

WATER/RSK/FLC/PTL/AAS/jlj

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

DIVISION OF WATER AND AUDITS
Water and Sewer Advisory Branch

RESOLUTION NO. W-4743
February 20, 2009

RESOLUTION

(RES. W- 4743), SAN GABRIEL VALLEY WATER COMPANY (San Gabriel). ORDER AUTHORIZING SALE OF CERTAIN ASSETS TO SAM'S CLUB REAL ESTATE TRUST (Sam's).

SUMMARY

San Gabriel filed Advice Letter (AL) 363 on June 30, 2008 for permission to sell mains, fire hydrants, and services to Sam's. The Division of Water and Audits (Division) has investigated this request and recommends approval.

BACKGROUND

San Gabriel is a Class A water utility. San Gabriel notified the Division of its pending sale of certain company-owned real property, recorded as a contribution-in-aid-of-construction, which is no longer necessary and useful in the performance of the company's public utility obligations pursuant to Ordering Paragraph 19 of Decision (D.) 06-05-041.

The area of concern in this application is in El Monte, Los Angeles County, California. The project is renovation of Sam's Club.

San Gabriel has filed this AL pursuant to Res. ALJ 202 (Section 851 Pilot Program) to obtain approval of this sale.

NOTICE AND PROTESTS

Notice of the sale was mailed on June 25, 2008. No protests were received.

DISCUSSION

San Gabriel proposes to sell: 1) 15 lineal feet of 6-inch mains; 2) 874 lineal feet of 8-inch mains; 3) Four 6-inch Fire Hydrants; 4) Two 8-inch Fire Services; and 5) Six connections (the "prior facilities"). The facilities are being relocated to a different site within the same location known as Sam's Club Store No. 6614-01. The property owner is

constructing a commercial building on the subject property. If left in their present location, the prior facilities will be located under the reconstructed commercial building. After construction of the commercial building, the prior facilities would be inaccessible and if a leak should occur, it could cause extensive damage and result in costly repairs.

San Gabriel no longer requires the subject property for its present operations and does not foresee the need to use this portion of the property in the future. The old pipeline is no longer carrying water and is no longer in service. New pipelines and related facilities have already been installed in the public right-of-way and are in service. Therefore, the property is no longer necessary or useful.

The new pipelines and hydrants relocated from Sam's Club's private property to the public right-of-way were paid for by San Gabriel. Sam's Club is paying for the replacement irrigation service and private fire service connections, and for the on-site infrastructure water facilities required to serve their property.

A draft sale of assets agreement between San Gabriel and Sam's was submitted with AL 363. The net book value is \$1,617 (the original cost of assets of \$11,554 - depreciation of \$9,937 = \$1,617)*. The proceeds to be paid for the assets are \$235,504 resulting in a gain of \$233,887 (\$235,504 - \$1,617). The estimated cost of the new facilities constructed in the public right-of-way is \$369,623.

Guidance for ratemaking here comes from Decision (D.) 06-05-041 dated May 25, 2006 - Opinion Regarding Allocation of Gains on Sale of Utility Assets - and D.07-09-021 dated September 6, 2007 - Issues Not Resolved in D.06-05-041, which provides guidance to assure compliance with Public Utilities Code Section 790.

Ordering Paragraph 16 of D.06-05-041 states that:

"Water companies shall use the gains on sale from sales of formerly used and useful utility real property to invest in new water infrastructure. These proceeds may not be used to reduce rates or otherwise be returned to ratepayers unless the water companies fail to reinvest the proceeds within the eight year period contained in the Water Utility Infrastructure Act of 1995, Pub. Util. Code §789 *et seq.* (Infrastructure Act)."

*The remainder of the items being sold were contributions in aid of construction (CIAC).

Also, D.06-05-041 Ordering Paragraph 17 states that water utilities shall:

“.....establish a memorandum account in which to record net proceeds from all sales of no longer needed utility property,
Use the memorandum account fund as the utility’s primary source of capital for investment in utility infrastructure,
Invest all amounts recorded in the memorandum account within eight years of the calendar year in which the net proceeds were realized.”

In addition, D.06-05-041 Ordering Paragraph 21 provides that:

“Water companies may earn a reasonable rate of return on real property purchased with gains on sale from sales of developer CIAC.”

Further, D.07-09-021 Ordering Paragraph 5 states that:

“Any water company that sells real property that a developer contributed to the water company as CIAC property which it claims or will claim is subject to section 790 shall seek leave from the Commission to do so. In so doing, the water company shall prove that the property is no longer necessary or useful and that the sale is not intended merely to gain an opportunity for the water company to earn a rate of return on infrastructure purchased with the sale proceeds.”

And, in D.07-09-021 Ordering Paragraph 6, the Commission states:

“We do not preclude any party from asserting, in an individual water company’s general rate case or elsewhere, that its rate of return should be lowered to reflect that some property in its rate base was originally CIAC and thus acquired for free.”

San Gabriel has produced details of the transaction and building plans which demonstrate that the property is no longer necessary or useful and that the sale is not intended merely to gain an opportunity for the water company to earn a rate of return on infrastructure purchased with the sale proceeds. Therefore, San Gabriel should record the gain from the transaction in the memorandum account authorized by Ordering Paragraph 17 of D.06-05-041.

San Gabriel understands that the rate-making treatment of these transactions will not be addressed at this time but will be addressed in the next general rate case for San Gabriel’s Los Angeles County Division (scheduled for filing on July 1, 2010).

Within 60 days of the effective date of this resolution San Gabriel should provide the Division and the Division of Ratepayer Advocates with the final bill of sale and documentation showing the recording of the proceeds of the sale in an appropriate memorandum account.

COMMENTS

This is an uncontested matter in which the resolution grants the relief requested. Accordingly, pursuant to Public Utilities Code § 311(g) (2), the otherwise applicable 30-day period for public review and comment is being waived.

FINDINGS

1. The sale of San Gabriel property described in AL 363 to Sam's Club is desired by all parties.
2. The Division of Water and Audits has determined that the purchase price of \$235,504 is fair market value and is considered just and reasonable since it was agreed to in an arms-length transaction.
3. San Gabriel no longer requires the subject property for its present operations and does not foresee the need to use this portion of the property in the future. The old pipeline is no longer carrying water and is no longer in service. New pipelines and related facilities have already been installed in the public right-of-way and are in service. Therefore, the property being sold is no longer necessary or useful.
4. To establish its compliance with this resolution, within 60 days of the effective date of this resolution San Gabriel should provide the Division of Water and Audits and the Division of Ratepayer Advocates with the final bill of sale and documentation showing the recording of the proceeds of the sale and noting that it is a sale that involves previously contributed CIAC real property in an appropriate memorandum account.
5. The rate-making treatment of these transactions will not be addressed at this time but will be addressed in the next general rate case for San Gabriel's Los Angeles County division.
6. This is an uncontested matter in which the decision grants the relief requested. Accordingly, pursuant to Public Utilities Code § 311(g) (2), the otherwise applicable 30-day period for public review and comment is being waived.

THEREFORE IT IS ORDERED THAT:

1. The application of San Gabriel Valley Water Company to sell certain assets consisting of the following: 15 lineal feet of 6-inch mains; 874 lineal feet of 8-inch mains; four 6-inch fire hydrants; two 8-inch fire services; and six connections to

Sam's Club Real Estate Trust is considered just and reasonable since it was agreed to in an arms-length transaction and is granted.

2. San Gabriel Valley Water Company shall record the proceeds of the sale in the memorandum account required by Ordering Paragraph 17 of Decision 06-05-041 noting that it is a sale that involves previously contributed Contribution-in-Aid-of-Construction real property.
3. Within 60 days of the effective date of this resolution, San Gabriel Valley Water Company shall provide the Division of Water and Audits and the Division of Ratepayer Advocates with documentation showing the recording of the proceeds of the sale in an appropriate memorandum account.
4. The rate-making treatment of these transactions shall be addressed in the next general rate case for San Gabriel Valley Water Company's Los Angeles County Division.
5. A final bill of sale between San Gabriel Valley Water Company and Sam's Club Real Estate Trust shall be provided to the Division of Water and Audits and the Division of Ratepayer Advocates' Water Branch within 60 days of the effective date of this resolution.
6. 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 on February 20, 2009; with the following Commissioners voting favorably thereon:

/s/ PAUL CLANON

Paul Clanon
Executive Director

MICHAEL R. PEEVEY
President

DIAN M. GRUENEICH

JOHN A. BOHN

RACHELLE B. CHONG

TIMOTHY ALAN SIMON

Commissioners