

Decision 12-10-034 October 25, 2012

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

S.W.R.L.,

Complainant,

v.

LaPlata Enterprises, Inc.

Defendant.

Case 11-11-003
(Filed November 3, 2011)

ORDER EXTENDING STATUTORY DEADLINE

Summary

Pub. Util. Code § 1701.2(d) provides that adjudicatory cases shall be resolved within 12 months of the date that they are initiated unless the Commission makes findings as to why that deadline cannot be met and issues an order extending that deadline. This matter has been characterized as adjudicatory, and the 12-month deadline for resolving this proceeding is November 3, 2012.

S.W.R.L. (Complainant) originally filed a complaint against LaPlata Enterprises, Inc. on November 3, 2011 (Case [C] 11-11-003), alleging the defendant has increased the water rates by 400% for the Dairy Queen that Complainant owned, and that as a regulated water utility the rates LaPlata charged should be subject to Public Utility Commission regulation. The Dairy Queen is located at the Anza Valley Center that LaPlata Enterprises owns.

LaPlata Enterprises disputes that it is a regulated utility and instead claims that “neither its limited water business servicing its own tenants on its own property, nor the fire suppression system which is the sole business with S.W.R.L., fall within the jurisdiction of the Public Utilities Commission under Public Utilities Code §§ 2701 et seq. and specifically under Public Utilities Code § 2705.”

This matter was originally assigned to Administrative Law Judge Gary Weatherford who presided over this case until it was reassigned on May 14, 2012 to Administrative Law Judge Robert M. Mason III. The evidentiary hearing was held on June 14, 2012 and the parties filed their post-hearing briefs per the schedule provided in the Scoping Memo.

During the hearing, the question of standing was raised as S.W.R.L. no longer owns the Dairy Queen and LaPlata moved to dismiss the complaint for lack of standing. The motion has been taken under consideration along with the substantive issues raised by the complaint.

The issues of standing and what constitutes a water utility subject to the California Public Utility Commission’s jurisdiction and regulation are complicated issues that the assigned Administrative Law Judge is attempting to resolve. Due to the level of research that has been involved, an extension of the statutory deadline to November 1, 2013 is reasonable to allow the assigned Administrative Law Judge adequate time to complete his research and issue a final decision in this complaint.

Assignment of Proceeding

Catherine J.K. Sandoval is the assigned Commissioner and Robert M. Mason III is the assigned Administrative Law Judge and Presiding Officer in this proceeding.

Findings of Fact

1. The Complaint was filed on November 3, 2011.
2. An additional extension of time until November 1, 2013 is needed to complete the research and issue the proposed decision.

Conclusion of Law

It is reasonable to extend the 12-month statutory deadline for an additional 12 months, until November 1, 2013, to allow for resolution of this proceeding as it will not be possible to resolve this case within the period of time provided for in Pub. Util. Code § 1701.2(d) in light of the complexity of the issues that must be resolved.

IT IS ORDERED that the 12-month statutory deadline in this proceeding is extended to November 1, 2013.

This order is effective today.

Dated October 25, 2012, at Irvine, California.

MICHAEL R. PEEVEY
President
TIMOTHY ALAN SIMON
MICHEL PETER FLORIO
CATHERINE J.K. SANDOVAL
MARK J. FERRON
Commissioners