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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting an Investigation on Whether Great Oaks Water Company's Failure to Inform the Commission and its Staff of its Treatment of Pump Tax Revenues Collected from Customers Violated the Commission's Rule of Practice and Procedure 1.1, the Uniform System of Accounts for Class A Water Companies, the Rate Case Plan, or Public Utilities Code Sections 451 and 794.

Investigation 12-04-011
(Filed April 19, 2012)

**ASSIGNED COMMISSIONER'S AND ADMINISTRATIVE LAW JUDGE'S
SCOPING MEMO AND RULING**

Pursuant to Rule 7.3(a),¹ this ruling sets forth the procedural schedule, assigns a presiding officer, and addresses the scope of the proceeding.

1. Summary of the Order Instituting Investigation

Great Oaks Water Company (Great Oaks) is a Class A water company (over 10,000 service connections) regulated by this Commission. During Great Oaks' last general rate case (Application (A.) 09-09-001) the Commission learned that Great Oaks had withheld payment of pump tax revenue from Santa Clara Valley Water District even though it continued to collect these amounts from its ratepayers.

¹ All references to Rules are to the Commission's Rules of Practice and Procedure.

On November 19, 2010, the Commission issued Decision (D.) 10-11-034 in A.09-09-001. In that decision, the Commission found that there was good cause to investigate Great Oaks actions in connection with the pump tax revenues to determine if fines should be imposed. The Commission ordered the Consumer Protection and Safety Division (CPSD) to prepare an Order Instituting Investigation (OII) to further review whether Great Oaks' failure to inform the Commission and staff of its actions violated any of the following: 1) Rule 1.1; 2) the Uniform System of Accounts (USOA) for Class A Water Companies; 3) the rate case plan required under D.07-05-062; 4) Public Utilities Code Section 451; or 5) Public Utilities Code Section 794.²

On April 20, 2012, the Commission opened this proceeding by issuing the Order Instituting an Investigation on Whether Great Oaks Water Company's Failure to Inform the Commission and its Staff of its Treatment of Pump Tax Revenues Collected from Customers Violated the Commission's Rule of Practice and Procedure 1.1, the USOA for Class A Water Companies, the Rate Case Plan, or Public Utilities Code Sections 451 and 794 (OII).

2. Procedural Background

The assigned Administrative Law Judge (ALJ) convened a prehearing conference (PHC) on June 29, 2012, where the procedural schedule set out below was discussed.

On July 13, 2012 the parties submitted a List of Stipulated Facts.

The OII required Great Oaks to respond to the allegations in the OII and to show cause why it should not be sanctioned for apparently violating

² D.10-11-034, Ordering Paragraph 12.

Commission rules by withholding pertinent information from DRA during its general rate case proceeding (A.09-09-001).³ At the PHC, the ALJ ruled that the required response and order to show cause must be filed by Great Oaks on or before July 31, 2012. On July 31, 2012, Great Oaks filed the Response of Great Oaks Water Company to Consumer Protection and Safety Division Report and Order to Show Cause (Great Oaks Response).

3. Scope of the Proceeding

The focus of this proceeding is set out in D.10-11-034. Additional issues were raised and discussed at the PHC. The list of issues was further refined in light of the List of Stipulated Facts submitted by the parties and Great Oaks Response.

The issues to be addressed are:

- Whether Great Oaks violated Rule 1.1;
- Whether Great Oaks violated USAO for Class A Water Utilities and Public Utilities Code Section 794;
- Whether Great Oaks violated the rate case plan required under D.07-05-062;
- Whether Great Oaks violated Public Utilities Code Section 451;
- Whether Great Oaks was required under any other Commission decision, resolution, rule or other staff requirement to consult with the Commission or its staff on decisions made by Great Oaks in litigation that does not involve the Commission;
- If violations are found, whether Great Oaks should be fined pursuant to Public Utilities Code Sections 2107 and 2108 for the above-described violations; and

³ OII, Ordering Paragraph 2.

- If violations are found, whether, and to what extent, other remedies should be imposed.

4. Schedule

The following schedule was adopted at the PHC:

Event	Date
Joint Statement of Stipulated Facts, filed	July 13, 2012
Great Oaks Response to CPSD Report and Order to Show Cause, filed	July 31, 2012
Complete ADR (or, Joint Settlement Status Statement, filed)	August 31, 2012
CPSD Opening Testimony, served	October 5, 2012
Great Oaks Reply Testimony, served	October 26, 2012
CPSD Rebuttal Testimony, served	November 9, 2012
Discovery Cutoff	November 16, 2012
Evidentiary Hearings	December 3-7, 2012 Commission's Courtroom State Office Building 505 Van Ness Avenue San Francisco, CA 94102
Opening Briefs, filed concurrently	January 2, 2013
Reply Briefs, filed concurrently and submission (unless otherwise noted by ALJ)	January 14, 2013
Proposed Decision (60 days after submission)	March 15, 2013

If so required, the presiding officer may alter this schedule as required to promote the efficient and fair resolution of the investigation. Pursuant to Public Utilities Code Section 1701.2, this proceeding shall be resolved within 12 months of its initiation unless the Commission makes findings why that deadline cannot be met and issues an order extending that deadline.

The parties have agreed to discuss alternative dispute resolution mechanisms on an informal basis and will contact the ALJ if the parties believe that the Commission's formal alternative dispute resolution program would be useful.

5. Category of Proceeding and Need for Hearing

Pursuant to Rule 7.1(c), the Commission categorized this matter as adjudicatory and determined that hearings were necessary. No party appealed this determination as to categorization so that determination is now final.

6. Assignment of the Presiding Officer

ALJ Jeanne M. McKinney will be the presiding officer.

IT IS RULED that:

1. The scope of the proceeding is as set forth herein.
2. The schedule is as set forth herein, and may be modified by the Administrative Law Judge (ALJ) if needed.
3. The presiding officer will be ALJ Jeanne M. McKinney.
4. This proceeding is categorized as adjudicatory pursuant to Rule 7.1(c) and hearings are necessary.

Dated August 7, 2012, at San Francisco, California.

/s/ MICHAEL R. PEEVEY

Michael R. Peevey
Assigned Commissioner

/s/ JEANNE M. MCKINNEY

Jeanne M. McKinney
Administrative Law Judge