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12-20-10
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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)

ADMINISTRATIVE LAW JUDGE'S RULING DIRECTING CUSTOMER NOTICE OF THIS APPLICATION BE PROVIDED PURSUANT TO RULE 3.2(d) OF THE COMMISSION'S RULES OF PRACTICE AND PROCEDURE

This ruling directs the five applicants, California-American Water Company, California Water Service Company, Golden State Water Company, Park Water Company, and Apple Valley Ranchos Water Company, to provide customer notice of this application to each of their districts. This notice must be pre-approved by the Commission's Public Advisor and done pursuant to the provisions of Rule 3.2(d) of the Commission's Rules of Practice and Procedure, which provides:

(d) Electric, gas, heat, telephone, water, or sewer system corporations, within 45 days, if the corporation operates on a 30-day billing cycle, or within 75 days, if the corporation operates on a 60-day or longer billing cycle, after the filing of an application to increase any rate of charge, other than a change

reflecting and passing through to customers only new costs to the corporation which do not result in changes in revenue allocation, for the services or commodities furnished by it, shall furnish to its customers affected by the proposed increase notice of its application either by mailing such notice postage prepaid to such customers or by including such notice with the regular bill for charges transmitted to such customers. The notice shall state the amount of the proposed rate change expressed in both dollar and percentage terms for the entire rate change as well as for each customer classification, a brief statement of the reasons the change is required or sought, and the mailing, and if available, the e-mail, address of the Commission to which any customer inquiries may be directed regarding how to participate in, or receive further notices regarding the date, time, and place of any hearing on the application, and the mailing address of the corporation to which any customer inquiries may be directed. Applicants shall file proof of compliance within 10 days after mailing.

In this application, the 5 applicants are Class A water utilities that have conservation-related balancing accounts that decouple revenues from water sales (a Water Revenue Adjustment Mechanism (WRAM) and a Modified Cost Balancing Account (MCBA)). The applicants request here that the Commission shorten the amortization period for rate recovery of the undercollections/overcollections of authorized revenue requirement resulting from these mechanisms. The rate impacts of applicants' requested changes are quite substantial for the customers in some districts, as seen in the surcharge comparison tables attached to this ruling.¹ (*See Attachment*)

¹ Each of the applicants was individually authorized a WRAM/MCBA mechanism in one of the decisions listed in the caption of this proceeding. The rate recovery of the WRAM/MCBA balancing accounts is done by annual advice letter, and the Commission's Division of Water and Audits administers this process pursuant to the procedures established by the Commission in Decision (D.) 03-06-072, a rulemaking proceeding that reviewed and revised the practices and policies for processing offset rate increases and balancing accounts in the water industry. Pursuant to D.03-06-072,

Footnote continued on next page

At the prehearing conference on December 3, 2010, the undersigned Administrative Law Judge (ALJ) asserted that since this application is requesting a change in the amortization formulas that will result in substantial rate increases, Public Utilities Code Section 454(a), which is reflected in Rule 3.2(d), requires customer notice. Applicants and the Division of Ratepayer Advocates (DRA) requested an opportunity to brief this issue before a final ruling on customer notice and were given the opportunity to file comments.

On December 10, 2010, applicants submitted a "Response of Joint Applicants Regarding the Applicability of Public Utilities Code Section 454(a) to This Application." I disagree with several of the joint applicants' assertions in this filing, primarily the applicants' characterizations of this application as (1) a "clean-up measure that seeks only to clarify Commission policy" and (2) containing "technical proposals" that are too complex for customers to understand and effectively participate in the proceeding.² In addition, the water utility case cited by applicants to support their position that customer notice is not required here, D.06-04-073, is not on point. The Commission's holding in D.06-04-073 is based on a portion of Section 454(a) that is not at issue here, specifically, the phrase "passing through of new costs"; the WRAM/MCBA balances at issue here are primarily undercollected revenues.³

the amortization schedule for rate recovery of a net under collection in a Class A water utility's balancing accounts is done by applying a surcharge to the quantity rates, and is prescribed as follows: "If the amount is less than 5% of the last authorized revenue requirement, recovery should occur in one year, for 5%-10% in two years and over 10% in three years." (See D.03-06-072, issued June 19, 2003, Appendix A at 3.)

² See December 10, 2010 Response of Joint Applicants, pages 3 and 7.

³ The application at page 15 cites to California Water Service Company's assertion that the "nature of WRAM accounts, which track revenue changes, is fundamentally

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In its December 14, 2010 response, DRA incorrectly interprets Section 454(a) to apply to an increase in revenue requirement rather than an increase in rates. DRA also expresses concern with the cost of noticing customers and the potential confusion that could result from customer notices in this specific situation.

After review of the parties' filings addressing the applicability of Section 454(a), I find that the provisions of Section 454(a) and the corresponding Rule 3.2(d) are applicable to this proceeding and, therefore, applicants must provide, as soon as possible, customer notice of this application to the customers of each district subject to the requested relief.

There are strong public policy as well as legal reasons for requiring customer notice. The overriding public policy consideration for requiring customer notice of this application is the substantial rate impact of the changes to the amortization formula being requested here. The applicants are requesting the changes because their existing and/or projected WRAM/MCBA accounts have very large balances in some districts, and these balances cannot be collected under the current amortization formula in a time period that will allow the utilities to report all the undercollected revenue as current operating revenue.⁴ This does not appear to be a difficult concept for customers to understand.

different from the 'balancing-type memorandum accounts' that track lags in the recovery of offsets from water production expenses" All parties agree that the large undercollections being addressed here are due to the WRAM mechanism, not the MCBA mechanism.

⁴ This could lead to a restatement of 2009 financial statements and for 2010 financial statements, a delay in reporting undercollected revenue requirement until the revenue is received through the surcharges.

Since DRA, as well as the utilities, have concerns about customer confusion, DRA should work with the utilities and the Public Advisor in drafting the customer notice. The notice for each district should contain an illustrative surcharge rate under the existing amortization formula and under the proposed amortization formula and a rate impact for average usage.

Therefore, **IT IS RULED** that:

1. Each applicant shall, as soon as possible, provide customer notice of this application pursuant to Rule 3.2(d) of the Commission's Rules of Practice and Procedure.
2. Applicants shall obtain pre-approval of the customer notice from the Public Advisor.

Dated December 20, 2010, at San Francisco, California.

/s/ CHRISTINE M. WALWYN
Christine M. Walwyn
Administrative Law Judge

INFORMATION REGARDING SERVICE

I have provided notification of filing to the electronic mail addresses on the attached service list.

Upon confirmation of this document's acceptance for filing, I will cause a Notice of Availability of the filed document to be served upon the service list to this proceeding by U.S. mail. The service list I will use to serve the Notice of Availability of the filed document is current as of today's date.

Dated December 20, 2010, at San Francisco, California.

/s/ LILLIAN LI

Lillian Li

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to ensure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

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If specialized accommodations for the disabled are needed, e.g., sign language interpreters, those making the arrangements must call the Public Advisor at (415) 703-2074 or TDD# (415) 703-2032 five working days in advance of the event.

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