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Subject : Objection to Public Utilities Commission Approval of Valencia Water Co mpany's Urban Water Plan
Date : Tue, Oct 19, 2010 03:52 PM
Attachment(s) : 4 file(s)/document(s) | Total File Size: 1.5M

To: Hon. Bruce DeBarry
 Administrative Law Judge

Re: Case A 10-10-006
 "Rate Case" for Valencia Water Company

Your Honor:

I am writing on behalf of Santa Clarita Organization for Planning the Environment ("SCOPE"). Both SCOPE and Friends of the Santa Clara River ("Friends") have been frequent participants, on behalf of the community, in Valencia Water Company ("VWC") cases before the PUC. In fact, the California Public Utilities Commission (CPUC) has required VWC to notice us of all applications and advice letters that they file with the CPUC.

SCOPE is writing to you today, ex-parte, with copies to counsel for VWC and the DRA, to *strenuously object* to any approval by the California Public Utilities Commission ("PUC") of any form of "Urban Water Management Plan" for VWC. Carmillis & Jerry Noltemeyer, VWC rate payers, join in this ex-parte objection.

Stated simply, VWC utterly failed to notify the public that it was seeking PUC's approval of an Urban Water Management Plan, which is the reason for this ex-parte objection.

See, for example, the first attachment to this email, which is VWC's notice published in the newspaper, concerning this "rate case". That notice says absolutely nothing, whatsoever, about any potential approval by the PUC of an Urban Water Management Plan for VWC.

See, for example, the second attachment to this email, which is VWC's written notice of a "rate case" sent to both SCOPE and Friends. That notice says absolutely nothing, whatsoever, about any potential approval by the PUC of an Urban Water Management Plan for VWC.

Instead, it appears that the idea of PUC approving an Urban Water Management Plan for VWC was first raised in a "Scoping" conference John Bohn, as Assigned Commissioner, held with VWC several months after the two notices described above were given to the public. See third attachment to this email. The DRA says in its 10/5/10 ex-parte communication to you this issue was not raised in VWC's Application in this rate case. We take their word for it because as of 10/10/10, that Application was not available to be opened on PUC's online docket.

The PUC's docket does not include any evidence that VWC re-noticed this Rate Case, either by publication or to SCOPE or Friends, to advise that the PUC would consider approving an Urban Water Management Plan for VWC. In fact, there was no re-noticing to the community on ANY of the expanded topics for this rate case, such as the water quality analysis performed by the consultant hired at the request of the PUC, whose report is in the Docket.

IN FACT, THE "URBAN WATER MANAGEMENT PLAN" FOR VWC, WHICH VWC'S COUNSEL REQUESTS THE PUC TO APPROVE, IS NOT EVEN POSTED IN THE ONLINE DOCKET FOR THIS RATE CASE.

In fact, we do not even know what, exactly, VWC means by the term "Valencia Water Company's Urban Water Management Plan". Is it an Urban Water Management Plan in the nature described in Water Code 10610-10610.4 and Friends of the Santa Clara River v. Castaic Lake Water Agency, 123 Cal. App. 4th 1 (2004)?

In his ex-parte communication to Administrative Law Judge Bruce DeBarry, filed 9/27/10, VWC's counsel Martin Mattes, Esq. seems to believe that obtaining the PUC's approval of VWC's Urban Water Management Plan is of great importance to the public utility:

"Of greatest concern to Valencia is DRA's opposition to Valencia's request for a finding that its Water Management Program is adequate...a finding that "Valencia's Urban Water Management Plan is sufficient for the Commission's purposes." (See 4th attachment to this email, Page 1 of Exhibit 1, i.e. email from Martin Mattes, Esq. to Administrative Law Judge DeBarry.)

Of even greater concern is the DRA's lack of knowledge about local issues concerning what should be in that Urban Water Management Plan, in that it now appears the DRA is abandoning its objection to and acquiescing in a decision by the PUC in the nature quoted from VWC's counsel's email immediately above. (See Ex-Parte Communication from Counsel to DRA filed 10/5/10.) That uninformed acquiescence, compounded by lack of any meaningful community participation in the issue of the PUC's approval of VWC's Urban Water

Management Plan, is particularly of concern because the wholesale supplier of 50% of VWC's potable water, Castaic Lake Water Agency, has withdrawn from its upcoming agenda the second hearing to consider its updated 2010 - 2011 Urban Water Management Plan, which purports to cover issues concerning the quality and quantity of water to be supplied to VWC and the other retail purveyors of potable water in the Santa Clarita Valley. The reason for Castaic Lake Water Agency's delay in beginning consideration of that community-wide Urban Water Management Plan appears to be because the California Department of Water Resources has recently changed its State Water Project water delivery forecast to 'a 95% probability that 60% of each agency's water allocation will be delivered.' Given the fact that VWC appears to want this "rate case" to cover a two year period, it is clear to SCOPE and the rate-payers the Noltemeyers that the reason VWC is so anxious to have PUC "find that "Valencia's Urban Water Management Plan is sufficient for the Commission's purposes" is to rush through that approval, without meaningful notice to the public, so that the PUC will not learn of the content of Castaic Lake Water Agency's updated 2010-2011 Urban Water Management Plan.

The potential for the PUC to approve this hidden "Urban Water Management Plan", without any meaningful notice to the public or interested parties, is a profound denial of the public's and rate payers' rights under California Constitution, Article 1, Declaration of Rights, Sections 3(a), 3(b), 7(a) and 7(b):

" SEC. 3. (a) The people have the right to instruct their representatives, petition government for redress of grievances, and assemble freely to consult for the common good.

(b) (1) The people have the right of access to information concerning the conduct of the people's business, and, therefore, the meetings of public bodies and the writings of public officials and agencies shall be open to public scrutiny. (2) A statute, court rule, or other authority, including those in effect on the effective date of this subdivision, shall be broadly construed if it furthers the people's right of access, and narrowly construed if it limits the right of access. A statute, court rule, or other authority adopted after the effective date of this subdivision that limits the right of access shall be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

SEC. 7. (a) A person may not be deprived of life, liberty, or property without due process of law or denied equal protection of the laws...

(b) A citizen or class of citizens may not be granted privileges or immunities not granted on the same terms to all citizens..."

For that reason, SCOPE and Carmillis & Jerry Noltemeyer respectfully request that Administrative Law Judge DeBarry and the Commission deny VWC's request that the PUC "find that "Valencia's Urban Water Management Plan is sufficient for the Commission's purposes"

As copies of this communication are being served on all parties at the same time as you are receiving this email, this email satisfies the requirements governing ex-parte communications that we are told are set forth by PUC Rule 8.2.

Respectfully submitted,

Lynne Plambeck, President

Santa Clarita Organization for Planning the Environment

Carmillis Noltemeyer, ratepayer, Valencia Water Co

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