

PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298



Draft Resolution No. W-4769
Agenda ID #8634

June 18, 2009

TO: All Interested Parties in Golden State Water Company's Advice Letter No. 1319-W

Enclosed is draft Resolution W-4769 of the Division of Water and Audits. It will be on the Commission's July 30, 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: Seaneen M. Wilson
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102

Parties may submit comments on or before July 8, 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 all persons on the service list attached to the draft Resolution, 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.

/s/ FRED L. CURRY for
Rami Kahlon, Director
Division of Water and Audits

Enclosures: Draft Resolution W-4769
Certificate of Service
Service List

DWA/RSK/SMW

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

DIVISION OF WATER AND AUDITS
Utility Audit, Finance and Compliance Branch

RESOLUTION W-4769
July 30, 2009

R E S O L U T I O N

(RES. W-4769), THIS RESOLUTION AFFIRMS DIVISION OF WATER AND AUDITS (DWA) MINISTERIAL DISPOSITION OF GOLDEN STATE WATER COMPANY’S (GOLDEN STATE) ADVICE LETTER NO. 1319-W (AL 1319-W) REQUEST FOR INSTITUTION OF A PENSION COST MEMORANDUM ACCOUNT

SUMMARY

In a letter dated March 27, 2009, the Division of Water and Audits (DWA) rejected Golden State’s AL 1319-W. This resolution affirms DWA’s disposition of Golden State’s AL 1319-W.

BACKGROUND

On March 4, 2009, through AL 1319-W, Golden State requested authorization to establish and implement a Pension Costs Memorandum Account (PCMA) to record the difference between those pension expenses authorized by the Commission and those actually recorded on the books of the utility. Golden State also requested that its Preliminary Statement be modified to reflect the PCMA. Golden State indicates that current economic conditions have, or will, cause it to under-fund its pension plan during the period 2009-2012.¹ Copies of AL 1319-W were sent to its Regions I, II, and III service lists by Golden State.

In AL 1319-W, Golden State stated that it has complied with the five criteria set out in Standard Practice U-27-W, for the establishment of a memorandum account:

- 1) The event is not under the utility’s control;

¹ Golden State compared what it has requested in A.08-07-010 and projected pension expenses from its actuary as of February 6, 2009.

- 2) The event could not have been reasonably foreseen in the utility's last general rate case;
- 3) The event occurred before the utility's next scheduled rate case;
- 4) The event is of a substantial nature; and
- 5) The memorandum account has ratepayer benefits.

On March 24, 2009, the Division of Ratepayer Advocates (DRA) filed a protest to AL 1319-W. The protest asserts that AL 1319-W should be denied because:

- 1) Granting the relief requested in the advice letter would violate statute or Commission order, or its not authorized by statute or Commission order on which the utility relies;
- 2) The analysis, calculations, or data in the advice letter contains material errors or omissions;
- 3) The relief requested in the advice letter is pending before the Commission in a formal proceeding;
- 4) The relief requested in the advice letter requires consideration in a formal hearing, or is otherwise inappropriate for the advice letter process; and
- 5) The relief requested in the advice letter is unjust, unreasonable, or discriminatory.

DWA went on to state that Golden State did not comply with the specific conditions that must be satisfied to establish a memorandum account.

On March 27, 2009, DWA sent a letter to Golden State, rejecting its AL 1319-W, stating that the issue of pension and benefits is considered in a utility's General Rate Case (GRC), and that Golden State could request that it be able to update this information in its current GRC, Application No. (A.) 08-07-010.

On April 6, 2009, Golden State requested, via a letter, that DWA review the disposition of AL 1319-W, reiterating its position in AL 1319-W. Golden State also stated that 2009 pension costs are not being addressed in its current GRC and that re-noticing the service list in its current GRC with regards to the 2010-2012 pension costs would be costly.

On April 20, 2009, Golden State filed Replacement Testimony of Gladys Farrow in its current GRC, A.08-07-010, in which Golden State requests, in part, balancing account recovery for changes in its pension and benefit costs for the years 2010 through 2012.

DISCUSSION

DWA reviewed Golden State's AL 1319-W, and determined that it was not the appropriate proceeding to address any adjustment to pension and benefit costs incurred by Golden State.

Processing via Application

DWA's determination that adjustment to pension and benefit costs is more appropriately addressed in a GRC, via an Application, is reasonable. The issues of pension administration and funding are generally considered in a utility's general rate case where funding status is reviewed and rates are adjusted as necessary.

For example, in numerous Pacific Gas & Electric's (PG&E) GRC applications, we have considered how to address revisions to pension and benefit program costs.² Based on the decisions in these applications, we authorized PG&E to address revisions to pension and benefit program cost estimates via subsequent GRC applications as well as advice letter filings. The key point here is that we originally considered how to address the truing up of pension and benefit costs in the GRC application process, authorizing it via a decision – not in an advice letter. We see no reason in the current case to stray from our existing method for addressing this issue.

In particular, since Golden State is currently an applicant in a GRC proceeding (A.08-07-010), which is addressing its pension and benefit costs, and has requested balancing account recovery for pension and benefit costs for the years 2010-2012, it should also address any change for the year 2009 in this proceeding. Even prior to filing its replacement testimony in April 2009, Golden State could have updated information in its current general rate case as of October 9, 2008, or, it could have filed a motion to submit updates to its pension expenses in that same proceeding.³ It chose to do neither. In either event, Golden State has now requested recovery in its current GRC application, therefore AL 1319-W is redundant. As to recovery of any amounts for 2009, this issue can be addressed in the GRC application as well.

2009 Shortfall

Golden State also stated in its April 6th letter, that it could not address 2009 amounts in its current GRC. This is also incorrect. Any shortfall in a previous years' pension and

² D.05-12-046; D.00-02-046, pg.308-312, 507-508, 531; D.96-05-010 (1996 Cal. PUC LEXIS 634); and D.95-12-055 (1995 Cal. PUC LEXIS 965, 38-49, 160, 172, 174-175, 181).

³ D.07-05-062, p.13.

benefit cost can be incorporated into recovery in subsequent years – basically making up in the current year for previous years deficits in the program. The Internal Revenue Service (IRS) Code specifically addresses the amortization of shortfalls in funding of pension plans for as much as six preceding plan years.⁴

For example, for ratemaking purposes, when estimating pension cost for 2010, the utility could look at what it needs to collect to arrive at as a total balance in the pension plan as of the end of 2010 – this could include any adjustment to 2010 as well as shortfalls from previous years. For example, say Utility A’s pension program was short \$750 in 2008, \$500 in 2009, and estimates a contribution in its current GRC of \$1,000 for 2010. In the current GRC, it could request an adjustment of \$2,250 (total of annual shortfalls or difference between 2010 End of Year Balance that is Necessary versus Authorized) to make up for the shortfalls of previous years, and correction to current years contribution estimate.⁵

Sample Calculation
 “For Illustrative Purposes Only”

Year	Authorized Annual Addition	Annual Shortfall	Authorized/Estimated End of Year Balance	Necessary End of Year Balance
2007			\$5,000	\$5,000
2008	\$250	\$750	\$5,250	\$6,000
2009	\$500	\$500	\$5,750	\$7,000
2010 Original	\$1,000	\$1,000	\$6,750	\$9,000
2010 Adjusted	\$2,250		\$9,000	\$9,000

Given the IRS Code allowance for amortization of shortfalls from previous years in current and future years, Golden State should request amortization of its 2009 pension and benefit shortfall in A.08-07-010, as an addition to its request for recovery of the expected shortfall for 2010.

Materiality

In its April 6th letter, Golden State stated that the amount of money involved is substantial in nature. This is incorrect. When determining recovery from a balancing or memorandum account, the Commission utilizes the benchmark of 2% of Gross Annual

⁴ U.S. Code, Title 26, Subtitle A, Chapter 1, Subchapter D, Part III, Subpart A, §§ 430-431.

⁵ \$2,250 = \$750 + \$500 + \$1,000; or \$2,250 = \$9,000 - \$6,750

Revenues to determine if the balance is material enough for recovery.⁶ The \$3,000,000 annual figure discussed by Golden State at page 4 of AL 1319-W equates to only 1.32%.

Notice

In this same letter, Golden State stated that it would be costly to re-notice the service list of its current GRC regarding a change to its requested pension costs, and could possibly change the GRC schedule, but provided no estimate of the cost to re-notice, or exactly how the GRC schedule would change. Given this lack of supporting detail, as well as the appropriateness of this issue being addressed in the GRC, we do not agree that these are reasons to retract DWA's disposition of AL 1319-W.

COMMENTS

A draft of this Resolution was served on the parties to AL 1319-W, 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 _____.

FINDINGS

1. Golden State Water Company (Golden State) filed Advice Letter (AL) 1319-W on March 4, 2009, requesting authorization to establish and implement a Pension Costs Memorandum Account (PCMA) to record the difference between those pension expenses authorized by the Commission and those actually recorded on the books of the utility.
2. In AL 1319-W, Golden State stated that it has complied with the five criteria set out in Standard Practice U-27-W, for the establishment of a memorandum account.
3. On March 24, 2009, the Division of Ratepayer Advocates (DRA) filed a protest to Golden State AL 1319-W, with the Division of Water and Audits (DWA). The protest asserts, among other things, that Golden State's AL 1319-W should be denied, because, among other reasons, Golden State did not comply with the specific conditions that must be satisfied to establish a memorandum account.
4. On March 27, 2009, DWA rejected Golden State's AL 1319-W, stating that any adjustment to pension and benefit costs is more appropriately addressed in a General Rate Case (GRC).
5. On April 6, 2009, Golden State requested that DWA review the disposition of AL 1319-W, reiterating its position in AL 1319-W.

⁶ Standard Practice U-27-W, p.8.

6. On April 20, 2009, Golden State filed Replacement Testimony of Gladys Farrow in its current GRC, Application (A.) 08-07-010, in which it requests, in part, balancing account recovery for changes in its pension and benefit costs for the years 2010 through 2012.
7. Golden State is currently an applicant in a GRC proceeding (A.08-07-010), which is addressing its pension and benefit costs.
8. Golden State should address any change in its pension and benefit costs in a GRC proceeding.
9. In numerous PG&E GRC proceedings, we have considered how to address revisions to pension and benefit program costs. Based on the decisions in these applications, we authorized PG&E to address revisions to pension and benefit program cost estimates via subsequent GRC applications as well as advice letter filings.
10. The Internal Revenue Service Code specifically addresses the amortization of shortfalls in funding of pension plans for as much as six preceding plan years.

THEREFORE IT IS ORDERED THAT:

1. The Division of Water and Audit's ministerial rejection of Golden State Water Company's Advice Letter 1319-W is affirmed.
2. Golden State Water shall amend its request in A.08-07-010 requesting recovery of pension and benefit shortfall for 2010-2012, to include the shortfall from 2009.
 - a. The 2009 shortfall shall be included in the requested amount of shortfall for 2010.
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 July 30, 2009; the following Commissioners voting favorably thereon:

PAUL CLANON
Executive Director

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