

Decision 11-03-045 March 24, 2011

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of California Water Service Company (U60W), a California Corporation, for an Order authorizing the allocation of Net Proceeds from MTBE (methyl tertiary-butyl ether) Groundwater Contamination Litigation.

Application 09-07-011
(Filed July 8, 2009)

ORDER EXTENDING STATUTORY DEADLINE

Summary

Pub. Util. Code § 1701.5(a) provides that ratesetting matters such as this proceeding shall be resolved within 18 months of the date the scoping memo is issued, unless the scoping memo sets a later date. The Commission may also, upon making a written determination, including findings as to the reason that the deadline cannot be met, issues an order extending the deadline. In this proceeding, the 18-month deadline for resolving the case is March 28, 2011. This extension order is issued to cover the possibility that the proposed decision closing the proceeding, which has been placed on the March 24, 2011, Commission meeting agenda, is not voted out on March 24.

Background and Discussion

This proceeding was bifurcated into two phases to allow for a parallel rulemaking on contamination proceeds (Rulemaking (R.) 09-03-014) to reach an outcome relevant to the second phase. The rulemaking culminated in Decision (D.) 10-10-018 and D.10-12-058 and was completed in mid-December 2010. This left a tight schedule before the 18-month deadline, March 28, 2011, to resolve

those issues of the second phase not controlled by the rulemaking. An agreement was reached between the parties, California Water Service Company (Cal Water) and the Division of Ratepayer Advocates (DRA), proposing a deferral of the unresolved issues of the second phase to future General Rate Cases of the utility. Following the Prehearing Conference on January 31, 2011, at which that agreement was reviewed, the assigned Administrative Law Judge (ALJ) undertook the preparation of a proposed decision that would defer remaining issues to a General Rate Case and close the proceeding. The proposed decision is under consideration at this time.

Because of that circumstance, we find it appropriate to extend the deadline for resolution of the second phase of this proceeding for 60 days, until and including May 27, 2011. We believe that such an extension should be sufficient to allow for the closing of the proceeding.

Waiver of Comment Period

Under Rule 14.6 (c)(4) of the Commission's Rules of Practice and Procedure, the Commission may reduce or waive the period for public review and comment of proposed decisions extending the deadline for resolving ratesetting proceedings. Accordingly, the otherwise applicable period for public review and comment is being waived.

Assignment of Proceeding

Michael R. Peevey is the assigned Commissioner and Gary Weatherford is the assigned ALJ in this proceeding.

Findings of Fact

1. This proceeding on Application 09-07-011, which seeks authority to allocate net proceeds from groundwater contamination litigation, was bifurcated

into Phase I and Phase II. The 18-month statutory deadline on this ratesetting proceeding is March 28, 2011.

2. Phase I culminated in D.10-04-037 that adopted a settlement reached between Cal Water and the DRA allowing for the amendment of an existing contamination litigation memorandum account and directing the use of the available litigation settlement funds (\$34,254,417) for the construction or purchase of contamination treatment and replacement facilities.

3. The start of Phase II awaited the outcome of a separate rulemaking on contamination proceeds, R.09-03-014, which culminated in D.10-10-018 and D.10-12-058 and ended in mid-December 2010.

4. At the Phase II Prehearing Conference on January 31, 2011, a memorandum of understanding between the parties, proposing a deferral of the unresolved issues of the second phase to future General Rate Cases of the utility, was reviewed and discussed.

5. A proposed decision adopting such a deferral and closing the proceeding has been published and is under consideration by the Commission.

6. A 60-day extension of time to May 27, 2011, should allow sufficient time to allow for the closing of the proceeding.

Conclusions of Law

1. The Commission should extend the deadline in this proceeding to May 27, 2011, as allowed by Pub. Util. Code § 1701.5(a).

2. In accordance with Rule 14.6(c)(4) the comment period should be waived.

3. This order should be effective immediately.

O R D E R

IT IS ORDERED that the statutory deadline in this proceeding is extended to May 27, 2011.

This order is effective today.

Dated March 24, 2011, at San Francisco, California.

MICHAEL R. PEEVEY

President

TIMOTHY ALAN SIMON

MICHEL PETER FLORIO

CATHERINE J.K. SANDOVAL

MARK FERRON

Commissioners