Decision 09-10-028 October 15, 2009

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of Golden State Water Company (U913E) for Authority to Increase Rates for Electric Service by its Bear Valley Electric Service Division.	Application 08-06-034 (Filed June 27, 2008)

DECISION ADOPTING SETTLEMENT AGREEMENT BETWEEN THE DIVISION OF RATEPAYER ADVOCATES AND GOLDEN STATE WATER COMPANY, ON BEHALF OF ITS BEAR VALLEY ELECTRIC SERVICE DIVISION

Summary

Our decision today approves a settlement agreement in the application of the Golden State Water Company for a general rate increase in its Bear Valley Electric Service Division. The central terms of the settlement agreement provide for a $6,392,000 increase in base rates over a four-year period.

The Bear Valley Electric System

Bear Valley Electric Service (BVES) is a subdivision of the Golden State Water Company (GSWC). BVES provides retail electric service to the Big Bear Lake resort area in the San Bernardino Mountains. The BVES service territory is comprised primarily of residential customers. BVES provides service to approximately 21,500 full-time and part-time residents, and approximately 1,400 commercial, industrial, or public-authority customers. BVES also provides service to two ski resorts in its territory.

The BVES system consists of an 8.4 megawatt (MW) generation plant, 205 miles of overhead and 54 miles of underground conductors, and 13 substations. BVES' generation plant, the Bear Valley Power Plant, began commercial operation in 2005 and is located at BVES' main office in Big Bear. The Bear Valley Power Plant consists of seven 1.2 MW internal combustion engines fueled by natural gas.

Procedural Background

Thirteen years passed between BVES' last general rate case and its June 27, 2008 filing of Application 08-06-034. The application filing was noticed on the Commission Daily Calendar on July 16, 2008. Consistent with Commission Rule 2.6, less than 30 days after notice of filing of the application appeared on the Daily Calendar, on August 13, 2008, the City of Big Bear Lake (the City) filed a protest to the BVES application.[1] On August 15, 2008, the Division of Ratepayer Advocates (DRA) sought and obtained permission to late-file a protest to the BVES application. On November 28, 2008, BVES filed a motion for an interim rate increase to recover the increase in the GSWC costs allocated to BVES in Decision (D.) 07-11-037. The City and DRA filed responses to BVES' request for interim rate increase on December 5, 2008 and December 8, 2008, respectively.[2] On December 2, 2008, a public participation hearing was held in the City.

[1] Unless otherwise noted, all references to Rules refer to the California Public Utilities Commission's Rules of Practice and Procedure.

[2] In D.09-06-010, we granted BVES authority to establish a memorandum account to track some of its unrecovered costs related to the allocation set forth in D.07-11-037.

DRA and Snow Summit served testimony on January 9, 2009.[3] Rebuttal testimony was served by BVES on January 9, 2009. Following the submission of testimony, the parties engaged in settlement negotiations via the Commission's Alternate Dispute Resolution (ADR) procedures. The matter was not resolved through ADR and evidentiary hearings were held from February 23 through February 27, 2009.[4] Opening and reply briefs were submitted by DRA, BVES, and Snow Summit on March 18 and 25, respectively.[5] After briefs were filed, DRA and BVES engaged in further settlement negotiations. Per Rule 12.1, a settlement conference was noticed and held on April 16, 2009. The resulting Settlement Agreement was executed on May 12, 2009 and BVES and DRA (the Settling Parties) filed a motion to approve the settlement pursuant to Rule 12.1 on May 13, 2009. On June 12, 2009, Snow Summit filed its opposition to the joint motion to approve the settlement (Opposition to Settlement).

The Settlement

The BVES general rate case (GRC) application proposed a $6.8 million increase in base rates representing a 22.7% increase in rates for 2009, and increases of $878,000, $391,000, and $315,000 in 2010, 2011, and 2012, respectively. DRA recommended a $4.4 million increase in base rates for 2009 and subsequent increases (or decreases) of $469,000, ($41,000) and ($73,000) in 2010, 2011 and

[3] Snow Summit, Inc., a company that operates two ski resorts in Big Bear Lake, submitted a motion requesting party status on December 4, 2008. This request was granted on December 15, 2008.

[4] During the hearings, a stipulation between DRA and BVES was presented on various issues. The settlement subsumes the stipulation between the parties.

[5] The City filed a "closing" brief on March 25, 2009.

2012, respectively. The Settling Parties agreed to incremental revenue increases by changes in the base rates in the amount of $5,500,000 (18%) for 2009; $515,000 (0.96%) for 2010; $209,000 (0.83%) for 2011; and $168,000 (0.35%) for 2012.[6] After taking into account the phase-in plan, the Settling Parties agreed to revenue requirements for 2009-2012 for BVES of: $17,712,800, $18,292,400, $18,841,200, and $19,449,600, respectively.

The Settling Parties also agreed that the baseline allowance for full-time residential customers taking service on tariff Schedule D should be increased from 270 kilowatt-hour (kWh) per month to 320 kWh per month. To implement this increase in the baseline allowance and ensure revenue neutrality, the Settling Parties agreed to increase the rates of the residential customer class under the Power Purchase Adjustment Clause by approximately $400,000.

In addition to reducing the overall rate increase, adopting a rate mitigation plan for the first year, and increasing the baseline allowance from 270 kWh to 320 kWh per month, the Settling Parties have taken the following steps to reduce the financial impact of the change in rates on BVES' customers: 1) Creation of an Energy Efficiency program to help customers reduce their energy usage; 2) Implementation of monthly billing to allow customers to better manage their bills; 3) Increasing the California Alternative Rates for Energy and Low Income Energy Efficiency eligibility requirements from 175% of the federal poverty level

[6] The parties agreed that $689,500 of the 2009 incremental revenue produced by changes in the Base Rates of BVES would be deferred until 2010. As used here, the term "rate" refers to the System Average Rate (SAR) in $/kWh obtained by dividing total base rate revenue by sales. The incremental increase in the SAR from one year to another, times the respective sales in kWh produces the average revenue referred to here.

to 200%; and 4) Increasing Automated Meter Reading to facilitate timely and more accurate meter reading. The Settling Parties argue that in addition to minimizing rate shock for customers, reducing the return on equity from 11.7% to 10.5%, reducing the Administrative and General Expenses additions, reducing the plant additions, and accepting a lower cost of capital, take into account the current state of California's economy. (Settlement at 19-20.)

Approval of the Settlement

The proposed settlement is attached to this decision as Appendix A. The key elements of the settlement have been summarized above. In order to adopt a settlement, we must find that it is: (1) reasonable in light of the whole record, (2) consistent with the law, and (3) in the public interest. (D.96-05-033 at 176, citing D.92-12-019 at 13.) Where, as is presently the case, the settlement is entered into by some but not all parties to the proceeding the proponent's showing in the above areas must be all the more compelling.

The settlement is reasonable. As noted above, following the submission of testimony the parties engaged in settlement negotiations via the Commission's ADR procedures. Over the course of a week of hearings the issues were fully vetted and agreement was reached on some issues.[7] After briefs were filed, DRA and BVES engaged in further settlement negotiations. Thus, the parties fully vetted and debated the various complex issues presented. The parties are knowledgeable and experienced regarding these issues and have used their collective experience to produce appropriate, well-founded recommendations. Taken as a whole, the settlement provides a fair and reasonable resolution of the

[7] *See* footnote 4 *infra*.

issues in this proceeding and is supported by the evidence produced during hearings as well as the written testimony and rebuttal testimony of both BVES and DRA. In addition, the Settling Parties considered the affordability of the rates, the financial health of BVES, and consumer input from the public participation hearings.

The settlement is also consistent with the law and the issues it resolves are clearly within the scope of the proceeding. Moreover, contrary to Snow Summit's Opposition to Settlement, if adopted the settlement would result in just and reasonable rates to BVES' customers.[8] The settlement uses the System Average Percent (SAP) to allocate the costs across the different customer classes. Snow Summit claims that the SAP methodology violates Commission policy by cross-subsidizing residential customers and reducing productive efficiency and overall welfare. (Opposition to Settlement at 8.) Specifically, Snow Summit argues that Commission precedent requires that the Equal Percentage Marginal Cost (EPMC) methodology be used, and proposes to set rates based on an EPMC analysis, subject to a 4% cap on rate increases. (*Id*. at 1.) In addition, Snow Summit asserts that the record does not provide an adequate analysis of the need to use the SAP methodology. Snow Summit therefore asserts that it is unreasonable to use the SAP methodology instead of the EPMC approach. (*Id*. at 7.)

We are not persuaded by Snow Summit's arguments. While this Commission has made use of EPMC a primary goal, we have acknowledged that

[8] Snow Summit limited its comments on the settlement to the issue of how the revenue requirement should be allocated between customer classes.

it is not always feasible to reach that goal in a single proceeding.[9] The Commission may determine that circumstances render it impractical or against the public interest to immediately transition to EPMC analysis, in which case EMPC should be implemented only as early as the circumstances permit.

This Commission has identified rate impacts as an important concern when contemplating use of EPMC and determined that revenue allocations under the EPMC that result in increases above 20% for certain customers "[do] not represent a reasonable balancing of our ratemaking goals." (D.90-12-066; 1990 Cal. PUC LEXIS 1285, *32.) Thus, use of EPMC in ratemaking is a goal that must be balanced against other considerations. In contrast to the rate increases now at issue, two of the cases cited by Snow Summit as precedent for use of the EPMC approach actually involved allocating an overall rate decrease.[10] Where rates are generally declining, the issue of rate shock to residential consumers presents a much less substantial obstacle to approving a settlement. Snow Summit's proposal would result in a 21% rate increase for residential customers.[11] The proposed increase represents an unreasonable failure to balance other considerations against the goal of EPMC.[12] Here, where rate shock is a significant issue, use of the SAP model provides an important cushion to the transition to EPMC.[13]

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[9] *See* D.92-06-020; 1992 Cal. PUC LEXIS 472, *58.

[10] *See* D.96-04-050 and D.86-08-083.

[11] Opposition to Settlement at 10, Table 1.

[12] This increase occurs even if we follow Snow Summit's proposal to deviate from the EPMC approach by placing a cap on the amount of the rate increase.

[13] The settlement schedules the transition to EPMC to occur at the next GRC.

Finally, the settlement serves the public interest. As we have explained in prior Commission decisions, a settlement serves the public interest when the settlement "commands broad support among participants fairly reflective of the affected interest" and "does not contain terms which contravene statutory provisions or prior Commission decisions."[14] While the settlement does not contain terms which can fairly be said to contravene statutory provisions or prior Commission decisions, that the settlement commands broad support among participants fairly reflective of the affected interest is not immediately obvious since neither Snow Summit nor the City joined in the settlement.

Snow Summit's Opposition to Settlement does not show that the Settlement Agreement is unreasonable in light of the whole record, inconsistent with the law, or against the public interest. Instead, Snow Summit's opposition appears to show that the settlement's use of the SAP is the more reasonable approach and confirms that its modified EPMC method would result in an unreasonable 21% increase for some residential customers while the SAP method prevents this unacceptable outcome.

For its part, the City appears to concede that DRA has represented the interest of its members. The City acknowledges that it "is generally supportive of DRA's positions" and explains that:

> [I]t became apparent to the City that the Division of Ratepayer Advocates was taking this GRC seriously and investing extensive resources to review and assess Golden State's application. The extent of the DRA's commitment is reflected in its reports, oral testimony, and opening brief. Because of the DRA's efforts, the

[14] *See* Re San Diego Gas & Electric Company, D.92-12-019 at 13, 46 CPUC2d at 552.

> City has been able to scale back its participation in these proceedings. (Closing Brief of the City of Bear Lake, at 2.)

The principal public interest affected in this proceeding is the delivery of safe, reliable electricity at reasonable rates. BVES provides electric service to customers in its rate jurisdiction, and, in contrast to Snow Summit's representation of a particular interest, DRA is statutorily charged with representing all public utility customers in California, including those served by BVES. Thus, we conclude that the Settling Parties fairly represent the affected interests and that the settlement commands broad support among participants that are fairly reflective of the affected interests.

Comments on Proposed Decision

The proposed decision of the Administrative Law Judge (ALJ) in this matter was 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. Comments were filed on October 5, 2009, by Snow Summit, DRA, and Golden State Water Company, and reply comments were filed on October 12, 2009, by Snow Summit and Golden State Water Company.

Assignment of Proceeding

Timothy Alan Simon is the assigned Commissioner and Darwin E. Farrar is the assigned ALJ in this proceeding.

Findings of Fact

1. As set forth in the motion for adoption of settlement, BVES and DRA have reached settlement on all contested issues.

2. The settlement meets the requirement of Article 12 (Settlements) of the Commission's Rules of Practice and Procedure.

3. The terms of the settlement do not contravene any statutes or Commission decisions and convey sufficient information to enable the Commission to discharge its regulatory obligations.

4. The settlement sets forth reasonable estimates of the levels of revenues and expenses likely to occur in test years 2009, 2010, 2011, and 2012.

5. In D.07-11-037 this Commission adopted a BVES allocation for GSWC's general office operations costs of $3,609,170.

6. The settlement reflects the BVES allocation of GSWC's general office operations costs consistent with D.07-11-037.

Conclusions of Law

1. The settlement should be adopted.

2. GSWC should be authorized to file the revised rate schedules for BVES included in Attachment C to Appendix A.

3. The settlement is reasonable in light of the whole record, consistent with the law, and in the public interest.

4. It is important to consider rate impacts when contemplating use of the Equal Percentage Marginal Cost approach.

5. The Commission may determine that circumstances render it impractical or against the public interest to immediately transition to Equal Percentage Marginal Cost approach.

6. The Equal Percentage Marginal Cost method should be implemented only as early as the circumstances permit.

O R D E R

IT IS ORDERED that:

1. The settlement between the Golden State Water Company and the Division of Ratepayer Advocates contained in Appendix A of this decision, which includes a revenue adjustment of $5,500,000 for 2009, $515,000 for 2010, $209,000 for 2011, and $168,000 for 2012, is approved.
2. The motion for approval of the settlement is granted.
3. The Golden State Water Company shall file a Tier 1 advice letter within 20 days of today's date with revised tariff schedules for its Bear Valley Electric Services Division. This filing shall comply with General Order 96-B. The revised tariff schedules shall be effective within five days of filing and will apply to services rendered on or after the effective date.
4. Application 08-06-034 is closed.

This order is effective today.

Dated October 15, 2009, at San Francisco, California.

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

D0910028 Appendix A