

Control Number: 43922



Item Number: 37

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

43922

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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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).

|

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.

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.

39. Few of the amounts in DDU's exhibits match the corresponding entries in the application. DDU's accounting documents and invoices do not generally reconcile with its application.
40. DDU's witnesses did not have sufficient knowledge of the application to answer specific questions about how the entries in the application were determined.
41. DDU did not provide a sufficient explanation of its application and the proposed rates. Amounts in the application could not be verified through either DDU's exhibits or its witnesses.

One Combined Revenue Requirement for Three Water Systems

42. DDU grouped all three water systems together to develop one revenue requirement. For test year 2006, DDU's revenue requirement for all three systems combined was \$1,043,958 as shown in the December 2007 application. DDU did not demonstrate how just and reasonable rates for the three separate water systems could be derived from one revenue requirement.

X 43. The Cliffs, the Retreat, and the White Bluff water systems are different in terms of age, size, type of development served, cost of service, and sources of water.

44. DDU should have prepared three separate revenue requirements for the three separate water systems.

Return on Invested Capital

45. DDU listed the assets for each water system in its depreciation schedule in the December 2007 application. DDU then totaled the entries for all three systems and added in DDU's general items to obtain the total net book value. DDU's general items include backhoes and trucks that are used for both the water and wastewater systems. DDU did

52. The three DDU water systems combined do not constitute a small water system of 200 or less connections. The three DDU water systems combined do not constitute a stand alone sewer system. The three DDU water systems combined do not meet both the conditions of aging system and unstable population listed on the TCEQ's ROR worksheet.
53. DDU should have prepared the ROR worksheet for each individual water system and determined whether the water system met the conditions in the worksheet to determine the appropriate ROR.
54. Other than a general conclusion that it met the factors in the ROR worksheet, DDU did not present specific evidence demonstrating how it met the other factors in the ROR worksheet.
55. DDU erroneously calculated an ROR of 12 percent.
56. In determining the weighted average cost of debt that DDU has in the three water systems, DDU showed an unpaid balance of \$734,990 on a loan from Double Diamond Delaware, Inc. DDU claimed an interest rate of 10 percent on the loan from its parent company, Double Diamond Delaware, Inc. DDU used this 10 percent interest to calculate its weighted rate of return.
57. DDU is a Qualified S Corporation of Double Diamond Delaware, Inc. and is not treated as a separate company for federal tax purposes. DDU's assets, liabilities, and all items of income, deduction, and credit are treated as those of Double Diamond Delaware, Inc. Any income incurred by DDU belongs to the parent company, including any interest on the loan that DDU collects from its customers through its rates.
58. Double Diamond Delaware, Inc. and DDU are affiliated interests.

68. DDU did not demonstrate that the \$272,369 in salary expenses claimed in its application was an allowable expense that was reasonable and necessary to provide water service.

Purchased Water

69. In its application, DDU indicated that it incurred a purchased water expense of \$7,363.
70. DDU did not demonstrate that the amount of \$7,363 as a purchased water expense is an allowable expense that is reasonable and necessary to provide water service.

Chemicals

71. In its application, DDU indicated that it incurred \$12,300 as a chemical expense for the three water systems combined.
72. DDU did not demonstrate how the claimed amount for chemical expenses excluded expenses for the wastewater systems.
73. DDU did not demonstrate that the amount of \$12,300 as a chemical expense is an allowable expense that is reasonable and necessary to provide water service.

Utilities (electricity)

74. In its application, DDU listed \$58,775 in electric utility expenses, purportedly for the three water systems combined.
75. DDU did not demonstrate how the claimed amount for electric utility expenses excluded expenses for the wastewater systems.
76. DDU did not demonstrate that the amount of \$58,775 in electric utility expenses is an allowable expense that is reasonable and necessary to provide water service.

Insurance

86. In its application, DDU indicated an amount of \$12,200 as an allowable expense for insurance.
87. DDU did not demonstrate how the claimed amount for insurance expenses excluded expenses for the wastewater systems.
88. DDU did not demonstrate that the amount of \$12,200 as an insurance expense is an allowable expense that is reasonable and necessary to provide water service.

Rate Case Expense

89. In its application, DDU claimed \$4,500 for rate case expenses.
90. DDU did not demonstrate that the amount of \$4,500 as a rate case expense is an allowable expense that is reasonable and necessary to provide water service.
91. DDU's rates as a result of the hearing are less than 51 percent of the increase in revenue that would have been generated by DDU's proposed rate.

Payroll Taxes

92. In its application, DDU claimed \$90,789 in expenses for payroll taxes.
93. DDU did not demonstrate how the claimed amount for payroll expenses excluded expenses for the wastewater systems.
94. DDU did not demonstrate that the amount of \$90,789 for payroll tax expenses is an allowable expense that is reasonable and necessary to provide water service.

Property and Other Taxes

95. DDU claimed \$4,500 in property and other taxes.
96. DDU did not demonstrate how the claimed amount for the expense of property and other taxes excluded expenses for the wastewater systems.

104. DDU did not demonstrate that the amount in its application for its federal income tax expense is an allowable expense that is reasonable and necessary to provide water service.

Return

105. Since DDU did not properly calculate its total invested income and its ROR, DDU did not properly calculate the amount of its return.

Other Revenues

106. DDU did not enter any amount for other revenues in its revenue requirement.

107. The evidence does not indicate that DDU recovered \$48,336 in tap fees during the test year as other revenues.

108. For each water system, \$0 is the proper amount for "other revenues."

Financial Integrity

109. Although DDU has operated at a loss between 2001 and 2006, DDU is not at risk of financial collapse if the application to change its rates is denied.

Rate Design

110. In its application, DDU calculated a monthly base rate per meter of \$49.22 through its calculations of fixed and variable costs and total meter equivalents.

111. *(blank)*

112. DDU proposed two rates: one rate for the Cliffs water system and a different rate for the White Bluff and the Retreat water systems.

113. The notice to the Cliffs ratepayers was included in DDU's August 2007 application but was not included in the December 2007 application. The notice showed that the Cliffs ratepayers would pay a \$52 monthly base rate that included 1,000 gallons. There would

120. DDU did not demonstrate how the proposed gallonage charges were determined.
121. DDU did not demonstrate how much revenue would be recovered from its proposed rates.
122. DDU did not demonstrate whether the revenue from its proposed rates would fail to meet, meet, or exceed its revenue requirement.

Refunds

123. DDU collected the proposed rates between September 28, 2007 and December 2008.

Miscellaneous Items

124. DDU's application requested tariff charge increases for 1) tap fee from \$400 to \$525; 2) returned check charge from \$20.00 to \$30.00; 3) customer deposit from \$0 to \$50.00; and 4) meter test fee from \$0 to \$25.00. No other parties contested these increases and the ED indicated that these increase are approvable.
125. DDU should review any future construction and purchase costs closely and maintain its records by National Association of Regulatory Utility Commissioners property accounts.

Transcription Costs

126. DDU was required to pay the cost of recording and transcription subject to an allocation of those costs among all the parties at the end of the case.
127. DDU, WBSR, OPIC, and the ED benefitted from the use of a transcript.
128. DDU did not request that the reporting and transcription costs be allocated among the parties.
129. No party presented evidence or argument on the issue of assessment of reporting and transcription costs.
130. The assessment of the reporting and transcription costs is not an issue in this case.

terms of facilities, quality of service, and cost of service; and the tariff provides for rates that promote water conservation for single-family residences and landscape irrigation.” 30 TAC § 291.21(m); *see also* TEX. WATER CODE ANN. § 13.145(a).

9. DDU has the burden of proving that its proposed rates are just and reasonable. TEX. WATER CODE ANN. § 13.184(c).
10. Based on the above Findings of Fact, DDU failed to meet its burden of proof that the Retreat and White Bluff water systems are substantially similar in terms of their costs of service.
11. Because the costs of service for the two systems are not substantially similar, DDU has not met the 30 TAC § 291.21(m)(1) requirements and the White Bluff and the Retreat water systems cannot be consolidated under a single rate design.

Developer Contributions and the Effect on Invested Capital.

12. Developer contributions are not included in a utility's invested capital. 30 TAC § 291.31(c)(3)(A)(iv) & (v).
13. Based on the above Findings of Fact, DDU included developer contributions in its claimed total invested capital, although the exact amount cannot be determined.

Return

14. The Commission, in setting the rates for water service, must fix a utility's overall revenues at a level that will permit the utility a reasonable opportunity to earn a reasonable return on its invested capital used and useful in rendering service to the public over and above its reasonable and necessary operating expenses and preserve the financial integrity of the utility. TEX. WATER CODE ANN. § 13.183.

20. Depreciation on all currently used and useful developer or governmental entity contributed property shall be allowed in the cost of service. Depreciation expense included in the cost of service includes depreciation on all currently used, depreciable utility property owned by the utility, except for property provided by explicit customer agreements or funded by customer contributions in aid of construction. TEX. WATER CODE ANN. § 13.185(j).

21. The rate of return is applied to the invested capital, also referred to as rate base. 30 TAC § 291.31(c)(2). Components to be included in determining the rate base are as follows:

- (A) original cost, less accumulated depreciation, of utility plant, property, and equipment used by and useful to the utility in providing service:
 - (i) original cost is the actual money cost, or the actual money value of any consideration paid other than money, of the property at the time it was dedicated to public use, whether by the utility that is the present owner or by a predecessor;
 - (ii) reserve for depreciation is the accumulation of recognized allocations of original cost, representing recovery of initial investment, over the estimated useful life of the asset. Depreciation must be computed on a straight line basis over the expected useful life of the item or facility;
 - (iii) the original cost of plant, property, and equipment acquired from an affiliated interest may not be included in invested capital except as provided in TWC, § 13.185(e);
 - (iv) utility property funded by explicit customer agreements or customer contributions in aid of construction such as surcharges may not be included in original cost or invested capital; and
- (B) working capital allowance to be composed of, but not limited to, the following:
 - (i) reasonable inventories of materials and supplies, held specifically for purposes of permitting efficient operation of the utility in providing normal utility service;

- (A) The return should be reasonably sufficient to assure confidence in the financial soundness of the utility and should be adequate, under efficient and economical management, to maintain and support its credit and enable it to raise the money necessary for the proper discharge of its public duties.
 - (B) The commission shall consider the efforts and achievements of the utility in the conservation of resources, the quality of the utility's services, the efficiency of the utility's operations, and the quality of the utility's management, along with other relevant conditions and practices.
 - (C) The commission may, in addition, consider inflation, deflation, the growth rate of the service area, and the need for the utility to attract new capital. In each case, the commission shall consider the utility's cost of capital, which is the composite of the cost of the various classes of capital used by the utility.
26. Based on the above Findings of Fact, DDU failed to meet its burden of proof that its calculations regarding total invested capital, rate of return, and return comply with the TCEQ's rules.

Revenue Requirement

27. Under 30 TAC § 291.31(b)(1), allowable expenses, to the extent they are reasonable and necessary, and subject to that section, may include, but are not limited to, the following general categories:
- (A) operations and maintenance expense incurred in furnishing normal utility service and in maintaining utility plant used by and useful to the utility in providing such service (payments to affiliated interests for costs of service, or any property, right, or thing, or for interest expense are not allowed as an expense for cost of service except as provided in Texas Water Code (TWC), §13.185(e));
 - (B) depreciation expense based on original cost and computed on a straight line basis over the useful life of the asset as approved by the commission. Depreciation is allowed on all currently used depreciable utility property owned by the utility except for property provided by explicit customer agreements or funded by customer contributions in aid of construction. Depreciation on all currently used and useful developer or governmental entity contributed property is allowed in the cost of service;

32. Based on the above Findings of Fact and Conclusions of Law, DDU has failed to meet its burden of proving that its application should be granted. DDU has failed to meet its burden of proof that its proposed rates are just and reasonable.
33. Based on the above Findings of Fact and Conclusions of Law, DDU's application for a change in its water utility rates should be denied.

Rate Case Expenses

34. Regarding rate case expenses, 30 TAC § 291.28(7) and (8) provide:

(7) A utility may recover rate case expenses, including attorney fees, incurred as a result of a rate change application only if the expenses are reasonable, necessary, and in the public interest.

(8) A utility may not recover any rate case expenses if the increase in revenue generated by the just and reasonable rate determined by the commission after a contested case hearing is less than 51% of the increase in revenue that would have been generated by a utility's proposed rate.

35. Based on the above Findings of Fact and Conclusions of Law, DDU has failed to demonstrate that its rates should be increased. Therefore, in accordance with 30 TAC § 291.28(7) and (8), DDU should not be allowed to recover any rate case expenses for this case.
36. Based on the above Findings of Fact and Conclusions of Law, DDU's rates should revert back to those in effect before the filing of the August 2007 application to change DDU's water rates.

39. The Public Interest Counsel may not appeal a ruling, decision, or other act of the Commission. TEX. WATER CODE ANN. § 5.275.
40. The Executive Director may not appeal a ruling, order, or other act of the Commission. TEX. WATER CODE ANN. § 5.356.
41. The Commission may not assess reporting or transcription costs to the Public Interest Counsel and the ED who, as statutory parties, are precluded by law from appealing any ruling, decision, or other act of the Commission. 30 TAC § 80.23(d)(2).
42. Based on the above Findings of Fact and Conclusions of Law, DDU shall be assessed the full amount of the reporting and transcription costs.

III. EXPLANATION OF CHANGES

1. The Commission sustained the ED's Exceptions regarding Findings of Fact Nos. 69 and 111 and Conclusions of Law Nos. 30 and 37, as recommended by the ALJ in her reply to the parties' post-PFD submissions. The Commission deleted the second sentence in Findings of Fact Nos. 69: "The Cliffs is the only surface water-based system." The Commission added the ED's proposed phrases to Conclusion of Law No. 37 in order to identify all sums collected from September 28, 2007 until December 2008. The Commission deleted the sentences proposed for Finding of Fact No. 111 and Conclusion of Law No. 30 regarding an alternative rate method for calculating rates, and left these two provisions "(blank)" in order to avoid the confusion from re-numbering the findings of fact and conclusions of law.
2. The Commission sustained the ED's suggested typographical-style corrections to Findings of Fact Nos. 5, 17, 22, 27, 35, 99, and 115 and Conclusion of Law No. 38 as set

The Commission determined to amend Ordering Provision No. 3 to add the following at the end of the provision: "DDU's Tariff shall continue to reflect its previously approved water rates."

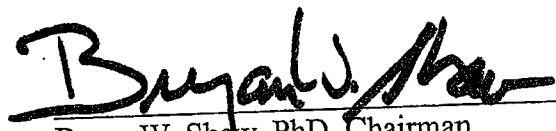
6. The Commission determined to change the ALJ's proposed interest rate that applies to refunds or credits of DDU's overcharges. The Commission acknowledged that the Public Utility Commission has set refund interest rates for calendar year 2009 at 3.21%, based on the 90-day US prime commercial paper rate over the prior twelve months. The Commission determined to amend Conclusion of Law No. 37 and Ordering Provision No. 3 to specify a 3.21% interest rate for refunds/credits for DDU's overcharges.
7. The Commission determined to change the approve DDU's other Tariff charges. The Commission determined to replace Finding of Fact No. 124 with: "DDU's application requested tariff charge increases for 1) tap fee from \$400 to \$525; 2) returned check charge from \$20.00 to \$30.00; 3) customer deposit from \$0 to \$50.00; and 4) meter test fee from \$0 to \$25.00. No other parties contested these increases and the ED indicated that these increase are approvable." The Commission determined to amend Ordering Provision No. 1 to add the sentence: "DDU's requested tariff charge increases for tap fee, returned check charge, customer deposit, and meter test fee are approved."

invalid, the invalidity of any provision shall not affect the validity of the remaining portions of this Order.

9. The Office of the Chief Clerk shall mail a copy of the Order to all parties.

ISSUED: **NOV 12 2009**

TEXAS COMMISSION
ON ENVIRONMENTAL QUALITY


Bryan W. Shaw, PhD, Chairman
For the Commission

WATER UTILITY TARIFF FOR

Double Diamond Utilities Company, Inc.
(Utility Name)

10100 N. Central Expressway, Suite 400
(Business Address)

Dallas, Texas 75231
(City, State, Zip Code)

(214) 706-9801
(Area Code/Telephone)

This tariff is effective for utility operations under the following Certificate of Convenience and Necessity:

12087

This tariff is effective in the following counties:

Hill, Palo Pinto, and Johnson

This tariff is effective in the following cities or unincorporated towns (if any):

None

This tariff is effective in the following subdivisions and public water systems:

The Cliffs (PWS #1820061), The Retreat Water Supply (PWS #1260127), and White Bluff (PWS #1090073).

TABLE OF CONTENTS

The above utility lists the following sections of its tariff (if additional pages are needed for a section, all pages should be numbered consecutively):

SECTION 1.0 -- RATE SCHEDULE.....	2
SECTION 2.0 -- SERVICE RULES AND POLICIES	6
SECTION 3.0 -- EXTENSION POLICY	13
SECTION 4.0 -- DROUGHT CONTINGENCY PLAN	18
APPENDIX A -- SAMPLE SERVICE AGREEMENT	
APPENDIX B -- APPLICATION FOR SERVICE	

SECTION 1.0 - RATE SCHEDULE (CONT.)

RECONNECTION FEE

THE RECONNECT FEE MUST BE PAID BEFORE SERVICE CAN BE RESTORED TO A CUSTOMER WHO HAS BEEN DISCONNECTED FOR THE FOLLOWING REASONS (OR OTHER REASONS LISTED UNDER SECTION 2.0 OF THIS TARIFF):

- a) Non payment of bill (Maximum \$25.00).....\$25.00
- b) Customer's request that service be disconnected\$25.00

TRANSFER FEE\$25.00
THE TRANSFER FEE WILL BE CHARGED FOR CHANGING AN ACCOUNT NAME AT THE SAME SERVICE LOCATION WHEN THE SERVICE IS NOT DISCONNECTED

LATE CHARGE (EITHER \$5.00 OR 10% OF THE BILL) 10%
TCEQ RULES ALLOW A ONE-TIME PENALTY TO BE CHARGED ON DELINQUENT BILLS. A LATE CHARGE MAY NOT BE APPLIED TO ANY BALANCE TO WHICH THE PENALTY WAS APPLIED IN A PREVIOUS BILLING.

RETURNED CHECK CHARGE\$30.00
RETURNED CHECK CHARGES MUST BE BASED ON THE UTILITY'S DOCUMENTABLE COST.

CUSTOMER DEPOSIT RESIDENTIAL (Maximum \$50)\$50.00

COMMERCIAL & NON-RESIDENTIAL DEPOSIT 1/6TH OF ESTIMATED ANNUAL BILL

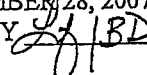
GOVERNMENTAL TESTING, INSPECTION AND COSTS SURCHARGE

WHEN AUTHORIZED IN WRITING BY TCEQ AND AFTER NOTICE TO CUSTOMERS, THE UTILITY MAY INCREASE RATES TO RECOVER INCREASED COSTS FOR INSPECTION FEES AND WATER TESTING 30 TAC 291.21(K)(2).

LINE EXTENSION AND CONSTRUCTION CHARGES:

REFER TO SECTION 3.0--EXTENSION POLICY FOR TERMS, CONDITIONS, AND CHARGES WHEN NEW CONSTRUCTION IS NECESSARY TO PROVIDE SERVICE.

RATES LISTED ARE EFFECTIVE ONLY
IF THIS PAGE HAS TCEQ APPROVAL STAMP

TEXAS COMM. ON ENVIRONMENTAL QUALITY
35771-R, 12087, SEPTEMBER 28, 2007
APPROVED TARIFF BY 

SECTION 1.0 - RATE SCHEDULE (CONT.)

RECONNECTION FEE

THE RECONNECT FEE MUST BE PAID BEFORE SERVICE CAN BE RESTORED TO A CUSTOMER WHO HAS BEEN DISCONNECTED FOR THE FOLLOWING REASONS (OR OTHER REASONS LISTED UNDER SECTION 2.0 OF THIS TARIFF):

- a) Non payment of bill (Maximum \$25.00).....\$25.00
- b) Customer's request that service be disconnected\$25.00

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TCEQ RULES ALLOW A ONE-TIME PENALTY TO BE CHARGED ON DELINQUENT BILLS. A LATE CHARGE MAY NOT BE APPLIED TO ANY BALANCE TO WHICH THE PENALTY WAS APPLIED IN A PREVIOUS BILLING.

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CUSTOMER DEPOSIT RESIDENTIAL (Maximum \$50).....\$50.00

COMMERCIAL & NON-RESIDENTIAL DEPOSIT.....1/6TH OF ESTIMATED ANNUAL BILL

GOVERNMENTAL TESTING, INSPECTION AND COSTS SURCHARGE

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WATER RATE/TARIFF CHANGE §
APPLICATION OF DOUBLE DIAMOND §
UTILITIES CO., CCN NO. 12087, IN §
HILL, PALO PINTO, AND JOHNSON §
COUNTIES, APPLICATION NO., §
36220-R §

BEFORE THE STATE OFFICE
OF
ADMINISTRATIVE HEARINGS

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TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY

NOTICE OF APPEARANCE AS COUNSEL

Double Diamond Utilities Co. has retained Mark H. Zeppa, to be lead counsel in the above-referenced rate case. All pleadings, orders, discovery requests and other correspondence should be served on Mr. Zeppa at the following address:

Law Offices of Mark H. Zeppa, PC
4833 Spicewood Springs Road, Suite 202
Austin, Texas 78759
(512) 346-4011
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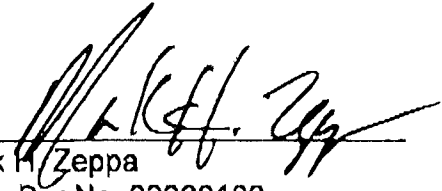
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ATTORNEYS FOR DOUBLE DIAMOND
UTILITIES CO.

CERTIFICATE OF SERVICE

I, Mark H. Zeppa, certify that true copies of the foregoing were served on the following by 1st class USPS mail, electronic transmission and or hand delivery on November ____ 2009:

State Office of Administrative Hearings
SOAH Docket Clerk
State Office of Administrative Hearings
PO Box 13025
Austin, Texas 78711-3025
(512) 475-4993
Fax (512) 475-4994

TEXAS
COMMISSION
ON BILLBOARD
REGULATION
NOV 23 PM 4:57
CHIEF CLERKS OFFICE

Representing the TCEQ Executive Director

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TCEQ Docket Clerk
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Representing the White Bluff Subdivision Ratepayers

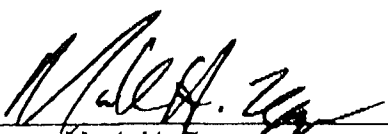
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COMMISSION ON ENVIRONMENTAL QUALITY

PAGES: 4 HARD COPY FOLLOWS: yes x no

RESPONSE REQUESTED: yes no

Re: SOAH Docket No. 582-09-4288
TCEQ Docket No. 2009-0505-UCR

Application of Double Diamond Utilities Company, Inc. to Change Water Rates and Tariff

Notice of Appearance as Counsel

SENDER: Mark Zeppa

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