



Control Number: 42860



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SOAH DOCKET NO. 582-14-1052
TCEQ DOCKET NO. 2013-1735-UCR

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

BEFORE THE STATE OFFICE
OF
ADMINISTRATIVE HEARINGS

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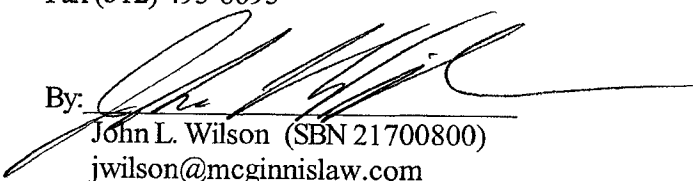
RAINBOW HOUSING ASSISTANCE CORPORATION'S
SECOND SET OF INTERROGATORIES TO
DOUGLAS UTILITY COMPANY

To: Douglas Utility Company by and through its attorney of record, Mark Zeppa, 4833 Spicewood Springs Road, Suite 202, Austin, Texas 78759-8436.

Pursuant to Texas Rule of Civil Procedure 197, Rainbow Housing Assistance Corporation ("Rainbow") serves these interrogatories on Douglas Utility Company ("Douglas"). Douglas must answer each interrogatory separately, fully, in writing, and under oath, upon the law offices of McGinnis Lochridge, 600 Congress Avenue, Suite 2100, Austin, Texas 78701, within thirty (30) days after service or such other time as required by the Administrative Law Judge ("ALJ") in the above referenced matter.

Respectfully submitted,

MCGINNIS LOCHRIDGE
600 Congress Avenue, Suite 2100
Austin, Texas 78701
(512) 495-6000
Fax (512) 495-6093

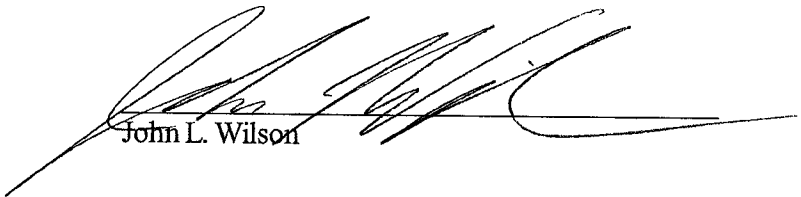
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ATTORNEYS FOR RAINBOW HOUSING ASSISTANCE CORPORATION

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing document has been served as indicated below upon the following on the 26th day of March, 2014.

Mark Zeppa 4833 Spicewood Springs Rd., #202 Austin, TX 78759 512 346-4011 attorney for Douglas Utility Company markzeppa@austin.rr.com mark@zeppalaw.com	Certified Mail _____ Fax _____ E-mail <u> x </u>
Garrett Arthur TCEQ, Office of Public Interest Counsel MC-103 P.O. Box 13807 Austin, TX 78711-3087 512-239-5757 Garrett.arthur@tceq.texas.gov	Mail _____ Fax _____ E-mail <u> x </u>
Brian MacLeod TCEQ, MC - 173 P.O. Box 13807 Austin, TX 78711-3087 512-239-0750 Brian.macleod@tceq.texas.gov	Mail _____ Fax _____ E-mail <u> x </u>
Karl E. Wolf Fountainview Homeowners Association 5523 Mendota lane Houston, TX 77032 713-301-7149 kwolffsr@att.net	Mail _____ Fax _____ E-mail <u> x </u>


John L. Wilson

I.
DEFINITIONS

1. "Application" means Rate/Tariff Change Application of Douglas Utility Company, effective May 12, 2013, and all related documents and all amendments including, but not limited to, the request for a surcharge, filed by Douglas Utility Company with the Texas Commission on Environmental Quality.
2. "Customer" means any person, firm, partnership, corporation, municipality, cooperative, organization, or governmental agency provided with water and/or sewage service(s) by Douglas.
3. "Document" or "documents" means all written, reported, recorded or graphic matter within the scope of Tex. R. Civ. P. 192, however produced or reproduced, including but not limited to, all letters, telegrams, telexes, cables, telephone records and notations, audio tapes, videotapes, computer discs or tapes, computer and/or electronic mail messages or notes, photographs, film, invoices, files, ledgers, journals and other formal and informal books of record and account, minutes, bulletins, instructions, reports, memoranda, notes, notebooks, drafts, worksheets, agreements, intracorporate drafts of the foregoing items and copies or reproductions of the foregoing upon which notations in writing are not on the original.
4. "Douglas Utility Company," "Douglas," "You," and "Your" refers to Douglas Utility Company (CCN Nos. 11369 and 20527) and its officers, directors, employees, agents, attorneys, consultants, contractors, trustees, shareholders, assigns, executors, administrators, servants, parent corporations, subsidiary corporations, affiliate corporations, contractors, insurers, heirs, representatives, general partners, limited partners, and all other natural persons or business or legal entities acting or purporting to act for or on behalf of Douglas Utility Company as to any matter relevant to This Matter.
5. "New or Replacement Water and/or Wastewater Treatment Facility" means all the plant and equipment of Douglas used, controlled, furnished, or supplied for, or to be constructed, purchased, acquired or otherwise used to maintain, repair and/or replace either in part or in total the Douglas water treatment facility and/or the Douglas waste water treatment facility and subject to Douglas' surcharge request as stated in Douglas in its Notice of Amendment to Proposed Rate Change that: "Douglas owns and operates a wastewater treatment plant (WWTP) that serves the Fountainview Subdivision and the Haverstock Hills Apartments. The WWTP is old and needs to be replaced" or otherwise related to Douglas Utility Company's request for a surcharge or for repairs or replacement of the current water treatment facility and/or the current waste water treatment facility.
6. "Person" shall mean the plural as well as the singular and includes: natural persons, corporations, firms, associations, partnerships, joint ventures or any other form of legal business entity; and governmental agencies, departments, units or any subdivisions thereof.

7. The term “pertaining to” means concerning, including, evidencing, mentioning, referring or relating, directly or indirectly, to the specified subject matter or any aspect or portion thereof.
8. “Rainbow Housing Assistance Corporation,” or “Rainbow” means Rainbow Housing Assistance Corporation and its attorneys, officers, employees, consultants, agents, trustees, directors, shareholders, assigns, executors, administrators, servants, parent corporations, subsidiary corporations, affiliate corporations, contractors, insurers, heirs, and any other representatives acting or purporting to act on any of their behalves as to any matter relevant to This Matter.
9. “Relate(s) to,” “related to” or “relating to” shall mean constituting, compromising, identifying, referred to, reflecting, concerning, dealing with, or in any way logically or factually connected with the matters in dispute between the parties in This Matter.
10. “TCEQ” or “Commission” means the Texas Commission on Environmental Quality.
11. “Test Year” means the 12-month test year period used by Douglas in its Application to support the requested rate changes.
12. “This Matter” refers to SOAH Docket No. 582-14-1052, TCEQ Docket No. 2013-1735-UCR, before the State Office of Administrative Hearings and the related Application and proceeding(s) related to the Application and the request to approve the rate changes and surcharge requested by Douglas.
13. As used herein, the words “and” and “or” shall be construed either conjunctively or disjunctively as required by the context to bring within the scope of these requests any document that might be deemed outside its scope by another construction.
14. The singular shall include the plural and the plural shall include the singular.
15. The past tense of a verb includes the present tense, and the present tense of the verb includes that past tense.

II.
INSTRUCTIONS

1. All entities named or referred to herein shall be deemed to include their parent companies, present and former subsidiaries, present and former affiliates and any of the general or limited partners, directors, officers, employees, agents and representatives thereof, including attorneys and accountants.
2. "And" as well as "or" shall be construed either disjunctively or conjunctively, as necessary, to bring within the scope of the following Interrogatories those documents, persons and oral communications which might otherwise be construed to be outside their scope.
3. To "identify" or "the identity of" a person shall include a statement of the following, where applicable; if not known the response shall so state:
 - a. the full name of the person; and
 - b. that person's present business and residence addresses and telephone numbers, if known; if not known, then his or her last known business and residence addresses and telephone numbers.
4. To "identify" or "the identity of" a public or private corporation, governmental entity, partnership or association, shall consist of the business entity's full name, present or last known business address or operating address, telephone number and the identity of its last known chief executive officer.
5. To "identify" or "the identity of" a document shall consist of either furnishing the person propounding the interrogatory a true and accurate copy of the document; referring the person propounding the interrogatory to a specific document already provided or in his possession, custody or control; or responding with a statement which at least includes the following information, if applicable:
 - a. the title, heading or caption, if any, of such document;
 - b. the identifying number(s), letter(s) or combination thereof, if any; and the significance or meaning of such number(s), letter(s) or combination thereof, if necessary to an understanding of the document or evaluation of any claim of protection from discovery;
 - c. the date appearing on such document (and if no date appears thereon, the answer shall so state and shall give the date or approximate date on which such document was prepared);

- d. the number of pages and the general nature or description of such document (*i.e.*, whether it is a letter, memorandum, minutes of a meeting, etc.) with sufficient particularity, so that such document can be precisely identified;
 - e. the identity of the person who signed such document or over whose name such document was issued; and if it was not signed, the response shall so state and shall give the identity of the person who prepared it;
 - f. the identity of the person to whom such document was addressed and the identity of each person, other than such addressee, to whom such document or a copy thereof was sent, distributed or directed;
 - g. the physical location of the document and the identity of its custodian; and
 - h. whether the document will be voluntarily made available to the party requesting it for inspection and copying; and if not, the reasons why not.
6. To "identify" or "the identity of" an oral or telephone communication shall include a statement which at least includes the following information, if applicable:
- a. the identity of each person who participated in the communication and the identity of each person who was present at the time the communication was made;
 - b. the substance of the communication;
 - c. the date when and the place where such communication was made; and
 - d. the identity of each document recording or pertaining to such communication, including but not limited to any statement or invoice for charges or fees pertaining to the transmission or receipt of such communication.
7. Reference herein to any gender includes the masculine, feminine and neuter genders; and reference herein to any form includes the singular and plural forms, except as the context may otherwise dictate.
8. If exemption for privilege, work product protection, or any other reason is claimed as a ground for not responding to any one or more of these Interrogatories, in whole or in part, the response hereto shall describe the factual basis for the claim in sufficient detail so as to permit the administrative law judge to adjudicate the validity of the claim.
9. If You have ever had any document referred to in any response to these Interrogatories in Your possession, custody or control, but do not now, You are requested to state the following with respect to each such document:
- a. The identity of the person You last knew or reasonably believed to be in possession, custody or control of the document;

- b. The date each such document left Your possession, custody or control;
- c. The reasons why each document is not now in Your possession, custody or control; and
- d. The identity of each person having knowledge of the matters inquired about in the immediately preceding subparagraphs a through c.

10. In the event that a document required to be identified by these Interrogatories has been destroyed or erased, the response hereto shall:

- a. Identify the document;
- b. State the date of its destruction;
- c. State the manner of its destruction;
- d. Identify the person who authorized its destruction;
- e. State the reason for its destruction;
- f. Identify the person who destroyed the document;
- g. Provide a description of the efforts to locate the document and copies of it; and
- h. Identify all documents which relate to either the circumstances or the reasons for such destruction.

11. Once a person, document, oral communication or telephone communication has been identified in accordance with the instruction herein, any subsequent reference to the identity of such person, document or communication need only be sufficient as to place the reader on notice as to which previously identified person, document or communication the respondent is referring, such as by the name of the person, the name and date of the document, or the place and date of the communication.

12. Each paragraph herein shall be construed independently and not with reference to any other paragraph for the purpose of limitation.

III.
SECOND SET OF INTERROGATORIES

INTERROGATORY NO. 1:

Identify each person, (i) participating in the preparation of responses to these Interrogatories or (ii) supplying information used in such preparation. As to each person so identified, indicate the specific Interrogatories by number(s) with respect to which he or she was involved.

INTERROGATORY NO. 2:

Please provided the reasoning for deviating from the TCEQ's approved Rate/Tariff Change Application's (TCEQ - 10423) (referred to as the "TCEQ's Application Form") standard service life for water and sewer utility plant, collection and distribution system as provided in Section III., B., Table III.B., Column [C] of the Application (page 7 for water and page 20 for sewer).

INTERROGATORY NO. 3:

Please explain the justification for changing the fixed and variable percentages used in both water and sewer cost allocation in Section VI., A., Table VI.A. (Revenue Requirement) of the Application (page 11 for water and page 24 for sewer) from the suggested percentages provided in the TCEQ's Application Form . Provide the justification for each of the changes Douglas used from the percentages listed in the TCEQ Application for Table VI.A. As one example, Douglas uses 0% fixed for repairs and maintenance, but the TCEQ's Application Form uses 50% fixed.

INTERROGATORY NO. 4:

In Section VIII, Table VIII of the Application for water, Douglas provides the total gallons of water billed to its customers during the Test Year. Please provide a monthly breakdown of the number of gallons provided to and billed during the Test Year to the 2", 6" and 8" meter connections.

INTERROGATORY NO. 5:

Please provide a detailed explanation of why Douglas contends that Haverstock Hills Apartments is causing a grease problem. See, Douglas, October 11, 2013, Meeting Minutes, Item No. 4.b. "The grease issue is coming from the Haverstock Hill Apartment Complex. Wes mentioned in our last meeting that the Haverstock Hill apartments exceeds the allowable amount of grease and TNG will document the excess of which Wes already has pictures."

INTERROGATORY NO. 6:

Please identify what is the "allowable amount of grease" for Haverstock Hills Apartments as mentioned in the quote contained in Interrogatory No. 5 above.

INTERROGATORY NO. 6:

Other than the changes identified/discussed in response to Interrogatory No. 3 above, please identify and provide a detailed explanation of any changes Douglas took in completing the Application from those recommended by the TCEQ instructions or guidance in completing the TCEQ Application Form.

INTERROGATORY NO. 7:

Please explain in detail the "report details" of the "COH Rate Comparison Report" as identified in the Douglas, December 13, 2013, Meeting Minutes. Item No. 2 "COH Rate Comparison Report - Wes presented the completed report to us. He can explain the report details at the Hearing to show the protestant's attorneys how much of a break HHA has been getting and will continue to get when compared to the rates of COH."

INTERROGATORY NO. 8:

Please identify the Douglas affiliate that has paid Olga Schnur and explain why she was paid by a Douglas affiliate rather than by Douglas. See, Douglas' Answers to the Executive Director's First Requests for Disclosure, Interrogatories, and Requests for Production, to Douglas Utility Company, response to Interrogatory No. 2.

INTERROGATORY NO. 9:

Please explain why during the preliminary hearing Douglas said it needed both the requested rate change and surcharge and in its responses to Rainbow's First Set of Interrogatories, Interrogatory No. 7, where Douglas provides "If DUC gets all of its requested cost of service and proposed rates, it will have the cashflow to service the loan without the surcharge."

INTERROGATORY NO. 10:

Please identify all distributions that have been made by Douglas to Carol Zieben, Herbert Zieben or any member of the Zieben family since the beginning of the Test Year.

INTERROGATORY NO. 11:

Please identify all payments of salary or other compensation that have been made by Douglas to Carol Zieben, Herbert Zieben, any member of the Zieben family and any employee of Douglas since the beginning of the Test Year.

INTERROGATORY NO. 12:

Please explain in detail how Douglas measured, calculated or estimated the water usage by month for Haverstock Hills Apartments from the start of the Test Year until the time water meters were installed and became operational.

INTERROGATORY NO. 13:

Please identify when water meters were installed for the Haverstock Hills Apartments and identify when those meters became fully operational.

INTERROGATORY NO. 14:

Please provide a breakdown by month and meter size the amounts of water that were billed during the Test Year and a detailed explanation of how the water amounts were determined. See Application page 14, which provides that the total number of gallons billed to your customers during the test year was 75,118,887 gallons.

INTERROGATORY NO. 15:

Please identify when the current waste water treatment plant was first placed into operation.

INTERROGATORY NO. 16:

Please describe all efforts Douglas has used to minimize the amount of sludge generated at its waste water treatment plant since the beginning of the Test Year.

INTERROGATORY NO. 17:

Please identify all money or funds that Douglas has received from the federal government, a federal agency, and/or from a federal program.

INTERROGATORY NO. 18:

Please identify since the start of the Test Year the days and time that Carol Zieben has visited and/or inspected the water treatment plant and/or the waste water treatment plant.

INTERROGATORY NO. 19:

Please describe any major changes that have been made to the wastewater treatment plant since the last rate/tariff change application. For this question only, major change is defined as any single action, including repair, replacement or maintenance that has cost more than two thousand dollars (\$2000.00) or the taking out of service any equipment that has a new purchase value of two thousand dollars (\$2000.00) or greater.

INTERROGATORY NO. 20:

Please identify the meaning of the statement "The WWTP Permit would have to be amended since we are downsizing the tank." that is made in 2.c. of Douglas's Meeting Minutes dated October 11, 2013. By identify, please identify the tank and permit that are mentioned, why it is being downsized, and what changes will have to be made to the referenced permit.

INTERROGATORY NO. 21:

Please explain how the amount for the surcharge request was determined. This explanation should include, but not be limited to, an explanation of the statement "Mark Zeppa needs to come up with the figure for the surcharge" found in Douglas' Meeting Minutes for September 6, 2013.

INTERROGATORY NO. 22:

During the preliminary hearing, Douglas stated that it did not know whether the wastewater treatment plant needed to be replaced or repaired and that that determination could not be made until further investigation of the condition of the plant. Please explain that position in relation to the following statement contained in Douglas' August 9, 2013 Meeting Minutes: "It was discussed that Douglas Utility does not want to do more repairs than is necessary regarding the rehab of the WWTP. Wes mentioned that it looks like we will be needing to definitely replace the sewer plant instead of just repairing it."

INTERROGATORY NO. 23:

Please identify and describe in detail all connections and interconnections that Douglas has with any other utilities or water lines outside of Douglas' CCN area.

INTERROGATORY NO. 24:

As to the connections and interconnections identified in response to Interrogatory No. 23 above, please identify the gallons of water that have been transferred by month through those connections or interconnections since the beginning of the Test Year both as to water entering and leaving Douglas' system or infrastructure.

INTERROGATORY NO. 25:

Please explain in detail the report details for the COH Rate Comparison Report and "the break HHA has been getting" as referenced in the Douglas Meeting Minutes for December 13, 2013, Item No. 2, which states: "COH Rate Comparison Report - Wes presented the completed report to us. He can explain the report details at the Hearing to show the protestant's attorneys how much of a break HHA has been getting and will continue to get when compared to the rates of COH."

INTERROGATORY NO. 26:

Please identify the water and wastewater systems other than Douglas that are operated by TNG Utility.

INTERROGATORY NO. 27:

Please identify if TNG Utility or its owners are in anyway related to or connected to Douglas and its owners.

INTERROGATORY NO. 28:

Please identify Gaylord Investment Company and identify if it or its owners are in anyway related to or connected to Douglas and its owners. Gaylord Investment Company was listed in the TNG Utility, Quote, Invoice # D-9113, Dated 9/24/2013, that was provided in response to Rainbow's First Request for Production No. 12.

INTERROGATORY NO. 29:

Please identify if Gaylord Investment Company or its owners are in anyway related to or connected to TNG Utility.