

Decision **PROPOSED DECISION OF ALJ LONG (Mailed 11/13/2009)**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of San Jose Water Company (U168W) for Authority to Determine its Cost of Capital and to Apply that Cost of Capital in Rates for the Period From January 1, 2010 through December 31, 2012.

Application 09-05-001
(Filed May 1, 2009)

And Related Matters.

Application 09-05-002
Application 09-05-003
Application 09-05-004
Application 09-05-005

Application of Great Oaks Water Company (U162W) for Authority to Establish its Authorized Cost of Capital Pursuant to the Rate Case Plan for Water Utilities.

Application 09-05-007
(Filed May 4, 2009;
Not Consolidated)

INTERIM DECISION AUTHORIZING A MEMORANDUM ACCOUNT TO RECOVER THE DIFFERENCE BETWEEN CURRENT RATES BASED ON THE MOST RECENT AUTHORIZED COST OF CAPITAL AND RATES BASED ON THE NEW COST OF CAPITAL EFFECTIVE JANUARY 1, 2010 FOR SAN JOSE WATER COMPANY, VALENCIA WATER COMPANY, PARK WATER COMPANY, APPLE VALLEY RANCHOS WATER COMPANY, SAN GABRIEL VALLEY WATER COMPANY, SUBURBAN WATER SYSTEMS, AND GREAT OAKS WATER COMPANY, PURSUANT TO THE WATER RATE CASE PLAN

1. Summary

This decision grants authority for San Jose Water Company, Valencia Water Company, Park Water Company and Apple Valley Ranchos Water Company, San Gabriel Valley Water Company, Suburban Water Systems, and Great Oaks Water Company, to file a tier 1 advice letter to implement a memorandum account to track the difference between current rates based on the most recent cost of capital authorized for each company, and the new cost of capital proposed by the company in these proceedings. On a monthly basis each company will track in the memorandum account the difference based on the currently authorized cost of capital and the proposed cost of capital. After the Commission adopts a final cost of capital, the memorandum account would be adjusted to reflect the actual difference. This memorandum account may be necessary if the Commission does not adopt a final decision for these companies before January 1, 2010. The cost of this decision is unknown, pending the adoption of a final 2010 base year cost of capital for each company. These proceedings remain open.

2. Background

On May 1, 2009, San Jose Water Company (San Jose) filed Application (A.) 09-05-001, Valencia Water Company (Valencia) filed A.09-05-002, Park Water Company and Apple Valley Ranchos Water Company (Park/Apple) filed A.09-05-003, San Gabriel Valley Water Company (San Gabriel) filed A.09-05-004, and Suburban Water Systems filed A.09-05-005; and then on May 4, 2009, Great Oaks Water Company (Great Oaks) filed A.09-05-007, each company requesting a 2010 base year cost of capital. An Assigned Commissioner's Ruling and Scoping Memo (Scoping Memo) dated June 23, 2009 consolidated all applications except Great Oaks' A.09-05-007, and those consolidated proceedings

are now submitted and await a final decision by the Commission. On November 4, 2009, an Updated Assigned Commissioner's Ruling and Scoping Memo (Updated Scoping Memo) determined the procedural schedule for Great Oaks' A.09-05-007, and that matter is now scheduled for submission on March 4, 2010 with a final decision to follow.

3. Cost of Capital Memorandum Account

The Commission adopted a revised rate case plan for Class A water utilities (rate case plan) in Decision (D.) 07-05-062. The Scoping Memo and Updated Scoping Memo determined for these six proceedings the scope is "to adopt a fair and reasonable 2010 base year cost of capital." Creation of a memorandum account to offset schedule delay is a discretionary act for the Commission. Ensuring that the applicants fully recover the difference between current rates based on the most recent cost of capital authorized for each company, and a new cost of capital to be adopted in a final decision, requires a memorandum account if a final decision is not adopted before January 1, 2010.

It is certain there will not be a decision in A.09-05-007 for Great Oaks before January 1, 2010, and it is also possible that a decision for the five consolidated applications may not occur until sometime in 2010, so that implementation of a new base year 2010 cost of capital would not occur by January 1, 2010. Therefore, we find it reasonable to authorize a memorandum account, to be effective January 1, 2010, for each applicant, which will allow the applicants to recover the difference between current rates based on the most recent cost of capital authorized for each company, and a new cost of capital.

This decision is permissive, thus should the Commission timely adopt a decision on these matters for any of the applicants, they need not file an advice

letter for a memorandum account and would instead file an advice letter to implement the mandatory final decision for a 2010 base year cost of capital.

4. Prospective Ratemaking

The Commission will only authorize the prospective recovery of costs:

It is a well established tenet of the Commission that ratemaking is done on a prospective basis. The Commission's practice is not to authorize increased utility rates to account for previously incurred expenses, unless, before the utility incurs those expenses, the Commission has authorized the utility to book those expenses into a memorandum or balancing account for possible future recovery in rates. This practice is consistent with the rule against retroactive ratemaking. This impacts not only rate recovery for operational expenses, but also rate recovery for ownership costs, such as depreciation expense and return on investment. (43 CPUC 2d 596 (1992) at 600.)

Therefore, we will authorize the recovery of the 2010 base year cost of capital incurred after the effective date of this decision. On a monthly basis commencing January 1, 2010, each company will track in the memorandum account the difference based on the currently authorized cost of capital and the proposed cost of capital. After the Commission adopts a final cost of capital the memorandum account would be adjusted to reflect the actual difference. This will allow the applicants to recover the final difference between current rates based on the most recent cost of capital authorized for each company, and a new cost of capital.

5. Comments on Proposed Decision

The proposed decision of the Administrative Law Judge in this matter was mailed to the parties in accordance with Section 311 of the Public Utilities Code and comments were allowed under Rule 14.3 of the Commission's Rules of Practice and Procedure. No comments were received.

6. Assignment of Proceeding

John A. Bohn is the assigned Commissioner and Douglas M. Long is the assigned Administrative Law Judge in this proceeding.

Findings of Fact

1. It is certain there will not be a decision before January 1, 2010, in A.09-05-007.
2. It is possible there will not be a decision in A. 09-05-001 et al., before January 1, 2010.
3. A memorandum account will allow the applicants to recover the difference between current rates based on the most recent cost of capital authorized for each company, and the new cost of capital adopted in a final decision.

Conclusions of Law

1. The Commission has the discretion and authority to authorize applicants to recover the difference between current rates based on the most recent cost of capital authorized for each company, and the new cost of capital adopted in a final decision.
2. Tracking in the memorandum account the difference based on the currently authorized cost of capital and the proposed cost of capital is reasonable. After the Commission adopts a final cost of capital, the memorandum account should be adjusted to reflect the actual difference for recovery in rates.
3. This order is permissive, thus if a cost of capital decision is adopted in these matters before January 1, 2010, applicants would not need to file an advice letter to implement the memorandum account. Applicants would instead implement the cost of capital adopted in a final decision.

4. This order should be effective immediately to avoid unnecessary delay in the proceeding.
5. These proceedings remain open.

INTERIM ORDER

IT IS ORDERED that:

1. San Jose Water Company (San Jose) may establish a 2010 Cost of Capital Memorandum Account to recover the difference between current rates based on its most recently authorized cost of capital, and rates based on the new cost of capital to be adopted in a final decision in Application 09-05-001. To establish this account, San Jose must file a tier 1 advice letter effective January 1, 2010 (or on the date of filing, whichever is later), subject to review and approval by the Commission's Division of Water and Audits. Once the advice letter is effective, San Jose may, on a monthly basis, track in the memorandum account the difference in revenues between rates based on the currently authorized cost of capital and rates based on the proposed cost of capital. After the Commission adopts a final cost of capital, the memorandum account must be adjusted to reflect the actual difference.

2. Valencia Water Company (Valencia) may establish a 2010 Cost of Capital Memorandum Account to recover the difference between current rates based on its most recently authorized cost of capital, and rates based on the new cost of capital to be adopted in a final decision in Application 09-05-002. To establish this account, Valencia must file a tier 1 advice letter effective January 1, 2010 (or on the date of filing, whichever is later), subject to review and approval by the Commission's Division of Water and Audits. Once the advice letter is effective, Valencia may, on a monthly basis, track in the memorandum account the

difference in revenues between rates based on the currently authorized cost of capital and rates based on the proposed cost of capital. After the Commission adopts a final cost of capital, the memorandum account must be adjusted to reflect the actual difference.

3. Park Water Company (Park) may establish a 2010 Cost of Capital Memorandum Account to recover the difference between current rates based on its most recently authorized cost of capital, and rates based on the new cost of capital to be adopted in a final decision in Application 09-05-003. To establish this account, Park must file a tier 1 advice letter effective January 1, 2010 (or on the date of filing, whichever is later), subject to review and approval by the Commission's Division of Water and Audits. Once the advice letter is effective, Park may, on a monthly basis, track in the memorandum account the difference in revenues between rates based on the currently authorized cost of capital and rates based on the proposed cost of capital. After the Commission adopts a final cost of capital, the memorandum account must be adjusted to reflect the actual difference.

4. Apple Valley Ranchos Water Company (Apple Valley) may establish a 2010 Cost of Capital Memorandum Account to recover the difference between current rates based on its most recently authorized cost of capital, and rates based on the new cost of capital to be adopted in a final decision in Application 09-05-003. To establish this account, Apple Valley must file a tier 1 advice letter effective January 1, 2010 (or on the date of filing, whichever is later), subject to review and approval by the Commission's Division of Water and Audits. Once the advice letter is effective, Apple Valley may, on a monthly basis, track in the memorandum account the difference in revenues between rates based on the currently authorized cost of capital and rates based on the

proposed cost of capital. After the Commission adopts a final cost of capital, the memorandum account must be adjusted to reflect the actual difference.

5. San Gabriel Valley Water Company (San Gabriel) may establish a 2010 Cost of Capital Memorandum Account to recover the difference between current rates based on its most recently authorized cost of capital, and rates based on the new cost of capital to be adopted in a final decision in Application 09-05-004. To establish this account, San Gabriel must file a tier 1 advice letter effective January 1, 2010 (or on the date of filing, whichever is later), subject to review and approval by the Commission's Division of Water and Audits. Once the advice letter is effective, San Gabriel may, on a monthly basis, track in the memorandum account the difference in revenues between rates based on the currently authorized cost of capital and rates based on the proposed cost of capital. After the Commission adopts a final cost of capital the memorandum account must be adjusted to reflect the actual difference.

6. Suburban Water Systems (Suburban) may establish a 2010 Cost of Capital Memorandum Account to recover the difference between current rates based on its most recently authorized cost of capital, and rates based on the new cost of capital to be adopted in a final decision in Application 09-05-005. To establish this account Suburban must file a tier 1 advice letter effective January 1, 2010 (or on the date of filing, whichever is later), subject to review and approval by the Commission's Division of Water and Audits. Once the advice letter is effective, Suburban may, on a monthly basis, track in the memorandum account the difference in revenues between rates based on the currently authorized cost of capital and rates based on the proposed cost of capital. After the Commission adopts a final cost of capital, the memorandum account must be adjusted to reflect the actual difference.

7. Great Oaks Water Company (Great Oaks) may establish a 2010 Cost of Capital Memorandum Account to recover the difference between current rates based on its most recently authorized cost of capital, and rates based on the new cost of capital to be adopted in a final decision in Application 09-05-007. To establish this account, Great Oaks must file a tier 1 advice letter effective January 1, 2010 (or on the date of filing, whichever is later), subject to review and approval by the Commission's Division of Water and Audits. Once the advice letter is effective, Great Oaks may, on a monthly basis, track in the memorandum account the difference in revenues between rates based on the currently authorized cost of capital and rates based on the proposed cost of capital. After the Commission adopts a final cost of capital, the memorandum account must be adjusted to reflect the actual difference.

8. These proceedings remain open.

This order is effective today.

Dated _____, at San Francisco, California.