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SOAH DOCKET NO. 473-14-5140  
DOCKET NO. 42860

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

BEFORE THE STATE OFFICE OF  
PUBLIC UTILITY COMMISSION  
ADMINISTRATIVE HEARINGS

COMMISSION STAFF'S RESPONSE TO SOAH ORDER NO. 14

COMES NOW the Staff (Staff) of the Public Utility Commission of Texas (Commission), representing the public interest, and files this Response to SOAH Order No. 14.

I. INTRODUCTION

On March 12, 2013, Douglas Utility Company (DUC) filed with the Texas Commission of Environmental Quality (TCEQ) a notice of intent to change rates for water and sewer service. DUC's proposed rates went into effect on May 12, 2013. On July 29, 2014, DUC, the executive director of the TCEQ, the Office of Public Interest Counsel, the Fountainview Homeowners Association (Fountainview), and Equality Community Housing Corporation (Equality) participated in mediation at the State Office of Administrative Hearings (SOAH) and agreed on new water and sewer service rates. On July 31, 2014, DUC asserted that it was withdrawing from the settlement because, after signing the agreement, DUC determined that the agreed rates would result in a negative cash flow. DUC also asserted that it could not provide continuous and adequate service if it cannot pay its bills.

On September 1, 2014, jurisdiction over this proceeding transferred by statute from the TCEQ to this Commission. On October 29, 2014, the Commission concluded that a limited evidentiary hearing was necessary to determine whether or not the settlement rates in this proceeding violate section 13.183(a) of the Texas Water Code (TWC).<sup>1</sup> If the Commission concludes that the settlement rates violate that section, this matter would then have to proceed to a hearing to establish legal rates for DUC. If the Commission concludes otherwise, it may set rates based upon the settlement agreement of the parties.<sup>2</sup> On June 24, 2015, SOAH Order No. 11 was issued, granting a continuance and requiring a status report by September 1, 2015. On July 22, 2015, Staff filed a request for interim rates pursuant to 16 Tex. Admin. Code § 24.29(b)

<sup>1</sup> Order on Appeal of Order No. 3 (Oct. 29, 2014).

(TAC). On July 28, 2015, SOAH Order No. 12 was issued, setting September 1, 2015 as the date for the pre-hearing conference. At the pre-hearing conference on September 1, 2015, DUC stated its intention to withdraw its rate application. DUC subsequently filed its written notice to withdraw on September 2, 2015. On September 22, 2015, SOAH Order No. 14 was issued, setting a procedural schedule for determining refunds and surcharges. DUC filed a per-account reconciliation of all over and under-billings on September 30, 2015. The deadline for Staff to file a recommendation on the refund information filed by DUC and propose an additional procedural schedule for this proceeding, if necessary is October 14, 2015. Therefore, this pleading is timely filed.

## II. DUC'S COMPLIANCE

On September 30, 2015, DUC filed its Response to SOAH Order No. 14. As discussed below, the materials and information provided by DUC are inadequate to analyze or verify the potential refunds due to customers. Staff is in the process of requesting additional information from DUC in order to make a final recommendation on the proposed refund. As set out below, Staff proposes an additional procedural schedule to address the reconciliation and refund.

**A. DUC shall calculate and fully account for all sums charged pursuant to the application, including the difference between charges made under the proposed rates and charges that would have been made under the historic rates.**

DUC's Response is a per customer account reconciliation of the billed proposed rates and the original rates. The filing included a spreadsheet listing each customer by account number and reconciling the rates from June 2013 to August 2015. The following list explains what each column contained.

1. Month: This column lists the dates that the proposed rates were billed (June 2013 through August 2015).
2. Consumption: Staff **assumes** this column presumably lists consumption by per thousand gallons. However, this column is only populated with whole numbers and therefore cannot show actual gallons metered.

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<sup>2</sup> *Id.* at 5.

3. Original Rate: This column lists (the original water and sewer base rate) plus (the original volume water rate times the consumption) plus (the original volume sewer rate times consumption) times 1.01.
4. Billed/Proposed Rate: This column lists (the billed/proposed water and sewer base rate) plus (the billed volume water rate times consumption) plus (the billed/proposed volume sewer rate times consumption) times 1.01 plus (monthly COH/GRP)
5. Late/Penalty: Staff **presumes** this column lists any late or penalty fees.
6. Collected: Staff **presumes** this column lists the total amount collected from each customer.

DUC's per account reconciliation also included a total reconciled credit calculated as: ((Total Collected) minus (Total Late/Penalty)) minus Total Original Rate.

On October 9, 2015, Staff filed its Second set of Requests for Information (RFI's) requesting DUC to provide the excel spreadsheet with all links and formulas intact; as several worksheets, including the summary tab, have broken links. Staff also requested DUC provide meter readings for each customer account as well as a breakdown showing which accounts in the excel spreadsheet are in the following categories: residential, commercial, and apartments.

The information requested by Staff is necessary to review the reasonableness and accuracy of the proposed refunds.

**B. DUC shall also account for the over-billing of the fees for the GRP.**

DUC provided two columns in its spreadsheet addressing GRP fees per account reconciliation. Both columns were under the heading COH/GRP. One column listed the months June 2013 through February 2015. The second column listed amounts, which Staff presumes to be the amount of the GRP fee charged per month.

Staff needs additional information to address the overbilling of GRP fees. Staff proposes to seek the additional information through discovery.

**C. All balances shall accrue compound interest monthly at the Commission-approved interest rate for overbilling.**

DUC failed to include the appropriate Commission-approved interest rate for the overbilling. Staff's second set of RFI's also addressed this issue. DUC should use the appropriate interest rate for each year the proposed rates were in effect. For example, all over-billings during 2013 should use the 2013 Commission-approved interest rate and all over-billings for 2014 should use the 2014 Commission-approved interest rate. The 2013 Commission-approved interest rate for overbilling is 0.21%.<sup>3</sup> The 2014 Commission-approved interest rate for overbilling is 0.15%.<sup>4</sup> The 2015 Commission-approved interest rate for overbilling is 0.12%.<sup>5</sup>

**III. COMPLIANCE WITH ORDER NO. 14 AND PENDING ISSUES**

Staff is unable to make a recommendation on DUC's compliance with Order No. 14 due to the unresolved issues discussed above. In addition to the information requested through Staff's Second set of RFI's, Staff also requests DUC to affirm or clarify the assumptions above as well as provide a running account balance in a working excel spreadsheet with all formulas intact.

Staff also requests the ALJ order DUC to stop billing customers at the proposed rates. Based upon the information provided by DUC, it appears that DUC stopped billing customers proposed rates as of the October 1, 2015 billing date; however, Staff requests this information be formalized in the ALJ's next Order. Additionally, Order No. 14 did not address the time period in which DUC would be required to issue refunds once the accounts are resolved.

**IV. Proposed Procedural Schedule**

Staff recommends the following procedural schedule.

<b>Event</b>	<b>Date</b>
Deadline for DUC to submit additional information as requested by Staff	October 30, 2015
Deadline for Staff to file a recommendation on the supplemental refund information filed by DUC and propose an additional procedural	November 17, 2015

<sup>3</sup> Setting Interest Rates for Calendar Year 2013, Project No. 40019, Order (Dec. 5, 2012).

<sup>4</sup> Setting Interest Rates for Calendar Year 2014, Project No. 41094, Order (Dec. 3, 2013).

<sup>5</sup> Setting Interest Rates for Calendar Year 2015, Project No. 42079, Order (Dec. 4, 2014).

schedule for this proceeding, if necessary	
Deadline for DUC and other parties to file a response to Staff's recommendation	November 30, 2015
Deadline for Staff to file its final recommendation	December 8, 2015

**V. CONCLUSION**

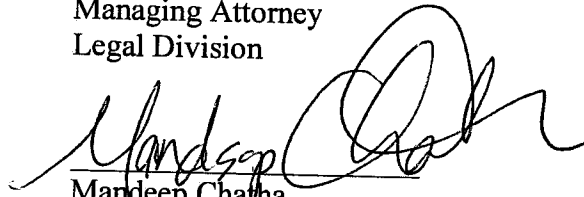
Staff respectfully requests an Order be issued consistent with this filing.

**Dated: October 14, 2015**

Respectfully Submitted,

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 Division Director  
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 Managing Attorney  
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**CERTIFICATE OF SERVICE**

I certify that a copy of this document will be served on all parties of record on this October 14, 2015 in accordance with 16 TAC § 22.74.

  
Mandeep Chatha