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SOAH DOCKET NO. 473-17-0067.WS  
PUC DOCKET NO. 46247

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APPLICATION OF DOUBLE §  
DIAMOND PROPERTIES §  
CONSTRUCTION CO DBA ROCK §  
CREEK FOR A RATE/TARIFF §  
CHANGE §

BEFORE THE STATE OFFICE  
PUBLIC UTILITY COMMISSION  
OF  
FILING CLERK

ADMINISTRATIVE HEARINGS

SOAH ORDER NO. 3  
CONCERNING CONFIDENTIAL FILINGS

On November 16, 2016, Double Diamond Property Construction Co dba Rock Creek (Rock Creek) filed a motion for entry of a protective order. Rock Creek indicates that portions of its application were marked as confidential materials and a protective order is necessary to protect information produced in this proceeding. On November 21, 2016, Rock Creek indicated that it modified the designation of confidential material for some of its filings. Rock Creek also provided the Administrative Law Judge (ALJ) with a copy of all confidential material contained in its application. The ALJ has reviewed the materials that Rock Creek still claims are confidential and finds the following:

- **Bates 86 contains a list of Rock Creek's long term debt and notes payable.** *If the banks listed were not disclosed but were instead designated as Bank A, B, C, etc., the financial information does not appear to be privileged information such that, its disclosure is likely to cause substantial harm to a public utility. Rock Creek shall properly redact the name of the banks and disclose such information or make a specific factual or evidentiary showing that substantial competitive injury would likely result from disclosure.*
- **Bates 110 contains Rock Creek's capital structure.** In the ALJ's experience, based upon rate cases filed with both the Public Utility Commission and the Texas Commission on Environmental Quality, a public utility's capital structure, including amounts of debt and equity, has never been deemed privileged or confidential by law.
- **Bates 111 contains financial information concerning Rock Creek's outstanding principal and interest amounts.** *If the banks listed were not disclosed but were instead designated as Bank A, B, C, etc., the financial information does not appear to be privileged information such that its disclosure is likely to cause substantial harm to a public utility. Rock Creek shall properly*

redact the name of the banks and disclose such information or make a specific factual or evidentiary showing that substantial competitive injury would likely result from disclosure.

- **Bates 112 contains Rock Creek's rate of return.** In the ALJ's experience based upon multiple rate cases, a public utility's requested rate of return, including amounts of debt and equity, has never been deemed privileged or confidential by law.
- **Bates 198-201 contains the cover letter of its auditors' report.** This letter does not appear to contain any confidential or privileged information.

The ALJ will enter the standard protective order, absent any reference to highly sensitive material as such is extremely unlikely in this matter, in a separate order. Rock Creek has five working days from receipt of this order to respond to the ALJ's findings.

**SIGNED November 22, 2016.**



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**LILLO D. POMERLEAU**  
**ADMINISTRATIVE LAW JUDGE**  
**STATE OFFICE OF ADMINISTRATIVE HEARINGS**