

Decision **PROPOSED DECISION OF ALJ ROCHESTER** (Mailed 10/17/2012)

**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 \$4,134,600 or 2.55% in the year 2011, by \$33,105,800 or 19.68% in the year 2012, by \$9,897,200 or 4.92 % in the year 2013, and by \$10,874,600 or 5.16% in the year 2014.

Application 10-07-007  
(Filed July 1, 2010)

And Related Matter.

Application 11-09-016

**DECISION ADOPTING THE RATE DESIGN SETTLEMENT AGREEMENT FOR CALIFORNIA-AMERICAN WATER COMPANY’S LARKFIELD, LOS ANGELES COUNTY, SAN DIEGO COUNTY, AND VENTURA COUNTY DISTRICTS AND THE TORO SERVICE AREA OF THE MONTEREY COUNTY DISTRICT**

**1. Summary**

This decision adopts a settlement agreement between California-American Water Company (Cal-Am), the Division of Ratepayer Advocates, The Utility Reform Network, and the Natural Resources Defense Council on conservation rate design for Cal-Am’s Larkfield, Los Angeles County,<sup>1</sup> San Diego County, and Ventura County Districts and the Toro service area of the Monterey County District for the years 2011 through 2014.

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<sup>1</sup> The Los Angeles County District includes the Baldwin Hills, Duarte, and San Marino systems.

The settlement on conservation rate design establishes the number and break points for consumption tiers, the percentage of fixed costs included in the service charge and the distribution of the rate in each tier based on the single quantity rate for each district. The rate design is practical and understandable for customers, yet allows Cal-Am to recover its revenue requirement while encouraging water conservation and maintaining affordability and revenue neutrality. The settlement was not an all-party settlement, however, no other parties challenged the settlement.

This proceeding remains open to resolve other Phase 2 issues.

## **2. Background**

On July 1, 2010 California-American Water Company (Cal-Am) filed its first statewide general rate case for the years 2011 through 2014.<sup>2</sup> On December 12, 2011, a revised scoping memo was issued establishing Phase 2 of the proceeding and adopting a schedule for Phase 2. The revised scoping memo also placed several issues,<sup>3</sup> including rate design for all districts, in Phase 2.

On June 7, 2012, the Commission issued Decision (D.) 12-06-016 adopting a revenue requirement for all of Cal-Am's districts. Subsequently, all parties to the proceeding received notice of a Phase 2 settlement conference. On July 19, 2012, Cal-Am, DRA, TURN, and NRDC filed a motion to adopt a settlement on rate

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<sup>2</sup> Application 10-07-007 is the first general rate case that includes all 6 of Cal-Am's districts.

<sup>3</sup> Phase 2 of the proceeding also includes the review of the Water Revenue Adjustment Mechanisms currently in place in Cal-Am's districts, whether a Water Revenue Adjustment Mechanism should be adopted for the Sacramento District, an increase to the low-income sur-credit and Cal-Am's application for a service connection moratorium in the Larkfield District.

design to generate the revenue requirement adopted in D.12-06-016.<sup>4</sup> There were no comments or protests to the settlement.

A complete description of Cal-Am's service territory and the full procedural background of this proceeding is contained in Sections 9 and 10 of D.12-06-016, the revenue requirement portion of this proceeding.

### **3. The Proposed Settlement**

The settlement establishes residential conservation rate design for the years 2011–2014 for the Larkfield, Los Angeles County, San Diego County, and Ventura County Districts, and the Toro service area of the Monterey County District of Cal-Am.

#### **3.1. Rate Design Principles of the Proposed Settlement**

The parties agreed on seven guiding principles for developing the parameters for each district's rate design. The rate design should:

1. Encourage water conservation and efficient use;
2. Maintain affordability for essential levels of indoor use;
3. Be practical, easy to implement, and understandable for customers;
4. Maintain revenue neutrality;
5. Adhere to the principle of gradualism, giving residential customers the opportunity to adjust to new price signals from the rate design, in addition to higher rates due to increased revenue requirements;
6. Bear a reasonable relationship to the cost of service; and,
7. Be fair in the treatment of diverse groups of customers.

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<sup>4</sup> <http://docs.cpuc.a.gov/PublishedDocs/EFIELD/MOTION/171526>.

The parties also state that the settlement agreement was developed recognizing that:

- The Water Revenue Adjustment Mechanism (WRAM) and Modified Cost Balancing Account (MCBA) track a large portion of the revenue requirement;
- Cal-Am needs to comply with the 2009 Water Conservation Act;<sup>5</sup> and,
- Possible reductions to Cal-Am's wholesale water supply may necessitate further reductions in consumption.

The parties state that the settlement agreement is intended to advance the Commission's Water Action Plan objective of balancing investment, conservation and affordability.

### **3.2. Rate Design Parameters of the Proposed Settlement**

Using the principles stated above, the parties developed parameters for each district's rate design. The parameters are:

- Service charges in each district are set so that the total annual service charge revenues equal 25% of total applicable fixed costs;
- Four-tiered rate design limits consumption and projected revenues in the highest-priced tier. This structure minimizes the impact on WRAM balances since less consumption is priced above the single quantity rate,<sup>6</sup> where customer response (reduced consumption) is mostly likely to occur;

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<sup>5</sup> The 2009 Water Conservation Act requires a 20% reduction in per capita water use by December 31, 2020.

<sup>6</sup> The single quantity rate is the rate charged in a uniform rate structure.

- Break points used between tiers. Tier 1/Tier 2 – the winter median serves as a proxy for indoor use, approximating statewide indoor water consumptions goals of 50 to 70 gallons per day.
- Tier 2/Tier 3 – the higher summer median was used to include a moderate amount of irrigation and other outdoor use.
- Tier 3/Tier 4 – a break point that results in 3-5% of water usage occurring in the top tier. This captures consumption by highest-use customers and provides them an incentive to locate and correct leaks and invest in more water efficient landscaping and outdoor use practices.
- The parties agree to set each tier's rates at a percentage of the single quantity rate to generate the revenue requirement authorized by the Commission in D.12-06-016.
  - Tier 1 rates are 70-90% of the single quantity rate. The current Tier 1 rate<sup>7</sup> is used as the floor and customers will not see a rate decrease below that level as a result of the Tier 1 rates proposed in the rate design settlement.
  - Tier 2 rates are equal to the single quantity rate.
  - Tier 3 rates are 115-150% of the single quantity rate.
  - Tier 4 rates are 170-200%+ of the single quantity rate, ensuring that no more than 10% of consumption revenue is recovered in Tier 4.

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<sup>7</sup> The current Tier 1 rate is the rate in place on January 1, 2012, that does not include the revenue requirement adopted in D.12-06-016.

The parties state that their best efforts were used to adhere to the parameters listed above; however, in some instances strict adherence was not possible and the parties negotiated modifications to the parameters for particular

districts. The final rates for each tier in each district are included as Attachment A to this decision.

#### **4. Settlement Standard of Review**

Cal-Am as the applicant bears the burden of proof to show that the regulatory relief it requests is just and reasonable.

In order for the Commission to consider a proposed settlement in this proceeding as being in the public interest, the Commission must be convinced that the parties had a sound and thorough understanding of the application, and all of the underlying assumptions and data included in the record. This level of understanding of the application and development of an adequate record is necessary to meet our requirements for considering any settlement. These requirements are set forth in Rule 12.1(a)<sup>8</sup> which states:

Parties may, by written motion any time after the first prehearing conference and within 30 days after the last day of hearing, propose settlements on the resolution of any material issue of law or fact or on a mutually agreeable outcome to the proceeding. Settlements need not be joined by all parties; however, settlements in applications must be signed by the applicant....

When a settlement pertains to a proceeding under a Rate Case Plan or other proceeding in which a comparison exhibit would ordinarily be filed, the motion must be supported by a comparison exhibit indicating the impact of the settlement in relation to the utility's application and, if the participating staff supports the settlement, in relation to the issues staff contested, or would have contested, in a hearing.

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<sup>8</sup> All referenced Rules are the Commission's Rules of Practice and Procedure. ([http://docs.cpuc.ca.gov/published/RULES\\_PRAC\\_PROC/70731.htm](http://docs.cpuc.ca.gov/published/RULES_PRAC_PROC/70731.htm))

Rule 12.1(d) provides that:

The Commission will not approve settlements, whether contested or uncontested, unless the settlement is reasonable in light of the whole record, consistent with the law, and in the public interest.

Rule 12.5 limits the future applicability of a settlement:

Commission adoption of a settlement is binding on all parties to the proceeding in which the settlement is proposed. Unless the 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.

In short, we must find whether the settlement comports with Rule 12.1(d), which requires a settlement to be “reasonable in light of the whole record, consistent with law, and in the public interest.” We address below whether the settlement meets these three requirements.

The record consists of all filed documents, the served testimony, the proposed settlement and the motion for its adoption. The settlement resolved the disputed issues in a balanced way which reflects a compromise of the positions litigated by the parties. The settling parties represent the interests of the utility and a broad spectrum of ratepayer interests. There were no challenges to the settlement. Therefore we find the settlement to be reasonable in light of the whole record.

There are no terms within the settlement that would bind the Commission in the future or violate existing law. Therefore, we find the settlement consistent with the law.

The settling parties addressed and resolved the rate design issues identified in the proceeding. As noted, the settling parties represent Cal-Am and a broad spectrum of ratepayer interests. The rate design settlement is practical and understandable for ratepayers, yet allows Cal-Am to recover its revenue requirement while encouraging water conservation and maintaining affordability and revenue neutrality. Therefore, we may conclude that the settlement is in the public interest.

#### **5. Reduction of Comment Period**

The proposed decision of Administrative Law Judge (ALJ) Linda A. Rochester in this matter was mailed to the parties in accordance with Section 311 of the Public Utilities Code and comments are allowed pursuant to Rule 14.3. The parties agreed to a reduced comment period of 10 days with 5 days for reply comments. The page limit for reply comments is increased to 10 pages.

Opening comments were filed by Cal-Am, TURN, and NRDC, jointly, on October 26, 2012. DRA filed a joinder to Cal-Am, TURN, and NRDC's comments on October 29, 2012. The comments propose additional language for Ordering Paragraph (OP) 2. The additional language allows changes authorized by other Commission decisions but not yet implemented, to be made to the attached tariff schedules by a Tier 1 filing. We have made the proposed changes to OP 2. No reply comments were filed.

#### **6. Assignment of Proceeding**

Michel Peter Florio is the assigned Commissioner and Linda A. Rochester and Douglas Long are the assigned ALJs in this proceeding.

### **Findings of Fact**

1. On July 19, 2012, Cal-Am, DRA, TURN, and NRDC filed a joint motion for adoption of the rate design settlement for Cal-Am's Larkfield, Los Angeles County, San Diego County, and Ventura County Districts and the Toro service area of the Monterey County District for the years 2011 through 2014.

2. The record for the proposed settlement is composed of the application, testimony of the parties and all other filings.

3. The parties to the rate design settlement adopted by this decision have a sound and thorough understanding of the issues, and all of the underlying assumptions and data and could therefore make informed decisions in the settlement process.

4. The proposed settlement is a balance between the original positions as otherwise litigated in the prepared testimony of the parties.

5. No comments on the Settlements were filed.

### **Conclusions of Law**

1. Applicant alone bears the burden of proof to show that its requests are reasonable.

2. The proposed settlement is reasonable because it fairly balances the interests of the various districts' ratepayers with those of Cal-Am to ensure it has the resources it needs to provide service throughout its territory.

3. The settlement is reasonable in light of the whole record.

4. The settlement is consistent with the law and does not contravene or compromise any statutory provisions or Commission decision.

5. The rate design settlement is in the public interest.

6. This proceeding should remain open for resolution of other Phase 2 issues.

**O R D E R**

**IT IS ORDERED** that:

1. The joint motion of California-American Water Company, the Natural Resources Defense Council, The Utility Reform Network, and the Division of Ratepayer Advocates to adopt the July 19, 2012 Settlement on Rate Design is granted.

2. California-American Water Company (Cal-Am) is authorized to file by Tier 1 Advice Letter:

- the revised tariff schedules, included in this decision as Attachment A, for Cal-Am's Larkfield, Los Angeles County, San Diego County, and Ventura County Districts and the Toro service area of the Monterey County District; and
- revisions to the attached tariff schedules to implement Tier 1 changes authorized by other Commission decisions, but not yet implemented.

3. These filings shall be subject to approval by the Commission's Division of Water and Audits. The revised schedules shall be effective no earlier than five days after the effective date of this decision, and shall apply only to service rendered on or after the effective date of all districts' tariff schedules.

4. Application (A.) 10-07-007 and A.11-09-016 remain open for the resolution of additional issues in Phase 2.

This order is effective today.

Dated \_\_\_\_\_, at San Francisco, California