



**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 Larkfield District by \$648,100 or 23.38% in the year 2010; and \$140,200 or 4.07% in the year 2011 and to Increase its Revenues for Water Service in its Los Angeles District by \$7,886,200 or 41.29% in the year 2010; and \$1,100,000 or 4.09% in the year 2011 and to Increase its Revenues for Water Service in its Sacramento District by \$17,537,800 or 51.29% in the year 2010; and \$5,339,800 or 10.25% in the year 2011.

A.09-01-013
(Filed January 23, 2009)

**MARK WEST AREA COMMUNITY SERVICES COMMITTEE'S
PREHEARING CONFERENCE STATEMENT**

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MARCH 20, 2009

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Application of California-American Water Company (U210W) for Authorization to Increase its Revenues for Water Service in its Larkfield District by \$648,100 or 23.38% in the year 2010; and \$140,200 or 4.07% in the year 2011 and to Increase its Revenues for Water Service in its Los Angeles District by \$7,886,200 or 41.29% in the year 2010; and \$1,100,000 or 4.09% in the year 2011 and to Increase its Revenues for Water Service in its Sacramento District by \$17,537,800 or 51.29% in the year 2010; and \$5,339,800 or 10.25% in the year 2011.

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Pursuant to Rule 7.2 of the Rules of Practice and Procedure of the California Public Utilities Commission (“Commission”) and in accordance with the Administrative Law Judges Ruling Scheduling a Prehearing Conference (March 4, 2009)(“ALJ’s Ruling), filed in the above referenced proceeding. The Mark West Area Community Services Committee (MWACSC) hereby submits its Prehearing Conference Statement for the Larkfield District (Included in A.09-01-013). The Prehearing Conference is scheduled for Wednesday March 25, 2009, 1:30 p, m, , Commission Courtroom, State Office Building, 505 Van Ness Avenue, San Francisco, California 94102

Background

The MWACSC served as Intervenors in rate cases A.04-04-041 and A.04-08-013. The Committee also served as intervenors in rate case A.07-01-036 – 039 in particular A.07-01-037 Larkfield District.

On January 23, 2009 Cal-Am filed rate case A.09-01-013 requesting substantial increases in its Larkfield, Los Angeles and Sacramento Districts.

The MWACSC takes issue with some of the Capital Investment Projects that Cal-Am has proposed in this rate case. However we will not address those Capital Investment Projects in this

statement. Our comments in this statement will be limited to subjects not included in Cal-Am's application but which should be included in the considerations for the rate case.

Rate Case A.07-01-036 - 039.

During rate case A.07-01-037 certain understandings and agreements were reached which formed the basis for Decisions D.08-05-018 and D.08-11-023.

California American Water Company now chooses to ignore those understandings and agreements.

The Mark West Community Services Committee requests that the California Public Utilities Commission compel Cal-Am to honor the understandings and agreements reached in rate case A.07-01-036 – 039.

1. MWACSC'S Proposed Dismissal of the Application

As if any proof were needed the filing of this rate case offers proof positive that California American Water Company has very little or no regard for the well being of its customers. Their only consideration is to extract money from their ratepayers so as to show a profit for their shareholders.

By its decision dated May 15, 2008 (D.08-08-018) The California Public Utilities Commission granted Cal-Am a 36.66 percent rate increase in its Larkfield District and a 25.71 percent increase in its Sacramento District. Now, barely seven months later (January 23, 2009), Cal-Am is requesting an additional 28.4 percent (compounded) increase in its Larkfield District.¹ For the Los Angeles District Cal-Am is requesting a 47.07 percent increase and in its Sacramento District a 66.80 percent increase!!!

While there may never be a right time for such obscene rate increase requests, these requests come at the worst possible time for ratepayers.

If Cal-Am's officers would bother to read a newspaper they would learn that the Nation's economy is in very bad shape with unemployment, mortgage foreclosures and business closures all at record highs.

Even people who have managed to keep their jobs and remain in their homes are still affected by the economic downturn. People who had their retirement savings in 401K plans have seen their savings shrink to less than one half of what it was a year ago. Consequently people are

¹ Application A.09-01-013

being forced to make some very difficult, painful and heartbreaking decisions regarding their family finances.

Cal-Am's customers are not immune to the current economic crisis. According to the California Employment Development Department's website (www,EDD.ca.gov) the unemployment rate for Sonoma County is 8.6 percent. For Sacramento County the rate is 10.4 percent and for Los Angeles County 10.8 percent.

These rate increases will impose an undue hardship upon a large number of ratepayers in the three districts.

The California Public Utilities Commission should take these facts into consideration and not allow this rate case to proceed beyond the Prehearing Conference on March 25, 2009.

Ms. Leeper, in the Reply of California American Water Company (U 210 W) to the Protests of the Division of Ratepayer Advocates and the Mark West Area Community Services Committee, stated "...the Commission cannot postpone or dismiss the Application simply because the current economic conditions are poor."² Which shows that Ms. Leeper is woefully ignorant of the broad powers and authorities granted to the Commission by the Legislature.

Printed below is Section 321.1 of the California Public Utilities Code.

321.1. It is the intent of the Legislature that the commission assess the economic effects or consequences of its decisions as part of each ratemaking, rulemaking, or other proceeding, and that this be accomplished using existing resources and within existing commission structures. The commission shall not establish a separate office or department for the purpose of evaluating economic development consequences of commission activities.

Not only does the Commission have the authority to assess the economic effects or consequences of its decisions, it has a responsibility to do so.

Ms. Leeper also stated that "California American Water filed this rate case pursuant to the schedule in the Commission's Rate Case Plan."³

² A.09-01-013, Reply of California American Water Company (U 210 W) to the protests of the Division of Ratepayer advocates and the mark West Area community Services Committee, page 3, 1. MWACSC's Proposed Dismissal of the Application.

³ A.09-01-013, Ibid. Page 3 footnote 9.

That may well be. However, the Rate Case Plan was issued in Decision D.07-05-062 on May 24, 2007.

On that date the Commission could not possibly have predicted that the Country's economy was soon to begin its plunge into recession. Even if there were indicators of the coming recession the Commission could not have predicted the severity or the duration of the recession.

We now know that the economy is in recession, we also know that it is severe. We do not know the duration. The Commission should declare that the proposed increases would impose an undue hardship upon ratepayers and are therefore not in the public interest.

2. Faught Road Well

In the Reply of California American Water Company (U 210) to the Protests of the Division of Ratepayer Advocates and the Mark West Area Community Services Committee, Ms. Leeper states that "MWACSC appears not to understand that the capacity of a well does not always relate proportionately to the development costs of the well."

To the contrary, we understand all too well that the cost of constructing a 150 gpm well is virtually the same as constructing a 400 gpm well. That fact is one of the major underlying factors in our complaint. Since the cost is virtually the same Cal-Am should construct the 400 gpm well that was promised in rate case A.07-01-037

The Commission, DRA and this Committee were led to believe through the testimony of Thomas Glover that the Faught Road Well would have a capacity of 300 to 400 gallons per minute.⁴

The Commission, DRA and this Committee were also led to believe through the testimony of Thomas Glover that "California American water seeks to construct the Faught Road Well to ensure that existing and future water supply demands are met, adequate production capacity and system reliability are maintained and to minimize use of the interruptible Sonoma County Water Agency ("SCWA") Aqueduct interconnection as much as possible."⁵

That the anticipated capacity was greater than 150 gpm is further reinforced by the testimony of Thomas Glover during evidentiary hearings in which he claimed that the then

⁴ A.07-01-036 – 039, Exhibit 14, Direct Testimony of Thomas Glover, page 7

⁵ A.0701-036 – 039, Exhibit 17, "Rebuttal Testimony of Thomas Glover, P.E." p6

current deficit in water supply was 206 gpm.⁶ A 206 gpm deficit would not be met by a 150 gpm well.

In his Direct testimony Mr. Shawn Sevey described the Faught Road Well as being "...a 150 gallon per minute (gpm) raw water production well..."⁷

Only after construction of the well was approved in Decision D.08-05-023 was it revealed that the capacity would be less than stated in testimony. This has the appearance of the classic "Bait and Switch" scheme.

The Settlement Agreement between DRA and Cal-Am was based upon a well of 300 to 400 gallons per minute capacity. That agreement is binding upon both parties. Cal-Am should not now be allowed to arbitrarily reduce the capacity of the well.

If Cal-Am is required to construct a well with a capacity of 300 – 400 gpm as agreed there would be no need to construct Well No. 6 thereby saving \$3,190,058.⁸

3. Larkfield Water Treatment Plant

In the Reply of California American Water Company (U 210) to the Protests of the Division of Ratepayer Advocates and the Mark West Area Community Services Committee Ms. Leeper states: "MWACSC's protest contains several errors relating to the firm capacity and safe yield capacity of the treatment plant. For example, MWACSC incorrectly compares the total plant capacity for the well system (1,200 gallons per minute) to the safe yield capacity of the wells (500 gallons per minute.)"

That statement shows that Ms. Leeper is thoroughly confused as to which capacities apply to which facilities. It also exhibits a total lack of knowledge as to how the system works.

The treatment plant does not have a "firm capacity" and a "safe yield" capacity. That applies only to the wells.

The issue of treatment plant capacity is further confused by the testimony of Shawn D. Sevey who states that "The additional filter will provide the plant with a firm filtration capacity of 1,200 gallons per minute."⁹

⁶ TR A.0701036_060607_Vol 6.pdf (Thomas Glover) p 469 line 22 - 24

⁷ A.09-01-013, Direct Testimony of Shawn D. Sevey. Larkfield and Sacramento Districts. P8

⁸ A.09-01-013 Direct Testimony of Shawn D. Sevey, Larkfield and Sacramento Districts, page 5, Performed Not Adopted Projects.

⁹ A.09-01-013, Direct Testimony of Shawn D. Sevey, page 8 Lines 16 - 17

In his testimony Mr. Robert E. Heilman States “The water is then treated through two horizontal greensand and anthracite filters. Each filter has a capacity of 600-gallons per minute (gpm).”¹⁰

For clarification we refer to the Rebuttal Testimony of Thomas Glover for rate case A.07-01-037. In that testimony Mr. Glover states: “More specifically, the installation of a third filter at the Larkfield Treatment Plant with a rated capacity of 600 gpm, will provide adequate and appropriate treatment for new and potential well supplies.”¹¹

The current treatment plant has two filters each with a capacity of 600 gpm. Decision D.08-05-018 granted authority for Cal-Am to construct a third 600 gpm filter at the plant for a total capacity of 1,800 gpm.

Ms. Leeper’s statement that we incorrectly compared the total plant capacity for the well system (1,200 gallons per minute) to the safe yield capacity of the wells (500 gallons per minute.)¹² shows that this issue is well over her head.

1,200 gallons per minute is the current capacity of the treatment plant. No one has claimed the capacity of the well system to be 1,200 gallons per minute.

We did not err in comparing the capacity of the wells to the capacity of the treatment plant.

Raw (untreated) water is pumped from the wells. The water is piped in a raw water piping system (separate from the distribution piping system) to the treatment plant.

In his testimony at page 5 lines 1 – 4 Mr. Robert E. Heilman briefly describes the treatment provided at the treatment plant. After treatment at the treatment plant the “finished water” is introduced into the distribution system for delivery to the customers.

The amount of raw water pumped from the wells is the major factor in determining the needed capacity of the treatment plant.

In his testimony Mr. Shawn Sevey states: “Pumping all of the existing groundwater wells for more than a few days causes cascading water conditions with exposed well screens. This

¹⁰ A.09-01-013, Direct Testimony of Robert E. Heilman, page 5 Lines 2 - 4

¹¹ A.07-01-036 – 039, Exhibit 17, Rebuttal Testimony of Thomas Glover, page 26 lines 22 - 24

¹²

a.09-01-013, Reply of California American Water Company (U 210 W) to the Protests of the Division of Ratepayers Advocates and the Mark West Area Community Services Committee, page 4, 2. Faight Road Well.

condition fosters aquifer plugging from bacterial action with negative long term effects. The proximity of the wells to one another causes the wells to ‘interfere’ with one another and not act independently. As a result California American Water has established the total amount of water that can be pumped from all of the wells to a long term ‘safe yield’ of about 0.72 mgd. This ensures that well screens remain submerged and that the adjacent aquifer can recharge at the rate of withdrawal.”

0.72 mgd (720,000 gallons per day) calculates out to be 500 gallons per minute.

The 500 gpm from the wells is currently the only water that must be treated by the treatment plant.

Cal-Am purchases “finished” water from the Sonoma County Water Agency.¹³

The water purchased from the Water Agency is already treated and does not pass through the treatment plant. It is introduced directly into the distribution system.

Adding 150 gpm from the Faught Road Well brings the total water to be treated to only 650 gpm. Even if the Faught Road Well produces 300 gpm the amount of water to be treated is only 800 gpm, well below the current 1.200 gpm capacity. Addition of the additional filter of 600 gpm capacity, approved in D08-05-018 , is not needed and should be removed from the rate base.

Rate Design Settlement

In their response to MWACSC’s Protest Cal-Am makes several false and misleading statements regarding the Settlement Agreement reached by the parties in Rate Case A.07-01-036 et. al.

Cal-Am claims that “MWACSC ignores the fact that the Settlement Agreement adopted in D.08-11-023 specifically provides that California American Water would implement the agreed upon conservation rate design pilot program by February 2009, and that the parties would review and analyze the outcome of the pilot program before considering a five-tier increasing block rate structure in a subsequent GRC.”

That language is to be found no where in the Settlement agreement or in Decision D.08-11-023.

¹³ A.09-01-013, Direct testimony of Shawn D. Sevey, Larkfield and Sacramento Districts, page 10 line 4

The Settlement Agreement provides that: “This Pilot Program will be reviewed in the next General Rate Case (“GRC”) filing. The filing dates for the next GRC are pursuant to D.07-05-062 in the Commission’s Rate Case Plan proceeding.”¹⁴

This same provision is made in Decision D.08-11-023 ¹⁵

It is significant to note that both the Settlement Agreement and the Decision (D.08-11-023) provide for the review to take place in the next rate case and not “in a subsequent rate case” as claimed by Cal-Am.

It is also significant to note that both the Settlement Agreement and the Decision recognize that the next rate case will be filed pursuant to the revised schedule in D.07-05-062.

The Settlement Agreement and Decision D.08-11-023 both require Cal-Am to consider a five tier rate design for the Larkfield District in the next rate case.¹⁶

It should not be necessary to delay implementation of a five tier rate design until after an undefined “evaluation” of the current three tier rate design.

First, any decision modifying the rate design in this rate case will not become effective until sometime in 2010 giving ample time in which to evaluate the current program.

Second, both Cal-Am and The CPUC have experience with tiered rate designs making extensive “evaluation” unnecessary.

Cal-Am has a three tier rate design in its Los Angeles District.¹⁷ It has a five tier rate design in three of its Monterey District Service Areas.¹⁸ And it has a three tier rate design in its Ralph Lane and Chualar sub units of the Monterey District.¹⁹

Cal-Am did implement the three tier rate design within 90 days after a Commission decision adopting the proposed settlement as required by the Settlement Agreement²⁰ and by

¹⁴ Settlement Agreement Between The Division of Ratepayer Advocates, California American Water Company and Mark West Area Community Services Committee on Conservation Rate Design Issues for the Larkfield District, page 3, III Pilot Program, A. Overview, 2.

¹⁵ Decision D.08-11-023, page 6, Section 3.2. Terms of the settlement.

¹⁶ Op. cit. page 3, III Pilot Program, 2. a.

Decision D.08-11-023 page 9, footnote 7.

¹⁷ Tariff Sheet 4690-W Effective May 15, 2008

¹⁸ Tariff Sheet 4846-W, effective Nov. 1, 2008

¹⁹ Tariff Sheet 4437-W, effective December 2, 2006

²⁰ Settlement Agreement Between The Division of Ratepayer Advocates, California American
(continued on next page)

D.08-11-023.²¹ Beyond that they have failed miserably in conforming with the terms of the Settlement Agreement and the terms of D.08-11-023.

The Settlement Agreement and D.08-11-023 both require that the 90 days be used to modify the billing system and to distribute information regarding the new rate design to customers.²²

Notice to customers came after the tiered rate design became effective. In the case of the approximately 50% of the customers who received bills on March first they were notified by letter dated March 10 and which arrived on or about March 13. The other 50% of customers received their bills near the first of February. Presumably their notice was after the fact as well.

As to those “Community Meetings” they claim to have held we take exception. We agree that on four occasions in 2008 Mr. Evan Jacobs, Public Relations Officer for the Larkfield District, and Mr. Anthony Lindstrom, Operations Manager for the Larkfield District, did meet with James Bajgrowicz and James Bouler, members of the MWACSC.

To label those meetings as “Community Meetings” is a gross exaggeration of the scope and content of the meetings. The meetings were held to discuss Cal-Am’s outreach program to inform customers of the three tier rate design, its methods, content and timing.

During those meetings the MWACSC stressed the importance of early notification to customers to allow time for customers to consider and implement water conservation methods if they so desire. Our words obviously fell on deaf ears.

The MWACSC has not and will not assume responsibility for being the sole contact between Cal-Am and its Larkfield Customers. Cal-Am needs to employ other methods of communicating with its customers.

(continued from previous page)

Water Company and Mark West Area Community Services Committee on Conservation Rate Design Issues for the Larkfield District, page 3, III Pilot Program, A. Overview, 2.

²¹ Decision D.08-11-023 page 10, Conservation Rates for Non-Residential Customers, Para 3

²² Same reference as footnotes 7 and 8 above.

Legal Costs

On March 8, 2009 the MWACSC sent a data request to Cal-Am requesting information on their legal expenses. (Copy attached, Exhibit A)

On the due date (March 18, 2009) a telephone call was received from Sarah Leeper stating that portions of the requested information was considered by them to be confidential. Consequently we would need to sign a nondisclosure agreement before the information was furnished. Cal-Am's attorneys have forwarded a nondisclosure agreement which is still under review by MWACSC.

The subject of legal expenses was raised in the testimony of David P. Stephenson²³ Therefore it is a subject that should be included in this proceeding. Mr. Stephenson stated that the estimated legal costs for this GRC would be approximately \$1,500,000.²⁴

In their reply to the MWACSC protest Cal-Am stated that our assertions regarding Legal Expenses were made without any basis in fact or law. They then proceed to establish, through a "Nondisclosure Agreement" a "Catch 22" in which any specific information available could not be used in an open filing. It is obvious that our request was for information Cal-Am's attorneys do not wish the Ratepayers to have.

Also in their reply Cal-Am states "As an initial matter, California American Water has every right to retain attorneys to represent the company's interests in this GRC, to recover prudently-incurred costs as part of its regulatory expense, and to update the regulatory expense as necessary."²⁵

The MWACSC does not dispute the company's right to retain attorneys to represent the company's interests. If the company were paying the costs we would not dispute the amount.

What we do dispute is the company's right to pass to ratepayers any costs incurred by the company for any reason, in any amount and without limits.

We further question whether such exorbitant costs were "prudently-incurred".

We take note of the fact that the cover sheet of documents filed by Cal-Am lists three attorneys for this rate case which raises the question of why so many attorneys are needed,

²³ A.09-01-013, Testimony of David P. Stephenson, page 6, E. Regulatory Expense..

²⁴ Ibid.

²⁵ Ibid..

particularly, attorneys with such lofty billing rates. The Cal-Am account apparently offers full employment for Manatt, Phelps and Phillips, LLP.

The attorneys listed on the cover sheet does not reveal how many other attorneys are charging hours against this GRC nor of the army of paralegals clericals etc that are charging time also..

Even if, as claimed by Cal-Am, the hourly billing rate is more in the order of “approximately \$400 per hour”²⁶ the costs are too high. \$400 per hour should secure the services of a competent attorney who could provide all legal services necessary with possibly an occasional consultation with another attorney. Three or more attorneys at such high hourly rates is beyond reason.

It is difficult to determine how the company’s legal costs could be determined to be of benefit to ratepayers. Ratepayers have a right to question why such costs should be passed to ratepayers.

The subject of Regulatory Expense, in particular Legal Costs, should be thoroughly explored by the Commission and brought under control.

Respectfully Submitted

/S/ JAMES M. BOULER

James M. Boulter

Member: Mark West Area Community Services Committee

²⁶ A.09-01-013, Reply of California American Water Company (U210-W) to the Protests of the Division of Ratepayer Advocates and the Mark West Area Community Services Committee, 5. Regulatory Expense, page 7

CERTIFICATE OF SERVICE

I hereby certify that I have this day, March 20, 2009, served the within

**PREHEARING CONFERENCE STATEMENT OF THE MARK WEST AREA
COMMUNITY SERVICES COMMITTEE**

on the interested parties in this action by transmitting this document electronically from my home at 133 Eton Court, Santa Rosa, California 95403 to the electronic e-mail addresses listed on the attached service list.

In addition to the e-mail service list I have filed the above document, in PDF/A format, electronically by transmitting the same to the Docket Office of the California Public Utilities Commission at [HTTP://EFILE.CPUC.CA.GOV](http://efile.cpuc.ca.gov) .

I hereby certify that the original, signed copy, of the above document is available for review and copying at the request of the Commission or any party.

Executed at Santa Rosa, California, March 20, 2009

/S/ JAMES M. BOULER
James M. Bouler

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