



MGA/KJB/ek4 6/22/2017

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

**FILED**  
04:17 PM

In the Matter of the Application of SAN JOSE WATER COMPANY (U168W) for Authority to Adjust Its Cost of Capital and to Reflect That Cost of Capital in Its Rates for the Period from January 1, 2018 through December 31, 2020.

Application 17-04-001  
(Filed April 3, 2017)

And Related Matters.

Application 17-04-002  
Application 17-04-003  
Application 17-04-006

**ASSIGNED COMMISSIONER AND ADMINISTRATIVE LAW JUDGE'S  
SCOPING MEMO AND RULING**

**Summary**

Pursuant to Rule 7.3 of the Commission's Rules of Practice and Procedure (Rules), this ruling and scoping memo determines the procedural schedule (with a proposed submission date), the category of the proceeding, the issues to be addressed, the designated presiding officer, and the need for hearing.

**1. Background**

On April 3, 2017, California's four Class A water companies, San Jose Water Company (San Jose), Golden State Water Company (Golden State), California-American Water Company (Cal-Am) and California Water Service Company (Cal Water), filed applications for authority to establish their costs of capital for the 2018-2020 period. Notice of the filings appeared in the Commission's Daily Calendar on April 10, 2017. The simultaneous filing follows the procedure set in Decision (D.) 09-05-019, fixing a uniform cost of equity and individual costs of capital for Class A water companies. On April 29, 2017, the

proceeding was assigned to Administrative Law Judge (ALJ) Karl J. Bemederfer and Commissioner Martha Guzman Aceves.

On April 27, 2017, the City of Bakersfield filed a protest of Application (A.) 17-04-006, the Application of California Water Service Company. On May 8, 2017, ALJ Bemederfer entered a ruling consolidating the four applications into a single proceeding. On May 10, 2017, the Commission's Office of Ratepayer Advocates (ORA) filed a protest to all four applications.

On May 24, 2017, ALJ Bemederfer held a prehearing conference (PHC) at which the parties agreed on a scope of issues and a procedural schedule that envisioned evidentiary hearings beginning September 6, 2017. The mutually-agreed scope and schedule are set out sections 4 and 7 of this ruling, below.

The current proceeding is the first cost of capital proceeding for these four companies since 2011. D.12-07-009, issued July 18, 2012, approved a settlement between the Division of Ratepayer Advocates (predecessor to ORA) and the Applicants that, among other things, established costs of capital (debt and equity), capital structures and rates of return for the Applicants for the period 2011-2014 and approved a Water Company Cost of Capital Mechanism (WCCM) for use in the interim between formal cost of capital proceedings. In 2015 and again in 2016, the Executive Director of the Commission granted requests from the Applicants to defer the next cost of capital proceeding and rely instead on rates established by use of the WCCM. Applicants renewed that request for 2017, but the Executive Director declined to grant it, with the result that the companies filed the current applications.

The individual applications may be summarized as follows:

**San Jose's** application requests that the Commission authorize: (1) adjusting its cost of capital to reflect San Jose's current forecast of its costs of common equity and long-term debt and its forecasted capital structure for the period January 1, 2018 through

December 31, 2020; (2) adjusting its rates in accordance with the adopted cost of capital promptly upon such adoption but in coordination with other rate adjustments required to be implemented at approximately the same time; and (3) continuance of the WCCM.

San Jose estimates that as of January 1, 2018 it will have the following capital structure for which it requests approval:

<u>Category</u>	<u>Per Cent</u>	<u>Cost</u>	<u>Weighted Cost</u>
Long-Term Debt	46.72%	6.21%	2.90%
Common Stock	53.28%	10.75%	5.73%
Total Capitalization/ Return on Rate Base	100%		8.63%

**Golden States’s** application requests that the Commission authorize: (1) a rate of return on rate base of 9.11% for the 2018 test year and the 2019 and 2020 escalation years; (2) a capital structure for the 2018-2020 period consisting of 43% long-term debt and 57% common equity; (3) a return on common equity of 11.0%; (4) a revenue increase for 2018 of \$12.1 million; and (5) continuance of the WCCM.

**Cal-Am’s** application requests that the Commission authorize (1) a capital structure of 44.61% debt and 55.39% common equity; (2) a return on common equity of 10.80%; (3) a weighted cost of debt of 6.63%; (4) an overall rate of return of 8.49%; and (5) continuance of the WCCM.

**Cal-Water’s** application requests that the Commission authorize: (1) a rate of return on rate base of 8.31% for the period from January 1, 2018 through December 31, 2020; (2) a return on common equity of 10.75%; (3) a capital structure of 46.6% long-term debt and 53.4% common stock; (4) a weighted cost of debt of 5.51%; and (5) continuance of the WCCM.

## **2. Categorization, Need for Hearings, *Ex Parte* Communications Rules, and Designation of Presiding Officer**

In Resolution ALJ 176-3396, issued April 27, 2017, this proceeding was preliminarily categorized as ratesetting with evidentiary hearings required. We affirm the categorization and need for hearing. Anyone who disagrees with this categorization must file an appeal of the categorization no later than ten days after the date of this scoping ruling. (*See* Rule 7.6.)

In a ratesetting proceeding such as this one, *ex parte* communications with the assigned Commissioner, other Commissioners, their advisors, and the

Administrative Law Judge (ALJ) are only permitted as described at Public Utilities Code Sections 1701.1, 1701.2, 1701.6 and 1701.7 and Article 8 of the Rules.

Pursuant to Public Utilities Code Section 1701.3 and Rule 13.2, ALJ Bemserfer is designated as the Presiding Officer.

### **3. Scope of the Proceeding**

The scope of this proceeding is as follows:

1. Compliance with Rule 3.2 and the Minimum Data Requirements outlined in Attachment 2 of the Rate Case Plan.
2. For each Applicant:
  - a. an appropriate authorized rate of return on rate base during 2018-2020;
  - b. an appropriate authorized rate of return on common equity during 2018-2020;
  - c. Applicant's projected weighted average cost of debt during 2018-2020;
  - d. an appropriate authorized capital structure during 2018-2020;
  - e. whether the Applicant's authorized capital structure should be more heavily weighted towards debt to reflect historically low costs of borrowing;
  - f. the appropriateness of continuing the WCCM; and
  - g. the appropriateness of specific adjustments requested by the Applicant.
3. Concerns raised in the discussion on pages 14 to 17 of D.12-07-009 including, but not limited to, the following:
  - a. "The extent to which investors have bypassed utility stocks in favor of government-guaranteed debt or, in the alternative, have moved from riskier stock investments to the relative safety of utility stocks" (D.12-07-009 at 15).

- b. “Whether the appropriate proxy for the risk-free rate of return is the next six quarters’ forecasted yields on the 30-year Treasury bond.”(D.12-07-009 at 15).
4. For all Applicants:
    - a. How should revenue adjustment mechanisms be considered in evaluating risk?
    - b. What water utilities or other firms inside and outside of California are comparable in size and business risk to the Applicants?

#### **4. Filing, Service and Service List**

The official service list has been created and is on the Commission’s website. Parties should confirm that their information on the service list is correct and serve notice of any errors on the Commission’s Process Office, the service list and the ALJ.

When serving any document, each party must ensure that it is using the current official service list on the Commission’s website.

This proceeding will follow the electronic service protocols set forth in Rule 1.10. All parties to this proceeding shall serve documents and pleadings using electronic mail, whenever possible, transmitted no later than 5:00 p.m., on the date scheduled for service to occur. Parties are reminded, when serving copies of documents, the document format must be consistent with the requirements set for in Rules 1.5 and 1.5. Additionally, Rule 1.10 requires service on the ALJ of both an electronic and a paper copy of filed or served documents.

Rules 1.9 and 1.10 govern service of documents only and do not change the Rules regarding the tendering of documents for filing. Parties can find information about electronic filing of documents at the Commission’s Docket Office at [www.cpuc.ca.gov/PUC/efiling](http://www.cpuc.ca.gov/PUC/efiling). All documents formally filed with the

Commission’s Docket Office must include the caption approved by the Docket Office and this caption must be accurate.

Persons who are not parties but wish to receive electronic service of documents filed in the proceeding may contact the Process Office at [process.office@cpuc.ca.gov](mailto:process.office@cpuc.ca.gov) to request addition to the “Information Only” category of the official service list pursuant to Rule 1.9(f).

Discovery may be conducted by the parties consistent with Article 10 of the Commission’s Rules. Any party issuing or responding to a discovery request shall serve a copy of the request or response simultaneously on all parties. Electronic service under Rule 1.10 is sufficient, except Rule 1.10(c) does not apply to the service of discovery and discovery shall not be served on the ALJ. Deadlines for responses may be determined by the parties. Motions to compel or limit discovery shall comply with Rule 11.3.

**5. Public Advisor**

Any person interested in participating in this proceeding who is unfamiliar with the Commission’s procedures or who has questions about the electronic filing procedures is encouraged to obtain more information at: <http://consumers.cpuc.ca.gov/poa> or contract the Commission’s Public Advisor at 855-849-8390 or 866-836-7825 (TTY) or send an e-mail to [public.advisor@cpuc.ca.gov](mailto:public.advisor@cpuc.ca.gov).

**6. Schedule**

The parties have agreed on the following procedural schedule for this proceeding:

ORA and intervenor testimony served.....	August 1, 2017
Applicants’ rebuttal served.....	August 22, 2017
Evidentiary Hearings (if necessary).....	September 6-8 2017
Opening briefs filed .....	September 21, 2017
Reply briefs filed.....	October 2, 2017
Proposed decision issued .....	November 14, 2017

Comments on the proposed decision.....	December 4, 2017
Reply comments.....	December 11, 2017
Final Commission decision .....	December 14, 2017

This proceeding will be submitted upon the filing of reply briefs, unless the assigned Commissioner or the ALJ directs further evidence or argument.

The assigned Commissioner or the ALJ may modify this schedule as necessary to promote the efficient management and fair resolution of this proceeding.

It is the Commission’s intent to complete this proceeding within 18 months of the date this Scoping Memo is filed. This deadline may be extended by order of the Commission. (Public Utilities Code Section 1701.5(a).)

## **7. Settlement and Alternative Dispute Resolution**

While the schedule does not include specific dates for settlement conferences, it does not preclude parties from meeting at other times provided notice is given consistent with our Rules.

The Commission offers Alternative Dispute Resolution (ADR) services consisting of mediation, facilitation, or early neutral evaluation. Use of ADR services is voluntary, confidential, and at no cost to the parties. Trained ALJs serve as neutrals. The parties are encouraged to visit the Commission’s ADR webpage at <http://www.cpuc.ca.gov/adr>, for more information. If requested, the assigned ALJ will refer this proceeding, or a portion of it, to the Commission’s ADR Coordinator. Alternatively, the parties may contact the ADR Coordinator directly at [adr\\_program@cpuc.ca.gov](mailto:adr_program@cpuc.ca.gov). The parties will be notified as soon as a neutral has been assigned; thereafter, the neutral will contact the parties to make pertinent scheduling and process arrangements. Alternatively, and at their own expense, the parties may agree to use outside ADR services.

## **8. Final Oral Argument**

A party in a ratesetting proceeding has the right to make a final oral argument before the Commission if the final oral argument is requested within the time and manner specified in the Scoping Memo or later ruling.<sup>3</sup> Any party seeking to present a final oral argument shall file and serve a separate motion concurrent with its reply brief. The motion shall state the request, subject to be addressed, amount of time requested, recommended procedure and order of presentation, and anything else relevant to the motion. If more than one party is requesting a final oral argument, parties shall use their best efforts to present a joint motion, including a joint recommendation on procedure, order of presentation, and anything else relevant to the motion. A response to the motion may be filed within five days of the motion. If a final determination is made that no hearing is required, Rule 13.13(b) shall cease to apply, along with the right to make a final oral argument.

**IT IS RULED** that:

1. The category of this proceeding is ratesetting. Appeals as to category, if any, must be filed and served within ten days from the date of this scoping memo.
2. Karl J. Bemesderfer is designated as the Presiding Officer.
3. The scope of the issues for this proceeding is as stated in Section 3, Scope of the Proceeding.
4. Hearings are necessary.
5. The schedule for this proceeding is as set out in Section 6, Schedule. The assigned Commissioner or the Presiding Officer may adjust this schedule as necessary for efficient management and fair resolution of this proceeding.

6. *Ex parte* communications are only permitted under Public Utilities Code Sections 1701.1, 1701.2, 1701.6 and 1701.7 and Article 8 of the Commission's Rules of Practice and Procedure.

7. A party shall submit a request for Final Oral Argument in its opening briefs but the right to final oral argument shall cease to exist if it is later determined that hearings are not necessary.

8. Parties shall adhere to the instructions provided in Appendix A of this ruling for submitting supporting documents (select testimony, workshop reports, etc.).

Dated June 22, 2017, at San Francisco, California.

/s/ MICHAEL MINKUS for  
Martha Guzman Aceves  
Assigned Commissioner

/s/ KARL J. BEMESDERFER  
Karl J. Bemesderfer  
Administrative Law Judge

## APPENDIX A

### 1. Electronic Submission and Format of Supporting Documents

The Commission's web site now allows electronic submittal of supporting documents (such as testimony and work papers).

Parties shall submit their testimony or work papers in this proceeding through the Commission's electronic filing system.<sup>1</sup> Parties must adhere to the following

- The instructions for using the "Supporting Documents" feature, (<http://docs.cpuc.ca.gov/SearchRes.aspx?docformat=ALL&DocID=100902765>).
- The Supporting Documents feature does not change or replace the Commission's Rules. Parties must continue to adhere to all rules and guidelines in the Commission's Rules including but not limited to rules for participating in a formal proceeding, filing and serving formal documents and rules for written and oral communications with Commissioners and advisors (i.e., "ex parte communications") or other matters related to a proceeding.
- The Supporting Documents feature is intended to be solely for the purpose of parties submitting electronic public copies of testimony, work papers and workshop reports (unless instructed otherwise the Administrative Law Judge, and does not replace the requirement to serve documents to other parties in a proceeding.
- Unauthorized or improper use of the Supporting Documents feature will result in the removal of the submitted document(s) by the CPUC.
- Supporting Documents should not be construed as the formal files of the proceeding. The documents submitted through the Supporting

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<sup>1</sup> These instructions are for submitting supporting documents such as testimony and work papers in formal proceedings through the Commission's electronic filing system. Parties must follow all other Rules regarding serving testimony. Any document that needs to be formally filed such as motions, briefs, comments etc., should be submitted using Tabs 1 through 4 in the electronic filing screen.

Documents feature are for information only and are not part of the formal file (i.e., “record”) unless accepted into the record by the ALJ.

For security, retention and accessibility purposes, all documents submitted through the Supporting Documents feature shall be in PDF/A format.

At present, Supporting Documents do not appear on the Docket Card. To locate Supporting Documents which have been electronically submitted,

- go to the “Online Documents” tab on the Commission’s web site
- choose “E-filed Documents”,
- Select “Supporting Document” as the documents type.
- Type in the proceeding number and hit “Search”.

Please refer all technical questions regarding submitting Supporting Documents to:

- Kale Williams ([kale.williams@cpuc.ca.gov](mailto:kale.williams@cpuc.ca.gov)) 415-703-3251 and
- Ryan Cayabyab ([ryan.cayabyab@cpuc.ca.gov](mailto:ryan.cayabyab@cpuc.ca.gov)) 415-703-5999

**(END OF APPENDIX A)**