BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

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In the Matter of the Application of VALENCIA WATER COMPANY (U-342-W), a Corporation, for an Order Authorizing It to Increase Rates Charged for Water Service in Order to Realize Increased Annual Revenues of $2,402,000 in a Test Year Beginning July 2007, $708,000 in a Test Year Beginning July 2008, and $660,000 in an Escalation Year Beginning July 2009, and to Make Further Changes and Additions to Its Tariff for Water Service.	)	Application No. 06-07-002 (Filed July 3, 2006)

MOTION OF
VALENCIA WATER COMPANY
FOR INTERIM RATES

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April 20, 2007

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

In the Matter of the Application of VALENCIA WATER COMPANY (U-342-W), a Corporation, for an Order Authorizing It to Increase Rates Charged for Water Service in Order to Realize Increased Annual Revenues of $3,470,000 in a Test Year Beginning July 2007 and $864,000 in a Test Year Beginning July 2008, and to Make Further Changes and Additions to Its Tariff for Water Service.	)	Application No. 06-07-002 (Filed July 3, 2006)

MOTION OF
VALENCIA WATER COMPANY
FOR INTERIM RATES

Pursuant to Rule 11.1 of the Commission's Rules of Practice and Procedure, Applicant Valencia Water Company ("Valencia") hereby respectfully moves for a Commission decision authorizing Valencia to implement interim rates effective July 1, 2007, subject to refund, in accordance with Section 455.2 of the Public Utilities ("P.U.") Code. Submission of this motion is necessary at this time due to uncertainty as to whether the Commission will issue a timely decision addressing the above-captioned general rate case ("GRC"), for which new rates are scheduled to be effective as of July 1, the first day of the initial test year for this proceeding.

I.

VALENCIA SHOULD BE AUTHORIZED TO IMPLEMENT
INTERIM RATES, SUBJECT TO REFUND, PURSUANT TO SECTION 455.2.

Section 455.2 of the P.U. Code was enacted to provide Commission-regulated water utilities subject to the Commission's triennial rate case plan some assurance of timely rate relief. This assurance is provided by a mandate that the Commission issue its final decision in such cases in a manner that ensures that rates take effect at the beginning of the first test year or, in the alternative, that the utility be allowed to file a tariff implementing higher rates as of that date,

subject to refund. By this motion, Valencia seeks to set the stage for timely implementation of interim rates in the event that such implementation becomes warranted.

A. Section 455.2 Expressly Provides for Water Utilities to Implement Interim Rates Should a GRC Decision Not Be Issued by the First Day of the First Test Year.

Section 455.2 provides in pertinent part:

> (a) The commission shall issue its final decision on a general rate case application of a water corporation with greater than 10,000 service connections in a manner that ensures that the commission's decision becomes effective on the first day of the first test year in the general rate case application.
>
> (b) *If the commission's decision is not effective in accordance with subdivision (a), the applicant may file a tariff implementing rates that may be increased by an amount equal to the rate of inflation as compared to existing rates. The interim rates shall be effective on the first day of the first test year in the general rate case application.* These interim rates shall be subject to refund and shall be adjusted upward or downward back to the interim rate effective date, consistent with the final rates adopted by the commission. The commission may authorize a lesser increase in interim rates if the commission finds the rates to be in the public interest. If the presiding officer in the case determines that the commission's decision cannot become effective on the first day of the first test year due to action by the water corporation, the presiding officer or commission may require a different effective date for the interim rates or final rates.

P.U. Code, Section 455.2 [emphasis added].

When enacting Section 455.2, the Legislature declared that "[I]t is in the public's interest to provide a certain but flexible schedule for investigating and addressing rate changes proposed by water corporations." *See,* Assembly Bill 2838 (Stats. 2002, c. 1147), Section 1(b). Further, when Governor Gray Davis signed the section into law, he stated: "This bill requires the Public Utilities Commission (PUC) to act on water utilities' rate applications within specified timelines and allows water utilities to enact interim rates at the rate of inflation when their rate cases are delayed, subject to refunds by the PUC . . . ." Letter of Governor Davis to Members of the California State Assembly, September 30, 2002.

B. If the GRC Decision Is Late, Valencia Will Be Entitled to Interim Rates Under Section 455.2.

Valencia is a water corporation with over 10,000 service connections and, therefore, comes within the purview of Section 455.2. If the Commission fails to render its decision in the present GRC in time for it to "become effective on the first day of the first test year," then Valencia will be entitled to interim rates under Section 455.2, unless the delay is "due to action by the water corporation." As will be shown, if the Commission's decision in this GRC is delayed to the point that it cannot be effective by the first day of the first test year – that is, by July 1, 2007 – that delay will not have been due to action by Valencia.

In accordance with the Commission's Rate Case Plan for Class A Water Utilities, adopted by Decision 04-06-018, Valencia filed its proposed application at the beginning of May, 2006. On May 31, DRA delivered a deficiency letter to Valencia, identifying perceived deficiencies in the proposed application. After addressing each of these items and revising the proposed application, Valencia filed its Application on July 3, 2006 (July 1 was a Saturday). The application was served on potentially interested parties and was noticed promptly in the Commission's Daily Calendar. The only protest submitted was that of the Division of Ratepayer Advocates ("DRA"), filed August 1, 2006.

The discovery process began even before Valencia submitted its application, and Valencia worked diligently to respond promptly and fully to all DRA data requests, generally providing responses within a few days after receipt of a request. There were no discovery disputes that required the attention of the Administrative Law Judge ("ALJ"). As a result of this cooperative discovery process, DRA was able to complete its reports on a timely basis, serving them on October 10, 2006.

Pursuant to the ALJ's ruling of October 4, 2006, Valencia filed supplemental testimony addressing certain aspects of the Commission's Water Action Plan. In response, DRA filed a reply on October 20. A public participation hearing was held in Valencia's service area on October 23, followed by Valencia's circulation of rebuttal testimony on October 25. Settlement discussions then commenced between Valencia and DRA, resulting in a stipulation that proposed resolution of most previously contested issues. The remaining issues in dispute were addressed during two days of evidentiary hearings held in late November (after the Thanksgiving holiday) and in the parties' opening and reply briefs, filed January 22 and February 5, 2007, respectively.

The procedural schedule of this GRC, recounted above, complied closely with the Rate Case Plan through the submission of rebuttal testimony. Due to difficulties in scheduling the evidentiary hearings that were not the fault of Valencia, the hearing had to be deferred until the last week of November. Then, due to the intervening end-of-year holidays, the filing date for opening briefs was deferred to late January. As a result, the case was submitted for decision 60 days behind schedule, with the filing of reply briefs on February 5, 2007. However, because the Rate Case Plan schedule for single-district utility GRCs provides nearly three months' leeway between the targeted Commission decision date (day 280) and the first day of the test year, the submission of this GRC in early February still should permit a timely decision effective July 1.

In short, processing of the present GRC has fallen behind the schedule set by the Rate Case Plan for reasons that were not "due to action by the water corporation," but rather were due to the difficulty of setting procedural dates in the busy end-of-year holiday season. The schedule as set still permits a timely decision effective July 1. Therefore, should the Commission fail to render its decision in this GRC in time to be "effective on the first day of the first test year," that failure will not be "due to action by the water corporation." Accordingly, if the Commission's

decision comes too late for the approved rates to be effective July 1, then interim rates should be effective for Valencia on that date in accordance with Section 455.2.

C. Valencia Has Made a Substantial Showing Supporting a Rate Increase at Least Equal to the Rate of Inflation.

In its decision adopting the current Rate Case Plan for Class A Water Utilities, the Commission addressed the implementation of Section 455.2, and declared that any request for interim rate relief "must demonstrate that the utility has made a substantial showing in the application supporting a rate increase at least equal to the rate of inflation." *Rulemaking to Evaluate Existing Practices and Policies for Processing General Rate Cases and to Revise the General Rate Case Plan for Class A Water Companies,* Decision 04-06-018, adopted June 9, 2004, *mimeo.* at 22. Valencia has made such a showing.

By the present Application, Valencia requested an increase in annual revenues for Test Year 2007-2008 in the amount of $3,470,000 or 20.7%. Application, at 2. The proposed rates were compared with existing rates in Exhibit 1 (Conway/VWC), Table 12-1, which indicates a proposed increase, for the first test year, of more than 16% in the quantity rate for General Metered Service and higher percentage increases in service charges per meter. Valencia supported these requested rate increases with a very substantial evidentiary showing, consisting of testimony by twelve (12) expert witnesses and forty (40) exhibits sponsored by those witnesses. All these materials were received into evidence and provide a fully sufficient evidentiary basis for "a rate increase at least equal to the rate of inflation."

D. Authorizing Valencia to Implement Interim Rates in Accordance With Section 455.2 Is in the Public Interest.

As noted above, Section 455.2 allows the Commission to authorize an increase in interim rates less than the rate of inflation "if the commission finds the rates to be in the public

interest." In Decision 04-06-018, the Commission interpreted this provision as requiring the Commission to "make a finding of the 'public interest'" and so called for a public interest showing as a condition for granting interim rates.

Authorizing Valencia to implement interim rates in accordance with Section 455.2 clearly is in the public interest. The public interest in allowing timely rate relief to the extent mandated by Section 455.2 is evidenced by the statement of legislative intent in Section 1(b) of Assembly Bill 2838 and in the Governor's transmittal letter upon signing the bill into law, both of which are quoted above. The Commission itself has recognized that authorizing interim rates pursuant to Section 455.2 serves the public interest by mitigating negative financial consequences arising from delay in processing GRC applications. *See, Apple Valley Ranchos Water Co.*, Decision 02-12-063. Authorizing Valencia to implement an interim rate adjustment in the event that its GRC decision is delayed will serve that public interest as well.

E. Valencia Should Be Authorized to Implement Interim Rates in Accordance With Section 455.2 in the Event That the GRC Decision Is Delayed.

Under the terms of Section 455.2, if a GRC decision is not timely, "the applicant may file a tariff implementing rates that may be increased by an amount equal to the rate of inflation as compared to existing rates . . . effective on the first day of the first test year in the general rate case application." Section 455.2(b). These interim rates shall be subject to refund and shall be adjusted upward or downward back to their effective date, consistent with the final rates the Commission eventually adopts. *Id.*

In order to ensure compliance with Section 455.2 in this case, Valencia should be authorized to file revised rates, effective July 1, 2007, if it becomes clear that the Commission's GRC decision will not be effective by that date. As indicated above, Valencia has met all the requirements interposed by Decision 04-06-018 as preconditions for granting such relief.

Valencia's revised rates should be increased by the rate of inflation as compared to Valencia's existing rates that were set more than four years ago by Decision 03-05-030. In accordance with the Rate Case Plan decision and other prior Commission decisions, the rate of inflation should be calculated using the most recent Consumer Price Index for All Urban Consumers ("CPI-U") US City Average, All Items, as maintained by the Bureau of Labor Statistics of the U.S. Department of Labor. *See, e.g.,* Decision 04-06-018, *supra, mimeo.* at 24; *Southern California Water Company*, Decision 04-04-011, Ordering Paragraph 2.

II.
CONCLUSION

For all of the reasons stated above, the Commission should promptly authorize Valencia Water Company to implement interim rates, subject to refund, effective July 1, 2007, if it becomes apparent that that the Commission's GRC decision will not be effective by that date.

Respectfully submitted,

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April 20, 2007

CERTIFICATE OF SERVICE

I, Jeannie Wong, hereby certify that I will on this date serve by electronic mail or by hand delivery, a copy of the foregoing MOTION OF VALENCIA WATER COMPANY FOR INTERIM RATES on the following parties on the service list for A.06-07-002 listed below:

By electronic mail:

kjb@cpuc.ca.gov; llk@cpuc.ca.gov; flc@cpuc.ca.gov; vcc@cpuc.ca.gov; rdiprimio@valencia.com; gmilleman@valencia.com; bjohnson@valencia.com; mpo@cpuc.ca.gov

By hand delivery:

Hon. Karl Bemesderfer
Administrative Law Judge
California Public Utilities Commission
505 Van Ness Avenue, Room 5006
San Francisco, CA 94102

Executed this 20th day of April, 2007 in San Francisco, California.

/S/ JEANNIE WONG
Jeannie Wong