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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)

REPLY BRIEF
OF THE OFFICE OF RATEPAYER ADVOCATES

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REPLY 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")[1] hereby files its Reply 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. DISCUSSION

A. Conservation Estimates

In AVR's Opening Brief, AVR refers to the settlement between AVR and DRA, adopted by the Commission in D.12-09-004, wherein AVR and DRA agreed that AVR's conservation budget for 2012-2014 would "cover the entire rate case cycle versus a yearly cap."[2] First and foremost, Rule 12.5 of the Commission's Rules of Practice and Procedure states unambiguously that adoption of a settlement does not constitute approval of, or precedent regarding, any principle or issue in the proceeding or in any future proceeding.[3]

[1] Formerly known as the Division of Ratepayer Advocates ("DRA").

[2] AVR's Opening Brief, p. 9.

[3] Rule 12.5 of the Commission's Rules of Practice & Procedure states as follows: "Commission adoption of a settlement is binding on all parties to the proceeding in which the settlement is proposed. Unless the

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Second, AVR's reference omits the reasons why DRA agreed in that proceeding to a conservation budget that covers the entire rate case cycle instead of a yearly cap. In AVR's previous GRC, AVR proposed a conservation budget based on a *preliminary draft* of its consultant-developed 2011 Water Use Efficiency Plan ("WUEP"). Because AVR's WUEP was not completed, DRA recommended a reduced conservation budget based on its analysis and review of actual and authorized conservation expenses. Subsequent to the issuance of DRA's Report, AVR's consultant completed the WUEP and a copy was provided to DRA. Due to the delay in submission, DRA did not have sufficient time to review the WUEP in enough detail to verify that the forecasted expenses were justified. For that reason, DRA and AVR agreed in settlement to a 2012-2014 conservation budget that would cover the entire rate case cycle instead of a yearly cap.

In its Opening Brief, AVR does not address the main problem with its conservation estimates – the fact that AVR failed to modify or update its 2011 WUEP for this GRC – and that its conservation estimates are based upon an outdated document. AVR should have known better since 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.[4]

Instead, AVR's proposed budget is based on the estimates in the 2011 WUEP, escalated by 3% annually. Moreover, AVR failed to provide a breakdown of spending by program under its 2011 WUEP for any of the 2015-2017 GRC cycle. Pursuant to Section 454 of the California Public Utilities Code,[5] AVR has the burden of proving that its requests are just and reasonable. Given that AVR has failed to provide updated information (i.e., customer saturation data, cost-benefit analysis, efforts to seek outside

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Commission expressly provides otherwise, such adoption does not constitute approval of, or precedent regarding, any principle or issue in the proceeding or in any future proceeding."

[4] Exh. O-5, p. 88, emphasis added.

[5] All statutory references are to the California Public utilities Code unless otherwise specified.

funding, etc.), for its conservation estimates, AVR has not only failed to meet its burden of proof, but denied both ORA and the Commission the opportunity to review and provide recommendations on the specific areas of conservation spending. Without this information, the Commission does not have sufficient evidence upon which to make a finding pursuant to Section 454 that AVR's requests are just and reasonable.

Since AVR has not provided detailed prospective information, ORA based its test year estimate on actual spending in 2012 and 2013 and the proposed budget for 2014. The evidence in this proceeding shows that AVR has significantly underspent the annual targets for 2012 and 2013. The remaining budget for 2014 is $191,673, which equates to a 173% increase over 2013 spending.[6] For 2014, AVR proposes to spend $136,652, or 71% of the remaining budget, on direct installation of high efficiency toilets for multi-family customers.[7] AVR does not explain its rationale for allocating the underspent funds to direct installation over rebates - a more cost-effective option. Nor does AVR justify the decision to accelerate the replacement of high volume fixtures. If the company is sending appropriate price signals, customers will replace older devices with high efficiency alternatives on their own. The use of high efficiency fixtures also occurs through plumbing code changes. Additionally, AVR proposes to spend $30,000, or 16% of the remaining 2014 budget, on public information and outreach,[8] which is non-quantifiable in its savings and potentially redundant with other efforts. Although single-family landscape usage comprises the majority of AVR's total water demand,[9] it is a de minims focus of the 2014 conservation budget.

It is important to remember AVR has achieved significant decreases in water usage over the last 10 years and is on track to meet regulatory goals for conservation. For example, AVR has surpassed the 20% reduction set forth in SBx7-7- the Water

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[6] Exh. O-1, p. 3-8.

[7] Response to ORA Data Request JRE-004, Q. 1.

[8] Response to ORA Data Request JRE-004, Q. 1.

[9] Exh. O-5, p. 11.

conservation Act of 2009. Without providing specific analysis on how the proposed budget could further conservation beyond what it has already accomplished, AVR does not warrant a conservation budget that significantly increases spending above current levels.

Given that spending in 2012 and 2013 was much lower than anticipated by the WUEP, AVR should have provided an updated WUEP in this proceeding for the Commission to review in order to justify any significant increase in spending. As explained above, AVR failed to do so.

ORA's proposed budget strikes a reasonable balance between pursuing conservation programs and avoiding overly burdensome expenses for ratepayers. In the interest of AVR's customers, adopting a conservation budget based on recent levels of spending is the most appropriate course of action as AVR is already on track to meet its conservation goals. 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.

Accordingly, ORA recommends that the Commission deny AVR's requested conservation budgets and adopt ORA's proposed budget of $67,817 for 2015, $69,445 for 2016, and $71,042 for 2017.

B. Memorandum and Balancing Accounts

1. Conservation Balancing Account

In AVR's Opening Brief, AVR opposes the continuation of a conservation balancing account arguing that, under this scenario, AVR bears the risk of expenditures above the cap level. One-way balancing accounts are commonly used to track conservation expenses to ensure that funds authorized for conservation are dedicated to that purpose and that any unspent funds are returned to ratepayers. Thus, 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.

2. Solar Project Memorandum Account

a) The Commission's Support of Renewable Energy Does Not Exempt AVR from the Commission's Regulations or the Legal Requirements of the Public Utilities Code

In its Opening Brief, AVR argues that the Commission's Water Action Plan ("WAP") encourages the use of renewable energy, thereby relieving AVR from the Commission's normal regulatory requirements.[10] These include Water Standard Practice 27 (SP U-27-W), which incorporates the Commission's adopted policies, practices, and procedures for rate offsets, establishment and amortization of memorandum accounts and the legal requirements of Sections 451 and 454 of the Public Utilities Code. These latter code sections require that a regulated utility make an evidentiary showing that its requested tariff rates, rules and regulations are just and reasonable. Inexplicably, AVR believes that it is somehow exempt from these requirements simply because the Commission has affirmatively stated its support of renewable energy sources. AVR is wrong. Nothing in the Commission's policies, rules, and regulations, including those specifically related to solar power, exempts a utility from the Commission's policies or the Public Utilities Code. AVR is legally required to provide the Commission with full justification and support for all of its requests.

AVR reaches an incorrect conclusion regarding the Commission's waiver of the requirement to show cost-effectiveness of solar projects. AVR cites Resolution W-4854: "Although the Commission has described cost-effectiveness requirements for an entire portfolio of ratepayer-funded energy efficiency activities and programs, it has explained that individual programs need not pass tests of cost-effectiveness in order to be eligible for funding." AVR is mistaken on two points: (1) the Commission is

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[10] AVR asserts that, consistent with this [WAP] policy, AVR seeks to "explore the viability of installing an AC solar photovoltaic generation system on the grounds of its office site and therefore requests authorization to establish a memorandum account to track the costs, expenses, and capital costs associated with the project." (AVR Opening Brief, p. 12.) However, as ORA explained in its Opening Brief, the WAP does not provide any exemption from the normal justifications required for the Commission's approval of a utility's requests.

referring in the cited text to ratepayer-funded grants for renewable energy sources as part of the Self-Generation Incentive Program ("SGIP") - not to solar projects within the context of an individual utility's proposed construction program; and (2) the waiver of cost-justification that AVR's cite refers to applies to individual projects within a total portfolio of projects, the latter which the cite itself describes as having a cost-effectiveness requirement.

b) AVR's Proposed Solar Project Has Expanded Significantly throughout the Course of this Proceeding

During the course of this proceeding, AVR has significantly expanded the scale and scope of its solar power initiative. AVR originally characterized this project as "a feasibility analysis of placing panels on a proposed service vehicle shelter and carport shade structures to be installed in the employee parking area."[11] As AVR described in its Responses to ORA's Data Request,[12] AVR's plans have changed into a much larger project that could potentially cost millions of dollars[13] and have significant negative financial impacts on ratepayers for years to come. AVR has aggressively expanded the scale and scope of the generating capacity of its planned solar generation project as follows: "*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*."[14] Although ORA noted this change in its Testimony, AVR has yet to explain the events that led from an initially modest-scaled request to the current version.

[11] Revenue Requirements Report, p. 136.

[12] AVR's Response to ORA's Data Request JJS-003, Q. 3.

[13] The additional costs of power from utility-installed solar power generation can be substantial. In the 2009 San Jose Water Company (SJWC) GRC (A.09-01-009) DRA's results showed that none of SJWC's three solar projects would attain a positive NPV during their 30 year life span: the Twelfth Street Station project would have a negative $1.3 million NPV at the end of a 30-year period, Williams Road #1 a negative $3.4 million, and Williams Road #2 a negative $1.4 million. (D.09-11-032, pp. 17-19.)

[14] AVR's Response to ORA Data Request JJS-003, Q. 3., emphasis added.

An expansion of this magnitude is of primary concern to ORA because of its potential impact on rates. Specifically, if the Commission allows AVR to include those costs in a future ratebase, they may result in significant rate increases to ratepayers even though less expensive sources of power are available that would actually reduce costs, as explained further below.

AVR attempts to placate the Commission's concerns by noting that "the authorization of a new memorandum account does not guarantee recovery of the expenses or capital expenditures booked to the account that have been otherwise authorized in rates or are determined imprudent or unreasonable."[15] AVR acknowledges that it "bears the burden of proof of the reasonableness of expenses charged to the memorandum account when requesting recovery for such expenses, no such requirement exists for the establishment of the account," and that it is "not seeking recovery or a guarantee of recovery. Rather, it merely seeks the opportunity to record expenses so that it can be proactive in evaluating potential "self-generation of energy using renewable energy sources."[16] AVR further tries to assure the Commission that because the "[s]avings in energy costs are tracked in the MCBA and would therefore flow through to benefit ratepayers."[17]

AVR's assurances are misleading and the Commission should give them no weight because, if the Commission finds AVR's investments to be uneconomical and, therefore, disallows them from ratebase, such disallowances can indirectly harm ratepayers. There is a limit to the amount of utility-incurred costs that the Commission can disallow from recovery before impairing the utility's financial condition. If material enough, Commission-imposed disallowances can damage a utility's financial condition and credit rating resulting in higher costs of capital (higher interest and dividend payments) as investors demand more compensation for the utility's perceived higher risks. For this

[15] AVR's Opening Brief, p. 13.

[16] AVR's Opening Brief, p. 13.

[17] AVR's Opening Brief, p. 13.

reason, the Commission may be hesitant to make disallowances even when they are justified and ratepayers are subsequently left "holding the bag," forced to pay rates that are higher than they would otherwise pay if the utility had conducted its business more judiciously. In the present instance, and as explained further below, ORA posits that there are less costly alternatives that AVR has not presented to the Commission.

AVR alleges that ORA is ignoring the Commission's policy of encouraging the self-generation of energy utilizing renewable energy sources.[18] This accusation is misleading and false. ORA fully supports investments in renewable energy sources provided that their expected benefits exceed their expected costs and has even recommended the use of incentive program funds in support thereof. For example, ORA has voiced its support of funding renewable energy resources through the Self-Generation Incentive Program ("SGIP"), subject to a cost-effectiveness screen.

AVR criticizes ORA for recommending denial of AVR's request for the Solar Project Memorandum Account as "open-ended and undefined."[19] The fact is, however, that AVR's proposed solar project is open ended and undefined. As discussed above, AVR's proposed solar project has changed throughout the course of this proceeding from originally proposing "a feasibility analysis of placing panels on a proposed service vehicle shelter and carport shade structures to be installed in the employee parking area"[20] to a "solar site *to produce enough electricity to meet the electrical demand from our well sites*."[21]

If the Commission were to authorize a Solar Project Memorandum Account, in order to implement a new memorandum account, AVR would have to define what costs the Commission has authorized it to track in the memorandum account. In order to accomplish this, AVR must specifically define in its tariff rules the specific solar

[18] AVR's Opening Brief, p. 12.

[19] AVR's Opening Brief, p. 12.

[20] Revenue Requirements Report, p. 136.

[21] Revenue Requirements Report, p. 136., emphasis added.

project which the Commission has approved and for which it has authorized a memorandum account, referring to the Commission's approval of the specific project as the authority for the rule. AVR would not be able meet this requirement because it has not proposed any specific solar panel project. Moreover, in order for the Commission to consider approval of AVR's request, AVR must present an informative proposal for the Commission to consider in this GRC. Mistakenly believing all solar projects to be exempt from any such requirements, AVR has not done so in the course of this proceeding.

AVR criticizes ORA for recommending denial of AVR's request for the Solar Project Memorandum Account because AVR has not demonstrated that the project "represents the least cost option among all possible alternatives."[22] As explained above, the Commission does not exempt solar power projects from the cost-justification requirement. According to the quoted section of Resolution W-4854, the Commission has said it does not require showing of cost justification for an *individual* project as part of an *entire portfolio* of ratepayer-funded energy efficiency activities and programs although the Commission has indeed described cost-effectiveness requirements for the latter.[23]

As ORA explained in its Testimony,[24] AVR's vague, undefined proposal does not meet the Commission's least-cost criterion, which requires that AVR demonstrate that its proposal represents the least cost option among all possible alternatives. Granting a memorandum account for such a proposal would not provide the proper incentives for economically efficient investments. The Commission should not give AVR a "blank check," which allows AVR to spend any amount it wishes on solar power equipment. Nor is such an approach necessary, given the availability of turnkey providers who can install ready-to-use photovoltaic power production systems at little

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[22] AVR's Opening Brief, pp.12-13, see also Exh. O1, p. 14-19.

[23] AVR's Opening Brief, p. 13, citing Resolution W-4854, at 18.

[24] Exh. O1, p. 14-19.

or no out of pocket costs, yet guarantee reductions in purchased power costs. As ORA noted in its Testimony, "AVR has not disclosed how many turn-key solar panel system vendors it has consulted, or which of several system installations and financing arrangements it has considered."[25]

AVR also disputes ORA's assertion that "AVR's inability to obtain a cost estimate for this project remains unexplained, and therefore, lacks the justification required for Commission approval of such expenditure for ratemaking purposes."[26] Yet, AVR cannot dispute the fact that it failed to provide costs estimates and, therefore, effectively denies the Commission the information it needs to make an informed decision regarding the reasonableness of AVR's request. Instead of providing any explanation, AVR erroneously argues that, because its involves solar power production facilities, no informational requirements exist. The Commission should clarify that AVR has misrepresented the Commission's policies on solar power and require that AVR submit a specific proposal with cost estimates the same as the Commission requires those seeking SGIP grants to do.

AVR cites D.12-09-004, wherein the Commission authorized AVR a memorandum account to track the costs associated with AVR's investigation of the viability of a new pressure reducing valve technology. ORA asserts that the Commission should not use the authorization granted in D.12-09-004 as precedent in deciding whether to grant AVR's request for a memorandum account to track the costs of solar power production because the two requests are not comparable. Although AVR provides absolutely no cost estimates, ORA observes that solar power production facilities are significantly more expensive than pressure reducing valves, potentially costing ratepayers millions of dollars in additional revenue requirements.[27] Moreover,

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[25] Exh. O1, p. 14-18.

[26] AVR's Opening Brief, pp. 12-13.

[27] The additional costs of power from utility-installed solar power generation can be substantial. In the 2009 San Jose Water Company (SJWC) GRC (A.09-01-009) DRA's results showed that none of SJWC's three solar projects would attain a positive NPV during their 30 year life span: the Twelfth Street Station

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it is worth noting that, after strenuously arguing for Commission authorization to track the costs of pressure reducing valves, AVR decided not to pursue the effort and now requests to close the account in this proceeding.

c) AVR Has Not Sufficiently Explored Alternative Methods of Solar Power Development

As noted above, ORA pointed out in its Testimony the fact that AVR had not disclosed how many turn-key solar panel system vendors it had consulted, nor which of several system installations and financing arrangements it had considered.[28] Today, a plethora of solar power vendors offer installation of turnkey solar power generation systems. "Turnkey" means "of or involving the provision of a complete product or service that is ready for immediate use." Many solar power vendors now offer businesses turnkey solar power generating systems requiring no customer expenditures. These vendors also guarantee their customers significant cost savings through reductions in their purchased power costs. If AVR were to pursue such a win-win approach, it could provide the cost justification that the Commission requires for approval of new projects without the concern raised by an open-ended project in which AVR is likely to incur millions of dollars of capital costs that the Commission subsequently discovers are far more expensive than other alternatives.[29] With the selection of an appropriate turnkey provider, AVR would not need to

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project would have a negative $1.3 million NPV at the end of a 30-year period, Williams Road #1 a negative $3.4 million, and Williams Road #2 a negative $1.4 million. (D. 09-11-032, pp. 17-19.)

[28] Exh. O1, p. 14-18.

[29] In the 2009 San Jose Water Company (SJWC) GRC (A.09-01-009), the Commission declined to approve any of SJWC's new solar projects and concluded that the results of SJWC's trial solar project was inconclusive: "SJWC has yet to substantiate that the Columbine pilot project can meet or exceed its designed performance. For such a large investment and because solar development is still in the nascent stage for our regulated water companies, we need more time with the pilot project currently in operation and more time than is allowed in this proceeding to vet the pros and cons of these proposals. Perhaps a joint application with PG&E or another joint venture partner or partners could be made. Conceivably, a "procurement review group" type gathering might be helpful in looking at alternatives and assumptions. If other water utilities wish to embrace renewable projects on a large scale, an industry wide approach might also be considered." (D. 09-11-032, pp. 17-19.) ORA agrees with this Commission-recommended approach.

request permission to track costs for future recovery because there would be few, if any, costs to track. AVR does not present or discuss any such proposal.

Based on the above, it is clear that AVR has not considered all the low-cost or no-cost alternatives available to develop solar power generation. Due to its potential harm to both ratepayers and AVR, ORA recommends that the Commission deny AVR's request to authorize a memorandum account. The Commission should not authorize AVR to track the costs of solar power installations nor consider any such costs incurred eligible for future rate recovery without AVR's first meeting the Commission's requirements for establishment of a memorandum account. When AVR has completed the necessary cost-effectiveness justification, it can present its request in the next GRC.

3. Office Remodel Balancing Account

In its Opening Brief, AVR states that in its previous GRC, A.11-01-001, it sought Commission approval for $702,000 for an office expansion project. AVR states that while the GRC was pending, it became clear that a reconfiguration of the existing office building was no longer an option and that AVR would instead need to rebuild its office.[30] AVR also states that, in response to an order by the ALJ after the hearing, but before the Proposed Decision, AVR provided the ALJ with an update, informing him of the fact that AVR would need to rebuild its office instead of simply expanding its offices.[31] By raising that point, AVR is essentially arguing that because it made the ALJ aware of these facts in its previous GRC, the scope of the Office Remodel Balancing Account authorized in D.12-09-004 should not be limited to the revenue requirement associated with the costs of a remodel.[32]

A review of the record in A.11-01-001 indicates that the ALJ set aside submission in June 2012 to allow AVR to update the status of the permitting and design of the

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[30] AVR's Opening Brief, p. 14.

[31] AVR's Opening Brief, p. 14.

[32] AVR's Opening Brief, p. 15.

building.[33] In response, AVR submitted new evidence that changed its request from an office expansion to a new office building. Unfortunately, the ALJ did not allow the Division of Ratepayer Advocates[34] ("DRA") to respond to this new evidence at that time. The Proposed Decision in A.11-01-001 was issued on July 20, 2012. In Comments filed by the DRA on the Proposed Decision in A.11-01-001, the Division of Ratepayer Advocates explains as follows:

> "On June 20, 2012, ALJ Long directed Ranchos to update the status of the permitting and design of the building. Via a June 21, 2012 email to the ALJ and the service list, DRA requested that any information submitted in response to ALJ Long's directive include supporting documentation, and requested the opportunity to respond to the information submitted by Ranchos in response to this ruling. In an email dated June 21, 2012, ALJ Long denied DRA's request for documentation for or to file comments to the information supplied by Ranchos. The ALJ stated that "[t]o do so would effectively reopen the entire issue of the company's proposal and [DRA's] objections as litigated. The email states that the ALJ is only "trying to determine whether there has been 'movement' and the extent of any change." On June 29, 2012, Ranchos submitted its reply, which included detailed information on an entirely new project. Essentially, Ranchos completely changed its request from an office expansion to a new general office building. **In a July 5 email to the service list, DRA noted that Ranchos has presented new factual information inappropriately expanding the company's request for its proposed office expansion," and, because it is not allowed to file comments at that time DRA will respond in full details in the comments to the proposed decision.** The June 29, 2012 Ranchos submission contains more than three pages of full text, much of which is devoted to the new general office building that has not been previously presented in the proceeding, and an attachment detailing costs and numbers never before presented in the proceeding."[35]

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[33] D.12-09-004, p. 18.

[34] The Office of Ratepayer Advocates was formerly known as the Division of Ratepayer Advocates.

[35] Comments of the Division of Ratepayer Advocates on Proposed Decision in A.11-01-001, filed 08/09/12,
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Hence, the Division of Ratepayer Advocates' Comments to the Proposed Decision alleged that the Proposed Decision committed (1) legal error by approving a new office building not requested in the application,[36] and (2) violated DRA's due process rights thereby committing legal error by authorizing a new office building without allowing DRA the opportunity to analyze or submit testimony on the request.[37]

Perhaps in response to the Division of Ratepayer Advocates' Comments, D.12-09-004 states, in pertinent part, as follows:

> "Ranchos proposes to rebuild or remodel its general office which would greatly expand office space, meeting room and training space, and other facilities to meet the needs of providing service in Apple Valley. We find Ranchos convincing of this need, however, we do not add this plant to rate base at this time. **Instead, we create a balancing account to track the revenue requirement associated with building modification and Ranchos can recover those costs if and when the building changes are actually constructed and completed**."
> (D.12-09-004, p. 17, emphasis added.)

Of importance, footnote 5 on page 17 of D.12-09-004 clarifies as follows:

> "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 reconfigurations to the existing building** which effectively result in a "new office space." This correction of characterization does not affect the finding that the project need has been justified subject to the recovery restrictions included herein."
> (D.12-09-004, p. 17, fn. 5, emphasis added.)

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p. 2, footnote 4, emphasis added.

[36] Comments of the Division of Ratepayer Advocates on Proposed Decision in A.11-01-001, filed 08/09/12, pp. 2-4.

[37] Comments of the Division of Ratepayer Advocates on Proposed Decision in A.11-01-001, filed 08/09/12, pp. 4-7.

D. 12-09-004 also states, in pertinent part, as follows:

> "Thus, if Ranchos fails to reconfigure the office building during the current rate case cycle, ratepayers have contributed nothing for a project that does not materialize."
> (D.12-09-004, p. 19.)

Further proof of the Commission's intent to limit recovery to the revenue requirement associated with the costs of the remodel/reconfiguration project can be found in Finding of Fact #18 of D.12-09-004:

> "A Office Remodel Balancing Account will protect ratepayers if the new office remodel is not completed, or if Ranchos spends more than its current forecast."
> (D.12-09-004, p. 24.)

Clearly, the undisputable language in D.12-09-004 authorized AVR's Office Remodel Balancing Account for a remodel and/or reconfiguration of AVR's existing office building – nothing more. Moreover, D.12-09-004 set forth a prerequisite to recovery from this balancing account - a completed project.

On September 20, 2012, AVR filed Advice Letter 175-W to implement new tariffs as a result of D.12-09-004. AVR's preliminary statement is, in pertinent part, as follows:

> "The purpose of the Office Remodel Balancing Account is to track the revenue requirement associated ***with the building project, a reconfigured office building or other improvements.***[38]

ORA points out that AVR's preliminary statement is misleading because it does not accurately reflect what the Commission actually authorized in D.12-09-004, which states, in pertinent part, as follows:

> "**The record is sufficiently clear that Ranchos needs a reconfigured office building or other improvements**. It is also apparent that Ranchos has not completed all the planning and design necessary for the project. By ruling submission was set aside on June 20, 2012 and Ranchos was directed to update the status of the permitting and design of the building project.

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[38] AVR's Opening Brief, p. 15.

> The company replied on June 26, 2012. Much of the reply exceeded the scope of the directive and is disregarded where Ranchos strayed into further and new arguments in support of the project. What is clear is that Ranchos is still pursuing the design and permit process. However, it would be unreasonable to exclude the project for the life of the rate case cycle. **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.**"
> (D.12-09-004, p. 18, emphasis added.)

In fact, there is no language in D.12-04-009 stating that "[t]he purpose of the Office Remodel Balancing Account is to track the revenue requirement associated with the building project, a reconfigured office building or other improvements." The Commission should admonish AVR for misconstruing what D.12-09-004 actually authorized in its tariff's preliminary statement and require AVR to make appropriate corrections to its tariff's preliminary statement.

It is abundantly clear that 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.

For the foregoing reasons, ORA recommends that the Commission deny AVR's request to recover the $24,905 in the Office Remodel Balancing Account. Moreover, ORA recommends that the Commission order AVR to remove any amounts already recorded in the account and to close the account.

4. Use of Estimates

ORA points out that there is no language in D.08-02-036 (the decision that authorized Park Water Company's WRAM/MCBA) or in D.08-09-026 (the decision that adopted AVR's WRAM/MCBA) that authorizes the use of estimated costs instead of actual costs in AVR's WRAM/MCBA.[39] D.08-02-036 states, in pertinent part, as follows:

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[39] During hearings, AVR admitted that its WRAM and MCBA, adopted in D.08-09-026, was the same as

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> The WRAMs will track the difference between adopted revenue and actual revenue and will ensure recovery of fixed costs that are recovered through the quantity charge and variable costs that are not included in the MCBAs. (citation omitted) The MCBAs will track the difference between actual variable costs and adopted variable costs for purchased water, purchased power, and pump tax.
> (D.08-02-036, p. 25, emphasis added.)

Clearly, D.08-02-036 authorized Park Water Company to track the difference between actual variable costs and adopted variable costs. Similarly, D.08-09-026 imposed the same requirements upon AVR. AVR argues in its Opening Brief that "[t]here is no language in that decision, however, that specified exactly how that will be done nor does it state that accomplishing the tracking through an accrual (estimate) and true up process is in any way improper or incorrect. The decision does not address, either way, whether accruals and true-ups should be used in the tracking of costs in the MCBA."[40] AVR misses the point – there is no language in either decision authorizing AVR to use accruals/estimates. AVR takes great liberty in assuming that because the decision did not address accruals/estimates and true-ups that means AVR is authorized to use them. The authorizing language in the decision is clear - it limits tracking in the MCBA to the difference between actual variable costs and adopted variable costs – not estimates.

AVR asserts that because recovery of the WRAM and MCBA must be done on a net or consolidated basis, ORA's recommendation would require AVR to hold off on any recovery from the WRAM until actuals were available in the MCBA.[41] This statement is misleading for the following reasons: (1) neither D.08-02-036 nor D. 08-09-026 authorize the inclusion of estimates/accruals in the MCBA, therefore, AVR's inclusion of such estimates is unauthorized and wrongful; (2) AVR would not have to hold off on any

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the WRAM/MCBA adopted for Park Water Company (AVR's parent company) in D.08-02-036. See, Testimony of Mr. Leigh Jordan, Transcripts Vol. 3, p. 303, lines 23-26.

[40] AVR's Opening Brief, p. 23.

[41] AVR's Opening Brief, p. 18.

recovery from WRAM – AVR would have to hold off on recovering the Mojave Water Agency costs until such costs become actual.

AVR states that due to the timing of the Mojave Basin "water year" that runs from October 1 to September 30, and the retroactive calculation methodology used by the Mojave Water Agency ("MWA"), actual amounts are not available until the following year.[42] Every year AVR must file for WRAM/MCBA recovery by March 31st. AVR has stated that the MWA does not send out the bill until April-May.[43] For that reason, AVR argues the length of time until they can record actual costs is at least a year later – when they file for the following year.[44]

The appropriate action for AVR to take is to wait until the accrued/estimated costs become actual costs before requesting recovery. Instead of using the true-up to recover the difference between the accruals/estimates and actual costs, AVR should use the true-up to recover the entire actual costs. In practical terms, this means that AVR's MWA costs will only have a one-time, one-year lag before AVR can recover those costs on an ongoing annual basis.

AVR argues in its Opening Brief that the estimated amounts result from the fact that AVR, in accordance with Generally Accepted Accounting Principles ("GAAP") follows accrual accounting procedures.[45] AVR states that if invoices have not been received by the end of a period for which the entries must be made on AVR's books, AVR books an accrual[46] of the expense for that period based upon its best estimate. When the actual amounts become known, a "true-up" entry is entered on the books to adjust the accrual to actual.[47]

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[42] AVR's Opening Brief, p. 17.

[43] Testimony of Leigh Jordan, Transcripts Vol. 3, p. 299, lines 20-28; p. 300, lines 1-7.

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

[45] AVR's Opening Brief, p. 16.

[46] Mr. Jordan testified during cross-exam that accruals are effectively estimates. Testimony of Mr. Leigh Jordan, Transcripts Vol. 3, p. 302, lines 6-11.

[47] AVR Opening Brief, p. 16.

ORA points out that it is not against the use of accruals and understands the need to book the accruals and be in compliance with GAAP. The problem arises, however, when AVR asks for recovery of these costs before they become actual. In essence, AVR is recovering for a cost it has not yet paid. This is not fair to ratepayers because they are essentially providing interest-free funds to AVR until the bill is paid. If collections are in excess of actual, it could be a substantial amount of time before the money is returned to ratepayers.

Moreover, AVR acknowledged during hearings that "[t]here is a provision under GAAP where if the Commission specifically orders some accounting 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." [48] This is precisely the point – 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. Of importance, adopted variable costs are forecasted meaning they are estimates. Thus, if AVR is allowed to use an estimate/accrual, then AVR is effectively recovering for the difference between two estimates. This obviously is not what the Commission intended when it authorized AVR's WRAM/MCBA.

AVR's Opening Brief states that "AVR's calculation of balancing and memorandum account balances are performed correctly and in accordance with AVR's tariffs."[49] ORA points out, however, that AVR's tariff language strays from the language in the D.08-02-036. D.08-02-036,[50] the same provisions of which apply to AVR's WRAM/MCBA, states as follows: "The MCBAs will track the difference between actual variable costs and adopted variable costs for purchased water, purchased power, and pump tax." AVR's tariff, however, refers to adopted costs and recorded costs, which are

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

[49] AVR's Opening Brief, p. 23.

[50] D.08-02-036 authorized the WRAM/MCBA for Park Water Company, which is AVR's parent company.

estimates that AVR has recorded on its books.[51] The Commission should admonish AVR for not accurately representing what the decision actually authorizes in its tariff and require AVR to make appropriate corrections.[52]

AVR also states in its Opening Brief that ORA's reliance on an excerpt from the California State Auditor's Report that for pass-through costs, the utility is allowed to recover from ratepayers only its actual costs is misplaced.[53]

In that report, the State Auditor concluded "that the Commission lacks adequate processes to provide sufficient oversight of utility balancing accounts to protect ratepayers from unfair rate increases."[54] 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 actual costs."[55] Clearly, AVR's use of estimates, instead of actual costs, in its MCBA is in direct contradiction to the above.

Accordingly, ORA recommends that the Commission adopt ORA's recommendations and specify clearly in its decision that AVR is not to include accruals/estimates in lieu of actual variable costs in its MCBA and that AVR shall not be allowed to recover estimated amounts that the company has "recorded" in its MCBA or any other memo or balancing accounts.

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[51] AVR's Opening Brief, p. 22.

[52] This is similar to the problem with AVR's Tariff for its Office Remodel Balancing Account, wherein the language in AVR's preliminary statement of the tariff does not accurately reflect the authorizing decision. See section on Office Remodel Balancing Account.

[53] AVR's Opening Brief, p. 23.

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

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

C. Special Requests

1. Special Request #4 – Level Payment Plan Option

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.[56]

AVR only provides three sentences in its application generically describing the proposed level payment plan, and fails to provide any detailed information whatsoever about the mechanics of the plan in either its application or testimony.[57] AVR also fails to provide any costs associated with this plan or any analysis related to such costs in its application or testimony. Consequently, AVR has failed to meet its burden of proof pursuant to Section 451 that the costs associated with this request are just and reasonable.

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

Another problem is that the level payment plan potentially obscures the price signal sent by conservation rate design. 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.[58] 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

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[56] A.14-01-002, p. 12.

[57] A.14-01-002, p. 12.

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

be 'balanced.''"[59] 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.[60] 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.

While ORA recognizes the importance of being responsive to the community, AVR has failed to provide enough information to be persuasive that this is a better alternative to AVR's current billing practice. For the reasons discussed above, ORA recommends that the Commission deny AVR's Special Request #4 for a proposed level payment plan.

a) Special Request # 7 – Sales Reconciliation Mechanism

ORA agrees with the Town of Apple Valley that review and consideration of changes to the WRAM should occur in an industry-wide proceeding.[61] As ORA pointed out in its Opening Brief, 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. Any significant modifications to the Commission's Rate Case Plan should not occur on a piece-meal basis, but rather be addressed appropriately in an industry wide proceeding such as a Rulemaking.

AVR argues that the WRAM balances are the result of inaccurate sales forecasting that over-estimated consumption.[62] While the exact reason(s) for the reduction in sales is uncertain, the Parties agree it is likely due to a combination of factors – including the economic downturn and other economic factors related to reduced customer income, loss of customers due to foreclosure, and slower customer growth due to slowed construction of

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

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

[61] Town of Apply Valley's Opening Brief, p. 7.

[62] AVR's Opening Brief, p. 35.

new homes. As a practical matter, there has been much less fluctuation in sales the last two years, compared to previous years. This is likely to translate into smaller WRAM balances going forward.

Accordingly, ORA recommends that the Commission deny AVR's Special Request #7, and adopt both ORA's and the Town of Apple Valley's recommendation that the issue of a SRM be addressed in a separate proceeding that examines implementation of the WRAM.

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.

Town's Opening Brief acknowledges that Town does not have sufficient information to conclusively identify a precise cause of reduced water sales and revenue undercollections at this time, however, it recognizes that the ratepayers have borne the risk of those undercollections.[63] Town also proposes the authorized rate of returns be reduced to reflect the lower risk assumed by utilities due to revenue authorized by WRAM.[64] ORA asserts that the rate of returns used in this proceeding were authorized by the Commission in the Cost of Capital Proceeding (D.10-10-035) and they cannot be changed.

2. Irrigation (Commodity Revenues and Production Costs)

Commodity revenues and production costs for the irrigation-gravity customer, a single golf course, should not be tracked in the WRAM/MCBA because (1) to do so will not further the State's water conservation goals and (2) fluctuations in price are already tracked in the Incremental Cost Balancing Account. AVR attempts to support its proposal by arguing that to add the irrigation system to the WRAM/MCBA has no impact on residential and non-residential customers.[65]

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[63] Town of Apple Valley's Opening Brief, p. 11.

[64] Town of Apple Valley's Opening Brief, p. 11.

[65] AVR's Opening Brief, p. 38.

ORA understands the rates for the irrigation system are based on a separate cost of service study. ORA finds AVR's recommendation problematic for other reasons. Under AVR's proposal, the only commodity costs that would be included in the MCBA are purchased power and replenishment fees. There is little fluctuation in the costs in the purchased power account from year to year, and the fluctuations due to price are already tracked in the Incremental Cost Balancing Account. AVR is not anticipating reductions in purchased power commodity charges in Test Year 2015 relative to recent years, despite anticipating reductions in usage for the golf course irrigation-gravity customer.[66] Replenishment fees are less than $10,000 per year under AVR's forecast and it is unnecessary to track variations in this amount in the MCBA balancing account.[67] There is no persuasive argument that full-cost rather than incremental-cost balancing account treatment for purchased power and replenishment fees associated with the irrigation-gravity golf course will further the State's water conservation goals.

The gravity irrigation golf course is in a unique situation involving a longstanding legal agreement that leads AVR to have very high unaccounted for water of 79.6% under AVR's estimate.[68] Furthermore, the amount of water pumped into the irrigation system is not within AVR's control.[69] 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. Thus, AVR's proposal does not further the State's goals for water or energy conservation/efficiency. Rather, it will simply benefit AVR by ensuring full-cost recovery for an amount of purchased power that is needed to supply one golf course customer.

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[66] Exh. O-1, p. 19-3.

[67] Exh. O-1, p. 19-3.

[68] Exh. O-1, p. 19-3.

[69] Exh. O-1, p. 19-3.

Accordingly, ORA recommends that the Commission deny AVR's request to track commodity revenues and production costs for gravity irrigation in the WRAM/MCBA, and adopt ORA's recommendation for AVR to continue its Incremental Cost Balancing Account for purchased power.

3. 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.

4. Chemical Costs

Cost of chemicals should not be added to the supply costs captured by the MCBA because these costs are within AVR's control and with full-cost balancing account treatment AVR would no longer have the proper incentive to reduce costs, which could unnecessarily lead to additional costs for ratepayers. This approach is consistent with the MCBA principles outlined in the Water Action Plan and authorized by the Commission for Park and CalWater in D.08-02-036 in Phase 1A of the Conservation OII (I.07-01-022) and for AVR in D.08-09-026.[70]

Thus, ORA recommends that the Commission deny AVR's request to track chemical costs in the MCBA and adopt ORA's recommendation to continue Incremental Cost Balancing Account treatment for AVR's irrigation-gravity customer's commodity costs.

E. Rate Design

ORA agrees with AVR's proposed rate design and strongly disagrees with Town's proposal to eliminate tiered rates. 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.

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[70] Exh. O-1, p. 19-4.

C. 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.[71] ORA 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.

III. CONCLUSION

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

Respectfully submitted,

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[71] Exh. T-1, pg. 5.