

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.

A.10-09-017
(Filed September 20, 2010)

**RESPONSE OF THE DIVISION OF RATEPAYER ADVOCATES TO THE
APRIL 22, 2011 MOTION OF CALIFORNIA-AMERICAN WATER
COMPANY (U210W) FOR THE PREPARATION OF A FINAL SCOPING
MEMORANDUM**

On April 22, 2011, California-American Water Company (“Cal Am”) filed a Motion to require the preparation of a scoping memorandum (“scoping memo”) in Application (“A.”) 10-09-017. Specifically, Cal Am requested that the assigned Commissioner define the scope of this proceeding “in order to avoid conflicting or potentially inconsistent decisions in multiple proceedings.”¹ During the subsequent April 25th Pre-hearing Conference (“PHC”), Administrative Law Judge (“ALJ”) Walwyn directed the parties to file responses to that motion by May 9th and to include

¹ Motion of California-American Water Company (U210W) For The Preparation of a Final Scoping Memorandum, April 22, 2011.

recommendations regarding the scope and schedule of this proceeding². Pursuant to ALJ Walwyn's direction, and Rule 11.1(e) of the California Public Utilities Commission's ("Commission") Rules of Practice and Procedure, DRA respectfully submits this response to Cal Am's April 22nd motion.

1. DRA RECOMMENDATION ON PROPOSED SCOPE

DRA supports the preparation of a scoping memo in this proceeding, however, DRA does not agree with the reasons provided by Cal Am in its motion and DRA does not agree with several inaccurate statements and statements that mischaracterize DRA's positions in Cal Am's motion. This is discussed in section II below. DRA recommends that the scope and schedule in this proceeding follow DRA's "Immediate Monterey Interim Issues and Limited Scope" option outlined in DRA's April 29, 2011 filing.³ DRA requests that ALJ Walwyn schedule a PHC soon after issuing the scoping memo to finalize the dates for the procedural schedule. The discussion below describes the reasons for DRA's recommendation as well as some additional information that the Commission should include within the scope of the proceeding. For clarity, DRA's "Immediate Monterey Interim Issues and Limited Scope" option stated:

3) Immediate Monterey Interim Issues and Limited Scope: If the Commission determines that the most immediate issue in this proceeding is the WRAM/MCBA undercollection in the Monterey District, the Commission could limit the scope to address the immediate problem of the undercollection in the Monterey District and the changing of amortization periods for Monterey. If required, DRA could prepare a response within two weeks to address ALJ Walwyn's outstanding question on the option of lengthening the amortization periods for the Monterey District. Then the Commission could proceed on an expedited basis with a decision limited to the immediate issues in the Monterey District using the information that DRA and the Applicants already filed in this proceeding.

² Reporter's transcript, April 25, 2011, PHC-4, p. 138, lines 1-5.

³ Compliance Filing of the Division of Ratepayer Advocates for the Timeline for a Response to the April 15, 2011 Filing With Possible Scope Options, April 29, 2011, p. 4-5.

Also, the Commission could continue to examine the issue of changing the amortization periods for all other districts in this proceeding using the procedural schedule listed above in 1) Limited Scope.

The Commission could then review the broader issues of WRAM/MCBA mechanisms in a separate proceeding as suggested in 2) Comprehensive Scope above.

Based on the information filed in this proceeding to date, DRA has serious concerns about the disproportionate effect on ratepayers of the volatility in the WRAM/MCBA mechanisms; these concerns are not limited to just Cal Am's Monterey district. For example, the WRAM/MCBA undercollections for Cal Am's Larkfield district for 2010 is 19.88% of operating revenue,⁴ Cal Water has five districts for 2010 with greater than 10% variance in net WRAM/MCBA balances (Dixon, Kern River Valley, Redwood Valley – Lucerne, and Redwood Valley – Unified, and Salinas),⁵ five of Golden State's Region 1 rate making areas had greater than 10% variance in net WRAM/MCBA balances, (Bay Point - which had a net balance of 26.49%, Los Osos, Ojai, Santa Maria, and Simi Valley).⁶

Based on these substantial 2010 balances, the Applicants large projected 2011 balances, the situation in the Monterey District, and other information presented in this proceeding, the Commission should take a comprehensive look at the WRAM/MCBA mechanisms. DRA recommends the Commission examine solutions to address the inequities to ratepayers and bill volatility that have resulted and could continue to result from these mechanisms.

As DRA stated in its previous filings, DRA envisions a comprehensive scope either in this proceeding, with an appropriate procedural schedule, or preferably, in the

⁴ Cal Am's Advice Letter 893, p. 3, April 22, 2011

⁵ Applicants' Joint Compliance Filing for the Request for Data During the February 17, 2011 Prehearing Conference, April 15, 2011, Attachment 2B, California Water Service Company, Table 2.

⁶ Applicants' Joint Compliance Filing for the Request for Data During the February 17, 2011 Prehearing Conference, April 15, 2011, Attachment 2B, Golden State Water Company "2010" table.

existing Conservation Order Instituting Investigation (“OII”) 07-01-022 as a new phase, or in a subsequent OII. As DRA stated in its April 8th filing:

In order for DRA to make comprehensive recommendations on a solution to the WRAM/MCBA mechanism undercollections that would apply to 2012 and onwards and to allow DRA to prepare recommendations to address undercollections in the WRAM/MCBA mechanisms for other districts and utilities, the Commission needs to allow for sufficient time for a thorough review of the issues in play. Among the factors that must be considered are DRA’s need to properly staff this project, including the possible need to hire a consultant, to conduct discovery, write testimony, and participate in evidentiary hearings and briefs. DRA anticipates that a reasonable procedural schedule may emerge in light of all the information to be submitted by April 15 by all the Class A water utilities included in A.10-09-017. As noted, an procedural schedule would be required for the Commission to develop a longer-term solution for the problem of the WRAM/MCBA under collection in Monterey and in other districts and utilities. Should the Commission wish to consider these broader issues, DRA recommends the ALJ schedule a prehearing conference to discuss scope, scheduling and other procedural matters. DRA also recommends that the Commission consider addressing these broader issues in the existing Conservation OII 07-01-022 as a new phase, or in a subsequent proceeding and the Commission should include scoping workshops early in the procedural schedule to determine the issues that should be addressed. For the Monterey district, the Commission’s review of this longer term solution should be coordinated with Phase III of the Coastal Water Project. DRA’s recommendation here is limited to addressing the revenue shortfall for 2011 for the Monterey district. [footnotes omitted].⁷

One advantage of addressing a comprehensive solution in the Conservation OII or a subsequent OII over this Application to Modify (A.10-09-017), is that by ordering the

⁷ Division of Ratepayer Advocates’ Recommendations to Address Undercollections in the Water Revenue Adjustment Mechanism and Modified Cost Balancing Account Balances in California American Water Company’s Monterey District, April 8, 2011

Class A water utilities with WRAM/MCBA to participate in an OII, the Commission would address Cal Am's concern about its ability to participate effectively in the proceeding.⁸

As DRA stated in its April 29th filing, in its discussion of the "limited scope" option, based on the information discussed during PHCs and filings in this proceeding to date, it is DRA's understanding that the Commission will require several items in the scope of this proceeding in order to reach a decision on the Applicants' proposals regarding WRAM/MCBA amortization.² Additionally, DRA observes two additional items that the Commission needs to consider in the scope of this proceeding, even with a limited scope: (1) the ability for DRA to respond to factual information raised during the four PHCs to date, or an opportunity for DRA to defer its responses to this information to a subsequent proceeding addressing WRAM/MCBA. (2) Additionally, within the scope DRA needs the opportunity to respond to the Applicants proposal requesting a "ruling authorizing Applicants to file a Tier 2 advice letter for interim surcharges to recover those projected 2008, 2009 and 2010 residual shortfalls that, using "first in, first out" ("FIFO") calculations, will not be recovered consistent with the accounting guidance contained in EITF 92-7."¹⁰

II. RESPONSE TO CAL AM'S STATEMENTS IN ITS MOTION

DRA disagrees with the inappropriate reasons and inaccurate statements included in Cal Am's motion. The discussion below addresses examples where DRA takes exception to Cal Am's contentious and inaccurate language in Cal Am's April 22, 2011 motion.

The reasons Cal Am provides for the need to define the scope of this proceeding is to avoid conflicting or potentially inconsistent decisions in multiple proceedings.

However, Cal Am created this situation by making overlapping requests in two

⁸ Motion of California-American Water Company (U210W) For the Preparation of a Final Scoping Memorandum, April 22, 2011.

² For example, reporter's transcript, January 24, 2011, PHC-2, p. 80, line 24 through p. 81, line 2.

¹⁰ Applicants' Joint Compliance Filing for the Request for Data During the February 17, 2011 Prehearing Conference, p. 6.

proceedings. DRA noted this problem in its testimony in the General Rate Case regarding Special Request #34¹¹ and recommended the request be removed from the GRC or denied in its entirety because the request was being addressed in this application 10-09-017, and because the request conflicts with Commission decision, D.03-06-072, Standard Practice U-27-W, and General Order 96-B.¹² Cal Am knowingly made this request in A.10-09-017 after making an overlapping request in A.10-07-007. For this reason it is nonsensical for Cal Am to then force the issue of a scoping memo from the Commission for the stated reason to avoid conflicting or potentially inconsistent decisions in multiple proceedings. Further, it diminishes DRA's due process for Cal Am to be able to make different but overlapping requests in multiple proceedings, and for DRA to have to address each request. It is inexcusable for Cal Am to then state that unless the Commission issues a scoping memo, Cal Am's ability to participate effectively in the proceeding could be hindered.

Cal Am makes several unsupported statements in its motion such as: "constantly expanding parameters unfairly harm both customers and the Applicants in this proceeding as well as the state-wide GRC."¹³ Such statements should be afforded no weight by the Commission. Cal Am also states, referring to DRA's April 8th response: "In DRA's response, it proposed further analysis of numerous proposals that would make it difficult, if not impossible, to implement a solution by the end of 2011."¹⁴ In making this statement, Cal Am ignores the fact that in DRA's April 8th filing DRA specifically addressed recommendations for the Commission to implement on an immediate and temporary basis.¹⁵

¹¹ Cal Am's Special Request #34 in the GRC A.10-07-007 is a request to amortize all balancing account balances in rates on an annual basis over a 12 month period.

¹² DRA Exhibit 5 in Application 10-07-007, DRA Testimony on A&G Expenses, Depreciation, Taxes, Ratebase, and Special Requests #s 4, 20, 22, 27, 33, and 34." January 21, 2011.

¹³ Motion of California-American Water Company (U210W) For The Preparation of a Final Scoping Memorandum, p. 2

¹⁴ Id. p. 6.

¹⁵ Division of Ratepayer Advocates' Recommendations to Address Undercollections in the Water Revenue Adjustment Mechanism and Modified Cost Balancing Account Balances in California American

In its motion, Cal Am makes the argument, beyond belief, that its proposals should be addressed in this proceeding, but the rate impacts that may be caused by these proposals should be addressed in other “more relevant” proceedings.¹⁶ DRA strongly disagrees and notes that the effects on ratepayers of the Applicants’ proposals need to be examined before the Commission can consider authorizing those proposals themselves.

III. CONCLUSION

For the reasons discussed above, DRA supports the preparation of a final scoping memo in this proceeding and requests that ALJ Walwyn schedule a PHC soon after issuing the scoping memo to finalize the dates for the procedural schedule; however, DRA disagrees with the reasons and misstatements provided by Cal Am in its motion. DRA hereby submits the response to the motion and DRA’s recommendations for the scope and schedule in this proceeding.

Respectfully submitted,

/s/ ALLISON BROWN

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Water Company’s Monterey District.

¹⁶ Motion of California-American Water Company (U210W) For The Preparation of a Final Scoping Memorandum, p. 9.