



Control Number: 43922



Item Number: 27

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., *Chairman*
Buddy Garcia, *Commissioner*
Carlos Rubinstein, *Commissioner*

CCN ⁴³⁹²² / 18087 / 50
Blas J. Coy, Jr., *Public Interest Counsel*

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2014 DEC -9 AM 9:54
TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
PUBLIC UTILITY CLERK
Protecting Texas by Reducing and Preventing Pollution

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY

2010 APR 20 PM 4:00
CHIEF CLERKS OFFICE

April 20, 2010

The Honorable Richard R. Wilfong
Administrative Law Judge
State Office of Administrative Hearings
300 West Fifteenth Street, Suite 502
Austin, Texas 78701

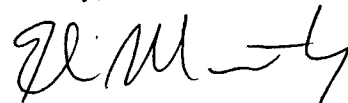
Re: SOAH Docket No. 582-09-4288; TCEQ Docket No. 2009-0505-UCR *Application of Double Diamond Utilities Company, Inc. to change water rate tariff for service in Hill, Palo Pinto, and Johnson Counties, Before the State Office of Administrative Hearings.*

Dear Judge Wilfong:

This letter is to inform you that I am now the attorney of record for the Office of Public Interest Counsel (OPIC) in the above-referenced matter. By copy of this letter, I am notifying all parties of the same.

Thank you for your attention to this matter. Should you have any questions, please call me at (512) 239-3974.

Sincerely,



Eli Martinez
Assistant Public Interest Counsel

cc: Service List

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JAN 17 2011

TCEQ
CENTRAL FILE ROOM

REPLY TO: PUBLIC INTEREST COUNSEL, MC 103 P.O. Box 13087 AUSTIN, TEXAS 78711-3087 512-239-6363

P.O. Box 13087

Austin, Texas 78711-3087

512-239-1000

Internet address: www.tceq.state.tx.us

MAILING LIST
DOUBLE DIAMOND UTILITIES COMPANY, INC.
SOAH DOCKET NO. 582-09-4288
TCEQ DOCKET NO. 2009-0505-UCR

The Honorable Richard Wilfong
Administrative Law Judge
State Office of Administrative Hearings
P.O. Box 13025
Austin, Texas 78711-3025
Tel: 512/475-4993 Fax: 512/475-4994

Shari Heino
Mathews & Freeland, LLP
327 Congress Avenue, Suite 300
Austin, Texas 78701
Tel: 512/404-7800 Fax: 512/703-2785
*Representing: White Bluff Subdivision
Ratepayers*

John J. Carlton
Armbrust & Brown, LLP
Attorneys and Counselors
100 Congress Avenue, Suite 1300
Austin, Texas 78701-2744
Tel: 512/435-2300 Fax: 512/435-2360
Double Diamond Utilities Co.

Philip Day
90 Glen Abbey Dr. S.
Graford, Texas 76449
Tel: 940/779-9296
Representing: The Cliffs Utility Committee

Jack D. McCartney
John T. Bell
6300 Annahill St.
Cleburne, Texas 76033
Tel: 817/645-4392
Representing: The Retreat Homeowners Group

Stefanie Skogan, Staff Attorney
TCEQ Environmental Law Division MC 173
P.O. Box 13087
Austin, TX 78711-3087
Tel: 512/239-0575 Fax: 512/239-0606

Docket Clerk
TCEQ Office of Chief Clerk MC 105
P.O. Box 13087
Austin, TX 78711-3087
Tel: 512/239-3300 Fax: 512/239-3311

CHIEF CLERKS OFFICE

2010 APR 20 PM 4:00

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY

MATHEWS & FREELAND, L.L.P.

ATTORNEYS AT LAW

JIM MATHEWS
JOE FREELAND

P.O. Box 1568
AUSTIN, TEXAS 78767-1568

(512) 404-7800
FAX: (512) 703-2785

March 29, 2010

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

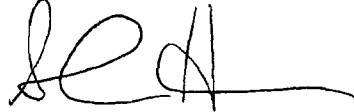
Re: SOAH Docket No. 582-09-4288; TCEQ Docket No. 2009-0505-UCR;
Application of Double Utilities Company, Inc. to Change Water Rate Tariff for
Service in Hill, Palo Pinto, and Johnson Counties

Dear Judge Wilfong:

Pursuant to Order No. 4, enclosed for filing in the above referenced case are the
Prefiled Testimony and Exhibits of Nelisa Heddin on behalf of the White Bluff
Subdivision Ratepayers.

Sincerely,

MATHEWS & FREELAND



Shari Heino

Enclosures

cc: TCEQ Chief Clerk
John Carlton
Stefannie Skogen
James B. Murphy
Phillip Day
Jack D. McCartney & John T. Bell

CHIEF CLERKS OFFICE

2010 MAR 29 PM 3:43

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY

ARMBRUST & BROWN, L.L.P.

ATTORNEYS AND COUNSELORS

100 CONGRESS AVENUE, SUITE 1300
AUSTIN, TEXAS 78701-2744
512-435-2300FACSIMILE 512-435-2360
FACSIMILE 512-435-2399JOHN J. CARLTON
(512) 435-2308
jcarlton@abrown.com

December 14, 2009

**VIA EMAIL: sskogen@tceq.state.tx.us
& VIA FIRST CLASS MAIL**Stefanie Skogen
Staff Attorney MC-173
Texas Commission on Environmental Quality
Environmental Law Division
P.O. Box 13087
Austin, Texas 78711-3087TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY
2009 DEC 15 AM 8:59
CHIEF CLERKS OFFICE

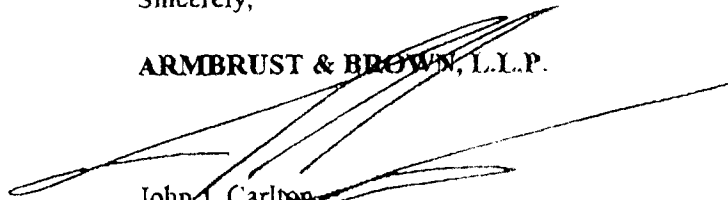
Re SOAH Docket No. 582-09-4288; TCEQ Docket No. 2009-0505-UCR; Application of Double Utilities Company, Inc. to Change Water Rate Tariff for Service in Hill, Palo Pinto, and Johnson Counties

Dear Stefanie

Enclosed please find Double Diamond Utilities, Co.'s Objections and Responses to the Executive Director's Second Interrogatories, Requests for Production, and Requests for Admissions.

If you have any questions, please do not hesitate to contact me.

Sincerely,

ARMBRUST & BROWN, L.L.P.John J. Carlton
Attorney for Double Diamond Utilities, Co.

Enclosure

cc: TCEQ Chief Clerk (via fax: 512.239.3311)
Shari Heino (via email & first class mail)
James B. Murphy (via email & first class mail)
Phillip Day: (via email & first class mail)
Jack D. McCartney & John T. Bell (via email & first class mail)**RECEIVED**

JAN 17 2010

TCEQ
CENTRAL FILE ROOM

**SOAH DOCKET NO. 582-09-4288
TCEQ DOCKET NO. 2009-0505-UCR**

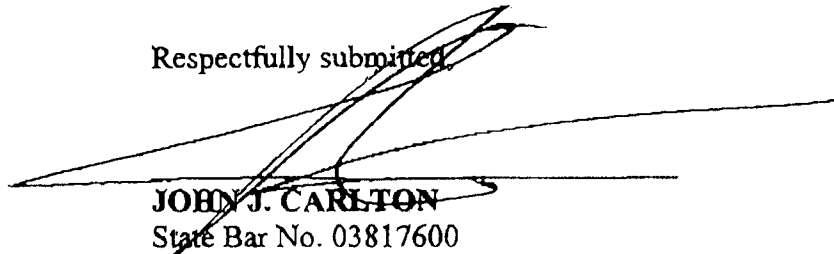
**APPLICATION OF DOUBLE § BEFORE THE STATE OFFICE
DIAMOND UTILITIES COMPANY, §
INC. TO CHANGE WATER RATE § OF
TARIFF FOR SERVICE IN HILL, §
PALO PINTO, AND JOHNSON §
COUNTIES § ADMINISTRATIVE HEARINGS**

**DOUBLE DIAMOND UTILITIES COMPANY, INC.'S OBJECTIONS AND RESPONSES
TO THE EXECUTIVE DIRECTOR'S SECOND INTERROGATORIES, REQUESTS
FOR ADMISSIONS AND REQUESTS FOR PRODUCTION**

TO: The Executive Director, by and through its attorney of record, Stefanie Skogen, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711

COMES NOW, Double Diamond Utilities Co. ("DDU"), Applicant herein, and files this its response to the Executive Director's ("ED") Second Interrogatories, Requests for Admissions, and Requests for Production.

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 COMPANY, INC.**

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY
2009 DEC 15 AM 8:59
CHIEF CLERKS OFFICE

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was delivered via facsimile, via first class mail or by hand delivery on the 14th day of December, 2009 to the following:

Texas Commission On Environmental Quality
Docket Clerk
Office Of The Chief Clerk
Texas Commission On Environmental Quality
P.O. Box 13087
Austin, Texas 78711
Fax: (512) 239-3311

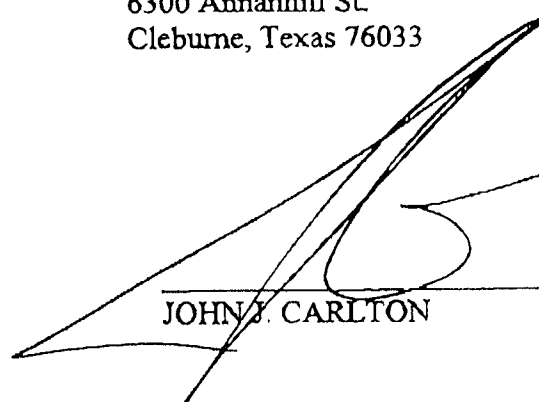
Office of Public Interest Counsel
James Murphy
Texas Commission on Environmental Quality
Office of Public Interest Counsel, MC-103
P.O. Box 13087
Austin, Texas 78711
Fax: (512) 239-6377

Stefanie Skogen
Staff Attorney, MC 173
Environmental Law Division
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711
Fax: (512) 239-0606

The Cliffs Utility Committee
Phillip Day
Retired
90 Glen Abbey Dr. S.
Graford, Texas 76449

White Bluff Subdivision Ratepayers
Shari Heino
Matthews & Freeland, L.L.P.
327 Congress Ave., Suite 300
Austin, Texas 78701
Fax: (512) 703-2785

The Retreat Homeowners Group
Jack D. McCartney
and John T. Bell, Retired
6300 Annanhill St.
Cleburne, Texas 76033

CHIEF CLERKS OFFICE
2009 DEC 15 AM 8:59
TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

JOHN J. CARLTON

OBJECTIONS TO INSTRUCTIONS AND DEFINITIONS

1. DDU objects to the ED's definitions and instructions to the extent that they purport to place duties and requirements on DDU that exceed those required by the Texas Rules of Civil Procedure in violation of Rule 192.3.
2. DDU objects to the time and place of production as specified by ED. DDU will produce non-objectionable, non-privileged documents for inspection and copying at a mutually agreed upon time at the offices of Armbrust & Brown, L.L.P., 100 Congress Avenue, Suite 1300, Austin, Texas 78701.
3. DDU objects to the ED's entire definition of "DDU" on the grounds that it is overly broad and exceeds the permissible scope of discovery allowed by the Texas Rules of Civil Procedure in violation of Rule 192.3. ED has defined "DDU" to include attorneys and representatives of DDU, which in the context of the requests calls for information that is shielded from discovery under the work product, attorney work product or attorney-client communication privileges. To the extent privileged documents are requested, DDU asserts its privileges and notifies ED that such privileged documents and responses, if any, will be withheld.

INTERROGATORIES

Interrogatory No. 1: Please provide the number of sewer connections at The Cliffs, The Retreat, and White Bluff at the end of the test year, listed individually by system.

Response: The Cliffs – 182; The Retreat – 46; White Bluff - 490

Interrogatory No. 2: For the employees listed in your response to Interrogatory No. 4 in the Executive Director's (ED's) first round of discovery questions to you, please indicate the date of hire and date of termination for each employee and the type of license held by any licensed operators on the employee list, including whether the license is for water, sewer, or both.

Response:

Employee	Date of Hire	Date of Termination	License
Terry Hafer	10/9/2006	5/1/2007	
Harry Shearhouse	5/29/2007	11/3/2008	Water – A, Water – CSI, Water – BPAT, Wastewater – Class III
Pat Gibson	2/9/1999	Currently Employed	
Monica Leon	6/28/2004	5/7/2008	
Donald Lewis	11/7/2001	Currently Employed	Surface Water – C, Wastewater Treatment – Class C
Robert Bailey	8/7/2006	2/12/2007	
Timothy Leggett	9/13/2006	4/13/2007	
Donald Harris	4/23/2007	6/25/2007	
Michael Russell	5/7/2007	5/9/2008	
Raymond Hyden	6/26/2007	5/9/2008	
James Lyles	8/18/2006	8/31/2007	
John Henderson	8/13/2007	10/29/2007	

Employee	Date of Hire	Date of Termination	License
Lane Westbrooks	10/12/2007	Currently Employed	Ground Water – C, Wastewater Treatment – Class D
Jack Gore	11/5/2007	11/19/2007	
John Holzmeir	12/27/2007	1/11/2008	
Richard Zint	2/14/2002	Currently Employed	Ground Water – C, Wastewater Treatment – Class C
Kim Harston	3/22/2005	Currently Employed	
Benjamin Austin	8/30/2006	5/30/2008	
Cody Clinard	9/25/2006	4/8/2009	
Geoffrey Young	7/10/2007	10/11/2007	

Interrogatory No. 3: For the employees listed in your response to Interrogatory No. 4 in the ED's first round of discovery questions to you that worked for the Rock Creek water and/or sewer systems, please indicate the names of the employees, the number of hours worked for each of those systems, the applicable accounting classifications, and the amount paid to those employees for their work at those systems that was included in the cost of service listed in your application.

Response:

Employee	Number of Hours Worked	Accounting Classification	Amount Paid
Terry Hafer	0	N/A	0
Harry Shearhouse	0	N/A	0
Pat Gibson	0	N/A	0
Monica Leon	0	N/A	0
Donald Lewis	0	N/A	0

Employee	Number of Hours Worked	Accounting Classification	Amount Paid
Robert Bailey	0	N/A	0
Timothy Leggett	0	N/A	0
Donald Harris	0	N/A	0
Michael Russell	0	N/A	0
Raymond Hyden	0	N/A	0
James Lyles	0	N/A	0
John Henderson	0	N/A	0
Lane Westbrooks	0	N/A	0
Jack Gore	0	N/A	0
John Holzmeir	0	N/A	0
Richard Zint	0	N/A	0
Kim Harston	0	N/A	0
Benjamin Austin	0	N/A	0
Cody Clinard	0	N/A	0
Geoffrey Young	0	N/A	0

Interrogatory No. 4: As a follow-up to Interrogatory No. 5 in the ED's first round of discovery questions to you, please explain what "DDC" stands for and exactly what work Terry Hafer and James Lyle performed for "DDC 3210-Construction" and "DDC-Utilities."

Response: "DDC" stands for Double Diamond Construction. Terry Hafer and James Lyle performed no work for "DDC 3210-Construction" and performed all their work for "DDC-Utilities."

Interrogatory No. 5: Please provide a detailed calculation on how you arrived at Double Diamond-Delaware Inc.'s (DDD's) capital structure of 50.47% debt and 49.52% equity in your response to Interrogatory No. 6 in the ED's first round of discovery questions to you.

Response:

Double Diamond Delaware Debt		
Notes Payable	113,897,749	
Notes Payable to Affiliates	100,000	
Total Debt	113,997,749	50.47%
Total Shareholders Equity	111,852,358	49.53%
Total Debt and Equity	225,850,107	100.00%

Interrogatory No. 6: Please explain why you pay an interest rate of 10% for advances while other DDD affiliates, primarily property owners' associations (POA), pay 0% interest for advances, as stated in Attachment 8 of your application, page 17, under the heading "Note H - Related-Party Transactions."

Response: DDD does not generally charge interest on intercompany transfers between Double Diamond-Delaware, Inc., and subsidiaries. The interest income and expense would cancel each other out when the subsidiaries are consolidated into Double Diamond-Delaware. Consolidation rules generally state that intercompany income and expense should be eliminated when consolidating subsidiaries into a parent company.

POA's are not "affiliates" as defined by the Texas Water Code, §13.002(2) and are considered "associated non-profit corporations" by DDD, as listed in Bates documents numbered 00044-00047 previously produced. Interest has not been charged to the POA's for the following reasons.

1. The POA's are associated by common control and not by ownership.
2. The POA's are non-profit corporations.
3. Double Diamond is not charging interest to the POA's for the reasons stated in 1 and 2. Additionally, if interest was charged to the POA's this would become an added expense that the POA dues would have to cover. Depending on the interest amount POA dues would probably have to be raised to cover this added expense.

Double Diamond Utilities Co. pays interest on amounts paid by Double Diamond Delaware and its other subsidiaries for capital improvements and operating losses.

Interrogatory No. 7: Please list the names of all DDD affiliates that pay less than 10% interest on loans and/or advances from DDD or other DDD affiliates, as well as the terms and amounts of those loans and/or advances.

Response: There are no such loans or advances, other than those to DDU.

Interrogatory No. 8: As a follow-up to your response to Interrogatory No. 10 in the ED' s first round of discovery questions to you, please explain how you calculated or allocated the expenses reported in your TCEQ Water and Wastewater Utilities Annual Report (AR) for 2007 between the water and sewer systems if you do not maintain a separate chart of accounts for the water and sewer systems. If you allocated the water and sewer expenses in your 2007 AR, please provide the allocation percentage(s).

Response: The 2007 AR report was prepared by Harry Shearouse, who was the Utilities Director at that time. His numbers were taken from the financials ending December 30, 2007. All categories are based on a 55/45 split between water and sewer with the exception of the following , which were based on actuals:

Repairs/Maintenance/Supplies
Miscellaneous
Regulatory Expenses

In the process of checking the numbers, there is one that DDU found to be in error. It appears that the total for Utilities (electricity) was transposed. The correct number should be \$160,577.

REQUESTS FOR PRODUCTION

Request for Production No. 1: Please provide documentation to support your response to Interrogatory No. 5.

Response: See Page 3, Consolidated Financial Statements and Report of Independent Certified Public Accountants, Double Diamond-Delaware, Inc. and Subsidiaries, December 30, 2007 and December 31, 2006, as contained in Attachment 8 of the application and produced as documents Bates documents pages 323-343.

Request for Production No. 2: Please provide documentation to support your response to Interrogatory No. 7.

Response: Subject to and without waiving the foregoing objections, DDU has not identified any responsive documents. Subject to the Texas Rules of Civil Procedure, DDU reserves the right to supplement its response.

Request for Production No. 3: Please provide your AR for 2007.

Response: See attached copy.

Request for Production No. 4: Please provide the calculations for each expense listed in your AR for 2007.

Response: Subject to and without waiving the foregoing objections, DDU has not identified any responsive documents. Subject to the Texas Rules of Civil Procedure, DDU reserves the right to supplement its response.

Request for Production No. 5: Please provide the general ledger and/or statement of operations used to calculate each expense listed in your AR for 2007. If any particular expense in the general ledger and/or statement of operations does not match the expense amount for the same item in the 2007 AR, please provide a detailed breakdown on how you arrived at each of those AR expenses.

Response: DDU objects to this request because it seeks production of a document not already in existence. Subject to and without waiving the foregoing objections and to the extent not already produced, DDU will make responsive non-privileged documents relating to the general ledger and/or statement of operations used to calculate each expense listed in your AR for 2007, to the extent they exist and are in the custody or control of DDU, if any, available for inspection and copying at a mutually convenient date and time at the office of counsel for DDU.

REQUESTS FOR ADMISSION

Request for Admissions No. 1: Admit that DDU's advances are included in the statements made in "Note H - Related-Party Transactions," found on Attachment 8, page 17 in the application.

Response: Deny

Request for Admissions No. 2: Admit that "Note H - Related-Party Transactions," found on Attachment 8, page 17 in the application indicates that advances to DDD affiliates, primarily POAs, do not bear interest.

Response: Can neither Admit nor Deny. Admit to the extent that "Note H - Related-Party Transactions," found on Attachment 8, page 17 states "The advances to affiliates (primarily property owners' associations) do not bear interest..." Deny to the extent that the property owners' associations are considered to be "affiliates" as defined by Texas Water Code 13.002(2).

Request for Admissions No. 3: Admit that the interest amounts on your loans and advances from DDD are included in the calculation of the revenue requirement in your application.

Response: Admit

Request for Admissions No. 4: Admit that the interest amounts on your loans and advances from DDD are passed on to your customers through your water and sewer rates.

Response: Can neither Admit nor Deny. Admit to the extent that TCEQ approves rates that include loans and advances from DDD in the revenue requirement. Deny to the extent that TCEQ does not.

Request for Admissions No. 5: Admit that Randy Gracy signed your AR for 2007.

Response: Admit

Request for Admissions No. 6: Admit that the notes payable listed in DDD's audited financial statement on pages 11-17 of Attachment 8 to your application bear less than 10% interest.

Response: Admit

Request for Admissions No. 7: Admit that your capital structure of 50.47% debt and 49.52% equity is hypothetical.

Response: Can neither Admit nor Deny. Admit to the extent that DDU's capital structure is assumed to be the same as DDD's capital structure, which is calculated as 50.47% debt and 49.52% equity. Deny to the extent that DDU's capital structure is not assumed to be the same capital structure calculated for DDD.

Request for Admissions No. 8: Admit that the interest rate of 10% charged by DDD on its loans and advances to you is higher than the interest rates for the notes payable listed on pages 11-17 of DDD's audited financial statement, which is Attachment 8 to your application.

Response: Admit

Request for Admissions No. 9: Admit that you separated your expenses between your water and sewer systems in your AR for 2007.

Response: Admit

Request for Admissions No. 10: Admit that your 2007 annual operating revenues for water exceeded \$150,000 but did not exceed \$750,000, which makes you a Class B public water utility under title 30, section 291.72 of the Texas Administrative Code.

Response: Admit

Request for Admissions No. 11: Admit that each of your water systems has its own licensed operator.

Response: Admit

Request for Admissions No. 12: Admit that you did not acquire the water systems at The Cliffs, The Retreat, and White Bluff from another retail public utility.

Response: Admit

Request for Admission No. 13: Admit that on Attachment 10 to your application, if a line item indicates that it is water or sewer related or is directly identified as a water or sewer expense, you allocated 100% of that expense to the water or sewer systems.

Response: Admit

Request for Admission No. 14: Admit that on Attachment 10 to your application, if a line item is not identified specifically as a water or sewer expense, you used an allocation factor to allocate that line item expense between the water and sewer systems.

Response: Admit

Request for Admission No. 15: Admit that when creating Attachment 10 to your application, you did not verify each line item amount with the original invoice or other original source document before allocating the amount between the water and sewer systems.

Response: Admit

Request for Admission No. 16: Admit you listed total expenses in the amount of \$ 1,022,338 in your application, which is the same total expenses amount listed on page 2 of Attachment 10 to your application.

Response: Admit

VERIFICATION

THE STATE OF TEXAS §
COUNTY OF DALLAS §

BEFORE ME, the undersigned authority, on this day personally appeared Randy Cracy, who being by me duly sworn, on oath stated that he is an authorized representative of Double Diamond Utilities, Co.; that he has read the above and foregoing Objections and Responses to the Executive Director's Second Interrogatories, Requests for Admissions and Requests for Production and answers to the Interrogatories are true and correct and based upon personal knowledge and/or information obtained from other persons who are representatives of Double Diamond Utilities Co.



DOUBLE DIAMOND UTILITIES CO.

Randy Cracy

SUBSCRIBED AND SWORN TO BEFORE ME on the 14th day of December, 2009, to certify which, witness my hand and official seal.

Felicia A. Sias

FAXED
4-1-08
MAILED

COPY

WATER AND WASTEWATER UTILITIES

ANNUAL REPORT

of

DOUBLE DIAMONDS UTILITIES CO.

Exact Legal Name of Utility/Respondent

WATER CCN 12087 | SEWER CCN 20705

Certificate of Convenience and Necessity (CCN) No.

Submitted to the

State of Texas



Texas Commission on Environmental Quality

for the

Calendar Year Ended December 31, 2007

Section 1: Utility Information

Utility Name DOUBLE DIAMOND UTILITIES CO.

Address 10100 N. CENTRAL EXPRESSWAY, SUITE 600
DALLAS, TX 75231

Please check this box if your Official Address, which is noted on the enclosed letter, has changed.

Telephone Number 214-706-9801 Fax Number 214-706-7829

E-mail Address hsheavouse@ddresorts.com or rggracy@ddresorts.com

Contact Person RANDY GRACEY Title PRESIDENT

Check the business ownership entity of the utility as filed with the Internal Revenue Service

Individual Partnership Corporation NonProfit Association

Section 2: Utility Background

Water CCN No. 12087 Number of PWSs 3

PWS ID No. WHITE BLUFF UTILITIES - 1090073

PWS ID No. THE CLIFFS UTILITIES - 1820061

(If the Utility has more PWS ID Nos., please indicate in Section 10)

Sewer CCN No. 20705 Number of Wastewater Systems 4

Discharge Permit No. WHITE BLUFF UTILITIES - WQ0013786002 (13786-002)

Discharge Permit No. THE CLIFFS UTILITIES - WQ0002789000 (02789-000)

(if the Utility has more Discharge Permit Nos., please indicate in Section 10)

Section 3: Revenues

	Water	Wastewater	Total <small>Water + Wastewater</small>
OPERATING REVENUES:			
Utility Service/Sales	609150	233679	842829
Fees((Tap, Reconnection, etc.))	21810	121695	143505
OTHER REVENUES:			
Please Identify:			
INTEREST INCOME / CORRECTIONS	257	211	468
TOTAL REVENUES	631217	355585	986802

Section 4: Expenses

	Water	Wastewater	Total <small>Water + Wastewater</small>
Salaries & Wages	201913	165201	367114
Contract Labor	2228	1822	4050
Purchased Water			
Chemicals for Treatment	6618	5414	12032
Utilities (electricity)	88317	72260	106577
Repairs/Maintenance/Supplies	416406	176214	592620
Office Expenses	23659	19357	43016
Professional Fees (Accounting, Legal)	28224	23133	51407
Insurance	23118	18914	42032
Depreciation & Amortization	90383	73950	164333
Miscellaneous (describe in remarks below)	169231	328664	498095
Subtotal	1050147	885229	1935376
Taxes:			
Federal Income Taxes			
Property and Other Taxes (Payroll, etc.)	3386	2770	6156
Regulatory Expenses (Rate Case, Permits)	6031	41664	47695
Other (describe in remarks below)	31819	26034	57853
TOTAL EXPENSES	1091383	955697	2047080

Remarks: RESORT OVERHEAD ALLOCATED COSTS

Section 5: Operating Items

Debt Information:

Annual interest expense on long and/or short term debt? \$ 71057

Annual principal payment on debt? \$ 90261

Annual interest rate on debt? 10 %

Annual debt principal and interest? \$ 161318

Principal balance on outstanding debt at end of this reporting period? \$ 644729

Regulatory Assessment Fee:

What was the Regulatory Assessment fee amount submitted to TCEQ for the Calendar Year 2007? \$ 9433.50

Rate Change:

What was the effective date of the last Rate Change? **APPROVED: 3/1/00 - WATER & SEWER**
5/1/01 - WATER ONLY
EFFECTIVE DATE OF CURRENT RATE
09/29/07 - WATER ONLY

Section 6: Customer Information

Connection Type	Number of Connections at	
	Beginning of Calendar Year 2007	End of Calendar Year 2007
Water		
Total	<u>830</u>	<u>865</u>

Connection Type	Number of Connections at	
	Beginning of Calendar Year 2007	End of Calendar Year 2007
Wastewater		
Total	<u>710</u>	<u>718</u>

Section 7: Water Production & Consumption

A	What is the total amount of water produced/pumped?	50877300	gallons
B	What is the total amount of water sold/billed?	114252270	gallons
C	How much water was lost?	3600030	gallons
	What is the total percent of water loss?	24	%

To calculate the above, please reference the attached document Water and Wastewater Utilities Annual Report Instructions.

Comments? ABOVE AVERAGE RAINFALL AND IN TURN REDUCED CONSUMPTION REQUIRED INCREASED LINE FLUSHING TO MAINTAIN CHLORINE RESIDUALS.

Section 8: Wastewater Treated

What is the total amount of wastewater treated? 23350330 gallons

Comments? NONE

Section 9: Utility Management & Operations Assessment

Utility Policy and Procedures

Do you have an Application Form or Formal Process for New Customers?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Do you have a copy of your approved tariff and drought contingency plan for customers to review?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Do you have Written Operating Procedures for Routine Operations?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Do you have Written Emergency Actions Plan(s)?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Do you have Written Personnel Procedures?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Do you have Risk Management & Safety Policies?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Do you have Customer Service Policies? (including billing & collection)?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Do you have a Written Budget? (normally updated annually)?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No

Did you or any utility staff attend the annual Water Supply Division Conference/Trade Fair or any other utility/business related conferences this year? If so, please list them in Section 10.

Yes No

Do you record complaints or keep a complaint log?

Yes No

Is a customer service representative, water system employee, or answering service accessible by phone at all times to all customers?

Yes No

Rules and Regulations

If you own/operate a public water system, do you have a copy of 30 TAC Chapter 290?

Yes No

If you own/operate a sewer system, do you have a copy of 30 TAC 314?

Yes No

Do you have a copy of the Utility Regulation TAC 30 Rule, Chapter 291?

Yes No

Do you have a copy of the Texas Water Code Chapter 13?

Yes No

Administrative Information

Do you notify customers prior to shutting down the system for repairs?

Yes No Sometimes Only if greater than 2 hours

How do you keep your customers informed?

Billing Statements Newsletter Meetings
 Other E-MAIL

Are water records kept separate from other business and personal records?

Yes No

Are records kept for additions to fixed assets?

Yes No

Is the financial position of the system reviewed at least quarterly?

Yes No

Are accounting records for water and wastewater kept separately?

Yes No

Utility Assistance

If your answer to any question above is "No", would you be receptive to financial, managerial or technical assistance at no cost to the utility?

Yes No

N/A

Section 10: Remarks (please feel free to attach additional pages if necessary)

SECTION #2 - THE RETREAT UTILITIES - 1260127

THE RETREAT UTILITIES - WQ0014373001 (14373-001)

ROCK CREEK UTILITIES - WQ0014783001 (14783-001)

SECTION # 10 - TAWWA ANNUAL CONF. - FT. WORTH

Section 11: Sworn Statement

I HEREBY CERTIFY THAT THE INFORMATION PROVIDED IN THIS REPORT IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.

(This document MUST be signed by the President or Owner of the Utility)

This 1st Day of APRIL, 2008.

President or Owner:

Randy Gracy
(Signature)

RANDY GRACY
(Printed Name)

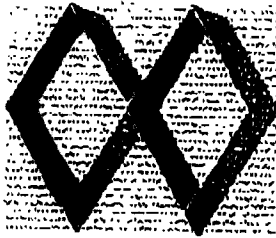
PRESIDENT DDU
(Title)

Transaction Report

Send

Transaction(s) completed

No. TX	Date/Time	Destination	Duration	P. #	Result	Mode
664	APR-01 15:54	512 239 6972	0'00"	49' 008	OK	N ECM



DOUBLE DIAMOND COMPANIES

Fax Cover Sheet

To: 512-239-6972
TCEQ

From: Harry Shearouse

UTILITIES FINANCIAL REVIEW TEAM

Regional Director of Utilities

ATTN: ELIZABETH FLORES Dept: Utilities

Date: 4-1-08

Rc: WFWW ANNUAL REPORT E-mail: hshearouse@ddresorts.com

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- For Review
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ARMBRUST & BROWN, L.L.P.

ATTORNEYS AND COUNSELORS

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AUSTIN, TEXAS 78701-2744
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Date: December 14, 2009

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REMARKS:

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RE: 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

ATTACHMENTS Double Diamond Utilities, Co.'s Objections and Responses to the Executive Director's Second Interrogatories, Requests for Production, and Requests for Admissions.

THIS MESSAGE IS INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY TO WHICH IT IS ADDRESSED AND MAY CONTAIN INFORMATION THAT IS PRIVILEGED, CONFIDENTIAL AND EXEMPT FROM DISCLOSURE UNDER APPLICABLE LAW. IF THE READER OF THIS MESSAGE IS NOT THE INTENDED RECIPIENT OR THE EMPLOYEE OR AGENT RESPONSIBLE FOR DELIVERING THE MESSAGE TO THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY DISSEMINATION, DISTRIBUTION, OR COPYING OF THIS COMMUNICATION IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE NOTIFY US IMMEDIATELY BY TELEPHONE (COLLECT), AND RETURN THE ORIGINAL MESSAGE TO US AT THE ABOVE ADDRESS VIA THE U. S. POSTAL SERVICE. THANK YOU.
375252-1 12/03/2009

1 Q. IF THE COST OF THE 8" LINE WAS \$21.83 PER LINEAR FOOT RATHER
 2 THAN \$15.41 PER LINEAR FOOT, WHAT IMPACT DOES THIS HAVE TO
 3 YOUR EARLIER ANALYSIS?

4 A. This would increase the current cost of the installed pipe for the Retreat system by over
 5 \$279,000. Table 15 below demonstrates my calculation.
 6

7 TABLE 15: Determination of Adjusted Pipe Installation Costs

	Linear Feet	Unit Cost - Per Harkins	Total Cost	Unit Cost - Thurman/ Ballard	Revised Cost	Variance
2" Pipe	11,712	\$12.38	\$144,994.56	\$12.38	\$144,994.56	\$-
4" Pipe	8,886	\$13.74	122,093.64	\$13.74	122,093.64	-
6" Pipe	57,083	\$15.40	879,078.20	\$15.41	879,649.03	(570.83)
8" Pipe	43,478	\$15.41	669,995.98	\$21.83	949,124.74	(279,128.76)
Total	121,159		\$1,816,162.38		\$2,095,861.97	\$(279,699.59)

8
 9 Also, when I compared the computed total cost of the of the 6" pipe using the unit cost of
 10 \$15.40 identified by Harkins I arrive at \$879,078.20 which I have stated above. However,
 11 as illustrated on Exhibit WBSR-11, Page 6 (same as Exhibit DDU-13) Ms. Harkins
 12 arrived at \$879,649.03. It appears that while her label states that the unit cost is \$15.40,
 13 the actual unit cost she utilized was \$15.41 (the same unit cost quoted by
 14 Thurman/Ballard).

15 In contrast, the labeled unit cost of \$15.41 that Ms. Harkins had stated for the 8"
 16 pipe, does compute to the total stated cost on Exhibit WBSR-11, Page 6 (same as DDU-
 17 13). This reemphasizes my concern that she had utilized the Thurman/Ballard quotation,
 18 but may have made a clerical error in using the 8" unit cost of \$15.41 instead of \$21.83.
 19 As a result, the substantial differences in pipe installation costs which I described earlier
 20 in my testimony between the White Bluff system and the Retreat system would be further
 21 amplified. Table 16 below outlines the cost differentials based on this one change. This is
 22 the same as Table 12 above, except it includes a price per linear foot for 8" line of \$21.83
 23 rather than \$15.41.
 24

1 TABLE 16: Comparison of Current Cost of Pipes Installed Using Adjust Cost for Retreat Pipes

	White Bluff	Retreat	Variance	% Variance
Trending Analysis "Current" Cost of Pipes	\$4,823,327	\$2,095,862	\$2,727,465	56.5%
Active Connections as of December 2007	562	60	502	89.3%
Lots Served	6,314	1,931	4,383	69.4%
Build-Out Lots	7,000	5,200	1,800	25.7%
Original Cost of Plant per Active Connection	\$8,582	\$34,931	(26,349)	-307.0%
Original Cost of Plant per Lot Served	\$764	\$1,085	(321)	-42.1%
Original Cost of Plant per Build-Out Lot	\$689	\$403	286	41.5%

2
3 **Q. IF THE COST OF THE 8" LINE WAS \$21.83 PER LINEAR FOOT RATHER**
4 **THAN \$15.41 PER LINEAR FOOT, DO YOU HAVE ANY OTHER CONCERNS?**

5 A. I do. Ms. Harkins stated that in reference to trending for the Retreat assets that "An
6 evaluation was made for line work by tallying the footage of linework and trending the
7 current installation costs back to the date of installation. The invoiced costs for linework
8 were sufficient to cover the costs for the Retreat..." (Harkins, Page 7, Lines 7-10). This
9 change in the trended costs may have a resultant impact on the previously made
10 statement.

11 **Q. DO YOU HAVE ANY OTHER CONCERNS WITH THE CURRENT COST OF**
12 **ASSETS UTILIZED TO TREND?**

13 A. Yes, I have one other concern I'd like to highlight. As I mentioned earlier in my
14 testimony, individual vendors often price their products differently based on the specific
15 order received. Often, this is due to the size of the order; when you place a larger order,
16 you may receive pricing at a lower unit cost than you would for smaller orders. Exhibit
17 WBSR-9 is a document obtained through discovery. This is a pricing matrix from JM
18 Eagle Waterworks. This is an example of variable pricing depending on the size of the
19 order from a vendor. Therefore, in estimating the current price of the asset, the unique
20 combination of order size that was used when the assets were installed should be used;

1 otherwise the costs will be very different. I did not see any documentation that indicated
2 that the trending of the pipes was performed in such a manner.

3 **Q. PLEASE DESCRIBE YOUR FIRST CONCERN WITH THE HANDY WHITMAN**
4 **INDICES USED TO TREND.**

5 A. As illustrated on Exhibit WBSR-11, Page 6 and WBSR-12, Page 5 (which are the same
6 as DDU-13 and DDU-15), Ms. Harkins is using a current Handy-Whitman Index of 379.
7 The WBSR's discovery requests to DDU included the typical request for disclosure of
8 "all documents, tangible things, reports, models, or data compilations that have been
9 provided to, reviewed by, or prepared by or for the expert in anticipation of the expert's
10 testimony" as required by Tex. R. Civ. Pr. 194.2(f). The only Handy-Whitman index
11 provided to me is that which I'm providing as Exhibit WBSR-13. In reviewing this
12 document, I cannot reconcile the current index figure of 379. WBSR-13 provides a
13 current Handy-Whitman index of 331 for PVC Mains (line 38). I assume Ms. Harkins
14 utilized a different bulletin, but as I haven't received a copy of such bulletin, I cannot
15 verify the accuracy of the numbers utilized.

16 **Q. DO YOU HAVE ANY OTHER CONCERNS WITH THE HANDY WHITMAN**
17 **INDICES USED TO TREND?**

18 A. Yes, I do. As illustrated on Exhibit WBSR-11, Page 7 and WBSR-12, Page 6 (which are
19 the same as DDU-13 and DDU-15), Ms. Harkins is using an installation Handy-Whitman
20 Index of 146 for both the Retreat and White Bluff. This is of concern to me as the
21 installation index is supposed to be reflective of the date the assets were installed. Using
22 the same installation index would indicate that the systems were built at the same time.
23 However, Mr. Gracy stated in his testimony that DDD acquired and began development
24 of the White Bluff project in 1990 (Gracy Direct, 5/13), and the Retreat in 2001 (Gracy
25 Direct, 6/19). This means that there is over 10 years in difference of initial acquisition
26 and construction between the two systems. As a result, the utilization of the same
27 installation index of 146 does not seem appropriate. I would expect to see a lower
28 installation index figure for White Bluff, which was constructed first, than for the Retreat.
29 Furthermore, I again cannot reconcile the installation Handy-Whitman index factor of
30 146 back to Exhibit WBSR-13.

31

1 Q. PLEASE DESCRIBE YOUR CONCERNS WITH THE TRENDED WHITE
2 BLUFF VALUES.

3 A. Ms. Harkins had used the Handy-Whitman Index to trend asset values back to the
4 assumed installation date of the assets. She used the assumed current costs, applied the
5 index values and arrived at an assumed original cost of assets (trended values). I
6 attempted to recompute the trended values using the methodology which I described
7 above. In so doing, I arrived at the same trended cost of assets for the Retreat as stated in
8 Ms. Harkins testimony; however, I could not reconcile back to the trended cost of assets
9 for White Bluff that Ms. Harkins had stated. The Table below illustrates my
10 computations:

11
12 TABLE 17: Computation of the Trended Costs

	White Bluff	Retreat
Trending Analysis "Current" Cost of Pipes, Per Harkins	\$4,823,327	\$1,816,733
Current HW Index, per Harkins	379	379
Install HW Index, per Harkins	146	146
HW Index Factor	2.60	2.60
Computed Trended Original Cost of Assets	\$1,858,062	\$699,850
Harkins Stated Trended Original Cost of Assets	\$1,735,904	\$699,850
Variance between Harkins Trended Original Cost and Recalculated Original Cost	\$(122,158)	\$(0)

13
14 Q. PLEASE DESCRIBE YOUR CONCERNS WITH THE UTILIZATION OF
15 TRENDING FOR ASSETS FOR WHICH INVOICES EXIST.

16 A. It is my understanding that Ms. Harkins trended all of the pipe assets for the White Bluff
17 system, even though invoices do exist for some of the assets. In my opinion, it is not
18 appropriate to trend for assets for which original invoices exist. An original invoice is the
19 best record of the cost of that asset. This became more of a concern when I reviewed
20 some of the original invoices for the assets. Exhibits WBSR-14 through WBSR-31 are
21 samples of invoices which are for the purchase of pipe for White Bluff and the Retreat.
22 Exhibits WBSR-32 through WBSR-47 are samples of invoices for the installation of pipe
23 at the Retreat and White Bluff. In my opinion, this provides a much more accurate picture

1 of the actual costs of the assets than a theoretical trending, which is so much more
 2 vulnerable for discrepancies and errors.

3 **Q. PLEASE DESCRIBE YOUR CONCERNS WITH THE TRENDING DATES.**

4 A. It is my understanding that Ms. Harkins trended all of the pipe assets back to a single date
 5 in time (1991 for the White Bluff system). However, my review of invoices indicates that
 6 the assets were not installed solely during 1991 (see Exhibits WBSR 14 through WBSR-
 7 47 for a sample of the other years the assets were actually installed). As the Handy-
 8 Whitman index changes for every year, the utilization of a single year to index back to
 9 inaccurately states the asset costs as the assets were installed during different years. As an
 10 example of the impact of this, if we use the current asset cost stated by Ms. Harkins of
 11 \$4,823,327 for the White Bluff System, and we use the Handy-Whitman index that I've
 12 provided as Exhibit WBSR-13, for line #38, PVC Mains, we see that the Cost Index is
 13 184 in 1991 and 165 in 1992. Utilizing the methodology I've described above for
 14 computing the trended cost of the asset, we see that the 1991 cost would be more than
 15 10% higher than the 1992 cost. I've illustrated this computation below.

16
 17 TABLE 18: Comparison of Trending of Asset Costs to 1991 versus 1992

	1991 Index	1992 index	Variance	% Variance
Trending Analysis "Current" Cost of Pipes, Per Harkins, White Bluff	\$4,823,327	\$4,823,327		
Current HW Index	331	331		
Install HW Index	184	165		
HW Index Factor	1.80	2.01		
Computed Trended Original Cost of Assets	\$2,681,245	\$2,404,377	\$276,868	10.3%

18
 19 **Q. PLEASE DESCRIBE YOUR CONCERNS WITH THE ENTITY WHICH PAID
 20 FOR THE ASSETS.**

21 A. The cost of the assets impacts two key cost of service components – depreciation expense
 22 and return on investment. A utility can only recover a return on investment on those
 23 assets for which the utility actually paid. Assets which were contributed by customers, or
 24 for which there were contributions by the developer, should not be utilized in the return

1 on investment calculation. Mr. Ekrut stated in his testimony that "Mr. Gracy has
2 identified those assets, subject to the 80% payment by the parent company" (Ekrut
3 Direct, 24/1). However, I have not seen any original source documentation which
4 specifically illustrates exactly what assets DDU paid for and what assets DDD paid for. I
5 would expect to see documents such as check stubs or general ledger entries from the
6 utility's account system which prove exactly who paid for the assets.

7 **Q. WHAT SORT OF DOCUMENTATION DID YOU RECEIVE?**

8 A. We did receive some documentation which included invoices, purchase order forms,
9 accounts payable coding forms and check stubs. I've provided as Exhibits WBSR- 48
10 through WBSR-74 some of that documentation. As you can see, in many instances, check
11 stubs and accounts payable coding forms were from the Double Diamond Construction
12 (DDC) and DDI account; not DDU.

13 **Q. COULD THE ACCOUNTS PAYABLE FORMS THAT STATED DDC AND THE
14 CHECK STUBS THAT WERE FROM THE DOUBLE DIAMOND
15 CONSTRUCTION ACCOUNT BE ANOTHER NAME FOR DDU?**

16 A. I certainly considered that as a possibility; however, as illustrated on Exhibits WBSR-75
17 through WBSR-82, there are some accounts payable forms which specifically indicate
18 DDU and "Utilities."

19 **Q. HAVE YOU PERFORMED AN ANALYSIS WHICH IDENTIFIES THE ASSETS
20 THAT ARE DOCUMENTED TO HAVE BEEN PAID BY DDC VERSUS DDU?**

21 A. Unfortunately, due to the limited resources of my clients, I couldn't perform such an
22 analysis. As the burden of proof is the responsibility of DDU, I wanted to highlight that
23 this is an issue which has yet to be resolved and is of concern in this case.

24
25 **VI. DISALLOWANCE OF DDU'S RATE CASE EXPENSES**

26
27 **Q. ARE YOU FAMILIAR WITH 30 TAC 291.28(8)?**

28 A. Yes, it provides that, "A utility may not recover any rate case expenses if the increase in
29 revenue generated by the just and reasonable rate determined by the commission after a
30 contested case hearing is less than 51% of the increase in revenue that would have been
31 generated by a utility's proposed rate."

1 Q. **WHAT IS YOUR OPINION REGARDING WHETHER DDU SHOULD BE**
2 **ALLOWED TO RECOVER RATE CASE EXPENSES IN THIS PROCEEDING?**

3 A. It is my opinion that DDU should not be allowed to recover any rate case expenses for
4 several reasons, which I will outline shortly. However, before I outline those reasons, I'd
5 like to first clarify which revenue recovery numbers should be utilized in making this
6 test. This is necessary as we have several numbers at issue. A brief outline of the history
7 of these proceedings follows:

- 8 • DDU had submitted an Application in 2007 for increased rates.
- 9 • The rates included in that Application were protested by rate payers.
- 10 • Prior to resolution of the 2007 Application, DDU submitted yet another
11 application for a rate increase in 2008, the subject of these proceedings.
- 12 • The rates outlined in the 2007 Application were ultimately denied in later 2009.

13 As a result, DDU has requested that the 51% test of the increase to be compared against
14 the rates which existed prior to the 2007 Application. DDU further suggests that the 51%
15 increase should be measured using the revised revenue requirements which they
16 identified in their direct testimony. I disagree with this approach. First, the information
17 stated within the original Application was the information which DDU relied upon in
18 setting rates for its customers, and it is the information that the rate payers relied upon in
19 making their protest. Further, it is not any other parties' fault that DDU was unsuccessful
20 in their prior rate case, but it has certainly cost other parties time and money to have to
21 protest two rate cases, in one of which DDU did not prevail. Secondly, DDU has yet
22 again changed its mind after submitting its application and has changed its numbers
23 during the filing of their direct testimony, partially correcting some of its own errors
24 (such as recording items as repairs and maintenance expenses that should have been
25 capitalized). This is information that the rate payers also did not have when they made
26 their decision to protest the rates submitted by DDU.

27 As a result, it is my opinion, that we should determine whether or not the 51%
28 increase has been achieved by utilizing the prior information outlined in the original
29 Application and compare that to the allowed revenue requirement/generation determined
30 through this proceeding.

1 Q. WHAT, IN YOUR OPINION, SHOULD THE AMOUNT OF REVENUE
2 INCREASE BE USED TO MEASURE WHETHER THE REVENUE GENERATE
3 BY THE JUST AND REASONABLE RATE DETERMINED BY THE
4 COMMISSION AFTER A CONTESTED CASE HEARING IS LESS THAN 51%
5 OF THE INCREASE IN REVENUE THAT WOULD HAVE BEEN GENERATED
6 BY THE UTILITY'S PROPOSED RATE?

7 A. The Application stated an annual revenue increase for the groundwater systems of
8 \$152,173 (Application, Exhibit DDU-1, p.34). 51% of this increase would compute to
9 \$77,608. This is the information that the utility acted upon in making its decision to
10 increase rates, and it is the information the rate payers acted upon in protesting these
11 rates. This is the measurement that should be utilized.

12 Q. USING THIS AMOUNT, DOES THE REQUESTED INCREASE MEET THE 51%
13 MEASUREMENT?

14 A. No, it does not. The original Application outlined very specifically that the groundwater
15 systems would subsidize the surface water system by \$153,947 through their related over
16 recovery (Application, Exhibit DDU-1, Attachment 12, Bates p. DDU000396). As DDU
17 has presented absolutely no evidence that the surface water system and the groundwater
18 systems should be consolidated under a single tariff, cross-subsidization among those
19 systems is not allowed. The over recovery of \$153,947 outlined in the Application is
20 entirely for the purposes of subsidizing the Cliffs. This is more than \$77,608 (our 51%
21 measurement), and is in fact even greater than the requested increase stated in the
22 Application. I therefore conclude that DDU should not be allowed to recover its rate
23 cases expenses for this reason alone.

24 Q. YOUR PREVIOUS ANALYSIS OF THE 51% TEST APPLIED TO THE
25 GROUNDWATER SYSTEMS USING DDU PRESENTED NUMBERS. HAVE
26 YOU PERFORMED ANY ANALYSIS OF THE 51% TEST FOR THE
27 WHITEBLUFF SYSTEM ALONE?

28 A. Yes, I have. In Table 19 below, I have determined the revenue to be generated from the
29 White Bluff system using the billing determinates outlined by Mr. Ekrut and the various
30 rates which have been proposed.

- 1 • Column 1 presents the rates and revenue to be generated from those rates which
2 were in effect prior to the submittal of the 2007 Application. This is the “starting-
3 point” measurement that Mr. Ekrut suggests that we utilize, which I again
4 emphasize is an inappropriate measurement.
- 5 • Column 2 presents the rates and revenue to be generated from those rates which
6 were requested by the 2007 Application. This is the information which my clients
7 relied upon in making their decision to appeal the rates charged by DDU, it is
8 further the information which DDU used in deciding to proceed with this
9 application. Therefore, in my opinion, this should be utilized as a “starting-point”
10 for determining whether the 51% has been met.
- 11 • Column 3 presents the rates and revenue to be generated from those rates which
12 were outlined in the original Application.
- 13 • Column 4 presents the rates and revenue to be generated from those rates which
14 have been revised as a result of DDU’s direct testimony.
- 15 • Column 5 presents the separated rates and revenue to be generated from those
16 rates for White Bluff presented by Mr. Ekrut during his direct testimony.

17 Even though it is my opinion that these rates proposed by DDU (columns 4 and 5) are
18 overstated due to the trending analysis results, I think this table clearly shows that these
19 rates will not meet the 51% test. My work paper for this table is attached as Exhibit
20 WBSR-83. As you can see from this table, if the consolidated rates proposed by DDU for
21 the White Bluff and Retreat systems are denied, as we have requested, then the revenue
22 to be generated from the White Bluff system (even using the inflated total plant
23 investment, which I emphasize is not a reasonable request) is actually lower than
24 revenues to be generated from the rates requested in the 2007 Application; \$610,928
25 recovered compared to \$669,399. In my opinion, that differential will be amplified when
26 appropriate adjustments to the White Bluff revenue requirements are made due to
27 removal of the regulatory asset, the over-stated plant investment, and other adjustments
28 which may be suggested by parties.

29

1 Table 19. White Bluff Residential Rate and Revenue Generation Comparison

Description	Rates in effect prior to 2007 Rate Application[1]	Rates requested in 2007 Rate Application	Rates originally requested in this proceeding	Revised Rates requested in direct case in this proceeding[2]	Separated rates proposed by Chris Ekrut in testimony[3]
5/8 or 3/4" meter, base	\$30.00	\$42.00	\$39.00	\$34.72	\$31.01
1" meter, base	\$50.10	\$65.00	\$97.50	\$86.80	\$77.51
1.5" meter, base	\$99.90	\$128.00	\$195.00	\$173.60	\$155.03
2" meter, base	\$159.80	\$280.00	\$312.00	\$277.77	\$248.04
3" meter, base	\$320.00	\$425.00	\$585.00	\$520.81	\$465.08
0-3000 (per 1000 gallons)	\$1.85	\$2.50	\$2.00	\$1.78	\$1.59
3001-10,000 (per 1000 gallons)	\$1.85	\$2.50	\$2.75	\$2.45	\$2.19
10,001-15,000 (per 1000 gallons)	\$2.10	\$2.75	\$3.80	\$3.38	\$3.02
15,001-20,000 (per 1000 gallons)	\$2.10	\$2.75	\$5.25	\$4.67	\$4.17
20,001 + (per 1000 gallons)	\$4.75	\$5.25	\$7.25	\$6.45	\$5.76
Revenue Generated	\$517,842.58	\$669,399.20	\$768,534.00	\$684,005.11	\$610,928.95

2
3 Q. ARE THERE ANY OTHER REASONS WHY DDU SHOULD NOT BE ABLE TO
4 RECOVER ITS RATE CASE EXPENSES?
5 A. Yes, DDU's rate case expenses are not reasonable because failure to present accurate
6 numbers in its Application may have prevented this case from being resolved without a
7 hearing. DDU has repeatedly failed to provide sufficient documentation and information
8 to justify its costs. In both the current rate case and the previous rate case, DDU has
9 significantly changed its Application; and errors have been found in both cases. Had
10 DDU provided a more accurate revenue requirement initially, it is possible that parties
11 would not have challenged its rates or have settled prior to hearing. By throwing
12 meaningless numbers into its application, DDU virtually ensured that it would go to
13 hearing in this Application. Utilities should not be rewarded for putting together poor rate
14 applications and running up legal costs unnecessarily. This provides a separate reason for
15 determining that DDU's rate case expenses are not just and reasonable.

1 Q. **IN YOUR OPINION, SHOULD DDU BE ABLE TO RECOVER EXPENSES**
2 **ASSOCIATED WITH ITS TRENDING ANALYSIS?**

3 A. Absolutely not. DDU is seeking to recover \$10,675.11 (Harkins Direct, 9/14) in rate case
4 expenses incurred so far for the performance of an asset trending analysis performed by
5 Ms. Harkins. As a reasonable and prudent utility, DDU should have kept proof of cost for
6 all of its assets. DDU has already had one rate case, which cost parties time and money,
7 in which to demonstrate the costs of its assets, which they failed to meet their burden of
8 proof regarding their assets. DDU should not now be allowed to recover any additional
9 expenses, such as those relating to DDU witness Victoria Harkins, in attempting to
10 demonstrate the value of its assets. Furthermore, as this trending analysis resulted in
11 additional work performed by Chris Ekrut to change his model and testimony to reflect
12 the differences in asset costs due to the trending analysis, these additional expenses
13 should also be disallowed. Any expenses associated with DDU's prior record keeping
14 failure are not reasonable and necessary and should not be borne by the rate payers of this
15 utility.

16
17 **VII. RECOMMENDATIONS FOR DEVELOPING JUST AND REASONABLE RATES**
18 **VIA A SEPARATE REVENUE REQUIREMENT FOR THE WHITE BLUFF**
19 **SUBDIVISION SYSTEM**

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21 Q. **DO YOU HAVE ANY RECOMMENDATIONS FOR THE RATES TO BE**
22 **CHARGED TO WHITE BLUFF RATE PAYERS?**

23 A. Unfortunately, the resources of WBSR are limited; therefore, we did not have the
24 resources available to compute actual recommended rates. However, I would like to make
25 the following recommendations:

- 26 • **DDU should be required to adopt separate revenue requirements and rates**
27 **for White Bluff and the Retreat.** As I explained in great detail above, White
28 Bluff and the Retreat systems are not substantially similar to each other in many
29 aspects, *and never will be*. Therefore, they must be separated for purposes of
30 setting revenue requirements and rates. DDU is clearly capable of making these
31 separations as it has already done so in its direct case.

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- **DDU's proposed regulatory asset for prior unrecovered costs should be disallowed because this cost is due to poor management on DDU's part.** If any such costs were to be allowed, these should be instituted as a surcharge and not an asset so there is no risk that the costs will continue to be recovered in perpetuity.
 - **The original asset costs for the White Bluff system should be set based on actual invoices.** As I explained, there were too many discrepancies in the trending analysis provided by Ms. Harkin to derive reliable asset values. Further, a reliable trending analysis should be utilized only to confirm the claimed asset costs, not derive them.
 - **As I performed my analysis of the topics which were my focus in my testimony, I also noted some additional adjustments which should be made:** (1) DDU should not be able to utilize the capital structure of its parent company for the determination of rate of return [from my discussion of the regulatory asset], and (2) annual O&M expenses should be reduced to reflect items identified by Ms. Harkins which were booked as expenses by DDU during the test year, but should have been capitalized as assets [from my discussion of the asset trending analysis].
 - **DDU should not be allowed to recover rate cases expenses.** As I explained, the rate case expenses identified by DDU are not reasonable or necessary.

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In order to achieve just and reasonable rates, the revenue requirements for the White Bluff system as set forth in Exhibit DDU-22 may serve as a starting point, with reductions made to reflect the issues I have identified above. Additionally, I am certain that other parties, including the TCEQ ED, will have additional reductions which need to be taken into account, further reducing DDU's rates.

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VIII. CONCLUSION

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Q. **HAVE YOU FORMED AN OPINION AS TO WHETHER THE RATES PROPOSED IN DDU'S APPLICATION AND DIRECT CASE ARE JUST AND REASONABLE?**

1 A. Yes. As explained above, the rates proposed in DDU's Application, and as later revised
2 in DDU's direct case, are not just and reasonable. However, by separating the White
3 Bluff system from the Retreat system for rate-setting purpose and appropriate
4 adjustments to accommodate issues raised by myself and others in this docket, I am
5 confident that the TCEQ can establish just and reasonable rates for the White Bluff
6 system.

7 **Q. DOES THIS CONCLUDE YOUR TESTIMONY AT THIS TIME?**

8 A. Yes, it does. However, I would like to reserve my right to revise/supplement this
9 testimony in the event further information is made available.

NELISA HEDDIN
BUSINESS AND FINANCIAL SERVICES

PROFESSIONAL BACKGROUND:

Ms. Heddin is an industry expert in financial and econometric modeling for electric, water, wastewater and solid waste utilities. She has extensive experience in the performance of cost of service and rate design studies for municipal utilities. Ms. Heddin has performed numerous cost of service and rate design studies for water, wastewater, solid waste, and electric utilities throughout the country having operating budgets ranging from \$150,000 to \$100,000,000. Examples of cities in which Ms. Heddin has provided financial analysis include the Cities of Phoenix, Tucson, Little Rock, Dallas, Webster, Missouri City, Huntsville, Granbury, and Georgetown. She has a broad understanding of the water, wastewater and solid waste utilities industries encompassing the entire process of providing services to customers, ranging from water supply, system capacity, operational issues, and financial implications. Ms. Heddin has a Masters of Business Administration from New Mexico State University with a concentration in Finance, and utilizes this educational training to enhance the financial analysis provided by WRM. Further, Ms. Heddin is the Current Chairman of the Texas Section AWWA Rates and Charges Subcommittee, working to provide educational insight on rate and financial issues facing water utilities in the State of Texas.

EDUCATION:

B.S., Biology, New Mexico State University, 1996
MBA, Finance, New Mexico State University, 1999

INDUSTRY EXPERIENCE:

Water Resources Management, LP, Vice-President, 2003-present: Ms. Heddin brings a background of financial analysis for municipal utility systems to WRM. Ms. Heddin works with the pool of professionals at WRM to provide WRM's clients with a complete scope of services ranging from management to operational consulting. Ms. Heddin is the head of WRM's Business and Financial Services practices and manages projects for a variety of engagements.

Reed, Stowe & Yanke, LLC, Senior Consultant, 2000-2003: Provided financial, economic and management consulting for municipal utility systems. Ms. Heddin conducted financial analysis and management consulting for water, wastewater, electric, and solid waste utilities. During her tenure at RS&Y, she conducted multiple cost of service and rate design studies for water, wastewater, electric, wastewater reuse, and solid waste utilities. Additionally, Ms. Heddin conducted several impact fee and capital recovery fee analyses for water and wastewater utilities, service area valuations for water utilities, and airspace valuations for solid waste utilities. Ms. Heddin also conducted water loss analyses for municipal water utilities.

Arthur Andersen, Consultant, 1999-2000: Worked with Arthur Andersen's litigation support team to perform damage valuations. Ms. Heddin used basic financial principles in the performance of valuation analyses and prepared expert witness testimony.

CHAIRMAN OF
TAWWA RATES
AND CHARGES
SUBCOMMITTEE

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EXPERTISE IN
ECONOMETRIC
MODELING

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EXTENSIVE
EXPERIENCE IN
COST OF SERVICE
AND RATE DESIGN
STUDIES

•
MASTERS OF
BUSINESS
ADMINISTRATION
IN FINANCE

SAMPLE OF RELEVANT PROJECT EXPERIENCE:
Development of Impact Fees, Capital Recovery Fees, and Development Fees:

City of Cuero, Texas
City of Burnet, Texas
City of Corinth, Texas
Missouri City, Texas
City of Garland, Texas
Jonah Special Utility District
Manville Water Supply Corporation

Cost of Service and Rate Design Projects:

Wells Branch MUD
City of Cuero, Texas
City of Mexia, Texas
Bistone Municipal Water Supply Corporation
Whiterock Water Supply Corporation
City of Del Rio, Texas
City of North Lake, Texas
City of Missouri City, Texas
City of Alamo Heights, Texas
City of Selma, Texas
City of Southside Place, Texas
City of Sweetwater, Texas
City of Cameron, Texas
City of Corinth, Texas
City of Bonham, Texas
City of Pecos, Texas
City of Pflugerville, Texas
City of Burnet, Texas
City of Idabel, Oklahoma
City of New Madrid, Missouri
Quail Valley Utility District
MB Wastewater Services, LLC
City of Richmond, Texas
Fair Management, LC
City of Lindale, Texas
City of Webster, Texas
Travis County WCID #17
City of Garland, Texas
City of Gladewater, Texas
City of Phoenix, Arizona
City of Garland, Texas
Jonah Special Utilities District
City of Grand Prairie, Texas
City of Little Rock, Arkansas
City of Granbury, Texas

Valuation Analysis:

U.S. Navy
City of Dallas, Texas
Green Valley Special Utility District

PROFESSIONAL AFFILIATIONS:

American Water Works Association
▪
Chairman Texas AWWA Rates and Charges
Subcommittee
▪
Texas Municipal League

PUBLICATIONS AND PRESENTATIONS:

Incode Education Forum, 2007 – Selling Utility Rate
Studies
▪
Texas Water, 2006 – Water Loss Determination
▪
Munis Education Forum, 2006 – Utility Rate Analysis
▪
Incode Education Forum, 2006 – Utility Rate Analysis
▪
GFOAT, 2005 – Capital Financing Seminar
▪
GFOAT Gulf-Coast Chapter, 2005 – Presentation – The
GFO's Water Challenges: A Guide for Meeting the
Financial Challenges of Water Utilities Today
▪
Texas H2O, November/December 2004, "Finding the
Water: How to Cope with HB3338"
▪
Office of Rural Community Affairs, 2004 – Water
Related Training for Local Leaders
▪
Texas Water, 2004 – Professional Paper - Water Audits,
Water Loss and HB3338
▪
Texas Rural Water Association Annual Conference
2002– Presentation – Encroachment Issues: Service
Area Valuations

City of Hobbs, New Mexico
City of Georgetown, Texas
City of Tucson, Arizona
Manville Water Supply Corporation
City of Corsicana, Texas
City of Huntsville, Texas
City of Tyler, Texas

Operations and Management Reviews and Studies:

*Quail Valley Utility District
City of Waco, Texas
City of Bastrop, Texas
City of Uvalde, Texas
City of Gladewater, Texas
City of Galveston, Texas*

Other Projects

*-White Bluff Rate Payers- Litigation Support and Expert Witness Testimony
-City of Lakeway – Review of Utility Rates of Lakeway MUD
-City of Richmond – Litigation Support
-City of Pecos – Litigation Support and Expert Witness Testimony
-Wells Branch MUD –Review of City of Austin Rate Study
-Office of Rural Community Affairs – Curriculum Development and Training for Local Leaders on Water
Related Issues
-Brazos River Authority – Watershed Management Plan Development
-Brazos Valley Groundwater Conservation District – Various Management Activities
-Missouri City, Texas – Business Planning
-Missouri City, Texas – Surface Water Feasibility Analysis
-Missouri City, Texas – Groundwater Reduction Plan Preparation
-Missouri City, Texas – GRP Implementation
-Bastrop, Texas – Billing System Review*

Bryan W. Shaw, Ph.D., *Chairman*
Buddy Garcia, *Commissioner*
Carlos Rubinstein, *Commissioner*
Mark R. Vickery, P.G., *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

November 13, 2009

TO: Persons on the attached mailing list.

RE: Double Diamond Utilities Company, Inc.
TCEQ Docket No. 2007-1708-UCR; SOAH Docket No. 582-08-0698
Certificate of Convenience and Necessity No. 12087

Decision of the Commission on Application.

The Texas Commission on Environmental Quality ("TCEQ" or "Commission") has made a decision on the above-referenced application. Enclosed with this letter is a copy of the Commission's order and tariff. Unless a Motion for Rehearing ("MFR" or "motion") is timely filed with the chief clerk, as described below, this action of the Commission will become final. A MFR is a request for the Commission to review its decision on the matter. Any motion must explain why the Commission should review the decision.

Deadline for Filing Motion for Rehearing.

A MFR must be received by the chief clerk's office no later than 20 days after the date a person is notified of the Commission's order on this application. A person is presumed to have been notified on the third day after the date that this order is mailed.

Motions may be filed with the chief clerk electronically at <http://www10.tceq.state.tx.us/epic/efilings/> or by filing an original and 7 copies with the Chief Clerk at the following address:

LaDonna Castañuela, Chief Clerk
TCEQ, MC-105
P.O. Box 13087
Austin, Texas 78711-3087
Fax: 512/239-3311

In addition, a copy of the motion must be sent on the same day to each of the individuals on the attached mailing list. A certificate of service stating that copies of the motion were sent to those on the mailing list must also be sent to the chief clerk. The procedures for filing and serving motions for rehearing and responses are located in 30 Texas Administrative Code (TAC) §80.272 and 30 TAC §1.10-1.11. The hardcopy filing requirement is waived by the General Counsel pursuant to 30 TAC §1.10(h).

The written motion must contain (1) the name and representative capacity of the person filing the motion; (2) the style and official docket number assigned by SOAH or official docket number

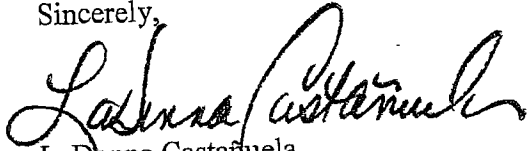
WBSR-3

assigned by the Commission; (3) the date of the order; and (4) a concise statement of each allegation of error.

Unless the time for the Commission to act on the motion is extended, the MFR is overruled by operation of law 45 days after a person is notified of the Commission's order on this application.

If you have any questions or need additional information about the procedures described in this letter, please call the Office of Public Assistance toll free at 1-800-687-4040.

Sincerely,



LaDonna Castañuela
Chief Clerk

LDC/ms

Enclosures

Double Diamond Utilities Company, Inc.
TCEQ Docket No. 2007-1708-UCR
SOAH Docket No. 582-08-0698

FOR THE APPLICANT:

Ali Abazari
Jackson Walker L.L.P.
100 Congress Avenue, Suite 1100
Austin, Texas 78701

Michael R. Skahan
Double Diamond Utilities Co.
10100 North Central Expressway, Suite 600
Dallas, Texas 75231

INTERESTED PERSONS:

Todd McCall
70 Oyster Bay Court
Graford, Texas 76449
*Representing the Cliffs Subdivision
Ratepayers*

Jack D. and Sandra McCartney
6300 Annanhill Street
Cleburne, Texas 76033

Shari Heino
Mathews & Freeland, L.L.P.
327 Congress Avenue, Suite 300
Austin, Texas 78701
*Representing the White Bluff Subdivision
Ratepayers*

Denis M. Hanley, Sr.
12213 Rolling Oaks WB69
Whitney, Texas 76692

FOR THE EXECUTIVE DIRECTOR
via electronic mail:

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

Brian Dickey, Technical Staff
Texas Commission on Environmental Quality
Water Supply Division MC-153
P.O. Box 13087
Austin, Texas 78711-3087

FOR OFFICE OF PUBLIC ASSISTANCE
via electronic mail:

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Texas Commission on Environmental Quality
Office of Public Assistance MC-108
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Austin, Texas 78711-3087

FOR PUBLIC INTEREST COUNSEL
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Texas Commission on Environmental Quality
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P.O. Box 13087
Austin, Texas 78711-3087

FOR THE CHIEF CLERK
via electronic mail:

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

* The Honorable Kerrie Jo Qualtrough
Administrative Law Judge
State Office of Administrative Hearings
P. O. Box 13025
Austin, Texas 78711-3025

* Courtesy Copy via inter-agency mail

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



AN ORDER DENYING THE APPLICATION OF DOUBLE DIAMOND UTILITIES TO INCREASE ITS RATES; TCEQ DOCKET NO. 2007-1708-UCR; SOAH DOCKET NO. 582-08-0698

On October 7, 2009, the Texas Commission on Environmental Quality (TCEQ or Commission) considered the application of Double Diamond Utilities (DDU) to change its water rates and its tariff in Hill, Palo Pinto, and Johnson Counties, Texas, under Certificate of Convenience and Necessity No. 12087. A Proposal for Decision (PFD) was presented by Kerrie Jo Qualtrough, an Administrative Law Judge (ALJ) with the State Office of Administrative Hearings (SOAH).

After considering the ALJ's PFD, the Commission adopts the following Findings of Fact and Conclusions of Law:

I. FINDINGS OF FACT

Procedural History and Jurisdiction

1. DDU provides retail water utility service under Certificate of Convenience and Necessity No. 12087, in Hill, Johnson, and Palo Pinto Counties, Texas.
2. DDU operates three water systems serving three separate developments: White Bluff water system (Hill County), the Retreat water system (Johnson County), and the Cliffs water system (Palo Pinto County).

CHIEF CLERK'S OFFICE

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3. In addition to its three water systems, DDU operates three wastewater systems, one for each development.
4. Notices of the proposed rate change were mailed to DDU's customers on July 27, 2007.
5. On August 2, 2007, DDU filed its application to increase its water rates and amend its tariff.
6. The effective date of the increase was September 28, 2007.
7. In December 2007, DDU filed an additional application to supplement the August 7, 2007 application. These two applications are collectively referred to as the "2007 application."
8. More than ten percent of DDU's customers filed protests by the applicable deadline.
9. On October 24, 2007, the Commission's Chief Clerk referred the application to SOAH for hearing.
10. On November 14, 2007, the Chief Clerk mailed notice of a preliminary hearing to DDU.
11. On November 29, 2007, SOAH issued an order requiring that the preliminary hearing be held in Hillsboro, Texas, on February 5, 2008.
12. On December 13, 2007, the Chief Clerk mailed the revised notice of a preliminary hearing to DDU.
13. DDU mailed the revised notice of the preliminary hearing to its customers on January 9, 2008.
14. The notice contained a statement of the time, place, and nature of the hearing; a statement of the legal authority and jurisdiction under which the hearing was to be held; a reference to the particular sections of the statutes and rules involved; and a short, plain statement of the matters asserted.

15. On February 5, 2008, an ALJ held the preliminary hearing as indicated in the notice. The following attended and were admitted as parties:

PARTY	REPRESENTATIVE
DDU	Michael Skahan
Executive Director (ED)	Stephanie Skogen
Office of Public Interest Counsel (OPIC)	Eli Martinez
White Bluff Subdivision Ratepayers (WBSR)	Shari Heino
Jack and Sandra McCartney	Themselves
The Cliff's Subdivision Ratepayers	Todd McCall

16. No party disputes either the Commission's or SOAH's jurisdiction.
17. The ALJ held the hearing on the merits of the application on February 23-24, 2009, and all of the parties appeared and participated.

Overview of the Proposed Rate Increase

18. At the end of the 2006 test year, on December 31, 2006, the three water systems combined had the following number of metered connections:

Metered Connections: All three subdivisions	Total
5/8" X 3/4"	749
1"	38
1 1/2"	10
2"	31
Total	828

19. In its August 2007 application, DDU asserted that it had a revenue requirement of \$1,281,476.
20. In the December 2007 application, DDU asserted it had a revenue requirement of \$1,043,958.

21. In both the August and December 2007 applications, DDU calculated its revenue requirement by combining the financial information for all three water systems. DDU did not calculate the revenue requirement for each water system separately.
22. In its application, DDU requested to change its rates as follows:

	Previous Rates	August 2007 Application	December 2007 Application
The Cliffs - Minimum Bill			
5/8"	\$ 30.00	\$ 52.00	NA
1"	50.10	127.00	NA
1 1/2"	99.90	253.00	NA
2"	159.80	405.00	NA
3"	320.00	757.00	NA
Gallonage Charge per 1000 gallons			
1,001-10,000 Gallons	\$ 1.85	\$ 2.60	NA
10,001-20,000 Gallons	4.75	5.20	NA
Over 20,001 Gallons	6.75	7.80	NA
White Bluff and the Retreat - Minimum Bill			
5/8"	\$30.00	\$42.00	\$42.00
1"	\$50.10	\$65.00	\$65.00
1 1/2"	\$99.90	\$128.00	\$128.00
2"	\$159.80	\$280.00	\$280.00
3"	\$320.00	\$425.00	\$425.00
Gallonage Charge per 1000 gallons			
1,001-10,000 Gallons	\$1.85	\$2.50	\$2.50
10,001-20,001 Gallons	\$2.10	\$2.75	\$2.75
Over 20,001 Gallons	\$4.75	\$5.25	\$3.20

23. On September 28, 2007, DDU began charging the rates in the August 2007 application.

24. The December 2007 application reduced the volumetric rate for over 20,001 gallons for the White Bluff and the Retreat ratepayers from the rate of \$5.25 per thousand gallons to \$3.20 per thousand gallons.
25. DDU prepared a notice to the White Bluff and the Retreat ratepayers. This notice reflecting the lower rate of \$3.20 per thousand gallons over 20,001 gallons was included in the December 2007 application. DDU did not send notice of the reduction in the requested rate to the White Bluff and Retreat ratepayers and did not charge the ratepayers the lower gallonage charge found in its December 2007 application.
26. DDU charged the rates in its August 2007 application until December of 2008.
27. On October 23, 2008, DDU submitted another application for a rate increase, which is not the subject of this case.
28. The rates at issue in this proceeding were in effect approximately 15 months.

Multiple Systems Consolidated Under One Tariff and Rate Design

29. Prior to filing its August 2007 application, DDU utilized the same two-rate structure for the three subdivisions: The ratepayers in White Bluff and the Retreat paid the same rate while the Cliffs ratepayers paid a different rate. DDU continues this same rate structure in its 2007 application.
30. DDU did not present evidence on why the two water systems should be consolidated under one rate.
31. DDU did not show how the Retreat and the White Bluff water systems are substantially similar in terms of their costs of service.