

Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of Apple Valley Ranchos Water Company (U 346 W) for Authority to Increase Rates (as authorized by NOI 02-03-017): In 2003 of \$2,775,000 or 27.1% above revenues generated by present rates, in 2004 of \$497,839 or 3.8% above the revenues generated by the rates proposed for 2003, in 2005 of \$507,422 or 3.7% above the 2004 revenue requirements.

Application 02-03-046
(Filed March 19, 2002)

Fulbright & Jaworski, L.L.P., by David A. Ebershoff,
Attorney at Law, and Edward N. Jackson, for Apple Valley
Ranchos Water Company, applicant.
Marion Peleo, Attorney at Law, for the Office of Ratepayer
Advocates.

**INTERIM OPINION
ESTABLISHING AN EFFECTIVE DATE OF THE FINAL DECISION**

I. Summary

By this interim order, Apple Valley Ranchos Water Company's (AVR) test year 2003 results of operations and rates that will be adopted in this proceeding shall be effective January 1, 2003. By taking such action we are not prejudging the results of AVR's general rate case (GRC), or the changes in authorized rates, if any. However, we do place customers on notice that when new rates are finally adopted, they will be recovered as of January 1, 2003.

II. Background

AVR filed a GRC application for test years 2003 and 2004 and attrition year 2005. AVR seeks to increase its present rates to generate an additional \$2,775,000 in revenues for 2003, \$497,839 for 2004, and \$507,422 for 2005. That application was filed pursuant to the GRC procedure established by the Commission in Decision (D.) 90-08-045.¹ A principal feature of that procedure is a 240-day schedule for processing GRC applications for Class A Water Utilities, such as AVR.

On May 3, 2002, a Prehearing Conference was held to, among other matters, set a schedule for processing AVR's application in accordance with the GRC schedule. Subsequently, an Assigned Commissioner's Scoping Memo and Ruling was issued that scheduled evidentiary hearings in San Francisco to begin August 19, 2002 and continue through August 23, 2002, as needed. A final decision in this matter was scheduled to become effective January 1, 2003, as provided for in the Commission's GRC procedure.

III. Discussion

An evidentiary hearing began in San Francisco on August 19, 2002, as scheduled. AVR represented the interest of the company and its shareholders and the Office of Ratepayer Advocates (ORA) represented the interest of ratepayers. Four of the six ORA witnesses who scrutinized AVR's application and submitted testimony in this matter were not able to appear. ORA's counsel explained that those four witnesses, based in Los Angeles, had no access to travel funds because the State of California budget for the fiscal year beginning July 1,

¹ RE: Schedule for Processing Rate Case Applications by Water Utilities, 37 CPUC2d 175 at 189.

2002 had not yet been approved. For those witnesses to appear as scheduled would have required them to incur a financial hardship because they would need to use their own funds to cover individual travel costs totaling approximately \$1,500 per witness pending reimbursement after a budget was adopted. ORA's counsel further explained that ORA could not reasonably litigate the differences between AVR and ORA in this proceeding without the appearance of those witnesses.²

The evidentiary hearing was continued to a future date because ORA witnesses could not attend without incurring a financial hardship and because of our need to develop a balanced record in deciding this application. This continuance of the evidentiary hearing will delay the final decision. That delay will result in a final decision being issued in the second quarter of 2003 and beyond the January 1, 2003 effective date provided for in the Commission's GRC procedure. Because the delay in issuing a final decision is the result of an event not within the control of AVR or ORA, a decision on this matter should be made effective at the beginning of test year 2003. ORA does not oppose the issuance of an interim decision making rates found reasonable in this proceeding effective January 1, 2003.

We have two courses of action to avoid retroactive ratemaking. The first is to adopt AVR's rates subject to refund. The second is to make the effective date of rates found just and reasonable in this proceeding to become effective January 1, 2003. The Commission on several occasions has used this later option. For example, D.00-12-061 granted Pacific Gas and Electric Company's (PG&E)

² AVR seeks a 27.1% increase in revenues for the test year 2003 and ORA recommends a 1.9% reduction.

request to increase rates and charges for electric and gas service effective January 1, 2001 even though a final decision determining just and reasonable rates would not be issued until a later date. PG&E was also afforded similar treatment in D.01-10-059. AVR should be treated no differently. Hence, we select the later option. By taking such action we are not prejudging the results of AVR's GRC, or the changes in authorized rates (if any).

IV. Waiver of Comments on Proposed Decision

All parties of record at the August 19, 2002 evidentiary hearing have stipulated to waive the 30-day period for public review and comment, pursuant to Section 311(g)(2) of the Public Utilities Code and Rule 7.1 of the Commission's Rules of Practice and Procedure.

V. Assignment of Proceeding

Michael Peevey is the Assigned Commissioner and Michael Galvin is the assigned Administrative Law Judge in this proceeding.

Findings of Fact

1. AVR filed an application for authority to increase its 2003 requirement by \$2,775,000, 2004 requirement by an additional \$497,839 and its 2005 revenue requirement by \$507,422.
2. The GRC procedure established by D.90-08-045 provides for a decision in this application to become effective January 1, 2003.
3. The delay of a final decision in this proceeding is not the fault of applicant, who complied with all deadlines.
4. The scheduled evidentiary hearing has been continued to a future date because four of ORA's witnesses were not able to appear and attend the scheduled hearing due to financial hardship.

5. ORA does not oppose the issuance of an interim decision making the rates found reasonable in this proceeding effective January 1, 2003.

6. The continuance of the evidentiary hearing will delay the final decision.

7. All parties have stipulated to waive the 30-day period for public review and comment.

Conclusion of Law

AVR's test year 2003 results of operations and rates should be effective at the beginning of the test year.

INTERIM ORDER

IT IS ORDERED that:

1. Apple Valley Ranchos' (AVR) test year 2003 results of operations and rates to be adopted in this proceeding shall be effective as of January 1, 2003. By taking such action we are not prejudging the requested rate increases in AVR's application, or the actual changes in authorized rates, if any.

2. AVR shall provide notice to its customers that any change in rates resulting from this application shall become effective January 1, 2003. Notice shall be provided via a bill insert and shall be approved by the Commission's Public Advisor's Office prior to mailing. The bill insert notice shall state:

"Due to the State of California's recent budget impasse, the Commission's Office of Ratepayer Advocates was unable to participate in Apple Valley Rancho's Water Company's application for authority to increase rates (Application 02-03-046) on a timely basis. Hence, the evidentiary hearing was postponed to November from August of 2002 so that the Commission could have the benefit of input on this important matter from a party representing the interest of customers. This continuance of the evidentiary hearing

made it impossible to issue a final decision in this matter so that rates would become effective January 1, 2003. By Decision 02-12-___, the Commission ordered the rates to be adopted by a final decision in this matter to become effective January 1, 2003. By taking such action the Commission is not prejudging the results of Apple Valley Ranchos Water Company's request for a general rate increase or the changes in authorized rates, if any."

3. Application 02-03-046 remains open to address and adopt test years 2003 and 2004 and attrition year 2005 for AVR.

This order is effective today.

Dated _____, at San Francisco, California.