

Decision 98-09-022 September 3, 1998

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Dillon Beach Residents,

Complainants,

vs.

Coast Springs Water Company,

Defendant.

ORIGINAL

Case 97-12-052
(Filed December 17, 1997)

OPINION

Summary

This decision adopts a settlement agreement between Dillon Beach Residents (Complainants) and Coast Springs Water Company, Inc., (Coast Springs) as a complete resolution of all issues in the complaint. Coast Springs is ordered to make a one-time payment of \$105,000 on its Safe Drinking Water Bond Act (SDWBA) loan and semiannual payments of \$15,339.15 thereafter. The present SDWBA surcharge is continued until sufficient funds have been collected, at which time Coast Springs shall pay off the loan, eliminate the surcharge, and make a closing advice letter filing as specified. The proceeding is closed.

Background

Coast Springs provides water service to 237 metered customers in the Dillon Beach and Oceana Marin areas of Marin County. Through a series of three decisions in 1985, 1986, and 1987, the Commission authorized Coast Springs to

borrow \$354,500 from the California Department of Water Resources under the California Safe Drinking Water Bond Act of 1976 for financing water system improvements, and ordered it to impose a surcharge on customer rates to generate funds to repay the loan. The last of those, Decision (D.) 87-10-044, raised the surcharge to \$13.35 monthly for all but a very few customers. The Commission's usual practice is to require periodic adjustments in the surcharge rate to maintain a reserve equal to approximately one year's repayments, but in this case the surcharge has remained at \$13.35 and Coast Springs' SDWBA reserve account has over the years accrued a surplus in excess of \$120,000.

In early 1996, Coast Springs tendered an informal advice letter general rate increase request to the Water Utilities Branch (now the Water Division). By Resolution W-3993, the Commission granted Coast Springs a 20% interim rate increase in July, 1996, and on November 26, 1996, authorized final rates bringing the total increase to 65.6% on a 1996 test year basis. According to Resolution W-4010, at the new rates the bill for a customer using the system average 3 Ccf (hundred cubic feet) monthly would be \$94.88 bi-monthly, plus another \$26.70 for the SDWBA surcharge.

As customers began to feel the effects of the full general rate increase in early- to mid-1997, they initiated an extensive series of contacts to Coast Springs' management and the Commission staff questioning both the high rate levels and the process the company and Commission had followed to establish them. Ultimately unable to obtain satisfaction, they began collecting the 25 or more customer signatures needed under Public Utilities (PU) Code § 1702 to file a formal complaint, and on December 17, 1997, filed Case 97-12-052.

The thrust of the formal complaint is limited to allegations that customers were notified of the interim 20% increase but not the final 65.6% increase, and had no opportunity for input into the Commission's decision prior to its

implementation despite their concerns about how the company was being operated. It incorporates by reference, however, several dozen pieces of attached correspondence, notes of events and other documents containing a plethora of variations on the themes of excessive rates, lack of notice, mismanagement, inefficiency, poor service, missing SDWBA funds, and so forth.

Complainants request that the water rates be rolled back to the interim 20% increase level until improvements are made in company management.

For the initial prehearing conference on March 10, 1998, the assigned Administrative Law Judge (ALJ) prepared this proposed summary that distilled Complainants' many and intertwined grievances into a concise outline of contentions:

- (1) Rates are too high today because the increase process was improper at the time today's rates were established, i.e.:
 - (a) Lack of notice [PU Code § 454] and opportunity to participate at the following points:
 - Granting the final rate increase.
 - Billing the final rate increase.
 - (b) Lack of justification [PU Code § 454] for the increases, i.e.:
 - Staff's audit accepted too much as fact from the utility.
 - The utility is mismanaged.
- (2) Regardless of whether the increases were proper when they were granted, rates today are not just and reasonable [PU Code § 451], because conditions have changed since then, i.e., the company is in the process of being sold.

(3) Rates relating to the SDWBA loan are not just and reasonable [PU Code § 451] because:

- (a) An excessive SDWBA reserve has been accumulated.
- (b) Some parts of the funds are not properly accounted for:

Payments for landscaping.
Up-front customer payments.

These were then reviewed with Complainants' representatives on the prehearing conference record with particular reference to the PU Code sections that might form a basis for each (noted in brackets above). Final determination of the issues to be heard would await the assigned Commissioner's SB 960 scoping ruling.

At the ALJ's request, the parties agreed to meet again in an attempt to work out their differences with the assistance of a Water Division facilitator. A second prehearing conference was set for April 24, 1998 to report their progress.

At the second prehearing conference, Coast Springs was represented but no Complainants were present. Instead, Mel Stitt, one of Complainants' two appearances, wrote a letter dated April 17, 1998 (Item A for identification) to the ALJ stating that Water Division senior engineer Donald McCrea had acted as the facilitator at the parties' meeting and would convey to the prehearing conference the message of the agreement they had reached. McCrea did describe the tentative settlement and distributed copies of the unexecuted draft (Item B for identification). The prehearing conference was adjourned in the hope and expectation that a final settlement would be forthcoming.

On May 7, 1998, Stitt on Complainants' behalf and Pamee Collette for Coast Springs filed their Motion for Adoption of Settlement Agreement, with attached Settlement Agreement (Settlement). The executed Settlement is included as Appendix A to this decision.

Discussion

The Settlement keys on the issue of Coast Springs' extraordinarily high SDWBA repayment reserve and stipulates that the other issues in the complaint be withdrawn.

According to prehearing conference statements by Collette and McCrea, they and about 40 Coast Springs customers (including a majority of the 25-plus complaint signatories) met in Tomales on April 17, 1998. McCrea outlined for them some options for resolving Coast Springs' high SDWBA repayment reserve. Two of those options were decreasing the surcharge while spreading out the repayment into future years, and making a lump sum prepayment immediately while continuing to collect the current surcharge, with various suboptions under each. Customers voted to make a \$105,000 payment from the overcollected reserve and to continue the current \$13.35 monthly surcharge until sufficient additional funds have accumulated to retire the loan. As sheet 1 attached to the Settlement indicates, the parties estimate that the surcharge may be discontinued in early 2001, with loan repayments continuing as shown until amortization is completed by the beginning of 2002. From sheet 1 it appears that the reserve account balance may in fact exceed the SDWBA loan balance before that time, and it may therefore be possible to make a lump sum prepayment closing out the loan sooner than 2002. These projections are understood to be estimates, with the actual amounts and timing to vary depending on when the lump sum prepayment is made, how much is actually collected from customers, and so forth.

The parties have filed 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 reviewing Resolution W-4010, we note that Coast Springs' rates are in the high range of those for water companies under our jurisdiction. The \$29.50 monthly service charge and \$5.98 per Ccf quantity charge generate a \$94.88 bi-monthly bill for the typical customer who uses the very low system average 3 Ccf per month. Add to that another \$13.35 monthly SDWBA surcharge and one reason for customers' unrest becomes all too evident. Coast Springs' \$120,000-plus SDWBA reserve is both good news and bad news for customers. The bad news is that the surcharge wasn't adjusted periodically over the years and as a result customers paid rates higher than necessary. For whatever reason, our practice of periodic surcharge readjustment wasn't followed in this case. The good news, of course, is that those excess funds can now be tapped to pay down the SDWBA loan and end the surcharge much sooner than would otherwise be possible. This will lessen, albeit belatedly, rate shock from the 1997 general rate increase. The parties have settled on a very realistic alternative.

Complainants have agreed that their other two major issues, (1) and (2) above, should be withdrawn. Resolution W-4010 became final without appeal approximately one year before this complaint was filed. Had these contentions gone to hearing, Complainants would have had the burden of demonstrating that Coast Springs' rates are today unlawful or unreasonable.

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

The parties' agreement to withdraw major issues (1) and (2) leaves undisturbed the rates that we previously found in Resolution W-4010 to be just and reasonable under PU Code §§ 451 and 454. The Settlement's determination to apply excess funds in the SDWBA reserve account to a lump sum prepayment will bring Coast Springs back into compliance with our policy of managing the surcharge so as to avoid under- and overcollections. We stated in Ordering Paragraph 4 of D.87-10-044, "As a condition of the [SDWBA surcharge] rate increase granted, Coast Springs shall be responsible for refunding or applying on behalf of its customers any surplus accrued in the balancing account when ordered by the Commission." In implementing the Settlement's provisions, we will be carrying out the intent of our earlier order.

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

C. In the Public Interest

The public interest in this case is that of Coast Springs and its customers, more than 25 of whom signed to qualify the complaint for filing. Stitt, who was by all indications the most active participant among them by preparing the complaint, appearing at the first prehearing conference, and executing the Settlement in their behalf, is properly Complainants' representative. Coast Springs and Stitt on behalf of the Complainants are fairly reflective of all of the affected interests in this proceeding.

We have already explained our favorable view of the parties' resolution of the SDWBA overcollection issue, and how it brings Coast Springs back into compliance with our previous order and our SDWBA surcharge policy. We have likewise noted that Complainants' withdrawal of their other two contentions leaves in place Coast Springs' rates that we previously found to be just and

reasonable. The Settlement disposes of all matters at issue in this proceeding. It conveys to the Commission sufficient information to permit us to discharge our future regulatory obligations with respect to the parties and their interests.

This is a complaint case which challenges "the reasonableness of rates [or] charges as specified in Section 1702." Therefore, this is not an adjudicatory proceeding as defined in PU Code § 1757.1.

Findings of Fact

1. Coast Springs has accrued a surplus in its SDWBA reserve account.
2. Coast Springs' customers would benefit by having the SDWBA reserve account surplus applied to pay down the SDWBA loan.
3. The Settlement commands the sponsorship of all of the parties to this proceeding.
4. Complainants, as represented in the Settlement by Stitt, and Coast Springs are fairly reflective of all of the affected interests in this proceeding.
5. No term of the Settlement contravenes statutory provisions or prior Commission decisions.
6. The Settlement conveys sufficient information to permit the Commission to discharge its future regulatory obligations with respect to the parties and their interests.
7. The Settlement resolves every issue between Complainants and Coast Springs.
8. There is no know opposition to approving the Settlement, and no need to hold a hearing in this proceeding.

Conclusions of Law

1. The Settlement is an "uncontested settlement" as defined in Rule 51(f).
2. The Settlement is reasonable in light of the whole record, consistent with law, and in the public interest.

3. The Settlement should be approved.
4. The Commission having found that a hearing is not needed, the rules and procedures of Article 2.5, Senate Bill 960 Rules and Procedures, do not apply to this proceeding pursuant to Rule 6.6.
5. This is a complaint case challenging the reasonableness of rates or charges, so this decision is not issued in an "adjudicatory proceeding" as defined in PU Code § 1757.1.

O R D E R

IT IS ORDERED that:

1. The Motion for Adoption of Settlement Agreement jointly filed by Mel Stitt, representing Dillon Beach Residents, and Coast Springs Water Company, Inc., (Coast Springs) is granted. The Settlement Agreement attached to this order as Appendix A is adopted.
2. Within 30 days of the effective date of this order, Coast Springs shall make from its Safe Drinking Water Bond Act (SDWBA) surcharge account a one-time payment on its SDWBA loan to bring the scheduled mid-1998 semiannual payment up to a total of \$105,000, and shall increase its semiannual payments thereafter to \$15,339.15.
3. Coast Springs' current SDWBA surcharge shall continue in effect until its SDWBA surcharge account contains sufficient funds to complete paying off the SDWBA loan. At that time, Coast Springs shall pay off the loan and shall file and make effective in accordance with General Order 96 Series an advice letter with tariff sheets canceling its SDWBA surcharge.
4. Within 90 days after making the final payment retiring its SDWBA loan, Coast Springs shall close out its SDWBA balancing account and its SDWBA

reserve account, and shall file for Commission approval an advice letter containing the following:

- a. Documentation confirming that the loan has been retired.
 - b. Final accounting for its SDWBA balancing account and its SDWBA reserve account.
 - c. A proposal for returning to customers, or otherwise applying to their benefit, any balances due to them.
5. All other issues and requests for relief in Case 97-12-052 not addressed by these ordering paragraphs are deemed withdrawn.
6. 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

Dillon Beach Residents, Complainants,)	
vs.)	Case 97-12-052
Coast Springs Water Company, Defendant)	Filed December 17, 1997
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SETTLEMENT AGREEMENT

In the Prehearing Conference held by Administrative Law Judge (ALJ) James McVicar on March 12, 1998, the Complainant's Contentions were summarized as follows:

1. Rates are too high today because the increase process was improper at the time today's rates were established, i.e.
 - (a) Lack of notice.
 - (b) Lack of Justification
2. Regardless of whether the increases were proper when they were granted, rates today are not just and reasonable because
 - (c) Conditions have changed.
3. Rates relating to the SDWBA loan are not just and reasonable because
 - (d) Excessive reserve
 - (e) Some parts not properly accounted for

The Parties stipulate that Complainants withdraw contentions 1 and 2 above.

The Parties stipulate that Coast Springs Water Company will cause a payment to be made from the Safe Drinking Water Bond Surcharge Account in the amount of \$105,000 to pay down the Safe Drinking Water Bond Loan.

The parties stipulate that the present \$13.35 per month surcharge for 5/8" X 3/4" meters (and \$20.00 per month for 3/4" meters, and \$33.40 for 1" meters, and \$66.75 for 1 1/2" meters, and \$106.80 for 2" meters) will continue until sufficient funds exist to pay off the loan (This surcharge is estimated to end after the January 1, 2001 payment). The loan payments will continue to be made at an amount of \$15,339.15 every 6 months until the loan is fully paid off (estimated to be by January 1, 2002).

The parties stipulate this settles all issues raised in the complaint.

Mel Stitt
Complainant

Pamnee Collette
Coast Springs Water Company

Pamnee Collette

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 Mel Stitt
 Complainant

Pamnee Collette
 Coast Springs Water Company

Coast Springs Water Co.
SDWB Surcharge
Repayment Schedule

Coast Springs Water Co.
SDWB Surcharge
Fund Payment Schedule

23,606

Early repayment with no reduction in surcharge

	Payment Due	3.7% Interest	Principal	Loan balance		Loan Payment	\$13.35 Surcharge Collections	1.6% Interest	Fund Balance (1)
12/31/97				199,388.49	12/31/97				\$123,354.51
1/1/98	11,802.86	7,377.37	4,425.49	194,963.00	1/98-6/98	11,802.86	15,339.15	1,784.83	128,675.63
7/1/98	105,000.00	7,213.63	97,786.37	97,176.64	7/98-12/98	105,000.00	15,339.15	378.81	39,393.59
1/1/99	15,339.15	3,595.54	11,743.61	85,433.02	1/99-6/99	15,339.15	15,339.15	384.87	39,778.46
7/1/99	15,339.15	3,161.02	12,178.13	73,254.89	7/99-12/99	15,339.15	15,339.15	391.03	40,169.49
1/1/00	15,339.15	2,710.43	12,628.72	60,626.17	1/00-6/00	15,339.15	15,339.15	397.29	40,566.77
7/1/00	15,339.15	2,243.17	13,095.98	47,530.19	7/00-12/00	15,339.15	15,339.15	403.64	40,970.41
1/1/01	15,339.15	1,758.62	13,580.53	33,949.66	1/01-4/01	15,339.15	10,226.10	136.70	35,994.06
7/1/01	15,339.15	1,256.14	14,083.01	19,866.65	7/1/01	15,339.15	-	330.48	20,985.39
1/1/02	20,601.71	735.07	19,866.64	0.00	1/1/02	20,601.71	-	6.14	389.82

(1) Fund balance from Audit Report

(END OF APPENDIX A)

G.97-12-052 /AJJ/JCM/avs APPENDIX A
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