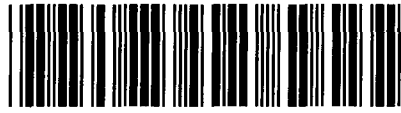


Control Number: 46245



Item Number: 304

Addendum StartPage: 0

RECEIVED

2016 SEP 30 AM 11:40

PUBLIC UTILITY COMMISSION
CLERK

OPEN MEETING COVER SHEET

MEETING DATE: October 7, 2016

DATE DELIVERED: September 30, 2016

AGENDA ITEM NO.: 21

CAPTION: Docket No. 46245; SOAH Docket No. 473-17-0119.WS - Application of Double Diamond Utility Company, Inc. for Water and Sewer Rate/Tariff Change

ACTION REQUESTED: Discussion and possible action with respect to Preliminary Order

Distribution List:
Commissioners' Office (9)
Lloyd, Brian
Whittington, Pam
Gleeson, Thomas
Phillips, Michael
Central Records
Rogas, Keith (2)
Pemberton, Margaret (5)
Journeay, Stephen
Burch, Chris
Tietjen, Darryl (2)
Long, Mick (2)
Smyth, Scott (2)
Benter, Tammy (4)
Gonzales, Adriana (if rulemaking)

304

Donna L. Nelson
Chairman

Kenneth W. Anderson, Jr.
Commissioner

Brandy Marty Marquez
Commissioner

Brian H. Lloyd
Executive Director



RECEIVED
Greg Abbott
Governor

2016 SEP 30 AM 11:40

PUBLIC UTILITY COMMISSION
FILING CLERK

Public Utility Commission of Texas

TO: Chairman Donna L. Nelson
Commissioner Kenneth W. Anderson, Jr.
Commissioner Brandy Marty Marquez

All Parties of Record

FROM: Carlos Carrasco, Commission Advising 

RE: October 7, 2016 Open Meeting Agenda Item No. 21
Draft Preliminary Order, Docket No. 46245, SOAH Docket No. 473-17-
0119.WS – *Application of Double Diamond Utility Company, Inc. for Water and
Sewer Rate/Tariff Change*

DATE: September 30, 2016

Please find enclosed the draft preliminary order filed by Commission Advising in the above-referenced docket. The Commission will consider this draft preliminary order at the October 7, 2016 open meeting. Parties shall not file responses or comments addressing this draft preliminary order.

Any modifications to the draft preliminary order that are proposed by one or more Commissioners will be filed simultaneously prior to the consideration of the matter at the October 7, 2016 open meeting.

Q:\CADM\ORDERS\PRELIM\46000\46245 dpo memo.docx



Printed on recycled paper

An Equal Opportunity Employer

**SOAH DOCKET NO. 473-17-0119.WS
PUC DOCKET NO. 46245**

**APPLICATION OF DOUBLE DIAMOND § PUBLIC UTILITY COMMISSION
UTILITY COMPANY, INC. FOR WATER §
AND SEWER RATE/TARIFF CHANGE § OF TEXAS**

DRAFT PRELIMINARY ORDER

On August 1, 2016, Double Diamond Utility Company filed an application for Class B rate and tariff changes under Texas Water Code (TWC) § 13.1871 and 16 Texas Administrative Code (TAC) §§ 24.21-26. Specifically, Double Diamond requests changes to its rates and tariffs for sewer certificate of convenience and necessity (CCN) number 20705 and water CCN number 12087. On September 1, 2016, Commission Staff recommended that the application administratively is complete and the matter should be referred to the State Office of Administrative Hearings (SOAH) because more than ten percent of Double Diamond's ratepayers protested the rate change.¹ On September 8, 2016, this proceeding was referred to SOAH. On September 16, 2016, Commission Staff and Double Diamond each timely filed a list of issues.

Double Diamond states it is a Class B utility.² In its application, Double Diamond requests approval of a total revenue requirement of \$229,944, effective October 1, 2016.³ The proposed rate increase affects 927 active connections in the Cliffs and White Bluff systems.⁴

¹ Commission Staff's Recommendation on Administrative Completeness of the Application and Notice at 1-2 (Sept. 1, 2016).

² Application at 10 (Aug. 1, 2016).

³ *Id.*

⁴ Commission Staff's Recommendation on Administrative Completeness of the Application and Notice at 4.

I. Issues to be Addressed

The Commission must provide to the ALJ a list of issues or areas to be addressed in any proceeding referred to SOAH.⁵ After reviewing the pleadings submitted by the parties, the Commission identifies the following issues that must be addressed in this docket:

1. What is the appropriate methodology to determine just and reasonable rates in this proceeding?
2. What are the just and reasonable rates for the utility that are sufficient, equitable, and consistent in application to each customer class and that are not unreasonably preferential, prejudicial, or discriminatory?⁶
3. What revenue requirement will give the utility a reasonable opportunity to earn a reasonable return on its invested capital used and useful in providing service to the public in excess of its reasonable and necessary operating expenses while preserving the utility's financial integrity?⁷
4. Are the utility's proposed revisions to its tariffs and rate schedules appropriate?
5. What is the reasonable and necessary cost of providing service?⁸
6. What adjustments, if any, should be made to the utility's proposed test-year data?⁹
7. What is the appropriate debt-to-equity capital structure of the utility?

⁵ Tex. Gov't Code Ann. § 2003.049(e) (West 2016).

⁶ TWC § 13.182, 13.1871(o); 16 TAC § 24.28(d).

⁷ TWC § 13.183(a)(1)-(2); 16 TAC § 24.32(a).

⁸ 16 TAC § 24.31.

⁹ TWC § 13.185(d)(1); 16 TAC § 24.31(b), (c)(5).

8. What is the appropriate overall rate of return, return on equity, and cost of debt for the utility?
9. What are the reasonable and necessary components of the utility's invested capital?¹⁰
10. What is the appropriate weighted average cost of capital?
11. What is the amount for an allowance for funds used during construction, if any, that is being transferred to invested capital in this proceeding? If such amounts are being transferred, for what facilities and at what rate did the allowance for funds used during construction accrue?
12. What is the original cost of the property used and useful in providing water service to the public at the time the property was dedicated to public use?¹¹
 - a. What is the amount, if any, of accumulated depreciation on such property?
13. Is the utility seeking the inclusion of construction work in progress? If so, what is the amount sought and for what facilities? Additionally, has the utility proven that the inclusion is necessary to the financial integrity of the utility and that major projects under construction have been efficiently and prudently planned and managed?¹²
14. Does the utility have any debt? If so, what is the cost of that debt?
15. What is the reasonable and necessary working capital allowance for the utility?¹³
16. Does the utility have any water or sewer property that was acquired from an affiliate or a developer before September 1, 1976? If so, has such property been included by the utility

¹⁰ 16 TAC § 24.31(c)(2).

¹¹ TWC § 13.185(b); 16 TAC § 24.31(c)(2)(A)-(B).

¹² TWC § 13.185(b); 16 TAC § 24.31(c)(4).

¹³ 16 TAC § 24.31(c)(2)(C).

in its rate base, and has it been included in all ratemaking formulas at the actual cost of the property rather than the price set between the entities?¹⁴

17. Has the utility acquired any water property from an affiliate? If so, do the payments for that property meet the requirements of TWC § 13.185(e)?
18. Has the utility financed any of its plant with developer contributions?¹⁵ What is the amount, if any, of accumulated depreciation on that property?
19. Has the utility included any customer contributions or donations in invested capital?¹⁶
20. What are the utility's reasonable and necessary operations and maintenance expenses?¹⁷
21. What are the utility's reasonable and necessary administrative and general expenses?
22. What is the reasonable and necessary amount for the utility's advertising expense, contributions, and donations?¹⁸
23. Are any expenses, including but not limited to, executive salaries, advertising expenses, legal expenses, penalties and interest on overdue taxes, criminal penalties or fines, and civil penalties or fines, unreasonable, unnecessary, or not in the public interest?¹⁹
24. If the utility has a self-insurance plan approved by the Commission or other regulatory authority, what is the approved target amount for the reserve account, and is it appropriate to charge that amount? What is the amount of any shortage or surplus for the reserve

¹⁴ TWC § 13.185(i).

¹⁵ TWC § 13.185(j), 16 TAC § 24.31(b)(1)(B).

¹⁶ TWC § 13.185(j), 16 TAC § 24.31(c)(2)(B)(v).

¹⁷ 16 TAC § 24.31(b)(1)(A).

¹⁸ 16 TAC § 24.31(b)(1)(F).

¹⁹ TWC § 13.185(h)(3); 16 TAC § 24.31(b)(2)(I).

- account, and what actions, if any, should be taken to return the reserve account to the approved target amount?
25. What are the utility's reasonable and necessary expenses, if any, for pension and other post-employment benefits?
26. Has the utility made any payments to affiliates?
- a. For affiliate transactions that affect the cost of service, are these transactions reasonable and necessary?²⁰
- b. For all affiliated transactions affecting the cost of service, what are the costs to the affiliate of each item or class of items in question, and is the price for each transaction no higher than prices charged by the supplying affiliate to its other affiliates or divisions for the same item or items, or to unaffiliated persons or corporations?²¹
27. What is the reasonable and necessary depreciation expense? For each class of property, what are the proper and adequate depreciation rates (including service lives and salvage values) and methods of depreciation?²²
28. Are any tax savings derived from liberalized depreciation and amortization, investment tax credits, or similar methods? If so, are such tax savings apportioned equitably between customers and the utility, and are the interests of present and future customers equitably balanced?
29. What is the reasonable and necessary amount, if any, for assessment and taxes other than federal income taxes?²³

²⁰ TWC § 13.185(e).

²¹ *Id.*

²² TWC § 13.185(j); 16 TAC § 24.31(b)(1)(B).

²³ 16 TAC § 24.31(b)(1)(C).

30. What is the reasonable and necessary amount for the utility's federal income tax expense?²⁴
- a. Is the utility a member of an affiliated group that is eligible to file a consolidated income tax return?²⁵
 - b. If so, have income taxes been computed as though a consolidated return had been filed and the utility realized its fair share of the savings resulting from the consolidated return?²⁶
 - c. If not, has the utility demonstrated that it was reasonable not to consolidate returns?²⁷
31. What is the reasonable and necessary amount of the utility's accumulated reserve for deferred federal income taxes, unamortized investment tax credits, contingency reserves, property insurance reserves, contributions in aid of construction, customer deposits, and other sources of cost-free capital? What other items should be deducted from the utility's rate base?
32. What is the reasonable and necessary amount for municipal franchise fees, if any, to be included in rates?
33. What regulatory assets are appropriately included in the utility's rate base? If such assets are included in rate base, what is the appropriate treatment of such assets?
34. Is the utility seeking rates for both water and sewer service? If so, is each component of cost of service (each allowable expense and all return on invested capital) properly allocated between water and sewer services?

²⁴ 16 TAC § 24.31(b)(1)(D); TWC § 13.185(f).

²⁵ TWC § 13.185(f).

²⁶ *Id.*

²⁷ *Id.*

35. What is the appropriate allocation of costs and revenues among the utility's rate classes?
36. What is the appropriate rate design for each rate class?²⁸
37. Is it reasonable and appropriate for the utility to use the current number of connections as of the date of the application as opposed to using test-year-end connections in designing rates?
38. What are the utility's expenses incurred in this rate proceeding that are just, reasonable, necessary, and in the public interest?²⁹ Does that amount include any anticipated expenses to appeal this docket that are just, reasonable, necessary, and in the public interest? Should the utility be able to recover its reasonable and necessary rate-case expenses from ratepayers? If so, how should such expenses, if any, be recovered by the utility?
39. If a refund or surcharge results from this proceeding, how and over what period of time should that be made?³⁰
40. Has the utility met the requirements for a request for interim relief in the form of interim rates? If so, what are the appropriate levels of the interim rates?³¹
41. What is the appropriate effective date of the rates fixed by the Commission in this proceeding?³²

This list of issues is not intended to be exhaustive. The parties and the ALJ are free to raise and address any issues relevant in this docket that they deem necessary, subject to any

²⁸ 16 TAC § 24.32.

²⁹ 16 TAC § 24.33.

³⁰ TWC § 13.1871.

³¹ 16 TAC § 24.29.

³² TWC § 13.1871.

limitations imposed by the ALJ or by the Commission in future orders issued in this docket. The Commission reserves the right to identify and provide to the ALJ in the future any additional issues or areas that must be addressed, as permitted under Texas Gov't Code Ann. § 2003.049(e).

IV. Effect of Preliminary Order

This Order is preliminary in nature and is entered without prejudice to any party expressing views contrary to this Order before the SOAH ALJ at hearing. The SOAH ALJ, upon his or her own motion or upon the motion of any party, may deviate from this Order when circumstances dictate that it is reasonable to do so. Any ruling by the SOAH ALJ that deviates from this Order may be appealed to the Commission. The Commission will not address whether this Order should be modified except upon its own motion or the appeal of a SOAH ALJ's order. Furthermore, this Order is not subject to motions for rehearing or reconsideration.

SIGNED AT AUSTIN, TEXAS the _____ day of October 2016.

PUBLIC UTILITY COMMISSION OF TEXAS

DONNA L. NELSON, CHAIRMAN

KENNETH W. ANDERSON, JR., COMMISSIONER

BRANDY MARTY MARQUEZ, COMMISSIONER