ALJ/FJO/vdl

Decision 89 11 011 NOV 3 1989

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of Rural Water Company for General Rate Increase for Water Service of $47,100 for 1988 in San Luis Obispo County.	Application 88-01-021 (Filed January 21, 1988)

ORIGINAL

OPINION ON ELIGIBILITY

On June 27, 1989, The Water Association to Curtail Higher Rates (Watcher) filed a "Request for Finding of Eligibility" for its participation in this proceeding. The request is made under Rule 76.54 of the Commission's Rules of Practice and Procedure.

Rule 76.54 requires filing of a request for eligibility within 30 days of the first prehearing conference or within 45 days of the close of the evidentiary record. Since the close of the evidentiary record in this case occurred on May 18, 1989, Watcher's filing is timely.

Rule 76.54(a) sets out four requirements for a request for finding of eligibility:

> "(1) A showing by the customer that participation in the hearing or proceeding would pose a significant financial hardship. A summary of the finances of the customer shall distinguish between grant funds committed to specific projects and discretionary funds...;
>
> "(2) A statement of issues that the customer intends to raise in the hearing or proceeding;
>
> "(3) An estimate of the compensation that will be sought; and
>
> "(4) A budget for the customer's presentation."

Significant Financial Hardship

Rule 76.54(a)(1) requires a showing of significant financial hardship. Rule 76.52(f) defines significant financial hardship as follows:

> "(f) 'Significant financial hardship' means both of the following:
>
> "(1) That, in the judgment of the Commission, the customer has or represents an interest not otherwise adequately represented, representation of which is necessary for a fair determination of the proceeding; and
>
> "(2) Either that the customer cannot afford to pay the costs of effective participation, including advocate's fees, expert witness fees, and other reasonable costs of participation and the cost of obtaining judicial review, or that, in the case of a group or organization, the economic interest of the individual members of the group or organization is small in comparison to the costs of effective participation in the proceeding."

In its request Watcher alleges that:

"WATCHER meets both prongs of this test easily. It meets the first prong, in that Rural's ratepayers are not otherwise represented. In this case, the ratepayers are challenging the Water Branch Staff's analysis of rate base calculations between the years 1982 and 1985 which was adopted (subject to refund) by the Commission. No other party represents (or even purports to represent) the ratepayer interest in challenging the Staff analysis.

"WATCHER meets the second prong of financial hardship requirement, as well. It has done fundraising in order to participate in the proceeding and has received some contributions from individual ratepayers. The association has no other income or money from any source. It clearly does not have the resources to pay

> the costs of effective participation. Furthermore, each individual ratepayer has only an incremental increase in the water bill at stake. The economic interest of the individual ratepayers is therefore small in comparison to the costs of effective participation in the proceeding."

Statement of Issues

Rule 76.54(a)(2) requires the party to submit a statement of issues that the party intends to raise. Watcher had already completed its participation in this proceeding at the time of the filing of its request. Watcher's participation challenges two aspects of Water Branch Staff's analysis establishing the 1985 rate base for Rural Water Company.

Estimate of the Compensation and Budget

Rule 76.54(a)(3) and (a)(4) require an estimate of the compensation to be sought and a budget for the presentation respectively. Watcher will seek compensation for work performed by its attorneys in connection with the obtaining of the order reopening the proceeding and its presentation of evidence at the hearing on May 18, 1989 and the preparation of briefs and subsequent work prior to the issuance of the Commission's final decision. Watcher will also seek compensation for the fees of expert witnesses and other reasonable costs. Watcher's estimated budget for this matter is $20,000, which is based upon the actual time spent multiplied by the hourly compensation for its attorney plus an additional amount for expert witness fees and other miscellaneous costs that it will seek in the request for compensation that it expects to file in this case.

Common Legal Representative

Rule 76.54(b) allows other parties to comment on the request, including a discussion of whether a common legal representative is appropriate. Under Rule 76.55, our decision on the request for eligibility may designate a common legal representative. No party commented on the appropriateness of a

common legal representative, and we find no need to designate such a representative in this proceeding.

Findings of Fact

1. Watcher's request for eligibility was timely filed and addresses all four elements required by Rule 54(a) of the Commission's Rules of Practice and Procedure.

2. Watcher has demonstrated that its participation would pose a significant financial hardship as defined in Rule 76.52(f).

3. It is not necessary at this time to designate a common legal representative for the interests Watcher represents in this proceeding.

Conclusion of Law

Watcher should be ruled eligible to claim compensation for its participation in this proceeding.

O R D E R

IT IS ORDERED that The Water Association to Curtail Higher Rates is eligible to claim compensation for its participation in this proceeding.

This order is effective today.

Dated NOV 3 1989, at San Francisco, California.

G. MITCHELL WILK
President
FREDERICK R. DUDA
STANLEY W. HULETT
JOHN B. OHANIAN
PATRICIA M. ECKERT
Commissioners

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

Wesley Franklin

WESLEY FRANKLIN, Acting Executive Director

pb