

An Investigation into the Operations, Management, and Financial Capability of Terre Du Lac Utilities Corporation.) File No. WW-2013-0196)

3. On September 20, 2013, Staff filed its Report regarding its investigation. In its Report, Staff recommends that the Company file a series of rate cases starting immediately to ensure that proper cash flow is being generated to meet the Company's cost of service. Staff states that it does not believe a complaint case at this time is the appropriate mechanism to address the

various issues identified. However, Staff states that if the Company does not initiate an initial rate request in the next 90-days, Staff will consider taking further action.

4. Public Counsel has reviewed Staff's Report and while it agrees with Staff's recommendations, Public Counsel has some concerns with Staff's Report.

5. On Page 6 of Staff's Report, Staff states:

Staff conducted a full audit of the Company's books and records, as if the Company had filed a small company rate request. The test year that Staff chose was the twelve months ending September 30, 2012, updated through December 31, 2012. The results of Staff's audit indicate that the Company is materially under-earning and a rate request should be filed by the Company.

However, two paragraphs later, Staff states:

One concern that Staff does have is the level of dividends that the Company has paid to the two named stockholders. Over the past ten years, the Company has paid a total of \$332,646 in dividends. The dividends have increased from a total of \$29,992 in 2003 to a total of \$43,400 in 2012.

Public Counsel has difficulty reconciling Staff's vague and unsupported statement that Terre Du Lac is "materially under-earning" while providing very specific findings that the Company has collected more than enough money from rates to pay stockholder dividends of \$43,400 in 2012 alone. Staff's statements seem to echo the difficulty Public Counsel is having:

Staff does question TDLU paying dividends in its current financial and operational situation. TDLU has received numerous violations from DNR and has been referred to the AGO for enforcement. TDLU has not been operating under an approved MSOP from DNR for its wastewater system. TDLU has a major problem with its capacity to meet demand on its water system. But of even greater concern, TDLU has experienced difficulty securing financing to pursue corrective actions demanded by the AGO's Injunction and other necessary improvements. With all of these problems, Staff believes that the suspension of dividend payments should be considered.

Public Counsel is extremely concerned that the shareholders of Terre Du Lac are putting themselves first to the detriment of the utility and its customers. Even though the number of violations increased such that enforcement through the Attorney General was deemed necessary,

the shareholders continued and even increased the amount of dividends they collected. At the very least, Public Counsel wholeheartedly agrees that the dividend payments should be suspended - immediately. One can reasonably wonder to what extent investing \$332,646 in the utility over ten years would have prevented or at least alleviated some of the financial and operational problems Terre Du Lac is having. Despite that, Staff's Report seems to be saying that customers should be required to pay even more. As stated above, that is very difficult for Public Counsel to reconcile.

6. Public Counsel is also concerned that Staff's recommendation that the Company file a series of rate cases starting immediately includes no guarantee that Terre Du Lac will actually take those rate cases to completion.

Based on Public Counsel's review of Staff's work papers in this case as well as its review of Terre Du Lac's books and records in its previous rate cases (WR-2009-0218 & SR-2009-0219), Public Counsel is very concerned that Terre Du Lac may actually be over-earning. If Public Counsel's concerns turn out to be correct, there is no mechanism to prevent Terre Du Lac from simply dismissing any rate case it files.

The complaint process is available to Staff as well as Public Counsel; however a complaint has no set timelines for customers to obtain relief. This would indefinitely subject the ratepayers to rates that are not just and reasonable and could delay resolution of the enforcement action against Terre Du Lac. It is unreasonable to allow a withdrawal in a pending rate case and require a complaint rather than determining just and reasonable rates in the timeline set in the pending rate case. Therefore, Public Counsel asks that the Commission order Terre Du Lac to not only file a series of rate cases starting immediately but to actually take those rate cases to completion.

WHEREFORE, Public Counsel respectfully submits its Response.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed, emailed or hand-delivered to the following this 25th day of September 2013:

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