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APPLICATION OF DOUGLAS § BEFORE THE STATE OFFICE  
UTILITY COMPANY TO CHANGE § PUBLIC UTILITY COMMISSION  
WATER AND SEWER RATE/TARIFF § OF FILING CLERK  
IN HARRIS COUNTY, TEXAS §  
§ ADMINISTRATIVE HEARINGS

**EQUALITY COMMUNITY HOUSING CORPORATION'S  
MOTION FOR SUPPORT OF INTERIM RATES &  
REQUEST FOR ESCROW ACCOUNT**

Equality Community Housing Corporation ("Equality") files this Motion for Support of the Public Utility Commission Staff's ("Staff") Request for Interim Rates, dated and filed on July 22, 2015, and requests the Public Utility Commission ("Commission") require Douglas Utility Company ("DUC") to deposit all amounts received from its imposed rate increase into an escrow account, and in support thereof, would show as set forth below.

**I. Background**

On September 1, 2014, the jurisdiction over DUC's notice of intent to change water and sewer service rates was transferred from the Texas Commission of Environmental Quality ("TCEQ") to this Commission. On October 29, 2014, the Commission concluded that a limited evidentiary hearing was necessary to determine if the settlement rates negotiated in the mediation hearing between DUC and Equality violated Texas Water Code section 13.183(a). On June 24, 2015, the State Office of Administrative Hearings ("SOAH") issued Order No. 11, granting a continuance and requiring a status report by September 1, 2015. On July 22, 2015, Staff filed a status update that:

- a. opposed an indefinite abatement or abatement of the proposed prehearing conference;

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- b. clarified that DUC is charging Customers the original proposed rates, and not the settlement rates, which result in annual revenues approximately \$84,000 higher than the settlement rates would generate;
- c. acknowledged that if the final decision of this case results with rates at or near the settlement rates, then a serious question may arise as to DUC's ability to refund ratepayers for the rates paid during the past two years; and
- d. requested the Administrative Law Judge ("ALJ") set interim rates at the settlement rates in the event the case is not scheduled for trial by the end of September 2015 pursuant to 16 TEX. ADMIN. CODE § 24.29(b).

Equality recognizes and sympathizes with the circumstances that have resulted in the delayed pendency of this case, however, Equality respectfully requests the ALJ follow Staff's recommendation by setting interim rates. Alternatively, Equality requests the ALJ, pursuant to 16 TEX. ADMIN. CODE § 24.30(a), require DUC to deposit all of the amounts generated by its imposed rate increase, from March 12, 2013 until the establishment of final rates in this case, into an interest-bearing escrow account.

## **II. Motion for Support of Staff's Request for Interim Rates and Request for Escrow Account**

DUC provides water and sewer service to approximately 200 customers ("Customers"). DUC filed the notice of proposed rates with TCEQ on March 12, 2013, and since such time, has continued charging Customers the proposed rates. However, on July 29, 2014, a mediation between the TCEQ executive director, the Office of Public Interest Counsel, the Fountainview Homeowners Associate, and Equality resulted in revised water and sewer service rates that DUC has abstained from implementing.

As summarized by Staff, the proposed rates, as compared to the mediated rates, over-bill each DUC Customer approximately \$34 per month and result in annual revenues approximately \$84,000 higher than the settlement rates would generate. If the Commission approves of rates near those of the settlement rates, and requires such rates to be effective as of the original effective date of rates, the total over collections would be approximately \$210,000 and each Customer will be entitled to an average refund of approximately \$1,050.00.

Section 24.30 of the Commission's Rules state: "During the pendency of its rate proceeding, a utility may be required to deposit all or part of the rate increase into an interest-bearing escrow account with a federally insured financial institution, under such terms and conditions as determined by the Commission." 16 TEX. ADMIN. CODE § 24.30(a).

Equality asserts the escrowing of proceeds in this case is justified for the protection of Customers. DUC alleged that the increased rates were necessary to "maintain the utility's financial integrity, to pay operating expenses and taxes and to finance needed capital improvements." That is, DUC alleges it could not continue to sufficiently operate without the rate increase. *See Douglas Utility Company Answer to Executive Directors First Requests for Disclosure, Interrogatories, and Requests for Production to Douglas Utility Company at 2 (Sept. 4, 2014).* DUC also alleged that the mediated rates would have put DUC "into a negative cash flow situation." *See Douglas Utility Company Response to Motion to Dismiss and Remand at 1 (Sept. 4, 2014).* Although Equity disputes DUC's request, DUC's allegation suggests that it has little free capital space.

Furthermore, as the Commission continues processing this case, the monetary amount DUC will be responsible to reimburse each Customer, if the final rates are near those of the settlement rates, continues to increase, complicating DUC's ability to make the reimbursement.

Therefore, in an effort to prevent DUC from being unable to provide adequate reimbursement to Customers, Equality requests the Commission require DUC to deposit all of the rate increase from March 12, 2013 until the establishment of final rates, into an interest-bearing escrow account.

**Request for Relief**

For the foregoing reasons, Equality Community Housing Corporation respectfully requests that the ALJ either continue processing this docket or establish interim rates at the settlement rates until a final decision is reached in this docket. Alternatively, Equality Community Housing Corporation respectfully requests the ALJ to require Douglas Utility Company to deposit all of the amounts generated by its imposed rate increase from March 12, 2013 until the establishment of final rates in this case into an interest-bearing escrow account.

Respectfully submitted,

By: 

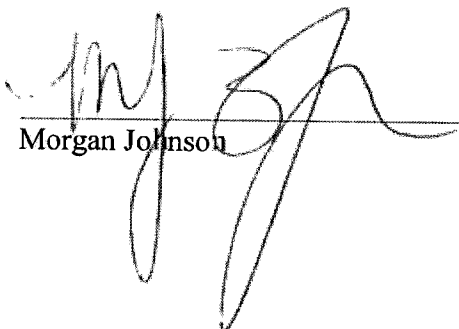
Phil Haag (SBN 08657800)  
phaag@mcginnislaw.com  
Carl R. Galant (SBN 24050633)  
cgalant@mcginnislaw.com  
MCGINNIS LOCHRIDGE  
600 Congress Avenue, Suite 2100  
Austin, Texas 78701  
(512) 495-6000  
Fax (512) 495-6093

**ATTORNEYS FOR EQUALITY  
COMMUNITY HOUSING 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 20th day of August, 2015.

Mark Zeppa 4833 Spicewood Springs Rd., #202 Austin, TX 78759 512 346-4011 attorney for Douglas Utility Company	Fax: (512) 346-6847 E-mail: markzeppa@austin.rr.com mark@zeppalaw.com
Karl E. Wolff Fountainview Homeowners Association 5523 Mendota lane Houston, TX 77032 713-301-7149 kwolffsr@att.net	E-mail: kwolffsr@att.net
Mandeep Chatha Legal Division Public Utility Commission 1701 N. Congress Avenue, Suite 8-110 Austin, TX 78711	Fax: (512) 936-7268 E-Mail: Mandeep.chatha@puc.texas.gov

  
Morgan Johnson