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Decision 91-04-018 April 10, 1991

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's own motion into measures to mitigate the effects of drought on regulated water utilities, water utilities, their customers and the general public.

ORIGINAL
I.89-03-005
(Filed March 8, 1989)

And Related Matters.

I.90-11-033

(Drought Phase)

R.90-07-004

OPINION

Pursuant to Rule 43 of the Commission's Rules of Practice and Procedure (Rule), a group of eight water companies¹ on September 10, 1990, filed two joint petitions for modification of Decision (D.) 90-08-055.

The first petition sought an extension of time to February 5, 1991, for Class A water utilities to file water management program (WMP) applications, as required by D.90-08-055. This petition was unopposed and was granted by the Executive Director on October 12, 1990.²

The second petition urged modification of D.90-08-055 to do the following:

1 Petitioners include California Water Service Company and San Jose Water Company, joined by California-American Water Company, Dominguez Water Corporation, Park Water Company, San Gabriel Valley Water Company, Southern California Water Company, and Suburban Water Systems.

2 Eight other requests for extension of time were granted by the Executive Director between October 29 and November 6, 1990.

1. Set forth in detail the subject matter and scope of the hearings in Phase II of the Drought Order Instituting Investigation (OII).
2. Strike Finding of Fact 28b related to reduction in risk afforded by recovery of amounts in memorandum accounts.
3. Provide that each WMP be filed by a compliance filing in Phase II, rather than by an application.
4. Provide that each WMP be evaluated independent of and prior to evaluation of conservation incentives (if any) that are proposed.
5. Allow interim rate relief, subject to refund, prior to final approval of WMPs and conservation incentives, if any.

The Water Utilities Branch (Branch) objects to the proposed modifications, urging instead that WMPs be filed as directed in D.90-08-055, and that Phase II hearings proceed as contemplated in that decision.

By order dated November 21, 1990, the Commission in I.90-11-033 consolidated the Drought OII (I.89-03-005) and the Connection Fee Order Instituting Rulemaking (R.90-07-004) into the Risk OII. A prehearing conference in the Risk OII was conducted on January 11, 1991, and a prehearing conference on the Drought OII was conducted on February 28 and March 1, 1991. The assigned administrative law judge ruled that each of the three consolidated matters would proceed independently as a separate phase of the Risk OII.

In opposing the second petition for modification, Branch notes that two of the requests--filing by compliance instead of application, and deferral of conservation incentives--are moot because the water companies have now filed their water management programs, and the programs were to include the subject of

conservation incentives. Moreover, in the Drought Phase prehearing conference, the parties set tentative hearing dates and issues, and agreed to take testimony related to conservation projects and the utilities' position on what interim rate relief, if any, may be further considered.

Thus, the only remaining matter in the petition for modification is the parties' request that the Commission strike Finding of Fact 28b, related to reduction in risk afforded by recovery of amounts in memorandum accounts. The parties argue that there was no testimony or other evidence offered in Phase I of the Drought OII on which to base the conclusion that memorandum accounts constitute protection against the normal sales risk in the water industry.

Branch responds that the relationship between risk and return is a basic precept of financial theory that does not require evidence. Branch also notes that the subject of reduced risk and recovery of lost sales because of drought is addressed throughout the record. In any event, Branch states that the request is a substantive one not contemplated by Rule 43, which addresses relatively minor changes proposed through modification.

We agree with Branch. Moreover, we note that the Drought Phase prehearing conference has set a date for hearing on the subject of risk and rate reduction as contemplated in D.90-08-055.

Therefore, for the reasons stated, we deny the petition for modification. Pursuant to Rule 8.1, no public hearing on the petition for modification is required.

Findings of Fact

1. Eight water utilities on September 10, 1990, filed two joint petitions for modification of D.90-08-055.
2. The first petition, seeking a 90-day extension of time for filing of WMPs, was unopposed and was granted.
3. The second petition urged five modifications to D.90-08-055, all of which were opposed by Branch.

Conclusions of Law

1. Four of the five proposed modifications proposed by utilities in their second petition for modification of D.90-08-055 have become moot or have been addressed adequately in this and other proceedings.
2. The fifth modification proposed by utilities--striking of Finding of Fact 28b related to reduction in risk--is a substantive change not contemplated by Rule 43.
3. Finding of Fact 28b in D.90-08-055 is adequately supported by the record.
4. The public interest is served in making this order effective immediately.

ORDER

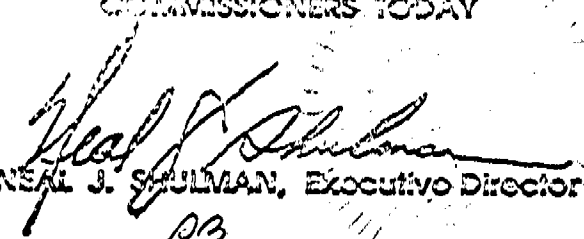
IT IS ORDERED that the petition for modification asking five changes in D.90-08-055 is denied.

This order is effective today.

Dated April 10, 1991, at San Francisco, California.

PATRICIA M. ECKERT
President
G. MITCHELL WILK
JOHN B. OHANIAN
DANIEL Wm. FESSLER
NORMAN D. SHUMWAY
Commissioners

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


NEAL J. SHULMAN, Executive Director
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