

**PUBLIC UTILITIES COMMISSION**505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298**FILED**05-05-09
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May 5, 2009

Agenda ID #8533
Ratesetting

TO PARTIES OF RECORD IN APPLICATION 08-06-034

This is the proposed decision of Administrative Law Judge (ALJ) Farrar, previously designated as the presiding officer in this proceeding. It will not appear on the Commission's agenda for at least 30 days after the date it is mailed. This matter was categorized as ratesetting and is subject to Pub. Util. Code § 1701.3(c). Upon the request of any Commissioner, a Ratesetting Deliberative Meeting (RDM) may be held. If that occurs, the Commission will prepare and publish an agenda for the RDM 10 days beforehand. When the RDM is held, there is a related ex parte communications prohibition period. (See Rule 8.2(c)(4).)

When the Commission acts on the proposed decision, it may adopt all or part of it as written, amend or modify it, or set it aside and prepare its own decision. Only when the Commission acts does the decision become binding on the parties.

Parties to the proceeding may file comments on the proposed decision as provided in Article 14 of the Commission's Rules of Practice and Procedure (Rules), accessible on the Commission's website at www.cpuc.ca.gov. Pursuant to Rule 14.3, opening comments shall not exceed 15 pages.

Comments must be filed either electronically pursuant to Resolution ALJ-188 or with the Commission's Docket Office. Comments should be served on parties to this proceeding in accordance with Rules 1.9 and 1.10. Electronic and hard copies of comments should be sent to ALJ Darwin Farrar at edf@cpuc.ca.gov and assigned Commissioner. The current service list for this proceeding is available on the Commission's website at www.cpuc.ca.gov.

/s/ KAREN V. CLOPTONKaren V. Clopton, Chief
Administrative Law Judge

KVC:jyc

Attachment

Decision **PROPOSED DECISION OF ALJ FARRAR** (Mailed 5/5/2009)

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of Golden State Water Company (U913E) for Authority to Increase Rates for Electric Service by its Bear Valley Electric Service Division.

Application 08-06-034
(Filed June 27, 2008)

(See Appendix A for a List of Appearances)

DECISION ON MOTION FOR INTERIM RATE RELIEF OR, IN THE ALTERNATIVE, ESTABLISHMENT OF A MEMORANDUM ACCOUNT

Summary

The Motion by the Golden State Water Company (GSWC) for an interim rate increase for its Bear Valley Electric Service Division (BVES) general office costs is denied. GSWC is however authorized to track the difference between costs that are currently being collected and the currently authorized general office allocation for BVES in a memorandum account effective June 4, 2009. To the extent needed, the disposition of the memorandum accounts will be addressed in the final decision.

Background

In Application (A.) 06-02-034, GSWC sought an order authorizing it to increase rates for water service in its Region II service area for years 2007-2009. As part of that proceeding, GSWC also sought a determination concerning its general office (GO) operations, including the percentage of GO costs that should be allocated to its BVES. Decision (D.) 07-11-037 adopted a BVES allocation for GSWC's GO costs of \$3,609,170.¹ More recently, on June 27, 2008, GSWC filed a general rate case (GRC) application seeking a test year 2009 revenue requirement and related rate increases for its BVES. GSWC is seeking an increase of approximately \$7 million over the base revenues adopted in BVES' 1996 GRC. BVES' proposed rates are based on its various costs, including the GO allocation established in D.07-11-037.

The Assigned Commissioner's Ruling and Scoping Memo, dated January 16, 2009, provided a schedule that anticipated a final decision on July 31, 2009. On claims that the increase in BVES' allocated GO costs to be incorporated into rates is over \$2 million, and claims that unforeseen events might delay the procedural schedule and preclude the Commission from issuing a final decision before July 31, 2009, GSWC filed a motion on November 21, 2009, seeking interim rate relief or, in the alternative, authority to establish a memorandum account to track its unrecovered costs for the period of January 1, 2009, to the effective date of the final decision.

Comments were received in response to GSWC's motion for establishment of a memorandum account from the Division of Ratepayer Advocates (DRA) and

¹ See D.07-11-037, at 42-43, FoF #23.

the City of Big Bear Lake (the City). While DRA opposed both interim relief and establishment of the memorandum account, the City stated its opposition to interim relief but did not comment on the memorandum account proposal.

Interim Rate Relief Request

By way of its motion GSWC seeks authorization to implement two surcharges – one for BVES’ domestic low-income customers and one for BVES’ remaining customers – to allow for full cost recovery of BVES’ share of GSWC’s GO costs. The surcharge for residential customers eligible for the CARE program and taking service under BVES tariff schedule DLI (Domestic Low Income) would be \$.01207/kWh. The surcharge for BVES’ remaining customers would be \$.01519/kWh. These proposed surcharges are intended to allow recovery of the difference between the level of GO costs currently reflected in BVES’ rates and the level of GO costs allocated to BVES in D.07-11-037. GSWC argues both that the Commission has the authority to grant the requested interim rate relief, and that interim relief is warranted under the present circumstances.² Specifically, GSWC claims that interim relief is fair, will help prevent rate shock, will ensure that those responsible for costs bear those costs, and will take into account the fact that BVES is and has been earning well below its last authorized rate of return (ROR).

Both DRA and the City oppose GSWC’s request. In particular, DRA argues that granting interim rate relief presupposes both that there will be a significant rate increase and that GSWC has the best proposal for reducing rate

² Citing *Toward Utility Rate Normalization v. Public Utilities Commission*, 44 Cal.3d 870 (1988), *In the Matter of the Application of the Southern California Edison Company* (U 338-E) (D.88-05-074) 1988 Cal. LEXIS 503, and D.03-12-057.

shock. DRA also notes that BVES, by its failure to seek rate adjustments in a timely fashion, is responsible for any potential rate shock. The City contends that GSWC's proposal is unfair, that BVES won't be harmed by deferring a rate increase until the decision issues, that rate shock can be mitigated by other rate impact mitigation measures, and that providing interim relief now would break up the GRC in a piecemeal fashion.

Both DRA and the City argue that BVES lacks precedent for its request. DRA distinguishes the facts presented in D.03-12-057, upon which GSWC relies, from those presently at hand by pointing out that in D.03-12-057:

[T]he Applicants filed their GRC in December 2002 for a decision in 2003 and implementation in 2004. In early 2003, the Office of Ratepayer Advocates ... [DRA] requested additional time to respond to the Application, and the Commission granted [DRA's] request. The ... parties then requested an 80% interim rate relief to be effective in the latter part of 2003, arguing that an under collection of rates due to a delay in the GRC proceeding would send the wrong price signals and likely cause a "rate shock" when all the rates become due after the GRC decision.

(Response of DRA to the Motion of Golden State Water Company for an Interim Rate Increase, at 4-5.) The City likewise distinguishes the precedent relied upon by GSWC. First, the City notes that in *Toward Utility Rate Normalization v. Public Utilities Commission*, 44 Cal.3d 870 (1988) "the overriding circumstance was the prospect of many months and years of hearings and deliberations before the reasonableness and prudence of the many items of cost ... could be finally determined." (Response to Golden State Water Company's Motion for Interim Rate Increase, at 1.) The City also points out that in *In the Matter of the Application of the Southern California Edison Company* (U 338-E) (D.88-05-074) 1988 Cal. LEXIS 503, upon which GSWC also relies, "the proceeding had encountered a

history of delays ... which would require evidentiary development and briefing and the bifurcation of the proceeding into two phases each of which required hearings.” (Response to Golden State Water Company’s Motion for Interim Rate Increase, at 1.)

The fact that BVES has gone a long time without an adjustment to its rates does not, by itself, establish the type of exigent circumstances that usually give rise to interim relief. This is especially true where, as is presently the case, it appears that the applicant could have raised the issue in a more timely fashion. Moreover, the fact that the proceeding is on pace with the schedule set forth in the January 16, 2009, Scoping Memo and Ruling of Assigned Commissioner and there is nothing to suggest that there will be any unexpected delays, argue persuasively against our granting GSWC’s motion for interim rate relief.

Memorandum Account Request

As an alternative to interim rate relief, GSWC seeks authorization to track the difference between general office costs that are currently being collected and BVES’ currently authorized GO allocation in a memorandum account. This Commission has a clearly established practice of establishing memorandum accounts to allow GRC case decisions delayed past the start of the test year to be effective as if the decisions had not been delayed, notwithstanding the general rule against retroactive ratemaking. Such memorandum accounts were implemented in the last GRC for each of the major California energy utilities. For example, in D.06-10-033, this Commission authorized a memorandum account to leave shareholders and ratepayers essentially indifferent to the actual future date of the delayed GRC decision that would authorize Pacific Gas and Electric Company’s test year 2007 revenue requirement. Similarly, in D.06-01-020 the Commission granted Southern California Edison Company a memorandum

account to track costs because the eventual decision had been delayed in that proceeding. Finally, in San Diego Gas & Electric Company and Southern California Gas Company's last consolidated GRC, Application (A.) 06-12-009/A.06-12-010, the Commission issued D.07-12-053, which authorized a memorandum account to track the eventual outcome of the final decision (subsequently issued in August 2008) back to the start of the test year, January 1, 2008.³

As was the case in the proceedings above, GSWC's anticipated GRC decision date of no earlier than July 31, 2009, comes well after the 2009 test year start. Moreover, because it will track only the increased GO allocation costs for BVES, which have been effective since November 2007, the requested memorandum treatment will leave both ratepayers and shareholders essentially indifferent to the precise date of the final decision, remove any incentives for any party to seek or promote delay, and allow sufficient time for review and critical analysis of the record. We therefore think it appropriate to allow GSWC to track the difference between GO costs currently being collected and the GO costs allocated to BVES in D.07-11-037 on a prospective basis.⁴ To the extent needed, the disposition of the memorandum account will be addressed in the final decision.

³ Due to the circumstances of the proceeding, when revenue requirement adjustments would be effective was left open.

⁴ Due to retroactive ratemaking considerations, the proposed memorandum accounts can neither become effective nor reflect D.07-11-037's revised BVES general office costs, prior to the date of this decision.

Comments on Proposed Decision

The proposed decision of the Administrative Law Judge (ALJ) 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. Comments were filed on _____, and reply comments were filed on _____ by _____.

Assignment of Proceeding

Timothy A. Simon is the assigned Commissioner and Darwin E. Farrar is the assigned ALJ in this proceeding.

Findings of Fact

1. The Assigned Commissioner's Ruling and Scoping Memo, dated January 16, 2009, anticipates a final decision in this proceeding on or before July 31, 2009.
2. GSWC requests authority to establish a memorandum account to track the difference between general office costs currently being collected and the General Office costs allocated to Bear Valley Electric Service Division (BVES) in D.07-11-037.
3. GSWC requests authority to implement two surcharges - one for BVES' domestic low-income customers and one for BVES' remaining customers - to allow for full cost recovery of BVES' share of GSWC's general office costs.
4. The requested memorandum account is consistent with previously stated Commission objectives to leave both ratepayers and shareholders essentially indifferent to the precise date of the final decision, to remove incentives for any party to seek or promote delay, and to allow sufficient time for review and critical analysis of the record.

5. Due to retroactive ratemaking considerations, the proposed memorandum accounts cannot become effective prior to the date of this decision.

Conclusions of Law

1. The motion of GSWC for an interim rate increase for its BVES should be denied.

2. The motion of GSWC for authority to establish a memorandum account to track that portion of the un-recovered General Office costs allocated to Bear Valley Electric Service Division should be granted.

3. The authorized memorandum account to track the difference between general office costs currently being collected and the General Office costs allocated to Bear Valley Electric Service Division in D.07-11-037 should be effective as of June 4, 2009.

O R D E R

IT IS ORDERED that:

1. Golden State Water Company is not authorized to implement surcharges to allow for full cost recovery of Bear Valley Electric Service Division's share of Golden State Water Company's general office costs at this time.

2. Golden State Water Company shall file an Advice Letter within 21 days with the Energy Division to establish a memorandum account to track the difference between general office costs currently being collected and the General Office costs allocated to Bear Valley Electric Service Division in D.07-11-037.

3. Balances in this account shall accrue interest at the three-month commercial paper rate as set forth in the Federal Reserve Statistical Release H.15 or its successor.

4. To the extent needed, the disposition of the memorandum accounts will be addressed in the final decision.

5. Application 08-06-034 remains open.

This order is effective today.

Dated _____, at San Francisco, California.

APPENDIX A

******* SERVICE LIST *******

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A0806034 LIST**

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