FILED
7-21-14
04:59 PM

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

In the Matter of the Application of Apple Valley Ranchos Water Company (U 346 W) for Authority to Increase Rates Charged for Water Service by. $3,127,463 or 14.88% in 2015; $2,056,455 or 8.48% in 2016; and $2,160,731 or 8.19% in 2017.	A.14-01-002 (Filed January 2, 2014)

OPENING BRIEF
OF THE OFFICE OF RATEPAYER ADVOCATES

MARIA L. BONDONNO
Attorney for the
Office of Ratepayer Advocates
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102
Phone: (415) 355-5594
Fax: (415) 703-4432

July 21, 2014

TABLE OF CONTENTS

99161377

TABLE OF AUTHORITIES

PAGE

CPUC DECISIONS

CALIFORNIA PUBLIC UTILITIES. CODE

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

In the Matter of the Application of Apple Valley Ranchos Water Company (U 346 W) for Authority to Increase Rates Charged for Water Service by. $3,127,463 or 14.88% in 2015; $2,056,455 or 8.48% in 2016; and $2,160,731 or 8.19% in 2017.	A.14-01-002 (Filed January 2, 2014)

OPENING BRIEF OF THE OFFICE OF RATEPAYER ADVOCATES

I. INTRODUCTION

Pursuant to Rule 13.11 of the California Public Utilities Commission's ("Commission") Rules of Practice and Procedure ("Rules") and the schedule established by Administrative Law Judge ("ALJ") Tsen, the Office of Ratepayer Advocates ("ORA") hereby files its Opening Brief in Application ("A") 14-01-002, Apple Valley Ranchos Water Company's ("AVR") request for authority to increase rates charged for water service.

II. SUMMARY OF ORA'S RECOMMENDATIONS

Conservation Estimates

The Commission should deny AVR's requested conservation budgets of $113,528 for 2015, $116,933 for 2016, and $120,441 for 2017. AVR's forecast is based on its 2011 Water Use Efficiency Business Plan ("WUEP"), which AVR did not update for this GRC. AVR simply used the 2011 information and escalated it by 3%. Moreover, AVR did not provide updated costs estimates related to the conservation programs under its 2011 WUEP, or any other evidence in its application or testimony regarding its conservation cost estimates. AVR has failed to meet its burden of proof pursuant to Section 451 that these costs are just and reasonable.

ORA disagrees with AVR's estimates for conservation budgets and instead recommends $67,817 for 2015, $69,445 for 2016, and $71,042 for 2017. ORA supports maintaining ongoing conservation efforts in furtherance of the State's water conservation goals, however, these goals can be achieved at ORA's lower cost estimates.

Conservation Balancing Account

ORA recommends that AVR's conservation expenses continue to be tracked in a one-way balancing account subject to refund so that any unspent funds will be refunded to ratepayers via surcredits at the end of this GRC cycle.

Solar Project Memorandum Account

The Commission should deny AVR's request for a Solar Project Memo Account. The scope of AVR's proposed solar project proposal is vague and ambiguous, and has changed during this proceeding. Responses to an ORA data request indicate that AVR is now considering a solar project with a much larger scope than that discussed in its application or testimony. AVR's request for a memo account for this solar project fails to meet the SP U-27's requirements for memo accounts. Lastly, contrary to AVR's assertions, the Commission's Water Action Plan does not provide an exception to any of the Commission's rules or requirements for memo accounts simply because the request involves a solar project.

Office Remodel Balancing Account

The Commission should deny AVR's request to recover the under-collected amount of revenue requirement in its Office Remodel Balancing Account, which totals $24,905. In D.12-09-004, the Commission only authorized recovery from this Office Remodel Balancing Account once the remodel project was constructed and completed. Not only has it not been constructed and completed, but AVR is now pursuing a totally new office building.

Special Request # 4 – Level Payment Plan Option

The Commission should deny AVR's Special Request #4 for a proposed level payment plan option. AVR generically described this plan in its application, but failed to provide any detailed information about the mechanics of the plan or the costs associated with the plan in either its application or testimony. AVR has failed to meet its burden of proof pursuant to Section 451 that the costs associated with this request are just and reasonable.

Special Request # 7 – Sales Reconciliation Mechanism

The Commission should deny AVR's Special Request # 7 to implement a Sales Reconciliation Mechanism. The ability to annually adjust consumption forecasts, which is the basis of Special Request #7, represents a significant modification to the Commission's Rate Case Plan. ORA asserts that the gradual erosion of processes established by the Rate Case Plan threaten the effectiveness and integrity of the regulatory process. Instead, any revisions and modifications to the Rate Case Plan should occur in the proper industry wide forum such as a Rulemaking.

Irrigation – commodity revenues and production costs

The Commission should deny AVR's request to track commodity revenues and production costs for gravity irrigation in the WRAM/MCBA. The purpose of the WRAM is to remove the financial disincentives to water conservation by decoupling water sales from revenues. Conservation has not been observed in the water use trends related to gravity irrigation, and, additionally, there is no specific plan for encouraging this user to conserve water. Moreover, AVR's request is not aligned with the State's water or energy conservation/efficiency goals. ORA asserts that it is not appropriate to track commodity revenues and production costs associated with gravity irrigation in the WRAM/MCBA and AVR's request should be denied.

Incremental Cost Balancing Account

Provided the Commission finds that it is inappropriate to track commodity revenues and production costs associated with gravity irrigation in the WRAM/MCBA, there is no need to terminate AVR's current Incremental Cost Balancing Account.

Chemical Costs

The Commission should deny AVR's request to track chemical costs in the MCBA. Unlike the variable costs that are currently permitted within the MCBA, the costs associated with water treatment chemicals are generally determined in competitive markets and, therefore, under AVR's control. It is not appropriate to include ordinary operating expenses in the MCBA. Further, including chemical costs in the MCBA will create additional administrative work for the Commission without conferring any benefit to customers given the small dollar figures in this category.

Rate Design

ORA strongly disagrees with Town's proposal to eliminate tiered rates and agrees with AVR's proposed rate design. In the Town of Apple Valley's testimony, Town asserted that AVR made a mistake in using the incorrect tier breakpoints to calculate the amount of consumption in each tier. In settlement, AVR agreed to correct the error.

III. PROCEDURAL HISTORY

On January 2, 2014, AVR filed a GRC application requesting authority to increase its rates by $3,127,463 or 14.88% in 2015, $2,056,455 or 8.48% in 2016; and $2,160,731 or 8.19% in 2017. ORA filed a timely protest to the application on February 10, 2014, and AVR filed a timely response. On February 19, 2014, the Town of Apple Valley filed a motion for party status, which was granted on February 20, 2014. A prehearing conference was held on April 1, 2014, by the assigned ALJ. In response to the ALJ's April 4, 2014 Ruling for Comments on the Division of Water and Audits Preliminary Report on AVR's Water Quality, ORA served its comments on April 11, 2014. On April 17, 2014, the Commission issued the Scoping Memo and Ruling in this proceeding. Public Participation Hearings were held on April 30, 2014, at the Town of Apple Valley Conference Center in Apple Valley, California. On May 9, 2014, ORA served its Report on the Results of Operations, and on May 19, 2014, ORA served its Amended Report on the Results of Operations ("ORA Amended Report"). The Parties engaged in informal settlement negotiations beginning on June 4, 2014. As a result of those negotiations, ORA and AVR reached a settlement on many of the issues raised in ORA's Amended Report. While The Town of Apple Valley participated in the settlement discussions, it is not a party to the settlement. Evidentiary hearings on the unresolved issues were held on June 16, 2014 and June 17, 2014. On June 25, 2014, ORA filed a motion to seal the confidential version of its Amended Report on the Results of Operations. This brief will only address the unresolved issues in the proceeding.

IV. DISCUSSION

ORA respectfully request that the Commission adopt its recommendations regarding all of the unresolved requests contained in AVR's application, discussed in detail below. Pursuant to Section 451 of the California Public Utilities Code,[1] AVR has the burden of justifying any request for a rate increase as just and reasonable. For most of the issues discussed below, AVR has not met its burden of proof pursuant to Section 451 that its requests are just and reasonable.

A. Conservation Estimates

In this application, AVR requests conservation budgets of $113,528 for 2015, $116,933 for 2016, and $120,441 for 2017.[2] AVR's forecast is based on its 2011 Water Use Efficiency Business Plan ("WUEP"), which AVR did not update for this GRC. Although AVR reiterated the five program areas of conservation spending under WUEP, AVR failed to provide any specific details in its application or testimony, or provide any other evidence, about the costs estimates associated with these specific programs. AVR's failure to provide updated conservation cost estimates in this proceeding has deprived both ORA and the Commission of critical information needed to determine the reasonableness of AVR's request. Pursuant to Section 451, AVR has the burden of proving that its request is just and reasonable and has failed to do so in regard to this request. Without this information, the Commission has no evidence upon which to make a finding pursuant to Section 454 that AVR's request is just and reasonable.

ORA disagrees with AVR's estimates for conservation budgets and instead recommends $67,817 for 2015, $69,445 for 2016, and $71,042 for 2017.[3] ORA supports

---

[1] All section references are to the California Public Utilities Code, unless otherwise specified.

[2] AVR Workpaper "AVR Expenses 2015r," ExpenseDetail tab.

[3] Exhibit O-1, pp. 3-6.

maintaining ongoing conservation efforts in furtherance of the State's water conservation goals, however, these goals can be achieved at ORA's lower cost estimates.

1. AVR Did Not Update its 2011 Water Use Efficiency Plan for this GRC.

AVR relied upon the annual conservation budget estimates in its 2011 WUEP for 2015 through 2017.[4] As part of its previous GRC, AVR submitted its WUEP, which was developed by AVR with consultants. The WUEP prescribes five areas of conservation spending: (1) Public Information & Outreach, (2) Home Owners Association and Large Landscape High Efficiency Nozzle Distribution, (3) Multi-Family High Efficiency Toilet Direct Install, (4) Single Family Landscape Survey and Nozzle Distribution, and (5) Cash for Grass Turf Removal. AVR's 2011 WUEP developed annual budgets for a five-year planning period by estimating 2013 expenditures and then escalating that amount by 3% each year.

2. ORA's Methodology for Conservation Estimates Provides More Accurate Results

ORA based its conservation budget estimates on 2012 and 2013 recorded expenses. To bring 2012 recorded expenses to 2013 dollars, ORA multiplied $59,157 by ORA's 2013 ECOS composite escalation factor of 0.9% to arrive at $59,689.[5] ORA then calculated a two-year average of the conservation expense totals of $59,689 for 2012 (in 2013 dollars) and $70,296 for 2013 to derive the two-year average of $64,293. ORA multiplied the two-year average by ORA's escalation factor for each year to calculate the proposed budgets.[6] ORA estimated $67,817 for Test Year 2015, $69,445 for Escalation

---

[4] Exhibit A-9, p. 2, and Exhibit O-5, pp. 83-84.

[5] The escalation rates are a composite factor based on ORA's March 25, 2014 Memorandum on Estimates of Non-Labor and Wage Escalation Rates for 2014 through 2018 from the February 2014 IHS Global Insight U.S. Economic Outlook as well as ORA's March 25, 2014 Memorandum on February 2014 Compensation Per Hour.

[6] ORA used the following composite escalation factors: 2014 – 2.0%; 2015 – 2.3%; 2016 – 2.4%; 2017 – 2.3%.

Year 2016, and $71,042 for Escalation Year 2017, which totals $208,304 for this GRC three-year cycle. In addition, ORA recommends that spending on public information and outreach should continue to be subject to a $30,000 annual cap.

3. Problems with AVR's 2011 WUEP

AVR has not updated its 2011 WUEP for this GRC despite underspending the plan's proposed budget.[7] The WUEP was intended to function as a strategic planning document and the WUEP itself recommends updating: "The business plan is a working document and, as such, must be *modified and updated* as changes occur and program years roll out. AVR will need to regularly review the plan and make adjustments accordingly."[8] AVR has failed to either modify or update the WUEP to properly evaluate conservation estimates in this proceeding. For example, AVR did not provide a breakdown of expenses by WUEP program type in this GRC, therefore, neither ORA nor the Commission can properly evaluate these costs for just and reasonableness.

Because AVR failed to update the WUEP, its proposed budget for conservation estimates is based on outdated and inaccurate assumptions. ORA asserts that by relying upon the 2011 WUEP and the methodology therein, AVR grossly overstates its conservation spending. AVR has significantly underspent authorized budgets for 2012 (underspent by 43%) and 2013 (underspent by 34%) and it is doubtful that the 2014 budget will be fully spent.[9] Yet, the requested budget of $113,528 for Test Year 2015 is 60% higher than the $70,296 recorded in 2013 .[10]

4. AVR Overestimates Spending

AVR's conservation spending by 19% between 2012 ($59,157) and 2013 ($70,296). AVR asserts that, as a result of increased outreach, it will be able to spend all

---

[7] Testimony of Mr. Ed Jackson, Transcript, Volume 2, p. 192, lines 13-16.

[8] Exhibit O-5, p. 88, emphasis added.

[9] Exhibit O-1, p. 3-7.

[10] Exhibit O-1, pp. 3-7 – 3-8.

of the $110,221 budgeted for 2014 and the $81,452 underspent money from 2012 & 2013. In other words, AVR is asserting that it needs to spend a total of $191,673, which represents a 173% increase in spending between 2013 and 2014. Clearly, it is unreasonable for AVR to assume that because it increased conservation spending by 19% in 2013, it will increase conservation spending by what amounts to 173% this year.

5. AVR Has Exceeded Regulatory and Legislative Conservation Goals

AVR has already met Gallons per Capita per Day ("GPCD") goals of the Water Conservation Act of 2009 (Senate Bill X7-7). During evidentiary hearings, AVR testified that the company is on track to meet its target of 20% reduction in per capita urban water use by year 2020.[11] AVR's 2020 target for GPCD is 245 GPCD. As of 2013, AVR has already surpassed its interim target for 2015 of 275 GPCD.[12] The most current recorded GPCD in 2013 was 201.[13]

6. Factors other than conservation responsible for decrease in water use.

Other factors aside from conservation are responsible for the decrease in AVR's customers' water use. "Passive policy initiatives" such as water efficient landscape ordinances and building codes mandating efficient devices have resulted in decreased use, Rate increases and tiered conservation rate design send customers price signals and contribute to a long term strategy to reduce consumption. For example, in this GRC, AVR and ORA have agreed to an increase in the rate design tier differential to encourage conservation. In addition, public drought messaging resulting from the Governor's declaration has resulted in a greatly expanded water conservation public awareness campaign.

[11] Testimony of Ed Jackson, Transcript Volume 2, p. 196, lines 8-19.

[12] Exhibit O-5, p. 8.

[13] AVR Response to Data Request JRE-001 dated March 12, 2014.

7. Conclusion

For all of the reasons stated above, the Commission should deny AVR's request for conservation estimates and adopt ORA's recommendations.

B. Memorandum and Balancing Accounts

1. Conservation Balancing Account

In the previous GRC, ORA and AVR agreed to establish a one-way balancing account to track conservation expenses. Conservation expenses should continue to be tracked in a one-way balancing account subject to refund so that any unspent funds will be refunded to ratepayers via surcredits at the end of this GRC cycle. If the Commission had not authorized a one-way balancing account, the result would allow AVR to overstate its revenue requirement by the amount underspent on conservation during this rate case cycle, and have its shareholders keep the difference..

2. Solar Project Memorandum Account

A. AVR's Proposal

In its Application, AVR states that it is in the preliminary stages of investigating the potential for installing an AC solar photovoltaic generation system on the grounds of its office site. AVR further says that it is undertaking a feasibility analysis of placing panels on a proposed service vehicle shelter and carport shade structures to be installed in the employee parking area. AVR is requesting a new memorandum account to track the costs, expenses, and capital costs associated with this solar project. [14]

B. AVR Fails to Justify its Request

AVR did not provide ORA with any estimate of the expected costs of this project, claiming that, because the costs are currently unknown and uncertain, they cannot readily be forecast in this GRC. AVR informed ORA that it anticipated obtaining a proposal from a design/build vendor to install a solar photovoltaic system during the rate case

---

[14] Revenue Requirements Report, p. 136.

process and would provide the proposal to ORA Staff for review[15], but AVR failed to do so.

C. AVR's Solar Proposal Lacks Cost Support

AVR's failure to provide a cost estimate for this project during this proceeding has deprived both ORA and the Commission of critical information needed to determine the reasonableness of AVR's request. Pursuant to Section 451, AVR has the burden of proving that its request is just and reasonable and has failed to do so in regard to this request. Without this information, the Commission has no evidence upon which to make a finding pursuant to Section 454 that AVR's request is reasonable.

D. The Scope of AVR's Solar Project is Ambiguous and Undefined

In AVR's Response to ORA's Data Request,[16] AVR's describes a solar project that is potentially much broader in scope than originally described in its Application, as follows:

> "Additionally, AVR has shared its electrical load information with a renewable energy developer vendor, with the intent of exploring the possibility of a single plant supplying the aggregate load from our well sites. *We are presently in discussions with Indian Energy to determine how much land is needed for a solar site to produce enough electricity to meet the electrical demand from our well sites*." (Id., emphasis added.)

ORA finds this information troubling. Not only has AVR not provided any cost estimates for the solar project initially proposed in this application, but it appears that AVR plans to expand the scope of the project to include the acquisition of land needed to produce enough electricity to meet the electrical demands of all its well sites. This plan expands the potential scope of this project far beyond what is proposed in this application. Moreover, it raises concerns

---

[15] Id. p. 136-137.

[16] ORA's Data Request JJS-003, Q. #3.

about the likelihood of AVR's making investments that are uneconomic, i.e. whose costs will exceed expected financial benefits. Notwithstanding ORA' support of renewable energy resources, ORA continues to advocate that the Commission require all renewable power projects to return benefits equal to or greater than the costs that they impose on water ratepayers.

E. AVR's Solar Panel Memorandum Account Request Fails to Meet the Standard Practice U-27's Requirements for Establishing a Memorandum Account

Standard Practice U-27-W summarizes the Commission's adopted policies and procedures for processing rate offsets and establishing and amortizing Memorandum Accounts. In order to qualify for Memo Account treatment, the costs must be due to events of an exceptional nature that meet the following criteria:

1. Are not under the utility's control
2. Could not have been reasonably foreseen in the utility's last GRC:
3. Will occur before the utility's next scheduled GRC
4. Are of a substantial nature such that the amount of $ involved is worth the effort of processing a memo account;
5. Have ratepayer benefits.

Clearly, AVR's request does not meet the criteria under 1 - AVR can control the amount that it invests in solar panels, and does not meet the criteria under 5 – AVR has not demonstrated that the proposed project will provide benefits to ratepayers that exceed their costs. In addition, ORA notes that SP U-27, Para. #29 states that individual company memo accounts (in addition to the list of specific typical accounts provided by SP U-27) may be authorized by the Commission. In order for the Commission to consider approval of such requests, however, AVR must present an informative proposal for the Commission to consider. AVR has not done so in this GRC.

If the Commission were to authorize a Solar Project Memorandum Account, in order to implement a new memorandum account, AVR would be required to define what costs it is authorized to track in the memorandum account in its tariff rules. In order to fulfill this requirement, AVR must specifically define the memorandum account in its tariff rules and refer to the Commission's approval of a specific project. AVR would not be able meet this requirement because its solar panel project proposal is undefined, open-ended, vague and uncertain.

F. The Water Action Plan Does not Provide a Blanket Exception to the Commission's Rules for Solar Projects

In Rebuttal,[17] AVR argues that ORA failed to consider the Commission's policy on renewable energy and cites to the Water Action Plan. However, the Commission does not state anywhere in the Water Action Plan that a water utility should be allowed to establish a memo account without: (1) meeting the requirements set forth in SP U-27; or (2) showing that the proposed investment provides ratepayers benefits by being cost-justified, i.e., that its expected benefits' exceed its expected costs charged to ratepayers.

G. Conclusion

For all of the reasons stated above, the Commission should reject AVR's request for a Solar Project Memorandum Account. AVR has failed to meet its burden of proof under Section 451 and provide any evidence that its request is just and reasonable.

3. Office Remodel Balancing Account

The Commission should deny AVR's request to recover the under-collected amounts of revenue requirement in its Office Remodel Balancing Account, which total $24,905. In its last GRC, AVR requested Commission authorization to remodel and expand its office building by approximately 2,200 square feet. In D.12-09-004, the Commission instead approved an Office Remodel Balancing Account for the purpose of tracking the revenue requirement associated with the office building remodeling project.

In D.12-09-004, the Commission stated, in pertinent part, as follows:

---

[17] Edward Jackson Rebuttal Testimony, p. 29.

> "[W]e create a balancing account to track the revenue requirement associated with building modifications and Ranchos can recover those costs if and when the building changes are actually constructed and completed." (Exh. O-4, D.12-09-004, p. 17, emphasis added.)

D.12-09-004 further states:

> "Therefore, we will do the following: Ranchos may have a balancing account, that will be subject to a reasonableness review, to recover the revenue requirement for the project effective once the construction is completed." (Exh. O-4, D.12-09-004, p. 18, emphasis added.)

The above-language from D.12-09-004 clearly indicates that the Commission only authorized recovery of the revenue requirement associated with the office remodel once the project is completed. During cross-examination, Mr. Jackson admitted that AVR never completed the office remodel project.[18]

In this application, AVR has indicated that it is not going forward with the office remodel project, and instead is requesting Commission authorization to purchase a new office building. Yet, AVR is requesting recovery of the $24,905 in the Office Remodel Balancing Account. Despite the Commission's clear language in D.12-09-004 indicating that the balancing account was for an office remodel project, Mr. Jackson testified during cross-examination that D.12-09-004 authorized AVR to either rebuild or remodel its facilities.[19] This simply is not the case. One need only look at footnote 5 on page 17 of D.12-09-004 for further clarification:

> In comments Ranchos and DRA correctly point out the proposed decision mischaracterized these changes as a "new building" whereas the changes are really modifications and

[18] Transcript, Volume 2, Testimony of Mr. Edward Jackson, p. 212, lines 17-21.
[19] Transcript, Volume 2, Testimony of Mr. Edward Jackson, p. 212, lines 10-16.

> reconfigurations to the existing building which effectively result in a "new office space." (Exh, O-4, D.12-09-004, p. 17, fn. 5, emphasis added.)

Moreover, D.12-09-004 states as follows:

> This account is subject to a reasonableness review. Thus, if Ranchos fails to reconfigure the office during the current rate case cycle, ratepayers have contributed nothing for a project that has not materialized. (Exh, O-4, D.12-09-004, p. 19.)

Clearly, the Commission in D.12-09-004 did not authorize AVR to recover from this Office Remodel Balancing Account unless the remodel project was constructed, completed, and useful. Not only has it not been constructed and completed, but AVR is now pursuing a totally new office building.

Based on the all of the above, the Commission should deny AVR's request to recover the $24,905 in its Office Remodel Balancing Account. Moreover, ORA recommends that the Commission order AVR to remove any amounts already recorded in the account and that the account be closed.

4. Use of Estimates

ORA strongly objects to AVR's use of estimates in its WRAM/MCBA because doing so is not authorized by the Commission. AVR states the reason for using estimates is because of the long lag time in billing from the Mojave Water Agency. Despite the reason, Mr. Jordan admitted during cross-examination that D.08-02-036,[20] which adopted Park Water Company's MCBA (Park Water Company is the parent company of AVR) states that MCBAs will track the difference between actual variable costs and adopted variable costs for purchased water, purchased power, and pump tax.[21] He also admitted that AVR's WRAM and MCBA, adopted in AVR's 2009 test year GRC, was the same as

---

[20] Exh. 0-6.

[21] Testimony of Leigh Jordan, Transcripts Vol. 3, p. 302, lines 17-28; p. 303, lines 1-16.

that adopted for Park Water Company in that it authorized AVR to track the difference between actual variable costs and adopted variable costs.[22]

ORA points out that in its application and testimony, AVR confuses this matter by referring to these "estimates" as "accruals." Mr. Jordan testified that what is supposed to get booked is recorded. "Because we don't have the actual information, what is recorded are accruals, which . . . are effectively estimates."[23]

Mr. Jordan's testimony on cross-exam further confuses this issue when he agrees that the authorizing decision for AVR's MCBA indicates that AVR's MCBA will track the difference between the actual variable costs and the adopted variable costs, but doesn't specify how exactly that will happen. "And it's my position in my testimony is that what we are doing in Apple Valley's MCBA is consistent with this. <u>We are tracking the actual costs</u>. We are not tracking them monthly because they are not available."[24] However, Mr. Jordan then testifies when referring to D.08-02-036 (Exh. O-6) as follows: "As a matter of fact, <u>we don't have the actual cost available</u> at that exact month. <u>What we do is make an accrual</u> (estimate), <u>which is standard practice under GAAP</u>, we book that accrual, and then when actuals are available, we true it up." The end result of that process is that we are tracking the actuals against the adopted."[25]

In his rebuttal testimony, Mr. Jordan testified that "GAAP does not allow AVR to simply not book any expenses for a year or more, when it is known that expense is being incurred, just because the exact amounts are not yet available."[26] During cross-examination, he testified that GAAP is the primary accounting authority that governs AVR's financial reporting. Of importance, however, he acknowledged that "[t]here is a provision under GAAP where <u>if the Commission specifically orders some accounting</u>

---

[22] Testimony of Mr. Leigh Jordan, Transcripts Vol. 3, p. 303, lines 23-26.
[23] Testimony of Mr. Leigh Jordan, Transcripts Vol. 3, p. 302, lines 6-11.
[24] Testimony of Mr. Leigh Jordan, Transcripts Vol. 3, p. 304, line 28; p. 305, lines 1-11.
[25] Testimony of Mr. Leigh Jordan, Transcripts Vol. 3, p. 306, lines 9-16.

treatment, then we can – than it still will be in compliance with GAAP, if we followed the Commission ordered accounting treatment. But otherwise, GAAP is what we follow."[27]

The Commission has ordered some accounting treatment in regard to MCBAs – it has ordered AVR and others to track the difference between the actual variable costs and the adopted variable costs – this is the point. Adopted variable costs are forecasted, meaning they are an estimate. If AVR is allowed to use an accrual, another estimate, then AVR is effectively recovering for the difference between two estimated numbers.

There are numerous potential problems inherent in AVR's deviation from the Commission's authorized method of tracking in MCBAs. AVR's use of estimates shifts the burden to the Commission to conduct follow up audits and reviews of account balances. When the Commission reviews an Advice Letter filing for under-collected WRAM/MCBA balances, the amount to be recovered should be the final amount for the associated period of time under review. AVR's proposal would allow certain costs to be recovered prior to the final balance being known followed by some true-up at a later date. However, in the case that AVR decides not to self-report true up amounts, the Commission must follow-up to ensure that ratepayers are not over-charged. The Commission should not be placed in this burdensome position.

Generally speaking, the Commission strives for policies that promote efficiency. AVR's use of estimates means AVR must file twice to correctly recover only actual amounts. AVR files once for under-collected WRAM balances that include estimated costs, then again for true-ups in its next WRAM filings. This is entirely inefficient since it requires two filings and an additional year to comply with the requirement to recover only "actual" amounts. Furthermore it requires Commission staff to re-review previous

---

(continued from previous page)

[26] Rebuttal Testimony of Leigh Jordan, p. 10.

[27] Testimony of Mr. Leigh Jordan, Transcripts Vol. 3, p. 311, lines 16-28; p. 312, line 1, emphasis added.

AL-filings to ensure accuracy. The process would be much more efficient if AVR waited until actual amounts are known before requesting recovery as is explicitly specified in the decisions authorizing AVR's WRAM and MCBA accounts.

AVR's practice of using estimates requires DWA to use judgment. It is well established that DWA should act only in a ministerial role when approving rates and surcharges filed via advice letter.[28] When AVR files advice letters for recovery of amounts that include estimates, DWA must step outside of its ministerial authority to use judgment in regard to whether or not the estimates are reasonable. Consistent with its ministerial authority, DWA should be only required to ensure AVR's compliance with Commission orders when approving advice letters to implement or change surcharges.

Further, in 2013, the California State Auditor conducted an audit of the Commission's Balancing accounts and published a report titled, "California Public Utilities Commission, Improved Monitoring of Balancing Accounts Would Better Ensure That Rates Are Fair and Reasonable, Report 2013-109." (Exh. O-8). In this report, the State Auditor concludes as follows:

> This report concludes that the Commission lacks adequate processes to provide sufficient oversight of utility balancing accounts to protect ratepayers from unfair rate increases."[29] The Report specifies that Pass-Through, which are appropriate to track in a balancing account, are "costs that the utility cannot reasonably control, such as fuel, electricity, or water purchases, which are typically directly associated with providing utility service to ratepayers. For these type of expenditures, the utility is allowed to recover from ratepayers only its <u>actual costs</u>."[30]

AVR's use of estimates, instead of actual costs, in its MCBA is in direct contradiction to the above.

---

[28] General Order 96-B, Section 7.6.1

[29] Exh. O-8, p. 1.

[30] Exh. O-8, p. 7, see Figure 2.

In conclusion, AVR used poor judgment when it decided to use this unauthorized method of accounting and now tries to justify doing so by stating that it was not specifically addressed in any Commission decision. AVR should not be allowed to continue this unauthorized practice and, if allowed to continue, this will set a bad precedent for other companies to follow suit, not to mention the potential harm to ratepayers. For all the reasons set forth above, ORA respectfully requests that the Commission not allow AVR to recover estimated amounts that the company has "recorded" in its MCBA or any other memo or balancing accounts.

C. Special Requests

1. Special Request #4 – Level Payment Plan

In its application, AVR states that its proposed level payment plan option would allow customers to pay for water service in equal bi-monthly payments based on their last 12 months average bill, or a representative bill, if their consumption history is shorter than one year. At the end of a 12-month period, customers will receive a settlement bill with a payment due or a credit balance.[31]

Pursuant to Section 451, AVR has the burden of proving that the costs associated with this request are just and reasonable. AVR, however, only provides three sentences in its application generically describing the proposed level payment plan,[32] and fails to provide any detailed information whatsoever about the mechanics of the plan in either its application or testimony. AVR also fails to provide any costs associated with this plan or any analysis related to such costs in its application or testimony.

ORA points out that, to implement this program, AVR would most likely need to purchase software to not only monitor customers' bills, but to true up customer bills at the end of the year. The level payment plan would also require promotional material and

[31] A. 14-01-002, p. 12.
[32] A. 14-01-002, p. 12.

training for staff regarding communication with customers. AVR provides no discussion of these potential costs or any others in its application or testimony.

AVR asserts that because these programs exist in the electricity industry, they can be readily implemented by AVR.[33] This is an assumption that is not necessarily accurate, It is important to distinguish between the seasonal fluctuations in electricity demand and in water demand. Assuming a low income customer does not have significant outdoor water use, baseline water use should not differ dramatically in the winter versus the summer months. In contrast, an electricity customer can have significant peaks in demand for electricity in the summer and potentially again in the winter, if heating relies on an electricity source. The ability to have sufficient air-conditioning and heating is essential for these customers' health and safety. The testimony of Scott Rubin on behalf of The Town of Apple Valley underscores the low degree of fluctuation in water use by low-income customers throughout the year: "LIRA [low-income assistance program] customers have much lower water demands during the peak summer months than do non-LIRA customers – on average using 28% to 30% less water in the summer than do other residential customers."[34] Hence, customers with lower levels of seasonal fluctuation in water use will have less fluctuation in their bills throughout the year. Given low-income customers consistent usage patterns, AVR's proposed level payment plan is not necessary.

Further, AVR's proposal results in an end-of-year true-up in the event water usage differed from the previous year. If the goal is to make bills more reliable to assist low-income customers with budgeting, the true-up creates an unforeseen and potentially large financial obligation for low-income customers. While ORA recognizes the importance of being responsive to the community, AVR has failed to provide enough information to be persuaded this is a better alternative to AVR's current bulling practice.

---

[33] Exhibit A-12, p. 32.
[34] Exhibit T-4, p. 5.

Another problem is that the level payment plan potentially obscures the price signal sent by conservation rate design. As ORA argues in Chapter 15 of its Amended Report on AVR's Results of Operations, "[i]t is unclear how the changed price signals resulting from more levelized payments will impact customers' current conservation behaviors."[35] In its GRC Application, A.12-07-007, California Water Service Company (Cal Water) proposed a level payment plan modeled on the balanced payment plan in Pacific Gas & Electric's ("PG&E's") Tariff Rule 9.[36] In direct testimony Cal Water claimed that the Commission could still ensure customers receive a conservation price single with a balanced payment plan. "[A]ctual customer usage and cost information would still be available on monthly statements because only the requested payment would be 'balanced.'"[37] However, Cal Water has recently expressed concerns in comments on R.11-11-008 that a level payment plan can in fact "raise various ratemaking and accounting problems," including the unknown impact on customers' conservation behaviors.[38] Thus, ORA asserts that waiting until the next rate cycle to gather information about Cal Water's experience and observe solutions to the identified problems is the most appropriate course of action.

For all of the reasons discussed above, including the fact that AVR has failed to meet its burden of proof pursuant to Section 451 regarding this request, AVR's request for a level payment plan should be denied.

2. Special Request # 7 - Sales Reconciliation Mechanism

AVR seeks authorization to implement a Sales Reconciliation Mechanism similar to the one requested by Cal Water in its GRC Application, A.12-07-007. The Commission has not yet issued a decision in that proceeding.

---

[35] Exhibit O-1, p. 15-5.

[36] A.12-07-007, Direct Testimony of Thomas Smegal, p. 23.

[37] A.12-07-007 Direct Testimony of Thomas Smegal, pp. 23-24.

[38] R.11-11-008, Comments of Cal Water, 9/23/13, pp. 6-7.

ORA asserts that the gradual erosion of processes established by the Rate Case Plan ("RCP"), adopted by the Commission in D.07-05-062, threaten the effectiveness and integrity of the regulatory process. The ability to annually adjust consumption forecasts, which is the basis of Special Request #7, represents a significant modification to the RCP. With seven years, two rate cycles, and numerous special requests transpiring since the last iteration of the RCP, a very real possibility exists that revisions and modifications to the RCP are necessary in order to better balance divergent interests and achieve greater ratepayer protections.

ORA asserts that these revisions and modifications should occur in the proper industry wide forum in order to allow divergent interests to be balanced. Selectively modifying or removing elements of the RCP, as requested by AVR in this special request, creates an imbalance, which ignores the comprehensive and synchronized environment in which individual elements of the RCP were adopted. The Commission should once again send a clear signal to AVR and other water utilities that the rules and orders of the Commission have purpose and significance.

For the reasons stated above, AVR's special request for a Sales Reconciliation Mechanism should be denied.

D. WRAM/MCBA

1. WRAM/MCBA Implementation Review

Both ORA and AVR did not propose any changes to the five options outlined in D. 12-04-048.

2. Irrigation (Commodity Revenues and Production Costs)

ORA asserts that commodity revenues and production costs for gravity irrigation should not be tracked in the WRAM/MCBA. The purpose of the WRAM is to remove the financial disincentives to water conservation by decoupling water sales from revenues. Conservation has not been observed in the water use trends by the gravity irrigation system, and, additionally, there is no specific plan for encouraging this user to conserve water. As explained in ORA's Report on AVR's Results of Operations, "the amount of water pumped into the irrigation system is out of AVR's control. Since the amount of water pumped is outside of AVR's control, providing full cost-recovery of any amount of purchased power needed for the water in this system will not improve AVR's incentives to reduce the water pumped and the associated purchased power."[39] Moreover, AVR's request is not aligned with the State's water or energy conservation/efficiency goals and should be denied. Therefore, it is not appropriate to track commodity revenues and production costs associated with gravity irrigation in the WRAM/MCBA and AVR's request should be denied.

3. Incremental Cost Balancing Account

The Incremental Cost Balancing Account "[t]racks differences in the water production costs (purchased power, pump taxes) authorized in rates and the actual water production costs (purchased power, pump taxes) incurred by the utility."[40] As it is inappropriate for AVR to track commodity revenues and production costs associated with gravity irrigation in the WRAM/ MCBA, it is not necessary to terminate the current Incremental Cost Balancing Account.

4. Chemical Costs

In testimony, AVR identifies chemicals as a part of the variable production costs resulting from production of water.[41] However, unlike the variable costs that are currently permitted within the MCBA – purchased power, replenishment and leased water rights – the costs associated with water treatment chemicals are generally determined in competitive markets and, therefore, under AVR's control. Approving this request and allowing the actual cost of treatment chemicals to be tracked in the MCBA would result in diminished motivation for a competitive acquisition process regarding water treatment purchases.

---

[39] Exhibit O-1, pg. 19-4.

[40] Exhibit O-1, pg. 19-4.

[41] Exhibit A-1, pg. 144.

In addition, ORA points out that including chemical costs in the MCBA creates additional administrative work for the Commission without conferring any benefit to customers, given the small dollar figures in this category. "[B]alancing accounts are only amortized when the balance exceeds 2% of the revenue requirement. Tracking the cost of chemicals in a balancing account is unlikely to ever lead to a material balance for amortization."[42] Therefore, the Commission should deny AVR's request to track ordinary operating expenses associated with water treatment chemicals in MCBA.

E. RATE DESIGN

The Commission should deny Town's request to eliminate tiered rates. In Scott Rubin's testimony on behalf of the Town of Apple Valley, he states that there are strong indications that residential tiered rates are not having a meaningful effect and should not be continued.[43] Mr. Rubin suggests all residential and commercial consumption should be priced at the same, single quantity rate.[44] Mr. Rubin also states that should the Commission retain AVR's tiered rate design, the following changes are needed: (1) the Company's calculation of usage in each tier is inaccurate and would need to be corrected; (2) the Company has not justified making any change in the percentage differentials among the tiers in this case; and (3) the commercial consumption rate should be the same as the residential tier 2 rate.[45]

ORA strongly disagrees with Town's proposal to eliminate tiered rates and agrees with AVR's proposed rate design. In the Town of Apple Valley's testimony, Town asserted that AVR made a mistake in using the incorrect tier breakpoints to calculate the amount of consumption in each tier. In settlement, AVR agreed to correct the error.

---

[42] Exhibit O-1, pg. 19-5.
[43] Exhibit T-2, pg. 9.
[44] Exhibit T-2, pg. 15.
[45] Exhibit T-2, pg. 9.

The Commission's Water Action Plan ("WAP"), both the 2005 WAP and the recent 2010 update, as well as the Conservation OII (Investigation 07-01-022, Order Instituting Investigation to Consider Policies to Achieve the Commission's Conservation Objectives for Class A Water Utilities) outline the Commission's water conservation objectives and policy for Class A water utilities. Increasing block rates are a major part of the Commission's WAP and have proven to be effective. In accordance with the Commission's policy objectives, AVR's conservation rate design trial program was first implemented in 2009 in D-08-09-026. Adopted as a package, AVR's program includes increasing block rates for residential customers and a WRAM and MCBA. These programs were implemented as a package to encourage efficient water use and to remove the disincentives to water conservation by decoupling water sales from revenues. As one can observe from the decrease in use, these programs have been working.

Mr. Rubin also states that from 2009-2013 the commercial customer class, which has never had tiers, has exhibited a greater decline in water consumption than the residential class, which is tiered. That alone, however, does not prove that tiered rates are not impacting residential consumption. AVR has designed specific conservation programs to target commercial customers and these programs have contributed to the decrease in usage.

In conclusion, ORA is opposed to Town's request to eliminate AVR's tiered rates, and supports AVR's proposed rate design with the above-mentioned corrections to AVR's tier breakpoints, which AVR has agreed to do as part of the settlement.

F. WATER RATE COMPARISON

Dennis Cron from the Town of Apple Valley presented a water rate comparison comparing AVR's rates to surrounding utilities, of which four are public agencies, and stated that the cost of service within the public agency service areas is significantly lower than the cost of service within the service areas of investor owned water utilities.[46] ORA

[46] Exhibit T-1, pg. 5.

points out that this comparison does not present an accurate assessment because it did not include other information such as capital structure, funding sources, profit margins, ratebase and customer base.

V. CONCLUSION

For all of the reasons stated above, ORA respectfully requests that the Commission adopt its recommendations.

Respectfully submitted,

/s/ MARIA L. BONDONNO
MARIA L. BONDONNO

Attorney for
The Office of Ratepayer Advocates
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102
Telephone: (415) 355-5594
Facsimile: (415) 703-4432

July 21, 2014