

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA



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In the Matter of the Application of San Gabriel Valley Water Company (U337W) for Authority to Increase Rates Charged for Water Service in its Fontana Water Company Division by \$8,164,800 or 14.2% in July 2012, \$3,067,400 or 4.7% in July 2013, and \$3,758,200 or 5.6% in July 2014.

A.11-07-005
(Filed July 11, 2011)

**REPLY COMMENTS OF THE OFFICE OF RATEPAYER ADVOCATES
ON THE PROPOSED DECISION MODIFYING A PROPOSED BILATERAL
SETTLEMENT OF SAN GABRIEL VALLEY WATER COMPANY'S 2012-2013
TEST YEAR GENERAL RATE CASE**

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I. INTRODUCTION

Pursuant to Rule 14.3 of the California Public Utilities Commission's ("Commission") Rules of Practice and Procedure ("Rules"), the Office of Ratepayer Advocates ("ORA") submits these reply comments in response to the opening comments of the San Gabriel Valley Water Company ("San Gabriel") on Administrative Law Judge Long's Proposed Decision in Application ("A.") 11-07-005.

ORA's reply comments primarily respond to the statements made by San Gabriel in its opening comments regarding the Sandhill Water Treatment Facility ("Sandhill"). ORA is also fully supportive of the reply comments of the City of Fontana ("City") regarding the Slemmer Settlement and the reply comments of the Fontana Unified School District regarding Sandhill. .

II. DISCUSSION

In its opening comments, San Gabriel alleges that the Proposed Decision commits legal or factual error by disallowing 58% of project costs based on a critical view of Sandhill's production, not its capability to treat Lytle Creek water when available.¹ San Gabriel misconstrues and misinterprets the record in this proceeding and fails to present record-evidence to support its allegation.

A. **San Gabriel Fails to Adequately Support or Meet its Burden of Proof Regarding Southern California Edison's Contractual Obligations to Deliver a Specified Quantity of Lytle Creek Water to Sandhill.**

The Proposed Decision finds that "contrary to assertions by San Gabriel in prior cases and in this one, [Southern California] Edison has never been contractually obliged to serve water other than when the power plant is running and only at the levels needed for electric production."² In its comments, San Gabriel now insists that it never made such an assertion, and maintains that Southern California Edison's ("Edison") "contractual obligation is not to deliver a specific amount of water but is to deliver *all the water it diverts from Lytle Creek* to the afterbay or directly to San Gabriel."³

First, San Gabriel misrepresents what is actually in the record in its objection to the Proposed Decision's finding. San Gabriel did indeed make the assertions it now denies when it described its efforts to get Edison to fulfill its contractual obligation:

¹ San Gabriel's Opening Comments at p. iv.

² Proposed Decision ("PD") at p. 20.

³ San Gabriel's Opening Comments at p. 4-5 (emphasis in original).

San Gabriel is now in consultation with Edison to determine whether Edison can fulfill its contractual obligation to deliver “38 plus” mgd and ‘whether they need to do something to assure that they can fulfill that obligation’... we will insist upon performance of [Edison’s] obligations to deliver the full amount of the water that they have contracted to deliver.⁴

It is precisely this type of contradictory and confusing statements that San Gabriel placed into the record that led the Proposed Decision to find San Gabriel’s argument “unpersuasive” and “not credible.”⁵ Second, D.09-06-027 intends for San Gabriel to demonstrate in this proceeding that Edison has a contractual obligation to deliver up to 38 million gallons per day (“MGD”) to the afterbay.⁶ San Gabriel has now stated in its comments that Edison is not contractually obligated to provide any *specific* amount of Lytle Creek water, and therefore has not met its burden of proof as required in D.09-06-027.

a) San Gabriel Fails to Prove its Assertions Regarding the Amount of Water That Can Be Delivered from Lytle Creek to Sandhill.

San Gabriel claims in its comments that Sandhill’s capacity is not limited to Edison’s power plant capacity and that “[s]treamflow in the creek that Edison does not take to generate power remains available for San Gabriel to take directly, up to a range of 45 to 51 MGD.”⁷ It goes on to assert that “[w]hen Lytle Creek streamflow is abundant, as it was during the spring and early summer of 2011 that high stream flow is now fully used.”⁸

Having rights to a specified amount of Lytle Creek’s streamflow does not mean that same amount of water can be delivered to, or is usable by, Sandhill for treatment. There is nothing in the record showing that the necessary infrastructure is in place to allow San Gabriel to take 45 to 51 MGD directly from Lytle Creek. San Gabriel has not provided any record evidence that it can or has taken 45 to 51 MGD when ample water was available in Lytle Creek. This is demonstrated in Exhibit DRA-1, Figure 15-B, which compares available streamflows against flows diverted to Sandhill.⁹ The graph in Figure 15-B shows that during the spring and early summer of 2011, “substantial amounts of available surface water

⁴ Exhibit CF-3 (emphasis added). Exhibit CF-3 of this instant proceeding provides excerpt from San Gabriel’s Opening Brief in the last general rate case proceeding, A.08-07-009; *see also* ORA’s Opening Brief at p. 18.

⁵ PD at p. 20.

⁶ *See* D.09-06-027 at pp. 70-74, p. 114, Ordering Paragraph 17.

⁷ San Gabriel’s Opening Comment at p. 4.

⁸ San Gabriel’s Opening Comments at p. 6.

⁹ Exhibit DRA-1 (ORA’s Report) at p. 15-14.

have not been diverted to the Sandhill Water Treatment Plant.”¹⁰ San Gabriel’s assertions regarding the quantity of water that Sandhill can “take directly” from Lytle Creek are not supported by record evidence and should not be afforded any weight.

b) San Gabriel’s Objection to the Proposed Decision’s Characterization of the Bypass Pipeline Proposal is Not Based on the Record.

In objecting to the Proposed Decision’s characterization of the bypass pipeline proposal, San Gabriel states that “the bypass line, designed to deliver water around the power plant to the afterbay, is an *existing* Edison facility that is able to supplement flows to Sandhill while Edison implements a longer term plan to bring deliveries through its power plant back to 60 cfs...”¹¹ The record shows that the *existing* bypass line *cannot* supplement flows to Sandhill.¹² Water flow is still limited to the capacity of the intake diversion structures, penstock, afterbay, and related pipelines. The hydraulic capacity analyses conducted by all parties considered the maximum water elevation in the afterbay to determine the amount of hydraulic head available to Sandhill.¹³ The existing bypass does not increase the hydraulic head available from the afterbay because it only bypasses the power house, and water must still flow through the afterbay before it can be delivered to Sandhill. Therefore, San Gabriel’s statement that the existing bypass pipeline is able to supplement flows to Sandhill is not supported by record and should be disregarded.

The Proposed Decision is correct in describing San Gabriel’s bypass proposal, which involves an extension to the existing bypass line, as a “pipe dream” introduced “late in this proceeding.”¹⁴ As detailed in the City’s Opening Brief, this proposed “quick fix” consists of a hand-drawn diagram prepared by San Gabriel’s witness during the lunch break the day he testified and his explanation under cross-examination.¹⁵ San Gabriel did not provide any study or analysis to document whether the proposed project could work to provide the needed flow.¹⁶ San Gabriel would like the Commission to simply take

¹⁰ Exhibit DRA-1 (ORA’s Report) at p. 15-14.

¹¹ San Gabriel’s Opening Comments at p. 4 (emphasis in original).

¹² See Exhibit CF-2 (Direct Testimony of Michael Thornton) – Attachment 18 and pp. 14-15; Exhibit DRA-1 (ORA’s Report) – Attachment 15-16 and p. 15-17; Exhibit SG-13 (Direct Testimony of Shem Hawes) – Table 2.01, p. 2-9, and Figure 3.03.

¹³ *Id.*

¹⁴ Proposed Decision at p. 20.

¹⁵ City of Fontana’s Opening Brief at p. 35.

¹⁶ *Id.*

the company's word that this new bypass configuration, if and when it is built, would allow Sandhill to operate at its full 29 MGD capacity. Moreover, in proposing this sketchy, inadequately engineered quick fix, San Gabriel is implicitly conceding that without the proposed bypass extension, there are not adequate flows from Lytle Creek to allow Sandhill to operate at full capacity. Thus, San Gabriel again fails to meet its burden to show Edison's facilities are capable of delivering sufficient water for Sandhill to operate at its full 29 MGD capacity as required in D.09-06-027.

c) San Gabriel's Objection to the Proposed Decision's Basis for Determining Sandhill's Capacity is Not Based on the Record.

San Gabriel contends that the Proposed Decision commits legal or factual error because it disallows Sandhill upgrade costs based on a critical view of the plant's *production*, and not its *capability* to treat Lytle Creek water when available.¹⁷ San Gabriel states that Sandhill's approval was based on the Commission's understanding that Lytle Creek's surface water flows "ebb and flow depending on the amount of precipitation, storm water, and springtime snow melt."¹⁸ If the ebb and flow of Lytle Creek was ignored, and only the *production* of Sandhill was considered, the criticism would likely be much harsher. Sandhill has never treated 29 million gallons in a day nor reached 25 MGD in 2009 and 2010.¹⁹ Exhibit DRA-1, Figure 15-B (page 15-14) shows that Sandhill typically produced between 5 and 15 MGD in 2009 and 2010 when limited flows were available from Lytle Creek. Contrary to San Gabriel's assertions, this proceeding has not focused on the overall production of Sandhill, but on its capability when ample water was available in Lytle Creek, such as in the period of spring-early summer 2011.

San Gabriel cannot show evidence of "29 MG per day on a consistent basis"²⁰ as it has testified, yet it still contends that Sandhill can operate at a production rate exceeding 29 MGD solely based on data from the Sandhill Assessment prepared by Civiltec Engineers.²¹ However, the only "proof" that this data offers is an un-sustained flowrate of approximately 30 MGD over 30 minutes during the 32 months of operation starting January 2009.²² Also significant is that this un-sustained flowrate was obtained during

¹⁷ San Gabriel's Opening Comments at p. iv.

¹⁸ San Gabriel's Opening Comments at p. 7.

¹⁹ City of Fontana's Opening Brief at p. 48.

²⁰ Exhibit SG-19 (Rebuttal Testimony by Frank A. LoGuidice) at p. 14.

²¹ San Gabriel's Opening Comments at p. 5.

²² *Id.*

the so-called “Normal Operating Conditions,” which are inconsistent with the Sandhill Plant’s Standard Operating Procedures, design drawings, and legal requirements.²³

d) San Gabriel’s Argument that the Proposed Decision’s Rate Base Reduction for Sandhill Conflicts with the Cost Savings that Have Flowed to Customers is Not Supported by the Record and Should be Rejected.

San Gabriel argues that the Proposed Decision’s rate base reduction is inconsistent with the purported benefits from Sandhill that customers have received.²⁴ The Sandhill upgrade was authorized precisely for expected water cost savings²⁵ and if Sandhill were able to operate at the expected capacity (i.e., treated more water than it has been able to), ratepayers would have realized more cost savings. Therefore, the relevant question is not whether there have been cost savings, but instead how much cost savings were lost due to Sandhill’s inability to perform as expected, at the full “29 MG per day on a consistent basis.”²⁶ Therefore, the Commission should not give any weight to San Gabriel’s charge that the Sandhill ratebase adjustment is in conflict with cost savings already flowed through to customers.

III. CONCLUSION

The Proposed Decision’s findings and conclusions regarding the Sandhill Treatment Plant are reasonable and supported by record-evidence. For the above stated reasons, San Gabriel’s arguments should be rejected and, aside from the modest suggestions made in ORA’s opening comments regarding the Sandhill refund, no changes should be made to the Proposed Decision’s conclusions on Sandhill.

Respectfully submitted,

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²³ City of Fontana’s Opening Brief at p.48; *see also* ORA’s Opening Brief at p. 30; Exhibit DRA-1 at p. 15-16.

²⁴ San Gabriel’s Opening Comments at p. 8.

²⁵ D.07-04-046 at p. 40.

²⁶ Exhibit SG-19 (Rebuttal Testimony by Frank A. LoGuidice) at p. 14.