

Bryan W. Shaw, Ph.D., *Chairman*
Buddy Garcia, *Commissioner*
Carlos Rubinstein, *Commissioner*
Mark R. Vickery, P.G., *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

July 21, 2010

Ms. LaDonna Castañuela
Texas Commission on Environmental Quality
P.O. Box 13087, MC 105
Austin, Texas 78711-3087

Re: Deer Creek Rate Application
SOAH Docket No. 582-09-5328; TCEQ Docket No. 2009-0929-UCR

Dear Ms. Castañuela:

Attached is the Executive Director's Statement of No Exceptions to the PFD and Supplemental Information Requested by the Administrative Law Judge' for the above-referenced case. If you have any questions or comments, please contact me at (512) 239-0750.

Sincerely,

A handwritten signature in black ink, appearing to read "B MacLeod", with a long horizontal flourish extending to the right.

Brian MacLeod
Environmental Law

cc: Mailing list

**SOAH DOCKET NO. 582-09-5328
TCEQ DOCKET NO. 2009-0929-UCR**

APPLICATION OF DEER CREEK	§	BEFORE THE STATE OFFICE
RANCH WATER CO., LLC TO	§	
CHANGES ITS WATER RATES	§	
AND TARIFF UNDER	§	TEXAS COMMISSION ON
CERTIFICATE OF CONVENIENCE	§	
AND NECESSITY NO. 11241 IN	§	
TRAVIS AND HAYS COUNTIES	§	ENVIRONMENTAL QUALITY

**THE EXECUTIVE DIRECTOR'S STATEMENT OF NO EXCEPTIONS TO THE
PFD AND SUPPLEMENTAL INFORMATION REQUESTED BY THE
ADMINISTRATIVE LAW JUDGE**

TO THE HONORABLE ADMINISTRATIVE LAW JUDGE:

COMES NOW THE EXECUTIVE DIRECTOR (ED) OF THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY (TCEQ) by and through a representative of the Commission's Environmental Law Division, and files this statement of no exceptions to the Administrative Law Judges proposal for decision (PFD).

The Executive Director agrees with the result of the proposal for decision. The Administrative Law Judge (ALJ) requested that the ED recalculate several rate components and to provide them when the ED filed exceptions. The ED has completed these calculations and is providing them in this document.

Working Cash Allowance. On page 41 of the PFD the ALJ requested the ED to calculate the working cash allowance. That amount is \$15,805.

Return on Investment. On page 42 of the PFD the ALJ requested the ED to recalculate the return in accordance with the PFD. The return is \$63,243. (NOTE: On page 65 of the PFD the ALJ calculated the return to be \$62,294. The reason why the number is different is that the ALJ did not include the working cash allowance in invested capital as is allowed under 30 TAC 291.031(c)(2)(B). The entirety of the PFD makes it clear that the ALJ intended to include working cash capital in the calculations. Therefore, in the nature

of correcting a typographical error rather than an exception to the PFD, the ED recommends changing the number in the PFD from \$62,294 to \$63,243.)

Revenue Requirement Summary. On page 70 of the PFD, the ALJ requested the ED to recalculate the utility's revenue requirement based on the ALJ's recommendations. That revenue requirement is \$176,473.

Rate Design. On page 75 of the PFD the ALJ asked the ED to recalculate a rate design that would recover the revenue requirement. That rate design is attached to this document. Briefly, the base rate is \$32.91 and the gallonage is tiered as illustrated in the attachment.

Refunds. On page 77 of the PFD the ALJ requested that the parties address the appropriate rate of interest to apply to the refunds and the appropriate term over which the refunds should occur. In a recent case the Commission decided that the appropriate interest rate on refunds is that which the Public Utility Commission uses.¹ The rate used in that case is the PUC's 2010 rate of interest allowed for refunds. That rate is 0.61%. The term for refunds is usually the same term over which the proposed rate was collected. In this case, it is unknown when or if the utility ceased to collect the proposed rate, so the term over which the proposed rate was collected cannot be determined. Therefore, the ED recommends that the term of refunds be the same one that the Commission used in the HHJ case: 24 months.

¹ HHJ, Inc., dba Decker Utilities Application for a Rate Increase, TCEQ Docket Number 2008-0164-UCR. This order was issued on June 30, 2010.

The Order. The ALJ's proposed order that accompanied the PFD had several blanks in it. Below are the ED's recommendations regarding each of those blanks.

- Finding of Fact Number 9. The utility's reasonable revenue requirement is \$176,473.
- Finding of Fact Number 137. The utility's reasonable and necessary working cash allowance is \$15,805.
- Finding of fact number 216. The utility's just and reasonable rates would generate \$176,473 of revenue per year which is \$9,204 less than the \$185,677 that its current rates would generate.
- Finding of Fact Number 218. The utility's necessary and reasonable cost of service is \$226,823.
- Conclusion of Law Number 16. The base rate for a 1/2" or 3/4" meter should be \$32.91.
- Conclusion of Law Number 20. The ED staff does not have the data necessary to calculate the total refunds due customers because of the tiered rate. The ED cannot calculate this amount because the number of gallons billed in each tier during the pendency of the proposed rate is not maintained by the ED and is not part of the record in this case. The utility should be required to calculate the amount of the gallonage charge refund for each customer.
- Conclusion of Law Number 21. The reasonable rate of interest on the overcharge balance until repaid is 0.61%.
- Conclusion of Law Number 22. The rate of interest on the over-collections should be 0.61%.

- Ordering Provision Number One. The base rate for a 1/2" or 3/4" meter should be \$32.91.
- Ordering Provision Number 2. The interest rate on the over-collections should be 0.61%. The refunds shall be made over a 24 month period beginning the month after the Commission issues an order on this PFD.

Respectfully Submitted,

TEXAS COMMISSION ON
ENVIRONMENTAL
QUALITY

Robert Martinez, Director
Environmental Law Division

By 

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CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing document was served on all parties on the attached mailing list in accordance with SOAH and TCEQ rules on July 21, 2010.


Staff Attorney

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TCEQ DOCKET NO. 2009-0929-UCR

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OPERATIONS & MAINTENANCE

	ALJ PFD
SALARIES	12,915
CONTRACT SERVICES	62,766
PURCHASED WATER	0
CHEMICALS AND TREATMENT	5,131
UTILITIES	8,693
REPAIRS AND MAINTENANCE	18,641
OFFICE EXPENSE	4,566
ACCOUNTING AND LEGAL	5,290
INSURANCE	7,751
RATE CASE EXPENSE	0
MISCELLANEOUS	683
TOTAL	126,436

OTHER TAXES

	ALJ PFD
AD VALOREM TAXES	6,152
PAYROLL TAXES	988
OTHER TAXES-MISC	0
NON-REVENUE RELATED	7,140
TWC ASSESSMENT	0
REVENUE RELATED TAXES	0
TOTAL OTHER TAXES	7,140

Details of Contract Labor:	ALJ
Contract Labor	75,766
Cutrer	(11,000)
Aaron Maintenance	(2,000)
Total	62,766

Details of Repairs & Maintenance:	ALJ
G: Repairs & Maintenance	4,108
H: Materials & Suplies	13,147
J: Auto Expense/Purchase	0
K: Auto Expense-Gasoline	1,386
N: Equipment Rental	0
Total	18,641

Details of Office Expense:	ALJ
I: Office Expense	0
L: Telephone	3,861
M. Printing	320
P. Postage	385
Total	4,566

Details of Acctg & Legal-Prof fee:	ALJ
U: Professional fees	13,380
Acctg fees for land company	(1,280)
Legal fees for prior settled case	(1,520)
Non recurring legal exp for tansmission line	(6,612)
Add: Non recurring legal fees/yr for trans line	1,322
Total	5,290

INVESTED CAPITAL & RETURN

	ALJ PFD
PLANT IN SERVICE	\$1,043,135
ACCUMULATED DEPRECIATION	\$4,895
NET PLANT	\$1,038,240
WORKING CASH ALLOWANCE	\$15,805
MATERIALS AND SUPPLIES	
CUSTOMERS DEPOSITS	
INVESTMENT TAX CREDITS	
DCIAC-Customers included in depreciation schedule	
TOTAL INVESTED CAPITAL	\$1,054,044
RATE OF RETURN	6.00%
RETURN	63,243

REVENUE REQUIREMENT

	ALJ PFD
Operations and Maintenance	126,436
Depreciation and Amortization	30,004
Other Taxes	7,140
Federal Income Taxes	0
Return	63,243
Revenue Requirement	226,823
Other Revenues - Taps, Recon, late fee, Etc.	(50,350)
Base Rate Revenue	176,473

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

DOCKET # 36336-R **UTILITY:** Deer Creek Ranch Water Co., LLC

Printed on: 20-Jul-10 time: 6:31 PM

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REVENUE REQUIREMENT

COST OF SERVICE ITEM	Item Cost	%	Fixed	%	Variable
SALARIES	\$12,915	50	\$6,458	50	\$6,458
CONTRACT SERVICES	\$62,766	90	\$56,489	10	\$6,277
PURCHASED SERVICE	\$0	0	\$0	100	\$0
CHEMICALS AND TREATMENT	\$5,131	0	\$0	100	\$5,131
UTILITIES	\$8,693	0	\$0	100	\$8,693
REPAIRS AND MAINTENANCE	\$18,641	50	\$9,321	50	\$9,321
OFFICE EXPENSE	\$4,566	50	\$2,283	50	\$2,283
ACCOUNTING & LEGAL	\$5,290	100	\$5,290	0	\$0
INSURANCE	\$7,751	100	\$7,751	0	\$0
RATE CASE EXPENSE	\$0	100	\$0	0	\$0
MISCELLANEOUS	\$683	50	\$342	50	\$342
DEPRECIATION & AMORTIZATION	\$30,004	100	\$30,004	0	\$0
TAXES OTHER THAN INCOME	\$7,140	100	\$7,140	0	\$0
			\$0	100	\$0
			\$0	100	\$0
SUB-TOTAL (LESS FIT & RETURN)	163,580		\$125,077		\$38,503
% OF TOTAL (FIXED + VARIABLE)		0.76		0.24	
FEDERAL INCOME TAXES	0		0		0
RETURN	63,243		48,357		14,886
LESS OTHER REVENUES	(50,350)		(38,499)		(11,851)
TOTAL	\$176,473		\$134,935		\$41,538

APPLICANT'S REQUESTED RATES	
Minimum bill:	
(includes	2,000 gallons)
5/8 x 3/4"	\$64.00
3/4"	
1"	
1-1/2"	
2"	
3"	
4"	
6"	
Gallonge rate:	
	\$5.00 /1,000 gallons
Rev. Reques'd:	
Rev. Gen'd:	\$334,418

RATE CALCULATION

Calculating a flat rate? y

GALLONAGE CHARGE
Variable Cost/Test Year Gallons/1,000 =====> \$2.15 /TH.GAL.

MINIMUM BILL
Fixed Cost/12/Connection Equivalentents =====> \$30.64 /MO.
\$34.94 /MO. incl. min. gallons

STAFF'S PROPOSED RATE	
USE ->	\$3.00 /TH.GAL.
YIELDS ->	\$26.91 /MO. 32.91 /MO. incl. min. gallons
ANNUAL REVENUE GENERATED:	\$176,473

REVENUE GENERATED SUMMARY:

Connection Size	# of Connections	Minimum Bill			Rev./Year
		Min. Bill	Including Gals	Rev./Month	
5/8x3/4"	367	26.91	\$32.91	\$12,078	\$144,935
3/4"	0	40.36	46.36	0	0
1"	0	67.27	73.27	0	0
1-1/2"	0	134.55	140.55	0	0
2"	0	215.28	221.28	0	0
3"	0	403.65	409.65	0	0
4"	0	672.75	678.75	0	0
6"	0	1345.50	1351.50	0	0

TOTAL MINIMUM CHARGES=> \$144,935

GALLONAGE CHARGES=> 10,512 @ \$3.00 /1,000 GAL 31,537

TOTAL REVENUE GENERATED=> \$176,473