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)

REPLY BRIEF
OF THE DIVISION OF RATEPAYER ADVOCATES

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 at the close of evidentiary hearings on September 29, 2011, the Division of Ratepayer Advocates ("DRA") hereby submits its Reply 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 (hereinafter, "Application" or "A.10-09-017").

DRA's Opening Brief addressed many of the issues that were raised in the Applicants' Opening Brief. In addition, DRA's witnesses, Ms. Rasmussen and Ms. Montero, provided testimony during evidentiary hearings that addressed: (1) the specific

areas of disputed fact identified in the scoping memo and ruling; and (2) ALJ Walwyn's proposal for a percentage cap on WRAM/MCBA surcharges. Therefore, DRA will not reiterate these issues, except to correct inaccuracies or misstatements made in the Applicants' Opening Brief. The Commission should not interpret DRA's silence on any issue raised in the Applicants' Opening Brief as support for those issues. Rather, DRA's position is that which is set forth in its Opening Brief and testified during evidentiary hearings.

I. DISCUSSION

A. Applicants continue to oversimplify the problems associated with the WRAM mechanisms.

In their Opening Briefs, the Applicants contend that, "the WRAM mechanism . . . is doing exactly what it was designed to do."[1] The issue of potential concerns with the WRAM/MCBA mechanisms was raised during the first day of evidentiary hearings when the Applicants were asked whether they believed there is a "problem" with the WRAM mechanisms.[2] As stated in the Applicants' Opening Brief, the WRAM mechanism is doing what it was designed to do since it is "capturing the variation in actual revenues from adopted revenue requirements due to differences between adopted and actual sales."[3]

Although the Applicants' definition of the WRAM mechanism properly encapsulates the mechanics of the WRAM, while the WRAM/MCBA mechanism appears to be removing disincentives for utilities to implement conservation rates and conservation programs, it is also capturing the effects from other factors impacting sales including: economic conditions, shut-offs due to non-payment, conversion from flat to metered billing, drought, and conservation. The combination of these effects has resulted in the majority of the balances being under-collections, leading to substantial surcharges

[1] Applicants' Opening Brief, p. 2.

[2] Tr. Vol. 1, p. 35, lines 23-25, Jordon/Park & Apple Valley.

[3] Applicants' Opening Brief, p. 2.

for the first few years of the pilot programs. In establishing the WRAM/MCBA and rate design pilot program for Golden State, the parties agreed that if implementation of these pilot programs resulted in a disparate impact on ratepayers or shareholders, parties agreed to propose adjustments so that customers and shareholders share equally in any cost savings or excess revenue.[4] In establishing the WRAM/MCBA and rate design pilot program for Cal Water and Park, the parties agreed that the desired outcome and purpose of using WRAMs and MCBAs is to ensure the utility and ratepayers are proportionally affected when conservation rates are implemented.[5]

In their Opening Brief, the Applicants also state that this Application was "intended to make **relatively modest changes** and clarifications to the timing of the annual WRAM/MCBA reports and the way the WRAM/MCBA balances are amortized."[6] The Applicants' proposed recommendations, specifically Issue 1 regarding the amortization of WRAM/MCBA under-collections, could in some circumstances double the associated surcharge on a customer's bill. As DRA noted in its testimony, contrary to the Applicants' position, a doubling of a customer surcharge would be a significant change, not just a modest one, especially in districts with less than 10,000 customers.[7] The Applicants' position that "relatively modest changes" would result ignores the history of this Application and the events that have taken place since it was filed, including but not limited to: (1) compliance filings submitted by both parties; (2) additional data submitted by the Applicants; and (3) multiple prehearing conferences ("PHC") which led to a bifurcation of issues and a ruling directing parties to also analyze the volatility of the WRAM/MCBA mechanisms, in addition to resolving the Application's nine specific requests.

[4] D.08-08-030 Ordering Paragraph 1, D.09-05-005 Ordering Paragraph 1.

[5] D.08-02-036, p. 26.

[6] Applicants' Opening Brief, at 3 (emphasis added).

[7] Exhibit ("Exh.") 3, pp. 23-25, lines.

B. Applicants' proposal for accelerated recovery of 2010 balances should be denied since it will result in additional surcharges for ratepayers.

In their Opening Brief, the Applicants' conceded that their proposal to accelerate amortization of 2008 and 2009 balances (Issue 9) was moot.[8] The Applicants' originally proposed implementation of an additional surcharge for outstanding 2009 (and in some cases 2008) WRAM/MCBA balances.[9] The proposal did not include a request for accelerated recovery of 2010 balances. However, after the Application was filed and after DRA submitted its testimony, the Applicants introduced a new request in their rebuttal testimony – accelerated recovery for 2010 balances.[10] Because the request for accelerated recovery of 2010 balances was not offered until the Applicants' submitted their rebuttal testimony, DRA was not afforded an adequate opportunity to examine or conduct a proper analysis on this new request. Even though the Applicants have conceded that their request for an additional surcharge for 2008 and 2009 balances (Issue 9) is moot, despite the Applicants' delay in submitting this new request, they still urge the Commission to accelerate recovery for 2010 balances. Moreover, to accomplish this goal the Applicants' recommend "implementing another surcharge to amortize the 2010 balance by the end of 2012, [that] would not be subject to the 10% "cap" on surcharges to recover 2011 balances discussed above in the context of Issue 1."[11]

As directed by ALJ Walwyn during hearings, the Applicants submitted late-filed exhibits illustrating the surcharge amounts for customers for 2010, 2011, and estimated 2012 under existing amortization schedules and proposed.[12] The Applicants' late-filed exhibits included a column entitled, "Proposed 18 Month Amortization Schedules

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[8] Applicants' Opening Brief, p. 33.

[9] Exh. 1, p. 25.

[10] Exh. 2, p. 11.

[11] Applicants' Opening Brief, p. 34.

[12] Tr. Vol. 1, pp. 72-73, lines 26-28:1-3 (Statement of ALJ Walwyn).

including Acceleration of 2011 Surcharge,"[13] for the purpose of illustrating the acceleration of 2010 WRAM/MCBA balances. In their presentation, the Applicants did not include the acceleration of 2010 WRAM/MCBA balances as a separate surcharge, even though it will result in an additional item that increases a customer's bill. The magnitude of the increase for a typical monthly customer bill is shown in the Applicants' late-filed exhibits (Exhibits 12, 13 and 14).

C. Applicants' characterization of DRA's proposal for a Phase 2 in this proceeding is misguided.

In its Opening Brief, DRA recommended that the Commission should continue examining the WRAM/MCBA mechanism in a Phase II of this proceeding by setting a PHC in April 2012.[14] The Applicants' assertion that "DRA offers insufficient justification for recommending a second phase"[15] lacks merit. DRA's recommendation was based in part on the difficulty experienced with initiating informal midcourse meetings with the Parties to conduct review of the WRAM/MCBA mechanisms outside of a formal proceeding,[16] as well as, the information that surfaced during this proceeding and during the various PHC's which brought to light disparate impacts in certain districts.[17] As DRA stated in its brief, this recommendation is separate and apart from conducting an in-depth or "holistic review" of the WRAM/MCBA mechanisms in the utilities' individual general rate cases ("GRCs").[18] DRA has fully stated its support for addressing the broader WRAM issues in the water company's individual GRCs.

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[13] A.10-09-017, *Response of Applicants Golden State Water Company (U133W), Park Water Company (U314W), Apple Valley Ranchos Water Company (U346W), and California Water Service Company (U60W) Submitting Late-Filed Exhibits 12, 13, and 14 As Directed By Administrative Law Judge Walwyn*, October 7, 2011.

[14] DRA Opening Brief, pp. 18-19.

[15] Applicants' Opening Brief, p. 35.

[16] DRA Opening Brief, p. 15.

[17] Tr. Vol. 2, p. 213, lines 10-22, Rasmussen/DRA.

[18] DRA Opening Brief, p. 19.

The Applicants also argue that "appropriate procedures already exist" which would allow the Commission to "evaluate the utilities' compliance with WRAM/MCBA decisions and to consider whether modifications to a company's WRAM/MCBA mechanism should be implemented."[19] In their brief, the Applicants appear to describe the "detailed annual review process," involving interactions between them and both Division of Water and Audits ("DWA") and DRA, as the "appropriate procedures" that currently exist.[20] However, in the Applicants' testimony, both Mr. Garon and Mr. Jordan acknowledged that the advice letter process, including the annual written report, is "not the appropriate venue for looking at whether there should be a change to the mechanism itself . . . if you want to look at whether there should be a change to the mechanism itself, . . . it should be done in the rate case."[21] The advice letter process alone, even if the Applicants' submit annual written reports, oral and written presentations, and data requests and responses to the DWA and DRA, cannot be utilized for making changes to the WRAM/MCBA mechanism.

D. DRA has modified its proposal for a rulemaking to review the operation of the conservation rate design pilot programs.

The Applicants' refer to, in their Opening Brief, DRA's proposal for a Rulemaking to review the conservation pilot programs. In its testimony, served on August 31, 2011, DRA recommended that the Commission initiate a formal proceeding (Order Instituting Rulemaking, "OIR") to facilitate review of the conservation rate design pilot programs, and continue the review of each company's WRAM/MCBA mechanisms outside of the Applicants' GRCs. Since serving its testimony on August 31, 2011, the Commission has clarified to DRA and the Applicants that a generic proceeding to review the WRAM/MCBA mechanisms is not likely. In response, DRA has modified its proposal calling for a rulemaking to clarify that it now supports addressing the broader

[19] Applicants' Opening Brief, p. 34.

[20] Applicants' Opening Brief, pp. 34-35.

issues associated with the WRAM/MCBA mechanisms in each Applicants' GRCs, if there is no opportunity to do so in a generic proceeding.[22] Thus, DRA's proposal for a rulemaking as stated in the Applicants' brief is inaccurate. DRA has twice clarified changes to its original proposal for instituting an OIR. DRA's position includes convening a PHC in April 2012, for the reasons stated earlier in this brief, and performing an in-depth review of the conservation rate design pilot programs in each Applicants' GRC's, as the Commission deems appropriate.

E. The Applicants have misstated DRA's position on the operation of the WRAM/MCBA mechanisms having a disproportionate effect on ratepayers.

In their Opening Brief, the Applicants erroneously conclude that DRA's witness "acknowledged that it did not find any changes or trends in the two years worth of data provided that would suggest a disproportionate impact."[23] This conclusion by the Applicants disregards DRA's comments on its analysis of shut-offs for non-payment. Moreover, the Applicants' also distort Ms. Rasmussen's testimony on the two-year data provided by Applicants. Contrary to the Applicants' characterization of Ms. Rasmussen's position, she has acknowledge that looking at the data submitted for one district over two years, DRA was unable to find information to suggest a disproportionate impact on low-income ratepayers. However, Ms. Rasmussen clearly indicated that two years of data was insufficient to reach a conclusion by testifying "*because there was only in some cases one year, sometimes two years, it was difficult to see any changes or trends amount those two years*."[24]

During evidentiary hearings, Ms. Rasmussen discussed DRA's analysis of the Applicants' April 15th, 2011 filing, clarifying that although DRA was unable to draw clear conclusions with the data provided, reason for concern about the effect of a rapid

[21] Tr. Vol. 1, pp. 55-56, lines 19-28:1-7, Garon/GSWC and Jordan/Park & Apple Valley.

[22] DRA Opening Brief, p. 19.

[23] Applicants' Opening Brief, p. 10.

[24] Tr. Vol. 2, pp. 211-212, lines 3-28:1-18, Rasmussen/DRA.

amortization proposal still exists in several districts where an increasing number of shut-offs have been reported.[25] The revenue impacts of increases in shut-offs (including increases in foreclosures and low-income participation) is being captured in the WRAM/MCBA. As DRA stated in its April 8, 2011 compliance filing regarding the Monterey District of California American Water,[26] the revenue protection provided by the WRAM/MCBA goes well beyond the goal of the pilot programs to remove any disincentive to implement conservation rates and conservation programs. This is true for not only Cal-Am's Monterey District, but also for each of the other WRAM/MCBA and rate design pilot programs. In accordance with the settlements adopting the WRAM/MCBA pilots, the Commission should ensure that the WRAM/MCBA revenue decoupling mechanisms do not result in a disparate impact on ratepayers.

II. CONCLUSION

DRA's recommendations with respect to the disputed issues addressed above and throughout this proceeding are reasonable and supported by the evidence. For all the reasons presented above, DRA respectfully requests that the Commission adopt its recommendations, which will allow a consistent amortization process for all WRAM/MCBA balances and continue examination of the conservation rate design pilot programs to address broader policy issues associated with revenue decoupling mechanisms.

[25] Tr. Vol. 2, pp. 220-221, lines 20-28:1-8, Rasmussen/DRA (emphasis added).

[26] A.10-09-017, *DRA recommendations to address undercollections in the Water Revenue Adjustment Mechanism and Modified Cost Balancing Account Balances in California American Water Company's Monterey District*, April 8, 2011, p. 10.

Respectfully submitted,

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