

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Request of Cold Springs Water Company for authority under Rule 7.6.2 of General Order 96-B, Water Industry Rule 7.3.3(5) and Section 454 of the Public Utilities Code to increase rates for water service to produce additional annual revenues of \$106,000 or 40.74%, above current revenues increased expenses.

Application 17-05-019
(Filed May 26, 2017)

ORDER DENYING REHEARING OF RESOLUTION W-5135

I. INTRODUCTION

In this Order, we dispose of the application for rehearing of Resolution W-5135 (or “Resolution”),¹ filed by Mark Van Hoomissen (or “Rehearing Applicant”). In Resolution W-5135 (or “Resolution”), the Commission granted Cold Springs Water Company (“CSW”) a general rate increase producing additional annual revenues of \$98,040, or 35.8%, and a rate of margin of 22.78% for Test Year 2017. In granting the rate increase, the Commission adopted a rate design with 82.5% of fixed costs recovered in the service charge.

The Rehearing Applicant timely filed an application for rehearing of Resolution W-5135. The rehearing application alleges that the Commission erred by authorizing a rate design with 82.5% of fixed costs recovered in the service charge because this rate design: (1) violates Article X, Section 2 of the California Constitution;

¹ All citations to Commission resolution are to the official pdf versions which are available on the Commission’s website: <http://docs.cpuc.ca.gov/ResolutionSearchForm.aspx>.

and (2) does not follow the guidance provided by Standard Practice U-7-W.² The Rehearing Applicant also argues that the rate increase was not properly noticed by CSW.

We have reviewed each and every allegation raised in the application for rehearing of Resolution.W-5135. We are of the opinion that good cause does not exist for the granting of rehearing. Thus, the application for rehearing is denied.

II. DISCUSSION

A. **The rate design adopted by the Commission does not violate California Constitution Article X, Section 2.**

The Rehearing Applicant argues that the rate design adopted by the Commission in the Resolution violated Article X, Section 2 of the California Constitution because it did not put the water supply of CSW to beneficial use to the fullest extent of which it is capable. (Rehrg. App. at p. 1.) This argument has no merit.

The pertinent portion of constitutional provision cited in the application for reading reads:

It is hereby declared that because of the conditions prevailing in this State the general welfare requires that the water resources of the State be put to beneficial use to the fullest extent of which they are capable, and that the waste or unreasonable use or unreasonable method of use of water be prevented, and that the conservation of such waters is to be exercised with a view to the reasonable and beneficial use thereof in the interest of the people and for the public welfare.

(Cal. Const., art. X, § 2.)

This constitutional provision mandates that the unreasonable use of water be prevented. As the agency with jurisdiction over the rates of investor-owned water companies, the Commission determines the reasonableness of rates for water usage and rate design based on the specifics of each water company. (See Pub. Util. Code, §§ 451 and 454.) In Resolution W-5135, the Commission determined that a rate design that

² A copy of the Standard Practice U-7-W can be found on the Commission website: <http://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M039/K602/39602230.PDF>

permitted a recovery of 82.5% of fixed costs in the service charge was reasonable. (Resolution W-5135 at p. 7 [Findings 2 and 4].)

The Rehearing Applicant seems to argue that any rate design with over 65% of the fixed costs recovered in the service charge is unreasonable and violates Article X, Section 2. (Rehrg. App. at p. 1.) However, the language of Article X, Section 2 does not establish a bright-line rule for the percentage for the recovery of fixed costs in the service charge. It imposes a reasonableness standard that requires the Commission to ensure that the use of water by CSW customers is reasonable under the specific circumstances.

The Commission's consideration of reasonable water usage is not limited to water conservation, but also considers other factors, including, affordability, safety and health that are specific to the water company under consideration. (Resolution W-5135 at p. 4.) Based on these factors, the Commission may find that a reasonable rate design for one water company should recover less than 65% of fixed costs in the service charge, while a reasonable rate design for another water company might be more than 65% of fixed costs recovered in the service charge, depending on the circumstances.

With regards to CSW, the Commission acknowledged that the rate design with 82.5% of fixed costs recovered in the service charge departed from guidance, but was appropriate in that specific circumstance to balance affordability and water conservation. (Resolution W-5135 at p. 4, 7 [Findings 2 and 4].) CSW has customers that are full time residents and customers that are part-time, seasonal residents. Some of the full time residents live on fixed incomes. (Resolution W-5135 at p. 4.) Recovering costs through the service charge benefits the full-time customers, while recovering costs through the quantity charge favors the part-time customers and encourages conservation. (Resolution W-5135 at p. 4.) The Commission adopted the approved rate design because it found that the rate design balanced the interests of customers that are full-time residents (some of who live on fixed incomes) with the interests of part-time, seasonal customers.

Thus, the Commission's determination was reasonable. The Rehearing Applicant has failed to demonstrate how the adoption of a rate design with over 65% of

the fixed costs recovered in the service charge was unreasonable or inconsistent with the requirements of Article X, Section 2. Thus, there is no legal error.

B. The Commission did not err by adopting the rate design with a rate design greater than 65% of fixed costs recovered in the service charge.

The Rehearing Applicant asserts that the Commission erred because the rate design adopted in Resolution W-5135 included a percentage of fixed costs recovered in the service charge that exceeds the 65% recommended in Standard Practice U-7-W. (Rehrg. App. at p. 2.) This assertion has no merit.

Standard Practice U-7-W provides guidance regarding the rate design for water utilities, recommending the percentage of fixed costs that should be recovered in the service charge based on the size or class of the utility. Water utilities with 500 to 2,000 customers are classified as Class C utilities. CSW is classified as Class C because it has approximately 532 customers, which is slightly above the threshold for a Class D water utility.

Standard Practice U-7-W provides guidance that rate design for Class C water utilities include recovery of up to 65% of fixed costs recovered in the service charge. Per Standard Practice U-7-W Resolution, a Class D water utility recovers 100% of fixed costs recovered in the service charge. Standard Practice U-7-W was promulgated to provide guidance regarding the rate design for water utilities. However, this guidance does not preclude the Commission, in its discretion, from approving a recovery of more than 65% where justified by circumstances. The Commission possesses the regulatory authority to adopt a rate design that differs from the guidance provided in Standard Practice U-7-W, so long as it is reasonable.

Here, we adopted a rate design that allows recovery of 82.5% of fixed costs recovered in the service charge, because this rate design struck the right balance between affordability and conservation. (Resolution W-5135 at pp. 4-5.) As we noted in the Resolution, CSW has customers that are full-time residents and customers that are part-time, seasonal residents. Some of the full-time residents live on fixed incomes.

(Resolution W-5135 at pp. 4-5.) Recovering costs through the service charge benefits the full time customers, while recovering costs through the quantity charge favors the part time customers and encourages conservation. (Resolution W-5135 at pp. 4-5.) We adopted the approved rate design because it balanced the interests of customers that are full time residents (some of who live on fixed incomes) with the interests of part-time, seasonal customers. Thus, the Commission acted reasonably in adopting a rate design that was more than 65% of fixed costs. Therefore, the Commission properly exercised its regulatory authority in adopting a reasonable rate design. Thus, there is no legal error.

C. The proposed rate increase was properly noticed.

The Rehearing Applicant appears to allege that the proposed rate increase was improperly noticed. (Rehrg. App. at p. 3.) We find that this allegation has no merit.

Notice of the proposed rate increase was mailed to CSW's customers on November 2, 2016. (Resolution W-5135 at p. 2.) Receipt of the notice by customers is substantiated by the responses submitted by eight customers, with seven customers protesting and one customer supporting the rate increase. The Rehearing Applicant has not cited any evidence that the proposed rate increase was improperly noticed.

Therefore, the Rehearing Applicant's allegation of error has no merit.

III. CONCLUSION

For the reasons discussed above, good cause does not exist for the granting of rehearing. Accordingly, rehearing of Resolution W-5135 is denied.

THEREFORE, IT IS ORDERED that:

1. Rehearing of Resolution W-5135 is hereby denied.

This Order is effective today.

Dated February 8, 2018, at San Francisco, California

MICHAEL PICKER

President

CARLA J. PETERMAN

LIANE M. RANDOLPH

MARTHA GUZMAN ACEVES

CLIFFORD RECHTSCHAFFEN

Commissioners