

**PUBLIC UTILITIES COMMISSION**505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298**FILED**02-21-12
01:25 PM

February 21, 2012

Agenda ID #11087
Ratesetting

TO PARTIES OF RECORD IN APPLICATION 07-04-010

This is the proposed decision of Administrative Law Judge (ALJ) Linda Rochester. It will not appear on the Commission's agenda sooner than 30 days from the date it is mailed. The Commission may act then, or it may postpone action until later.

When the Commission acts on the proposed decision, it may adopt all or part of it as written, amend or modify it, or set it aside and prepare its own decision. Only when the Commission acts does the decision become binding on the parties.

Parties to the proceeding may file comments on the proposed decision as provided in Article 14 of the Commission's Rules of Practice and Procedure (Rules), accessible on the Commission's website at www.cpuc.ca.gov. Pursuant to Rule 14.3, opening comments shall not exceed 15 pages.

Comments must be filed pursuant to Rule 1.13 either electronically or in hard copy. Comments should be served on parties to this proceeding in accordance with Rules 1.9 and 1.10. Electronic and hard copies of comments should be sent to ALJ Linda Rochester at lrr@cpuc.ca.gov and the assigned Commissioner. The current service list for this proceeding is available on the Commission's website at www.cpuc.ca.gov.

/s/ MARYAM EBKE for
Karen V. Clopton, Chief
Administrative Law Judge

KVC:lil

Attachment

Decision **PROPOSED DECISION OF ALJ ROCHESTER** (Mailed 2/21/2012)

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of CALIFORNIA WATER SERVICE COMPANY (U60W) for Authorization to Extend its Territory to Serve the City of Salinas Future Growth Area Located between San Juan Grade Road and Williams Road, north of East Boronda Road to the Extension of Russell Road at the Intersection with Old Stage Road.

Application 07-04-010
(Filed April 10, 2007)

DECISION DISMISSING THE APPLICATION OF CALIFORNIA WATER SERVICE COMPANY

1. Summary

This decision denies the application of California Water Service Company for authority to extend its service territory to serve a portion of the City of Salinas future growth area. The application is dismissed because the Commission has approved another water utility's request to serve this area. This proceeding is closed.

2. Background

The following is a brief procedural history.¹ In 2002 the City of Salinas (Salinas) updated its General Plan and identified three future growth areas. On

¹ Decision 09-04-035 found at http://docs.cpuc.ca.gov/PUBLISHED/FINAL_DECISION/99997.htm contains a more comprehensive background of events leading up to this decision.

March 23, 2006, Alisal Water Company, doing business as Alco Water Company (Alco), filed Advice Letter 107 to serve the portions of the Salinas future growth area contiguous to its existing service territory. On April 6, 2006, California Water Service Company (Cal Water) filed a protest to Advice Letter 107.

On April 25, 2006, the Division of Water and Audits (DWA) approved Alco's Advice Letter 107 filing, essentially rejecting Cal Water's protest. On May 3, 2006, Cal Water filed a request for full Commission review of DWA's approval of Advice Letter 107.

On April 10, 2007, Cal Water filed Application (A.) 07-04-020 seeking authority to extend its service territory into the portion of the Salinas future growth area that was the subject of Alco's Advice Letter 107. Alco timely filed a protest to Cal Water's Application and requested that the Commission dismiss Cal Water's Application.

By Resolution W-4630, dated April 12, 2007, the Commission affirmed DWA's disposition of Advice Letter 107. However, the resolution also ordered Commission staff to prepare an Order Instituting Investigation (OII) examining Alco's customer service, water service and water quality. Alco could not extend service to additional customers in its new service area without Commission approval.

On June 21, 2007, the Commission issued OII 07-06-020 to determine if Alco was competent and capable of serving additional water customer in Salinas and whether such service was in the public interest.

On July 19, 2007, the assigned Administrative Law Judge (ALJ) issued a ruling denying Alco's motion to dismiss Cal Water's Application. Because an OII had been issued to determine Alco's competence to serve the additional service territory, the ruling coordinated Cal Water's Application with the Alco OII.

However, the ruling suspended action on Cal Water's Application pending the outcome of the OII.

On April 20, 2009, the Commission issued Decision (D.) 09-04-035, finding it in the public interest for Alco to serve additional customers in its newly filed territory. D.09-04-035 also concluded that Alco should work to improve its customer complaint tracking and customer service and that certain concerns raised during the proceeding would be more appropriately examined in the general rate case ordered by D.08-11-035.²

On February 1, 2010, Alco filed general rate case A.10-02-006, in compliance with D.08-11-035. In A.10-02-006, Alco sought authorization to increase rates in its service territory in the years 2010, 2011 and 2012. On March 16, 2011, the Commission issued D.11-03-005 which among other things found that Alco should file its next general rate case as a full application, with the increased scrutiny that entails, and not as an advice letter.

3. Discussion

The Commission has approved Alco's expansion into the Salinas future growth area and an OII has determined Alco's fitness to serve.

Cal Water cites D.91-02-039 which states that any competitor may request a hearing "to demonstrate that it is better qualified to serve the public interest" and that the Commission will entertain such requests "from public agencies as well as from competitive regulated utilities." D.91-02-039 established nine

² Generally only Class A water utilities file general rate cases. A Class A water utility is defined as one with 10,000 or more connections. Although Alco only had 8800 connections, when built out, the additional service territory would increase Alco's service connections to over 10,000.

criteria to determine which of two competing utilities should serve a disputed area.

The circumstances surrounding the dispute in D.91-02-039 can be distinguished from the circumstances here. In that case, the area in dispute was not served by either of the competing parties. That is not the case here. Alco's Advice Letter 107 to serve additional customers in the section of the Salinas future growth area contiguous to its existing territory was approved by DWA prior to Cal Water's Application being filed. Therefore, the expanded service territory in dispute became Alco's when Advice Letter 107 was accepted by DWA. Furthermore, DWA's acceptance of Advice Letter 107 was affirmed by Resolution W-4630 after full Commission review.

Cal Water's Application was not dismissed earlier primarily because of the pending OII the Commission issued to examine Alco's competence to serve its expanded service territory. Ultimately, in D.09-04-035, the Commission found that it was in the public interest for Alco to serve additional customers in its newly filed territory.

Alco's first full general rate case has been filed and a decision issued. Alco has been ordered to also file its next general rate case as a full application rather than an advice letter, which means the general rate case is subject to a higher level of scrutiny.

As the background of this proceeding demonstrates, Alco's ability to serve the customers in its expanded service territory has been examined multiple times and will continue to be reviewed in full, in future general rate cases. We do not find it reasonable or necessary to subject Alco to the additional scrutiny sought in Cal Water's Application. We do not find it reasonable or necessary to re-

litigate the issue. Therefore, it is no longer necessary for Cal Water's Application to remain open. Cal Water's Application is dismissed.

4. Categorization and Need for Hearing

Resolution ALJ 176-3191 preliminarily categorized this as ratesetting and determined that hearings were necessary. We confirm the categorization of ratesetting. However, we find that the preliminary determination that hearings are necessary should be changed to no hearings are necessary.

5. Comments on Proposed Decision

The proposed decision of ALJ Rochester in this matter was mailed to parties in accordance with Section 311 of the Public Utilities Code, and comments are allowed under Rule 14.3 of the Commission's Rules of Practice and Procedure. Comments were filed on ____, and reply comments were filed on ____ by ____.

6. Assignment of Proceeding

Michel Peter Florio is the assigned Commissioner and Linda A. Rochester is the assigned judge in this proceeding.

Findings of Fact

1. On April 25, 2006, the DWA approved Alco's Advice Letter 107 to expand its service territory into the Salinas future growth area contiguous to its existing service territory.
2. On April 12, 2007, by Resolution W-4630, the Commission affirmed DWA's disposition of Advice Letter 107.
3. On July 19, 2007, the assigned ALJ ruled that Cal Water's A.07-04-010 was suspended pending the outcome of the OII to determine Alco's competence to serve the additional service territory.

4. On April 20, 2009, the Commission issued D.09-04-035, finding it in the public interest for Alco to serve additional customers in its newly filed territory.

5. On February 1, 2010, Alco filed its first general rate case as a full application.

6. On March 16, 2011, the Commission issued D.11-03-005 which among other things found that Alco should file its next general rate case as a full application rather than an advice letter.

7. Cal Water's Application 07-04-010 seeks a hearing to demonstrate that it is better qualified to serve the customers in Alco's expanded service territory.

8. Alco's ability to serve the customers in its expanded service territory has been examined multiple times and will continue to be reviewed in future general rate cases.

Conclusions of Law

1. It is not reasonable or necessary to subject Alco to the additional scrutiny sought in Cal Water's Application.

2. It is not reasonable or necessary to re-litigate this issue.

3. It is no longer necessary for Cal Water's Application 07-04-010 to remain open.

4. Hearings are not necessary.

5. Cal Water's Application should be dismissed, effective immediately.

O R D E R

IT IS ORDERED that:

1. California Water Service Company's Application 07-04-010 to serve certain sections of the City of Salinas future growth area is dismissed.

2. The hearing determination is changed to no hearings necessary.

3. Application 07-04-010 is closed.

This order is effective today.

Dated _____, at San Francisco, California.