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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

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

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

ADMINISTRATIVE LAW JUDGE'S RULING SETTING PREHEARING CONFERENCE, HEARING SCHEDULE AND OTHER MATTERS FOR HEARING IN APRIL 2016

Summary

This ruling sets a Prehearing Conference to be held from 9:00 a.m. to noon on April 11, 2016, in the Commission Courtroom, 505 Van Ness Avenue, San Francisco, CA. It provides that the evidentiary hearing will be held from April 11, 2016 through April 15, 2016, beginning at 1:30 p.m., on April 11, 2016, or at the conclusion of the Prehearing Conference if the Prehearing Conference ends earlier. It sets the order of witnesses for the evidentiary hearing. It reminds parties that the Evidentiary Hearing Guidelines adopted by Ruling dated February 13, 2013 are still in effect, with one modification. It identifies exhibit numbers, and sets April 6, 2016 as the date for parties to serve proposed exhibit lists.

1. Background

Hearings held by the Commission must allow parties to examine disputed issues of material fact, provide due process, and be conducted in the most efficient, fair, productive, and reasonable way possible. Up to five days during the week of April 11, 2016, are presently available for evidentiary hearings to complete the evidentiary record in both Phases 1 and 2 in this matter.

2. Prehearing Conference and Evidentiary Hearing

On March 25, 2016, eleven parties moved for an all-party meeting (APM). These joint parties request a meeting with Commissioner Sandoval and Executive Director Sullivan to discuss the schedule for the Environmental Impact Report for the Monterey Peninsula Water Supply Project, explore options to expedite the environmental review and, if no such option exists, to discuss what actions can be taken to mitigate impacts of the extended schedule for this proceeding.

In lieu of an APM, the Commission will convene a Prehearing Conference (PHC) from 9:00 a.m. to noon on April 11, 2016 in the Commission Courtroom, 505 Van Ness Avenue, San Francisco, CA. The PHC will be held to address scheduling and other procedural matters. The evidentiary hearing will begin at 1:30 p.m. on April 11, 2016, or at the conclusion of the PHC if the PHC ends earlier.

3. Evidentiary Hearing Guidelines

With the goal of using the week of April 11, 2016 efficiently, parties are reminded that the Evidentiary Hearing Guidelines issued by Administrative Law Judge Ruling on February 13, 2013 are still in effect (with one modification noted below), and these Guidelines will govern the upcoming hearing. The Guidelines include, but are not limited to: exhibit format, corrections to exhibits,

cross-examination, cross-examination documents, exhibit numbering, exhibit exchange, and stipulations.

4. Exhibit Numbers

Exhibits will be numbered using the prefixes adopted in 2013. Exhibit numbers will continue from the numbers used at the last hearing. For the proposed testimonies served to date, they will begin with the following numbers:

Party	Exhibit No.
California-American Water Company	CA-35
Office of Ratepayer Advocates (previously Division of Ratepayer Advocates - DRA)	DRA-16
Monterey County Farm Bureau	FB-1
Marina Coast Water District	MCD-16
Monterey Peninsula Water Management District	WD-9
Monterey Regional Water Pollution Control Agency	PCA-1
Planning and Conservation League	PCL-5
Monterey Peninsula Regional Water Authority	RWA-17
Salinas Valley Water Coalition	SV-11
Water Plus	WP-8

The February 13, 2013 Guidelines required parties to serve exhibit lists and pre-marked exhibits on all other parties no later than 14 days before the hearing. That guideline is modified for the April 2016 hearing. Proposed exhibits have already been served. There is no need to serve these exhibits again for the purpose of their being “pre-marked.” Parties should, however, serve proposed exhibit lists no later than April 6, 2016. The proposed exhibit lists should not be filed. Those lists should include all exhibits already identified in this proceeding (e.g., for applicant starting with CA-1). The lists should also include all proposed

exhibits for the upcoming hearing. Recommended corrections to the above stated initial numbers for the upcoming exhibits should be noted in or with the proposed exhibit lists. The following Exhibit Index format is to be used:

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Judge Gary Weatherford

EXHIBIT INDEX

EXHIBIT NO	WITNESS OR SPONSOR	DESCRIPTION	DATE IDENTIFIED	DATE RECEIVED

5. Proposed Witness Schedule

On March 25, 2016, eighteen parties filed an amended joint response regarding witness lists and schedule for these hearings. The total estimated time for cross-examination is 1160 minutes. This includes estimates from all known active parties who have stated an expectation to participate at the hearing. It also includes witness availability the week of April 11 and, for some witnesses, the request for a date certain. Finally, the amended joint response proposes that the witnesses be taken in order by parties, while also accommodating witnesses who request a date certain. The amended joint response states the proposed order for parties is:

1. California-American Water Company (CA)
2. Monterey Regional Water Pollution Control Agency (PCA), excluding witness Nellor
3. Monterey Peninsula Water Management District (WD)

4. Planning and Conservation League Foundation (PCL)
5. Office of Ratepayer Advocates (DRA)
6. Salinas Valley Water Coalition (SV)
7. Monterey County Farm Bureau (FB)
8. Marina Coast Water District (MCD)
9. Water Plus (WP)
10. Monterey Peninsula Regional Water Authority (RWA)

In addition to the time for cross-examination, a brief amount of time is needed at hearings to distribute documents (e.g., the copy of testimony for the formal file, cross-examination documents), and for each witness to take the stand, be sworn, and adopt their testimony in direct examination. If done efficiently, this time should be no more than five minutes per witness. For 20 witnesses, that is about 100 minutes. This brings the total to 1260 minutes. Some additional time might be needed for redirect testimony. Further, a short amount of time is needed to move for receipt of exhibits and receive some or all exhibits (assuming no long arguments regarding receipt), to discuss and set the briefing schedule, and address other evidentiary and procedural matters.

On the record hearing time is limited to about 280 minutes per day (with 140 minutes in the morning and 140 minutes in the afternoon). This amount of time is available on the record when the hearing day runs from 9:30 to noon (with one 15 minute break) and 1:30 to 4:00 (with one 15 minute break).¹ A total of 1260 minutes at 280 minutes per day means this hearing will take 4.5 days (even without time for (a) redirect testimony, (b) questions from the

¹ Off-the-record matters (e.g., scheduling, discussions) can be addressed before 9:30 and after 4:00.

Administrative Law Judge (ALJ) or the assigned Commissioner, (c) receipt of exhibits, (d) discussion and the setting of the briefing schedule or (e) addressing other evidentiary or procedural matters). As a result, the 4.5 days available after the PHC will be used for evidentiary hearing the week of April 11, 2016.² The Commission must be efficient to facilitate completion of these hearings in 4.5 days, and parties are expected to do their part to achieve this goal.

6. Adopted Schedule

The schedule below is developed based on the date and time for the PHC, along with the information in the March 25, 2016 amended joint response. This schedule includes a date certain for those witnesses who made that request, and takes the rest of the witnesses in the order proposed in the amended joint response while also accommodating other limited availabilities. It takes the estimated time for cross-examination provided in the amended joint response, and adds five minutes (to distribute documents, and for each witness to take the stand, be sworn, and adopt their testimony in direct examination). The party affiliation is noted in parentheses using the same notation as the exhibit prefixes. The schedule is:

² Experience shows that estimates for cross-examination tend to be generous. Nonetheless, it is unwise to assume in advance of these hearings that both the amount of time for cross-examination and time for other necessary activities (e.g., redirect testimony, receive exhibits, set briefing schedule) will take less than 4.5 days, particularly when there may also be questions from the ALJ or assigned Commissioner.

Monday, April 11, 2016

9:00 to noon: PHC followed by these witnesses:

WITNESS	ESTIMATED TIME FOR CROSS-EXAMINATION (minutes)
Scuito (PCA) *	65
Linam (CA)	75
Total	140

Tuesday, April 12, 2016

WITNESS	ESTIMATED TIME FOR CROSS-EXAMINATION (minutes)
Linam (CA)	25
MacLean (CA)	45
Leffler (CA) *	75
Groot (FB) *	35
Svindland (CA)	100
Total	280

Wednesday, April 13, 2016

WITNESS	ESTIMATED TIME FOR CROSS-EXAMINATION (minutes)
Svindland (CA)	165
Holden (PCA)	10
Imamura (PCA)	10
Minton (PCL) *	30
Stoldt (WD)	65
Total	280

Thursday, April 14, 2016

WITNESS	ESTIMATED TIME FOR CROSS-EXAMINATION (minutes)
Stoldt (WD)	50
Rose (DRA)	105
Hopkins (MCD)	70
Moore (MCD)	55
Total	280

Friday, April 15, 2016

WITNESS	ESTIMATED TIME FOR CROSS-EXAMINATION (minutes)
Nellor (PCA) *	10
Burnett (RWA) *	45
Preston (RWA) *	30
Thrupp (RWA) *	75
Bruce (WD) *	40
Weitzman (WP)	40
Isakson (SV) *	40
Total	280

* Based on a date certain, or date assigned due to other limited availability

In the event that the hearing progresses faster than anticipated in the above schedule, subsequent witnesses must be available to appear next in order. For example, MacLean and Leffler should be prepared to take the witness stand on Monday if cross-examination of the first set of witnesses is done with time remaining in the hearing schedule on Monday. Parties may move for adoption of a reasonable alternative to the above schedule as long as the alternative provides a day for each witness to appear (consistent with witness availability) and permits completion of the hearing by the end of the week. Parties must use all reasonable means to make a joint motion to adopt one agreed-upon alternative schedule. The schedule may also be adjusted by the assigned

Commissioner. The ALJ may limit the amount of time for cross-examination, if necessary.

IT IS RULED that:

1. The March 25, 2016 motion for an all-party meeting is treated as a motion for a prehearing conference. The motion for a prehearing conference is granted to the extent provided herein, and denied in all other respects. A prehearing conference shall be held from 9:00 a.m. to noon on April 11, 2016, in the Commission Courtroom, 505 Van Ness Avenue, San Francisco, California to discuss schedule and other matters.

2. Evidentiary hearing shall be held on April 11, 2016, and continue through April 15, 2016, in the Commission Courtroom, 505 Van Ness Avenue, San Francisco, California. The evidentiary hearing shall begin at 1:30 p.m. or, if the Prehearing Conference ends early, at the conclusion the Prehearing Conference.

3. The Evidentiary Hearing Guidelines adopted by Administrative Law Judge Ruling dated February 13, 2013 remain in effect, with one modification. Parties shall not reserve exhibits that have already been served (when doing so would only be for the purpose of the item being pre-marked).

4. Exhibit numbers shall continue in order from those used in the prior hearings. Parties shall serve (but not file) proposed exhibit lists by April 6, 2016.

5. The order of witnesses shall be as stated in the body of this ruling. Witnesses scheduled for later in the week (except for those with a date certain) shall be available earlier in the week should the hearing move more quickly than

outlined in the body of this ruling. Parties may move for an alternative order of witnesses, but shall use all reasonable means to make a joint motion to adopt one agreed-upon alternative schedule.

Dated March 30, 2016, at San Francisco, California.

/s/ RICHARD SMITH for
Gary Weatherford
Administrative Law Judge