

Decision 91-07-059 July 24, 1991

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of SOUTHERN CALIFORNIA )  
WATER COMPANY (U-133-M) for an )  
order authorizing it to issue and )  
sell shares of Common Stock pursuant )  
to Southern California Water Company )  
Investment Tax Credit Employee Stock )  
Ownership Plan. )

**ORIGINAL**

Application 83-05-013  
(Petition for Modification  
filed April 3, 1991)

SUPPLEMENTAL OPINION

Summary of Decision

This decision grants Southern California Water Company (SoCal Water) the authority requested in its Petition for Modification of Decision (D.) 83-07-021.

Notice of the filing of the Petition for Modification appeared on the Commission's Daily Calendar of April 9, 1991. No protests have been received.

By D.83-07-021, dated July 20, 1983, the Commission authorized SoCal Water to establish the Southern California Water Company Payroll Based Tax Credit Employee Stock Ownership Plan (Payroll Plan) and to issue and sell, from time to time, up to 25,000 shares of the Company's \$5 par value common shares to the Payroll Plan or, as necessary, to the Southern California Water Company Investment Tax Credit Employee Stock Ownership Plan (ITC Plan).

SoCal Water has requested that the Commission allow for the transfer of the authority to issue the 11,292 remaining common shares authorized under D.83-07-021 to be issued to the Payroll Plan to the Southern California Water Company Investment Program (Investment Plan).

Discussion

The Commission by D.89133, dated July 25, 1978 in Application (A.) 58175, granted SoCal Water the authority to establish the ITC Plan and to issue and sell 25,000 shares of its common stock for the basic purpose of providing SoCal Water's eligible employees with an opportunity of becoming stockholders of the company. The funds necessary to purchase the common shares were derived by SoCal Water taking advantage of the additional 1% investment tax credit provided by the Tax Reduction Act of 1975, as amended by the Tax Reform Act of 1976. For the years 1978 through 1982, 21,748 new common shares were issued to the ITC plan. Of the authorized 25,000 shares, 3,252 remained unissued at the end of 1982. During 1984, 7,976 common shares were purchased on the open market by the ITC plan.

The Economic Recovery Tax Act of 1982 eliminated the additional 1% investment tax credit and replaced it with a percentage deduction based upon the qualifying payroll of a company. By D.83-07-021, pursuant to A.83-05-013, the Commission authorized SoCal Water to establish the Payroll Plan. The Decision also authorized issuance of up to 25,000 additional common shares to the Payroll Plan and, as necessary, to the ITC Plan. All appropriate fees required by Sections 1904(b) and 1904.1 of the Public Utilities Code were paid at that time.

8,894 new shares were issued to the ITC Plan in 1983 utilizing the remaining 3,252 shares authorized under D.89133 and 5,642 shares authorized under D.83-07-021. For the years 1984 through 1987, 8,066 common shares were issued to the Payroll Plan. Unissued common shares remaining under the authority of D.83-07-021 thus equalled 11,292 at the end of 1987.

The payroll-based tax credit was eliminated effective January 1, 1987 by the Tax Reform Act of 1986. The Board of Directors of SoCal Water therefore terminated the Payroll Plan and authorized the transfer of the assets of the Payroll Plan

into a newly-created Investment Plan. Copies of the company's Board of Directors' resolutions which adopted these changes are attached to the Petition for Modification as Exhibits A and B.

The primary purpose of the Investment Plan is to provide eligible employees with the opportunity to set aside a portion of their pre-tax income as a supplement to retirement benefits otherwise available to the employee. The amount of income that an employee can set aside and many other aspects of the Investment Plan are governed by provisions of Section 401-k of the Internal Revenue Code.

In order to encourage participation in the Investment Plan, SoCal Water contributes a matching amount to the Plan, up to a specified percentage of each employee's deferred income. This also continues to provide eligible employees with an opportunity to become shareholders in the company. From November 1, 1987, through December 31, 1990, the company's matching contributions were equal to 20% of the first 3% of employee deferrals. Effective January 1, 1991, the matching contributions were increased to 50% of the first 3% of employee deferrals.

SoCal Water's contributions to the Investment Plan are used to purchase common shares of the company for the account of participating employees. Under terms of the Investment Plan, such shares may be purchased either on the open market or as newly issued shares purchased from the company. Company contributions for the plan years 1988, 1989, and 1990 were used to purchase a total of 4,446 common shares on the open market. No new shares are presently authorized to be issued under the Investment Plan. Copies of the Southern California Water Company Investment Incentive Program plan document and the Southern California Water Investment Incentive Program Trust Agreement are attached to the Petition for Modification as Exhibits C and D.

The Commission Advisory and Compliance Division (CACD) has reviewed the Petition for Modification and the attached documentation. CACD recommends, and we agree, that the relief requested in the Petition for Modification should be granted.

Findings of Fact

1. SoCal Water, a California Corporation, operates as a public utility subject to the jurisdiction of this Commission.

2. D.89133 authorized SoCal Water to establish the ITC Plan and issue up to 25,000 common shares to the ITC Plan.

3. D.83-07-021 authorized SoCal Water to establish the Payroll Plan and to issue up to 25,000 additional common shares to the Payroll Plan and to the ITC Plan as necessary.

4. Unissued common shares remaining under authority of D.83-07-021 equalled 11,292 at the end of 1987.

5. The payroll-based tax credit was eliminated effective January 1, 1987 by the Tax Reform Act of 1986.

6. SoCal Water's Board of Directors therefore terminated the Payroll Plan and authorized the transfer of the assets of the Payroll Plan into the Investment Plan.

7. The proposed transfer of unissued common shares from the Payroll Plan to the Investment Plan would be for proper purposes and would not be adverse to the public interest.

8. There is no known opposition to the Petition for Modification and no reason to delay granting the relief requested.

9. All fees required by Public Utilities Code Sections 1904(b) and 1904.1 were paid in connection with D.83-07-021.

Conclusions of Law

1. A public hearing is not necessary.
2. The Petition for Modification should be granted to the extent set forth in the following order.
3. The following order should be effective on the date of signature to enable SoCal Water to expeditiously proceed with its transfer of shares from the Payroll Plan to the Investment Plan.

S U P P L E M E N T A L O R D E R

IT IS ORDERED that:

1. Southern California Water Company (SoCal Water), on or after the effective date of this order may transfer the authority to issue the remaining 11,292 common shares which were previously authorized under Decision 83-07-021 to be issued to the Southern California Water Company Payroll Based Tax Credit Employee Stock Ownership Plan to the Southern California Water Company Investment Incentive Program.

2. The Petition for Modification is granted as set forth above.

3. The authority granted by this supplemental order is effective today.

Dated July 24, 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