

**PUBLIC UTILITIES COMMISSION**505 VAN NESS AVENUE  
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TO PARTIES OF RECORD IN APPLICATION 10-01-006

This is the proposed decision of Administrative Law Judge (ALJ) Bruce DeBerry. It will not appear on the Commission's agenda sooner than 30 days from 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](http://www.cpuc.ca.gov). Pursuant to Rule 14.3, opening comments shall not exceed 15 pages.

Comments must be filed pursuant to Rule 1.13 either electronically or in hard copy. 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 DeBerry at [bmd@cpuc.ca.gov](mailto:bmd@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](http://www.cpuc.ca.gov).

/s/ KAREN V. CLOPTON  
Karen V. Clopton, Chief  
Administrative Law Judge

KVC:lil

Attachment

Decision **PROPOSED DECISION OF ALJ DEBERRY**  
(Mailed 11/12/2010)

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

In the Matter of the Application of Valencia Water Company (U342W), a Corporation, for an Order Authorizing it to Increase Rates Charged for Water Service in Order to Realize Increased Annual Revenue of \$4,751,000 or 18.78% in a Test Year Beginning January 2011, \$1,957,000 or 6.40% in a Test Year Beginning January 2012, \$701,000 or 2.16% in an Escalation Year Beginning January 1, 2013, and to Make Further Changes and Additions to its Tariff for Water Service.

Application 10-01-006  
(Filed January 4, 2010)

**DECISION APPROVING SETTLEMENTS AND  
INCREASING GENERAL RATES**

**TABLE OF CONTENTS**

<b>Title</b>	<b>Page</b>
DECISION APPROVING SETTLEMENTS AND INCREASING GENERAL RATES .....	1
1. Summary .....	2
2. Background .....	2
3. Settlement Agreement.....	5
4. Supplemental Settlement Agreement .....	6
5. Discussion .....	7
5.1. Settlement Agreement and Supplemental Settlement Agreement ..	7
5.2. The Agreements are Reasonable in Light of the Whole Record .....	7
5.3. The Agreements are Consistent With the Law .....	8
5.4. The Agreements are in the Public Interest.....	9
6. Ratemaking Treatment of Perchlorate Proceeds.....	9
6.1. Background.....	9
6.2. Valencia’s Ratemaking Proposal.....	11
6.3. DRA’s Ratemaking Proposal .....	13
6.4. Determining the Net Proceeds .....	13
6.5. Other Requests for Relief.....	16
6.5.1. Water Supply and Quality .....	16
6.5.2. Changes in Terms of Valencia’s Tariff Schedules.....	17
6.5.3. Water Management Program (WMP) .....	17
6.5.4. Escalation Year Rate Adjustments .....	18
6.5.5. Combining Amortization of Existing Purchased Power and Purchased Water Accounts and other Accounts as a One Line Item on Customers’ Bills .....	18
6.5.6. Facilities Manager.....	19
6.5.7. Should the WQLMA Remain Open for Future Litigation Costs?	19
7. Comments on Proposed Decision .....	20
8. Assignment of Proceeding.....	20
Findings of Fact .....	20
Conclusions of Law.....	23
ORDER.....	24

Appendix A  
Appendix B  
Appendix C

**TABLE OF CONTENTS  
(Cont'd)**

**Title**

**Page**

Appendix D  
Appendix E  
Appendix F  
Appendix G  
Appendix H

**DECISION APPROVING SETTLEMENTS AND  
INCREASING GENERAL RATES****1. Summary**

Today's decision adopts two settlement agreements between Valencia Water Company (Valencia) and the Division of Ratepayer Advocates and resolves the ratemaking treatment of proceeds from Valencia's settlement of perchlorate contamination claims, and other matters not resolved by the two settlement agreements.

Pursuant to this decision, Valencia is authorized a general rate increase beginning January 1, 2011, of \$1.03 million in revenues for 2011, which amounts to an overall increase of approximately 4.1% in general rates, and an increase of \$0.90 million in 2012, an overall increase of approximately 3.4% above adopted 2011 rates. The adopted general rate increase is about 22% of the 2011 rate increase requested by Valencia. This decision also authorizes Valencia to file future advice letters for escalation increases in 2012 and 2013, as discussed below.

This proceeding is closed.

**2. Background**

On January 4, 2010, Valencia Water Company (Valencia), a Class A water company, filed Application (A.) 10-01-006 (Application) for a general rate increase. Valencia requests that rates for Test Years 2011 and 2012 increase by \$4,751,000 or 18.78% and \$1,957,000 or 6.40%, respectively. Valencia requests an increase in rates of \$701,000 or 2.16% in escalation year 2013.

The Application includes minimum data requirements for utilities in general rate case (GRC) applications such as showings on water quality and

water conservation and efficiency, as required by Decision (D.) 07-05-062 (The Revised Rate Case Plan for Class A Utilities.)

On January 21, 2010, and February 23, 2010, Valencia filed Notices of Compliance with Rules<sup>1</sup> 3.2(b), 3.2(c) and 3.2(d). Rules 3.2 (b), (c) and (d) require notices of rate increase applications in newspapers, notices to state and county officials, and notification of customers.

On February 4, 2010, the Division of Ratepayer Advocates (DRA) protested A.10-01-006, and on March 2, 2010, a prehearing conference was held before Assigned Administrative Law Judge (ALJ) Bruce DeBerry. No other responses to the Application were received.

On March 26, 2010, the Assigned Commissioner issued a Ruling and Scoping Memo, which among other matters provided an opportunity for parties to pursue alternative dispute resolution. Following DRA's service of its testimony on May 4, 2010, and Valencia's service of rebuttal testimony on May 17, 2010, these parties met, assisted by ALJ Linda Rochester<sup>2</sup> to resolve their disputes through alternative dispute resolution.

On June 11, 2010, Valencia and DRA (Settling Parties) reported to the assigned ALJ that they had reached tentative resolution of numerous revenue requirements issues; however certain issues addressing residential consumption, treatment of perchlorate contamination settlement proceeds, conservation rate design and revenue decoupling proposals, and Valencia's Water SMART

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<sup>1</sup> All references to Rules are to the Commission's Rules of Practice and Procedure unless otherwise noted.

<sup>2</sup> ALJ Rochester is the assigned alternative dispute resolution ALJ.

program remained unresolved. On July 16, 2010, the Settling Parties served a Settlement Agreement which resolved numerous revenue requirements issues.

On July 19 and July 20, 2010, evidentiary hearings were held on those issues not resolved in the Settlement Agreement.<sup>3</sup> In addition, the assigned ALJ questioned the Parties regarding the matters resolved in the Settlement Agreement.

The Parties resumed settlement discussions and on August 6, 2010, informed the assigned ALJ that they had reached agreement in principle on terms for settling most of the remaining contested issues which were the subject of the July 19 and 20, 2010, evidentiary hearings.

On August 13, 2010, the Parties filed a Joint Motion of Valencia and DRA for Approval of Settlement Agreement (Settlement Agreement) and Supplemental Settlement Agreement (Supplemental Settlement Agreement).<sup>4</sup>

Opening briefs, and reply briefs were filed on August 25, 2010, and September 10, 2010, respectively and the Division of Water and Audits conducted a technical conference on September 15, 2010. *Ex-parte* notices were filed on September 27, 2010, and on October 5, 2010, by Valencia and DRA, respectively, regarding certain matters not resolved in the settlement agreements but raised in Valencia's opening brief as discussed below.

On October 26, 2010, the assigned ALJ reopened the proceeding for purposes of receiving Valencia's September 27, 2010, and DRA's October 5, 2010, *ex-parte*-notices into the record.

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<sup>3</sup> The Settlement Agreement was identified and received into the record as Exhibit 48. (*See*, Appendix A).

<sup>4</sup> *See*, Appendix B.

A Joint Motion of Valencia and DRA to reopen the record and to update the Joint Comparison Exhibit was filed on November 4, 2010. An ALJ ruling on November 5, 2010, reopened the record and identified and received the Updated Comparison Exhibit into the record.<sup>5</sup> The proceeding was closed and submitted on November 5, 2010.

### 3. Settlement Agreement

The Settlement Agreement resolves the majority of the revenue requirements issues disputed by DRA in its Report on Results of Operations of Valencia.<sup>6</sup> Major issues resolved by the Settlement Agreement include:

- A. Forecasts of customer growth for 2011, 2012 and 2013.
- B. Consumption per customer, except for single family residential customers.
- C. Expense escalation factors which reflect the June 30, 2010 DRA Energy Cost of Service Branch factors.
- D. Operation and maintenance payroll and staffing requirements.
- E. Purchased water costs, which are based on customer and consumption per customer forecasts.
- F. Purchased power expenses.
- G. Valencia's proposed Water Quality Improvement Program. Although this program was withdrawn by Valencia, an allowance remains for operation of an existing water softening plant.
- H. Postage costs.
- I. Uncollectible Expense.

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<sup>5</sup> The Updated Comparison Exhibit was identified and received as Exhibit 52.

<sup>6</sup> See, Exhibit 35.

- J. Property and Liability Insurance expense.
- K. Employee pensions and benefits expenses.
- L. Outside services expenses.
- M. Miscellaneous general expenses, excluding certain water association dues.
- N. Utility plant additions, including Saugus Well V-207, booster pump station replacement and similar capital additions projects, and the Stevenson Ranch Zone V Tank.
- O. Income tax expense deductions.
- P. The net-to-gross multiplier calculation.
- Q. Water conservation rebate program amounts.
- R. Water conservation savings goals, balancing account, and conservation reporting.

Other revenue requirement calculations such as ad valorem taxes, franchise taxes, payroll taxes and depreciation expenses will reflect the adopted amounts for plant in service, revenues, and adopted payroll. In addition, the Parties agreed to use Valencia's current rate of return of 9.55% until a determination is made in Valencia's Cost of Capital proceeding, A.09-05-001.

#### **4. Supplemental Settlement Agreement**

Issues resolved in the Supplemental Settlement Agreement include:

- A. Estimates of single family residential customer water consumption for 2011 and 2012.
- B. Establishment of a Water SMART pilot program affecting rate design and the Water Revenue Adjustment Mechanism (WRAM) and Marginal Cost Balancing Account (MCBA) effective January 1, 2011.
- C. Agreement that there will be no phase-in of the Water SMART program.

- D. Application of the Water SMART program to dedicated irrigation customers no later than January 1, 2012.
- E. No exemption for new or newly constructed homes from tiers 3, 4 and 5 of the Water SMART program rate design.
- F. Agreement on various inputs to the Water SMART program.
- G. A variance process and form for use in the Water SMART program.
- H. Water SMART program exemptions and costs calculations.
- I. Water SMART program tiered rate design.
- J. Application of the WRAM and MCBA to the Water SMART pilot program.

As a result of the Settlement Agreement and the Supplemental Settlement Agreement all disputed issues in this proceeding are resolved, except for the ratemaking treatment of perchlorate proceeds received by Valencia, and certain matters addressed below.

## **5. Discussion**

### **5.1. Settlement Agreement and Supplemental Settlement Agreement**

The Settling Parties request that the Commission adopt the Settlement Agreement and the Supplemental Settlement Agreement (Agreements) pursuant to Rule 12.1. Rule 12.1(d) provides that the Commission will not approve settlements, whether contested or uncontested, unless the settlement is reasonable in light of the whole record, consistent with law, and in the public interest.

### **5.2. The Agreements are Reasonable in Light of the Whole Record**

The Agreements were reached after opposing parties were able to assess the strengths and weaknesses of their respective cases. The Agreements

represent a reasonable resolution of the disputes between Valencia and DRA regarding the General Rate Increase and rate design issues, except for the ratemaking treatment of the perchlorate proceeds.

The Settling Parties have agreed to customer growth forecasts and consumption per customer by class, operation and maintenance expenses, escalation factors, utility plant additions, depreciation, rate base, income and other taxes, the net-to-gross multiplier, and conservation programs including the Water SMART program. The Settlement Agreements describe in detail each of the issues, the outcome recommended by each party, and the agreed upon resolution of each issue.

It is a measure of reasonableness of the Agreements that these parties, who vigorously disputed these issues that the Agreements would resolve, have now agreed to the proposed compromise.

### **5.3. The Agreements are Consistent With the Law**

The Agreements are consistent with the law and the Commission's Rules. Public Utilities Code Section 451 requires that utility rates must be just and reasonable, and Section 454 provides that no public utility shall change any rate except upon a showing before the Commission that the new rate is justified. As demonstrated by the Agreements and the Updated Joint Comparison Exhibit,<sup>7</sup> the parties have made the required showings under Public Utilities Code Sections 451 and 454. Further, nothing in the Agreements contravenes statute or prior Commission decisions.

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<sup>7</sup> Exhibit 52.

#### **5.4. The Agreements are in the Public Interest**

Approval of the Agreements is in the public interest and in the interest of Valencia's customers. The agreed-upon revenue requirement is significantly below Valencia's request. In addition, approval of the Agreements will allow implementation of the Water SMART program which is intended to sustain the water supply for Valencia's customers. Our approval of the Agreements avoids the cost of further litigation, and reduces the use of valuable resources of the Commission and the parties.

Finally, we note that the Settling Parties comprise all of the active parties in Valencia's General Rate Case (GRC), and we do not know of any parties who contest the Agreements. Thus, the Agreements command the unanimous sponsorship of all active parties in this proceeding, who fairly represent the interests affected by the Agreements. We find that the evidentiary record contains sufficient information for us to judge the reasonableness of the Agreements and for us to discharge any future regulatory obligations with respect to this matter. Thus, the proposed Agreements are consistent with the criteria for all-party settlements set forth in D.92-12-019 (46CPUC2d 538).

For all of these reasons, we approve the Agreements as proposed.

### **6. Ratemaking Treatment of Perchlorate Proceeds**

#### **6.1. Background**

In 1997 the State of California conducted tests on Valencia's Well V-157 along with other water production wells in the Santa Clarita Valley and found perchlorate contamination. The apparent contamination source was the nearby Whittaker Bermite site, where munitions had been manufactured between the mid- 1930s and 1980. Well V-157 was permanently removed from service in 1997.

In November 2000, Castaic Lake Water Agency, Valencia and two other retail water purveyors (Plaintiffs) filed a complaint against the potentially responsible parties resulting in complex claims and counterclaims that led to a court ruling in July 2003 finding defendants liable for response costs under the Comprehensive Environmental Response Compensation and Recovery Act. An interim settlement and bankruptcy filing by key defendants occupied the following two years, followed by court-ordered mediation in 2005.<sup>8</sup>

Beginning in 2003, Valencia received in general rates \$110,000 per year for future perchlorate litigation costs.<sup>9</sup> This amount is subject to refund, and as of September 30, 2009 totals \$531,605.

Following the resumption of litigation in 2005, the Bankruptcy Court approved a settlement between the defendants and their insurers that made insurance proceeds available to settle Plaintiffs' contamination claims. After further extensive negotiations, settlement of the contamination claims was announced in May 2007, providing up to \$100 million to address the problems affecting the four Plaintiffs' water systems. Castaic Lake Water Agency assumed the lead role for construction and operation of treatment facilities, and therefore received the majority of settlement funds. Valencia received a total of approximately \$3.5 million plus interest under the settlement, including

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<sup>8</sup> Exhibit 10, at 1-3.

<sup>9</sup> Since 1998, perchlorate litigation costs and settlement proceeds are recorded and tracked in Valencia's Water Quality Litigation Memorandum Account (WQLMA).

\$2.5 million for past environmental claims and \$1.0 million to close and abandon Well V-157<sup>10</sup> and drill replacement Well V-206.<sup>11</sup>

## **6.2. Valencia's Ratemaking Proposal**

Valencia proposes that the \$531,605, including interest, which has been recorded in the WQLMA for litigation purposes be returned as a credit to ratepayers over a 12-month period. This amount is separate from the \$3.6 million received in the settlement as discussed below.

Valencia's proposed allocation of the \$3.6 million settlement involves a two-step process. The first step is a determination of "net proceeds,"<sup>12</sup> and the second step is an allocation of the net proceeds to Valencia and its ratepayers. Valencia's net reduces the \$3.645 million in settlement proceeds by approximately \$1.585 million of perchlorate litigation costs (net of insurance proceeds) plus accrued interest, leaving about \$2.06 million. Valencia then proposes that the net gain of \$2.06 million be allocated between Valencia and the ratepayers. Valencia recommends that these net proceeds would be allocated 67% to Valencia and 33% to ratepayers<sup>13</sup>. Valencia argues that this allocation method reflects Valencia's risk of loss due to perchlorate contamination and its

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<sup>10</sup> In addition, during 2005 perchlorate contamination was found in Valencia Well Q-2. The defendants and their insurers paid the costs of treatment required to bring Well Q-2 back into active service after six months. Further testing without detection of perchlorate enabled Valencia to remove the treatment system in October 2007 and the well has continued in use.

<sup>11</sup> Exhibit 10, at 4. The perchlorate settlement proceeds as shown in late- filed Exhibit 51 are \$3.65 million.

<sup>12</sup> Net proceeds are the proceeds remaining after a portion of those proceeds reimburse certain costs incurred in obtaining the proceeds. (D.10-10-018, at 46.)

<sup>13</sup> Exhibit 32.

initiative and success in pursuing the polluters, as well as the greater financial risk borne by its shareholders. Valencia explains that its proposed method to allocate 67% to shareholders and 33% to ratepayers is based on the ratio between litigation costs subject to refund and included in the WQLMA (\$531,605) and total litigation costs of \$1,585,396.<sup>14</sup> Valencia contends the difference of \$1,053,791 represents the exposure or risk place on Valencia's shareholders.

Valencia adds, apart from the definition of net gain and the allocations between shareholders and ratepayers, that if the Commission desires to reduce the net gain by an amount representing the replacement value of Well V-157, there are two methods for calculating this replacement value. Under the first method Valencia would value Well V-157 using the cost of the new Well V-206 (\$2.4 million) times the percentage of remaining useful life<sup>15</sup> times the ratio between the production capacities of the two wells. (1,500 gallons per minute (gpm)/2,500 gpm) or about 3/5. This estimate is approximately \$480,000. Alternatively Valencia offers that the replacement value of Well V-157 could be based on the amount included in the settlement, which is approximately \$1 million which resolves Valencia's claims for its V-206 replacement well, including, but not limited to, construction and installation of Valencia's Well V-206, and associated pipelines, and permanent closure and abandonment of Valencia's Well V-157. Valencia argues that there can be no higher valuation of the cost of replacing Well V-157 than the \$1 million.

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<sup>14</sup> *Id.* This amount is net of insurance reimbursements and added interest costs.

<sup>15</sup> Valencia contends that the remaining useful life for Well V-157 would have been approximately 33% based on a 50-year total useful life. Use of 50-years is a conservative

*Footnote continued on next page*

### **6.3. DRA's Ratemaking Proposal**

DRA simply argues that the language of the perchlorate settlement shows that proceeds are specifically intended to fund replacement of Valencia's contaminated plant, Well V-157, with Well V-206. Accordingly, DRA recommends that all of the net proceeds should fund new Well V-206 and associated pipeline, and that these proceeds should be treated as Contributions in Aid of Construction (CIAC). Since the new Well V-206 and associated pipeline costs (\$2.4 million) exceed the net proceeds there is no amount remaining for any allocation between shareholders and ratepayers.

Like Valencia, DRA also proposes that all of the litigation funds plus interest recorded in the WQLMA be refunded to customers through a surcredit.

### **6.4. Determining the Net Proceeds**

In Decision (D.) 10-10-018 we discuss our policy for allocating contamination proceeds due to settlements.<sup>16</sup> Under this allocation policy total gross contamination proceeds are first reduced by the reasonable legal expenses related to litigation, the costs of remedying plant facilities and resources to bring the water supply to a safe and reliable condition in accordance with General Order 103-A standards, and all other reasonable costs and expenses that are the direct result and would not have been incurred in the absence of such contamination, including all relevant costs already recovered from ratepayers (for which they have been, or will be, repaid or credited).<sup>17</sup>

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estimate as the useful life for wells under the Commission's Water and Audits Division's Standard Practice U-4 -W is 20 to 40 years.

<sup>16</sup> D.10-10-018, at 42-51.

<sup>17</sup> *Id.* at 46.

D.10-10-018 sets forth the methodology for applying this policy. The methodology provides that gross settlement proceeds be reduced by reasonable legal expenses. In this proceeding total net litigation costs are \$1,585,396.<sup>18</sup> Deduction of the total net litigation costs of \$1,585,396 from the total contamination settlement of \$3,645,277 results in an amount of \$2,059,881. Separately, there are litigation expenses of \$531,605 subject to refund which were collected from ratepayers and recorded in the WQLMA.<sup>19</sup>

The next step in determining whether net proceeds are available for allocation is to reduce the gross proceeds for the “costs of remedying plants, facilities, and resources to bring the water supply to a safe and reliable condition in accordance with General order 103-A standards.”<sup>20</sup> Although DRA did not estimate these remediation costs, Valencia provides two estimates as discussed above. This amount would be 480,000 based on remaining useful life and Well V-206 costs or \$1 million based on the litigation settlement.

Although negotiated settlement values are a result of the give and take involved in reaching agreement, in this instance the replacement value of Well V-157 has been identified as part of the settlement. Furthermore, D.10-10-018 (at 42) in referencing the Uniform System of Accounts states that new replacement plant should be valued at its actual cost, not residual book value, when placed in rate base. Therefore, we will adopt a value of \$1 million for the replacement of Well V-157 in the calculation of net proceeds. A deduction

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<sup>18</sup> Exhibit 32.

<sup>19</sup> *Id.*

<sup>20</sup> D.10-10-018, at 46.

of \$1 million from the amount of \$ 2,059,881, results in net proceeds of \$1,059,881, the amount available to allocate to shareholders and ratepayers.

D.10-10-018 does not provide a formulaic approach to the allocation of net proceeds, instead, D.10-10-018 states that the particular circumstances of the case including interests, merits, burdens, benefits and equities should be considered. D.10-10-018 provides a list of factors to inform the allocation of net proceeds.<sup>21</sup> Although Valencia argues that it was at risk for not recovering litigation expenses amounting to about 66% of total litigation expenses. DRA notes that Well V-157 continues to depreciate in rate base, and ratepayers are also paying for the cost of Well V-206 in rate base.

In this proceeding we have considered the various factors which might influence the sharing of net proceeds between ratepayers and shareholders. We do not agree with Valencia's calculations as its method places all of the risk of recovering litigation costs not included in WQLMA with shareholders, an uncertainty that assumes Valencia would not have requested reasonable litigation costs in this or a future proceeding. Neither do we agree with DRA's approach to essentially allocate all net proceeds to ratepayers as it is apparent that Valencia's participation in the settlement of perchlorate contamination was a result of difficult and protracted litigation and negotiations commencing in November 2000 and concluding with the negotiated settlement in May 2007. Furthermore, while ratepayers contributed to litigation costs through the amounts in the WQLMA, Valencia bore some risk that its additional litigation costs might not be fully recovered. In this instance we will adopt a 50-50 sharing

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<sup>21</sup> See, pp. 47- 49.

of the net proceeds between shareholders and ratepayers as an equitable and fair allocation. Thus, shareholders and ratepayers will each be allocated \$528,940 of the net proceeds.

In addition to the \$528,940 allocated to ratepayers from the net proceeds, ratepayers will be credited with the Well V-157 replacement costs of \$1 million. This total of \$1,528,940 will be included as CIAC in the recorded costs of Well V-206. Finally as recommended by both DRA and Valencia the amounts paid by ratepayers in litigation contributions to the WQLMA should be refunded. This amount should be refunded to ratepayers through a 12-month credit on customers' bills.

### **6.5. Other Requests for Relief**

Valencia requests Commission approval regarding water supply and quality, Valencia's Water Management Program (WMP), proposed tariffs and an advice letter filing for a future employee position.<sup>22</sup> DRA opposes these requests for relief.<sup>23</sup> Certain of these requests relate to the settlement agreements. We address Valencia's other requests for relief below.

#### **6.5.1. Water Supply and Quality**

Valencia requests that the Commission find that it has complied with all federal and state safe drinking water standards during the period since its last GRC in 2007. DRA clarifies that it does not oppose such a finding.<sup>24</sup> Our review of the Water Quality Report provided by the Division of Water and Audits, and

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<sup>22</sup> Valencia Opening Brief, at 20-23.

<sup>23</sup> DRA Reply Brief, at 6.

<sup>24</sup> DRA October 5, 2010 *Ex- parte* Notice.

Valencia's comments on this report, indicates that Valencia has complied with the federal and state safe drinking water standards during the period since Valencia's last GRC in 2007.

### **6.5.2. Changes in Terms of Valencia's Tariff Schedules**

Valencia requests Commission approval of tariff changes reflecting the Water SMART program, Variance process and WRAM/MCBA as described in the Supplemental Settlement Agreement, as well as changes to tariff Rule 9 and 11.<sup>25</sup> DRA states that it does not oppose modification of Rule 9 or Rule 11 on Attachment D. We will authorize Valencia to make changes in Rule 9 and Rule 11 as shown on Attachment D, and we expect that our Division of Water and Audits will verify that tariffs are consistent with the adopted agreements. Consistent with General Order 96-B, Valencia will be authorized to file a Tier 1 advice letter reflecting the rates adopted in this decision.

### **6.5.3. Water Management Program (WMP)<sup>26</sup>**

In its Application Valencia requests that the Commission find Valencia's Urban WMP is sufficient for the Commission's purposes.<sup>27</sup> This issue is also included in the Assigned Commissioner's Ruling and Scoping Memo (pg.3). However, DRA objects to Valencia's request as the wording in the request now includes a finding that the 2008 Santa Clarita Valley Water Report, as well as additional testimony and analysis are adequate.<sup>28</sup>

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<sup>25</sup> See, Application, Attachment D.

<sup>26</sup> Valencia also refers to this program as its Water Management Plan.

<sup>27</sup> Application, at 31.

<sup>28</sup> Valencia Opening Brief, at 22.

Valencia clarifies that its showing made in Exhibit 12 (Urban WMP) and Exhibit 13 (2008 Santa Clarita Valley Water Report) are intended to meet the minimum data requirements in D.07-05-062 (Rate Case Plan).<sup>29</sup> A review of these two exhibits, as well as the testimony included in Exhibit 9, demonstrates that Valencia has met its requirement to provide an Urban WMP sufficient for the Commission's purposes.

#### **6.5.4. Escalation Year Rate Adjustments**

Valencia requests that consistent with D.07-05-062, the "Rate Case Plan Decision" it be authorized to file Tier 1 advice letters by November 16, 2011, and November 16, 2012, to be effective January 1, 2012, and January 1, 2013, respectively, to implement escalation year rate adjustments. DRA states that such a request is unnecessary as the Rate Case Plan Decision already specifies the timing for filing escalation year rate increases.<sup>30</sup> We will order Valencia to file for escalation year increases consistent with the direction provided in D.07-05-062.

#### **6.5.5. Combining Amortization of Existing Purchased Power and Purchased Water Accounts and other Accounts as a One Line Item on Customers' Bills**

Valencia requests that the Commission should allow Valencia to combine all amortizations of accounts and refunds into a single line item on customers' bills to be amortized over a 12-month period as a single line item for purposes of

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<sup>29</sup> D.07-05-062, Appendix A, Section E.1 requires the utility to demonstrate compliance with Section 10620 of the California Water Code by preparing an urban water management plan.

<sup>30</sup> D.07-05-062, at A-18 and A-19 provides that escalation year increases for years one and two after the test year shall be filed no later than 45-days prior to the first day of the escalation year.

efficiency. Valencia further requests that if the net amount is a customer refund it should be amortized based on the service charge, or if it is an additional charge to customers it should be based on the commodity charge.

DRA objects to this request noting that the types of accounts to be amortized are different and therefore the under and over collections in the balancing accounts may not be returned to the same customers that provided the revenues. Furthermore, DRA argues that the Supplemental Settlement Agreement already provides for the disposition of existing Purchased Power and Purchased Water Accounts.<sup>31</sup>

As DRA points out the Division of Water and Audits Standard Practice U-27 (U-27) provides a mechanism for amortizing the different types of water utility accounts. Therefore we will direct Valencia to amortize or refund the various accounts consistent with the direction provided in U-27.

#### **6.5.6. Facilities Manager**

Valencia requests that the Commission authorize it to file an advice letter after the position of a facilities manager is filled. DRA does not object to this request,<sup>32</sup> and the request is also consistent with the Supplemental Settlement Agreement.<sup>33</sup> Therefore this request is authorized.

#### **6.5.7. Should the WQLMA Remain Open for Future Litigation Costs?**

Separate from the allocation of net proceeds from the perchlorate settlement, Valencia requests that the WQLMA remain open to capture any on-

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<sup>31</sup> Supplemental Settlement Agreement, at 17.

<sup>32</sup> DRA October 5, 2010, *Ex-Parte* notice.

<sup>33</sup> Supplemental Settlement Agreement, D.1.(e).

going costs and revenues associated with water contamination claims and litigation.<sup>34</sup> DRA opposes this request contending that the perchlorate litigation was resolved in April 2007<sup>35</sup> and that there is no apparent continued litigation on this matter.

We have determined how Valencia should allocate the current WQLMA balance and there is no other information indicating that expenses associated with the perchlorate litigation are continuing. Therefore, we will order that this account be closed. If additional litigation costs ensue related to the perchlorate litigation Valencia may request establishing a separate memorandum account.

As determined in this decision Valencia should refund the amount currently recorded in the WQLMA to ratepayers.

## **7. 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 \_\_\_\_\_.

## **8. Assignment of Proceeding**

John A. Bohn is the assigned Commissioner, and Bruce DeBerry is the assigned ALJ in this proceeding.

### **Findings of Fact**

1. On August 13, 2010, DRA and Valencia filed a motion for approval of the Agreements.

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<sup>34</sup> Valencia Opening Brief, at 19.

<sup>35</sup> Exhibit 10, at 33.

2. The Agreements resolve certain of the issues in the GRC.
3. The Settlement Agreement resolves issues including customer estimates, customer consumption except for residential customers, expense escalation, operation and administration expenses, utility plant additions, depreciation and amortization expense and reserve, rate base, income taxes, taxes other than income, tax depreciation, the net-to-gross multiplier, and water conservation.
4. The Supplemental Settlement Agreement resolves residential customer consumption, the Water SMART program including the WRAM/MCBA, and rate design.
5. The parties to the Agreements are all of the active parties in this proceeding.
6. The parties are fairly reflective of the affected interests.
7. No term of the Agreements contravenes statutory provisions or prior Commission decisions.
8. The Agreements convey to the Commission sufficient information to permit it to discharge its future regulatory obligations with respect to the parties and their interests.
9. The Agreements are reasonable in light of the record, are consistent with law, and are in the public interest.
10. Valencia and two other retail water purveyors filed a complaint against potentially responsible parties resulting in complex claims and counterclaims regarding perchlorate water contamination in November 2000.
11. Valencia received in general rates \$110,000 per year beginning in 2003 for future perchlorate litigation costs. These amounts were recorded in the WQLMA and are subject to refund.

12. Settlement of the perchlorate contamination claims was announced in May, 2007, and Valencia received approximately \$2.5 million for environmental claims and \$1.0 million to close and abandon Well V-157 and drill Well V- 206, plus interest, under the settlement.

13. The cost of Well V- 206 plus associated pipelines is approximately \$2.4 million.

14. Total perchlorate litigation costs are \$1,585,396.

15. The replacement cost for Well V-157 litigation may be estimated as \$480,000 using its remaining useful life and the relative water production capacities between Well V-157 and the replacement Well V-206.

16. The replacement cost for Well V-157 may be estimated as \$1,000,000 based on the amount included in the perchlorate litigation settlement.

17. At the time Valencia began perchlorate litigation, it was uncertain whether Valencia would recover all of its litigation costs.

18. The portion of Well V-157 not yet depreciated remains in plant and rate base, and thus is included in rates.

19. Valencia could have requested recovery from ratepayers of perchlorate litigation amounts not included in the perchlorate litigation expenses recorded in the WQLMA.

20. As all perchlorate litigation costs have been recovered through the perchlorate settlement, the amount of \$531,605 plus interest currently recorded in the WQLMA should be returned to ratepayers.

21. Valencia has complied with all federal and state safe drinking water standards during the period since its last GRC in 2007.

22. Valencia's Urban WMP is sufficient for the Commission's purposes.

23. Amortization or refunding of amounts in various water utility accounts should be consistent with the direction provided in U-27.

24. The perchlorate litigation concluded in 2007 and there is no information indicating that future expenses for this litigation will be incurred.

### **Conclusions of Law**

1. The Settlement Agreement fully resolves and settles those disputed matters addressed in that agreement in this proceeding.

2. The Supplemental Settlement Agreement fully resolves and settles those disputed matters addressed in that agreement in this proceeding.

3. The Settlement Agreement and the Supplemental Settlement Agreement meet the requirements of Public Utility Code Sections 451 and 454.

4. The Settlement Agreement and the Supplemental Settlement Agreement we approve are reasonable in light of the whole record, consistent with law, and in the public interest.

5. The Settlement Agreement and the Supplemental Settlement Agreement should be approved.

6. The August 13, 2010, Joint Motion of Valencia and DRA for Approval of Settlement Agreement and Supplemental Settlement Agreement should be granted.

7. This decision should be effective today so that the Settlement Agreement and Supplemental Settlement Agreement may be implemented expeditiously.

8. A.10-01-006 should be closed.

**O R D E R**

**IT IS ORDERED** that:

1. The Joint Motion of Valencia Water Company and the Division of Ratepayer Advocates for Approval of Settlement Agreement and Supplemental Settlement Agreement is granted.
2. The Settlement Agreement set forth in Appendix A is approved.
3. The Supplemental Settlement Agreement set forth in Appendix B is approved.
4. Adopted earnings and rates for test years 2011 and 2012 are authorized as set forth in Appendices C through G.
5. Within ten days of today's date, Valencia Water Company shall file a Tier I advice letter with tariff changes and new rates to implement this decision. The tariff changes and new rates shall become effective on January 1, 2011, or after the date filed subject to the Division of Water and Audits' determination that they are in compliance with this decision.
6. Escalation Tier I advice letters for 2012 and 2013, including workpapers, may be filed in accordance with Decision 07-05-062, or its successor, no later than 45 days prior to the first day of the escalation year.
7. Valencia Water Company shall close the Water Quality Litigation Memorandum Account and file a Tier I advice letter within 30 days of the effective date of this order to refund the amount, including interest, collected in the Water Quality Litigation Memorandum Account to customers over a 12-month period.

8. Valencia Water Company shall adhere to the Supplemental Settlement Agreement and the instructions provided in the Division of Water and Audits Standard Practice U-27 when amortizing or refunding account amounts.

9. Application 10-01-006 is closed.

10. This order is effective today.

Dated \_\_\_\_\_ at San Francisco, California.

