

Control Number: 42860



Item Number: 1

Addendum StartPage: 0

House Bill (HB) 1600 and Senate Bill (SB) 567 83rd
Legislature, Regular Session, transferred the functions
relating to the economic regulation of water and sewer
utilities from the TCEQ to the PUC effective
September 1, 2014.

Bryan W. Shaw, Ph.D., P.E., *Chairman*
Toby Baker, *Commissioner*
Zak Covar, *Commissioner*
Richard A. Hyde, P.E., *Executive Director*



42860

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

February 26, 2013

The Honorable Penny A. Wilcov
State Office of Administrative Hearings
P.O. Box 13025
Austin, Texas 78711-3025

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2014 SEP -4 PM 2:06
PUBLIC UTILITY COMMISSION
FILING CLERK

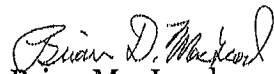
Re: Rule 11 Agreement in the Application of Douglas Utility Company to change its water and sewer rates, TCEQ Docket No. 2013-1735-UCR, SOAH Docket No. 582-14-1052.

Dear Judge Wilcov:

Please file the enclosed Rule 11 Agreement¹ with the record in this case. It memorializes and makes more specific the agreement the parties announced on the record at the January 23, 2014.

Please do not hesitate to contact me at (512) 239-0750 if you have any questions. Thank you for your attention to this matter.

Respectfully submitted,


Brian MacLeod
Staff Attorney

cc: Mailing list

¹ 30 TAC § 80.125 (TCEQ rule) and 1 TAC § 155.415 (SOAH rule).

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

APPLICATION OF DOUGLAS UTILITY § BEFORE THE STATE OFFICE
COMPANY, TO CHANGE ITS WATER §
AND SEWER RATES § OF
§
§ ADMINISTRATIVE HEARINGS

RULE 11 AGREEMENT

COME NOW the undersigned parties in the referenced case made pursuant to Rule 11 of the Texas Rules of Civil Procedure, 30 TAC § 80.125 (SOAH rule) and 1 TAC § 155.415 (TCEQ rule).

At the preliminary hearing held in this case on January 23, 2014, the parties announced in open court agreement to several issues. The SOAH court's Order No. 1 did not incorporate all of the agreements. Therefore, in the interest of clarity, the parties are filing this agreement to memorialize more concretely those agreements.

As indicated by their signatures below, the parties agree to the following:

- 1- Karl E. Wolff is admitted as a party representing Fountainview Homeowners association on the condition that he provides a statement from the Association naming him to be its representative at this hearing. Such authorization will be provided to all parties and the SOAH judge within two weeks of the signing of this agreement.
- 2- Douglas Utility Company ("utility") will provide an affidavit stating that the surcharge amendment to the application (ED-E) was mailed to all of the utility's customers. The affidavit will state the date on which such service was made. Such affidavit will be provided to all parties and the SOAH judge within two weeks of the signing of this agreement.
- 3- Exhibit ED-E should be admitted into evidence, and jurisdiction should be taken over the request for a surcharge included in exhibit ED-E on the condition that the utility will not be authorized to collect the surcharge as a proposed rate until the issuance of the PFD.
- 4- After the PFD is issued, the utility can charge the surcharge as part of the proposed rate in the first billing cycle after the date of issuance of the PFD, but only to the extent and in the amount authorized in the PFD. When the rate becomes final, the amount collected for the surcharge will be trued up with either refunds or surcharges as appropriate.

- 5- The parties agree that future hearings and the trial of the merits of this case shall be held in Austin, Texas.
- 6- The parties agree that they may service one-another by email, as described on page 6 of Order No. 1 in this case.

Agreed to the 17th day of February 2014:



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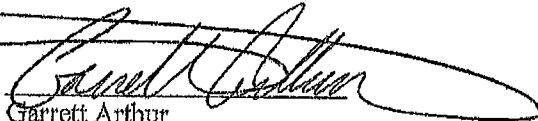
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Fountainview Homeowners' Association

5523 Mendota Lane
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kwolffsr@att.net

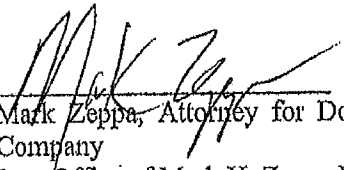


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- 5- The parties agree that future hearings and the trial of the merits of this case shall be held in Austin, Texas.
- 6- The parties agree that they may service one-another by email, as described on page 6 of Order No. 1 in this case.

Agreed to the ____ day of February 2014:

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Brian Macleod

From: Karl E Wolff Sr <kwolffsr@att.net>
Sent: Monday, February 24, 2014 4:25 PM
To: Brian Macleod
Cc: kwolffsr@att.net
Subject: Re: Clarifying the agreements

I have read the rule 11 agreement and concur with the agreement. Karl E. Wolff

From: Brian Macleod <brian.macleod@tceq.texas.gov>

To: "jwilson@mcginnislaw.com" <jwilson@mcginnislaw.com>; "kwolffsr@att.net" <kwolffsr@att.net>;

"markzeppa@austin.rr.com" <markzeppa@austin.rr.com>; Garrett Arthur <garrett.arthur@tceq.texas.gov>

Cc: Heidi Graham <heidi.graham@tceq.texas.gov>; Sheresia Perryman <sheresia.perryman@tceq.texas.gov>; Hollis Henley <Hollis.Henley@tceq.texas.gov>; Nicholas Ward <Nicholas.Ward@tceq.texas.gov>

Sent: Tuesday, February 18, 2014 10:47 AM

Subject: Clarifying the agreements

Dear Sirs,

Enclosed you will find a rule 11 agreement to file in the referenced case for the purpose of clarifying the agreements made in open court. I've spoken briefly to each of you about the need for this, and it should make everything clearer to all parties; however, please let me know if you believe any adjustments to the agreement are necessary. I have ordered and reviewed the CD recording of the preliminary hearing. The agreement captures everything I heard on the tape, but I have made a few adjustments to make clearer and workable the essence of those agreements. Should you want to review the CD yourselves, I can provide you with a copy of the CD. Please sign and return (by PDF attached to an email would be fine) the agreement at your earliest convenience so that it may be filed with the Court. If you have any questions, feel free to call me to discuss.

Brian MacLeod

Staff Attorney for the Executive Director of the TCEQ

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Mailing List
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TCEQ Docket No. 2013-1735-UCR
SOAH Docket No. 582-14-1052

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ADMINISTRATIVE HEARINGS:**

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