

WATER/FLC:jrb

**PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

DIVISION OF WATER & AUDITS

RESOLUTION NO. W-4658

September 20, 2007

**R E S O L U T I O N**

**(RES. W-4658), ALL CLASS B, C, AND D WATER AND SEWER SYSTEM UTILITIES. ORDER MODIFYING RESOLUTION NUMBER (Res. No.) W-4540 AND AUTHORIZING AN INFORMAL GENERAL RATE CASE (GRC) COST-OF-LIVING RATE INCREASE OR CASH FLOW RATE INCREASE BY TIER 1 ADVICE LETTER.**

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**SUMMARY**

Public Utilities Code Section 455.2 allows water companies with greater than 10,000 service connections to make rates effective at the beginning of their test year, even when the General Rate Case (GRC) is not decided until later<sup>1</sup>. On June 16, 2005 the Commission approved Res. No. W-4540 that authorized Class B, C, and D water and sewer system utilities the same consideration, with approval of the interim rate by resolution. This resolution modifies Res. No. W-4540 to allow request of the interim rate increase by Tier 1 advice letter.

**BACKGROUND**

Section 455.2 allows the Commission to approve an interim cost-of-living rate increase for Class A water utilities, subject to refund, effective on or after the first day of the first test year. Section 455.2 then specifies that these rates may be adjusted upward or downward consistent with the final rates adopted by the Commission. This provision of law was implemented by Decision (D.) 04-06-018, June 9, 2004, by providing that "Requests for interim rate relief should be made by motion of the utility applicant. The Presiding Officer will then prepare a decision for the Commission's consideration." (Conclusion of Law 9.) On June 16, 2005, Res. No. W-4540 extended this retroactive rate increase protection to Class B, C, and D water and sewer system utilities by authorizing them to file an advice letter requesting a resolution to approve a cash flow increase, if

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<sup>1</sup> Unless stated otherwise, all statutory citations refer to the California Public Utilities Code.

warranted, or a CPI increase, with the increase subject to refund, up or down, depending on the final rates found reasonable for the test year.

By D.07-05-062, May 24, 2007 the Commission modified the rate case plan to allow a Class A utility to file a motion in the GRC proceeding requesting approval of an interim CPI increase by a Presiding Officer ruling.<sup>2</sup> On January 25, 2007 the Commission approved D.07-01-024 that implemented General Order (GO) 96-B, effective July 1, 2007. This decision created Tier 1, Tier 2 and Tier 3 advice letters and a set of industry rules that may be modified by resolution.<sup>3</sup>

## **DISCUSSION**

With the advent of D.07-05-062 and of Tier 1 advice letters for certain rate changes, consideration should be given to modifying the GO-96-B Water Industry Rules to allow Tier 1 filings for interim GRC increases subject to refund.

When a Class B, C or D water or sewer system utility files an informal GRC it can ask for rates effective during the current calendar year, or for rates starting at the first of the next calendar year. Most small utilities have not filed GRCs recently, and require additional funds as soon as possible. Because the interim rate is a rate increase and because the original rate case plan decision required a Commission decision for Class A interim increases, it was proper to require increases for informal GRCs to be done by resolution. Now that the requirement for a Commission decision has been modified to the Presiding Officer for Class A interim increases and now that GO-96-B clearly defines various types of advice letter filings to handle various types of requests, we should consider a change in the requirement of Res. No. W-4540. The proper vehicle should be a Tier 1 advice letter. This will allow the earliest implementation of the interim rate and relieve the Commission from having to process an unnecessary advice letter.

### Level of Notice

A Tier 1 advice letter still requires notice to customers. When the informal general rate case proposal (workpapers) is tendered by the utility, Division of Water and Audits (WD) staff prepares a GRC notice. Part of that notice will be the inclusion of language describing the interim increase.

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<sup>2</sup> D.07-05-062 at A-15.

<sup>3</sup> D.07-01-024 at 6.

## Level of Rates

The increase in rates, assuming the utility does not qualify for a cash flow increase would be the rate of inflation as defined in Res. No. W-4540. Even in the case of a cash flow increase the utility is just being allowed to “break-even” and meet its cash needs. This level of rate increase is minimal and subject to final determination in the GRC resolution. It is reasonable to delegate this interim determination to staff.

After the final rates have been determined, recovery of uncollected revenues or the return of over-collected revenues should be identical to those provided for Class A water utilities. The specific method of calculation is contained in D.04-06-019, June 9, 2004, *In the Matter of the Application of California Water Service Company (U 60 W), a Corporation, for an Order Authorizing It to Increase Rates Charged for Water Service at Its Bear Gulch District And Related Matters*. Since the proper amount of final rates will be determined by resolution, and the truing up of interim rates is defined by Commission ruling, the approval of the date for the interim rate increase is ministerial and can be by Tier 1 advice letter.

## **NOTICE AND PROTESTS**

This change in procedure will affect all Class B, C, and D water and sewer system utilities’ customers for all yet to be filed general rate proceedings for their utilities. Notice will be provided in those GRC proceedings.

## **COMMENTS**

Public Utilities Code Section 311(g)(1) provides that this resolution must be served on all parties and subject to at least 30 days public review and comments prior to a vote of the Commission. Section 311(g)(2) provides that this 30-day period may be reduced or waived upon the stipulation of all parties in the proceeding.

The 30-day comment period for the draft of this Resolution was neither waived nor reduced. Accordingly, this draft resolution was mailed to parties for comments. No comments were received.

## **FINDINGS**

1. Res. No. 4540 allowed all Class B, C, and D water and sewer system utilities to file an advice letter to increase rates, subject to refund, to establish an interim date for the final General Rate Case rate increase. The approval was by resolution.

2. D.07-05-062, May 24, 2007 modified the rate case plan to allow a Class A utility to file a motion in the GRC proceeding requesting approval of an interim increase by Presiding Officer ruling.
3. The imposition of an interim rate, subject to refund, is ministerial, based on either a cash flow increase or a consumer price index increase. Recovery of uncollected revenues or refund of over-collected revenues is defined by Commission decision.
4. Res. No. 4540 should be modified to allow Class B, C, and D water and sewer system utilities to receive an interim rate, subject to refund, by Tier 1 advice letter filing.

**THEREFORE IT IS ORDERED THAT:**

1. A Class B, C, or D water or sewer system utility is authorized to file for an interim General Rate Case rate increase based on the consumer price index or cash flow, with the final general rate increase subject to refund back to the date of approval of the increase, by Tier 1 advice letter.
2. Section 7.3.1 of the Water Industry Rules of General order 96-B is modified to add:  
  
    “(10) Interim cash flow or consumer price index rate increase, subject to refund to reflect the final rates determined in an informal general rate case.”
3. 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 September 20, 2007; the following Commissioners voting favorably thereon:

/s/ PAUL CLANON

Paul Clanon  
Executive Director

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

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Class B, C, D Water & Sewer System Utilities/FLC:jrb

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Commissioners