DRAFT

CA-4
AGENDA ITEM #6254

WATER/KPC/RKN/jlj

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

WATER DIVISION **RESOLUTION NO. W-4630**
April 12, 2007

R E S O L U T I O N

(RES. W-4630), THIS RESOLUTION AFFIRMS WATER DIVISION'S (WD) MINISTERIAL DISPOSITION OF ALISAL WATER CORPORATION – SALINAS DISTRICT'S (Alco) ADVICE LETTER NO. 107 (AL 107) FOR EXPANSION OF SERVICE AREA CONTIGUOUS TO THE EXISTING SERVICE AREA MAP.

SUMMARY

This Resolution affirms WD's disposition of Alco's AL 107. Cal Water and the City of Salinas (City) protests to Alco's AL 107 were rejected by the WD. Cal Water filed a request for full Commission review of disposition of Alco's AL 107, and the City filed comments on Cal Water's appeal. The resolution finds the protests have no merit and the changes requested in the appeal are not applicable.

PROCEDURAL BACKGROUND

On March 23, 2006, through AL 107, Alco requested an extension of its existing service area contiguous to its Salinas District. This area is not presently served by a public utility of like character as defined in Section I.E. of General Order 96-A (GO 96-A).

Salinas has undergone substantial growth recently and, to meet the future needs of its residents, the City updated its General Plan in 2002. During the process of the City's General Plan update and the Environmental Impact Report, which was completed along with the updated General Plan, the City identified three specific areas of growth: West Area; Central Area; and East Area. A portion of the

Central Area and all of the East Area are contiguous to Alco's existing certificated service area. The area requested by Alco in AL 107 includes approximately 2,179 acres of properties in the Central Area and East Area of the General Plan update as well as other properties not included in the City's updated General Plan's designated areas, whose owners or representatives have made specific written requests to Alco for inclusion in its certificated service area.

These latter properties are known as the Bubar properties, the Rancho Cielo properties, and the Chemical Lime properties. All of the properties in the 2,179 acres comprise approximately 7,465 lots, developable over the next 20 years.

Copies of AL 107 were sent on March 22, 2006 to the City, LAFCO of Monterey County, and Cal Water by Alco in compliance with G.O. 96-A, Section III.G, and WD's requirements.

Included in Alco's AL 107 were: 1) revised tariff sheets reflecting the extension request, including a revised service area map; 2) documentation from the City's General Plan update, which included maps, and which verified that the extension area sought was an area of future growth in progress; 3) letters of request from property owners to be added to Alco's certificated service area; 4) a letter from the City of Salinas Fire Department to Alco stating that the maximum flow requirement should range from 1,000 to 2,500 gpm, depending on specific structural requirements; and 5) documentation demonstrating the availability of water to the extension areas sought, including a document entitled "Alco Water Service Updated Water Service Assessment Revised March 2006" and Alco's current Urban Water Management Plan.

While the initial AL 107 did not specifically include a Supplemental Water Supply Questionnaire, Alco did supply other documentation demonstrating water availability. This documentation is entitled "Alco Water Service Update Water Service Assessment Revised March 2006", which demonstrated the availability of water meeting the standards as specified in the Commission's G.O. 103 to the area requested to be added to the service area. During WD's review of AL 107, Staff requested that Alco provide a Supplemental Water Supply Questionnaire.

Alco provided this additional information to WD on April 6, 2006.

On April 6, 2006, Cal Water filed a protest to Al 107. The protest asserts that AL 107 should be rejected as premature because Alco was not requested to provide service to the area. The protest also asserts that AL 107 errs in interpreting Decision (D.) 71760, dated December 27, 1966, and that AL 107 fails to meet the criteria that the Commission uses to determine who should serve disputed areas, per D.91-02-039.

On April 17, 2006, Alco responded that Cal Water did not meet the grounds of a protest. Alco argued that its extension request was not premature and that it had actual written requests to be added to Alco's certificated service area from Rancho Cielo, and the Bubar properties, and that additional developers and landowners in the area had requested to be added to its service area. Cal Water's protest was rejected by WD when it accepted AL 107 on April 23, 2006.

On April 19, 2006, the City filed an untimely protest, claiming that it had not received a copy of AL 107. The WD accepted the City's protest. Like Cal Water, the City stated that Alco's extension request was premature. The City stated that property owners, development interests, and the City need to be an integral part of the determination of which water service provider(s) can best meet the community's needs. The City also questioned Alco's ability to serve water in the future based on a 1990 lawsuit with a developer and 1997 federal court judgment requiring Alco to make certain system improvements. The City's objection to Alco's service area extension filing was also based on complaints and/or inquiries regarding Alco's prior overcharges for residential services with fire sprinklers. Additionally, the City asserted that AL 107 may be a violation of D.71760.

On April 22, 2006, Alco responded to the City's protest by arguing that it was not timely as per the requirements of D.05-01-032 and that it also did not meet the grounds for protest and should be rejected. Further, Alco argued with the City itself, in its updated General Plan, had already determined for the General Plan purposes that Alco would be the water service provider to the area requested by AL 107. Alco refuted the City's argument about customer complaints and/or inquiries into Alco's overcharging of service charges for residential services with fire sprinklers. Alco claims that it had worked with the Commission staff to

arrive at appropriate rates in response to customer inquiries in Alco's last General Rate Case approved on December 15, 2005 through Res. No. W-4577. The City's protest was effectively rejected by WD when it accepted AL 107 on April 23, 2006.

On May 3, 2006, Cal Water filed a Request for Full Commission Review of the Disposition of Alco's AL 107, as authorized by G.O. 96-B, Rule 5.1 "Review of Industry Division Disposition" (see D.05-01-032). Cal Water's arguments include: 1) the contention that AL 107 is not in compliance with Standard Practice U-14-W; 2) the contention that AL 107 is in violation of Rule 47 of the Commission's Rules of Practice and Procedure specifically as it pertains to the precedent of D.71760; 3) the contention that P.U. Code Section 1001 requires Commission approval of AL 107; and 4) the contention that the disposition of AL 107 was not ministerial.

On May 18, 2006, at the invitation of the WD, the City submitted Comments on Cal Water's Request for Full Commission review. The City asserted that the WD's disposition of AL 107 was unlawful and erroneous because: 1) an active dispute cannot be resolved with an advice letter; 2) Alco's receivership statutes requires District Court approval of this action; 3) AL 107 is in violation of Rule 47 of the Commission's Rules of Practice and Procedure, specifically as it pertains to the precedent of D.71760; 4) this action requires CEQA review; and 5) Standard Practice U-14-W was not followed.

On May 18, 2006, Alco responded to Cal Water's request for a Commission Order. Alco refuted the arguments by asserting that: 1) AL 107 is in full compliance with Standard Practice U-14-W and provided sufficient information for the Commission's WD to make a decision to approve AL 107; 2) AL 107 is not in violation of Rule 47 of the Commission's Rules of Practice and Procedure because it is not attempting to change or modify D.71760, as Cal Water contends; 3) AL 107 only requires WD's ministerial review and approval and does not require Commission Resolution or Decision because the extension area is contiguous to Alco's existing area and is not already served by a public utility of like character, per Public Utilities Code Section 1001; and 4) the disposition of AL 107 was a ministerial act as defined by D.02-02-049.

FACTUAL BACKGROUND

By an Order dated April 10, 2002, in Case No. 97-20099-JF, the United States District Court for Northern District of California, San Jose Division, put Alco's Northern Monterey County water systems under receivership. The Commission Res. W-4346, dated August 8, 2002, recognized John Richardson as the United States District Court-appointed receiver. The District Court ordered that a receiver be appointed in light of Alco's lengthy history of failing to provide healthful drinking water in compliance with Safe Drinking Water Act, the clear potential for imminent violations of the Act by Alco in the future, and the failure of less drastic remedies to secure Alco's compliance with the Act in the past. In addition, Alco was fined by the California Department of Health Services in 1994 and 2001 for water quality violations. The U.S. District Court also levied a cash penalty of $200,000 on Alco in Case No. C-97-20099-JF (326F.Supp. 2d1032, dated May 19, 2004.

Also in April of 2002, the United States Federal District Court in San Jose ordered Alisal Water Corporation to install certain facilities improvements in its Salinas Division water system. The improvements included a new storage tank with a pipeline connecting it to the utility's existing distribution system.

In 2004, as part of Alco's General Rate Increase request, WD reviewed the utility's facilities and its operations, including the proposed tank and pipeline locations, reviewed its books and the Federal Court Order (Court Order), and discussed the Court Order with the Department of Health Services (DHS). At the time of this extensive review, WD Staff determined that the storage tank and pipeline installation not only complied with the Court Order, but that it was beneficial for the water system and its customers. Further, Staff made an onsite visit to the locations for the tank and pipeline facilities and agreed that these locations were the best locations for these facilities to serve the utility and its customers.

The optimal site for the construction of this storage tank was determined to be a portion of land that belongs to Chemical Lime Company (Chemical Lime) a local quarry.

When Alco management contacted Chemical Lime in regards to acquisition of this property, a deal was presented and negotiated: if the utility would add the Chemical Lime property and the neighboring parcel, Rancho Cielo, which is a rehabilitation facility for at-risk juveniles, to its certificated service area and make water available to these parcels within its applicable CPUC authorized rules, regulations, and tariffs, then Chemical Lime would give the utility a 5-acre piece of property at no cost to the utility or its ratepayers. The utility considered this proposal significant benefit to it and its customers, as its customers would not have to pay through rates for this parcel of land, neither for its initial cost nor a rate of return on the land, which is a non-depreciable asset.

Now that this deal had been negotiated and the utility has obtained the land it had identified as optimal for the tank's location, the utility investigated the best location for a pipeline between its existing facilities and the new storage tank site. The placement of the pipeline on the properties was designed to be contiguous to a 40-foot wide existing PG&E easement for high-voltage electric towers. In order to obtain this easement and right of installation across these properties, the utility met with the property owners and/or property option holders of the affected properties. The developer, Creek Bridge, is the option holder on two of the parcels that needed to be crossed and the Bubar family owns the third parcel. The Bubar family and Creek Bridge stated that they would provide the utility with easements and allow it to cross the properties if the utility made application and obtained CPUC approval to add the parcels to the utility's service area and if public utility water service would be made available as per the utility's CPUC approved tariffs, rules, and regulations.

The City of Salinas had done a General Plan Update and an EIR for the General Plan Update that culminated in a Final General Plan in 2002. The documents prepared by the City of Salinas showed Alco as being the water provider in the City's map LU-10. Because of the City's designation of Alco as the water provider for this area, the utility began to get inquiries and letters of request from property owners and/or developers for properties shown in the City's LU-10 map that would be served by Alco. As a utility that has been requested to include properties in its service are, Alco has a duty and responsibility as a public utility to file for an updated service area map to add all of those persons requesting service so that the CPUC can recognize the area in which Alco would be holding itself out to provide public utility water service.

DISCUSSION

Numerous Commission decisions have determined that water utility service area extensions into contiguous areas that are not already served by a public utility of like character may be requested by advice letter filings. WD then reviews the advice letter to determine if all the necessary information is included so that a determination can be made to accept, reject, or suspend the advice letter or if a data request is necessary to supplement the information provided in the original advice letter filing.

This Division-level advice letter review occurs by delegation from the Commission. D.05-01-032 sets out the most current version of the rules governing advice letter review. While these rules, referred to as GO 96-B, include procedural modifications of G.O. 96-A intended to clarify and streamline the review process, the fundamental limits on Commission delegation to staff are not new. D.05-01-032 reiterates several points critical to our determination here:

- Advice letters never involve evidentiary hearings. (Findings of Fact 1.)
- Advice letters, being informal, are generally ill-suited to resolving material factual issues; further, the interpretation of a statute or Commission order may require consideration by the Commission itself. (Findings of Fact 7.)
- The reviewing Industry Division may approve or reject any advice letter for which the approval or rejection would be a "ministerial" act, as that term is used in D.02-02-049. (Conclusions of Law 1.)

The City, in its April 19, 2006 protest, stated that the City itself, as well as the landowners and development interests, should be part of the process of choosing a water purveyor. It is important to point out that the Commission and only the Commission has the authority to determine which Commission-regulated water utility will serve a specific area. Neither the City, nor a utility, nor developers, nor customers themselves determine the service boundaries of a Commission-regulated water utility.

As Decision 71760 states,

> *"(i)n any event, however, the providing of public utility water service is, by law, a matter of public convenience and necessity within the exclusive jurisdiction of this Commission. Neither the City by its "finding" that a particular utility will best serve the city (Resolution No. 5683 (N.C.S.), Exhibit No. 3 in this proceeding.) nor the utility by its private "agreement" may avoid a final determination by this Commission as to what the public convenience and necessity require or may in the future require".*

The CPUC further stated in the following decision,

> *"We can well appreciate that it would be the mutual preference of Selma and Cal Water that there should be only one water purveyor serving territories within Selma's city limits. However, we stated our position in that regard in D.93379 (City of Selma v Kitchen and Cal Water Service Co.-the Bonadelle development) where we said" "We believe that a determination based upon a city's preference alone can lead to unjust and inequitable results."*

(In re Cal. Water Service Co. 1983 WL 189763, *8)

> *"If customers or would-be developers were allowed to pick and choose between neighboring utilities for their own economic advantage, the situation would be highly unstable and utility planning not only impossible but meaningless. Certainly the public interest always must enter into the consideration, but we must be concerned with the overall welfare of all the public involved in that utility's service territory, and not merely with that of a subdivider and his prospective customers located in the immediate area of the proposed subdivision."* (In re Cal. Water Service Co. 1983 WL 189763,*6)

It is the Commission and no other entity, that determines service area of a water utility; although, the Commission WD's Staff may certainly consider the input of other public entities including cities, the landowners involved, and development interests.

Alco provided, in AL 107 and its responses to the City of Salinas and Cal Water protests and the Response to the Request for full Commission Review by Cal Water, letters from landowners in the extension area requesting to be added to

Alco's certificated service area and letters from developers of the extension area requesting to be added to Alco's certificated service area.

Furthermore, the City of Salinas itself, through the exhaustive process of updating its General Plan in 2002, indicated with the preparation of many maps and numerous other supporting documents that Alco is the designated water provider for the extension areas it is seeking in AL 107. The General Plan update process, which lasted several years, included public meetings, input from the public (including input from property owners, development interest and water utilities), City Council meetings, public surveys via mail and telephone, and Planning Commission hearings open to the public. The City itself, through the preparation of the updated General Plan and Final Environmental Impact Report, thoroughly addressed the issue not only of the development areas, but specifically of the water issues and water providers to the City's future growth areas. The clear delineation of water service boundaries preceded Alco's filing of an advice letter for service area extension, shown to be, in part by the City itself, for public convenience and necessity of providing water to the future growth areas.

WD reviewed Alco's AL 107 and determined it to be in compliance with PU Code Section I001 and G.O. 96-B. WD found that the areas requested to be added to Alco's existing service area by AL 107: 1) are contiguous to and adjacent to Alco's existing service area; 2) are a logical extension of Alco's existing service area; 3) have not been heretofore served by a public water utility of like character; and 4) are areas to which Alco has held itself out as ready, willing and able to provide public utility water service. These areas contain lands referred to in City's updated General Plan as the East Plan Area and the Central Plan Area as well as other lands known as the Bubar properties, the Rancho Cielo properties, and the Chemical Lime properties. As the CPUC has stated in a prior Decision, "where a utility holds itself out to the public to furnish water in areas beyond its certificated area, it will be found to have dedicated its service to that territory and is bound to serve that area in the manner prescribed by its filed tariff" (DiLiberto v Park Water Co. (1956) 54 CPUC 639).

Additionally, WD has determined that Alco's AL 107 meets the requirements of WD's Standard Practice U-14-W. Cal Water, in its request for review of disposition of AL 107, states that Alco did not meet the requirements of

SP-U-14-W because it did not include a series of attachments as part of its AL 107 filing including:

> (i) A completed Water Supply Questionnaire or other documentation demonstrating water availability per Standard Practice U-18 (if a letter to the Department of Real Estate is required).

Alco provided a Water Service Assessment and a copy of its Urban Water Management Plan in its original AL 107 filing, both of which demonstrated water availability to the areas in question. Alco also provided a Supplemental Water Supply Questionnaire in response to a data request for additional information made by Staff.

> (ii) A copy of the developer's application for service or a statement that all owners of parcels of land in the extension area have been served a copy of the advice letter.

Alco, in its original AL 107 filing and in its responses to protests, provided letters of request from property owners and from developers requesting addition to Alco's service area.

> (iii) Documentation showing that the project for which the service area is being extended has sought approval from the local permitting agency and is making reasonable progress toward project completion. The showing of reasonable progress may include demonstration of a comprehensive development plan, site ownership or control, completion of engineering and architectural plans, achievement of financing milestones, or other information that indicates a reasonable likelihood of project completion.

Alco provided evidence that the extension areas sought in AL 107 are in the process of development and/or have sought approval from a local permitting agency. Specifically, the City of Salinas' updated General Plan and the letters from landowners and developers are sufficient evidence that the extension request was preceded by a show of public necessity and convenience for water service to the extension areas and a reasonable expectation of project completion, i.e. the development of the extension areas and the need for water service by the individual landowners requesting addition to the service area.

(iv) Supporting computations showing that the system in the new territory is in compliance with the minimum design and water supply standards of G.O. 103.

Alco, in its Supplemental Water Supply Questionnaire, as well as in the Water Service Assessment and Urban Water Management Plan, demonstrated compliance with the minimum design and water supply standards of G.O. 103.

(v) A letter from the local fire protection agency or other documentation that shows that the fire protection agency is satisfied with the fire flow capability of the system planned for the new area.

Alco, in its original 107 filing, provided a letter from the City of Salinas Fire Department stating that the maximum flow requirement should range from 1,000 to 2,500 gpm, depending on specific structural requirements. Alco's other documentation demonstrated that these fire flow requirements are being and can be met by Alco. Ultimately, it is the WD Staff that determines the adequacy of documentation provided with an advice letter filing, not a protesting party. In the case of Alco's AL 107, WD Staff made a determination that the filing met the WD Staff's requirements including those described in SP-14-W.

Cal Water, in its Request for Review of Disposition of AL 107, states that Alco did not meet the requirements of Rule 47 of the Commission's Rules of Practice and Procedure because, according to Cal Water, AL 107 is "fix[ing] the power line as the boundary for the extension area" and did not request a modification of D.71760. However, AL 107 does not request a modification of D.71760, nor is it fixing the power line as the boundary for the extension area, rather it is utilizing the already-fixed boundary of the power line in requesting a specific service area extension. D.71760 states, "[the power line] is clearly visible and is long lived, a permanent fixture. In view of the expansion of city limit lines commonly experienced in this state the tower line, we believe, will be an appropriate and more permanent dividing line between these utilities." D.71760, (1966) 66 CPUC 632, 637-38.). Alco's AL 107 was made in conformance with D.71760 and now fixes Alco's certificated service area until such time as a future service area extension request is made and approved. Alco did not violate Rule 47 of the Commission's Rules of Practice and Procedure.

Cal Water, in its Request for Review of Disposition of AL 107, states that Alco's AL 107 requires a full Commission review and approval by Resolution or Decision. However, AL 107 only requires WD's ministerial review and approval and does not require Commission Resolution or Decision. The WD's review and approval of AL 107 is a ministerial act because: 1) the extension area is contiguous to Alco's existing area and is not already served by a public utility of like character, per Public Utilities Code Section 101; and 2) because Alco's AL 107 and the documentation provided contained sufficient information to show adequate water is available for the extension area and that the water service to the extension area will meet the water supply standards of G.O. 103. Alco correctly applied Public Utilities Code Section 1001 and Commission General Order (G.O.) 96-A, which allow a utility to file, by advice letter, for an extension of its line, plant, or system into territory contiguous to its line, plant, or system and not theretofore served by a public utility of like character without first securing a certificate of public convenience and necessity. The extension areas sought in AL 107 fit these criteria and is a logical extension of Alco's previously existing service area.

Furthermore, notwithstanding our deference to District Court Orders regarding Alco's receivership status and its acquisition of new interests in a public water system, the Commission retains authority and responsibility under Public Utilities Code Section 1001 to grant appropriate authority for contiguous service area expansions. However, the exercise of Commission jurisdiction does not deprive the District Court of its appropriate jurisdiction. The Commission expects Alco to meet its legal requirements.

On May 18, 2006, Alco responded to the request of Cal Water for full Commission review of the disposition of Alco's AL 107. WD finds sufficient information and evidence to accept AL 107.

We confirm the WD's ministerial acceptance of AL 107. Normally, a contiguous service area extension does not require Commission approval (per Public Utilities Code Section 1001) and this tariff change would be ministerial.

The remaining claims of the City and CWS were originally dismissed by the WD. There is no compelling reason to reverse the WD's disposition. Nevertheless, we are naturally concerned when any of our regulated utilities is identified as having service or service quality problems. We are still monitoring, and are still

concerned about, the complaint answer time of California-American Water Company's Call Center performance (per Decision 02-12-068, ordering paragraph 4). In Alco's area, Mr. Roger C. Anton, Jr., Superintendent of the Salinas Union High School District sent us a letter stating that Alco has been responsive to district requests for service, but expressing concern about problems with water pressure, and smells in the water, "especially when a particular faucet or sink has not been used for a period of time." These are real world problems, and deserve Commission attention. This is really the thrust of the City and CWS' claims, not whether Alco can adequately serve the contiguous service area.

In response to the Protestants' concerns and any concerns that may be harbored by Alco's customers, we will direct WD to prepare an Order Instituting Investigation into the service and service quality of Alco. WD will draft an order for our consideration that addresses all areas of contact that Alco has with the public. Depending on the results of this investigation, we may be able to direct Alco, and potentially all Commission regulated water utilities, to adopt practices that improve service and service quality to its customers. In anticipation of this, Alco is directed to preserve and collect all available information on customer relations and customer complaints. We anticipate interrogatories for Alco and public meetings in Alco's service area where customers can make their voices heard and concerns known. The results of this investigation will focus our attention on service deficiencies, to the customer's and our utilities' benefit.

COMMENTS

The draft Res. No. W-4630, was mailed to the parties in accordance with Public Utilities Code Section (PU Code Section) 311 (d) and Rule 77.1 of the Rules of Practice and Procedure. Comments were timely filed and received from Alco, CWS, and the City of Salinas in accordance with the letter sent from the Director of Water Division on December 19, 2006.

Alco supported the outcome of the draft resolution.

The City's comments claimed that the resolution failed to address a Federal Court Order against Alco, gave undue importance to the City's General Plan, ignored CEQA, allowed Alco to wrongfully "bank" service territory, and violated PU Code Section 1001. The comments of CWS mirror those of the City.

The Commission is aware of the court order that the City and CWS claims violated by the draft resolution. However, notwithstanding our deference to District Court Orders regarding Alco's receivership status and its acquisition of new interests in a public water system, the Commission retains authority and responsibility under PU Code Section 1001 to grant appropriate authority for contiguous service area expansions. The exercise of Commission jurisdiction does not deprive the District Court of its appropriate jurisdiction and the Commission expects Alco to meet its legal requirements. As the commenting parties note, the Court retains jurisdiction to enforce compliance of its own rulings. The Commission is not the proper forum in which to argue the merits or scope of the court order.

Res. No. W-4360 does not violate CEQA. CEQA applies when there is a "discretionary project" approved by a public agency and specifically does not apply to "ministerial projects." (See Public Resource Code Section 21080(a)-(b); CEQA Guidelines Section 15268.) As detailed above, the WD disposition of AL 107 was a ministerial act.

The remaining claims of the City and CWS were originally dismissed by the WD. There is no compelling reason to reverse the WD's disposition.

FINDINGS

1. Alco Water Service filed Advice Letter 107 on March 23, 2006, to replace an existing service area map with a new service area map showing a contiguous extension.

2. On April 6, 2006, California Water Service Company filed a protest to Alco's Advice Letter 107 with the Water Division. The protest asserts, among other things, that Alco's Advice Letter 107 should be rejected as premature because Alco was not requested to provide service to the area.

3. On April 19, 2006, the City of Salinas filed a late protest, claiming that it had not received a copy of Advice Letter 107, although it had been named a recipient of a copy of Advice Letter 107 in that document. Like California Water Service Company, the City of Salinas stated that Alco Water Service's extension request was premature. The City of Salinas also stated that it should be a part of the process of choosing a water purveyor and questioned AlcoWater Service's ability to provide water in the future. The City of Salinas' contention was also based on complaints and/or inquiries regarding Alco Water Service's service charges for residential services with fire sprinklers.

4. Water Division staff accepted Alco Water Service's Advice Letter 107 ministerally on April 23, 2006.

5. California Water Service Company filed an appeal requesting full Commission review on May 4, 2006 to the Industry Division Ministerial Deposition of Alco Water Service's Advice Letter 107.

6. On May 18, 2006, Alco Water Service responded to the request of Cal Water for full Commission review of the disposition of Alco Water Service's AL 107.

7. There is sufficient information and evidence to affirm approval of AL 107, as explained below.

    a. Alco Water Service's Advice Letter 107 filing and document production fully satisfied Standard Practice U-14-W. In fact, the Commission WD stated they saw "no reason why AL 107 should not be recognized and a new service area map be approved." Specifically, the five points of SP U-14-W that were satisfied were:

        1) A Supplemental Water Supply Questionnaire was furnished in support of Advice Letter 107.
        2) Alco Water Service has supplied copies of letters from developers and property owners in the extension area both requesting addition to Alco's service area and requesting water service from Alco Water Service.

3) Abundant documentation was supplied in support of Advice Letter 107 showing that the project in the extension area has sought approval from the local permitting agency and is making reasonable progress toward completion.

4) Alco provided information in several documents that clearly show that the utility possesses enough water and facilities for it to meet the minimum design and water supply standards of G.O. 103.

5) Alco supplied a letter from the fire protection agency that set the maximum fire flow demand needed in the extension area. Alco also provided in its Supplemental Water Supply Questionnaire fire flow documentation demonstrating that it meets and/or exceeds the fire flow requirements.

b. Alco is in full compliance and agreement with the Commission's Decision 71760 and the service area boundaries by that decision. Furthermore, Alco is not in violation of Rule 47 of the Commission's Rules of Practice and Procedures or of Public Utilities Code Section 1708 because Alco's AL 107 did not modify, revise, or change any existing Commission Decision, therefore neither the Rule nor the P.U.C. are applicable in the present case.

c. Alco correctly applied Public Utilities Code Section 1001 and Commission General Order (G.O.) 96-A, which allow a utility to file, by advice letter, for an extension of this line, plant, or system into territory contiguous to its line, plant, or system and not therefore served by a public utility of like character without first securing a certificate of public convenience and necessity.

d. Alco is in full and proper compliance with G.O. 96-A, which provides that a "...utility shall, before commencing service, file tariff service area maps for extensions into territory contiguous to its line, plant, or system and not therefore served by a public utility of like character."

8. The concerns expressed in the California Water Service Company's Appeal and City of Salinas' Comments do not constitute grounds for modification of the Industry Division disposition of Alco Water Service's Advice Letter No. 107.

9. The Water Division should prepare an investigation into the water and service quality of Alco Water Company.

THEREFORE IT IS ORDERED THAT:

1. Water Branch's ministerial acceptance of Alco Water Service's Advice Letter No. 107 is affirmed.

2. Water Division will prepare an Order Instituting Investigation into the customer relations, customer service, and service and water quality of Alco Water Company. We may expand this investigation to other regulated water utilities as we deem appropriate.

3. This resolution is effective today.

I certify that the foregoing resolution was duly introduced, passed, and adopted at a conference of the Public Utilities Commission of the State of California held on April 12, 2007; the following Commissioners voting favorably thereon:

STEVE LARSON
Executive Director