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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

ORDER

This Order addresses the refund and surcharge of proposed rates that were charged by Douglas Utility Company after it filed an application to changes to its water and sewer rates and tariff.

On March 12, 2013, Douglas filed its application. On May 12, 2013, Douglas began charging its proposed rates, including fees charged by the City of Houston under the city's groundwater-reduction plan. On August 10, 2015, Douglas ceased charging its proposed rates and resumed charging its pre-application rates. On September 2, 2015, before a hearing on the merits was held, Douglas withdrew its application to change its rates and tariff. Thereafter, the parties agreed that all contested issues were resolved among the parties, except for the time period for Douglas to pay refunds and collect surcharges associated with Douglas charging its proposed rates during the time period of May 12, 2013 through August 10, 2015, and improperly double-charging fees for the city of Houston's groundwater-reduction plan during the time period of May 12, 2013 through August 12, 2014.¹

On March 29, 2016, the presiding administrative law judge at the State Office of Administrative Hearing filed a proposal for decision, incorporating parties' agreement and recommending that Douglas be ordered to make refunds over a 12-month period and to collect surcharges over a 24-month period. The Commission adopts the proposal for decision, including its findings of fact and conclusions of law. In addition to ordering the recommended refunds and surcharges, the Commission requires Douglas to make reports demonstrating that Douglas completed the refunds and surcharges within the ordered time periods.

The Commission adopts the following findings of fact and conclusions of law.

¹ Proposal for Decision at 4-6 (Mar. 29, 2016).

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I. Findings of Fact

Procedural History

1. On March 12, 2013, Douglas filed with the Texas Commission on Environmental Quality (TCEQ) a notice of intent to change rates for water and sewer service. Douglas's proposed rates went into effect on May 12, 2013.
2. Douglas mailed notice of the proposed rate change to all of its customers on or about March 10, 2013. All customers of the utility were affected by the noticed increase.
3. The TCEQ referred this matter to the State Office of Administrative Hearings (SOAH) on November 19, 2013.
4. On February 3, 2014, the administrative law judge (ALJ) designated Douglas, the executive director of the TCEQ, the Office of Public Interest Counsel (OPIC), Fountainview Homeowners Association (Fountainview), and Rainbow Housing Assistance Corporation/Equality Community Housing Corporation (Equality) as parties.
5. On July 29, 2014, Douglas, the executive director of the TCEQ, OPIC, Fountainview, and Equality participated in mediation at SOAH and agreed on new water and sewer service rates.
6. On July 29, 2014, during the mediation, Douglas and the other parties determined that Douglas had double-billed the fees charged by the city of Houston under the city's groundwater-reduction plan. Thereafter, Douglas 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 this case to be resolved in the final order.
7. On July 30, 2014, the executive director of the TCEQ filed a motion to dismiss and remand because the parties had agreed during mediation to the water and sewer rates to be charged.
8. On July 31, 2014, Douglas filed a response to the motion to dismiss and remand filed by the executive director of the TCEQ. Douglas asserted that it was withdrawing from the settlement because, after signing the agreement, Douglas determined that the agreed rates would result in a negative cash flow. Douglas also asserted that it could not provide continuous and adequate service if it could not pay its bills.

9. On September 1, 2014, jurisdiction over this proceeding transferred by statute from the TCEQ to the Commission. As of that date, the executive director of the TCEQ and OPIC were no longer parties to the case, and staff of the public utility Commission of Texas (Commission Staff) became a party to the case.
10. On October 29, 2014, the Commission ordered that a limited evidentiary hearing was necessary to determine whether the settlement rates in this proceeding violate Texas Water Code § 13.183(a).
11. On September 2, 2015, before an evidentiary hearing was held, Douglas filed a written notice to withdraw its application.
12. The parties conferred on the amount of refunds that would be due to, and the amount of surcharges due from, customers charged the proposed rates before the application was withdrawn. A stipulation of the amounts of refunds and surcharges and to whom they should be paid was reached as shown in exhibit A to the PFD.
13. On August 10, 2015, Douglas ceased charging its application rates and returned to charging the pre-application rates that were in effect immediately prior to May 12, 2013.

Stipulations

14. As stipulated by the parties, it is reasonable that Douglas 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.
15. As stipulated by the parties, it is reasonable that Douglas refund the over-collection of fees charged by the City of Houston for its Groundwater Reduction Plan collected between May 12, 2013, and August 12, 2014.
16. As stipulated by the parties, it is reasonable that Douglas surcharge customers who underpaid to recover from those customers the revenues to which the utility was entitled under its pre-application rates.

17. The stipulated amounts of fees and overcharges and undercharges, including applicable interest, where applicable, are set forth below (and in exhibit A to the PFD):

Customer	Amount
Haverstock Hills Apartments	\$389,689.28
Customers with 2" meters	(\$18,044.52)
Customers with 1" meters	(\$836.30)
Customers with 5/8" meters	(\$72,474.73)
Total	\$298,333.73

18. The parties stipulate that the only issue of contested fact or law in this case concerns the period over which the refunds and/or surcharges in exhibit A to the PFD shall be made.

Refunds and Surcharges

19. It is reasonable that Douglas refund over-collections with interest as calculated in exhibit A to the PFD over a period of 12 months.
20. It is reasonable that Douglas surcharge under-collections as calculated in exhibit A to the PFD over a period of 24 months.

II. Conclusions of Law

1. Douglas is a water and sewer utility under 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 (83rd Legislature, Regular Session).
4. The Commission has jurisdiction over this proceeding pursuant to Tex. Water Code, chapter 13, subchapter F.
5. Douglas filed its March 12, 2013 application under the authority of Tex. Water Code § 13.187.

6. Douglas is authorized to withdraw its application subject to making appropriate refunds and surcharges as shown in exhibit A to the PFD.
7. Because the final order in this docket, after the withdrawal of the application, will result in rates less than Douglas proposed and collected during the pendency of the application, Douglas must refund over-collections with interest in the manner prescribed by the Commission pursuant to Tex. Water Code § 13.187(k).
8. Because the final rates for small meter customers will be less than Douglas charged during the pendency of this case, Douglas is entitled to surcharges from under-paying customers pursuant to Tex. Water Code § 13.187(k).

III. Ordering Paragraphs

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

1. Douglas's application for a water rate/tariff is withdrawn, effective September 2, 2015.
2. Effective August 10, 2015, Douglas shall charge the historic rates in place prior to its March 12, 2013, application.
3. Within 12 months after this Order is signed, Douglas shall make all refunds shown in exhibit A to the PFD.
4. Within 24 months after this Order is signed, Douglas shall collect all surcharges shown in exhibit A to the PFD.
5. Douglas shall file reports in *Compliance Reports for Final Order in Docket No. 42860 (Application of Douglas Utility Company to Change Water and Sewer Rate/Tariff in Harris County, Texas)*, Docket No. 46395, demonstrating it has completed the refunds and surcharges addressed in this Order. Within 30 days of completing the refunds, Douglas shall file its first compliance report. This report shall include any information necessary to show Douglas completely refunded the over-collected charges, including applicable interest, within the Commission-ordered refund period. Within 30 calendar days of completing the surcharge, Douglas shall file a second compliance report. This report shall

include any information necessary to show Douglas completely surcharged the under-collected charges within the Commission-ordered surcharge period. No later than 14 calendar days after the date of Douglas filing each of its compliance reports, Commission Staff shall file its recommendation on Douglas's compliance report. Responses to Commission Staff's recommendation shall be filed no later than 14 calendar days after the filing of Commission Staff's recommendation.

6. 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 7th day of October 2016.

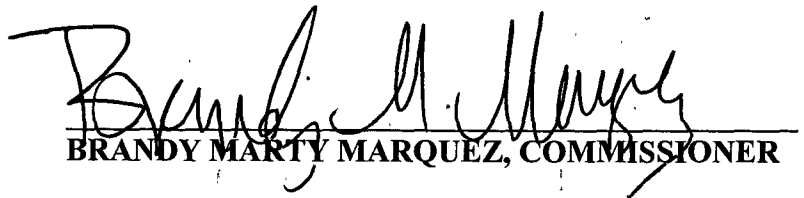
PUBLIC UTILITY COMMISSION OF TEXAS



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