
From: Kelly Cwiertny [Kelly.Cwiertny@bbklaw.com]
Sent: Thursday, March 03, 2011 4:41 PM
To: Dennis Cron
Cc: Tina Kuhns; Frank Robinson
Subject: RE: A.11-01-001. Town of Apple Valley Follow up to Prehearing Conference held Tuesday March 1

Kelly Cwiertny
951-826-8305

From: Dennis Cron [mailto:DCron@applevalley.org]
Sent: Thursday, March 03, 2011 4:38 PM
To: Kelly Cwiertny
Cc: Tina Kuhns; Frank Robinson
Subject: RE: A.11-01-001. Town of Apple Valley Follow up to Prehearing Conference held Tuesday March 1

Kelly,


Dennis

From: Kelly Cwiertny [mailto:Kelly.Cwiertny@bbklaw.com]
Sent: Thursday, March 03, 2011 12:36 PM
To: Dennis Cron
Subject: FW: A.11-01-001. Town of Apple Valley Follow up to Prehearing Conference held Tuesday March 1

Dennis,


-k

Kelly Cwiertny
951-826-8305

From: Kelly Cwiertny
Sent: Thursday, March 03, 2011 8:17 AM
To: 'bmd@cpuc.ca.gov'
Cc: John Brown; Piero Dallarda; Charity Schiller; Jessica L. Hirsch
Subject: A.11-01-001. Town of Apple Valley Follow up to Prehearing Conference held Tuesday March 1

Your Honor,

This email serves as a follow up to Tuesday's Prehearing Conference, in which our colleague, Jessica Hirsch, represented the Town of Apple Valley. Based on Tuesday's hearing, we understand there were a few issues outstanding as to the Town's participation in this proceeding as we move forward.

- The Town is happy to participate in ADR. We understand the evidentiary hearings will be held in San Francisco, and that we may have the option of participating in ADR by video conference (an option that the Parties will work out at a later time). Nonetheless, the Town plans to participate in both.
- The Town will be filing testimony and has filed testimony in previous proceedings, most recently in Golden State Water Company's general rate case in 2008 (A.08-07-010).
- We understand that the schedule discussed and tentatively set at the PHC involved great effort on the part of all those present in identifying dates that worked for the various Parties. Although we do not object to most of the dates proposed, we request that the public participation hearing be held prior to May 10, the date on which DRA's and the Town's testimony is due. While it may be useful to the public to hear the parties' positions prior to attending a public participation hearing, the Town would greatly benefit from having as its testimony those concerns raised by ratepayers at the hearing. Our concern is that the Town here is representing its constituents and rate payers, and the overall proceeding and therefore the Commission would benefit from allowing those ratepayers to state their concerns prior to testimony so that the Town can be a catalyst for those concerns during argument. If your Honor does not agree that formal PUC public participation hearings should be held before testimony is due, the Town will likely hold its own hearings so that it may attach transcripts to its testimony in order to show the magnitude or the dissatisfaction with AVR and this rate increase. Also, the Town is happy to provide the facilities for the public participation hearing and believes that both the afternoon and evening sessions will be well attended. Please provide us with a contact person so that we may arrange to make our facilities available on the date ultimately scheduled.
- One additional note regarding scheduling, in Proceeding A.11-01-019, in which both AVR and the Town are involved, AVR asked for, as part of its Merger Application, a very abbreviated proceeding schedule with no public participation or evidentiary hearings. The Town has protested that Merger Application, and has specifically requested a more thorough schedule for that proceeding that will include formal public participation hearings, testimony, and evidentiary hearings. At this time, because of the disparity between AVR's proposed schedule and the Town's proposed schedule, the Town is of the opinion that may be easier to adjust the scheduling in A.11-01-019 to ensure no conflicts arise with respect to the parallel proceeding, rather than adjusting the dates (with the exception of the public participation hearing) for this proceeding. The Town is prepared to discuss scheduling issues with ALJ Long at Thursday's Prehearing Conference in A.11-01-019.
- As to the issue of the deficient Notice that the Town advanced in its Prehearing Conference Statement, even taking into account Mr. Jordan's statements at yesterday's Prehearing Conference, the Town firmly believes that the Notice sent to AVR's customers was not sufficient to alert them of the compound issues of how the rate increase, the change in tiers, and the change from bimonthly to monthly billing may impact their water rates and how much customers will actually be paying for the water that they use. These matters may be readily apparent to Mr. Jordan given his years of experience in the private sale of water but there is widespread confusion amongst the ratepayers of AVR. The numbers that the Town relied on in its Prehearing Conference Statement were those given to the Assistant Town Manager directly from an AVR Customer Service Representative, who indicated that the 28 Ccf Tier 1 cut off was PER MONTH. This misinformation given out by those who are responsible for direct communication with customers who have questions only compounds the Notice issues. Additionally, the Reports and Appendices that Mr. Jordan was pointing to at the Prehearing Conference as containing the correct current rate structure are not very easily accessible to the public - they are not linked to in this proceeding's docket and they were certainly not mailed to customers along with the Notice. The Deficient Notice is obtuse at best, deficient at worst and the ratepayers deserve a Notice that clearly and adequately explains the proposed rate increase. Just to highlight a few of the glaring issues, the Notice does not provide the average customer any way to compare how the new tier structure will impact their payments, as

there is no indication of what the current tier structure and tier limits are. Additionally, AVR's proposed change from bi-monthly to monthly billing is not even mentioned in the Notice, yet the Notice relates to monthly billing rates and monthly tier amounts. Furthermore, the Town stridently believes that the new tier structure will push many more customers into higher tiers, forcing them to pay more per unit of water than they currently are, resulting in a more than 20% increase in their bills. The Town will brief this issue, if your Honor prefers, whenever necessary so that proper Notice may be circulated to AVR's customers, assuming that AVR still wishes to proceed with this Proceeding and its proposed rate increases in light of Proceeding A.11-01-019 and the impending sale of its assets. If that is the case the Town believes this matter must be renoticed. As previously noted, the Town would be happy to provide examples of notices to AVR that honestly explain such proposed changes in rate structure Please advise on how your Honor would like us to proceed on this issue .

If there are any other issues left outstanding or that were not adequately covered at Tuesday's Prehearing Conference for which additional commentary is required from the Town, please let us know. We will be filing a Notice of Ex Parte Communication regarding this email and any follow up correspondence.

Thank you for your time.

Kelly Cwiertny
Best, Best & Krieger LLP
3750 University Ave., Suite 400
Riverside, CA 92502
p: (951) 826-8305
f: (951) 686-3083

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