



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

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Application of California-American Water Company (U210W) for Approval of the Monterey Peninsula Water Supply Project and Authorization to Recover All Present and Future Costs in Rates.

A.12-04-019
(Filed April 23, 2012)

**CALIFORNIA-AMERICAN WATER COMPANY
PREHEARING CONFERENCE STATEMENT**

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I. INTRODUCTION

Pursuant to Administrative Law Judge (“ALJ”) Weatherford’s May 11, 2012 ruling, California-American Water Company (“California American Water”) hereby submits its prehearing conference statement. California American Water appreciates ALJ Weatherford’s recognition of the time sensitive nature of California American Water’s Application and his willingness to take steps to expedite the process. As California American Water explained in its Application, the Monterey Peninsula Water Supply Project will satisfy the State Water Resources Control Board (“SWRCB”) requirement to implement a long-term water supply solution by December 2016.¹ Under California American Water’s proposed schedule, the Monterey Peninsula Water Supply Project can be approved, financed, and constructed by the SWRCB’s 2016 deadline and will provide a cost-effective solution based on low-cost financing, government-subsidized loans, tax benefits and use of regulatory opportunities. With the December 2016 deadline looming, California American Water requests that the Commission timely authorize it to implement the Monterey Peninsula Water Supply Project and recover the associated costs in rates.

¹ SWRCB Order 2009-0060, p. 57, *available at* http://www.waterboards.ca.gov/waterrights/water_issues/programs/hearings/caw_cdo/docs/wro2009_0060.pdf.

II. SCOPE OF THE PROCEEDING

The purpose of this proceeding is to determine whether the Monterey Peninsula Water Supply Project is a reasonable and prudent solution to the water supply constraints in the Monterey County District and whether granting California American Water's request is in the public interest. In order for California American Water to meet the SWRCB December 2016 deadline, the Commission proceeding must progress efficiently and expeditiously. Therefore, it is important to clearly establish the scope of this proceeding and ensure that it remains focused on the issue at hand. Getting sidetracked into consideration of ancillary issues will unnecessarily delay the proceeding and could jeopardize California American Water's ability to construct the Monterey Peninsula Water Supply Project and put it into service in time to meet the SWRCB deadline.

California American Water is concerned that parties will attempt to use this high-profile proceeding to advance their own interests, at the expense of finding a source of replacement water for the Monterey Peninsula. This could involve using the proceeding as a way to promote an alternate project, or attempting to litigate issues related to a previously proposed project. For example, the Marina Coast Water District ("MCWD") originally stated that its interest in this proceeding involved alleged contractual obligations related to the Regional Desalination Project.² Although it subsequently expanded its list of interests, most are still related to the Regional Desalination Project.³ In his June 1, 2012 ruling, ALJ Weatherford denied MCWD's motion to dismiss California American Water's Application and stated that issues related to the Regional Desalination Project will not be addressed in this proceeding.⁴ It is important to make clear, however, that *any* testimony or pleadings that raise Regional Desalination Project issues, or any other issues outside the scope of this proceeding, will be rejected, stricken from the record, or given no weight. Unless this proceeding remains focused on the merits of the Monterey Peninsula Water Supply Project, there is risk of delay that could

² *Marina Coast Water District's Motion to Intervene in D.12-04-019*, filed April 30, 2012, p. 1.

³ *Marina Coast Water District's Response in Opposition to the Motion of California-American Water Company (U 210 W) to Deny Marina Coast Water District Party Status*, dated May 25, 2012, pp. 5-9.

⁴ *Administrative Law Judge's Ruling*, June 1, 2012, p. 2 ("June 1, 2012 Ruling").

prevent California American Water from meeting the SWRCB December 2016 deadline.

III. TEST WELL

In the June 1, 2012 ruling, ALJ Weatherford identified two issues for early resolution.⁵ Again, California American Water's appreciates ALJ Weatherford's recognition of the time sensitive nature of this proceeding and the steps he has taken to make sure that it progresses in a timely manner. In a similar vein, California American Water requests that ALJ Weatherford rule on its test well request at the prehearing conference or shortly thereafter.

As noted in the Application and supporting materials, California American Water will track the cost of the test well and other pre-construction costs in the existing memorandum account.⁶ If the Commission approves California American Water's Application, it will include the costs of the test well in the construction cost of the Monterey Peninsula Water Supply Project and recover them as part of the overall costs in rates. If for some reason the Monterey Peninsula Water Supply Project did not go forward, California American Water would seek recovery of the test well costs, as well as other preconstruction costs, through Surcharge 1.⁷

As California American explained in its Application, data from the test well will assist with the design of the Monterey Peninsula Water Supply Project, assess the individual well capacities to determine the final number of intake wells needed, and help evaluate the levels of salinity.⁸ Additionally, the initial data from the test well may also assist the Commission with its review under the California Environmental Quality Act ("CEQA"). At the time that California American Water filed its Application, it believed that it could wait for an interim ruling until

⁵ June 1, 2012 Ruling, pp. 3-4.

⁶ *Application of California-American Water Company (U210W) for Approval of the Monterey Peninsula Water Supply Project and Authorization to Recover all Present and Future Costs in Rates* ("Application"), p. 15; *Direct Testimony of David P. Stephenson* ("Stephenson Direct"), p. 12. The Commission previously authorized California American Water to track costs associated with a long-term water supply solution in a memorandum account. D.03-09-022, *Application of California-American Water Company (U 210 W) for a Certificate that the Present and Future Public Convenience and Necessity Requires Applicant to Construct and Operate the 24,000 acre foot Carmel River Dam and Reservoir in its Monterey Division and to Recover All Present and Future Costs in Connection Therewith in Rates*, 1997 Cal. PUC LEXIS 1279, *33.

⁷ Stephenson Direct, p. 15.

⁸ Application, p. 15.

October 2012, if absolutely necessary.⁹ Now, however, it has become clear that California American Water must move forward with the test well as soon as possible in order to ensure the expeditious development of the Monterey Peninsula Water Supply Project. Based on the recently completed biological survey of the slant intake well site, several important species were identified. Most notably, the survey indicated the presence of the Snowy Plover, a bird with nesting habitat, which most likely cannot be disturbed between February and October of each calendar year. In order to meet this small construction window of November to January, California American Water requests approval of its test slant well as soon as possible so necessary permitting can be submitted and designed advanced so that hopefully by November, California American Water could begin the installation of the test well. Indeed, the Commission's Energy Division staff responsible for conducting the environmental review of the project support the development of the slant test well.

In the June 1, 2012 ruling, ALJ Weatherford took note of the "overarching public interest in finding a source or sources of replacement water for the Monterey Peninsula as soon as practicable."¹⁰ The test well is a necessary step in developing an alternative water source. No party directly opposed the test well and the Division of Ratepayer Advocates recognized that it is "imperative to determine the feasibility of slant wells as soon as possible."¹¹ California American Water therefore requests a ruling confirming the proposed ratemaking treatment for the test well facilities at the prehearing conference or as soon as possible thereafter.

IV. PROCEDURAL ISSUES

A. Proposed Schedule

DRA and LandWatch Monterey County ("LandWatch") recommend that the Commission extend the schedule in order to provide five months for DRA and intervenors to prepare and serve testimony.¹² In developing its proposed schedule for this proceeding,

⁹ Application, p. 26.

¹⁰ June 1, 2012 Ruling, pp. 2-3.

¹¹ *Protest of the Division of Ratepayer Advocates*, filed May 25, 2012 ("DRA Protest"), p. 9.

¹² DRA Protest, pp. 10-11; *Protest of LandWatch Monterey County to the Application of California-American Water Company (U210W) for Approval of the Monterey Peninsula Water Supply Project and Authorization to Recover All*

California American Water balanced the need to provide time for parties to review and analyze its proposal with the need to meet the SWRCB's 2016 deadline. For example, California American Water's schedule indicates that a proposed decision would be issued in early 2013,¹³ which is necessary to complete design, permitting, construction, and financing in time to meet the SWRCB deadline. California American Water's schedule provides DRA and intervenors approximately three months to review the Application and supporting materials, conduct discovery, and draft testimony. This is similar to the Commission's rate case plan for water utilities, which also sets the deadline for DRA and intervenor testimony at approximately three months after the application is filed.¹⁴ A general rate case involves review and analysis of *all* of the company's finances, operations, expenses, and capital projects. Since this proceeding addresses a single project – albeit a complex one – three months should similarly provide adequate time for DRA and intervenors to prepare and serve testimony.

Due to the time lost on the Regional Desalination Project, every month is now even more critical than before. All of the scheduled items for the Monterey Peninsula Water Supply Project are being compressed to meet the December 2016 deadline. The two-month delay that DRA and LandWatch recommend places schedule risks on all major activities such as permitting, design and ultimately construction. While California American Water sympathizes with DRA's staffing issues, they do not justify jeopardizing California American Water's ability to meet the SWRCB December 2016 deadline.

Similarly, LandWatch's request to delay consideration of Monterey Peninsula Water Supply Project until the Commission has completed its CEQA review¹⁵ should also be denied. While California American Water supports a full and thorough vetting of the environmental aspects of the Project, the delay LandWatch suggests could hinder California American Water's ability to meet the December 2016 deadline. As California American Water

Present and Future Costs in Rates, filed May 24, 2012 ("LandWatch Protest"), p. 3.

¹³ Application, p. 26.

¹⁴ 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, *65.

¹⁵ LandWatch Protest, p. 3.

discussed in its Application, the Monterey Peninsula Water Supply Project is a modified version of the North Marina Project, which the Commission analyzed at a project level of detail in A.04-09-019.¹⁶ The CEQA review process and the Commission's review of the merits of the Application should run in parallel. This will provide the parties the opportunity to address all aspects of the Monterey Peninsula Water Supply Project without putting California American Water's ability to meet the December 2016 deadline at risk.

ALJ Weatherford's prehearing conference ruling noted that time is of the essence.¹⁷ This sentiment was echoed by several parties to this proceeding. For example, the Planning and Conservation League Foundation stated, "To meet the State Water Resources Control Board's 2016 deadline will require an expeditious proceeding."¹⁸ Similarly, the Coalition of Peninsula Businesses noted that California American Water's proposed timeline should be adhered to "as closely as possible" in order to "meet or beat the CDO deadline."¹⁹ In the June 1, 2012 ruling, ALJ Weatherford observed, "The people and entities in the Monterey Division service area of the Applicant face the risk of losing - in less than five years - most of the water supply that presently serves them."²⁰ Failure to meet the SWRCB December 2016 deadline could have substantial harmful consequences for California American Water, its customers, and the community.²¹ California American Water, therefore, respectfully urges that its proposed procedural schedule be adopted.

¹⁶ Application, p. 22; see D.09-12-017, *Application of California-American Water Company (U210W) for a Certificate of Public Convenience and Necessity to Construct and Operate its Coastal Water Project to Resolve the Long-Term Water Supply Deficit in its Monterey District and to Recover All Present and Future Costs in Connection Therewith in Rates*, 2009 Cal. PUC LEXIS 764.

¹⁷ *Administrative Law Judge's Ruling Setting a Prehearing Conference and Inviting Prehearing Conference Statements* filed May 11, 2012, p. 2 ("May 11, 2012 Ruling").

¹⁸ *Planning Conservation League Foundation's Motion to Intervene and Prehearing Conference Statement in A.12-04-019*, dated May 25, 2012, p. 3.

¹⁹ *Prehearing Statement of Coalition of Concerned Peninsula Businesses* dated June 1, 2012, p. 4.

²⁰ June 1, 2012 Ruling, p. 2.

²¹ D.10-12-016, *In the Matter of the Application of California-American Water Company (U210W) for a Certificate of Public Convenience and Necessity to Construct and Operate its Coastal Water Project to Resolve the Long-Term Water Supply Deficit in its Monterey District and to Recover All Present and Future Costs in Connection Therewith in Rates*, 2010 Cal. PUC LEXIS 548 ("D.10-12-016, 2010 Cal. PUC LEXIS 548"), **62-63, 250, Findings of Fact ¶ 65.

B. Settlement and Workshops

In the May 11, 2012 ruling, ALJ Weatherford asked the parties to address the possibility of settlement and the need for workshops.²² California American Water was able to reach settlement in the A.04-09-019 proceeding, strongly supports the notion of settlement, and hopes the other parties are willing to engage in settlement discussions. While some parties may appear to be diametrically opposed, California American Water is still willing to discuss the issues and entertain proposals for settlement. California American Water provided two weeks for settlement discussions in its proposed schedule, beginning August 27, 2012.²³ California American Water also supports facilitated settlement discussions through the Commission's alternative dispute resolution process and would consider beginning settlement discussions even earlier, as long as it does not push out the dates for testimony and hearings.

In the June 1, 2012 ruling, ALJ Weatherford also suggested two sets of possible workshop dates: July 19-20 or July 26-27, 2012.²⁴ California American Water would not be able to participate in a workshop held July 19-20. California American Water's president will be out of the country during that time and other key personnel will be involved in hearings for California American Water's general rate case. California American Water is available July 26-27. To make the workshops as productive as possible, California American Water requests that ALJ Weatherford act as a facilitator during the workshops.

V. CONCLUSION

The Commission has previously recognized the "urgent need to find an alternative water supply" for California American Water's Monterey County District.²⁵ It is important that this proceeding remain focused on the merits of the Monterey Peninsula Water Supply Project and not be delayed by consideration of ancillary issues or projects. California American Water appreciates ALJ Weatherford's recognition of the time sensitive nature of California American Water's Application and the steps he has taken to expedite the process. In addition to those steps,

²² May 11, 2012 Ruling, p. 2.

²³ Application, p. 26.

²⁴ June 1, 2012 Ruling, p. 4.

²⁵ D.10-12-016, 2010 Cal. PUC LEXIS 548, *35.

California American Water requests a ruling granting its requested interim relief and adoption of its proposed procedural schedule. This will help ensure that the Commission is able to issue a decision in this proceeding in time to allow California American Water to meet the SWRCB December 2016 deadline.

June 4, 2012

Respectfully submitted,

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