

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Investigation on the Commission's own motion into the status, rates, rules, operations, service, facilities, contracts, and practices of the Union Pacific Railroad Company in the supply, distribution, and sale of water by the Keene Water System to the communities of Keene and Woodford in Kern County.

Investigation 00-05-020  
(Filed May 18, 2000)

**SCOPING MEMO AND RULING OF ASSIGNED COMMISSIONER**

**Summary**

This investigation was initiated to determine whether the Keene Water System, which is currently operated by Union Pacific Railroad Company (Union Pacific), is a public utility water system, as defined by Section 2701 of the Public Utilities Code.

The Order Instituting Investigation (OII), pursuant to Rule 6(c)(1) of the Commission's Rules of Practice and Procedure (Rules), set forth a preliminary scoping memo. Pursuant to Rule 6.3, this ruling finalizes the scope of the proceeding, the category of the proceeding, and the procedural schedule, and designates a principal hearing officer. A prehearing conference (PHC) was held in this matter on August 4, 2000.

**Background**

For over 80 years, Union Pacific, and its predecessor, Southern Pacific Company (SP), has supplied water to the communities of Keene and Woodford in Kern County. During most of the years that Union Pacific's predecessor, SP,

operated this water system, it supplied water for steam locomotives and related railroad facilities, nearby homes, businesses, and a hospital, all of which were located near SP's pipeline that carried water 12 miles downhill from the City of Tehachapi. When the use of steam locomotives was discontinued, in the 1960s, the railroad's need for water for its own purposes was substantially reduced. However, SP continued to provide water to local citizens and facilities. Over time, the SP pipeline was replaced by the installation of wells and tanks.

In 1972, this water supply system was deemed a public water system subject to the State's drinking water regulatory program, and a public water supply permit was issued to Keene Water System. The Kern County Environmental Health Services Department administered the State's Safe Drinking Water Programs for water systems in Kern County with less than 200 connections. On July 1, 1993, the California Department of Health Services assumed those responsibilities and commenced direct regulatory oversight of the Keene Water System.

This Commission has never regulated the Keene Water System as a public utility. However, based on the information contained in the declarations of Commission staff members, the OII stated that the Keene Water System may by its conduct have become a public utility as described in Section 2701 of the Public Utilities Code and thus, subject to the Commission's jurisdiction. Accordingly, the Commission, on its own motion, instituted this investigation into the status, rates, service, operations and practices of Union Pacific in the supply, distribution and sale of water by the Keene Water System to customers in Kern County.

### **Need for Evidentiary Hearings**

At the PHC, the parties agreed that a hearing would be necessary to resolve issues.

**Category**

The OII initially categorized this proceeding as “ratesetting.” Pursuant to Rule 6.3, I concur that this proceeding should be categorized as “ratesetting.”

**Scope of the Proceeding**

The scope of this proceeding shall remain as set forth in the OII. This proceeding shall determine whether:

- Union Pacific’s operation of a water system in the communities of Keene and Woodford in Kern County is subject to the jurisdiction and control of the Commission as provided for in Pub. Util. Code § 2701.

If it is determined that the water system is subject to Commission jurisdiction, the proceeding shall also determine whether:

- The terms and conditions of Union Pacific’s service are just and reasonable;
- Union Pacific should file tariffs for furnishing water; and
- Union Pacific’s abandonment of service would be in the public interest.

**Schedule**

The following schedule, which was agreed to by the parties at the PHC, should be adopted:

Testimony Served by Water Branch of the Office of Ratepayer Advocates	November 22, 2000
Testimony Served by Union Pacific and Intervenors	December 22, 2000
Rebuttal Testimony to Union Pacific or Intervenor Testimony Served	January 26, 2001
PHC and Public Participation Hearing	January 29, 2001, 6:30 p.m.—9:30 p.m. Administration Building 29700 Woodford/Tehachapi Road

Evidentiary Hearing	Keene, CA February 13-16, 2001, 9 a.m.--12 noon; and 1:30 p.m.--3:30 p.m. Employment Development Department Building Citrus Room 1924 "Q" Street Bakersfield, CA
Projected Submission Date	March 30, 2001

**Principal Hearing Officer**

Administrative Law Judge DeUlloa will act as the principal hearing officer in this proceeding.

**Ex Parte Communications**

This ruling designated this proceeding as "ratesetting." Therefore, pursuant to Rule 7(c), ex parte communications may occur subject to the restrictions set out in that rule.

**IT IS HEREBY RULED** that:

1. Evidentiary hearings are needed.
2. This application is categorized as a ratesetting proceeding.
3. The scope of this proceeding is as set forth in this ruling.
4. The schedule for the remainder of this proceeding is as set forth in this ruling.
5. Administrative Law Judge DeUlloa shall be the principal hearing officer in this proceeding.

Dated November 16, 2000, at San Francisco, California.

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/s/ CARL WOOD  
Carl Wood  
Assigned Commissioner

**CERTIFICATE OF SERVICE**

I certify that I have by mail this day served a true copy of the original attached Scoping Memo and Ruling of Assigned Commissioner on all parties of record in this proceeding or their attorneys of record.

Dated November 16, 2000, at San Francisco, California.

/s/ EVELYN P. GONZALES  
Evelyn P. Gonzales

**N O T I C E**

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

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If specialized accommodations for the disabled are needed, e.g., sign language interpreters, those making the arrangements must call the Public Advisor at (415) 703-2074, TTY 1-866-836-7825 or (415) 703-5282 at least three working days in advance of the event.