

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



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A.09-01-013
(Filed January 23, 2009)

Application of California-American Water Company (U210W) for Authorization to Increase its Revenues for Water Service in its Larkfield District by \$648,100 or 23.38% in the year 2010; and \$140,200 or 4.07% in the year 2011 and to Increase its Revenues for Water Service in its Los Angeles District by \$7,886,200 or 41.29% in the year 2010; and \$1,100,000 or 4.09% in the year 2011 and to Increase its Revenues for Water Service in its Sacramento District by \$17,537,800 or 51.29% in the year 2010; and \$5,339,800 or 10.25% in the year 2011.

And Related Matter.

A.09-05-008
(Filed May 11, 2009)

And Related Matter.

A.09-07-002
(Filed July 2, 2009)

**REPLY COMMENTS OF CALIFORNIA-AMERICAN WATER COMPANY ON
THE PROPOSED DECISION OF ADMINISTRATIVE LAW JUDGE ROCHESTER**

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Dated: June 21, 2010

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OF THE STATE OF CALIFORNIA**

Application of California-American Water Company (U210W) for Authorization to Increase its Revenues for Water Service in its Larkfield District by \$648,100 or 23.38% in the year 2010; and \$140,200 or 4.07% in the year 2011 and to Increase its Revenues for Water Service in its Los Angeles District by \$7,886,200 or 41.29% in the year 2010; and \$1,100,000 or 4.09% in the year 2011 and to Increase its Revenues for Water Service in its Sacramento District by \$17,537,800 or 51.29% in the year 2010; and \$5,339,800 or 10.25% in the year 2011.

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I. INTRODUCTION

Pursuant to Rule 14.3(d) of the Rules of Practice and Procedure of the California Public Utilities Commission (“Commission”), California-American Water Company (“California American Water”) hereby submits its reply comments (“Reply Comments”) on the Proposed Decision of Administrative Law Judge Rochester (“PD”), mailed May 25, 2010. These Reply Comments address the comments filed by the Mark West Area Community Services Committee (“MWACSC”), the City of Duarte (“Duarte”), and the City of Bradbury (“Bradbury”)¹ (collectively the “Intervenors”) on the PD. The Intervenors’ comments offer nothing new and the changes that the Intervenors recommend are unnecessary and inappropriate. California American Water recommends the Commission disregard the comments from the Intervenors and adopt the partial settlement between California American Water and the Division of Ratepayer Advocates (“DRA”) as set forth in the PD.

¹ In its comments, Bradbury merely joined in and adopted Duarte’s comments.

II. DISCUSSION

A. The Intervenors' Comments Fail to Cite Any Errors in the Proposed Decision and Merely Reargue Their Earlier Positions

Pursuant to Rule 14.3(c) of the Commission's Rules of Practice and Procedure, comments on a proposed decision must "focus on factual, legal or technical errors in the proposed or alternate decision and in citing such errors shall make specific references to the record or applicable law." Contrary to this Rule, the bulk of the comments filed by the Intervenors merely regurgitate prior criticism of the Partial Settlement and reargue the positions taken in their previously filed briefs. As such, the Intervenors' comments violate Rule 14.3(c) of the Rules of Practice and Procedure. For example, in its comments, MWACSC merely repeats its criticism of Partial Settlement with regard to the Faught Road that it made earlier in its brief.² Similarly, Duarte's comments reiterate its allegations regarding unaccounted for water and cost increases for certain capital projects.³ Rule 14.3(c) states, "Comments which merely reargue positions taken in briefs will be accorded no weight." Accordingly, the Commission should disregard the comments filed by the Intervenors.

B. MWACSC Comments

In its Comments, MWACSC focuses on two issues: (1) the possibility of a five-tier rate design and (2) the Faught Road Well. As it did in its brief, in its comments MWACSC criticizes the Partial Settlement for not implementing a five-tier rate design for the Larkfield District.⁴ A five-tier rate design would, however, conflict with the Commission's long-standing policy regarding block rate designs for water utilities, established in D.86-05-065. In that decision, the Commission stated, "[W]e will allow more than one block (to establish an industrial or conservation oriented rates) to be included in our generic policy. However, we will require that the number of commodity blocks be limited to no more than three."⁵ If the Commission were to rescind this long-standing decision, as MWACSC implies, it would have a significant effect on other water utilities, and as such, should be appropriately addressed in a rulemaking.

² MWACSC Comments, pp. 3-4.

³ Duarte Comments, pp. 4-5.

⁴ MWACSC Comments, p. 3.

⁵ D.86-05-064, *Order Instituting Investigation (Rulemaking) into Water Rate Design Policy*, 1986 Cal. PUC LEXIS 972, *19

MWACSC's discussion of the Faught Road Well project similarly recommends changes that are beyond the scope of an individual general rate case and were, in fact, already considered by the Commission as part of a generic rulemaking. In its comments, MWACSC criticizes the Commission's methodology for calculating source capacity pursuant to the recently updated General Order 103-A.⁶ This calculation demonstrates the need for the Faught Road Well. This methodology, as well as other issues regarding provision of water service, was recently the subject of a lengthy rulemaking proceeding.⁷ The proceeding involved multiple workshops and briefings by engineers, operations specialists, and other experts. It would be inappropriate for the Commission to revise or reject portions of that general order as part of this rate case, as MWACSC suggests.

Similar to its brief, MWACSC's comments make multiple recommendations that would require the Commission to rescind or amend existing orders and decisions that are generally applicable to Class A investor-owned water utilities. As such, the Commission should reject MWACSC's suggested changes to the PD.

C. Duarte Comments

In its comments, as in its earlier brief, Duarte argues that the Commission should not allow any rate increase based upon the level of non-revenue water in the Duarte service area.⁸ Duarte's opposition to the Parties' Partial Settlement is misguided. As an initial matter, Duarte's conclusion that the high non-revenue water percentage is simply due to neglected maintenance is incorrect, an error compounded by Duarte confusing "non-revenue water" with "water loss." The fact is that California American Water will have to incur costs to reduce the system's water loss in the Duarte service area. Duarte's proposal to reject any rate increase, including for capital improvements, would work at cross-purposes to the goal of reducing non-revenue water (or more accurately water loss) in the Los Angeles District. Capital improvements in the Parties' Partial Settlement should enhance California American Water's ability to achieve reductions in non-

⁶ MWACSC Comments, p. 4.

⁷ D.09-09-004, Order Instituting Rulemaking on the Commission's Own Motion to Revise General Order 103, 2009 Cal. PUC LEXIS 455, *42.

⁸ Duarte Comments, pp. 6.

revenue water to the benefit of Los Angeles District customers and for the protection of the District's water resources.

Duarte also repeats from its brief its objection to the overall rate increase resulting from the Partial Settlement. It claims that the Partial Settlement does not meet the Commission's requirement to be "reasonable in light of the whole record, consistent with law, and in the public interest."⁹ Although California American Water reduced its original proposed revenue requirement to address economic conditions even before reaching the compromise settlement with DRA, Duarte argues that the Commission should reject the Parties' Partial Settlement in its entirety because any rate increase would be too high under the current economic condition.¹⁰ Although it argues that the PD fails to explain why the Partial Settlement meets the Commission's requirements,¹¹ Duarte fails to demonstrate that any specific component of the Partial Settlement is unreasonable. As California American Water has explained previously, the Commission has rejected similar contentions from intervenors who did not agree with the compromise reached through settlement:

[Intervenor] has only shown that it believes the revenue requirement should be lower. It has not shown the proposed settlement is not a reasonable compromise even though the compromise is principally between [the utility] and DRA...[Intervenor] has not shown that we must discard the settlement and resolve every individual issue in order to adopt just and reasonable rates. [Intervenor] merely argued the settlement "could be prettier, smarter or snazzier" or lower, not that it was unreasonable.¹²

Contrary to Duarte's claims, an extensive record supports the Partial Settlement. As part of this proceeding, the E-RA and California American Water submitted extensive testimony concerning the revenue requirement and rate design issues that are the subject of the Partial Settlement. California American Water has submitted direct testimony with the application in the consolidated proceeding, updated direct testimony to reflect the changes made in the Second

⁹ Duarte Comments, p. 5, citing Rule 12.1(d).

¹⁰ Duarte Comments, p. 6.

¹¹ Duarte Comments, pp .3-4.

¹² D.08-07-046, *Application of San Diego Gas & Electric Company*, 2008 Cal. PUC LEXIS 281, *47; see, also, D.94-09-064, *Application of Southern California Edison Company (U 338-E) for Authority to Sell Yuma-Axis Generating Station and Related Properties*, 1994 Cal. PUC LEXIS 632, **1, 19 (rejecting a party's argument against the settlement agreement where the party did not participate in the settlement discussions and the settlement otherwise met the standard of reasonableness, consistency with the law, and was in the public interest); Reply Comments of California-American Water Company on the Settlement Agreement, February 3, 2010, p. 5.

Update and rebuttal testimony. DRA has submitted direct GRC testimony and additional testimony addressing issues raised in A. 09-05-008 and A.09-07-002.

The Partial Settlement, together with the record in the proceeding, conveyed sufficient information to permit the Commission to make a decision regarding approval of the Settlement. That information is sufficient to support the statements set forth in the PD. The Commission should reject Duarte's suggested modifications to the PD and adopt the Partial Settlement as filed.

D. Further Suggested Changes

California American Water and DRA also propose to clarify the PD pertaining to the Duarte system irrigation rates. The PD states that the "the overall Los Angeles District rate increase will not apply generally to Duarte customers."¹³ In fact, the Los Angeles District rate increase *does* apply generally to Duarte customers. The irrigation customers are a sub-sector for which Parties have agreed to a different rate increase.

The Proposed Decision should reflect that the Parties agreed to shift \$55,000, which is equal to one half of the non-revenue water costs generated by the Duarte irrigation system, from the revenues collected from all Los Angeles District customers to the portion of the revenue requirement collected specifically from irrigation customers.

III. CONCLUSION

California American Water respectfully requests that the Commission disregard the Intervenor comments adopt the PD, with the modifications suggested herein and in its opening comments.

Dated: June 21, 2010

Respectfully submitted,

MANATT, PHELPS & PHILLIPS, LLP

By: _____

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California-American Water Company

¹³ PD, p. 30.

PROOF OF SERVICE

I, Cinthia A. Velez, declare as follows:

I am employed in the City and County of San Francisco, California. I am over the age of eighteen years and not a party to this action. My business address is MANATT, PHELPS & PHILLIPS, LLP, One Embarcadero Center, 30th Floor, San Francisco, California 94111-3719. On June 21, 2010, I served the within:

Reply Comments of California-American Water Company on the Proposed Decision of Administrative Law Judge Rochester

on the interested parties in this action addressed as follows:

See attached service list

- (BY CPUC E-MAIL SERVICE)** By transmitting such document electronically from Manatt, Phelps & Phillips, LLP, San Francisco, California, to the electronic mail addresses listed above. I am readily familiar with the practice of Manatt, Phelps & Phillips, LLP for transmitting documents by electronic mail, said practice being that in the ordinary course of business, such electronic mail is transmitted immediately after such document has been tendered for filing. Said practice also complies with Rule 2.3(b) of the Public Utilities Commission of the State of California and all protocols described therein.

- (BY MAIL)** By placing such document(s) in a sealed envelope, with postage thereon fully prepaid for first class mail, for collection and mailing at Manatt, Phelps & Phillips, LLP, San Francisco, California following ordinary business practice. I am readily familiar with the practice at Manatt, Phelps & Phillips, LLP for collection and processing of correspondence for mailing with the United States Postal Service, said practice being that in the ordinary course of business, correspondence is deposited in the United States Postal Service the same day as it is placed for collection.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration was executed on June 21, 2010, at San Francisco, California.



Cinthia A. Velez

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