

Decision 98-07-027 July 2, 1998

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Gibbs Ranch Water Company for authority to increase rates by \$63,540 (30%) in 1993 and an additional \$5,460 (2.0%) in 1994.

Application 93-07-051
(Filed July 28, 1993)

Application of Gibbs Ranch Water Company for authority to increase rates to recover increased chemical costs.

Application 93-10-004
(Filed October 4, 1993)

Harrison L. Gibbs and John D. Reader, for Gibbs Ranch Water Company, applicant.
Charles H. Walter, for Racetrack Homeowners' Association; and Betty McMurry, for herself; interested parties.
Ira Kalinsky, Arthur A. Mangold, and Gregory W. Billings, for the Office of Ratepayer Advocates.

O P I N I O N

On January 30, 1996, Gibbs Ranch Water Company, Inc. (GRWC or petitioner) filed a petition for modification of Decision (D.) 94-09-068. Petitioner states that it has operated for more than one year at newly authorized rates, and finds that its revenues are less than adopted in D.94-09-068. Petitioner offers additional argument and new evidence alleging to show that the Commission erred in its adopted test year revenues. Petitioner says it accepts the burden of the lost revenue, but requests an early decision modifying D.94-09-068. Petitioner asks that the quantity rate for water sales be increased by \$0.16 (11.6%) per 100 cubic feet.

On April 11, 1996, with permission from the Administrative Law Judge pursuant to Rules 47(f) and 48(a) of the Commission's Rules of Practice and

Procedure (Rules), the Division of Ratepayer Advocates (now the Office of Ratepayer Advocates - ORA) filed a late response in opposition to GRWC's petition. Among other things, ORA points out that the revenue estimate was heavily contested in the general rate proceeding. ORA argues that petitioner seeks to reverse the decision on a major issue, which ORA asserts deserves a thorough review by the Commission in a new general rate case (GRC) proceeding.

Even if the petition was not now moot as explained below, we would be disinclined to grant the petition. Rule 47(d) requires petitions for modification to be filed and served within one year of the effective date of the decision, or an explanation provided. The petition was filed more than one year after the effective date of D.94-09-068. Petitioner states the additional time was needed to collect data in support of its showing in the proceeding. Petitioner thus seeks to continue the litigation of an issue we thoroughly considered and decided based on the record before us at that time. Test year ratemaking cannot, and does not, provide for constant refinement of estimates and adopted results based on later information, except in the most extraordinary of situations. We are not persuaded that this is one of those situations.

Nonetheless, to the extent the petition might deserve consideration, we agree with ORA that petitioner's entire operations must be considered. For example, not only might the best estimate of test year 1994 revenues be different based on later information, but the same might be true for expenses, rate base and rate of return. A thorough review would best be undertaken in a GRC. Under our three-year GRC cycle, petitioner was eligible to file an application for a new GRC in 1996 for a 1997 test year. Thus, it would normally be timely to now examine petitioner's entire operations. We would be inclined to deny the petition and direct petitioner to file for general rate relief.

In this case, however, the petition is made moot by D.96-11-057. There we authorized the sale and conveyance of the property and equipment of GRWC to the Tuolumne Utilities District (TUD) within 180 days of November 26, 1996 (the date of D.96-11-057). By letter received December 13, 1996, petitioner states that GRWC was transferred to TUD on December 6, 1996. Therefore, GRWC is no longer regulated by this Commission, and we cannot grant the requested relief. The petition is now moot, and should be denied.

Findings of Fact

1. Petitioner seeks a modification of D.94-09-068, asking for an increase in the quantity rate based on renewed argument over the heavily contested issue of estimated test year 1994 revenues, and new facts allegedly supporting petitioner's position.

2. Not only might the best estimate of test year 1994 revenues be different based on later information, but the same might be true for expenses, rate base and rate of return.

3. The relief requested in the petition requires a thorough review best undertaken in a GRC.

4. D.96-11-057 authorized the sale of GRWC to the TUD within 180 days of November 26, 1996.

5. It is untimely to undertake a thorough review of petitioner's operations given the authorized transfer to TUD, which occurred on December 6, 1996.

Conclusions of Law

1. Upon the sale and transfer of GRWC to TUD, this Commission no longer regulates GRWC, and the relief requested in the petition cannot be granted.

2. The petition for modification should be denied.

O R D E R

IT IS ORDERED that the January 30, 1996 petition for modification of Decision 94-09-068 filed by the Gibbs Ranch Water Company, Inc. is denied.

These proceedings are 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