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9-23-16  
04:59 PM

**BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF CALIFORNIA**

Application of California-American Water Company (U210W) for Authorization to Increase its Revenues for Water Service by \$34,559,200 or 16.29% in the year 2018, by \$8,478,500 or 3.43% in the year 2019, and by \$7,742,600 or 3.03% in the year 2020.

A.16-07-002  
(Filed July 1, 2016)

**CALIFORNIA-AMERICAN WATER COMPANY'S COMMENTS ON  
MONTEREY PENINSULAR WATER MANAGEMENT DISTRICT'S  
DISCOVERY PROPOSAL**

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September 23, 2016

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Application of California-American Water Company (U210W) for Authorization to Increase its Revenues for Water Service by \$34,559,200 or 16.29% in the year 2018, by \$8,478,500 or 3.43% in the year 2019, and by \$7,742,600 or 3.03% in the year 2020.

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**CALIFORNIA-AMERICAN WATER COMPANY'S COMMENTS ON  
MONTEREY PENINSULAR WATER MANAGEMENT DISTRICT'S  
DISCOVERY PROPOSAL**

Pursuant to the E-Mail Ruling Inviting Comments on Proposed Discovery Protocols, California-American Water Company ("California American Water") provides the following comments on the Monterey Peninsula Water Management District's ("MPWMD") suggested discovery protocol. California American Water agrees with MPWMD that it is in all of the parties' interest to avoid duplicative discovery requests. As described below, however, there are several modifications to MPWMD's proposal that are necessary to (1) ensure access to discovery is limited to the active parties who want it, and (2) that confidential information is appropriately protected. The necessary changes to MPWMD's proposal are provided below.

**I. MPWMD's Proposal to Serve All Discovery Requests and Responses on the Service List Should Be Modified.**

MPWMD proposes the following language be included in the Scoping Memorandum:

In an effort to avoid duplicative data requests, the party making a request shall also serve the request on the official service list and the responding party shall likewise serve the response(s) on the official service list.

California American Water does not oppose the concept of the above proposal, but believes some refinements should be made to take into account the volume of discovery expected

in this general rate case and the desire of all parties to receive it. In its last general rate case, California American Water received approximately 2,000 individual data requests. To date it has received more than 200 individual data requests. This is a tremendous amount of discovery to sift through, the majority of which will have no relevance to the parties who did not request it. California American Water thus proposes that the Scoping Memorandum include a requirement that parties who wish to receive all discovery requests and all responses provide notice to all parties of their desire to receive this information.

California American Water also believes that the transmission of discovery materials should be limited to active parties only. There are already numerous parties, and additional entities are applying for party status on a continuous basis. There is no need to serve the entire service list with every data request and response, especially when it is anticipated that there will be so many and they will include an extensive number of documents. Service, therefore, should be limited to (1) active parties (2) that confirm they want receive all discovery requests and responses.

The current method of transmitting data requests and the corresponding responses is by email. If attachments to a response are large, one response can generate multiple emails, or the attachments may be so large that service via email is not possible and California American Water may need to send out CDs or DVDs containing the requested information. California American Water currently is developing an extranet site for discovery in this proceeding, and once it is functional proposes to make its responses available via an extranet site, with credentials provided to each party who provides notice it desires to be served with all data requests and responses. Under this proposal, when California American Water has requests or responses to serve, it will

send an email to the parties who have opted-into service of all discovery, and California American Water will advise those parties that documents have been posted to the extranet site.

## **II. MPWMD's Proposal to Have Responding Parties Provide NDAs When Disclosing Confidential Information Must Be Revised.**

MPWMD proposes the following language regarding privileged and confidential documents also be included in the Scoping Memorandum:

Non-Disclosure Agreements should be provided when disclosing privileged or confidential information.

As an initial matter, it is not clear what MPWMD intended by use of the word "privileged." No party has a right to another party's "privileged" information. California American Water assumes MPWMD did not intend to seek disclosure of privileged information, such as attorney-client privileged documents, and believes that term should be struck from any discovery protocol to avoid confusion.

Having California American Water "provide" NDAs each time confidential information is produced is also problematic because (1) it does not require execution of an NDA prior to receipt of materials, and (2) burdens the disclosing party with issuing separate NDAs for each confidential response. California American Water believes its confidential materials should receive appropriate protections and is, therefore, amenable to providing confidential information subject to each party desiring to receive such information first signing a Non-Disclosure Agreement ("NDA") that would cover all "Confidential" materials produced throughout this general rate case. No party should be required to disclose confidential information without first receiving a fully executed NDA that is mutually acceptable to the disclosing party and the receiving party.

California American Water also believes that execution of a NDA does limit the ability of California American Water, or any other party, to object to a request or disclosure of confidential

material on all other proper grounds. For example, all parties should have the right to object to disclosure of confidential information if that information is not relevant to that party. A party should not – without regard for the receiving party’s need for that information – be forced to disclose confidential information to anyone who asks for it.

### **III. California American Water’s Proposed Revisions to MPWMD’s Proposal**

Based on the foregoing, California American Water would revise MPWMD’s Proposal as follows. Suggested omissions have been stricken through, while additions have been underlined.

In an effort to avoid duplicative data requests, parties may serve notice on the official service list stating they wish to receive copies of all data requests and responses. Thereafter, the party making a request shall also serve the request on parties who have provided the required notice the official service list and the responding party shall likewise serve the response(s) on the official service list same parties. A party serving the request or the response may provide notice via email that the request or response is available on an extranet site, and shall provide credentials to parties to access the extranet site.

~~Non-Disclosure Agreements should be provided when disclosing privileged or~~ No party will be required to disclose confidential information- until that party has received a mutually-acceptable, fully executed NDA from the party seeking disclosure of confidential information. Nothing in this Scoping Memorandum waives any disclosing party’s right to object to the disclosure of confidential information.

Dated: September 23, 2016

Respectfully submitted,

By: /s/ Cathy A. Hongola-Baptista  
Cathy A. Hongola-Baptista  
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California-American Water Company