BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

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Application of California-American Water Company (U210W) for Authorization to Modify Conservation and Rationing Rules, Rate Design, and Other Related Issues for the Monterey District.	A.15-07-019 (Filed July 14, 2015)

REPLY BRIEF
OF THE OFFICE OF RATEPAYER ADVOCATES
IN PHASE II OF APPLICATION 15-07-019

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SUMMARY OF RECOMMENDATIONS

SUMMARY OF ORA'S REPLY BRIEF

The Office of Ratepayer Advocates ("ORA") maintains its recommendations regarding the WRAM, annual true up mechanism, rate design, and Rule 14.1.1.

- WRAM - No evidence has been presented that would support granting California American Water ("Cal Am") the full amount of the existing WRAM balance. Nor does the record support that the Commission allow Cal Am to collect interest on the amortized amount that the Commission authorizes in its decision. Furthermore, by requiring that Cal Am file applications to collect future WRAM balances, the Commission will afford all interested parties the time needed for data collection and review in order to verify the accuracy of Cal Am's data and calculations. The concerns raised by CWA are misguided and unfounded as ORA's recommendations are specific to Cal Am's Monterey district and have no industry-wide implications other than requiring due diligence in the management of company data.
- Annual Consumption True Up Mechanism ("ACTUM") Pilot Program – The Commission should not authorize Cal Am's request for the ACTUM. In Cal Am's attempts to distract from its unsubstantiated premise that the proposed ACTUM will stabilize revenues and prevent future substantial undercollections, Cal Am misrepresents information, takes statements out of context, and attempts to blame ORA for Cal Am's own errors.
- Rate Design – ORA does not propose that non-residential customers subsidize residential customers but seeks to maintain proportionality between consumption and cost recovery by re-allocating 8.4% or approximately $3 million of Cal Am's current revenue requirement from residential to non-residential customers. ORA further recommends that the steeply tiered rate differentials be maintained so that customers who use the least water are less impacted by the changes in the rate design. Cal Am's proposal to reduce the tiered rate differentials would dampen the pricing signals sent to those who have the highest consumption and increase rates at a proportionately greater rate for those who consume the least amount of water.
- Rule 14.1.1 – ORA's recommendation requiring Cal Am to file a Tier 2 advice letter before imposing the emergency conservation rates ("ECRs") level elevation is necessary. ECRs are unrelated to rationing, as rationing only occurs in proposed Stage 4, while ECRs occur in Stage 3. An Advice Letter would inform the Commission that Cal Am is increasing rates on its

customers. Cal Am has failed to distinguish the enhancement from Level 1 to Level 2 conservations rates, and the enhancement from one Stage to another, which requires a Tier 2 advice letter.

- Safety Considerations – Cal Am's concern regarding the financial impact of ORA's recommendations is unfounded and not supported by the record. Cal Am presents no evidence that it is currently suffering any financial harm as a result of the uncollected WRAM balance nor does it present any evidence that it will suffer any impact in the future based on ORA's recommendations. ORA's recommendations regarding the WRAM affords Cal Am the opportunity to improve its forecasting as more of the fixed costs will be recovered from the meter charges, and amortizing a WRAM balance of $22.1 million within a five-year period provides Cal Am with additional revenues that can be used towards the Monterey Supply Water Project. Therefore Cal Am's safety concern is meritless.

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I. INTRODUCTION

Pursuant to Rule 13.11 of the California Public Utilities Commission ("Commission") Rules of Practice and Procedure ("Rules"), the Office of Ratepayer Advocates ("ORA") files this Reply Brief in response to the Opening Briefs of California-American Water Service Company ("Cal Am"), California Water Association ("CWA"), Monterey Peninsula Water Management District ("MPWMD"), Public Trust Alliance's ("PTA"), and the Joint Opening Brief of Public Water Now ("PWN") and Regulatory Liaison's ("RL"). Any topics or issues not specifically addressed in ORA's Reply Brief does not constitute an admission or acceptance of the arguments presented by other parties regarding that topic or issue.

Nothing contained in the opening briefs presented by the parties in Phase II of this proceeding, leads ORA to modify any of its recommendations. The Commission should adopt ORA's recommendations regarding the WRAM, ACTUM, Rate Design, and Rule 14.1.1.

II. WATER REVENUE ADJUSTMENT MECHANISM ("WRAM")

A. Amortization

The Commission should deny Cal Am's proposal to amortize the WRAM balance over a 20-year period because it contradicts Cal Am's rationale for amortizing the balance to support the Monterey Water Supply Project ("MWSP") and would unreasonably burden current and future Monterey ratepayers.

1. Cal Am's 20-year Amortization Period Would Not Finance the MWSP

The Commission should not approve Cal Am's request to amortize its existing WRAM balance over a 20-year period but should adopt ORA's proposal to amortize a balance of $22.1 million over a five-year period. While Cal Am argues in its opening brief that its proposal aims to spread out the existing WRAM balance "…over a period of time to try to mitigate the impact given the sense that it is a comprehensive issue in terms of not only the impact in this proceeding, but also in the water supply proceeding,"[1] this assertion contradicts its proposed rationale that it needs to collect the WRAM balance in order to fund the MWSP.[2] By stretching out the WRAM balance over a 20-year period, the MWSP will be completed before the full WRAM balance is collected. This is a clear indication that Cal Am does not need to collect the WRAM balance for this purpose. In contrast, ORA's proposal would allow Cal Am to obtain funding throughout the development and implementation of the MWSP as the balance of $22.1 million would be fully amortized in five years. This would satisfy the concerns Cal Am raised regarding its ability to obtain financing for the MWSP.

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[1] Cal Am Phase II Opening Brief at p. 22, citing to the Evidentiary Hearing ("EH") Transcript at p. 433, lines 17-22, Cal Am Witness: Jeffery T. Linam.

[2] Ibid at p. 18, citing to Exhibit. 9, Direct Testimony of Jeffery T. Linam, p. 17.

2. A 20-Year Amortization Period Would Unreasonably Burden Present and Future Ratepayers in the Monterey District

The Commission must also consider the impact that a 20-year period would have on Cal Am's future Monterey ratepayers. Both ORA and MPWMD expressed intergenerational concerns regarding Cal Am's proposal.[3] It is both unreasonable and inequitable to require future Monterey ratepayers to bear the costs incurred by, but not collected from, ratepayers from prior years.[4] ORA recognizes the potential for rate shock and has provided the most equitable approach by ensuring that current ratepayers bear the cost of the WRAM balance as early as possible while also ensuring that current ratepayers do not bear costs that are attributable to Cal Am's mismanagement of its own allotment system.

B. Interest Rate

The Commission should not allow Cal Am to collect interest on the WRAM balance that it authorizes Cal Am to collect in this proceeding.[5] The Commission has the authority to deny interest based on the record in this proceeding. Cal Am's cash flow would not be impacted if interest were disallowed and has provided no evidence that it utilized equity and debt to fund the WRAM undercollections. Cal Am's use of Commission Decision ("D.")08-10-019 and D.08-05-036 lacks merit as these decisions do not constitute precedent and warn against being used as precedent in other Commission proceedings. Furthermore, ORA's recommendations in this proceeding are specific to Cal Am's current application based on the evidence and have no industry-wide implications other than requiring that companies exercise due diligence in record keeping and verifying data accuracy.

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[3] *See* Exhibit 203, Supplemental Testimony of David Stoldt at p. 6; and Exhibit 104, ORA Phase II Report at p. 2-13.

[4] Ibid.

[5] *See* Exhibit 104, ORA Phase II Report at p. 2-14 - Cal Am's WRAM balance already incorporates its 8.4% rate of return warranting a disallowance of any interest on the amortized balance.

1. The Commission has the Authority to Deny Interest in this Proceeding

As the Commission has previously stated, "there are no explicit statutory guidelines for our decisions regarding interest rates, and we have broad flexibility in reviewing the facts of a particular situation and broad discretion to make appropriate findings of fact and conclusions of law."[6] Therefore, the Commission must utilize its flexibility when the record demonstrates that imposing an interest rate on the existing WRAM balance would be detrimental to ratepayers. The record in this proceeding demonstrates that Cal Am's proposal to include an interest rate of 8.41% would result in ratepayers paying more than double the amount of the existing WRAM balance.[7] This is a clear violation of Public Utilities Code ("PUC") Section 451[8] as the resulting rates would be unjust and unreasonable.

2. Cal Am Presented no Evidence that its Cash Flow is Impacted nor Evidence that it is Funding the Undercollections with Debt

Cal Am alleges that the current WRAM balance has a direct impact on its cash flow and that the 90-day commercial paper rate typically applied to WRAM balances does not allow Cal Am to recover the costs it incurred to fund the undercollections[9] but it provided no evidence that its cash flow has been impacted by the existing WRAM balance, nor did it provide any evidence that it has had to fund the undercollections with debt. Cal Am also did not provide any proof of equity funding when asked repeatedly about this by Administrative Law Judge Colbert in the public participation hearing on

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[6] D.08-10-019, Application of California-American Water Company (U210W) for an Interest Rate of 8.33% for Allowance for Funds Used During Construction (AFUDC) for its San Clemente Dam Memorandum, Order Denying Rehearing of Decision (D.) 08-05-036, at p. 5.

[7] Exhibit 104, ORA Phase II Report at p. 2-13.

[8] PUC § 451 states in part: "All charges demanded or received by any public utility, or by any two or more public utilities, for any product or commodity furnished or to be furnished or any service rendered or to be rendered shall be just and reasonable…."

[9] Cal Am Phase II Opening Brief at p. 23.

January 27, 2016.[10] Therefore, Cal Am's assertion that is "seeking to recover real costs that it is incurring to fund these substantial undercollections"[11] lacks merit and is not supported by the evidence. Cal Am's financial reports submitted to the Commission also demonstrate that the company has remained profitable during the majority of years in which the company alleges an undercollected WRAM balance.[12]

Cal Am attempts to treat the existing WRAM balance as a debt that is owed by ratepayers that must be repaid, which it is not.[13] The existing WRAM balance is the result of poor forecasting based on inaccurate allotment data as well as poor management of the allotment system. As ORA testified, the WRAM is not debt and the WRAM was not intended to guarantee profit.[14] It is important to note that while CWA urges the Commission to deny ORA's proposal because it deviates from the norm, it failed to address Cal Am's request for an 8.41% interest rate which deviates from 90-day commercial paper rate that applies to the WRAM balances of its other members.

3. ORA's Recommendations are Specific to Cal Am's Monterey District in this Proceeding based on the Evidence Provided

While CWA purports to represent an industry wide concern, its brief only purports to advocate for the benefit of Cal Am and not on behalf of all investor owned utilities as a whole. Furthermore, ORA made it clear that its recommendations in this proceeding apply only to Cal Am based on the facts and circumstances that are specific to the Monterey district. Therefore there are no industry-wide implications that could result from this proceeding. Cal Am's argument that "despite the fact that its 'reasons' apply to all water utilities with decoupling WRAMs, ORA is not recommending that the

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[10] PPH Transcript at pp. 286-293.

[11] Cal Am Phase II Opening Brief at p. 25.

[12] *See* Exhibit 104, ORA Phase II Report at p. 2-15, lines 12-15.

[13] *See* Cal Am Phase II Opening Brief at p. 26.

[14] EH Transcript, vol. 6, at p. 907, ORA Witness: Dawadi.

Commission disallow interest on WRAM balances for other water utilities"[15] is also misguided as this is a ratesetting proceeding that does not apply to the industry but specifically applies to Cal Am's Monterey district. The evidence shows that Cal Am contributed to the existing WRAM balance and must be held accountable for its failure to adequately management its allotment system.[16]

4. **Commission Decisions 08-10-019 and D.08-05-036 Did Not Apply to the WRAM and set no Precedent**

Cal Am inappropriately attempts to justify its request for an 8.41% interest rate by citing to Decision ("D.") 08-10-019 and D.08-05-036.[17] However, neither decision addressed interest rates as they apply to WRAM balances, but addressed the interest rate regarding carrying costs of capital projects. In D.08-05-036, the Commission specifically stated:

> We further distinguished this circumstance from that of typical memorandum accounts. Memorandum accounts typically are used to record expenses that are not anticipated or readily quantifiable at the time (i.e., litigation or water quality costs). The cost factor applied is the 90-day commercial paper rate since it involves only expenses occurring in the course of doing business, rather than the cost of capital projects.[18]

Furthermore, the Commission stated that D.08-05-036 was not intended to be used as a precedent as it resulted from a ratesetting proceeding:

> Consistent with the categorization, we did not intend to establish policy regarding AFUDC for all long-term water projects. However, as we indicated in our Decision, we will decide the interest rate treatment based upon the

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[15] Cal Am Phase II Opening Brief at p. 26.

[16] *See* Exhibit 104, ORA Phase II Report at p. 1-12 through 1-14 – provides that Cal Am did not correct some of its inaccurate allotments (allotments ranging from 50 – 999) until 2015 after ORA questioned Cal Am regarding these allotments. These allotments were reduced to five or fewer without any data being presented regarding how the lower allotments were obtained.

[17] Cal Am Phase II Opening Brief at p.22.

[18] *See* D.08-05-036, at p. 11; and D.08-10-019 at p. 6.

> circumstances at hand and the type of financing being used to fund the project. (See D.08-05-036, p. 11 (emphasis added).)[19]

Therefore, Cal Am's proposal is not supported by D.08-05-036 nor D.08-10-019. As the Commission stated in D.08-05-036, the Commission "will decide the interest rate treatment based upon the circumstance at hand…."[20] The circumstances of this case warrant that the Commission deny Cal Am's request to collect any interest on a balance that carries no risk of non-recovery, already incorporates a rate of return and is not a debt to be repaid.

C. WRAM BALANCE TO BE AMORTIZED

The Commission should allow Cal Am to amortize a WRAM balance of $22.1 million calculated as of December 31, 2014 and the 2015 *actual* balance as reported in AL 1211,[21] less a proportional disallowance as directed by the Commission in this proceeding.[22, 23]

ORA's proposed disallowance is based on Cal Am's mismanagement of its allotment rate design, is supported by the fact that Cal Am's data lacks credibility, and this disallowance does not result in retroactive ratemaking. Furthermore, ORA's disallowance is not against Commission policy, rules, or statutes.

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[19] *See* D.08-10-019 at p. 8.

[20] *See* D.08-05-036 at p. 11.

[21] Cal Am Phase II Opening Brief at p.5.

[22] Exhibit 104, ORA Phase II Report at p. 2-15.

[23] ORA's recommended WRAM disallowance does not address those 2015 WRAM balances that are attributable to Cal Am's mismanagement of its allotment rate design. Because ORA's motion to consolidate these balances (consolidation which would have provided ORA an opportunity to address these actual balances) was denied, the decision in this proceeding should make clear a direction to the Division of Water and Audits that a disallowance proportional to any ordered in this proceeding based on this mismanagement should be applied to the 2015 balance as stated in AL 1121. *See* ORA "Motion To Consolidate Advice Letter 1121 With Application 15-07-019," filed on April 13, 2016. *See also* EH Transcript, vol. 3 at p. 341-342. EH Transcript, vol. 6 at p. 964 – "The Commission understands that we have the data that's necessary for the Commission reaching its decision in the matters that are before us in this application, so ORA's motion is denied."

1. ORA's Disallowance Based on Cal Am's Mismanagement of its Allotment Rate Design is Reasonable

Cal Am has clearly mismanaged its allotment rate design. Despite Cal Am's apparent walking-back of its admissions as to the allotment overstatements,[24] ORA's concern for the allotment rate design stemmed from *these* admissions provided in *this* proceeding and so is timely.[25] Cal Am attempts to pin the blame for its failure to audit or request an audit on a single one of the admittedly overstated allotments[26] on MPWMD, ORA, and the Commission,[27] despite there being no impediment to its requesting that MPWMD audit customers, or to its requesting from the Commission any additional authority it thought it needed to carry out those mandates in Ordinance 92 and D.09-07-021,[28] to perform the "indefinite" verification cited by its own witness as necessary.[29]

Cal Am's attack on ORA's use of the census data cited by Eric Sabolsice is also flawed: Cal Am provides no evidence to support its argument that it was appropriate for Cal Am to use this data in its own documents, without adjustment for response rate or undocumented individuals,[30] but it is inappropriate to estimate a $17.4 million disallowance based on that same data.[31] Cal Am further never explains why a census "snapshot" is an inappropriate comparison for a data report of allotments,[32] which also must logically include a date and time at which the report is run for the yearly total, despite including changes made over the year.

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[24] *See* Cal Am Phase II Opening Brief at p. 9, stating that there is no evidence as to specific instances of overstated allotments.

[25] ORA Phase II Opening Brief at p. 6-7.

[26] EH Transcript, vol. 3 at 356, CAW witness: Sabolsice.

[27] Cal Am Phase II Opening Brief at p. 6.

[28] D.09-07-021, Appendix A, Conservation Rate Design Settlement Agreement at 9-10.

[29] ORA Phase II Opening Brief at p. 5.

[30] Cal Am Phase II Opening Brief at p. 10-11.

[31] Cal Am Phase II Opening Brief at pp. 10-11.

[32] Cal Am Phase II Opening Brief at p. 10.

Cal Am's failure to verify allotment survey data provides no disincentive to customers seeking to manipulate the allotment system. While Cal Am alleges that the maximum allotment given is for seven residents, it is unclear whether this is in fact the case when its system allows entries of well above seven.[33] Further, Cal Am's focus on these grossly overstated allotments to refute ORA's disallowance misses the point: ORA is not alleging that the entire disallowance results from these entries. Indeed, it is clear that many more customers need to have over-reported allotments to account for the discrepancy noted by Mr. Sabolsice.[34]

Rather, these examples of grossly overstated allotments are included in ORA's report as evidence of the sheer absurdity of Cal Am's system, that such survey responses would not prompt Cal Am to conduct audits. ORA uses averages to estimate its proposed disallowance, reasonably substituting for the paucity of data attributable to Cal Am's failure to conduct a single audit, let alone groups of sample audits.

For these reasons, the Commission should allow Cal Am to amortize a maximum WRAM balance of $22.1 million, through 2014, with a proportionate disallowance for 2015 balances.

2. Cal Am's Data is Incomplete and Does not Support that No Changes to the Allotments Occurred

Cal Am admits in its Opening Brief that inaccurate residential household allotments can materially affect the WRAM.[35] This can occur when there are changes to allotments between when the "historic period" used for consumption projections occurs and when billing based on that rate case occurs.[36] However, Cal Am presented incomplete data for 2010-2014 and therefore, its attempt to argue that the allotments did

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[33] Exhibit 104, ORA's Phase II Report at pp. 1-12 through 1-13.

[34] ORA Phase II Opening Brief at p. 7.

[35] Cal Am Phase II Opening Brief at p. 13.

[36] Ibid.

not change based on Ms. Chew's graph lacks merit.[37] As ORA has stated, Ms. Chew's graph omits *multi-family* residential customers and only includes *single-family* residential customers.[38] Therefore, Cal Am presented no credible evidence that the allotments did not change. Cal Am's witnesses Sabolsice and Linam have admitted that the allotment system encouraged overreporting of household members and have led to customers paying rates lower than those intended under the rate design and thus contributing to the growth in WRAM balances.[39] Therefore, Cal Am's assertion that the allotments did not impact the WRAM is discredited by its own witnesses and is not supported by evidence.

3. ORA's Disallowance of a Portion of the WRAM Balance Does not Constitute Retroactive Ratemaking

Cal Am's argument that ORA is conducting retroactive ratemaking lacks merit.[40] ORA's proposed disallowance reasonably accounts for Cal Am's failure to take reasonable measures to manage its allotment system and makes no changes to the actual rates. Therefore ORA did not engage in retroactive ratemaking. ORA has proven that Cal Am bears some responsibility for the undercollected WRAM balance by its failure to utilize reasonable measures to verify allotment survey data rather than ignoring obvious signs of abuse.[41] Rather, ORA sought to calculate a portion of the WRAM balance that could reasonably be attributed to Cal Am for its failure to verify customer allotment information when the record makes it clear that Cal Am was aware that customer allotments were overstated.[42] Clearly if customers overstate their allotments it cannot be

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[37] Cal Am Phase II Opening Brief at p.13.

[38] ORA Phase II Opening Brief at p. 9.

[39] *See* Exhibit 1, Direct Testimony of Eric Sabolsice at p. 19; and Exhibit 9, Direct Testimony of Jeffrey T. Linam (Corrected Version) at p. 11.

[40] Cal Am Phase II Opening Brief at p. 14.

[41] ORA Phase II Opening Brief at p. 7-9.

[42] *See* Exhibit 1, Direct Testimony of Eric Sabolsice at p. 19; and Exhibit 9, Direct Testimony of Jeffrey T. Linam (Corrected Version) at p. 11.

argued that the increase in Tier 1 and Tier 2 usage is the result of conservation efforts[43] when it is also highly likely that customers with higher usage increased allotments in order to remain in a lower tier so that they would pay less for water without necessarily reducing consumption.

Most importantly, Cal Am's Opening Brief reflects a fundamental misunderstanding of retroactive ratemaking. ORA is not recommending any claw-back of revenue already collected from ratepayers. Ironically, it is Cal Am's request to recover more than $40 million in revenue that it alleges should have been collected in a prior period that infringes upon prohibitions against retroactive ratemaking.

4. **ORA's Disallowance Does Not Depart from Commission Practice**

CWA stated that its principal objection is that ORA's recommended disallowance substantially departs from long-standing Commission practice to authorize recovery of properly-accounted for WRAM balances and that ORA's focus on "inaccurate" allotments overlooks the key practical function of the WRAM, which is to track the effects of conservation and drought management on authorized revenues.[44] However, the WRAM was never intended to encourage companies to be negligent. Furthermore, Cal Am's mismanagement of the allotment system was inapposite to encouraging conservation since it allowed customers to pay less for water without reducing consumption. This is best evidenced by the fact that Cal Am's actual consumption was greater than forecasted in 2012, although reported revenues were less than forecasted.[45]

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[43] Cal Am Phase II Opening Brief at p. 19 – Cal Am States: "For example, if consumption in Tier 1 and 2 is greater than forecasted and consumption in Tiers 4 and 5 is less than forecasted, it would be possible for California American Water to undercollect authorized revenues even if the total consumption is greater than forecasted. Not only is such a result not "incongruous," it is actually in keeping with the conservation goals of the Monterey District rate design, which seeks to discourage consumption in the higher tiers." However, total consumption would actually be less overall if conservation goals were being met. Higher usage in the lower tiers indicates abuse by customers in higher tiers that increased allotments in order to pay less for water without reducing consumption.

[44] CWA Phase II Opening Brief at p. 2-3.

[45] Exhibit 104, ORA Phase II Report at p. 2-7; see also supra n. 32.

III. ANNUAL CONSUMPTION TRUE UP MECHANISM

Cal Am's primary argument in support of its proposed ACTUM is the premise that it will "stabilize revenues and prevent future substantial undercollections."[46] Cal Am uses this premise to argue that: 1) "[c]ustomers would benefit from the reduction in surcharges, more consistent and timely price signals, and lowered rates due to shorter periods for WRAM balances to accrue interest"[47] and that 2) the revenue stability "is crucial to achieve low cost financing for the MPWSP."[48]

However, as ORA has previously discussed extensively,[49] there is no evidence that more frequent consumption adjustments increase the accuracy of sales forecasting. Thus, Cal Am's premise is flawed. It is speculative to assume that the proposed ACTUM would reduce WRAM balances or increase revenue stability. All benefits discussed by Cal Am are based on this unproven assumption. Additionally, Cal Am's ACTUM would result in single-issue ratemaking, as previously discussed by ORA.[50] Therefore, the Commission should not authorize the proposed ACTUM.

In attempt to distract from this unsubstantiated premise, Cal Am misrepresents information, takes statements out of context, and attempts to blame ORA for Cal Am's own errors, as discussed in more detail below.

A. Cal Am takes Locke's Statement Out of Context

In support of its proposed ACTUM, Cal Am quotes MPWMD Water Demand Manager Stephanie Locke, who stated in testimony that "[t]he District is supportive of using current consumption rather than waiting for the three-year General Rate Case cycle to conclude."[51] However, this statement is taken out of context. This statement is not

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[46] Cal Am Phase II Opening Brief at p.27.

[47] Ibid at p. 28.

[48] Ibid.

[49] Exhibit 104, ORA's Phase II Report at pp. 3-4 to 3-5 and ORA Phase II Opening Brief at pp. 11-12.

[50] Exhibit 104, ORA's Phase II Report at pp. 3-9 to 3-10 and ORA Phase II Opening Brief at pp. 15.

[51] Cal Am Phase II Opening Brief at p. 28.

meant to apply to the ACTUM, and in fact Locke's testimony does not discuss the ACTUM at all. The answer quoted is in response to the question "California American is also proposing…using 2014 annual residential consumption as a base for the rate design. Does the District agree with all of these changes?"[52] Locke's statement in support of using current consumption is in reference to the question of what base year to use for rate design. ORA has not contested the concept of using 2014 as the base year for rate design.

B. Cal Am Misrepresents a Prior Relevant Commission Decision

Cal Am argues that the Commission's decision to reject a similar mechanism that Cal Am previously proposed is not applicable to this request.[53] The decision referenced (D.15-04-007) denies Cal Am's request for a consumption adjustment mechanism ("CAM") similar in nature to a drought sales reconciliation mechanism ("SRM") pilot program authorized for the California Water Service Company ("Cal Water") in Cal Water's 2012 GRC (A.12-07-007), stating:

> Given the complexity and experimental nature of Cal Water's SRM, authorizing further pilot programs based on Cal Water's mechanism before a review is completed could lead to flawed designs and unintended consequences being replicated in other pilot programs. However Cal-Am may seek authorization to implement a CAM in either its next GRC or through another application filed prior to its next GRC.[54]

Technically, the decision authorizes Cal Am to seek authorization to implement a CAM through another application, as Cal Am argues in its opening brief. However, the implication is that Cal Am may seek this authorization after the Commission completes its review of Cal Water's drought SRM pilot program – which, as Cal Am's witness

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[52] Exhibit 202, Supplemental Direct Testimony of Stephanie Locke ("Locke Supplemental") at p. 2.

[53] Cal Am Phase II Opening Brief at p. 30.

[54] D.15-04-007 at p. 21.

Linam testified, has not yet occurred.[55] Cal Am further argues that "ORA has since had the opportunity to review Cal Water's SRM in its general rate case,"[56] while failing to recognize the findings of ORA's review.[57] ORA's findings included:

1) The drought SRM pilot, during the first six months of implementation, increased WRAM balances on a company-wide basis.[58]
2) In aggregate, the reduction to WRAM balances is greater without an SRM adjustment.[59]
3) From available data, it is clear that Cal Water's claim of the drought SRM pilot sending correct pricing signaling is not only unsubstantiated but incorrect.[60]

These finding further emphasize the "flawed designs and unintended consequences" that could result if the Commission were to approve Cal Am's proposed ACTUM before completing its review of Cal Water's drought SRM pilot.

C. Cal Am Provided Erroneous Data and Attempts to Shift the Blame to ORA

Cal Am attempts to discredit ORA's assertion that it has provided conflicting reports and incomplete data responses by stating that ORA created the conflicts.[61] However, as ORA stated in its opening brief, Table 3-A of ORA's report correctly presents Cal Am's consumption submissions to ORA with the exception of one number, which contained an extra zero and was corrected by ORA in the evidentiary hearings. Cal Am admits to providing erroneous consumption data, stating that "[t]he second column was an input error to the table in Cal Am's response to ORA DR E02-002, Q002."[62] The second column to ORA's table represents Cal Am's *original response* to

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[55] EH Transcript, vol. 3, at p. 454-455, Cal Am Witness: Linam.

[56] Cal Am Phase II Opening Brief at p. 30.

[57] ORA's Report on Sales and Rate Design, Cal Water A.15-07-015, pp.40 - 56.

[58] Ibid at p. 44.

[59] Ibid at p. 43.

[60] Ibid at p. 53.

[61] Cal Am Phase II Opening Brief at p. 31.

[62] Exhibit 11, Rebuttal Testimony of Jeffrey T. Linam at pp. 19-22.

ORA's data request. In Linam's table of "reconciliation,"[63] the numbers in column two are the *corrected numbers* that were provided to ORA later (as listed in ORA's table in column four). Therefore, column two in Linam's table is incorrect.

Ultimately, Linam's table of "reconciliation" differs from ORA's Table 3-A in two places: (1) the second column, which is incorrectly represented by Cal Am (as discussed above) and (2) the one number in Column 6 that ORA corrected in evidentiary hearings. With the provided correction, there are no errors in ORA's Table 3-A.

It is evident that Cal Am has provided conflicting consumption data. Yet Cal Am attempts to use the "blame game" to shift responsibility for its actions to ORA, when it is solely responsible for the data that it provides. ORA encourages Cal Am to perform better record keeping and to exercise due diligence when providing data to ORA as well as to the Commission. PWN and RL also noted problems with Cal Am's data and responses to data requests.[64]

As discussed previously, it is important that the Commission afford sufficient time to review Cal Am's data submissions, especially when requesting rate adjustments. This is one of the many reasons ORA recommends against allowing Cal Am to adjust rates via advice letter filings.[65]

D. Cal Am Misrepresents the Commission's Policy and Planning Division Paper

Cal Am attempts to show a connection between more frequent consumption adjustments and a reduction in WRAM balances by referencing a paper from the Commission's Policy and Planning Division "(PPD").[66] However, similar to Cal Am's

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[63] Ibid, the table in Attachment 1 provides Cal Am's "reconciliation" of the data presented in Table 3-A of ORA's report.

[64] *See Joint Motion To Compel Discovery From Cal-Am For Pwn/Rl Data Request 9* filed on April 26, 2016.

[65] As further discussed in Exhibit 104, ORA's Phase II Report at pp. 3-8 to 3-10 and ORA Phase II Opening Brief at pp. 14-15.

[66] Cal Am Phase II Opening Brief at p. 33.

premise, the PPD paper is theoretical in nature, and is based on untested assumptions.[67] Nothing is "shown" definitively in the paper as claimed by Cal Am,[68] as the paper relies on hypothetical examples. The most appropriate and most accurate way to test these assumptions is, in accordance with D.15-04-007, to wait for the Commission to complete its assessment of the Cal Water SRM pilot program. This will help the Commission determine if consumption in the previous year is in fact the best indicator of consumption in the following year, and if there are indeed ratepayer benefit associated with more frequent consumption adjustments.

In attempt to distract from the unsubstantiated premise that the proposed ACTUM will stabilize revenues and prevent future substantial undercollections, Cal Am misrepresents information, takes statements out of context, and attempts to blame ORA for Cal Am's own errors. Ultimately, the Commission should not authorize Cal Am's request for the ACTUM, as: (a) it does not provide benefits to ratepayers; (b) adjustments to adopted consumption values necessitate scrutiny beyond that which can be provided by AL filing; (c) Cal Am's previous request was denied by the Commission for reasons that still exist for this request; and (d) the Commission is currently examining this process in an open rulemaking ("R.") proceeding, R.11-11-008.

IV. RATE DESIGN

The Commission should adopt ORA's proposal to utilize the standard practice for meter ratios as prescribed under SP U-7-W and to maintain the steeply tiered rate differentials as it ensures equitable distribution of fixed cost recovery across meter sizes.[69] Furthermore, ORA's proposal to allocate 8.4% or $3 million of fixed costs to non-residential customers does not result in subsidization but resolves the inequitable apportionment of costs.

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[67] Policy and Planning Division, Evaluating Forecast Models: Water Revenue Adjustment Mechanism.
[68] Cal Am Phase II Opening Brief at p. 33.
[69] ORA Phase II Report at p. 1-18.

A. Cal Am's Rationale for Deviating from the Standard Meter Charge Ratios has No Support in the Record and Would Be Better Achieved Under ORA's Proposed Rate Design

In its opening brief, Cal Am states that it has proposed to modify the meter charge ratios set forth in SP-U-7 to address the rate impact on low-income customers and those who use less water.[70] However, the standard practice for meter ratios is based on actual determinations of maximum potential meter flow, rather than customer income or actual use. These ratios directly tie the meter charge to the cost of establishing and maintaining the system necessary to serve that meter, bearing no connection to the income or actual use of each customer.[71] If Cal Am were truly concerned about not having its rate design detrimentally affect low-use customers, it would not be proposing to deviate from the current tiered rate differentials, the portion of their rates actually directly correlated with use. Therefore, the Commission should maintain the current steeply tiered differentials so that those who use the least water are less impacted by the changes in the rate design.[72]

Cal Am states that "the Commission standard practice acknowledges that when application of the standard ratios creates a disproportionate rate increase for certain customers, it is appropriate to 'phase in' their application."[73] However, Cal Am is not "phasing in" the applications, but is "phasing out" their application, a deviation not contemplated by the standard practice.

B. ORA's Proposal Does Not Cause Subsidization but Results in Equitable Apportionment of Costs Based on Total Consumption

Cal Am's rate design as proposed creates a disproportionate effect that results in residential customers contributing a greater percentage to revenue than actually consumed by that class of customers. Cal Am further alleges that "[t]o allocate this fixed

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[70] Cal Am Phase II Opening Brief at p. 36.

[71] ORA Phase II Report at p. 1-18 through 1-19.

[72] ORA Phase II Report at p. 1-22.

[73] Cal Am Phase II Opening Brief at p. 37.

cost based on consumption, as ORA proposes, is inequitable."[74] However, Cal Am has not performed a cost of service study. Therefore, Cal Am has no idea which of its costs actually vary based on consumption and to what extent.

Cal Am states that in D.13-07-041, the Commission approved a settlement between California American Water and ORA that rectified a $3 million subsidization of residential customers by non-residential customers, and that ORA has failed to explain why this subsidy should be reinstated.[75] However, this argument misstates ORA's position. ORA did not propose that non-residential customers subsidize residential customers. ORA proposes to align cost recovery by equitably apportioning Cal Am's stated fixed and variable costs to each customer class based on the proportion of total consumption because its revenue collection is drastically disproportionate to its consumption projections.[76] Therefore the end result is equity amongst customer classes, not subsidization.

V. ORA's REVISIONS TO RULE AND SCHEDULE 14.1.1 ARE NECESSARY

Cal Am argues in its opening brief that ORA's recommendation requiring Cal Am to file a Tier 2 advice letter before imposing the emergency conservation rates level elevation is unnecessary.[77] However, ECRs are unrelated to rationing, as rationing only occurs in proposed Stage 4, while ECRs occur in Stage 3. An Advice Letter would inform the Commission that Cal Am is increasing rates on its customers. Cal Am has failed to distinguish the enhancement from Level 1 to Level 2 conservations rates, and the enhancement from one Stage to another, which requires a Tier 2 advice letter.

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[74] Ibid at p. 39.

[75] Ibid.

[76] ORA Phase II Report at p. 1-10.

[77] Cal Am Phase II Opening Brief at p. 40.

VI. SAFETY CONSIDERATIONS

ORA's recommendations do not present a financial challenge as Cal Am's existing WRAM balance represents additional profit. Cal Am asserts that it is important for the Commission to keep in mind the financial implications of its decision in this proceeding, particularly with respect to ORA's extreme recommendations.[78] However, as ORA has stated, if anticipated revenues are not actually collected yet a company is able to remain profitable during the same period, as Cal Am's financial reports demonstrate, the ability to recover such "lost" revenues at a later point in time does not provide for payment of some non-existent debt, but rather provides additional profit.[79] Therefore, ORA's recommendation does not harm Cal Am financially but would encourage Cal Am to manage its WRAM/MCBA more efficiently and based on credible data.

VII. CONCLUSION

For these reasons, ORA maintains its original proposals and makes no modifications. Cal Am has presented no credible evidence that it did not contribute to the existing WRAM undercollection through its failure to take reasonable efforts to verify allotment data and correctly calculate UAW Reward/Penalties. Nor does its arguments support granting any interest on the WRAM balance. ORA further recommends that the Commission refrain from granting any further true-up pilot programs as the results are highly speculative and are not based on credible data. In light of the entire record in this proceeding, the Commission should adopt ORA's proposals regarding the WRAM, ACTUM, Rate Design, and Rule 14.1.1.

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[78] Ibid at p. 41.

[79] ORA Phase II Report at p. 2-15.

Respectfully submitted,

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