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

DOUBLE DIAMOND UTILITY COMPANY, INC.'S INITIAL BRIEF

TO THE HONORABLE ADMINISTRATIVE LAW JUDGES:

COMES NOW, Double Diamond Utility Company, Inc. ("Double Diamond"), in the above styled and docketed water and wastewater rate proceeding and files this, its Initial Brief.

Respectfully submitted,

By: ______________________
John J. Carlton

John J. Carlton
The Carlton Law Firm P.L.L.C.
4301 Westbank Drive, Suite B-130
Austin, Texas 78746
(512) 614-0901
Fax (512) 900-2855
State Bar No. 03817600

ATTORNEY FOR DOUBLE DIAMOND
UTILITY COMPANY, INC.

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 22nd day of November, 2017.

____
John Carlton

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I. INTRODUCTION AND SUMMARY

Double Diamond Utility Company, Inc. ("DDU") is a small investor owned water utility company operating under Water Certificate of Convenience and Necessity ("CCN") No. 12087 and Sewer CCN No. 20705 in several communities in North Texas. The applications that are the subject of this proceeding relate to the water and sewer systems in the White Bluff and The Cliffs communities, which are in Hill County and Palo Pinto County, respectively. There are approximately 640 water customers and 567 sewer customers in White Bluff, and there are approximately 287 water customers and 239 sewer customers in The Cliffs. DDU opted to file applications for both communities as a Class B utility. The applications were filed on August 1, 2016.

DDU's rates and fees generated the following revenues during the test year:

Historical Test Year Revenue

	Water	Sewer
White Bluff	$465,237[1]	$412,543[2]
The Cliffs	$368,356[3]	$215,111[4]

DDU proposes increasing its revenue requirements based upon test year cost data adjusted for known and measurable changes to:

Revenue at Proposed Rates

	Water	Sewer
White Bluff	$568,368[5]	$572,068[6]
The Cliffs	$421,488[7]	$313,686[8]

DDU's proposed increase in revenues will "(1) permit the utility a reasonable opportunity to earn a reasonable return on its invested capital used and useful in rendering service to the public

[1] Ex. DDU-2 (White Bluff – Water and Sewer Rate Increase Applications), p. 95 of 151, line 15; Ex. DDU-11 (Prefiled Rebuttal Testimony of Jay Joyce), p. 13 of 106, lines 7-8.

[2] Ex. DDU-2, p. 143 of 151, line 12; Ex. DDU-11, p. 13 of 106, lines 7-8.

[3] Ex. DDU-1 (The Cliffs – Water and Sewer Rate Increase Applications), p. 95 of 151, line 15; Ex. DDU-11, p. 13 of 106, lines 7-8.

[4] Ex. DDU-1, p. 143 of 151, line 12; Ex. DDU-11, p. 13 of 106, lines 7-8.

[5] Ex. DDU-2, p. 95 of 151, line 15; Ex. DDU-11, p. 13 of 106, lines 7-8.

[6] Ex. DDU-2, p. 143 of 151, line 12; Ex. DDU-11, p. 13 of 106, lines 7-8.

[7] Ex. DDU-1, p. 95 of 151, line 15; Ex. DDU-11, p. 13 of 106, lines 7-8.

[8] Ex. DDU-1, p. 143 of 151, line 12; Ex. DDU-11, p. 13 of 106, lines 7-8.

over and above its reasonable and necessary operating expenses; and (2) preserve the financial integrity of the utility."[9]

DDU initially proposed October 1, 2016, as the effective date of the proposed rate/tariff change. Notice of the application was sent to customers on August 10, 2016.[10] Because of protests, the Commission referred the application to a hearing on September 8, 2016.[11] On October 7, 2016, the Commission adopted a Preliminary Order referring a list of 42 issues to the State Office of Administrative Hearings ("SOAH") for consideration.[12] SOAH conducted a preliminary hearing on October 18, 2016, and established an initial procedural schedule. Subsequently, DDU filed an Agreed Motion to Suspend Effective Date and Abate Proceedings for 90 Days on November 23, 2016.[13] SOAH granted the agreed motion and abated the proceeding on November 30, 2016.[14] DDU filed corrections to its application on April 26, 2017.[15] At the request of the parties, SOAH conducted a second prehearing conference on May 26, 2017. On June 6, 2017, after receipt of an agreed schedule from the parties, Judge Bell issued Order No. 8 confirming the suspension of rates, adopting a procedural schedule and providing notice of the hearing on the merits.[16] On July 20, 2017, DDU filed an Agreed Motion to Modify Procedural Schedule, Extend Effective Date and Establish Relate Date, which accommodated the assignment of a new Commission Staff Attorney to the case.[17] Judge Bell issued Order No. 10 on July 26, 2017, which modified the procedural schedule as requested by the parties, extended the effective date of the proposed rate until April 1, 2018 and established a "relate back" date of February 21, 2018, "for purposes of determining refunds or surcharges, depending upon the outcome of the case." Judge Bell subsequently issued Order No. 11 to convene the hearing on the merits on October 24, 2017, with the agreement of the parties. Judge Bell conducted the hearing on the merits from October 24, 2017, until October 26, 2017.

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9 Tex. Water Code § 13.183(a).

10 Ex. DDU-1 (Attachment DDU-1A), p. 147 of 151; Ex. DDU-2 (Attachment DDU-2A), p. 147 of 151.

11 Order of Referral (Sept. 8, 2016).

12 Preliminary Order (Oct. 7, 2016).

13 Agreed Motion to Suspend Effective Date and Abate Proceedings for 90 Days (Nov. 23, 2016).

14 SOAH Order No. 5 Granting Agreed Motion to Suspend Effective Date and abate Case for 90 Days; Granting Motion to Delay Response (Nov. 30, 2016).

15 Correspondence on behalf of DDU regarding corrected pages to application and work papers (Apr. 26, 2017).

16 SOAH Order No. 8 Memorializing Prehearing Conference, Confirming Suspension of Rates, Adopting Procedural Schedule, and Notice of Hearing on the Merits (Jun. 6, 2017).

17 Agreed Motion to Modify Procedural Schedule, Extend Effective Date and Establish Relate Back Date (Jul. 20, 2017).

II. REVENUE REQUIREMENT [PO Issues 3, 5, 6, 34]

Ratemaking for retail water and sewer utilities is governed by Chapter 13, Subchapter F of the Texas Water Code.[18] Under this subchapter, the Commission is required to "ensure that every rate made, demanded, or received by any utility ... shall be just and reasonable."[19] In a ratemaking proceeding, the utility bears the burden of proof to show that the proposed rates are just and reasonable.[20]

A utility's rates are based upon the utility's cost of rendering service.[21] A utility's cost of service is comprised of two components: allowable expenses and return on invested capital.[22] The term "invested capital" is also referred to as the "rate base."[23]

Allowable expenses are characterized as expenses that are reasonable and necessary to provide service to the ratepayers, and determined by gathering expense information during a historical test year and making adjustments for known and measurable changes.[24] Allowable expenses may include expenses for operations and maintenance, depreciation, and taxes,[25] but may not include expenses for legislative advocacy, political activity, or other unreasonable or unnecessary expenses.[26] These standards do not require that the utility's expenses be the lowest possible cost. They just require that the utility's expenses be a reasonable cost and necessary to the operation of the utility. DDU is seeking both water and sewer rates in this case, and so each component of cost of service (each allowable expense and all return on invested capital) must be properly allocated between water and sewer services.

The rate base, or invested capital, of a utility consists of "original cost, less accumulated depreciation, of utility plant, property, and equipment used by and useful to the utility in providing service,"[27] net cost of "depreciable utility plant, property and equipment retired by the utility,"[28]

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[18] Tex. Water Code § 13.181.
[19] Tex. Water Code § 13.182(a).
[20] Tex. Water Code § 13.184(c).
[21] 16 Tex. Admin. Code § 24.31(a) (TAC); Preliminary Order, Issue No. 5.
[22] *Id.*
[23] 16 TAC § 24.31(c)(2).
[24] 16 TAC § 24.31(b); Preliminary Order, Issue No. 6.
[25] 16 TAC § 24.31(b)(1).
[26] 16 TAC § 24.31(b)(2).
[27] 16 TAC § 24.31(c)(2)(A).
[28] 16 TAC § 24.31(c)(2)(B).

and "working capital allowance."[29] Rate base may be adjusted for post-test year additions under certain circumstances, although DDU is not requesting any such adjustments at this time.[30]

The rate of return is expressed as a percentage of invested capital.[31] It allows a utility an opportunity to earn a return on its invested capital and preserve the financial integrity of the utility.[32] It also permits a utility to meet its credit obligations and reasonably compete in the financial markets for future capital, namely, a return on equity.[33] The primary task of setting a rate of return is to determine the cost of capital.

The cost of capital is the composite of the cost of the various classes of capital used by the utility: (1) "debt capital is the actual cost of debt", *i.e.* interest on debt; and (2) equity capital is based upon a fair return on its value, *i.e.* dividends or earnings.[34]

Before a rate of return can be fixed, the Commission must determine what percentage of the utility's cost of capital is debt and what percentage is equity capital. Once the percentage is set for each element, a weighted cost of capital is ascertained by multiplying that percentage amount by the cost of the particular element. The combined weighted values represent the overall rate of return which is then applied to the rate base.[35]

However, the Commission must also apply the following regulatory principles in determining a fair rate of return:

> … 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 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.[36]

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29 16 TAC § 24.31(c)(2)(C).

30 16 TAC § 24.31(c)(5); Preliminary Order Issue No. 6.

31 16 TAC § 24.31(c)(1).

32 16 TAC § 24.32(a); Preliminary Order, Issue No. 3.

33 16 TAC § 24.31(c)(1).

34 16 TAC § 24.31(c)(1)(B)(i) and (ii).

35 Ex. DDU-1, p. 30 of 151, line 7 (Total); Ex. DDU-1, p. 77 of 151, line 7 (Water); Ex. DDU-1, p. 125 of 151, line 7 (Sewer); Ex. DDU-2, p. 30 of 151, line 7 (Total); Ex. DDU-2, p. 77 of 151, line 7 (Water); Ex. DDU-2, p. 125 of 151, line 7 (Sewer).

36 16 TAC § 24.31(c)(1).

Lastly, there are two United States Supreme Court rulings that are oft-cited as establishing the legal criteria for determining a fair rate of return for regulated industries such as utilities: *Bluefield Water Works and Improvement Co. v. Public Service Comm 'n of West Virginia*[37] and *Federal Power Comm 'n v. Hope Natural Gas Co.*[38] In *Bluefield*, the United States Supreme Court stated that:

> A public utility is entitled to such rates as will permit it to earn a return on the value of property which it employs for the convenience of the public equal to that generally being made ... on investments in other business undertakings which are attended by corresponding risks and uncertainties.[39]

In the *Hope* decision, the United States Supreme Court broadened the concept of a reasonable return to allow for increasing national competition for capital:

> From the investor or company point of view it is important that there be enough revenue not only for operating expenses but also for the capital costs of the business. These include service on the debt and dividends on the stock. By that standard the return to the equity owner should be commensurate with returns on investments in other enterprises having corresponding risks.[40]

A. Operations and Maintenance Expenses [PO Issues 20, 38] / Administrative and General Expenses [PO Issues 21, 25, 38] / Other Expenses [PO Issue 38]

The issue of rate case expenses has been severed from this proceeding.[41] Consequently, referred issue no. 38 will not be discussed in this section.

1. Operation and Maintenance Expenses [PO Issues 20]

The Preliminary Order identified the issue of "What are the utility's reasonable and necessary operation and maintenance expenses?"[42] The Commission's rules define those expenses as "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

37 *Bluefield Water Works and Improvement Co. v. Public Service Comm 'n of West Virginia,* 262 U.S. 679 (1923).
38 *Federal Power Comm 'n v. Hope Natural Gas Co,* 320 U.S. 591 (1944).
39 *Bluefield* at 692.
40 *Hope* at 603.
41 SOAH Order No. 12 Granting Agreed Motion to Sever Rate Case Expenses and Establishing New Docket (Nov. 1, 2017).
42 Preliminary Order (Oct. 7, 2016), Issue 20, citing 16 TAC §24.31(b)(1)(A).

not allowed as an expense for cost of service except as provided in TWC §13.185(e))..."[43] Schedule I-1 of the application form, includes both Volume related expenses (Purchased water, Power Expense-production only, and Other volume related expenses) and Non-volume related expenses (Employee labor, materials, Contract work and Transportation expenses) in Operation and Maintenance Expenses.[44]

DDU provided evidence to support Operation and Maintenance Expenses related to Power Expense-production only, Other volume related expenses, Employee labor, Materials, Contract work, Transportation expenses and Other plant maintenance for the White Bluff and The Cliffs water and sewer systems.[45] DDU did not claim any Operation and Maintenance Expenses for Purchased water. Commission staff recommended adjustments to Other volume related expense, Employee labor, Contract work, Transportation, and Other plant maintenance related to the White Bluff systems (both water and sewer),[46] and Transportation and Other plant maintenance related to The Cliffs systems (both water and sewer).[47] No other party contested DDU's Operation and Maintenance Expenses at the hearing.

a) Other Volume Related Expenses – White Bluff.

DDU provided evidence to support Other volume related expenses in the amount of $8,289 for White Bluff water and $2,409 for White Bluff sewer.[48] Commission staff witness, Emily Sears, recommended addition of $318 to water and reduction of $530 from sewer. These adjustments were the result of reclassification of expenses rather than removal or addition of expenses.[49] DDU agrees with these reclassifications made by Commission staff. No other party addressed this issue.

b) Employee Labor – White Bluff.

DDU provided evidence to support White Bluff Employee Labor expenses in the amount of $80,520 for water[50] and $91,440 for sewer.[51] Commission staff witness, Emily Sears,

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43 16 TAC § 24.31(b)(1).

44 Ex. DDU-1, p. 6 of 151 (Total); Ex. DDU-1, p. 53 of 151 (Water); Ex. DDU-1, p. 101 of 151 (Sewer); Ex. DDU-2, p. 6 of 151 (Total); Ex. DDU-2, p. 53 of 151 (Water); Ex. DDU-2, p. 101 of 151.

45 Ex. DDU-1, p. 6 and p. 12-19 of 151 (Total); Ex. DDU-1, p. 53 and p. 59-66 of 151 (Water); Ex. DDU-1, p. 101 and p. 107-114 of 151 (Sewer); Ex. DDU-2, p. 6 and p. 12-19 of 151 (Total); Ex. DDU-2, p. 53 and p. 59-66 of 151 (Water); Ex. DDU-2, p. 101 and p. 107-114 of 151; Ex. DDU-6 (Prefiled Direct Testimony of Jay Joyce), p. 16, line 16 through p. 19, line 5.

46 Ex. Staff 2 (Direct Testimony of Emily Sears (with Errata)), p. 9, line 11 through p. 10, line 2.

47 Ex. Staff 3 (Direct Testimony of Jonathan Ramirez (with Errata)), p. 7, line 16 through p. 8, line 3.

48 Ex. DDU-2, p. 53, 61, 101 and 109 of 151.

49 Ex. Staff 3, p. 11, lines 11-14.

50 Ex. DDU-2, p. 62 of 151.

51 Ex. DDU-2, p. 110 of 151.

recommended several adjustments to employee labor, which DDU does not agree with. Commission staff's adjustments are summarized in the following table:

Staff Adjustments to White Bluff Employee Labor[52]

Water		Sewer
$ 80,520.00	Original Cost	**$ 91,440.00**
$ (5,460.00)	Wilhelm	$ 5,460.00
$ 13,000.00	Bledsoe	$(13,000.00)
$ 10,920.00	Cota	$(10,920.00)
$(10,400.00)	Whitworth	$(10,400.00)
$(11,440.00)	Keeton	$(11,440.00)
$ 77,140.00		**$ 51,140.00**

These adjustments can be classified in two ways, reallocation between water and sewer and elimination/disallowance. DDU disagrees with both adjustments and neither of the adjustments are supported by the record.

Ms. Sears attempts to justify her reallocation adjustments based upon the type of operator license that each individual holds.[53] She claims that if an individual only holds a license related to a water system, then that individual's entire salary should be allocated to water. She makes a similar claim for sewer. However, her opinion entirely ignores the sworn discovery responses and testimony of Mr. Gracy. Mr. Gracy, who is responsible for the overall operation and management of DDU,[54] provided sworn responses to discovery and further testified that all employees are cross-trained in both water and sewer operations and work on both types of systems.[55] Mr. Gracy also explained that the Texas Commission on Environmental Quality (TCEQ) does not require an individual to hold a particular type of license in order to work on a system. In fact, the TCEQ requirement is only that "individuals working on a system work under the supervision and control of an individual with the appropriate license for that type of system."[56] Mr. Gracy's explanation of the day to day operations of DDU in the White Bluff systems makes it clear that employees

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52 Ex. Staff 2, p. 12-13.
53 Ex. Staff 2 (Sears Direct), p. 12.
54 Ex. DDU-3 (Prefiled Direct Testimony of Randy Gracy), p. 3, lines 12-14.
55 Ex. Staff-2A (Sears Workpaper #6), bates pages 000007 and 000008; Ex. DDU-8 (Prefiled Rebuttal Testimony of Randy Gracy), p. 4, line 12 through p. 5, line 4.
56 Ex. DDU-8 (Gracy Rebuttal), p. 5, lines 2-4.

work seamlessly between the water and sewer systems and that their labor expenses should remain as originally allocated in the applications. Ms. Sears' reclassification of these expenses results in the water customers subsidizing the employee labor expense for the sewer system.

Ms. Sears also attempts to justify her exclusion of 100% of the backhoe operators' employee labor costs, which amounts to $43,680, contrary to the evidence in the record. Ms. Sears explains that she is excluding the $43,680 for the two backhoe operators because their job descriptions primarily describe tap work and that "to include [their labor cost] in the cost of service would allow White Bluff to double collect for these two employees' labor costs."[57] Her conclusion is simply not correct. As explained by Mr. Gracy and Mr. Joyce, only a fraction of those two employees' time is spent on taps. Mr. Gracy provided Mr. Joyce with the records related to all the tap work during the test year for the White Bluff systems.[58] Mr. Joyce used that information to determine that only $615 of their time was spent for seven taps during the test year.[59] Yet, despite this evidence, Ms. Sears insists that the full employee labor cost for these individuals should be excluded and recovered through tap fees even though only $615 in labor costs are associated with all the taps completed in the test year.[60] Ms. Sears' testimony is that "It is my belief, based on the information provided by Double Diamond Utilities, that the only job that they have is to install taps, minus the other duties as assigned."[61] The record does not reflect the facts to be consistent with her belief. And her proposed result is non-sensical at best.

DDU agrees that $615 of employee labor cost should be excluded from the requested amounts to prevent double recovery. This exclusion should be split in the same way that DDU proposed allocating employee labor costs between water and sewer. But in no event should the full $43,680 for these two backhoe operators be excluded. No other party addressed this issue.

c) Contract work – White Bluff.

DDU provided evidence to support $3,298 for contract work - water, and $2,922 for contract work – sewer in White Bluff.[62] Commission staff proposes disallowing 50% of the cell

[57] Ex. Staff-2 (Sears Direct), p. 12, lines 9-16.
[58] Ex. DDU-8 (Gracy Rebuttal), p. 4, lines 5-8.
[59] Ex. DDU-11 (Joyce Rebuttal), p. 4 of 106, line 16 through p. 5 of 106, line 2, and Workpaper #3 (Attachment DDU-11B), p. 89 of 106 through 99 of 106.
[60] Tr. 338:18-21 (Testimony of Emily Sears)(Oct. 25, 2017).
[61] *Id.*
[62] Ex. Staff 2, p. 14, line 18 through p. 15, line 3.

phone costs because it is unknown whether the cell phone is used for personal reasons ($239 water and $212 sewer).[63] Mr. Gracy testified that the utility manager for White Bluff is on-call 24 hours a day, 7 days a week, and must have a cell phone at all times in order respond to issues that arise with operation of the water and sewer systems at White Bluff.[64] The costs for the utility manager's cell phone should be included in the revenue requirement as proposed by DDU. No other party addressed this issue.

d) Transportation – White Bluff

(i) Vehicle Lease Expense and Toolbox Reclassification

Commission staff witness, Emily Sears, proposed to reclassify vehicle lease expense of $5824 ($2912 for both water and sewer) and a tool box for $580 from water to the asset list for DDU.[65] DDU agrees with these reclassifications made by Commission staff. No other party addressed this issue.

(ii) Fuel expenses

DDU provided evidence to support fuel expenses of $14,528.92 for White Bluff. Commission staff proposes disallowing fuel expenses in the amount of $9,835 ($6,447 for White Bluff – water, $3,388 for White Bluff – sewer).[66] No other party addressed this issue.

In her prefiled testimony, Commission staff witness, Emily Sears, proposed to disallow certain fuel expenses for White Bluff because several journal entries were not supported by invoices.[67] Mr. Gracy provided documents as part of his rebuttal testimony supporting all the claimed White Bluff fuel expenses.[68] A close examination of the White Bluff detailed trial balance entries for fuel expense[69] and the supporting documentation found in the information provided by Mr. Gracy in his rebuttal[70] reveals that the fuel costs are fully documented with very few exceptions. The table attached as Attachment No. 1 to this brief ties the two exhibits together. *See* Attachment No. 1 – Reconciliation of General Ledger Entries for Vehicle Fuel Expenses – White Bluff.

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[63] Ex. Staff-2, p. 15, lines 11-13.
[64] Ex. DDU-8, p. 6, lines 5-9.
[65] Ex. Staff 2, p. 16, line 17 through p. 17, line 3.
[66] Ex. Staff 2, p. 16, lines 13-16.
[67] *Id.*
[68] Ex. DDU-8 (Attachment DDU-8B), p. 23 of 155 through 149 of 155.
[69] Ex. DDU-4 (Prefiled Direct Testimony of Tim Grout)(Attachment DDU-4E), p. 130-132 of 166.
[70] Ex. DDU-8 (Attachment DDU-8B), p. 23 of 155 through 149 of 155.

However, on cross-examination, Ms. Sears changed her rationale for exclusion of the White Bluff fuel costs to be based upon "personal use."[71] Ms. Sears opined that taking a vehicle home when on-call was personal use.[72] Yet, Ms. Sears admitted that she has no experience with on-call demands of utility employees.[73] Ms. Sears attempted to assert that it is not an allowable expense to have an on-call vehicle at home if there is not a call that is responded to.[74] However, she also admitted that there is not a rule requiring this treatment of fuel expense and acknowledged that it is just her opinion.[75] Ms. Sears position is tantamount to arguing that the cost of insurance for the utility should be disallowed unless there is actually a claimed filed on the insurance policy during the test year. The Commission has never taken such a position, and should not take the position asserted by Ms. Sears on this issue.

In response to Ms. Sears assertions, DDU provided Exhibit DDU-15, Mr. Gracy's sworn response to Staff RFI 1-14 stating that there is no personal use of DDU vehicles, and that the vehicles are used 100% for utility purposes.[76] In addition, Mr. Gracy explained that the utility manager and one other employee each day have company vehicles to allow them to respond at all times for utility business.[77]

Because the White Bluff fuel expenses are documented and supported, and the on-call use of the vehicles is solely for utility purposes and not personal use, the entirety of DDU requested fuel expense for White Bluff must be allowed.

e) Transportation - The Cliffs

DDU provided evidence to support transportation expenses of $14,967.68 for The Cliffs. Commission staff proposes disallowing fuel expenses in the amount of $1,637 for The Cliffs – water, and $1,637 for The Cliffs – sewer. No other party addressed this issue.

Commission staff witness, Jonathon Ramirez, proposed to disallow certain fuel expenses for White Bluff because they were outside the test-year period.[78] However, a closer examination of the detailed trial balance for The Cliffs[79] and the corresponding supporting documentation

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71 Tr. 278:22-279:14 (Testimony of Emily Sears)(Oct. 25, 2017).
72 Tr. 283:8-14 (Testimony of Emily Sears)(Oct. 25, 2017).
73 Tr. 281:10-12 (Testimony of Emily Sears)(Oct. 25, 2017).
74 Tr. 285:10-22, Tr. 291:19-23 (Testimony of Emily Sears)(Oct. 25, 2017).
75 Tr. 286: 2 (Testimony of Emily Sears)(Oct. 25, 2017).
76 Exhibit DDU-15 (DDU's Written Response to Commission Staff's Request for Information 1-14).
77 *Id.*
78 Ex. Staff 3 (Ramirez Direct Errata), p 10, lines 4-6.
79 Exhibit DDU-4 (Attachment DDU-4D), p. 79-80 of 166.

provided by Mr. Gracy,[80] reveals that the fuel costs are fully documented. The table attached as Attachment No. 2 to this brief ties the two exhibits together. See Attachment No. 2 – Reconciliation of General Ledger Entries for Vehicle Fuel Expenses – The Cliffs. Reviewing these documents reveals that the expense were in fact incurred during the test year and that the references to 2014 are likely typographical errors in the reporting system.

Because The Cliffs fuel expenses are documented and supported within the test-year, the entirety of DDU requested fuel expense for The Cliffs must be allowed.

f) Other Plant Maintenance – White Bluff

DDU provided evidence to support $41,055 in Other Plant maintenance – water and $100,955 in Other Plant maintenance - sewer for White Bluff.

(i) Water Related

The Commission staff witness, Emily Sears, proposed reclassification of $18,806 in water related costs as assets, reclassifying an additional water related $1,148 as Other volume related expenses and disallowing $709 in water related expenses that did not have supporting invoices. DDU agrees with the reclassification of $1,148 to Other volume related expense.[81] DDU does not agree with the exclusion of $709 in expenses, which are shown on the detailed trial balance as having occurred during the test year and being related to repair and maintenance of the water system.[82] DDU agrees with some of the reclassification of assets to rate base, but disagrees with reclassification of $4,386.29. Ms. Harkins testified that these three invoices were more appropriately expenses and should not be capitalized.[83] No other party addressed this issue.

(ii) Sewer Related

Ms. Sears also recommended reclassifying $83,962 in sewer related costs as assets.[84] However, these recurring grinder pump expenses, should not be capitalized. Mr. Gracy testified that these costs have been historically categorized as expenses.[85] Ms. Harkins, a professional engineer with many years of experience in the water and sewer industry, testified that the grinder

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[80] Exhibit DDU-14 (DDU's Documents Responsive to Commission Staff's Request for Information 1-14 (DDU16-015687 to DDU16-015895)).
[81] Ex. Staff-2B (Sears Supplemental Workpapers), p. 1-3.
[82] Ex. DDU-4 (Attachment DDU-4E), p. 143-144 of 166 (electrical parts $500 and ITC services $209.43).
[83] Ex. DDU-9 (Prefiled Rebuttal Testimony of Victoria Harkins), p. 4 of 527, line 21 through p. 5 of 527, line 4.
[84] Ex. Staff- 2, p. 17, lines 16-17.
[85] Ex. DDU-8, p. 8, lines 1-3.

pump costs should be classified as expenses.[86] She stated that there was a "huge amount of maintenance, repair and replacement for grinder pumps"[87] especially for vacation homes like those in White Bluff.[88] Ms. Harkins also reviewed the past three years of grinder pump costs, and determined that those costs had been recurring and similar so they should be treated as recurring expenses.[89] Even though Ms. Sears recommended the reclassification, she doesn't know how to operate or maintain grinder pumps or know about the operational problems or service life of those grinder pump, and she has never designed a system with grinder pumps.[90] And even though Ms. Sears has no experience with grinder pumps, she told the Commission staff engineering expert, Jolie Mathis, she was excluding the grinder pumps from expenses.[91] Although Ms. Mathis testified that the recommendation was a collaborative effort with Ms. Sears,[92] she did not attempt to determine which costs were repairs and which should be capitalized.[93] Ms. Mathis could not explain how a grinder pump works or where it is located in the system, and she has never maintained one, does not know the operational problems associated with one, how to repair one or how often they fail.[94]

The grinder pump expenses incurred by DDU at White Bluff should be classified as expenses because they recur from year to year and are a constant maintenance issue for operation of the sewer system. No other party addressed this issue.

2. Administrative and General Expenses [PO Issues 21, 25]

The Preliminary Order identified the issue of "What are the utility's reasonable and necessary administrative and general expenses?"[95] The Commission's application form for Class B utilities includes the following as Administrative and General Expenses: office salaries, management salaries, employee pensions & benefits, purchased power-Office only, bad debt

86 Tr. 484:8-10, 485:18-20 (Testimony of Victoria Harkins)(Oct. 26, 2017).
87 Tr. 485:5-6 (Testimony of Victoria Harkins)(Oct. 26, 2017).
88 Tr. 485:8-12 (Testimony of Victoria Harkins)(Oct. 26, 2017).
89 Tr. 486:22-487:2 (Testimony of Victoria Harkins)(Oct. 26, 2017).
90 Tr. 343:16-344:10 (Testimony of Emily Sears)(Oct. 25, 2017).
91 Tr. 343:13-15 (Testimony of Emily Sears)(Oct. 25, 2017).
92 Tr. 301:17-23 (Testimony of Jolie Mathis)(Oct. 25, 2017).
93 Tr. 303:6-9 (Testimony of Jolie Mathis)(Oct. 25, 2017).
94 Tr. 305:2-306: 3 (Testimony of Jolie Mathis)(Oct. 25, 2017).
95 Preliminary Order, Issue 21.

expense, office services & rentals, office supplies & expenses, professional services, insurance, regulatory (rate case) expense, regulatory expense (other) and miscellaneous expenses.[96]

While the Preliminary Order did refer the issue of pensions and other post-employment benefits to hearing,[97] DDU has not claimed any of those type of expenses as part of its revenue requirement at this time.

DDU provided evidence to support Administrative and General Expenses related to office supplies & expenses, professional services (except for White Bluff – water), insurance, regulatory expense (other) and miscellaneous expenses for the White Bluff and The Cliffs water and sewer systems. DDU did not claim any administrative and General Expenses for the other allowed categories. Commission staff asserted that reductions to DDU's claimed Administrative and General Expenses were appropriate for the Insurance, Regulatory expense and Miscellaneous categories. No other party contested DDU's General and Administrative Expenses at the hearing.

a) **Insurance – White Bluff**

DDU provided evidence to support White Bluff insurance expense of $9,668 for water, and $8,566 for sewer.[98] Commission staff recommended removing insurance costs for a workers' compensation policy that did not apply in Texas ($1,444 for water and $373 for sewer). DDU agrees with this removal.[99]

Commission staff witness Emily Sears recommends removing $3,371 in water costs and $1,127 in sewer costs from the DDU insurance for the umbrella-spa & ski liability insurance premiums because she claims she is unable to separate out the spa & ski portion of the insurance which she wants to exclude from the umbrella liability insurance that she wants to include.[100] Notably, Ms. Sears acknowledges that the umbrella policy is based upon the underlying policies[101] and does not assert that an umbrella policy is not appropriate for a utility.[102] However, as Mr. Joyce testified and contrary to Ms. Sears assertion, it is possible to remove the spa & ski portion of the

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96 Ex. DDU-1, p. 6, 13, 15, 20-28 of 151 (Total); Ex. DDU-1, p. 53, 60, 62, 67-75 of 151 (Water); Ex. DDU-1, p. 101, 108, 110, 115-123 of 151 (Sewer); Ex. DDU-2, p. 6, 13, 15, 20-28 of 151 (Total); Ex. DDU-2, p. 53, 60, 62, 67-75 of 151 (Water); Ex. DDU-2, p. 101, 108, 110, 115-123 of 151 (Sewer).
97 Preliminary Order, Issue 25.
98 Ex. DDU-2, p. 53 and 101 of 151.
99 Ex. Staff-2 (Sears Direct), p. 20, lines 2-9.
100 Ex. Staff-2 (Sears Direct), p. 20, lines 10-16.
101 Tr. 325:12-13 (Testimony of Emily Sears)(Oct. 25, 2017).
102 Tr. 323:8-10 (Testimony of Emily Sears)(Oct. 25, 2017).

umbrella policy using the documents included in Ms. Sears' work papers.[103] By applying the proportionate amount of the spa & ski premium of $3,100 to the total umbrella policy premium as recommended by Mr. Joyce, the resulting reductions in insurance costs are $100 for water and $34 for sewer.[104] In addition, as Mr. Gracy testified, it would be difficult to get the same coverage of insurance for less than the $18,000 being requested by DDU for White Bluff.[105] Allowing a reasonable total amount of insurance expense to adequately insure the systems is appropriate. The Commission staff reductions should be adjusted to the levels recommend by Mr. Joyce.

b) **Regulatory Expense – White Bluff**

Commission staff proposed adjustments to DDU's proposed regulatory expenses for a CCN amendment ($2907) and a wastewater permit renewal ($3040). DDU agrees with the removal of $2907 because it relates to The Cliffs' CCN. The cost for a CCN amendment is a legitimate expense that the utility should be allowed to recover.[106] Consequently, it should be added to the revenue requirement for The Cliffs as an expense, but amortized over a reasonable time period. DDU proposes a three-year amortization period for this expense. DDU also agrees with Commission staff's proposed three-year amortization of the wastewater permit renewal costs as a recurring expense related to White Bluff sewer.[107]

c) **Miscellaneous expense – White Bluff**

DDU provided evidence to support miscellaneous expenses in the amount of $29,261 for water and $26,424 for sewer. Commission staff witness Emily Sears proposes to exclude the sewer tap expense in the amount of $500 because sewer taps are paid for through the sewer tap fee, and the lease payments for the "Automatic meter reading" and the "50,000 gallon WW plant" included in the equipment lease expense. DDU agrees with these adjustments. These amounts are $19,728 for water, and $20,148 for sewer.

However, DDU does not agree with Ms. Sears proposal to exclude allocated resort overhead and G&A expenses. The amounts remove for resort overhead are $7,410 for water, and $5,366 for sewer. The amounts removed for allocated G&A expenses are $970 for water and $702

[103] Ex. Staff-2A (Sears Workpapers), p. 84-95.
[104] Ex. DDU-11, p. 8 of 106, line 20 through p. 9 of 106, line 8.
[105] Tr. 461:12-13 (Testimony of Randy Gracy)(Oct. 26, 2017).
[106] Ex. DDU-11, p. 8 of 106, lines 7-9.
[107] Ex. Staff-2, p. 19, lines 3-7.

for sewer.[108] Mr. Gracy provided rebuttal testimony, stating that the overhead allocation is not already being recovered as alleged by Ms. Sears and "is for portions of the general manager's salary, receptionist's salary, the human resources person, accounts payable person, office space, and copiers ..."[109] Mr. Gracy explained that it would cost more than the $12,000 allocated to DDU-White Bluff in order to rent space, hire people and provide the other service, and he noted that the cost for these resources is $1,000/month, which is 3% of the allocation department total costs.[110] Mr. Gracy also explained these allocated expense in greater detail in live rebuttal.[111]

The allocated overhead expenses are reasonable and required for the local operation of the White Bluff utility systems. They should be included in the expenses recovered by DDU through rates.

d) **Miscellaneous expense – The Cliffs**

Essentially, Commission staff witness Jonathon Ramirez relied upon Ms. Sears for his recommendations related to miscellaneous expenses at The Cliffs. Mr. Ramirez provide prefiled direct testimony that "Staff recommends removing $20,075 for water, and $18,270 for sewer which includes the allocation for both resort overhead and resort G&A."[112] But on cross-examination, Mr. Ramirez testified that he made the adjustment solely based upon Ms. Sears' recommendation for White Bluff.[113] Mr. Ramirez also stated that he did not take Mr. Gracy's testimony into consideration, but that if Mr. Gracy provided additional information supporting the allocation he might change his opinion.[114] Mr. Ramirez admitted that he did not have any experience or opinion on how much it would cost to run a local office.[115] Mr. Gracy did provide additional testimony in rebuttal, stating that the overhead allocation is not already being recovered and "is for portions of the general manager's salary, receptionist's salary, the human resources person, accounts payable person, office space, and copiers ..."[116] which is discussed in more detail above.

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[108] Ex. Staff-2, p. 23. Lines 3-5.
[109] Ex. DDU-8, p. 8, lines 12-14.
[110] Ex. DDU-8, p. 8, lines 14-19.
[111] Tr. 464:21-467-5 (Testimony of Randy Gracy)(Oct. 26, 2017).
[112] Ex. Staff-3 (Ramirez Direct), p. 10, lines 14-15.
[113] Tr. 407:12-15 (Testimony of Jonathan Ramirez)(Oct. 25, 2017).
[114] Tr. 408:1-5 (Testimony of Jonathan Ramirez)(Oct. 25, 2017).
[115] Tr. 409:5-8 (Testimony of Jonathan Ramirez)(Oct. 25, 2017).
[116] Ex. DDU-8, p. 9, lines 19-21.

Just like the overhead allocations for White Bluff, the overhead allocations for The Cliffs should not be excluded either.

B. Depreciation [PO Issues 12, 27]

The Preliminary Order identified the issues of "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?" and "What is the amount, if any, of accumulated depreciation on such property?"[117] In addition, it identified the related issues of "what is the reasonable and necessary depreciation expense?" and "For each class of property, what are the proper and adequate depreciation rates (including service lives and salvage values) and methods of depreciation?"[118]

DDU's requested invested capital and proposed depreciation are shown in detail on its applications.[119] As discussed above, Commission staff proposed the reclassification of certain costs to capital instead of expenses. DDU agrees with some of Commission staff's proposed adjustments as discussed above, but DDU disagrees with the reclassification of the grinder pump expenses in the White Bluff sewer application for the reasons stated above. Those costs should continue to be treated as expenses and not included in the invested capital or depreciation calculations.

C. Taxes [PO Issue 28, 29, 30, 31]

1. <u>Federal Income Tax Expense [PO Issue 30]</u>

The Preliminary Order identified the issue of "what is the reasonable and necessary amount for the utility's federal income tax expense?"[120] In addition, the Commission referred the following related questions:

a. Is the utility a member of an affiliated group that is eligible to file a consolidated income tax return?

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?

[117] Preliminary Order, Issue 12, citing Texas Water Code § 13.185(b) and 16 TAC § 24.31(c)(2)(A)-(B).
[118] Preliminary Order, Issue 27, citing Texas Water Code § 13.185(j) and 16 TAC § 24.31(b)(l)(B).
[119] Ex. DDU-1, p. 31 of 151 (Total); Ex. DDU-1, p. 78 of 151 (Water); Ex. DDU-1, p. 126 of 151 (Sewer); Ex. DDU-2, p. 31 of 151 (Total); Ex. DDU-2, p. 78 of 151 (Water); Ex. DDU-2, p. 126 of 151 (Sewer).
[120] Preliminary Order, Issue 30, citing 16 TAC § 24.31(b)(1)(D) and Tex. Water Code § 13.185(f).

c. If not, has the utility demonstrated that it was reasonable not to consolidate returns?

DDU presented its federal income tax expense calculation as set forth in the application form. DDU does not file a separate tax return. No party dispute the methodology for calculating federal income tax used by DDU.

2. <u>Other Assessments and Taxes [PO Issue 29]</u>

The Preliminary Order identified the issue of "what is the reasonable and necessary amount, if any, for assessment and taxes other than federal income taxes?"[121]

Commission staff reduced Other taxes by $2,148 for water, and $5,025 for sewer. These adjustments were related to payroll taxes. Although DDU agrees with adjusting payroll taxes to reflect appropriate employee labor costs, DDU does not agree with Commission staff's adjustments to employee labor expenses, as discussed above. Commission staff also adjusted other taxes for the removal of the sales tax and title tax for the 2014 Ford.[122] DDU agrees with Commission staff's adjustment to the sales and title tax for the 2014 Ford because it is included in the asset depreciation schedule.

3. <u>Accumulated Deferred Federal Income Tax (ADFIT) [PO Issues 28 and 31]</u>

The Preliminary Order identified two issues that are related to ADFIT: "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?"[123] and "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?"[124]

Commission staff witness Debi Loockerman provided testimony regarding ADFIT. While DDU generally agrees with the concept of ADFIT, Ms. Loockerman's calculations contain

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121 Preliminary Order, Issue 28, citing 16 TAC § 24.31(b)(1)(C).
122 Ex. Staff-2, p. 24, lines 18-20.
123 Preliminary Order, Issue 27.
124 Preliminary Order, Issue 31.

significant errors, as explained in detail by Mr. Joyce in his rebuttal testimony.[125] "First, she erroneously includes depreciation on assets that the Company identifies as 'Developer Contributed.' These assets are not included in rate base and therefore generate no taxable income with which to allow any timing differences to flow to the Company. In other words, there is no income to offset any depreciation timing differences. Second, Ms. Loockerman makes multiple substantive mathematical errors that must be corrected. Third, Ms. Loockerman violates normalization rules by failing to use net operating loss ('NOL') carryforwards to offset the ADFIT."[126]

The result of these errors is that Ms. Loockerman's reductions to rate base resulting from ADFIT should be cut in half,[127] the adjustments are shown in the corrected staff schedules attached to Mr. Joyce's rebuttal testimony.

D. Return on Invested Capital [PO Issues 9, 10, 15, 16, 18, 19]

The Preliminary Order identified the issues of: (1)"what are the reasonable and necessary components of the utility's invested capital?";[128] and the related issue of (2) "what is the reasonable and necessary working capital allowance for the utility?"[129] In addition, the following issue related to return on invested capital were identified: (3) "What is the appropriate weighted average cost of capital?";[130] (4) "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 in its rate base, and has it been included all ratemaking formulas at the actual cost of the property rather than the price set between the entities?";[131] (5) "Has the utility financed any of its plant with developer contributions? What is the amount, if any, of accumulated depreciation on that property?";[132] and (6) "Has the utility included any customer contributions or donations in invested capital?"[133]

With regard to issue (1) above and as discussed previously, the components of invested capital, or rate base, consist of "original cost, less accumulated depreciation, of utility plant,

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125 Ex. DDU-11, p. 15 of 106, lines 14-21.
126 *Id.*
127 Ex. DDU-11, p. 19 of 106, lines 27-28.
128 Preliminary Order, Issue 9, citing 16 TAC § 24.31(c)(2).
129 Preliminary Order, Issue 15, citing 16 TAC § 24.3l(c)(2)(C).
130 Preliminary Order, Issue 10.
131 Preliminary Order, Issue 16, citing TWC § 13.185(i).
132 Preliminary Order, Issue 18, citing TWC § 13.185(j) and 16 TAC § 24.31(b)(1)(B).
133 Preliminary Order, Issue 19, citing TWC § 13.185(j); 16 TAC 24.31(c)(2)(B)(v).

property, and equipment used by and useful to the utility in providing service,"[134] net cost of "depreciable utility plant, property and equipment retired by the utility,"[135] and "working capital allowance."[136] DDU has not claimed any invested capital that would raise questions under issues (4) or (6) above.

With regard to issue (2), DDU has proposed a working cash capital allowance as provided for Class B utilities in the Commission's rules, 1/12th of annual revenues.

With regard to issue (3), DDU has calculated a weighted average cost of capital as set forth in the rate application using the parent company's actual capital structure and imputing it to DDU. These calculations are discussed in further detail below in relation to calculating the overall rate of return. The Commission staff has proposed a hypothetical capital structure and proposes using the hypothetical structure to determine the weighted cost of capital. DDU agrees with Commission staff on this point, as discussed further in the section below on Capital Structure and Overall Rate of Return.

1. Developer Contributions (PO Issue 18)

There were no issues raised by the parties regarding the appropriate level of developer contributions for The Cliffs water or sewer systems.

However, there were disputes between DDU and the White Bluff Ratepayer Group (WBRG) regarding the appropriate amount of developer contributions. Commission staff did not address this issue in the hearing.

The appropriate amount of developer contributions is zero, because all of DDU's investment in the White Bluff water and sewer systems is used-and-useful. Under this approach, the net asset values are $2,188,228 and $1,642,255 for the White Bluffs water and sewer systems, respectively.[137]

However, DDU's management made the decision to reclassify portions of some of the White Bluff utility assets from utility-provided investment to developer contributions, and those adjustments are based on the record from previous TCEQ rate application dockets for White Bluff.[138] Under this approach, the hypothetical developer contributions reduce rate base amounts

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[134] 16 TAC § 24.31(c)(2)(A).
[135] 16 TAC § 24.31(c)(2)(B).
[136] 16 TAC § 24.31(c)(2)(C).
[137] Exhibit DDU-6, p. 12 of 89, lines 13-15.
[138] Exhibit DDU-3, p. 8 of 27, lines 3-5.

by $1,186,277 and $137,457 for the White Bluffs water and sewer systems, respectively.[139] The net asset amounts are exclusive of hypothetical developer contributions and used in the rate applications which are the subject of this docket.

The only testimony opposing DDU's level of contributed capital was presented by WBRG witness Nelisa Heddin, and her testimony only addressed White Bluff. DDU will not attempt to address all of Ms. Heddin's contentions in its initial brief, but will discuss how WBRG's failure to comprehend and compare various DDU documents led WBRG to the flawed recommendation that all of White Bluff's invested capital should be classified as contributed capital. That recommendation should be rejected.

The primary support for Ms. Heddin's recommendation is her claim that DDU's tax depreciation schedules do not reconcile with the asset list supporting DDU's financial statements.[140] In her live cross-examination, she admits that she did not reconcile Exhibit DDU-13 to the tax return depreciation schedules in Exhibit WBRG-8.[141] She also acknowledges that that she did not use the department codes that were provided by DDU.[142] Ms. Heddin's failure to adequately analyze DDU's asset documents led her to the false conclusion that all of the assets are developer contributed. Her analysis is flawed, and her conclusion is unsupported. As Mr. Joyce explains in his live rebuttal,[143] not only does Ms. Heddin's analysis of DDU's asset records fail to support her recommendations, DDU's asset records in fact fully support and reinforce the validity of the asset amounts and classifications in DDU's rate applications.

There are four documents at issue, and all are as of 12/31/2015:

1. Utility Property and Equipment from DDD's Consolidated Financial Statements[144] ("Consolidated Financials")
2. Asset listing in DDU Depreciation Schedule[145] ("Consolidated Financials Supporting Work Paper")

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139 Exhibit DDU-6, p. 13 of 89, lines 8-10.
140 Exhibit WBRG-1 (Direct Testimony of Nelisa D. Heddin), p. 21, lines 1-2.
141 Tr. 258:2-4 (Testimony of Nelisa Heddin)(Oct. 25, 2017).
142 Ex. DDU-6 (Attachment DDU-6F), p. 86 of 89 through p. 87 of 89.
143 Tr. 517:3-14 (Testimony of Jay Joyce)(Oct. 26, 2017).
144 CONFIDENTIAL Ex. WBRG-8: Excerpts from Double Diamond Financial Statements (Bates DDU003584).
145 Ex. DDU-12 (DDU Depreciation Schedule).

3. DDU's asset listing in the Depreciation and Amortization Report[146] used for Federal Income Taxes ("Tax Return")
4. The Rate Application[147] ("Rate Application")

As Mr. Joyce discussed in his live rebuttal,[148] the respective asset amounts in these four documents in evidence can be reconciled as follows (Note that only depreciable assets are included; all amounts exclude land costs):

1. Consolidated Financials: Water & Wastewater Systems Original Cost, net of developer contributions: [redacted]

2. Consolidated Financials Supporting Work Paper:

<u>Step 1: Calculate Original Cost of DDU Assets on Consolidated Financials:</u>

Original Cost of DDU Fixed Assets	$ 9,333,357
Less: Developer Contributions	<u>(4,463,135)</u>
Equals Original Cost, net of developer contributions	**<u>$ 4,870,222</u>**

<u>Step 2: Segregate White Bluff & The Cliffs:</u>

Original Cost of Total DDU Assets	$ 9,333,357
Less: Orig Cost of Rock Creek assets	(2,729,193)
Less: Orig Cost of The Retreat assets	<u>(1,526,504)</u>
Equals: Orig Cost of White Bluff & The Cliffs assets	**<u>$ 5,077,659</u>**

3. Tax Return:

Original Cost of Total DDU Assets	[redacted]
Less: Orig Cost of Rock Creek assets	
Less: Orig Cost of The Retreat assets	
Equals: Orig Cost of White Bluff & The Cliffs assets	[149]

4. Rate Application: Orig Cost of White Bluff & The Cliffs assets excl trended **<u>$ 3,778,082</u>**

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146 CONFIDENTIAL Ex. WBRG-8: Depreciation and Amortization Report (Bates DDU16-015470 to DDU16-015475).

147 Ex. DDU-1, p. 32 of 151, p. 38 of 151 (Total); Ex. DDU-1, p. 79 of 151, p. 85 of 151 (Water); Ex. DDU-1, p. 127 of 151, p. 133 of 151 (Sewer); Ex. DDU-2, p. 32 of 151, p. 38 of 151 (Total); Ex. DDU-2, p. 79 of 151, p. 85 of 151 (Water); Ex. DDU-2, p. 127 of 151, p. 133 of 151 (Sewer).

148 Tr. 517:3-14 (Testimony of Jay Joyce)(Oct. 26, 2017).

149 See CONFIDENTIAL Depreciation and Amortization Report attached as Attachment No. 3, which shows how the Tax Return document costs were allocated to the various utility systems.

The minor discrepancies among the documents are caused by the differences in the depreciable lives shown in the various documents. Commission staff witness Debi Loockerman was able to conduct similar analysis of these documents in preparing her testimony on accumulated deferred federal income tax (ADFIT).[150]

WBRG also asserts in arguments before the Judge that DDU's invested capital should be reduced based upon *Sunbelt Utilities v. Public Utility Commission*, 589 S.W.2d 392 (1979) case. WBRG's arguments are misplaced. *Sunbelt* does not apply because DDU has not expensed the costs of constructing its White Bluff and The Cliffs utility systems, as the developer did in the *Sunbelt* case. In *Sunbelt*, the developer constructed the utility system and then took advantage of the federal income tax laws and wrote off in one year the entire cost of the utility system.[151] DDU's utility assets are still on its parent company's books as depreciable, which means that they have not been written off for tax purposes.

III. RATE OF RETURN

A. Return on Equity [PO Issue 8]

The Preliminary Order identified the issue of "what is the appropriate overall rate of return, return on equity, and cost of debt for the utility?"[152]

DDU proposed a return on equity of 11.49% consistent with the calculations set forth in the Commission's Class B rate application form and its instructions.[153] In addition, DDU's rebuttal expert on this topic, Greg Scheig, provided detailed expert testimony supporting a return on equity of 11.50%.[154] His testimony was required in order to rebut the Commission staff's testimony regarding return on equity. The only other party to present testimony on return on equity was WBRG. However, Ms. Heddin's testimony only proposed a blanket 2% reduction based upon her unsupported opinion.[155]

Ms. Sears recommends a much lower return on equity, 8.79%, that does not take into account the risks for a smaller utility like DDU, risks that are required to be recognized by the

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150 Tr. 262:21-263:3 (Testimony of Debi Loockerman)(Oct. 25, 2017).

151 Ex. WBRG-1 (Attachment WBRG 1-C)(*Sunbelt Utilities v. Public Utility Commission*, 589 S.W.2d 392, at 393 (1979)), WBRG 000077-WBRG 000081.

152 Preliminary Order, Issue 8.

153 Ex. DDU-1, p. 30 of 151, line 4 (Total); Ex. DDU-1, p. 77 of 151, line 4 (Water); Ex. DDU-1, p. 125 of 151, line 4 (Sewer); Ex. DDU-2, p. 30 of 151, line 4 (Total); Ex. DDU-1, p. 77 of 151, line 4 (Water); Ex. DDU-1, p. 125 of 151, line 4 (Sewer).

154 Exhibit DDU-10 (Prefiled Rebuttal Testimony of Greg Scheig), p. 32 of 123, lines 15-16.

155 Ex. WBRG-1, WBRG 000050, lines 3-5.

Bluefield case and are recognized by the Class B application form and its instructions adopted by the Commission on September 17, 2015. Although, Ms. Sears cites *Bluefield Waterworks & Improvement Company v. Public Service Commission of West Virginia*, 262 U.S. 679 (1923), she ignores its requirements in her analysis. As noted by Mr. Scheig, *Bluefield* holds that:

> A public utility is entitled to such rates as will permit it to earn a return on the value of the property which it employs for the convenience of the public equal to that generally being made at the same time and in the same general part of the country on investments in other business undertakings which are attended by corresponding risks and uncertainties; but it has no constitutional right to profits such as are realized or anticipated in highly profitable enterprises or speculative ventures. (underlining added)[156]

Ms. Sears' analysis does not consider "business undertakings which are attended by corresponding risks and uncertainties." Instead, Ms. Sears treats DDU like one of the large utility companies in her barometer group. Conversely, Mr. Scheig's testimony explains in detail how to adjust the various analyses to develop a return on equity that would be appropriate for DDU due to its relatively small capitalization, resulting in an appropriate cost of equity for DDU of 11.5%, which is nearly the same as the 11.49% that results from following the Commission's instructions.[157]

Mr. Scheig's opinion is also supported by multiple supporting analyses, which consider the appropriate return on equity from various perspectives.[158] Whereas, the support for Ms. Sears' opinion is very limited in its breadth using only the DCF model and the CAPM.[159]

In addition to Mr. Scheig's conclusions, the Commission's application form and instructions support a return on equity of 11.49%, which would allow DDU to remain viable and competitive in the equity markets. The Commission rules require that the rate of return allow a utility an opportunity to earn a return on its invested capital and preserve the financial integrity of the utility.[160] Ms. Sears' recommendation fails to do either. Her approach simply results in the inability for small utility systems, like DDU, to function in the Texas regulatory environment by putting them on a lower tier than the large utility systems.

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156 *Bluefield* at 692-293 (1923).
157 Ex. DDU-10, p. 32 of 123, lines 15-16.
158 Ex. DDU-10 (Attachment 10B)(Schedule A.1), p. 52 of 123.
159 Ex. Staff 2, p. 33, lines 7-10.
160 16 TAC § 24.31(c)(1).

B. Cost of Debt [PO Issues 8, 14]

The Preliminary Order identified the issues of "what is the appropriate overall rate of return, return on equity, and cost of debt for the utility?";[161] and "does the utility have any debt? If so, what is the cost of that debt?"[162]

DDU provided evidence to support that it had debt secured by utility assets at an interest rate of 6.00%, which formed the basis for its initial claim for cost of debt. However, DDU agrees with Commission staff's proposed debt rate of 4.91% based upon use of the Capital Structure recommended by Commission staff, as discussed further below. Commission staff's proposed debt rate is based upon the weighted average cost of DDU's parent company's debt. No other party raised a concern about this issue during the hearing.

C. Capital Structure [PO Issue 7]

The Preliminary Order identified the issue of "what is the appropriate debt-to-equity capital structure of the utility?"[163]

DDU provided evidence to support that it had a capital structure of 55.84% debt and 44.16% equity based upon its parent company's capital structure during the test year, which is accepted by the industry as set forth in the AWWA M-1 Manual at page 48.[164] However, DDU agrees with Commission staff's proposed capital structure, which is based upon a hypothetical industry five-year norm capital structure of 47.27% debt and 52.73% equity.[165] No other party raised a concern about this issue during the hearing.

D. Overall Rate of Return [PO Issue 8]

The Preliminary Order identified the issue of "what is the appropriate overall rate of return, return on equity, and cost of debt for the utility?"[166]

DDU and Commission staff agree on the mathematics of calculating the overall rate of return using the capital structure to determine a weighted average of the overall rate of return,

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[161] Preliminary Order, Issue 8.
[162] Preliminary Order, Issue 14.
[163] Preliminary Order, Issue 7.
[164] Ex. DDU-6, p. 14 of 89, line 12, through p. 16 of 89, line 2.
[165] Ex. Staff-2, p. 30, line 21, through p. 31, line 10.
[166] Preliminary Order, Issue 8.

which is consistent with the application form. No other party raised a concern about this issue during the hearing.

IV. RATE DESIGN [PO Issues 1, 2, 4, 35, 36, 37]

The Preliminary Order identified the issues of "what is the appropriate methodology to determine just and reasonable rates in this docket?"[167]; and "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?"[168] The Preliminary Order also identified the issues of: "Are the utility's proposed revisions to its tariffs and rate schedules appropriate?"[169]; "What is the appropriate allocation of costs and revenues among the utility's rate classes?"[170]; "What is the appropriate rate design for each rate class?"[171]; and "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?"[172]

DDU followed the utility-basis methodology set forth in the Commission's application form for calculating rates.[173] No party opposed this, and Commission staff follows the same methodology.[174] DDU proposed maintaining the existing rate structure which classifies all customers into one customer class; no parties opposed.[175] DDU also proposed keeping the current water rate structure with a monthly charge based on meter size and an inverted block volumetric charge; DDU proposed maintaining the current wastewater rate structure based on a monthly minimum charge that includes 3,000 gallons and is based on meter size plus a fixed gallonage charge for all usage above 3000 gallons per month based on the average of water consumption during the winter months of December, January, and February.[176] No party opposed. Finally, DDU used the test-year-end connections for designing rates, and no party opposed. The differences in the rates proposed by DDU and Commission staff are based upon the differences in calculated

[167] Preliminary Order, Issue 1.
[168] Preliminary Order, Issue 2, citing Texas Water Code §§ 13.182 and 13.1871(o); and 16 TAC § 24.28(d).
[169] Preliminary Order, Issue 4.
[170] Preliminary Order, Issue 35.
[171] Preliminary Order, Issue 36, citing 16 TAC § 24.32.
[172] Preliminary Order, Issue 37.
[173] Ex. DDU-1; Ex. DDU-2.
[174] Ex Staff-2 (Sears direct); Ex. Staff-3 (Ramirez direct).
[175] Ex. DDU-1; Ex. DDU-2.
[176] Ex. DDU-1; Ex. DDU-2.

revenue requirement, not the underlying methodology for calculation the rate design. No other parties raised any issues regarding DDU's proposals relating to any of these preliminary order issues during hearing.

V. RATE CASE EXPENSES [PO Issues 38]

The Preliminary Order identified the issues of "what are the utility's expenses incurred in this rate proceeding that are just, reasonable, necessary, and in the public interest?";[177] and the related questions of "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?"

The issue of rate case expenses has been severed from this proceeding.[178] Consequently, referred Issue No. 38 will not be discussed in this brief, except as it relates to whether the utility should be able to recover its reasonable and necessary rate-case expenses from ratepayers.

The Commission rules provide that:

> A utility may recover rate-case expenses, including attorney fees, incurred as a result of filing a rate-change application pursuant to TWC §13.187 or TWC §13.1871, only if the expenses are just, reasonable, necessary, and in the public interest.[179]

And that:

> 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.[180]

The chart below[181] shows DDU's revenue generated from rates during the test year, DDU's requested revenue from proposed rates as discussed above, and the proposed amount of revenue increase. In order to make a valid comparison, the White Bluff revenues exclude the revenues generated by the pass-through of the Prairielands Groundwater Conservation District production

[177] Preliminary Order, Issue 38, citing 16 TAC §24.33.
[178] SOAH Order No. 12 Granting Agreed Motion to Sever Rate Case Expenses and Establishing New Docket (Nov. 1, 2017).
[179] 16 TAC § 24.33(a).
[180] 16 TAC § 24.33(b).
[181] From Exhibit DDU-11, p.13 of 106, lines 7-8.

fee, and the White Bluff expenses exclude the associated Prairielands Groundwater Conservation District production fee expense.

	Current Revenue Generated from Rates	Requested Revenue Requirement	Propose Increase in Revenue
White Bluff	$877,780	$1,118,390	$210,609
The Cliffs	$583,467	$735,174	$151,707
Total	**$1,461,247**	**$1,853,564**	**$392,317**

If the Commission establishes rates in its final order in this case that generate an increase in revenue that equals or exceeds 51% of the increase in revenues that would have been generated by the proposed revenues, then DDU is entitled to recover its just, reasonable and necessary rate-case expenses.[182] In addition, as noted by Mr. Joyce, the impact of the treatment of the Prairielands Groundwater Conservation District production fee as a pass-through rather than part of the revenue requirement should not be allowed to adversely impact DDU's ability to meet the 51% threshold. Similarly, DDU's compliance with the Commission's instructions for calculating a rate of return at the time it filed its application should not be allowed to adversely impact DDU's ability to meet the 51% threshold.

VI. <u>INTERIM RATES AND EFFECTIVE DATE [PO Issue 39, 40, 41]</u>

The Preliminary Order identified the issues of "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?"[183] and "what is the appropriate effective date of the rates fixed by the Commission in this proceeding?"[184] The Preliminary Order also identified the issue of "If a refund or surcharge results from this proceeding, how and over what period of time should that be made?"[185]

Interim rates have not been set in this proceeding or requested. As stated above, the appropriate effective date for rates in this proceeding is the "relate back" date of February 21, 2018, as ordered by the SOAH Judges during the hearing. Any rate surcharges must be calculated based upon that relate back date. DDU requests that any rate surcharge, exclusive of a surcharge

182 16 TAC § 24.33(B).
183 Preliminary Order, Issue 40, citing 16 TAC § 24.29.
184 Preliminary Order, Issue 41, citing Texas Water Code § 13.1871.
185 Preliminary Order, Issue 39, citing Texas Water Code § 13.1871.

for rate-case expenses, be recovered over a two-month period, which is more time than the time between the "relate back" date and the effective date of April 1, 2018. Spreading recovery of a rate surcharge over 2 months will help mitigate the impact to the customers.

VII. ISSUES NOT ADDRESSED [PO Issues 11, 13, 17, 22, 23, 24, 26, 32, 33]

The Preliminary Order identified the issues that were not contested by the parties or are not applicable or relevant to DDU's application. Many of these issues were simply part of a "laundry list" of issues provided to the Commission and incorporated into the preliminary order in this case.

Issue 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?

DDU is not requesting such an allowance at this time.

Issue 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?

DDU is not requesting inclusion of construction work in progress at this time.

ISSUE 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)?

DDU has not acquired any water property from an affiliate at this time.

Issue 22: What is the reasonable and necessary amount for the utility's advertising expense, contributions, and donations?

DDU is not requesting expenses for advertising, contributions or donations at this time.

Issue 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?

DDU is not requesting any such expenses at this time.

Issue 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 account, and what actions, if any, should be taken to return the reserve account to the approved target amount?

DDU is not self-insured.

Issue 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?
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? [FN references TWC § 13.185(e).]

DDU has not requested inclusion of any payments to affiliates at this time.

Issue 32: What is the reasonable and necessary amount for municipal franchise fees, if any, to be included in rates?

DDU has not requested inclusion of municipal franchise fees at this time.

Issue 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?

DDU has not requested inclusion of regulatory assets in its rate base at this time.

VIII. CONCLUSION

DDU requests that the Judge issue a proposal for decision recommending approval of DDU's application for a rate/tariff change and a revenue requirement increase as proposed and based upon the arguments set forth above.

IX. PRAYER

WHEREFORE, PREMISES CONSIDERED, Double Diamond respectfully requests this Honorable Administrative Law Judge recommend approval of its 2016 Rate Application as requested.

Respectfully submitted,

By: ______________________

John J. Carlton
The Carlton Law Firm P.L.L.C.
4301 Westbank Drive, Suite B-130
Austin, Texas 78746
(512) 614-0901
Fax (512) 900-2855
State Bar No. 03817600

ATTORNEY FOR DOUBLE DIAMOND
UTILITY COMPANY, INC.

Attachment 1

Reconciliation of General Ledger Entries for Vehicle Fuel Expenses – White Bluff

Exhibit	Posting Date	Description	Debit Activities	Credit Activities	Docs in Support of Expense
Ex. DDU-4E *See* Pg 130 of 166; DDU002731	01/09/15	Vehicle Fuel Expense utility	$146.45		Ex. DDU-14 DDU16-015809 to DDU16-015814
Ex. DDU-4E *See* Pg 130 of 166; DDU002731	01/25/15	Vehicle Fuel Expense	$593.88		Ex. DDU-8B DDU16-016578 to DDU16-016588
Ex. DDU-4E *See* Pg 130 of 166; DDU002731	02/04/15	Vehicle Fuel utility	$109.18		Ex. DDU-14 DDU16-015816 to DDU16-015821
Ex. DDU-4E *See* Pg 130 of 166; DDU002731	02/22/15	Vehicle Fuel Expense	$440.06		Ex. DDU-8B DDU16-016589 to DDU16-016598
Ex. DDU-4E *See* Pg 130 of 166; DDU002731	03/30/15	Vehicle Fuel utility	$241.60		Ex. DDU-14 DDU16-015828 to DDU16-015833
Ex. DDU-4E *See* Pg 130 of 166; DDU002731	04/04/15	Vehicle fuel Utility	$128.14		Ex. DDU-14 DDU16-015835 to DDU16-015840
Ex. DDU-4E *See* Pg 130 of 166; DDU002731	04/26/15 *Duplicate, see entry posted 01/25/15, above*	P1 Vehicle Fuel Expense	$593.88		Ex. DDU-8B DDU16-016578 to DDU16-016588
Ex. DDU-4E *See* Pg 130 of 166; DDU002731	04/26/15	P3 Vehicle Fuel Expense	$542.11		Ex. DDU-8B DDU16-016599 to DDU16-016602
Ex. DDU-4E *See* Pg 130 of 166; DDU002731	04/26/15	P4 Vehicle Fuel Expense	$356.84		Ex. DDU-8B DDU16-016603 to DDU16-016610
Ex. DDU-4E *See* Pg 130 of 166; DDU002731	04/26/15	Scott Oil – 70383	~~$144.00~~		

Exhibit	Posting Date	Description	Debit Activities	Credit Activities	Docs in Support of Expense
Ex. DDU-4E *See* Pg 130 of 166; DDU002731	04/26/15	P4 Adjust Vehicle Fuel Expense	$20.15		
Ex. DDU-4E *See* Pg 130 of 166; DDU002731	04/27/15	Scott Oil – 70383		~~$144.00~~	
Ex. DDU-4E *See* Pg 130 of 166; DDU002731	04/27/15	Vehicle Fuel UTILITY	$144.00		Ex. DDU-14 DDU16-015841 to DDU16-015845
Ex. DDU-4E *See* Pg 130 of 166; DDU002731	05/07/15	Vehicle Fuel l-Utility	$153.72		Ex. DDU-14 DDU16-015847 to DDU16-015854
Ex. DDU-4E *See* Pg 130 of 166; DDU002731	05/20/15	Vehicle Fuel-Utility	$177.91		Ex. DDU-14 DDU16-015855 to DDU16-015860
Ex. DDU-4E *See* Pg 130 of 166; DDU002731	05/24/15	P5 Vehicle Fuel Expense	$549.42		Ex. DDU-8B DDU16-016611 to DDU16-016621
Ex. DDU-4E *See* Pg 130 of 166; DDU002731	05/26/15	Fuel	$13.00		
Ex. DDU-4E *See* Pg 130 of 166; DDU002731	06/05/15	Vehicle Fuel Expense-UTILITY	$51.59		Ex. DDU-14 DDU16-015862 to DDU16-015867
Ex. DDU-4E *See* Pg 130 of 166; DDU002731	06/28/15	P6 Vehicle Fuel Expense	$667.70		Ex. DDU-8B DDU16-016622 to DDU16-016632
Ex. DDU-4E *See* Pg 130 of 166; DDU002731	07/26/15	P7 Vehicle Fuel Expense	$529.58		Ex. DDU-8B DDU16-016633 to DDU16-016641
Ex. DDU-4E *See* Pg 130 of 166; DDU002731	07/26/15	S&S Scott Oil 70712	~~$101.53~~		

Exhibit	Posting Date	Description	Debit Activities	Credit Activities	Docs in Support of Expense
Ex. DDU-4E *See* Pg 130 of 166; DDU002731	07/26/15	S&S Scott Oil 70713	~~$62.85~~		
Ex. DDU-4E *See* Pg 131 of 166; DDU002742	07/26/15	S&S Scott Oil 70814	~~$158.99~~		
Ex. DDU-4E *See* Pg 131 of 166; DDU002742	07/27/15	S&S Scott Oil 70712		~~$101.53~~	
Ex. DDU-4E *See* Pg 131 of 166; DDU002742	07/27/15	S&S Scott Oil 70713		~~$62.85~~	
Ex. DDU-4E *See* Pg 131 of 166; DDU002742	07/27/15	S&S Scott Oil 70814		~~$158.99~~	
Ex. DDU-4E *See* Pg 131 of 166; DDU002742	07/27/15	Vehicle Fuel Expense UTILITY	$158.99		Ex. DDU-14 DDU16-015883 to DDU16-015887
Ex. DDU-4E *See* Pg 131 of 166; DDU002742	08/13/15	Vehicle Fuel Utility	$62.85		Ex. DDU-14 DDU16-015873 to DDU16-015881
Ex. DDU-4E *See* Pg 131 of 166; DDU002742	08/13/15	Vehicle Fuel Utility	$101.53		Ex. DDU-14 DDU16-015868 to DDU16-015872
Ex. DDU-4E *See* Pg 131 of 166; DDU002742	08/13/15	Vehicle Fuel Utility	$2.32		
Ex. DDU-4E *See* Pg 131 of 166; DDU002742	08/23/15	P8 Vehicle Fuel Expense	$565.73		Ex. DDU-8B DDU16-016642 to DDU16-016652
Ex. DDU-4E *See* Pg 131 of 166; DDU002742	08/23/15	VEHICLE FUEL UTILITY	$236.47		Ex. DDU-14 DDU16-015888 to DDU16-015895

Exhibit	Posting Date	Description	Debit Activities	Credit Activities	Docs in Support of Expense
Ex. DDU-4E *See* Pg 131 of 166; DDU002742	08/24/15	Vehicle Fuel- Utility	$160.00		Ex. DDU-14 DDU16-015738 to DDU16-015745
Ex. DDU-4E *See* Pg 131 of 166; DDU002742	08/24/15	Vehicle Fuel- Utility	$143.87		Ex. DDU-14 DDU16-015732 to DDU16-015737
Ex. DDU-4E *See* Pg 131 of 166; DDU002742	09/09/15	Vehicle Fuel- Utility	$16.57		Ex. DDU-14 DDU16-015747 to DDU16-015753
Ex. DDU-4E *See* Pg 131 of 166; DDU002742	09/27/15	P9 Vehicle Fuel Expense	$653.09		Ex. DDU-8B DDU16-016653 to DDU16-016664
Ex. DDU-4E *See* Pg 131 of 166; DDU002742	09/28/15	Vehicle Fuel UTILITY	$117.74		Ex. DDU-14 DDU16-015754 to DDU16-015758
Ex. DDU-4E *See* Pg 131 of 166; DDU002742	10/10/15	Vehicle Fuel UTITLIY	$41.91		Ex. DDU-14 DDU16-015760 to DDU16-015765
Ex. DDU-4E *See* Pg 131 of 166; DDU002742	10/25/15	P10 Vehicle Fuel Expense	$411.23		Ex. DDU-8B DDU16-016665 to DDU16-016673
Ex. DDU-4E *See* Pg 131 of 166; DDU002742	11/02/15	Vehicle Fuel- UTILITY	$149.06		Ex. DDU-14 DDU16-015767 to DDU16-015775
Ex. DDU-4E *See* Pg 131 of 166; DDU002742	11/12/15	Vehicle Fuel- Utility	$234.93		Ex. DDU-14 DDU16-015776 to DDU16-015780
Ex. DDU-4E *See* Pg 131 of 166; DDU002742	11/22/15	P11 Vehicle Fuel Expense	$322.86		Ex. DDU-8B DDU16-016674 to DDU16-016681
Ex. DDU-4E *See* Pg 131 of 166; DDU002742	11/22/15	Scott Oil 71479	~~$33.33~~		

Exhibit	Posting Date	Description	Debit Activities	Credit Activities	Docs in Support of Expense
Ex. DDU-4E *See* Pg 131 of 166; DDU002742	11/23/15	Scott Oil 71479		~~$33.33~~	
Ex. DDU-4E *See* Pg 131 of 166; DDU002742	11/23/15	Vehicle Fuel Expense Utility	$33.33		Ex. DDU-14 DDU16-015781 to DDU16-015785
Ex. DDU-4E *See* Pg 131 of 166; DDU002742	12/04/15	Vehicle Fuel UTILITY	$179.29		Ex. DDU-14 DDU16-015787 to DDU16-015792
Ex. DDU-4E *See* Pg 131 of 166; DDU002742	12/27/15	P12 Vehicle Fuel Expense	$545.26		Ex. DDU-8B DDU16-016682 to DDU16-016691
Ex. DDU-4E *See* Pg 131 of 166; DDU002742	01/09/15	Vehicle Fuel Expense Utility	$78.86		Ex. DDU-14 DDU16-015809 to DDU16-015814
Ex. DDU-4E *See* Pg 131 of 166; DDU002742	01/25/15	Vehicle Fuel Expense	$319.78		Ex. DDU-8B DDU16-016578 to DDU16-016588
Ex. DDU-4E *See* Pg 131 of 166; DDU002742	02/04/15	Vehicle Fuel utility	$58.79		Ex. DDU-14 DDU16-015816 to DDU16-015821
Ex. DDU-4E *See* Pg 131 of 166; DDU002742	02/22/15	Vehicle Fuel Expense	$236.96		Ex. DDU-8B DDU16-016589 to DDU16-016598
Ex. DDU-4E *See* Pg 131 of 166; DDU002742	03/30/15	Vehicle Fuel Utility	$130.09		Ex. DDU-14 DDU16-015828 to DDU16-015833
Ex. DDU-4E *See* Pg 131 of 166; DDU002742	04/04/15	Vehicle Fuel Utility	$69.00		Ex. DDU-14 DDU16-015835 to DDU16-015840

Exhibit	Posting Date	Description	Debit Activities	Credit Activities	Docs in Support of Expense
Ex. DDU-4E *See* Pg 131 of 166; DDU002742	04/26/15 *Duplicate, see entry posted 01/25/15, above*	P1 Vehicle Fuel Expense	$319.78		Ex. DDU-8B DDU16-016578 to DDU16-016588
Ex. DDU-4E *See* Pg 131 of 166; DDU002742	04/26/15	P3 Vehicle Fuel Expense	$291.90		Ex. DDU-8B DDU16-016599 to DDU16-016602
Ex. DDU-4E *See* Pg 131 of 166; DDU002742	04/26/15	P4 Vehicle Fuel Expense	$192.14		Ex. DDU-8B DDU16-016603 to DDU16-016610
Ex. DDU-4E *See* Pg 131 of 166; DDU002742	04/26/15	Scott Oil – 70383	~~$77.54~~		
Ex. DDU-4E *See* Pg 131 of 166; DDU002742	04/26/15	P4 Adjust Vehicle Fuel Expense	$10.85		
Ex. DDU-4E *See* Pg 131 of 166; DDU002742	04/27/15	Scott Oil 70383		~~$77.54~~	
Ex. DDU-4E *See* Pg 131 of 166; DDU002742	04/27/15	Vehicle Fuel-UTILITY	$77.54		Ex. DDU-14 DDU16-015841 to DDU16-015845
Ex. DDU-4E *See* Pg 131 of 166; DDU002742	05/24/15	P5 Vehicle Fuel Expense	$295.84		Ex. DDU-8B DDU16-016611 to DDU16-016621
Ex. DDU-4E *See* Pg 131 of 166; DDU002742	05/26/15	Fuel	$7.00		
Ex. DDU-4E *See* Pg 131 of 166; DDU002742	06/05/15	Vehicle Fuel Expense – UTILITY	$27.78		Ex. DDU-14 DDU16-015862 to DDU16-015867

Exhibit	Posting Date	Description	Debit Activities	Credit Activities	Docs in Support of Expense
Ex. DDU-4E *See* Pg 131 of 166; DDU002742	06/28/15	P6 Vehicle Fuel Expense	$359.53		Ex. DDU-8B DDU16-016622 to DDU16-016632
Ex. DDU-4E *See* Pg 131 of 166; DDU002742	07/26/15	P7 Vehicle Fuel Expense	$285.16		Ex. DDU-8B DDU16-016633 to DDU16-016641
Ex. DDU-4E *See* Pg 131 of 166; DDU002742	07/26/15	S&S Scott Oil 70712	~~$54.67~~		
Ex. DDU-4E *See* Pg 131 of 166; DDU002742	07/26/15	S&S Scott Oil 70713	~~$33.84~~		
Ex. DDU-4E *See* Pg 132 of 166; DDU002743	07/26/15	S&S Scott Oil 70814	~~$85.61~~		
Ex. DDU-4E *See* Pg 132 of 166; DDU002743	07/27/15	S&S Scott Oil 70712		~~$54.67~~	
Ex. DDU-4E *See* Pg 132 of 166; DDU002743	07/27/15	S&S Scott Oil 70713		~~$33.84~~	
Ex. DDU-4E *See* Pg 132 of 166; DDU002743	07/27/15	S&S Scott Oil 70814		~~$85.61~~	
Ex. DDU-4E *See* Pg 132 of 166; DDU002743	07/27/15	Vehicle Fuel Expense UTILITY	$85.61		Ex. DDU-14 DDU16-015883 to DDU16-015887
Ex. DDU-4E *See* Pg 132 of 166; DDU002743	08/13/15	Vehicle Fuel Utility	$33.84		Ex. DDU-14 DDU16-015873 to DDU16-015881
Ex. DDU-4E *See* Pg 132 of 166; DDU002743	08/23/15	P8 Vehicle Fuel Expense	$304.62		Ex. DDU-8B DDU16-016642 to DDU16-016652
Ex. DDU-4E *See* Pg 132 of 166; DDU002743	08/23/15	VEHICLE FUEL UTILITY	$127.33		Ex. DDU-14 DDU16-015888 to DDU16-015895

Exhibit	Posting Date	Description	Debit Activities	Credit Activities	Docs in Support of Expense
Ex. DDU-4E *See* Pg 132 of 166; DDU002743	08/24/15	Vehicle Fuel- Utility	$86.15		Ex. DDU-14 DDU16-015738 to DDU16-015745
Ex. DDU-4E *See* Pg 132 of 166; DDU002743	08/24/15	Vehicle Fuel- Utility	$77.47		Ex. DDU-14 DDU16-015732 to DDU16-015737
Ex. DDU-4E *See* Pg 132 of 166; DDU002743	09/09/15	Vehicle Fuel- Utility	$8.92		Ex. DDU-14 DDU16-015747 to DDU16-015753
Ex. DDU-4E *See* Pg 132 of 166; DDU002743	09/27/15	P9 Vehicle Fuel Expense	$351.66		DDU16-016653 to DDU16-016664
Ex. DDU-4E *See* Pg 132 of 166; DDU002743	09/28/15	Vehicle Fuel UTILITY	$63.39		Ex. DDU-14 DDU16-015754 to DDU16-015758
Ex. DDU-4E *See* Pg 132 of 166; DDU002743	10/10/15	Vehicle Fuel UTILITY	$22.56		Ex. DDU-14 DDU16-015760 to DDU16-015765
Ex. DDU-4E *See* Pg 132 of 166; DDU002743	10/25/15	P10 Vehicle Fuel Expense	$221.43		Ex. DDU-8B DDU16-016665 to DDU16-016673
Ex. DDU-4E *See* Pg 132 of 166; DDU002743	11/02/15	Vehicle Fuel- UTILITY	$80.26		Ex. DDU-14 DDU16-015767 to DDU16-015775
Ex. DDU-4E *See* Pg 132 of 166; DDU002743	11/12/15	Vehicle fuel utility	$126.50		Ex. DDU-14 DDU16-015776 to DDU16-015780
Ex. DDU-4E *See* Pg 132 of 166; DDU002743	11/22/15	P11 Vehicle Fuel Expense	$173.85		Ex. DDU-8B DDU16-016674 to DDU16-016681
Ex. DDU-4E *See* Pg 132 of 166; DDU002743	~~11/22/15~~	~~Scott Oil 71479~~	~~$17.95~~		
Ex. DDU-4E *See* Pg 132 of 166; DDU002743	~~11/23/15~~	~~Scott Oil 71479~~		~~$17.95~~	

Exhibit	Posting Date	Description	Debit Activities	Credit Activities	Docs in Support of Expense
Ex. DDU-4E *See* Pg 132 of 166; DDU002743	11/23/15	Vehicle Fuel Expense Utility	$17.95		Ex. DDU-14 DDU16-015781 to DDU16-015785
Ex. DDU-4E *See* Pg 132 of 166; DDU002743	12/04/15	Vehicle Fuel UTILITY	$96.54		Ex. DDU-14 DDU16-015787 to DDU16-015792
Ex. DDU-4E *See* Pg 132 of 166; DDU002743	12/27/15	P12 Vehicle Fuel Expense	$293.60		Ex. DDU-8B DDU16-016682 to DDU16-016691
		TOTAL:	**$15,299.23**[1]	**$770.31**	

[1] *See* Ex. DDU-4D, Pg. 80 of 166; DDU001018.

Attachment 2

Reconciliation of General Ledger Entries for Vehicle Fuel Expenses – The Cliffs

Exhibit	**Posting Date**	**Description**	**Debit Activities**	**Docs in Ex. DDU-14 in Support of Expense**
Ex. DDU-4D *See* Pg. 79 of 166; DDU000968	01/14/15	Gas	$20.07	DDU16-015690 to DDU16-015694
Ex. DDU-4D *See* Pg. 79 of 166; DDU000968	01/25/15	Gas Log P1	$674.31	DDU16-015695
Ex. DDU-4D *See* Pg. 80 of 166; DDU001018	02/11/15	GAS FOR FORD	$15.00	DDU16-015697 to DDU16-015701
Ex. DDU-4D *See* Pg. 80 of 166; DDU001018	02/11/15	GAS FOR F150	$20.00	DDU16-015697 to DDU16-015701
Ex. DDU-4D *See* Pg. 80 of 166; DDU001018	02/22/15	Gas Log P2	$713.73	DDU16-015702
Ex. DDU-4D *See* Pg. 80 of 166; DDU001018	03/29/15	Gas Log P3	$1,192.46	DDU16-015703
Ex. DDU-4D *See* Pg. 80 of 166; DDU001018	03/29/15	Fuel for company vehicle	$40.00	
Ex. DDU-4D *See* Pg. 80 of 166; DDU001018	04/26/15	Gas Log P4	$983.71	DDU16-015704
Ex. DDU-4D *See* Pg. 80 of 166; DDU001018	05/21/15	Fuel	$5.00	DDU16-015705 to DDU16-015708
Ex. DDU-4D *See* Pg. 80 of 166; DDU001018	05/24/15	Gas Log P5	$1,098.48	DDU16-015709
Ex. DDU-4D *See* Pg. 80 of 166; DDU001018	06/28/15	Gas Log P6	$2,239.69	DDU16-015710

Exhibit	Posting Date	Description	Debit Activities	Docs in Ex. DDU-14 in Support of Expense
Ex. DDU-4D *See* Pg. 80 of 166; DDU001018	07/01/15	Gas	$50.00	DDU16-015711 to DDU16-015713
Ex. DDU-4D *See* Pg. 80 of 166; DDU001018	07/26/15	Gas Log P7	$1,636.75	DDU16-015714
Ex. DDU-4D *See* Pg. 80 of 166; DDU001018	07/26/15	Gas	$40.00	DDU16-015715 to DDU16-015719
Ex. DDU-4D *See* Pg. 80 of 166; DDU001018	07/26/15	Gas	$20.01	DDU16-015715 to DDU16-015719
Ex. DDU-4D *See* Pg. 80 of 166; DDU001018	08/23/15	Gas Log P8	$1,303.07	DDU16-015720
Ex. DDU-4D *See* Pg. 80 of 166; DDU001018	08/24/15	Gas	$5.00	
Ex. DDU-4D *See* Pg. 80 of 166; DDU001018	09/27/15	Gas Log P9	$1,518.22	DDU16-015721
Ex. DDU-4D *See* Pg. 80 of 166; DDU001018	10/25/15	Gas Log P10	$1,155.69	DDU16-015722
Ex. DDU-4D *See* Pg. 80 of 166; DDU001018	11/03/15	Unleaded gas	$10.00	DDU16-015723 to DDU16-015727
Ex. DDU-4D *See* Pg. 80 of 166; DDU001018	11/03/15	Gas	$26.61	DDU16-015723 to DDU16-015727
Ex. DDU-4D *See* Pg. 80 of 166; DDU001018	11/03/15	Unleaded gas	$93.49	DDU16-015723 to DDU16-015727

Exhibit	Posting Date	Description	Debit Activities	Docs in Ex. DDU-14 in Support of Expense
Ex. DDU-4D *See* Pg. 80 of 166; DDU001018	11/22/15	Gas Log P11	$1,077.87	DDU16-015728
Ex. DDU-4D *See* Pg. 80 of 166; DDU001018	11/30/15	Fuel for company veh. The cliffs	$30.62	
Ex. DDU-4D *See* Pg. 80 of 166; DDU001018	12/17/15	Gas	$10.06	
Ex. DDU-4D *See* Pg. 80 of 166; DDU001018	12/27/15	Gas Log P12	$987.84	DDU16-015729
		TOTAL:	**$14,967.68**[1]	

[1] *See* Ex. DDU-4D, Pg. 80 of 166; DDU001018.