

Decision 98-09-005 September 3, 1998

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of the Southern California Water Company (U133W) for Authority pursuant to Public Utilities Code Sections 454 and 1001 *et seq.* to Recover in Rates the Costs of Replacement Water Rights in its Barstow District.

ORIGINAL

Application 97-10-083
(Filed October 31, 1997)

Patricia A. Schmiege, Attorney at Law,
and Daniel A. Dell'Osa,
for Southern California Water Company,
applicant.

Peter G. Fairchild, Attorney at Law, for
Ratepayer Representation Branch of Water Division.

OPINION

Summary

This decision approves an uncontested settlement agreement (Settlement) between the Ratepayer Representation Branch (RRB) of the Commission's Water Division and Southern California Water Company (SoCalWater). SoCalWater is authorized to increase its Barstow District water rates by \$273,200 (6.14%) annually to reflect the costs of purchasing additional water rights following adjudication of the Mojave River Basin.

The Application

SoCalWater is a California corporation providing regulated water service through 16 water districts located in ten Northern and Southern California counties, and electric service in the Big Bear Lake area, San Bernardino County.

Two water districts — Desert and Barstow — are located in the Mojave River Basin. This Application relates only to Barstow District.

The Mojave River Basin is in overdraft — that is, the amount of water being extracted from the Basin exceeds the rate of natural replenishment. In May, 1990, the City of Barstow and SoCalWater jointly filed a lawsuit against 150 upstream water pumpers, seeking an injunction to guarantee an average annual flow of 30,000 acre feet in the Barstow area. In June, 1991, the Mojave Water Agency filed a cross-complaint expanding the lawsuit into a comprehensive adjudication action of all 2,000-plus larger users on the Mojave River watershed. In 1993, a majority of the parties to the adjudication entered into a Stipulated Judgment. SoCalWater's participation in the Stipulated Judgment was approved by the Commission by Decision (D.) 94-10-024. In January, 1996, the Superior Court entered the Stipulated Judgment against all of the parties.

Under the Stipulated Judgment, Barstow District was allowed to extract without charge 11,304 acre-feet of groundwater and subsurface water flow annually, its Base Annual Production, from the Mojave River. That amount decreases by 20% over a five-year period until in 2000 it reaches and remains fixed at 9,043 acre-feet annually, termed the Free Production Allowance (FPA). There is no restriction on the annual quantity Barstow District can extract, but for production in excess of its FPA, Barstow District must pay to the Mojave River Basin Watermaster volume-based levies which may be used by the Watermaster to acquire supplemental water. As of October, 1997, the Watermaster's levy was \$181 per acre-foot of excess production.

SoCalWater's 1995 and 1996 production volumes were 10,700 and 11,120 acre-feet, well in excess of its year 2000 FPA. Moreover, the City of Barstow has informed SoCalWater that the City is implementing policies to encourage growth and economic development in the area and is concerned about maintaining

sufficient water supplies to support its growth plans. Accordingly, SoCalWater's most recent master plan filed with the Commission projects a Barstow District demand of 13,255 acre-feet annually by 2000. Thus, SoCalWater is faced with paying overproduction levies to the Watermaster or leasing or buying additional water rights to increase its FPA. (See D.94-10-024 at footnote 2 for a quantification of the considerable role conservation has already played in reducing Barstow District demand.)

To address the impending shortfall, SoCalWater has entered into two water rights purchase agreements that are the subjects of this Application. In November, 1996, it obtained 1,991 acre-feet of FPA from Overland Lenwood, Ltd. for \$1,600,000, and in August, 1997, another 487 acre-feet from Wayne Soppeland for \$380,625. These two additions bring SoCalWater's Barstow District year 2000 FPA to 11,521 acre-feet annually. Having invested \$1,980,625 in additional water rights, SoCalWater now requests the Commission find that investment reasonable and include it in rate base, and authorize it to raise its Barstow District water rates by \$282,757 annually (6.54%).

Procedural Background

SoCalWater filed the Application on October 31, 1997, and provided the published and mailed notification to customers and others required under the Rules of Practice and Procedure, Rule 24. Notice of the Application appeared on the Commission's Daily Calendar of November 10, 1997. No protests were received.

The assigned Administrative Law Judge (ALJ) held a prehearing conference in San Francisco on February 11, 1998. By operation of Rule 4(b)(2), this proceeding is subject to Article 2.5, SB 960 Rules and Procedures. The assigned Commissioner's Ruling issued April 13, 1998 categorized this as a ratesetting proceeding expected to go to hearing, designated the assigned ALJ as

the principal hearing officer (and thus, the presiding officer under Rule 5(k)(2)), and established the proceeding timetable. The assigned Commissioner's Ruling defined these issues:

Were SoCalWater's purchases of the supplemental water rights described in the application reasonable? What conditions, if any, should the Commission attach to a finding of reasonableness?

Should SoCalWater be authorized to increase its rates to reflect the costs of these purchases? If so, which rates and by how much?

At the evidentiary hearing on May 5, 1998, SoCalWater and RRB submitted their written Motion for Adoption of Settlement, attaching to it the Settlement (included as Appendix A to this order) duly executed by representatives of both. There are no other parties. The proceeding was submitted without briefs at the conclusion of the evidentiary hearing.

The Settlement

After conducting an independent review of the Application, RRB concluded that SoCalWater's water rights purchases were necessary and the prices paid were reasonable. RRB differed with SoCalWater, however, in three issue areas. The Settlement summarizes those as:

Whether expenses related to revenues should be calculated according to the total revenue required for the District, rather than on an incremental basis (added to previously adopted expenses) as provided in SoCalWater's Application;

Whether sales and meters related to SoCalWater's special contract with the Department of Veteran Affairs should be reflected in the design of rates; and

Whether the entire increase adopted in this proceeding should be assigned to quantity rates since existing service charges recover more than 50% of the District's fixed cost.

On April 27, 1998, SoCalWater and RRB held a meeting in Los Angeles to discuss their differences. The City of Barstow, which is not a party to this proceeding, sent a representative who did not actively participate in discussions. The parties resolved all issues, and the resulting Settlement was received in evidence pursuant to the joint motion of both parties at the May 5, 1998 evidentiary hearing.

Discussion

The parties have tendered an "uncontested settlement" as defined in Rule 51(f), i.e., a settlement that "...is filed concurrently by all parties to the proceeding in which such... settlement is proposed for adoption by the Commission." Rule 51.1(e) requires that settlement agreements be reasonable in light of the whole record, consistent with law, and in the public interest. (See also *San Diego Gas & Electric*, 46 CPUC2d 538 (1992), for elaboration on the Commission's policy on all-party settlement proposals).

A. Reasonable In Light of the Whole Record

In issuing our earlier D.94-10-024 which approved SoCalWater's entering into the Stipulated Judgment, the Commission was fully aware that SoCalWater would be agreeing to water rights that after the five-year ramp-down period would be less than its historical pumping requirement, and thus SoCalWater could incur supplemental water costs. We endorsed without reservation SoCalWater's participation in recognition of the very significant benefits that SoCalWater and its customers would realize. Having acted on our authorization, SoCalWater next took the initiative to restore a measure of certainty to its long-term water supply prospects. In this Application and supporting exhibits, SoCalWater has fully set forth its analysis of why it chose to purchase at these prices the additional supplies it did rather than to lease them

or rely on excess production and the attendant Watermaster levies. Its testimony chronicles the successful negotiations it pursued with these counterparties as well as unconsummated offers made to and received from others.

As noted, RRB concluded after analyzing the Application and supporting documents that SoCalWater has acted prudently in that the purchases were necessary and the prices were reasonable. RRB points out that the \$273,200 revenue requirement for 2,478 acre-feet, or \$110 per acre-foot, compares very favorably with the \$181 per acre-foot levy SoCalWater would have to pay the Watermaster for production above its FPA.

Of the three issue areas RRB notes, none is of more than modest effect. The first deals with revenue requirement: SoCalWater and RRB now agree that RRB's total-revenue approach to computing expenses related to revenues (i.e., uncollectibles, franchise fees, ad valorem taxes and state and federal income taxes) is appropriate. SoCalWater had performed essentially the same calculations as RRB but used an incremental-revenue approach. The resulting revenue requirement difference is not large in proportion to the amounts involved — RRB and SoCalWater now recommend a revenue increase of \$273,200 (6.14%) annually at 1998 levels compared to SoCalWater's initial request for \$282,757 (6.54%) at 1997 levels. RRB's second and third issue areas act together to argue for allocating the entire increase to Barstow District's quantity charges rather than splitting it equally between service charges and quantity charges as the Application proposes. The Commission's policy for Class A water utility rate design calls for up to 50% of a utility's fixed costs to be recovered in service charges and the remainder in quantity charges. By recognizing the revenue effect of SoCalWater's contract with the Department of Veteran Affairs, SoCalWater's service charge revenue already exceeds the 50% guideline. SoCalWater therefore accepts RRB's position that the entire increase

be allocated to the quantity charges. With agreement on these two revenue requirement and rate design adjustments in the Settlement, the parties have resolved all of the issues between them and arrived at a position that is indeed reasonable in light of the whole record.

B. Consistent with Law

Public Utilities Code § 454 requires no public utility shall change any rate except upon a showing before the Commission and a finding by the Commission that the new rate is justified. We have already explained our view that the actions taken by SoCalWater to supplement its water rights were reasonable and within our expectations in issuing D.94-10-024, and that the Application and the parties' testimony and exhibits clearly support the resulting revenue requirement reached in the Settlement. The Barstow District rates that flow from those conclusions are set forth in tariff format in Settlement Appendix B, and they comport as well with our rate design policy for Class A water utilities. We find the Settlement's recommended rates justified.

No provision of the Settlement is in violation of any statute or Commission decision or rule.

C. In the Public Interest

SoCalWater and RRB have well explained their agreed outcome and how it came to be. The record before the Commission includes not only the Application and the Settlement, but the exhibits and testimony of the parties setting forth and supporting their positions and the derivation of those positions before they conferred and reached agreement. The Settlement, together with the rest of the record in this proceeding, conveys sufficient information to permit the Commission to discharge its future regulatory obligations with respect to the parties and their interests.

In D.94-10-024, Ordering Paragraph 1, we stated, "It is in the public interest for Southern California Water Company to enter into the stipulated settlement of the Mojave River Basin Adjudication." In so stating, we fully anticipated that SoCalWater would move subsequently to secure adequate future water supplies for its Barstow District customers. It has done so, and in a way that we find reasonable; this Application is the result. RRB, acting to represent ratepayers, has proposed for SoCalWater's and the Commission's consideration certain adjustments to SoCalWater's requested revenue requirement and rate design, and SoCalWater, presumably acting consistent with its interests, has accepted them. SoCalWater and RRB are fairly reflective of all of the affected interests in this proceeding and the Settlement faithfully conveys their agreement. At each step, the public interest has been preserved. We thus have no hesitation in extending our earlier determination to the Settlement: the Settlement is in the public interest.

The principal hearing officer's proposed decision was filed with the Commission and served on all parties of record on July 28, 1998 as required by Public Utilities Code § 311 (d). No comments were received. Public Utilities Code § 1701.3 requires the principal hearing officer to present the proposed decision to the full Commission at a public meeting, and to include a record of the number of days of hearing, the number of days that each Commissioner was present, and whether the decision was completed on time. There was one day of prehearing conference and one day of evidentiary hearing in this case. Assigned Commissioner Josiah Neeper attended the prehearing conference. This final decision is timely issued, prior to the date set forth in the scoping memo and well within the 18-month period set forth in SB 960.

Findings of Fact

1. Under terms of the Stipulated Judgment by which SoCalWater is bound, SoCalWater's FPA for Mojave District was insufficient to meet its customers' needs without incurring excess extraction charges levied by the Watermaster.

2. SoCalWater has augmented its FPA through the purchase of additional water rights at a price equivalent to \$110 per acre-foot extracted, which is lower than the \$181 per acre-foot the Watermaster would charge.

3. SoCalWater's purchases of additional water rights from Overland Lenwood, Ltd. and from Wayne Soppeland, and the prices it paid for those water rights, were reasonable and were beneficial to its Barstow District ratepayers.

4. The Settlement commands the sponsorship of all of the parties to this proceeding.

5. SoCalWater and RRB are fairly reflective of all of the affected interests in this proceeding.

6. No term of the Settlement contravenes statutory provisions or prior Commission decisions.

7. The Settlement, together with the record in this proceeding, conveys sufficient information to permit the Commission to discharge its future regulatory obligations with respect to the parties and their interests.

8. The Settlement resolves every issue between RRB and SoCalWater.

9. There is no known opposition to approving the Settlement.

Conclusions of Law

1. The Settlement is an "uncontested settlement" as defined in Rule 51(f).

2. The revised rates the Settlement proposes are justified.

3. The Settlement is reasonable in light of the whole record, consistent with law, and in the public interest.

4. The Settlement should be approved.

O R D E R

IT IS ORDERED that:

1. The Motion for Adoption of Settlement by Southern California Water Company and Ratepayer Representation Branch of the Commission's Water Division is granted. The Settlement attached to this order as Appendix A is adopted.
2. Southern California Water Company is authorized to file in accordance with General Order 96 Series and make effective on five days' notice a tariff containing the rate revisions shown in Appendix B to the Settlement attached to this order.
3. This proceeding is closed.

This order is effective today.

Dated September 3, 1998, at San Francisco, California.

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

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

In the matter of the Application of the)
Southern California Water Company)
(U 133 W) for authority pursuant to)
Public Utilities Code Sections 454)
and 1001 et seq. to recover in rates)
the costs of replacement water rights)
in its Barstow District.)
_____)

Application No. 97-10-083

SETTLEMENT

1.00 Introduction

1.01 This Settlement resolves all issues in the matter of the application of Southern California Water Company ("SCWC") for an increase in rates in its Barstow District ("District") to recover the costs of acquiring water rights. The parties to this Settlement are SCWC and the Ratepayer Representation Branch of the Water Division ("RRB"), collectively referred to as "the Parties". They are the only parties in this proceeding.

1.02 SCWC's application requests an increase in rates of \$282,800 to recover the \$1,980,625 it invested in new water rights needed to serve its customers. RRB conducted an independent review of SCWC's application. The investigation included meetings at SCWC's Regional Headquarters, and exchanging information through data requests and communications with SCWC's staff. In conclusion of that review, RRB submitted a Report on the Request of Southern California Water Company to Increase

Rates in the Barstow Customer Service Area for the Purchase of Additional Water Rights, dated April 15, 1998, hereinafter referred to as "the Report", indicating certain areas of disagreement with SCWC's application. The Report concludes that, while purchase of additional water rights was necessary, and the price paid was reasonable, an increase of only a \$273,200 is necessary to recover the costs associated with this investment. Subsequently, on April 27, 1998, the Parties held a meeting in Los Angeles to discuss the differences between SCWC's application and the Report. The City of Barstow sent a representative, who did not actively participate in the discussions. This meeting resulted in the successful resolution of all issues.

1.03 The issues raised by RRB in the Report can be summarized as follows: 1) whether expenses related to revenues should be calculated according to the total revenue required for the District, rather than on an incremental basis (added to previously adopted expenses), as provided in SCWC's application; 2) whether sales and meters related to SCWC's special contract with the Department of Veterans Affairs should be reflected in the design of rates; and 3) whether the entire increase adopted in this proceeding should be assigned to Quantity Rates since existing Service Charges recover more than 50% of the District's fixed costs.

1.04 The Parties have stipulated for purposes of settlement in this proceeding to an increase in revenues of \$273,200, as recommended by RRB. An exhibit comparing the positions of the Parties is attached as APPENDIX A.

2.00 Expenses Related to Revenues

2.01 Uncollectibles, Franchise Fees, Ad Valorem Taxes, State Income Taxes, and Federal Income Taxes are directly related to revenues. Both parties used the following rates in their calculations: 0.352% for Uncollectibles; 1.150% for Franchise Fees; 0.65% for Ad Valorem Taxes, 8.84% for State Income Taxes; and 35% for

Federal Income Taxes. In its Application, SCWC did not recalculate the levels of these expenses adopted in the District's last case (D.96-11-001), but instead calculated only the incremental changes to these expenses related to the new investment in the purchase of water rights. On the other hand, RRB made an independent calculation of these expenses, based on the District's total revenue required (including the investment in water rights).

2.02 SCWC now agrees to RRB's method of calculation.

3.00 Special Contract

3.01 In its proposed design of rates, SCWC did not include the sales to nor the meters through which SCWC serves the Department of Veteran Affairs under a special contract. RRB recommends that these sales and meters be reflected in the calculations.

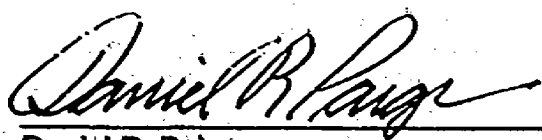
3.02 SCWC agrees that sales and meters related to this special contract should be reflected in the design of rates.

4.00 Design of Rates

4.01 In its application, SCWC proposed that 50% of the increase in revenues be added to the District's Service Charges and 50% of the increase be added to the District's Quantity Rates. After adding the 11 meters for the Department of Veterans Affairs, RRB determined that the existing Service Charges already recover more than 50% of the District's fixed costs. RRB recommends, therefore, that the entire increase be added to Quantity Rates.

4.02 After reviewing RRB's calculations, SCWC agrees that the entire increase should be added to Quantity Rates. The stipulated design of rates is contained in APPENDIX B.

Dated: May 1, 1998



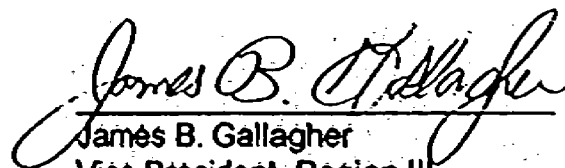
Daniel R. Paige
Program & Project Supervisor
Ratepayer Representation Branch
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California Public Utilities Commission

James B. Gallagher
Vice President, Region III
Southern California Water

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Dated: May 1, 1998

Daniel R. Paige
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California Public Utilities Commission



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Vice President, Region III
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APPENDIX A

Southern California Water Company
Barstow Customer Service Area
SUMMARY OF EARNINGS
Test Year 1998
(Dollars in Thousands)

Item	:D. 96-11-001 : : Authorized :	SoCal : Increase :	Requested : Summary :	RRB Analysis : Increase :	Summary :
Operating Revenues:	4,448.3	282.8	4,731.1	273.2	4,721.5
Operating Expenses:					
Purchased Water	0.0		0.0		0.0
Purchased Power	863.1		863.1		863.1
Other Expenses	1,297.8		1,297.8		1,297.8
Uncollect.(0.352%adoptRev)	17.4	1.0	18.4	(0.8)	16.6
Depreciation	404.7		404.7		404.7
FranchiseTx(1.15%adoptRev)	56.9	3.3	60.2	(2.6)	54.3
Ad ValoremTx(0.65%incrPlan)	123.4	12.9	136.3	12.9	136.3
Taxes Other Than Income	29.5		29.5		29.5
State Income Tax	80.9	16.5	97.4	12.3	93.2
Federal Income Tax	348.9	65.2	414.1	63.3	412.2
Total Expenses	3,222.6	98.8	3,321.4	85.0	3,307.6
Net Revenue	1,225.7	184.0	1,409.7	188.2	1,413.9
Ratebase	13,230.3	1,980.6	15,210.9	1,980.6	15,210.9
Rate of Return	9.26%	9.29%	9.27%	0.03%	9.29%

(END OF APPENDIX A)

APPENDIX B

Schedule No. BA-1Barstow DistrictGENERAL METERED SERVICEAPPLICABILITY

Applicable to all general metered water service.

TERRITORY

Barstow and vicinity, San Bernardino County.

RATES

Quantity Rates:	<u>Per Meter</u> <u>Per Month</u>
First 10,000 cu.ft., per 100 cu.ft.....	\$ 0.828 (I)
Over 10,000 cu.ft., per 100 cu.ft.....	\$ 0.777 (I)
 Service Charge:	
For 5/8 x 3/4-inch meter.....	\$12.35
For 3/4-inch meter.....	18.10
For 1-inch meter.....	22.80
For 1-1/2-inch meter.....	36.25
For 2-inch meter.....	59.75
For 3-inch meter.....	102.95
For 4-inch meter.....	149.85
For 6-inch meter.....	288.85
For 8-inch meter.....	383.65
For 10-inch meter.....	585.70

The Service Charge is a readiness-to-serve charge applicable to all metered service and to which is added the charge for water used computed at the Quantity Rates.

SPECIAL CONDITIONS

1. All bills are subject to the reimbursement fee set forth on Schedule No. UF.
2. Due to an undercollection in the Balancing Account, an amount of \$0.018 per Ccf is to be added to the Quantity Rates shown above for the 24-month period beginning on January 1, 1997.
3. To recover litigation costs to protect the water supply of the Barstow District, a surcharge of \$0.045 per Ccf is to be added to the Quantity Rates above for a period not to exceed five years from February 26, 1995, the effective date of Advice Letter No. 944-W.
4. As authorized by the California Public Utilities Commission, all bills are subject to a one-time surcharge of \$0.12. This charge offsets the Department of Health Services fee as billed to Southern California Water Company for fiscal years December 8, 1994 to June 30, 1997, and the Environmental Protection Agency's adopted Primary Drinking Water Requirements for water testing and maintain standards under the Surface Water Treatment Rule.

(END OF APPENDIX B)

(END OF ATTACHMENT)