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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.

A.12-04-019  
(Filed April 23, 2012)

**PUBLIC TRUST ALLIANCE'S MOTION TO REQUEST  
ADDITIONAL EVIDENCE FOR SETTLEMENT HEARING**

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**December 5, 2013**

**I. THE COMMISSION DOES NOT YET HAVE ADEQUATE INFORMATION TO MAKE A REASONABLE DECISION IN THIS MATTER. THE NECESSARY INFORMATION MUST BE OBTAINED BY ORDER**

Pursuant to Rule 13.3, the Public Trust Alliance respectfully requests that the assigned Administrative Law Judge require the production of evidence necessary for the Commission to find the proposed settlement agreements "reasonable in light of the whole record, consistent with law and in the public interest" as required by Rule 12.1(d). The Public Trust Alliance appeared at the San Francisco Headquarters of the CPUC at 9:00 AM December 3, 2013 with the reasonable expectation that a hearing would be under way where parties contesting the partial settlement of A. 12-04-019 would have an opportunity to cross examine witnesses and request the introduction of evidence missing from the voluminous record. Rule 12.1(d) of CPUC Rules of Practice and Procedure reads:

"(d) The Commission will not approve settlements, whether contested or uncontested, unless the settlement is reasonable in light of the whole record, consistent with law, and in the public interest."

One might guess that some analysis of each of these criteria would have a place in any "hearing" on a settlement to be approved by the California Public Utilities Commission.

Each of these findings is crucial and the California Public has the reasonable expectation that all parties to any proceeding before the California Public Utilities Commission will understand the importance of establishing these long known baselines. While the initial category of "Reasonableness" is known to be malleable in the hands of any lawyer, the Public Trust Alliance is particularly concerned with the CEQA aspect of the second requirement (as emphatically noted in Rule 2.4) and at least the appearance of a good faith effort at the third. The mere appearance of organizations thought to share similar general interests cannot be seen as a guarantee that such interests will be represented. A "full and fair" record, in order to be useful to the Commission, should be explicit on these matters and not manipulated beyond ready recognition or swamped with extraneous material.

**II. THE PUBLIC RIGHTS PROTECTED BY CEQA ARE NOT OPPORTUNITIES TO COMMENT ON A DRAFT IMPACT REPORT, BUT RATHER THE EXPECTATIONS THAT SIGNIFICANT ENVIRONMENTAL IMPACTS AND REASONABLE PROJECT ALTERNATIVES WILL BE CONSIDERED AND IMPACTS MITIGATED TO THE POINT OF NON-SIGNIFICANCE IF FEASIBLE**

Rule 2.4 makes it quite clear that a key aspect of "consistent with law" to be considered in any analysis of proposed settlements before the CPUC is CEQA compliance. Despite the heroic efforts to "bifurcate" proceedings, it is still not clear which project alternatives are being analyzed or why. It appears that the primary concern is to ensure an opportunity to comment on some sort of document sometime before final briefs are due rather than the protection of a substantive California public right. The Public Trust Alliance is gravely concerned that the reasonable expectations of the California Public are not being adequately protected in the "public" processes entrusted with this task and we don't even know how to find more out about the process. We respectfully request that the assigned Administrative Law Judge order the production of additional evidence reflecting the parties' current efforts to ensure that any actions pursuant to the Settlement Agreements will be consistent with CEQA.

**III. IN THE PUBLIC INTEREST?**

Just why is the suggested project, along with its significant public costs, unknown environmental impacts and particular brand of "public-private partnership" in the public interest, when other long known alternatives might appear "better" for everyone? Short, clear answers to this question from each of the parties could certainly aid the Commission in its deliberations. The apportionment of costs and the role of the project in helping the larger community adapt to the changing conditions precipitated by global climate change are particularly important. What might happen, for example, if power prices increased to anything approaching the actual costs reflected in depending on a power-dependent public water supply? The construction and long term operation of slant wells in a changing coastal environment is known to be a very expensive and uncertain proposition. The Public Trust Alliance respectfully requests that the assigned Administrative Law Judge order Settling Parties to provide succinct explanations of why these particular agreements are in the public

interest.

#### **IV. CONCLUSION**

The hearing examining the Settlement Agreements appears to be completed and the Public Trust Alliance is concerned that the Record does not yet reflect adequate information for the Commission to make a reasonable decision about whether or not to adopt the proposed agreements. We respectfully request that the assigned Administrative Law Judge order the production of additional evidence relevant to whether conduct following the adoption of the agreements will be Consistent with CEQA and "in the public interest."

Dated: December 5, 2013

Respectfully Submitted,

By \_\_\_\_\_ /s/ \_\_\_\_\_

Michael Warburton  
Executive Director  
Public Trust Alliance