Decision 15-04-007 April 9, 2015

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 $18,473,900 or 9.55% in the year 2015, by $8,264,700 or 3.90% in the year 2016, and by $6,654,700 or 3.02% in the year 2017.	Application 13-07-002 (Filed July 1, 2013)

DECISION ADOPTING THE 2015, 2016, AND 2017 REVENUE REQUIREMENT FOR CALIFORNIA-AMERICAN WATER COMPANY

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Attachment A – Amended Partial Settlement Agreement

DECISION ADOPTING THE 2015, 2016, AND 2017 REVENUE REQUIREMENT FOR CALIFORNIA-AMERICAN WATER COMPANY

Summary

This decision resolves California-American Water Company's (Cal-Am) 2015 general rate case (GRC). This decision grants in part and denies in part the Joint Motion for the Adoption of Partial Settlement Agreement between California-American Water Company, City of Pacific Grove, Las Palmas Wastewater Committee, Monterey Peninsula Water Management District, and the Office of Ratepayer Advocates on Revenue Issues in the GRC. This decision also grants the Settling Parties' Joint Motion to Amend the Partial Settlement Agreement. This decision reflects the changes made to the Partial Settlement Agreement and waives the comment period related to the Amended Partial Settlement Agreement. This decision authorizes a $206,507,269 revenue requirement for Cal-Am in Test Year 2015, as proposed in the Amended Partial Settlement Agreement. This authorized revenue requirement represents a $2,487,909 increase, or 1.64 percent, over present rates. This decision also resolves four contested issues not included in the Amended Partial Settlement Agreement. The table below illustrates the average residential bill impacts for each district for the 2015 year.

District	Percentage Change in Overall Revenues	Percentage Change in Avg. Monthly Residential Bill
Sacramento	0.7%	-6.4%
Larkfield	-0.8%	3.3%
Monterey	-0.3%	0.3%
Toro	12.0%	-28.4%
San Diego	5.2%	2.6%
Ventura	4.6%	8.9%
Los Angeles – Baldwin Hills	1.2%	2.8%

Los Angeles-San Marino	-2.1%	4.0%
Los Angeles-Duarte	-3.7%	-7.0%
Garrrapta	9.4%	9.4%
Monterey Wastewater	-5.4%	-5.4%

1. Procedural Background

On July 1, 2013, California-American Water Company (Cal-Am) filed Application (A.) 13-07-002 seeking increased revenue for its water service in the years 2015 through 2017. The California Public Utilities Commission's (Commission) Office of Ratepayer Advocates (ORA) [1], the Mark West Area Community Services Committee (Mark West) and the Central Coast Coalition of Communities for Wastewater Equity (Central Coast Coalition) all filed timely protests and are parties to the proceeding. In addition, the City of Pacific Grove (Pacific Grove), the Monterey Peninsula Water Management District (MPWMD), the Coalition of Peninsula Businesses, the National Association of Minority Companies, Inc., California Water Association, and the Small Business Utility Advocates have all requested and been granted party status in the instant proceeding. The California Water Rights Association requested party status on June 12, 2014, and was denied status on June 19, 2014.

A Prehearing Conference (PHC) was noticed and held on September 17, 2013. The assigned Commissioner and assigned Administrative Law Judge (ALJ) jointly conducted the PHC. During the PHC the parties discussed the scope of the proceeding, the schedule, and times and locations for public participation hearings (PPHs).

[1] ORA was formerly the Division of Ratepayer Advocates.

On October 9, 2013, Cal-Am filed an update to its 2015 general rate case (GRC) application. On October 1, 2013, Cal-Am filed Supplemental Testimony with the rate design proposal for all districts except Monterey.

On November 12, 2013, ORA filed a motion for a Companion Order Instituting an Investigation (OII) regarding Cal-Am's responses to Minimum Data Requirements (MDRs) required by Decision (D.) 07-05-065 and whether Cal-Am violated Rule 1.1 of the Commission's Rules of Practice and Procedure.[2] As part of requirement MDR II.D.5, Cal-Am listed five projects that were authorized in prior GRCs but not built.[3] However, in response to a data request sent by ORA, Cal-Am identified 62 projects that were not actually built.[4] An additional PHC was held on January 21, 2014, in which the parties and the ALJ discussed the possibilities of an Order to Show Cause (OSC) in this proceeding as opposed to a separate OII proceeding. On February 21, 2014, the assigned ALJ denied ORA's motion for a Companion OII and directed Cal-Am to show cause why it should not be sanctioned for violation of Rule 1.1.

On March 6, 2014, the assigned ALJ convened an OSC hearing to show cause why Cal-Am should not be sanctioned for violating Rule 1.1. Parties submitted post-hearing briefs on March 17, 2014, and reply briefs on March 28, 2014. This matter is addressed in a separate decision.

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[2] Unless otherwise indicated, all references to Rules are to the Commission's Rules of Practice and Procedure.

[3] Administrative Law Judge's Ruling Denying the Motion of the Office of Ratepayer Advocates for an Order Instituting an Investigation and Directing California-American Water Company to Show Cause Why It Should Not Be Sanctioned By the Commission For Violation of Rule 1.1 of the Commission's Rules of Practice and Procedure, February 21, 2014, at 2.

[4] *Id.*

On March 28, 2014, Cal-Am noticed an all-party settlement conference for April 4, 2014.

Several PPHs were held between April 24, 2014, and May 19, 2014. Evidentiary hearings were held from June 16, 2014, through June 19, 2014. Also on June 19, 2014, the assigned ALJ directed the parties to submit any settlement agreements to the Commission no later than July 25, 2014. On July 21, 2014, parties filed opening briefs. In accordance with the assigned ALJ's ruling, on July 25, 2014, Cal-Am, Pacific Grove, Las Palmas Wastewater Committee (LPWC), MPWMD, and ORA (collectively, the Settling Parties) filed the Joint Motion for the Adoption of Partial Settlement Agreement between California-American Water Company, City of Pacific Grove, Las Palmas Wastewater Committee, Monterey Peninsula Water Management District, and the Office of Ratepayer Advocates on Revenue Issues in the General Rate Case.

On July 21, 2014, Cal-Am filed a motion for interim rate relief, which was granted on September 16, 2014. Central Coast Coalition filed Comments to the Joint Motion on August 25, 2014. Cal-Am filed Reply Comments on September 9, 2014.

On February 19, 2015, the Settling Parties filed a joint motion to amend the Partial Settlement Agreement. The amendments reduce Cal-Am's revenue requirement by removing Access Service Request Well #3 and the associated $4.1 million of capital expenditures in the Monterey Wastewater District from present and proposed operating revenues. The amendments also include a corrected formula, which reduces California Corporate General Office costs by $98,834 for Monterey. The overall impact of those two changes is to lower the increase to the monthly average Monterey residential bill by $1.94. The remainder of the amendments clarify and address minor issues but do not otherwise affect Cal-Am's revenue requirement for this GRC period. For instance, changes include adding

missing titles to charts, corrects typographical errors, and corrections to align sections within the Partial Settlement Agreement.

Relying on the Rules 1.12 and 11.1, the Settling Parties also requested the Commission to waive the comment period in connection with the joint motion to amend and the Amended Partial Settlement Agreement Between California-American Water Company, City of Pacific Grove, Las Palmas Wastewater Committee, Monterey Peninsula Water Management District, and the Office of Ratepayer Advocates on Revenue Issues in the General Rate Case (Amended Partial Settlement Agreement). The adopted Amended Partial Settlement Agreement is attached as Attachment A to this decision.

Submission of this proceeding was set aside to receive the joint motion to amend the Partial Settlement Agreement. This proceeding was submitted on March 4, 2015.

2. Terms of the Amended Partial Settlement Agreement

The Settling Parties agreed on a resolution of the issues set forth in the Amended Partial Settlement Agreement. The Amended Partial Settlement Agreement addresses the new rates to be established for Cal-Am's service areas in the Larkfield, Los Angeles County, Monterey County Water, Monterey Wastewater, Sacramento, San Diego County, and Ventura County Districts for calendar year 2015, and sets parameters to file for escalation and attrition allowances in 2016 and 2017.[5]

[5] Joint Motion For the Adoption of Partial Settlement Agreement Between California-American Water Company, City of Pacific Grove, Las Palmas Wastewater Committee, Monterey Peninsula Water Management District, and the Office of Ratepayer Advocates on Revenue Issues in the General Rate Case (Joint Motion), July 25, 2014, at 3.

As part of the Amended Partial Settlement Agreement, Cal-Am and ORA have agreed to most of the significant elements of Cal-Am's 2015 GRC revenue requirement and rate design, including the number of customers, usage per customer, rate base, operating expenses, utility plant additions, depreciation expense, income taxes, and most special requests.[6] Additionally, Cal-Am and ORA have reached an agreement on forward-looking interpretation of MDR II.D.5.[7]

The Amended Partial Settlement Agreement also addresses 1) Cal-Am's agreement with MPWMD on issues related to conservation, utility plant additions in Monterey,[8] 2) Cal-Am's agreement with MPWMD and Pacific Grove on certain special requests, and 3) Cal-Am's agreement with LPWC regarding Monterey wastewater issues.[9]

3. Request to Waive the Comment Period for the Amended Partial Settlement Agreement

In the joint motion to amend the Partial Settlement Agreement, the Settling Parties also request the Commission to waive further comments, replies, or responses in connection with the amendments or the motion to amend because the amendments only slightly reduce Cal-Am's revenue requirement and make minor corrections. The Commission grants this request.

Rule 1.12(b) states that if the time for filing a reply, response, protest, or answer to the original document has passed, the ALJ may limit or prohibit any

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[6] Joint Motion at 3.

[7] Joint Motion at 3.

[8] Amended Partial Settlement Agreement Between California-American Water Company, City of Pacific Grove, Las Palmas Wastewater Committee, Monterey Peninsula Water Management District, and the Office of Ratepayer Advocates on Revenue Issues in the General Rate Case, (Amended Partial Settlement Agreement) at 2.

[9] Amended Partial Settlement Agreement at 2.

further reply, response, protest, or answer to the amended document. Rule 12.2 provides parties 30 days to contest all or part of a settlement from the date the motion for adoption of settlement was served. Here, the Settling Parties filed the joint motion to adopt the Partial Settlement Agreement on July 25, 2014. Furthermore, pursuant to Rule 11.1(g), the Commission or the ALJ may rule on a motion before responses or replies are filed. Therefore, the ALJ may use his discretion and waive the comment period as permitted by Rule 1.12(b).

The amendments made to the Partial Settlement Agreement are minor in nature and were made to clarify issues and correct typographical errors. In addition, the amendments reduce Cal-Am's revenue requirement by: 1) removing the ASR Well #3; 2) removing the capital expenditures associated with ASR Well #3; and 3) reduces the California Corporate General Office costs by $98,834 for Monterey. Considering the nature of the changes and the resulting decrease in Cal-Am's revenue requirement for this GRC period, the comment period related to the Amended Partial Settlement Agreement shall be waived.

4. Settled Issued Approved by the Decision

The majority of the issues in this proceeding were settled among various parties and the product of that settlement is contained in the Amended Partial Settlement Agreement attached as Appendix A to the Settling Parties' Joint motion to Amend Partial Settlement Agreement. The following is a summary of the settled issues adopted by this decision. Settled issues denied and modified are discussed in Sections 6 and 7, respectively.

4.1. Water Customer, Consumption and Revenues

4.1.1. Customer Growth

Based on its review of actual customer growth from 2008 through the end of 2012 and its District managers review of actual growth trends, Cal-Am projected annual customer growth in customers to be 77 water customers and

23 fire service customers.[10] ORA recommended using a five-year average customer growth for forecasting active service connections and consumption per customer in all districts, except for the Monterey County District. ORA projected annual customer growth in customers to be 264 water customers and 47 fire service customers.

The Settling Parties agreed with Cal-Am's decision not to forecast customer growth for the Monterey County District.[11] ORA and Cal-Am agree: (1) to the level of customers proposed by Cal-Am for Sacramento, Larkfield, Toro, Garrapata, and the Los Angeles County Districts; (2) to the level of customers proposed by ORA for the San Diego County and Monterey Districts; and (3) that the customer growth for Ventura County District is based on adjusting the five-year average for the reclassification between residential and commercial customer classes and starting from a base of actual 2013 residential and commercial customers. The Amended Partial Settlement Agreement reflects a projected annual customer growth in customers to be 132 water customers and 38 fire service customers.

4.1.2. Consumption

Cal-Am used a three-year (2010 - 2012) average of the historical information for all customer classes, with the exception of the Sacramento District's residential customers, to forecast consumption. In the case of the Sacramento District's residential customers, Cal-Am used a three-year average and adjusted 2014, 2015, and 2016 numbers by reducing them by two percent each year to reflect the completion in 2013 of the conversion of unmetered residential customers to meters

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[10] Amended Partial Settlement Agreement at 3.

[11] This is due to the State Water Resources Control Board Moratorium on "new and expanded" service. Amended Partial Settlement Agreement at 3.

and implementing conservation rates in the Sacramento District.[12] ORA recommended the use of the five-year average of annual consumption. In the proposed Amended Partial Settlement Agreement, the settling parties agreed to use a four-year average of 2010 - 2013 for all customer classes. In addition, Sacramento residential consumption was further reduced by two percent per year as discussed above. In the proposed Amended Partial Settlement Agreement, both the Ventura County and San Marino residential four-year averages were increased 200 cubic feet annually to reflect a recent trend of increasing customer use.

4.1.3. Revenues

Cal-Am forecasted water revenues for the 2015 test year based on a projection of the number of customers by class, consumption per customer by class, and the use of standard tariff rate design reflecting the 2014 Step Rate Increase and the revenues associated with capital expenditure Advice Letters, which is based on the Commission's Standard Practice U-7-W, entitled *Rate Design for Water and Sewer System Utilities Including Master Metered Facilities* (dated July 2006).

In regard to Cal-Am's escalation year filings, Cal-Am proposes that it continue to use its interpretation of the Pro-Forma test[13] and customer growth[14]

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[12] Amended Partial Settlement Agreement at 8.

[13] Cal-Am 's interpretation of the Pro Form Test is to multiply the actual number of customers by the authorized consumption per customers for residential and commercial classifications and to then multiply the product by the appropriate rates to determine the Pro Forma revenues for these two classifications, and then adds to that the recorded revenues for all other classifications. *See* Amended Partial Settlement Agreement at 73.

[14] Cal-Am's interpretation of the customer growth requirements are to use the actual number of customers in the pro forma calculations and to use the latest Commission authorized number of customers for the escalation year and the difference between the escalation year and test year number of customers added to the escalation year to set the number of customers in the attrition year. *See* Amended Partial Settlement Agreement at 74.

requirements. ORA withdrew its recommendations to require Cal-Am to use recorded revenues and customers in the escalation and attrition year revenue requirement determinations and to adjust the five-year average growth for all customer classes.

The table below illustrates the settled revenue requirement for 2015 for each of the California-American Water Company's districts.

County	2015 Settled Revenue Requirement	Percentage Increase Over Present Rates
Larkfield	$ 3,332,448	-0.77%
Los Angeles	29,259,820	-1.85%
Monterey	53,205,444	-0.28%
Sacramento	52,799,113	0.70%
San Diego	27,288,723	5.23%
Ventura	36,433,402	4.57%
Garrapata	80,965	9.44%
Toro	773,900	11.97%
Monterey Wastewater	3,343,454	-5.39%
Total	206,507,269	1.22%

In regard to non-revenue water, Cal-Am and ORA agreed with the five-year average in each district as a reasonable quantity as it aligns with use of averages for average water use per customer. ORA and Cal-Am also agreed to retain the calculation methodology of the Monterey non-revenue water penalty/reward program adopted in D.12-06-016. ORA and Cal-Am agree that Cal-Am shall monitor, record, and report specific volumetric amounts for non-revenue water, instead of by percentage, for ratemaking purposes. ORA and Cal-Am agree that it

is appropriate for Cal-Am to use the results of the American Water Works Association Water Loss Audit Report for each of its sub-systems in its Monterey County District, including trends in water loss efficiency metrics, volumetric quantities, and the known feasible cost-effective methods available to reduce non-revenue water.

For fire service revenues, Cal-Am determined revenues based on projected customers and standard tariff rate design at present rates. Cal-Am forecasted the Other Revenues generally based upon historical information. ORA did not oppose Cal-Am's forecast, but recommended that the Commission direct Cal-Am to use its *actual* rates for all revenue calculations in all future GRCs rather than projections. The Settling Parties agreed on the proposed rate revenues for projected test year 2015.

4.2. Rate Base

The table below illustrates the settled rate base for 2015 and 2016 for each of the California-American Water Company's districts. The rate base for 2015 and 2016 as proposed in the Amended Partial Settlement Agreement are adopted.

District	2015 Settlement	2016 Settlement
Larkfield	$ 7,132,407	$ 7,028,542
Los Angeles	75,869,974	85,232,754
Monterey	136,896,895	139,817,064
Sacramento	146,930,723	152,934,802
San Diego	23,676,120	23,828,409
Ventura	45,666,311	51,673,215
Garrapata	126,763	135,002
Toro	1,559,623	1,631,536
Monterey Wastewater	1,589,591	1,545,412

4.2.1. Construction Work in Progress

Cal-Am has historically included all spending on construction in rate base including spending on projects that are in the development/construction phase.

ORA recommends removing construction work in progress (CWIP) amounts from the two test years for all projects Cal-Am anticipates being in service after 2016. ORA argues that removing CWIP amounts from rate base for projects that will not be used or useful in the test years is reasonable.

Cal-Am and ORA agree that for the purposes of determining rate base for 2015, 2016 and 2017, in this proceeding and for this rate case cycle only, for projects not completed and in service prior to December 31, 2016, the spending on those projects will not be included in the rate base (or in the revenue requirements). In lieu of including the proposed accumulated spend in rate base, Cal-Am and ORA agree that Cal-Am will be able to capitalize the carrying costs Allowance of Funds Used During Construction of the project's reasonable and prudent costs into the project's overall cost up until the time the project is completed and in service and then capture separately in an off-book regulatory account the carrying cost of the project from the time it is completed until it goes into rates and rate base.

4.3. Rate Design

Other than adjustments to block widths and rate percentage differences between blocks, Cal-Am did not propose any specific rate design changes for any district. ORA did not oppose the rate design proposed by Cal-Am for Larkfield, Ventura, San Diego, Los Angeles, Garrapata, and Toro service areas; therefore, ORA agreed to Cal-Am's proposed design.

Cal-Am proposed that residential customers in the Sacramento District be placed under a two-tier inclining block rate design with a modest price differential of 10 percent between the tier rates and 25 percent of fixed costs recovered in the monthly fixed charges, and that all other customers continue on a single block rate with 25 percent of the fixed costs recovered in the monthly fixed charges. In addition, Cal-Am proposes a Water Revenue Adjustment Mechanism/Modified Cost Balancing Account (WRAM/MCBA) mechanism. The requested WRAM

would track all under or over recoveries of authorized fixed costs collected as part of the quantity rates, and the requested MCBA would track the under or over recovery of actual purchased water and power costs from customers. ORA does not oppose the rate design proposed by Cal-Am or the WRAM/MBCA for the Sacramento District.

Excluding mixed-use customers, Cal-Am proposes to continue the parameters agreed to by all the parties in the Settlement Agreement approved in Cal-Am's last GRC for Monterey. ORA did not oppose this rate design. For Monterey mixed-use customers, the Settling Parties agreed to bill these customers under the residential rate design, but in a manner that provides allotments for both the residential and non-residential use that are then combined together to develop a specific allotment for each of the five residential tiers.

4.4. Conservation

Cal-Am and ORA agree to Cal-Am's three-year combined budget for conservation programs of $3,551,802 for its Larkfield ($90,524), Los Angeles County ($642,929), Sacramento ($1,463,998), San Diego County ($493,053), and Ventura County ($861,298) Districts for years 2015, 2016 and 2017. Cal-Am and ORA also agree to Cal-Am and MPWMD's joint conservation program for the Monterey County District, which proposed a three-year budget of $2,398,500 for Cal-Am and a three-year surcharge amount of $899,000 for MPWMD. In addition, Cal-Am and ORA agree that the three-year conservation funding monies may be moved between the three rate case years as long as the total year funding levels are not exceeded. Cal-Am may not move monies between different districts.

Cal-Am and ORA further agree that Cal-Am will continue to track conservation expenses in a capped, one-way balancing account with any unspent funds refunded to ratepayers after the end of the rate case period.

4.5. Monterey Wastewater

The settling parties agree to ORA's proposals and recommendations for the number of customers, purchase power costs, chemical costs, other administrative and general expenses, annual depreciation accrual, and costs of materials and supplies. ORA did not oppose Cal-Am's methodology for calculating uncollectible expenses, rent estimates, contribution depreciation, retirement expenses, net negative salvage factors, depreciation weighting factor, depreciation expenses, and average plant weighting factors. As for estimating Monterey Wastewater's rate base, ORA and Cal-Am agree with the following total recurring project capital amounts: 2015 - $171,459; and 2016 - $171,816. ORA also agrees to allow Cal-Am to manage the overall bottom-line Recurring Projects budget by district, with flexibility to allocate different spending levels to specific Recurring Project line items, consistent with the 2010 GRC settlement between ORA and Cal-Am.

Cal-Am also reached a settlement with LPWC on Irrigation System Odor Issues. The current Las Palmas Recycle/Reclamation System consists of a wastewater collection system with two parallel treatment trains rated at 90,000 gallons per day (gpd) and 145,000 gpd, and an average daily flow rate of 200,000 gpd. The System discharges to two holding ponds described as the "lower pond" and the "upper pond." Odors have been reported as occurring for more than 20 years. In response to LPWC's concerns, Cal-Am took water quality samples from: (1) the Las Palmas Drinking Water System, (2) treatment plant influent, (3) treatment plant effluent to lower pond, (4) upper pond, and (5) irrigation system at discharge point.

Based on its investigation, Cal-Am believes that a primary contributor of the odors is hydrogen sulfide, which is generated by a layer of solids at the bottom of the upper pond. The removal of this layer prevents the formation of hydrogen sulfide, which ameliorates the odor. Cal-Am agrees to drain the upper pond and

remove the layer of solids at the bottom of the pond. As required by the Settlement, LPWC shall make reasonable efforts to secure the cooperation of Las Palmas residents while the pond is drained. While the pond is drained for cleaning, Cal-Am shall not be responsible for providing alternative sources of irrigation water.

In addition, the settlement obligates Cal-Am to make good faith efforts to implement a chemical treatment process at the plant to oxidize hydrogen sulfide compounds believed to be forming in the upper pond and causing the unpleasant odors. In order to do so, Cal-Am must obtain regulatory authorization prior to implementing this process change. Cal-Am will make reasonable efforts to obtain such authorization. Moreover, Cal-Am agrees to not raise or attempt to raise rates in connection with any of the expenses associated with the water quality sampling, pond cleaning, or chemical treatment processes identified in the Amended Partial Settlement Agreement.

Furthermore, Cal-Am agrees to meet with LPWC representatives on a semi-annual basis to discuss residents' concerns about the operation of the Wastewater System. On an annual basis, Cal-Am will provide LPWC with a summary of annual operating expenses, operating revenue, depreciation, and general and income taxes which are allocated to the active wastewater systems and passive wastewater systems in Cal-Am's Monterey Wastewater Division.

4.6. Minimum Data Requirement II.D.5

During this proceeding, ORA alleged that Cal-Am provided inaccurate information in response to its MDRs.[15] The testimony requirement of MDR II.D.5 requires a "list of the plant improvements authorized in the test years but not

[15] Brief of the Office of Ratepayer Advocates Regarding the Administrative Law Judges Order to Show Cause Regarding California-American water Company's Violation of Rule 1.1 at 2.

built."[16] Cal-Am responded that the information provided was accurate at the time the MDRs responses were prepared, based on its interpretation of the MDR.[17] Cal-Am and ORA differed as to which were the "test years" for reporting purposes, whether "not built" included projects that were temporarily on hold, projects that Cal-Am expected to complete by the end of 2013, projects that were still in progress at the time the MDRs response was prepared, and whether the MDRs applied to advice letter projects and multi-year projects.

As a result of the settlement, Cal-Am and ORA agree that future MDR II.D.5 reports will include the information set forth below, which Cal-Am will use in subsequent GRC filings, unless and until the reporting requirements of MDR II.D.5 are modified by Commission decision. Cal-Am will further ensure that all MDRs responses are complete and accurate in future GRC filings in compliance with this interpretation of the MDR II.D.5 requirement.

In providing information subject to MDR II.D.5, Cal-Am will include the status of all projects authorized by the Commission in the last GRC, including:

1. Advice letter projects;
2. Multi-year projects;
3. Projects authorized in the test years but not built for whatever reason, even if the project is temporarily on hold and Cal-Am expects to the complete the project;
4. Projects authorized in all test years, even if the reporting occurs during a particular test year;
5. Projects authorized in all test years, even if the project is currently in progress; and

[16] D.07-05-062 at A-27.

[17] California-American Water Company Post-Hearing Reply Brief on Order to Show Cause at 3.

6. Projects authorized in all test years, even if Cal-Am expects the project to be complete during the years in which the GRC is filed and decided.

The MDR shall include the status on both a recorded and forecast basis through the end of the prior GRC cycle. Cal-Am will update the status as close to the application date as reasonably possible, and any further updates will be provided in response to data requests issued in the GRC. This compromise interpretation applies going forward, but not retroactively.

4.7. Special Requests

The settlement resolves 63 of Cal-Am's 65 Special Requests (including the 33 subparts of Special Request No. 29). Fifty-two Special Requests were settled. Four Special Requests are no longer in dispute as the Commission determined that the requests were outside the scope of this proceeding. Seven Special Requests were withdrawn and two were left unsettled.[18] The unsettled Special Requests are discussed in Section 8 below.

5. Compliance with Rule 12.1 of the Commission's Rules of Practice and Procedure

In order for the Commission to approve any proposed settlement, the Commission must be convinced that the parties have a sound and thorough understanding of the application, the underlying assumptions, and the data included in the record. Pursuant to Rule 12.1(d), the Commission will only approve settlements if the settlement is reasonable in light of the whole record, consistent with the law, and is in the public interest. As discussed below, we find

[18] In Cal-Am's 2015 GRC Application, Cal-Am proposed the same Special Request twice as Special Request Nos. 23 and 31. In the Amended Partial Settlement Agreement, the Settling Parties withdrew Special Request No. 31 because of this error.

the Amended Partial Settlement Agreement consistent with Rule 12.1 and adopt it with modification.

5.1. Reasonableness in Light of the Record as a Whole

The Amended Partial Settlement Agreement, excluding the below exceptions, is reasonable in light of the record as a whole based on the Settling Parties' discussions and thorough review and understanding of the record. The Settling Parties submitted extensive testimony and the Commission held evidentiary hearings and PPHs in which witnesses offered additional testimony and the public was heard. Moreover, settlement conferences took place as scheduled, with multiple parties participating and engaging in settlement discussions and negotiations.

5.2. Consistent with Law and Prior Commission Decisions

The Amended Partial Settlement Agreement is also consistent with law and prior Commission decisions. The issues resolved in the Amended Partial Settlement Agreement are within the scope of the proceeding.

5.3. The Public Interest

After weeks of discussions and good faith negotiations, the Settling Parties came to a reasonable compromise that furthers the public interest. The Amended Partial Settlement Agreement promotes a favorable outcome for ratepayers and public safety. Specifically, the Amended Partial Settlement Agreement establishes policies and targets for cost-effectively reducing water losses.[19] It also enables Cal-Am to: (1) track conservation expenses in a capped, one-way balancing account with any unspent funds refunded to ratepayer; (2) to maintain a

[19] Joint Motion at 6.

non-revenue water loss penalty/reward program for Monterey; and (3), continue using multi-tiered block rate designs in several districts.[20] Lastly, by coming to a compromise, the Settling Parties avoided excess litigation over the matter and made an efficient use of time and resources.

5.4. Conclusion

Based upon the record of this proceeding, we find that the Settling Parties complied with Rule 12.1 by making the appropriate filings and noticing settlement conferences. We find that the Amended Partial Settlement Agreement contains factual and legal considerations sufficient to advise the Commission of the scope of the settlement and of the grounds for its adoption; that the settlement was limited to the issues in this proceeding; and, that the settlement included comparisons indicating the impact of the settlement in relation to the utility's application and issues the other parties contested in their prepared testimony, or would have contested in a hearing. We conclude, pursuant to Rule 12.1(d) that the Amended Partial Settlement Agreement, with the exceptions outlined below, is reasonable in light of the whole record, consistent with the law and in the public interest.

6. Settled Issues Denied or Modified by the Decision

6.1. Special Request No. 16

The Commission denies Special Request No. 16. Cal-Am's request sought Commission approval of a Consumption Adjustment Mechanism (CAM) modeled after the Sales Reconciliation Mechanism (SRM) authorized for the California Water Service Company (Cal Water) in Cal Water's 2012 GRC (A.12-07-007).

While the Commission authorized Cal Water to implement a SRM in

[20] Joint Motion at 6.

D.14-08-011 at Ordering Paragraph 43, it did so as a trial program for the second and third years of Cal Water's rate case cycle. The Commission weighed the costs and benefits and the policy implications of implementing such a program and found that Cal Water's SRM is in the public interest. However, the Commission authorized the SRM on a trial basis. This allows the Commission to revisit the efficacy and benefits of the SRM.

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.

6.2. Special Request No. 18

Special Request No. 18 seeks to authorize Cal-Am to establish a memorandum account to track all penalties and fines that could be assessed as a result of a violation of the State Water Resources Control Board's (State Water Board) Cease and Desist Order. Due to the position Cal-Am is in, the Commission grants Cal-Am's request with modifications. Specifically, in order to recover these costs, Cal-Am must file a formal application for the Commission to determine whether or not such costs are necessary and reasonable. A formal application process will allow the Commission and intervenors appropriate scrutiny on the costs associated with the Cease and Desist Order.

Knowing that this is a contentious issue with Monterey ratepayers, the Commission sought to reach an appropriate balance between competing interests. On one hand, Cal-Am is voluntarily and intentionally diverting water from the Carmel River in violation of the State Water Board's Cease and Desist Order; therefore, Cal-Am should be held responsible for the penalties and fines it incurs.

However, Cal-Am's actions were and are undertaken for the purpose of supplying the residential, municipal, and commercial needs of the Monterey Peninsula area communities. In other words, if Cal-Am was not obligated to provide services to Monterey County, then it would not violate the terms of the State Water Board's Cease and Desist Order.

To ensure that ratepayer funds are used properly and for their benefit, it is necessary for the Commission to ensure that procedural safeguards will be in place prior to any attempt to recover these costs. Therefore, it is reasonable to allow Cal-Am to establish a memorandum account with the requirement that Cal-Am file a formal application to recover costs rather than seek recovery through an advice letter. This will allow Cal-Am to track its expected penalties and fines while also granting the public an opportunity to be heard and for a reasonableness review of the costs incurred.

6.3. Special Request No. 32

In Special Request No. 32, Cal-Am requests authorization to track in the Monterey County District's WRAM/MCBA all lost revenues associated with the loss of sales to certain Pacific Grove properties as Pacific Grove plans to build, own, operate, and distribute water to those properties from a yet to be constructed water reclamation facility.[21] Special Request No. 32 should be granted and Cal-Am allowed to track lost revenue associated with loss of sales due to the Pacific Grove Projects in its existing Monterey District WRAM/MCBA. Cal-Am should seek any recovery for lost revenue associated with the loss of sales to certain Pacific Grove properties in its next GRC.

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[21] Application of California-American Water Company to Increase Revenues in Each of Its Districts Statewide (Cal-American Application) at 18.

7. Resolution of the Remaining Contested Issues

While the Amended Partial Settlement Agreement resolved most issues presented in Cal-Am's GRC application, four issues remain unresolved. The issues are: (1) ORA's recommendation that Cal-Am should be required to file 2016 and 2017 escalation year filings for each and every district; (2) ORA's proposal to require Cal-Am to use recorded rate base up to, but not exceeding, its authorized rate base in order to calculate Cal-Am's 2017 rate base; (3) Special Request No. 23, which seeks authorization for Cal-Am to establish a memorandum account associated with Placer County purchased water supply contract and track costs associated with ongoing peaking charges imposed by Placer County for later recovery if such charges are found reasonable and prudent; and (4), Special Request No. 30, which seeks authorization to include the Placer County Water Agency's peaking charges in its Purchased Water Balancing Account for Cal-Am's Sacramento District.[22] This decision approves ORA's escalation year filing proposal but does not approve ORA's proposed attrition year filing methodology and Cal-Am's Special Requests Nos. 23 and 30. We address each of these unresolved items in turn below.

7.1. ORA's Recommendation to Require Cal-Am to File 2016 and 2017 Escalation Year Filings For Every District

ORA proposes that Cal-Am be required to file 2016 and 2017 escalation year filings (step rate filings) for each and every district, regardless whether the filing will result in an increase or decrease in rates. The Commission grants ORA's request for this GRC cycle.

[22] Joint Motion at 4.

ORA presented three persuasive arguments. First, requiring Cal-Am to file 2016 and 2017 escalation year filings for each and every district is not unprecedented and is, in fact, consistent with the Commission's directives in Cal-Am's 2012 GRC (A.10-07-007).[23] During Cal-Am's last GRC, the Commission ordered Cal-Am to "file Tier 2 advice letters in conformance with General Order 96-B proposing new revenue requirements and corresponding revised tariff schedules for *each* district for escalation years 2013 and 2014."[24]

Second, requiring such a filing for this GRC would be in the ratepayers' best interest. By allowing water utilities to pick and choose the districts for which it files escalation year filings, a utility may conceal over-earning by choosing not to file an escalation filing for a district that would be entitled to a rate decrease.[25] While Cal-Am's assertion that water utilities previously had discretion in this arena is true,[26] we are persuaded that modifying this practice for this GRC cycle will allow the most transparency and fairness to ratepayers.

Third, such a requirement does not change the Rate Case Plan.[27] D.07-05-062 states that each GRC decision shall include standard ordering paragraphs providing for escalation year increases subject to an earnings test, unless deviation is otherwise expressly justified in the decision.[28] The standard ordering paragraph provided in D.07-05-062 states, "[a]n escalation advice letter,

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[23] Opening Brief of the Office of Ratepayer Advocates at 11.

[24] D.12-06-016, *Decision Adopting The 2011, 2012, 2013, And 2014 Revenue Requirement For California-American Water Company*, Ordering Paragraph 7 at 90 (emphasis added).

[25] Opening Brief of the Office of Ratepayer Advocates at 12.

[26] D.04-06-018 at 12 states, "[t]o implement the escalation increase . . . the utility may file an advice letter setting out its calculations and supporting analysis for the escalation year rates."

[27] Opening Brief of the Office of Ratepayer Advocates at 12.

[28] D.07-05-062 at A-13 of Appendix A.

including workpapers, may be filed in accordance with General Order (GO) 96-B no later than 45 days prior to the first day of the escalation year."[29] Deviating from optional escalation filings to requiring escalation filings for every district is justified because it serves the public interest by protecting ratepayers and ensures the provision of safe, reliable utility service and infrastructure at reasonable rates from utilities. Furthermore, this requirement is for the current rate case cycle and does not pre-determine any consideration of this issue in Cal-Am's next GRC.

7.2. ORA's Proposal Regarding Attrition Year Filings

The Commission rejects ORA's proposal that Cal-Am be required to use its recorded rate base up to, but not to exceed, the authorized rate base to calculate its 2017 attrition year rate base filing. The Commission rejects this modification because it is impractical as applied, is contrary to the Rate Case Plan, and Cal-AM's methodology for using a forecasted test year to determine its attrition year rate base is reasonable.

ORA's proposal is impractical for achieving ORA's goal of improving transparency. ORA's underlying motivation for Cal-Am to use a recorded rate base for its attrition year rate base is to address Cal-Am's "historical failure to complete its authorized capital projects."[30] However, adopting a different formula for calculating an attrition year rate base in this regard is an inappropriate reactionary measure. Due to Cal-Am's filing schedule, ORA's proposal requires Cal-Am to continue to forecast the last three months of its attrition year. Thus, this attempt to make Cal-Am's filings more reflective of actual recorded data falls short.

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[29] *Id.*

[30] Reply Brief of the Office of Ratepayer Advocates at 10.

In addition, ORA's proposal to modify Cal-Am's attrition year rate base formula for this particular GRC is contrary to the Rate Case Plan. D.04-06-018 identified the methodologies for calculating escalation and attrition year filings. It adopted ORA's recommendation at the time to retain the existing system of two test years and one attrition year.[31] The existing system provided for two consecutive test years, followed by one attrition year for January filers and two attrition years for July filers.[32]

In differentiating the methodology between evaluating a test year and an attrition year, the decision stated that "a "test year" is a 12-month period over which projected costs and revenue are evaluated . . . [t]his evaluation includes specific review of all projected costs and forecasts of consumer use."[33]

In contrast, an "attrition year" provides for rate increases based on an adopted formula.[34] In articulating the attrition year formula, D.04-06-018 stated that the attrition allowance methodology provides for rate base additions in Year Three by adding the difference between test Year One and test Year Two rate base to test Year Two rate base.[35] Neither D.04-06-018 nor D.07-05-062 identified whether forecasted or recorded rate bases are to be used for the attrition year. However, D.04-06-018 determined that:

> Standard ratemaking practice uses "test year" to refer to the period over which the cost of service and proposed rates will be evaluated. Two types of test years are used: historical and

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[31] D.04-06-018, *Interim Order Adopting Rate Case Plan*, June 09, 2004 at 15.

[32] *Id.* at 5.

[33] *Id.*

[34] *Id.*

[35] *Id.* at footnote 6 at 15.

> forecasted (or future) test years. The Commission's current practice for water utilities is to use two forecasted test years.[36]

Moreover, while D.07-05-062 provides for modifications to escalation year filings, the language of the decision does not afford such flexibility for formulating an attrition year rate base.

Lastly, while D.04-06-018 and D.07-05-062 do not specify which type of test year to use in calculating an attrition year rate base, it is reasonable to use a forecasted test year. As stated in D.04-06-018, the Commission's current practice for water utilities is to use two forecasted test years rather than historic test years. The Commission reasoned that "using a forecast allows the utility to project expected costs and determine the revenue required to recover those costs, and the Commission to tailor the rate changes to match anticipated cost changes."[37] As such, attrition allowance methodology provides for rate base additions in Year Three by adding the difference between the two forecast test years to the test Year Two rate base. Since the Rate Case Plan decisions have not strayed from "current practice"[38] in using two test years and one attrition year, it is reasonable for Cal-Am to use forecasted test years as an attrition year rate base.

7.3. Special Request No. 23

In Special Request No. 23, Cal-Am requests authorization to establish a memorandum account to tracks costs associated with the Sacramento/Placer County purchased water supply, including capacity charges assessed in a new purchased water agreement to cover the costs of capital investment. These costs include amounts attributed to negotiation, development, and implementation of a

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[36] *Id*. at 6.

[37] D.04-06-018 at 6.

[38] *Id*. at 15.

new water supply agreement. The Commission rejects Special Request No. 23 because it does not meet the requirements set out in Standard Practice U-27-W for establishing a Memorandum Account.

In order to establish a Memorandum Account, Cal-Am must satisfy a four part test. Memorandum accounts are appropriate when the following conditions are met:

(1) Expense is caused by an event of an exceptional nature that is not under the utility's control;

(2) The expense cannot have been reasonably foreseen in the utility's last GRC and will occur before the utility's next scheduled rate case;

(3) The expense is of a substantial nature in the amount of money involved; and

(4) The ratepayers will benefit by the memorandum account.[39]

Cal-Am asserts that because its agreement with Placer County Water Agency provides for Cal-Am's sole source of water in Placer County, "the agreement between the two bodies is exceptional in nature and of significant importance."[40] Cal-Am further asserts that the agreement is not within Cal-Am's control because Cal-Am must obtain that water to service the area.[41] However, this agreement is undoubtedly under Cal-Am's control- albeit, incomplete control. Cal-Am is one of the largest water utilities in the business of providing water to its ratepayers. As such, it is able to bring a plethora of resources and industry experience to the bargaining table. To suggest that Cal-Am is at the mercy of Placer County Water

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[39] Standard Practice U-27-W; *See* also D.02-08-054 *Interim Decision Authorizing Creation of Memorandum Account*, August 22, 2002 at 3.

[40] California-American Water Company's Opening Brief at 12.

[41] California-American Water Company's Opening Brief at 12.

Agency is to starkly misconstrue Cal-Am's bargaining position as an experienced and needed service provider for Placer County residents.

In regard to the second prong of this four part test, Cal-Am asserts that because negotiations had not yet begun at the start of this GRC, the level of increased requirements and costs is unknown.[42] Although the exact costs are unknown, these negotiations are neither a first-time event for Cal-Am, nor are they on par with Cal-Am's cited example of the Commission's authorization of a memorandum account for Great Oaks Water Company for the cost of Chromium-6 compliance.

Cal-Am has already negotiated with Placer County Water Agency for this exact purpose in the past. Based on Cal-Am's past negotiating experiences, current agreement with Placer County Water Agency, and experience in the industry, Cal-Am can reasonably foresee the future costs the agreement presents. Therefore, the costs associated with the agreement are not entirely unforeseeable now. Moreover, the costs were not unforeseeable in Cal-Am's last GRC considering that Cal-Am was well aware of the expiration date of its current agreement with Placer County Water Agency and that it needs to procure such an agreement in order to continue providing services to Placer County.

Furthermore, in Resolution W-4965, Great Oaks Water Company was required to comply with future federal and state regulations that had yet to be established. Great Oaks Water Company was authorized track expenditures (capital and operating costs) due to compliance related to the final Chromium-6 Maximum Contaminant Level drinking water standard adopted by the California

[42] California-American Water Company's Opening Brief at 12.

Department of Public Health.[43] In that case, Great Oaks Water Company was not in a position to negotiate or bargain. Rather, it had to react to new, unilateral requirements established by a state agency. Although every negotiation is different, here it is only a matter of degree. In this instance, Cal-Am is able to negotiate and bargain for a beneficial position and has done so before.

Cal-Am asserts that it satisfies the third prong because the expenses associated with negotiations are of a substantial nature in the amount of money involved based on its 2010 GRC. In its 2010 GRC, Cal-Am had a budget of $1.5 million to pay an initial capacity charge for a purchased water agreement with the City of Sacramento.[44] Here, Cal-Am argues that it *may* incur costs of increased capacity, new capital investment or one-time payments and that they are always substantial in nature.[45] However, Cal-Am has not identified any particular costs or projected capital expenditures that it is likely to incur or at least a degree of certainty that such costs will in fact occur because of these negotiations.

Lastly, in regard to the fourth prong, Cal-Am argues that ratepayers will benefit from the memorandum account treatment because it allows for the continued delivery of water to customers in Placer County. While this is true in the general sense, Cal-Am has not proposed that it will in fact stop negotiations with Placer County Water Agency and stop delivering water to Placer County ratepayers in the event that a memorandum account is not authorized. Thus, Cal-Am has failed to meet Standard Practice U-27-W's four part test and therefore, is not authorized to establish a memorandum account to track costs associated

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[43] Resolution W-4965, Great Oaks Water Company. *Order Authorizing Establishment Of A Memorandum Account For Chromium-6 Compliance Costs*, December 5, 2013 at 2.

[44] California-Water Company Closing Brief at 13.

[45] California-Water Company Opening Brief at 13 (emphasis added).

with the Sacramento/Placer County purchased water supply and changes in the Placer County Water Agency agreement.

7.4. Special Request No. 30

The Commission rejects Cal-Am's Special Request No. 30 that seeks authorization to include the Placer County Water Agency's peaking charges in its Purchased Water Balancing Account for Cal-Am's Sacramento District for the following four reasons. First, D.13-10-003 explicitly states that Cal-Am will not recover peaking charges incurred after January 1, 2012, because of the construction of new facilities including the Walerga storage tank and the Special Facilities Fees (SFF) approved in the decision.[46] Second, granting Special Request No. 30 presents perverse incentives in regard to Cal-Am's negotiations with Placer County Water Agency. Third, Cal-Am's arguments that Cal-Am is only requesting authority to track charges at the moment does not adequately justify tracking peaking charges. Fourth, that the Walerga Tank Project has not been completed due to the delay in Phase 2 of Cal-Am's 2012 GRC is irrelevant to the need for tracking peaking charges.

First, Ordering Paragraph 4 of D.13-10-003 explicitly restricts Cal-Am's ability to recover peaking charges incurred after January 1, 2012.[47] The Commission disallowed the recovery of peaking charges incurred after January 2012, because the Commission authorized Cal-Am to recover SFF applicable to all new customers in the West Placer Service Area and because of the

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[46] D.13-10-003, *Decision Resolving the Dry Creek Special Facilities Fees Issues*, October 03, 2013 at 12.

[47] Cal-Am is authorized to file a Tier 1 Advice Letter to recover peaking charges of $797,912 from its purchased water account for the Sacramento District for 2005 to 2010. Cal-Am may not recover peaking charges incurred after January 1, 2012." (D.13-10-003 at 19.)

Walerga Tank's ability to eliminate peaking charges.[48] While it is true that peaking charges are not incurred solely because of Cal-Am's actions,[49] the plain meaning of "Cal-Am may not recover peaking charges incurred after January 1, 2012" is clear. There could be no other logical interpretation of D.13-10-003, Ordering Paragraph 4 other than that the Commission restricted Cal-Am from recovering peaking charges incurred after January 1, 2012.

Cal-Am is correct in its submissions that D.13-10-003 relies on portions of the Settlement Agreement between Cal-Am, ORA, and The Utility Reform Network. However, pursuant to Rule 12.5, unless the Commission expressly provides otherwise, adoption of a settlement agreement does not constitute approval of or precedent regarding any principle or issue in any future proceeding. Therefore, even though the Commission relied on portions of the prior settlement agreement to reach a decision, that settlement agreement is not binding here because the Commission did not expressly provide otherwise.

Second, Cal-Am's argument concerning its renegotiations with Placer County Water Agency does not justify granting Special Request No. 30. By authorizing Cal-Am to recover peaking charges, the Commission would institute perverse incentives for Cal-Am to bargain for positions contrary to the best interest of its ratepayers.

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[48] " . . . [E]xisting customers currently pay annual peaking charges ranging from $200,000 to $400,000 that will be eliminated by the Walerga Tank Project, and that the tank will provide equalized pressure to the whole system throughout the day and meet fire flow requirements benefitting all customers within the system." D.13-10-003 at 10; "Due to the construction of new facilities including the Walerga storage tank and the SFF approved in this decision, we find Cal-Am's recovery of $797,913 in peaking charges for 2005–2010 reasonable. Cal-Am will not recover peaking charges incurred after January 1, 2012." (D.13-10-003 at 12.)

[49] Cal-Am argues that peaking charges result from customer need, possible rapid growth, emergency maintenance, natural occurrences, and the actions of third parties. California-American Water Company's Opening Brief at 15-16.

Third, while Cal-Am is requesting authority to track charges and not to recover charges at the moment,[50] the purpose of a memorandum account is to ultimately recover what costs are tracked. Considering that the Commission decided not to allow Cal-Am to recover peaking chargers for rate payers in the Sacramento District pursuant to D.13-10-003, tracking such charges in a memorandum account is unreasonable and serves no purpose.

Finally, Cal-Am asserts that peaking charges could occur in 2015 because the Walerga tank might not be completed by 2015 due to a delay in Phase 2 of Cal-Am's 2012 GRC.[51] However, regardless of the timing of Phase 2 of Cal-Am's last GRC, the construction of the Walerga Tank Project could have been completed irrespective of Commission action. Therefore, that the tank has not been completed does not adequately justify tracking peaking charges.

8. Conclusion

After reviewing the Application, parties' briefs and testimony, the Commission adopts the Amended Partial Settlement Agreement as is, except for Special Requests Nos. 16, 18, and 32. Special Requests Nos. 16 is denied and Special Request No. 18 and 32 are modified.

In regard to the remaining disputed issues unsettled by the Amended Partial Settlement Agreement, the Commission: (1) approves ORA's proposal to require Cal-Am to file 2016 and 2017 escalation year filings for each and every district; (2) rejects ORA's proposal to require Cal-Am to use recorded rate base, up to but not exceeding authorized rate base, in order to calculate Cal-Am's rate base for 2017; (3) denies Cal-Am's Special Request No. 23, which seek authorization for Cal-

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[50] California-American Water Company's Opening Brief at 15-16.

[51] California-American Water Company's Opening Brief at 15-16.

Am to establish a memorandum account to track costs associated with Placer County purchased water supply contract; and (4) denies Cal-Am's Special Request No. 30, which seeks authorization to include the Placer County Water Agency's peaking charges in Cal-Am's Purchased Water Balancing Account for the Sacramento District.

This decision adopts the Amended Partial Settlement Agreement and reflects the changes made to the Partial Settlement Agreement. Considering the nature of the changes made and the resulting decrease in Cal-Am's revenue requirement for this GRC period, this decision grants the Setting Parties' request to waive the comment period related to the Amended Partial Settlement Agreement.

9. Categorization and Need for Hearing

In Resolution ALJ 176-3326, dated November 14, 2013, the Commission preliminarily categorized this application as ratesetting, and preliminarily determined that hearings were necessary. On December 6, 2013, both TURN and ORA filed protests to the application. Evidentiary hearings have been held and with the filing of the Amended Partial Settlement Agreement and supporting Joint Motion, no further hearings are necessary. We confirm the categorization and need for hearings.

10. Comments on Proposed Decision

Proposed decision of ALJ Colbert in this matter was mailed to the parties in accordance with Section 311 of the Public Utilities Code and comments were allowed under Rule 14.3 of the Commission's Rules of Practice and Procedure. Comments were filed on March 26, 2015 by Cal-Am and the California Water Association (CWA). ORA late filed its comments on March 27, 2015. ORA filed reply comments on were filed on April 1, 2015.

After reviewing the Comments and Reply Comments to the PD submitted by the Cal-Am, CWA and ORA, we have determined that Cal-Am and CWA have

failed to demonstrate any material legal error in the PD. As a result, we decline to make any substantive changes to the PD based on alleged legal error.

We specifically note Cal-Am's request, in §VIII of their comments to the PD[52], for modification of footnote #8 to the Settlement Agreement. ORA has not affirmatively agreed to the modification of footnote #8 and we did not raise the issue in the PD and thus decline to modify the footnote. We have modified the PD based on the Comments of Cal-Am, ORA and on our own initiative, in the following manner:

- The revenue requirement and rate increase on page 2 of the PD have been revised;
- The tables on pages 2 and 11 have been revised;
- Section 6 of the PD has been revised;
- Finding of Facts #8 has been revised;
- Conclusions of Law #11, #12 and #13 have been revised;
- Ordering Paragraph #3 has been revised; and
- Ordering Paragraph #14 has been added.

There are no other changes to the PD.

11. Assignment of Proceeding

Carla J. Peterman is the assigned Commissioner and W. Anthony Colbert is the assigned ALJ in this proceeding.

Findings of Fact

1. On July 25, 2014, the Settling Parties filed and served the Joint Motion for the Adoption of Partial Settlement Agreement between Cal-AM, City of Pacific Grove, Las Palmas Wastewater Committee, MPWMD, and the ORA on Revenue Issues in the GRC.

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[52] Cal-Am Comments to PD at 15, §VIII.

2. Central Coast Coalition of Communities for Wastewater Equity filed Comments to the Joint Motion on August 25, 2014.

3. Cal-Am filed Reply Comments on September 9, 2014.

4. On February 19, 2015, the Settling Parties filed the Settling Parties' Joint Motion to Amend Partial Settlement Agreement.

5. In addition to requesting to amend the Partial Settlement Agreement, the Settling Parties request the Commission to waive the comment period pertaining to the amendments and the joint motion to amend.

6. The Amended Partial Settlement Agreement enables Cal-Am to: (1) track conservation expenses in a capped, one-way balancing account with any unspent funds refunded to ratepayer; (2) to maintain a non-revenue water loss penalty/reward program for Monterey; and (3), continue using multi-tiered block rate designs in several districts.

7. By coming to a compromise, the Settling Parties avoided excess litigation over the matter and made an efficient use of time and resources.

8. In Special Request No. 32, Cal-Am requests authorization to track in the Monterey County District's WRAM/MCBA lost revenues associated with the loss of sales to certain Pacific Grove properties as Pacific Grove plans to build, own, operate, and distribute water to those properties from a yet-to-be-constructed water reclamation facility.

9. Cal-Am's Special Request No. 16 requested the Commission to approve a CAM modeled after the SRM requested by Cal Water in its 2012 GRC.

10. D.14-08-011, Ordering Paragraph 43 authorized Cal Water to establish a SRM for a trial period during the second and third year of its rate case period.

11. The complexity and experimental nature of Cal Water's SRM, could lead to flawed designs and unintended consequences for Cal-Am's CAM.

12. In Special Request No. 18, Cal-Am seeks to establish a memorandum account to track all penalties and fines that could be assessed as a result of a violation of the State Water Board's Cease and Desist Order.

13. Cal-Am is voluntarily and intentionally diverting water from the Carmel River in violation of the State Water Board's Cease and Desist Order.

14. During Cal-Am's last GRC, the Commission ordered Cal-Am to "file Tier 2 advice letters in conformance with General Order 96-B proposing new revenue requirements and corresponding revised tariff schedules for *each* district for escalation years 2013 and 2014."

15. It is in the ratepayers' best interest to require Cal-Am to file escalation year filings for each district, regardless of an increase or a decrease in rates.

16. By allowing water utilities to pick and choose what districts it files escalation year filings for, a utility may conceal over-earning by choosing not to file an escalation filing for a district that would be entitled to a rate decrease.

17. D.07-05-062 states that each GRC decision shall include standard ordering paragraphs providing for escalation year increases subject to an earnings test, unless deviation is otherwise expressly justified in the decision.

18. ORA's underlying motivation for Cal-Am to use a recorded rate base for its attrition year rate base is to address Cal-Am's "historical failure to complete its authorized capital projects."

19. D.04-06-018 identified the methodologies for calculating escalation and attrition year filings and adopted ORA's recommendation to retain the existing system of two test years and one attrition year.

20. In differentiating the methodology between evaluating a test year and an attrition year, D.04-06-018 stated that "a 'test year' is a 12-month period over which projected costs and revenue are evaluated . . . [t]his evaluation includes specific

review of all projected costs and forecasts of consumer use" while an "attrition year" provides for rate increases based on an adopted formula.

21. D.04-06-018 stated that the attrition allowance methodology provides for rate base additions in Year Three by adding the difference between test Year One and test Year Two rate base to test Year Two rate base.

22. Neither D.04-06-018 nor D.07-05-062 identified whether forecasted or recorded rate bases are to be used for the attrition year.

23. D.04-06-018 determined that "test year" refers to the period over which the cost of service and proposed rates will be evaluated and that the Commission's current practice for water utilities is to use two forecasted test years.

24. The Commission's current practice for water utilities is to use two forecasted test years rather than historic test years.

25. Memorandum accounts are appropriate when the following conditions are met: (1) expense is caused by an event of an exceptional nature that is not under the utility's control; (2) the expense cannot have been reasonably foreseen in the utility's last GRC and will occur before the utility's next scheduled rate case; (3) The expense is of a substantial nature in the amount of money involved; and (4) the ratepayers will benefit by the memorandum account.

26. Cal-Am is one of the largest water utilities in the business of providing water to its ratepayers and is able to bring a plethora of resources and industry experience to negotiations between Cal-Am and Placer County Water Agency.

27. Although the exact costs are unknown, the negotiations are neither a first-time event for Cal-Am, nor are they on par with Cal-Am's cited example of the Commission's authorization of a memorandum account for Great Oaks Water Company for the cost of Chromium-6 compliance.

28. Cal-Am has already negotiated with Placer County Water Agency for this exact purpose in the past.

29. Based on Cal-Am's past negotiating experiences, current agreement with Placer County Water Agency, and experience in the industry, Cal-Am can reasonably foresee the future costs the agreement presents.

30. The costs were also foreseeable in Cal-Am's last GRC considering that Cal-Am was well aware of the expiration date of its current agreement with Placer County Water Agency and that it needs to procure such an agreement in order to continue providing services to Placer County.

31. Cal-Am has not identified any particular costs or projected capital expenditures that it is likely to incur or at least a degree of certainty that such costs will in fact occur because of these negotiations considering the state and capacity of existing facilities.

32. Cal-Am has not proposed that it will stop negotiations with Placer County Water Agency and stop delivering water to Placer County ratepayers in the event that a memorandum account is not authorized.

33. D.13-10-003 explicitly states that Cal-Am will not recover peaking charges incurred after January 1, 2012, because of the Walerga Storage Tank's ability to eliminate peaking charges and the Special Facilities Fees approved in the decision.

34. Regardless of the timing of Phase 2 of Cal-Am's last GRC, the construction of the Walerga Tank Project could have been completed irrespective of Commission action.

Conclusions of Law

1. Rule 1.12(b) states that if the time for filing a reply, response, protest, or answer to the original document has passed, the ALJ may limit or prohibit any further reply, response, protest, or answer to the amended document.

2. Rule 12.2 provides parties 30 days to contest all or part of a settlement from the date the motion for adoption of settlement was served.

3. Pursuant to Rule 11.1(g), the Commission or the ALJ may rule on a motion before responses or replies are filed.

4. Since the Partial Settlement Agreement and the joint motion to approve the Partial Settlement Agreement were filed on July 25, 2014, the ALJ may use his discretion and waive the comment period as permitted by Rule 1.12(b).

5. Considering the minor nature of the changes made to the Partial Settlement Agreement and the resulting decrease of Cal-Am's revenue requirement for this GRC period, the comment period related to the Amended Partial Settlement Agreement should be waived.

6. 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 law, and in the public interest.

7. The Amended Partial Settlement Agreement, with the exceptions noted in this decision, is reasonable in light of the whole record, consistent with law, and is in the public interest.

8. The Amended Partial Settlement Agreement, with the exceptions noted in this decision, should be adopted.

9. The issues resolved in the Amended Partial Settlement Agreement are within the scope of the proceeding.

10. The Amended Partial Settlement Agreement, with the exceptions noted in this decision, promotes a favorable outcome for ratepayers and public safety by establishing policies and targets for cost-effectively reducing water losses.

11. Special Request No. 32 should be granted and Cal-Am allowed to track lost revenue associated with loss of sales due to the Pacific Grove Projects in its existing Monterey District WRAM/MCBA..

12. Cal-Am should seek any recovery for lost revenue associated with the loss of sales to certain Pacific Grove properties in its next GRC.

13. Special Request No. 16 should be denied, but this does not preclude Cal-Am from requesting authorization for a CAM in Cal-Am's next GRC or through a separate application.

14. The Commission should grant Cal-Am's Special Request No. 18 with modification because it is reasonable to allow Cal-Am to establish a memorandum account with the requirement that Cal-Am file a formal application to recover costs rather than an advice letter.

15. Cal-Am's diversion of water from the Carmel River were and are undertaken for the purpose of supplying the residential, municipal, and commercial needs of the Monterey Peninsula area communities.

16. In order to recover the costs associated with the Cease and Desist Order, Cal-Am should be held responsible for the penalties and fines it incurs and required to file a formal application for the Commission to determine whether or not such costs are necessary and reasonable.

17. Allowing Cal-Am to track expected penalties and fines and to require Cal-Am to file a formal filing to recover costs will grant the public an opportunity to be heard and for a reasonableness review of the costs incurred.

18. It is in the ratepayers' best interest to require Cal-Am to file escalation year filings for each district, regardless of an increase or a decrease in rates.

19. By allowing water utilities to pick and choose what districts it files escalation year filings for, a utility may conceal over-earning by choosing not to file an escalation filing for a district that would be entitled to a rate decrease.

20. The Commission should grant ORA's proposal that Cal-Am be required to file 2016 and 2017 escalation year filings for each district.

21. Requiring Cal-Am to file 2016 and 2017 escalation year filings for each and every district is consistent with the Commission's requirements in Cal-Am's 2012 GRC and is within the public interest.

22. Requiring Cal-Am to file 2016 and 2017 escalation year filings does not change the Rate Case Plan because deviation from the standard ordering paragraphs in D.07-05-062 is justified because it serves the public interest by protecting ratepayers and ensures the provision of safe, reliable utility service and infrastructure at reasonable rates from utilities.

23. The Commission should not grant ORA's proposal to require Cal-Am to use its recorded rate base up to but not to exceed the authorized rate base to calculate its 2017 attrition year rate base filing.

24. ORA's proposed modification to the attrition year rate base methodology is in an inappropriate reactionary measure because, due to Cal-Am's filing schedule, ORA's proposal would require Cal-Am to continue to forecast the last three months of its attrition year.

25. ORA's attrition year rate base methodology proposal is impractical for achieving ORA's goal of improving transparency and is contrary to the Rate Case Plan.

26. It is reasonable for Cal-Am to use a forecasted test year to determine its attrition year rate base for this GRC cycle because using a forecast allows the utility to project expected costs and determine the revenue required to recover those costs, and the Commission to tailor the rate changes to match anticipated cost changes.

27. The Commission should deny Special Requests No. 23 because Cal-Am's request does not meet the requirements set out in Standard Practice U-27-W for establishing a Memorandum Account.

28. Cal-Am's comparison to Great Oaks Water Company is not warranted because Great Oaks Water Company was required to comply with future federal and state regulations that had yet to be established and was not in a position to negotiate or bargain.

29. The Commission should deny Cal-Am's Special Request No. 30 that seeks authorization to include the Placer County Water Agency's peaking charges in its Purchased Water Balancing Account for Cal-Am's Sacramento District.

30. Cal-Am's arguments that Cal-Am is only requesting authority to track charges at the moment does not adequately justify tracking peaking charges.

31. The Commission restricted Cal-Am from recovering peaking charges incurred after January 1, 2012; therefore, tracking such charges in a memorandum account is unreasonable and serves no purpose.

32. The fact that the Walerga Tank Project has not been completed due to the delay in Phase 2 of Cal-Am's 2012 GRC is irrelevant to the need for tracking peaking charges.

O R D E R

IT IS ORDERED that:

1. The Joint Motion for the Adoption of Partial Settlement Agreement between California-American Water Company, City of Pacific Grove, Las Palmas Wastewater Committee, Monterey Peninsula Water Management District, and the Office of Ratepayer Advocates on Revenue Issues in the General Rate Case is granted.

2. The Settling Parties' Joint Motion to Amend Partial Settlement Agreement is granted.

3. The Amended Partial Settlement Agreement is adopted in part and denied in part. Specifically, Special Requests Nos. 16 is denied and Special Request No.18 and 32 are adopted with the additional requirement that California-American Water Company be required to file a formal application to recover costs associated with penalties and fines levied by the State Water Resource Control Board.

4. California-American Water Company is authorized to file a Tier 1 advice letter to recover the difference between the 2015 interim and final rates from its customers. This calculation must be based on the 2015 rate tariff schedules that would have been implemented under the present rate design.

5. California-American Water Company must also recalculate the 2015 Water Revenue Adjustment Mechanism/Modified Cost Balancing Account balance for these districts to include the final revenue requirement adopted today and the recorded revenue California-American Water Company would have received if final rates had been effective on January 1, 2015.

6. California-American Water Company must update its 2015 Water Revenue Adjustment Mechanism/Modified Cost Balancing Account annual report to the Commission for changes resulting from today's order.

7. California-American Water Company is authorized to file a Tier 1 advice letter for the revised 2015 Water Revenue Adjustment Mechanism/Modified Cost Balancing Account balance.

8. For escalation years 2016 and 2017, California-American Water Company shall file Tier 2 advice letters proposing new revenue requirements and corresponding revised tariff schedules for each district. The filing shall include rate procedures set forth in the Commission's Rate Case Plan (Decision 07-05-062) for Class A Water Utilities and shall include appropriate supporting workpapers. The revised tariff schedules shall take effect no earlier than January 1, 2016, and January 1, 2017, respectively and shall apply to service rendered on and after their effective dates.

9. The proposed revisions to revenue requirements and rates shall be reviewed by the Commission's Division of Water and Audits. The Division of Water and Audits shall inform the Commission if it finds that the revised rates do not

conform to the Rate Case Plan, this order, or other Commission decisions, and if so, reject the filing.

10. Going forward, California-American Water Company shall include in its Minimum Data Requirements the status of all projects authorized by the Commission in the last general rate case including: including:

1. Advice letter projects;
2. Multi-year projects;
3. Projects authorized in the test years but not built for whatever reason, even if the project is temporarily on hold and California-American Water Company expects to the complete the project;
4. Projects authorized in all test years, even if the reporting occurs during a particular test year;
5. Projects authorized in all test years, even if the project is currently in progress; and
6. Projects authorized in all test years, even California-American Water Company expects the project to be complete during the years in which the GRC is filed and decided.

11. The Minimum Data Requirements shall also include the status of projects authorized by the Commission in the last general rate case on both a recorded and forecast basis through the end of the prior general rate case cycle. California-American Water Company must update the status as close to the application date as reasonably possible, and any further updates must be provided in response to data requests issued in the general rate case.

12. California-American Water Company shall establish a memorandum account to track all penalties and fines that are assessed as a result of a violation of the State Water Resources Control Board's Cease and Desist Order. In order to recover these costs, California-American Water Company must file a formal application for the Commission to determine whether or not such costs are necessary and reasonable.

13. California-American Water Company is required to file 2016 and 2017 escalation year filings for each and every district.

14. Within 30 days of the effective date of this decision, California-American Water Company is authorized to file Tier 1 Advice Letters with revised tariff schedules in compliance with this decision for each district and rate area in the proceeding. The adopted rates for test year 2015 are included as Attachment A to this decision and shall be retroactively effective to January 1, 2015 in conformance with the Commission's interim rate process. The filing shall be subject to approval by the Commission's Division of Water Audits.

15. Application 13-07-002 is closed.

This order is effective today.

Dated April 9, 2015, at San Francisco, California.

MICHAEL PICKER
President
MICHEL PETER FLORIO
CATHERINE J.K. SANDOVAL
CARLA J. PETERMAN
LIANE M. RANDOLPH
Commissioners

ATTACHMENT A

(Amended Partial Settlement Agreement)

Please click on link below:

http://docs.cpuc.ca.gov/SearchRes.aspx?docformat=ALL&docid=148259646