Decision 06-08-015 August 24, 2006

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of Park Water Company (U314W) for Authority to Increase Rates Charged for Water Service by $1,680,500 or 8.21% in 2007, $571,181 or 2.57% in 2008, and $658,677 or 2.88% in 2009.	Application 06-01-004 (Filed January 15, 2006)

Edward N. Jackson and David A. Ebershoff, for Park Water Company, applicant.
Bill Cady, for the Division of Ratepayer Advocates.

OPINION APPROVING SETTLEMENT

1. Summary

The Commission approves, with modifications, a comprehensive settlement agreement entered into by Park Water Company (Park) and the Commission's Division of Ratepayer Advocates (DRA) that resolves all issues in Phase 1 of Park's general rate case (GRC) application. Pursuant to the settlement, we authorize a rate increase for Park's Central Basin Division for 2007 of $1,322,850, a 6.46% increase over present rates. The return on equity is set at 10.20% for ratemaking purposes and the authorized rate of return on rate base is 9.12%.

2. Background and Procedural History

Park's Central Basin Division (which is the subject of this application) provides public utility water service to an estimated 27,310 customers in three

separate service areas located in the Central Basin of Los Angeles County. Park also owns two subsidiary public utilities, the Apple Valley Ranchos Water Company, which provides water service in San Bernardino County, and Mountain Water Company, which provides water service in Missoula, Montana.

About 90 percent of Park's water supply for the Central Division service areas is purchased from the Central Basin Municipal Water District. Park also owns 13 groundwater wells associated with 1.3 acre-feet of water rights, and leases about 1,500 acre-feet per year.

The Commission established the current base rates for Park in Decision (D.) 03-12-040. Park filed this request for authorization to increase rates charged for water service for test year 2007, with escalation years 2008 and 2009, pursuant to the interim Rate Case Plan adopted in D.04-06-018. DRA filed a timely protest to the application; no other protests or responses were filed. Park and DRA appeared at the March 22, 2006 prehearing conference; no other persons appeared. Assigned Commissioner John Bohn's March 28, 2006 Scoping Ruling affirmed the Commission's preliminary determination, in Resolution ALJ-176-3165, that the category of the proceeding is ratesetting and that hearings were needed, and established the scope and schedule of the proceeding. The Scoping Ruling deferred consideration of a low-income program for Park to Phase II of the proceeding; this decision resolves all other issues.

Hearings on Phase I commenced on May 9 pursuant to the adopted schedule. At hearing, when the parties announced that they had reached a settlement on all disputed Phase I issues, hearings were continued to permit them to commit the settlement to writing. On June 2, Park and DRA filed a motion for adoption of the settlement. Also on that date, pursuant to ruling of the Administrative Law Judge (ALJ), DRA served a corrected version of its

prepared testimony. Pursuant to the ruling of the ALJ, as no objections were made to its admission into evidence, that document was admitted into evidence as late-filed Exhibit (Ex.) 9, and Phase I of the proceeding was submitted for decision, on June 2, 2006.

3. Public Comment on the Application

The Commission received nine communications opposing Park's requested rate increase, which have been placed in the formal correspondence file for this proceeding. Included among them are two letters from the City of Bellflower, one stating its general opposition to Park's request and a second letter, served the day before evidentiary hearings commenced, stating Bellflower's particular concerns over the discrepancy between Park's rates and service and that of Bellflower Somerset Mutual Water Company (Bellflower Somerset), which also serves residents of Bellflower.

The ALJ permitted Park to testify in response to the concerns raised by Bellflower, and directed Park to respond directly to Bellflower and to serve her with a copy of that response. Consistent with Park's testimony, Park's letter to Bellflower summarizes the reasons for the discrepancy between Park's rates and those of Bellflower Somerset, including their different corporate structures (Bellflower Somerset is a non-profit corporation owned by its customers, who receive returns on their investments in the form of reduced rates) and their different water source mixes (Park owns essentially no pumping rights). Park's letter has been placed in the formal correspondence file of this proceeding.

4. Settlement Criteria

The settlement is among all parties and is uncontested. In such cases, the Commission applies two complementary standards to evaluate the proposed agreement. The first standard, set forth in Rule 51.1(e) and applicable to both

contested and uncontested settlements, requires that the "settlement is reasonable in light of the whole record, consistent with law, and in the public interest." The second standard, articulated in *San Diego Gas & Electric,* 46 CPUC 2d 538 (1992), applies to all-party settlements. As a precondition to approving such a settlement, the Commission must be satisfied that:

a. The proposed all-party settlement commands the unanimous sponsorship of all active parties to the proceeding.

b. The sponsoring parties are fairly representative of the affected interests.

c. No settlement term contravenes statutory provisions or prior Commission decisions.

d. Settlement documentation provides the Commission with sufficient information to permit it to discharge its future regulatory obligations with respect to the parties and their interests.

Park and DRA are the only parties to this proceeding and both are signatories to the settlement. Each party actively participated in all aspects of the proceeding, developing comprehensive prepared testimony and conducting discovery of the prepared testimony of the other. Park was represented by knowledgeable officers and employees and by counsel. DRA, whose mandate is to represent ratepayer interests, likewise assigned knowledgeable staff and counsel. We conclude that the affected utility and ratepayer interests were fairly represented. Thus, the settlement meets the first and second criteria of the all-party settlement guidelines.

5. Settlement Overview

In its application and supporting testimony, Park requests a rate base of $24,643,100 and an 11.50% return on equity. The parties concur on the vast majority of the rate base issues in Phase I. DRA disputes Park's rate base request with respect to (1) operations and maintenance (O&M) payroll expense, (2) insurance expense, and (3) the inclusion of Park's Geographical Information System in utility plant in service, and recommends $24,392,600 in rate base and a 10.14% return on equity. In addition, DRA challenges the need for Park's Water Quality Memorandum Account to remain open, and recommends that the Commission require Park to provide, in future rate cases, a detailed cost/benefit analysis to support its conservation programs. The settlement adopts Park's undisputed estimates of the 2007 revenue requirements, and resolves the disputed issues as discussed below.

5.1. O&M Payroll

DRA accepts Park's O&M payroll estimate, except that it recommends $45,000 less in customer expenses in test year 2007, which is the average salary for a meter reader. DRA maintains that the continued implementation of the Automated Meter Reading (AMR) capital project will result in the need for fewer Park staff to read meters, lower errors in reading meters, and higher efficiency in billing customers. Park maintains that it will take in excess of 5,000 AMR installations to allow it to eliminate a meter reader position, while it will have installed only about 3,600 AMRs from November 2005 to the end of 2007. Park maintains that escalation year expenses need not be adjusted by potential payroll savings associated with additional AMR installations because, pursuant to the methodology adopted in D.04-07-018 to determine escalation year expenses, they

do not constitute a significant (defined as 1% of test year gross revenue) recurring item.

As part of the overall settlement, the parties agree that there are no payroll savings associated with the AMR capital project that will be realized in test year 2007. Park agrees to eliminate one position in the meter reading department in its next GRC (test year 2010) provided that its method of billing remains on a bimonthly basis.

5.2. Insurance

Park's estimate of workers compensation insurance assumes a 10% decrease in the base rate for the 2006-2007 policy year based on the advice of its insurance broker. DRA maintains that Park's workers' compensation insurance expense estimate should assume a 15.9% decrease, based on the Workers' Compensation Insurance Rating Bureau of California's (WCIRBC) report that rates for municipal waterworks employers decreased by that amount between January 1, 2005 and January 1, 2006.

The parties agree that the WCIRBC's advisory insurance premium rates are not directly applicable to Park because they do not account for Park's actual workers' compensation claims experience. As part of the overall settlement, the parties agree to a 10% decrease in the workers' compensation base rate for the 2006-2007 policy year.

5.3. GIS Capital Project

Park requests $339,000 to implement its Geographical Information System (GIS) project. Park states that implementing the GIS project will streamline existing work flows, improve the management of infrastructure data, add new analysis capabilities and improve emergency response and customer service.

DRA recommends disallowing that cost on the basis that Park did not provide any study or analysis of cost benefits associated with the project. In its rebuttal testimony, Park provides additional explanation of benefits of the GIS project.

As part of the overall settlement, the parties agree to include the GIS project in utility plant in service, and to include $15,000 in expense savings related to the GIS project in test year 2007.

5.4. Return on Equity

Park requests an 11.50% return on equity. DRA recommends a 9.84% return on equity based on the results of its financial models, plus a 30 basis point risk premium consistent with the Commission's determination in D.05-12-020 that such risk premium is appropriate; this results in an overall return on equity of 10.14%.

As part of the overall settlement, the parties agree to a return on equity of 10.20%. By comparison, the Commission authorized 10.15% for Apple Valley Ranchos Water Company in December 2005 (D.05-12-020), and 10.10% for San Gabriel Valley Water Company in July 2005 (D.05-07-044).

5.5. Water Quality Memorandum Account

Park requests that the balance in its Water Quality Memorandum Account (an under collection of $43,890) be transferred to its production cost balancing accounts. DRA does not oppose the Park's request, noting that the Commission has previously authorized similar transfers of the balances in Apple Valley Ranchos Water Company's sewer capital memorandum account (D.99-06-010) and conservation memorandum account (Advice Letter 176-W, approved May 7, 1999). However, DRA questions whether there is a need for the account to remain open.

Pursuant to the settlement, the parties agree that the Water Quality Memorandum Account should remain open because the potential still exists for Park to incur costs which are recordable in the account. The parties further agree that Park will notify the Commission of the need to record amounts in the Water Quality Memorandum Account, consistent with the procedure for notifying the Commission of amounts to be recorded in the Catastrophic Event Memorandum Account.

5.6. Conservation Program Cost/Benefit Analysis

There is no dispute between the parties regarding Park's requested conservation related expenses. However, DRA recommends that the Commission require Park to provide, in its future rate cases, a detailed cost/benefit analysis to further support its conservation programs. Park objects that its $21,584 proposed test year expense for conservation programs is not significant enough to warrant the expense of performing a detailed cost/benefit analysis. Park notes its intention to join the California Urban Water Conservation Council (CUWCC), and suggests that it should be sufficient for it to include, in future rate applications, the most recent annual report filed with CUWCC.

Pursuant to the settlement, the parties agree Park will present, in future rate cases, information regarding conservation expense as included in the reporting requirements of the CUWCC. The parties further agree that Park will become a signatory to the memorandum of understanding required for membership in CUWCC upon the issuance of the scoping memo in Park's future application for a water revenue adjustment mechanism (WRAM) "confirming a

proposed schedule for the proceeding that will ensure issuance of the Commission's decision by no later than December 31, 2007."

Requiring Park to present, in its future GRCs, information regarding conservation expense that is consistent with the reporting requirements of the CUWCC is a reasonable resolution of this disputed issue, and we approve this provision. However, to the extent that this settlement term would make Park's membership in CUWCC contingent upon the Commission's adoption of the parties' proposed schedule in a scoping memo in Park's future WRAM application, we reject it.

Rule 51.1(a) of the Commission's Rules of Practice and Procedure requires that settlements in a proceeding "be limited to the issues in that proceeding and shall not extend to substantive issues which may come before the Commission in other or future proceedings." It is inappropriate for a settlement in this proceeding to attempt to bind the Commission in a future proceeding. Furthermore, delaying Park's membership in CUWCC or, indeed, excusing it altogether if the Commission does not adopt a particular schedule in Park's future WRAM application, is contrary to the public interest. The Water Action Plan approved by the Commission (December 15, 2006) states that the Commission "will direct all Class A and B Water Utilities to participate in the Council." The parties offer no legal or policy rationale for Park to delay or decline membership in the CUWCC, and we are not aware of any.

Accordingly, we reject this provision of the settlement and require Park to become a signatory to the MOU required for membership in CUWCC upon the filing of its application for a WRAM.

5.7. Water Revenue Adjustment Mechanism (WRAM)

Although Park initially indicated its intention to propose a WRAM in this proceeding, Park withdrew its proposal from the evidence that it presented in this proceeding. DRA opposes consideration of Park's (withdrawn) proposal because it is based on a stipulation between DRA and California Water Service Company in Application (A.) 05-08-006 et al. that is pending before the Commission, and because Park has not demonstrated how its conservation programs will affect its revenues.

The settlement, under motion for adoption filed 20 days after hearings adjourned, provides that Park will withdraw its request for a WRAM in this proceeding in consideration of DRA's best efforts to process Park's application for a WRAM on a schedule that will ensure a Commission decision before December 31, 2007, based on Park filing its WRAM application before January 1, 2007.

As Park has already withdrawn its WRAM proposal, the settlement provision that Park do so is moot for our purposes. The parties' agreement that Park will file an application for a WRAM before January 1, 2007, and that DRA will use its best efforts to enable a timely decision on that application is consistent with the Commission's objective, as set forth in the December 15, 2005, Water Action Plan, to consider de-coupling water utility sales from earnings in order to eliminate current disincentives associated with conservation.

However, we are concerned with this settlement provision to the extent that it would allow Park to delay its WRAM application until the end of the year. The Commission is committed to addressing the Water Action Plan's objectives

on a timely basis. We therefore direct Park to file its WRAM application within 90 days.

5.8. Compliance with Remaining Settlement Criteria

With the modifications addressed above, we find that the settlement does not contravene any statutory provision or Commission decision, and we are aware of no conflict with respect to any other of the settlement provisions. With respect to the fourth criteria, our review indicates that the settlement provides the detail necessary to implement its terms during this GRC cycle and to discharge our future regulatory responsibilities.

We conclude that, with the modifications addressed above, the settlement is reasonable in light of the record developed in this proceeding, that it is in the public interest, and that it should be approved.

The settlement and its Appendices A-D are attached to today's decision. The appendices reflect the ratemaking impact of the settlement. They include a summary of earnings for the test year (Appendix A); the tariff revisions necessary to implement the new rates (Appendix B); comparisons showing the bill increase for an average meter (5/8-inch) at various consumption levels (Appendix C); and itemization of the adopted quantities, rate base summary, and the calculation of income taxes for ratemaking purposes (Appendix D).

6. Assignment of Proceeding

John A. Bohn is the Assigned Commissioner in this proceeding; Hallie Yacknin is the assigned ALJ and the presiding officer.

7. Comments on Proposed Decision

The principal hearing officer's proposed decision was filed with the Commission and served on the parties in accordance with § 311(d) and Rule 77.1.

Park filed comments on August 4, 2006, indicating its agreement to the modifications to the settlement contained in the proposed decision which require Park to file an application for approval of a WRAM and become a signatory to the MOU required for membership in the CUWCC within 60 days of this order.

DRA filed comments on August 14, 2006, requesting that, due to staffing resource constraints and the press of other water proceedings through the end of the year, the Commission direct Park to file its application for approval of a WRAM within 90 days rather than 60 days. DRA indicates that it will be able to act timely on the application in 2007. In consideration of numerous proceeding pending or due to be filed during the last quarter of 2006, we grant DRA's request and modify the proposed decision to require Park to file its application for approval of a WRAM within 90 days, rather than 60 days, of the effective date of this order.

Findings of Fact

1. The all-party settlement negotiated by Park and DRA resolves every issue between them in this proceeding.

2. Park and DRA are fairly reflective of the affected interests in this proceeding.

3. Paragraph 7.01 of the settlement would make Park's membership in CUWCC contingent upon the Commission's adoption of a particular schedule in a scoping memo to be issued in a future Park application for approval of a WRAM, contrary to Rule 51.1 of the Commission's Rules of Practice and Procedure and the Commission's objectives as stated in the December 15, 2005, Water Action Plan.

4. Paragraph 14.00 of the settlement would allow Park to delay application for approval of a WRAM until January 1, 2007.

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

6. The proposed settlement is unopposed.

7. The summaries of earnings presented in Appendix A to the settlement, and the quantities and calculations presented in Appendix D to the settlement, are based on the settlement and are reasonable, justified, and sufficient for ratemaking purposes.

Conclusions of Law

1. The settlement is an uncontested agreement as defined in Rule 51(e) and an all-party settlement under *San Diego Gas & Electric,* 46 CPUC 2d 538 (1992). The proposed settlement satisfies the requirements of Rule 51(e) and *San Diego Gas & Electric.*

2. Paragraph 7.01 of the settlement should be rejected to the extent that it makes Park's membership in CUWCC contingent upon the Commission's adoption of a particular schedule in a scoping memo to be issued in a future Park application for approval of a WRAM.

3. Park should become a signatory to the memorandum of understanding required for membership in CUWCC upon application for approval of a WRAM.

4. Paragraph 14.00 of the settlement should be rejected to the extent that it would allow Park until January 1, 2007, to file an application for approval of a WRAM.

5. Park should file an application for approval of a WRAM within 90 days.

6. With the settlement modifications above, the settlement is reasonable in consideration of the whole record and in the public interest, and should be adopted.

7. The revised rates and tariff rule revisions set forth in Appendix B to the settlement, as attached hereto, are justified.

8. This decision should be made effective immediately.

O R D E R

IT IS ORDERED that:

1. The Motion for Adoption of Settlement between Park Water Company (Park) and the Division of Ratepayer Advocates is granted, and the settlement attached to that motion and appended to this decision is adopted, except that the provision of paragraph 7.01 regarding the timing of Park's becoming a signatory to the memorandum of understanding (MOU) required for membership in the California Urban Water Conservation Council (CUWCC), and the provision of paragraph 14.00 regarding the timing of Park's application for approval of a water revenue adjustment mechanism (WRAM), are rejected. The ratemaking calculations and budgets, and the tariff revisions, all in the appendices to the attached settlement, are approved.

2. Park shall file an application for approval of a WRAM within 90 days.

3. Park shall become a signatory to the MOU required for membership in CUWCC within 60 days.

4. Park is authorized to file, in accordance with General Order 96-A, or its successor, and to make effective, on not less than five days' notice, tariffs containing the test year 2007 increases as provided in the attachment to this

decision. The revised rates shall apply to service rendered on and after the tariff's effective date.

This order is effective today.

Dated August 24, 2006, at San Francisco, California.

MICHAEL R. PEEVEY
President
GEOFFREY F. BROWN
DIAN M. GRUENEICH
JOHN A. BOHN
RACHELLE B. CHONG
Commissioners

D0608015 Attachment A