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

PUBLIC UTILITY COMMISSION
OF TEXAS
FILING CLERK

COMMISSION STAFF'S REPLY TO DOUBLE DIAMOND UTILITY COMPANY, INC.'S SECOND MOTION FOR REHEARING

COMES NOW the Staff of the Public Utility Commission of Texas (Staff), representing the public interest, and files this Reply to Double Diamond Utility Company, Inc.'s Second Motion for Rehearing and would show the following:

I. BACKGROUND

The Commission issued an Order on Rehearing in this docket on December 12, 2019. Double Diamond Utility Company, Inc. (DDU) filed a second motion for rehearing on January 6, 2020. A reply to a motion for rehearing is timely if it is filed on or before the 40th day after the date a final order is signed.¹ January 21, 2020, is the 40th day after December 12, 2019. Therefore, this pleading is timely filed.

II. REPLY

Staff supports the Commission's decision in this proceeding. The Commission's Order on Rehearing is supported by substantial evidence, is in the public interest, and, is in compliance with the law. The Second Motion for Rehearing filed by DDU does not raise any arguments supporting Point of Error Nos. 1-5 and 7-12 that were not already considered by the Commission. For the reasons stated in its reply to DDU's initial motion for rehearing,² and incorporated herein by

¹ Tex. Gov't Code § 2001.146; 16 Tex. Admin. Code (TAC) § 22.264(c).

² Commission Staff's Reply to Double Diamond Utility Company, Inc.'s Motion for Rehearing (Oct. 5, 2018).

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reference, Staff maintains that the Commission correctly denied DDU's points of error. Consequently, the Order on Rehearing should be affirmed on Points of Error Nos. 1-5 and 7-12.

A. Point of Error No. 6

Point of Error No. 6 lacks merit because the Commission's findings of fact regarding the National Association of Regulatory Utility Commissioners (NARUC) system of accounts are supported by Texas Water Code (TWC) § 13.131 and 16 TAC § 24.127. DDU specifically complains of Findings of Fact 38J, 38K, and 38L,³ which read as follows:

38J. NARUC accounting standards specify that costs associated with the installation of pumping equipment (such as grinder pumps) should be added to a specific account associated with utility plant and equipment.

38K. In accordance with NARUC standards, Double Diamond Utilities should capitalize the costs associated with new and replacement grinder pumps at the White Bluff sewer system.

38L. There is no evidence that the Commission has approved a deviation from the NARUC system of accounts for Double Diamond Utilities.⁴

All three findings are related to the contested issue of whether grinder pumps purchased during the test year should be expensed or capitalized.

The Commission's decision that replacement grinder pumps purchased during the test year should be capitalized is based on the ten-year service life of these assets, the cost of the pumps, and how DDU uses the pumps.⁵ The record contains evidence regarding all three of these criteria.⁶ The record also contains evidence of the accounting treatment DDU applied to these assets, i.e., that grinder pump replacements were expensed.⁷ The reference to NARUC accounting standards in these findings is supported by 16 TAC § 24.127, which states in relevant part "The classification

³ Double Diamond Utility Company, Inc.'s Second Motion for Rehearing at 10 (Jan. 6, 2020) (DDU 2nd Motion for Rehearing).

⁴ Order on Rehearing at Finding of Fact Nos. 38J – 38L (Dec. 12, 2019).

⁵ *Id.* at 13.

⁶ Rebuttal Testimony of Victoria Harkins, Ex. DDU-9 at 3:18-4:5; Tr. at 344:3-4 (Sears Cross) (Oct. 25, 2017); DDU Response to Staff RFI 1-26, Staff Ex. 6 at DDU16-015961.

⁷ Tr. at 484:12-488:25 (Harkins Direct) (Oct. 26, 2017); Rebuttal Testimony of Victoria Harkins at 5-6 (Oct. 16, 2017).

of utilities, index of accounts, definitions, and general instructions pertaining to each uniform system of accounts...shall be adhered to at all times,...unless specifically permitted by the commission.”⁸

Relying on this rule, the Order on Rehearing identifies how the cost of replacing grinder pumps should have been treated under the NARUC accounting standards and concludes that DDU should comply with these standards by capitalizing the grinder pump replacements purchased during the test year. The Order also notes the lack of evidence in the record to support a finding that the accounting treatment applied by DDU is permitted because DDU received Commission approval to depart from NARUC accounting standards as required by 16 TAC § 24.127. Just as parties to a case are not required to introduce legal authority like statutes or rules into evidence before citing to them in briefing, the Commission does not need evidence of the NARUC accounting standards in the record to support these findings. The rule alone is sufficient. Therefore, DDU’s sixth point of error should be overruled.

B. Point of Error No. 13

The Commission should overrule Point of Error No. 13 because the finding that historical records showing the original cost of DDU’s assets were available is supported by the record. DDU cites to a single statement by DDU witness Tim Grout to challenge this finding,⁹ while acknowledging other statements by Mr. Grout supporting the existence of historical records—specifically, balance sheet entries—demonstrating original cost.¹⁰ In addition, the Commission rightly noted that the DDU witness who actually performed the trending studies admitted that she did not review DDU’s balance sheet to verify the original costs of its assets.¹¹ DDU’s argument regarding Mr. Grout’s statement is the same argument that was rejected in the Proposal for Decision.¹² Moreover, the balance of the evidence in the record related to the use of trending

⁸ 16 TAC § 24.127.

⁹ DDU 2nd Motion for Rehearing at 19 (citing to Tr. at 157:14-17 (Grout Cross) (Oct. 24, 2017)).

¹⁰ *Id.* at 18-19 (citing to Tr. at 158:16-18, 22(Grout Cross) (Oct. 24, 2017)).

¹¹ Tr. at 187:2-5 (Harkins Cross) (Oct. 24, 2017).

¹² Proposal for Decision at 28 (Feb. 13, 2018).

studies outweighs this lone observation. Thus, the Commission did not err in finding that DDU's use of a trending study to establish the original costs was not appropriate because there were historical records available.

III. CONCLUSION

For the reasons stated above, Staff respectfully recommends that the Commission deny all points of error raised in DDU's Second Motion for Rehearing and affirm the Order on Rehearing.

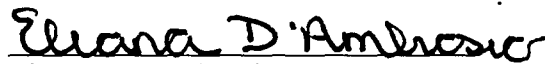
Dated: January 21, 2020

Respectfully Submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS
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CERTIFICATE OF SERVICE

I certify that a copy of this document will be served on all parties of record on January 21, 2020, in accordance with 16 TAC § 22.74.


Eleanor D'Ambrosio