

ALJ/SHL/tcg

Mailed 7/2/98

Decision 98-07-014 July 2, 1998

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Lena Humber,

Complainant,

vs.

NORTH GUALALA WATER COMPANY,

Defendant.

ORIGINAL

Case 97-05-024  
(Filed May 9, 1997)

O P I N I O N

**Summary**

Order dispensing of funds held in deposit by the Commission and closing proceeding.

**Discussion**

On January 12, 1998, the proposed decision of Administrative Law Judge (ALJ) Sheldon Rosenthal was mailed to the parties in this complaint. Comments to the proposed decision were filed by defendant. Complainant did not file comments or respond to the comments of defendant. On February 19, 1998, the Commission issued Decision (D.) 98-02-089 denying the complaint herein. In addition, it ordered defendant to make available its post-construction audit to complainant within 10 days of the immediate effective date of the order. It further gave parties 20 days after the effective date of the order to notify the Commission of the result of their inspection of the audit. The order indicated

that \$22,998 on deposit with the Commission would be dispersed to defendant if there was no dispute about the audit.

By motion dated March 30, 1998, defendant asks that the \$22,998 on deposit with this Commission be released to defendant. That motion contains a verified statement of Richard J. Henderson, attorney for defendant, that on January 29, 1998, he provided a copy of the post-construction audit to Michael D. Macomber, whom he had been informed was a substituted attorney for complainant and with whom he had been dealing in that capacity. He states that a second copy of the post-construction audit was served on attorney Macomber on March 3, 1998. Attorney Henderson further states that on March 20, 1998 and March 25, 1998 he served a compliance filing and status report indicating his service of the post-construction audit on Attorney Macomber, the Commission's Small Water Branch, complainant, and Vernon Humber, complainant's attorney of record at the Commission proceeding. Attorney Henderson states that he has not received any response from any recipient of the post-construction audit. He therefore moves that the money on deposit with the Commission be dispersed to defendant and that the proceeding be closed.

A search of the Commission files reveals no response from complainant regarding the post-construction audit.

#### **Findings of Fact**

1. Defendant provided a copy of the post-construction audit to complainant.
2. The Commission has not received an objection to the post-construction audit of defendant and has not received a response to the motion of defendant.
3. Defendant has filed a motion requesting that \$22,998 held in deposit by the Commission pending resolution of this proceeding be dispersed to defendant and that the proceeding be closed.

4. This is a complaint case not challenging the reasonableness of rates or charges, and so this decision is issued in an "adjudicatory proceeding" as defined in Public Utilities (PU) Code § 1757.1.

**Conclusions of Law**

1. Defendant has complied with the requirements of D.98-02-089.
2. The motion of defendant should be granted.
3. The money on deposit in this proceeding should be disbursed to defendant.
4. This is a complaint case not challenging the reasonableness of rates or charges, and so this decision is issued in an "adjudicatory proceeding" as defined in PU Code § 1757.1.
5. This matter should be closed.

**O R D E R**

**IT IS ORDERED** that:

1. The money on deposit with the Commission pending determination of this proceeding is disbursed to defendant.
2. This proceeding is closed.

This order is effective today.

Dated July 2, 1998, at San Francisco, California.

RICHARD A. BILAS  
President  
P. GREGORY CONLON  
JESSIE J. KNIGHT, JR.  
HENRY M. DUQUE  
JOSIAH L. NEEPER  
Commissioners