

DWA/FLC:jrb

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

**DIVISION OF WATER AND AUDITS
Water and Sewer Advisory Branch**

**RESOLUTION W-4745
February 20, 2009**

R E S O L U T I O N

Resolution W-4745. Klein Homes Water Company (Klein Homes). Authorizes Klein Homes to recover an Unanticipated Repair Cost Memorandum Account and its Purchased Water Balancing Account and transfers that authorization to San Jose Water Company (San Jose) if it buys Klein Homes. By electronic mail received December 22, 2008 and Advice Letter No. 5, filed February 4, 2009.

SUMMARY

Klein Homes will incur damage repair costs that it will book to its Unanticipated Repair Cost Memorandum Account and, by Advice Letter No. 5 requests recovery of the balance in its purchased water balancing account. Klein Homes is in the process of being sold to San Jose. This resolution allows recovery of those costs and transfer of that recovery to San Jose, and remittance of unrecovered costs to Wilma Pribyl, owner of Klein Homes.

BACKGROUND

Klein Homes was certificated by Decision (D.) 93-12-039, December 17, 1993 in Case 92-11-040. Klein Homes serves approximately 19 customers in the foothills of Santa Clara County, east of San Jose. Facilities consist of 2,000 feet of four inch main along Pleasant Acres Drive and Klein Road. Klein Homes purchases all of its water from San Jose through a 2-inch meter. At the instigation of the Division of Water and Audits in early 2008 Klein Homes and San Jose initiated discussions intended to lead to the sale of Klein Homes to San Jose.

In October 2007 a San Jose customer on Pleasant Acres Drive contacted San Jose to report a possible water leak at the base of his parking area retaining wall. San Jose sent a Customer Services Supervisor to look at the problem. The flow was so small that it was barely discernible and thought to be drainage. A water sample was collected and tested. It came back as San Jose water. An engineering team went to the site in December, 2007 to make a determination of the problem.

In June, 2008 San Jose contacted Klein Homes. San Jose didn't know the source of the leak but thought it could be from Klein Homes' line. Klein Homes contacted a company to locate and repair the leak if it was Klein Homes' problem. The company could not locate the leak.

During the first week in August, San Jose sent a 7-day fix-it notice to Klein Homes. Klein Homes met with the City of San Jose Maintenance Department (Department) personnel at the site who had agreed to look for the leak. The next day the Department discovered a pinhole-sized leak in Klein Homes' pipe which it fixed. San Jose subcontracted with a construction company to pave over the repair.

Prior to the repair the customer hired a construction company to drill some holes in the roadway to try to locate the leak. Water was found about two feet down in some of the holes, but the water never surfaced, not even over the leak. The customer instructed the construction company to bill Klein Homes \$700 for drilling the holes.

The customer claimed to Klein Homes that the leak caused two depressions in the roadway, damage to the driveway, damage under the house, and several depressions in the customer's parking area. On September 24, 2008, San Jose offered to repair the paving in the customer's parking area. Other than that, San Jose considered the problem to be Klein Homes'. Klein Homes conveyed San Jose's offer to the customer but the customer turned it down. On October 30th Klein Homes received notification of a pending law suit to be filed by the customer.

By e-mail sent on December 22, 2008 Klein Homes requested to be allowed to book all expenses to its Unanticipated Repair Cost Memorandum Account, receive preapproval for the recovery of reasonably incurred expenses (converting the memorandum account to a balancing account) and, upon the sale of the company, that the account be transferred to San Jose, who would pay the owner of Klein Homes the balance of the account. The owner of Klein Homes is willing to expend funds to repair reasonably incurred damage in the interim, but she wants to be reimbursed for those expenses.

By Advice Letter No. 5, filed February 4, 2009, Klein Homes requests recovery of its purchased water balancing account. Klein Homes had previously provided an accounting of San Jose's water rates for a two inch meter from May 23, 1994 (the date of its last general rate case) to January 1, 2009. Klein Homes and staff agreed that the recovery dollar amount was reasonable, but, in order to minimize rate shock that the memorandum account would not accrue interest.

The present rates of Klein Homes Water Company became effective pursuant to Resolution W-4740, dated January 29, 2009 which authorized a general rate increase of \$6,566 or 18.1% for test year 2008.

DISCUSSION

Decision 02-03-093, March 31, 1992 authorized Class C and D water companies an Unanticipated Repair Cost memorandum account. As described in Ordering Paragraph 2:

“A Class C or a Class D water utility is authorized to establish a memorandum account to track unanticipated costs of repairs necessary for a utility’s service to its customers and... authorized to file by advice letter, or as part of a general rate case, to recover costs recorded in the memorandum account for unanticipated repair costs either in rates or in a one-year surcharge when the total cost exceeds 2% of the utility’s last adopted gross revenues. Costs already reflected in rates or recoverable through insurance or other means and cost that with reasonable diligence could have been avoided shall not be recoverable through the memorandum account.”

Klein Homes desires to complete its sale to San Jose as soon as possible. It is willing to repair the reasonably incurred damage due to the leak at its own expense. It can be seen from the record that Klein Homes has diligently attempted to find and fix the leak. In this case, all reimbursable costs will be invoices for entities Klein Homes has contracted with to investigate the leak. No monies will accrue to Klein Homes itself.

The purchased water balancing account undercollection was calculated by staff based upon information provided by San Jose. The account is undercollected by \$37,161.36, not including interest. Because the undercollection has accrued over such a long period of time (since 1994) Klein Homes has agreed to forgo interest. It proposes to spread the recovery over three years at \$12,387.12 per year, which is a 28.8% increase.

Normally, these costs would be recovered from Klein Homes’ customers over a period of time, but all parties hope that the sale will occur as soon as possible.

Klein Homes is requesting prior approval of recovery of the expenses it has incurred and will incur in finding and fixing the leak and repairing the damage it caused and also, by Advice Letter No. 5, the balance in its purchased water balancing account. Because the present owner of Klein Homes will not be collecting any revenues after the system is sold, the owner requests that the Commission approve the transfer of the balancing accounts to San Jose, so that San Jose may reimburse the owner for any uncollected costs.

Since these costs would normally be recoverable, the only question is how to allow for reimbursement. So far, Klein Homes has expended \$19,724.29 to repair the leak. If this cost were to be spread over 20 customers, the costs would be nearly \$1,000 per

customer. The cost of recovery of the purchased water balancing account is \$70.40 per customer per month for three years. If, however, recovery of these costs were spread over all of San Jose's 216,000 customers, the cost of recovery of both accounts would be \$0.263 per customer (one time charge). In the Water Action Plan we established that water should be affordable. Passing these costs to all of San Jose's customers helps accomplish that goal.

Once the damages are fixed, or the differences resolved in the Unanticipated Repair Cost Balancing Account, when the transfer occurs San Jose should file an advice letter requesting the reasonable amount for recovery. The Division of Water and Audits staff shall review the charges for reasonableness. San Jose should be authorized recovery and may pay the balance to the owner of Klein Homes and reimburse that expense by a surcharge to San Jose's customers.

NOTICE AND PROTESTS

Notice was provided to Klein Home's customers by direct mailing a copy of the proposed advice letter. No protests were received.

COMPLIANCE

Service by Klein Homes is satisfactory. There are no Commission orders requiring system improvements. The utility has been filing annual reports as required.

COMMENTS

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

FINDINGS

1. On or about September, 2007 Klein Homes experienced a leak in its distribution pipe.
2. After being informed of the leak, Klein Homes reacted diligently to get the leak fixed.
3. Klein Homes is willing to fix the damage that resulted from the leak.
4. Klein Homes incurred an undercollection in its Purchased Water Balancing Account of \$37,161.36 (without interest) from 1993 until January 1, 2009.
5. Klein Homes is negotiating to sell its distribution system to San Jose.

6. San Jose desires to acquire Klein Homes' facilities, not its liabilities.
7. It is reasonable to achieve this objective by allowing the expenditures by Klein Homes for the repair of damage caused by the leak to be booked to an Unanticipated Repair Cost Balancing Account.
8. The balancing account should be transferred to San Jose Water Company upon consummation of the sale.
9. It is reasonable to allow the remaining balance in Klein Homes' Purchased Water Balancing Account as of the date of the sale to San Jose to be transferred to San Jose for recovery.
10. San Jose should be allowed to reimburse the owner of Klein Homes the balances remaining in the two balancing accounts.

THEREFORE IT IS ORDERED THAT:

1. Klein Homes is authorized transfer any costs already booked to its Unanticipated Repair Costs Memorandum Account, and to book any additional costs of repairing the damage caused by its leak, to an Unanticipated Repair Cost Balancing Account.
2. If it buys Klein Homes, San Jose is authorized to file a Tier 2 advice letter to determine the reasonable costs in the Unanticipated Repair Cost Balancing Account and recover those costs from its ratepayers by rolling the balance into its balancing accounts.
3. If it buys Klein Homes, San Jose is authorized to collect the balance in Klein Homes' Purchased Water Balancing Account from San Jose's ratepayers and remit the balance to the owner of Klein Homes.

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 held on February 20, 2009; the following Commissioners voting favorably thereon:

/s/ PAUL CLANON

Paul Clanon
Executive Director

MICHEL R. PEEVEY

President

DIAN M. GRUENEICH

JOHN A. BOHN

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RACHELLE B. CHONG
TIMOTHY ALAN SIMON
Commissioners