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08-17-12
04:59 PM

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of Park Water)
Company (U 314 W) for Authority to Increase)
Rates Charged for Water Service by \$6,491,200) APPLICATION NO. 12-01-001
or 26.16% in 2013, \$1,182,595 or 3.77% in)
2014, and \$1,801,937 or 5.53% in 2015.)
_____)

**JOINT MOTION OF THE DIVISION OF RATEPAYER ADVOCATES
AND PARK WATER COMPANY TO APPROVE SETTLEMENT
(SETTLEMENT AGREEMENT AND JOINT COMPARISON EXHIBIT ATTACHED)**

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August 17, 2012

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I. INTRODUCTION

Pursuant to Rule 12.1 of the Commission’s Rules of Practice and Procedure (“Rules”) and in accordance with Administrative Law Judge (“ALJ”) Linda A. Rochester’s extension of time to file this motion, the Division of Ratepayer Advocates (“DRA”) and Park Water Company (“Park” or the “Company”) (together, the “Parties”) submit this Joint Motion to Approve the Settlement Agreement between DRA and Park on general rate case issues (“Settlement Agreement”), which resolves all of the issues in this General Rate Case (“GRC”) proceeding.

In the attached Settlement Agreement (Exhibit A hereto) and Joint Comparison Exhibit (Exhibit B hereto), the Parties address in detail Park’s revenue requirement determination in this GRC for Test Year 2013. The Settlement Agreement and the Parties’ Joint Comparison Exhibit also discuss Park’s estimated increases for Escalation Years 2014 and 2015 consistent with the Rate Case Plan adopted by the Commission in D.07-05-062 (“RCP”).

The Parties respectfully request and hereby move the Commission to adopt their Settlement Agreement. The purpose of this Joint Motion is to facilitate the Commission’s expeditious consideration and adoption of the attached Settlement Agreement. The Parties believe the Settlement Agreement fulfills the criteria that the Commission requires for approval of GRC settlements in that it is reasonable in light of the whole record, consistent with the law, and in the public interest as required by Rule 12.1(d). For these reasons, the Commission should

grant this Joint Motion and adopt the proposed settlement as set forth in the attached Settlement Agreement.

II. PROCEDURAL BACKGROUND

In accordance with the RCP, Park filed its Application A.11-01-001 on January 3, 2012 (“Application”), which was assigned to ALJ Linda A. Rochester. Park had previously filed its proposed application on November 1, 2011. In its Application, Park requested a revenue increase for 2012 in the amount of \$6,491,200, or 26.16% above revenues generated by current rates. Pursuant to the escalation year increase methodology adopted by the RCP, Park indicated it will file advice letters setting out its calculations and supporting analysis for the 2014 and 2015 escalation year rates 45 days prior to the first day of each escalation year. Park included estimates of the impact of the escalation methodology for 2014 and 2015 solely for the purpose of providing customer notification. The estimated revenue increase for 2014 was \$1,182,595 or 3.77% above the proposed revenue requirements for Test Year 2013. The estimated revenue increase for 2015 was \$1,801,937 or 5.53% above the estimated revenue requirement for 2014. Park estimated that the requested increase would produce a rate of return on equity of 10.20% and a 9.42% return on the Company’s estimated rate base for Test Year 2013. Concurrent with the filing of the Application, Park supported its Application with prepared testimony and exhibits, its Revenue Requirements Report for Test Year 2013, its General Office Report for Test Year 2013, its Urban Water Management Report, and Minimum Data Requirements (“MDR”), all of which were served on January 3, 2012.

DRA filed its Protest to the Application on February 3, 2012. ALJ Rochester conducted a pre-hearing conference on February 23, 2012 and issued a Scoping Memo on March 30, 2012. Pursuant to ALJ Rochester’s granting of DRA’s request for a revised schedule reflecting a short extension on the dates for the service of testimony, DRA served its testimony and Report on the Results of Operations on May 2, 2012 (“DRA Report”) and Park served its rebuttal testimony on May 23, 2012 (“Rebuttal Testimony”). Two public participation hearings (“PPH”) were conducted by ALJ Katherine MacDonald on May 2, 2012 in Bellflower, California.

In accordance with DRA’s statutory mandate to represent and advocate on behalf of the interests of public utility customers within the jurisdiction of the Commission, DRA’s staff members propounded numerous data requests. Thus, in addition to its prepared testimony and

Revenue Requirements Report, Park also supported its Application and provided DRA with responses to DRA's data requests, workpapers, and responses to informal requests.

The Parties engaged in a settlement conference on May 29-31, 2012 and held further discussions through June and early July, 2012. As a result of these settlement negotiations, Park and DRA settled all outstanding issues raised in DRA's Report. As a result of the Parties' settlement, the evidentiary hearings scheduled for July 9-13, 2012 were canceled. ALJ Rochester directed the Parties to file their settlement agreement and this motion for approval of their settlement by August 10, 2012, which date was extended to August 17, 2012 by ALJ Rochester on August 1, 2012 in response to the Parties' joint request for an extension. On August 1, 2012, ALJ Rochester also canceled the status conference previously scheduled for August 13, 2012 until further notice. Pursuant to Rule 13.8(d) and the recommendation of ALJ Rochester, the Parties each filed a Motion for Admission of Prepared Testimony and served all parties with the testimony sought to be admitted. Park filed its Motion and served its prepared testimony on July 31, 2012, and DRA filed its Motion and served its prepared testimony on August 16, 2012.

On August 17, 2012, DRA and Park executed the attached Settlement Agreement, which addresses the settlement of all issues raised in DRA's Report.

III. SUMMARY OF PROVISIONS OF SETTLEMENT AGREEMENT

As discussed in the Settlement Agreement, the Parties have resolved all of their disputes as to issues raised in this proceeding. Based on these resolutions, Park and DRA have revised their revenue requirement estimates and the resulting Test Year 2013 revenue requirement increase estimates. Based on the Parties' settlement, the Parties agree to a revised revenue requirement increase for Test Year 2013 of 21.01%, reduced from the 26.16% in Park's Application and increased from the 18.26% in DRA's Report. The Settlement Agreement describes how each disputed issue was resolved, provides a comparison of the Parties' positions and identifies the agreed upon settlement of each issue, and cites to the evidence in the record that addresses the particular issue.

IV. THE SETTLEMENT MEETS THE CRITERIA UNDER RULE 12.1

The Settlement Agreement meets all standards for approval by the Commission identified in Rule 12.1(d), which states:

The Commission will not approve settlements, whether contested or uncontested, unless the settlement is reasonable in light of the whole record, consistent with law, and in the public interest.

First, the Settlement Agreement is reasonable. Second, the Parties are aware of no statutory provision or prior Commission decision that would be impermissibly contravened or compromised by the Settlement Agreement. Third, the Settlement Agreement is in the public interest. The principal public interest affected by this proceeding is Park's delivery of safe, reliable water service at reasonable rates. The Settlement advances this interest because it fairly balances Park's opportunity to earn a reasonable rate of return against the needs of its customers for reasonable rates and safe, reliable water service.

In sum, the Parties believe that the Settlement Agreement and the related documentation convey sufficient information for the Commission to discharge its regulatory obligations. Taken as a whole, the Settlement Agreement satisfies the Commission's standards for approving settlements presented to it.

A. THE SETTLEMENT AGREEMENT IS REASONABLE IN LIGHT OF THE RECORD AS A WHOLE.

As reflected by their testimony and reports, the Parties have both similar and disparate positions and conclusions about the different issues involved in this GRC proceeding. The Parties have reviewed the testimony, reports, MDR, and data request responses and have been involved in discussions of the issues presented in the Application and are knowledgeable and experienced regarding these issues. The Parties also considered the affordability of the rates, statements presented at the public participation hearings, letters to the Commission, Park's financial health, and the Commission's Water Action Plan. The Parties conducted extensive arm's length settlement negotiations for more than one month after consideration of all testimony and information. The Parties fully considered the facts and law relevant to this case and reached reasonable compromises on most of the issues raised in Park's Application. In agreeing to a settlement, the Parties have used their collective experience to produce appropriate, well-founded recommendations. The Settlement Agreement clearly describes its scope and expresses the factual and legal considerations that form the grounds on which its approval is requested. The Parties believe the Settlement Agreement balances the various interests affected in this proceeding, reflects appropriate compromises of the Parties' litigation positions, and is reasonable.

B. THE SETTLEMENT IS CONSISTENT WITH LAW AND PRIOR COMMISSION DECISIONS.

The Parties are aware of no statutory provisions or prior Commission decisions that would be contravened or compromised by the Settlement Agreement. The issues resolved in the Settlement Agreement are within the scope of the proceeding. If adopted, the Settlement Agreement will result in reasonable rates for Park's customers.

C. THE SETTLEMENT AGREEMENT IS IN THE PUBLIC INTEREST.

The Commission's first consideration on this point should be that this Settlement Agreement results in reasonable rates to customers, yet provides adequate funding to Park to ensure safe and reliable provision of water service to those customers.

Numerous Commission decisions have endorsed settlements as an "appropriate method of alternative ratemaking" and express a strong public policy favoring settlement of disputes if they are fair and reasonable in light of the whole record. *See, e.g.*, D.88-12-083 (30 CPUC 2d 189, 221-23) and D.91-05-029 (40 CPUC 2d 301, 326). This policy supports many worthwhile goals, including not only reducing the expense of litigation, and conserving scarce Commission resources, but also allowing parties to reduce the risk that litigation will produce unacceptable results. D.92-12-019 (46 CPUC 2d 538, 553). This strong public policy favoring settlements also weighs in favor of the Commission resisting the temptation to alter the results of the negotiation process. As long as a settlement taken as a whole is fair, reasonable, and in the public interest, it should be adopted without change.

Furthermore, the provisions of the Settlement Agreement and the Joint Comparison Exhibit show that the settled values generally fall within or below the litigation positions initially established by the Parties. Thus, from reviewing the Settlement Agreement, the Joint Comparison Exhibit, and the process used to arrive at these mutually acceptable outcomes, the Commission may derive substantial assurance that the requirements of Rule 12 and California Public Utilities Code § 451 have been met.

While the Settlement also advances the interest of providing speedy resolution of contested issues and conservation of Commission resources, factors other than "avoiding the time and expense of hearings" have traditionally been weighed by the Commission in assessing whether or not a settlement is in the public interest. For example, the Commission has looked at the extent to which discovery has been completed, the stage of the proceeding, whether the

Parties had undertaken a thorough review of the issues, the experience of counsel, the amount offered in settlement, the presence of a governmental participant, the overall strength of the applicant's case, and the relative risks and complexities of the litigation. *See, e.g.*, Decision 00-09-037, 2000 Cal. PUC LEXIS 697 (citing *Officers for Justice v. Civil Service Commission of the City and County of San Francisco* (9th Cir. 1982) 688 F.2d 615, 625)). In the present case, prepared testimony has been served, extensive discovery was completed, and the Parties engaged in lengthy settlement discussions that continued from May 29, 2012 to July 3, 2012, the week before evidentiary hearings were to be held in this proceeding. The Parties have undertaken a thorough review of the issues and have been represented by experienced counsel. The recommended revenue requirement is a reasonable amount, as discussed above.

The involvement and presence of DRA, Commission staff responsible for ratepayer interests, as a signatory to the Settlement is strongly indicative of the fact that it is reasonable and in the public interest. As the Commission has explained, a settlement that “commands broad support among participants fairly reflective of the affected interests” and “does not contain terms which contravene statutory provisions or prior Commission decisions” well serves the public interest. *Re San Diego Gas & Elec.*, D.92-19-019, 46 CPUC2d at 552. DRA is “ideally positioned to comment on the operation of the utility and ratepayer perception” as required by D.92-12-019. *Id.* at 16.

In addition, the Settlement Agreement and the developed record before the Commission convey sufficient information for the Commission to assess the relative risks and complexities of the litigation and to discharge its regulatory obligations.

The Parties believe that the Settlement Agreement is a reasonable compromise of their respective positions, and that the outcome in the Settlement Agreement is “reasonable in light of the whole record, consistent with law, and in the public interest,” as required by Rule 12.1(d). Looking at each of the various factors, the Commission can and should determine that the Settlement Agreement is in the public interest and is the preferred outcome for this proceeding. Accordingly, the Parties request that the Commission adopt the Settlement Agreement without modification.

V. CONCLUSION

For the reasons discussed above, Park and DRA respectfully request the Commission approve the attached Settlement Agreement without modification. As discussed, the Settlement

Agreement is reasonable in light of the whole record, consistent with the law, and is in the public interest. After a thorough review and analysis of information concerning Park's and DRA's positions and the strengths and weaknesses of the other's position in this proceeding, the Parties strongly believe that the Settlement Agreement accomplishes a mutually reasonable and acceptable outcome of the Test Year 2013 revenue requirement issues in this proceeding.

Therefore, the Parties respectfully request that the Commission grant this Motion and: (1) adopt the attached Settlement Agreement as reasonable in light of the whole record, consistent with law and in the public interest; (2) authorize Park to modify water rates for service, consistent with the terms of the Settlement Agreement, subject to further modification resulting from the final decision on the Apple Valley Ranchos GRC proceeding; (3) make the findings and grant the requests to implement the fees, programs, mechanisms, and procedures as set forth in Park's Application, as modified by the Settlement Agreement and final decision on the Apple Valley Ranchos GRC proceeding; and (4) grant such other and further relief as the Commission finds just and reasonable.

Executed at San Francisco, California:
August 17, 2012

Executed at Los Angeles, California:
August 17, 2012

Respectfully submitted,

Respectfully submitted,

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