

Decision 06-10-036 October 19, 2006

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of Park Water Company (U 314 W) for Authority to Increase Rates Charged for Water Service by \$1,680,500 or 8.21% in 2007, \$571,181 or 2.57% in 2008, and \$658,677 or 2.88% in 2009.

Application 06-01-004
(Filed January 5, 2006)

OPINION GRANTING RELIEF FOR LOW-INCOME RATEPAYERS

1. Summary

The Commission grants Park Water Company (Park) authority to implement a rate-assistance program for low-income customers.

2. Procedural Background

The Commission bifurcated Park's general rate case (GRC) application (A.) 06-01-004 into two phases, the first of which addressed the amount of the rate increase, the authorized return on equity, and rate of return on ratebase. (*See* Decision (D.) 06-08-015.) Phase 2, the subject of this opinion, addresses whether the Commission should adopt a low-income program for Park to mitigate the impact of rate increases on eligible customers as well as the structure of such a program.

Pursuant to scoping ruling, Park served its "Supplemental Report on Low-Income Program" (Report), in which it set forth the program parameters of its proposal, on July 7, 2006. In a telephonic conference on July 24, 2006, Park and the Commission's Division of Ratepayer Advocates (DRA) informed the Administrative Law Judge (ALJ) that Park intended to revise its proposal to

change the surcharge for non-qualifying customers from a flat rate to a volumetric charge. The parties requested that the ALJ stay the time for DRA to serve its responsive testimony on the basis that, with that change, DRA did not intend to oppose Park's proposal. The ALJ excused DRA from serving responsive testimony pending the filing, by Park, of a motion to admit its revised Report into evidence and DRA's responsive filing indicating its support of the motion. Accordingly, Park served its revised Report on July 28, 2006, and concurrently filed a motion for its receipt into evidence; DRA filed in support of the motion on August 3, 2006. We grant Park's motion and admit the Report into the evidentiary record.

By ruling dated August 15, 2006, the ALJ directed Park to provide a declaration of a competent witness providing additional information related to Park's proposed subsidy rate design and discount amount; Park filed the declaration on August 18, 2006.

3. Low-Income Discount Proposal

Pub. Util. Code § 739.8 establishes the general principle that access to safe and affordable water is a basic human right. The code section provides further that the "commission shall consider and may implement programs to provide rate relief for low-income ratepayers" in order to facilitate "access to an adequate supply of healthful water." In recent years, the Commission has authorized water utilities to develop low-income ratepayer assistance programs. (*See, e.g.,* D.05-05-015, authorizing a low-income assistance program for San Gabriel Valley Water Company (San Gabriel), and D.05-12-020, adopting a California Alternative Rates for Water (CARW) program for Park's subsidiary Apple Valley Water Company (Apple Valley).)

Park recommends that the Commission authorize a CARW program that is largely patterned after Apple Valley's CARW program. Under the program, the service charge for a 5/8" x 3/4" meter on bills issued to eligible customers will be discounted by 25%. This subsidy will be funded by a surcharge on non-eligible customers. Furthermore, Park's proposal calls for a balancing account to track the difference between the actual discounts extended to low-income customers and the revenues generated by the surcharge on non-eligible customers. Finally, Park recommends a memorandum account to monitor the actual implementation and administrative costs for the CARW program.

3.1 Assessment of Need and Eligibility Criteria

Park's service area covers parts of seven cities located in southeast Los Angeles County. Park concludes that 10,912, or 44%, of the 25,067 households that Park serves would qualify for a low-income assistance program, based on 2000 Census data and the qualifying guideline adopted in D.05-10-044 (qualifying income of up to 200% of the federal poverty level). Because some low-income households are not direct customers of Park, Park estimates that 36% of its residential customers will participate in a low-income program. Park notes that Southern California Edison Company (SCE) reports a 40% participation rate in its California Alternative Rates for Energy (CARE) program for its customers in the areas served by Park, based on the qualifying guideline previously in effect (qualifying income of up to 175% of the federal poverty level).

Park recommends that residential customers who receive water service through a 1" or smaller meter, and meet the CARE eligibility requirements should qualify for monthly assistance equal to 25% of the 5/8" x 3/4" meter service charge, which is equal to \$3.76. Park also proposes that non-profit group

living facilities that participate in CARE or that comply with all the CARE criteria except energy usage should be eligible for fixed monthly CARW assistance of \$20.00.

Park states that, although it would like to extend discounts to residential sub-metered customers who receive water from a meter-metered customer, at present it has no means of ensuring that CARW credits reach them.

3.2 Funding

Park recommends a volumetric surcharge of \$0.094 per hundred cubic feet (Ccf) to fund the CARW program. This differs from the fixed rate design adopted by the Commission to fund the San Gabriel and Apple Valley CARW programs. Park points out that a volumetric surcharge rate design is consistent with proposals by DRA and California Water Service Company and California American Water Company in their respective GRCs pending before the Commission. Park suggests that a volumetric surcharge rate design is more equitable than a fixed rate, which would charge a residential customer who is slightly over the CARW eligibility requirements the same as a large industrial customer. Park further suggests that a volumetric surcharge will promote water conservation.

3.3 Accounting Practices

Park asks the Commission to approve a balancing account to track the actual discounts granted through the low-income program, as well as the actual revenues generated by the surcharge. Furthermore, Park asks the Commission to authorize a memorandum account to record the initial and ongoing expenses of a low-income assistance program. Park projects an initial cost of \$40,000 to launch the CARW program.

Park asserts that these accounting practices are necessary to ensure that the implementation of the CARW program does not adversely affect its ability to meet the revenue requirements authorized by the Commission. These accounting practices are consistent with those approved in association with the CARW programs adopted for Apple Valley and San Gabriel.

3.4 Reporting to Commission

Park proposes to provide data, including surcharge and discount amounts, program costs and participation levels, in its Annual Report to the Commission. The Commission should then reevaluate the CARW program in Park's next GRC and make any necessary adjustments to ensure that the program adequately fulfills its purpose and that it does not negatively affect non-qualifying ratepayers in the Park water system.

4. Discussion

The structure of Park's proposed discount program for low-income customers is consistent, in all aspects other than the surcharge rate design, with the CARW programs previously authorized by the Commission for Apple Valley and San Gabriel. To this extent, we find Park's proposal to be reasonable. However, we reject Park's proposed discount amount and volumetric rate design for the subsidy surcharge.

4.1 Surcharge Rate Design

Neither the record of this proceeding nor Park's policy arguments persuade us to deviate from the fixed rate surcharge approach previously adopted by the Commission for the San Gabriel and Apple Valley CARW programs. The fact that DRA has proposed a volumetric surcharge rate design with the support of applicants in other GRCs does not inform this record of the merits of the proposal. The fact that, under a fixed rate surcharge approach, a

residential customer who is slightly over the CARW eligibility requirements will pay the same as a large industrial user does not in itself lead to the conclusion that a fixed rate surcharge is inequitable. Regardless of whether the surcharge rate is volumetric or fixed, the eligibility requirement will by definition place barely ineligible customers in the same financial situation as clearly ineligible (high-income) customers, assuming equal consumption. Indeed, a volumetric surcharge might as easily be said to “inequitably” impact a barely ineligible customer who might necessarily consume more water than a clearly ineligible (high-income) customer.

Finally, the record does not support a finding that a volumetric surcharge will promote water conservation, especially in view of the size of the surcharge relative to the customer’s overall bill. Park indicates that the average residential customer consumes 13 Ccf per month; the proposed surcharge for the average residential customer would constitute only 2.73% of its bill, or \$1.22. More than doubling consumption to 30 Ccf would increase the surcharge to only 3.38% of the total bill, or \$2.82. The incremental impact of the proposed surcharge does not on its face appear to be significant enough to create an incentive to minimize water consumption.

We therefore reject the proposed volumetric surcharge, and adopt a flat rate surcharge consistent with our previous decisions. In so doing, we do not determine that a volumetric surcharge is categorically without merit. We do, however, require analytic support for deviating from the precedent of a flat rate surcharge, which was lacking from the record of this proceeding. Such analysis should consider, for example, the relative impact of the competing surcharge rate designs by reference to household size and to income levels.

4.2 Discount Amount

Park proposes a discount equal to 25% of the 5/8" x 3/4" meter service charge, or \$3.76, for eligible residential customers. In contrast, the Commission approved a \$5.00 monthly discount for San Gabriel, with an estimated participation rate of 45% and funded through a flat surcharge rate of \$2.32 (D.05-05-015); the Commission approved a \$4.88 monthly discount for Park's affiliate Apple Valley, with a participation rate of 31% and funded through an estimated flat surcharge rate of \$2.27 (D.05-12-020); and Park's subsidiary Mountain Water Company, located in Montana, currently offers a low-income discount program with a \$4.90 discount for customers who qualify for the Low Income Energy Assistance Program.

Park states that it arrived at its recommended 25% discount (or \$3.76) after comparing its impact on non-qualifying customers (\$1.89, assuming a flat rate surcharge) to the impact of a 50% discount (or \$7.51) on non-qualifying customers (\$3.78, assuming a flat rate surcharge). Park states that, after discussions, Park, the Commission's Water Division and DRA concluded that a 25% discount provided relief to low-income customers at an appropriate level of subsidy from the typical non-qualifying residential customers.

Park provided the flat rate surcharge amounts necessary to fund discount amounts of \$5.00, \$4.75, \$4.50, \$4.25, and \$4.00, respectively. We conclude that a \$4.50 discount, funded through a flat surcharge rate of \$2.27, represents a more reasonable subsidy amount than that proposed by Park. It provides greater relief to low-income customers without unduly burdening non-qualifying residential customers, consistent with our previously adopted programs.

5. Need for Hearings

Although hearings were initially set in Phase 2 of this proceeding, DRA, who is the only party other than the applicant, did not offer testimony or take issue with Park's Report. As no party requested hearing, we consider the issues based on Park's Report, DRA's response to Park's motion to admit its Report into evidence, Park's declaration in response to the ALJ's August 15, 2006 ruling, and Commission precedent. No hearing is necessary.

6. Comments on Proposed Decision

The proposed decision of the ALJ in this matter was mailed to the parties in accordance with Pub. Util. Code § 311 and Rule 14.2(a) of the Commission's Rules of Practice and Procedure.

Park filed comments on October 6, 2006, identifying specific errors in the proposed decision; we have made changes to the decision as appropriate.

DRA filed comments on October 10, 2006. DRA does not identify any factual, legal or technical error in the proposed decision as required by Rule 14.3(c). Rather, DRA offers argument (as well as new factual assertions) in support of a volumetric surcharge, both on the merits of its preferred methodology and on the policy ground that requiring evidence and formal settlement procedures in support of settlements of non-contentious matters is contrary to the Commission's policy of encouraging settlement on non-contentious matters. DRA's argument and offer of new factual assertions is improper under Rule 14.3(c) and is accorded no weight. DRA's policy argument reflects a misunderstanding of our settlement rules and policy: Regardless of whether an issue is undisputed or if is disputed but settled, the Commission will resolve it on the basis of the record, the law, and the public interest; the parties' agreement to a particular resolution does not substitute for an adequate basis.

7. Assignment of Proceeding

John A. Bohn is the Assigned Commissioner and Hallie Yacknin is the assigned ALJ in this proceeding.

Findings of Fact

1. Park's proposed low-income rate relief program, known as California Alternative Rates for Water (CARW), is unopposed.
2. Park's proposed CARW program is consistent, in all aspects other than the proposed surcharge rate design, with the San Gabriel and Apple Valley CARW programs.
3. The Commission previously authorized the San Gabriel and Apple Valley CARW programs in D.05-05-015 and D.05-12-020, respectively, and found them to satisfy the directives contained in Pub. Util. Code § 739.8.
4. Park proposes a volumetric surcharge, in contrast to the flat surcharges previously approved for San Gabriel and Apple Valley.
5. Nothing in the record supports a finding that a volumetric surcharge is more equitable than a fixed rate surcharge.
6. Nothing in the record supports a finding that the proposed volumetric surcharge will encourage water conservation.
7. The Commission-authorized CARW program for Apple Valley provides a \$4.88 monthly discount to low-income customers funded through an estimated flat surcharge rate of \$2.27 for ineligible customers (D.05-12-020).
8. The Commission-authorized CARW program for San Gabriel provides a \$5.00 monthly discount for low-income customers funded through a flat surcharge rate of \$2.32 for ineligible customers (D.05-05-015).
9. A flat surcharge rate of \$2.27 on ineligible customers is required to fund a \$4.50 monthly discount for Park's low-income customers.

Conclusions of Law

1. The Commission should approve and authorize Park's proposed CARW program, with the exception of its proposed volumetric surcharge rate design and proposed subsidy amount.
2. The Commission should authorize a \$4.50 monthly discount for Park's low-income customers, to be funded by a flat surcharge rate of \$2.27 on ineligible customers.
3. The proceeding should be closed.
4. Today's decision should be effective immediately.

O R D E R

IT IS ORDERED that:

1. Park Water Company (Park) is directed to file in accordance with General Order 96-A, or its successor, an advice letter with tariff schedules implementing its “California Alternative Rates for Water,” or CARW, low-income rate relief proposal, except that the monthly subsidy amount for eligible customers shall be \$4.50, and the monthly surcharge for ineligible customers shall be a flat rate of \$2.27. The CARW tariff schedules shall apply to service rendered on and after their effective date.

2. The advice letter filing for CARW rates shall be made within 30 days of the date of this order. The advice letter shall be reviewed by the Water Division for conformity with this decision. CARW rates shall go into effect upon Water Division’s determination of compliance. The Water Division shall inform the Commission if it finds the proposed increase does not comply with this decision or other Commission requirements.

3. Park is authorized to establish a balancing account to track the actual discounts granted through the CARW program, and the actual revenues generated by the surcharge.

4. Park is authorized to implement a memorandum account to record the initial and ongoing expenses of the low-income assistance program. This memorandum account will be audited for reasonableness at the next general rate case proceeding.

5. Application 06-01-004 is closed.

This order is effective today.

Dated October 19, 2006, at Fresno, California.

MICHAEL R. PEEVEY
President
GEOFFREY F. BROWN
JOHN A. BOHN
RACHELLE B. CHONG
Commissioners

Commissioner Dian M. Grueneich, being necessarily absent, did not participate.