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JUL 18 1984

ORIGINAL

Decision

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 California Water Service Company, a)
 corporation, for an order authorizing)
 it to increase rates charged for)
 water service in the Stockton)
 District.)

Application 83-03-70
 (Filed March 25, 1983)

(See D.83-12-037 for appearances.)

O P I N I O N

Community Forward of San Joaquin (Community Forward), a public participant in this general rate proceeding for the Stockton District of California Water Service Company (CWS), requests that the Commission award it reasonable compensation in the total amount of \$8,950.70, pursuant to Article 18.6 of the Commission's Rules of Practice and Procedure ("Rules" or "OII 100").

Background

Community Forward filed its "Notice of Intent to Claim Compensation" on August 10, 1983; this filing included an estimated budget of \$22,800, allocated as follows: \$8,500 for the services of a consulting engineer; \$8,400 for the services of a financial consultant; and \$5,900 for the services of its attorney. Community Forward's participation in this matter included its appearance at the public witness hearing held in Stockton on August 16, 1983, its sponsorship of independent rate design and rate of return witnesses, and its preparation of a brief and application for rehearing.

On October 5, 1983, in Decision (D.)83-10-007, we found that Community Forward had met its burden of showing significant financial hardship in accordance with Rule 76.25 of the Commission's Rules.

On December 20, 1983, we issued D.83-12-037 on the merits of CWS's general rate proceeding. On December 29, 1983, Community Forward filed a document entitled "Amended Budget Re Claim for

Compensation" showing actual hours and costs expended by its consulting engineer, financial consultant, and attorney in the total amount of \$8,575.70. On January 27, 1984, CWS filed a Protest, pursuant to Rule 76.26 alleging that the Amended Budget merely amended the Notice filed in August, and thus did not satisfy the requirements of Rule 76.26 applicable to Requests for Compensation. CWS also criticized Community Forward's failure to (1) break down services and expenses according to specified issues and (2) delineate its substantial contribution to D.83-12-037.

Community Forward filed its Application for Rehearing of D.83-12-037 on January 19, 1984, and on March 7, 1984, we issued D.84-03-043 denying rehearing. Thereafter, on April 13, 1984, Community Forward filed a document entitled "Application for Compensation" attaching a further budget supplement (\$375). On April 25, 1984, CWS filed a "Second Protest Under Rule 76.28" alleging that Community Forward's application, filed 110 days rather than 30 days after D.83-12-037, was untimely. CWS renewed its earlier arguments that Community Forward failed to break down its expenses and demonstrate its substantial contribution to the adoption of any issue in D.83-12-037.

Discussion

We first address the issue of timeliness of Community Forward's request for compensation under Rule 76.26. We note that Community Forward has not adhered strictly to Rule 76.26 which states in a rather straightforward manner "within 30 days following the issuance of a Commission order or decision for which a ruling under Rule 76.26 has been made, a participant may file a request for compensation with the Docket Office."

Apparently Community Forward incorrectly assumed the decision issuance date to be March 7, 1984, when D.84-03-043 denied its application for rehearing of the issues it developed during the course of the proceeding, which were not adopted in D.83-12-037.

There is no indication in the rules, however, that the deadline for a compensation filing can be tolled by filing a timely application for rehearing, nor has Community Forward indicated that was its interpretation. It is also possible that Community Forward believed that its December 29, 1983 "Amended Budget Re Claim for Compensation" would satisfy the Rule 76.26 deadline, but once again there is no such indication.

In this instance, because we are denying the request for funding on other grounds, we do not attempt to resolve the procedural problems appropriately raised by CWS. Community Forward, however, would be well advised to make any future intervenor funding filings in strict conformance with our Rules.

We now address the issue of whether Community Forward made a substantial contribution to the adoption in whole or in part, of an issue in D.83-12-037. The issues raised by Community Forward are as follows:

1. Argument that Stockton should be considered separately from applicant's other districts in establishing the authorized rate of return.
2. Recommended return on equity for CWS.
3. Rate design proposal.

In D.83-12-037 we adopted neither the return on equity recommended by Community Forward nor its rate design proposal.

We also addressed the issue raised by participant in its brief that, notwithstanding CWS's position as a statewide company, local conditions were appropriate considerations in determining a rate of return for any particular locality, such as Stockton. We stated:

"The issue Community Forward has raised is a real one. Prices for commodities such as water may indeed have some effect on the level of industrial growth in economically depressed areas. This is the real point Community Forward raises in arguing for a lower rate of return in the Stockton district. On the other hand, we recognize there are economic advantages to ratepayers of a multidistrict company, such as applicant, since the strengths and weaknesses of its individual districts are subsumed in the capital markets' assessments of the total company. Such advantages would be lost if any one district were to seek access to the capital markets on its own. In our view, these advantages, which accrue to Stockton

district ratepayers, outweigh any advantages these same ratepayers would attain via a lower return on equity assessment in their particular district. Obviously such considerations are not present in the case of solo district utilities, where adjustments such as those proposed by Community Forward may, in theory, be feasible. We are concerned about this issue and place the parties on notice that we intend to address fully on this utility's next series of cases whether such adjustments are feasible in the context of a multidistrict utility." (D.83-12-037, Mimeo pp. 32-33).

From the quoted discussion language it is clear that we deferred adoption of the argument presented in Community Forward's brief because the record contained no analysis of the relative advantages and disadvantages of the proposal to CWS' ratepayers. We signalled our interest in having the issue explored by inviting the parties to address it in the next series of rate cases. Hopefully those interested in advancing the proposal will respond to this signal with adequate evidentiary showings.

In our decision in OII 100 we discussed the impact of such deferral on the "substantial contribution" issue. We noted the difficulty of attempting to measure a substantial contribution in one decision by reference to a later decision and stated our desire to limit our rules to providing compensation only where a demonstration is made that the Commission's order or decision has adopted factual contentions, legal contentions, and/or specific recommendations presented by the participant. We stated:

"***[We] will limit our rules to providing compensation only where a demonstration is made that the Commission's order or decision has adopted factual contentions, legal contentions, and/or specific recommendations presented by the participant, excepting those cases where the relief sought by a participant is obtained without a Commission order." (D.83-04-017, mimeo, p. 39).

Applying the Rules to the facts at hand, we find that Community Forward is not entitled to compensation in this proceeding.

Our decision should not be taken as a rebuff to Community Forward or its efforts in the future to convince us to adopt its recommendation. Until we have done so, however, the award of compensation is premature.

Findings of Fact

1. Community Forward has not substantially contributed to the adoption of an issue in D.83-12-037, December 20, 1983.

Conclusion of Law

The application should be denied.

O R D E R

IT IS ORDERED that the application of Community Forward for compensation is denied.

This order becomes effective 30 days from today.

Dated JUL 18 1984, at San Francisco, California.

LEONARD M. GRIMES, JR.
President
VICTOR CALVO
PRISCILLA C. CREW
DONALD VIAL
WILLIAM T. BAGLEY
Commissioners

I CERTIFY THAT THIS DECISION
WAS APPROVED BY THE ABOVE
COMMISSIONERS TODAY.

[Handwritten Signature]
Executive Director