

**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 by \$4,134,600 or 2.55% in the year 2011, by \$33,205,800 or 19.68% in the year 2012, by \$9,897,200 or 4.92% in the year 2013, and by \$10,874,600 or 5.16% in the year 2014..

A.10-07-007
(Filed July 1, 2010)

**MOTION BY TOWNE DEVELOPMENT OF SACRAMENTO, INC.
FOR RULING RE-OPENING COMMENT PERIOD FOR
PROPOSED SETTLEMENT**

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County area. As such, Towne will be significantly affected by the new Special Facilities fee proposed by California-American Water Company (“Cal-Am”).

Towne is well known to Cal-Am and the West Placer County community, and has worked with Cal-Am specifically with regard to Towne’s development projects in the area. Notwithstanding this relationship, Towne did not learn of Cal-Am’s proposed changes to its Special Facilities fee until August 23, 2011.

By contrast to the effort that Cal-Am made to advise and obtain input from developers before proposing the original Dry Creek Special Facilities fee that was approved by the Commission in Decision (D.)02-06-054, Cal-Am provided no notification to Towne or, to Towne’s knowledge, other developers of the instant proposal to increase that charge by 800% and to extend its coverage to additional areas. The newspaper notice published by Cal-Am (see attachments to California-American Water Company (U210W) Compliance Filing, dated July 20, 2010) made no mention of this huge increase. Instead, the notice indicated that Cal-Am was proposing to implement increases in rates over a three-year period to recover annual increases in revenue requirements of 22.83%, 6.73%, and 7.09%, respectively. The notice stated that the impacts on specific customers “will likely be different” and that Cal-Am would provide customers with notice of its proposed rate design in a subsequent billing notice. But, clearly, this notice was not sufficient to alert Towne or other property owners and developers of Cal-Am’s dramatic proposed changes to the Special Facilities fee.

Moreover, in the year before filing the instant application, Cal-Am filed an application for the specific purpose of modifying the Dry Creek Special Facilities fee, but “only” by 202%. That application, A.09-05-008, was clearly styled “In the Matter of the Application of California-American Water Company (U210W) for an Order Authorizing the Adjustment of the

Dry Creek Developers Special Facilities Fee within a portion of the West Placer Service Area of the Sacramento District.” By that caption, developers and other interested property owners would have known immediately that their interests were at stake, which is not the case here.

Whether Cal-Am’s departure from its earlier notice procedures was intentional or inadvertent, Towne believes that Cal-Am’s failure to provide clear notice of its proposal was unreasonable under the circumstances. Based on past procedures, developers and property owners were entitled to expect that they would be brought into the loop before Cal-Am made any changes to the Dry Creek Special Facilities fee, much less changes of the magnitude now being proposed. Indeed, in work papers recently obtained by Towne, the “Project Description and Justification Document” for the Walerga Road Tank Booster Pump Station and Pipeline (dated March 2010) makes specific reference to Towne; Towne, however, received no notice of Cal-Am’s proposal to recover the cost of the project from higher fees assessed to Towne.

As a consequence of Cal-Am’s failure to consult with or at least provide appropriate notice to Towne and other affected property owners and developers, Towne believes that substantial errors in Cal-Am’s proposal have not yet been brought to light and were not considered in the pending settlement agreement. Towne has not had an adequate opportunity to obtain and review the documentation and data submitted by Cal-Am to the Commission staff and other parties in support of its proposal. However, from the documentation that Towne has been able to review, Towne has discovered, for example, that Cal-Am understated the projected number of development units that would potentially be subject to the fee, which results in the proposed fee being excessive, on a per unit basis. Towne expects, upon review, that other substantial errors will be found.

Further, Towne questions whether developers and other property owners should

be responsible, in any event, for fully reimbursing Cal-Am for its investment in the proposed facilities. Cal-Am's application indicates that a primary reason for modifying the Special Facilities fee is that its projections for West Placer County development have fallen dramatically since the fee was first instituted. Cal-Am's investors, under traditional regulatory principles, should bear the risk of this change in conditions, not its present or future customers. Indeed, this policy was cited by the Division of Ratepayer Advocates ("DRA") as the basis for its June 12, 2009, protest to A.09-05-008, by which, as noted above, Cal-Am proposed to shift the West Placer County development risk to its customers by raising the special facilities fee by 202% and recovering remaining costs in general rates. Nothing has changed since 2009 that would warrant diversion from this long-standing, traditional regulatory policy.

Accordingly, Towne submits that, under the foregoing circumstances, it would be inequitable and otherwise inappropriate to allow the proposed stipulation as to the Special Facilities fee to go forward for adoption by the Commission at this point. Instead, Towne urges that the comment period on this portion of the settlement be re-opened to allow: (1) proper notice of the proposed increase in the Special Facilities fee be given to all affected entities; (2) Towne, and other interested parties, a reasonable opportunity to examine all data and information supporting the proposed fee increase; and (3) presentation of alternative proposals and supporting evidence.

CONCLUSION

For the reasons set forth above, Towne respectfully requests that the Commission issue a ruling re-opening the comment period on the proposed settlement with respect to the Special Facilities fee for a reasonable, extended period of time.

Respectfully submitted September 14, 2011 at San Francisco, California.

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