That would be true.

10 Q Okay. And would you agree with me that there  
11 should be some reserve -- some reserve fund for repairs,  
12 other service issues, TCEQ issues, that might arise?

13 A Yes. Most water supply corporations do have  
14 something in reserves for those kinds of issues.

15 Q Okay. So you're not necessarily recommending  
16 that Windermere Oaks operates with a zero reserve or in  
17 a deficit, are you?

18 A No, I'm not.

19 Q Okay. And you reviewed -- and I know that we  
20 went back and forth about what you did review and what  
21 you did not review. You reviewed Mr. Nelson's and  
22 Mr. Rabon's rebuttals?

23 A I did.

24 Q Okay.

25 A Mr. Nelson and Mr. Rabon, yes. I have them

1 right here.

2 Q Okay. Okay. Are you aware that you're  
3 recommending rates that don't fully recover the costs of  
4 service?

5 A Okay. You're saying -- do you mean in my  
6 refund analysis or where am I recommending rates?

7 Q So you're recommending a disallowance and a  
8 rate structure to occur where the utility would not  
9 fully recover the cost of service and not be operating  
10 in a deficit. And if you disagree with that, then  
11 that's fine. Let me know that you disagree with that,  
12 but that's what I read from your testimony.

13 A I'm recommending a revenue requirement that has  
14 disallowed certain legal expenses -- okay. Because the  
15 revenue requirement that the Corporation presented  
16 included that 171, I disallowed the 171, and now there's  
17 a new revenue requirement. And then -- and the rates  
18 are based on that new revenue requirement. But my  
19 part -- my job was deciding the revenue requirement.

20 MS. KATZ: Okay. Thank you, Ms. Gilford.  
21 Thank you, Ms. Gilford. The Corporation  
22 passes the witness.

23 THE WITNESS: Thank you.

24 JUDGE WISEMAN: Okay. Thank you. Judge  
25 Siano, did you have a question for the witness?

1 JUDGE SIANO: I do have a couple questions  
2 for this witness.

3 CLARIFYING EXAMINATION

4 BY JUDGE SIANO:

5 Q As to the mechanisms of recovering rate case  
6 expenses, are you uncertain as to whether they could be  
7 recovered through a surcharge?

8 A I know that we -- that we would like for it to  
9 happen through a surcharge, and I think at the time my  
10 testimony -- well, I know at the time my testimony was  
11 written, they could not offer -- that wasn't part of  
12 their tariff yet. I'm not sure what they've done since  
13 then.

14 Q For purposes of what the Commission has  
15 authority to do, are you suggesting that the Commission  
16 is bound by the tariff?

17 A Yes, because they would have to -- we'd love to  
18 see them do a surcharge, but they would have to amend  
19 the tariff to do that. So, yes, we're bound by the  
20 tariff.

21 Q Okay. And as to the -- what I understand to be  
22 the central issue in this case, which is the inclusion  
23 of the \$171,000 in base rates, it appears to largely  
24 boil down to the source of funding for that. And as I  
25 understand it, those sources in your estimate are the

1 insurance, loans, or the customers. Do I understand  
2 that correctly?

3 A In order for them to cover those litigation  
4 costs, that's what you're saying?

5 Q Right.

6 A Yeah. Or they could sell extra land, if they  
7 had it, or somehow do a surcharge, a special assessment,  
8 cut costs in their budget to try to make up for that.

9 Q Right. And I understand that. I believe  
10 Ms. Allen has also alluded to maybe some of the board  
11 members covering those costs. But for purposes of  
12 helping our decision here, even if those were to be  
13 recovered -- well, is your position that they should not  
14 be recovered from customers at all?

15 A Right.

16 Q Because you'd mentioned -- I believe I  
17 understood you to suggest that there could be an  
18 assessment or a surcharge?

19 A Exactly.

20 Q But that would come from the customers  
21 themselves?

22 A Oh, I'm sorry. Yes. No, you're right. You're  
23 correct.

24 Q So you're -- your position is not that it  
25 should not come from the customer at all, but that it

1 should not be in the base rate. Do I understand that  
2 correctly?

3 A That's exactly right. Right.

4 Q And so --

5 A So as not to be part of the revenue  
6 requirement, that's right. And not come from the base  
7 rate, that's right.

8 Q Okay. Because we are going to have to make a  
9 very specific recommendation, and I want to make sure  
10 that I understand your position.

11 Are you recommending disallowing all of  
12 those based on the -- I'm sorry -- the entire \$171,000  
13 based on the respective nature of the lawsuits involved?

14 A Yes. And then the main thing is because that's  
15 litigation that does not -- I don't believe benefits the  
16 Ratepayers. It's not part of an ongoing cost of  
17 service, and so that's why I disallowed them.

18 Q And I understand that. It appears to me that  
19 at least the Corporation felt that it was -- had to make  
20 a decision of whether it would on the one hand  
21 essentially continue to exist at all or find a source of  
22 funds to pay these legal expenses. And it decided to  
23 recover them from its customers, and do I understand  
24 correctly that you do not oppose recovering them from  
25 the customers in the form of an assessment or a

1 surcharge only in base rates?

2 A That's right.

3 JUDGE SIANO: Okay. That's all I have.

4 JUDGE WISEMAN: Okay. It's 11:59. I  
5 think we can go ahead and get through this witness if  
6 the Parties would like to do that. Okay. All right.

7 So Ms. Lander.

8 REDIRECT EXAMINATION

9 BY MS. LANDER:

10 Q Great. Okay. Ms. Gilford, let's talk about  
11 some things, please.

12 So I just want to cover a little bit of  
13 what Judge Siano asked. I believe he was asking about a  
14 surcharge for the legal expenses that are currently  
15 being recovered in base rates and whether the Commission  
16 could institute a surcharge regardless of whether a  
17 surcharge was allowed by the tariff, and you said that  
18 the Commission would be constrained by the tariff. Is  
19 that your position.

20 A Yes, because I thought they would have to --  
21 that the Corporation would have to go and amend their  
22 tariff to allow for the surcharge.

23 Q And that's for the collection of the legal  
24 expenses that are currently included in the base rates?

25 A Okay.



1 Q Right?

2 A Right. Right.

3 Q Okay. But that's distinct from a surcharge  
4 that the Commission might establish for recovery of any  
5 rate case expenses --

6 A Oh, okay.

7 Q -- cost of appeal that it might add as a  
8 surcharge?

9 A Okay.

10 Q Is that right?

11 A That is right.

12 Q Okay. I just wanted to be clear about that.

13 A I didn't get that right. That's right, yeah.

14 Q Okay. Oh, my goodness. All right. So I just  
15 want to talk really quickly about why you think if the  
16 Water Supply Corporation is allowed -- and that's a big  
17 if -- to recover these legal expenses from all the  
18 external litigation, why is it inappropriate for it to  
19 be included in the base rates?

20 A The main reason why I say that is, they don't  
21 represent a normal on-going cost of service to the  
22 Ratepayers. And when I think of things like civil  
23 litigation or that type of thing -- you know, let's say  
24 you a person -- an individual -- who runs into the  
25 facility that the wastewater treatment plant doesn't

1 have any -- he's driving a car or a bus into that and  
2 damages the wastewater treatment plant, you don't -- you  
3 need to be able to fix that. I mean, that's -- that to  
4 me, in my view, that's a normal litigation. You'd have  
5 to go after that. But when you want to include these  
6 litigation costs that this Corporation has and wants to  
7 make them part of the base rates, it's permanent. It's  
8 continual. They should be nonrecurring-type things.

9 Q So being subject to a lawsuit is kind of like  
10 getting hit by a car, and you don't get hit by a car  
11 every year. Right?

12 A Right. Right.

13 Q Okay. Good.

14 A Don't want to be anyway. I hope not.

15 Q So I want to ask you a little bit about  
16 something that Ms. Katz brought up.

17 She asked you about disallowing the full  
18 amount of expenses related to PIA requests, and she  
19 said -- she basically characterized your testimony, if  
20 I'm right, that you would disallow the amount of money  
21 requested for PIA requests because it's an estimate.  
22 Right?

23 A Right.

24 Q Okay. So whenever we evaluate rate case  
25 expenses, for example, for other dockets for other

1 utilities, do we allow for recovery of estimated legal  
2 expenses?

3 A No.

4 Q No.

5 A We have invoices supporting that.

6 Q Okay. There's also been a lot of discussion  
7 about the sale of land, the potential sale of land,  
8 whether a piece of land can be sold. In a general  
9 sense, if you saw a piece of land listed on a balance  
10 sheet, would you assume that that piece of land could be  
11 sold?

12 A I would.

13 Q Okay. Do you happen to remember if you saw  
14 the -- there's a piece of land in the Spicewood -- I  
15 think there is a piece of land that the Water Supply  
16 Corporation owns. Did you happen to see that on a  
17 balance sheet?

18 A I recall seeing something in someone's -- yeah,  
19 I want to say a December balance sheet, yeah.

20 Q Okay. And do you recall if on that balance  
21 sheet you saw any sort of lien or anything noted as  
22 being attached to that piece of land?

23 A I did not see it, no.

24 Q Okay. A little bit of discussion of the Oncor  
25 docket, which is, I think, 35751. Right? It's the

1 docket that talks about an investor-owned utility.

2           So what was the purpose of including a  
3 discussion of that docket in your testimony? Did you  
4 intend to make a one-to-one comparison between a WSC and  
5 an IOU?

6           A     No. No. Just trying to give an example.

7           Q     Okay. And what example were you trying to  
8 make?

9           A     Just trying to show -- where is that? I'm  
10 going --

11          Q     And -- I'm sorry, Ms. Gilford. I don't have  
12 the page number for you at this moment.

13          A     I see -- I see it over here. I just wanted to  
14 be able to show how that particular docket showed how  
15 Ratepayers were protected.

16          Q     Okay. So it was -- you were just kind of using  
17 it as an illustration of how perhaps ratepayers -- or  
18 you know, ratepayers shouldn't be required to cover  
19 expenses that are meant to defend from bad -- defend  
20 from liability for bad acts?

21          A     Right. Right. Exactly.

22          Q     I'm just curious. Do you happen to know who  
23 owns a WSC?

24          A     The customers.

25          Q     Right. The members?

1 A Yeah. Yeah.

2 Q And so do you think it would be fair to equate  
3 ownership with employee?

4 A No, I don't think so.

5 Q No. Okay. Do you think that owners have a  
6 duty to ratepayers?

7 A Yeah.

8 Q That are members?

9 A Yes.

10 Q Okay. So Ms. Katz brought up a hypothetical  
11 that, you know, in an IOU there would probably be  
12 differing priorities with ratepayers versus owners and  
13 shareholders, because owners and shareholders want to  
14 make money and ratepayers want to pay lower rates, as  
15 opposed to -- and please forgive me if I'm  
16 mischaracterizing -- and with a water supply corporation  
17 those sort of differences wouldn't necessarily exist.  
18 Do you remember the --

19 MS. KATZ: Your Honor, I'm going to object  
20 to leading. Most of these questions have been leading,  
21 and I let it go, but I'm going to start objecting to  
22 that.

23 JUDGE WISEMAN: Okay. Sustained.

24 Q (BY MS. LANDER) If a water supply corporation  
25 had higher rates because it needed to cover the expenses

1 of certain members, do you think that there could be a  
2 difference of priorities between members?

3 A I think so.

4 Q Okay. All right. And then I just want to talk  
5 a little bit about your decision to -- or the way that  
6 you evaluated rate case expenses.

7 So you -- you used, sort of, the standards  
8 that are applied to rate case expenses, as opposed to  
9 perhaps standards that exist that would be applied to  
10 expenses for appeals dockets. Correct?

11 A Right.

12 Q Do you know of any specific statute that sets  
13 out the requirements for evaluating the appropriateness  
14 of expenses that should be included in appeals?

15 A I looked at the statutes -- the 24.44.

16 Q Okay. And that is for -- is that for WSCs or  
17 Class A's and Class B's?

18 A Well, we look at it for all of them.

19 Q But as the statute is written, does it apply to  
20 Class A and Class B and WSC, or is it limited to Class A  
21 and Class B?

22 A I think it's all of them -- I mean, I'm sorry.  
23 I'm saying Class B. I'm sorry.

24 Q Just really quickly: So I believe Ms. Allen  
25 pulled up -- well, actually I'll leave that.

1                   Is there a specific statute that must be  
2 applied to evaluate what expenses can be included in  
3 rates that are established as the result of a  
4 rate-making appeal?

5           A        There's a specific statute.

6           Q        Can you identify that statute for me, please?

7           A        It's 13 -- I cannot recall it at this second.

8                   MS. LANDER:   Okay.   Your Honor, that's all  
9 that Staff has.

10                   I pass the witness.

11                   JUDGE WISEMAN:   Okay.   Thank you.

12                   Ms. Allen.

13                   MS. ALLEN:   Thank you, Your Honor.

14                                   RE CROSS EXAMINATION

15 BY MS. ALLEN:

16           Q        Ms. Gilford, I just really have two quick  
17 things.   Here's the first one:   You were asked a lot of  
18 questions about a -- what the effect is of a lis  
19 pendens.   Do you remember that?

20           A        Yes.

21           Q        Okay.   So let me show you the -- well, let  
22 me -- before I show you, let me back up and ask you, you  
23 have seen reference to the Company having ownership of a  
24 6.19-acre tract at the time that this rate increase was  
25 approved.   Correct?

1           A       That's correct.

2           Q       Okay. And I just want to set the record  
3 straight. I want to show you -- you have never seen any  
4 indication that there was a lis pendens or lien on this  
5 property at the time that the board made the decision to  
6 raise rates, have you?

7           A       I have not.

8           Q       You don't have any reason to think that that's  
9 true, do you?

10          A       I don't.

11          Q       Okay. Can you see the document that says:  
12 "Third Supplemental Notice of Lis Pendens"?

13                   MS. KATZ: Your Honor, I'm going to object  
14 to this line of questioning. Ms. Gilford agreed with  
15 Ms. Allen that she has no reason to believe that what  
16 Ms. Allen stated wasn't true, so there's no reason to  
17 impeach this witness with additional information and  
18 document.

19                   JUDGE WISEMAN: Ms. Allen, where are we  
20 going with this?

21                   MS. ALLEN: Your Honor, there Ms. Katz  
22 represented to this witness that there was a lis pendens  
23 on the 6.19-acre at the time the board made its decision  
24 on these rates. That is not the truth, and the record  
25 ought to know the truth.



1 MS. KATZ: Your Honor, that's not  
2 specifically what I asked. I did not say at the time --  
3 I did not use her words. And Ms. Allen asked  
4 Ms. Gilford a question to which Gilford just replied  
5 that she agreed. And so Rules of Evidence regarding  
6 impeachment would not allow Ms. Allen to supplement in  
7 cross-examination a witness who agrees with what the  
8 attorney is asking. What would be more appropriate is  
9 where Ms. Gilford would have said either she doesn't  
10 know, she doesn't remember, or she disagrees with  
11 Ms. Allen. This is simply bolstering Ms. Gilford's  
12 testimony.

13 MS. ALLEN: Your Honor, I'm not bolstering  
14 anything. These people have consistently asked  
15 witnesses and given -- and represented to these  
16 witnesses that there was a lis pendens on the property  
17 at the time the board made its decision. Now, I  
18 appreciate that Ms. Gilford says she's not seen any  
19 evidence of that, but it would be a help to the record  
20 to put that matter to rest.

21 JUDGE WISEMAN: I'm going to sustain the  
22 objection.

23 Q (BY MS. ALLEN) All right. Ms. Gilford, as you  
24 know, my focus is on -- I'm not going to call them rate  
25 case expenses. They are not rate case expenses, are

1 they? This is not a rate case, is it?

2 A No, it's an appeals case.

3 Q This is an appeal under Subsection (b) of a  
4 rate decision that was made and implemented by the board  
5 of directors of a water supply company. Right?

6 A Correct.

7 Q Okay. And one suggestion that has been made is  
8 that the expenses ought to be passed on to the  
9 Ratepayers. Right? You know that?

10 A (Witness nodding head)

11 Q You'll have to answer out for the record.

12 A Yes. Yes.

13 Q All right. Isn't it true that when the  
14 Commission determiners whether and to what extent  
15 expenses ought to be passed on to the ratepayers, it  
16 applies the same standard, regardless of the expense  
17 item?

18 A Correct.

19 Q And that standard requires that the cost be  
20 first actually incurred. Right?

21 A Yes.

22 Q Second, prudently incurred. Right?

23 A Yes.

24 Q And reasonable. Correct?

25 A Yes.

1 Q And those are the exact factors that we would  
2 use in order to determine whether or to what extent the  
3 expenses that the board of directors has incurred in  
4 this rate appeal ought to be passed on to the customers.  
5 Right?

6 A Yes.

7 Q Okay. And that is true whether the form in  
8 which they are passed on is higher rates. Right?

9 A Correct.

10 Q It's true if the form in which somebody would  
11 like to pass them on is a surcharge. Right?

12 A Correct.

13 Q It is true if the form in which somebody would  
14 like to pass them on is an assessment. Correct?

15 A Correct.

16 Q Okay. Isn't it true that utilities -- well,  
17 it's not uncommon for utilities who provide specific and  
18 particular services to some customers and not others may  
19 recover the costs to provide those services from the  
20 people who benefit from them?

21 A Correct.

22 Q How about we recover the costs associated with  
23 this appeal proceeding from the people who have received  
24 the revenues of the rates that are appealed from, the  
25 ratepayers, who have received the benefits?

1 A Okay.

2 Q Would that work?

3 A What did you say now? I'm sorry.

4 Q It would not be out of line -- would you agree  
5 with me it would not be out of line with utility  
6 practice?

7 A Uh-huh.

8 Q That if we can identify Ratepayers who have  
9 received a direct benefit from the rates appealed from  
10 or from the Company's efforts to keep them in place, if  
11 we can identify Ratepayers who have benefited from that,  
12 then it would be in line with general practice that we  
13 could look to recover those expenses from the people who  
14 got the peculiar benefit. Right?

15 A That's correct.

16 MS. ALLEN: That's all I have.

17 JUDGE WISEMAN: Okay. Thank you,  
18 Ms. Allen.

19 Ms. Katz.

20 MS. KATZ: Your Honor, I have three-and-a  
21 half questions that should be very quick, if I may.

22 JUDGE WISEMAN: Please go ahead.

23 MS. KATZ: Thank you.

24 RECROSS-EXAMINATION

25 BY MS. KATZ:

1 Q Ms. Gilford, would you agree with me that not  
2 all of these lawsuits have been wrapped up?

3 A That's correct.

4 Q So we're about to be entering 2022 and some of  
5 these lawsuits are still ongoing?

6 A That is true.

7 Q And so Ms. Lander mentioned -- made the analogy  
8 of getting hit by a car. Do you remember that?

9 A I do.

10 Q She mentioned it's not like the Corporation --  
11 and I apologize. I am going to say up front I'm not  
12 quoting Ms. Lander, so she's welcome to correct me, if  
13 I'm wrong.

14 But I believe that she insinuated that  
15 putting these expenses in the base rates would be akin  
16 to getting hit by a car every year. Do you remember  
17 that?

18 A I do.

19 Q Is that -- okay. Would you agree with me that  
20 the ongoing legal expenses in the cases you mentioned  
21 that are still ongoing, years later into 2022, would  
22 sort of be like the Corporation getting hit by a car  
23 every year?

24 A It would be.

25 MS. KATZ: With that, Your Honor, I'll

1 pass the witness.

2 JUDGE WISEMAN: Okay. Let's have one  
3 chance at redirect, Ms. Lander.

4 FURTHER REDIRECT EXAMINATION

5 BY MS. LANDER:

6 Q Ms. Gilford, if you get hit by a car four years  
7 running, will you get hit by a car every year  
8 thereafter.

9 A Oh, yeah, probably.

10 Q Wait. If you get hit by a car every year for  
11 four years --

12 A Only in a first year. I'm sorry.

13 (Laughter)

14 Q (BY MS. LANDER) That's okay.

15 A I'm tired. I'm sorry.

16 Q I'm just asking if you get hit by a car for  
17 four years running, is it absolutely certain that you  
18 will get hit by a car for the year thereafter?

19 A No. Absolutely not.

20 MS. LANDER: That's all from Staff. Thank  
21 you.

22 JUDGE WISEMAN: Thank you. I think that  
23 concludes the questioning of the witness.

24 And, Ms. Gilford, thank you, and you're  
25 excused.

1 THE WITNESS: Thank you, Lord.

2 JUDGE WISEMAN: Now, it's 12:14. Let me  
3 check in with the court reporter and see how she's  
4 doing. And maybe if the parties are agreeable we can  
5 take a 30-minute break.

6 JUDGE SIANO: Can we get --

7 MS. ALLEN: That would be fine with us.

8 JUDGE SIANO: Ms. Katz, can we get some  
9 indication of how much cross you have for Mr. Mendoza?

10 MS. KATZ: Yes, Your Honor. I have about  
11 25 percent of the questions that I had for Ms. Gilford,  
12 if that helps. So a quarter of the time.

13 JUDGE WISEMAN: Okay. How would the  
14 Parties like to proceed? Should we just log on or do  
15 y'all want a break?

16 THE REPORTER: The court reporter needs a  
17 break.

18 JUDGE WISEMAN: Okay. That decides it,  
19 then. We'll take a 30-minute break and come back at  
20 12:45.

21 We're off the record now.

22 (Recess: 12:15 p.m. to 12:56 p.m.)

23 AFTERNOON SESSION

24 (12:56 p.m.)

25

1 (Exhibit Windermere Nos. 11 through 21  
2 marked)

3 JUDGE WISEMAN: Okay. Let's go ahead and  
4 go back on the record. We're back now after our lunch  
5 break.

6 And, Ms. Lander, do you have an additional  
7 witness?

8 MS. LANDER: All right. Yes, Your Honor.  
9 Thank you. Staff calls Mr. Stephen Mendoza.

10 JUDGE WISEMAN: Okay. Mr. Mendoza, will  
11 you please raise your right hand.

12 (Witness sworn)

13 JUDGE WISEMAN: Okay. Thank you.  
14 You may proceed, Ms. Lander.

15 MS. LANDER: Thank you, Your Honor.

16 PRESENTATION ON BEHALF OF COMMISSION STAFF (CONTINUED)

17 STEPHEN MENDOZA,

18 having been first duly sworn, testified as follows:

19 DIRECT EXAMINATION

20 BY MS. LANDER:

21 Q Mr. Mendoza, do you have in front of you a copy  
22 of your direct testimony which has been preadmitted as  
23 Staff Exhibit 2?

24 A I do.

25 Q Great. And would the answers provided in your



1 testimony be the same today as in your prefiled  
2 testimony?

3 A Yes, they will.

4 MS. LANDER: Beautiful. Staff submits the  
5 witness for cross-examination.

6 JUDGE WISEMAN: Okay. Thank you.  
7 Ms. Allen?

8 CROSS-EXAMINATION

9 BY MS. ALLEN:

10 Q Mr. Mendoza, you note in your testimony that  
11 the base rate that was adopted does not reconcile with  
12 the base rate from the rate study. Do you remember  
13 that?

14 A Yes, I do.

15 Q Did you ever determine why that was?

16 A Well, it appears that the rate that's in the  
17 TRWA rate analysis, that one -- I forget the exact  
18 amount -- but it was the combination of both the base  
19 water rate and the base sewer rate, I believe.

20 Q Did you ever come across any kind of rate study  
21 that concluded to the rates that were adopted by the  
22 board?

23 A Specific to the \$90.39 and 66.41?

24 Q Right.

25 A I do not know.

1 Q Do you know how they derived those numbers?

2 A Well, based upon the testimony, I believe  
3 whatever was derived from the TRWA rate analysis, that  
4 total amount was divided up between -- a 60/40 split  
5 between water and wastewater, and that's -- and so they  
6 added that to the existing rates, that 60/40 split.  
7 That's my understanding.

8 Q And so did that -- did that explain why it was  
9 that the total rate increase did not reconcile to the  
10 total rate increase that was in the TRWA study?

11 A I believe so, yes, ma'am.

12 Q Okay. Where I do -- where do I find that in  
13 your testimony, or is it in there?

14 A Find what?

15 Q How you reconciled that.

16 A Well, it's reconciled through my rate design  
17 which is a part -- part of the attachment.

18 Q Okay. All right. Does your rate design  
19 include a depreciation component?

20 A I don't believe it does.

21 Q Does it take into account any of the existing  
22 reserve accounts that the Company had at the time?

23 A To the extent that Staff's revenue requirement  
24 of 404,855 doesn't include it, then, no. And, again, I  
25 got that amount from Ms. Gilford.

1 Q Understood. Understood.

2 MS. ALLEN: All right. Thank you,  
3 Mr. Mendoza.

4 JUDGE WISEMAN: Thank you, Ms. Allen.  
5 Ms. Katz?

6 MS. KATZ: Thank you.

7 CROSS-EXAMINATION

8 BY MS. KATZ:

9 Q Good afternoon, Mr. Mendoza.

10 A Good afternoon.

11 Q Mr. Mendoza, have you had an opportunity to  
12 review Ms. Gilford's testimony?

13 A Yes, ma'am, I have.

14 Q And would you agree that Ms. Gilford's revenue  
15 requirement is \$404,855?

16 A Yes, ma'am, I have no argument with that.

17 Q Okay. And would you agree that your fixed  
18 revenue for water rate design is \$149,000 -- I'm sorry,  
19 let me back up -- \$149,347?

20 A The annualized revenue from the water base  
21 rates?

22 Q The fixed revenue for water rate design.

23 A The fixed revenue for water -- the base water  
24 rates. Correct?

25 Q Yes.

1 A Not water and sewer, just for water.

2 Q For water rate, just water.

3 A Just water, yes.

4 Q Okay. And would you agree with me that your  
5 fixed revenue for wastewater rate deign is \$99,564?

6 A Roughly, yes. I will say yes.

7 Q Okay. So would you agree with me that the  
8 total fixed revenue is \$248,911?

9 A Sure, I'll agree with that, yes.

10 Q Okay. And did you test your new base water and  
11 wastewater rates to check that they generate  
12 Ms. Gilford's revenue requirement?

13 A Well, we're only talking about the fixed cost  
14 portion, which is not going to recover the entire  
15 revenue requirement, but my rates do -- are designed to  
16 recover the fixed cost portion.

17 Q Okay. So when you arrived at your conclusion,  
18 you're saying you did or did not include only the fixed  
19 amount? I'm just trying to figure out how you arrived  
20 at that -- of that conclusion or with that -- at that  
21 conclusion.

22 A How I arrived at which conclusion? I'm sorry.

23 Q How you arrived at the total fixed revenue  
24 of 248,911.

25 A Okay. So that represents the allocation that

1 was represented in the TRWA rate analysis between fixed  
2 costs and variable costs. So generally fixed costs are  
3 attributed to the base rates, and the variable costs are  
4 attributed to the volumetric rates. And so my rates are  
5 designed to recover the fixed cost portion of that  
6 revenue requirement.

7 Q So not the volumetric portion?

8 A That's correct, because those rates aren't  
9 being appealed in this proceeding.

10 Q Okay. So when you take the 404,855 revenue  
11 requirement stated in Ms. Gilford's testimony that you  
12 reviewed and you subtract the 149, that leaves us with a  
13 gallonage requirement of 155,944. Is that right?

14 A Well, if you subtract 248 from 404, that leaves  
15 you 155,944, not what you said.

16 Q I apologize. Thank you for correcting me.

17 A Sure.

18 Q And so the 155,944 would be the gallonage  
19 requirement or the remainder, right, after you do those  
20 calculations?

21 A Staff's revenue requirement, yes, ma'am, that's  
22 correct.

23 Q But the -- but the TRWA model has a gallonage  
24 revenue of \$46,150. Is that right as far as you  
25 remember?

1           A       I'm going -- I'll agree with you, but I don't  
2 recall that exact number.

3           Q       Okay.

4           A       I'm not sure that they identified a number.  If  
5 they did, please point --

6                   THE REPORTER:  I'm sorry.  You're cutting  
7 out, Mr. Mendoza.  I missed the last part of your  
8 answer.

9           A       I said I'm not sure that they identified that  
10 number, but if they did, please point me to it.

11          Q       (BY MS. KATZ)  Okay.  You did have an  
12 opportunity to review the TRWA model.  Right?

13          A       Yes, ma'am.

14          Q       Okay.  And so in your review of that, you  
15 stated that you built your base water and wastewater  
16 rates from that model?

17          A       Correct.

18          Q       Okay.  And you would agree with me -- I'm not  
19 asking you why -- but you would agree with me that your  
20 rates don't meet Ms. Gilford's revenue requirement?

21          A       That's incorrect.

22          Q       So they do meet the 404,000 and additional  
23 dollars?

24          A       Again, they meet the base rate portion of the  
25 revenue requirement, which is roughly 61.48 percent of

1 the Staff's revenue requirement. Again, that allocation  
2 between base rates and volumetric rates, that allocation  
3 is directly from the TRWA rate analysis.

4 Q Mr. Mendoza, you had an opportunity to read  
5 Mr. Rabon's rebuttal testimony that contends that the  
6 base rates you recommend would result in a larger  
7 reduction in revenue than the amount of the disallowance  
8 by Ms. Gilford. Right?

9 A Yes, ma'am.

10 Q Okay. And can you explain why you believe  
11 Mr. Rabon is incorrect in his contention? And I can  
12 point you to where in his rebuttal he discusses this if  
13 you'd like.

14 A Sure. Which -- which exhibit is that? I'm  
15 sorry.

16 Q This would be our -- Windemere Oaks Exhibit --

17 A 9?

18 Q 9, yes, you're correct.

19 A Okay. I'm there.

20 Q Okay. If you look at Page 7, Lines 9 through  
21 15.

22 A Okay.

23 Q Okay. And so if you disagree with Mr. Rabon's  
24 contention, would you explain why you disagree with  
25 that?

1           A       Again, because we're only talking about the  
2 base rate portion of the revenue requirement, we're not  
3 talking about the systemwide recovery. Again, only  
4 fixed costs are being appealed here, not the volumetric  
5 rates.

6           Q       So where are your gallonage revenue  
7 calculations for water and wastewater coming from?

8           A       I didn't do that because, again, those -- those  
9 rates aren't being appealed here.

10          Q       Okay. So in determining base rates, did you --  
11 you used only fixed costs and not variable costs?

12          A       That's correct; based upon the TRWA rate  
13 analysis, yes, ma'am.

14          Q       And are you sure you didn't confuse or conflate  
15 variable base rate revenue with gallonage rate revenue?

16          A       I'm absolutely sure.

17                   MS. KATZ: Okay. Pass the witness, Your  
18 Honor.

19                   JUDGE WISEMAN: Thank you, Ms. Katz.

20                   Redirect, Ms. Lander?

21                               REDIRECT EXAMINATION

22 BY MS. LANDER:

23          Q       Mr. Mendoza, you had a few questions about, you  
24 know, the inclusion of fixed versus variable. Is there  
25 anything else you'd like to articulate just to clarify



1 any of your points?

2 A Sure. Generally when the Commission approves  
3 rates, we approve rates on a systemwide basis, not sort  
4 of piecemeal the way it was done here. I mean, the  
5 Company's -- I guess their original revenue requirement  
6 of 576,192, that was the result of --

7 THE REPORTER: I'm sorry. Mr. Mendoza,  
8 you're cutting out. I'm not real sure why.

9 A Sure. I'll -- should I start from the  
10 beginning?

11 THE REPORTER: Yes.

12 A Okay. So the Company's requested revenue  
13 requirement of 576,192, they chose -- whatever increase  
14 that included, they chose to put that completely in base  
15 rates. And for whatever reason if that TRWA rate  
16 analysis -- if that did, in fact, change the volumetric  
17 rates, there was no change made. Again, I don't know  
18 why. So I can only go -- I'm only designing rates based  
19 upon the rates that are being appealed in this  
20 proceeding. So there's going to be some -- some data as  
21 to whether the rates are recovering the revenue  
22 requirement, and I understand it. That's the nature of  
23 this proceeding, which is very unusual.

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25

## CLARIFYING EXAMINATION

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BY JUDGE SIANO:

Q Excuse me. Mr. Mendoza, how did you come to the conclusion that this appeal affected only the base rates and not the volumetric rates?

A Because the rates -- the volumetric rates, as I understand it, did not change in that -- was it March 23, 2020 change? It was just the base rates that were changed by the Company, not the volumetric rates. So if you look at the previous tariff, those volumetric rates remained the same as what's in the current tariff.

Q So is the -- do you base your decision on the fact that there was no change to the volumetric rates?

A That's correct, yes, sir.

Q Had the volumetric rates changed, then you would have included them in your analysis?

A That's correct.

JUDGE SIANO: That's all I have.

MS. LANDER: Staff has nothing further, Your Honor.

JUDGE WISEMAN: Thank you, Ms. Lander.

Ms. Allen?

## RECROSS-EXAMINATION

BY MS. ALLEN:

Q Mr. Mendoza, I just -- I just want to

1 understand what you just said. So is it that when the  
2 Company looked at making a rate increase it had a choice  
3 to increase just the base rate or increase just the  
4 variable rate or increase both? Is that it?

5 A Not exactly. I mean, when you do a systemwide  
6 revenue requirement, generally it changes the rates  
7 systemwide. And for whatever reason, the Company just  
8 chose to make changes to the base rates, and I have no  
9 idea why they did that.

10 Q Okay. Well, I understand that you don't know  
11 why they did it, but am I right in understanding that  
12 was a choice that the Company made?

13 A Yes; I would say yes, yes, ma'am.

14 Q Okay. That's what I wanted to understand.  
15 Thank you, sir.

16 JUDGE WISEMAN: Thank you, Ms. Allen.  
17 Ms. Katz?

18 MS. KATZ: I have nothing further.

19 JUDGE WISEMAN: Okay. Final redirect,  
20 Ms. Lander?

21 MS. LANDER: No further questions, Your  
22 Honor.

23 JUDGE WISEMAN: Okay. Thank you. This  
24 witness is excused. Thank you, Mr. Mendoza.

25 Ms. Lander, do you have anything else for

1 us?

2 MS. LANDER: No, Your Honor.

3 JUDGE WISEMAN: Okay. So now might be a  
4 chance to take up these contested exhibits.

5 Ms. Mauldin, are y'all prepared to make a  
6 presentation.

7 MS. MAULDIN: Yes, Your Honor. If you're  
8 okay with this, I can orally offer into evidence what  
9 our exhibit number would be and what the attached -- the  
10 RFI and attachment would be and what it is responsive to  
11 Ms. Allen's exhibit. So we can do that now. I'm  
12 prepared.

13 JUDGE WISEMAN: Okay. Let's go ahead and  
14 proceed like that. And, Ms. Allen, you can make any  
15 objections at the time they were offered.

16 MS. ALLEN: Ratepayers are prepared to go  
17 forward, Your Honor.

18 JUDGE WISEMAN: Okay. Please proceed,  
19 Ms. Mauldin.

20 MS. MAULDIN: Thank you. So at this time,  
21 Windemere Oaks would offer into evidence Windemere Oaks  
22 Exhibit 11, which is the entire response to Staff RFI  
23 Staff 4-6, which Ms. Allen -- excuse me -- provided as  
24 Ratepayers Exhibits 26 and 28, and that would be the  
25 entire RFI and the attachments.

1 JUDGE WISEMAN: Okay. Ms. Allen, any  
2 objection?

3 MS. ALLEN: Yes, Your Honor. Exhibit 11  
4 is an exact duplicate of our Exhibit 28. You might  
5 recall that I had offered Exhibit 26. And then  
6 Mr. Nelson in his testimony called to my attention that  
7 I needed to have with it the request and response, and I  
8 put those together and promptly offered them as  
9 Exhibit 28.

10 So if 11 is what it has been represented  
11 to be, and please understand that I don't have copies of  
12 any of these things, it is an exact duplicate of our  
13 Exhibit 28.

14 JUDGE WISEMAN: A response, Ms. Mauldin?

15 MS. MAULDIN: I do not have 28 in front of  
16 me. I apologize. Actually I think -- I don't know that  
17 we ever received it.

18 MS. ALLEN: Oh, my goodness.

19 JUDGE WISEMAN: I'm sorry. Go ahead.

20 MS. MAULDIN: If we can move on, I will  
21 have someone in the room with me check on that.

22 JUDGE WISEMAN: Okay. We'll table that  
23 for now on Exhibit 11, and we'll move on to the next.

24 MS. MAULDIN: Thank you. At this time,  
25 Windemere Oaks offers Windemere Oaks Exhibit 12, which

1 is Windermere Oaks' Response to Ratepayers 3-6. This is  
2 what Ms. Allen provided as Ratepayers Exhibit 29, and it  
3 has the RFI and the attachment that's referenced in that  
4 RFI.

5 JUDGE WISEMAN: Okay. Any objection,  
6 Ms. Allen?

7 MS. ALLEN: Your Honor, there's no need to  
8 include with these the response. The purpose for  
9 optional completeness is to add to, not to duplicate,  
10 but that's not the big issue. It doesn't -- nobody  
11 seems to be able to find Staff 1-24, which is the thing  
12 that is referred to in this response.

13 It appears to us from context that it is  
14 the tariff, the Company's tariff. And what I have told  
15 the Company is whether it's in Staff 1-24 or not, if  
16 they'll just attach the tariff, I don't object to that.  
17 But I don't know what they've attached because I don't  
18 have a copy of it.

19 JUDGE WISEMAN: Okay. A response,  
20 Ms. Mauldin?

21 MS. MAULDIN: Yes, Your Honor. We  
22 actually circulated the Response to Staff 1-24 this  
23 morning. I understand parties have been in hearing all  
24 morning, so they may not have had an opportunity.

25 I will state for the record that it is the

1 tariff, and we have every -- we will be filing the  
2 tariff as this attachment.

3 MS. ALLEN: Your Honor, what would be an  
4 enormous help for the record is if the Company could  
5 simply tell us what are the page numbers? All of these  
6 documents have page numbers on them. And if she'll just  
7 tell us what the page numbers are, then we'll be able to  
8 verify and we'll be in good shape.

9 JUDGE WISEMAN: Ms. Mauldin?

10 MS. MAULDIN: Your Honor, I cannot do that  
11 at the moment. As I asked earlier, I think it might be  
12 more efficient for us to provide this in writing and  
13 with the actual attachments.

14 JUDGE WISEMAN: Okay. Would it be helpful  
15 at all if the parties had a little more time to confer  
16 outside the hearing today, or is this something that's  
17 going to take a longer time to do?

18 MS. ALLEN: Your Honor, from the  
19 Ratepayers perspective, all that we need is just  
20 somebody to email us copies of these proposed exhibits.  
21 We will review them immediately and let the Company know  
22 whether we have any questions or any issues. We just  
23 need copies of these exhibits to go forward. I've given  
24 them page numbers because that's the best I could do.

25 JUDGE WISEMAN: Okay. Ms. Mauldin?

1 MS. MAULDIN: We are happy to pull this  
2 information together and send it out as soon as  
3 possible. I cannot do it before the next few minutes,  
4 though. I apologize, but -- so it will have to happen  
5 after hearing.

6 JUDGE WISEMAN: Okay. All right.  
7 Ms. Allen, does that make sense to you?

8 MS. ALLEN: Yes, Your Honor. I mistakenly  
9 assumed the exhibits had already been assembled.

10 JUDGE WISEMAN: Okay. All right. So how  
11 do you -- excuse me. Do you recommend that we proceed?  
12 We can give you a recess to give you time to sort this  
13 out. If you think it's going to take longer than today,  
14 we can come up with something else. And we also, while  
15 I'm at it, still need that briefing outline.

16 So let me ask Ms. Mauldin again. Do you  
17 think additional time today would be helpful or no?

18 MS. MAULDIN: Can you give me two minutes  
19 to speak with my support staff? That would be helpful.

20 JUDGE WISEMAN: Sure. Let's go off the  
21 record and well take a five-minute break.

22 MS. MAULDIN: Thank you.

23 (Recess: 1:19 p.m. to 1:41 p.m.)

24 JUDGE SIANO: Let's go on the record,  
25 Ms. Pence.



1 MS. MAULDIN: Okay. Your Honor, at this  
2 time, Windemere Oaks would like to offer what would be  
3 Windemere Oaks Exhibit 11, which is the complete version  
4 of what was entered into the record as Ratepayers 26  
5 and 28. And I do understand Ms. Allen has said that  
6 this is duplicative of her Ratepayers 28, but this was  
7 Windermere's Response to Staff 4-6.

8 MS. ALLEN: Your Honor, I'm not seeing  
9 anything. I'm sorry. I'm not seeing the screen share.

10 MS. MAULDIN: We haven't --

11 MS. KATZ: We haven't shared yet,  
12 Ms. Allen.

13 MS. ALLEN: Okay. Okay.

14 MS. MAULDIN: You should be seeing the  
15 Item No. 1-12. Okay. So if you'll scroll to 4-6, there  
16 you go.

17 Okay. So in front of us we have the RFI  
18 Response for Staff 4-6, and then the response says, "See  
19 Attachment 4-6." So we would like to -- we would move  
20 to include this page plus the attachment. So if you'll  
21 scroll to the end of that attachment, keep going.  
22 That's it. That's it. So that would be Windemere Oaks  
23 Exhibit 11.

24 MS. ALLEN: Your Honor, this is an exact  
25 duplicate of our Exhibit 28, which has been uploaded to

1 the court reporter, an exact duplicate with page numbers  
2 and everything.

3 JUDGE SIANO: Okay. Ms. Allen, I am a  
4 little bit concerned because I have received your  
5 amended exhibits, and that is what's 18 through 27 and  
6 then 29 through 53. So I actually do not have a copy  
7 of 26 (sic).

8 MS. ALLEN: Do we have a receipt that we  
9 sent that? Your Honor, let me check and make sure that  
10 we have a receipt for our delivery before I say  
11 something I shouldn't.

12 JUDGE SIANO: Ms. Allen, I understand your  
13 concern with duplication, but I don't think that at this  
14 point it's an efficient use of our resources to vet  
15 that. So if that's the only objection to this is that  
16 it's duplicative of 28 and I, in fact, do not have a  
17 copy of 28, I'm going to --

18 (Simultaneous discussion)

19 MS. ALLEN: Why do we not have a copy  
20 of 28? A hard copy of all of our exhibits --

21 THE REPORTER: Your Honor, this is the  
22 court reporter. There's too much -- Your Honor, this is  
23 the court reporter. I didn't hear all of your  
24 statement.

25 JUDGE SIANO: I, in fact, do not have a

1 copy of Exhibit 28 and the -- and, in fact, the list of  
2 exhibits only goes to 27. So I'm going to admit it.  
3 You might be entirely right, Ms. Allen, but it did not  
4 make it through to me. And so I'm going to admit the  
5 exhibit, Water Supply Corporation Exhibit 11.

6 (Exhibit Windermere No. 11 admitted)

7 MS. ALLEN: May we know when the water  
8 supply corporation intends to furnish these exhibits?

9 JUDGE SIANO: To the court reporter and to  
10 the parties?

11 MS. ALLEN: Yes, sir.

12 JUDGE SIANO: I think we'll get to that.

13 But, Ms. Mauldin, can you give us an  
14 occasion of when you'll be --

15 MS. MAULDIN: Yes, we can do it by the end  
16 of the day depending on when we finish the hearing.

17 JUDGE SIANO: Okay. And your next one?

18 MS. MAULDIN: Okay. At this time, we  
19 offer Windemere Oaks Exhibit 12, which is the complete  
20 version of what has been admitted as Ratepayer  
21 Exhibit 29. It is the response to Ratepayers --  
22 Windemere Oaks Response to Ratepayers 3-6. So please  
23 bear with us while we find that.

24 JUDGE SIANO: And, Ms. Allen, I do have  
25 Ratepayer Exhibit 29.

1 MS. ALLEN: Your Honor, I give the panel  
2 my absolute word that within ten minutes of these  
3 documents showing up on my computer intact I will have a  
4 response back to them within ten minutes. And there's  
5 no need of us sitting here scrolling through all of the  
6 documents that are on the Interchange. I will review  
7 them incidentally upon receipt. They will have a  
8 response within ten minutes.

9 JUDGE SIANO: Okay. Well, for some  
10 reason, that hasn't happened yet to this point.

11 MS. ALLEN: Yes, sir, it has happened.  
12 I'm sorry, but I have responded instantly.

13 JUDGE SIANO: No, no, I'm not -- I'm not  
14 questioning your response time. I'm questioning the  
15 ability to get the documents to you, and it seems  
16 there's been some difficulty in that, and so that's why  
17 we are where we are today at this time.

18 MS. ALLEN: Well, I will work with those  
19 lawyers to get them in a Dropbox or whatever they need.

20 JUDGE SIANO: Ms. Mauldin, is that  
21 something that you can effectuate?

22 MS. MAULDIN: Your Honor, yes, we are  
23 working to get these -- pull these together. We can  
24 commit to doing that definitely by this afternoon. I  
25 don't know how that impacts the hearing or whether or

1 not we need to follow up, but I'm hopeful we can  
2 stipulate to the admission of these after Ms. Allen  
3 reviews them.

4 JUDGE SIANO: Okay. Are there any that --  
5 for which Ms. Allen has no objections? Maybe we can  
6 just get to those now.

7 MS. ALLEN: Your Honor, there are several  
8 to which I have no objection if they just included the  
9 page numbers that are the attachment. That was the  
10 whole purpose of the email to tell them what page  
11 numbers I thought was the attachment. If they put those  
12 and mark them as an exhibit. I have no objection to  
13 number one, two, three, to four, to five -- to five of  
14 their exhibits. If they will just put the page numbers  
15 on them and show them to me, I'll stipulate.

16 MS. MAULDIN: I apologize because we have  
17 reworked what she has sent into a separate document for  
18 our own use, and so we will -- what we provided earlier  
19 today has changed. So I'm looking at a different  
20 document. We have excluded some of the exhibits that we  
21 circulated just among the parties that we would propose  
22 based on that because Ms. Allen had -- or because we  
23 felt that they were complete. So we are looking off of  
24 something different. And, again, we've been in this  
25 hearing so we've been unable to communicate via email to

1 Ms. Allen's liking.

2 JUDGE SIANO: Okay. Let's go off the  
3 record.

4 (Recess: 1:49 p.m. to 1:54 p.m.)

5 JUDGE SIANO: Back on the record.

6 MS. MAULDIN: Okay. Share your screen,  
7 please.

8 So Windermere Oaks would offer Exhibit 12,  
9 which is the complete version of Response to  
10 Ratepayers 3-6, which has been admitted into evidence  
11 as Ratepayers 29. Here is the RFI narrative.

12 JUDGE SIANO: Go ahead.

13 MS. MAULDIN: As you can see in the first  
14 paragraph, there is reference to voluminous Attachment  
15 Staff 1-24. That is the tariff. We will show you that.

16 MS. KATZ: I'm going to go ahead and mute  
17 myself while I click around here to pull it up for you.

18 MS. MAULDIN: Okay. You should now be  
19 looking at voluminous Staff 1-24, which is the tariff  
20 for Windermere Oaks Water Supply Corp. It's 111 pages.

21 JUDGE SIANO: Okay. And I understand,  
22 Ms. Allen, you do not object to the admission of the  
23 tariff. Right? You're on mute, so I need to hear you.

24 MS. ALLEN: No, Your Honor. If they  
25 represent that their exhibit is their tariff, I will

1 except that representation, and I will not object.

2 JUDGE SIANO: Okay. So -- okay. So  
3 exhibit --

4 MS. MAULDIN: Okay. Go to Ratepayers 1-3.

5 JUDGE SIANO: Water Supply Corporation  
6 Exhibit 12 is admitted.

7 (Exhibit Windermere No. 12 admitted)

8 MS. MAULDIN: Thank you.

9 Windemere Oaks at this time offers  
10 Windemere Oaks Exhibit 13, which is Windermere Oaks'  
11 Response to Ratepayers 1-3. It is the complete version  
12 of what has been offered or -- I'm sorry, what has been  
13 entered into the record as Ratepayers Exhibit 31.

14 JUDGE SIANO: Okay. So -- and you want  
15 to -- you want to include the attachment to this. Is  
16 that right? What is it that you're offering?

17 MS. MAULDIN: Yes. So Ms. -- I apologize.  
18 I don't have it in front of me. Ms. Allen had indicated  
19 that she wanted to leave out Page 4 of this response,  
20 which is actually the narrative.

21 JUDGE SIANO: So I'm looking at 1-13,  
22 which is Ratepayer Exhibit 31, and it appears to be the  
23 narrative. Was there an attachment that you wanted to  
24 include?

25 MS. MAULDIN: Well, I'm sorry. You're

1 looking at 1-13?

2 JUDGE SIANO: Yes.

3 MS. MAULDIN: Oh, it's Response to  
4 Ratepayers 1-3.

5 MS. ALLEN: Your Honor, it's our  
6 Exhibit 31 and if you'll --

7 MS. MAULDIN: Oh, yes.

8 MS. ALLEN: And if you'll look in the  
9 narrative at the bottom, you'll see a reference to  
10 Attachment Ratepayers 1-1, specifically Bates Pages 20  
11 through 31. Do you see that?

12 JUDGE SIANO: I do.

13 MS. ALLEN: I believe those to be these  
14 pages marked 005 through 050. I believe those are the  
15 pages that are referred to. And if I'm right about that  
16 and they will attach it as an exhibit, we have no  
17 objection.

18 JUDGE SIANO: Ms. Mauldin?

19 MS. MAULDIN: We need to include the  
20 response page to the RFI.

21 MS. ALLEN: Your Honor --

22 JUDGE SIANO: I'm sorry. This is the  
23 response page.

24 MS. MAULDIN: Your Honor, would it be  
25 possible for us to take a ten-minute break at this time?



1 JUDGE SIANO: I would like to move through  
2 these because if we're going to have to rule on these,  
3 then we need to be here for it. Is there -- we can pick  
4 that one back up.

5 Can we take up 15 now?

6 MS. MAULDIN: I believe we're at 14, Your  
7 Honor.

8 JUDGE SIANO: Okay. Can we take up 14?

9 MS. ALLEN: I actually thought we were  
10 on 13.

11 JUDGE SIANO: Yeah. So we were working  
12 on 13.

13 And now -- can we take up 14 now,  
14 Ms. Mauldin?

15 MS. MAULDIN: Yes. Your Honor, at this  
16 time, Windemere Oaks would offer Windemere Oaks  
17 Exhibit 14, which is Windermere Oaks Response to  
18 Ratepayers 1-6. It is the complete version of what  
19 Ratepayers have offered as 33 and -- their Exhibits 33  
20 and 48. We're going to share our screen. You should be  
21 looking at the response, Ratepayers 1-6. Scroll,  
22 please; keep scrolling. And the attachment, and  
23 that's -- that's it.

24 MS. ALLEN: Your Honor, I could not see  
25 all of the pages, but they appear to me to be within the

1 page range that I specified, which is 051 to 068. And  
2 if that's so -- although I could not see all the  
3 pages -- but if that's so and these lawyers make that  
4 representation, then I do not object to this exhibit  
5 being admitted.

6 JUDGE SIANO: Okay.

7 MS. MAULDIN: From what I understand --

8 JUDGE SIANO: Go ahead.

9 MS. MAULDIN: I apologize. From what I  
10 understand, Ms. Allen, you did not want to include  
11 Page 058, which is the page we were looking at here, and  
12 that's all we're seeking to include.

13 MS. ALLEN: Okay. Hold on and let me look  
14 at that. I didn't mean to omit anything, so let me see.

15 JUDGE SIANO: That's already been  
16 admitted.

17 MS. ALLEN: That's what I thought, and  
18 that's probably why I did omit it.

19 JUDGE SIANO: So what I have is Ratepayer  
20 Exhibit 48 is that document and the January 28th letter.

21 MS. ALLEN: Your Honor, this was the  
22 instance that I told you about. This letter that is 33  
23 is the last page of the page range that I've just given,  
24 059 to 068, and we didn't mean to -- we got ahead of a  
25 production error. And so I'm not objecting to the 059

1 to 068, which is the whole attachment, no problem.

2 JUDGE SIANO: Okay. It is admitted. So  
3 Water Supply Corporation Exhibit 14 is admitted.

4 (Exhibit Windermere No. 14 admitted)

5 MS. MAULDIN: Go to Ratepayers 1-7. Okay.  
6 At this time, Windemere Oaks offers Exhibit  
7 Windermere -- I'm sorry.

8 (Laughter)

9 JUDGE SIANO: 15.

10 MS. MAULDIN: It's been a long morning.  
11 Yes, Windermere Exhibit 15, which is responsive to  
12 Ratepayers 34. This is what Ms. Allen says that she  
13 included as her Ratepayers 1 -- as her Exhibit R-34.  
14 But if we go to her R-34, it includes a lot more than  
15 this response. And so we would move to strike  
16 everything but this page.

17 MS. ALLEN: Well, Your Honor, if that's  
18 so, then we made a mistake, but let us check.

19 JUDGE SIANO: So what I have here is  
20 extensive documents --

21 MS. ALLEN: Oh, goodness, we did; we made  
22 a mistake. Your Honor, we made a mistake. There's a  
23 mistake there. We did not -- our intent was to include  
24 only the response itself, which you are being shown.  
25 And if you prefer, I'm happy to allow -- if the Court

1 will allow it to remove the exhibit that -- let's see --  
2 we did not intend, which it looks like --

3 JUDGE SIANO: So what we'll do is we'll  
4 strike -- we'll strike Ratepayer Exhibit 34 and admit  
5 Water Supply Corporation 15.

6 (Exhibit Ratepayer No. 34 not admitted)

7 (Exhibit Windermere No. 15 admitted)

8 MS. ALLEN: That makes perfect sense to  
9 me. And Exhibit 15, if I understand it correctly, is  
10 the Response to Ratepayers 1-7, which is a single-page  
11 narrative. Have I got that right?

12 MS. MAULDIN: Yes, Ms. Allen. At this  
13 time, Windermere Oaks offers Windemere Exhibit 16, which  
14 is the Response to Ratepayers 1-12. It is responsive to  
15 Ratepayers Exhibit 35. Okay. So you should be looking  
16 at the Response to Ratepayers 1-12, and then there is an  
17 attachment, and that's what we seek to enter into the  
18 record.

19 MS. ALLEN: I do not believe I saw the  
20 reference to an attachment, but let's find it. I can't  
21 scroll your screen.

22 JUDGE SIANO: Ms. Allen, do you see that?

23 MS. ALLEN: Hang on one second because I'm  
24 actually not -- there you go. I'm seeing the screen  
25 now.

1 I know what it is. Yes, no objection. If  
2 it's the -- if it's the list of properties that was  
3 printed off T -- or Burnet CAD, I do not object. That  
4 should be 081. Correct? Page 081?

5 MS. MAULDIN: Yes.

6 MS. ALLEN: No objection.

7 JUDGE SIANO: All right. It is --  
8 Exhibit 16 is admitted.

9 (Exhibit Windermere No. 16 admitted)

10 MS. MAULDIN: Okay. At this time,  
11 Windemere Oaks would like to move Windemere Oaks  
12 Exhibit 17 into the record. It is the Response to  
13 Ratepayers 1-18. It is the complete RFI response in  
14 what has been marked as Ratepayers Exhibit 36. So we  
15 they -- we are looking at the RFI right now and the  
16 attachment.

17 MS. ALLEN: Your Honor, if the attachment  
18 is Pages 092 to 104, we do not object.

19 MS. MAULDIN: Let us just double-check. I  
20 believe that's correct, but let's just double-check.

21 JUDGE SIANO: I have 095 through 99.

22 MS. MAULDIN: Yes, we would seek to  
23 include Page 91, Bates Page 91 through 104.

24 JUDGE SIANO: Okay. Okay.

25 MS. ALLEN: I believe -- well, hang on

1 just one second.

2 JUDGE SIANO: So Ratepayer Exhibit 36 is  
3 095 through 99.

4 MS. MAULDIN: That's correct.

5 JUDGE SIANO: So, Ms. Allen, they are  
6 seeking to introduce the preceding documents.

7 MS. ALLEN: So the entire exhibit for  
8 completeness should be from 091 to 104. Is that right?

9 MS. MAULDIN: Yes.

10 MS. ALLEN: If this exhibit consists of  
11 Pages 091 through 104, we do not object.

12 MS. MAULDIN: That's what we would seek to  
13 move into the record.

14 JUDGE SIANO: Okay. It is admitted.  
15 Windermere Exhibit 17 is admitted.

16 (Exhibit Windermere No. 17 admitted)

17 MS. MAULDIN: Okay. So Windemere Oaks  
18 moves to -- well, we need to address -- so we're going  
19 to have to do the same thing we did earlier for  
20 Exhibit 15. So in Ratepayers 39 -- in Ratepayers 39,  
21 Ratepayers included the same exhibit they had attached  
22 earlier. So it should be in response to Staff 1-3, but  
23 they have included a separate attachment. So we would  
24 move to strike that attachment, all that response to  
25 Staff's 1-3.

1 MS. ALLEN: Your Honor, could we -- could  
2 we see what we're looking at, please? I don't --

3 MS. MAULDIN: We're trying to find it.

4 MS. ALLEN: What I have in my file is a  
5 different thing.

6 JUDGE SIANO: Yeah, what I hear -- what I  
7 have does not appear to be -- well, it appears to be the  
8 same thing that we previously struck.

9 MS. ALLEN: Your Honor, if we made a  
10 mistake, we will correct it or we will not object to  
11 having the Court correct it for us. If Windermere  
12 wishes to offer as Windermere Exhibit 18 the Response to  
13 Staff 1-3, a one-page narrative, the Ratepayers do not  
14 object.

15 JUDGE SIANO: Ms. Mauldin?

16 MS. MAULDIN: Yes, we would seek to move  
17 into the record Windemere Oaks 18, which is the Response  
18 to Staff 1-3 and strike Ratepayers 39 from the record.

19 MS. ALLEN: Your Honor, if Windermere  
20 wishes to strike 39, the Ratepayers do not object.

21 JUDGE SIANO: Okay. Ratepayer Exhibit 39  
22 is stricken, and Windermere Exhibit 18 is admitted.

23 (Exhibit Ratepayers No. 39 not admitted)

24 (Exhibit Windermere No. 18 admitted)

25 MS. MAULDIN: Thank you. At this time,

1 Windermere Oaks moves to enter Windemere Oaks 19 into  
2 the record. It is the Response to Staff 2-1. It was  
3 previously admitted into the record as Ratepayers 49,  
4 and we are seeking to add the last page of this response  
5 that was provided by Ms. Allen. All right. We should  
6 be looking at this now.

7 JUDGE SIANO: I'm sorry. Did you say --  
8 okay. 49. Go ahead.

9 MS. ALLEN: Your Honor, I'm looking at our  
10 exhibit, and it ends at Page 4 and also No. 04, and I'll  
11 tell you right now if that's not the complete response,  
12 then we do not object to them including that page.

13 JUDGE SIANO: Okay. So Page 5?

14 MS. MAULDIN: Yes, we would seek to  
15 include Page 5.

16 MS. ALLEN: No objection.

17 JUDGE SIANO: Okay. And I can tell you  
18 just for purposes of efficiency if we're going to  
19 have -- these really should be included together. So I  
20 don't want to have to look in one exhibit for one page,  
21 another exhibit for the other page. So I'm going to ask  
22 Windermere to include the first two pages as well.

23 MS. MAULDIN: Absolutely, Your Honor.

24 JUDGE SIANO: Okay.

25 MS. ALLEN: Your Honor, the Ratepayers are



1 perfectly happy to include as Windermere Exhibit 19 the  
2 complete narrative response to Staff RFI 2-1 and to  
3 withdraw Exhibit 49 from their exhibit list. Is that --  
4 is that what you're suggesting?

5 JUDGE SIANO: I was not suggesting that  
6 you withdraw it, but that might be more efficient. So  
7 Ratepayer Exhibit 49 is withdrawn and Windermere  
8 Exhibit 19 is admitted.

9 (Exhibit Windermere No. 19 admitted)

10 MS. ALLEN: I don't see that it helps the  
11 record to have a partial exhibit anywhere.

12 JUDGE SIANO: All right. Ms. Mauldin,  
13 with respect to Exhibit 13, have we made any progress on  
14 that?

15 MS. MAULDIN: We are looking at it, but I  
16 would -- what Exhibit 13 is is a response to  
17 Ratepayers 31. It is the response to Ratepayers 1-3,  
18 and there is a reference to attachment --

19 MS. ALLEN: Your Honor, we looked at this  
20 one earlier. There was a reference to Attachment  
21 Ratepayers 1-1, specifically Bates Pages 20 to 31, and  
22 the Ratepayers' response is if that's Pages 005 to 050,  
23 we have no objection. We just don't have that  
24 voluminous exhibit. Give us just one moment.  
25 Apologies, Your Honor. This is our last one. So

1 everyone can take comfort in that.

2 MS. MAULDIN: Okay. Your Honor, we  
3 would -- Ms. Allen has indicated she would like to move  
4 Bates Page 5 through 50 into the record.

5 We would ask to include Page 4, which is  
6 the narrative response to this attachment just for  
7 completeness.

8 JUDGE SIANO: I'm sorry.

9 MS. ALLEN: Hold on.

10 JUDGE SIANO: I'm lost here. We're on --

11 MS. ALLEN: Me, too. I'm lost.

12 MS. MAULDIN: So -- okay. Let me explain.

13 JUDGE SIANO: This is for 13. We're still  
14 on 13?

15 MS. MAULDIN: We're on 13, which is --

16 MS. ALLEN: Okay. 1-3. Okay.

17 MS. MAULDIN: Yes, and in the response  
18 to 1-3 it references Attachment Ratepayers 1-1.

19 MS. ALLEN: Yes.

20 JUDGE SIANO: Okay.

21 MS. MAULDIN: So we are seeking to just  
22 add the RFI summary narrative page to the attachment for  
23 1-1 so that we know what we're looking at.

24 MS. ALLEN: Okay. It's not 1-1, it's 1-3,  
25 and it's not the response, it is an attachment. What's

1 referenced is the attachment Ratepayers 1-1, and I  
2 believe that we find that at Pages 005 to 050, the  
3 attachment. And I do not object to that being included  
4 as an exhibit. If there's extraneous material to the  
5 attachment, I object to that. I don't know that there  
6 is, but I would object to it.

7 JUDGE SIANO: Okay. So, Ms. Allen, so I  
8 understand you correctly, you do object to the -- what  
9 we're looking at now, which is the actual response, but  
10 you do not object to the attachment?

11 MS. ALLEN: No, Your Honor. My exhibit is  
12 the Response to Ratepayers 1-3, not 1-1.

13 JUDGE SIANO: Understood.

14 MS. ALLEN: In the response to Ratepayers  
15 1-3, the response references the attachment to  
16 Ratepayers 1-1. I am not offering the response to 1-1,  
17 this does not reference the response to 1-1. It  
18 references the attachment to 1-1 to which I do not make  
19 any objection. But to include an entire -- you will  
20 frequently see that different attachments were referred  
21 to in different responses for different purposes --

22 JUDGE SIANO: Ms. Allen --

23 MS. ALLEN: -- and I have not offered 1-1.  
24 That is not anything needed to complete the context of  
25 this response to 1-3.

1 JUDGE SIANO: Okay. So with respect to  
2 the attachment, Ms. Allen, what is the attachment? Is  
3 that the TRWA analysis?

4 MS. ALLEN: Your Honor, it is -- I believe  
5 it is kind of a compilation of some minutes and some  
6 financials, and really and truly it doesn't even matter  
7 to me. The attachment is what it is, they are entitled  
8 to put it in, and so I'm not objecting to it.

9 JUDGE SIANO: Okay.

10 MS. ALLEN: 1-1 talks about something  
11 different.

12 JUDGE SIANO: Okay. So, Ms. Mauldin,  
13 response?

14 MS. MAULDIN: Your Honor, we are fine  
15 excluding Page 4 from the Attachment 1-1. So we would  
16 seek to include the response to Ratepayers 1-3 and then  
17 the attachment to Ratepayers 1-1, Pages 05 through 50.

18 MS. ALLEN: I do not object.

19 MS. MAULDIN: Do not object.

20 JUDGE SIANO: Okay. With that -- with  
21 that, Windermere's Exhibit 13 is admitted.

22 (Exhibit Windermere No. 13 admitted)

23 MS. MAULDIN: And that's all we have.

24 JUDGE SIANO: Okay. I've seen cleaner  
25 records before. I hope we got through it.

1                   And, Ms. Mauldin, you will be providing  
2 those exhibits to SOAH, the court reporter and the other  
3 parties.

4                   MS. MAULDIN: That is correct.

5                   JUDGE SIANO: And when will you do that?

6                   MS. MAULDIN: By the end of the day --

7                   JUDGE SIANO: Okay.

8                   MS. MAULDIN: -- electronically, and then  
9 we can follow up with the hard copies Monday.

10                  JUDGE SIANO: All right. And where are we  
11 on the briefing schedule? I'm sorry, the outline.

12                  MS. ALLEN: Your Honor, as far as I know,  
13 Ms. Mauldin made a suggestion and circulated it, I made  
14 a suggestion and circulated it, nobody has been -- had  
15 an opportunity to have a discussion about it.

16                  JUDGE SIANO: All right. Let's go off the  
17 record for a moment.

18                               (Recess: 2:24 p.m. to 2:26 p.m.)

19                  JUDGE SIANO: Okay. So the parties will  
20 follow the preliminary order as far as briefing goes.  
21 We will be memorializing this in an order that also  
22 includes the briefing deadlines.

23                               And as far as the evidence, the Water  
24 Supply Corporation will provide copies to the court  
25 reporter, SOAH and the other -- the other parties, all

1 the exhibits that were just admitted. And I understand  
2 that, Mr. Griffin (sic), you need an updated exhibit  
3 list. I'm sorry. I'm talking to the court reporter.

4 THE REPORTER: Yes, Your Honor.

5 JUDGE SIANO: Okay. So -- and an updated  
6 copy of the exhibit list to the court reporter and go  
7 ahead and provide that to -- to SOAH as well. Anything  
8 else that we need to cover?

9 MS. MAULDIN: Yes, Your Honor. We would  
10 like -- Windemere Oaks would like to note that this  
11 morning there was discussion about a Windemere Oaks  
12 Exhibit 20 and 21. We did not offer those into  
13 evidence. So they are not there.

14 JUDGE SIANO: Thank you.

15 THE REPORTER: They are withdrawn?

16 MS. MAULDIN: They are withdrawn, yes.

17 JUDGE SIANO: Ms. Allen -- well, for the  
18 benefit of those who are less familiar with this  
19 process, we will not make our decision today. The  
20 parties will brief this issue. You'll be required to  
21 make references in your closing posthearing briefing to  
22 the record and the evidence, and we will consider only  
23 evidence -- only matters that have been admitted.

24 And after the briefing is concluded, then  
25 the record will close and we will -- we have 60 days to

1 prepare our proposal for decision, and then that gets --  
2 that goes over to the Commission for the final decision,  
3 and I can't comment on how long that will take.

4           There is an opportunity at that point to  
5 file exceptions, and you can -- that gives us a chance  
6 to reconsider something that you think we got wrong.  
7 And the parties will also have an opportunity to respond  
8 to that, and that happens before it goes to the  
9 Commission.

10           Ms. Mauldin, how did you intend to handle  
11 rate case expenses updates?

12           MS. MAULDIN: Sure. We are prepared to  
13 continue filing affidavits. We can do it on a timeline  
14 however the Commission would like it. I believe  
15 Ms. Gilford's supplemental testimony recommended  
16 supplementing throughout the remainder of the hearing  
17 through briefing and then through the end of the  
18 proceeding. So we are -- we can continue to provide  
19 affidavits. We can file them in the docket if that's  
20 how they'd like to handle it.

21           JUDGE SIANO: Okay. So for purposes of  
22 our -- I do want Staff to have an opportunity to weigh  
23 in on that. So at some point, we won't be able to opine  
24 on that, but I propose that you file an affidavit with  
25 your update with your initial brief, and then Staff can

1 comment and reply. And if you want to, you can help  
2 with --

3 MS. MAULDIN: Thank you, Your Honor.

4 JUDGE SIANO: Yeah. So, okay, I think  
5 that we've covered everything.

6 MS. KATZ: Your Honor, I think we are  
7 missing --

8 THE REPORTER: Will you be doing a recap  
9 of the exhibits admitted?

10 JUDGE SIANO: I'm sorry?

11 THE REPORTER: Will you be doing a recap  
12 of the exhibits admitted?

13 JUDGE SIANO: Do the parties have that  
14 available at this time?

15 MS. ALLEN: Your Honor, I'll take a stab  
16 at it. Here is what I show for today: Windermere 11 is  
17 admitted, Windermere 12, 13, 14, 15, 16, 17, 18, and 19.  
18 I show for Ratepayers that we withdrew 34, 39, 45 and  
19 49.

20 JUDGE SIANO: That corresponds to what I  
21 have.

22 MS. ALLEN: And then we waived our  
23 objection, and Staff 5 was also admitted today.

24 JUDGE SIANO: Right. So Staff 1  
25 through 5.



1 MS. ALLEN: That's all I have.

2 JUDGE SIANO: Does that conform to the  
3 other parties?

4 MS. MAULDIN: Yes.

5 MS. KATZ: It does with us, Your Honor.

6 And we have one other issue that actually  
7 you brought that up we need to -- we need to address as  
8 well.

9 JUDGE SIANO: Go ahead.

10 MS. KATZ: And that's regarding the  
11 preliminary order --

12 JUDGE SIANO: Yes.

13 MS. KATZ: -- Issue No. 2, notice.

14 JUDGE SIANO: Yes.

15 MS. KATZ: And so if I can address that at  
16 this time?

17 JUDGE SIANO: Go ahead.

18 MS. KATZ: Thank you. The corporation did  
19 not receive Commission-approved notice from Staff.  
20 However, what the corporation did do was on  
21 February 2nd, 2021 the original procedural schedule was  
22 noticed to the Ratepayers.

23 Additionally, on August 17th, August 24th,  
24 September 30th, and November 18th, these were all  
25 scheduled Open Meetings that occurred with properly

1 posted agendas, which indicated that this would be  
2 discussed and a hearing schedule -- a hearing schedule  
3 would be discussed at those meetings that they held. In  
4 the minutes in the August 17th -- for the August 17th  
5 Open Meeting that the corporation held indicated that  
6 there was to be a hearing in December as well. And  
7 Ratepayers were in attendance in and out throughout this  
8 proceeding. So this would constitute no surprise.

9 JUDGE SIANO: Okay. Just be sure to  
10 mention that in your closing briefing. Thank you.

11 All right. I think that's all we have.

12 Ms. Lander, anything?

13 MS. LANDER: No, Your Honor. Thank you so  
14 much.

15 JUDGE SIANO: All right. Ms. Allen?

16 MS. ALLEN: Nothing further from the  
17 Ratepayers except a heart-felt thanks for your patience  
18 with me.

19 JUDGE SIANO: Anything else from Ms. Katz  
20 or Mauldin?

21 MS. KATZ: No, Your Honor.

22 JUDGE SIANO: All right. Thank you very  
23 much. This hearing is concluded.

24 (Proceedings concluded at 2:34 p.m.)

25

## 1 C E R T I F I C A T E

2 STATE OF TEXAS )

3 COUNTY OF TRAVIS )

4 We, KIM PENCE and MARY CAROL GRIFFIN, Certified  
 5 Shorthand Reporters in and for the State of Texas, do  
 6 hereby certify that the above-mentioned matter occurred  
 7 as hereinbefore set out.

8 WE FURTHER CERTIFY THAT the proceedings of such  
 9 were reported by us or under our supervision, later  
 10 reduced to typewritten form under our supervision and  
 11 control and that the foregoing pages are a full, true,  
 12 and correct transcription of the original notes.

13 IN WITNESS WHEREOF, we have hereunto set our  
 14 hand and seal this 7th day of December 2021.

15

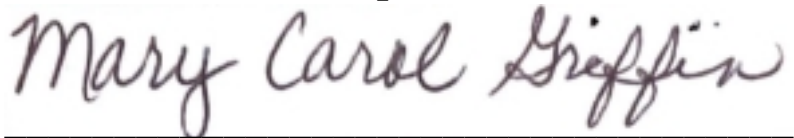
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17 KIM PENCE, CSR  
 Certified Shorthand Reporter  
 CSR No. 4595 - Expires 01/31/22

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21 MARY CAROL GRIFFIN  
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24 Firm Registration No. 276  
 Kennedy Reporting Service, Inc.  
 100 E. Whitestone Blvd.  
 Suite 148  
 Cedar Park, Texas 78613  
 512.474.2233

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