



**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

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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.

And Related Matters.

Application No. A.08-01-027
(Filed January 30, 2008)

Commissioner Assigned: John Bohn

ALJ Assigned: Maribeth A. Bushey

Application No. 08-01-024
(Filed January 30, 2008)

**HIDDEN HILLS SUBUNIT RATEPAYERS ASSOCIATION'S REPLY
TO CALIFORNIA-AMERICAN WATER COMPANY'S RESPONSE
TO HIDDEN HILLS SUBUNIT RATEPAYERS ASSOCIATION'S
REQUEST FOR AN AWARD OF COMPENSATION**

NOLAND, HAMERLY, ETIENNE & HOSS
A Professional Corporation
LLOYD W. LOWREY, JR.
333 Salinas Street
Salinas, California 93901
Telephone: (831) 424-1414
Facsimile: (831) 424-1975
Email: lloyd@nheh.com

Attorneys for
HIDDEN HILLS SUBUNIT RATEPAYERS
ASSOCIATION

Dated: October 23, 2009

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OF THE STATE OF CALIFORNIA**

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I. INTRODUCTION

A. Summary

Pursuant to Rule 17.4(h) of the California Public Utilities Commission's ("Commission") Rules of Practice and Procedure, Hidden Hills Subunit Ratepayers Association ("HHSRA") respectfully submits this Reply to California-American Water Company's ("Cal-Am") Response ("Response"), dated and filed October 8, 2009, to Hidden Hills Subunit Ratepayers Association's Request ("Request") for an Award of Intervenor Compensation in this proceeding A.08-01-027¹ ("this Proceeding").

¹ HHSRA did not participate actively in the evidentiary hearings for A.08-01-024, although documents filed were filed in both related proceedings.

Cal-Am has acknowledged that that HHSRA is eligible to receive intervenor compensation and that HHSRA made a substantial contribution to the decision. Cal-Am contends, however, that HHSRA should not receive intervenor compensation for HHSRA's participation in concurrent proceedings of the Monterey Peninsula Water Management District ("MPWMD"). In this Reply to Cal-Am's contention, HHSRA asserts that the Commission's prior Decisions specifically allow such compensation for participation in the proceedings of the MPWMD that were a necessary precursor to the Commission's decision in this Proceeding. Accordingly, as set forth below, HHSRA believes compensation should be awarded for HHSRA's participation in the MPWMD proceedings, because HHSRA's actions during those proceedings made a substantial contribution to the Commission's decision in this Proceeding. HHSRA agrees with Cal-Am that meetings with individual MPWMD Board members do not qualify for intervenor compensation, will remove such meetings from its claim for compensation, and will not include such meetings in the additional information to be submitted in response to the Administrative Law Judge's ("ALJ") Ruling Requiring Hidden Hills Subunit Ratepayers Association to File a Response to Request for Information Regarding its Intervenor Compensation Claim, filed herein on October 20, 2009.

B. Procedural Background

This Proceeding is coordinated, but not consolidated, with the proceedings in A.07-12-10. HHSRA participated actively and concurrently in this Proceeding and A.07-12-10. HHSRA filed timely Requests for Intervenor Compensation in this Proceeding and in A.07-12-10, to which Cal-Am filed concurrent Responses on October 8, 2009. ALJ Rulings

requiring specified, additional information were filed on October 22, 2009, for A.07-12-10 and on October 20, 2009, for this Proceeding, each ruling requiring the information to be filed within ten days of the Ruling. This Reply, like the Reply filed concurrently for A.07-12-10, addresses the legal issues raised by the Cal-Am Responses. HHSRA will address Cal-Am's claims that the billing summaries do not include certain information, or appear to request fees or costs that are not allowable, or that fees appear to be duplicative with those incurred in the A.07-12-10 proceeding, when HHSRA files its responses to the October 20, 2009 and October 22, 2009 ALJ Rulings.

II. HHSRA IS ELIGIBLE TO RECEIVE INTERVENOR COMPENSATION FOR ITS PARTICIPATION IN NON-COMMISSION AGENCY PROCEEDINGS AS THOSE EFFORTS MADE A SUBSTANTIAL CONTRIBUTION TO DECISION 09-07-021

The Commission has discretion under Section 1803 of the Public Utilities Code to award fees for HHSRA's participation in the MPWMD proceedings when the following test is met:

“(1) a strong public policy exists to encourage intervenor participation do to t factors not present in the usual Commission proceeding, (2) the intervenor's participation in the non-Commission forum was necessary and the not the intervenor's choice of forums, and (3) the case is of unusual importance due to the scope of its potential impacts.” (D.02-06-070, *Application of Southern California Edison Company (U338-E) for Authority to Institute a Rate Stabilization Plan with a Rate Increase and End of Rate Freeze Tariffs*, at page 15).

As set forth in D.02-06-070, the Commission has awarded compensation for work done outside the Commission before the California Legislation, the Federal Energy Regulatory Commission, the Assembly Committee on Utilities and Commerce, and the Senate Committee on Energy and Public Utilities, wherein the Commission found “the time devoted to these hearings was properly chargeable for intervenor compensation. The procedural matters discussed and advice obtained were part of the guidance that went into the eventual decision in this matter’ (D.95-08-051, *Re Alternative Regulatory Frameworks for Local Exchange Carriers*, (1995, 61 CPUC2nd 142, 148)” (D.02-06-070, at page 15).

An issue in this Proceeding in which HHSRA was vitally interested was interconnection of Cal-Am’s Hidden Hills and Bishop sus-systems to the Monterey Main system. (See, Decision 09-07-021, Finding of Fact 25 at page 139 and Conclusion of Law 16 at page 147). Finding 25 notes that Cal-Am has not yet received approval from the MPWMD for the interconnections. Concurrent proceedings of the MPWMD dealt with actions of MPWMD that would be a necessary precedent to such approval.

Finding of Fact Number 14, at page 32 of Decision 09-02-006, finds that under MPWMD’s Ordinances 134 and 135, Cal-Am’s sub-system customers, in Bishop, Hidden Hills, and Ryan Ranch are included within the Monterey Peninsula Water Resource System for the first time. HHSRA’s participation in the MPWMD proceeding for which compensation is claimed in this Proceeding related to the inclusion of Hidden Hills in the Monterey Peninsula Water Resource System and the terms for such inclusion and HHSRA’s opposition to interconnection with Cal-Am’s Monterey Main system. HHSRA ultimately

partially achieved its objective of not connecting to the Monterey Main system, as set forth in Conclusion 16 and paragraph 3.f of the Final Order in Decision 09-07-021.

Inasmuch as the approval of the MPWMD is a necessary pre-condition to implementation of the sus-system interconnections ordered by the Decision in this Proceeding, and inclusion of the sub-systems is an important factor in such approval, the first two factors enumerated in D.02-06-070 are satisfied. Commission decisions are not usually conditioned on the actions of a non-Commission agency, and participation in proceedings before the MPWMD were necessary to determining whether the ground for such approval would exist.

As to the third factor stated in Decision 02-06-070, that the case is of unusual importance due to the scope of its potential impacts, Decision 09-07-023, the Final Decision in this Proceeding, notes at page 21 the “unique features of the Monterey system,” and at page 22 the increasingly severe limitations by the State Water Resources Control Board on withdrawals from the Carmel River. The interconnection of the Hidden Hills subsystem to the Monterey Main system impacts the number of customers served from the Carmel River and thus has importance unique to the Monterey system.

III. HHSRA BILLING SUMMARY AND EXPENSES WILL BE REVISED

As requested by Cal-Am, and set forth above, the Commission has requested that HHSRA submit a revised claim form that provides the information set forth in Attachment A to the ALJ’s October 20, 2009, Ruling. HHSRA will file a timely Response and provide the additional information in the form requested by the Commission.

CERTIFICATE OF SERVICE LIST
Proceeding No. A.08-01-027 [and Related Proceeding A.08-01-024]
Updated as of October 20, 2009

terrance.spann@hqda.army.mil	TERRANCE	SPANN
carlwood@verizon.net	CARL	WOOD
kdursa@salinas.net	KEN	DURSA
sheri@lomgil.com	SHERI L.	DAMON
mickey3643@aol.com	C/O ARTHUR	MCLOUGHLIN
Glen.Stransky@LosLaurelesHOA.com	GLEN	STRANSKY
dave@laredolaw.net	DAVID C.	LAREDO
mpo@cpuc.ca.gov	Marcelo	Poirier
ldolqueist@manatt.com	LORI ANNE	DOLQUEIST
edwardoneill@dwt.com	EDWARD W.	O'NEILL
jimmosher@sbcglobal.net	JAMES F.	MOSHER
cs1001@co.santa-cruz.ca.us	DANA	MCRAE
dstephen@amwater.com	DAVID P.	STEPHENSON
mccay4213@comcast.net	MALCOLM M.	MCCAY
samweinstein@uwua.net	SAM	WEINSTEIN
turnerkb@amwater.com	KENT	TURNER
uwua@redhabanero.com	BERNARDO R.	GARCIA
lloyrey@nheh.com	LLOYD W.	LOWREY, JR.
ffarina@cox.net	FRANCES M.	FARINA
stuart@brandon-tibbs.com	STUART	BURBANK
memoman2@gmail.com	WILLIAM	DIAZ
aengusj@horanlegal.com	AENGUS	JEFFERS
bobmac@qwest.net	BOB	MCKENZIE
joshdavidson@dwt.com	J. JOSHUA	DAVIDSON
lweiss@manatt.com	LENARD G	WEISS
sleeper@manatt.com	SARAH E.	LEEPER
salleyoo@dwt.com	SALLE E.	YOO
jmueller@slvwd.com	JIM	MUELLER
clara@cwo.com	CLARA	SCHROEDER
cmw@cpuc.ca.gov	Christine M.	Walwyn
flc@cpuc.ca.gov	Fred L.	Curry
jcm@cpuc.ca.gov	James C.	McVicar
jws@cpuc.ca.gov	Joyce	Steingass
lwa@cpuc.ca.gov	Lisa	Bilir
mab@cpuc.ca.gov	Maribeth A.	Bushey
mlm@cpuc.ca.gov	Monica L.	McCrary

Mail Copy

Maribeth A. Bushey
Administrative Law Judge
California Public Utilities Commission
AJL Division - 505 Van Ness Avenue
San Francisco, CA 94102-3214