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APPLICATION OF DOUBLE § BEFORE THE STATE OFFICE OF PUBLIC UTILITY COMMISSION
DIAMOND UTILITY COMPANY, INC. § FILING CLERK
FOR WATER AND SEWER § OF
RATE/TARIFF CHANGE § ADMINISTRATIVE HEARINGS

**DOUBLE DIAMOND UTILITY COMPANY, INC.’S RESPONSE TO
WHITE BLUFF RATEPAYERS GROUP’S
MOTION TO DECLASSIFY**

TO THE HONORABLE ADMINISTRATIVE LAW JUDGE:

Double Diamond Utility Company, Inc. (“DDU”) files this Response to White Bluff Ratepayers Group’s (“WBRG”) Motion to Declassify. In support, DDU would respectfully state as follows:

**I.
BACKGROUND**

On November 3, 2016, WBRG filed a Motion to Declassify. DDU’s response is due November 10, 2016. DDU has filed this response timely. The ALJ entered SOAH Order No. 3, the Protective Order, on October 20, 2016.

**II.
ARGUMENT AND AUTHORITIES**

DDU is a privately-held company, whose business records are not ordinarily subject to the Open Records Act, Texas Government Code Chapter 552 (“Act”). The Public Utility Commission (“PUC”), as a governmental body, is subject to the Act. *See* Tex. Gov’t. Code §552.003(1)(A)(i). As such, records publicly filed with the PUC by any entity, public or private, become public information because that information is collected and maintained by a governmental body as part of its official business. *Id.* at §552.002(a)(1).

The Protective Order entered in this matter is the standard protective order SOAH issues in PUC cases. The PUC procedure in rate cases is different than that of TCEQ. Having a protective order in a PUC case is not unusual. The Protective Order seeks to provide protection to DDU from the disclosure of information – such as financial and customer information - that, if

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released to the general public or posted in the PUC Interchange, could negatively impact DDU in the utility marketplace. The idea behind the Protective Order is to shield DDU's private corporate information from public disclosure. In the absence of a Protective Order, the PUC would require the information to be disseminated in the Interchange, which is a public domain, and any individual in this matter or any other person could then see and use the information.

In this matter, DDU has produced the information requested by the White Bluff Ratepayers Group ("WBRG") to WBRG, subject to the Protective Order. The documents were marked as "Confidential." None of the documents produced by DDU have been designated as "highly sensitive protected information," which triggers a higher level of care.

WBRG filed the required Protective Order certifications for six individuals. WBRG has the ability to review the documents provided and to use the documents and information in this matter, so long as the requirements of the Protective Order are followed.

DDU is not attempting to "suppress" ratepayer participation, as WBRG alleges. The reality in these matters is that the lawyers, party representatives and the experts review the documents produced and make their determinations, not the entire group of individual ratepayers. WBRG has thus far designated six individuals who WBRG presumably believes will be actually reviewing the information produced. Similarly, PUC Staff has filed the required certifications, and those Staff members also have the ability to review the documents produced. DDU has made the requested information available while simultaneously exercising its right to protect its business records from public disclosure.

The Protective Order simply provides a layer of protection for documents that would not otherwise be in the public domain, and shields those documents from public disclosure. In that regard, DDU seeks to maintain the protected status of all of the documents produced as DDU 000001 – DDU 003592 subject to the Protective Order. DDU believes the ALJ has access to the documents at issue in this matter for *in camera* review; however, if that is not currently the case, DDU will provide the documents to the ALJ for *in camera* review, should the ALJ deem it necessary.

**III.
PRAYER**

DDU prays that Order be issued consistent with the issues set forth above, maintaining the confidential classification of the documents produced – DDU 000001 – DDU 0003592, and denying WBRG’s motion to declassify any portion of the subject documents.

Respectfully submitted,

By: 
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ATTORNEY FOR DOUBLE DIAMOND
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CERTIFICATE OF SERVICE

I hereby certify that I have served or will serve a true and correct copy of the foregoing document via hand delivery, facsimile, electronic mail, overnight mail, U.S. mail and/or Certified Mail Return Receipt Requested to all parties on this the 10th day of November, 2016.


John Carlton