

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA



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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 COMMENTS ON PROPOSED DECISION OF ALJ WALWYN
OF APPLICANTS CALIFORNIA WATER SERVICE COMPANY (U60W),
GOLDEN STATE WATER COMPANY (U133W),
PARK WATER COMPANY (U314W), AND
APPLE VALLEY RANCHOS WATER COMPANY (U346W)**

Thomas F. Smegal
Vice President, Regulatory Matters
CALIFORNIA WATER SERVICE COMPANY
1720 North First Street
San Jose, CA 95112-4598
Tel: (408) 367-8219
Fax: (408) 367-8426
Email: tsmegal@calwater.com

Leigh K. Jordan
Executive Vice President
PARK WATER COMPANY and APPLE
VALLEY RANCHOS WATER COMPANY
9750 Washburn Road
P.O. Box 7002
Downey, CA 90241-7002
Tel: (562) 923-0711
Fax: (562) 861-5902
Email: leigh@parkwater.com

Keith Switzer
Vice President of Regulatory Affairs
GOLDEN STATE WATER COMPANY
630 East Foothill Boulevard
San Dimas, CA 91773
Tel: (909) 394-3600
Fax: (909) 394-7427
Email: kswitzer@gswater.com

Martin A. Mattes
NOSSAMAN LLP
50 California Street, 34th Floor
San Francisco, CA 94111
Tel: (415) 398-3600
Fax: (415) 398-2438
Email: mmattes@nossaman.com

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

April 16, 2012

**BEFORE THE PUBLIC UTILITIES COMMISSION
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In accordance with Rule 14.3(d) of the Commission’s Rules of Practice and Procedure, 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” herein, respectfully submit their joint reply comments on the Proposed Decision of Administrative Law Judge (“ALJ”) Walwyn , which was issued on March 19, 2012, in the above-captioned proceeding. These reply comments respond to the Comments of the Division of Ratepayer Advocates (“DRA”), filed April 9, 2012.

I.

SUMMARY OF REPLY COMMENTS

Applicants are disappointed that DRA has abandoned its support for a 10% month limit on annual surcharges, subject to 36-month maximum amortization period, to amortize under-collected balances in Water Revenue Adjustment Mechanism (“WRAM”)/Modified Cost Balancing Account (“MCBA”) accounts, and that DRA instead embraces the plan of the Proposed Decision (“PD”) to limit such surcharges to 7.5% per year, with under-collections not recovered under such limits subject to review in the utilities’ general rate cases (“GRCs”). Applicants remind the Commission that the application itself was a product of discussions between Applicants

and DRA in the summer of 2010 as a balance between ratepayer and utility interests anticipating little controversy. DRA did not protest, but rather replied, without opposition, to the application. DRA's new position fails to address the burdens on future ratepayers that the PD's plan will cause and misguidedly focuses on a perceived need for notice to customers that will prove impractical and frustrating for all concerned.

II.

THE PD'S DEFERRAL OF WRAM/MCBA BALANCES TO THE GRC WILL HARM FUTURE RATEPAYERS.

In their opening comments, Applicants noted that the present application sought resolution of several technical problems impeding implementation of WRAM/MCBAs authorized in prior Commission decisions and that on the key disputed issue of the appropriate amortization period for high WRAM/MCBA balances, DRA and Applicants had offered modified or alternative viewpoints that were substantially similar. Applicants criticized the PD for introducing a new proposal that would impose the more restrictive 7.5% annual cap on amortizing large WRAM/MCBA balances while deferring recovery of remaining balances to GRCs.

Applicants are disappointed that DRA now endorses the PD's amortization limits and, in so doing, fails to address the interests of future ratepayers. As Applicants explained in their opening comments, the PD's 7.5% per year cap on WRAM/MCBA surcharges will exacerbate the problem of "pancaking" surcharges and the intergenerational equity issue presented by surcharges that remain in effect for long periods of time. DRA fails to address these problems, which are vital to consider in order to achieve the appropriate balance for ratepayers.

Applicants also note that the additional notice requirement DRA now proposes is of extremely limited usefulness due to timing issues. DRA, like the PD, seem oblivious to the fact that the multi-district Class A water utilities are regulated on a three-year cycle that takes 18 months from notice to adopted test year. If a large WRAM balance develops due to a rate case, it is not until 13 or 14 months later that the company files its first amortization. Just four or five months after that first amortization, the company must file its next GRC and provide its GRC notice to customers. Only the excess from a balance greater than 22.5% in that first year could be noticed or considered in that next GRC. Assuming the balances continue apace, the second amortization would be filed after DRA has issued its report on the GRC application and the third amortization would be filed a month after the test year effective date. Thus, if either the second or third year balance brings the cumulative total over 22.5%, no collection or notice could occur until

the next GRC (four or five years after the balance accrued). This delayed collection is a clear penalty, contradicting the Commission's intentions in establishing decoupling in the first place.

The same problem is presented for single-district Class A water utilities on a 14-month GRC schedule. Some balances would not be known in sufficient time to notice and would have to be deferred until the next GRC.

III.

TO SUPPORT ENDORSING THE PD'S AMORTIZATION LIMITS, DRA MISCHARACTERIZES ITS PREVIOUSLY STATED POSITION.

Applicants also are disappointed to note that, in trying to justify its endorsement of the PD, DRA has inaccurately characterized its previous position on amortization issues. While acknowledging that, in its briefs, it recommended acceptance of Applicants' "counter proposal" to amortize balances above 15% of the last authorized revenue requirement "through surcharges equal to or less than 10% of the last authorized revenue requirement with a maximum amortization period of thirty-six months," DRA claims that it did so conditionally. DRA Comments, at 2. DRA now states that it presented "two important conditions," those being: "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." *Id.* This is not the case.

In fact, DRA stated in its opening brief that it did not oppose Applicants' "counter proposal" on amortization without stating any conditions on that position. DRA Opening Brief, at 3. DRA went on to propose, as a caveat, "a consistent approach to WRAM/MCBA amortization across all Class A water utilities that have a full revenue decoupling WRAM/MCBA, including Cal-Am and Valencia Water Company," but did not present that proposal as a condition of its non-opposition to Applicants' "counter proposal." *Id.* at 3-4. Among several other recommendations, DRA proposed continued examination of the WRAM/MCBA mechanism in a second phase of this proceeding, with a pre-hearing conference ("PHC") to be set for April 2012 to focus on districts with high under-collections in their WRAM/MCBAs, but this recommendation also was *not* stated as a condition to DRA's position on the amortization period issue. *Id.* at 18-19.

DRA's change of position in supporting the PD is further shown by the fact that DRA has, from the issuance of its initial report, recommended that balances between 5% and 15% be recovered over an 18-month period, an annual impact of up to 10%, not 7.5%, and by DRA's recommendation for a PHC to focus on districts with annual under-collections of 15% or greater.

Thus, the “safeguard” of the 7.5% per year cap is a stricter limit than DRA previously felt necessary to recommend. Exhibit 3 (Rasmussen/DRA), at 2- 3, Recommendations 1(d) & 7).

IV.

DRA’S SUGGESTION THAT WRAM/MCBA BALANCES THAT ARE DEFERRED FOR CONSIDERATION IN A GRC MIGHT BE SUBJECT TO “UNIQUE TERMS” MUST BE SOUNDLY REJECTED.

DRA now asserts that the Commission’s “primary concern” is that “customers receive proper notice and have an opportunity to be heard.” DRA Comments, at 4.¹ While acknowledging that there is a presumption of reasonableness for amounts tracked in balancing accounts, DRA indicates that “adjustments” to the balance might be considered in “extraordinary situations” and that “unique terms beyond 36 months” might be set with respect to high WRAM/MCBA balances. In short, presented with the PD’s proposal to relegate uncollected WRAM/MCBA balances for consideration in the utilities’ GRCs, DRA appears now to be contemplating the prospect of contesting the utilities’ right to collect those balances over even the maximum 36-month amortization period provided for by Standard Practice U-27-W and so would like to invite customers, by “proper notice,” to join the party.

The Commission needs to return to the principles it enunciated in the Water Action Plan in December 2005. One of the major objectives of that plan was to “Strengthen Water Conservation Programs to a Level Comparable to those of Energy Utilities.” Water Action Plan, at 5. Among the measures proposed to achieve that objective were the encouragement of increasing block rates and the removal of current financial disincentives by de-coupling water utility sales from earnings. *Id.* at 6-7. The Commission instituted the Water Conservation OII in January 2007 to pursue that objective and issued a series of decisions approving settlements among water utilities, DRA, and intervenor groups that established conservation rate designs and approved WRAM/MCBA mechanisms to achieve that de-coupling of sales from earnings that enabled the utilities to focus on the conservation goal. At this late date, with obligations accrued to sometimes troubling levels in the utilities’ WRAM/MCBA accounts, it is outrageous that DRA would suggest, in effect, that the Commission might now renege on its commitment to ensure recovery of properly accounted for WRAM/MCBA balances.

¹ Applicants recognize the importance of providing customers clear and understandable notice of rate increase applications and other requests for discretionary action by the Commission, but providing repetitive notices of ministerial rate adjustments confuses and frustrates customers without serving any useful purpose.”

The Commission must soundly reject this suggestion that utilities' entitlement to collect properly accounted-for balances in their WRAM/MCBA accounts is not secure. Creating or even tolerating uncertainty in this regard would cause the utilities and the Commission itself great harm in the financial community.

V.

CONCLUSION

For the reasons stated in its opening and reply comments, Applicants respectfully urge the Commission to clearly and soundly reject any suggestion that Applicants are not entitled to full recovery, on a timely basis, of properly accounted for WRAM/MCBA balances. Applicants further urge the Commission to act on that commitment by correcting the Proposed Decision to allow WRAM/MCBA account balances to be amortized on the terms stated in Applicants' "counter-proposal" – including amortization of balances above 15% of the last authorized revenue requirement by surcharges up to 10% of the last authorized revenue requirement but with a maximum amortization period of 36 months.

Respectfully submitted,

Thomas F. Smegal
Vice President, Regulatory Matters
CALIFORNIA WATER SERVICE
COMPANY
1720 North First Street
San Jose, CA 95112-4598
Tel: (408) 367-8219; Fax: (408)367-8426
Email: tsmegal@calwater.com

Leigh K. Jordan
Executive Vice President
PARK WATER COMPANY and APPLE
VALLEY RANCHOS WATER COMPANY
9750 Washburn Road
P.O. Box 7002
Downey, CA 90241-7002
Tel: (562) 923-0711; Fax: (562) 861-5902
Email: leigh@parkwater.com

Keith Switzer
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630 East Foothill Boulevard
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Tel: (909) 394-3600; Fax: (909) 394-7427
Email: kswitzer@gswater.com

NOSSAMAN LLP

By /S/ MARTIN A. MATTES
Martin A. Mattes

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

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

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