

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



FILED

10-24-11
04:59 PM

Application of California-American Water Company (U210W), California Water Service Company (U60W), Golden State Water Company (U133W), Park Water Company (U314W) and Apple Valley Ranchos Water Company (U346W) to Modify D.08-02-036, D.08-06-002, D.08-08-030, D.08-09-026, D.08-11-023, D.09-05-005, D.09-07-021, and D.10-06-038 regarding the Amortization of WRAM-related Accounts.

Application 10-09-017
(Filed September 20, 2010)

**REPLY BRIEF OF APPLICANTS
CALIFORNIA WATER SERVICE COMPANY (U60W),
GOLDEN STATE WATER COMPANY (U133W),
PARK WATER COMPANY (U314W), AND
APPLE VALLEY RANCHOS WATER COMPANY (U346W)**

NOSSAMAN LLP

Martin A. Mattes
Mari R. Lane

50 California Street, 34th Floor
San Francisco, CA 94111
Tel: (415) 398-3600
Fax: (415) 398-2438
E-mail: mlane@nossaman.com

Attorneys for APPLICANTS
California Water Service Company, Golden
State Water Company, Park Water Company,
and Apple Valley Ranchos Water Company

October 24, 2011

SUBJECT INDEX

	Page
I. INTRODUCTION	2
II. OPEN OR CONTESTED ISSUES	3
A. ISSUE 1: WRAM/MCBA Balances above 30% Should Be Amortized Over a Period Not to Exceed 36 Months.	3
B. ISSUE 7: The Utilities Should Have the Discretion to Use the “First In, First Out” Accounting for Amortized Balances.....	4
C. ISSUE 9: Amortization of the 2009 and 2010 WRAM/MCBA Balances Should Be Accelerated.....	5
D. DRA’s Proposal to Apply the “Same Amortization Processes” to All Class A Water Utilities with WRAM/MCBA Accounts is Unnecessary	6
E. The Appropriate Forum for Ongoing Examination of the WRAM/MCBA Mechanism Is the GRC.....	6
F. DRA’s Criticism of Applicants’ Sales Forecasts Is Without Merit or Apparent Purpose.....	7
III. CONCLUSION.....	9

TABLE OF AUTHORITIES

	Page
CALIFORNIA PUBLIC UTILITIES COMMISSION CASES	
<i>Re Valencia Water Company,</i> Decision 10-12-029, issued December 16, 2010	6
CALIFORNIA PUBLIC UTILITIES COMMISSION RULES AND RULINGS	
Rules of Practice and Procedure Rule 13.11	1
OTHER AUTHORITIES	
Administrative Law Judge Ruling, issued August 29, 2011	7
California Public Utilities Commission, Water Division, Standard Practice U-27-W	4
Financial Accounting Standards Board, Accounting Standards Codification 980-605-25, Emerging Issues Task Force Issue No. 92-7	4, 5

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

Application of California-American Water Company (U210W), California Water Service Company (U60W), Golden State Water Company (U133W), Park Water Company (U314W) and Apple Valley Ranchos Water Company (U346W) to Modify D.08-02-036, D.08-06-002, D.08-08-030, D.08-09-026, D.08-11-023, D.09-05-005, D.09-07-021, and D.10-06-038 regarding the Amortization of WRAM-related Accounts.

Application 10-09-017
(Filed September 20, 2010)

**REPLY BRIEF OF APPLICANTS
CALIFORNIA WATER SERVICE COMPANY (U60W),
GOLDEN STATE WATER COMPANY (U133W),
PARK WATER COMPANY (U314W), AND
APPLE VALLEY RANCHOS WATER COMPANY (U346W)**

Pursuant to Rule 13.11 of the Commission’s Rules of Practice and Procedure and the schedule established by Administrative Law Judge (“ALJ”) Walwyn at the conclusion of evidentiary hearings on September 29, 2011, Applicants California Water Service Company (“Cal Water”), Golden State Water Company (“Golden State”), Park Water Company (“Park”), and Apple Valley Ranchos Water Company (“AVR”), collectively referenced as “Applicants”¹ herein, respectively submit their joint Reply Brief in the above-captioned proceeding. In response to DRA’s opening brief, Applicants wish to note the encouraging degree of consensus

¹ An additional applicant utility, California-American Water Company (“California-American”), has previously filed a motion for leave to withdraw from this proceeding, and was excused by ALJ Walwyn from participating in the recent evidentiary hearings. The present Reply Brief addresses the issues in this proceeding solely as they relate to Applicants and is not intended to propose or imply how such issues should be resolved with respect to California-American.

reached between the parties on most of the issues presented in this proceeding, and to address the remaining points of disagreement.

I.

INTRODUCTION

Applicants are pleased that DRA has taken a position of support on a number of the Applicants' proposals to address the amortization of their WRAM/MCBA account balances. In particular, DRA's opening brief recommends the Commission adopt the following:

- ISSUE 2 (the submission of a nine-month report by November 30th of each calendar year that would include data through September 30th);
- ISSUE 3 (the submission of annual amortization requests by Tier 1 advice letter on or before March 31st of each calendar year);
- ISSUE 4 (the option to request amortization of WRAM/MCBA balances without first reaching a certain "trigger" percentage);
- ISSUE 5 (setting the "trigger" for amortization of WRAM/MCBA balances at a percentage consistent with other balancing accounts);
- ISSUE 6 (amortization by surcharges on quantity charges and surcredits on service charges);
- ISSUE 8 (authorizing the carryover of over- or under-amortization amounts into a subsequent annual amortization filing); and
- Applicants' proposal to modify existing amortization periods, as more fully detailed in Section A, below.

These reasonable modifications do much to improve existing amortization procedures and should be adopted, notwithstanding DRA's unexplained alternative position of maintaining the status quo.² As detailed at length in Applicants' testimony,³ DRA's suggestion, now offered in the alternative, that the Applicants simply recognize

² DRA Opening Brief, at 7-8.

³ Tr. 77:12-86:16 (Smegal/Jordan/Garon), 108:8-21 (Garon); Applicants Opening Brief, at 7-8.

WRAM/MCBA under-collections as deferred revenue, is an inadequate remedy that fails to address the serious financial stability, intergenerational equity and cash flow problems caused by the currently required amortization procedures and demonstrates DRA's misunderstanding of the impact of those current procedures on the utilities' financial statements.⁴ DRA's alternative position should be disregarded and, together with the proposals described in Section II, the aforementioned consensus positions should be adopted.

II.

OPEN OR CONTESTED ISSUES

Despite reaching agreement with Applicants on several issues, DRA's opening brief fails to address or rejects certain proposals critical to the adoption of a comprehensive approach to the timely-amortization of WRAM/MCBA account balances.

A. ISSUE 1: WRAM/MCBA Balances above 30% Should Be Amortized Over a Period Not to Exceed 36 Months.

As briefly noted above, DRA's opening brief recommends that the Commission accept Applicants' proposal to apply an 18-month amortization period for under-collected balances between 5% and 15% and Applicant's "counter proposal" to recover balances of between 15% and 30% over the least number of months between 19 and 36 that is consistent with having the surcharge not exceed 10% of the last authorized revenue requirement.⁵ DRA's opening brief does not address, however, the event – unlikely as it may be – of an under-collected balance exceeding 30% of revenue requirement. Applicants propose to maintain the

⁴ "Recognizing WRAM/MCBA under-collections as deferred revenue" would cause the utilities to remove the revenues from its financial statements thereby understating its financial performance. Tr. 108:17-21 (Garon).

⁵ DRA Opening Brief, at 6-7.

maximum 36-month⁶ amortization period in such cases that is provided for under Standard Practice U-27-W. Although a 36-month amortization period for under-collections of this magnitude would result in surcharges exceeding 10% in a given year, it appropriately balances the need to minimize “rate shock” for ratepayers⁷ and the accounting, financial and intergenerational equity concerns noted above.

B. ISSUE 7: The Utilities Should Have the Discretion to Use “First In, First Out” Accounting for Amortized Balances.

DRA’s opening brief is internally inconsistent with respect to the issue of “First In, First Out” (“FIFO”) accounting of amortized WRAM/MCBA balances. In its summary at page 5, DRA recommends that the Commission require that Applicants use the FIFO method in order to recover the oldest WRAM/MCBA balances first. Later, at pages 10 and 11, DRA states that it agrees with Applicants that water utilities should have the discretion to use the FIFO method but recommends that the Commission “take no action” on this issue. Because DRA’s summary recommendation directly contradicts the record of agreement on the discretionary nature of the accounting procedure, that recommendation should be disregarded.⁸

Furthermore, DRA mischaracterizes the record with respect to its contention that Applicants “agree with DRA and no longer request any Commission ruling” on the issue of FIFO.⁹ In response to examination by ALJ Walwyn, Applicants agreed with DRA’s conclusion in its report that the utilities should “have the discretion to use FIFO for determination of revenue recognition under the EITF [92-7],” which was a change in position

⁶ Current maximum under Standard Practice U-27-W.

⁷ See Tr. 218:4-22 (Rasmussen) for a discussion of rate shock and DRA’s position that rate increases over 50% should be prevented.

⁸ Tr. 181:13-26 (Jordan).

⁹ DRA Opening Brief, at 10-11.

from the Application.¹⁰ This consensus recommendation was for the Commission to recognize the utilities' discretion to use FIFO for revenue recognition in the context of EITF Issue No. 27, but not to "take no action."¹¹

C. ISSUE 9: Amortization of the 2010 WRAM/MCBA Balances Should Be Accelerated.

DRA opposes Applicants' proposal to accelerate recovery of 2010 WRAM/MCBA balances on the basis that it did not have the opportunity to conduct any analysis of this "new" and "untested" request.¹² DRA's contention entirely ignores ALJ Walwyn's direction to the Applicants to submit late-filed exhibits showing the impact of accelerating these balances in combination with the impact of revised amortization rules for 2011 and subsequent balances, and further ignores that DRA was given a week to review such filings before the submission of opening briefs. We presume, by virtue of DRA's October 14, 2011 electronic correspondence expressing no objections to submitting such filings into evidence, that DRA did, in fact, review these exhibits. DRA also had ample time to consider the acceleration concept as originally proposed for application to the amortization of 2009 WRAM/MCBA balances. DRA's attempt to dismiss Applicants' proposal as "new" and "untested" is disingenuous and contrary to the facts. Applicants urge the Commission to authorize the filing of a Tier 1 advice letter to accelerate amortization of outstanding 2010 balances in a manner consistent with the goals of this proceeding. Doing so will help ensure that the Applicants' 2010 balances will be fully recovered by the end of 2012, thereby avoiding the serious consequences associated with delayed recovery.

¹⁰ Tr. 181:19-182:2 (Jordan/Smegal).

¹¹ Tr. 181:19-28 (Jordan/Smegal); see also, Applicants' Opening Brief, at 29.

¹² DRA Opening Brief, at 12-13.

D. DRA’s Proposal to Apply the “Same Amortization Processes” to All Class A Water Utilities with WRAM/MCBA Accounts is Unnecessary.

DRA proposes to apply the same “processes” adopted by the Commission in this proceeding to California-American and Valencia Water Company (“Valencia”). Having initiated this proceeding as a joint effort to achieve a consistent result with respect to amortization procedures, the Applicants certainly support DRA’s aspiration. However, it would not be appropriate to “apply” the procedures adopted in this proceeding to California-American and Valencia. Valencia has already agreed, by virtue of its Supplemental Settlement Agreement with DRA approved in D.10-12-029, to follow the amortization procedures adopted by the Commission in this application, but Valencia is not a party and so should not be subject to an order in this proceeding.¹³ On June 23, 2011, California-American filed a Motion to Withdraw from this proceeding. Although there has yet to be a ruling on this motion, California-American was excused from participating in the evidentiary hearings in this case, and so the procedures adopted here should not be applied to California-American absent due consideration in a proceeding to which California-American is an active party.

E. The Appropriate Forum for Ongoing Examination of the WRAM/MCBA Mechanism Is the GRC.

DRA does not dispute that ongoing review and evaluation of the WRAM/MCBA mechanisms should occur in the GRCs of each utility, but continues to push for a prehearing conference (“PHC”) to initiate a second phase in this proceeding. DRA argues that a second phase would allow the Commission to “address WRAM/MCBA net balances greater than

¹³ D.10-12-029, at OP 1 (clarifying that “upon Commission adopting of the Water Revenue Adjustment Mechanism and Modified Cost Balancing Account amortization procedures in Application 10-09-017, these procedures would also apply to Valencia”)

fifteen percent and create a more formal review process for all conservation rate design pilot programs.”¹⁴

DRA fails to indicate why or how the comprehensive GRC process does not afford the Commission and the parties this very opportunity, and continues to use California-American – a company no longer participating in this proceeding – as the sole rationalization for a “safeguard” against “exceptional circumstances.” As noted in an ALJ’s Ruling issued on August 29, 2011, for a Pre-hearing Conference in A.10-07-007, 10-09-017 and A.04-09-019, this issue as it relates to California-American is already being considered in two additional proceedings specific to that utility. To add a phase 2 to this proceeding would exacerbate a duplication problem the Commission already has recognized. DRA thoroughly fails to justify expanding the scope of the current application. Its proposal to initiate a second phase should be rejected.

F. DRA’s Criticism of Applicants’ Sales Forecasts Is Without Merit or Apparent Purpose.

DRA urges the Commission to disregard the impact of inaccurate sales forecasts on the magnitude of WRAM under-collections on the basis that sales forecasts have been the subject of settlement between Applicants and DRA during recent GRCs.¹⁵ That the parties have negotiated sales forecasts in the context of comprehensive settlement agreements neither discredits nor undermines the validity of Applicants’ position. Simply because a water utility felt obligated by the Rate Case Plan to propose sales forecasts based on a certain calculation, or that the sales forecasts came out of a settlement with DRA, does not mean that the sales forecast is any more accurate or any less of a problem.

¹⁴ DRA Opening Brief, at 18-19.

¹⁵ DRA Opening Brief, at 17-18.

DRA also argues that high WRAM balances are not the result of flawed sales forecasts, stating that the water utilities have used the modified Bean method of sales forecasting “for decades, whereas the WRAM/MCBA under-collections problem is very new.”¹⁶ DRA ignores the significant variations that have been made in that methodology through the years. Most significantly, the most recent change to the New Committee Method eliminated the use of conservation and price-elasticity variables.¹⁷ DRA further ignores the fact that the recent WRAM balances result from sales forecasts made years ago, before the problem was recognized. As Applicants have consistently asserted in this proceeding, it is this inability to consider conservation impacts that has contributed to faulty projections and high WRAM under-collections.¹⁸

Moreover, DRA’s assertions that that Applicants “contradicted themselves” and “were quick to change their response” with respect to whether the WRAM/MCBA balances were a problem mischaracterizes the record.¹⁹ In fact, Applicants never wavered from their position that the WRAM mechanism works as intended and that the best way to diminish future WRAM under-collections is to improve the accuracy of sales forecasts. While Applicants recognize the impacts that high WRAM balances have on their customers, such balances do not “indicate that there’s a problem with the WRAM mechanism” itself.²⁰ Consequently, if there is a “problem” of unexpectedly large WRAM under-collections, the solution to that “problem” is not to limit or eliminate the WRAM mechanism, which simply tracks the difference between

¹⁶ DRA Opening Brief, at 16-17.

¹⁷ Tr. 45:10-48:27.

¹⁸ Tr. 34:13-36:23 (noting that the energy utilities are allowed to use more sophisticated sales forecasting and recover balances over a 12-month period) (Smegal/Jordan).

¹⁹ DRA Opening Brief, at 5-6, 17-18.

²⁰ Tr. 102:24-103:10 (Garon/Jordan).

adopted and actual sales, but rather to improve the accuracy of sales forecasts.²¹ As detailed in Section E. above, the correct forum to evaluate sales forecasts is in the water utilities' respective GRC proceedings.

III.

CONCLUSION

For all the reasons stated above, as well as in Applicants' opening brief, Applicants respectfully request that the Commission resolve the issues presented in this proceeding by modifying the procedures for amortizing WRAM/MCBA balances according to Applicants' proposals and to close this proceeding.

Respectfully submitted,

NOSSAMAN LLP

Martin A. Mattes
Mari R. Lane



By _____
Mari R. Lane

50 California Street, 34th Floor
San Francisco, CA 94111
Tel: (415) 398-3600
Fax: (415) 398-2438
E-mail: mlane@nossaman.com

Attorneys for APPLICANTS
California Water Service Company, Golden
State Water Company, Park Water Company,
and Apple Valley Ranchos Water Company

October 24, 2011

²¹ Tr. 35:22-36:2 (Jordan).