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BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

In the Matter of 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	A.12-04-019 (Filed April 23, 2012)

MONTEREY PENINSULA REGIONAL WATER AUTHORITY, MONTEREY PENINSULA WATER MANAGEMENT DISTRICT, AND CITY OF PACIFIC GROVE'S JOINT RESPONSE TO MOTION OF MARINA COAST WATER DISTRICT TO MODIFY PROCEDURAL SCHEDULE

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Dated: May 17, 2013

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Pursuant to Rule 11.1 of the Rules of Practice and Procedure of the California Public Utilities Commission ("Commission"), the Monterey Peninsula Regional Water Authority ("MPRWA"), Monterey Peninsula Water Management District ("MPWMD"), and the City of Pacific Grove ("Pacific Grove") hereby oppose Marina Coast Water District's ("MCWD") Motion to Modify Procedural Schedule, filed on May 2, 2013 ("Motion"). MCWD's proposed schedule modifications would delay the Monterey Peninsula Water Supply Project ("Project"), and thereby frustrate efforts to timely obtain replacement water supplies to address the reduced diversion of water from the Carmel River Valley ordered by the State Water Resources Control Board ("SWRCB") in the Cease and Desist Order ("CDO") issued in SWRCB Order 2009-0060. Further, the proposed schedule modifications are not necessary to comport with the Commission's duty to consider the Project's influence on the environment as required by Public Resources Code, section 1002.

1. <u>The Schedule Modifications Would Significantly Delay the Project, Threatening the Community's Social and Economic Welfare</u>

The CDO orders Cal-Am to eliminate use of roughly 70 percent of its historic water supply from the Carmel River by the end of 2016. Imposition of these water supply cutbacks,

absent an alternative replacement source, would cause significant social and economic harm to the Monterey Peninsula. The Commission recognized this risk to the public interest in its decision approving the prior Regional Desalination Project.[1]

MCWD's proposed schedule modifications would delay issuance of a Certificate of Public Convenience and Necessity well into 2014, likely into the second or third quarter in comparison to the current schedule of December 2013/January 2014. Such schedule modification would likely delay other Project development efforts, including permitting by the Coastal Commission and other agencies, State Revolving Fund (SRF) funding efforts, contractor retention, and Project engineering and design among others. Given the substantial social, economic, environmental and public health consequences that may result, the public interest would be compromised by the delay resulting from MCWD's proposed schedule modification.

2. MCWD's Proposed Schedule Modification is Not Necessary for the Commission to Adequately Consider the Environmental Issues Related to the Project

MCWD's proposed modifications are also unnecessary. Additional hearings and cross examination of witnesses are not necessary to satisfy the requirement, set forth in Public Resources Code, section 10002, that the Commission give consideration to the Project's influence on the environment. Any CPCN issued in this proceeding will follow the issuance of a draft Environmental Impact Report ("EIR") (scheduled for release in July, 2013); full opportunity for public comment on the draft EIR and evaluation and response to comments by the Commission (*see* CEQA Guidelines §§ 15087 and 15088); preparation of a final EIR (*see* CEQA Guidelines § 15089); issuance of a proposed decision and opportunity to comment on the environmental impacts relating the proposed decision (*see CPUC Rules of Practice and Procedure,* Rules 14.2 14.3); and certification of a final EIR prior to Project approval together

[1] D.10-12-016, 2010 Cal. PUC LEXIS 548 at p. 378.

with findings and project approval requirements required by CEQA (*see* CEQA Guidelines S§ 15090 et seq.) Such process is consistent with the requirements of the California Environmental Quality Act ("CEQA") and the Commission's historical use of the CEQA review process as the vehicle in a CPCN proceeding for consideration of a proposed project's environmental impacts.[2] In sum, MCWD's proposed schedule modifications are not required to comport with the law or Commission precedent, while the grant of MCWD's Motion would threaten the public interest due to the resulting delay.

For the foregoing reasons, MPRWA, MPWMD and Pacific Grove respectfully request that MCWD's Motion to delay the proceedings be denied.

Dated: May 17, 2013

Respectfully submitted,

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[2] See, e.g., D. 10-12-025, *Application of Wild Goose Storage, LLC to Amend its Certificate of Public Convenience and Necessity to Expand and Construct Facilities for Gas Storage Operations* (U911G), 2010 Cal. PUC LEXIS 463 (Cal. PUC 2010); D. 10-07-043, *In the Matter of the Application of Southern California Edison Company (U-338-E) for a Certificate of Public Convenience and Necessity for the San Joaquin Cross Valley Loop Transmission Project*, 2010 Cal. PUC LEXIS 285 (Cal. PUC 2010).

Dated: May 17, 2013

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