

WATER/FLC:jrb

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

DIVISION OF WATER AND AUDITS

RESOLUTION NO. W-4664

November 1, 2007

R E S O L U T I O N

RESOLUTION NO. W-4664. AMENDS THE WATER INDUSTRY RULES OF GENERAL ORDER 96-B TO PROVIDE EXCEPTIONS TO THE CUSTOMER NOTICE REQUIREMENTS ESTABLISHED BY GENERAL RULE 4.2.

SUMMARY

This resolution exempts certain Tier 1 Advice Letter filings from the notice requirement of General Rule 4.2 of General Order (GO) 96-B.

BACKGROUND

On September 6, 2007 the Commission approved Resolution E-4111 that determined that:

“Unless otherwise directed by a future Commission order, the customer notice provisions of General Rule 4.2 are not required for:

- Advice letters filed by electric, gas, heat, and oil pipeline utilities, which request higher rates or charges, or more restrictive terms or conditions, where the increased rates or charges, or more restrictive terms or conditions requested in the advice letter have been specifically authorized by statute or a prior Commission order;
- Semi-annual, monthly, or weekly advice letters that request changes to gas rates based on changes in the price of gas, or electric rates to recover diesel generation fuel costs, filed pursuant to previous Commission orders establishing these periodic gas and electric rate change procedures; and
- Advice letters filed by electric utilities pursuant to Resolution E-3930 (May 26, 2005) which pass through increases to rates or charges for electric transmission related costs that have been filed with and become effective at the Federal Energy Regulatory Commission (FERC).

All references to General Rules 5.4 and 5.5 appearing in the Energy Industry Rules shall be changed to General Rule 5.3.”

GO 96-B, General Rule 1.4 requires the appropriate Industry Divisions to draft proposed amendments to the Industry Rules whenever any part of the Industry Rules must be amended to ensure consistency with applicable statutes and Commission orders.

General Rule 4.2 requires that unless no notice or a shorter notice is authorized by statute, Industry Rule, or other Commission order, a utility must notify customers when it files an advice letter requesting higher rates or charges, or more restrictive terms or conditions, than those currently in effect. The rule requires that the utility give affected customers 30 days’ notice before the effective date of the advice letter, and sets forth several means of providing notice such as bill inserts, notices on bills, and separate mailing.

Pursuant to General Rule 1.4, the Division of Water and Audits (Division) has drafted this resolution to propose an amendment to the Water Industry Rules to allow exceptions to the customer notice requirements of General Rule 4.2. The amendment is set forth in the ordering paragraphs of this resolution.

DISCUSSION

The Commission has authorized small (Class C and D) water and sewer service utilities to file advice letters annually to increase rates by the consumer price index (CPI offset). This filing is classified as Tier 1 (effective pending disposition) but presently requires a 30 day customer notice. Some small systems do not take advantage of this cost of living increase because of the cost and inconvenience of the notice requirement.

In addition, the Commission has authorized water and sewer service utilities to file advice letters to revise rates based on “offsettable” expense changes. These are pass-throughs of external costs imposed by suppliers and only apply to certain expenses. These are presently classified as Tier 2, but should be classified as Tier 1. Presently, these advice letters require 30-day notice. Even with the notice the Commission has determined that these expenses are not under the utilities’ control and that pass-through is just and reasonable if properly calculated.

And, finally, the Commission has authorized pass-through of additional taxes imposed upon the utility (“utility tax”) by Tier 1 advice letter.

According to existing Commission procedures, these advice letters except for expense offset advice letters, are made effective on the date filed. The 30-day customer notice

requirement of General Rule 4.2 requires the advice letters be noticed thirty days before filing. This can lead to confusion in advice letter numbers if another advice letter is filed in the interim. In a practical sense, a formal notice is not required because the Commission has already found these rate changes to be reasonable. An exception to General Rule 4.2 is warranted for these advice letter filings.

Division recommends that utilities still inform their customers about the rate changes themselves, but not in the form of a notice that could be protested. The company should inform the customer of the basis for the rate change by bill insert, when the increase is included in rates.

COMMENTS

Public Utilities Code section 311(g) (1) requires that draft resolutions be served on all parties and subject to at least 30 days public review and comment prior to a vote of the Commission. A draft of this resolution was mailed for comment to all water and sewer service utilities and other interested parties. Comments were received on October 4, 2007 from California Water Service Company (CalWater) and October 19, 2007 from the California Water Association. Both entities agreed with the changes proposed by the resolution. CalWater also noted that the “no notice” change should also apply to balancing account amortization advice letters as well. This suggestion is well founded. In Decision 06-04-037, April 13, 2006, we characterized the balance accrued in the expense offset reserve accounts as a balancing account, and, except for financial adjustments due to booking errors, eligible for recovery. We note that Industry Rule 8.5 describes recovery of these accounts, that Industry Rule 7.3.1 (1) classified them as Tier 1, and that with the addition of these types of advice letters to Finding 3, their inclusion in the “excluded from notice” advice letters happens automatically with the language presently in the ordering paragraph.

FINDINGS

1. The notice provisions of General Rule 4.2 of GO 96-B are most applicable to those water and sewer service advice letters that request an increase to rates or charges, or more restrictive terms and conditions of service, without prior specific Commission or statutory authority.
2. Exceptions to General Rule 4.2 of GO 96-B are necessary for water and sewer service utility advice letters filed in compliance with Commission orders, or to comply with a specific statute, to implement authorized rate increases, or more restrictive terms or conditions of service.
3. Exceptions to General Rule 4.2 are necessary for CPI offset, expense offset, balancing account amortization, and utility tax advice letters as described in this resolution.

4. Those water and sewer service utilities that are exempt from notice under General Rule 4.2 in accordance with 7.3.1 of the Water Industry Rules of GO 96-B should inform their customers by bill insert of the amount and reason for the increased rates or charges.

THEREFORE IT IS ORDERED THAT:

1. The Water Industry Rules of General Order 96-B are amended to read:

“7.3.1 Tier 1

“The following advice letters are effective pending disposition, *do not require notice under General Rule 4.2*, and are generally subject to approval or rejection by Staff (including deemed approval) pursuant to General Rule 7.6.1, except as indicated below:” (changed language emphasized)

2. An expense offset advice letter (Industry Rule 7.3.2 (4)) is reclassified as Tier 1.
3. Utilities shall inform their customers of the increase in dollar and percentage terms by bill insert, in the first bill that includes the increase.
4. 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 November 1, 2007, the following Commissioners voting favorably thereon:

/s/ PAUL CLANON

Paul Clanon
Executive Director

MICHAEL R. PEEVEY
President

DIAN M. GRUENIECH

JOHN A. BOHN

RACHELLE B. CHONG

TIMOTHY ALAN SIMON

Commissioners