

Decision 90 02 004 FEB 7 1990

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
CITIZENS UTILITIES COMPANY OF)
CALIFORNIA for authority to increase)
rates and charges for water service)
in its Guerneville District (U-87-W).)

Application 89-03-030
(Filed March 21, 1989)

In the Matter of the Application of)
FRANCIS LAND AND WATER COMPANY for)
authority to increase rates and)
charges for water service in the)
City of Ferndale and vicinity, in)
Humboldt County (U-26-W).)

Application 89-03-031
(Filed March 21, 1989)

(For appearances see Decision 89-11-016.)

O P I N I O N

Summary of Decision

This order authorizes the following additional rate increases to Francis Land and Water Company (Francis):

<u>1989</u>		<u>1990</u>	
<u>Amount</u>	<u>Percent</u>	<u>Amount</u>	<u>Percent</u>
\$76,700	31.9%	\$81,100	32.6%

In Decision (D.) 89-11-016, the Commission authorized Francis an increase of \$223,819 for 1989 and \$7,655 for 1990.

The increases authorized in D.89-11-016 are based on rate of return on rate base of 10.29% for each of the two years. The related return on equity is 11.75%.

Background

Francis is a wholly owned subsidiary of Citizens Utilities Company, a Delaware corporation. Francis' principal place of business is in Ferndale, California. Francis provides public utility water service in the City of Ferndale and vicinity in Humboldt County.

On March 21, 1989, Francis filed Application (A.) 89-03-031 requesting increase in rates for water service. Concurrently with Francis' application for rate increase, Citizens Utilities Company of California (Citizens), which is also a subsidiary of Citizens Utilities Company, filed applications requesting rate increases for its Felton (A.89-03-028), Sacramento (A.89-03-029), and Guerneville (A.89-03-028) Districts.

On February 8, 1989, the Commission issued Order Instituting Investigation (I.) 89-02-011 on its own motion into rates and charges in Citizens' Montara District.

Francis' and Citizens' applications were consolidated with I.89-02-011. Evidentiary hearings in the consolidated proceeding commenced on July 31, 1989. Hearings on most of the issues were concluded on August 4, 1989 and concurrent briefs were filed on August 21, 1989. However, parties had requested additional time to address certain issues regarding Francis' expenses and rate base. Accordingly, additional evidentiary hearings were held in Ferndale on September 19, 1989.

On November 3, 1989, the Commission issued D.89-11-016 in the consolidated proceeding which, among other things, authorized rate increase for Francis based on summary of earnings which excluded disputed expense and rate base items. D.89-11-016 also deferred the rate revision for the Guerneville District and ordered further hearings to address the service problems in the district. Those hearings will be scheduled after Citizens prepares its report on improvements to the Guerneville system.

Following are the disputed issues related to Francis:

1. Rate base for Francis.
2. Whether Francis should be authorized to recover in rates the legal and regulatory expenses associated with continued hearings in A.60303.
3. Whether Francis should be authorized an allowance in rates for one-half extra employee.

Tables 1 and 2 show comparison of Francis' and the Commission Advisory and Compliance Division Water Utility Branch's (Branch) estimate of summary of earnings for 1989 and 1990. The tables also show the authorized summary of earnings.

Table 1

Francis Land and Water Company
 Summary of Earnings Reconciliation
 Test Year 1989
 (Dollars in Thousands)

<u>Item</u>	<u>Citizens</u>	<u>Dif.</u>	<u>Branch</u>	<u>Adopted at Present Rates</u>	<u>Adopted at Auth. Rates</u>
Operating Revenues	\$168.4	\$ 0.0	\$168.4	\$168.4	\$316.8
<u>Deductions</u>					
O&M Expenses	94.9	12.6 ^a	82.3	94.9	95.0
A&G Expenses	90.7	20.7 ^b	70.0	76.1	76.1
Taxes other than Income	14.0	1.0 ^c	13.0	14.0	14.0
Depreciation	26.6	0.0	26.6	26.6	26.6
Subtotal	226.2	34.3	191.9	211.6	211.7
<u>Net Operating Revenue</u>					
Before Income Taxes	(57.8)	(34.3)	(23.5)	(43.2)	105.1
Income Taxes	(35.0)	(13.8)	(21.2)	(29.1)	30.6
Net Operating Revenue	(22.8)	(20.5)	2.3	(14.1)	74.5
Rate Base	727.3	8.3 ^d	719.0	723.8	723.8
Rate of Return	-3.13%	-2.81%	-0.32%	-1.95%	10.29%
Estimated Rate of Return	11.73%	1.45% ^e	10.28%	10.29%	
Est. Net Oper. Revenue	85.3	11.4	73.9	74.5	
Net Revenue Deficiency	108.1	31.9	76.2	88.6	
Net to Gross Multiplier	1.67471		1.67471	1.67471	
Revenue Increase	181.1	53.5	127.6	148.4	

(Red Figure)

For explanation see p. 6.

Table 2

Francis Iand and Water Company
Summary of Earnings Reconciliation
Test Year 1990

(Dollars in Thousands)

<u>Item</u>	<u>Citizens</u>	<u>Dif.</u>	<u>Branch</u>	<u>Adopted at Present Rates</u>	<u>Adopted at Auth. Rates</u>
Operating Revenues	\$170.6	\$ 0.0	\$170.6	\$170.6	\$329.7
<u>Deductions</u>					
O&M Expenses	98.5	13.0 ^a	85.5	98.5	98.6
A&G Expenses	93.2	20.8 ^b	72.4	78.6	78.6
Taxes other than Income	14.6	1.1 ^c	13.5	14.6	14.6
Depreciation	27.5	0.0	27.5	27.5	27.5
Subtotal	233.8	34.9	198.9	219.2	219.3
<u>Net Operating Revenue</u>					
Before Income Taxes	(63.2)	(34.9)	(28.3)	(48.6)	110.4
Income Taxes	(37.0)	(14.0)	(23.0)	(31.1)	32.9
Net Operating Revenue	(26.2)	(20.9) ^d	(5.3)	(17.5)	77.5
Rate Base	756.3	8.3 ^d	748.0	752.9	752.9
Rate of Return	-3.46%	-2.75%	-0.71%	-2.32%	10.29%
Estimated Rate of Return	11.73%	1.45% ^e	10.28%	10.29%	
Est. Net Oper. Revenue	88.7	11.8	76.9	77.5	
Net Revenue Deficiency	114.9	32.7	82.2	95.0	
Net to Gross Multiplier	1.67471		1.67471	1.67471	
Revenue Increase	192.4	54.7	137.7	159.1	

(Red Figure)

(Continued)

- a Difference due to one-half employee excluded by Branch.
- b Difference due to:
 - 1. One-half employee excluded by Branch.
 - 2. Amortization of deferred rate case expense of \$16,630.
- c Difference due to one-half employee excluded by Branch (payroll taxes).
- d Difference in working cash due to b.
- e Difference due to recommended rates of return.

Rate base for Francis

D.82-07-014 in Francis' last general rate case application (A.60303) authorized an interim general rate increase. It also made a provision for further hearings to allow Francis an opportunity to justify the inclusion of an additional \$299,100 worth of plant improvements in its rate base.

As provided by the interim order, additional hearings in A.60303 were held in Ferndale on August 3, 4, and 8, 1983, and in San Francisco on August 12, 1983 and September 14, 1983. Continued hearings were scheduled for January 11, 1984.

In the interim, the Commission instituted an investigation on its own motion (OII 83-11-09) into the practices of Citizens Utilities Company, its operating divisions, and its subsidiaries, with regard to the transfer of real property rights and management of its water shed resources. Francis was a respondent in that proceeding. The January 10, 1984 hearings were postponed so that parties could more actively participate in the OII.

Hearings in A.60303 had not resumed when Francis filed this general rate increase application (A.89-03-031) and the rate base issue was still unresolved. Therefore, on April 26, 1989, the Commission issued D.89-04-061 closing A.60303 and directing parties to resolve the rate base issue in A.89-03-031.

Since the Commission had ordered the resolution of the rate base issue in this proceeding, additional hearings were scheduled for September 19, 1989 in Ferndale. In addition to the rate base issue, parties agreed to consider two expense issues (mentioned earlier) during the September 19, 1989 hearings.

Before the September 19 hearing, Francis provided additional testimony on the rate base issue. After reviewing Francis' additional testimony, Branch agreed with Francis on the amount of rate base. The small difference in their rate base estimates shown in Tables 1 and 2 is due to the difference in

working cash allowance resulting from differences in estimates of expenses. The Ferndale Intervention Team (FIT), an active participant on the rate base issue, agreed to the stipulation. The authorized rate base amounts in Tables 1 and 2 are based on the stipulation.

Recovery of Unamortized Legal and Regulatory Expenses

Additional hearings in A.60303 were held in August and September 1983. Francis incurred \$49,899 in additional legal and regulatory expenses. Francis requests recovery of these expenses at \$16,630 per year over a three-year amortization period. Branch opposes any allowance for the expenses.

In addition to the \$49,899 legal and regulatory expenses incurred during the 1983 hearings, Francis requests to amortize the \$24,148 in legal and regulatory expenses incurred for the September 19, 1989 hearing in Ferndale. Branch disagrees.

According to Branch, Francis had the opportunity to establish the reasonableness of its rate base during the initial evidentiary hearings in A.60303 which were held in June 1981; it failed to do so. Branch opines that although the Commission, in D.82-07-014, provided Francis an opportunity to justify the disallowed rate base, ratepayers should not be burdened with the expenses for the additional hearings in August and September 1983. Branch also contends that the expenses were incurred in the past and allowing their recovery would be retroactive ratemaking.

Francis contends that the expenses were incurred as a result of hearings ordered by the Commission and that Francis is entitled to recover them.

Francis disagrees with Branch's contention that Francis should have justified the rate base at the time of the initial hearings in A.60303. According to Francis, Branch was in agreement with Francis' rate base estimates in A.60303. Francis contends that the rate base issue was raised by FIT not Branch. Francis opines that had it disregarded Branch's concurrence with its rate

base estimate and had taken additional time during the initial hearing to prove its case, Branch would have allowed it to recover the regulatory expenses. Francis contends that it did not do so to keep the rate case expenses low and that it should be allowed to recover the expenses for the additional hearings.

Francis also disagrees with Branch's contention that recovery of the expenses would constitute retroactive ratemaking. According to Francis, rate case expenses are always recovered after they are incurred. In addition, D.82-07-014 did not preclude Francis from recovering the expenses of complying with the Commission's order.

As to the recovery of the legal and regulatory expenses incurred for the September 19, 1989 hearings, Francis and Branch present same arguments in support of their respective positions as they did for the expenses related to the August 1983 hearings. However, Francis adds that the September 19, 1989 hearings at Ferndale were at least in part also held for the convenience of, and to save expenses for, the FIT and the City of Ferndale.

Discussion

Francis is seeking to recover expenses incurred in 1983 through amortization, by including \$16,630 in the test year estimates for legal and regulatory expenses. These are not extraordinary expenses and according to Commission practice, recovery of expenses in future test years is allowed only if a specific provision has been made in a prior proceeding to accrue such expenses for future amortization. Since no such provision was made in D.82-07-014, we will deny Francis' request.

In addition, Francis claims that it is entitled to recover the additional legal and regulatory expenses for the continued hearing because the continued hearings were ordered by the Commission. Francis is mistaken. The Commission merely provided Francis a second opportunity to justify its rate base.

This is evident from the following statement by the Commission in D.89-04-061, the final opinion in A.60303:

"The only issue remaining open in A.60303 is the opportunity and burden reserved to applicant to prove up its rate base to a higher level than that found reasonable in D.82-07-014 and thus, prospectively, to gain a further increment in revenues. Closing the instant proceeding simply recognizes that this opportunity and burden is an essential part of applicant's recently filed general rate case."
(D.89-04-061, p. 2.)

Turning to the question of amortization of legal and regulatory expenses for the September 19, 1989 hearing, we believe that slightly different circumstances apply to that request by Francis. The September 1989 hearings involved, in addition to the rate base issue, two expense issues. Therefore, Francis is entitled to recover a portion of the expenses for the September 1989 hearings. After a review of the exhibits and testimony received during the hearings, it appears that approximately 75% of the expenses were associated with the rate base issue and the remaining 25% of the expenses were associated with the expense issues. We will allow Francis recovery of 25% of the expenses associated with the September 19, 1989 hearings.

Need for Two Employees

There are currently two full-time employees in Francis' Ferndale service area, the superintendent and a pump operator. Although Francis has had two full-time employees since 1979, the Commission in Francis' last general rate case (A.60303) only allowed expense for one employee. Branch recommends that Francis be allowed expenses for one full-time employee and one half-time employee. Francis requests an allowance for expense for two full-time employees.

Branch's recommendation for one and one-half employees is based on the premise that the customer growth in the Ferndale service area has been only 3% since the last general rate case and

as a result the labor requirement have not changed much. However, Branch believes that an additional half-time employee is needed to maintain the system reliability.

Francis contends that although the Commission authorized expense for only one employee, Francis has needed and employed two full-time employees for the system. Francis maintains that two full-time employees are needed to run the system. In support of its position it introduced Exhibit 36, which showed the total manhours needed, task by task, to operate the system. According to Exhibit 36, two full-time employees are needed to operate the system.

Discussion

While Branch's reliance on customer growth to project labor needs has merit, it does not take into account the increased need for man-hour per customer resulting from enhanced water quality requirements. Notwithstanding the merits of Branch's recommendation, it still is Francis' responsibility to demonstrate the need for two full-time employees. Francis has done so convincingly in Exhibit 36. We will authorize expense for two employees in Francis' results of operation.

Timing of Rate Change

The decision in this proceeding will not be issued until early 1990. Also D.89-11-016, which authorized Francis an interim rate increase, was not effective until November 3, 1989. Consequently, Francis' rate of return for the 12-month period ending September 30, 1989 will not exceed the authorized rate of return in D.89-11-016. Therefore, we will waive the requirement to demonstrate the need for the step increase in 1990 and will authorize the 1990 rates to go into effect on the effective day of this order.

Comments on ALJ's Proposed Decision

The ALJ's proposed decision was filed and mailed to the parties on January 4, 1990. No party has filed comments on the proposed decision. While we have made no changes to the decision, we have corrected certain errors.

Findings of Fact

1. On March 21, 1989, Francis filed an application for rate increase for water service. Also, on March 21, 1989, Citizens filed applications requesting rate increases for its Felton, Sacramento, and Guerneville Districts.

2. Francis' application was consolidated with Citizens' applications.

3. On November 3, 1989, the Commission issued D.89-11-016 which authorized rate increases for the Felton and Sacramento Districts, and an interim rate increase for Francis. Rate revision for the Guerneville District was deferred until further hearings are held to address the poor service problems in the district.

4. Further hearings were held in Francis' application on September 19, 1989 to address certain rate base and expense issues.

5. D.82-07-014 in Francis' last general case application (A.60303) authorized an interim rate increase. It also ordered further hearings to allow Francis an opportunity to justify the inclusion of \$299,100 worth of plant improvements.

6. As provided by D.82-07-014, additional hearings in A.60303 were held in August and September 1983.

7. The August-September 1983 hearings were interrupted and the rate base issue remained unresolved.

8. By D.89-04-061, the Commission directed parties to resolve the rate base issue in this application.

9. Francis provided additional testimony regarding the rate base issue.

10. Branch and FIT agree with Francis regarding the rate base amount.

11. Francis requests recovery of the legal and regulatory expenses for the August-September 1983 and September 1989 hearings. Branch disagrees.

12. By requesting to recover the legal and regulatory expenses associated with the August-September 1983 hearings, Francis is trying to recover past expenses in future test years.

13. The Commission does not allow recovery of past expenses in future test years unless specific provision has been made in a previous Commission order.

14. Approximately 75% of the expenses incurred during the September 1989 hearings were associated with the rate base issue and 25% of the expenses were associated with other issues.

15. Francis has two full-time employees.

16. Branch recommends that the rates adopted in this order reflect only one and one-half employees for Francis.

17. Francis has demonstrated the need for two full-time employees.

Conclusions of Law

1. The stipulated rate base amount should be adopted.

2. Francis should not be allowed recovery of the legal and regulatory expenses incurred during the August-September 1983 hearings.

3. Francis should be allowed to recover 25% of the legal and regulatory expenses associated with the September 1989 hearings.

4. Francis should be authorized expenses for two-full time employees.

5. The application should be granted to the extent provided by the following order.

6. Because of Francis' immediate need for additional rate relief, this order should be made effective today.

O R D E R

IT IS ORDERED that:

1. Francis Land and Water Company (Francis) is authorized to file revised tariff schedules attached to this decision as Appendix A. This filing shall comply with General Order 96. The effective date of the revised schedules shall be 5 days after the date of the filing. The revised schedules shall apply only to service rendered on and after their effective date.

2. The proceeding A.89-03-031 is closed. The proceeding in A.89-03-030 shall remain open for further evidence.

This order is effective today.

Dated FEB 07 1990, 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

WB

APPENDIX A
Page 1

Francis Land & Water Company

Schedule No. 1

GENERAL METERED SERVICE

APPLICABILITY

Applicable to all metered water service.

TERRITORY

The City of Ferndale and adjacent unincorporated territory,
Humboldt County.

RATES

	<u>Per Meter</u> <u>Per Month</u>	
<u>Quantity Rates:</u>		(D)
For all water delivered, per 100 cu.ft.	\$ 2.684	(I)
<u>Service Charge:</u>		
For 5/8 x 3/4-inch meter	\$ 11.60	(I)
For 3/4-inch meter	14.20	
For 1-inch meter	18.15	
For 1 1/2-inch meter	24.20	
For 2-inch meter	32.25	
For 3-inch meter	60.55	
For 4-inch meter	82.60	
For 6-inch meter	139.10	
For 8-inch meter	207.60	(I)

The Service Charge is a readiness-to-serve charge which is applicable to all metered service and to which is added the charge for water used computed at the Quantity Rates.

All bills are subject to the reimbursement fee set forth on Schedule No. UP.

APPENDIX A
Page 2

Francis Land & Water Company

Schedule No. 4

PRIVATE FIRE PROTECTION SERVICE

APPLICABILITY

Applicable to all water service rendered for private fire protection purposes.

TERRITORY

The City of Ferndale and adjacent unincorporated territory, Humboldt County.

RATES

	<u>Per Month</u>	
For each 4-inch connection, or smaller	\$ 19.30	(D)
For each 6-inch connection	29.05	(I)
For each 8-inch connection	38.65	
For each 10-inch connection	80.35	
For each 12-inch connection	112.65	(I)

SPECIAL CONDITIONS

1. The customer will pay without refund the entire cost of installing the service connection.
2. The maximum diameter of the service connection will not be more than the diameter of the main to which the service is connected.
3. Where service connection is 6 inches in diameter or larger and supplied from a water main within 1,000 feet of a 10- or 12-inch main, the rate will be based on the size of the main from which such connection is supplied.
4. The customer's installation must be such as to effectively separate the fire sprinkler system from that of the customer's regular water service. As a part of the sprinkler service installation there shall be a detector check or other similar device acceptable to the company which will indicate the use of water. Any unauthorized use will be charged for at the regular established rate for general metered service, and/or may be grounds for the company's discontinuing the fire sprinkler service without liability to the company.

(continued)

APPENDIX A
Page 3

Schedule No. 4
(Continued)

PRIVATE FIRE PROTECTION SERVICE

SPECIAL CONDITIONS (Cont'd.)

5. There shall be no cross-connection between the fire sprinkler system supplied by water through the company's fire sprinkler service to any other source of supply without the specific approval of the company. This specific approval will require, at the customer's expense, a special double check valve installation or other device acceptable to the company. Any such unauthorized cross-connection may be the grounds for immediately discontinuing the sprinkler service without liability to the company.
6. The company will supply only such water at such pressure as may be available from time to time as the result of its normal operation of the system.
7. All bills are subject to the reimbursement fee set forth on Schedule No. UF. (L)
(L)

(END OF APPENDIX A)