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02-27-12

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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

**Application of Patricia Heimer, doing business
as Redwood Lodge Water Company for a
Certificate of Public Convenience and
Necessity to operate as a Water Public Utility
within the meaning of Public Utilities Code
Section 2701 et seq., in Santa Cruz County near
Los Gatos; and to establish Water Rates.**

**Application 09-09-005
(Filed September 11, 2009)**

**COMMENTS BY RLWC ON THE PROPOSED DECISION BY ALJ BUSHEY MAILED
2/7/2012 WHICH RELATES TO ITS APPLICATION 09-09-005**

This letter is dated and filed February 27, 2012.

This document records comments by the Redwood Lodge Water Company LLC (RLWC) related to the draft proposed decision of ALJ Bushey, mailed 2/7/2012, in relation to matter A09-09-005 with title: DECISION ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY AND ADOPTING FINAL RATES.. These comments are made in accordance with CPUC Rule 14.3.

The RLWC identified one factual error in the Proposed Decision and proposes two alternative remedies.

1. Identification of factual error in the Proposed Decision. Specific references to the record.

The factual error occurs in Section 2. titled: Background, beginning on page 2 and ending on page 3. The paragraph in error states:

“On November 23, 2011, The Commission’s Water and Sewer Advisory Branch, Division of Water and Audits, served its Staff Report on the CPCN rate case for the Company. The amended report is Attachment A. to today’s decision. The report included a detailed analysis of each element of revenue requirement for the Company. In summary, the report found that the reasonable revenue requirement for the Company was 20.8% below the interim rate revenue requirement. Consequently, revenue requirement should be reduced by 20.8% on a prospective basis *and 20.8% of past collections should be refunded*. The report recommended that this revenue requirement reduction be accomplished by retaining the existing \$100 a month service fee, but reducing each of the three volumetric rates by 33.8%.” (Emphasis added)

The identified factual error occurred by the inclusion of the statement “and 20.8% of past collections should be refunded” among the other statements which are also represented as being included in the report. An inspection of the Staff Report will easily verify that the report did in fact include only the following items from the cited paragraph:

1. “A detailed analysis of each element of revenue requirement for the Company.” (See Rate Case report Section III. Operating Expenses)
2. The finding “that the reasonable revenue requirement for the company was 20.8% below the interim rate revenue requirement.” (See Rate Case report Section I. paragraph 3)
3. The “revenue requirement should be reduced by 20.8%” (See Rate Case report Section Operating Expenses, Cost of Capital, paragraph 2.)
4. “The report recommended that this revenue requirement reduction be accomplished by retaining the existing \$100 a month service fee, but reducing each of the three volumetric rates by 33.8%.” (See Rate Case Report APPENDIX C, and in its Findings and Recommendations section under the heading: Refunds, paragraph 1.)

The statement “and 20.8% of past collections should be refunded” is found nowhere within the Rate Case Report, yet it is included within a paragraph among five items where four of the items are in fact included in the report. The inclusion of the statement “and 20.8% of past collections should be refunded” in such paragraph gives the impression that such statement was included in the Report, when it was in fact not, and therefore the inclusion of this statement is in error. The Staff author in fact made no such statement nor even implied such a consequence.

The fact is that the Rate Case Report addressed refunds on its page 7 and provided only the following staff recommendation in regard to refunds:

“Given the rate reduction, staff recommends that the RLWC submits a Tier 2 Advice Letter calculating rate refunds from September 2008 till date. This advice letter should include supporting data for the water company’s results and will be provided to all the rate payers during the comment period to allow for protests and comments. Staff will review the submission for accuracy and verify that these results are accurate before it is approved.”

The Report on the CPCN Rate Case provided no other guidance on refunds including no definition of a methodology to determine potential refunds. That appears to have been left to the RLWC and the Staff recommended Advice Letter.

The only occasion for the statement “and 20.8% of past collections should be refunded” to have been entered into the Application process was within the Assigned Commissioner’s Scoping Memo and Ruling document filed 12/02/11. In that instance the inclusion of the disputed statement was also an error of fact – with respect to the assertion that it was an element of the Rate Case Report. The author of the Scoping Memo apparently independently drew the conclusion and included the statement “and 20.8% of past collections should be refunded”, and now the Proposed Decision has repeated that error of fact, i.e. it’s placement among factual elements of the Staff report.

2. Specific proposals for change.

1. RLWC proposes in the first instance that the statement “and 20.8% of past collections should be refunded” be stricken from the Proposed Decision statement. This will cure the error.

2. Should the ALJ find it necessary to inject this conclusion, which was not a part of the Rate Case Report and not a conclusion stated within the report, then RLWC suggests she

should provide along with the identified statement a proper context, perhaps indicating that it is derived from the Scoping Memo or by her in private conversations or something else that prevents that statement from being injected into the recommended refund determination process that was in fact recommended by Staff in its Rate Case Report. The RLWC intends to fully comply with the letter of that recommendation as the Proposed Decision orders in its order number 3.

This concludes the comments by the Redwood Lodge Water Company related to the Proposed Decision document mailed 2/7/2012 related to matter A09-09-005.

Subject Index (Rule 14.3(b))

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Draft Proposed Decision of ALJ Bushey mailed 2/7/2012 including Appendix A
Report on the CPCN Rate Case for Redwood Lodge Water Company – November 2011
Assigned Commissioner’s Scoping Memo and Ruling filed 12/2/2011

Verification

I am the author of the comments in the above document with title:

COMMENTS BY RLWC ON PROPOSED DECISION BY ALJ BUSHEY MAILED 2/7/2012
IN REGARD TO ITS APPLICATION 09-09-005

The statements in the foregoing document are true of my own knowledge, except as to matters which are therein stated on information of belief, and as to those matters I believe them to be true. I declare under penalty of perjury that the foregoing is true and correct.

Executed on __February 27, 2012____ at Los Gatos, California

D. Massetti

Dominic Massetti

PO Box 8691 San Jose, CA 95155-8691

For Patricia Heimer and Dominic Massetti, Members, Redwood Lodge Water Company LLC

CERTIFICATE OF SERVICE

This document was served by me, on ~~February 27th~~ ^{MARCH 16th} 2012 the date that it was electronically filed with the CPUC, to the electronic mail addresses on the attached service list, which includes all persons who are a party to the amended application A.09-09-005.



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