

Decision 89 04 046 APR 12 1989

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 California Water Service Company)
 (U 60 W), a corporation, for an)
 order authorizing it to increase)
 rates charged for water service in)
 its Bear Gulch, San Carlos, San)
 Mateo, and South San Francisco)
 Districts in order to offset the)
 loss of revenue incurred due to)
 the mandatory rationing plan of the)
 City and County of San Francisco,)
 and for authority to establish)
 balancing accounts in each of the)
 four districts to accrue the)
 effects of sales reductions in)
 excess of the mandatory amounts.)

Mailed)
 APR 14 1989) ORIGINAL

Application 88-05-045
 (Filed May 24, 1988)

McCutchen, Doyle, Brown & Enersen, by
A. Crawford Greene, Attorney at Law,
 for California Water Service Company,
 applicant.

McCutchen, Doyle, Brown & Enersen, by
A. Crawford Greene, Attorney at Law,
 for Dominguez Water Corporation,
 Suburban Water Systems, and San Jose
 Water Company; Brobeck, Phleger &
 Harrison, by Robert N. Lowry,
 Attorney at Law, for California Water
 Association; Steefel, Levitt & Weiss, by
Lenard G. Weiss, Attorney at Law, for
 California-American Water Company;
Joseph F. Young, for Southern California
 Water Company; and Martin Abramson, for
 Park Water Company; interested parties.
Izetta C. R. Jackson, Attorney at Law, for
 the Division of Ratepayer Advocates.

INTERIM OPINION

Summary

This order adopts an uncontested stipulation by which California Water Service Company (CWS), the Water Utilities Branch and the Division of Ratepayer Advocates (WUB/DRA), and all other parties agree to the following:

1. Pending issuance of an order authorizing or denying rate relief, or termination of mandatory rationing, CWS should be authorized to establish temporary memorandum accounts to record revenue loss and related changes in water production costs due to loss of sales caused by drought conditions in its Bear Gulch, San Carlos, San Mateo, and South San Francisco Districts.
2. Suspension of this proceeding pending a ruling by the ALJ or a motion to reactivate, or the issuance of a decision on rate relief in I.89-03-005, our generic investigation into measures to mitigate the effects of drought.

Background

CWS purchases between 85% and 100% of the water requirements for its Bear Gulch, San Carlos, San Mateo, and South San Francisco Districts from the San Francisco Water Department (SFWD). All of these districts are located on the San Francisco Peninsula. On April 28, 1988 the San Francisco Public Utilities Commission declared a water shortage emergency and provided for the imposition of a rationing plan on retail suppliers, such as CWS, which purchase wholesale water from SFWD. Based on 1987 consumption, the plan calls for a 10% reduction of inside usage and a 60% reduction of outside usage.

As a result of the SFWD rationing plan, CWS is required to reduce consumption by its customers in the four peninsula districts. By Resolution W-3404 dated July 8, 1988, we approved

CWS's proposed rationing plan. Customers are allocated from 70% to 75% (depending on the district) of their 1987 usage from May through October, and 85% to 90% of their usage from November through April. A penalty charge of \$2.00 per 100 cubic feet (Ccf) is imposed for usage over the allocated amounts.

On May 24, 1988 CWS filed Application 88-05-045, requesting the following for the four districts affected by mandatory rationing:

1. Authority to increase its quantity rates for general metered water service in order to mitigate the revenues losses anticipated because of the mandatory rationing plan. Depending on the district and the consumption level, the proposed increases range from \$0.067 to \$0.170 per Ccf.
2. Authority to establish balancing accounts to accrue the effects, if any, of sales in excess of or less than the mandated rationing amounts.

WUB/DRA filed a Protest and Motion to Dismiss the Application. Public participation and evidentiary hearings were concluded on February 10, 1989.

On March 8, 1989 we initiated a generic investigation (I.89-03-005) into measures to mitigate the effects of drought on regulated water utilities, their customers, and the general public. The order instituting investigation (OII) specifies a number of subjects to be addressed, including "the need for conservation and rationing plans" and "the need for and magnitude of rate adjustments to accommodate utilities' increased conservation expenditures and sales reductions." (OII, p. 3.) As a Class A water utility, CWS is required by the OII to report, among other things, "any additional information which would be helpful in understanding each company's or district's water supply status for 1989, including proposed mitigation measures for those with projected shortages." (OII, p. 5.) We stated in the OII that it

would be appropriate for water utilities affected by rationing to make filings in that proceeding requesting offsetting rate relief for the accompanying lack of sales, plus authority to establish memorandum accounts to accumulate the loss of revenues pending a decision.

On March 14, 1989, the date set for filing of concurrent briefs and submission of A.88-05-045, CWS and WUB/DRA advised the Administrative Law Judge (ALJ) that due to the March 8, 1989 initiation of I.89-03-005, the possibility had arisen that the parties would reach a stipulation on issues relative to the investigation proceeding. To give the parties time to explore the possibility of reaching a stipulation, the ALJ stayed submission of A.88-05-045. CWS's brief was filed on March 14, 1989.

Stipulation

On March 31, 1989 the parties filed the following stipulation:

"STIPULATION

"The Staff, CalWater and Interested Parties of Record (collectively, 'Parties') have entered this Stipulation on the basis that the elements of this Stipulation are not severable, and that all elements of this Stipulation be adopted in their entirety without modification. In addition, since this Stipulation represents a compromise by the Parties, the Parties have entered into this Stipulation on the basis that the Commission's adoption of this Stipulation not be construed as an admission or concession by any party regarding facts or law in dispute in this proceeding. Furthermore, it is the intent and understanding of the Parties that Commission adoption of this Stipulation will not be construed as a precedent or policy statement of any kind for or against the Parties in any current or future proceeding.

"In reaching this Stipulation, it is the intent and understanding of the Parties that subsequent decisions in this proceeding will be guided by determinations of whether rate relief drought mitigation measures are appropriate and of the parameters of such measures, if any, in the Commission's investigation into measures to mitigate the effects of the drought on regulated utilities (I.89-03-005).

"Subject to the foregoing, the Parties hereby stipulate as follows:

"1. The Parties stipulate to the establishment of a Memorandum Account commencing promptly to record the loss of sales revenue related to drought conditions in CalWater's Bear Gulch, San Carlos, San Mateo and South San Francisco districts under the following terms and conditions:

"A. The Memorandum Account in each district will provide a record of sales revenue loss (or gain) by a calculation of the difference between recorded sales and the most recent Commission adopted sales in said district from time to time minus reduced water production costs related to such sales reductions.

"B. The recording of sales revenue loss (or gain) in the Memorandum Account in each district will terminate upon the first occurrence of any of the following events:

"(1) the termination of the mandatory water rationing presently imposed on the Company by the San Francisco Water Department;

"(2) the issuance of an order in I.89-03-005 or in this proceeding denying rate relief for loss of sales revenue related to drought conditions; or

"(3) the commencement of rate relief for the Company for loss of sales revenue related to drought conditions as authorized in or pursuant to I.89-03-005 or as authorized in this proceeding.

"C. A determination of the amount of drought-related rate relief, if any, to be established in each district and to be applied to the respective Memorandum Accounts shall be deferred in this proceeding until there has been a determination of the need for such rate relief, and the parameters, if any, thereof are expressed, in forthcoming Commission decision(s) or resolution(s) in I.89-03-005. It is the intent and agreement of the Parties that unless I.89-03-005 fails to provide parameters for rate relief for loss of sales revenue due to drought conditions, rate relief shall be authorized or denied (as the case may be) in this proceeding using the same parameters established in I.89-03-005, taking into account the accruals in the Memorandum Accounts and any rate relief received by CalWater for loss of sales revenue due to drought conditions in or pursuant to I.89-03-005.

"2. The Parties further stipulate that on the effectiveness of an order by the Commission implementing this Stipulation, this proceeding shall be suspended pending a decision by the ALJ to reactivate or a motion to reactivate to be filed by either Staff or CalWater. In addition and in any event, within 30 days of the issuance of a decision or resolution in I.89-03-005, the terms of which establish the basis for rate relief (if any) in this proceeding as provided in Paragraph 1(C) above, CalWater shall file a motion to reactivate this proceeding so that appropriate rate relief, if any, may be authorized.

- "3. CalWater shall withdraw without prejudice its request for a balancing account. If balancing accounts are authorized by the Commission in decisions pursuant to I.89-03-005, then CalWater may reinstitute in this proceeding its request for a balancing account consistent with those decisions.
- "4. The Parties further stipulate that in light of this Stipulation, CalWater shall file a request to withdraw its brief filed March 14, 1989 and shall notify all Parties of said request.
- "5. This Stipulation shall be null and void unless a Commission order approving it in its entirety becomes effective on or before April 26, 1989."

CWS acknowledges that if rate relief is to be applied to the memorandum accounts by future action, each account is subject to a verification audit to be performed by the Commission.

Discussion

Our Rules of Practice and Procedure (Rule 51.1) require that the settling parties convene a stipulation or settlement conference with notice and opportunity to participate provided to all parties. By motion filed pursuant to Rule 51.10, a waiver of this requirement is requested. Since all parties join in the proposed stipulation, and the public interest will not be impaired by the waiver, the motion will be granted.

The parties believe that it is appropriate to defer resolution of this matter until we reach a decision in I.89-03-005. We agree, since the investigation will address the very problems at issue in this proceeding on an industry-wide basis.

Mandatory rationing has been in effect for CWS's customers in the four peninsula districts since July 1988, and sales in those districts are currently affected by drought conditions. Since we are suspending this matter, and there will be a lapse of time before we reach a decision in I.89-03-005, there

will be additional delay before CWS's request for rate relief is either approved or denied. Under these circumstances, memorandum accounts as proposed in the stipulation are justified. They will allow the possible recovery, in a future order, of revenue losses that may be incurred beginning with the effective date of this order and continuing while I.89-03-005 proceeds. Because of the prohibition on retroactive ratemaking, CWS would not otherwise be entitled to recovery of any such revenue losses. The provision for memorandum accounts is consistent with our discussion in the order instituting I.89-03-005. By authorizing memorandum accounts, we do not at this time make a finding on the merits of CWS's request in A.88-05-045.

The stipulation provides that the sales revenue loss (or gain) to be recorded in the memorandum accounts will be based on the difference between recorded sales and the most recent Commission adopted sales. We note that CWS's South San Francisco District is the subject of a current general rate case (A.88-04-075) in which sales will be considered. The ALJ's proposed decision was filed and served on the parties on March 22, 1989. We intend that as of the effective date of tariff revisions filed pursuant to a decision in A.88-04-075, the "most recent Commission adopted sales" will mean the sales adopted in that decision.

Findings of Fact

1. On April 28, 1988 the San Francisco Public Utilities Commission declared a water shortage emergency and provided for the imposition of a rationing plan on suppliers such as CWS which purchase wholesale water from SFWD.

2. As a result of the SFWD rationing plan, CWS is required to reduce consumption by customers in its Bear Gulch, San Carlos, San Mateo, and South San Francisco Districts.

3. By Resolution W-3404 dated July 8, 1988 we approved CWS's proposed rationing plan which provides allocations of 70% to 75% of customers' 1987 usage from May through October, and 85% to 90% of the usage from November through April. A penalty charge of \$2.00 per Ccf is imposed for usage over the allocated amounts.

4. Sales in the four peninsula districts are currently affected by drought conditions.

5. On March 8, 1989 we initiated a generic investigation (I.89-03-005) into measures to mitigate the effects of drought on regulated water utilities, their customers, and the general public.

6. We stated in the OII that it would be appropriate for water utilities affected by rationing to make filings in I.89-03-005 requesting offsetting rate relief for the accompanying lack of sales, plus authority to establish memorandum accounts to accumulate the loss of revenues pending a decision.

7. I.89-03-005 will address the very problems at issue in this proceeding on an industry-wide basis.

8. On March 31, 1989 a stipulation was filed by which the parties agree to the establishment of memorandum accounts, subject to terms and conditions which include suspension of this proceeding. The complete stipulation is reproduced in the opinion section of this decision.

9. The stipulation was signed by all parties in this proceeding and is uncontested.

10. A waiver of the requirement for a stipulation conference will not be impair the public interest.

11. There will be additional delay before CWS's request for rate relief is either approved or denied.

12. Memorandum accounts as proposed in the stipulation are justified.

13. Because of the prohibition on retroactive ratemaking, CWS would not otherwise be entitled to recovery of any revenue losses incurred as I.89-03-005 proceeds that might be authorized by a future order.

14. By authorizing memorandum accounts, we do not at this time make a finding on the merits of CWS's request in A.88-05-045.

15. The disposition of monies collected by CWS through penalty charges which were authorized by Resolutions W-3404 and W-3412 will be resolved in I.89-03-005.

Conclusions of Law

1. The proposed stipulation should be adopted.
2. The motion for waiver of our stipulation and settlement rules should be granted.
3. Resolution of A.88-05-045 should be deferred.
4. Since mandatory rationing is already in place in CWS's peninsula districts, this order should be made effective on the date it is signed.
5. The disposition of monies collected by CWS through penalty charges which were authorized by Resolutions W-3404 and W-3412 will be resolved in I.89-03-005.

INTERIM ORDER

IT IS ORDERED that:

1. The proposed stipulation is adopted.
2. California Water Service Company is authorized to establish memorandum accounts for its Bear Gulch, San Carlos, San Mateo, and South San Francisco Districts to record the loss of sales revenue related to drought conditions in accordance with the terms and conditions of the stipulation.
3. Each memorandum account shall be subject to a verification audit prior to the authorization of rate relief applicable to the amounts therein.

4. The motion for waiver of our stipulation and settlement rules is granted.

5. This matter is suspended in accordance with the stipulation.

6. The disposition of monies collected by CWS through penalty charges which were authorized by Resolutions W-3404 and W-3412 shall be resolved in I.89-03-005.

This order is effective today.


Dated April 12, 1989, at San Francisco, California.

G. MITCHELL WILK
President
STANLEY W. HULETT
JOHN B. OHANIAN
Commissioners

Commissioner Frederick R. Duda,
being necessarily absent, did
not participate.

Commissioner Patricia M. Eckert
present but not participating.

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


Victor Weisser, Executive Director
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4. The motion for waiver of our stipulation and settlement rules is granted.

5. This matter is suspended in accordance with the stipulation.

This order is effective today.

Dated APR 12 1989, at San Francisco, California.

G. MITCHELL WILK
President
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