

Decision 02-08-024 August 8, 2002

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Joint Application of California Water Service Company (U-60-W), Dominguez Water Company (U-330-W), Kern River Valley Water Company (U-295-W), and Antelope Valley Water Company (U-281-U) for Approval of a Plan of Merger of California Water Service Company, Dominguez Water Company, Kern River Valley Water Company, and Antelope Valley Water Company.

Application 99-02-004
(Petition for Modification
filed March 8, 2002)

**OPINION GRANTING PETITION FOR MODIFICATION
OF DECISION 00-05-047**

I. Summary

We grant the unopposed petition for modification of Decision (D.) 00-05-047 (the decision) filed by California Water Service Company (CWS). As requested, we modify D.00-05-047 to authorize CWS to file the first combined-district Palos Verdes/Hermosa-Redondo general rate case (GRC) in 2002, rather than 2001, and the second combined-district GRC in 2005, rather than 2004 – and consequently, to withdraw Application (A.) 01-09-076. To protect ratepayers' interests, we require CWS to establish a memorandum account for use in tracking synergies related to the merger of the Palos Verdes and Hermosa-Redondo districts.

II. Background

Subject to terms and conditions stated in the decision, including the terms of the so-called "enhanced guarantee," D.00-05-047 authorized CWS to acquire

Dominguez Water Company, Kern River Valley Water Company and Antelope Valley Water Company, and to merge them into its own operations. The Commission issued D.00-05-047 on May 18, 2000 and the decision was effective on that date. Joint applicants consummated the merger thereafter.

On March 8, 2002, CWS filed a petition for modification of Ordering Paragraph 2(e) of D.00-05-047. No protests were filed. On May 7 2002, CWS filed a Declaration of Francis S. Ferraro (Ferraro) in support of the petition.

III. Rule 47

Rule 47 of the Commission's Rules of Practice and Procedure¹ governs petitions for modification of Commission decisions. As relevant here, Rule 47 provides:

(b) A petition for modification must concisely state the justification for the requested relief and must propose specific wording to carry out all requested modifications to the decision. Any factual allegations must be supported with specific citations to the record in the proceeding or to matters that may be officially noticed (Rule 73). Allegations of new or changed facts must be supported by an appropriate declaration or affidavit.

If a petition for modification is filed a year or more after the decision's effective date, "the petition must also explain why the petition could not have been presented within one year of the effective date of the decision."

(Rule 47(d).)

¹ Unless otherwise indicated, all subsequent citations to a Rule or Rules refer to the Commission's Rules of Practice and Procedure.

CWS' petition and the supporting declaration comply with the procedural requirements of Rule 47(b) and (d).

IV. Discussion

Ordering Paragraph 2(e) of D.00-05-047 provides that:

2.e. [CWS] Shall file an application in 2000 to determine "Base Year 2000" revenue requirements for the Palos Verdes and Hermosa-Redondo districts and for CWS' general office. These base case revenue requirements will provide the benchmark for assessing merger-related synergies in the first combined-district GRC filed in mid-year 2001 (with rates effective in 2002) and the second combined-district GRC filed in 2004 (with rates effective in 2005). If necessary to ensure rate neutrality, reductions in the 2002 and 2005 GRC revenue requirements will be imputed. If an imputation is required in the 2005 GRC, CWS' operating expenses will be adjusted permanently to reflect the reduced revenue requirement.

CWS asks that we postpone the schedule for the Palos Verdes/Hermosa-Redondo combined-district GRCs by one year. Since in September 2001, CWS filed, as A.01-09-076, its first combined-district GRC,² what CWS actually seeks is authority to withdraw that application, to refile in mid-year 2002, and to file the second combined-district GRC in mid-year 2005 (rather than mid-year 2004). The rates adopted under this revised GRC cycle would be effective in 2003 and 2006, respectively (rather than in 2002 and 2005).

According to the CWS petition and Ferraro's declaration, several factors have contributed to the need to postpone the combined-district GRC schedule. Because the Commission decision on the merger issued later than the scoping

² A.01-09-076 really is nothing more than an incomplete, "placeholder" application since it lacks supporting documentation.

memo's target date -- in the second quarter of 2000, rather than the first -- and consequently, because consummation of the merger and consolidation of the Palos Verdes/Hermosa-Redondo districts were delayed, CWS had less than a full year of data on merged operations when it filed A.01-09-076. While CWS was aware of this problem prior to the one-year anniversary of D.00-05-047, it chose to file a "placeholder" application, rather than seek a delay in that GRC schedule. Contemporaneously (also in September 2001), CWS filed for GRCs in multiple other districts (A.01-09-062 through A.01-09-074), in accordance with the schedule that had previously been discussed with Commission staff and under pressure of Resolution W-4294, which issued on November 11, 2001.³ CWS reports that since that time its own resources and the resources of the Office of Ratepayer Advocates (ORA) have been devoted to processing A.01-09-062 et al. and that both have agreed that the new, combined-district GRC is a lower priority and should be deferred as requested in the petition. Ferraro's declaration also states that CWS and ORA have agreed that in the interim, CWS should establish a memorandum account to record the costs necessary to track the merger-related synergies for the Palos Verdes/Hermosa-Redondo combined district.

We approve CWS' unopposed request to delay the GRC and establish a memorandum account. Our approval enables CWS and ORA to use their resources efficiently, considering the competing demands of A.01-09-076 and

³ Resolution W-4294 imposes conditions on recovery of so-called "offsetable" expenses (e.g., purchased power) when a water utility's rates are based on data reviewed in a GRC or other proceeding decided more than three years prior. The regulatory plan for water is based on a three-year cycle, which includes annual "test year" or "attrition year" adjustments.

A.01-09-062 et al., and protects ratepayers' interests. CWS shall establish the memorandum account effective July 1, 2002, since this is the date that any change in rates would have been targeted to take effect under the GRC schedule set in D.00-05-047. We note that the memorandum account will be subject to future review regarding both the nature of the costs recorded in it and their amount. Likewise, parties or the Commission may reasonably question whether CWS should have recorded other costs in the memorandum account in order to accurately represent all, realized, merger-related synergies for the Palos Verdes/Hermosa-Redondo district. Within 30 days of the effective date of today's order, CWS shall file a motion to withdraw A.01-09-076.

While we conclude this is the correct result, we admonish CWS for failing to act on a more timely basis to petition for a change in the GRC schedule set in D.00-05-047. Delays of this kind adversely affect the Commission's own internal planning processes and can be better managed by prompt disclosure. We remind CWS that a Rule 47 petition is not the only avenue available to a utility to request scheduling relief. In appropriate circumstances, a request for an extension of time limits may be made by letter to the Commission's Executive Director, pursuant to Rule 48(b). We do not consider the filing of a "placeholder" application such as A.01-09-076 to be substantial compliance with Ordering Paragraph 2.e. of D.00-05-047.

V. Waiver of Comments

Because this is an uncontested matter in which the proposed decision grants the relief requested, the public comment period has been waived in accordance with Pub. Util. Code § 311(g)(2) and Rule 77.7(f)(2) of the Rules of Practice and Procedure.

Findings of Fact

1. Granting the unopposed petition while concurrently establishing a memorandum account to track merger-related synergies in the Palos Verde/Hermosa-Redondo district will enable CWS and ORA to use their resources efficiently, considering the competing demands of A.01-09-076 and A.01-09-062 et al., and will protect ratepayers' interests.

2. CWS should file a motion to withdraw A.01-09-076 within 30 days of the effective date of this decision.

Conclusions of Law

1. The petition and accompanying declaration comply with Rule 47.

2. In order to provide certainty to the parties and promote an efficient use of Commission and utility resources, this decision should be effective immediately.

O R D E R

IT IS ORDERED that:

1. The California Water Service Company (CWS) is granted, consistent with the following subparagraphs.

(a) Ordering Paragraph 2(e) of Decision 00-05-047 is modified to state:

2.e. [CWS] Shall file an application in 2000 to determine "Base Year 2000" revenue requirements for the Palos Verdes and Hermosa-Redondo districts and for CWS' general office. These base case revenue requirements will provide the benchmark for assessing merger-related synergies in the first combined-district GRC filed in mid-year 2002 (with rates effective in 2003) and the second combined-district GRC filed in 2005 (with rates effective in 2006). If necessary to ensure rate neutrality, reductions in the 2003 and 2006 GRC revenue requirements will be imputed. If an imputation is

required in the 2006 GRC, CWS' operating expenses will be adjusted permanently to reflect the reduced revenue requirement.

(b) Effective July 1, 2002, CWS shall establish a memorandum account to record the costs necessary to track the merger-related synergies for the Palos Verdes/Hermosa-Redondo combined-district.

(c) Within 30 days of the effective date of this decision, CWS shall file and serve a motion to withdraw Application 01-09-076. If the motion is unopposed, the Executive Director shall issue an order granting withdrawal.

2. This proceeding is closed.

This order is effective today.

Dated August 8, 2002, at San Francisco, California.

LORETTA M. LYNCH

President

HENRY M. DUQUE

CARL W. WOOD

MICHAEL R. PEEVEY

Commissioners

Commissioner Geoffrey F. Brown, being necessarily absent, did not participate.