



STATE OF CALIFORNIA

GAVIN NEWSOM, Governor

## PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE  
SAN FRANCISCO, CA 94102-3298

**FILED**  
07/28/20  
12:41 PM

July 28, 2020

**Agenda ID #18663**  
**Ratesetting**

TO PARTIES OF RECORD IN INVESTIGATION 18-07-007:

This is the proposed decision of Administrative Law Judge Karl J. Bemederfer. Until and unless the Commission hears the item and votes to approve it, the proposed decision has no legal effect. This item may be heard, at the earliest, at the Commission's August 27, 2020 Business Meeting. To confirm when the item will be heard, please see the Business Meeting agenda, which is posted on the Commission's website 10 days before each Business Meeting.

Parties of record may file comments on the proposed decision as provided in Rule 14.3 of the Commission's Rules of Practice and Procedure.

The Commission may hold a Ratesetting Deliberative Meeting to consider this item in closed session in advance of the Business Meeting at which the item will be heard. In such event, notice of the Ratesetting Deliberative Meeting will appear in the Daily Calendar, which is posted on the Commission's website. If a Ratesetting Deliberative Meeting is scheduled, ex parte communications are prohibited pursuant to Rule 8.2(c)(4)(B).

/s/ ANNE E. SIMON

Anne E. Simon  
Chief Administrative Law Judge

AES:avs  
Attachment

Decision **PROPOSED DECISION OF ALJ BEMESDERFER** (Mailed 7/28/2020)**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Order Instituting Investigation on the Commission's Own Motion into the Planned Merger Between SJW Group, Holding Company of San Jose Water Company (U168W), and Connecticut Water Service, Inc. and its Effect on California Ratepayers and the California Economy.

Investigation 18-07-007

**DECISION DISMISSING INVESTIGATION  
AND CLOSING PROCEEDING****Summary**

We dismiss on our own motion the investigation into the planned merger between SJW Group, the holding company parent of San Jose Water Company and Connecticut Water Service, Inc. This proceeding is closed.

**1. Background**

On July 20, 2018, the California Public Utilities Commission (Commission or CPUC) issued an Order Instituting Investigation (OII) into the proposed merger between SJW Group, the holding company parent of CPUC-jurisdictional water utility San Jose Water Company (SJWC), and Connecticut Water Service, Inc. (CWSI). As originally proposed, the merger would have been effectuated through an exchange of stock, following which SJW Group would have become the holding company parent of both SJWC and CWSI. That original merger

agreement would have involved, among other things, a substantial change in the capital structure of SJW Corp., dilution of the ownership position of the largest shareholder of SJW Group (the Moss family), and the addition of five CWSI Board members to the Board of SJW Group.

Thereafter, California Water Service Company made a series of bids to acquire control of SJWC and the original merger agreement was amended twice to modify its structure and its financial terms.

Currently before this Commission is the second of those amended agreements (Second Amended Agreement). It converts the proposed transaction from a “merger of equals” effectuated through an exchange of common stock into a cash purchase by SJW Group of all the outstanding shares of CWSI at a price of \$70 per share. As in the original transaction, SJW Group becomes the holding company parent of both SJWC and CWSI but, unlike the original transaction, the number of new shares of SJW Group issued in connection with the transaction is small, the ownership percentage of the Moss Family is only slightly diluted, and two, rather than five, members of the CWSI Board become members of the SJW Group Board. The cash required to purchase the CWSI shares is obtained through a combination of borrowing and issuance of additional equity.

On August 22, 2018, a pre-hearing conference was held to determine parties, discuss the scope, the schedule, and other procedural matters. On September 7, 2018, the assigned Commissioner and the assigned Administrative Law Judge (ALJ) issued a joint Scoping Memo Ruling. On the same day, the Public Advocates Office (Cal PA) filed comments on the OII. On September 14, 2018, SJW Group and SJWC filed joint comments on the issues identified in the Scoping Memo Ruling. After being granted party status, Water

Rates Advocates for Transparency, Equity and Sustainability (WRATES) and Mr. Michael Blomquist also filed comments. On October 19, 2018, SJW Group and SJWC filed joint reply comments to the comments of Cal PA, WRATES and Mr. Blomquist.

By a letter dated February 21, 2019, SJWC informed the Commission that SJW Group would file a new application for approval of its proposed acquisition of CWSI with the Connecticut Public Utilities Regulatory Authority (CTPURA) sometime during the second quarter of 2019. The decision by SJW Group and CWSI to file a new application followed CTPURA's rejection of their original joint application for approval of the acquisition, which they had filed in 2018.

In view of the decision by SJW Group and CWSI to file a new application to the CTPURA, on March 4, 2019, the ALJ suspended this proceeding pending a final decision by the CTPURA on the new application and ordered SJWC to serve a copy thereof on the Commission and the service list for this proceeding as soon as possible following the issuance of the final decision by CTPURA.

On September 15, 2019, CTPURA issued its final decision, a copy of which is attached to this decision as Attachment A. On September 24, 2019, in compliance with the ALJ's March 4, 2019 directive, SJWC served a copy of the CTPURA final decision on the Commission and the service list.

On October 9, 2019, SJW Group completed its acquisition of CWSI.

## **2. Discussion and Analysis**

The sole issue for consideration in this proceeding is whether the Commission has reason to continue investigating the acquisition of CWSI by SJW Group. For reasons set out below, we conclude that we do not and accordingly we dismiss this proceeding on our own motion.

The Commission's specific authority to review and approve mergers of public utilities subject to its jurisdiction is set out in Public Utilities (Pub. Util.) Code Section 854(a):

- (a) No person or corporation, whether or not organized under the laws of this state, shall merge, acquire, or control either directly or indirectly, any public utility organized and doing in business in this state without first securing authorization to do so from the commission.

In addition to the specific authority to review and approve mergers of public utilities subject to its jurisdiction granted by Section 854(a), the Commission possesses broad general authority over all transactions that have substantial impact on the operations of such public utilities pursuant to Pub. Util. Code Section 701:

The commission may supervise and regulate every public utility in the State and may do all things, whether specifically designated in this part or in addition thereto, which are necessary and convenient in the exercise of such power and jurisdiction.

As conceived in the original merger agreement, the acquisition of CWSI by SJW Group was to be the result of a statutory merger of SJW Group and CWSI. In this form, the transaction did not fall within the literal language of the statute as a "merger" of a corporation "not organized under the laws of this state" with a "public utility organized and doing business in this state" since the California entity involved in the merger was SJW Group, the unregulated holding company, rather than SJWC, the commission-regulated public utility. However, we determined that the substantial changes in the ownership and management of SJWC that would have resulted from the merger in its original form were sufficient to require commission approval. As we said in the OII:

This acquisition, commonly referred to as a merger, will result in dilution of the share ownership of long-time San Jose Water owners; installation of or continuation of new executive leadership, including the Chief Executive Officer (CEO), from Connecticut Water; and other possible effects not yet discovered. As the regulators responsible for the oversight of California utilities, we believe it is appropriate for us to examine a transaction with the potential to produce these changes in ownership and management. We seek to review and understand the impact of the merger on rates, service quality, and employment in California, among other matters that are within our responsibilities.

The transaction as finally structured and consummated does not involve a merger, significant dilution of the share ownership of SJW owners, or significant changes in the management of SJWC, which remains a Commission-regulated water utility whose operations are subject to Commission oversight and whose costs of capital, rates of return, consumer and business water rates, and other operating requirements are set by the Commission to the same extent and in the same manner as they were prior to the CWSI acquisition. Accordingly, we conclude that the transaction has negligible effect on the ratepayers of SJWC and there is no reason to continue this investigation.

### **3. Comments on Proposed Decision**

The ALJ's proposed decision was mailed to the parties in accordance with Section 311 of the Public Utilities Code, and comments were allowed under Rule 14.3 of the Commission's Rules of Practice and Procedure. Comments were filed by \_\_\_\_\_. Reply comments were filed by \_\_\_\_\_.

### **4. Assignment of Proceeding**

Liane Randolph is the assigned Commissioner and Karl J. Bemederfer is the assigned ALJ.

**Findings of Fact**

1. On October 9, 2019, SJW Group, the corporate parent of SJWC, purchased CWSI for \$70 per share in cash.
2. SJW Group is the corporate parent of both SJWC and CWSI.
3. The purchase of CWSI by SJW Group resulted in no change in the management or operations of SJWC.
4. The purchase of CWSI by SJW Group resulted in no change in the rates or rate structure of SJWC which continue to be determined every three years pursuant to the Commission's General Rate Case Plan for Water Utilities.

**Conclusions of Law**

1. The cash purchase of CWSI by SJW Group is not subject to Commission review pursuant to Pub. Util. Code Section 854(a).
2. Potential effects of the cash purchase of CWSI by SJW Group on the ratepayers of SJWC and the California economy are subject to review pursuant to Pub. Util. Code Section 701.
3. As finally consummated pursuant to the Second Amended Agreement, the cash purchase of CWSI by SJW Group has negligible effects on the ratepayers of SJWC and the California economy.
4. This proceeding should be closed.

**O R D E R**

**IT IS ORDERED** that:

1. This investigation is dismissed.

2. This proceeding is closed.

This order is effective today.

Dated \_\_\_\_\_, at San Francisco, California.



# ATTACHMENT A



## STATE OF CONNECTICUT

### PUBLIC UTILITIES REGULATORY AUTHORITY

September 15, 2019

In reply, please refer to:

Docket No. 19-04-02

Compliance filing, Order  
No. 1

Paul J. Corey,  
Esq. West Group  
Law, PLLC 81  
Main Street  
Suite 510  
White Plains, NY 10601

Re: Docket No. 19-04-02 – Application of SJW Group and Connecticut  
Water Service, Inc. for Approval of Change of Control

Dear Mr. Corey:

On September 10, 2019, SJW Group (SJW) and Connecticut Water Service, Inc., (CTWS) (together, the Applicants) submitted a filing in compliance with Order No. 1 of the Public Utilities Regulatory Authority's (Authority) September 4, 2019 Decision in the above-referenced docket. Order No. 1 states:

"No later than September 13, 2019, the Settling Parties shall jointly submit a revised Settlement Agreement for the Authority's review and approval that incorporates the modifications to the relevant Commitments that are a condition of this Decision. In addition to the modifications articulated in Section III.F. above, this approval is further condition on the following:

- a. Commitment No. 52 shall be modified to state that the categories of decisions authorized exclusively by the Connecticut Utilities

will not be subject to dollar value limitations.

- b. Commitment No. 25 shall be modified to state that Connecticut water supplies will not be used by the Applicants to serve SJWG systems or customers outside the State of Connecticut without PURA approval."

In their Order No. 1 compliance filing, the Applicants submitted a fully executed revised Settlement Agreement (Revised Settlement) that incorporates the modifications to the relevant commitments that are a condition of the Authority's Decision.

The Authority has reviewed the Revised Settlement and finds that it is consistent with the requirements of Order No. 1. The Authority, therefore, approves the Revised Settlement.

Sincerely,

PUBLIC UTILITIES REGULATORY AUTHORITY

A handwritten signature in black ink, appearing to read 'Jeffrey R. Gaudiosi', with a stylized flourish at the end.

Jeffrey R. Gaudiosi, Esq.  
Executive Secretary

cc: Service List

**(END OF ATTACHMENT A)**