STATE OF CALIFORNIA ARNOLD SCHWARZENEGGER, *Governor*

PUBLIC UTILITIES COMMISSION
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298

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February 27, 2008

Agenda ID #7402
Ratesetting

TO PARTIES OF RECORD IN APPLICATION 05-08-021 AND INVESTIGATION 06-03-001

This is the corrected proposed decision of Administrative Law Judge (ALJ) Barnett. The only difference between the corrected version and original version is that the corrected version contains the heading **PROPOSED DECISION OF ALJ BARNETT (Mailed 2/27/2008)**. It will not appear on the Commission's agenda for at least 30 days after the date it is mailed. The Commission may act then, or it may postpone action until later.

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 Barnett at rab@cpuc.ca.gov and the assigned Commissioner. The current service list for this proceeding is available on the Commission's website at www.cpuc.ca.gov.

/s/ JANET A. ECONOME for
Angela K. Minkin, Chief
Administrative Law Judge

ANG:hl2
Attachment

Decision **PROPOSED DECISION OF ALJ BARNETT** **(Mailed 2/27/2008)**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the Application of SAN GABRIEL VALLEY WATER COMPANY (U337W) for Authority to Increase Rates Charged for Water Service in its Fontana Water Company Division by $5,662,900 or 13.1% in July 2006; $3,072,500 or 6.3% in July 2007; and by $2,196,000 or 4.2% in July 2008.	Application 05-08-021 (Filed August 5, 2005)
Order Instituting Investigation on the Commission's Own Motion into the Rates, Operations, Practices, Service, and Facilities of San Gabriel Valley Water Company (U 337 W).	Investigation 06-03-001 (Filed March 2, 2006)

OPINION APPROVING THE PETITION FOR MODIFICATION OF DECISION 07-04-046

Summary

In Decision (D.) 07-04-046 we granted a rate increase to San Gabriel Valley Water Company (San Gabriel) and ordered refunds of certain gains. To correct an error in the computation of refunds we find that changes are necessary to accurately reflect the 67%/33% ratepayer-company allocation of the gain from the contamination reward received by San Gabriel. The result of these changes is to a) reduce the rate base in D.07-04-046, Appendix A, by $1,278,600, b) reduce the revenue requirement of D.07-04-046, Appendix A, by $207,300, and c) increase the refund by $773,122. All of these changes have been proposed and

accepted by all parties. The computation of interest on the refund amount is stipulated to be $56,705 as of May 21, 2007.

Discussion

Pursuant to Rule 16.4(a-d) of the Commission's Rules of Practice and Procedure, the Division of Ratepayer Advocates (DRA), the City of Fontana (the City), and the Fontana Unified School District (School District) submitted their Petition for Modification of D.07-04-046. Petitioners assert that modifying the decision is necessary because the decision discusses many issues in the text of the Decision but does not reflect those issues in the Findings of Fact or in the Order. Modifying the decision is also necessary to correct calculations and incorrect numbers in the decision. Lastly, the decision's appendices require modifications. Petitioners submitted proposed modifications.

San Gabriel filed its response to the petition, agreeing with the need for modification of D.07-04-046, but differing with some of Petitioners' proposed modifications. After a series of meetings and exchanges, the parties agreed on the following modifications to D.07-04-046.

As an additional Conclusion of Law:

> The Commission should review the reasonableness of the construction costs of Sandhill in the next GRC *or* if San Gabriel prefers in a separate application seeking a finding that the costs included in rate base are reasonable. And until the Commission determines the reasonableness of Sandhill's construction costs, the revenue increases included in rates via advice letter should be subject to refund.

As an additional Ordering Paragraph:

> The costs of the Sandhill water treatment plant upgrade project authorized for inclusion in rate base shall be

> capped at $35 million, of which $12 million is included in rate base for Test Year 2006-2007 and up to $23 million may be added to rate base by annual advice letter filings.

As an additional Ordering Paragraph:

> San Gabriel shall track, in a memorandum account, the revenue increases resulting from the inclusion of the Sandhill project in rate base via advice letter, which revenue increases shall be subject to refund.

As an additional Ordering Paragraph:

> San Gabriel shall first utilize the facilities fees to offset the rate base increase from the Sandhill project and shall use any leftover facilities fees to offset other rate base increases subject to the 10% rate base cap.

As an additional Ordering Paragraph:

> The refund amount ordered in this proceeding shall accrue interest until the full amount is fully refunded to customers.

As an additional Ordering Paragraph:

> San Gabriel is authorized to phase in up to $4.9 million in CWIP for its new office complex during the years 2006 and 2007. The rate-base reduction from removal of the existing facilities from service will partially offset the rate-base increase from the new facilities.

The following changes are necessary to modify the Opinion section of D.07-04-046, to accurately reflect the 67%/33% ratepayer-company allocation of the gain from the contamination reward received by San Gabriel. The result of these changes is to reduce the rate base in D.07-04-046, Appendix A, by

$1,278,600;[1] reduce the revenue requirement of D.07-04-046, Appendix A, by $207,300;[2] and increase the refund by $773,122.[3] All of these changes have been proposed and accepted by all parties. The computation of interest on the refund amount is stipulated to be $56,705 as of May 21, 2007.

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> For Test Year (TY) 2006-2007, to reduce rates by $1,857,300 ~~$1,948,900~~ (Appendix A, p. 1);
>
> This case finds that San Gabriel misapplied Public Utilities Code Section 790 with respect to the proceeds it received related to compensation for contamination and as a consequence appropriated $2,994,582 ~~$1,570,421~~ of money which should have been allocated to ratepayers. To rectify this misappropriation we have reduced rate base by $2,994,582 ~~$1,570,421~~ relating back to D.04-07-034. Rates were recomputed from July 17, 2004 resulting in a refund of $1,346,400 ~~$719,100~~ as of December 31, 2006.

Page 14:

> The methodology should continue but may be reviewed ~~amortized~~ in the next rate case.

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[1] D.07-04-046, App. A

Adopted Rate Base	$86,791,500
New Modified Rate Base	85,512,900
Difference	$ 1,278,600

[2] D.07-04-046, App. A

Adopted Revenue Requirement	$41,938,800
New Modified Revenue Requirement	41,731,500
Difference	$ 207,300

[3] D.07-04-046, App. A

New Modified Refund (Ord. Par. 4)	$ 1,346,400
Adopted Refund (Ord. Par. 4)	573,278
Additional Refund	$ 773,122

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The net proceeds of $8,377,423 ~~8,377,923~~will be divided 33/67 between shareholders and ratepayers.[4]

The total allocation of gain to ratepayers is $5,612,873 ~~$5,613,208~~, which should be recorded as CIAC. In D.04-07-034, we had allocated $2,618,291 of that gain to CIAC. The result of this decision is to add $2,994,582 ~~$2,994,917~~ more to CIAC which reduces rate base by an equivalent amount.

Page 100:

The rate base for this decision is $85,512,900 ~~$86,123,679~~. (Appendix A, p. 1.)

Findings of Fact Changes:

78. The gain allocated to ratepayers of $5,612,873 ~~$5,613,208~~ should be reduced by the cost of Plant F-10, $2,618,291, which is already in CIAC.

79. The $2,994,582 ~~$2,994,917~~ balance of gain allocated to ratepayers will be accounted for by reducing rate base by increasing CIAC by that allocation.

85. The rate base for this decision is $85,512,900 ~~$85,367,300~~ (Appendix A, p. 1.) The rate base for D.04-07-034 will be recomputed to reduce it by $2,994,582 ~~$2,994,917~~ (Appendix E, p. 2). The revenue requirement for D.04-07-034 will be recomputed to reduce it by $522,200 annually. (Appendix E, p. 2.) The amount of the refund should be calculated to reflect this lower revenue requirement for the relevant time period.

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[4] Because $2,618,291 of this gain has been invested in Plant F-10 and recorded as CIAC only an additional $1,674,697.50 should be added to CIAC. ~~($8,377,423 ÷ 2) - $2,618,291 = $1,570,421)~~(($8,377,423 x 67%) - $2,618,291 = $2,994,582.)

Ordering Paragraph Changes:

4. San Gabriel shall refund to its ratepayers for the period of July 17, 2004 to December 31, 2006, $1,346,400 ~~$573,278~~, plus the amount accrued from January 1, 2007 to the date its revised tariff schedules set forth in Ordering Paragraph 1 are effective. The refund shall be based on cents per ccf. No later than October 1, 2007, San Gabriel shall file an advice letter effective January 1, 2008 to be approved by the Water Division setting forth the amount and method of the refund.

Comments on Proposed Decision

The proposed decision of the 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

John A. Bohn is the assigned Commissioner and Robert Barnett is the assigned Administrative Law Judge in this proceeding.

Findings of Fact

1. The Opinion section of D.07-04-046 is modified as follows:

   Pages 2, 14, 99, and 100, as set forth above.

2. The Findings of Fact section of D.07-04-046 is modified as follows:

   Findings of Fact 78, 79, and 85, as set forth above.

3. The Conclusion of Law section is modified by adding the following:

The Commission should review the reasonableness of the construction costs of Sandhill in the next GRC *or,* if San Gabriel prefers, in a separate application seeking a finding that the costs included in rate base are reasonable. And until the Commission determines the reasonableness of

Sandhill's construction costs, the revenue increases included in rates via advice letter should be subject to refund.

4. The Ordering Paragraphs of D.07-04-046 are modified by adding the additional Ordering Paragraphs, as set forth above.

5. The computation of interest on the refund amount is $56,705 as of May 21, 2007. After May 21, 2007 interest on the refund amount is the Federal Reserve 90 day commercial paper rate.

Conclusions of Law

1. The petition for modification of D.07-04-046 is granted.

2. The rate and charges set forth in Appendix D to this decision are just and reasonable for the test year and escalation years set forth.

3. The Order in D.07-04-046 is superseded and restated in this Order.

4. We note that there are pending applications for rehearing of D.07-04-046. By today's decision, we are not prejudging any issues raised in those rehearing applications.

O R D E R

IT IS ORDERED that:

1. The changes set forth in this Opinion are adopted and supersede Decision 07-04-046.

2. San Gabriel Valley Water Company (San Gabriel) shall file within 30 days after the effective date of this order, in accordance with General Order 96-B, and make effective on not less than five days' notice, the revised tariff schedules for its Fontana Division reflecting Appendices A through E to this order. The revised tariff schedules shall apply to service rendered on and after their effective date.

3. Not later than May 15, 2007 and May 15, 2008, for escalation years 2007/2008 and 2008/2009 respectively, San Gabriel shall file advice letters in conformance with General Order 96-B proposing new revenue requirements (and corresponding revised tariff schedules) for the Fontana Division. San Gabriel advice letters shall follow the escalation procedures set forth in the Commission's Rate Case Plan for Class A Water Utilities, and shall include appropriate supporting workpapers. San Gabriel shall reduce the escalation year revenue requirement for Fontana to the extent its rate of return on rate base for the 12 months ending March 31, 2007 and March 31, 2008, taking into account the rates then in effect and normal ratemaking adjustments, exceeds the rate of return found reasonable in this order. The revised tariff schedules shall take effect on July 1, 2007 and July 1, 2008, respectively, and shall apply to service rendered on or after their effective dates. The proposed revised revenue requirements and rates shall be reviewed by the Commission's Water Division. Water Division shall inform the Commission if it finds that the revised rates do not conform to the Rate Case Plan, this order, or other Commission decisions, in which case all revenues collected under the revised rates shall be subject to refund until the Commission has decided the matter.

4. Not later than November 15, 2007, and each succeeding year until San Gabriel's next GRC decision, San Gabriel shall file an advice letter in conformance with GO 96-B, proposing new revenue requirements (and corresponding revised tariff schedules) for the Fontana Division based on a new rate base reflecting: (i) inclusion in utility plant of all investment recorded during the then-current calendar year in the Sandhill Surface Water Treatment Plant Upgrade Project; and (ii) inclusion in CIAC of all revenues recorded in the facilities fee memorandum account during said calendar year. The advice letter

shall include appropriate supporting workpapers. The revised tariff schedules shall take effect on January 1 of the succeeding calendar year and shall apply to service rendered on or after their effective dates. The proposed revised revenue requirements and rates shall be reviewed by the Commission's Water Division, which shall inform the Commission if it finds that the revised rates do not conform to the Rate Case Plan, this order, or other Commission decisions, in which case all revenues collected under the revised rates shall be subject to refund until the Commission has decided the matter.

5. San Gabriel shall refund to its ratepayers for the period July 17, 2004 to July 1, 2006, $1,346,400, plus the amount accrued from July 1, 2006 to the date its revised tariff schedules set forth in Ordering Paragraph 1 are effective. The refund shall be based on cents per ccf. No later than 90 days after the effective date of this order, San Gabriel shall file an advice letter effective July 1, 2008 to be approved by the Water Division setting forth the amount and method of the refund.

6. To amortize its Water Quality Litigation Memorandum Account San Gabriel shall file an advice letter setting forth a detailed description of the services provided by San Gabriel's outside counsel. The amount approved by the Water Division shall be recovered by surcharge.

7. San Gabriel shall continue to track the costs of the CARW program and annually report to the Director of the Water Division the costs of such a program. San Gabriel may seek to have the costs recovered via a surcharge rather than in rates by filing an advice letter filed no later than October 1, 2007, to be effective January 1, 2008.

8. San Gabriel's Fontana Division shall file an application with the Commission within 120 days after the effective date of this decision requesting approval for the implementation of the Water Action Plan objectives.

9. For three separate violations of Rule 1 of our Rules of Practice and Procedure, San Gabriel shall pay a fine to the State of $20,000 for each violation for a total of $60,000.

10. Application 05-08-021 and Investigation 06-03-001 shall remain open to resolve the issues related to the proceeds from condemnations, sales under threat of condemnations and from inverse condemnations once the broader policy determinations have been made in R.04-09-003. San Gabriel's rates shall remain subject to refund to allow implementation of any resulting order.

11. The costs of the Sandhill water treatment plant upgrade project authorized for inclusion in rate base shall be capped at $35 million, of which $12 million is included in rate base for Test Year 2006-2007 and up to $23 million may be added to rate base by annual advice letter filings.

12. San Gabriel shall track, in a memorandum account, the revenue increases resulting from the inclusion of the Sandhill project in rate base via advice letter, which revenue increases shall be subject to refund.

13. San Gabriel shall first utilize the facilities fees to offset the rate base increase from the Sandhill project and shall use any leftover facilities fees to offset other rate base increases subject to the 10% rate base cap.

14. The refund amount ordered in this proceeding shall accrue interest until the full amount is fully refunded to customers.

15. San Gabriel is authorized to phase in up to $4.9 million in CWIP for its new office complex during the years 2006 and 2007. The rate-base reduction

from removal of the existing facilities from service will partially offset the rate-base increase from the new facilities.

This order is effective today.

Dated _____, at San Francisco, California.

INFORMATION REGARDING SERVICE

I have provided notification of filing to the electronic mail addresses on the attached service list.

Upon confirmation of this document's acceptance for filing, I will cause a Notice of Availability of the filed document to be served upon the service list to this proceeding by U.S. mail. The service list I will use to serve the Notice of Availability of the filed document is current as of today's date.

Dated February 27, 2008, at San Francisco, California.

/s/ ELIZABETH LEWIS
Elizabeth Lewis