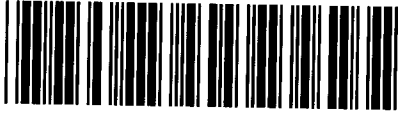


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APPLICATION OF DOUGLAS §  
UTILITY COMPANY TO CHANGE §  
WATER AND SEWER RATE/TARIFF §  
IN HARRIS COUNTY, TEXAS §

**PROPOSED FINDINGS, CONCLUSIONS, AND ORDER  
OF DOUGLAS UTILITY COMPANY**

This Order addresses the application of Douglas Utility Company (DUC) for an increase in water and sewer rates charged to its customers in Harris County. Following multiple preliminary hearings, the Public Utility Commission of Texas (Commission) adopts the following Stipulations and findings of fact and conclusions of law.

**I. Findings of Fact**

**Procedural History**

1. On March 12, 2013, Douglas Utility Company (DUC) filed with the Texas Commission on Environmental Quality (TCEQ) a notice of intent to change rates for water and sewer service. DUC's proposed rates went into effect on May 12, 2013.
2. DUC mailed notice of the proposed rate change to all of its customers on or about March 10, 2013.
3. February 3, 2014, the ALJ in the matter designated DUC, the Executive Director of the TCEQ, the Office of Public Interest Council, Fountainview Homeowners Association and Rainbow Housing Assistance Corporation as parties to the matter.
4. On July 29, 2014, DUC, the Executive Director of the TCEQ, the Office of Public Interest Counsel, the Fountainview Homeowners Association (Fountainview), and Rainbow Housing Assistance Corporation/Equality Community Housing Corporation (Equality) participated in mediation at the State Office of Administrative Hearings (SOAH) and agreed on new water and sewer service rates.
5. On July 29, 2014, DUC and the other parties determined that DUC had inadvertently double billed the fees charged by the City of Houston under the City's Groundwater Reduction Plan. Thereafter, DUC revised its billings so the Groundwater Reduction Plan

110

Fee was charged correctly. The issue of refunds for the over-collected fees was carried along in the case to be resolved in the Commission's Final Order.

6. On July 31, 2014, DUC asserted that it was withdrawing from the settlement because, after signing the agreement, DUC determined that the agreed rates would result in a negative cash flow. DUC also asserted that it could not provide continuous and adequate service if it cannot pay its bills.
7. On September 1, 2014, jurisdiction over this proceeding transferred by statute from the TCEQ to this Commission.
8. On October 29, 2014, the Commission concluded that a limited evidentiary hearing was necessary to determine whether or not the settlement rates in this proceeding violate section 13.183(a) of the Texas Water Code (TWC).
9. No evidentiary hearing was ever held on any issues in this rate case.
10. On September 2, 2015, DUC filed its written notice to withdraw its rate application.
11. The parties conferred on the amount of refunds that would be due to customers charged the proposed rates before the application was withdrawn. A stipulation of the amounts of refunds and to whom they should be paid was reached.
12. On August 10, 2015, DUC began charging its historic rates that were in effect immediately prior to May 12, 2013.

### **Description of the Stipulations**

1. The parties stipulate and agree that DUC should refund the incremental difference collected from customers between the rates in effect before the March 12, 2013 rate change application and the rates collected under the proposed rates in the March 12, 2013 rate change application so these customers would not have paid more for the service they received than they would have paid under the pre-application rates.
2. The parties stipulate and agree that DUC should refund the over-collection of fees charged by the City of Houston for its Groundwater Reduction Plan (GRP) collected between May 12, 2013 and February 11, 2015.

3. The parties stipulate and agree that DUC should surcharge customers who underpaid during the Applicable Time Period to allow DUC to recover from those customers the revenues to which the utility was entitled under its pre-rate change application rates.
4. The parties stipulate the amounts of overcharges and undercharges, including applicable interest, where applicable, are set forth in the attached Exhibit A.
5. The parties stipulate that the only issues of contested fact or law in this case concern the sole issue of the period over which the refunds and/or surcharges in Exhibit A shall be made.

### **Proposed Findings of Fact**

1. DUC filed a statement of intent with the TCEQ and gave notice to all customers of its intention to increase its water and sewer rates above those that had been historically charged by the utility. All customers of the utility were affected by the noticed increase.
2. DUC water rates are based upon the size of the meter used to serve that customer. For example, for illustration purposes only, all customers receiving water through a 5/8" x 3/4" water meter are a member of the customer class 5/8" x 3/4" meter. All customers receiving water through a 6" meter are members of the customer class 6" meter.
3. Water customer classes are not based upon or distinguished by whether the consuming customer is a residence, a small commercial establishment, or a large apartment complex, i.e., Equality.
4. DUC's sewer customer classes are also based upon the size of the water meter used to serve that customer.
5. Sewer customer classes are not based upon whether the customer is residential, commercial, or apartment.
6. There are no other customer classes in DUC's water or sewer tariffs, and none were created by the filing of this rate change application.
7. The proposed rate change would lower the rates of small meter class customers.

8. The small meter customers are the single-family residences and small commercial establishments served by DUC.
9. The rate change application would increase the rates to Equality as DUC believed that Equality had historically underpaid its true cost of service.
10. Withdrawing the application and returning to the pre-application rates meant small metered customers were not charged and did not pay as much for their water and sewer service as they would have otherwise been billed under the pre-application rates.
11. Since the rate change application has been withdrawn and the pre-application rates implemented again, to restore equity between DUC and its customers, it is necessary for DUC to refund over-collections to Equality and to surcharge and recover lost revenues from its small meter customers.
12. As required in all rate-making proceedings by Texas Water Code 13.183(a), to ensure equitable treatment between DUC and its customers, while maintaining the utility's financial integrity, it is critical that DUC retain sufficient cash flow to pay operating expenses and rehabilitate the deteriorating sewer plant while ensuring that an unreasonable economic burden is not placed on small meter customers who must pay their normal monthly utility bills plus a surcharge for monies they did not pay in the past.
13. It has been the customary practice of the TCEQ to tie the period of surcharges and refunds to the number of months the proposed rates were charged.
14. The legislature has determined in Texas Water Code 13.187 (as said statute was in effect for all public utilities at the time this application was filed) that interest at a rate prescribed by the PUC shall be paid to customers entitled to refunds to compensate them for the loss of the use of their funds during the period of over-collection.
15. The legislature has not prescribed a similar interest collection by a utility on surcharges for under-collections during a rate case.
16. Equality is to be compensated for the monies it paid during over-collections in the manner and in the amount prescribed by the legislature.

17. DUC shall refund over-collections to Equality with interest as calculated in Exhibit A over a period of twenty-seven months, which is equal to the period the proposed rates were in effect beginning May 12, 2013 to August 10, 2015.

18. DUC shall surcharge under-collections to small meter customers as calculated in Exhibit A over a period of twenty-seven months, which is equal to the period the proposed rates were in effect beginning May 12, 2013 to August 10, 2015.

## **II. Conclusions of Law**

1. DUC is a water utility pursuant to Texas Water Code Section 13.002(23).
2. Before September 1, 2014, the TCEQ was the state agency with regulatory jurisdiction over this proceeding.
3. Beginning September 1, 2014, that regulatory jurisdiction transferred to the Commission pursuant to House Bill 1600 and Senate Bill 567 (83<sup>rd</sup> Legislature, Regular Session).
4. The Commission has jurisdiction over this proceeding pursuant to Texas Water Code Chapter 13, Subchapter F.
5. DUC filed its March 12, 2013 rate change application under the authority of Texas Water Code Section 13.187.
6. DUC is authorized to withdraw its March 12, 2013 rate application subject to making appropriate adjustments in the amounts paid by customers during the Applicable Time Period.
7. Since the final order in this docket, after the withdrawal of the application, will result in rates less than DUC proposed and collected during the pendency of the application, DUC must refund over-collections with interest in the manner prescribed by the Commission.
8. Since the final rates for small meter customers will be less than DUC charged during the pendency of the case, to preserve the financial integrity of the utility, DUC is entitled to surcharges from under-paying customers.
9. Texas Water Code Sections 13.182(b), 13.189 and 13.190 require that all customer classes be treated equally and that no preference or special treatment be granted to any customer or customer class.

10. Refunds and surcharges in this case should be made or collected over the same number of months to ensure equitable treatment among customer classes.
11. Texas Water Code 13.001(c) mandates regulation of rates and services that are equitable to both customers and the utility.

### **III. Ordering Paragraphs**

In accordance with the above findings of fact and conclusions of law, the Commission issues the following Order:

1. DUC's application for a water rate/tariff change is withdrawn.
2. Beginning on August 10, 2015, DUC shall charge the historic rates in place prior to its March 12, 2013 rate application.
3. Within twenty-seven months after this order is signed, DUC shall make all refunds and collect all surcharges shown on Exhibit A.
4. Within 30 days of effectuating the ordered refund, DUC shall file proof of the same.
5. All other motions, requests for entry of specific findings of fact and/or conclusions of law, and other requests for general or specific relief, if not expressly granted, are denied.

**SIGNED AT AUSTIN, TEXAS THE \_\_\_\_ day of \_\_\_\_\_, 2016**

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**DONNA L. NELSON, CHAIRMAN**

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**KENNETH W. ANDERSON, JR.,  
COMMISSIONER**

\_\_\_\_\_  
**BRANDY MARTY MARQUEZ,  
COMMISSIONER**

**EXHIBIT A**  
**(STAFF TO PROVIDE STIPULATED EXHIBIT)**