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**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Lucas D. Hernandez, Martha Amezquita,  
Daniel Gonzalez, Gabriel Carrera, Severo  
Rosa, Celia Ruiz, Martha Alvarado, Maria  
Palma, Federico Garcia, Luis Morales,

Complainants,

vs.

Sunbird Mobile Home Park, Hawkeye Asset  
Management, James Martin and Betty Martin,

Defendants.

Case 09-11-019  
(Filed November 25, 2009)

**ADMINISTRATIVE LAW JUDGE'S RULING  
SCHEDULING COMMENTS AND SUPPLEMENTAL TESTIMONY**

**Summary**

On May 25, 2011, the Defendants withdrew their support of the April 13, 2011 joint request for a stay in the proceeding. This leaves in effect the Evidentiary Hearing set for July 18 and 19, 2011 in Indio, California. In anticipation of a supplemental staff report, this ruling sets timelines for comments on that report and for supplemental and rebuttal testimony, and invites counsel for Complainants at their discretion to move formally for leave to late-file a notice of intent to claim intervenor compensation.

## **Background**

This ratemaking proceeding involves allegations of unjust and unconscionably high water rates. On the basis of a May 5, 2010, staff report the Commission issued a Decision (D.) 10-05-020 on May 7, 2010, imposing an injunction on evictions and disconnects, and modifying rates pending resolution of the complaint.

Commission jurisdiction in this matter arises under Pub. Util Code § 2705.6, as the mobile home park owner provides water service to the tenants “from water supplies and facilities that it owns.” Those jurisdictional facts may be in the process of changing in that plans are underway to convert the water supplies for domestic water service from those provided by the owner of the Sunbird Mobilehome Park (Sunbird) to those provided by the principal public water purveyor in the region, the Coachella Valley Water District (District). Under the expected change,<sup>1</sup> the District will deliver water to Sunbird’s meter and Sunbird will then distribute and bill for that water to individual submeters of the tenants.

Defendants represent that under such a new arrangement Sunbird’s public water supply permit will be surrendered to Riverside County, the on-site pipelines will be disconnected from the wellhead and connected to District facilities, and the District’s water charges, billed to Sunbird, will be passed through to the submetered tenants. Whether or not Sunbird would seek to add a charge for providing the distribution lines, meter testing and reading, and/or

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<sup>1</sup> See Attachment A, Agreement between Coachella Valley Water District and James M. Martin and Betty A. Martin, Co-Trustees of the Martin Family Trust, dated March 16, 2011, for provisions that outline the planned change.

billing and collecting of charges is not clear at this juncture. If no such charge were added, it appears that the Commission may not have jurisdiction over any tenant complaints about the water service provided by the District.<sup>2</sup> Any issue as to whether the Commission would have jurisdiction over any tenant complaints about water service if such a charge were added involves speculation and therefore is not ripe at this time. Against this backdrop of a changeover in service to the water supplies of the District, the Commission retains its ratesetting jurisdiction over Sunbird's recently past and current water service.

On April 13, 2011, in light of the expected changeover, the parties made a letter request for a stay in the proceedings. The Defendants withdrew their support for that request on May 25, 2011, resulting in the retention of the dates of July 18 and 19, 2011, for the Evidentiary Hearing to be held in Indio, California.

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<sup>2</sup> Section 2705.5 provides in relevant part:

Any person ... that maintains a mobilehome park ... and provides, or will provide, water service to users through a submeter service system is not a public utility and is not subject to the jurisdiction, control, or regulation of the commission if each user of the submeter service system is charged at the rate which would be applicable if the user were receiving the water directly from the water corporation.

If Sunbird were to add a charge to the tenants (e.g., for providing the distribution lines, meter testing and reading, and/or billing and collecting of charges), an issue could be posed as to whether it would lose any freedom from Commission jurisdiction otherwise provided by § 2705, as it would be providing "water service" from "facilities it owns," and charging rates for the same (see § 2705.6), even though the source of supply would be the District, not Sunbird. An issue of statutory interpretation then would be implicated: Does the phrase "water supplies and facilities" in § 2705.6 mean that a mobilehome park that uses its facilities to deliver a public water agency's water supplies escapes the reach of Commission jurisdiction? [Emphasis added.] Resolution of that issue awaits a case with applicable facts.

The supplemental staff report ordered in my February 1, 2011 ruling is due to be issued shortly, which will be followed by a comment period (specified below). Given that new information and developments have occurred since each party served prepared testimony last January and February, I am providing an opportunity through this ruling for each party, at its discretion, to prepare and serve either supplemental or rebuttal (to opponent's ) testimony, or both (specified below).

Complainants previously expressed a desire to claim intervenor compensation, the authority for which I questioned in light of the non-public-utility status of the Defendants. I am providing an opportunity here for the Complainants to pursue a formal motion to late-file a notice of intent to make such a claim.

**IT IS RULED:**

1. Opening comments on the expected supplemental staff report shall be filed and served by the 20th day following the date that the report is served on the Service List, and any reply comments shall be filed and served within seven days thereafter.
2. Any supplemental testimony that a party wishes to offer shall be served by June 22, 2011, and any rebuttal testimony shall be served by June 29, 2011.

3. In such supplemental testimony, if any, parties are encouraged to cover, among other relevant subjects, the following:

- a. Determination whether the water rates are and have been just and reasonable?
- b. Determination whether the service is and has been adequate?
- c. What return on margin should be applied in determining whether the water rates charged by the Defendants are and have been just and reasonable?

4. If Complainants seek to late-file a notice of intention to claim intervenor compensation, they should state that by June 15, 2011, in an e-mail to the Service List and file and serve a motion to that effect with points and authorities by July 5, 2011, and Defendants shall have eight days after that motion filing to file and serve a response.

Dated June 2, 2011, at San Francisco, California.

/s/ GARY WEATHERFORD

Gary Weatherford  
Administrative Law Judge