



Control Number: 46245



Item Number: 537

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

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

BEFORE THE STATE OFFICE OF
PUBLIC UTILITY OFFICE
FILED CLERK
OF
ADMINISTRATIVE HEARINGS

**WHITE BLUFF RATEPAYERS GROUP'S
MOTION TO REJECT APPLICATION OR SUSPEND RATES BASED ON
MISREPRESENTATIONS IN THE APPLICATION**

TO THE HONORABLE ADMINISTRATIVE LAW JUDGE:

White Bluff Ratepayers Group ("WBRG") requests that the Administrative Law Judge reject the rate application filed by Double Utility Company, Inc. ("DDU") based on material misrepresentations in the application regarding rate base. In the alternative, WBRG requests that DDU's rate change be suspended until DDU files a new application correcting the misrepresentations in the pending application. Additionally, WBRG requests that the ALJ order refunds for amounts collected by DDU since October 1, 2016.

I. Introduction

On August 1, 2016, Double Diamond filed an application to change rates in the White Bluff and The Cliffs subdivisions. On September 7, 2016, a Commission ALJ deemed the application to be administratively complete based on the recommendation of Commission Staff. The application contains material misrepresentations regarding the amounts and nature of DDU's claimed rate base. Allowing this matter to proceed without correcting these misrepresentations will significantly impair WBRG's ability to review and analyze the application and will lead to increased rate case expenses and increased costs to WBRG.

WBRG, or a predecessor, participated in three prior rate cases involving DDU (SOAH Docket Nos. 582-08-0698, 582-09-4288, and 582-09-6112). Through its participation in those proceedings, WBRG has copies of applications, pleadings, and discovery from the prior rate cases.

II. Material Misrepresentations

Based on WBRG's review of DDU's application, DDU's responses to WBRG's 1st RFI, and the records from DDU's last water rate case (SOAH Docket No. 582-09-4288), WBRG has

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identified two material misrepresentations in DDU's application that must be corrected before this application can be adequately reviewed. The identified misrepresentations may not represent all misrepresentations in DDU's application; merely those identified by WBRG upon initial review. The two material misrepresentations are as follows:

Misrepresentation No. 1: Beginning Plant Balance from Previous Rate Case

The amounts shown on Table III-3(a) for each of the White Bluff tables (Total, Water, and Sewer) misrepresent the amount approved in the previous rate case. For purposes of illustration, WBRG will focus on Table III-3(a) (White Bluff Water) (attached hereto as Exhibit A). The amount shown on the line in this table is \$2,966,416. The purpose of this line is to establish a baseline rate base—a number that has previously been established by Commission order that does not need to be reviewed again. Indeed, the instructions on Table III-3(a) of the application form are clear in this regard: “Amount must match previous rate case.” The problem with DDU's number is that *no rate base has ever been approved by TCEQ or the Commission*.

In SOAH Docket No. 582-09-4288, DDU filed an application that claimed an original cost for White Bluff plant of \$1,442,460. This amount is shown in Exhibit DDU-23 (attached hereto as Exhibit B), which is referenced in the Direct Testimony of Chris Ekrut (attached hereto as Exhibit C), which was filed on behalf of DDU. During the course of the proceeding, DDU performed a trended cost study of its assets (“asset evaluation”). DDU then filed direct testimony that “adjusted” rate base value based on the trended cost study (see discussion in Exhibit C, pps. 21–22). This increased the original cost of White Bluff water plant to \$3,080,532¹ (see Exhibit B). TCEQ Staff, through the direct testimony of Brian Dickey, rejected DDU's attempt to use a trending study to provide original cost data for assets for which DDU had no records, and noted that no rate base had previously been established for DDU. (attached hereto as Exhibit D).

SOAH Docket No. 582-09-4288, however, did not proceed to a hearing on the merits. The parties settled on a rate, but not on a rate base amount. The matter was remanded to the TCEQ Executive Director on order of the SOAH ALJ. The TCEQ ED entered an order on the application on August 6, 2014, approving the stipulated rates but not approving a rate base. (Exhibit E).

¹ Although this number does not match the number shown in the application (\$2,966,416), it does match the amount shown on the workpaper supporting that number, which was confirmed in DDU's Response to RFI WBRG 1–17 and on Bates Page DDU012461.

Because no rate base was established in the previous rate case (and in fact, has never been established in any prior rate case), the amount that should be shown in the application is \$0.00. By including \$0.00 in the application, the ALJs, Commission staff, and the parties will know that DDU has the burden of establishing the original cost value for all of its assets, pursuant to PUC rules. DDU should not be allowed to claim that its rate base as of the end of 2007 has ever been approved by a regulatory authority, nor should the parties be forced to waste hearing time having to argue over whether it has ever been approved. The arguments provided regarding the White Bluff water system are equally applicable to the White Bluff sewer system and that of The Cliffs. Also, discrepancies in the rate base schedules lead to discrepancies in depreciation schedules.

Misrepresentation No. 2: Developer Contributions

The amount shown on Table III-2, line 11, and Table III-8(b) is \$5,684 (Exhibit F), which represents the amount of developer contributions to the White Bluff water system. The amount is orders of magnitude smaller than the amounts previously identified by SOAH and claimed by DDU in prior applications and sworn testimony. As explained below, this discrepancy is on the order of \$1 million. DDU has provided no explanation of the basis for its omission of the proper amounts of developer contributions.

On August 7, 2007, DDU filed an application to change the White Bluff water rates. This application was heard by SOAH in Docket No. 582-08-0698. The matter went to evidentiary hearing in early 2009, and a PFD was prepared by the ALJ (see relevant excerpts of the PFD in Exhibit G). As explained in the PFD, DDU's application failed to identify developer contributions, but the presence of the contributions became known during cross examination of DDU's Vice President of Accounting (Kevin Shae) and DDU's President (Randy Gracy). The ALJ was unable to determine an exact amount of developer contributions but noted that in the subsequent application (which was filed while the first application was in hearing), DDU identified \$1.9 million in developer contributions. DDU's failure to properly identify developer contributions was a significant factor in the ALJ's recommendation that DDU's application be denied. (see Exhibit F, PFD at p. 25).

In October 2008, DDU filed another rate change application for the White Bluff water system. That application identified \$1.9 million on developer contributions for several of DDU's systems. This application included an affidavit signed by Randy Gracy. The amounts of

developer contributions were changed by DDU in its direct testimony, which is explained in the direct testimony of Chris Ekrut filed in that docket, which increased the amount of developer contributions to more than \$2 million. (Exhibit C, pages 23–24). The developer contributions are also shown on one of Mr. Ekrut's workpapers. (attached hereto as Exhibit H).

The difference between \$5,684 and \$2 million is more than material; it should be fatal to DDU's application. Given the attention paid to developer contributions in the past, and given DDU's past attempts to hide these amounts, the undervaluing of developer contributions for the purpose of the instant rate change application could not have been done by oversight. DDU does not want to identify the amount of developer contributions because DDU is not entitled to earn a return on such contributions. WBRG should not be forced to find these amounts through discovery and then have to recommend adjustments to rate base and rates based on those adjustments. That should be the job of DDU, which has the burden of proof in this matter. No rate change application should be reviewed until DDU properly identifies developer contributions in the application.

III. Requested Relief

DDU should be ordered to correct the misrepresentations in its application, and the ratepayers should be freed from the burden of having to pay rates based on these misrepresented facts. The misrepresentations in DDU's application are both significant with regard to the amount of DDU's revenue requirement and unfair with regard to the processing of this proceeding. DDU is currently charging rates based on a grossly overstated rate base. The Commission should not condone the charging of these rates even on an interim basis. Moreover, forcing WBRG to identify and correct these errors through its case is fundamentally unfair. The ratepayers should not be forced to spend their limited resources re-litigating issues previously determined in prior rate cases. Additionally, DDU should not be allowed to increase its rate case expenses by intentionally hiding key facts from the parties, and then fighting to reveal information that should have been provided in the application.

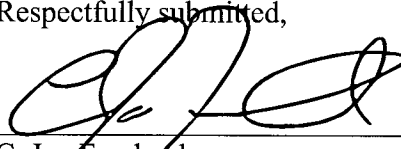
To remedy the problems caused by DDU's misrepresentations, WBRG requests the ALJ reject DDU's application as deficient. Pursuant to Commission Subst. R. 24.8(b), the Commission may reject an application if it determines that deficiencies exist in the application. The rule does not limit the Commission from rejecting an application after the application has been deemed administratively complete. Rejection of the application would give DDU time to

gather all of the necessary data and prepare and file a complete application. Rejection of the application would also allow DDU the opportunity to work with the ratepayers in coming to some agreement regarding rate base prior to the filing of the application. Alternatively, WBRG requests that the ALJ determine that DDU failed to properly complete the rate application, and suspend the rate pursuant to Commission Substantive Rule 24.26(b) until such time as DDU submits a properly completed application.

If the ALJ rejects the application or suspends the rates until DDU submits a properly completed application, the ALJ needs to also order DDU to refund the amounts its has collected since October 1, 2016 (the effective date of the rate change) that exceed its previously approved rates.

Dated: November 15, 2016

Respectfully submitted,



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ATTORNEYS FOR
WHITE BLUFF RATEPAYERS GROUP

CERTIFICATE OF SERVICE

I certify that a copy of this White Bluff Ratepayers Group's Motion to Reject Application Or Suspend Rates Based On Misrepresentations in the Application was served on all parties of record in this proceeding on November 15, 2016, by hand-delivery, facsimile, electronic mail, and/or First Class Mail.



C: Joe Freeland

Exhibit A

Table III-3(a) (White Bluff Water)

UTILITY NAME: Double Diamond Utility Company, Inc. WHITE BLUFF (Water)
SCHEDULES - CLASS B RATE/TARIFF CHANGE
III-3(a) UTILITY PLANT IN SERVICE-RECONCILIATION TO PRIOR CASE
FOR TEST YEAR ENDED: 12/31/2015

ORIGINAL COST DATA

A	B	C	D
Line No.	Description	Amount	Amount
1.	Beginning Gross Plant balance - (from previous rate case)	Must match previous rate case	\$ 2,966,416
2.	Plant additions after previous rate case		
3.	2008 Additions	\$ 136,982	
4.	2009 Additions	\$ 86,790	
5.	2010 Additions	\$ 40,621	
6.	2011 Additions	\$ 61,809	
7.	2012 Additions	\$ 72,848	
8.	2013 Additions	\$ 1,204	
9.	2014 Additions	\$ -	
10.	2015 Additions	\$ 88,234	
11.	Total additions (add lines 3 through 10, Col C)		\$ 488,488
12.	Test year plant retirements after previous rate case:		
13.		\$ -	
14.			
15.			
16.			
17.			
18.			
19.			
20.			
21.	Total retirements (add line 13 through 20, Col C)		\$ -
22.	Ending balance (line 1 + line 11 - line 21)	Equals as III-3 Column D, line 50	\$ 3,454,904

Please provide a full explanation of any adjustments to accounts from the prior period.

Exhibit B

SOAH Docket.582-09-4288

Exhibit DDU-23

Double Diamond Utilities Co.
SOAH Docket No. 582-09-4288
TCEQ Docket No. 2009-0505-UCR
Rate Base Impact of Asset Evaluation

	The Retreat	White Bluff	Groundwater Total	The Cliffs	Surface Water Total
Application Values					
Original Cost					
Plant	\$ 1,665,321	\$ 1,442,460	\$ 3,107,782	\$ 806,985	\$ 806,985
Regulatory Asset		152,552	152,552	154,824	154,824
Subtotal	\$ 1,665,321	\$ 1,595,013	\$ 3,260,334	\$ 961,808	\$ 961,808
Accumulated Depreciation					
Plant	\$ (153,445)	\$ (384,748)	\$ (538,193)	\$ (304,852)	\$ (304,852)
Regulatory Asset		(30,510)	(30,510)	(30,965)	(30,965)
Subtotal	\$ (153,445)	\$ (415,259)	\$ (568,703)	\$ (335,817)	\$ (335,817)
Net Plant					
Plant	\$ 1,511,877	\$ 1,057,712	\$ 2,569,589	\$ 502,133	\$ 502,133
Regulatory Asset		122,042	122,042	123,859	123,859
Subtotal	\$ 1,511,877	\$ 1,179,754	\$ 2,691,631	\$ 625,991	\$ 625,991
Annual Depreciation					
Plant	\$ 41,376	\$ 45,395	\$ 86,771	\$ 50,249	\$ 50,249
Regulatory Asset		30,510	30,510	30,965	30,965
Subtotal	\$ 41,376	\$ 75,905	\$ 117,281	\$ 81,214	\$ 81,214
Values from Asset Evaluation					
Original Cost					
Plant	\$ 1,700,104	\$ 3,080,532	\$ 4,780,636	\$ 1,185,625	\$ 1,185,625
Regulatory Asset		152,552	152,552	154,824	154,824
Subtotal	\$ 1,700,104	\$ 3,233,084	\$ 4,933,188	\$ 1,340,448	\$ 1,340,448
Accumulated Depreciation					
Plant	\$ (214,198)	\$ (840,050)	\$ (1,054,248)	\$ (405,537)	\$ (405,537)
Regulatory Asset		(30,510)	(30,510)	(30,965)	(30,965)
Subtotal	\$ (214,198)	\$ (870,560)	\$ (1,084,759)	\$ (436,501)	\$ (436,501)
Net Plant					
Plant	\$ 1,485,906	\$ 2,240,482	\$ 3,726,387	\$ 780,088	\$ 780,088
Regulatory Asset		122,042	122,042	123,859	123,859
Subtotal	\$ 1,485,906	\$ 2,362,524	\$ 3,848,429	\$ 903,947	\$ 903,947
Annual Depreciation					
Plant	\$ 56,063	\$ 98,649	\$ 154,712	\$ 42,104	\$ 42,104
Regulatory Asset		30,510	30,510	30,965	30,965
Subtotal	\$ 56,063	\$ 129,160	\$ 185,223	\$ 73,069	\$ 73,069
Impact to Rate Base					
Original Cost					
Plant	\$ 34,783	\$ 1,638,071	\$ 1,672,854	\$ 378,640	\$ 378,640
Regulatory Asset					
Subtotal	\$ 34,783	\$ 1,638,071	\$ 1,672,854	\$ 378,640	\$ 378,640
Accumulated Depreciation					
Plant	\$ (60,754)	\$ (455,302)	\$ (516,055)	\$ (100,685)	\$ (100,685)
Regulatory Asset					
Subtotal	\$ (60,754)	\$ (455,302)	\$ (516,055)	\$ (100,685)	\$ (100,685)
Net Plant					
Plant	\$ (25,971)	\$ 1,182,769	\$ 1,156,798	\$ 277,956	\$ 277,956
Regulatory Asset					
Subtotal	\$ (25,971)	\$ 1,182,769	\$ 1,156,798	\$ 277,956	\$ 277,956
Annual Depreciation					
Plant	\$ 14,687	\$ 53,254	\$ 67,941	\$ (8,146)	\$ (8,146)
Regulatory Asset					
Subtotal	\$ 14,687	\$ 53,254	\$ 67,941	\$ (8,146)	\$ (8,146)

Exhibit C

SÔAH Docket No. 582-09-4288

Excerpts from Direct Testimony of Chris Ekrut

SOAH DOCKET NO. 582-09-4288

TCEQ DOCKET NO. 2009-0505-UCR

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

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BEFORE THE STATE OFFICE

OF

ADMINISTRATIVE HEARINGS

PREFILED DIRECT TESTIMONY AND EXHIBITS

OF

CHRIS EKRUT

ON BEHALF OF

DOUBLE DIAMOND UTILITIES COMPANY, INC.

MARCH 1, 2010

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I. INTRODUCTION AND QUALIFICATIONS

Q. PLEASE STATE YOUR NAME, OCCUPATION, AND BUSINESS ADDRESS.

A. My name is Chris Ekrut. I am a Manager with J. Stowe & Co., Inc. My business address is 1300 E. Lookout Dr., Ste. 100, Richardson, Texas 75082.

Q. PLEASE OUTLINE YOUR EDUCATIONAL AND PROFESSIONAL BACKGROUND.

A. I received my undergraduate degree, a Bachelor of Arts with a major in Public Administration, from West Texas A&M University in 2003, graduating with honors. I then received a Master's in Public Administration from the University of North Texas in 2005, again graduating with honors. While pursuing my Master's Degree, I served as an intern with R.W. Beck, Inc. ("R.W. Beck"), and officially joined the Company in 2005 as a Consulting Analyst upon completion of my degree. I left R.W. Beck in April 2008 to join J. Stowe & Co., LLC. ("J. Stowe & Co.") as a Senior Consultant, and was promoted to Manager in December 2009. In 2009, I also received my certification as an Associate in Project Management by the Project Management Institute. My professional resume is herein included as Exhibit DDU-16.

Q. GENERALLY, WHAT DOES YOUR WORK WITH J. STOWE & CO. ENTAIL?

A. I have provided a broad range of consulting services to the utility industry, including, but not limited to:

- Cost of service and rate design studies
- Litigation support
- System valuations
- Operational and organization studies
- Socioeconomic impact analysis

- 1 • Business Plan development
2 • Program / Project Management

3 **Q. ON WHOSE BEHALF ARE YOU PRESENTING TESTIMONY IN THIS**
4 **PROCEEDING?**

5 A. I am presenting testimony on behalf of Double Diamond Utilities Company, Inc., referred
6 to herein as “Double Diamond”, “DDU”, and/or “the Utility.”

7 **Q. CAN YOU PLEASE DEFINE THE SYSTEMS THAT ARE THE SUBJECT OF**
8 **THIS PROCEEDING?**

9 A. DDU currently is authorized to provide water service from three (3) water systems.
10 These systems, listed below in Table 1, are all subject to this proceeding:

<u>Water System</u>	<u>PWS ID</u>
The Cliffs	1820061
The Retreat	1260127
White Bluff	1090073

11

12

II. PURPOSE AND SCOPE

13 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY IN THIS PROCEEDING?**

14 A. J. Stowe & Co. was retained by DDU to assist the Utility in preparing and filing the rate
15 change application that is subject of this proceeding. The purpose of my testimony is to
16 provide background on the procedures and methodologies utilized to prepare the
17 application and the requested rates.

18 **Q. HAVE YOU PREVIOUSLY TESTIFIED BEFORE THE COMMISSION ON**
19 **COST OF SERVICE AND/OR RATE MATTERS?**

20 A. No, I have not.

21

1 Please note that to recognize the Utility's prior 2006 Test Year water rate application, I
2 have amortized the regulatory asset beginning in 2006.

3 **VII. RATE BASE / INVESTED CAPITAL**

4 **Q. COULD YOU SUMMARIZE THE LEVEL OF INVESTED CAPITAL**
5 **PRESENTED IN THE APPLICATION?**

6 **A.** The level of investor supplied capital presented in the application is summarized in Table
7 6 below:

Table 6 – Application Level of Investor Supplied Capital			
	<u>Groundwater</u>	<u>Surface Water</u>	<u>Total</u>
Net Book Value of Assets	\$ 2,691,631	\$ 625,991	\$ 3,317,622
Working Cash Allowance	64,744	59,100	123,844
Less: Developer Contributions	(1,699,742)	(204,747)	(1,904,489)
Total Investor Supplied Capital	\$ 1,056,633	\$ 480,344	\$ 1,536,977

8.

9 **Q. COULD YOU ALSO PLEASE PROVIDE A SUMMARY OF THE ORIGINAL**
10 **COST, ACCUMULATED DEPRECIATION, ANNUAL DEPRECIATION, AND**
11 **NET BOOK VALUE FOR ASSETS PRESENTED WITHIN THE APPLICATION?**

12 **A.** The original cost, accumulated depreciation, annual depreciation, and net book value of
13 water assets presented in the application are summarized in Table 7 below:

Table 7 – Application Rate Base Summary			
	<u>Groundwater</u>	<u>Surface Water</u>	<u>Total</u>
Original Cost	\$ 3,260,334	\$ 961,808	\$ 4,222,142
Accumulated Depreciation	(568,703)	(335,817)	(904,520)
Net Book Value	\$ 2,691,631	\$ 625,991	\$ 3,317,622
Annual Depreciation	\$ 117,281	\$ 81,214	\$ 198,495

14

1 Q. YOU TESTIFIED EARLIER THAT TCEQ STAFF RECOMMENDED THAT
2 DDU PERFORM AN ASSET EVALUATION IN SUPPORT OF ITS REQUESTED
3 RATE BASE. IS THIS CORRECT?

4 A. Yes. That is my understanding.

5 Q. COULD YOU PLEASE EXPLAIN THE IMPACT THE ASSET EVALUATION
6 HAS ON THE NUMBERS YOU PRESENTED IN TABLE 7 ABOVE?

7 A. Based on the numbers presented by Dr. Harkins, DDU's rate base is greater than what
8 was originally presented in the application.

9 Q. CAN YOU PLEASE QUANTIFY THE INCREASE IN RATE BASE RESULTING
10 FROM THE WORK PERFORMED BY DR. HARKINS?

11 A. Schedule CDE-5 (Exhibit DDU-23) presents the requested quantification

12 Q. HAVE YOU PERFORMED A COMPARISON BETWEEN THE ASSETS
13 PRESENTED IN THE APPLICATION AND THE ASSET LISTING
14 DEVELOPED THROUGH THE CONDUCT OF THE ASSET EVALUATION?

15 A. Yes. This comparison is contained in Schedule CDE-6 (Exhibit DDU-24).

16 Q. BASED ON THE NUMBERS PRESENTED BY DR. HARKINS, COULD YOU
17 PLEASE PROVIDE A SUMMARY OF DDU'S REQUESTED RATE BASE?

18 A. Table 8 below presents a summary of DDU's requested rate base as a result of the Asset
19 Evaluation:

1

	<u>Groundwater</u>	<u>Surface Water</u>	<u>Total</u>
Original Cost	\$ 4,933,188	\$ 1,340,448	\$ 6,273,636
Accumulated Depreciation	(1,084,759)	(436,501)	(1,521,260)
Net Book Value	\$ 3,848,429	\$ 903,947	\$ 4,752,376
Annual Depreciation	\$ 185,223	\$ 73,069	\$ 258,291

2

3 **Q. BASED ON THE WORK PERFORMED BY DR. HARKINS, ARE THERE**
4 **OTHER IMPACTS TO THE UTILITY'S LEVEL OF INVESTED CAPITAL**
5 **PRESENTED IN THE APPLICATION?**

6 A. Yes. The level of working cash allowance is impacted as well as the level of developer
7 contributions.

8 **Q. PLEASE EXPLAIN THE IMPACT ON THE UTILITY'S WORKING CASH**
9 **ALLOWANCE?**

10 A. In accordance with 30 TAC §291.31(c)(2)(B)(iii), DDU's requested working cash
11 allowance is set equivalent to 1/8th of its operations and maintenance ("O&M") expenses.
12 However, Dr. Harkins has identified some expenses during the Test Year which should
13 have been capitalized by the utility, instead of included as an O&M expense. By
14 capitalizing these items into rate base, the utility's operations and maintenance expenses
15 are decreased and, as a result, the level of working cash allowance must also be
16 decreased.

17 Additionally, as will be discussed later, some of the O&M expenses within the
18 application have been allocated to the respective water and sewer utilities based on
19 original cost of plant investment. Including the original cost resulting from the Asset

1 Evaluation alters the allocation of expenses between the water and sewer utility, further
2 impacting O&M expenses and the working cash allowance.

3 **Q. CAN YOU PLEASE QUANTIFY THE IMPACT TO WORKING CASH**
4 **ALLOWANCE?**

5 A. Table 9 shows the reduction in operations and maintenance expense and the resulting
6 reduction in the Utility's requested working cash allowance:

Table 9 –Impact to Working Cash Allowance from Asset Evaluation			
	<u>Groundwater</u>	<u>Surface Water</u>	<u>Total</u>
Application level of O&M Expense	\$ 517,955	\$472,797	\$990,751
Working Cash Allowance (1/8 th O&M)	\$64,744	\$59,100	\$123,844
Adjusted level of O&M Expense (based on Asset Evaluation)	\$ 414,046	\$ 370,099	\$ 784,145
Working Cash Allowance (1/8 th O&M)	\$ 51,756	\$ 46,262	\$ 98,018
Reduction in O&M Expense	\$ (103,909)	\$ (102,697)	\$ (206,606)
Reduction in Working Cash Allowance	\$ (12,988)	\$ (12,838)	\$ (25,826)

7
8 **Q. PLEASE EXPLAIN HOW THE LEVEL OF DEVELOPER CONTRIBUTIONS**
9 **IDENTIFIED WITHIN THE APPLICATION IS IMPACTED BY THE ASSET**
10 **EVALUATION PERFORMED BY DR. HARKINS?**

11 A. It is my understanding that it has been the practice of the Utility's Parent Company to pay
12 for 80% of the initial assets, including all distribution mains and lines, during the
13 construction of a water and sewer system. The remaining 20% was then paid by the
14 Utility. Beyond initial construction, all assets and maintenance are funded 100% by the
15 Utility. To determine the appropriate level of these contributions by the parent company,

1 Mr. Gracy has identified those assets, subject to the 80% payment by the parent company
2 from the asset listing produced by Dr. Harkins. This listing is presented herein as
3 Schedule CDE-7 (Exhibit DDU-25).

4 **Q. CAN YOU PLEASE QUANTIFY THE IMPACT OF THIS ADJUSTMENT TO**
5 **DEVELOPER CONTRIBUTIONS?**

6 A. Table 10 illustrates the total Parent Company contributed assets contained within the
7 application as compared to the amount identified by Mr. Gracy resulting from the asset
8 evaluation.

Table 10 – Impact of Asset Evaluation of Developer Contributed Capital			
	<u>Groundwater</u>	<u>Surface Water</u>	<u>Total</u>
Application Value	\$ 1,699,742	\$ 204,747	\$ 1,904,489
Adjusted Values (as identified by Mr. Gracy)	2,222,479	329,195	2,551,674
Variance	\$ 522,737	\$ 124,448	\$ 647,185

9
10 **Q. PLEASE SUMMARIZE THE UTILITY'S LEVEL OF INVESTED CAPITAL**
11 **BASED ON THE RESULTS OF THE ASSET EVALUATION?**

12 A. Table 11 below presents the requested level of invested capital in accordance with the
13 results of the Asset Evaluation.

Table 11 – Asset Evaluation Level of Investor Supplied Capital			
	<u>Groundwater</u>	<u>Surface Water</u>	<u>Total</u>
Net Book Value of Assets	\$ 3,848,429	\$ 903,947	\$ 4,752,376
Working Cash Allowance	51,756	46,262	98,018
Less: Developer Contributions	(2,222,479)	(329,195)	(2,551,674)
Total Investor Supplied Capital	\$ 1,677,709	\$ 621,014	\$ 2,298,720

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Exhibit D

SOAH Docket No. 582-09-4288

Excerpts from Direct Testimony of Brian Dickey

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

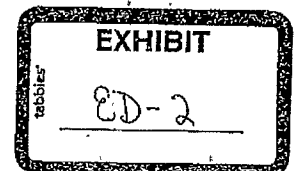
WATER RATE/TARIFF CHANGE
APPLICATION OF DOUBLE DIAMOND
UTILITIES CO. IN HILL, PALO PINTO,
AND JOHNSON COUNTIES, TEXAS,
APPLICATION NO. 36220-R

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BEFORE THE STATE OFFICE
OF
ADMINISTRATIVE HEARINGS



DIRECT TESTIMONY OF
BRIAN DICKEY
PLAN & GROUNDWATER REVIEW SECTION
WATER SUPPLY DIVISION
TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
APRIL 29, 2010



1 or any property, right, or thing, or for interest expense may not be allowed either as
2 capital cost or as expense except to the extent that the regulatory authority finds that
3 payment to be reasonable and necessary.” DDU had the right to request a rate change
4 annually but chose to not do so for several years, incurring additional debt instead.
5 Receiving the cash advances was not necessary; it was a choice. Furthermore, it is not
6 reasonable for DDU to expect its customers to pay for the cash advances now and in this
7 manner, which would allow DDU to collect the entire amount in only five years when it
8 was incurred over more years than that, to earn return and depreciation on that amount, to
9 collect that money twice when it was spent on assets and expenses, and to impose an
10 interest rate that has already been reduced by Ms. Pascua in her weighted average rate of
11 return calculations. Most importantly, a cash advance by its very nature is not currently
12 used and useful property; it is money temporarily given to someone that has to be
13 returned, i.e. paid back. It does not belong to the borrower and, therefore, is not the
14 borrower’s property. Therefore, the regulatory asset created to recover cash advances in
15 the amount of \$554,319 should be disallowed.

16 **Asset Depreciation**

17 **Q. What have you done to verify the installation dates and original costs of DDU’s**
18 **assets?**

19 **A.** I performed a site inspection of the three water systems on November 14, 2008, with
20 attorneys Ms. Stefanie Skogen and Ms. Ruth Takeda. I visited DDU’s office with Ms.
21 Pascua to perform an audit of DDU’s financial records on July 22 and 23, 2009, which
22 was preceded by the RFI letter dated July 10, 2009 (**attachment BDD-9**). I also reviewed
23 the trending study prepared by Dr. Victoria Harkins, P.E., witness for DDU, and the

1 TCEQ's official CCN files to attempt to identify any rate case order involving DDU that
2 may have established a rate base.

3 **Q. What is trending?**

4 A. Trending takes the known cost of an asset on a known date and determines the cost of the
5 asset at a different point in time. It can be used by a utility that does not have supporting
6 documentation for an asset listed in its depreciation schedule to try to support the claimed
7 original cost of the asset. The Handy-Whitman Index of Public Utility Construction Costs
8 (attachment BDD-17) provides the cost index numbers by year for various utility
9 equipment to use to calculate the cost of each type of equipment at a certain point in time.

10 **Q. Did you, Ms. Pascua, or another ED staff member recommend to DDU that it have a**
11 **trending study done for the assets for which it did not have supporting**
12 **documentation?**

13 A. No. I did state at the evidentiary hearing for DDU's last water rate application, SOAH
14 Docket No. 582-08-0698, that one option for supporting its asset costs was to obtain a
15 trending study, but ED staff did not actually *recommend* that DDU commission a
16 trending study.

17 **Q. Is rate base established every time the TCEQ issues an order in a rate case?**

18 A. No. The TCEQ's Utilities and Districts Section's policy requires the utility to request the
19 establishment of rate base at the time the utility files its rate application. However, the
20 Commission may establish rate base in an order it issues in a rate case following a
21 contested case hearing and proposal for decision even if the applicant did not request it in
22 the application.

23 **Q. Did you find any orders in the TCEQ's official CCN file establishing a rate base for**

1 **DDU?**

2 A. No.

3 **Q. Do you have any adjustments to the original cost, annual depreciation, accumulated**
4 **depreciation, and/or net plant value for any of the assets presented in the**
5 **application?**

6 A. Yes. I reviewed the water utility plant items in detail. I have made some adjustments to
7 the depreciation schedule as a result of my review of the information. After making my
8 adjustments, I used the straight-line depreciation method as required by the TCEQ's rules
9 to calculate the net plant values for the rate base for each system. As a result, for The
10 Cliffs, I calculated an original cost of \$1,278,952, accumulated depreciation of \$464,119,
11 net plant value of \$815,833, annual depreciation of \$41,557, and developer contribution
12 of \$447,600. These calculations are in **attachment BDD-2**. For The Retreat, I calculated
13 an original cost of \$1,645,052, accumulated depreciation of \$208,222, net plant value of
14 \$1,436,830, annual depreciation of \$52,944, and developer contribution of \$453,279.
15 These calculations are in **attachment BDD-3**. For White Bluff, I calculated an original
16 cost of \$3,678,675, accumulated depreciation of \$1,216,416, net plant value of
17 \$2,462,259, annual depreciation of \$97,039, and developer contribution of
18 \$1,793,240.83. These calculations are in **attachment BDD-4**. I provided this information
19 to Ms. Pascua to use in her cost of service calculations.

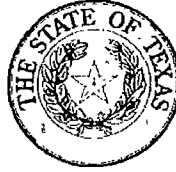
20 **Q. Has the ultrafiltration (UF) membrane unit at The Cliffs been approved for use?**

21 A. No, it has not. On March 31, 2008, Mr. James "Red" Weddell, P.E. denied the exception
22 DDU needed to be able to use the unit. I have attached a copy of his letter (**attachment**
23 **BDD-10**). Because DDU cannot legally use the UF membrane unit, the unit is not used

Exhibit E

Order of TCEQ Executive Director

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



SOAH DOCKET NO. 582-09-4288
TCEQ DOCKET NO. 2009-0505-UCR
APPLICATION NO. 36220-R

WATER RATE/TARIFF CHANGE § BEFORE THE
APPLICATION OF DOUBLE DIAMOND §
UTILITIES COMPANY, INC., § TEXAS COMMISSION ON
CERTIFICATE OF CONVENIENCE AND § ENVIRONMENTAL QUALITY
NECESSITY (CCN) NO. 12087, IN HILL, §
PALO PINTO, AND JOHNSON §
COUNTIES, TEXAS §
ORDER

Double Diamond Utilities Company, Inc., (Applicant) presented an application for an increase in its retail water rates and for tariff changes in Hill, Palo Pinto, and Johnson Counties (Application) to the Executive Director (ED) of the Texas Commission on Environmental Quality (Commission) for approval, pursuant to Section 5.122 of the Texas Water Code. The Applicant provides water service in Hill, Palo Pinto, and Johnson Counties and is a public utility as defined in Section 13.002(23) of the Texas Water Code.

On October 23, 2008, the Applicant filed the Application with the Commission, which was assigned Application No. 36220-R. The Applicant provided notice of the rate change with a proposed effective date of December 27, 2008, to the customers on October 24, 2008. The notice of the rate increase complied with the notice requirements of Section 13.187 of the Texas Water Code and Title 30, Section 291.22 of the Texas Administrative Code and was sufficient to place affected persons on notice regarding the proposed rate increase. The Commission received requests for a public hearing on the application from more than 10% of the utility's customers.

The Honorable Richard R. Wilfong, an administrative law judge (ALJ) of the State Office of Administrative Hearings (SOAH), conducted a preliminary hearing on August 4, 2009, in Austin, Texas. The ALJ took jurisdiction over the case and designated the following parties: the Applicant, the ED, the Public Interest Counsel of the Commission, and protestants: The Retreat Homeowners Group, White Bluff Subdivision Ratepayers, and The Cliffs Utility Committee. On October 14, 2010, the Applicant, The Retreat Homeowners Group, and White Bluff Subdivision Ratepayers filed a Joint Motion to Withdraw Testimony and Stipulate Agreed Rates for the White Bluff and The Retreat Subdivisions, which stated in part that the Applicant had entered into settlement agreements with the ratepayers from the two subdivisions. On December 3, 2010, the Applicant filed a Motion to Abate, stating it had reached a settlement with The Cliffs Utility Group but needed time to finalize the documentation. The Applicant then filed a Motion to Dismiss and Remand to the ED on December 9, 2010, stating it had settled all issues with the protestants. Therefore, on December 14, 2010, the ALJ dismissed the matter from SOAH's docket and remanded it to the ED, pursuant to Title 30, Section 80.101 of the Texas Administrative Code.

The rate structures requested by the Applicant, as amended by the settlement agreements, are just and reasonable and adequate to allow the utility to recover its costs of providing water service, as required by Sections 13.182 and 13.183 of the Texas Water Code. Attached is the tariff reflecting the requested rates.

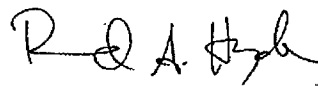
NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. A rate increase for Double Diamond Utilities Co. Inc., are approved as listed on the attached rate tariff, effective June 1, 2010, for White Bluff, June 30, 2010 for The Retreat, and December 31, 2010, for The Cliffs.

2. Unless previously provided, Double Diamond Utilities Co. Inc., shall provide written notice of the final rate structure approved in this proceeding to all affected customers with the next billing cycle after issuance of this order.
3. The Chief Clerk of the Texas Commission on Environmental Quality shall forward a copy of this order and attached tariff to the parties.
4. If any provision, sentence, clause, or phrase of this order is for any reason held to be invalid, the invalidity of any portion shall not affect the validity of the remaining portions of the order.

Issue Date: August 6, 2014

TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY



For the Commission

Exhibit F

Tables III-2 & III-8(b)

UTILITY NAME: Double Diamond Utility Company, Inc. WHITE BLUFF (Water)
 SCHEDULES - CLASS B RATE/TARIFF CHANGE
III-2 RATE BASE SUMMARY
 FOR THE TEST YEAR ENDED: _____ 12/31/2015

Line No.	Description	Amount	Reference
1	Additions:		(From)
2.	Utility plant (Original Cost)	3,454,904	Schedule III-3, Line 50, Col D
3.	Construction work in progress	-	Schedule III-4, Line 5
4.	Materials and supplies	-	Schedule III-4, Line 8
5.	Working cash (capital)	24,568	Schedule III-5, Line 2
6.	Prepayments	-	Schedule III-4, line 8
7.	Other Additions	-	Add schedule
8.	TOTAL ADDITIONS (Add Lines 2 through 6)	3,479,472	
	Deductions:		
9.	Reserve for depreciation (Accumulated)	1,680,490	Schedule III-3, Col F, Line 50
10.	Advances for construction	-	Schedule III-8(a), Col F, Line 6
11.	Developer Contributions in aid of construction	5,684	Schedule III-8(b), Col G, Line 6
12.	Accumulated deferred income taxes	-	Schedule III-9(a), Line 3
13.	Accumulated deferred investment tax credits	-	Schedule III-9(b), Line 3
14.	Other Deductions	-	Add schedule
15.	TOTAL DEDUCTIONS (Add lines 9 through 14)	1,686,174	
16.	RATE BASE (Line 8, less Line 15)	1,793,299	

UTILITY NAME: Double Diamond Utility Company, Inc. WHITE BLUFF (Water)
 SCHEDULES - CLASS B RATE/TARIFF CHANGE
III-8 ADVANCES FOR CONSTRUCTION AND CONTRIBUTIONS IN AID OF CONSTRUCTION
 FOR THE TEST YEAR ENDED: 12/31/2015

III-8(a) ADVANCES FOR CONSTRUCTION:

Line No.	A Item	B Date of Installation	C Total Cost	D Amount of Advance	E Repayments made to developer	F (F)-(D)-(E) Rate base Value (to Sch III-2)	G Amount to be refunded in the future*
1.	Not Applicable						
2.							
3.							
4.							
5.							
6.	Total						

*If any advances or CIAC from developers or customers are refundable, please provide the potential date of refunding, if known.

III-8(b) DEVELOPER CONTRIBUTIONS IN AID OF CONSTRUCTION*:

Line No.	A Item	B Date of Installation or Contribution	C Total Cost	D Amount of Developer Contribution	E Annual amortization	F Accumulated Amortization	G (G)=(D) - (F) Rate Base Value (to Sch III-2)
1.	Tap Fees	Various	5,684	0	0	0	5,684
2.							
3.							
4.							
5.							
6.	Total		5,684	0	0	0	5,684

*Customer CIAC is entered directly on III-3

Exhibit G

SOAH Docket No. 582-08-0698

Excerpts from Proposal for Decision

**SOAH DOCKET NO. 582-08-0698
TCEQ DOCKET NO. 2007-1708-UCR**

APPLICATION OF DOUBLE DIAMOND UTILITIES, INC. TO CHANGE ITS WATER RATES AND TARIFF, IN HILL, PALO PINTO, AND JOHNSON COUNTIES, TEXAS, APPLICATION NO. 35771-R	§ § § § § §	BEFORE THE STATE OFFICE OF ADMINISTRATIVE HEARINGS
--	----------------------------	---

PROPOSAL FOR DECISION

I. INTRODUCTION

Double Diamond Utilities, Inc. (DDU) has filed an application to increase the rates for its retail water utility service. DDU serves three separate developments and seeks to change its rates for all three public water systems: The Cliffs in Palo Pinto County,¹ the Retreat in Johnson County,² and the White Bluff development in Hill County.³

The Executive Director (ED), the Office of Public Interest Counsel (OPIC), White Bluff Subdivision Ratepayers (WBSR), and other Protestants contend that DDU failed to meet its burden of proof to demonstrate that the proposed increase would be just and reasonable. They differ, however, on what DDU's rates should ultimately be at the conclusion of this proceeding. The ED recommends that DDU's rates should revert back to their levels before the filing of this application. WBSR, on the other hand, would roll back DDU's rates to levels lower than those previously in effect.

The Administrative Law Judge (ALJ) agrees that DDU has not met its burden of proof. There are numerous discrepancies between DDU's applications and its supporting documentation. DDU failed to demonstrate how it set its rates and how those rates were just and reasonable. DDU also failed to demonstrate how it met the regulatory criteria to allow consolidation of two of its water systems under one rate. Furthermore, DDU apparently failed to

¹ The Cliffs water system was begun in 1993 and has 228 connections.

² The Retreat water system was begun in 2003 and has 48 connections.

³ The White Bluff water system was begun in 1990 and has 553 connections.

account for developer contributions in this rate case. Along with these issues and the other numerous discrepancies between its application and its supporting documentation, the ALJ recommends that the application be denied. The ALJ also recommends that the Commission set DDU's rates at those levels existing before DDU filed its application in August of 2007. DDU should also be ordered to refund or credit to customers all sums collected since the effective date of the rates at issue in this hearing that exceeded its prior rates, plus six percent interest on the over-collections.

II. JURISDICTION

No party disputes the jurisdiction of either the Commission or the State Office of Administrative Hearings (SOAH).

III. PROCEDURAL HISTORY

On August 7, 2007, DDU filed its first application to change its rates for the water service provided under Certificate of Convenience and Necessity (CCN) No. 12087.⁴ Notices of the application were mailed to DDU's customers on July 27, 2007.⁵ The effective date of the increase was September 28, 2007.⁶ In December of 2007, DDU submitted a new document purporting to make corrections to the August 2007 application.⁷

More than ten percent of DDU's customers filed protests by the applicable deadline. On November 14, 2007, the Chief Clerk mailed notice of a preliminary hearing to DDU. However, on November 29, 2007, SOAH issued an order requiring that the preliminary hearing be held in Hillsboro, Texas, on February 5, 2008.

⁴ DDU Exh. 30. DDU's exhibits were marked in the hearing as "App. Exh." For ease of reference and clarity, the ALJ will refer to all of DDU's exhibits as "DDU Exh." in this proposal for decision.

⁵ DDU Exh. 30, pg. 36. Unless otherwise noted, all references to page numbers refer to the Bates stamped number of the exhibit, not the page number of the document itself.

⁶ DDU Exh. 30, pg. 36.

⁷ DDU Exh. 25.

Accordingly, the Chief Clerk mailed the revised notice of a preliminary hearing to DDU on December 13, 2007. DDU mailed the revised notice of the preliminary hearing to its customers on January 9, 2008.⁸ 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.⁹

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

PARTY	REPRESENTATIVE
DDU	Michael Skahan
ED	Stephanic Skogen
OPIC	Eli Martinez
WBSR	Shari Heino
Jack and Sandra McCartney	Themselves
The Cliff's Subdivision Ratepayers	Todd McCall

The ALJ held the hearing on the merits on February 23-24, 2009, and all of the parties appeared and participated. The following witnesses testified in this case:

WITNESS	PARTY	SUBJECT
Kevin Shea, Vice President, Accounting	DDU	Accounting issues
Randy Gracy, President	DDU	Corporate issues
Charles Gillespie, Jr., Consultant	DDU	Application issues
Nelisa Heddin	WBSR	Application issues
Elsie Pascua, Accountant/Auditor	ED	Cost of service and revenue requirement
Brian David Dickey, General Engineering Specialist	ED	Rate design and depreciation schedules.

⁸ ED Exh. D.

⁹ ED Exh. D.

development would be subsidizing the newer development. This would not result in water rates that are just and reasonable for the White Bluff ratepayers.

C. Developer Contributions and the Effect on Invested Capital

In setting the rates for water service, the Commission must fix a utility's overall revenues at a level that will, among other things, "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"⁶² However, developer contributions are not included in a utility's invested capital.⁶³ Developer contributions are those assets paid for by the developer instead of the utility. Since the developer paid for those assets, they are not considered to be the invested capital of the utility because the utility made no investment in the asset. To the utility, the capital contributed by the developer was cost free. Therefore, developer contributions are not included in the invested capital calculation.⁶⁴

1. Evidentiary Record

DDU did not indicate in either version of its application for test year 2006 that a portion of its assets came from developer contributions.⁶⁵ However, DDU's witness testified that developer contributions should have been noted in the application. In discussing Table III.C. of DDU's August 2007 application,⁶⁶ Kevin Shea, DDU's vice president of accounting, stated:

Q Can you read that -- that section?

A "Developer's contribution, water."

⁶² TEX. WATER CODE ANN. § 13.183(a).

⁶³ 30 TAC § 291.31(c)(3)(A)(iv) & (v).

⁶⁴ DDU Exh. 25, pg. 13, Table IV.E, line [F]: Developer Contributions subtracted from the sum of Net Book Value, Working Cash Allowance, and Materials and Supplies.

⁶⁵ DDU Exh. 25, pg. 11, Table III.C. and pg. 13, Table IV.E., line [E]; and DDU Exh. 30, pg. 25, Table III.C. and pg. 27, Table IV.E, line [E].

⁶⁶ DDU Exh. 30, pg. 25.

Q Can you tell me, are there any developer contributions listed here?

A No, there's not.

Q Should there be any developer contributions listed?

A There probably should be, yes. Yeah.

Q In what amount?

A I guess I don't have that number in front of me. We -- we -- we, in accounting, we didn't -- back in '06, we didn't -- the way we did our accounting back in '06 is that we didn't really account for the developer contributions in the utility department, in the utility company.

Q But -- so there should be a number there?

A Well, we do contribute -- there are assets that are being contributed, yes, by the developer.⁶⁷

Randy Gracy, DDU's president, was questioned about the developer contributions.

Mr. Gracy testified:

Q What is Double Diamond Utilities' policy on developer contributions to assets?

A The Double Diamond Utilities pays for 20 percent of the distribution and collection lines that go into the service territory of DDU.

Q And developers --

A And the developer --

Q -- contribute the remaining assets?

A Yes.⁶⁸

Mr. Gracy went on to testify that the two applications were prepared by two different consultants and he did not know how the consultants arrived at their numbers.⁶⁹ He testified:

⁶⁷ Tr., pg. 12, ln. 13 -- pg. 13, ln. 5.

⁶⁸ Tr. pg. 42, ln. 9-17.

[Mr. Gillespie, Jr.] reviewed our books with our accounting department, and this is what they came up with. Again, not being an accountant, I relied on my accounting staff and my consultants to prepare the application, and therefore, to the best of my knowledge, in the information they provided within the application was correct.⁷⁰

Mr. Gillespie, Jr. did not testify regarding developer contributions or the issues raised by WBSR and the ED.

DDU also entered into evidence Exhibit 26, which is a list of asset additions from 2001 through June 2006. This list shows “developer cost” for several assets, including “CL Lake pump improvements,” “CL water system improvement,” “RT Phase 1 & 2 Water/Sewer,” and “RT water well & tank.”⁷¹

WBSR entered into evidence Exhibit 23, a document it had obtained in discovery from DDU. Exhibit 23 is a fax from Lynn Robertson, the former vice president of accounting for DDU to Charles Gillespie, III, the son of Charles Gillespie, Jr., DDU’s consultant on this application. The fax indicates that there were \$930,547 worth of developer contributions for the White Bluff and the Cliffs water systems.⁷² This exhibit also shows that for the “WB” and “CL” water systems,⁷³ there were \$249,153.86 in developer contributions in aid of construction in 1998.⁷⁴

WBSR also entered into evidence pages from DDU’s subsequent application for a rate change dated October 24, 2008.⁷⁵ In this subsequent, pending application, DDU

⁶⁹ Tr. pg. 45, ln. 11-14.

⁷⁰ Tr. pg. 45, ln. 19-25.

⁷¹ DDU Exh. 26.

⁷² WBSR Exh. 23, pg. 2.

⁷³ The ALJ assumes that “WB” and “CL” references the White Bluff and the Cliffs systems, respectively.

⁷⁴ WBSR Exh. 23, pg. 3 and 4.

⁷⁵ WBSR Exh. 24.

listed \$1,904,489 in developer contributions.⁷⁶ The ED provided additional documents from DDU's October 2008 rate change application.⁷⁷ These documents show the installation dates for the developer contributed water assets that comprise the \$1,904,489 contribution.⁷⁸ The vast majority of these installation dates of these developer contributed assets preceded the 2006 test year that is the subject of this proceeding.

2. DDU's position

DDU offered no evidence on rebuttal regarding this issue. Furthermore, DDU made no argument in either its closing or its response to closings to address the issue of developer contributions.

3. WBSR's position

WBSR identified this lack of accounting for developer contributions as one of many inaccuracies in DDU's application.⁷⁹ WBSR introduced exhibits indicating that DDU should have shown developer contributions in both its August and December 2007 applications. According to WBSR, DDU failed to meet its burden of proof because of this and other omissions.

4. OPIC's position

OPIC pointed out that there is credible evidence in the record that \$1.9 million in developer contributions were included in the DDU's October 2008 application that are "noticeably" not included in this application.⁸⁰

⁷⁶ WBSR Exh. 24, pg. 2, Table III.C.

⁷⁷ ED Exh. 4.

⁷⁸ ED Exh. 4, "Att. 6" (noted in upper right hand corner of document).

⁷⁹ WBSR Closing, pg. 7.

⁸⁰ OPIC Closing, pg. 5.

5. ED's position

The ED recognized that DDU did not list any developer contributions in its August 2007 application. The ED states that DDU's subsequent October 2008 application shows \$1,904,489 in developer contributions with a majority of the assets installed before the filing of the August 2007 application that is the subject of this proceeding. According to the ED, "[t]his means that in this case, DDU has possibly included items in its rate base that were paid for with developer contributions."⁸¹

6. The ALJ's analysis

DDU had ample opportunity to clarify this issue in its rebuttal case or in its closing arguments and responses. There is credible evidence in the record, including testimony from DDU's own witness, that some portion of the amount DDU claims as invested capital came from developer contributions, which should be shown in the December 2007 application. The October 2008 rate change application lists \$1.9 million in developer contributions with installation dates for assets dating back to 1990.⁸² Some of the assets are listed on both the developer contribution list from the October 2008 application and in DDU's December 2007 application. The record does not show whether the amounts listed in DDU's December 2007 application depreciation schedule include or exclude the developer contributions shown in the October 2008 application.

DDU is claiming a total invested capital of \$1,840,362 in its December 2007 application.⁸³ The ALJ doubts the accuracy of these representations given that a year later, DDU filed another rate change application showing \$1.9 million in developer contributions for many assets that were installed prior to the 2006 test year. Given the potential magnitude of the discrepancy and the lack of evidence to the contrary, the ALJ is of the opinion that the accuracy

⁸¹ ED Closing, pg. 14.

⁸² ED Exh. 4, "Att. 6."

⁸³ DDU Exh. 25, pg. 13.

of DDU's calculations of its invested capital is suspect. Invested capital is a major component in setting just and reasonable rates. The ALJ cannot conclude that the rates DDU has requested are just and reasonable and DDU has failed to meet its burden of proof in this regard. On this basis alone, the ALJ would recommend that DDU's application be denied.

D. General Concerns with DDU's Application

In addition to the major issues already discussed, the ALJ has several concerns with DDU's application and the presentation of its case. A major concern is with the accounting documents provided by DDU in its exhibits. DDU's accounting methods do not separate expenses and assets for the water system from those attributable to the companion wastewater system. When asked if the detailed trial balances included costs for both the water and wastewater systems, DDU's Vice President testified that "Yeah, We – the way we account for everything is that the – each – each development has their own department number,⁸⁴ so everybody has their unique department number. That's how we account for all the expenses and revenues and things like that, is by the department. . . ."⁸⁵ Therefore, DDU's accounting documents entered into evidence in its water rate case contain entries for both the water and wastewater systems. This approach made it difficult to use DDU's financial exhibits to support its application to change its water rates.

Furthermore, DDU did not show how exhibits 1 through 26 correspond to the entries in its applications. While Mr. Shea sponsored the financial exhibits, he did not match his exhibits to the entries in the application. As will be discussed below, few of the amounts in the exhibits matched the entries in the application. Also, neither Mr. Gillespie, Jr. nor Mr. Gracy attempted to reconcile the financial documents and invoices in the two 5-inch binders containing the exhibits with either of the two applications.

⁸⁴ The Retreat development has department number 6090; the Cliffs, 8090; and White Bluff, 9090. DDU Exh. A., pg. 1, ln. 20-29, pg. 2, ln. 27-28.

⁸⁵ Tr., pg. 18, ln. 15-25.

Exhibit H

SOAH Docket No. 582-09-4288

Workpaper of Chris Ekrut

Double Diamond Utilities Co.
SOA# Docket No. 589-09-0281
TRCA Docket No. 2009-0005-UCR
Identification of Parent Company Contributed Assets (White Shaded)

Category	Date of Reference	Item	Used and Useful	Original Cost	Used and Useful Original Cost	Depreciated	Net Book Value	Parent	Utility	Total	Parent	Utility	Total
Treatment	7/23/1998	concrete - three inches of 10x12.1	1	\$ 169.42	\$ 169.42	Y	169.42	80%	20%	100%	116	28	148
Engineering	7/23/1998	booster pump station engineering	1	\$ 9,651.00	\$ 9,651.00	N	9,651.00	80%	20%	100%	109	-	109
Line	7/23/1998	new valve station	1	\$ 318.58	\$ 318.58	N	318.58	80%	20%	100%	233	58	291
Line	7/23/1998	booster station	1	\$ 51.93	\$ 51.93	V	51.93	80%	20%	100%	34	8	42
Line	7/28/1998	booster station	1	\$ 13,117.50	\$ 13,117.50	Y	13,117.50	80%	20%	100%	5,345	1,846	6,951
Line	7/28/1998	booster station	1	\$ 135.24	\$ 135.24	Y	135.24	80%	20%	100%	227	32	188
Small Treatment	8/27/1998	booster station	1	\$ 4,939.50	\$ 4,939.50	N	4,939.50	100%	0%	100%	-	243	243
Line	8/27/1998	booster station	1	\$ 4,571.50	\$ 4,571.50	N	4,571.50	100%	0%	100%	620	135	755
Line	8/27/1998	booster station	1	\$ 201.48	\$ 201.48	Y	201.48	80%	20%	100%	131	14	145
Line	8/27/1998	booster station	1	\$ 58.61	\$ 58.61	Y	58.61	80%	20%	100%	37	9	46
Line	8/27/1998	booster station	1	\$ 7,998.00	\$ 7,998.00	Y	7,998.00	80%	20%	100%	4,807	1,202	6,009
Line	8/27/1998	booster station	1	\$ 93.64	\$ 93.64	Y	93.64	80%	20%	100%	29	7	36
Line	8/27/1998	booster station	1	\$ 3,546.00	\$ 3,546.00	Y	3,546.00	80%	20%	100%	2,915	585	3,500
Line	8/27/1998	booster station	1	\$ 622.50	\$ 622.50	N	622.50	80%	20%	100%	2,340	585	2,925
Line	8/27/1998	booster station	1	\$ 2,418.00	\$ 2,418.00	N	2,418.00	80%	20%	100%	3,744	935	4,680
Line	8/27/1998	booster station	1	\$ 1,302.50	\$ 1,302.50	Y	1,302.50	80%	20%	100%	1,596	319	1,915
Line	8/27/1998	booster station	1	\$ 227.50	\$ 227.50	Y	227.50	80%	20%	100%	1,275	319	1,594
Line	8/27/1998	booster station	1	\$ 1,994.05	\$ 1,994.05	N	1,994.05	80%	20%	100%	1,139	388	1,527
Line	8/27/1998	booster station	1	\$ 2,409.28	\$ 2,409.28	Y	2,409.28	80%	20%	100%	1,591	9	1,600
Line	8/27/1998	booster station	1	\$ 58.61	\$ 58.61	Y	58.61	80%	20%	100%	37	9	46
Line	8/27/1998	booster station	1	\$ 515.00	\$ 515.00	N	515.00	80%	20%	100%	16,427	92	16,519
Line	8/27/1998	booster station	1	\$ 24,905.28	\$ 24,905.28	N	24,905.28	80%	20%	100%	18,427	92	18,519
Line	8/27/1998	booster station	1	\$ 5,270.28	\$ 5,270.28	N	5,270.28	80%	20%	100%	15,228	-	15,228
Line	8/27/1998	booster station	1	\$ 26,775.28	\$ 26,775.28	N	26,775.28	80%	20%	100%	10,906	-	10,906
Line	8/27/1998	booster station	1	\$ 4,132.40	\$ 4,132.40	N	4,132.40	80%	20%	100%	1,004	-	1,004
Line	8/27/1998	booster station	1	\$ 8,127.41	\$ 8,127.41	N	8,127.41	80%	20%	100%	2,362	-	2,362
Line	8/27/1998	booster station	1	\$ 482.05	\$ 482.05	N	482.05	80%	20%	100%	1,480	-	1,480
Line	8/27/1998	booster station	1	\$ 9,458.15	\$ 9,458.15	N	9,458.15	80%	20%	100%	249	-	249
Line	8/27/1998	booster station	1	\$ 3,147.25	\$ 3,147.25	N	3,147.25	80%	20%	100%	34	-	34
Line	8/27/1998	booster station	1	\$ 1,933.00	\$ 1,933.00	N	1,933.00	80%	20%	100%	1,409	-	1,409
Line	8/27/1998	booster station	1	\$ 518.95	\$ 518.95	N	518.95	80%	20%	100%	896	-	896
Line	8/27/1998	booster station	1	\$ 318.93	\$ 318.93	N	318.93	80%	20%	100%	451	-	451
Storage Tank	7/16/1999	Hydro pneumatic pressure tank - 6000 gallon	1	\$ 27,576.00	\$ 27,576.00	N	27,576.00	100%	0%	100%	22,907	-	22,907
Treatment	7/28/1999	booster station	1	\$ 1,225.40	\$ 1,225.40	N	1,225.40	100%	0%	100%	709	-	709
Treatment	8/3/1999	booster station	1	\$ 3,264.15	\$ 3,264.15	N	3,264.15	100%	0%	100%	2,715	-	2,715
Small Treatment	8/3/1999	booster station	1	\$ 1,169.10	\$ 1,169.10	N	1,169.10	100%	0%	100%	185	-	185
Small Treatment	8/3/1999	booster station	1	\$ 22,476.91	\$ 22,476.91	N	22,476.91	100%	0%	100%	13,021	-	13,021
Pump	8/6/1999	booster station	1	\$ 2,137.50	\$ 2,137.50	N	2,137.50	100%	0%	100%	1,778	-	1,778
Pump	8/6/1999	booster station	1	\$ 139.30	\$ 139.30	N	139.30	100%	0%	100%	81	-	81
Small Treatment	8/10/1999	booster station	1	\$ 630.00	\$ 630.00	N	630.00	100%	0%	100%	101	-	101
Pump	8/10/1999	booster station	1	\$ 158.04	\$ 158.04	N	158.04	100%	0%	100%	92	-	92
Pump	8/10/1999	booster station	1	\$ 146.41	\$ 146.41	N	146.41	100%	0%	100%	24	-	24
Pump	8/10/1999	booster station	1	\$ 2,580.58	\$ 2,580.58	N	2,580.58	100%	0%	100%	2,447	-	2,447
Pump	8/10/1999	booster station	1	\$ 148.00	\$ 148.00	N	148.00	100%	0%	100%	86	-	86
Pump	8/10/1999	booster station	1	\$ 788.31	\$ 788.31	N	788.31	100%	0%	100%	128	-	128
Pump	8/20/1999	booster station	1	\$ 132.61	\$ 132.61	N	132.61	100%	0%	100%	22	-	22
Line	8/23/1999	booster station	1	\$ 1,500.00	\$ 1,500.00	Y	1,500.00	100%	0%	100%	998	-	998
Line	8/23/1999	booster station	1	\$ 281.84	\$ 281.84	Y	281.84	100%	0%	100%	350	-	350
Pump	9/7/1999	booster station	1	\$ 497.28	\$ 497.28	N	497.28	100%	0%	100%	188	-	188

DDU012746

Double Diamond Utility Co.
SNAH Docket No. 2009-05-4288
TCEQ Docket No. 2009-0505-UCX
Identification of Parent Company Contributed Asset Write Bluff

Category	date	item	Used and Useful	Original Cost	Used and Useful Original Cost	Service Life	Trended Annual Depreciation	Trended Accumulated Depreciation	Trended Net Plant	Parent	Utility	Total	Parent	Utility	Total
Pump	5/29/2003	CONESTOGA PUMP ADPT. UNION, GSKT, ETC	1	779.48	779.48	20	38,974.05	38,974.05	7,256	0%	100%	100%	0%	100%	100%
Treatment	3/12/2004	well #4 pump and motor	1	28,575.50	28,575.50	20	11,430.20	11,430.20	7,256	0%	100%	100%	0%	100%	100%
Treatment	3/31/2004	well #2 repair pump and motor	1	15,873.46	15,873.46	20	6,349.38	6,349.38	7,256	0%	100%	100%	0%	100%	100%
Vehicle	2/1/2005	2005 Chevy Truck	1	9,646.50	9,646.50	5	1,929.30	1,929.30	7,256	0%	100%	100%	0%	100%	100%
Treatment	5/18/2005	Well No. 1 repair	1	6,706.40	6,706.40	10	1,365.28	1,365.28	7,256	0%	100%	100%	0%	100%	100%
Treatment	8/3/2005	POLYWAT PHASE MOTOR, PE, PAH, LINE, ETC.	1	12,594.85	12,594.85	10	2,518.97	2,518.97	7,256	0%	100%	100%	0%	100%	100%
Treatment	8/7/2006	POLYWAT Service all well #2	1	14,578.69	14,578.69	10	2,915.74	2,915.74	7,256	0%	100%	100%	0%	100%	100%
Pump	3/28/2006	VALVE 1 Repair hooper at Well #2	1	1,556.15	1,556.15	10	311.23	311.23	7,256	0%	100%	100%	0%	100%	100%
Pump	7/12/2006	CONESTOGA Booster Pump	1	1,034.40	1,034.40	10	206.88	206.88	7,256	0%	100%	100%	0%	100%	100%
Treatment	7/12/2006	Well No. 4 repair	1	24,581.95	24,581.95	10	4,916.39	4,916.39	7,256	0%	100%	100%	0%	100%	100%
Small Treatment	8/28/2006	CONESTOGA Pump, Plug, Gasket, Dash, Sec	1	1,740.14	1,740.14	10	348.03	348.03	7,256	0%	100%	100%	0%	100%	100%
Electrical	12/20/2006	WVI Electrical	1	3,550.00	3,550.00	10	710.00	710.00	7,256	0%	100%	100%	0%	100%	100%
Pump	5/28/2007	SMITTYUM Well #2 Pump Repair	1	6,883.92	6,883.92	10	1,376.78	1,376.78	7,256	0%	100%	100%	0%	100%	100%
Heavy Equip	6/9/2007	2005 John Deere Backhoe	1	38,382.05	38,382.05	5	7,676.41	7,676.41	7,256	0%	100%	100%	0%	100%	100%
Storage Tank	6/20/2007	BULLSTE 20,000 GAL Hydro Pneumatic Tank RS1005852	1	31,555.00	31,555.00	10	6,311.00	6,311.00	7,256	0%	100%	100%	0%	100%	100%
Treatment	6/22/2007	1.5 FOOT Keams for the Water Plant	1	1,000.00	1,000.00	10	200.00	200.00	7,256	0%	100%	100%	0%	100%	100%
Secrets Tank	7/2/2007	MCQUENCH Set pressure tank @ well #4/100m crane	1	4,188.23	4,188.23	10	837.65	837.65	7,256	0%	100%	100%	0%	100%	100%
Treatment	8/27/2007	VALVE 1 Well #2 Section Call	1	2,246.78	2,246.78	10	449.36	449.36	7,256	0%	100%	100%	0%	100%	100%
Pump	8/27/2007	CONESTOGA Booster Pump, Motor	1	1,126.21	1,126.21	10	225.24	225.24	7,256	0%	100%	100%	0%	100%	100%
Pump	8/31/2007	SMITTYUM Pump, Laborer/Driver Well	1	13,293.26	13,293.26	10	2,658.65	2,658.65	7,256	0%	100%	100%	0%	100%	100%
Storage Tank	10/9/2007	CONSENTU Installation of New Pressure Tank/Borehole	1	4,278.00	4,278.00	10	855.60	855.60	7,256	0%	100%	100%	0%	100%	100%
Electrical	10/20/2007	VALVE 1 Well #2 Repair Breaker-New Control	1	3,822.77	3,822.77	10	764.55	764.55	7,256	0%	100%	100%	0%	100%	100%
Pump	10/25/2007	SMITTYUM Repair Secretary	1	6,487.44	6,487.44	10	1,297.49	1,297.49	7,256	0%	100%	100%	0%	100%	100%
Motor	10/30/2007	ACTSUPP Motor Repair, Break, Ball Crank	1	1,456.49	1,456.49	10	291.30	291.30	7,256	0%	100%	100%	0%	100%	100%
Treatment	1/2/1995	Treated Assets	1	100,000.00	100,000.00	20	20,000.00	20,000.00	7,256	80%	20%	100%	80%	20%	100%
Treatment	1/2/1995	Well No. 2	1	125,000.00	125,000.00	20	25,000.00	25,000.00	7,256	80%	20%	100%	80%	20%	100%
Storage Tank	1/2/1995	58,000 gallon ext. fluid ext. w/1 base	1	60,000.00	60,000.00	30	18,000.00	18,000.00	7,256	80%	20%	100%	80%	20%	100%
		Pump #2 - 45,075 feet - 1.25"		607,555.54	607,555.54										
		Pump #1 - 214,581 ft - 1.12 7/8"		2,986,055.34	2,986,055.34										
		Pump #3 - 32,262 ft - 1.5 1/2"		1,287,672.22	1,287,672.22										
		Total Pipe Installed	1	4,232,326.91	4,232,326.91	30	1,269,680.07	1,269,680.07	7,256	80%	20%	100%	80%	20%	100%
		Grand Total		\$ 1,204,306.84	\$ 1,204,306.84		\$ 240,861.36	\$ 240,861.36	\$ 772,576.63						

* March with columns below

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