BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

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| In the Matter of the Application of San Jose Water Company (U 168 W) for Commission Approval of Cost Recovery for Upgrading the Montevina Water Treatment Plant | Application 10-09-019<br>(Filed September 30, 2010) |

# PROTEST OF THE DIVISION OF RATEPAYER ADVOCATES

## I. INTRODUCTION

Pursuant to Rule 2.6 of the Rules of Practice and Procedure of the California Public Utilities Commission ("Commission"), the Division of Ratepayer Advocates ("DRA") hereby protests Application ("A") 10-09-019 requesting Commission approval of cost recovery for upgrading the Montevina Water Treatment Plant ("Montevina"). The Application was filed on September 30, 2010 and appeared on the Commission's Daily calendar on October 6, 2010.

In its most recent general rate case, ("GRC"), A.09-01-009, San Jose Water Company ("SJWC") submitted a capital budget request for upgrading Montevina. The request included: 1) $206,000 in 2009 to fund a facilities plan study, and 2) $4,562,000 for environmental, pilot testing, and detailed design and specifications development in 2010. In the GRC decision, D.09-11-032, the Commission granted the request to fund the facilities plan study, but the Commission ordered SJWC to file a separate application for approval of project costs for upgrading Montevina, and a plan of recovery for those costs. This application was filed accordingly.

This Protest provides a non-exhaustive identification of issues that DRA will examine in this proceeding. DRA anticipates that some issues may be resolved, and others may arise, as discovery proceeds.

## II. ISSUES

DRA has identified several issues that it intends to review and address during this proceeding. The issues DRA will be reviewing include, but are not limited to:

1. **Membrane Filtration is the chosen technology:** The Facilities Plan evaluated three treatment processes to determine the best method to correct the problems experienced at Montevina. The processes identified include: 1) Membrane filtration system; 2) Ballasted flocculation; and 3) High-rate clarifier pretreatment. SJWC's consultant concluded that Membrane Filtration is the best available technology for modifying Montevina.

    a. DRA needs to evaluate the problems at Montevina and the current conditions of the plant.

    b. DRA needs to review the Facilities Plan to assess three alternatives for Montevina as well as other options that might be available.

    c. DRA needs to evaluate the Facilities Plan to determine the validity of its conclusion.

2. **Proposed facility improvement lacks a comprehensive consideration of other alternatives**: The Facilities Plan evaluated three possible treatment processes. However, it is unclear whether SJWC considered other alternative of water supply sources aside from treating surface water. DRA will review and evaluate SJWC's cost benefit analysis that led to its recommendation to pursue Membrane filtration.

3. **SJWC's justification for upgrading Montevina:** SJWC's indicated that Montevina needs to upgrade its facilities due to aging infrastructure and outdated treatment processes. As a result of the increasingly stringent regulations, effluents from Montevina cannot meet current drinking water regulations. SJWC's application states that the Montevina Water Treatment Plant is 40 years old, has aging infrastructure and many of its components are outdated and beyond the end of their useful lives. For example: The hydraulic flocculation basins are not suitable for the wide range of plant flows and source water conditions. The Greenleaf media filters lack required features of modern filters including individual filter effluent control and filter-to-waste system. The plant has also been limited by the California Department of Health ("CDPH") to treating source waste that has 15 neophelometric turbidity units ("NTU") of turbidity or less. DRA needs to review and assess Montevina's aging infrastructure, current

treatment processes, and state and federal drinking water regulations to justify their need to upgrade the treatment plant.

4. **Cost of facility upgrade**: The total cost of the proposed investment to upgrade the facility in years 2011 to 2015 is $73.7 million. SJWC's request for this same facility in the 2009 GRC was $37.5 million. DRA needs to review and assess the validity of this increase in cost of approximately 100%.

5. **Other Financing Options**: DRA needs to review the financing options available to SJWC. For example, has SJWC pursued or investigated obtaining public funding grants and/or other low-interest loans?

## III. CATEGORIZATION AND PROPOSED SCHEDULE

DRA agrees with the preliminary categorization as ratesetting. DRA is hopeful that any issues can be resolved without the need for evidentiary hearings. However, as DRA continues its review of this application, issues may arise that require evidentiary hearings. Due to staffing issues however, DRA opposes the schedule proposed in SJWC's application. The DRA staff assigned to this application are currently working on San Gabriel Valley Water Company's ("SGVWC") GRC. DRA staff is issuing testimony and will be in settlement meetings and hearings until December 23, 2010. DRA staff will not be able to perform a site visit to the Montevina Plant until January 2011. Therefore, DRA proposes schedules based on staff availability, depending on whether evidentiary hearings are required:

**DRA proposed schedule:**

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| Monday, February 28, 2011 | DRA/ Intervenor's testimony served |
| Thursday, March 17, 2011 | Applicant's rebuttal testimony served |
| Monday, March 21, 2011 | ADR Process (Settlement meeting) |
| Tuesday, April 05, 2011 | Evidentiary hearing ***(if required)*** |
| Thursday, May 05, 2011 | Opening briefs due |
| Thursday, May 19, 2011 | Reply briefs due |
| Monday, July 25, 2011 | Proposed decision issued for comment |
| Friday, August 12, 2011 | Comments due on proposed decision |
| Wednesday, August 17, 2011 | Reply comments due on proposal decision |

## IV. CONCLUSION

For the above stated reasons, DRA protests this application and requests that DRA's proposed schedule be adopted.

Respectfully submitted,

/s/ ALLISON BROWN

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November 5, 2009

## CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of **PROTEST OF THE DIVISION OF RATEPAYER ADVOCATES** to the official service list in **A.10-09-019** by using the following service:

[ X ] **E-Mail Service:** sending the entire document as an attachment to all known parties of record who provided electronic mail addresses.

[ ] **U.S. Mail Service:** mailing by first-class mail with postage prepaid to all known parties of record who did not provide electronic mail addresses.

Executed on **November 5, 2010** at San Francisco, California.

/s/ CHARLENE D. LUNDY
Charlene D. Lundy

**SERVICE LIST**
**A.10-09-019**

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