

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

WATER DIVISION  
Finance Branch

RESOLUTION NO. W-4050  
July 16, 1997

RESOLUTION

(RES. W-4050) PENNGROVE WATER COMPANY (PWC). ORDER  
RESCINDING ORDERING PARAGRAPH NO. 2 OF RESOLUTION NO.  
W-4030 DATED MARCH 7, 1997.

BY LETTER TO THE COMMISSION DATED JUNE 5, 1997.

SUMMARY

This Resolution rescinds Ordering Paragraph No. 2 of Res. W-4030 based on additional information provided by PWC, most recently, a letter to the Commission dated June 5, 1997.

PWC seeks that Res. W-4030 be modified to reflect that:

1. the financing of the construction of PWC's Dutch Lane Tie-in project is not a long-term liability of the utility and therefore is not governed by the requirements of Public Utilities (PU) Code { 818};
2. the requirements of Ordering Paragraph No. 2 of Res. W-4030 regarding the filing of an advice letter to seek Commission approval for the WestAmerica Bank (WestAmerica) loan that financed the Dutch Lane Tie-in project is not necessary; and
3. the restriction on PWC to file future advice letters for rate adjustments upon completion of the other projects authorized by Res. 3953 is lifted.

DISCUSSION

On March 7, 1997 the Commission issued Res. W-4030 in Advice Letter No. 34 and supplemental sheets thereto, which granted PWC an increase in gross annual revenues of \$19,938 or 8.96% to provide a return on investment for increased plant-in-service.

The resolution was predicated on the facts submitted by PWC and from discussions between staff and James B. Downey, President of

Altos Sonoma Corporation (Altos Sonoma) doing business as PWC. Among others, the resolution stated that a loan has been negotiated with a bank to finance the construction of the Dutch Tie-in project.

Public Utilities (PU) Code { 818 states that

No public utility may issue stocks and stock certificates, or other evidence of interest or ownership, or bonds, notes, or other evidences of indebtedness payable at periods of more than 12 months after the date thereof unless, in addition to the other requirements of law it shall first have secured from the commission an order authorizing the issue, stating the amount thereof and the purposes to which the issue or the proceeds thereof are to be applied, and that, in the opinion of the commission, the money

Accordingly, Res. W-4030 authorized PWC to:

Ordering Paragraph 1:

Five days after the effective date herein to make effective revised Schedule P-1, Metered Service, attached to Advice Letter 34 and concurrently, to cancel the presently effective Schedule P-1;

Ordering Paragraph 2:

Within 90 days after this resolution becomes effective, Penngrove Water Company shall file an advice letter with the Commission requesting approval of the loan which it has already obtained to finance the construction of the Dutch Lane Tie-in. Approval of this loan shall precede the filing of any advice letters requesting further rate adjustments for the other projects authorized by Resolution W-3953.

Other pertinent Commission orders related to this matter are:

1. Res. W-3953 dated November 21, 1995, among others, granted PWC authority to file an advice letter once a year for the next three years to request recovery of its reasonable costs of plant additions (Dutch Lane Tie-in Project, replacement of 1,800 feet of main on Hatchery Road, new 200,000-gallon storage tank, replacement of 1,700 feet of Main on Petaluma Hill Road, and Aqueduct Booster Project).

July 16, 1997

2. Decision (D.) 96-05-019 dated May 8, 1996 authorized Altos Sonoma Corporation (Altos Sonoma), a newly formed corporation wholly owned by James B. and Kathleen S. Downey to acquire the water systems of Kenwood Village Water Company and PWC.

In a series of letters from Downey dated November 18, 1996, from PWC dated April 2, 1997, from PWC dated April 30, 1997, and most recently from Downey dated June 5, 1997, it has been explained and stated that Downey personally financed PWC's Dutch Lane Tie-in project in the amount of \$91,000. In his June 5, 1997 letter to the Commission, Downey declared that the promissory note for the loan is unsecured and is backed by certain agreements between him and WestAmerica related only to his personal finances. The assets of PWC and Altos Sonoma were not encumbered. According to Downey, the loan was negotiated as a personal loan and included Altos Sonoma as a co-borrower only to provide a paper trail for accounting purposes.

In a letter to WestAmerica dated May 9, 1997, staff informed the bank that Commission approval is required for Altos Sonoma to act as co-borrower to the transaction. If the promissory note is not rectified by the parties and no action from the bank is received by the Commission, the bank will not have any security interest or claim against Altos Sonoma or its assets in case of bankruptcy or court action. WestAmerica replied by letter dated June 6, 1997, indicating no action on behalf of the bank.

Following the declarations that PWC and Altos Sonoma's assets are not committed to the transaction and the "no claim" response of WestAmerica, we will rescind Ordering Paragraph No. 2 of Res. W-4030.

This filing will not increase any rate or charge, conflict with other schedules or rules, or cause withdrawal of service.

PWC is placed on notice that our decision in this matter is simply permissive. In no way should it be construed to constitute an implied or expressed indemnification by ratepayers in the event Downey is unable to meet his obligations under the WestAmerica loan agreement. In addition, this order is not a finding of the value of the utility's stock or property, nor does it indicate the amount to be included in ratemaking proceedings.

We expect PWC or Altos Sonoma to be aware of its regulatory obligations and to observe the proper accounting treatment of this transaction.

Res. W-4030 is also modified to correct a clerical error noted in the second paragraph under the "Background Section." The sentence is amended to read that "The present rates became effective April 19, 1996, pursuant to Penngrove Water Company's Advice Letter No. 31, filed according to the requirements of Resolution No. W-3784."

FINDINGS

1. Pursuant to Downey's letter of June 5, 1997 and earlier correspondences with the Commission, it has been affirmed that Downey personally financed the PWC's Dutch Lane Tie-in project in the amount of \$91,000.
2. Downey's transaction with WestAmerica is unsecured and is backed by certain agreements related only to his personal finances.
3. The assets of PWC and Altos Sonoma were not encumbered and as asserted by Downey, Altos Sonoma was named as a co-borrower only to provide a paper trail for accounting purposes.
4. In reference to the Downey loan, WestAmerica by letter to the Commission dated June 6, 1997, declared that it has no security interest or claim against Altos Sonoma or its assets in case of bankruptcy or court action. The promissory note was not rectified by the parties.
5. This order is not a finding of the value of the utility's stock or property, nor does it indicate the amount to be included in ratemaking proceedings.
6. If Downey defaults in payment or in any provision of the loan agreement, the Commission does not guarantee payment or any indemnification of WestAmerica.
7. There is no opposition and there is no reason to delay granting the rectifications requested.

**THEREFORE, IT IS ORDERED that:**

1. Ordering Paragraph No. 2 of Res. W-4030 is rescinded.
2. The second paragraph of the "Background Section" of Res. W-4030 is amended to read that "The present rates became effective April 19, 1996, pursuant to Penngrove Water Company's Advice Letter No. 31, filed according to the requirements of Resolution No. W-3784."
3. Altos Sonoma Corporation, doing business as Penngrove Water Company shall record the receipt of the Downey loan proceeds as additional paid-in capital.

July 16, 1997

4. PWC's request is granted as set forth above.

I hereby certify that this Resolution was adopted by the Public Utilities Commission at its regular meeting on July 16, 1997. The following Commissioners approved it:

*Wesley Franklin*

WESLEY M. FRANKLIN  
Executive Director

P. GREGORY CONLON  
President

JESSIE J. KNIGHT, Jr.

HENRY M. DUQUE

JOSIAH L. NEEPER

RICHARD A. BILAS

Commissioners