

Decision 10-11-006 November 19, 2010

**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 in its Monterey District by \$24,718,200 or 80.30% in the year 2009; \$6,503,900 or 11.72% in the year 2010; and \$7,598,300 or 12.25% in the year 2011 Under the Current Rate Design and to Increase its Revenues for Water Service in the Toro Service Area of its Monterey District by \$354,324 or 114.97% in the year 2009; \$25,000 or 3.77% in the year 2010; and \$46,500 or 6.76% in the year 2011 Under the Current Rate Design.

Application 08-01-027  
(Filed January 30, 2008)

And Related Matters.

Application 08-01-024

**FINAL DECISION GRANTING, IN PART, PETITION FOR  
MODIFICATION OF DECISION 09-07-021**

**Summary**

California-American Water Company's Petition for Modification of Commission Decision 09-07-021 is granted as regards five corrections or clarifications, and three other requests are denied.

**Background**

In Decision (D.) 09-07-021, the Commission authorized California-American Water Company (Cal-Am) to increase water rates in its Monterey District.

On January 26, 2010, Cal-Am filed its petition for modification of that decision requesting several modifications to that decision. On February 25, 2010, the Division of Ratepayer Advocates (DRA) responded in opposition to three of Cal-Am’s requested changes to D.09-07-021. DRA did not oppose the corrections listed below:

<b>Corrections to D.09-07-021</b>		
<u>Description of Correction</u>	<u>Amount Adopted in D.09-07-021</u>	<u>Corrected Amount</u>
Recover cost of DRA general office audit	\$0.0	\$206,050.00
Deny DRA’s proposed reduction for personnel reassigned from the shared regional service company to the California service company	- \$334,197.00	No reduction
Include operation and maintenance (O&M) for Toro arsenic treatment plant	\$0.0	\$96,106.00
Correct irrigation rate and make conforming corrections to other tariffs	Irrigation rate formula error	Revised tariffs as shown in Appendix B to Application
Correct \$/acre foot for pricing of unaccounted for water	\$2,018.79	\$1,820.30

DRA opposed Cal-Am’s request to file an advice letter to recover \$945,720 for billing system modifications necessary to implement the rate design

settlement approved by the Commission in D.09-07-021. DRA took issue with Cal-Am's assertion that recovery from ratepayers of the costs necessary to implement the rate design settlement was implicit in the Commission's decision approving the settlement. DRA contended that Cal-Am's post-decision request for additional funds "undermines the cooperative spirit underlying the initial agreement and represents a breach of good faith" and that if DRA had known about Cal-Am's plan to seek additional funds it may not have agreed to certain components of the now-Commission-approved rate design settlement.<sup>1</sup>

DRA also opposed the requested clarification of the implementation date for the unaccounted for water reward/penalty program and use of volumetric measures rather than percentages to calculate the reward/penalty. DRA explained that the Commission adopted the unaccounted for water program to counter the financial insulation created by the Water Revenue Adjustment Mechanism (WRAM), thus, the implementation date for the unaccounted for water program should be the same as the implementation date for the WRAM.<sup>2</sup>

Finally, DRA opposed changing the unaccounted for water program metric from percentage to volumetric. DRA stated that the Commission adopted a percent target for the unaccounted for water reward/penalty program, which is consistent with the Commission's water ratemaking approach.<sup>3</sup>

## **Discussion**

Cal-Am's unopposed requests for corrections are granted.

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<sup>1</sup> DRA Response at 3 - 4.

<sup>2</sup> DRA Response at 7 - 8.

<sup>3</sup> *Id.* at 9.

We are troubled by Cal-Am's request for additional funds to implement the rate design settlement. Cal-Am states that the "recovery of the costs was implicit in the Commission's approval of the rate design settlement."<sup>4</sup> The Commission's standards for approving settlement agreements are well known:

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. 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, which states, in pertinent part:

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.<sup>5</sup>

Here, Cal-Am argues that the Commission implicitly imposed a term on the settlement agreement. As set forth above, when considering a settlement agreement, the Commission must be convinced that the parties have thoroughly analyzed the issues and that all parties are aware of and agree to the material terms of the agreement. The Commission does not implicitly and unilaterally impose additional terms on settlement agreements. For this reason, Cal-Am's request is denied.

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<sup>4</sup> Cal-Am Petition for Modification at 6.

<sup>5</sup> In the Matter of the Application of Park Water Company for Authority to Increase Rates Charged for Water Service, *mimeo* at 18 -19 (D.09-12-001).

We now turn to Cal-Am’s request for changes to its unaccounted for water reward/penalty mechanism. In D.09-07-021, the Commission adopted following unaccounted for water standards as targets for the unaccounted for water reward/penalty mechanism:

<b>System</b>	<b>Cal-Am Proposed</b>	<b>Adopted</b>
Bishop	10%	9%
Hidden Hills	16.16%	13.8%
Monterey	11.59%	9%
Ambler	17.04%	13.5%
Ralph Lane	21%	15.5%
Chular	10%	9%

When making its annual filing to calculate the reward/penalty, Cal-Am must convert this percentage target to a specific volume, based on actual system production that year, as specified by the following series of calculations adopted in D.09-07-021:

- a. Provide the total water production for each system for the preceding calendar year.
- b. Calculate each system’s adopted unaccounted for water quantity by multiplying the adopted percentage from the table<sup>6</sup> in Section 6.1.11 in {D.09-07-021} by the actual production quantity for period in item a. above.

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<sup>6</sup> Duplicated above.

- c. Calculate the actual unaccounted for water for the period by determining the difference between each system's production meters and the sum of all the system's customer meters.
- d. Subtract the actual volume of unaccounted for water from the adopted volumes calculated in item b. above for each system.
- e. Multiply the difference calculated in item d. above by \$2,018.79/acre-foot<sup>7</sup> based on the adopted standard rate of \$4.5345/Ccf.
- f. If the result of item e. is positive, i.e., actual unaccounted for water is less than the standard, then this is a reward amount that will be added to the balance to be included in rates via WRAM Balancing Account amortization.
- g. If the result of item e. is negative, i.e., actual unaccounted for water is greater than the standard, then this is a penalty amount that would be entered as a debit to the amount to be recovered from ratepayers through the WRAM Balancing Account.<sup>8</sup>

In its petition for modification, Cal-Am proposes to convert the adopted percentage targets to fixed volumetric amounts based on five months of 2009 production. DRA opposes this request as it would "not create the proper signal for Cal-Am to take prompt and urgent actions to reduce [unaccounted for water]."<sup>9</sup>

As set out above, the adopted reward/penalty mechanism is based on percentage targets and the record contains no demonstration of the reasonableness of using five months of 2009 production data to convert these

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<sup>7</sup> This amount is corrected as set out above.

<sup>8</sup> D.09-07-021 at 157-158. For the Ralph Lane and Chualar systems, which are not included in the WRAM, the penalty/reward mechanism will use a surcredit or surcharge, as appropriate.

<sup>9</sup> DRA Response at 9.

percentage targets to fixed volumes. Consequently, we are in no position to evaluate this proposed change and, thus, we reject it at this time. However, we expect and encourage all parties to propose improvements to this reward/penalty mechanism in Cal-Am's next general rate case.

Finally, Cal-Am proposed to initiate this reward/penalty mechanism on August 1, 2009, but the companion WRAM was not effective until February 1, 2010. These two related ratemaking mechanisms should have the same initiation date of February 1, 2010.

No party identified disputed issues of material fact; consequently evidentiary hearings are not necessary.

### **Comments on Proposed Decision**

The proposed decision of the Administrative Law Judge (ALJ) 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. No comments were filed.

### **Assignment of Proceeding**

John A. Bohn is the assigned Commissioner and Maribeth A. Bushey is the assigned ALJ in these proceedings.

### **Findings of Fact**

1. In D.09-07-021, the Commission authorized Cal-Am to increase rates in its Monterey Water District and Toro Service Area.
2. Cal-Am has identified and DRA does not dispute the following needed corrections:

<b>Corrections to D.09-07-021</b>		
<u>Description of Correction</u>	<u>Amount Adopted in D.09-07-021</u>	<u>Corrected Amount</u>
Recover cost of DRA general office audit	\$0.0	\$206,050.00
Deny DRA's proposed reduction for personnel reassigned from the shared regional service company to the California service company	- \$334,197.00	No reduction
Include O&M for Toro arsenic treatment plant	\$0.0	\$96,106.00
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3. The adopted unaccounted for water reward/penalty mechanism is based on percentage targets.

4. The record does not contain sufficient data to transform the basis for the unaccounted for water reward/penalty mechanism from percentage to volumetric standards.

5. The Commission did not implicitly add a term to the Rate Design Settlement.

6. The unaccounted for water reward/penalty mechanism and the water revenue adjustment mechanism are related ratemaking mechanisms and should have the same initiation date.

7. No party has identified disputed issues of material fact necessary to resolve this petition.

**Conclusions of Law**

1. The following corrections to D.09-07-021 should be adopted:

<b>Corrections to D.09-07-021</b>		
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2. Cal-Am’s request to modify D.09-07-021 to add a term to the Rate Design Settlement should be denied.

3. Cal-Am’s request to initiate the unaccounted for water reward/penalty mechanism on a different date than its WRAM should be denied.

4. Cal-Am’s request to transform the basis for the unaccounted for water reward/penalty mechanism from percentage to volumetric standards should be denied.

5. No hearings are necessary.

**O R D E R**

**IT IS ORDERED** that:

1. The Petition for Modification of Commission Decision (D.) 09-07-021 filed on January 26, 2010 is granted, in part, and D.09-07-021 is modified to reflect the following corrections:

<b>Corrections to D.09-07-021</b>		
<u>Description of Correction</u>	<u>Amount Adopted in D.09-07-021</u>	<u>Corrected Amount</u>
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2. The implementation effective date of the Unaccounted for Water Incentive Program approved in Decision 09-07-021 is February 2, 2010.

3. Except as indicated in Ordering Paragraph 1, the January 26, 2010 petition for modification is denied.

4. The California-American Water Company is authorized to file in accordance with General Order 96, and to make effective on not less than five days' notice, an advice letter with revised tariff schedules for its Monterey

District that are consistent with today's decision. The revised tariff schedules shall apply to service rendered on and after their effective date.

5. Application 08-01-027 and Application 08-01-024 are closed.

This order is effective today.

Dated November 19, 2010, at San Francisco, California.

MICHAEL R. PEEVEY

President

DIAN M. GRUENEICH

JOHN A. BOHN

TIMOTHY ALAN SIMON

NANCY E. RYAN

Commissioners