

Decision 90 05 068 MAY 22 1990

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
San Jose Water Company, U-168-W, a )  
corporation, for an order authorizing )  
it to (1) increase rates charged for )  
water service and (2) revised and )  
add to its Rules on file with the )  
Public Utilities Commission. )

**ORIGINAL**

Application 88-09-029  
(Filed September 14, 1988)

ORDER CLARIFYING DECISION 89-10-038

On April 12, 1989, the Commission granted San Jose Water Company's (San Jose's) petition for emergency relief. In Decision (D.) 89-04-041, an interim decision in this rate case proceeding, the Commission authorized San Jose to establish a memorandum account to track sales and revenues. San Jose agreed to use in the memorandum account the Division of Ratepayer Advocates' (DRA's) rate case recommendations for consumption and rate of return as an interim measure. San Jose reserved the right to continue to challenge DRA's recommendations in the ongoing rate proceeding. Although San Jose requested that another methodology be approved for the memorandum account, the resolution of these and all other issues regarding the memorandum account was transferred from this rate case proceeding to I.89-03-005, the Commission's drought investigation.

On October 12, 1989, the Commission issued a second interim decision in this proceeding, D.89-10-038. In this decision, the Commission adopted both consumption estimates and rates of return which differed from DRA's recommendations which were being used in the memorandum account. Ordering Paragraph 7 states: "The consumption estimates authorized in this decision shall be used in calculating any lost revenues in SJW's memorandum

account from the date the account was approved in D.89-04-041." It is this ordering paragraph which is the subject of this petition.

On March 27, 1990, the Commission Water Utilities Branch (Branch) filed a petition to modify the language above of Ordering Paragraph 7 of D.89-10-038. Branch contends the language constitutes retroactive ratemaking and requests that it be modified to reflect a prospective application of the consumption estimate authorized by D.89-10-038.

On April 11, 1990, San Jose opposed Branch's request. San Jose argues that Ordering Paragraph 7 does not constitute retroactive ratemaking, but reflects the Commission's disposition of the use of the final authorized consumption. San Jose contends that Branch's petition improperly requests relief which is not minor, that the request itself is retroactive ratemaking, and that Branch requests permission not to follow a Commission decision.

We conclude that both parties' interpretation of Ordering Paragraph 7 is incorrect. Branch's interpretation that this language constitutes retroactive ratemaking is misleading since no retroactive ratemaking was intended nor has occurred. The proceeding which resolves how revenue losses will be calculated in the memorandum account, I.89-03-005, is still pending. San Jose's interpretation is incorrect because in the rate case proceeding no party requested retroactive application of the final consumption estimate. Ordering Paragraph 7 was not intended to reflect retroactivity of final consumption estimates. It was only intended to provide consumption estimates to replace those authorized by D.89-04-041, the interim order establishing the memorandum account. This was the understanding of all parties throughout the rate case proceeding, and no contrary treatment was requested. Thus, where Ordering Paragraph 7 implies any other conclusion, such language is superfluous.

In calculating any revenue losses, the consumption estimates and rates of return authorized by D.89-04-041 should be

used from April 12, 1989, the effective date of the decision. These numbers should be replaced on October 12, 1989, the effective date of D.89-10-038, by final authorized consumption and rates of return.

Accordingly, we revise Ordering Paragraph 7 to clarify its intent:

- "7. The consumption estimates authorized in this decision shall replace the stipulated consumption estimates authorized in D.89-04-041."

Finding of Fact

In the context of the special petition to establish a memorandum account filed during this rate proceeding, Ordering Paragraph 7 should be revised to clarify its intent.

Conclusion of Law

Ordering Paragraph 7 contains superfluous language which should be revised immediately to avoid misinterpretation by parties in I.89-03-005.

IT IS ORDERED that:

1. Ordering Paragraph 7 in Decision 89-10-038 is revised to read as follows:

- "7. The consumption estimates authorized in this decision shall replace the stipulated consumption estimates authorized in D.89-04-041."

2. The entire order with this revision appears in Appendix A.

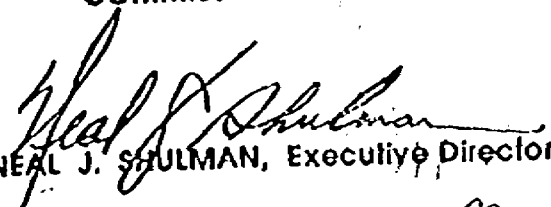
This order is effective today.

Dated MAY 22 1990, at San Francisco, California.

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

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

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

  
NEAL J. SHULMAN, Executive Director

*PB*

Appendix A

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INTERIM ORDER

IT IS ORDERED that:

1. San Jose Water Company (SJW) shall immediately file for its company, to be effective 5 days after today, the reduced rate schedules and tariffs attached as Appendix A. This filing shall comply with General Order Series 96. The revised schedules shall apply only to service rendered on and after their effective date.
2. Common equity of 56% shall be imputed in SJW's 1989 capital structure effective today. Common equity of 55% and 53% shall be imputed on January 1 for 1990 and 1991, respectively.
3. SJW is authorized to file an advice letter regarding a new construction and temporary metered service policy. SJW shall provide in this filing a proposed standard form for this rule.
4. SJW shall develop procedures, including standards for supporting documents, to allocate Administrative and General expenses to capital projects. The procedures shall be mailed for review within 90 days from the effective date of this decision to: Commission Compliance and Advisory Division, Auditing and Compliance Branch, 505 Van Ness Avenue, San Francisco, CA 94102.
5. SJW shall develop procedures to allocate common expenses to SJW Land and SJW Corp., including standards for supporting documents. The procedures shall be mailed for review within 90 days of the effective date of this decision to: Commission Compliance and Advisory Division, Auditing and Compliance Branch, 505 Van Ness Avenue, San Francisco, CA 94102.
6. SJW shall provide more information in its mileage logs by indicating the business purpose, transaction conducted, and person contacted for each trip or a summary of this information where it is appropriate.

APPENDIX A

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7. The consumption estimates authorized in this decision shall replace the stipulated consumption estimates authorized in D.89-04-041.

8. SJW's request to recover additional tax expense for unbilled revenues is denied pursuant to D.89-05-065 which denied the same request.

9. Within 90 days from the effective date of this order, SJW will establish and operate under a competitive bidding process and procedure for disposing of land which is removed from rate base, and it shall dispose of all such land under that procedure so long as it has an affiliate in the real estate business. CACD shall review the program SJW adopts for receiving competitive bids and present any recommendations it may have on whether SJW's program should be modified in the next phase of these proceedings.

10. SJW shall retain \$647,455 in the existing suspense account until our final decision in this proceeding.

(END OF APPENDIX A)