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

THE CLIFFS UTILITY COMMITTEE'S EXCEPTIONS TO THE PROPOSAL FOR DECISION

TO THE HONORABLE PUBLIC UTILITY COMMISSION OF TEXAS:

The Cliffs Utility Committee ("TCUC") hereby files these exceptions to the Proposal for Decision ("PFD"). Pursuant to letter from the Commission dated February 23, 2018, the deadline for exceptions is March 14, 2018. Therefore, these exceptions are timely filed. In support of its Exceptions, TCUC states the following:

INTRODUCTION

On February 13, 2018, the Administrative Law Judge ("ALJ") issued the PFD in this proceeding. TCUC believes that its issues may have gotten lost or overlooked because the focus of the PFD is on issues relating to DDU's White Bluff system. Many, if not most, of the ALJ's conclusions relating to White Bluff should apply equally to The Cliffs, but this is not reflected in the PFD or the proposed rates. The ALJ recommends **rate increases for The Cliffs** but **rate decreases for White Bluff**. There is not that much difference between the two systems. The biggest difference is that the White Bluff ratepayers could afford counsel and a rate consultant, and we could not. TCUC questions whether the difference in the ability to fund a rate challenge should justify the huge difference in recommended rates.

WBRG'S EXCEPTIONS

I. INTRODUCTION/JURISDICTION, NOTICE AND PROCEDURAL HISTORY/BACKGROUND

No exceptions.

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

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

DDU's application asks for $61,871 in "Known and Measurable" changes to "Employee Labor."[1] The application contains no explanation to support this change. The application lists seven employees,[2] but Randy Gracy's testimony says that only five employees work at The Cliffs, and none of these five employees are listed in the application.[3] Based on the record, TCUC asserts that DDU should not be allowed to recover these known and measurable costs because DDU did not demonstrate the costs are "reasonably certain to occur." DDU should be limited to the amount of salaries actually paid to The Cliffs employees during the test year. This is similar to the ALJ's findings on page 22 of the PFD, where the ALJ recommends disallowance of similar "Known and Measurable" changes for the White Bluff systems. TCUC recommends that Employee Labor for The Cliffs water be set at $61,126[4] and for The Cliffs sewer at $50,903.[5]

B. Depreciation [PO Issues 12, 27]

No exceptions.

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

Since the hearing in this case, the Federal Government has significantly reduced federal income taxes on companies like DDU and its developer parent. Our understanding is that Federal Income Tax amount in the proposed rates is based on old tax rates. Because this is a calculated number, based on assumed future tax rates, the rates need to be changed based on new tax rates. The ratepayers at The Cliffs should not have to pay a calculated amount based on an assumed tax rate that is higher than DDU's actual tax rate. TCUC recommends that the Income Tax number for The Cliffs water and The Cliffs sewer be changed to reflect the real tax rates that DDU will pay.

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[1] Ex. DDU-1 at 6.
[2] Ex. DDU-1 at 15.
[3] Ex. DDU-3 at 15.
[4] Ex. DDU-1 at 53.
[5] Ex. DDU-1 at 101.

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

Rate Base

WBRG's arguments about rate base, in particular about developer contributions, are equally applicable to The Cliffs. The ALJ's findings regarding DDU's failure to meet its burden of proof should also apply to The Cliffs. Also, even if the Commission wants to go with the 80/20 split for The Cliffs, the initial wastewater pipes need to be shown as 80/20 and not 100% DDU.

The Developer ("DDD") purchased The Cliffs systems in 1993.[6] The Developer bought the development at a bargain price out of bankruptcy.[7] TCUC provided a Special Warranty Deed which it discovered in Palo Pinto County records which showed what The Developer paid for the entire development including the utility plant and related infrastructure. DDU now wants to claim an investment in excess of $ 2.6 million in utility assets, when in fact, DDU only paid $1.8 million for those assets in 1993; including 839 acres of land, fully platted and plotted with roads, a fully-functioning, professionally-designed golf course, and other amenities. In exchange DDI negotiated a note with lien which has since been paid-in-full for that amount. This document was not allowed during the hearing as its authenticity could not be proven. Subsequently, TCUC obtained a certified and stamped copy of the same document and presented it as evidence with its Closing Statement, timely filed November 22, 2017. This certified document was not acknowledged by the ALJ. This is the only document showing what The Developer paid for the entire resort, including the water and sewer systems.

DDU did not provide any evidence as to what it paid for the systems, or what the original developer (the developer that the Developer bought the system from) paid to construct the systems. Additionally, DDU did not exist before December 20, 1996, and could not have contributed 20% of the costs of the systems. The problems with the Developer and DDU's tax depreciation schedules and "reconciliation of assets" that are described on pages 43-44 and 47-48 of the PFD apply to The Cliffs in the same way that they apply to White Bluff. If DDU failed to meet its burden with regard to White Bluff, it also failed to meet its burden with regard to The Cliffs. DDU should be required to demonstrate conclusively what it paid for as opposed the Developer or other developer entities paid for. TCUC wants The Cliffs to be treated the

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[6] Ex. DDU-3 at 8-9.

[7] Tr. at 56:21-24 (Gracy Cross) (Oct. 24, 2017).

same as White Bluff. Nothing in the record shows what parts of the systems that DDU itself paid for.

Even if the Commission decides to use the 80/20 split for developer contributions at The Cliffs, as recommended by the ALJ, the sewer rate base needs to be fixed to properly split the cost of "Total Pipe" for The Cliffs wastewater as shown on Ex. DDU-6D page 70 of 89. The original cost of the asset, identified as Total Pipe Installed (1/1/96) is $703,723.37. DDU listed this asset as 100% DDU in its application. This is contrary to the position taken by DDU in its testimony that it treated 80% of this asset as developer contributed.[8] During the hearing, Randy Gracy could not explain why this asset was not shown as 80/20.[9] Based on the evidence in the record, The Cliffs asks that the original cost of The Cliffs wastewater plant be reduced by $703,723.37 and the net value of plant be reduced by $422,282.37. TCUC believes that this result is consistent with the ALJ's findings on page 39 of the PFD.

Improper Use of Trending Study

On page 51 of the PFD, in a discussion of the amount of DDU's plant in service, the ALJ "recommends that DDU's rate base be adjusted to remove the known and measurable change to depreciation." TCUC understands this to mean that DDU's rate base needs to be adjusted to use **book values** rather than the **trended value**. This does not appear to have been done in the schedules or in the proposed rates. The final rates should not include return or depreciation based on the improper use of a trending study.

III. RATE OF RETURN

A. Return on Equity [PO Issue 8]

DDU's return on equity should be reduced to reflect the fact that DDU delivers very little of the water that it produces. DDU's application shows that during the test year DDU pumped and produced 104,068,000 gallons, but that only 24,724,000 was sold to the rate payers. DDU lost 74% of the water it produced. This "unaccounted for water" is a real cost to DDU that DDU needs to address.[10] The TCUC contends that since DDU did not and cannot account for this lost

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[8] Ex. DDU-3 at 11-12.

[9] Tr. at 73-76

[10] According to the Texas Water Development Board, these losses for 2015 were $194,558.78. See attached TWDB 2015 Water Audit Report for The Cliffs.

water, that Mr. Gracy's testimony that 40 % of it is used for backwashing and flushing of the system is just an estimate with no evidentiary backup, that the Staff witness Ms. Mathis testified that 15 % water use for flushing and maintenance, and that the deplorable state of The Cliffs water system and the corresponding dozens of leaks every year, including the test year, the ALJ did not give sufficient weight to the argument for reducing the return on equity due to the excessive cost of processing water that is unaccounted for. Furthermore, adjusting DDU's return on equity until they address the issues might provide the necessary incentive to get DDU to fix its problems. TCUC recommends that the Commission reduce DDU's return on equity by at least 1%. The PUC should not be rewarding utilities for wasting water.

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

No exceptions.

C. Capital Structure [PO Issue 7]

No exceptions.

1. Overall Rate of Return [PO Issue 8]

No exceptions.

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

No exceptions.

V. RATE CASE EXPENSES [PO ISSUE 38]

TCUC is concerned that the ALJ has determined that The Cliffs sewer ratepayers, alone, will be responsible for paying for all of DDU's rate case expenses. According to the ALJ, the 51% threshold for the four systems, and the ALJ's recommended revenues for each are as follow:

System	51% Threshold	ALJ Recommended Inc. (Dec.) Revenue
White Bluff Water	$41,353	($112,134)
White Bluff Sewer	$81,358	($63,469)
The Cliffs Water	$27,097	$15,407
The Cliffs Sewer	$50,274	$104,666

Of the four systems, only The Cliffs sewer surpasses the 51% trigger. Collectively, DDU does not even come close to the 51% threshold. Instead of holding a second hearing on rate case expenses, the Commission should just determine that DDU is not eligible for rate case expenses.

The TCUC sewer ratepayers, alone, should not be forced to pay for all of DDU's rate case expenses.

INTERIM RATES AND EFFECTIVE DATE [PO ISSUES 39, 40, 41]

No exceptions.

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

Preliminary Order Issues 11, 13, 17, 22, 23, 24, 26, 32, and 33 are not applicable to this proceeding, and are therefore not addressed.

VII. CONCLUSION

TCUC believes that the ALJ made a few mistakes or overlooked a few issues in this case that apply to The Cliffs. DDU did not provide any justification for the known and measurable changes to Employee Labor, so those changes should not be included in the rates. DDU's tax rates may have changed based on changes in federal tax law, and if so, the tax amounts in the rates need to be changed. DDU did not meet its burden of proof regarding the amount of developer contributions at The Cliffs (as well as at White Bluff), and DDU's net plant needs to be adjusted accordingly. If nothing else, the rate base for The Cliffs sewer should be reduced to reflect that the initial sewer pipe should be split 80%/20%. DDU's return on equity should be reduced to reflect DDU's poor ability to operate its system as reflected by the large amount of unaccounted for water. Finally, The Cliffs sewer customers should not be forced to pay for all of DDU's rate case expenses.

Respectfully submitted,

THE CLIFFS UTILITY COMMITTEE

By: */s/ Byrom J. Smith, III*
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CERTIFICATE OF SERVICE

I certify that a copy of the foregoing pleading was served on all parties of record in this proceeding on March 28, 2018, by hand-delivery, facsimile, electronic mail, and/or First Class Mail.

/s/ Byrom J. Smith, III
Byrom J. Smith, III

TEXAS WATER DEVELOPMENT BOARD

P.O. BOX 13231, CAPITOL STATION

AUSTIN, TX 78711-3231

2015 WATER AUDIT REPORT

A. Water Utility General Information

1. Water Utility Name	CLIFFS THE			
1a. Regional Water Planning Area	G			
1b. Address	5495 BELT LINE RD STE 200 DALLAS, TX 75254-7658			
2. Contact Information				
2a. Name	buck nunley			
2b. Telephone Number	(940) 521-6268			
2c. Email Address	bnunley@thecliffsresort.com			
3. Reporting Period				
3a. Start Date	01/01/2015			
3b. End Date	12/31/2015			
4. Source Water Utilization				
4a. Surface Water		100.00	%	
4b. Ground Water		0.00	%	
5. Population Served				Assessment Scale
5a. Retail Population Served		64		
5b. Wholesale Population Served		0		
6. Utility's Length of Main Lines		22.00	miles	3.5
7. Total Retail Metered Connections - Active and Inactive		287		3
8. Number of Wholesale Connections Served		0		
9. Service Connection Density		13.05	connections per mile	
10. Average Yearly System Operating Pressure		40.00	psi	1
11. Volume Units of Measure		Gallons		

B. System Input Volume

12. Volume of Water Intake	96,840,100	gallons	
13. Produced Water	51,795,700	gallons	4.5
13a. Production Meter Accuracy	99.5	%	2
13b. Corrected Input Volume	52,055,980	gallons	
14. Total Treated Purchased Water	0	gallons	N/A
14a. Treated Purchased Water Meter Accuracy	0.0	%	N/A
14b. Corrected Treated Purchased Water Volume	0	gallons	

15. Total Treated Wholesale Water Sales	0	gallons	N/A
15a. Treated Wholesale Water Meter Accuracy	0.0	%	N/A
15b. Corrected Treated Wholesale Water Sales Volume	0	gallons	
16. Total System Input Volume Line 13b + Line 14b - Line 15b	52,055,980	gallons	

C. Authorized Consumption

			Assessment Scale
17. Billed Metered	24,637,742	gallons	2.5
18. Billed Unmetered	0	gallons	3
19. Unbilled Metered	0	gallons	3
20. Unbilled Unmetered	650,700	gallons	3
21. Total Authorized Consumption	25,288,442	gallons	

D. Water Losses

22. Water Losses Line 16 - Line 21	26,767,538	gallons

E. Apparent Losses

23. Average Customer Meter Accuracy	96.00	%	1.5
24. Customer Meter Accuracy Loss	1,026,573	gallons	
25. Systematic Data Handling Discrepancy	0	gallons	0.5
26. Unauthorized Consumption	0	gallons	1
27. Total Apparent Losses	1,026,573	gallons	

F. Real Losses

28. Reported Breaks and Leaks	5,000,000	gallons	2.5
29. Unreported Loss	20,740,966	gallons	2
30. Total Real Losses Line 28 + Line 29	25,740,966	gallons	
31. Total Water Losses Line 27 + Line 30	26,767,538	gallons	
32. Non-Revenue Water Line 31 + Line 19 + Line 20	27,418,238	gallons	

G. Technical Performance Indicator for Apparent Loss

33. Apparent Losses Normalized Line 27 / Line 7 / 365	9.80	gallons lost per connection per day

H. Technical Performance Indicators for Real Loss

34. Real Loss Volume Line 30	25,740,966	gallons	
35. Unavoidable Annual Real Losses Volume (5.41 * Line 6 + (Line 7 * 0.15)) * 365 * Line 10	0	gallons	
36. Infrastructure Leakage Index Line 34 / Line 35	0.00	I.L.I	
37. Real Losses Normalized - Service Connections Line 34 / Line 7 / 365	0.00	gallons lost per connection per day	
38. Real Losses Normalized - Main Lines Line 34 / Line 6 / 365	3205.60	gallons lost per mile per day	

I. Financial Performance Indicators

			Assessment Scale
39. Total Apparent Losses Line 27	1,026,573	gallons	
40. Retail Price of Water	0.01400	$/gallons	2
41. Cost of Apparent Losses Line 39 x Line 40	$14,372.02		
42. Total Real Losses Line 30	25,740,966	gallons	
43. Variable Production Cost of Water	0.00700	$/gallons	3
44. Cost of Real Losses Line 42 x Line 43	$180,186.76		
45. Total Cost Impact of Apparent and Real Losses Line 41 + Line 44	$194,558.78		
46. Total Assessment Score	58		

J. System Losses and Gallons Per Capita per Day (GPCD)

47. Total Water Loss - Percentage	51.42	%
48. GPCD Input Line 16 / Line 5a / 365	2,228	
49. GPCD Loss Line 31 / Line 5a / 365	1,146	

K. Wholesale Factor Adjustments

50. Percent of Treated Wholesale Water Traveling through General Distribution System	0.00	%

51. Volume of Treated Wholesale Water Traveling through General Distribution System (Line 50/100) * Line 15b	0	gallons
52. Wholesale Factor Line 15b / (Line 13b + Line 14b)	0.00	
53. Adjusted Real Loss Volume ((1 - Line 52) x (Line 30 * Line 50 / 100)) + (Line 30 - (Line 30 * Line 50/100))	25,740,966	gallons
54. Adjusted Cost of Real Losses ((1 - Line 52) x (Line 44 * Line 50 / 100)) + (Line 44 - (Line 44 * Line 50/100))	$180,186.76	
55. Adjusted Total Water Loss Volume ((1 - Line 52) x (Line 31 * Line 50 / 100)) + (Line 31 - (Line 31 * Line 50/100))	26,767,538	gallons
56. Adjusted Total Cost Impact of Apparent and Real Losses ((1 - Line 52) x (Line 45 * Line 50 / 100)) + (Line 45 - (Line 45 * Line 50/100))	$194,558.78	
57. Adjusted Real Loss Per Connection ((1 - Line 52) x (Line 37 * Line 50 / 100)) + (Line 37 - (Line 37 * Line 50/100))	0.00	gallons lost per connection per day
58. Adjusted Real Loss Per Mile ((1 - Line 52) x (Line 38 * Line 50 / 100)) + (Line 38 - (Line 38 * Line 50/100))	3205.60	gallons lost per mile per day
59. Adjusted Infrastructure Leakage Index ((1 - Line 52) x (Line 36 * Line 50 / 100)) + (Line 36 - (Line 36 * Line 50/100))	0.00	I.L.I
60. Adjusted Total Water Loss - Percentage ((1 - Line 52) x (Line 47 * Line 50 / 100)) + (Line 47 - (Line 47 * Line 50/100))	51.42	%
61. Adjusted GPCD Loss ((1 - Line 52) x (Line 49 * Line 50 / 100)) + (Line 49 - (Line 49 * Line 50/100))	1,146	

Comments