

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA



FILED
04-09-12
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)

**COMMENTS OF THE DIVISION OF RATEPAYER ADVOCATES
ON THE PROPOSED DECISION OF
ADMINISTRATIVE LAW JUDGE WALWYN**

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April 9, 2012

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I. INTRODUCTION

Pursuant to Rule 14.3 of the California Public Utilities Commission's ("Commission") Rules of Practice and Procedure, the Division of Ratepayer Advocates respectfully submits its comments on the Proposed Decision ("PD") of Administrative Law Judge ("ALJ") Christine M. Walwyn addressing amortization of the Water Revenue Adjustment Mechanism ("WRAM") and Modified Cost Balancing Accounts ("MCBA") and granting in part modification to Decisions ("D.") 08-02-036, D.08-06-002, D.08-08-030, D.08-09-026, and D.09-05-005 (hereafter, the "WRAM/MCBA decisions").

The PD adopts adjustments to the schedule and process used to recover over- or undercollections in the WRAM/MCBA used by the four Class A water utilities: Apple Valley Ranchos Water Company, California Water Service Company, Golden State Water Company, and Park Water Company (hereafter, the "Applicants"). The PD implements a 7.5% annual Advice Letter ceiling for WRAM/MCBA undercollections over 10% of the last authorized revenue requirement, with additional review and recovery of any remaining balances requiring amortization beyond 36 months to be done in each of the Applicants' regularly scheduled general rate case ("GRC"). The PD also clarifies and modifies seven various aspects of the Advice Letter WRAM/MCBA balancing account procedures, as requested by the Applicants, and denies the Applicants' request to accelerate amortization of 2010 account balances. Finally, the PD grants California-American Water Company's ("Cal Am") motion to withdraw from this proceeding.

DRA supports the PD but recommends additional clarification and limited modifications to the PD on three issues:

1. A process to ensure that the Applicants provide sufficient customer notice of any substantial rate increases associated with undercollected WRAM/MCBA balances in each of their respective GRCs;
2. The Commission should clarify that the WRAM/MCBA mechanism does not provide the Applicants with an "incentive" to agree to high sales forecasts in their GRC proceedings;
3. The Commission should clarify that only "quantity" revenues are tracked in the WRAM/MCBA.

II. DISCUSSION

A. **DRA supports the cap on WRAM/MCBA undercollections, however, the PD should require the Applicants to provide customer notice in their GRCs for amounts above this cap.**

Regarding the issue of the length of amortization for WRAM/MCBA undercollections, DRA recommended in its briefs, with two important conditions, to accept the Applicants' counter proposal to amortize balances less than 5% of the last authorized revenue requirement in twelve months, to amortize balances between 5 and 15% of the last authorized revenue requirement over eighteen months, and to recover balances above 15% through surcharges equal to or less than 10% of the last authorized revenue requirement with a maximum amortization period of thirty-six months.¹ The two conditions to DRA's recommendation were: 1) for the Commission to use the same rules for amortization across all utilities with WRAMs/MCBAs and 2) to convene a PHC as a formal safeguard mechanism for instances where WRAM/MCBA balances are extremely high, with a focus on districts with the highest bill impacts.² In the alternative, DRA recommended the Commission continue to follow the general balancing account amortization period guidelines within the current standard practice and decisions from Rulemaking 01-12-009.³

Although the PD does not adopt a formal safeguard PHC mechanism and does not ensure the same amortization period rules across all Class A water utilities with WRAMs/MCBAs, the PD does provide an alternative reasonable safeguard of a limit on WRAM/MCBA surcharges of 7.5% per year for each year of WRAM/MCBA undercollections. For the Commission's convenience, a comparison of these three WRAMs/MCBAs balance amortization time periods is provided below in Table A:

¹ DRA Opening Brief, pp. 7, 19-20.

² Id. at pp. 19-20.

³ Id. at p. 7.

Table A - Proposed WRAM/MCBA balancing account amortization time periods

WRAM/MCBA undercollections as a % of the district's last authorized revenue requirement	Amortization Period		
	SP U-27-W Balancing Account Guidelines	Applicants' Proposal in Rebuttal Testimony	Proposed Decision
2% - 5%	12 months	12 months	12 months
5% - 10%	24 months	18 months	18 months
10% - 15%	36 months		19 to 36 months (10% per year as a guide with no cap)
15% - 22.5%		Recovered in the next GRC	
22.5% - 30%		36 months	
Over 30%			

The PD explains that in reviewing the Applicants' proposals to shorten the Advice Letter amortization schedule, the Commission's primary concern is that "customers will be exposed to substantial rate increases without any notice or opportunity to be heard."⁴ DRA recognizes that the only notification customers currently receive concerning a rate increase due to a WRAM/MCBA surcharge is a bill insert in the customer's first bill that includes the surcharge.⁵ Although DRA supports the PD's 7.5% annual Advice Letter ceiling for WRAM/MCBA undercollections with additional review and recovery of any remaining balances requiring amortization beyond 36 months to be done in the Applicants' GRC proceedings, DRA's concern is that the pending amounts held in any

⁴ PD, p. 18.

⁵ See General Order 96-B, Water Industry Rule 3.2: "Following an advice letter increasing rates as a Balancing Account amortization, CPI offset, expense offset, or pass-through of additional taxes, the Utility shall inform its customers, by bill insert in the first bill that includes the increase, of the amount of the increase, expressed in dollar and percentage terms."

memorandum or balancing account are currently not specified in GRC customer notices and would not provide additional customer notice or an opportunity to be heard.

DRA also recognizes that in a review of residual WRAM/MCBA amounts in a GRC, as with a review in an Advice Letter, there is a presumption of reasonableness for amounts tracked in balancing accounts. This means that it is likely that any adjustments to the remaining balance would only be considered in extraordinary situations or if the amounts were not properly tracked in the account. An extraordinary situation would be similar to what was seen in Cal Am's Monterey's District (a District widely discussed throughout this proceeding) where ratepayers were disproportionately affected by the WRAM/MCBA mechanism.

In order to address the Commission's primary concern that customers receive proper notice and have an opportunity to be heard, DRA recommends that information specific to review and recovery of the WRAM/MCBA undercollections that exceed the cap established by this decision, and that will be reviewed in the Applicants' GRC proceedings, be included in the GRC customer notice. DRA fully supports the PD's implementation of a 7.5% annual Advice Letter ceiling on WRAM/MCBA surcharges with review and recovery of residual amounts in each Applicants' GRC. DRA believes such a safeguard appropriately allows review of high WRAM/MCBA balances on a district-by-district basis, provides an ability to set unique terms beyond 36 months,⁶ and is consistent with the language of Public Utilities Code § 739.8(c) and (d).⁷ Nevertheless,

⁶ The unique circumstances of Monterey that have been discussed widely throughout this proceeding have caused Cal Am's Monterey District ratepayers to be disproportionately affected by the WRAM/MCBA. In its April 8, 2011 compliance filing, DRA presented several alternative actions available to address the undercollections in Cal Am's Monterey District including options on how the surcharge is implemented (on the entire bill versus on the quantity rate) and converting to a Monterey-style WRAM.

⁷ Affordability and the ability to support conservation pilot programs and the WRAM/MCBA mechanism should be considered as set forth in Public Utilities Code § 739.8 (c) and (d):

739.8(c): The Commission shall consider and may implement programs to assist low-income ratepayers in order to provide appropriate incentives and capabilities to achieve water conservation goals.

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to ensure proper notification is provided to customers in districts where the cap has taken effect and the impact of the remaining balance is under review in the GRC, DRA recommends that the following ordering paragraph be added to the PD as Ordering Paragraph 4:

4. If a WRAM/MCBA balance exceeds the limit established in this decision and for this reason is included in a General Rate Case, the GRC customer notice shall state the amount of the proposed surcharge associated with these WRAM/MCBA account balances that exceeded the limit expressed in both dollar and percentage terms for the entire balance, as well as, for each customer classification along with a brief statement of the reasons the surcharge is required or sought.

B. The PD should exclude language that indicates the WRAM/MCBA mechanism induces the Applicants to agree to a high sales forecast.

The PD clarifies that the WRAM/MCBA mechanisms have behaved differently than the energy revenue mechanisms, and the Commission's stated expectations.⁸ It concludes that the majority of account balances have been substantial undercollections, however, because of the "limited data available in this record" it cannot conclude what the specific cause(s) of those undercollections are but the Commission has seen a correlation between high volatility and districts with the smallest number of customers.⁹ The PD correctly recognizes that the WRAM/MCBA mechanisms have behaved differently than the energy mechanisms and do not comport with the Commission's expectations. However, the PD's conclusion that the WRAM/MCBA mechanisms "may provide applicants an *incentive* to make or to agree to high GRC sales forecasts"¹⁰ is erroneous. This assertion is not supported by the record and is not consistent with what

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739.8(d): In establishing the feasibility of rate relief and conservation incentives for low-income ratepayers, the commission may take into account variations in water needs caused by geography, climate and the ability of communities to support these programs.

⁸ PD, p. 15, (emphasis added).

⁹ PD, pp. 15-16.

DRA has observed in recent GRC proceedings where sales forecasts have generally been settled at very low levels.

DRA therefore recommends that the PD eliminate the language on page 16 stating that “adopted sales forecasts may have played a significant role in the high undercollections” and concluding that “the WRAM/MCBA mechanisms may provide applicants an incentive to make or to agree to high GRC sales forecasts.”¹¹ The final Decision should reflect the following edit to Finding of Fact 9:

9. ~~The adopted sales forecasts may have played a significant role in causing the high WRAM/MCBA undercollections. These forecasts were~~ are typically included as part of settlements in the GRCs. ~~With a WRAM/MCBA mechanism in place, the applicants would have an incentive to agree to a settlement that included a high sales forecast.~~ If actual sales revenue fell below authorized revenue requirement (which is likely to happen given a high sales forecast), applicants would return the following year(s) of the GRC cycle to seek surcharges through the Advice Letter process.

C. The PD should clarify that the WRAM/MCBA mechanism tracks only quantity revenues.

DRA identifies what is most likely a technical omission in the PD related to how the WRAM/MCBA mechanism captures the effects of all changes between adopted and actual revenues. Because the WRAM/MCBA mechanism was implemented as part of the conservation pilot program, it was developed to capture only those revenues impacted by conservation. Therefore, only the revenue from the quantity charge, and not the service charge, is tracked in the WRAM/MCBA mechanism. In order for the Commission to clarify this technical omission, DRA recommends that the final Decision make the following edit to the third sentence found on page 12 of the PD:

“While we understood the WRAM/MCBA mechanisms would capture the effects of all changes between adopted and

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¹⁰ PD, p. 16.

¹¹ *Id.*

actual quantity revenues, we expected the mechanisms to operate in a similar manner to our electric utilities' revenue adjustment mechanism.”

III. CONCLUSION

For the reasons stated above, DRA urges the Commission to adopt the Proposed Decision of Administrative Law Judge Walwyn with the limited modifications and clarifications suggested above. Appendix A includes DRA's recommended modifications to the Findings of Fact and Ordering Paragraphs of the PD.

Respectfully submitted,

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April 9, 2012

APPENDIX A

PROPOSED CHANGES TO ORDERING PARAGRAPHS AND FINDINGS OF FACT

(Proposed additions are included with underlines and proposed deletions with strikethroughs.)

Findings of Fact:

Change the following Finding of Fact 9.

9. ~~The a~~A ~~adopted sales forecasts may have played a significant role in causing the high WRAM/MCBA undercollections. These forecasts were~~ are typically included as part of settlements in the GRCs. ~~With a WRAM/MCBA mechanism in place, the applicants would have an incentive to agree to a settlement that included a high sales forecast.~~ If actual sales revenue fell below authorized revenue requirement (which is likely to happen given a high sales forecast), applicants would return the following year(s) of the GRC cycle to seek surcharges through the Advice Letter process.

Conclusions of Law:

Add the following Ordering Paragraph as Ordering Paragraph 4.

4. If a WRAM/MCBA balance exceeds the limit established in this decision and for this reason is included in a General Rate Case, the GRC customer notice shall state the amount of the proposed surcharge associated with these WRAM/MCBA account balances that exceeded the limit expressed in both dollar and percentage terms for the entire balance, as well as, for each customer classification along with a brief statement of the reasons the surcharge is required or sought.

Other (technical omission):

DRA identifies what is most likely a technical omission in the PD related to adopted and actual revenues. DRA recommends that the Commission clarify the third sentence on page 12 of the PD to read:

“While we understood the WRAM/MCBA mechanisms would capture the effects of all changes between adopted and actual [quantity](#) revenues, we expected the mechanisms to operate in a similar manner to our electric utilities’ revenue adjustment mechanism.”