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

PUBLIC UTILITY COMMISSION  
OF TEXAS

2016 FEB 19 PM 2:04  
PUBLIC UTILITY COMMISSION  
FILING CLERK

**COMMISSION STAFF'S PROPOSED ORDER**

COMES NOW the Staff (Staff) of the Public Utility Commission of Texas (Commission), representing the public interest, and files this Staff's Proposed Order. In support thereof, Staff shows the following:

**I. BACKGROUND**

On March 12, 2013, Douglas Utility Company (DUC) filed with the Texas Commission of Environmental Quality (TCEQ) a notice of intent to change rates for water and sewer service.

On January 22, 2016, a telephonic prehearing conference was held requesting parties to file Findings of Fact and Conclusions of Law addressing the refund by February 19, 2016. Therefore, this pleading is timely filed.

**II. STAFF'S PROPOSED ORDER**

Pursuant to the telephonic prehearing conference, Staff submits the attached Proposed Order which resolves all issues in this proceeding. Staff has shared the attached Proposed Order with parties to this proceeding. Staff and DUC were unable to agree on Staff's Proposed Order. Staff recommends that the Administrative Law Judge adopt Staff's Proposed Order as complying with the instructions provided in the telephonic prehearing conference on January 22, 2016. Staff does not recommend the adoption of DUC's Proposed Order as it contains multiple unnecessary facts and contested assertions.

The attached Proposed Order references Exhibit A which will be provided by parties.

**III. CONCLUSION**

Staff requests entry of an order consistent with the above recommendation.

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**Dated: February 19, 2016**

Respectfully Submitted,

Margaret Uhlig Pemberton  
Division Director  
Legal Division

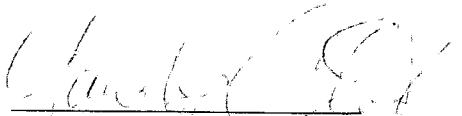
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**DOCKET NO. 42860**  
**SOAH DOCKET NO. 473-14-5140**  
**CERTIFICATE OF SERVICE**

I certify that a copy of this document will be served on all parties of record on this February 19, 2016 in accordance with 16 TAC § 22.74.



Mandeep Chatha

**PUC DOCKET NO. 42860**  
**SOAH DOCKET NO. 473-14-5140.WS**

<b>APPLICATION OF DOUGLAS UTILITY COMPANY TO CHANGE WATER AND SEWER RATE/TARIFF IN HARRIS COUNTY, TEXAS</b>	<b>§ § § §</b>	<b>PUBLIC UTILITY  COMMISSION OF TEXAS</b>
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**STAFF'S PROPOSED ORDER**

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 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 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 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 filed DUC's Response to the Executive Director's Motion to Dismiss and Remand and 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 held on any issue 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 could be withdrawn. A stipulation of the amounts of refunds and to whom they should be paid was reached.
12. On September [ ], 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 August 12, 2014.

3. The parties stipulate and agree that DUC should surcharge customers who underpaid 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 fees and 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 shall refund over-collections with interest as calculated in Exhibit A over a period of twelve months.
3. DUC shall surcharge under-collections to as calculated in Exhibit A over a period of six months.

### **II. Conclusions of Law**

1. DUC is a water utility pursuant to Texas Water Code § 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, 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 § 13.187.
6. DUC is authorized to withdraw its March 12, 2013 rate application subject to making appropriate adjustments in the amounts calculated in Exhibit A.

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, DUC is entitled to surcharges from under-paying customers.

### **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 September [ ], 2015, DUC shall charge the historic rates in place prior to its March 12, 2013 rate application.
3. Within twelve 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**

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**BRANDY MARTY MARQUEZ,  
COMMISSIONER**