

Control Number: 42860



Item Number: 79

Addendum StartPage: 0

2015 JUL 27 AM 9:32

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

§
§
§
§
§

BEFORE THE STATE OFFICE
OF
ADMINISTRATIVE HEARINGS

**DOUGLAS UTILITY COMPANY'S RESPONSE TO COMMISSION
STAFF'S STATUS UPDATE AND REQUEST FOR INTERIM RATES**

COMES NOW Douglas Utility Company and provides this Response to Commission Staff's Status Update and Request for Interim Rates.

Douglas Utility Company (DUC) filed an application to change its rates, not having done so for many years, and having its largest customer, Equality Community Housing Corporation (Equality), pay much less than its true cost of service. The parties sought mediation through the State Office of Administrative Hearings (SOAH) and reached a tentative settlement. Before that settlement was affirmed by order of the Public Utility Commission (PUC), Douglas determined that the settlement rates would not cover its cost of services and could bankrupt the utility. DUC noticed SOAH and the Commission that it was withdrawing from the settlement. The case was then referred to the PUC for determination of whether the settlement rates should be imposed on the utility.

After discussion in its September meeting, the Commissioners, upon the motion of Commissioner Anderson, ordered the case remanded back to SOAH and that the settlement rates not be imposed before an evidentiary hearing was conducted on the issue of whether such rates would jeopardize the financial integrity of DUC.

The staff now seeks to impose the settlement rates, which are not based upon any evidence or accepted rate making methodology, without the hearing ordered by the Commissioners. DUC respectfully submits that the settlement rates cannot be imposed without a hearing or subsequent order of the Commissioners themselves. If new rates are to be imposed in this case, the Administrative Procedures Act requires that they be based upon an evidentiary hearing. There is no evidence before the presiding Administrative Law Judge upon which such rates can be based.

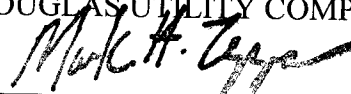
DUC has sought an abatement not to deny or create an unreasonable economic hardship on its customers but to ensure that its counsel can attend the hearing. No evidence has been submitted that an economic hardship exists on any DUC customer through the continued charge of the rates allowed by DUC under Texas Water Code 13.187. All that has been submitted is mere speculation by the staff that an unreasonable economic hardship exists based upon numbers that have no nexus with the economic resources of customers or the economic impact of the current, lawful rates on DUC.

For these reasons, DUC submits that the staff's interim rate request should be denied and that a full evidentiary hearing on the settlement rates and on the final rates be conducted before any change of rates is ordered by the PUC. It should be remembered that Commissioner Anderson's motion on the settlement rates required SOAH to prepare an evidentiary record and to send the issue of the next rates to be charged back to the Commissioners.

Dated: July 24, 2015

Respectfully submitted,

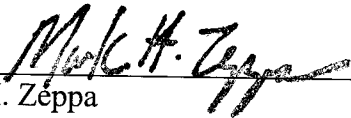
DOUGLAS UTILITY COMPANY



By: Mark H. Zepp
State Bar No. 22260100
Law Offices of Mark H. Zepp, PC
4833 Spicewood Springs Road #202
Austin, Texas 78759-8435
(512) 346-4011, Fax (512) 346-6847

CERTIFICATE OF SERVICE

I certify that on July 24, 2015, a copy of this documents will be served on all parties of record in accordance with P.U.C. Procedural Rule 22.74.



Mark H. Zeppa

Mailing List

Phil Haag McGinnis Lochridge, LLP 600 Congress Avenue, Suite 2100 Austin TX 78701 (512) 495-6015 (512) 495-6093 (Fax) phaag@mcginnislaw.com	Equality Community Housing Corporation
Karl E Wolff 5523 Mendota Lane Houston TX 77032 (713) 301-7149 kwolffsr@att.net	Fountainview Homeowners Association
Mandeep Chatha Legal Division Public Utility Commission 1701 N Congress Avenue, Suite 8-110 Austin, TX 78711 Phone: 512 936-7163 Fax: (512) 936-7268 Mandeep.chatha@puc.texas.gov	Public Utility Commission of Texas