

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

COMMISSION ADVISORY AND COMPLIANCE DIVISION
Water Utilities Branch

RESOLUTION W-3916
April 26, 1995

RESOLUTION

(RES. W-3916), DEL ESTE WATER COMPANY. REQUEST FOR
DEVIATION FROM COMMISSION TARIFF RULE NO. 15, MAIN
EXTENSIONS, IN CONNECTION WITH PROVISION OF SERVICE TO THE
BRIGHT DEVELOPMENT AT SUNRIDGE WEST PHASE II.

BY ADVICE LETTER NO. 148, FILED ON MARCH 16, 1995.

SUMMARY

Del Este Water Company (DEWC) is requesting Commission authority to deviate from its tariff Rule 15, Main Extensions (Rule 15) and require the developer, Bright Development (Bright) to make full contribution of the cost of facilities and the resultant federal income tax liabilities associated with DEWC's provision of water service to Bright in the proposed extension of DEWC's Salida System service area. This resolution grants the request.

BACKGROUND

There is substantial urban growth adjacent to DEWC's existing service areas. Due to the financial impact on DEWC associated with refunds and the utility funded portion of the federal income tax resulting from the Tax Reform Act of 1986 (TRA 86), DEWC has concluded that it does not have available now, nor will it have in the immediate future, funds sufficient to meet refunds and TRA 86 tax liabilities posed by the extension of service to new areas which are now outside of its service area. Therefore, in order to maintain its financial integrity, DEWC will require full contribution of facilities and TRA 86 gross-up in connection with providing service to such areas. Similar treatment was requested in Advice Letter 147 and the Commission authorized the Tariff Rule 15 deviations by DEWC in Resolution W-3914, dated April 5, 1995.

Bright is developing areas contiguous to DEWC's Salida service area, and has requested water service for its development from DEWC. Until recently DEWC would have provided service to Bright under the advance provisions of Rule 15. Rule 15 requires such a developer to advance to DEWC the cost of facilities necessary to serve the development.

DEWC would have then, from its net revenues, refunded advances at the rate of 2-1/2 percent over a period of 40 years.

Rule 15 also provides that under particular financial circumstances, such as those DEWC finds itself in, full contribution of the cost of facilities to serve the developments can be required from the developers in lieu of advances.

The federal TRA 86 classifies contributions and advances made to investor-owned utilities as income to the utility and requires such utilities to pay income tax on the value of the facilities. The Commission by Decision 87-09-026, in Investigation 86-11-019, ruled that Class A utilities would be allowed to pass only part of these costs to the developer. These "gross-up" requirements are included in Rule 15, and would normally require Bright to contribute only an additional 28 percent of the cost of the facilities to cover its part of the income tax cost of the facilities. This contract requires Bright to contribute enough to cover all federal tax liabilities for a total gross up of 67.4%.

DISCUSSION

Had Bright's development been within DEWC's authorized service area at the time service was requested, DEWC would be required to provide service under the provisions of DEWC's filed tariffs, including Rule 15. However, because the developments are not yet within its service area, DEWC has the right to refuse service. Because of the rapid growth in the area, DEWC states that it finds itself with substantial refund and income tax obligations associated with that growth. It further states that as a consequence of this financial impact, it can no longer extend service into areas not currently within its service area unless those seeking service agree to contribute both the facilities and the full amount of the associated income tax obligation. Bright has agreed to these requirements and has signed nonstandard main extension contracts with DEWC. Bright has agreed to contribute \$481,916, which includes the associated income tax.

The Water Utilities Branch has reviewed the request for authority to deviate from Rule 15 and the nonstandard contract, and finds both to be reasonable and in agreement with Commission rules and procedures.

NOTICE

DEWC's public notification regarding Advice Letter No. 148 was in conformance with the provisions of General Order No. 96-A.

PROTESTS

No protests have been received by the Commission.

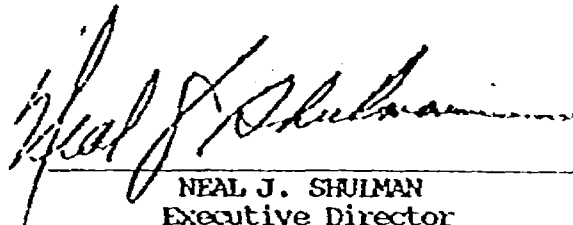
FINDINGS

1. DEWC's request to deviate from its filed Rule 15 has been made in conformance with General Order 96-A.
2. DEWC's requested deviation and associated nonstandard main extension contract are reasonable.
3. DEWC's request to deviate from its filed Rule 15 in connection with providing service to Bright Development should be approved.

IT IS ORDERED that:

1. Del Este Water Company is authorized to deviate from its filed tariff Rule 15, Main Extensions, as requested in Advice Letter No. 148 in connection with providing service to developments by Bright Development in the Salida service area. The effective date of this authorization shall be five days after the effective date of this resolution.
2. This resolution is effective today.

I certify that this resolution was adopted by the Public Utilities Commission at its regular meeting on April 26, 1995. The following Commissioners approved it:


NEAL J. SHULMAN
Executive Director

DANIEL Wm. FESSLER
President
P. GREGORY CONLON
JESSIE J. KNIGHT, Jr.
HENRY M. DUQUE
Commissioners