

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA



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Application of California-American Water Company (U210W), California Water Service Company (U60W), Golden State Water Company (U133W), Park Water Company (U314W) and Apple Valley Ranchos Water Company (U346W) to Modify D.08-02-036, D.08-06-002, D.08-08-030, D.08-09-026, D.08-11-023, D.09-05-005, D.09-07-021, and D.10-06-038 regarding the Amortization of WRAM-related Accounts.

A.10-09-017
(Filed September 20, 2010)

OPENING BRIEF OF THE DIVISION OR RATEPAYER ADVOCATES

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I. INTRODUCTION

Pursuant to Rule 13.11 of the California Public Utilities Commission's ("Commission") Rules of Practice and Procedure ("Rules") and the schedule developed by Administrative Law Judge ("ALJ") Christine Walwyn during evidentiary hearings on September 29, 2011, the Division of Ratepayer Advocates ("DRA") hereby files its Opening Brief to the application of California-American Water Company ("Cal-Am"), California Water Service Company ("Cal Water"), Golden State Water Company ("Golden State"), Park Water Company ("Park"), and Apple Valley Ranchos Water Company ("Apple Valley") to modify Decision ("D.") 08-02-036, D.08-06-002, D.08-08-030, D.08-09-026, D.08-11-023, D.09-05-005, D.09-07-021, and D.10-06-038 ("WRAM-Related Decisions") regarding the amortization of the Water Revenue Adjustment Mechanisms ("WRAM") related accounts.

II. PROCEDURAL HISTORY

On September 13, 2010, Cal-Am, Cal Water, Golden State, Park, and Apple Valley (collectively, hereinafter referred to as "Applicants") filed Application ("A.") 10-09-017, seeking authorization to modify the decisions adopting the WRAM, as well as, other Commission processes related to the amortization of WRAM-related accounts, including the Modified Cost Balancing Accounts ("MCBA"). In A.10-09-017, Applicants presented nine specific proposals related to the WRAM/MCBA that were intended to ensure consistency with financial accounting standard Emerging Issues Task Force 92-7 ("EITF-92-7").¹ The most significant request was the proposal to shorten the existing amortization period to 18 months for any net balance under-collection greater

¹ Exhibit ("Exh.") 1, p. i.

than five percent. The Applicants also requested expedited treatment of A.10-09-017, urging adoption of a final Commission decision by December 2010.²

Additional Prehearing Conferences (“PHC’s”) were held to discuss additional data presented by the Applicants. During the February 17, 2011 PHC, ALJ Walwyn directed the Applicants to file additional data providing responses to eight specific questions.³ The Applicants filed their Joint Compliance Filing (excerpts of which are Exhibit 8) on April 15, 2011. Subsequently, a separate PHC was held on April 25, 2011 to discuss the exceptionally high WRAM/MCBA balances in Cal-Am’s Monterey District. Both DRA and Cal-Am submitted proposals for separately addressing the Monterey District. Assigned Commissioner Peevey and ALJ Walwyn issued a Ruling & Scoping Memo on June 8, 2011, adopting a limited bifurcated scope of this proceeding, which included a separate review of the extraordinarily high WRAM/MCBA balances in Cal-Am’s Monterey District.

On June 23, 2011, Cal-Am filed a Motion to Withdraw from A.10-09-017. DRA filed a Response to Cal-Am’s Motion on July 6, 2011. Cal-Am filed a Reply to DRA’s Response on July 18, 2011. Cal-Am’s motion to withdraw from A.10-09-017 is still under consideration.

² Exh. 1, p. 2.

³ The eight questions related to: (1) estimated 2011 WRAM and MCBA balances using actual 2010 consumption data; (2a) actual versus adopted sales (in Ccf) by residential and non-residential customers by month for each district, and by tier; (2b) a variance analysis for those WRAM/MCBA areas in which there is a ten percent (10%) or greater variance including a narrative on sales trends, the impact of wholesale water restrictions, conservation, drought, weather, economy, and time of year; (3) a comparison to the revenue recovery mechanisms of some municipalities; (4) analysis of energy companies’ ERAM programs as compared to WRAM and MCBAs; (5) actual number of customers for each WRAM/MCBA area; (6) County unemployment data, county foreclosure data, and company production data; (7) Company data on shut-offs for non-payment; and (8) company data on low-income participation.

DRA served its testimony on August 31, 2011, without addressing Cal-Am specific issues.⁴ A PHC was held on September 8, 2011, to discuss reviewing Cal-Am WRAM-related issues in a Phase 2 of Cal-Am’s general rate case (“GRC”) proceeding, A.10-07-007. Cal Water, Golden State, Park, and Apple Valley⁵ served their Rebuttal testimony on September 19, 2011.⁶

The Commission held evidentiary hearings from September 28-29, 2011.

III. SUMMARY OF RECOMMENDATIONS

DRA recommends that the Commission amortize WRAM/MCBA balances by applying modified guidelines drawn from decisions resulting from Rulemaking (“R.”) 01-12-009, including but not limited to, D.03-06-072, Standard Practice U-27-W, and the Commission-approved settlements between Applicants and DRA in the WRAM-Related Decisions. DRA recommends the Commission also include the additional components: 1) accept an 18-month amortization period for under-collected balances between five and fifteen percent, and 2) deny Applicants’ request for an 18-month amortization period for under-collections exceeding fifteen percent of the last authorized revenue requirement. DRA does not oppose the Applicants’ counter proposal to recover balances above fifteen percent through surcharges equal to or less than 10% of the last authorized revenue requirement with the following caveat. (Issue 1) DRA has recommended throughout this proceeding a consistent approach to WRAM/MCBA amortization across all Class A water utilities that have a full revenue decoupling

⁴ At the direction of ALJ Walwyn, in an email to the parties and service list sent on July 29, 2011, DRA was instructed not to include Cal-Am specific issues in its testimony.

⁵ Collectively, hereinafter will continue to be referred to as Applicants with the understanding that Cal-Am is not included in this reference.

⁶ At the direction of ALJ Walwyn, in an email to the parties and service list sent on September 12, 2011, Cal-Am was instructed not to submit testimony in A.10-09-017.

WRAM/MCBA, including Cal-Am and Valencia Water Company.⁷ However, if the Commission grants Cal-Am's motion to withdraw from the proceeding in all respects, Cal-Am could have a separate amortization process, which could introduce unnecessary complexity, and increase the burden on Commission staff to process these requests. Even if the Commission grants Cal-Am's motion to withdraw regarding broad policy issues and Monterey District-specific issues, the Commission should apply the same amortization processes to all Class A water utilities with WRAM/MCBA.

DRA supports the Applicants' proposal to submit a nine-month report by November 30th of each calendar year that would include data through September 30th. Additionally, DRA does not oppose the Applicants' proposal to submit annual amortization requests on or before March 31st of each calendar year. The requests should include recorded balances through December 31st. (Issues 2 and 3)

DRA recommends that the Commission maintain the annual Tier 1 advice letter process for requesting amortization of WRAM/MCBA balances similar to how it treats other balancing accounts. DRA also recommends that the Commission allow Applicants the option to request amortization of WRAM/MCBA balances without the qualification that the accounts must reach a certain "trigger." Furthermore, DRA does not oppose the Applicants' proposal to set the "trigger" at a percentage consistent with other balancing accounts. (Issues 4 and 5)

DRA recommends that the Commission require under-collections in the WRAM/MCBA be amortized by applying a surcharge on the quantity charge and any over-collections in the WRAM/MCBA be amortized by applying a surcredit on the

⁷ A.10-09-017, *Response of the Division of Ratepayer Advocates* filed 10/27/2010, p. 2-3, and Exh. 3, p. 3.

service charge, unless dealing with exceptional circumstances, such as in the case of Cal-Am's Monterey District. (Issue 6)

DRA recommends that the Commission require the Applicants to use the "First In, First Out" ("FIFO") method to reduce down the oldest WRAM/MCBA balances first. Nevertheless, DRA's recommendation does not dictate the Applicants' choice of accounting treatment. (Issue 7)

DRA does not oppose the Applicants' proposal to include under-amortized amounts or over-amortized amounts in their subsequent WRAM/MCBA filings. DRA withdraws its previous recommendation imposing certain "strict monitoring" requirements on the Applicants. (Issue 8)

DRA recommends that the Commission disregard the Applicants' request for additional amortization for outstanding WRAM/MCBA balances as the issue is now moot. (Issue 9) DRA also recommends that the Applicants' request for accelerated recovery of their 2010 WRAM/MCBA balances be denied, as DRA has not had the opportunity to conduct discovery, and analysis regarding this request.

IV. AMORTIZATION OF WRAM/MCBA RELATED ACCOUNTS

A. The Commission Should Adopt Guidelines Instituting WRAM/MCBA Amortization Periods That Will Lessen The Potential For A Disparate Impact On Ratepayers.

1. Issue 1 – Amortization period of WRAM/MCBA balances.

During evidentiary hearings, the Applicants stated that "there is no problem in the balances that are in the WRAM."⁸ When asked whether they considered the magnitude of the WRAM/MCBA under-collections to be a problem, Applicants responded in the

⁸ Transcript ("Tr.") Vol. 1, p. 38, line 18-23, Smegal/Cal Water.

negative.⁹ Nevertheless, at several other points in the hearing, the Applicants contradicted themselves by acknowledging that the magnitude of the WRAM/MCBA balances is a problem by stating, “clearly there are some problems associated with the high WRAM balances.”¹⁰ DRA’s main concern, on the other hand, is the magnitude of under-collections in the WRAM/MCBA.¹¹ As DRA stated during hearings, the majority of WRAM/MCBA balances are under-collections, not over-collections.¹² DRA also expressed its concern that, “this combination of high under-collections and low number of customers leads to a high per customer surcharge which would then be exacerbated with a shortened amortization period.”¹³

To address the high under-collection balances in the WRAM/MCBA, the Applicants propose that all under-collections that are above five percent be recovered over an 18-month amortization period.¹⁴ The Commission has not yet established guidelines for amortization periods specifically for WRAM/MCBA balances. However, the standard practice on balancing account amortization (U-27-W) applied by the Division of Water and Audits’ (“DWA”) to the amortization of WRAM/MCBA net balances, derives from Commission decisions in R.01-12-009.

DRA’s proposal is consistent with the Applicants proposal regarding the 18-month amortization for undercollected WRAM/MCBA balances between five and fifteen percent; however, DRA’s proposal adds an additional component, that under-collections

⁹ *Id.*

¹⁰ Tr. Vol. 1, p. 103, lines 4-8, Jordan/Park & Apple Valley.

¹¹ Tr. Vol. 2, p. 225, lines 20-21, Rasmussen/DRA.

¹² Tr. Vol. 2, p. 209, lines 7-12, Rasmussen/DRA.

¹³ Exh. 3, p. 6, lines 4-6.

¹⁴ Exh. 2, p. 2.

at or exceeding fifteen percent be amortized over a 36-month amortization period in order to protect ratepayers from potentially burdensome surcharge amounts.¹⁵ The Applicants' counter-proposal urges an additional modification – “that balances above 15% should be recovered through surcharges that are at or equal to or less than 10% of the last authorized revenue requirement by setting the amortization period between 19 and 36 months, but at the smallest duration consistent with the 10% limit.”¹⁶ Given the current and anticipated levels of under-collection, DRA finds Applicants' counterproposal reasonable.¹⁷ In adopting amortization period for WRAM/MCBA net balances, the Commission should consider the impacts of the WRAM/MCBA surcharges in the context of other GRC increases as well as pass-through expense offset rate increases, such as purchased water and purchased power.¹⁸

In the alternative, DRA would also support continuing to follow the general balancing account amortization period guidelines within the current standard practice and decisions from R 01-12-009.¹⁹ As stated by the Applicants, “the amortization issue raised in this Application stems from certain interactions and differences between the Commission's requirements [footnote removed] and GAAP accounting rules.”²⁰ However, the Applicants have the option of recognizing their WRAM/MCBA under-collections as deferred revenue;²¹ an option that the Applicants have previously

¹⁵ Exh. 3, p. 23, lines 2-5.

¹⁶ Exh. 2, p. 6-8.

¹⁷ Tr. Vol. 2, p. 201, lines 26-27; p. 202, line 3, Rasmussen/DRA.

¹⁸ Tr. Vol. 2, p. 216, lines 14-21, Rasmussen/DRA.

¹⁹ Exh. 3, p. 17, lines 8-10.

²⁰ Exh. 1, p. 6. (GAAP is the acronym for “Generally Accepted Accounting Principles”)

²¹ Exh. 3, p. 16, lines 11-16; Tr. Vol. 2, p. 207, lines 18-19; p. 209, lines 5-6, Rasmussen/DRA.

acknowledged is a “valid alternative from an accounting perspective.”²² With this accounting option available, DRA finds that GAAP guidance alone is an insufficient reason for the Commission to adjust the amortization period for balancing accounts.

2. Issues 2 and 3 – Deadlines for requesting amortization and submitting reports.

The Applicants propose to mirror the practice used by the energy utilities for submitting annual reports comparable to the WRAM/MCBA reports for water utilities.²³ The Applicants’ proposal would modify the WRAM decisions by changing the report deadline from March 31st to November 30th, and would include nine months of data (up to September 30th) instead of twelve months of data (up to December 31st).²⁴ DRA agrees with Applicants’ proposal. DRA also agrees with the Applicants’ proposal to modify the deadline for requesting amortization of WRAM/MCBA balances. (Issue 3) DRA supports this proposal²⁵ as a balanced approach and believes that the change to submit the annual amortization requests with the WRAM/MCBA balances grouped on a calendar year basis between January 1st and March 31st of each calendar year, will ensure more certainty in the process and provide DRA more time to review the calculations used in the WRAM/MCBA accounts.

²² Exh. 2, p. 3.

²³ Exh. 1, p. 20.

²⁴ *Id.*

²⁵ As clarified in the A.10-09-017 *Response of the Division of Ratepayer Advocates* to, filed 10/27/2010.

B. The Commission Should Implement The Tier 1 Advice Letter Filing Process For Requesting Amortization Of WRAM/MCBA Balances Consistent With General Order 96-B

1. Issue 4 – Process for requesting amortization

Water Industry Rule 7.3.1(1) of General Order (“GO”) 96-B sets out rules for amortizing balancing accounts in general and allows Tier 1 advice letter submissions as the device for doing so. The Applicants’ propose that the Commission clarify that similar to other balancing accounts, the Tier 1 advice letter process shall be used to request amortization of WRAM/MCBA balancing accounts.²⁶ DRA supports the Applicants’ proposal and recommends that the Commission continue to implement Water Industry Rule 7.3.1(1) of GO 96-B to include WRAM/MCBA balancing accounts.

2. Issue 5 – The “Trigger” for WRAM/MCBA balance amortization.

The Applicants’ propose allowing amortization of WRAM/MCBA accounts by calculating percentages for WRAM/MCBA balances based on the district’s “last authorized revenue requirement,” setting the “trigger” at 2%, so the utilities must amortize if greater than a 2% balance but for balances under 2%, the utility will have the option to amortize, carry the balance over until the trigger is met, or amortize the balance in its next general rate case.²⁷ DRA supports the Applicants’ efforts to apply guidelines that will maintain consistency with other balancing accounts. DRA recommends the Commission adopt the Applicants’ proposal setting the “trigger” for amortization, and clearly define that under and over-collections are based on a district’s “last authorized

²⁶ Exh. 1, p. 21.

²⁷ Exh. 1, p. 21-22.

revenue requirement.” This recommendation will establish consistent treatment across all balancing accounts for the Applicants.

C. The Commission Should Require Applicants To Apply Under-collections Via A Surcharge On The Quantity Charge And Over-collections Via A Surcredit On The Service Charge.

The Applicants propose modifying the WRAM decision to alter how a surcharge (under-collection) or a surcredit (over-collection) should be applied to a customer’s bill.²⁸ Currently, over- and under- collections in the WRAM/MCBA balances are applied as volumetric surcharges or surcredits, however, the utilities do not apply the volumetric surcharges or surcredits to customer’s bills in a uniform manner.²⁹ The Applicants’ proposal to amortize an under-collection via a surcharge on the quantity charge, and an over-collection via a surcredit on the service charge was made at the suggestion of DRA.³⁰ DRA continues to support this proposal, with one exception – that in extraordinary circumstances, such as what Cal Am has experienced in its Monterey District, the Commission should apply a surcharge on the customer’s entire bill.

D. No Commission Action Is Needed Regarding Accounting Treatment For WRAM/MCBA Net Balances.

Both DRA and the Applicants agree that water utilities should have discretion to use the “First In, First Out” (“FIFO”) method in implementing EITF 92-7 to allow recovery of the oldest WRAM/MCBA balances first.³¹ (Issue 7) Currently, because the WRAM decisions do not “specify how to account for the amortized amounts as the utility

²⁸ Exh. 1, p. 22-23.

²⁹ Exh. 3, p. 9, lines 4-5.

³⁰ Exh. 1, p. 23.

³¹ Exh. 2, p. 8; Exh. 3, p. 11, lines 8-12.

either receives revenues from surcharges, or returns money through surcredits,”³² DRA’s recommendation for the Commission to take no action comports with the principle that the specific accounting treatment used should be left to the Applicants’ discretion. The Applicants clarified during evidentiary hearings that they agree with DRA and no longer request any Commission ruling on this Issue.³³

E. The Commission Should Specify Treatment For Under- Or Over-Amortized Amounts 34 That Is Consistent Among Applicants.

The Applicants want the Commission to allow the Applicants to determine if any remaining amounts resulting from over- or under-amortization should be carried over into a subsequent annual amortization filing, rather than “waiting until the original amortization period ends,”³⁵ even if the amortization of an earlier WRAM balance is still ongoing.³⁶ As the Applicants stressed in their Application (Exhibit 1), and DRA pointed out in its testimony (Exhibit 3), the current WRAM/MCBA decisions do not specify or govern how Applicants should handle a surcharge or surcredit that is not recovering the dollar amount it is intended to recover.³⁷ DRA’s original recommendation supported the Applicants proposal “subject to certain refinements,”³⁸ specifically, proposing a requirement that the Applicants strictly monitor the running balances of their previous

³² Exh. 1, p. 23.

³³ Tr. Vol. 2, p. 181 lines 19 - 28 Jordan/Park & Apple Valley; p. 182, line 1, Smegal/Cal Water; p. 182, line 2, Garon/Golden State.

³⁴ Under - or over – amortized amounts result due to variances between adopted and actual consumptions and the number of services. Under-amortized amounts would result in a WRAM/MCBA surcharge revenue lower than authorized in a given year, while over-amortized amounts would result in a WRAM/MCBA surcharge revenue higher than authorized in a given year.

³⁵ Exh. 1, pp. 23-25.

³⁶ *Id.*

³⁷ Exh. 1, p. 23; Exh. 3, p. 11, lines 18-19.

³⁸ Exh. 3, p. 12, line 18.

year's WRAM/MCBA and immediately stop any ongoing previous year surcharges once the earlier WRAM/MCBA balances have been fully recovered.³⁹

Since serving its testimony, DRA's position has changed to withdraw this additional requirement proposed for the utilities. During evidentiary hearings, DRA clarified its position to show that DRA supports the Applicants' proposal regarding Issue 8.⁴⁰ In addition, DRA agrees with Applicants that the example provided in DRA's testimony, illustrating a \$582,451 over-collection in Cal Water's Advice Letter 2029-A, "does not result from a surcharge having been left in effect . . . but rather relates to an over-collection that has not yet been reflected in a surcharge or surcredit."⁴¹ DRA noted that some, but not all Applicants have already included over- or under-amortized amounts in their subsequent WRAM/MCBA filings. DRA recommends the Commission implement standards for under- or over-amortized amounts that would apply to all Applicants on a consistent basis.

F. Applicants' Request For Accelerated Recovery Of 2010 WRAM/MCBA Balances Is A New Request That Warrants Analysis And Review By DRA.

1. Issue 9 – Additional Amortization of Outstanding WRAM/MCBA balances.

The Applicants' original proposal for Issue 9 was to implement additional surcharges, using a Tier 1 advice letter, to accelerate the amortization of outstanding 2009 (and in some cases 2008) WRAM/MCBA balances that would not be fully recovered by December 31, 2011.⁴² The Applicants agreed with DRA that this request is

³⁹ Exh. 3, p. 13, lines 7-13.

⁴⁰ Tr. Vol. 2, p. 219, lines 4-16, Montero/DRA.

⁴¹ Tr. Vol. 2, p. 206, lines 4-12.

⁴² Exh. 2, p. 11.

now moot.⁴³ Nevertheless, although Applicants agreed that their request in Issue 9 is moot, Applicants introduce a new request that was not originally presented in their Application – authority to file a Tier 1 advice letter to accelerate recovery of their 2010 WRAM/MCBA balances.⁴⁴ The Applicants assume the Commission will adopt a decision granting a form of accelerated amortization, and therefore seek Commission approval to “implement the decision by modifying existing surcharges for 2010 WRAM/MCBA balances consistent with the amortization schedules approved in the decision.”⁴⁵

When DRA was working on its testimony, DRA did not have the opportunity to examine or conduct an analysis on Applicants’ new request. Therefore, the Commission should deny this untested proposal and deny Applicants’ new request to implement additional surcharges for accelerated recovery of 2010 WRAM/MCBA balances.

V. THE HIGH VOLATILITY EXPERIENCED WITH THE WRAM/MCBA NET BALANCES DOES NOT COMPORT WITH THE COMMISSION’S EXPECTATIONS.

The Applicants argue that the Commission has not “...expressed any expectations, or set any limits on the magnitude of under-collections in the WRAM/MCBAs of Park, AVR [Apple Valley], Golden State, or Cal Water.”⁴⁶ The Applicants contend that DRA has failed to make a showing that the “high volatility” experienced in some districts does not comport with the Commission’s expectations.⁴⁷ As stated by Mr. Jordan during

⁴³ Exh. 2, p. 11; Exh. 3, p. 14, lines 10-17.

⁴⁴ Exh. 2, p. 11.

⁴⁵ *Id.*

⁴⁶ Exh. 2, p. 16.

⁴⁷ *Id.*

evidentiary hearings, the Applicants believe that the Commission's expectations with regard to Park and Apple Valley related only to the expectation that the WRAM would capture economic impacts.⁴⁸ Mr. Garon agreed with Mr. Jordan's statement and Mr. Smegal did not provide a response to the question.⁴⁹

The Applicants' argument may appear to be reasonable by itself. However, as the Commission stated in D.08-06-002, "the conservation rate design being proposed is expected to have a measurable but not substantial impact on sales during the Pilot Program."⁵⁰ This statement by the Commission illustrates what the Commission expected when it implemented the conservation pilot program for water utilities. As DRA noted in its testimony, "the WRAM mechanisms were adopted 'given the expected modest balancing account impact, the safeguards, and the limited time period of the Pilot Program' (quoting D.08-06-002, p. 16)."⁵¹

Nevertheless, given the stated conservation objectives and safeguards articulated in D.08-06-002 (which parties were asked to evaluate in their examination of whether the WRAM mechanism comports with the Commission's expectations),⁵² the Applicants continue to disregard the Commission's expectations articulated in D.08-06-002, on the basis that the decision is a decision for Cal-Am and in no manner relates to the WRAM/MCBA mechanisms for Park, Apple Valley, Golden State, and Cal Water.⁵³ This logic is flawed. As DRA stated in its testimony, "the high volatility experienced in

⁴⁸ Tr. Vol. 1, p. 24, lines 12-18, Jordan/Park & Apple Valley.

⁴⁹ Tr. Vol. 1, p. 25, lines 4-6, Garon/Golden State.

⁵⁰ Exh. 3, p. 20, lines 3-5.

⁵¹ Exh. 3, p. 20, lines 5-9.

⁵² See A.10-09-017, *Assigned Commissioner and Administrative Law Judge's Ruling and Scoping Memo*, June 8, 2011, p. 16, paragraph 4, sub-question 2.

⁵³ Tr. Vol. 1, p. 25, lines 13-23, Jordan/Park & Apple Valley; p. 27, lines 4-6, Smegal/Cal Water.

some districts does not comport with the Commission's expectations in adopting the mechanisms."⁵⁴ The WRAM/MCBA under-collections have reached an unexpected magnitude that neither party could have predicted. Given that the factors leading to the high WRAM/MCBA balances are unknown, and the difficulty with initiating informal midcourse meetings to conduct review of the WRAM/MCBA mechanism outside of a formal proceeding, the Commission should adopt DRA's recommendation for a PHC in April 2012 so that this issue may be revisited.⁵⁵

A. The Commission's Experience With The ERAM Likely Influenced The Commission's Expectations In Adopting The WRAM/MCBA Mechanism.

The "Electricity Revenue Adjustment Mechanism" ("ERAM") mechanism in place for the California investor owned energy utilities since the 1970's was likely influential in the Commission's decision-making regarding the WRAM/MCBA mechanism for Applicants. Testimony for Cal Water during the Conservation Order Instituting Investigation 07-01-022 ("OII") included an examination of the ERAM that stated the following: "[E]RAM removed weather and economic risk associated with sales volatility but has not increased costs to energy customers."⁵⁶ During evidentiary hearings, the Applicants testified that they "don't believe there's any facts in evidence here representing that there have not been large balances in the ERAM."⁵⁷ Nonetheless, in the Applicants Joint Compliance Filing filed April 15, 2011, in A.10-09-017 (see Exhibit 8), in response to data requested at the January 24, 2011 PHC, Applicants'

⁵⁴ Exh. 3, p. 20, lines 10-12.

⁵⁵ Exh. 3, p. 20, lines 10-24.

⁵⁶ Exh. 4, p. 17, lines 26-28.

⁵⁷ Tr. Vol. 1, p. 34, lines 9-12, Smegal/Cal Water.

response to Question 4, providing an analysis of energy companies' ERAM programs as compared to WRAMs and MCBAs, included the following:

It was noted during the January 24, 2011 PHC that California's energy companies do not appear to have developed large undercollections in balancing accounts such as ERAMs, and that they have not requested surcharges at levels that are comparable (in relative terms) to those facing Applicants.[fn removed] Applicants' inquiry into this matter has not been exhaustive, but some factors that may help to understand the apparent discrepancies between the experiences of energy and water companies are discussed below.⁵⁸

Thus, the Applicants have acknowledged that the energy utilities with ERAMs do not appear to be experiencing high sales volatility leading to large under-collections and surcharges comparable to the water utilities. The Applicants admit their "inquiry into this matter has not been exhaustive."⁵⁹ Nonetheless, the Applicants attempt to explain the obvious discrepancies between energy utilities' ERAM balances and water utilities' conservation pilot program WRAM/MCBA balances by focusing on the differences in the sales forecast methods. The Applicants describe the econometric forecasting method used for energy companies, versus the 'modified Bean method' used for water utilities,⁶⁰ which the Applicants characterize as "bad sales forecast methodologies."⁶¹ However, the modified Bean method of sales forecasting has been in use by the water utilities for

⁵⁸ Exh. 8, p. 3.

⁵⁹ Exh. 8, p. 3.

⁶⁰ Exh. 8, p. 3-4.

⁶¹ Tr. Vol. 1, p. 35, line 1, Smegal/Golden State.

decades,⁶² whereas the WRAM/MCBA under-collection problem is very new. Also, as discussed below, any differences between DRA and Applicants regarding sales forecast numbers are almost always resolved through collaborative settlement processes during general rate cases.

VI. Applicants’ Argument That The High Volatility Experienced With The WRAM/MCBA Net Balances Is Associated With Flawed Sales Forecast Should Be Afforded No Weight.

The Applicants continue to argue that the high volatility experienced with the WRAM/MCBA net balances, including the large under-collections, is reflective of using a methodology that produces “inaccurately high forecasts.”⁶³ Both Mr. Garon and Mr. Jordan expanded on this position during evidentiary hearings. First, Mr. Jordan stated, “assuming that having high under-collections is a problem . . . it is not a problem associated with the WRAM mechanism . . . it is a problem associated with how we forecast sales.”⁶⁴ Next, Mr. Garon added that a “review of the sales forecasting methods is going to address the issue of forecasted sales being inaccurate.”⁶⁵ Even when ALJ Walwyn pointed out to the Applicants that they made earlier statements during cross-examination that they do not see the magnitude of the WRAM/MCBA balances as a problem, Applicants were quick to change their response, and more importantly used this as an opportunity to buttress their argument for changing sales forecasting.⁶⁶

⁶² *Applicants’ Joint Compliance Filing for the Request for Data During the February 17, 2011 Prehearing Conference*, April 15, 2011, p. 4.

⁶³ Tr. Vol. 1, p. 36, lines 20-23, Jordan/Park & Apple Valley.

⁶⁴ Tr. Vol. 1, p. 39, lines 9-19, Jordan/Park & Apple Valley.

⁶⁵ Tr. Vol. 1, p. 39, lines 25-27, Garon/Golden State.

⁶⁶ Tr. Vol. 1, p. 101, lines 12-15, Jordan/Park & Apple Valley; p. 102, lines 25-26, Garon/Golden State.

The “flawed” sales forecasting method which Applicants continue to suggest is the cause for the large WRAM/MCBA under-collection balances has been settled with DRA as part of a collaborative settlement during recent general rate cases.⁶⁷ Additionally, the Applicants testified during evidentiary hearings that they are required to “forecast sales based on [the] modified committee methodology” and when they “don’t like those results for some reason, you [the Applicants] can propose something different.”⁶⁸ The Applicants also stated that, “our past experience in our last two rate cases with DRA is that they look at our forecast. They look at our arguments and then they work with us because they don’t want to see WRAM balances higher than they need to be.”⁶⁹

Therefore, the Applicants’ argument that the magnitude of under-collections in the WRAM/MCBA is a result of “bad” sales forecasting method should be afforded no weight since Applicants themselves have been responsible for forecasting their sales in their respective general rate cases, and when DRA and the Applicants differ in their forecasts, both parties have usually reached settlements on final sales forecast numbers.⁷⁰

VII. THE COMMISSION SHOULD CONTINUE EXAMINATION OF THE WRAM/MCBA MECHANISM IN A PHASE II OF THIS PROCEEDING AND IN THE APPLICANTS’ RESPECTIVE GRCs.

DRA recommended in its report that the Commission should expand the scope of the current proceeding, as a second phase, to address WRAM/MCBA net balances greater than fifteen percent and create a more formal review process for all conservation rate

⁶⁷ Tr. Vol. 1, p. 92, lines 24-28, p. 93, lines 1-26, Garon/Golden State.

⁶⁸ *Id.*

⁶⁹ *Id.*

⁷⁰ Mr. Garon of Golden State provided this response during cross-examination on behalf of the Applicants.

design pilot programs.⁷¹ DRA's recommendation included setting a PHC in April 2012, where all Applicants would participate, and the focus would be on districts that have an under-collection of fifteen percent or greater in their 2011 WRAM/MCBA balances.⁷² During evidentiary hearings, DRA reaffirmed its proposal that having a PHC "would be a safeguard in place" that would enable DRA to address exceptional circumstances, such as those seen in Cal-Am's Monterey District and have led to disparate impacts on ratepayers.⁷³

DRA is not limiting its recommendation to just a second phase in this proceeding. As DRA stated during evidentiary hearings and during the September 8, 2011 PHC involving this proceeding,⁷⁴ DRA is also prepared to conduct an in-depth review of the conservation pilot programs in the utilities' individual GRCs, at the Commission's direction.⁷⁵

VIII. CONCLUSION

For the reasons stated above, DRA respectfully requests that the Commission adopt DRA's proposed recommendations for: (1) a consistent amortization process for WRAM/MCBA balances that applies to all Class A water utilities with WRAM/MCBA

⁷¹ Exh. 3, p. 20, lines 21-24.

⁷² Exh. 3, p. 21, lines 4-9.

⁷³ Tr. Vol. 2, p. 213, lines 10-22, Rasmussen/DRA.

⁷⁴ A joint PHC in A.10-07-007, the statewide GRC for Cal-Am; A.10-09-017, Applicant's Application regarding amortization of WRAM-related accounts (this proceeding); and A.04-09-019, Cal-Am's application regarding the Coastal Water Project, was held on September 8, 2011 at 10:00 a.m. In that PHC, Ms. Lindsey Fransen of DRA stated the following:

"We support addressing the broader WRAM issues for Cal-Am in a Phase 2 of the GRC if there's not going to be an opportunity to do so in a generic proceeding, just so that our position is clear."
(Reporter's Transcript, p. 71, lines 15-28, Fransen/DRA.)

⁷⁵ Tr. Vol. 2, p. 214, lines 2-8, Rasmussen/DRA.

revenue decoupling, and (2) continuing examination of the conservation pilot programs that would provide a safeguard in a Phase 2 of this proceeding focusing on districts that have an under-collection of 15% or greater and address the broader policy issues surrounding the WRAM/MCBA mechanisms in the Applicants' individual GRCs, as the Commission directs.

Respectfully submitted,

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