

Decision 07-11-036 November 16, 2007

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

In the Matter of the Application of Golden State Water Company (U133W) for an order authorizing it to increase rates for water service by \$14,926,200 or 15.77% in 2007; by \$4,746,000 or 4.31% in 2008; and by \$6,909,300 or 6.02% in 2009 in its Region II Service Area.

Application 06-02-023  
(Filed February 14, 2006)

**ORDER RESCINDING D.07-10-034 AND  
SEPARATELY ISSUING CORRECTED DECISION**

Today, we are issuing a corrected order for Decision (D.) 07-10-034, which determined rates for Region II and the general office operations of Golden State Water Company (GSWC). Because of many substantive and non-substantive errors that were inadvertently included in the final decision, we are correcting those errors. We also adopt the corrected version as a new order. With the adoption of this corrected decision, we hereby rescind D.07-10-034.<sup>1</sup> We note that the conformed decision will be considered by the Commission concurrently with this order and will be issued with a new decision number.

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<sup>1</sup> With the rescission of D.07-10-034, the date of issuance of today's revised and corrected decision shall control the 30-day deadline for the filing of any application for rehearing.

## **Summary of Corrections**

As explained in the Assigned Commissioner's Ruling (ACR) that was issued in this proceeding contemporaneously with D.07-10-034,<sup>2</sup> most of the errors that appeared in D.07-10-034 related to confusion between language in the revised Proposed Decision (PD) of the assigned Administrative Law Judge (ALJ) and language in the revised alternate PD sponsored by assigned Commissioner John A. Bohn. As described in the October 26, 2007 ACR, the language confusion related mainly to two issues. First, the revised alternate PD proposed to impose a \$50,000 penalty on GSWC for withholding until rebuttal testimony the full justification for many of the new general office positions the company was seeking, whereas the revised PD of the ALJ provided for a revenue disallowance of approximately \$327,000 on account of this conduct. Second, the revised alternate PD provided for the inclusion in rates of all of the salaries, overheads and related costs for four new general office positions GSWC was seeking in order to comply with the Sarbanes-Oxley Act of 2002 (SOX). The ALJ's revised PD, on the other hand, provided for splitting these SOX-related costs 50-50 between ratepayers and shareholders. As illustrated by a number of examples set forth in the October 26, 2007 ACR, language on these issues in the ALJ's revised PD inadvertently appeared in the revised alternate PD sponsored by Commissioner Bohn, which alternate the Commission adopted as D.07-10-034.

In addition to these errors in the text of D.07-10-034, an outmoded version of Attachment B was appended to the decision. The version of Attachment B

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<sup>2</sup> Assigned Commissioner's Ruling Attaching Corrected Version of "Opinion Granting Rate Increases for the Region II Service Area and General Office Operations of Golden State Water Company" issued as Decision 07-10-034. This ACR was issued on October 26, 2007, and is hereinafter referred to as the "October 26, 2007 ACR."

included with D.07-10-034 was the same one that had been mailed with the original PD and the original alternate PD on July 24, 2007, although the discussion in Section 4.3.5 of both the revised PD and the revised alternate PD made clear that the three tables comprising Attachment B had all been changed.

To make the necessary corrections, the relevant portions of the following pages of D.07-10-034 are amended as follows:

**Page 3, first full paragraph**

The number \$6,654,600 is changed to \$6,657,600.

**Page 34, first sentence after Heading 4.3.5**

The words “and the next one” are deleted.

**Page 52, first sentence on the page**

The words “Footnote 10” are changed to “Footnote 12.”

**Page 57, first paragraph on the page, before  
Heading 6.1**

The second sentence in the paragraph is amended to read: “Accordingly, as explained in the final part of this section, we recommend imposing a \$50,000 penalty on GSWC for its conduct.” The third sentence in the paragraph is deleted.

**Page 84, second sentence under Heading  
6.2.9.2**

The sentence is amended to read: “Moreover, we think the equivalent number of full retail customers that can be attributed to ASUS is about 33,370, approximately 45% of the number that Aslam assumes.”

**Page 112, last sentence in carry-over  
paragraph from page 111**

The word “date” is changed to “data.”

**Page 113, first full paragraph on the page,  
second sentence**

The words “timeframe envisioned by D.04-06-018” are deleted.

**Page 115, first paragraph on the page**

In the second sentence, the word “appeared” is deleted.

**Page 119, second paragraph on the page**

The third and fourth sentences of this paragraph are amended to read as follows: “We find that GSWC failed to disclose until rebuttal testimony its justification with respect to at least half of the general office positions at issue. Pursuant to Sections 2107 and 2108, each of these ten positions is considered a separate offense, for a total of ten offenses.”

**Page 122, third sentence of first paragraph on  
the page**

The words “that fine of \$250,000 is appropriate” are changed to “that a fine of \$50,000 is appropriate.”

**Page 122, second paragraph on the page**

In the second sentence of the paragraph, the word “DRA” is deleted.

**Pages 123-124, final paragraph before  
Heading 7.1**

This paragraph is deleted in its entirety. The deleted paragraph reads as follows:

We have decided that although GSWC has clearly incurred significant costs to comply with SOX, the total amount of salaries that the company is seeking to meet its alleged SOX needs is inflated. As we explain in section 7.2, other state public utility commissions and academic commentators agree that while the initial costs of SOX compliance can be high, these costs are likely to decline significantly over time. In addition, because SOX was enacted largely to benefit investors, at least

two state commissions have concluded that the costs of SOX compliance should be shared equally between a utility's shareholders and its ratepayers. As we explain in section 7.3, we have decided to use the same approach here.

**Page 127, final sentence on the page, just before footnote 49**

The words "that we discuss in Section 7.2 of this decision" are deleted.

**Page 130, final paragraph under Heading 7.1.2.1**

The following sentence is changed to a paragraph of decision text, rather than remaining a paragraph in the quote: "Aslam also questions the need for a Tax Manager in view of the new tax software GSWC is buying, a purchase DRA does not oppose. (*Id.*)"

**Page 137, first sentence under Heading 7.1.4.2**

The first clause of the first sentence should be deleted. The deleted clause reads: "Because we have decided to split the costs of the new positions GSWC claims to need for SOX compliance between the company's shareholders and its ratepayers ... "

**Page 164, first sentence under Heading 11**

The first sentence after the heading is amended to read as follows: "The proposed decision of the assigned ALJ and the alternate proposed decision of Commissioner Bohn in this matter were mailed to the parties in accordance with Section 311 of the Public Utilities Code and Rule 14.3 of the Commission's Rules of Practice and Procedure."

**Page 174, Finding of Fact 57**

Finding of Fact (FOF) 57 is amended to read as follows: "DRA propounded 92 data requests to GSWC on June 16, 2006, in connection with the

company's rebuttal testimony. Responses to many of these data requests were received on June 24, 2006, two days before hearings were scheduled to begin."

**Page 175, FOF 65**

FOF 65 is amended to read as follows: "In light of the factors set forth in FOF 55-64, it is appropriate to fine GSWC for the previously described violations pursuant to our authority under Public Utilities Code Sections 2107 and 2108."

**Page 176-177, FOF 71**

FOF 71 in D.07-10-034 is deleted, and the remaining FOFs are renumbered accordingly. The deleted FOF reads as follows: "The state public utilities commissions of Illinois and Arizona have recently held that because SOX was enacted principally to protect shareholders, the costs of a utility's compliance with SOX should be split equally between the utility's shareholders and its ratepayers."

**Page 180, Conclusion of Law 5**

The following words in Conclusion of Law (COL) 5 are deleted: "subject to the ten percent (10%) reduction described in FOF 65."

**Page 180, COL 6**

The following words in COL 6 are deleted: "subject to the ten percent (10%) reduction described in FOF 65."

**Page 184, Ordering Paragraph (OP) 7**

In the second sentence of OP 7, the words "that satisfied the criteria set forth in Conclusion of Law (COL) 3" are changed to "that satisfies the criteria set forth in Conclusion of Law (COL) 4."

**Page 184, OP 8**

In OP 8, the words "COL 4 and 5" are changed to "COL 5 and 6."

**Page 185, OP 10**

In OP 10, the words “COL 12 through 20” are changed to “COL 11 through 19.”

**Attachment B to D.07-10-034**

Attachment B to D.07-10-034 is replaced with the pages labeled “Attachment B” that are attached to the conformed decision.

**Waiver of Comment Period**

Parties have had a full opportunity to comment on the original proposed decision and alternate proposed decision. Therefore, no additional comment period is necessary.

**Assignment of Proceeding**

John A. Bohn is the assigned Commissioner, and A. Kirk McKenzie is the assigned ALJ in this proceeding.

**Findings of Fact**

1. The written version of assigned Commissioner Bohn’s revised alternate PD, which the Commission issued as D.07-10-034 after its October 18, 2007 business meeting, contained a number of errors that might produce confusion.
2. The errors in D.07-10-034 are clearly described in the text of this order.

**Conclusions of Law**

1. Due to the errors described in the text of this order, D.07-10-034 should be rescinded and replaced with a conformed version of the decision.
2. The conformed decision should be considered concurrently by the Commission and should be issued with a new decision number.

**O R D E R**

**IT IS ORDERED** that:

1. Because the modifications necessary to correct Decision (D.) 07-10-034 are extensive, we will rescind the issuance of D.07-10-034 and instead adopt a conformed decision.

2. The conformed decision shall be considered by the Commission concurrently with this order and shall be issued with a new number.

This order is effective today.

Dated November 16, 2007, at San Francisco, California.

MICHAEL R. PEEVEY  
President  
DIAN M. GRUENEICH  
JOHN A. BOHN  
RACHELLE B. CHONG  
TIMOTHY ALAN SIMON  
Commissioners