

Decision 15-12-036 December 17, 2015

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the Application of the GOLDEN STATE WATER COMPANY (U133W) for an order authorizing it to decrease rates for water service by \$1,615,400 or -0.50% in 2016, to increase by \$10,280,800 or 3.21% in 2017; and increase by \$10,303,200 or 3.12% in 2018.

Application 14-07-006
(Filed July 15, 2014)

**DECISION APPROVING SETTLEMENT AGREEMENT FOR
PHASE II OF GENERAL RATE CASE APPLICATION REGARDING
WATER QUALITY ISSUES IN GARDENA**

Summary

This decision approves the proposed settlement agreement between the Golden State Water Company (Golden State) and the Office of Ratepayer Advocates in Phase II of the Golden State General Rate Case (GRC) application. The settlement addresses water quality issues in the City of Gardena, and requires Golden State to comply with the additional reporting requirements detailed in Section 3.2 of the settlement agreement.

This decision resolves all issues in Phase II of the application. Phase I of Golden State's GRC application remains open.

1. Background

On July 15, 2014, Golden State Water Company (Golden State) filed its General Rate Case (GRC) application,¹ seeking among other things, an overall decrease in water rates by \$1,615,400 or -0.50% in 2016, an increase by \$10,280,800 or 3.21% in 2017, and an increase by \$10,303,200 or 3.12% in 2018. Evidentiary hearings (EHs) were held from May 26, 2015 to June 5, 2015. Parties submitted opening briefs on July 17, 2015, and reply briefs on August 17, 2015.

On March 6, 2015, the Office of Ratepayer Advocates (ORA) filed a motion requesting that the Commission open a separate phase of Golden State's GRC application in order to consider water quality issues in the City of Gardena. The motion stems from ORA having been alerted to recent occurrences of black water coming out of faucets of residents in Gardena. Golden State filed a response on March 23, 2015, opposing the motion. ORA filed a reply on April 2, 2015.

On April 12, 2015, the assigned Administrative Law Judge (ALJ) granted ORA's motion for a separate Phase II of the GRC, in order to address water quality issues in Gardena. The schedule set forth in the assigned Commissioner's Scoping Memo was amended to include the submission of testimony, and scheduling of EHs.

An EH was held on September 14, 2015, during which the testimonies of Robert McVicker (McVicker) and Katherine Nutting (Nutting) for Golden State and the rebuttal testimony of Jenny Au and Pat Ma for ORA, were received into evidence. Prior to the start of the EH, a public participation hearing was held via telephone and public comments from residents and interested persons from the City of Gardena regarding water quality issues were heard.

¹ Application 14-07-006.

Golden State and ORA convened a settlement conference for Phase II issues beginning on October 7, 2015. On October 7, 2015, Golden State and ORA filed a joint motion to approve settlement regarding Phase II issues. The settlement purports to resolve all issues in Phase II of the application.

On November 2, 2015, the assigned ALJ issued a ruling requesting additional information from Golden State regarding the number of water quality complaints in Gardena from August 2015, to October 2015. Golden State filed the requested information on November 6, 2015.

2. Comments from Gardena Residents

In consideration of a request from the 62nd and 66th Assembly Districts, Golden State customers and other concerned individuals from the City of Gardena provided comments via telephone on September 14, 2015, regarding their water quality experience.

Several customers stated that there were other incidents of discolored water and foul smelling water other than the single incident where black water was coming out of a residence's faucet. The black water issue concerning the particular residence where it occurred has been resolved but customers continued to express concerns. Some customers commented that the solution provided by Golden State to resolve reports of discolored water, was to have customers open their faucets and simply flush water for twenty to thirty minutes. A customer also commented that it requested that its water be tested but did not get results of any tests conducted.

Golden State informed the Gardena customers present who to contact regarding questions and how they can access the testimonies of Golden State witnesses Robert McVicker and Katherine Nutting, regarding responses to water quality issues as well as current and future activities to improve water quality in the area.

ORA likewise provided information on where to call in case of questions, to report water quality issues, or how to access the rebuttal testimonies of Au and Ma.

3. Phase II Settlement Agreement

The proposed settlement agreement between Golden State and ORA, attached to this decision as Attachment "A," resolves all issues in Phase II of the application. Key terms of the settlement provide the following:

1. Golden shall provide the Commission's Division of Water and Audits and ORA's Water Branch an electronic copy of any final inspection report, notice of compliance or other similar final directive related to Golden State's Southwest District,² from the State Water Resources Control Board (State Water Board), within seven days from receipt of such document. Golden State shall also provide all substantive correspondence related to such final inspection report, notice of compliance or similar final directive with seven days from Golden State's receipt or issuance of such correspondence. This reporting requirement shall remain in effect through Golden State's next GRC cycle.

² Golden State's Southwest District is located in southwestern Los Angeles County and serves the cities of Gardena, Lawndale, and parts of Carson, Compton, El Segundo, Hawthorne and Inglewood and unincorporated portions of Los Angeles County.

2. Golden State shall include the following information in its proposed application and next GRC application:
 - a. A detailed description of actions taken and actions that are proposed to be taken in Golden State's Southwest District, in response to any final inspection report, notice of compliance or other similar final directive from the State Water Board, including a cost and benefit analysis of alternatives considered, justification for the actions taken, and estimated impact on rates in the Southwest District;
 - b. A detailed description of actions taken and actions that are proposed to be taken in Golden State's Southwest District, to address water quality issues that are not in direct response to a final inspection report, notice of compliance or other similar final directive from the State Water Board, including a cost and benefit analysis of alternatives considered, justification for the actions taken, and estimated impact on rates in the Southwest District;
 - c. Findings regarding options described in Golden State's Phase II Testimony by Nutting³ such as swabbing or pigging of existing pipelines and disinfection process enhancement at Golden State's wells; and
 - d. A status update on the recommendations set forth in the 2007 CH2MHILL Southwest System Water Quality Study, in a similar format as that of Table 2 of Exhibit GAR-8.⁴
3. Golden State does not contest ORA's recommendation that the Commission afford no weight to the pipeline replacement testimony by McVicker for Phase II of the application.

³ Exhibit GAR-2.

⁴ Exhibit GAR-8 is ORA's rebuttal testimony sponsored by Jenny Au and Pat Ma in Phase II of the application.

4. Discussion

Golden State witness Nutting testified that the finished water in Golden State's Southwest District is prone to containing trace amounts of iron, manganese or other constituents that can cause water quality issues.⁵ This assertion was not contested by any party.

Nutting described Golden State's past and more recent actions to address water quality issues in the Southwest system such as: (1) engaging CH2MHill to investigate possible nitrification issues in the Southwest system; (2) chlorination system modifications for all active groundwater sources; (3) installation of data telemetry systems at all plant sites which provide further real-time information on source water and system distribution operations; (4) iron, manganese and hydrogen sulfide treatment on certain wells to help remove iron and manganese that can discolor water and remove odor-causing hydrogen sulfide; (5) improving the process for adding chlorine and ammonia to produce chloramines that acts as a residual disinfectant; and (6) distribution system flushing when discoloration, odor and decreased disinfectant residual are detected.⁶

With respect to the occurrence of black and discolored water, ORA provided a table showing number of water quality complaints in Gardena from July 2014 to July 2015.⁷ The record of the proceeding shows that while there were several occurrences of discolored water within the time frame mentioned above, there was only one incident of extremely discolored or black water, which was

⁵ See Exhibit GAR-2 Testimony of Katherine Nutting at 5.

⁶ Exhibit GAR-2 Testimony of Katherine Nutting at 7-11.

⁷ Exhibit GAR-8 at p. 4.

the incident reported on January 21, 2015. According to Nutting's testimony, this particular issue has been resolved and the water going to this residence is now clear.⁸ Nutting's testimony is corroborated by the public comment from the owner of the residence who commented that the water coming out of her faucet looked clean after continuous flushing.

ORA also noted that the number of water quality complaints from March 2015, to July 2015, in the table, is lower than the number of complaints from the prior five months. In addition, information provided by Golden State in response to an ALJ ruling shows even less water quality complaints reported during the past three months⁹ and there were no further reports of occurrences of extremely black water.

ORA's rebuttal testimony also included a description of recent water quality issues in Gardena, and Golden State's activities to address water quality in the Southwest District. ORA also provided information on an investigation by the State Water Resources Control Board (State Water Board) into these recent water quality issues recommended additional reporting requirements for Golden State, including findings and directives from the State Water Board, so the Commission can continue to monitor the situation.

⁸ Exhibit GAR-2 at p. 19.

⁹ There was only one complaint about water quality from August 2015, to October 2015.

Golden and ORA, the only parties involved in Phase II of the application, held a duly notified settlement conference on October 7, 2015, and filed a motion to approve a Phase II settlement agreement that the same day.

4.1. Proposed Settlement Agreement is Reasonable, in Accordance with Law, and in the Public Interest

A settlement under Rule 12.1(a)¹⁰ of the Rules of Practice and Procedure (Rules) may be filed after a Prehearing Conference (PHC) is held and within thirty days after the last day of hearing. In this case, a PHC was held on September 2, 2014, and the only day for EHS on Phase II issues was held on September 14, 2015. Therefore, the proposed settlement filed on October 7, 2015, was timely filed.

The proposed settlement involves all the parties in Phase II of the proceeding and intends to fully resolve all issues raised by ORA for Phase II, as well as contested facts and issues raised by both parties. The key terms of the settlement are described in Section 3 of this decision.

The Commission has historically favored settlements that are fair and reasonable in light of the record as a whole. Rule 12.1(d)¹¹ also requires that any settlement has to be consistent with law and in the public interest.

¹⁰ Rule 12.1(a) states that “Parties may, by written motion any time after the first pre-hearing 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...”

¹¹ Rule 12.1(d) states that “The Commission will not approve settlements, whether contested or uncontested, unless the settlement is reasonable in light of the record as a whole record, consistent with law, and in the public interest.”

In this case, the settlement is reasonable in light of the record as a whole. Both parties to the settlement agreement performed extensive independent investigation and analysis of the water quality issues in Gardena. Nutting testified for Golden State regarding a historical overview of the water quality issues in Gardena as well as recent issues including the incident of extremely discolored water reported during January 2015. Nutting also provided testimony regarding Golden State's past and more recent actions to improve water quality in the district, and that the incident of extremely discolored water has been resolved. McVicker also provided testimony on water system infrastructure improvements that should be implemented to improve water quality in Gardena.

For its part, ORA conducted its own investigation and analysis of the water quality issues in Gardena. ORA examined and analyzed the testimonies of Nutting and McVicker, obtained additional information from Golden State, conducted data requests, reviewed hearing transcripts, and obtained information from staff of the State Water Board.

Based on its findings, ORA recommended that Golden State be subject to the additional reporting requirements described in Section 3.2 of the settlement agreement, to which Golden State agrees. ORA also recommended that no weight be given to McVicker's testimony regarding pipeline replacement information as the information is unsupported and pertains to issues in Phase I of the application. Golden State did not contest this recommendation and ORA's recommendation not to afford any weight to McVicker's pipeline replacement testimony in Phase II is part of the proposed settlement.

The record shows that the black water incident reported in January 2015, which played a large role in adding Phase II to the application to address water quality issues in Gardena, has been resolved. The number of water quality complaints has also decreased beginning in March 2015, compared to January and February 2015, which was around the time when the black water incident was reported.

However, the Commission should continue to monitor the long term effects of Golden State's recent efforts to address water quality issues in Gardena, in order to determine whether further action is necessary. The additional reporting requirements proposed in the settlement agreement, including the submission of any final directives, findings, and related documents from the State Water Board, and recommendations from Golden State's expert consultant, CH2MHill, will aid the Commission in reasonably monitoring the water quality in Gardena, to ensure that Gardena residents receive clean and safe water from Golden State.

In view of the above, the Commission finds that the settlement agreement is reasonable in light of the record as a whole. The settlement agreement likewise resolves all Phase II issues before the Commission in this proceeding.

The Commission also finds that no part of the settlement agreement contravenes any statutory provisions or prior Commission decisions, and provides sufficient information for the Commission to discharge its future regulatory obligations with respect to the parties and their interests and obligations. The settlement agreement does not contradict current Commission rules and does not constitute a precedent regarding any principle or issue in this proceeding or any future proceeding.

The settlement agreement is also in the public interest. The settling parties, Golden State and ORA, fairly represent the interests of the public affected by the agreement. The additional reporting requirements in the settlement agreement support the primary public interest of the delivery of safe and reliable water service to residents of Gardena by requiring Golden State to report to the Commission and State Water Board directives, efforts to address any such directives as well as a cost benefit analysis of such efforts.

Thus, the settlement agreement is consistent with the Commission's well-established policy of supporting the resolution of disputed matters through settlement, avoiding the time, expense, and uncertainty of further EHS and further litigation. There are also no disputed facts between the Golden State and ORA on any Phase II issue.

In view of the above, the Commission approves the settlement agreement between Golden State and ORA, having determined that the proposed settlement agreement is reasonable in light of the record as a whole, consistent with law, and in the public interest.

The additional reporting requirements proposed in the settlement agreement, including the submission of any final directives, findings, and related documents from the State Water Board, and recommendations from Golden State's expert consultant, will aid the Commission in monitoring the water quality in Gardena, to ensure that Gardena residents receive clean and safe water from Golden State.

5. Conclusion

The Commission finds that the proposed settlement agreement between Golden State and ORA reasonable, in accordance with law, and in the public interest. The additional reporting requirements proposed in the settlement agreement, including the submission of any final directives, findings, and related documents from the State Water Board, and recommendations from Golden State's expert consultant, CH2MHILL, will enable the Commission to continue to monitor water quality issues in Gardena, to ensure that Gardena residents receive clean and safe water from Golden State. The additional reports will also help inform the Commission whether additional directives need to be imposed to address water quality issues in Gardena.

6. Waiver of Comment Period

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

Michael Picker is the assigned Commissioner and Rafael Lirag is the assigned ALJ in this proceeding.

Findings of Fact

1. On March 6, 2015, ORA filed a motion requesting that the Commission open a separate phase of Golden State's GRC application in order to consider water quality issues in the City of Gardena.

2. ORA's motion for a separate phase stems from having been alerted to recent occurrences of black water coming out of faucets of residents in Gardena.

3. A hearing was held on September 14, 2015.

4. There was only a single complaint involving extremely discolored or black water in a residence in Gardena, and other complaints regarding incidents of discolored water.

5. Golden State sent an operator to the residence that reported extremely discolored or black water coming out of her faucet and conducted flushing and other remedies to resolve the issue.

6. The black water incident that occurred in a residence in Gardena reported on January 21, 2015, has been resolved.

7. The finished water in Golden State's Southwest District is prone to containing trace amounts of iron, manganese or other constituents that can cause water quality issues.

8. There are fewer water quality complaints in Gardena during the last eight months compared to the two months immediately preceding the last eight months.

9. After conducting an investigation and analysis, ORA recommended that Golden State be subject to additional reporting requirements described in Section 3.2 of the settlement agreement and to afford no weight to the testimony of McVicker regarding pipeline replacement information for Phase II of the application.

10. Golden State agreed to comply with the additional reporting requirements described in Section 3.2 of the settlement agreement, and did not contest ORA's recommendation that the Commission afford no weight to the testimony of McVicker regarding pipeline replacement information for Phase II of the application.

11. The proposed settlement resolves all issues in Phase II of the application, and there are no contested facts between Golden State and ORA regarding Phase II of the application.

Conclusions of Law

1. The number of water quality complaints in Gardena has decreased during the last eight months compared to the two months preceding the last eight months.

2. The proposed settlement between Golden State and ORA is reasonable in light of the record as a whole, in consistent with law, and is in the public interest.

3. The Commission should continue to monitor water quality issues in Gardena.

4. The additional reporting requirements proposed in the settlement, will aid the Commission in monitoring the water quality in Gardena, to ensure that Gardena residents receive clean and safe water from Golden State.

5. The Commission should afford no weight to the testimony of McVicker regarding pipeline replacement information for Phase II of the application.

6. The proposed settlement should be approved.

7. Application 14-07-006 should remain open.

O R D E R

IT IS ORDERED that:

1. The October 7, 2015 motion filed by Golden State Water Company and the Office of Ratepayer Advocates to approve their Phase II settlement agreement is granted.

2. The proposed settlement agreement between Golden State Water Company and the Office of Ratepayer Advocates, attached as Attachment "A" to this decision, is adopted.

3. From the date of this decision until its next General Rate Case cycle, Golden Water Company shall provide the Commission's Division of Water and Audits and the Office of Ratepayer Advocates' Water Branch, an electronic copy of any final inspection report, notice of compliance or other similar final directive related to Golden State Water Company's Southwest District, from the State Water Resources Control Board, within seven days from receipt of such document.

4. From the date of this decision until its next General Rate Case cycle, Golden State Water Company shall provide all substantive correspondence related to any final inspection report, notice of compliance or similar final directive from the State Water Resources Control Board, with seven days from Golden State Water Company's receipt or issuance of such correspondence.

5. The Commission affords no evidentiary weight to the testimony of Robert McVicker regarding pipeline replacement information in Phase II of the application.

6. Application 14-07-006 remains open.

This order is effective today.

Dated December 17, 2015, at San Francisco, California.

MICHAEL PICKER

President

MICHEL PETER FLORIO

CATHERINE J.K. SANDOVAL

CARLA J. PETERMAN

LIANE M. RANDOLPH

Commissioners