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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of California Water Service Company (U60W) for an order confirming its discontinuance of the ESP program as provided in D.07-12-055, Ordering Paragraph 19, approving accounting for the residual affiliate transaction, and confirming under D.07-12-055, Ordering Paragraph 16 that Applicant's residual services to its affiliate CWS Utility Services comply with applicable law.

Application 08-05-019
(Filed May 12, 2008)

**ADMINISTRATIVE LAW JUDGE'S RULING REQUESTING PARTIES
ADDRESS THE ANALYSIS AND POLICY ADOPTED BY THE COMMISSION
IN RESOLUTION G-3424 AS IT APPLIES TO THE ISSUES RAISED IN THIS
PROCEEDING**

It has come to the attention of the undersigned Administrative Law Judge that on April 16, 2009 the Commission in Resolution G-3424 (copy attached to this ruling) denied Pacific Gas and Electric Company (PG&E) authority to establish a new category of Non-Tariffed Product and Services (NTP&S) called "Home Services Program" which sought to provide "customers such products as home and small business electric and gas line protection plans, home equipment warranties (i.e. water heaters, A/C units, etc.) and other related home products and services." These products and services were proposed to be offered either by PG&E or through a third party, with authorization sought to place advertising material in the customer's billing envelope and to offer line-item billing on the

utility customer's bill. PG&E's proposed new category of NTP&S included the seven different services currently offered through Home Services to California Water Service Company's (Cal-Water) utility customers: Exterior Water Service Line Insurance Protection; Exterior Sewer/Septic Line Insurance Protection; Exterior Sewer/Septic Line Insurance Protection Plus; Interior Plumbing and Drainage Insurance Protection; Interior Electrical Wiring Insurance Protection; Water Heater Insurance Protection; and Cooling System Insurance Protection.¹

In denying PG&E's request, the Commission cited concern that PG&E was moving beyond its core utility mission, and that the proposal could (1) lead to customer confusion and privacy issues, (2) result in additional costs for utility customers, and (3) by using the utility billing system and customer service personnel to perform the revenue collection function for one vendor could give that vendor an undue advantage, thus interfering with competition in the home services market and raising cross-subsidy concerns. In Resolution G-3424, the Commission also cited to the concerns it had raised in Decision (D.) 02-11-006 in denying a petition (Pet. 02-05-060) to address rules for utilities using billing envelope space for third-party advertisements.²

¹ See Cal-Water's December 10, 2010 response at page 1 for list of services currently being provided. For PG&E's proposed services, see Resolution G-3424, at page 4 and discussion at page 8 that "service repair plans" include those that address home appliances, interior electrical wiring, interior gas lines, heating and cooling systems, external water service lines, interior water service lines, interior plumbing and drainage, water heaters, sewer and septic lines, pool equipment, compressed natural gas vehicle or electric vehicle charging home equipment, home electronics surge repair (not otherwise covered by PG&E's tariff rules), and interior phone lines.

² The Commission also notes that in a recent Southern California Edison General Rate Case decision, D.09-03-025, it stated its intent to issue a rulemaking in 2009 for the purpose of reviewing NTP&S. This rulemaking has not been issued.

The analysis and policy set forth by the Commission in Resolution G-3424 should be considered in evaluating the issues before us in this application, both in Cal-Water's request for the Commission to approve its existing affiliate transaction with Home Services and also Cal-Water's stated intent to seek Commission approval for a direct contract with Home Services to provide a new NTP&S.³ Therefore, this ruling informs the parties that they should address the applicability of the rationale and policy set forth in Resolution G-3424 to both (1) whether the Commission should authorize Cal-Water's existing affiliate transaction, and (b) whether the Commission should authorize Cal-Water to sign a contract directly with Home Services.

As with PG&E's request in Resolution G-3424, Cal-Water's request to directly offer the services at issue here should be considered a request for a new NTP&S category. Therefore, Cal-Water should include the showing required under Rule X.G. of D.10-10-019 in any request for approval of a new contract with Home Services in this proceeding.⁴ The applicability of the rationale and

³ The scope of issues before us here are more fully set forth in the October 21, 2009 scoping memo, discussion at pages 5-8 and Finding of Fact 6 at page 11.

⁴ Under the Commission's newly adopted Standard Rules and Procedures for Class A and B Water and Sewer Utilities Governing Affiliate Transactions and the Use of Regulated Assets for Non-tariffed Utility Services, D.10-10-019, issued October 19, 2010, the existing categories of NTP&S are set forth in Appendix A of D.10-10-019 and the decision defines a new NTP&S as "(a) an NTP&S not currently designated in Appendix A; (b) a significant extension of a current NTP&S (e.g., billing systems currently offered to utilities, now offered to other customers); or (c) a change from "passive" to "active" designation (or vice-versa), along with a rationale for this change." (*Id.* at 86.) Rule X.G. provides for a proposed new NTP&S to be filed by a Tier 3 advice letter; however, since this NTP&S is already a part of this application, Cal-Water should file it here. The effective date for the rules adopted by the Commission in D.10-10-019 has been stayed by the Executive Director until June 30, 2011. At the February 3, 2011

Footnote continued on next page

policy set forth by the Commission in Resolution G-3424 to Cal-Water's existing affiliate service should also be addressed by the Division of Ratepayer Advocates (DRA) in its scheduled May 2, 2011 report.⁵

Therefore, **IT IS RULED** that:

1. The applicability of the analysis and policy set forth by the Commission in Resolution G-3424, issued on April 16, 2009 and attached to this ruling, shall be considered in regards to both (1) whether the Commission should authorize California Water Service Company's existing affiliate transaction, and (b) whether the Commission should authorize California Water Service Company to sign a contract directly with Home Services.

2. California Water Service Company shall file in this proceeding any proposed contract it seeks to execute directly with Home Services under the provisions of Rule X.G. of Decision 10-10-019 and discuss the applicability of the analysis and policy set forth by the Commission in Resolution G-3424 in this filing.

prehearing conference (PHC) in this proceeding, Cal-Water stated it would seek permission/clarification from the Commission to have the rules effective for itself earlier.

⁵ As discussed at the February 3 PHC, DRA's May 2 report will include an audit report on how revenues for marketing and billing services should be accounted for by Cal-Water as well as a discussion of all issues identified in the scoping memo. See transcript at page 99.

3. The Division of Ratepayer Advocates shall include within the scope of its scheduled May 2, 2011 report the applicability of the analysis and policy set forth by the Commission in Resolution G-3424 to this proceeding.

Dated March 4, 2011, at San Francisco, California.

/s/ CHRISTINE M. WALWYN

Christine M. Walwyn
Administrative Law Judge