

Decision \_\_\_\_\_

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

In the matter of the Application of the Golden State Water Company (U 133 W) for an order authorizing it to increase rates for water service by \$20,327,339 or 20.12% in 2010; by \$2,646,748 or 2.18% in 2011; and by \$4,189,596 or 3.37% in 2012 in its Region II Service Area and to increase rates for water service by \$30,035,914 or 32.67% in 2010; by \$1,714,524 or 1.39% in 2011; and by \$3,664,223 or 2.92% in 2012 in its Region III Service Area.

Application 08-07-010  
(Filed July 1 2008)

And Related Matter.

Application 07-01-014

**DECISION ADOPTING THE JOINT SETTLEMENT AGREEMENT,  
MOVING TESTIMONY INTO THE RECORD AND  
REJECTING GOLDEN STATE WATER COMPANY'S  
ADVICE LETTER 1430-W.**

**Summary**

This decision adopts the March 6, 2013 settlement agreement between Golden State Water Company and the Division of Ratepayer Advocates.<sup>1</sup> The settlement resolves the La Serena project cost issues, the 2008 general rate case

<sup>1</sup> The Division of Ratepayer Advocates was renamed the Office of Ratepayer Advocates on September 26, 2013, pursuant to Senate Bill 96 (Budget Act of 2013), which was approved by the Governor on September 26, 2013.

regulatory expenses and elects to resolve the issue of general office treatment of military contracts in the 2014 general rate case. Approval of the settlement results in a one-time credit of \$974,024 to the Santa Maria District customers and a rate base reduction of \$336,350 for the Santa Maria District. This decision also moves pre-served testimony into the record and rejects Golden State Water Company's Advice Letter 1430-W. This proceeding is closed.

### **1. Background and Procedural History**

Golden State Water Company (GSW) is a Class A water company with three geographic regions.<sup>2</sup> Region 1 has service areas in northern California and the Central Coast. Regions 2 and 3 encompass service areas in southern California.

On February 1, 2008, Decision (D.) 08-01-043 was issued in GSW's Region 1 General Rate Case, authorizing new rates. The decision did not include a discussion of the La Serena project costs, but the rate base tables and tariff sheets attached to the decision included the costs. On February 29, 2008, the Commission approved GSW's Advice Letter 1267-W which included the \$3.8 million of La Serena project costs in adopted rate base and customer rates.

The Office of Ratepayer Advocates (ORA) filed for rehearing of D.08-01-043 on March 3, 2008, alleging that the La Serena project costs had not been reviewed for reasonableness. On August 21, 2008, the Commission issued D.08-08-031 granting a limited rehearing of D.08-01-043 on the reasonableness of including \$3.7 million of La Serena project costs in GSW's adopted rate base.

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<sup>2</sup> A Class A water company is one with more than 10,000 service connections.

GSW filed Application (A.) 08-07-010 on July 1, 2008, requesting authority to increase its revenue requirement in Regions 2 and 3 for years 2010, 2011 and 2012. A scoping memo and ruling was issued on October 21, 2008, consolidating the La Serena rehearing issue with A.08-07-010, and setting forth the scope and schedule of the proceeding and other matters necessary to move the application forward.

Evidentiary hearings were held May 11-15, and 18, 2009. Opening and reply briefs were filed on June 6, 2009, and July 14, 2009, respectively. The proceeding was submitted on July 14, 2009. On November 17, 2009, the assigned Administrative Law Judge (ALJ) issued a proposed decision (PD) that, among other things, found the La Serena costs unreasonable and unjustified.

In response to disclosures from GSW regarding contracts for unregulated services with the City of Torrance, the Commission withdrew the PD on December 15, 2009. On January 29, 2010, the proceeding was reopened and an amended scoping memo was issued by the assigned Commissioner and ALJ seeking additional evidence from GSW on the La Serena project costs, the four-factor general office cost allocation methodology and regulatory expense recovery.

On October 20, 2010, the assigned ALJ issued a PD and the assigned Commissioner issued an alternate proposed decision (APD). Comments and Reply Comments on the PD and APD were filed on November 9, 2010 and November 15, 2010, respectively.

The PD and the APD both approved the partial settlement agreement between the parties, but differed on issues still in dispute. Unlike the APD, the PD found that the evidence did not support GSW's argument that without a one percent equity adjustment it would be unable to attract and retain highly

skilled employees or that customer service would suffer. The PD also found GSW's request for a pension balancing account and the La Serena costs unreasonable. The PD and APD also differed regarding regulatory costs incurred by GSW for its consultant CH2MHill, and the PD found GSW's general office cost allocation methodology involving service to military bases unreasonable.<sup>3</sup> On November 22, 2010, the Commission voted out the APD as D.10-11-035.

On December 22, 2010, both ORA and GSW filed for rehearing of D.10-11-035. GSW contends that when calculating the dollar amount of the La Serena project costs that GSW was ordered to remove from rate base, the decision did not include \$287,000 that GSW had collected from developers. ORA challenged the decision on the reasonableness of the La Serena project costs, GSW's recovery of regulatory expenses and the four-factor methodology used to determine the number of customers for GSW's affiliate American State Utility Service.

On January 13, 2010, GSW filed A.10-01-009, its 2010 general rate case for Region 1. On December 16, 2010, the Commission issued D.10-12-059 resolving all issues in GSW's Region 1 General Rate Case. The decision authorized GSW to include \$97,682 for a backwash pond improvement at the La Serena plant site and adjusted other budget items related to the La Serena project. The effect of

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<sup>3</sup> GSW's affiliate American States Utility Service supplies water and waste water service to six military bases with 17,788 connections. Unlike the APD, the PD determined that each connection should be counted as a customer in the four factor general office cost allocation methodology and that the total value of all distribution assets at the military bases should be counted as plant in the four factor general office cost allocation methodology.

D.10-11-035 and D.10-12-059 was to reduce the amount related to the La Serena project in GSW's adopted rate base and customer rates to \$1,979,708.

On July 29, 2011, the Commission issued D.11-07-057 granting a limited rehearing on the issues raised by ORA and denying GSW's application for rehearing. The decision also ordered the Division of Water and Audits to conduct an audit of the La Serena project costs and ordered GSW to provide the Division of Water and Audits with all information it has regarding the La Serena project costs.

On March 7, 2012, a scoping memo was issued identifying the issues and setting a schedule for testimony, evidentiary hearings and briefing. On March 23, 2012, the Division of Water and Audits issued its audit report on the La Serena project costs.

On June 6, 2012, GSW served its testimony and on October 15 and 16, 2012, ORA served its report and testimony on the rehearing issues. On November 29, 2012, ORA served its amended report and on December 7, 2012, GSW served its rebuttal to ORA's report.

Starting on December 18, 2012, the Parties engaged in settlement negotiations. In accordance with Rule 12.1 of the Rules of Practice and Procedure,<sup>4</sup> the parties served notice of a settlement conference on all parties of record in A.07-01-014 and A.08-07-010. A settlement conference was held on March 5, 2013. On March 6, 2013, the Settlement Agreement was filed.<sup>5</sup>

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<sup>4</sup> All referenced Rules are the Commission's Rules of Practice and Procedure. ([http://docs.cpuc.ca.gov/published/RULES\\_PRAC\\_PROC/70731.htm](http://docs.cpuc.ca.gov/published/RULES_PRAC_PROC/70731.htm))

<sup>5</sup> The full settlement can be found online at:  
<http://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M059/K914/59914237.PDF>

Filed concurrently with the March 6, 2013 Joint Motion to Adopt the Settlement is a joint motion pursuant to Rule 13.8(d) to admit testimony and supporting exhibits into the record in this proceeding.

The parties to this proceeding were GSW, the ORA, the cities of San Dimas, Claremont, Cypress, Placentia, and the town of Apply Valley. The parties to the rehearing settlement are GSW and ORA.

## **2. The Settlement**

### **2.1. La Serena Project Costs**

In the settlement the parties agree that the La Serena project costs are \$4,110,664 and that \$1,844,856 of the costs are just, reasonable, used and useful and should be included in GSW's adopted rate base and adopted customer rates as of January 1, 2008.

The parties also agree that GSW currently has \$1,979,708 of La Serena project costs in its adopted rate base and customer rates and therefore GSW shall file an advice letter for rate base reduction offset in the amount of \$336,350.24 for the Santa Maria District. The \$336,350.24 is the difference between the existing rate base amount of \$1,979,708 and the settlement rate base amount of \$1,844,856, adjusted to account for accumulated depreciation and contributions received.

The settlement also provides that GSW shall make a one-time credit to the Santa Maria District customers of \$974,024. The figure is based upon the monies attributable to the La Serena project costs, in excess of the agreed upon settlement project costs of \$1,844,856 used to calculate rate base and establish rates collected from customers since January 1, 2008.

### **2.2. General Office Cost Allocation**

The settlement states that there will be no change to the allocation of general office expenses as adopted in D.10-11-035 for the purpose of rates

established in A.08-07-010. However, the Parties agree to address the issue of the appropriate number of military customers and appropriate allocation methodology in GSW's 2014 general rate case.

### **2.3. Regulatory Expense**

The Parties have agreed that GSW's recovery of \$450,000 as regulatory expenses associated with its 2008 general rate case on a deferred basis was appropriate. The Parties have also agreed to a mechanism transitioning GSW to recovery of regulatory expenses on a forecasted basis. Finally, the parties agree that Bear Valley Electric Company regulatory expenses were mistakenly labeled as GSW expense in the 2008 Annual Report, although none of the regulatory expenses were actually charged to GSW customers.

### **3. Settlement Standard of Review**

As the applicant in the underlying general rate case, GSW bears the burden of proof to show that the regulatory relief it requests is just and reasonable and the related ratemaking mechanisms are fair.

In order for the Commission to consider a proposed settlement in this proceeding as being in the public interest, the Commission must be convinced that the parties had a sound and thorough understanding of the application, and all of the underlying assumptions and data included in the record. This level of understanding of the application and development of an adequate record is necessary to meet our requirements for considering any settlement. These requirements are set forth in Rule 12.1(a) which states:

Parties may, by written motion any time after the first prehearing conference and within 30 days after the last day of hearing, propose settlements on the resolution of any material issue of law or fact or on a mutually agreeable outcome to the proceeding. Settlements need not be joined by all parties;

however, settlements in applications must be signed by the applicant....

When a settlement pertains to a proceeding under a Rate Case Plan or other proceeding in which a comparison exhibit would ordinarily be filed, the motion must be supported by a comparison exhibit indicating the impact of the settlement in relation to the utility's application and, if the participating staff supports the settlement, in relation to the issues staff contested, or would have contested, in a hearing.

Rule 12.1(d) provides that:

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

Rule 12.5 limits the future applicability of a settlement:

Commission adoption of a settlement is binding on all parties to the proceeding in which the settlement is proposed. Unless the Commission expressly provides otherwise, such adoption does not constitute approval of, or precedent regarding, any principle or issue in the proceeding or in any future proceeding.

In short, we must find whether the settlement comports with Rule 12.1(d), which requires a settlement to be "reasonable in light of the whole record, consistent with law, and in the public interest." We address below whether the settlement meets these three requirements.

### **3.1 The Settlement Meets the Standard of Review for Settlements**

The record consists of all filed documents, the served testimony, the proposed settlement and the motion for its adoption. The settlement resolves

most issues raised in the rehearing decision and agrees that the issue of general office treatment of military contracts will be resolved in GSW's 2014 general rate case.

The settling parties represent a spectrum of interests and no party opposes the settlement. GSW represents the utility and its shareholders, while ORA represents the interests of ratepayers. Thus, the settling parties are experienced in public utility litigation and the settlement is the result of extensive and vigorous negotiations. The parties to the settlement have a sound and thorough understanding of the issues, and all of the underlying assumptions and data and could therefore make informed decisions in the settlement process. The settlement is reasonable in light of the whole record, because the settling parties fairly reflect the affected interests, these parties actively participated in this proceeding, and the settlement fairly and reasonably resolves the issues in the rehearing case.

The Commission could have resolved the issues in favor of either of the parties. Accordingly, the settling parties have balanced a variety of issues of importance to them and have agreed to the settlement as a reasonable means by which to resolve the issues. Thus, for the reasons discussed above, and taken as a whole, the settlement is reasonable in light of the whole record.

There are no terms within the settlement agreement that would bind the Commission in the future or violate existing law. Therefore, we find the settlement consistent with the law.

The settling parties addressed and resolved the issues identified in the rehearing proceeding. The settlement terms ensure that customers have continued access to an affordable, safe and reliable water supply system. As previously noted, the settling parties represent a broad spectrum of utility and

consumer interests. There is a public policy favoring the settlement of disputes to avoid costly and protracted litigation.<sup>6</sup> The settlement satisfies this public policy preference for the following reasons:

The sponsors of the settlement represent the interests of GSW and its shareholders and GSW customers. Thus, the settling parties represent the concerns of shareholders and ratepayers that have an interest in the services provided by GSW.

The settlement serves the public interest by resolving competing concerns in a collaborative and cooperative manner. By reaching agreement, the parties avoid the costs of further litigation in this proceeding. For the reasons stated above, the settlement is in the public interest.

Approval of the settlement provides resolution of the issues. Thus, the settlement meets the applicable settlement standards of Rule 12.1(d) and therefore should be accorded the same deference the Commission accords settlements generally, and should be adopted.

Adoption of the settlement is binding on all parties to the proceeding. However, pursuant to Rule 12.5, the settlement does not bind or otherwise impose a precedent in this or any future proceeding. We specifically note, therefore, that GSW must not presume in any subsequent application that the Commission would deem the outcome adopted herein to be presumed reasonable and it must, therefore, fully justify every request and ratemaking proposal without reference to, or reliance on, the adoption of the settlement.

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<sup>6</sup> D.88-12-083, 30 CPUC 2d 189, 221.

**4. Motion to Admit Written Testimony and Supporting Exhibits into the Record**

On March 6, 2013, the parties filed a joint motion to admit written testimony and supporting exhibits into the record since parties entered into settlement negotiations prior to the scheduled evidentiary hearings. GSW's pre-served written testimony is numbered as Exhibits 222 through 231. ORA's pre-served written testimony is numbered as Exhibits 136 through 138. Pursuant to Rule 13.8(d), the Parties attached, for each witness sponsoring testimony, a declaration, under penalty of perjury by the person preparing or in charge of preparing the testimony, certifying that the testimony is true and correct. There are no objections to admitting these exhibits. GSW Exhibits 222 through 231 and ORA Exhibits 136-138 are admitted into the record of this proceeding.

**5. Advice Letter 1430-W**

On January 6, 2011, GSW filed Advice Letter 1430-W to implement a customer credit based on D.10-11-035. A rehearing of that decision was granted and the settlement adopted herein provides for a one-time credit to customers in a different amount. Therefore, GSW Advice Letter 1430-W is rejected.

**6. Comments on the Proposed Decision**

This is an uncontested matter in which the decision grants the relief requested. Accordingly, pursuant to Section 311(g)(2) of the Public Utilities Code and Rule 14.6(c)(2), the otherwise applicable 30-day period for public review and comment is waived.

**7. Assignment of Proceeding**

Catherine J.K. Sandoval is the assigned Commissioner and Linda A. Rochester is the assigned ALJ in this proceeding.

**Findings of Fact**

1. The total cost of the La Serena project is \$4,110,664.
2. On March 6, 2013 GSW and ORA filed a motion to adopt a settlement agreement on all issues raised in the rehearing of the general rate case.
3. The record for the proposed settlement is composed of the application, testimony of the parties and all other filings.
4. No party opposes the settlement.
5. The parties to the settlement have a sound and thorough understanding of the issues and all of the underlying assumptions and data and could therefore make informed decisions in the settlement process.
6. The proposed settlement is a balance between the original positions as otherwise litigated in the prepared testimony of the parties.
7. On March 6, 2013, GSW and ORA filed a motion to admit written pre-served testimony and supporting exhibits into the record.
8. The Settlement resolves all outstanding issues in this proceeding.
9. On January 6, 2011, GSW filed Advice letter 1430-W to implement a one-time credit to customers based on D.10-11-035. On July 29, 2011, the Commission issued D.11-07-057, granting ORA's application for rehearing of D.10-11-035.

**Conclusions of Law**

1. La Serena project costs of \$1,844,856 are just and reasonable.
2. The settlement between GSW and ORA is reasonable in light of the whole record, consistent with law, and in the public interest.
3. The March 6, 2013, motion filed by GSW and ORA to adopt a settlement agreement on all issues raised in the rehearing of the general rate case should be granted.

4. The March 6, 2013, motion filed by GSW and ORA to admit written, pre-served testimony and supporting exhibits into the record should be granted.
5. GSW's Advice Letter 1430-W should be rejected.
6. This proceeding should be closed.

## **O R D E R**

### **IT IS ORDERED** that:

1. The motion by Golden State Water Company and the Office of Ratepayer Advocates to adopt a settlement agreement is granted.
2. Within five days of the date of this decision, Golden State Water Company must file a Tier 2 Advice Letter requesting authority to implement a rate base reduction offset in the amount of \$336,350.24 for its Santa Maria District. The \$336,350.24 is the difference between the existing amount of \$1,979,708 in adopted rate base and the settlement amount of \$1,844,856, adjusted for contributions received and accumulated depreciation.
3. Within five days of the date of this decision, Golden State Water Company must file a Tier 2 Advice Letter requesting authority to make a one-time credit to the Santa Maria District customers of \$974,024. The one-time credit is to be allocated among customers on a meter equivalent basis. The \$974,024 is based upon the monies attributable to the La Serena project costs, in excess of the \$1,844,856 agreed upon and already collected in customer rates since January 1, 2008.
4. Golden State Water Company and the Office of Ratepayer Advocates must address the issue of the appropriate number of military customers and appropriate allocation methodology in Golden State Water Company's 2014 general rate case.

5. Golden State Water Company must transition to recovery of regulatory expenses on a forecasted basis in all future general rate cases.

6. Golden State Water Company's pre-served written testimony, numbered as Exhibits 222 through 231 are received into the record.

7. The Office of Ratepayer Advocates' pre-served written testimony, numbered as Exhibits 136 through 138, are received into the record.

8. Golden State Water Company's January 6, 2011, Advice Letter 1430-W implementing a one-time credit based on Decision 10-11-035 is rejected.

9. Application 08-07-010 is closed.

This order is effective today.

Dated \_\_\_\_\_, 2014, at San Francisco, California.