Date: June 1, 2024

To: WOWSC Membership

From: Legal Team and BOD

Subject: Receivership – How/What/Why

Receivership is not a Short or Long-term solution.

**Timing:** Temporary managers serve a term of 180 days unless otherwise specified by the Commission (1) The emergency order establishing the temporary manager may not exceed 360 days. (2)

**Possible Con:**

1. Receivership may devalue or appear to devalue the system. This may cause the sale of the system at a lower price.
2. WOWSC will need to quickly find a buyer or a long-term solution to management of the system.

**Possible Pro:**

1. New managers MAY not be experienced in water management

**Operations:** Allows a temporary manager to operate a utility that has discontinued or abandoned operations. (3)

**Possible Con**

1. The commission would have to find that the system has been abandoned. This would mean WOWSC is no longer providing service or paying its obligations (operator, CPA, billing clerk, legal counsel, any other contractors) This could result in additional lawsuits against the corporation.

**Possible Pros**

1. Windermere has a new capable operator and billing clerk. The commission may not find that a receivership or a temporary manager is necessary unless and until the corporation discontinues operations or payment of its obligations.

**Costs**: PUC sets compensation for the temporary manager which is paid from utility revenues. (4)

* + **Possible Con:** WOWSC will not likely save money using this route.
* **Rates:** If system is deemed nonfunctioning, WOWSC could be subject to an immediate rate increase. (Commission rules allow for an immediate temporary rate to recover the reasonable costs incurred for in making services available and any other reasonable costs incurred to bring the nonfunctioning system into compliance with commission rules.) (16 TAC § 24.363(a)).
  + **Possible Pro:** Additional funds will be collected to ensure the system is solvent.
  + **Possible Con:** These additional funds would notbenefit the system in the long term given that WOWSC has a capable operator, billing clerk and CPA.
* **Reporting:** Temporary Manager reports to the Commission on a monthly basis. (16 TAC § 24.357(h)).
  + **Possible Pro:** WOWSC may have additional pressure to resolve the question of management quicker.
  + **Possible Con:** Any deficiencies identified by the Temporary Manager may result in additional fines, penalties or enforcement action against the corporation.
* **Temporary Manger does not assume the system:** The CCN remains in the name of the WOWSC during the receivership. (16 TAC § 24.357(i)).
  + **Possible Con:** Legal liability for the system remains with WOWSC.
* **Sale of Property:** A temporary manager may dispose of all or part of the real or personal property of a water or sewer utility against which a proceeding has been brought under this subchapter to pay the costs incurred in the operation of the receivership. (TWC §13.413).
  + **Possible Con**: Members will have less control over what property is sold and at what price.

1. TWC - 16 TAC § 24.357(d)
2. TWC § 13.4132 (b-1)
3. TWC - 16 TAC § 24.357(a)
4. TWC - 16 TAC § 24.357(f)
5. TWC