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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

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.

Application 10-09-018
(Filed September 22, 2010)

ADMINISTRATIVE LAW JUDGE'S RULING

This ruling memorializes the electronic message transmitted to the service list for this proceeding on Monday, May 21, 2012.

In a motion dated May 14, 2012, Water Plus, describing itself as a non-profit public-benefit corporation serving as a Monterey Peninsula water ratepayer advocacy group, requested to intervene in this proceeding in order to participate as a party. By e-mail to Mr. Ron Weitzman, President of Water Plus, with copies to the service list, the undersigned Administrative Law Judge (ALJ) informed Mr. Weitzman that she would consider the motion in the context of any opening and reply comments submitted, with a reminder that opening comments were due to be tendered for filing by close of business that day.¹

¹ Water Plus' motion was served on parties on Sunday, May 13, 2012 and the e-mail from ALJ Walwyn was sent at 10:09 a.m. on May 14th.

In the evening of the following day, May 15, 2012, Water Plus submitted a statement titled "Response to Application." By e-mail, the undersigned ALJ notified Water Plus and the service list that the response would be considered as a reply comment to the alternate proposed decision and that any party opposing the motion for party status should respond to the motion by Monday, May 21, 2012.²

On May 21, 2012, California-American Water Company (Cal-Am) submitted a response to Water Plus' motion for party status, requesting that the motion be denied because it is extremely late in the course of the proceeding and does not identify any material issues that have not already been raised by the Division of Ratepayer Advocates.³ On May 22, 2012, Water Plus requested permission to submit a reply to Cal-Am's filing.

In reviewing Water Plus' response, I find that the comments offered should be treated as public comment rather than a party's response. In particular, Water Plus raises the issue of a public purchase of Cal-Am which was never discussed in the evidentiary record and cites to an appraisal also not in the evidentiary record. To place these statements in the formal record at this point in the proceeding would be prejudicial to applicant Cal-Am.

Therefore, I deny Water Plus' motion for party status and direct the Public Advisor to circulate Water Plus' May 21, 2012 Response and its May 22, 2012

² A reformatted response was submitted by Water Plus on May 21, 2012.

³ For clarity in the record, this ruling notes that Cal-Am's response contains factual error on page 3. The transcript cited shows that no party's testimony was stricken. While the Planning and Conservation League Foundation (PCLF) intervened late in the proceeding, its testimony was allowed. Only its friendly cross of a Cal-Am witness was disallowed, consistent with earlier instructions to PCLF.

request to respond to Cal-Am to the Commissioners' as public comment and then place it in the correspondence section of the formal file of this proceeding.

IT IS RULED that:

1. Water Plus' May 14, 2012 "Motion Filing for Approval to Become an Intervenor" is denied.
2. Water Plus' May 21, 2012 Response and its May 22, 2012 request to submit a response to California-American Water Company should be circulated by the Public Advisor as a public comment in this proceeding and then placed in the correspondence section of the formal file.
3. Water Plus should remain on the service list of this proceeding as Information Only.

Dated May 22, 2012, at San Francisco, California.

/s/ CHRISTINE M. WALWYN
Christine M. Walwyn
Administrative Law Judge