

PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298



June 2, 2009

File No.: 602-19

TO: All Interested Parties

Enclosed is draft Resolution W-4763 of the Division of Water and Audits. It will be on the Commission's July 9, 2009 agenda. The Commission may then act on this Resolution or it may postpone action until later.

When the Commission acts on the draft resolution, it may adopt all or part of it as written, amend or modify it, or set it aside and prepare a different resolution. Only when the Commission acts does the resolution become binding on the parties.

Parties to this matter may file comments on this draft resolution. An original and 2 copies of the comments, with a certificate of service, should be submitted to:

Division of Water and Audits, Third Floor
Attention: Peter Liu
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102

Parties may submit comments on or before July 2, 2009. The date of submission is the date the comments are received by the Division of Water and Audits. Parties must serve a copy of their comments on Alco Water Service on the same date that the comments are submitted to the Division of Water and Audits.

Comments shall be limited to five pages in length plus a subject index listing the recommended changes to the draft resolution, a table of authorities and appendix setting forth the proposed findings and ordering paragraphs.

Comments shall focus on factual, legal or technical errors in the draft resolution, and shall make specific reference to the record or applicable law. Comments which fail to do so will be accorded no weight and are not to be submitted.

Persons interested in comments of parties may write to Peter Liu or telephone him at (415) 703-1390.

/s/ RAMI KAHLON

385246

DRAFT

Resolution W-4763
2009

July 9,

ALCO/AL 120/RSK/FLC/PTL/OE2/jlj
Rami Kahlon, Director
Division of Water and Audits

Enclosures: Draft Resolution W-4763
Certificate of Service
Service List

DRAFT

AGENDA ITEM #8473

WATER/RSK/FLC/PTL/OE2/jlj

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

DIVISION OF WATER AND AUDITS
Water and Sewer Advisory Branch

RESOLUTION W-4763
July 9, 2009

R E S O L U T I O N

(RES. W-4763), ALCO WATER SERVICE (ALCO) SALINAS DISTRICT. THIS RESOLUTION AUTHORIZES A SURCHARGE OF \$2.78 FOR TWENTY-FOUR MONTHS FOR RECOVERY OF ITS LEGAL AND OTHER EXPENSES DUE TO D09-04-035 FOR A TOTAL OF \$580,873.56, AND IN COMPLIANCE WITH THE UNITED STATES DISTRICT COURT CASE NO. (C.) 97-20099 JF, A SUR-CREDIT OF \$1.02 FOR TWENTY-FOUR MONTHS FOR A TOTAL OF \$212,000.

SUMMARY

By Advice Letter (AL) 120, filed on October 27, 2008, Alco, a Class B water utility, seeks to recover expenses of \$580,873.56 for its Order Institution Investigation (OII) memorandum account and a sur-credit of \$212,000 to comply with the United States District Court for the Northern District of California, C.97-20099 JF. This Resolution authorizes Alco to collect a surcharge of \$2.78 per customer over a period of 24 months to recover costs incurred from its I.07-06-020 and a sur-credit of \$1.02 per customer per month over a period of 24 months.

BACKGROUND

On April 12, 2007, through Res. W-4630 the Commission granted Alco's AL 107 for the expansion of Service area contiguous to the then-existing service area map. The Commission directed staff to prepare a draft OII for the service and water quality of Alco's Salinas District. Alco's participation in this OII caused it to incur legal fees, engineering fees, advertising costs to notify customers during the course of the OII process, and other related costs. The Division of Water and Audits (Division), in response to AL 112-A authorized Alco to open a memorandum account to record legal fees and other expenses related to the OII. The total expense accrued in this account from July 27, 2007 to June 30, 2008 is \$580,873.56.

On March 13, 2003, the Division, by Res. W-4377, Ordering Paragraph 3, directed Alco to maintain a memorandum account as required by the Public Utilities Code (PU Code) Section 792.5 to record the cost of the U.S. District Court ordered Receivership. Through AL 109, Alco was given permission to recover the amounts recorded in the balancing account. On September 6, 2007, the U.S. District Court made a judicial determination that \$212,000 collected in this account be refunded to Alco customers.

C.97-20099 JF of the United States District Court ordered as follows:

“Upon entry of this stipulation as an order of the court, Alco, at its own expense, shall forthwith apply to the CPUC for authorization to pay a sur-credit of \$212,000 to its Salinas customers without need of further order of this court. The application to the CPUC will request the sur-credit to commence one year following termination of the receivership in this case and shall be sur-credited over a period of 48 months thereafter”.

AL 120 asks the Commission for permission to refund the \$212,000 over an accelerated period of only 24 months.

Alco presently provides service to approximately 8,634 metered customers in a service area located in Salinas in Monterey County, California.

NOTICE AND PROTESTS

Notice of the proposed rate increase was published in The Salinas Californian, a newspaper of general circulation, September 19, 2008, as evidence by proof of publication provided to the Division by the utility. Two protests were received on September 25, 2008, from the Division of Ratepayers (DRA) and the City of Salinas. The protests were mainly on legal and procedural grounds.

- I. *DRA and the City of Salinas believe that Alco’s AL 120 request is unjust and unreasonable and alleges that itemized bills invoices and records were not attached in the filing or received in a timely manner.*

The itemized bills, invoices and records were received by the Division. The Division staff reviewed them and found the expenses to be just and reasonable. There is no merit to the protest.

II. *DRA argues that Alco's request to recover \$580,873 in OII related costs is inappropriate for the advice letter process.*

General Order 96-B, Water Industry rule 7.3.3 (7), provides that "Memorandum Account amortization" may be requested by a Tier 3 advice letter filing. Therefore, Alco's current request is appropriate for the advice letter process.

III. *DRA and the City of Salinas argue that the amount of Alco has requested in AL 120 should not be granted until a determination on the final decision in I.07-06-020 is made.*

The final decision in I.07-06-020 was made by the Commission's D.09-04-035.

IV The City of Salinas supports Alco's request for authorization to refund a sur-credit of \$212,000 to its customers but believes it shouldn't be contingent upon AL 120 being "approved in full".

The refund of \$212,000 refers only to the court order, and staff is implementing the court's decision.

DISCUSSION

The increase requested herein is for the purpose of recovering through a surcharge, on a dollar-for-dollar basis, unanticipated expenses which Alco incurred in its service quality OII. On April 12, 2007, through Res.W-4630 the Commission affirmed the Division's ministerial disposition of Alco's AL 107 for expansion of service area contiguous to the then-existing service area map and directed the staff to prepare an OII into the customer relations, customer service, and service quality and water quality of Alco's Salinas District.

Alco followed the prescribed procedure by timely advising the Division in writing through AL 112-A, which became effective on July 27, 2007, of the need for a memorandum account.

Division has reviewed Alco's last general rate increase authorized in December 15, 2005 (Res. W-4577) and has ascertained that Alco could not have anticipated the additional expenses and, therefore, did not receive enough revenue for the recently incurred expenses accrued in the OII memorandum account. Accordingly, recovering these expenses would not amount to double recovery and is reasonable. Alco may file a Tier 3 advice letter to recover any additional expenses recorded in the OII Memorandum Account not addressed in this Resolution. The additional invoice amounts will be reviewed for accuracy and reasonableness in response to the advice letter filing.

The Commission concluded its deliberation on the OII (I.07-06-020), by issuing D.09-04-035, on April 16, 2009.

Staff reviewed Alco’s expenditures of \$580,873.56 recorded in its invoices, including itemized and detailed invoices from their attorneys, which were provided to the staff, and found them reasonable. The Division recommends a surcharge of \$2.78 per customer per month for each rate category, for a period of twenty-four months.

Division also reviewed the United States District Court for the Northern District of California, San Jose Division orders of September 6, 2007 and March 4, 2008, in which the utility was ordered to refund a sum of \$212,000 to its customers. Alco requests that the surcredit be reimbursed over a period of twenty-four months, at the rate of \$1.02 per customer per month. Division concurs, as this falls within the forty-eight months ordered by the court and will bring about quicker relief to the ratepayers.

COMMENTS

PU Code Section 311(g) (1) provides that resolutions generally must be served on all parties and subject to at least 30 days public review and comment prior to a vote of the Commission.

Accordingly, this draft Resolution was mailed to the utility and protestants and made available for public comment on June 2, 2009. Comments were received from _____, and reply comments from _____.

COMPLIANCE

There are no outstanding Commission orders requiring system improvements. The utility has been filing annual reports as required.

FINDINGS

1. AL 120 requests interim recovery of OII expenses related to I. 07-06-020 that Alco Water Service (Alco), Salinas District, has incurred and recorded for future recovery in an OII

ALCO/AL 120/RSK/FLC/PTL/OE2/jlj

Memorandum Account during the period of July 27, 2007 through June 30, 2008. The above proceeding has now been concluded by the Commission in D.09-04-035.

2. The expenses recorded in Alco's OII memorandum account were prudent and necessary.
3. Alco could not have reasonably anticipated these expenses in its last General Rate case, which became effective in December 15, 2005.
4. Contrary to the protestants' contentions, Alco followed proper procedure in establishing the memorandum account, filing for this advice letter and submitting the necessary records for review. Furthermore, under Water Industry Rule 7.3.3 (7) this request is appropriate for the advice letter process.
5. Alco should be permitted to transfer the amounts in the OII memorandum account to a balancing account for recovery.
6. Based on the above findings, the protests should be rejected.
7. Alco should be permitted to recover the amounts in the balancing account by imposing a surcharge of \$2.78 per customer per month for twenty-four months, starting from August, 2009 and ending on July 2011.
8. The sur-credit of \$1.02 per customer per month over a period of twenty-four months (starting from August, 2009 and ending on July 2011) is effectively in compliance with the District Court order and is justified and reasonable.
9. Alco may file a Tier 3 advice letter to recover any additional expenses recorded in the OII Memorandum Account not addressed in this Resolution. The additional invoice amounts will be reviewed for accuracy and reasonableness in response to the advice letter filing.

THEREFORE IT IS ORDER THAT:

DRAFT

Resolution W-4763

July 9, 2009

ALCO/AL 120/RSK/FLC/PTL/OE2/jlj

1. Alco Water Service, Salinas District, is permitted to transfer the amount of \$580,873 in the OII memorandum account to a balancing account for recovery over a period of twenty-four months.

2. Alco Water Service, Salinas District, may file a Tier 3 advice letter to recover any additional expenses recorded in the OII Memorandum Account not addressed in this Resolution. The additional invoice amounts will be reviewed for accuracy and reasonableness in response to the advice letter filing.

3. Alco Water Service, Salinas District, is permitted to recover the amounts in the balancing account by imposing a surcharge of \$2.78 per customer per month for twenty-four months starting from August, 2009 and ending on July, 2011.

4. The United States District Court ordered sur-credit of \$212,000 shall be paid over the twenty-four months period starting from August, 2009 and ending July, 2011, at the rate of \$1.02 per customer per month.

5. Within 5 days of the date of this resolution, Alco Water Service, Salinas District, shall file revised rate schedules to incorporate the surcharge and surcredit described in Ordering Paragraphs Nos. 3 and 4, and concurrently cancel its presently effective Schedules 1A, General Metered Service; 4, Private Fire Protection Service; and 6, Privately-Owned Fire Hydrant Service. The effective date of the revised tariff sheets shall be five days after the date of their filing, subject to staff's review for compliance.

6. This resolution is effective today.

I certify that the foregoing resolution was duly introduced, passed, and adopted at the Public Utilities Commission of the State of California on July 9, 2009; the following Commissioners voting favorably thereon:

PAUL CLANON

DRAFT

Resolution W-4763
ALCO/AL 120/RSK/FLC/PTL/OE2/jlj

July 9, 2009

Executive Director

CERTIFICATE OF SERVICE

I certify that I have by mail this day served a true copy of draft Resolution W-4763 on all parties in these filings or their attorneys as shown on the attached list.

Dated June 2, 2009, at San Francisco, California.

_____/s/ Josie L. Jones
JOSIE L. JONES

Parties should notify the Division of Water and Audits, Public Utilities Commission, 505 Van Ness Avenue, Room 3106, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the Resolution number of the service list on which your name appears.

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