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S.C. SUPREME COURT

STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM THE PUBLIC SERVICE COMMISSION

Appellate Case No. 2016-000652

Daufuskie Island Utility Company, Inc.,

Appellant,

v.

South Carolina Office of Regulatory Staff,
Haig Point Club and Community Association, Inc.,
Melrose Property Owner's Association, Inc.,
Bloody Point Property Owner's Association, and
Beach Field Properties, LLC,

Respondents.

MOVANT'S REPLY TO RETURNS TO MOTION FOR COSTS

On August 24, 2017, pursuant to South Carolina Appellate Court Rule 222, the Appellant Daufuskie Island Utility Company, Inc. ("DIUC") filed its Motion For Costs along with the required Itemized Statement of Costs. The Motion seeks $6,656.37 for filing fees, attorneys' fees, and transcript and copying costs as well as $53,726.00, which DIUC was required to spend for bonds necessary to preserve its rights during appeal. Both Respondents filed Returns to the Motion indicating neither opposes DIUC's request for taxation of the $6,656.37. The Respondents do oppose DIUC's request to recover the costs of the bonds.

To address the issues raised by the Respondents' Returns, this Reply first sets forth the relevant procedural history then addresses the bonds at issue and why the Appellant was forced to

purchase them. As explained below, the context of this Appeal and the issues involved demonstrate that it is lawful and appropriate for this Court to grant the Motion for Costs. Specifically, this Court should allow DIUC to recover the bond premiums it was forced to pay in order to maintain basic operations while appealing an order of the Public Service Commission that this Court ultimately reversed because it was entirely unsupported by the evidence presented to the Commission and because it was premised upon an improper "settlement agreement" between ORS and the POAs.

RELEVANT PROCEDURAL HISTORY

Appellant Daufuskie Island Utility Company, Inc. ("DIUC") is the sole provider of water and sewer service to a service area that encompasses Daufuskie Island, Beaufort County, South Carolina. (R.p.1416)

On June 9, 2015, DIUC applied to the Public Service Commission (the "Commission" or "PSC") for approval of a new schedule of rates and charges for water and sewer service ("the Application"). (R.p.1416)

On July 23, 2015, the Haig Point Club and Community Association, Inc., Melrose Property Owner's Association, Inc., and Bloody Point Property Owner's Association, (collectively "POAs" or "Intervenors") filed a Petition to Intervene, which the Commission permitted. (R.p.1410) The parties participated in exhaustive discovery before the hearing. DIUC was required to respond to in excess of 150 discovery requests (exclusive of multiple subparts), review the direct testimonies of nine witnesses, prepare rebuttal testimony and surrebuttal testimony, and prepare for the hearing on the Application. (R.p.218, lines 16-20).

Over 16 months after the filing of the Application, the Commission scheduled a hearing for October 28, 2016. On the afternoon of October 27, 2015, the day before the scheduled hearing before the Commission, the POAs filed a document captioned "Settlement Agreement."

(R.pp.1350-1365) The Cover Letter submitted by Counsel for the POAs reported the Settlement Agreement was "the result of a great deal of communication and collaboration between the POAs and the ORS." (R.p.1350)

However, the Settlement Agreement included only what ORS and the POAs decided about DIUC's Application. (R.pp.1350-1365) DIUC did not know about, did not consent to, and was not a party to the purported "settlement agreement." (R.p.1351 and p.314, lines 15-18) And the actual terms of the Settlement Agreement were extreme – they sought an order explicitly adopting every single adjustment proposed by ORS, except one. (R.pp.1350-1365 and Opinion p.5)

DIUC objected to the purported "settlement agreement" asserting that the Commission should not consider it, take notice of it, or admit it into the record. (R.p.314, line 15-p.316, line 16) DIUC objected on the grounds that admission of the "settlement agreement" was prejudicial to DIUC because:

1. the "settlement agreement" endorsed an even lower revenue number than originally proposed by ORS;

2. the "settlement agreement" between ORS and Intervenors was irrelevant to the Application since the Company did not know about, much less agree to, the terms of the purported settlement agreement;

3. DIUC was not a party to the agreement, the document did not resolve any issue(s) presented by DIUC's Application;

4. the document merely reports that two parties to the proceeding have negotiated among themselves and come to agree that they will oppose DIUC's Application in a unified manner; and

5. the "settlement agreement" improperly informed the Commission that the POAs and ORS would not appeal if the Commission adopted ORS's recommended adjustments.

(Id.)

The Commission admitted the "settlement agreement" over DIUC's objection and the hearing commenced. (R.p.320, lines 2-14)

Through testimony and exhibits, DIUC explained to the Commission that an increase in rates is absolutely necessary if the company is to survive and to continue to provide essential services to the residents of Daufuskie Island. Through its Report on Capital Improvements admitted into the record as an exhibit to the testimony of DIUC's Manager John Guastella, DIUC provided proof of new projects and DIUC's extensive efforts since its 2010 rate case related to the repair, maintenance, and upgrade of the Utility, and its efforts to address new and unique issues that reduced property taxes and made improvements to the water and sewer systems that were praised by DHEC. (R.pp.871-874) DIUC has been dedicated to solving problems, but additional revenues are required for DIUC to complete its efforts. (R.pp.871-877)

When DIUC filed its Application in June of 2015, the Utility had not previously applied for rate relief since 2010. (R.p.1418) As set forth in the Application and as explained by thorough testimony provided by DIUC to the Commission, the five years following the last rate case were very difficult for the small utility operating on an island that is inaccessible by anything other than a boat or helicopter. The DIUC Report on Capital Improvements provided a detailed history of DIUC and its predecessor entities and it highlighted for the Commission the multitude of complex issues inherited by DIUC when it began operating the facilities on the Island. (R.pp.864-890)

On December 8, 2015, the Commission entered its Order Approving Settlement Among Certain Parties and Ruling on Application for Adjustments and Rates. (R.pp.30-65) In its Order, the Commission adopted every adjustment proposed by the "settlement agreement," effectively rejecting all DIUC testimony, evidence, and analysis presented at the hearing. (R.pp.30-65 and Op. p.4)

DIUC requires –and thus it applied for– a rate increase to pay its substantially increased property and utility taxes, to fund critical repairs to its systems, and to meet the terms of its financing agreements with SunTrust Bank. If DIUC had been forced to operate under the Order's rates, DIUC would default on its $2,500,000 term loan with SunTrust, would be unable to pay its taxes, and would be unable to obtain necessary additional financing for system repairs and upgrades (R.pp.194-196) In short, the Commission's Order assured bankruptcy for DIUC. (R.p.194; R.p.527, lines 12-19; and Brief of Appellant p.25) When the Commission denied DIUC this necessary revenue and entered its Order adopting the ORS-POA settlement, DIUC had no choice but to appeal in order to protect its ratepayers. (R.pp.192-216 and R.p.217 (demonstrating the rates allowed by the Commission's Order result in *negative* cash flow for DIUC and thus do not provide any income for the Utility to survive))

Hoping a specific illustration of the impossibility of continued operation under the Order would show the Commission the errors inherent in the "settlement agreement" it adopted, DIUC filed a Petition for Reconsideration and/or Rehearing (R.pp.192-216) The Petition for Reconsideration quoted the trial testimony of DIUC Manager John F. Guastella:

> [T]he proposed settlement between ORS and the property owners of $462,000 give this utility no return on equity. None. And it will not give us enough money to pay our debt service on our existing loan. We will be in default because of all of these adjustments and failure to include what are real costs of providing service in terms of capital and our real cost of providing service in terms of operating the utility.

(R.p.194 and Brief of Appellant p.23) Mr. Guastella had already told the Commission, ORS, and the POAs that if the Commission adopted the "settlement agreement" it would bankrupt the Utility. He testified emphatically:

> We're not going to have any return on equity, and we're not going to be able to make our debt service payments of principal and interest. It would put us right into bankruptcy. We need to have a real decision based on our real costs.

(R.p.194 and Brief of Appellant p.25 (quoting same trial testimony at R.p.527, lines 12-19)) DIUC's Petition for Reconsideration also explained that under the rates in the Order, DIUC's cash flow will be a negative $4,024. (R.p.196) The Petition further pointed out that the Order does not provide DIUC sufficient income to make its loan payments to SunTrust Bank or to meet its obligation to pay its taxes property taxes and utility taxes. (R.p.192)

Ignoring this testimony and the substantial evidence in the record, by Order No. 2016-50 dated February 25, 2016, the Commission denied DIUC's Petition for Reconsideration. (R.pp.6-27)

This Appeal followed and after extensive briefing, the Court heard oral argument on December 14, 2016. The Court issued its opinion on July 26, 2017, and reversed and remanded the case to the Commission.

This Court ruled in favor of Appellant DIUC holding:

1. The Commission erred in admitting and adopting the purported Settlement Agreement, because it improperly sought to introduce evidence that the POAs and ORS would not appeal if the Commission adopted ORS's recommended adjustments. (Op. p.7)

2. In adopting the Settlement Agreement, the Commission's Order adopted "multiple adjustments which were entirely unsupported by the evidence presented to the Commission." (Op. p.7)

3. This Court then addressed three of those adjustments:

    a. The Commission's exclusion of the Elevated Tank Site from rate base was unsupported by the substantial evidence in the record. (Op. p.9) This Court instructed the Commission on remand to recalculate DIUC's rate base to include DIUC's "ownership of the water tank, well, pipes, and other utility equipment located on the Elevated Tank Site." (Op. p.9)

    b. The Commission erred by denying DIUC rates sufficient to cover its known annual property taxes. (Op. p.10)

c. The Commission erred in allowing only $30,852 for bad debt expense, given the original ORS recommendation of $108,349 for bad debt expense. (Op. p. 11)

Pursuant to this Court's Remittitur issued on August 11, 2017, the case is now on remand to the Commission for rehearing and a schedule for the same is expected shortly.

S.C. CODE § 58-5-240 AND THE DIUC APPEAL BONDS

South Carolina Code § 58-5-240 sets forth utility rate case filing requirements, deadlines for Commission review of applications, and it establishes the standards applicable to the Commission's "determination of a fair rate of return ... based exclusively on reliable, probative, and substantial evidence on the whole record." S.C. Code §58-5-240.

Section 58-5-240(D) also explains what a cash-strapped utility may do when, as in this case, the Commission Order does not allow sufficient operational revenue for the utility to survive. Specifically, the statue allows a utility appealing the Commission to put the rates requested in its schedule into effect under a bond to secure repayment to the ratepayers, if necessary. See S.C. Code § 58-5-240(D). The proposed appeal bond "must be in a reasonable amount approved by the Commission, with sureties approved by the Commission, conditioned upon ... refund ... if the rate or rates put into effect are finally determined to be excessive." Id.

In order to keep the utility operational pending the outcome of its appeal, DIUC required the increased revenue sought by its Application but denied by the Commission's Order on appeal. So, pursuant to S.C. Code §58-5-240(D), DIUC secured an appropriate bond then sought and was granted approval from the Commission regarding the same. There are two Orders of the Commission related to DIUC's appeal bonds. They are Commission Order 2016-156 dated March

1, 2016, and Order 2017-402(A) dated June 30, 2017.[1] Copies of these Orders were filed as Exhibit A to DIUC's Motion for Costs herein under consideration.

Reviewing DIUC's initial submission indicating the utility's intention to implement its requested rates under bond pending appeal, the Commission explained:

> Section 58-5-240 provide[s] in part that if the Commission rejects a utility's application for rate relief, the utility may nevertheless choose to impose a rate increase while the utility seeks reconsideration by the Commission of the matter and/or appeal of the Commission's denial of rate relief before the Supreme Court of South Carolina, so long as the utility provides an appropriate surety bond in an amount sufficient to ensure repayment of any overcollection, with interest to be assessed at twelve percent per annum. The Commission is without discretion to prohibit the utility from imposing its proposed rates under an appropriate bond. The statute, as amended by the General Assembly in 1983, allows the utility to impose its proposed rates under bond as a matter of right where the utility demonstrates that the surety and the bond are sufficient to ensure that the ratepayers will be reimbursed with interest for overcharges in the event the utility's appeal is ultimately unsuccessful.

(Order 2016-156, copy attached as Ex. A to DIUC Mtn. for Costs) The Commission went on to find that DIUC's "proposed surety and the bond in the amount of $787,867, effective July 1, 2016, for a period of one year are appropriate and are approved." (Id. p.5)

As this appeal continued beyond the one-year term of the bond issued pursuant to Order 2016-156, DIUC secured renewal of the existing bond and obtained a second bond in an amount sufficient to address the additional revenues to be collected. This time DIUC and the POAs negotiated then jointly proposed terms and amounts for the appeal bonds in a pleading captioned "Joint Request As To Appeal Bonds (DIUC and Intervenors)" and filed with the Commission on June 15, 2017. (A copy of the Joint Request is attached hereto as Exhibit 1) The Commission

[1] Order 2017-402(A) replaced Order 2017-402 entered two days prior on June 28, 2017. Order 2017-402(A) is identical to Order 2017-402, except that it corrects a footnote regarding previous intervenor Beach Field Properties, LLC.

approved the Joint Request.

The cost to DIUC for the initial bond pursuant to Order 2016-156 was $23,636.00. (Sterling Risk Advisors Invoice, attached hereto as Exhibit 2) The cost for the renewal of that bond pursuant to the Joint Request and Order 2017-402(A) was $19,697.00. (Sterling Seacrest Partners, Inc. Invoice, attached hereto as Exhibit 3) The additional bond DIUC purchased pursuant to the agreement with the POAs approved by Order 2017-402(A) cost DIUC $10,393.00. (Sterling Seacrest Partners, Inc. Invoice, attached hereto as Exhibit 4) In total, DIUC spent $53,726.00 for bonds necessary to allow it to continue operating during the pendency of this appeal.

Following this Court's ruling in favor of the Appellant and subsequent issuance of Remittitur, DIUC filed this Motion for Costs pursuant to Rule 222, SCACR seeking to recover $6,656.37 for filing fees, attorneys' fees, and transcript and copying costs as well as $53,726.00 for the cost of its appeal bonds.

ANALYSIS

When, as here, a utility must implement requested rates under bond pending appeal in order for the utility to survive and continue operations and the Supreme Court reverses the Commission Order appealed because in contradiction to the substantial evidence the Commission Order improperly denied the utility the right collect the actual and known costs of operation, the utility's actual cost for bonds issued pursuant to S.C. Code § 58-5-240(D) are recoverable under Rule 222(b), SCACR because they are bonds obtained to preserve rights pending appeal.

ORS Return to the Motion

In its Return to the Motion for Costs, ORS completely ignores the reality that DIUC purchased these bonds in order to preserve its rights pending appeal. The record in this case is clear that DIUC had to obtain the bonds at issue in order to avoid loan default, tax delinquency,

bankruptcy, and potential interruption of services to its customers. DIUC was obligated to prevent these events, even though ORS and the POAs convinced the Commission to approve a wholly inappropriate and inadequate rate order that, if allowed to stand, would render Daufuskie Island uninhabitable by destroying its water and sewer service.

DIUC paid the premiums to protect its ongoing operations pending appeal. There can be no more important right to a business than the ability to simply survive pending resolution of an appeal. When that business is a public utility like DIUC, the rights of ratepayers and those using the utility's essential water and sewer services must also be protected. The premiums are recoverable under Rule 222(b)(3), SCACR because they were obtained to preserve DIUC's rights pending appeal.

Avoiding the plain language of Rule 222, ORS essentially argues this Court does not have jurisdiction to award the premiums paid by DIUC because the Commission entered an order approving the same pursuant to S.C. Code Ann. 58-5-240. (ORS Return at 1 stating "Respondent ORS asserts bond premiums are more appropriately recoverable pursuant to an Order of the Commission on remand because the bond was obtained and maintained pursuant to S.C. Code Ann. § 58-5-240(D).") The position is without legal or logical support.

Finally, ORS asserts that the time for addressing the costs to DIUC for bond premiums is some point later when ORS and the POAs can argue the issue to the Commission. Not only would this be unfair to the Appellant, it is contrary to the plain language of Rule 222. ORS claims this Court should not award costs for bond premiums because the case was remanded. (ORS Return at 2 stating "This case has not yet been finally and fully disposed because the Court remanded it to the Commission and granted the parties the opportunity to present additional evidence in a new hearing.") While that may be partially true, the Order of this Court reversed the Commission's

decision and that is what allows the Appellant herein to recover costs, including the bond premiums. See Rule 222(a) specifically authorizing recovery to an appellant whose appeal results in a reversal ("When a judgment is reversed, costs shall be taxed against the respondent unless the court orders otherwise.").

ORS has failed to present any compelling reason why the bond premiums incurred by DIUC should not be taxed against these Respondents who concocted the "settlement agreement" that resulted in the need for this costly appeal.

POAs Return to the Motion

Although the POAs have cobbled together a slightly different approach to attempt to support opposition to recovery of the bond premiums, like the ORS assertions, those of the POAs ignore the realities of the present case seeking to minimize how the Commission Order came about and why the appeal was required.

First, the POA Response in Opposition to DIUC's Motion for Costs cites Martin v. Paradise Cove Marina, Inc., 348 S.C. 379, 383, 559 S.E.2d 348, 350 (Ct. App. 2001), and asserts since the DIUC appeal bond premiums were not obtained pursuant to Rule 241, SCACR, the premiums are not "costs incurred in pursuing the appeal." (POAs Response p.1) However, that is not what the Court of Appeals decided in Martin. In that case the Court addressed whether the circuit court had subject matter jurisdiction to hear a motion for costs under an injunction bond pursuant to Rule 65, SCRCP. Martin does not provide any limitation relevant to the instant Motion.

Next, the POAs attempt to skirt the plain language of Rule 222(b)(3) which states "The party entitled to recover costs under this rule may, to the extent the party actually incurred these costs, recover ... premiums paid for costs of supersedeas bonds or other bonds obtained to preserve rights pending appeal." The POAs do not disagree that DIUC incurred the cost of the bonds.

Instead, the POAs assert that the bonds "did not preserve rights of Appellant that existed before the appeal." (POAs Return p.7) That is simply not true.

This Court has long recognized the secured right of public utilities like DIUC to generate sufficient revenue. See Utils. Servs. of S.C. v. S.C. Office of Regulatory Staff, 392 S.C. 96, 107 n.8, 708 S.E.2d 755, 761 (2011) citing Bluefield Waterworks & Improvement Co. v. Public Service Comm'n of W. Va., 262 U.S. 679, 690, 43 S. Ct. 675, 67 L. Ed. 1176 (1923) (explaining that where the rates charged by a public utility company "are not sufficient to yield a reasonable return on the value of the property used at the time it is being used to render the service . . . their enforcement deprives the public utility company of its property in violation of the Fourteenth Amendment"). Utilities are also constitutionally entitled to revenue "sufficient to assure confidence in the financial soundness of the utility and . . . to maintain and support its credit and enable it to raise the money necessary for the proper discharge of its public duties." Bluefield Waterworks and Improvement Company v. West Virginia Pub. Serv. Comm'n, 262 U.S. 679, 692-693 (1923). As explained by the testimony already cited in this return, DIUC had no choice but to appeal and to purchase the bonds at issue to protect its most basic operations, to pay its taxes, and to continue its debt service in an attempt to survive long enough for a reversal and then proper rate order.

There is no legitimate question as to whether the bonds at issue were incurred for the specific reason of protecting the integrity and ongoing operation of DIUC. As such, they are recoverable by the Appellant pursuant to Rule 222, SCACR.

The POAs also attempt to convince this Court that the bond premiums paid by DIUC were somehow not actually incurred because when the Commission ultimately rehears this case, it may allow rates less than those collected by DIUC while the bonds were in place. (POAs Return p.7) If that happens, DIUC simply refunds any collected rates higher than what is ultimately ordered.

Any potential future refund of rates has nothing to do with and should not be muddled with the cost of the appeal bonds. Rate refunds would not erase or diminish the $53,726.00 DIUC had to spend on appeal bonds.

Taxing Respondents Now for the Appeal Bonds Prevents Injustice to the Ratepayers.

ORS and the POAs encourage this Court to forego a decision on the bond costs incurred by DIUC even though Rule 222(e), SCACR clearly indicates that this Court is the proper Court to tax the costs. See Rule 222(e), SCACR ("Taxation. Costs on appeal shall be taxed only in the appellate court.")

This Court can and should tax the POAs for the bond premiums that were required to protect DIUC during appeal of the back-door deal the POAs cut with ORS to deprive DIUC rates sufficient to cover its actual and known costs of operation. Respondents want to avoid any responsibility for the need for the appeal by having the question of bond premium taxation deferred to the Commission where it can be reclassified as an expense of the utility. If this Court properly taxes Respondents for DIUC's appeal bond premium costs, that payment will be immediately due from the actual parties to the case. However, if this Court defers taxation to the Commission then the cost of the bonds will be improperly charged pro rata to every DIUC customer – *if and **only** if* DIUC is successful in obtaining an award for the same from the Commission. Once the question of these bond premiums is before the Commission, Respondents can still oppose DIUC's right to recover them.

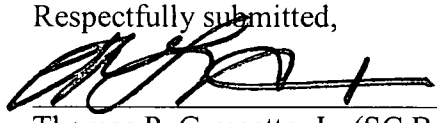
Additionally, as the case on appeal illustrates, there is no guarantee the Commission will award the premium costs, despite the fact that they are actual costs incurred by DIUC. In the proceeding below DIUC documented and requested rate case expense of $191,200 but ORS and

the Commission arbitrarily reduced its allowance to only $75,000, even though the Commission allowed another private water/sewer utility to collect $190,000 in its contested rate case. (R.p.54; Brief of Appellant p.41-43; and R.p.208 citing Order 2012-98 in PSC Docket No. 2011-317-WS) In other words, if the Respondents succeed in having the bond premiums deferred for consideration by the Commission, then the costs will be classified as a cost of the utility and the Respondents will not be taxed for the premiums. Instead, the cost of the premiums will be forced upon all DIUC customers, including all the customers who did not support the intervening POAs' efforts in this case. That is not fair and this Court should not allow the Respondents to thwart responsibility by pretending the bonds were not, as Rule 222(b)(3) clearly authorizes, "bonds obtained to preserve rights pending appeal."

CONCLUSION

The Respondents do not dispute and this Court should order the taxation of $6,656.37 for filing fees, attorneys' fees, and transcript and copying costs. Pursuant to Rule 222, the Appellant is also entitled to recover and this Court should tax Respondents $53,726.00 for the cost of bond premiums DIUC was forced to pay in order to maintain basic operations while appealing an order of the Public Service Commission that this Court ultimately reversed because it was based upon an improper back-room "settlement agreement" that if permitted to stand would bankrupt the utility.

Respectfully submitted,



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September 29, 2017

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Bloody Point Property Owner's Association, and
Beach Field Properties, LLC,

Respondents.

PROOF OF SERVICE

The undersigned hereby certifies that on this 29th day of September 2017, in Charleston, South Carolina, a copy of **MOVANT'S REPLY TO RETURNS TO MOTION FOR COSTS** was served on counsel of record, by placing same in the United States Mail, first class postage prepaid as follows:

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MELROSE PROPERTY OWNER'S ASSOCIATION, INC., and
BLOODY POINT PROPERTY OWNER'S ASSOCIATION

Nancy Jane Dennis

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2014-346-WS

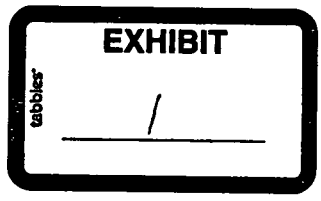
IN RE:	
Application of Daufuskie Island Utility Company, Inc. for Approval of an Adjustment for Water and Sewer Rates, Terms and Conditions.	JOINT REQUEST AS TO APPEALS BOND (DIUC and Intervenors)

Pursuant to Commission Order No. 2016-156, Daufuskie Island Utility Company, Inc. ("DIUC" or the "Company") secured an appeal bond (the "Existing Bond") in the amount of $787,867.00, representing the additional annual revenue DIUC would be entitled to earn had the Commission approved DIUC's Application for Approval of an Adjustment for Water and Sewer Rates, Terms and Conditions ("Application") plus 12% annual interest as required by S.C. Code Ann. § 58-5-240(D). The Existing Bond, filed by DIUC with the Commission, "is for the term beginning July 1, 2016 and ending June 30, 2017 ... ." Accordingly, DIUC implemented the rates it sought in its Application (the "Requested Rates").

Order No. 2016-156 also required DIUC file a status report

> ... to advise this Commission as to the status of the Company's appeal of the Commission's Orders. If the Company expects the appeals process to extend beyond July 1, 2017 at the time of the status report, the Company shall file a proposal as to how it believes that the bonding period should be extended. DIUC shall serve the status report and its proposal for continuation of the bond on the parties, who shall have until May 15, 2017 to file comments with this Commission on the Company's proposal.

Order 2016-156 at p. 1.



On May 3, 2017, DIUC filed a Status Report (Document ID #270005, Amended) to advise the Commission that DIUC's appeal of Commission Order No. 2015-846 has been fully briefed and was argued before the South Carolina Supreme Court on December 14, 2016. The Supreme Court has not yet issued a decision.

In its Status Report DIUC proposed that if a decision is not issued by the Supreme Court before June 15, 2017, DIUC will renew the previously approved bond in the amount of $787,867.00 prior to DIUC's July 1, 2017, billing.

On May 15, 2017, the Intervenors filed a Response to Status Report (ID #270146). In their Response, Intervenors sought additional information about future bonds, should they be needed.

Counsel for DIUC and for the Intervenors conferred on this matter and have agreed to the following (subject to the approval of the Commission), which the undersigned hereby proposes to the Commission on behalf of DIUC and with the consent of the Intervenors[1]:

1. If the Supreme Court does not issue a decision in the pending appeal on or before June 28, 2017, DIUC shall:

   a. Renew the Existing Bond to continue in effect for an additional period of six months to expire on January 1, 2018, in order to continue coverage for the period July 1, 2016 to June 30, 2017;

   b. Obtain an additional surety bond in the amount of $415,728.00 (the "Additional Bond") to be in effect for a period of six months beginning on July 1, 2017 and expiring on January 1, 2018. The Additional Bond amount includes:

[1] Counsel for DIUC and the Intervenors have shared this proposal with counsel for the South Carolina Office of Regulatory Staff.

(1) $21,794.00, representing 6 months' additional interest at 12% annually on the additional revenue DIUC collected between July 1, 2016 and June 30, 2017 by virtue of implementing the Requested Rates; plus

(2) $393,934.00, representing the difference between six months of billings (to be collected during the period beginning July 1, 2017 and ending on January 1, 2018) at DIUC's Requested Rates and the Commission-approved rates currently on appeal, plus 12% annual interest pursuant to S.C. Code Ann. § 58-5-240(D).

2. On or before June 30, 2017, DIUC shall file with the Commission and serve on the parties copies of the renewed/extended Existing Bond and the Additional Bond.

3. If the Supreme Court does not issue a decision in the pending appeal on or before November 1, 2017, DIUC shall then file a status report on or before November 15, 2017, to advise this Commission as to the status of the Company's appeal of the Commission's Orders. Consistent with Order 2016-156, DIUC shall include DIUC's proposal for extending the Existing Bond and the Additional Bond (or otherwise providing appropriate coverage on January 1, 2018 and beyond).

WHEREFORE, DIUC, with the consent of the Intervenors, requests that the Commission issue an Order consistent with the proposal set forth above, and grant such other relief as is just and proper.

Respectfully submitted,

/s/ Thomas P. Gressette, Jr.
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June 15, 2017
Charleston, South Carolina

WE CONSENT.

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ATTORNEYS FOR HAIG POINT CLUB and COMMUNITY ASSOCIATION, INC., MELROSE PROPERTY OWNER'S ASSOCIATION, INC., and BLOODY POINT PROPERTY OWNER'S ASSOCIATION

CERTIFICATE OF SERVICE

This is to certify that on June 15, 2017, I caused to be served upon the counsel of record named below a copy of the foregoing document, by electronic mail, as indicated.

Shannon Boyer Hudson, Esq. at shudson@regstaff.sc.gov
Andrew M. Bateman, Esq. at abateman@regstaff.sc.gov
John J. Pringle, Esq. at jack.pringle@arlaw.com

INVOICE

Sterling Risk Advisors Inc.
P O Box 724137
Atlanta, GA 31139

Customer	Daufuskie Island Utility Company (Bond Account) 27836
Date	06/14/2016
Customer Service	Danny Sellers Misty Haig
Page	1 of 1

Payment Information	
Invoice Summary	23,636.00
Payment Amount	
Payment for:	Invoice#373431
S001-1973	

Thank You

Daufuskie Island Utility Company (Bond Account)
P.O. Box 360
Northborough, MA 01532

Please detach and return with payment

Customer: Daufuskie Island Utility Company (Bond Account)

Invoice	Effective	Transaction	Description	Amount
373431	07/01/2016	New business	Policy #S001-1973 07/01/2016-06/30/2017 Allied World Assurance Company Inc $787,867 Appeal Bond New business Due Date: 7/11/2016	23,636.00

Total
23,636.00

Thank You

Sterling Risk Advisors Inc.
P O Box 724137
Atlanta, GA 31139
(678)424-6500

Date
06/14/2016

EXHIBIT
tabbies
2

INVOICE

Sterling Seacrest Partners, Inc
P O Box 724137
Atlanta, GA 31139

Customer	Daufuskie Island Utility Company (Bond Account)
Acct #	27836
Date	07/21/2017
Customer Service	Carl Wise Misty Haig
Page	1 of 1

Payment Information	
Invoice Summary	$ 19,697.00
Payment Amount	
Payment for:	Invoice#432263
S001-1973	

Thank You

Daufuskie Island Utility Company (Bond Account)
P.O. Box 360
Northborough, MA 01532

Please detach and return with payment

Customer: Daufuskie Island Utility Company (Bond Account)

Invoice	Effective	Transaction	Description	Amount
432263	07/21/2017	Policy change	Policy #S001-1973 07/01/2017-01/01/2018 Allied World Assurance Company Inc / Darwin National Assurance Company $787,867 Appeal Bond - Docket #2014-346-WS Obligee: Customers of Daufuskie Island Utility Company, Inc. **In order to close-out/non-renew this bond, we will require a release from the courts.** Renewal Billing Due Date: 7/31/2017	19,697.00

Total
$ 19,697.00

Thank You

Sterling Seacrest Partners, Inc P O Box 724137 Atlanta, GA 31139	(678)424-6500	Date 07/21/2017

EXHIBIT
tabbies
3

INVOICE

Sterling Seacrest Partners, Inc
P O Box 724137
Atlanta, GA 31139

Customer	Daufuskie Island Utility Company (Bond Account)
Acct #	27836
Date	07/21/2017
Customer Service	Carl Wise Misty Haig
Page	1 of 1

Payment Information	
Invoice Summary	$ 10,393.00
Payment Amount	
Payment for:	Invoice#432266
S001-1977	

Thank You

Daufuskie Island Utility Company (Bond Account)
P.O. Box 360
Northborough, MA 01532

Please detach and return with payment

Customer: Daufuskie Island Utility Company (Bond Account)

Invoice	Effective	Transaction	Description	Amount
432266	07/01/2017	New business	Policy #S001-1977 07/01/2017-01/01/2018 Allied World Assurance Company Inc / Darwin National Assurance Company $415,728 Additional Appeal Bond for Docket No. 2014-346-WS Obligee: Customers of Daufuskie Island Utility Company, Inc. **In order to close-out/non-renew, we will require a release from the courts.** New Business Due Date: 7/31/2017	10,393.00

Total
$ 10,393.00

Thank You

Sterling Seacrest Partners, Inc P O Box 724137 Atlanta, GA 31139	(678)424-6500	Date 07/21/2017

EXHIBIT
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