

Decision 08-08-018 August 21, 2008

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
SAN GABRIEL VALLEY WATER COMPANY
(U337W) for approval of Implementation by its
Fontana Water Company Division of the
Commission's Water Action Plan objectives,
including a request to utilize existing Facilities
Fees revenues, for such purposes or in the
alternative, for authority to increase rates not
to exceed \$882,200 or 2.0%.

Application 07-08-017
(Filed August 10, 2007)

**DECISION ON FONTANA WATER COMPANY'S IMPLEMENTATION
OF A WATER ACTION PLAN**

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DECISION ON FONTANA WATER COMPANY'S IMPLEMENTATION OF A WATER ACTION PLAN

1. Summary

This decision adopts a settlement agreement between San Gabriel Valley Water Company's Fontana Water Company Division (Fontana Water Company) and the Division of Ratepayer Advocates.

Fontana Water Company is authorized a maximum \$305,000 annual budget to fund conservation programs and activities from the effective date of this decision through June 30, 2009 as set forth in a settlement agreement attached to this decision as Appendix A. It is also authorized a maximum \$90,522 annual budget for a customer serviceman/conservation specialist when hired and \$43,000 for payroll expenses associated with conservation expense. The \$438,522 maximum total of conservation expenses being approved is less than 50.0% of Fontana Water Company's initial \$882,200 conservation request.¹

Fontana Water Company is authorized to establish an interim surcharge consisting of three components (conservation programs, conservation specialists, and additional payroll-related expenses) to fund the conservation programs and activities authorized by this decision. These surcharge collections shall be tracked in a one-way conservation balancing account.

The surcharge and one-way conservation balancing account will end on the latter of July 1, 2009 or the effective date of new rates to be authorized in Fontana Water Company's 2008 general rate case. Any over-collection will be refunded to the extent that revenues collected exceed the lower of the annualized

¹ The \$438,522 amount consists of a \$305,000 conservation program budget plus a \$43,000 associated payroll expenses budget plus \$90,522 budgeted for a customer serviceman/conservation specialist position.

limit or the actual expense. Any under-collection to the extent that revenues collected fall short of the lower of the actual expense or the annualized limit may be collected by Fontana Water Company.

2. Background

San Gabriel Valley Water Company (SGVW) provides public utility water service in the counties of Los Angeles and San Bernardino through two operating divisions and a General Division. SGVW serves approximately 92,000 customers as of December 31, 2006 of which 44,000 are in the Fontana Water Company Division and 48,000 in the Los Angeles County Division.

3. Request

On August 10, 2007, SGVW filed an application for its Fontana Water Company for: (1) approval of Fontana Water Company's implementation of the Commission's Water Action Plan (WAP) objectives, (2) authority to utilize facilities fees revenues to fund the costs of implementing the Commission's WAP objectives, or in the alternative, to increase rates to recover such costs, (3) authority to establish a Conservation Memorandum Account to record costs of future, presently unknown, water conservation programs and activities for potential subsequent recovery in rates, and (4) authority to amend its Schedule No. FO-FF and Rule No. 15 in furtherance of the company's water conservation efforts.

4. Procedural History

By Resolution ALJ 176-3197, dated August 23, 2007, the Commission preliminary designated the captioned applications as "ratesetting" with hearings indicated. A Prehearing Conference (PHC) held on November 13, 2007, was continued to January 17, 2008, upon Division of Ratepayer Advocates' (DRA) unopposed request for additional time to determine whether any, or all, of the

issues in this application would be identified as issues in Phase 2 of the Commission's conservation investigation.

Absent the issuance of a Phase 2 conservation investigation Scoping Memo identifying conservation issues to be addressed in that proceeding as of January 17, 2008, all parties agreed to a schedule in this proceeding. On January 22, assigned Commissioner Simon issued a Scoping Memo and Ruling setting a schedule that included mediation under the Commission's Alternative Dispute Resolution (ADR) process prior to a May 28 start of evidentiary hearings.

5. Protests

DRA, the City of Fontana (City), and Fontana Unified School District (FUSD) filed protests to the application.

On May 12, 2008, and prior to evidentiary hearings, DRA distributed prepared testimony summarizing its opposition to the application and recommendations. DRA recommended that a limited-term memorandum account (from the effective date of a decision in this proceeding through July 1, 2009, the projected effective date of new rates to be adopted in Fontana Water Company's general rate case) be established for Fontana Water Company. The memorandum account would provide for a conservation program capped at \$167,360 for the fiscal year 2008/2009 and an additional \$7,544 per month, capped at \$90,522, for a customer serviceman/conservation specialist when hired. DRA opposed any funds for a new conservation coordinator position. Finally, DRA recommended deferral to Fontana Water Company's general rate case application (scheduled for July 2008) of the company's request for recovery of estimated lost revenues due to conservation measures and for a revenue decoupling mechanism.

The City also distributed prepared testimony summarizing its opposition to the application and recommendation. The City recommended that Fontana Water Company's proposed conservation measures be looked at carefully for effectiveness. It also recommended that any funding of approved conservation measures be deferred to Fontana Water Company's July 2008 general rate case, and that any monies allocated for conservation be used only for conservation or returned to those who gave the money. The FUSD joined the City in opposing the application.

ADR meetings held on May 21, 22, and 23, 2008, under the direction of Administrative Law Judges Dorothy Duda and Douglas Long resulted in Fontana Water Company and DRA entering into a settlement of the proceeding. Those meetings were attended by Fontana Water Company, DRA, the City, and the FUSD.

6. Settlement

A settlement agreement between Fontana Water Company and DRA was filed with the Commission's Docket Office and served on all interested parties on May 27, 2008. Although the City and FUSD participated fully in the ADR process they did not sign the settlement agreement, nor did they oppose it, but they requested an opportunity to comment on the settlement within 14 days of its being filed with the Commission. There were no filed comments on the settlement agreement. Hence, the settlement agreement is unopposed.

The settlement agreement provides for a \$305,000 total annual (or prorated portion thereof) conservation budget to fund conservation programs during an interim period between the effective date of this decision and the effective date of new rates to be authorized under Fontana Water Company's 2008 general rate case. These programs will consist of education and public information programs

as well as provision of rebates, incentive payments and equipment to residential, commercial, industrial, institutional, and large landscape customers under specific spending guidelines.

Although the agreed upon spending guidelines provide flexibility to Fontana Water Company, the settlement caps spending in each of four major conservation categories as follows: (1) \$50,000 on education and public information programs; (2) \$228,600 on residential programs; (3) \$262,500 on commercial, industrial and institutional programs; and, (4) \$123,800 on large landscape programs. In addition, third-party service providers are to be used for a majority of these services, with a maximum of \$10,000 of the total conservation budget allowed for overhead costs of third-party service providers.

The settlement agreement also provides for the implementation of a surcharge to fund these conservation programs and staff expenses. By a Tier 1 Advice Letter, Fontana Water Company will collect \$305,000 in annualized revenues to fund these conservation programs effective after the date this settlement agreement is adopted. Also, by Tier 1 Advice Letter, Fontana Water Company will collect \$43,000 additional annualized conservation payroll expenses. After Fontana Water Company has hired a customer service/conservation specialist, it will file an offset rate increase through a Tier 1 Advice Letter to recover \$90,522 in annualized revenues through a conservation surcharge. All components of the surcharge will be collected through a volumetric surcharge and will end by the effective date of new rates to be set in the 2008 general rate case, expected to occur on July 1, 2009.

7. Discussion

Fontana Water Company and DRA submitted their joint settlement agreement for our consideration pursuant to Rule 12.1 of the Commission's

Rules of Practice and Procedure. They aver that the settlement is reasonable in light of the whole record, consistent with law, and in the public interest.

Rule 12.1(d) holds that the Commission will not approve settlements, whether contested or uncontested, unless they are reasonable in light of the whole record, consistent with law, and in the public interest. In that regard, we precondition approval of the settlement agreement upon satisfaction that:

- The proposed settlement agreement reasonably resolves the active parties' issues.
- The sponsoring parties are fairly reflective of the affected interests.
- No term of the settlement contravenes statutory provisions or prior Commission decisions.
- The settlement conveys to the Commission sufficient information to permit it to discharge its future regulatory obligation with respect to the parties and their interests.

7.1. Resolution of Active Parties' Issues

The Commission must be satisfied that any settlement agreement it approves reasonably resolves the active parties' issues. In this proceeding, Fontana Water Company, DRA, the City, and FUSD are the only active parties. The settlement agreement was signed by Fontana Water Company and DRA. Although the City and FUSD did not sign the settlement agreement, they did not oppose it.² With no comments filed in opposition to the settlement agreement, the first condition for approval is satisfied.

² The City and FUSD did not exercise their right to file comments on the settlement agreement.

7.2. Sponsoring Parties Reflective of Affected Interests

Fontana Water Company had experienced counsel representing its own interests and those of its shareholders. Likewise, DRA had experienced counsel representing it and engaged in extensive settlement negotiations after the initial round of prepared exhibits were mailed. DRA's charge is to represent water utility ratepayers, and there is every indication that it has thoroughly and earnestly done so here. The sponsoring parties for the settlement agreement are indeed fairly reflective of the affected interests.

7.3. No Term Contravenes Prior Commission Decisions

The settling parties represent that no term of the settlement contravenes any statutory provision or any Commission decision. After reviewing the settlement, we concur.

7.4. Sufficient Information

In readying their team for hearings in this proceeding, Fontana Water Company, DRA, and the City served prepared testimony on the issues identified in the assigned Commissioner's January 22, 2008 Scoping Memo and Ruling. All of the prepared testimony was admitted into evidence for the purpose of identifying each party's initial position prior to the settlement agreement. The settlement agreement indicates the negotiated outcome for each significant contested item.

Although the settlement agreement provides for a one-way balancing account, it also provides for a two-way recovery of any (over or under-collected) balance in that account. On July 23, 2008, the settlement agreement signatories clarified that their proposed one-way balancing account is intended to match conservation program expenditures with a spending limit and match collected water conservation surcharge with a revenue target equal to their agreed upon

spending limit. In other words, the proposed one-way balancing account limits cost recovery to the lower of actual expenditures or the amount authorized.

The parties have fully defined the outcomes they have agreed to and the settlement conveys sufficient information to permit the Commission to discharge its future regulatory obligations with respect to the parties and their interests.

7.5. Conclusion

The conservation issues identified in this proceeding have been equitably resolved with substantial support in the record by way of prepared testimony and the settlement agreement. The settlement agreement addresses and takes action on the Commission's and the California Department of Water Resources' increased emphasis on water conservation while providing Fontana Water Company flexibility to expand its conservation program.

The settlement agreement ensures that Fontana Water Company spends its authorized annual conservation budget on the conservation measures listed in the settlement agreement and ensures that any unspent funds will be provided to ratepayers. Fontana Water Company will also have to demonstrate that all expenditures for incentive payments and equipment booked to the one-way balancing account went directly to its ratepayers for conservation, an issue of DRA, the City, and FUSD.

The settlement agreement meets the Commission's requirement for adoption of a settlement agreement. When reviewed as a total product, each component is reasonable in light of the record, consistent with law, and in the public interest. The settlement agreement should be approved.

8. Reduction of Comment Period

The proposed decision of the assigned Administrative Law Judge (ALJ) in this matter was mailed to the parties in accordance with Section 311 of the Public

Utilities Code and Rule 14.6. All parties stipulated to a 10-day review of the proposed decision and stipulated that the Commission may issue a decision on this matter less than 30 days following service of the proposed decision. The parties were afforded a 10-day period to review the proposed decision. There were no filed comments to the proposed decision.

9. Assignment of Proceeding

Timothy Alan Simon is the assigned Commissioner and Michael J. Galvin is the assigned ALJ in this proceeding.

Findings of Fact

1. Fontana Water Company entered into a settlement agreement with DRA which resolves every issue in this proceeding.

2. The settlement agreement commands the sponsorship of the two active parties in this proceeding that took a position on the settlement. Other active parties do not oppose the settlement.

3. The active parties with respect to the settlement agreement are fairly reflective of the affected interests in this proceeding.

4. No term of the settlement agreement contravenes statutory provisions or prior Commission decisions.

5. The settlement agreement conveys sufficient information to permit the Commission to discharge its future regulatory obligations with respect to the parties and their interests.

6. There is no opposition to the proposed settlement agreement.

7. All parties stipulated to a 10-day review of the proposed decision and stipulated that the Commission may issue a decision on this matter less than 30 days following the service of the proposed decision.

Conclusions of Law

1. The settlement agreement is an uncontested settlement.
2. The settlement agreement is reasonable in light of the whole record, consistent with law, and in the public interest.
3. The settlement agreement should be adopted.
4. Fontana Water Company should be authorized to establish a conservation surcharge to fund its conservation program and activities and establish a one-way balancing account to track its conservation revenues and expenditures.
5. Review of the proposed decision should be reduced to 10 days from 20 days and the Commission may issue a decision on this matter less than 30 days following the service of the proposed decision.
6. This decision should be made effective immediately to enable Fontana Water Company to implement approved water conservations measures without delay.

O R D E R

IT IS ORDERED that:

1. The settlement agreement set forth in Appendix A between San Gabriel Valley Water Company's Fontana Water Company Division (Fontana Water Company) and the Division of Ratepayer Advocates (DRA) is adopted.
2. Fontana Water Company is authorized a maximum \$305,000 annual budget to fund conservation programs and activities from the effective date of this decision through June 30, 2009 as set forth in the attached settlement agreement. It is also authorized a maximum \$90,522 annual budget for a customer serviceman/conservation specialist when hired and \$43,000 for payroll expenses associated with conservation expense.

3. Fontana Water Company is authorized to file a Tier 1 Advice Letter to collect \$305,000 of conservation program expenses in annualized revenues through a \$0.015 per hundred cubic feet (Ccf) conservation surcharge component effective on or after the effective date of this decision, as set forth in the attached settlement agreement.

4. Fontana Water Company is also authorized to file a Tier 1 Advice Letter to recover \$43,000 of additional conservation payroll-related expenses through a \$0.0021 per Ccf conservation surcharge component effective on or after the effective date of this decision.

5. Fontana Water Company is authorized to file a Tier 1 Advice Letter to recover \$90,522 in annualized revenues through a \$0.0044 per Ccf surcharge component only after it has filled a new customer serviceman/conservation position.

6. All components of the conservation surcharge being authorized by this decision shall end by the effective date of new rates to be set under Fontana Water Company's 2008 general rate case.

7. Fontana Water Company is authorized to establish a one-way conservation balancing account to track amounts collected through the conservation expense surcharge component and conservation expenses incurred up to an annualized limit.

8. The one-way conservation balancing account being authorized by this decision shall end by the effective date of new rates to be set under Fontana Water Company's 2008 general rate case. Within 60 days after July 1, 2009, or the effective date of new rates authorized in Fontana Water Company's 2008 general rate case, Fontana Water Company shall file an advice letter closing the one-way conservation balancing account and refund any over-collection to the extent that

revenues collected exceeded the lower of the annualized limit or actual expenses. Any under-collection to the extent that revenues collected fall short of the lower of the actual expense or the annualized limit may be collected by Fontana Water Company.

9. Fontana Water Company shall file a summary report of its conservation activities by October 30, 2009, with the Water Division and DRA covering the interim period between an effective date of this decision and July 1, 2009. This report shall be consistent with Commission reporting requirements applicable to Class A water utilities that are in effect in October 2009.

10. Application 07-08-017 is closed.

This order is effective today.

Dated August 21, 2008, at San Francisco, California.

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