

Control Number: 43922



Item Number: 20

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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

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ATTORNEYS AND COUNSELORS

100 CONGRESS AVENUE, SUITE 1300
AUSTIN, TEXAS 78701-2744
512-435-2300

FACSIMILE 512-435-2360
FACSIMILE 512-435-2389

JOHN J. CARLTON
(512) 435-2308
jcarlton@abaustin.com

May 21, 2010

VIA FACSIMILE (512) 475-4994

Richard Wilfong
Administrative Law Judge
State Office of Administrative Hearings
300 W. 15th Street, Suite 502
Austin, Texas 78701

Re: SOAH Docket No. 582-09-4288; TCEQ Docket No. 2009-0505-UCR; Application of Double Utilities Company, Inc. to Change Water Rate Tariff for Service in Hill, Palo Pinto, and Johnson Counties

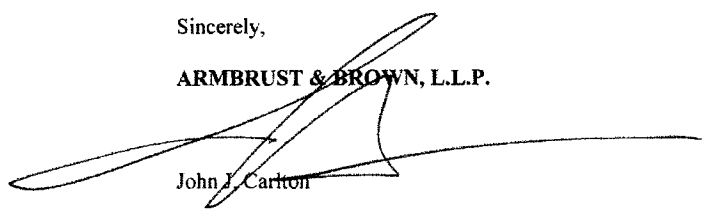
Dear Judge Wilfong:

Pursuant to Order No. 4, enclosed for filing in the above referenced case is Double Diamond Utilities Co.'s Response to White Bluff Subdivision Ratepayers' Objections.

Thank you for your attention to this matter. If you have any questions, please do not hesitate to contact me.

Sincerely,

ARMBRUST & BROWN, L.L.P.



John J. Carlton

Enclosure

cc: Parties of Record

TEXAS
COMMISSION ON
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SOAH DOCKET NO. 582-09-4288

TCEQ DOCKET NO. 2009-0505-UCR

APPLICATION OF DOUBLE
DIAMOND UTILITIES COMPANY,
INC. TO CHANGE WATER RATE
TARIFF FOR SERVICE IN HILL, PALO
PINTO, AND JOHNSON COUNTIES

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BEFORE THE STATE OFFICE

OF

ADMINISTRATIVE HEARINGS

**DOUBLE DIAMOND UTILITIES CO.'S RESPONSE TO
WHITE BLUFF SUBDIVISION RATEPAYERS' OBJECTIONS**

TO THE HONORABLE ADMINSTRATIVE LAW JUDGE:

COMES NOW, Double Diamond Utilities, Co. ("DDU") and files its response to White Bluff Subdivision Ratepayers' Objections to Double Diamond Utility Company's Direct Case in the above-styled matter.

**I.
Introduction**

DDU filed its prefiled testimony and exhibits on March 1, 2010, in accordance with the procedural schedule established in Order No. 2 issued by the Administrative Law Judge. Objections to all prefiled testimony and exhibits were due on May 7, 2010, 67 days after DDU's testimony and exhibits were filed. White Bluff Subdivision Ratepayer's ("WBSR") filed their objections at then end of business on May 7, 2010. Responses to Objections are due by 3:00 pm on May 21, 2010.

**II.
Response**

WBSR's objections are general in nature and do not specifically cite any testimony or evidence offered by DDU. A general objection is no objection at all. *Murphy v. Waldrip*, 692, S.W.2d 584, 591 (Tex.App.—Fort Worth 1985, writ ref'd n.r.e.). Under the Texas Rules of Evidence, which apply to this case, and establishes Texas case law, a party must make a specific

objection to evidence. See TRE 103(a)(1); Sciarilla v. Osborne, 946 S.W.2d 919, 924 (Tex.App.—Beaumont 1997, pet. denied.); and McCormick v. Texas Commerce Bank, 751 S.W.2d 887, 890 (Tex. App.—Houston [14th Distr.] 1988, writ denied). A specific objection enables the court to understand the challenge, permits the court to make an informed ruling, and gives the party offering the evidence the opportunity to remedy the defect and offer it again in admissible form. McKinney v. National Un. Fire Ins. Co., 772 S.W.2d 72, 74 (Tex. 1989). A general objection to a unit of evidence as a whole, which does not point out specifically the portion objected to, is insufficient. See Cherokee Water Co. V. Gregg County Appraisal Dist., 773 SW.2d 949 (Tex.App.—Tyler 1989), *aff'd*, 801 S.W.2d 872 (Tex. 1990).

DDU has no opportunity to respond to the general nature of the objections filed by WBSR and no opportunity to remedy any defect because DDU does not know the specific testimony or exhibits to which WBSR objects. Consequently WBSR's general objections should be overruled, and DDU's testimony should be admitted into the record in its entirety.

III. Prayer

DDU requests that WBSR's Objection to DDU's Direct Case be overruled in their entirety and that DDU's prefiled testimony and exhibits be admitted into the record in their entirety because no other party filed objections to DDU's prefiled testimony and exhibits. If WBSR's objections are not overruled in their entirety, DDU requests that the Administrative Law Judge order WBSR to file specific objections and allow DDU at least ten days to respond.

Respectfully submitted,



~~JOHN J. CARLTON~~

State Bar No. 03817600

ARMBRUST & BROWN, L.L.P.

100 Congress Avenue, Suite 1300

Austin, Texas 78701-2744

(512) 435-2300 – Telephone

(512) 436-2360 – Telecopy

**ATTORNEY FOR DOUBLE DIAMOND
UTILITIES CO.**

CERTIFICATE OF SERVICE

By my signature above, I hereby certify that a true and correct copy of the foregoing was delivered via facsimile, via first class mail, via electronic mail or by hand delivery on the 21st day of May, 2010 to the following:

Shari Heino
Mathews & Freeland, L.L.P.
327 Congress Avenue, Suite 300
Austin, Texas 78701

Philip Day
Representative for the Cliffs Utility
Committee
90 Glen Abbey Drive S
Graford, Texas 76449

Jack D. McCartney and
John T. Bell
Representatives for the Retreat Homeowners
Group
6300 Annahill Street
Cleburne, Texas 76033-8957

Eli Martinez (MC-103)
Office of Public Interest Council
Texas Commission on Environmental
Quality
P. O. Box 13087
Austin, Texas 78711-3087

Stephanie Skogen (MC-173)
Staff Attorney
Texas Commission on Environmental
Quality
P. O. Box 13087
Austin, Texas 78711-3087

LaDonna Castañuela (MC-105)
Chief Clerk
Texas Commission on Environmental
Quality
P. O. Box 13087
Austin, Texas 78711-3087

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