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AGENDA ITEM #6850

WATER/FLC/JPT/EYC/AJT/jlj

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

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

**RESOLUTION NO. W-4655
August 23, 2007**

R E S O L U T I O N

(RES. W-4655), APPLE VALLEY RANCHOS WATER COMPANY (Apple Valley). ORDER AUTHORIZING A REVISION TO RULE 15, MAIN EXTENSIONS (Rule 15), TO INCORPORATE A SUPPLEMENTAL WATER ACQUISITION FEE TO BE CHARGED TO APPLICANTS FOR A MAIN EXTENSION.

SUMMARY

By Advice Letter (AL) 140-W filed on February 5, 2007, Apple Valley requests to revise Rule 15, to incorporate a Supplemental Water Acquisition Fee to be charged to applicants for a main extension and to revise the sample forms for Main Extension Contracts to simplify the forms and conform to the proposed revision to Rule 15. This resolution grants that request.

BACKGROUND

Apple Valley provides domestic water from its wells within the Mojave River Ground Water Basin. The Mojave River Ground Basin has been in overdraft since about 1950. The down stream producers filed suit in 1990 to stop this overdraft and the Mojave Basin Area Adjudication was adopted in 1996. The resulting judgment is an administrative process intended to provide a long-term reliable supply for the Mojave Basin. The judgment required a global look at production, return flow, natural inflow, and outflow to determine if the Mojave River Ground Water Basin is in balance ensuring that demand does not exceed supply.

Apple Valley is a stipulating party located in the Alto sub-area of the Basin, with adjudicated rights under the judgment. Apple Valley has a Base Annual

Production Right (based upon Apple Valley's historic production in 1989) equal to 13,180 acre-feet. This right is subject to reduction under the judgment, for the purpose of basin management. Free Production Allowance (FPA) is the amount of water that a producer can pump in a given water year without incurring an obligation to buy water from the Mojave Water Agency (MWA), the Watermaster for the Mojave Basin.

FPA is subject to adjustment on an annual basis and is currently set at 60% (also known as "rampdown"). Producers such as Apple Valley are limited to 60% of the Base Annual Production in order to bring the Mojave Basin into hydraulic balance. Under the terms of the judgment, Apple Valley is allowed to pump as much water as needed to serve its customers, subject to replacement water assessments.

Replacement water assessments, water production in excess of the FPA in any year, may be satisfied by transfers of pumping rights from another Producer (leased water rights) or by purchasing imported replacement water from MWA on an annual basis. The Mojave Water Agency is a state water contractor and has an allocation of 75,800 acre-feet per year from the State Water Project.

Due primarily to the rampdown from the Base Annual Production Right and the effects of fill-in growth, Apple Valley has sufficient FPA for approximately 50% of the annual water production required for existing ratepayers and satisfies the remainder by leasing water rights. Although Apple Valley has acquired some additional water rights over the last few years, water rights available for purchase have been limited to small quantities and on an infrequent basis. Although water rights are not readily available for purchase, MWA offers a program whereby replacement water may be pre-purchased at a discount for future years, "banked" in the groundwater basin, and pumped in future years.

In June 2006, Apple Valley filed an advice letter for a Service Area Extension, Advice Letter 135-W. In connection with this AL, the Division of Ratepayer Advocates (DRA) expressed concerns regarding the effect of customer growth on the long-term availability and cost of water supplies for Apple Valley. Apple Valley's analysis concluded that at current rates and costs, the average main extension generates additional revenues from new customers that are more than sufficient to cover incremental costs associated with the main extension, including the costs of the water necessary to serve the territory. In addition,

long-term forecasting of the cost of water in the Mojave Basin is difficult to perform with accuracy.

Apple Valley met extensively with both DRA and the Water and Audits Division on this matter and continued to meet with DRA regarding the service area extension. The two parties developed an informal proposal to address the issues raised by DRA, a proposal to which both Apple Valley and DRA have agreed upon. This resolution implements the Supplemental Water Acquisition Fee.

Rule 15 – Main Extension

Supplemental Water Acquisition Fee

Apple Valley proposes to modify its Rule 15 to incorporate a Supplemental Water Acquisition Fee, to be charged to applicants for main extensions as a refundable advance, similar to Apple Valley's existing Supply Facilities Fee adopted in Decision 05-12-020.

The Supplemental Water Acquisition Fee requested by Apple Valley will be set at \$3,000 per residential lot for residential developments. For commercial, industrial, and other types of developments, a rate of \$3,000 per equivalent average residential water use is to be based on the water use of a similar business or facility.

The purpose of the Supplemental Water Acquisition Fee is to fund Apple Valley's pre-purchase of replacement water from MWA, or for Apple Valley to acquire water rights should such rights become available. Pre-purchased replacement water purchased from MWA will be capitalized by Apple Valley and amortized to expense over a 40-year period consistent with the life of the advance contract set forth in Rule 15.

The pre-purchase of replacement water from MWA and its use over a 40-year period would address the issues of long-term availability and cost of water supply as it would lock-in a commitment from MWA to ensure available water supply to Apple Valley. This would also lock-in a price for that water which would shelter that portion of Apple Valley's source requirement from any increases in cost.

In this advice letter, Apple Valley proposes that the Supplemental Water Acquisition Fee be set up so as to allow the applicant for main extension the option to either:

- 1) Pay the entire amount of the fee associated with the main extension at the time that the main extension itself is completed, at the current rate per lot stated in Rule 15; or
- 2) Pay the fee per lot at the time the meters are installed, subject to any changes or increases in the fee that have been approved at that time.

Apple Valley has requested this change because:

- 1) Neighboring water districts allow such fees to be paid at the time the meters are installed;
- 2) A requirement for the applicants to pay the full amount up front might be problematic in terms of the applicant's financing for the project and might deprive Apple Valley's customers of the benefits of growth; and
- 3) The need for supplemental water will not exist until the meter is installed. Prior to this point in time, there is no additional consumption.

Sample Forms - Main Extension Contracts

This resolution approves changes to the main extension contract forms in Apple Valley's tariffs to be consistent with Rule 15, and to incorporate language relating to the proposed fees, as well as the Supply Facilities Fees adopted previously.

Apple Valley currently has six sample main extension contract forms in its tariffs for main extensions to serve subdivisions, tracts, housing developments, industrial developments, commercial buildings, or shopping centers.

Apple Valley proposes that all of these forms be replaced by a sample main extension contract to serve subdivisions, tracts, housing developments, industrial developments, commercial buildings, or shopping centers which have a number of sections that can be marked as applicable or non-applicable to all the various combinations discussed above. This sample form is intended to simplify Apple Valley's tariffs and contract administration.

The new sample form tariff uses language of various scenarios in Apple Valley's existing sample forms, with sections added to address the Supply Facilities Fees in D.05-12-020 and the proposed Supplemental Water Acquisition Fee. There is an additional sample form just for Supplemental Water Acquisition Fees necessary if the applicant elects to pay the fees as the meters are set rather than paying the entire amount of the fee at the time of the completion of the main extension.

The primary new language of the Supplemental Water Acquisition Fee in Rule 15 is as follows:

"A Supplemental Water Acquisition Fee will be charged to all applicants for a main extension to serve a new subdivision, tract, housing project, industrial development, commercial building, or shopping center as a refundable advance in order to address issues of long-term availability and cost of water supply. The purpose of the Supplemental Water Acquisition Fee will be to fund Apple Valley's pre-purchase of Replacement Water from the Mojave Water Agency (MWA), or for Apple Valley to acquire water rights should they become readily available. Pre-purchased Replacement Water purchased from MWA will be capitalized with the life of the advance contract. The Supplemental Water Acquisition Fee will be calculated as follows:

Residential developments \$3,000 per lot

Commercial, Industrial, or
Other developments. \$3,000 per equivalent average
residential water use based on the
water use of a similar business or
facility

DRAFT

Resolution W-4655

August 23, 2007

Apple Valley/AL 140-W/FLC/JPT/EYC/AJT/jlj

A complete set up tariff changes, as requested in Apple Valley's advice letter, are attached as Appendix A.

NOTICE AND PROTESTS

A notice of the proposed tariff changes was mailed to the service list. The Division received no comments or protests.

Division of Ratepayer Advocates Position

Appendix B is a Memorandum of Understanding (MOU) entered between Apple Valley and the Division of Ratepayer Advocates (DRA).

Because the primary purpose of this proposal is the implementation of an agreement between Apple Valley and DRA relating to a revision of Apple Valley's Rule 15, to incorporate the \$3,000 per equivalent residential lot Supplemental Acquisition Fee, a draft, and copy, was furnished to and discussed with DRA.

DRA supports this modification to Rule 15 and has informed Apple Valley that it does not find these modifications to be inconsistent with the agreement between the parties.

COMMENTS

This is an uncontested matter subject to the public notice comment exclusion provided in the Public Utilities Code Section 311 (g) (3).

FINDINGS

1. The Water and Audits Division hereby recommends that the tariff Supplemental Acquisition Fee and tariff sheets set forth in Appendix A are reasonable and should be adopted.
2. This is an uncontested matter subject to the public notice comment exclusion provided in the Public Utilities Code Section 311 (g) (3).

THEREFORE IT IS ORDERED THAT:

1. Advice Letter No. 140-W filed on February 5, 2007, Apple Valley Ranchos Water Company (Apple Valley) to revise Rule 15, Main Extensions, to incorporate a Supplemental Water Acquisition Fee to be charged to applicants for a main extension and to revise the sample forms for Main Extension Contracts to simplify the forms and conform to the proposed revision to Rule 15 is hereby adopted.
2. 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 August 23, 2007; the following Commissioners voting favorably thereon:

PAUL CLANON
Executive Director

DRAFT

Resolution W-4655

August 23, 2007

Apple Valley/AL 140-W/FLC/JPT/EYC/AJT/jlj

APPENDIX A

DRAFT

Resolution W-4655

August 23, 2007

Apple Valley/AL 140-W/FLC/JPT/EYC/AJT/jlj

APPENDIX B

[Appendices A and B to Res. W-4655](#)