

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

In the Matter of the Application of the Apple Valley Ranchos Water Company (U 346 W) for Authority to Increase Rates Charged for Water Service by \$3,896,586 or 20.0% in 2012, \$547,241 or 2.35% in 2013, and \$786,254 or 3.32% in 2014.

APPLICATION 11-01-001

(Filed January 3, 2011)

**TOWN OF APPLE VALLEY'S MOTION FOR EXTENSION OF TIME TO FILE
TESTIMONY**

**John E. Brown
Piero Dallarda
Charity Schiller
BEST BEST & KRIEGER LLP
for Town of Apple Valley
3750 University Avenue
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April 29, 2011

**TOWN OF APPLE VALLEY'S MOTION FOR EXTENSION OF TIME TO FILE
TESTIMONY**

Pursuant to Rule 11.6 of the Commission Rules of Practice and Procedure, the Town of Apple Valley ("Town") hereby makes this Motion for Extension of Time to File Testimony in the above captioned proceeding. This Motion for Extension of Time is made due to Apple Valley Ranchos Water Company's ("AVR") delay in responding to the Town's first set of Data Requests, wherein the Town requested from AVR "all documents consisting of the application, exhibits to the application, workpapers and written testimony in support of the application" on March 24, 2011, to be produced by April 1, 2011.

After AVR initially refused to produce its workpapers to the Town, the Town attempted to resolve this issue in good faith with AVR to no avail. Ultimately, the Town was forced to file a Motion to Compel Discovery under Rule 11.3 on April 20, 2011 in order to obtain from AVR the workpapers that it relies upon to justify the rate increase pending before the Commission in this proceeding. On April 21, 2011, AVR responded to the Town's initial data request, stating that copies of its workpapers, with confidential information redacted, were being sent via Fed-Ex for next day delivery to the Town. The Town received those redacted workpapers on Friday, April 22, and the Town's consultant received those redacted workpapers on Tuesday, April 26 and review and analysis commenced immediately.

Given AVR's three week delay in producing their workpapers to the Town, the Town has been unfairly hampered in its efforts to draft its testimony. The Town therefore files this Motion for Extension of Time, requesting that it be given until May 20, 2011 to file its testimony in this proceeding. The Town is aware of the upcoming schedule and the myriad deadlines and events in the next four to six weeks, but believes that a ten (10) day extension of time will not unduly prejudice any other party, including AVR, nor will it affect the ultimate schedule with regards to alternative dispute resolution dates or evidentiary hearing dates. The Town believes that this ten (10) day extension will provide the Town with adequate time for its analysis and preparation of complete testimony.

Pursuant to Rule 11.6, the Town requested the agreement of AVR to this extension of time, as the Town realizes that this will impact AVR's time in which to prepare its rebuttal testimony. This request was also copied to the Division of Ratepayer Advocates and the Apple

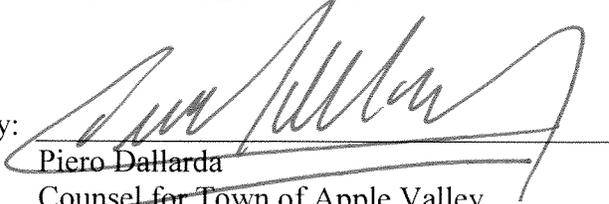
Valley Unified School District, the other parties in this proceeding. (Attachment A.) AVR responded that it opposed the Town's request, based on the Town's "failure to initiate discovery in a timely manner." (Attachment B.) As the Town stated in its Motion to Compel, the Town timely propounded its Data Requests on AVR on March 24, 2011 and had AVR produced the workpapers on April 1, 2011 as it should have and as it eventually did, the Town and its consultants would have had more than 5 full weeks to review, analyze and rely on this information in the Town's testimony. As it stands, the Town will have only 3 weeks without the requested extension to perform its analysis that is of the utmost importance to the Town's testimony, let alone incorporate any findings into the Town's testimony. Additionally, though AVR eventually admitted that "the large majority of the workpapers do not contain confidential information," it refused to turn over any of those workpapers prior to the Town filing its Motion to Compel so that the Town could begin review in a timely manner. AVR's untimeliness argument is plain bootstrapping and an attempt by AVR to benefit from its delay tactics and ostensible lack of cooperation.

For the reasons stated above, the Town respectfully requests that its testimony be due May 20, 2011 in order for the Town to have sufficient time to analyze, understand and incorporate the data in AVR's workpapers into the Town's testimony in this proceeding.

DATED: April 29, 2011.

Respectfully submitted,
BEST BEST & KRIEGER LLP

By:


Piero Dallarda

Counsel for Town of Apple Valley

PROOF OF SERVICE VIA EMAIL

I the undersigned declare that I am a resident of the State of California and over the age of eighteen years, and not a party to the within action; my business address is Best Best & Krieger LLP, 3750 University Avenue, Suite 400, Riverside, CA 92501. On April 29, 2011, I served the within document:

TOWN OF APPLE VALLEY'S MOTION FOR EXTENSION OF TIME TO FILE TESTIMONY

I hereby Certify that on April 29, 2011, I served a copy of the above documents on all known parties to Proceeding A.11-01-001 by e-mailing a copy to each and every party named in the official service list for this proceeding. Copies were sent to the following:

THOMAS E. HOEGERMAN
FOR: APPLE VALLEY UNIFIED SCHOOL DISTRICT
Tom_hoegerman@avusd.org

PIERO DALLARDA
FOR: TOWN OF APPLE VALLEY
Piero.dallarda@bbklaw.com

LISA BILIR
FOR: DIVISION OF RATEPAYER ADVOCATES
lwa@cpuc.ca.gov

YOKE W. CHAN
FOR: DIVISION OF RATEPAYER ADVOCATES
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PATRICIA MA
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ppm@cpuc.ca.gov

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GEORGE BUTTS
UTILITY RATE INSTITUTE
george.b21@verizon.net

I am readily familiar with the firm's practice of collection and processing correspondence for mailing, as well as the practice of processing email correspondence. .

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on April 29, 2011, at Riverside, California.


Kelly Cwiertny

Attachment A

Kelly Cwiertny

From: Kelly Cwiertny
Sent: Wednesday, April 27, 2011 3:15 PM
To: 'Leigh Jordan'
Cc: John Brown; Piero Dallarda; Charity Schiller; Krysten Steele; Ed Jackson; Ebershoff, David; 'Bondonno, Maria L.'; ywc@cpuc.ca.gov; 'tom_hoegerman@avusd.org'
Subject: RE: A. 11-01-001 - AVR's Partial Response to Data Request No. TOWN-1

Mr. Jordan,

Thank you very much for sending the Town the workpapers in response to the Town's data request. We received copies of those workpapers on Friday, April 22 and we were able to get these to our consultant on Tuesday, April 26. In light of the three week delay that the Town has experienced (the original deadline to respond to this data request was April 1) in being able to begin its review and analysis of the workpapers, the Town intends to seek an extension of time to file its testimony in this proceeding under Rule 11.6 of the Commission Rules of Practice and Procedure. Keeping the schedule in mind, we intend to seek only an additional 10 days to file testimony, requesting a due date of May 20 rather than May 10 in order to accommodate our needs in fully reviewing and analyzing the documents that the Town has just received.

Rule 11.6 requires that the party seeking the extension of time confer in good faith with other parties that may be impacted by its request. We understand that any extension of time given to the Town will impact the response time AVR will have in serving its rebuttal testimony in this proceeding, but seek your agreement to this request in light of the delay that the Town has been faced with.

We intend to file our Motion for Extension of time on Friday, March 29, so your prompt attention to this request is appreciated.

Kelly Cwiertny
Best, Best & Krieger LLP
3750 University Ave., Suite 400
Riverside, CA 92502
p: (951) 826-8305
f: (951) 686-3083

From: Leigh Jordan [mailto:Leigh@parkwater.com]
Sent: Thursday, April 21, 2011 4:51 PM
To: Kelly Cwiertny
Cc: John Brown; Piero Dallarda; Charity Schiller; Krysten Steele; Ed Jackson; Ebershoff, David
Subject: RE: A. 11-01-001 - AVR's Partial Response to Data Request No. TOWN-1

Ms. Cwiertny,

Attached please find AVR's Second Partial Response to Data Request TOWN-1 in connection with A.11-01-001, AVR's GRC Application, providing partial response to question 1, relating to AVR's workpapers, and providing an explanation regarding the timing of response to for other items requested in question 1.

The response has been attached to this email but the attachments, a set of binders containing redacted workpapers with confidential information removed, is only available in hardcopy form. AVR will also send out today, by Fed-Ex, a hardcopy response which includes the attachments.

Leigh K. Jordan
Executive Vice President
Park Water Company

(562) 923-0711 Ext. 1204

If you are not the intended recipient of this email you are not to disclose, copy, distribute or use the information or material contained in or attached to this email. Instead, please immediately contact me and destroy the original email and attachments without reading or saving them. Thank you.

Attachment B

Kelly Cwiertny

From: Leigh Jordan [Leigh@parkwater.com]
Sent: Wednesday, April 27, 2011 7:47 PM
To: Kelly Cwiertny
Cc: John Brown; Piero Dallarda; Charity Schiller; Krysten Steele; Ed Jackson; Ebershoff, David; Bondonno, Maria L.; ywc@cpuc.ca.gov; tom_hoegerman@avusd.org
Subject: A. 11-01-001 - Town's request for agreement to an extension of time

Ms. Cwiertny,

AVR opposes Town's request for an extension of time to file testimony based, among other things, on Town's failure to initiate discovery in a timely manner.

Leigh K. Jordan
Executive Vice President
Apple Valley Ranchos Water Company
(562) 923-0711 Ext. 1204

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-----Original Message-----

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Leigh K. Jordan
Executive Vice President
Park Water Company
(562) 923-0711 Ext. 1204

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