

**PUBLIC UTILITIES COMMISSION**505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298**FILED**08-06-13
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August 6, 2013

Agenda ID #12311
Adjudicatory

TO PARTIES OF RECORD IN CASE 08-03-018

This is the proposed decision of Administrative Law Judge (ALJ) Edmister. This item is targeted to appear on Agenda No. 3321 for the Commission's September 5, 2013 Business Meeting, but may appear on a later agenda. Interested persons may monitor the Business Meeting agendas, which are posted on the Commission's website 10 days before each Business Meeting, for notice of when this item may be heard. The Commission may act on the item at that time, or it may hold an item to a later agenda.

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. The current service list for this proceeding is available on the Commission's website at www.cpuc.ca.gov.

/s/ KAREN V. CLOPTONKaren V. Clopton, Chief
Administrative Law Judge

KVC:avs

Decision PROPOSED DECISION OF ALJ EDMISTER (Mailed 8/6/2013)

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Joan E. Richardson, Steve Pegram, Carl J. Meir,
Kathleen Thayer, Tracey Raybon, John L. Barnes,
Donald H. Dawson, Patricia O. King, Jerry Amiss,
James H. Pelley, Dorothy Reed, James Vitale, and
others similarly situated,

Complainants,

vs.

Phillip and Linda Shuey, doing business as Shell
Canyon Water Company, an unregulated water
company,

Defendants.

Case 08-03-018
(Filed March 24, 2008)

DECISION DISMISSING THE COMPLAINT AS MOOT

Customers of Shell Canyon Water Company (Shell Canyon) filed this complaint to have Shell Canyon declared a public utility water company. Shell Canyon answered, and alleged that it was a private water company not dedicated to public use. Prolonged settlement discussions and Respondents' filing of an application for a Certificate of Public Convenience and Necessity (CPCN)¹ ensued. In addition, in August, 2010, a dispute between Respondents and certain customers over billings led the Commission to establish an escrow

¹ Application 10-10-013.

account. Three customers² paid funds into the escrow, and the Commission disbursed some but not all funds to Respondents. The Commission has retained the balance of the escrowed funds pending disposition of this matter.

Last December, the Imperial County Local Primacy Agency (LPA) obtained a final judgment³ against Respondents enjoining illegal operation of a water utility. We understand that Respondents have since abandoned their water business, and we dismissed Respondent's Application for a CPCN on July 26, 2013.⁴ We further understand that Respondents' customers are eligible to receive, and in at least some cases are already receiving, water service from a nearby mutual water company.

On June 25, 2013, the assigned ALJ in this proceeding issued an order to show cause (OSC). The OSC stated that, in light of the foregoing facts, and

² Customer David Draper (Draper) sent one check, representing two billing periods, May/June and July/August of 2010, for \$1,105.96. Draper's impound amount of \$1,105.96 includes only \$881.38 in disputed funds. The remaining \$224.58 was disbursed to Mr. Phillip Shuey (Shuey) per a November 9, 2010 ALJ Ruling (November 2010 Ruling).

Customer James Pelley (Pelley) sent two checks, one for the billing period of May/June for \$420.00 and a second check for the billing period of July/August for \$139.30 for a total of \$559.30. Pelley's impound amount of \$559.30 includes only \$490.88 in disputed funds. The remaining \$68.42 was disbursed to Shuey per the November 2010 Ruling.

Customer Jodi Vitale (Vitale) sent one check, representing two billing periods, May/June 2010 for \$447.48 and a second billing period of July/August/September for \$171.36 for a total of \$618.84. Vitale's impound amount of \$618.84 includes only \$465.56 in disputed funds. The remaining \$153.28 was disbursed to Shuey per the November 2010 Ruling.

³ Imperial County Superior Court Case No. ECU 07010, Final Judgment, Permanent Injunction, and Order Assessing Civil Penalties, Filed December 21, 2012. We take official notice of the judgment pursuant to Rule of Practice and Procedure (Rule) 13.9.

⁴ Decision D.13-07-027.

absent a showing of good cause within 30 days, we would disburse remaining escrowed amounts to the payees, and dismiss this complaint proceeding. No one filed any response to the OSC. Accordingly, we hereby disburse escrowed funds and dismiss this complaint proceeding.

Comments on Proposed Decision

The proposed decision of the ALJ in this matter was mailed to the parties in accordance with Section 311 of the Public Utilities Code and comments were 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 _____.

Assignment of Proceeding

Mark J. Ferron is the assigned Commissioner and Todd Edmister is the assigned ALJ in this proceeding.

O R D E R

IT IS ORDERED that:

1. Within 30 days from the issuance of this decision, the Commission's Fiscal Office will return undisbursed escrow balances to the payees; i.e.:
 - \$881.38 to David Draper, 10691 Mathieson Street, San Diego, CA 92129
 - \$490.88 to Jim Pelley, P.O. Box 373, Ocotillo, Ca. 92259;
 - \$465.56 to Jodi Vitale, 1795 Lotus Lane, El Cajon, CA 92021.
2. Case 08-03-018 is dismissed as moot.

3. Case 08-03-018 is closed.

This order is effective today.

Dated _____, at San Francisco, California.