

In the Matter of:

AN INCREASE IN ANNUAL WATER SYSTEM OPERATING REVENUES

VOLUME I WR-2017-0343

December 01, 2017



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STATE OF MISSOURI
PUBLIC SERVICE COMMISSION

TRANSCRIPT OF PROCEEDINGS

Procedural Conference

December 1, 2017

Jefferson City, Missouri

Volume 1

In The Matter Of The Request)
For An Increase In Annual Water) File No. WR-2017-0343
System Operating Revenues For)
Gascony Water Company, Inc.)

MICHAEL BUSHMANN, Presiding,
SENIOR REGULATORY LAW JUDGE.

REPORTED BY:

Chevon D. McFadden, CVR, CCR NO. 1399
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PROCEEDINGS

1
2 JUDGE BUSHMANN: Today is December 1st,
3 2017. It's approximately nine o'clock a.m. The
4 Commission has set this time for a Procedural
5 Conference in the case captioned as: In The Matter Of
6 The Request For An Increase In Annual Water System
7 Operating Revenues for Gascony Water Company,
8 Incorporated, File No. WR-2017-0343.

9 My name is Michael Bushmann. I'm the
10 Regulatory Law Judge in this matter. Let's have
11 attorneys making their entries of appearance.

12 For Gascony Water Company.

13 MS. CARTER: Diana Carter with Brydon,
14 Swearngen & England. And I provided a written entry
15 to the court reporter.

16 JUDGE BUSHMANN: For Commission Staff.

17 MR. WESTEN: Jacob Westen representing the
18 Commission Staff. My information has been provided to
19 the court reporter.

20 JUDGE BUSHMANN: And for Office of the Public
21 Counsel.

22 MR. SMITH: Ryan Smith, Senior Counsel with
23 the Office of the Public Counsel. My information has
24 also been previously provided to the court reporter.

25 JUDGE BUSHMANN: Okay. Thank you. The first

1 thing I wanted to talk about -- is somebody on the
2 line?

3 MR. RUSSO: Yes, Mr. Russo.

4 JUDGE BUSHMANN: Okay. Thank you. First
5 thing I wanted to talk about was the partial
6 disposition agreement that was filed by Staff and the
7 Company. And I wanted to talk about this because
8 there's request in here that the Commission approve the
9 partial disposition.

10 The reason I wanted to talk about that was
11 Judge Woodruff and I had an extensive conversation
12 yesterday about the Small Rate Case Rule and I won't
13 say anything about what I think about it, but it is
14 complicated.

15 MR. WESTEN: Yes, it is, Judge.

16 JUDGE BUSHMANN: And in my reading of the
17 Rule it's -- and Judge Woodruff agreed, that we didn't
18 think that a partial disposition agreement or any
19 disposition agreement is exactly identical to a
20 stipulation and agreement under Chapter 2. It seems to
21 be its own animal.

22 And -- so I think that there's different
23 procedures that apply. In reading through to the Rule,
24 it says that when you have a partial disposition
25 agreement -- the Rule seems to contemplate that the

1 parties at that point are going to go into an
2 arbitration process. And I asked Judge Woodruff if
3 that had ever occurred, and to his knowledge, no. No
4 party has ever gone through an arbitration process.
5 But the Rule seems to contemplate that when you have a
6 partial disposition agreement, that that's what's going
7 to happen, because it has extensive procedures for what
8 should happen if you have a partial disposition
9 agreement and arbitration process at the same time.

10 But the Rule says that the parties may
11 contain provisions for an arbitration procedure; it
12 doesn't say "shall," so it's not mandatory.

13 MR. WESTEN: Right.

14 JUDGE BUSHMANN: So there's no -- there's
15 no -- the Rule is silent about what you do in a
16 situation like we have here where we have a partial
17 disposition agreement but without a request for
18 arbitration.

19 But it's my understanding, because of
20 Ms. Mers has cited to Section 21, which talks about
21 when the staff and the utility can't agree, then they
22 want to elect to go and to use contested case
23 procedures. And I'm assuming that what that's what the
24 parties want to do at this point and not go to
25 arbitration, but instead go to --

1 MS. CARTER: Oh, yeah.

2 JUDGE BUSHMANN: -- use the regular,
3 contested case procedures that we're all familiar with.

4 MR. WESTEN: Yes, Judge, I believe that is
5 what Staff intended --

6 JUDGE BUSHMANN: Okay.

7 MR. WESTEN: -- and what we'd be happy to do.

8 JUDGE BUSHMANN: And I think that that would
9 be appropriate, because the Rule does provide for that.

10 It also has a provision right before that
11 where Public Counsel -- if Public Counsel can request
12 an evidentiary hearing and specify a list of issues
13 that thinks should be resolved. So if that's the
14 understanding that I get from the parties, then I think
15 that the appropriate thing to do is just to treat this
16 partial disposition agreement and request for
17 evidentiary hearing as a request by the parties, that
18 at least the Staff and the Company, to kind of get out
19 of the small rate case procedure rule and go instead to
20 the contested case procedures of Chapter 2.

21 And I think if we do that and I could treat
22 this as a request to do that, then I think that it
23 wouldn't be appropriate for the Commission to approve a
24 partial disposition agreement at this point.

25 MR. WESTEN: That's correct.

1 JUDGE BUSHMANN: What would be more
2 appropriate, I think, is if -- say we go ahead and get
3 a procedural schedule and then the parties can follow
4 along in the normal rate case procedures for a hearing.
5 You may decide that after that, at this point before
6 the hearing, you want to submit a stipulation and
7 agreement under Chapter 2. And it may be -- it's
8 the -- exactly the same thing as this. Or you may
9 decide that it's not necessary, the parties are just
10 going to identify disputed issues for the hearing --

11 MR. WESTEN: Right.

12 JUDGE BUSHMANN: -- and everything you've
13 already agreed to gets caught up in the compliance
14 tariffs and figured out at that point.

15 MS. CARTER: Yeah.

16 JUDGE BUSHMANN: So I'll leave that to you to
17 decide as to whether you think that either one of those
18 two options is what you want to do. But I'm just not
19 going to take any action on the disposition agreement
20 at this point because I think it's premature, and we'll
21 just go ahead and get a procedural schedule.

22 Anybody have any objection to any of that?

23 MR. WESTEN: No, Judge.

24 MS. CARTER: No, that sounds great.

25 MR. WESTEN: That is probably one of the most

1 articulate explanations of the -- and reasonable
2 explanations of the small utility rules, and Staff very
3 much appreciates that, Judge.

4 JUDGE BUSHMANN: Well, no problem. And I,
5 unfortunately, well, maybe fortunately, this rule is
6 going away soon, because there's -- it's currently in
7 the works to get it replaced, so we may not have to
8 deal with it much longer.

9 MR. WESTEN: I don't know about that, Judge.

10 JUDGE BUSHMANN: We'll see.

11 MR. WESTEN: We'll see.

12 JUDGE BUSHMANN: Strange things can happen in
13 that process.

14 MR. WESTEN: That's right.

15 JUDGE BUSHMANN: So I guess what we need now,
16 then, is a procedural schedule. I know you've already
17 started working on one.

18 MR. WESTEN: Yes, Judge.

19 JUDGE BUSHMANN: So why don't -- why doesn't
20 Staff file a joint proposed procedural schedule no
21 later than a week from today, which would be
22 December 7th. You can include all the usual case
23 events and -- and we will assume that the -- I think it
24 was eight disputed issues between the Company and
25 Staff, plus the one from Public Counsel would be the

1 issues that would be -- the ones that we will be
2 dealing with in evidentiary hearing.

3 Now, I've got here -- and I'll leave it for
4 you to look at. It's a copy of the adjudication
5 calendar for the -- and my understanding is, from what
6 Staff has filed before on the timeline, that or
7 nine-month deadline is March 19th.

8 MR. WESTEN: That's correct, Judge.

9 JUDGE BUSHMANN: So my reading of the Rule is
10 that the reply briefs, which would be the final
11 submission for the Commission, we need to happen
12 March 19 or before.

13 MR. WESTEN: Correct.

14 JUDGE BUSHMANN: So we'll need to get a
15 hearing sometime -- sometime. The hearing schedule is
16 extremely crowded at this point. I just looked at it
17 before I came down. I wrote a few things in there that
18 are not on the adjudication calendar, like, NARUC is in
19 February. That's three days there. The Commissioners
20 are going to be gone.

21 MS. CARTER: How do you feel about
22 February 23rd? It's a Friday.

23 JUDGE BUSHMANN: The 23rd. Well, do you
24 think one day is going to do it?

25 MS. CARTER: It should.

1 MR. WESTEN: Yeah.

2 JUDGE BUSHMANN: There is the ATXI hearing
3 the 20th, 21st and 22nd.

4 MS. CARTER: Yeah.

5 JUDGE BUSHMANN: So the 23rd -- the
6 Commissioners hate Friday hearings.

7 MS. CARTER: Yes, but you took -- ATXI took
8 our other dates that we were looking at.

9 MR. WESTEN: Right.

10 JUDGE BUSHMANN: And then the week before
11 there's the Thursday and Friday the 15th and 16th, and
12 then the week before that is wide open. But I'll let
13 you make your proposal and I'll ask the Commissioners,
14 and we'll just see what they say.

15 MS. CARTER: Okay.

16 MR. WESTEN: Thank you, Judge.

17 MR. SMITH: Thank you.

18 JUDGE BUSHMANN: Anybody have anything else
19 that you need to talk about before we go off the
20 record?

21 MR. SMITH: No, Judge.

22 MR. WESTEN: I don't think so, Judge.

23 JUDGE BUSHMANN: All right. Hearing none.
24 We're off the record.

25 (Record was closed at 9:10 a.m.)

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CERTIFICATE

I, Chevon D. McFadden, a Certified Verbatim Reporter, Certified Court Reporter, CCR No. 1399, do hereby certify that the foregoing proceeding had in the above-entitled cause was taken by me to the best of my ability and thereafter reduced to typewriting under my direction; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this proceeding was taken, and further, that I am not a relative or employee of any attorney or counsel employed by the parties thereto, nor financially or otherwise interested in the outcome of the action.



Chevon D. McFadden, CVR, CCR No. 1399

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