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

Application of California-American
Water Company (U210W) for Approval
of the Monterey Peninsula Water Supply
Project and Authorization to Recover All
Present and Future Costs in Rates.

Application 12-04-019
(Filed April 23, 2012)

**MOTION TO ESTABLISH CRITERIA
FOR DECISION ON DESALINATION PLANT SIZING**

ANTONIO ROSSMANN
ROGER B. MOORE
BARTON LOUNSBURY

Rossmann and Moore, LLP
380 Hayes Street, Suite One
San Francisco, CA 94102
Tel: (415) 861-1401
Fax: (415) 861-1822
Email: bl@landwater.com

Attorneys for
PLANNING AND CONSERVATION
LEAGUE FOUNDATION

Dated: December 12, 2012

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Pursuant to Rule 11.1 of the Commission’s Rules of Practice and Procedure, the Planning and Conservation League Foundation (“PCLF”) submits the following motion in the matter of California-American Water Company’s (“Cal-Am”) application for approval of the Monterey Peninsula Water Supply Project (“desalination project”). This motion requests that the Commission establish criteria to guide the decision on whether to downsize the desalination project based on progress toward implementation of the Groundwater Replenishment Project (“groundwater project”).¹

I. INTRODUCTION

The desalination project, as articulated in Cal-Am’s application of April 23, 2012, is one of three components that Cal-Am anticipates undertaking to meet the State Water Resources Control Board’s (“State Board”) cease and desist order deadline of December 31, 2016. The other two components are the groundwater project and an aquifer storage and recovery project. While Cal-Am appears confident that the aquifer storage and recovery

¹ PCLF recognizes that the Monterey Peninsula Regional Water Authority (“MPRWA”) and the County of Monterey (“county”) have proposed a governance committee that would decide whether the groundwater project proceeds. (MPRWA Compliance Filing, October 1, 2012, exh. A, at p. 3.) Cal-Am has also conditionally agreed to the concept of a governance committee. (Cal-Am Compliance Progress Report, October 26, 2012, at p. 4.) Should such a governance committee be created, it could undertake the tasks that PCLF has outlined in this motion. This committee’s ultimate existence is uncertain, however, and PCLF urges that the Commission act as requested in this motion unless and until the governance committee’s existence and roles are certain.

project will soon deliver 1,300 acre-feet per year (“afy”), the groundwater project remains less definite. (Cal-Am Application, April 23, 2012, at pp. 5-6.)

Cal-Am has proposed that if the groundwater project “has reached certain milestones by the time [Cal-Am] is ready to construct the desalination plant . . . , and the price of Groundwater Replenishment Project water is reasonable, [Cal-Am] will reduce the size of the desalination plant portion of the Monterey Peninsula Water Supply Project.” (Cal-Am Opening Brief, July 11, 2012, at p. 24.) If the groundwater project does not move forward, Cal-Am will simply “proceed with the larger desalination plant.” (*Id.*) The smaller and larger plant options differ substantially—the former will operate at a capacity of 5,506 afy and the latter at 9,006 afy. (Cal-Am Application, April 23, 2012, at p. 6.)

Cal-Am has not identified the “milestones” that will guide its decision on plant sizing, nor has the Commission yet taken a position on the criteria that should guide Cal-Am’s decision to proceed with a smaller or larger desalination plant. The critical issue is the groundwater project’s status and relative certainty at the time when Cal-Am no longer has latitude to change the size of the desalination plant. PCLF believes that, rather than relying on Cal-Am’s amorphous and undefined criteria, the Commission itself should establish the guiding criteria to determine whether Cal-Am should construct a smaller or larger desalination plant.²

By ensuring that this decision is not wrongly or prematurely taken, the Commission will advance two goals: it will protect Cal-Am’s ratepayer base from the costs of either an oversized desalination plant or any additional construction and delays to expand an undersized plant; and it will maximize the possibility that the groundwater project, which is highly likely to emerge as environmentally preferable to the desalination plant due to its inputs/outputs and energy demands, will not be inappropriately rendered moot by a misguided or premature decision. For these reasons, PCLF hereby moves that the Commission provide guidance on the plant sizing decision as elaborated below. PCLF also

² Other factors beyond the groundwater project may also influence the sizing decision when it becomes ripe. PCLF therefore encourages the Commission to retain the flexibility to augment the criteria established now with any additional, necessary criteria.

respectfully submits that the second pre-hearing conference may provide a suitable forum for resolving some of the questions raised here.

II. GUIDANCE ON THE SIZING DECISION'S TIMING

Cal-Am has stated that its window for reducing the size of the desalination plant will close when the plant begins construction. Thus, if the groundwater project appears sufficiently certain by that time, Cal-Am will proceed with the smaller plant. (Cal-Am Application, April 23, 2012, at p. 6.) Cal-Am proposes to file a Tier 2 advice letter to finalize its decision and anticipates making that decision on December 1, 2014. (*Id.*, Appendix B.) PCLF asserts, however, that the Commission should not delay action until Cal-Am submits an advice letter, nor should Cal-Am make a decision on the groundwater project on December 1, 2014, if the desalination project's implementation has been delayed.

Instead, the Commission should exercise its general powers under Public Utilities Code, section 701, and Administrative Law Judge Weatherford his authority under Rule 9.1, to require Cal-Am to specify the final moment when it will retain the ability to change the plant's size, and the Commission should establish this moment as the proper time for conclusive analysis of the groundwater project's status. PCLF believes that this moment is not a date certain in the future, such as December 1, 2014, but rather a relative time (*e.g.*, 30 days prior to breaking ground on the desalination plant), and that any potential delays in the desalination project should permit a commensurate delay in arriving at a final decision on the plant's size. This will maximize the likelihood of successful implementation of the groundwater project, which may prove to be a financially and environmentally preferable alternative to desalination.

PCLF suggests that a Commission directive on this matter could clarify the time frame for the desalination plant sizing decision and eliminate the possibility of a premature decision based on nebulous criteria that Cal-Am has not revealed. This accords with the Monterey Regional Water Pollution Control Agency's ("MRWPCA") request that the Commission allow MRWPCA the opportunity to present the status of the groundwater project before a final plant size is selected. (MRWPCA Opening Brief, July 11, 2012, at p. 14.) For these reasons, PCLF moves that the Commission determine—following

appropriate input from the parties—the relative time when Cal-Am should evaluate the groundwater project’s status and make its decision on the desalination plant’s size. Synchronizing to the extent possible the schedules of the desalination project and groundwater project will help ensure the best outcome for both ratepayers and the environment.

III. ESTABLISHMENT OF CRITERIA FOR JUDGING THE GROUNDWATER PROJECT’S STATUS

As discussed above, Cal-Am has stated that the achievement of “certain milestones” will determine whether the groundwater project is sufficiently advanced to warrant downsizing the desalination project. These milestones, though, are nowhere elaborated in the materials that Cal-Am has submitted to the Commission. PCLF believes that the Commission in this proceeding should establish objective criteria to guide Cal-Am’s decision on project sizing. PCLF notes that, in establishing these criteria, the Commission should consider what events must occur in order to provide adequate assurance that the groundwater project will come to fruition. These events might include, for instance, the preparation of final CEQA documents, the obtainment of required permits, or the completion of the design process. PCLF does not suggest that all of these must occur to merit a downsizing of the desalination plant; rather, these are illustrative of relevant project milestones, and PCLF leaves the determination of the appropriate criteria to the Commission’s discretion.

Other parties to this proceeding, particularly the agencies pursuing the groundwater project, will undoubtedly have opinions about which criteria should guide the sizing decision. Indeed, MRWPCA has already requested the opportunity to provide information on the groundwater project’s status at the necessary time and to participate in the sizing decision. (MRWPCA Opening Brief, July 11, 2012, at p. 14.) And although Cal-Am has not elaborated on the milestones that it plans to track, Cal-Am has indicated that it anticipates making its desalination plant sizing decision when the groundwater project is nearing the completion of final design and regulatory approvals and the beginning of construction in late 2014. (Cal-Am Application, April 23, 2012, Appendix B.) PCLF therefore urges that the Commission allow the parties now to submit their recommended criteria to aid in the

selection of an appropriate set of milestones for the groundwater project vis-à-vis the desalination plant sizing decision.³

As Cal-Am has highlighted, the cost of water produced by the groundwater project is another relevant factor in the desalination plant sizing decision. (Cal-Am Application, April 23, 2012, at p. 6.) Cal-Am effectively proposes a “reasonableness” standard for the cost determination. (*Id.*) PCLF, however, finds this standard lacking in specificity and requests that the Commission establish a more definite standard. Given the Commission’s mandate to “[m]inimize the long-term cost of reliable water service to customers,” (Pub. Util. Code, § 701.10, subd. (b)), the appropriate standard would be whether the long-term cost per acre-foot for groundwater project water is less than the long-term cost per acre-foot for desalination project water. This should provide a simple and straightforward point of comparison for the two projects when the desalination plant sizing decision ripens. If water from the groundwater project is less expensive on a volumetric basis than water from the desalination plant, Cal-Am should construct the smaller plant.

For the reasons discussed above, PCLF moves that the Commission establish objective criteria—following appropriate input from the parties—to guide the decision on the size of the desalination plant. PCLF urges that these criteria include clearly defined milestones in the groundwater project planning process that will determine whether that project’s implementation is sufficiently certain to merit downsizing the desalination plant, as well as a cost standard for comparing the output from the two projects.

III. CONCLUSION

PCLF submits this motion to the Commission in the hope that, by providing the requested guidance and criteria for the desalination plant sizing decision, the Commission will ensure that the groundwater project receives proper consideration and is afforded the greatest opportunity for successful implementation. PCLF supports the concept of water recycling through advanced treatment and believes that the groundwater project may offer

³ Cal-Am seems to assume that it will make the final sizing decision, but PCLF questions whether this is appropriate. If the milestones are sufficiently objective and definite, the decision is best left to the Administrative Law Judge through a short follow-up opinion or to a group of relevant stakeholders, such as the proposed governance committee.

distinct financial and environmental benefits for Monterey County. To promote these benefits, the Commission must examine the interrelated nature of the groundwater project and the desalination project and act accordingly in this proceeding.

Dated: December 12, 2012

By: /s/ Barton Lounsbury
Barton Lounsbury

Attorney for Intervenor
PLANNING AND CONSERVATION
LEAGUE FOUNDATION