

COMMENTS TO PUC ON JANUARY 31, 2025

Good morning.

I am Joe Gimenez, former volunteer president of the Board of Directors for the Windermere Oaks Water Supply Corporation, from March 2019 until April 2023.

My three years of testimony in the 50788 rate case is on the PUC interchange.

Please allow me two clarifications to public comments.

First,

on January 16, I said, “Windermere directors, when they implemented the appealed rates in 2020 to fend off wild lawfare allegations, believed defense against unjust and unreasonable lawsuits to be a valid expense. Courts agreed. The Texas Legislature agrees. The PUC did not.”

My clarification:

Judges Siano and Wiseman, in their June 29, 2023 PFD, acknowledged Texas Business Code Chapter 8’s mandatory requirement for financial defense of volunteers. It was the Commissioners and Staff who did not.

Second:

50788 Ratepayers Representative Patti Flunker made public comment here on December 19, that Ratepayers “likely” would have been okay with less than a 25 percent increase.

The record should reflect that Ms. Flunker, throughout the 3-year rate appeal, never said or offered that, either as talking point or for possible resolution.

Now, my comment:

On April 11, 2023, PUC Staff attorney Merrit Lander wrote in brief for 50788, that “There must be a **finite financial limit** put in place for this small water system that serves fewer than 300 people.” She was referring to “Windermere continu[ing] to incur a quarter of a million dollars in legal debt per year.”

Ms. Lander did not cite or reference Texas Water Code or PUC Rules for such a **“finite financial limit.”**

It does not exist. It did not exist in 2020 when the rates were made.

Instead, Ms. Lander was voicing her subjective, preference for a post-facto application of a **finite financial limit**.

If the PUC were ever to go through a rule-making process to establish, legally, such a “finite financial limit,” I would suggest there is public interest in establishing a similar “finite financial limit” constraint on plaintiff attorneys’ legal fees, to balance any lawfare equally within budgets.

Ask yourselves: how would that go over with Texas plaintiffs’ attorneys?

Not well I’m sure, but the Legislature is in session, so the Commission can make an attempt, to legitimize Ms. Lander’s post-facto preference.

Otherwise, the PUC should begin a rule-making process to make Ms. Lander’s extralegal preferences legitimate.

In view of the Judges’ PFD, and then the Cobos Memorandum’s 180-degree reversal, it is hard NOT to observe that the PUC implemented an unpublished, extralegal **finite financial limit** akin to “We know it when we see it” preferences of Ratepayer Representatives, PUC Staff, and Commissioners.

Again, Judges Siano and Wiseman’s PFD should be noted as having separated themselves from that subjective, extralegal process.

In conclusion, in Windermere’s case, Commission action has run counter to the Texas Legislature’s goal of enabling financially solvent public utilities to deliver water and sewer services through published, objective, transparent laws or rules.

Thank you for your time.