

Decision 90 02 015 FEB 7 1990

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

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.)

ORIGINAL

Application 60303
(Filed February 27, 1981)

John H. Engel, Attorney at Law, for Francis
Land and Water Company, applicant.
Carlos E. Benemann, for Ferndale Water Rate
Committee, intervenor.
Nick Tibbetts, for U.S. Congressman
Douglas H. Bosco, interested party.
Alberto Guerrero, Attorney at Law, for the
Commission Advisory and Compliance
Division, Water Utilities Branch.

OPINION DENYING FERNDALE INTERVENTION
TEAM'S CLAIM FOR COMPENSATION

Background

Decision (D.) 82-07-014, dated July 7, 1982, was an interim opinion and order authorizing an immediate general rate increase for applicant Francis Land and Water Company. It also provided for further hearings so that applicant might have the opportunity 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.

The further hearings contemplated in the interim decision commenced on August 3, 1983 in Ferndale at which time Carlos E. Benemann filed a first appearance in the case as intervenor on behalf of himself and Ferndale citizens who opposed any increase in applicant's rate base. Intervenor is styled as Ferndale Water Rate Committee or Ferndale Intervention Team.

Intervenor filed a Notice of Intent to Claim Compensation on August 8, 1983 and the Commission, on October 5, 1983, found and ruled that the participant had met its burden of showing significant financial hardship in accordance with Rule 76.25 of the Commission's Rules of Practice and Procedure.

With the concurrence of applicant and intervenor, the scheduled hearings were suspended in 1983 so that all parties could more effectively participate in the investigation on the Commission's own motion into the practices of Citizens Utilities Company of California, its operating divisions and its subsidiaries, with regard to the transfer of real property rights and the management of its watershed resources (OII 83-11-09, filed November 30, 1983).

Hearings in Application (A.) 60303 were not resumed and the Commission, recognizing that rate base determination is a necessary element of applicant's new general rate case filed on March 21, 1989 (A.89-03-031), issued its Final Opinion on April 26, 1989 discontinuing hearings in A.60303 as being redundant and closing the proceeding. (D.89-04-061.)

Intervenor Carlos E. Benemann's application for rehearing of D.89-04-061 was denied on July 19, 1989. (D.89-07-059.)

Claim Procedure

Intervenor filed a timely claim for compensation on May 26, 1989.

Applicant attempted to file a timely protest to the application, but the proposed protest was not accepted because it was not verified. On June 28, 1989, applicant filed a Motion to Accept Late-Filed Verification and Protest.

On July 27, 1989, intervenor sought to file a document entitled Response of the Ferndale Intervention Team Regarding Francis Land and Water Company's Motion to Accept Late-Filed Verification and Protest to Claim for Compensation (response). The response was not accepted because it was untimely filed.

(Rule 42(b), Rules of Practice and Procedure.) However, the response was served on the parties by mail, two copies being received by the Administrative Law Judge for this application.

Good cause appearing, we grant applicant's motion so that its protest is before us. We also considered intervenor's response to that protest and placed a copy of the response into the correspondence file so that the record is complete.

Discussion

On August 3, 1983, the time of intervenor's first appearance in this proceeding, the only issue remaining for determination was whether or not applicant might prove up its rate base to a higher level than that found reasonable by the Commission on July 7, 1982. (D.82-07-014.)

This issue, among others, is under consideration in applicant's current general rate case in which intervenor is a party. (A.89-03-031.)

Here the Commission simply recognized that further hearings in A.60303 would duplicate evidence in A.89-03-031 and, in light of that fact, closed the proceeding. Intervenor opposed the Commission decision, and its application for rehearing was denied. (D.89-07-059.)

Clearly, opposition to a Commission decision cannot be construed as a substantial contribution to the opposed decision.

We do not address intervenor's claim that it should be compensated because of its participation in other Francis Land and Water Company matters--OII 83-11-09 and A.89-03-031. Compensation requests should be addressed in the specific cases to which they relate.

Findings of Fact

1. Carlos E. Benemann, on behalf of Ferndale Water Rate Committee, intervenor, filed a timely request for compensation in the amount of \$60,497.75 pursuant to Rule 76.26, Rules of Practice and Procedure.

2. D.89-04-061 was the only decision rendered after intervenor's first appearance in this proceeding, and that decision was opposed by intervenor.

3. D.89-07-059 denied intervenor's application for rehearing of D.89-04-061.

4. Intervenor has not demonstrated that D.89-07-059 or D.89-04-061 adopted any factual or legal contention or specific recommendation presented by intervenor.

5. Intervenor's claims for compensation by reason of its participation in other Commission proceedings should be addressed in the specific cases to which they relate.

Conclusion of Law

Intervenor's request for compensation should be denied.

O R D E R

IT IS ORDERED that the request for compensation filed by Carlos E. Benemann on behalf of Ferndale Water Rate Committee, also known as Ferndale Intervention Team, intervenor, is denied.

This order becomes effective 30 days from today.

Dated FEB 7 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
PB