

Decision 98-12-042 December 17, 1998

**ORIGINAL**

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Southern California Water Company, for an order authorizing it to increase gross revenues by \$429,300, or 15.0%, in 1998; \$429,300, or 15.0%, in 1999; \$429,300, or 15.0%, in 2001, in the Bay Point District.

Application 97-03-029  
(Filed March 11, 1997)

And Related Matters.

Application 97-03-030  
(Filed March 11, 1997)  
Application 97-03-031  
(Filed March 11, 1997)

**OPINION**

**1. Summary**

The Ratepayer Representation Branch of the Water Division and Southern California Water Company (SCWC) jointly petition to modify Decision (D.) 97-12-065 to correct what appears to be an inadvertent error in two ordering paragraphs regarding the procedure for step-rate increases in the years 1999 and 2000. The petition is granted.

**2. Basis of Petition to Modify**

Ordering Paragraph 4 of D.97-12-065 would authorize SCWC to increase rates in 1999, and Ordering Paragraph 5 would do likewise for the year 2000, for the company's Bay Point, Arden-Cordova, and Los Osos districts, based on the following comparison of rates of return:

"4. On or after November 6, 1998, SCWC is authorized to file an advice letter, with appropriate work papers, requesting the step-rate increase for 1999, included in Appendix A or to file a proportionate lesser increase for those rates in Appendix A for Arden-Cordova, Bay Point, and Los Osos Districts in the event that a district's rate of

return on rate base, adjusted to reflect rates then in effect and normal ratemaking adjustments for the 12 months ended September 30, 1998, exceeds the latest rate of return found reasonable for SCWC...."

"5. On or after November 6, 1999, SCWC is authorized to file an advice letter, with appropriate work papers, requesting the step-rate increase for 2000, included in Appendix A or to file a proportionate lesser increase for those rates in Appendix A for rate of return on rate base, adjusted to reflect rates then in effect and normal ratemaking adjustments for the 12 months ended September 30, 1999, exceeds the latest rate of return found reasonable for SCWC...." (D.97-12-065, Ordering Paragraphs 4 and 5 (emphasis added).)

The petitioning parties assert that these provisions are inconsistent with a long-standing policy of the Commission on step-rate increases, and should have provided for substitution of a lower but not a higher return on equity if found reasonable in any other district proceeding.

### 3. Analysis of Prior Decisions

In 1979, the Commission issued D.90425, involving the Hermosa-Redondo District of the California Water Service Company. (See 1 CPUC2d 736.) As part of this decision, the Commission established a system intended to allow the company an opportunity to earn a predetermined return on equity over a period of three years. The company was authorized to increase its rates in annual steps by an amount designed to offset financial attrition in its earnings caused by increased cost of debt or changes in capital structure.

At the same time, the Commission took care that the annual increases in rates authorized under this system would not prove unnecessary or excessive:

"The system contains two mechanisms which allow for reductions in the step increases. First, we will substitute a lower but not a higher return on equity if found reasonable in any other district proceeding. The second allows for a feedback feature so that we can compare our projections with more recent actual data before a step increase is placed in effect." (1 CPUC2d at 752; emphasis added.)

"The offset increases authorized in Appendix B should be appropriately modified in the event the rate of return on rate base, adjusted to reflect the rates then in effect and normal ratemaking adjustments for the twelve months ended September 30, 1979, and/or September 30, 1980, exceeds the lower of the rate of return found reasonable by the Commission for applicant during the corresponding period in this proceeding or in any subsequent general rate proceeding involving another district of applicant." (1 CPUC2d at 759; emphasis added.)

More specifically, Ordering Paragraphs 2 and 3 of the decision provide in pertinent part as follows:

"2. On or after November 15, 1979, applicant is authorized to file step rates incorporating the appropriate step rate increases attached to this order as Appendix B or to file a lesser increase which includes a uniform cents per hundred cubic feet of water adjustment from Appendix B for consumption over 300 cubic feet per month in the event that the Hermosa-Redondo District rate of return on rate base, adjusted to reflect the rates then in effect and normal ratemaking adjustments for the 12 months ended September 30, 1979, exceeds the lower of 10.08 percent or the rate of return found reasonable for 1979 in a final subsequent decision involving one of applicant's other districts.

"3. On or after November 15, 1980, applicant is authorized to file step rates incorporating the appropriate step rate increases attached to this order as Appendix B or to file a lesser increase which includes a uniform cents per hundred cubic feet of water adjustment from Appendix B in the event that the Hermosa-Redondo District rate of return on rate base, adjusted to reflect the rates then in effect and normal ratemaking adjustments for the 12 months ended September 30, 1980, exceeds the lower of 10.27 percent or the rate of

return found reasonable for 1980 in a final subsequent decision involving one of applicant's other districts." (1 CPUC2d at 759-60 (emphasis added.)

Over the next few years, the Commission extended this methodology to the other water companies in California serving more than a single district. (See D.93263, 6 CPUC2d 383 (California-American Water Company); D.82-03-014, 8 CPUC2d 301 (SCWC); D.82-05-038, 9 CPUC2d 197 (Citizens); D.83-10-002, 12 CPUC2d 718 (San Gabriel Valley); D.84-06-095, 15 CPUC2d 174 (Suburban).) In each instance, the ordering paragraphs specified that a lower rate of return found reasonable in a subsequent decision involving the same company would be substituted. In its most recent decisions involving this matter, the Commission followed this procedure. (See D.98-02-020 (Park Water Company); D.98-07-090 (CalWater); but see D.92-01-025, 43 CPUC2d 137, 159-60 (holding in a case involving SCWC that the "current Commission practice of testing a utility's earnings against the latest authorized rate of return is fair,"), and D.95-12-027 (SCWC).)

#### 4. Conclusion

As they now stand, Ordering Paragraphs 4 and 5 of D.97-12-065 would decrease rates authorized for SCWC in 1999 and 2000 only if the adjusted rate of return exceeds the most recently authorized. Such a change in the Commission's policy on step increases is inappropriate in the context of this decision. Not only was this matter not discussed in the record, the change was nowhere discussed in the decision. Moreover, the parties in their settlement agreement in this case requested no change in the methodology last adopted for SCWC. We conclude that the change in language in these ordering paragraphs was inadvertent error.

The Commission should modify Ordering Paragraphs 4 and 5 of D.97-12-065 to provide, as set forth in the language set forth below, that a lower

but not a higher rate of return found reasonable by the Commission in a future decision involving SCWC will be substituted.

**Findings of Fact**

1. In D.97-12-065, the Commission approved a settlement between the Commission's Water Division and SCWC in a rate case involving the company's Bay Point, Arden-Cordova and Los Osos districts.
2. Neither the parties nor the Commission addressed or considered any change in the method of calculating step-rate increases.
3. Ordering Paragraphs 4 and 5 of D.97-12-065 contain language that would change the method followed by the Commission in past decisions for calculating step-rate increases.
4. The Ratepayer Representation Branch of the Water Division and SCWC seek a modification of Ordering Paragraphs 4 and 5 of D.97-12-065.
5. There is no opposition to the parties' petition to modify D.97-12-065.

**Conclusion of Law**

The petition to modify D.97-12-065 should be granted.

**O R D E R**

**IT IS ORDERED that:**

1. The petition of the Ratepayer Representation Branch of the Water Division and Southern California Water Company for modification of Decision (D.) 97-12-065 is granted.
2. Ordering Paragraphs 4 and 5 of D.97-12-065 are deleted and replaced in their entirety by the following:

"4. On or after November 6, 1998, SCWC is authorized to file an advice letter, with appropriate work papers, requesting the step rate increase for 1999 included in Appendix A or to file a proportionately lesser increase for those rates in Appendix A for the Arden-Cordova, Bay Point, and Los Osos Districts in the event that a district's rate of return on rate base, adjusted to reflect rates then in effect and normal ratemaking adjustments for the 12 months ended September 30, 1998, exceeds the lower of (a) the rate of return found reasonable by the Commission for SCWC during the corresponding period in the then most recent rate decision or (b) 9.27%. This filing shall comply with General Order (GO) 96-A. The requested step rates shall be reviewed by the Ratepayer Representation Branch (RRB) of the Water Division to determine their conformity with this order and shall go into effect upon RRB's determination of conformity. RRB shall inform the Commission if it finds that the proposed step rates are not in accord with this Decision or other Commission Decisions. The effective date of the revised schedules shall be no earlier than January 1, 1999, or 30 days after filing, whichever is later. The revised schedules shall apply only to service rendered on or after their effective date.

"5. On or after November 6, 1999, SCWC is authorized to file an advice letter, with appropriate work papers, requesting the step rate increase for 2000 included in Appendix A or to file a proportionately lesser increase for those rates in Appendix A for the Arden-Cordova, Bay Point, and Los Osos Districts in the event that a district's rate of return on rate base, adjusted to reflect rates then in effect and normal ratemaking adjustments for the 12 months ended September 30, 1999, exceeds the lower of (a) the rate of return found reasonable by the Commission for SCWC during the corresponding period in the then most recent rate decision or (b) 9.27%. This filing shall comply with GO 96-A. The requested step rates shall be reviewed by RRB to determine their conformity with this order and shall go into effect upon RRB's determination of conformity. RRB shall inform the

Commission if it finds that the proposed step rates are not in accord with this Decision or other Commission Decisions. The effective date of the revised schedules shall be no earlier than January 1, 2000, or 30 days after filing, whichever is later. The revised schedules shall apply only to service rendered on or after their effective date."

3. These proceedings are closed.

This order is effective today.

Dated December 17, 1998, at San Francisco, California.

RICHARD A. BILAS

President

P. GREGORY CONLON

JESSIE J. KNIGHT, JR.

HENRY M. DUQUE

JOSIAH L. NEEPER

Commissioners