

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



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Application of California-American Water
Company (U210W) for Authorization to
Implement the Carmel River Reroute and San
Clemente Dam Removal Project and to Recover
the Costs Associated with the Project in Rates

A.10-09-018
(Filed September 22, 2010)

CALIFORNIA-AMERICAN WATER COMPANY REPLY TO PROTESTS

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Dated: November 8, 2010

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I. INTRODUCTION

Pursuant to Rule 2.6(e) of the Rules of Practice and Procedure of the California Public Utilities Commission (“Commission”), California-American Water Company (“California American Water”) hereby files its reply to the protests filed by the Division of Ratepayer Advocates (“DRA”) and the Monterey Peninsula Water Management District (“MPWMD”). In this reply, California American Water will address the issues that DRA raises regarding the historical costs associated with the San Clemente Dam and the estimated cost of the Carmel River Reroute and San Clemente Dam Removal Project (“Reroute and Removal Project”). California American Water will also address the comments of both DRA and MPWMD regarding the proposed procedural schedule.

As California American Water explained in its application, the Reroute and Removal Project addresses longstanding seismic issues associated with the San Clemente Dam, provides significant environmental benefits, and due to an innovative public/private partnership with the California State Coastal Conservancy, will not cost California American Water customers any more than the least-cost option. California American Water urges the adoption of a schedule that will allow for timely implementation of the Project and recovery of the associated costs in rates, as described in its application.

II. RECOVERY OF COSTS

In its Protest, DRA suggests the possibility of requiring California American Water's shareholders to bear some of the preconstruction costs that California American Water is tracking in the San Clemente Dam memorandum account¹ and questions whether California American Water shareholders should bear some of the cost of the proposed Reroute and Removal Project and if so, how much.² Both suggestions are inappropriate.

The costs that California American Water is tracking in the San Clemente Dam memorandum account and the costs of the Reroute and Removal Project are costs that California American Water has incurred or will incur in order to comply with directives from state agencies. These costs are not discretionary and California American Water cannot choose not to incur them. Instead, California American Water has partnered with the California State Coastal Conservancy so that it can provide its customers and the community with the superior benefits of the Reroute and Removal Project at a cost no greater than the cost of the dam buttressing project, which is much more uncertain and does not provide the same environmental benefits.

In its Protest, DRA also raises the issue of whether California American Water prudently included the cost of the dam removal in its depreciation estimates for the Dam.³ Although California American Water attempted to do so in the past, the Commission rejected its proposal. As the Commission noted in D.89-02-067, California American Water recommended that Commission take steps to address the future costs of retirement of the San Clemente Dam:

The company takes the position that when a dam reaches the end of its useful service life, it must be breached, demolished, or maintained in a safe condition with no water supply benefit. Retirement costs associated with these alternatives can be significant, as shown by recent experience with reservoir and dam retirements by an AWWWS affiliate in Pennsylvania. The company believes it is appropriate that customers who benefit from a dam

¹ *Protest of The Division of Ratepayer Advocates to the Application of California-American Water Company to Implement the Carmel River Reroute and San Clemente Dam Removal Project and to Recover the Costs Associated with the Project in Rates*, filed October 29, 2010 ("DRA Protest"), p. 6.

² *Id.*, p. 5.

³ *Id.*

pay a proportionate share of the future costs of its retirement. This would be achieved by adoption of the recommended negative salvage value.⁴

Unfortunately, DRA's predecessor argued that such steps were not necessary, a position the Commission adopted.⁵

III. PROCEDURAL SCHEDULE

In their Protests, DRA and MPWMD raise concerns about the procedural schedule that California American Water proposed in its application.⁶ While California American Water sympathizes with their workload and staffing concerns, it is operating under its own constraints that necessitate a timely Commission decision, as it discussed in its application. In developing the proposed schedule, California American Water took great pains to provide enough time for the Commission, DRA and other interested parties to review the application and California American Water's requests. Indeed, California American Water's schedule provides nearly *six months* for review by DRA and interested parties and provides the Commission with an entire year in which to process the application. While California American Water's proposed public/private Reroute and Removal Project may be novel, it is still a single project. The timeline that California American Water has proposed is akin to the schedule for an entire general rate case,⁷ where DRA and the Commission must review and consider multiple projects and issues.

The Commission must also bear in mind that if it does not issue a decision that allows California American Water to implement the increase by January 1, 2012, it could cause higher increases in future periods to cover the delayed recovery of the regulatory asset requested

⁴ D.89-02-067, *Application of California-American Water Company for an order authorizing it to increase its rates for water service in its Monterey Peninsula District*, 1989 Cal. PUC LEXIS 135 ("D.89-02-067, 1989 Cal. PUC LEXIS 135"), *70-71.

⁵ D.89-02-067, 1989 Cal. PUC LEXIS 135, *71.

⁶ DRA Protest, pp. 8-9; *Protest of The Monterey Peninsula Water Management District to the Application of California-American Water Company to Implement the Carmel River Reroute and San Clemente Dam Removal Project and to Recover the Costs Associated with the Project in Rates*, filed October 29, 2010 ("MPWMD Protest"), p. 5.

⁷ The schedule for a single district Class A general rate case is approximately twelve months from the filing of the application to a Commission decision. D.07-05-062, *Order Instituting Rulemaking to Consider Revisions to the General Rate Case Plan For Class A Water Companies*, 2007 Cal. PUC LEXIS 226, **9, 56.

in the application. A delayed decision could affect funding and delays in the implementation of new rates could result in accrual of millions of dollars of interest on the costs California American Water is tracking in the memorandum account, an additional burden to customers that the Commission has the ability to avoid.

When it developed its proposed schedule, California American Water's main goal was to provide for a Commission decision that would allow California American Water to implement new rates on January 1, 2012. In response to customer confusion regarding multiple rate changes, California American Water strives to minimize the number of rate changes in any given year. To the extent possible, California American Water attempts to schedule its rate changes so that they occur on January 1 or July 1. The January 2012 deadline for new rates also allows California American Water to meet its interdependent deadlines for the Reroute and Removal Project.

All rate changes have to be prepared, processed, implemented, tested and bill checked before California American Water can include them on customer bills. Additionally, there will likely be several rate changes for January 1, 2012, including new rates from California American Water's current general rate case application (A.10-07-007). Therefore, California American Water would need a Commission decision approximately a month in advance in order to be able to put new rates in effect by January 1, 2012. The procedural schedule for this proceeding must also take into account, however, the possibility of a proposed decision being held, perhaps more than once. In proposing a schedule that provides for a Commission decision by September 2011, California American Water allows for the possibility of a hold or holds, while still providing sufficient time to implement new rates by January 1, 2012. Although there may be some flexibility, if the adopted procedural schedule sets a deadline for a Commission decision beyond the October 20, 2011 meeting there is a significant chance that California American Water will not be able to implement new rates by January 1, 2012.

Finally, in its Protest, DRA requests authorization to retain a tax consultant⁸ and a technical consultant on dam sediment management⁹ under the reimbursable contract. California American Water understands the need for a tax consultant – it retained its own consultant in this proceeding to provide the Commission with an expert analysis of the tax issues. California American Water is concerned, however, that a technical consultant on dam sediment management would be replicating work already performed as part of the Division of Dam Safety’s environmental review process. Although California American Water does not agree that a technical consultant on dam sediment management is necessary, if the Commission grants DRA’s request, it should place a cap on the amount DRA may spend on the sediment consultant, given the potentially duplicative nature of the analysis. Furthermore, while California American Water does not object to reimbursable contracts for the consultant(s), it should, as it has in other proceedings, be able to track the consultant costs for recovery from customers. Moreover, under no circumstances should the engagement of such consultants delay Commission review or decision.

IV. CONCLUSION

The Reroute and Removal Project presents a unique opportunity for public and private interests work together to realize public benefits far beyond what either could achieve alone. Not only does the project permanently address the San Clemente Dam’s seismic safety issues, it also provides significant environmental benefits. Moreover, because of its partnership with the California State Coastal Conservancy, California American Water will be able to provide the benefits of the superior Reroute and Removal Project at no more than the cost of the less certain and less advantageous dam buttressing option. As California American Water discussed in its application, there is widespread support for the Project at the federal, state and local levels. California American Water requests the adoption of a procedural schedule that will

⁸ DRA Protest, p. 8.

⁹ *Id.*, p. 5.

allow for timely implementation of this beneficial project and authorization to recover the associated costs in rates.

Dated: November 8, 2010

MANATT, PHELPS & PHILLIPS, LLP

By: /s/ Lori Anne Dolqueist
Lori Anne Dolqueist

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300173071.1

PROOF OF SERVICE

I, Cinthia A. Velez, declare as follows:

I am employed in San Francisco County, San Francisco, California. I am over the age of eighteen years and not a party to this action. My business address is MANATT, PHELPS & PHILLIPS, LLP, One Embarcadero Center, 30th Floor, San Francisco, California 94111. On November 8, 2010, I served the within:

California-American Water Company Reply to Protests

on the interested parties in this action addressed as follows:

See Attached Service List



(BY CPUC E-MAIL SERVICE) By transmitting such document electronically from Manatt, Phelps & Phillips, LLP, San Francisco, California, to the electronic mail addresses listed above. I am readily familiar with the practice of Manatt, Phelps & Phillips, LLP for transmitting documents by electronic mail, said practice being that in the ordinary course of business, such electronic mail is transmitted immediately after such document has been tendered for filing. Said practice also complies with Rule 1.10 of the Public Utilities Commission of the State of California and all protocols described therein.



(BY MAIL) By placing such document(s) in a sealed envelope, with postage thereon fully prepaid for first class mail, for collection and mailing at Manatt, Phelps & Phillips, LLP, San Francisco, California following ordinary business practice. I am readily familiar with the practice at Manatt, Phelps & Phillips, LLP for collection and processing of correspondence for mailing with the United States Postal Service, said practice being that in the ordinary course of business, correspondence is deposited in the United States Postal Service the same day as it is placed for collection.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration was executed on November 8, 2010, at San Francisco, California.



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