Decision **PROPOSED DECISION OF ALJ ROCHESTER** (Mailed 12/3/2010)

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of California-American Water Company (U210W) for Modification and Clarification of Resolution No. W-4803.	Application 10-07-002 (Filed July 1, 2010)

DECISION APPROVING A STAGED WATER CONSERVATION PLAN FOR CALIFORNIA AMERICAN WATER COMPANY

Summary

This decision approves the Staged Water Conservation Plan for California American Water Company's Larkfield District, Coronado District, Village District and the Baldwin Hills, Duarte, and San Marino Service Areas of the Los Angeles District. The provisions of Tariff Schedules 14.1, attached to this decision as Attachments A through G, were developed through a workshop facilitated by the assigned Administrative Law Judge and participated in by the Division of Ratepayer Advocates and California American Water Company. This proceeding is closed.

Background

From June 2009, to September 2009, California American Water Company (Cal Am) filed Advice Letters 766-W, 767-W, 769-W, 770-W through 775-W, 784-W, 786-W, and 800-W through 802-W (Advice Letters). The Advice Letters

requested approval to establish Tariff Schedules 14.1 for its Southern Division[1] and Larkfield districts to address mandatory rationing measures necessary to meet water use reductions imposed by the Metropolitan Water District of Southern California (MWD)[2] and the Sonoma County Water Agency, respectively. In the Advice Letters Cal Am proposed revisions to its Tariff Schedules 14.1 to prohibit certain water use activities during declared rationing periods. Customers who violate those restrictions face flat-rate penalties.[3] Cal Am states that the proposed structure for implementing mandatory customer conservation and rationing measures based on specific non-essential water use restrictions offers the most efficient and easily understandable method for meeting the mandatory water reductions imposed by its water wholesalers.

On November 20, 2009, the Commission issued Resolution No. W-4803 (Resolution) in response to Cal Am's Advice Letters. The Resolution requires Cal Am to establish individual customer allocations based on each customer's historical usage and penalty amounts based on a customer's usage above the specific allotment in a billing period. The Resolution also requires Cal Am to develop an appeal process for customers to adjust their individual allotments. Finally, the Resolution requires Cal Am to establish the activation of specific

---

[1] Cal Am's Southern Division tariff areas are Los Angeles (Baldwin Hills, Duarte and San Marino), Coronado and Village. In Application 10-07-007, Cal Am proposes to change the names of the Coronado and Village districts to San Diego County and Ventura County respectively.

[2] The WMD issued declarations to Cal Am to reduce its allocations to 15% below its 2004-2006 historical usage or face penalties.

[3] A flat rate penalty is a fixed amount assessed per violation rather than a sliding scale penalty based on the severity of the violation.

rationing stages based on a determination in each service area of total water supply availability and customer demand.

On July 1, 2010, Cal Am filed an application to modify the Resolution. Cal Am asserts that the Resolution went beyond the scope of its Advice Letters, rejecting Cal Am's proposed structure and instead required a completely different methodology for implementing the mandatory conservation measures. Cal Am states that the Resolution resulted in a conservation program that Cal Am did not ask for and cannot feasibly implement.

In its application, Cal Am asserts that its customer billing system is not able to handle the individual customer allocations based on customer historical usage and estimates the updates required for the billing system would cost in excess of $500,000. Cal Am anticipates that its billing system will be replaced in the next five years and the cost and effort necessary to implement the changes required by the Resolution would be useless following the update. Cal Am states that implementing an individual allocation program will be easier and less costly if it is done in conjunction with the replacement of its current billing system. Cal Am's application includes a request that the Commission allow it to implement changes to its tariff schedules without filing advice letters and to establish memorandum accounts to track the costs and fines collected from customers related to the implementation of mandatory conservation measures and the costs of any penalties imposed by its water wholesalers.

On July 23, 2010, the assigned Administrative Law Judge (ALJ) was contacted by Cal Am and the Division of Ratepayer Advocates (DRA). Cal Am and DRA indicated that there was agreement on the majority of the issues in this case and they believed no evidentiary hearings would be necessary as the remaining few issues could be resolved via a workshop.

On August 4, 2010, an ALJ ruling was issued setting August 17, 2010 as the date for the prehearing conference (PHC). As requested by the parties, the ruling also scheduled a workshop immediately after the PHC. The ruling requested that Cal Am prepare tariff pages reflecting the changes being sought and serve them no later than August 13, 2010. The ruling also asked Cal Am to provide a laptop computer for the workshop with electronic versions of its proposed tariff pages in a format allowing revisions to be incorporated during the workshop.

Protests to Cal Am's application were due on August 5, 2010. DRA timely filed a protest supporting Cal Am's requests to eliminate the individual customer allocation and penalties based on the allocations and modify the appeal process to apply to penalties imposed for water use violations rather than customer allocation violations. DRA partially supports Cal Am's third request to eliminate the requirement that Cal Am determine the activation of mandatory conservation stages based on district-specific water supply availability and customer demand. DRA recommends that the Commission order Cal Am to include documentation justifying the activation of any particular stage of mandatory rationing and the documentation should include information regarding water supply cutbacks from wholesalers or reductions to Cal Am's own pumped water. In addition, DRA recommends that the documentation include information regarding historical demand that exceeds anticipated supply.

DRA does not oppose the establishment of memorandum accounts to track the costs and fines collected from customers related to implementation of mandatory conservation measures and the costs of any penalties imposed by Cal Am's water wholesalers. DRA also suggests that rather than modifying the Resolution, the Commission adopt a new decision approving the tariff sheets attached to its protest.

On August 13, 2010, Cal Am provided hard copies of its proposed Tariff Schedules 14.1 that incorporated DRA's agreed-upon changes. On August 17, 2010, the workshop was held immediately following the PHC. The issues remaining to be resolved were consistency between the Larkfield District and the Southern Division regarding the fine structure for violations and flow restrictor removal fees. Also at issue was the language authorizing the memorandum accounts; specifically the effective date, the termination date and the disposition. Participants worked together to develop the required language on these topics and revised the proposed tariff schedules according to the agreed-upon changes. At the conclusion of the workshop, Cal Am and DRA agreed to file a joint statement of the parties' positions on all of the issues discussed at the workshop and include the revised Tariff Schedules 14.1.

On August 30, 2010, Cal Am and DRA jointly filed the workshop report which is available at http://cpuc.ca.gov/efile/REPORT/122980.pdf. Cal Am and DRA are the only parties to this proceeding.

Discussion

Cal Am states that the conservation plan requirements imposed by the Resolution use an entirely different methodology and go beyond what was sought in its Advice Letters filed between June and September 2009. Cal Am claims that developing individual customer usage data, penalty amounts based on usage, an appeal process, and activating rationing stages based on a determination of water supply and demand in each service area would cost in excess of $500,000 to implement, effort and expense that would be useless if the current billing system is replaced.

We agree with Cal Am that the mandatory rationing measures contained in the Resolution could not be implemented without considerable effort and

costly changes to its current billing system. We also agree that such changes would be more easily implemented during the development of a new billing system, which Cal Am anticipates will occur in the next five years. Although more difficult and costly to implement, we believe the conservation plan and penalties contained in the Resolution that were based on individual customers' past water use may result in more equitable treatment of customers, and should be revisited in Cal Am's next general rate case. To that end, Resolution W-4803 is stayed and Cal Am should include a review of its staged water conservation plan, any proposed billing system updates and their impact on implementation of the Resolution's requirements in its next general rate case scheduled to be filed in 2013.

Cal Am initially asked the Commission to allow it to revise its tariff pages, without filing additional advice letters, to reflect a staged water conservation plan more in line with the original proposal contained in its Advice Letters.[4] In its protest, DRA suggests that the Commission issue a new decision approving the tariff pages attached to its protest.

At the workshop held on August 17, 2010, Cal Am and DRA resolved all the remaining issues and incorporated the necessary revisions into the proposed Tariff Schedules 14.1 that were filed as part of the joint workshop report. Cal Am and DRA's proposed revisions are based on the measures contained in Cal Am's Advice Letters; prohibiting certain water use activities during declared rationing and imposing flat rate penalties for customers who violate the restrictions.

---

[4] Although the point is moot since this issue has since been dropped, revised tariff pages must be filed with the Commission, and pursuant to General Order 96-B, that is done by filing an Advice Letter.

Cal Am's proposed water use restrictions and penalties are easily implemented and will likely achieve the required water conservation when rationing is necessary.

The tariff pages are included here as Attachments A through G. The mandatory water conservation measures developed at the workshop and contained in the attached Tariff Schedules 14.1 are reasonable and therefore approved.

Cal Am requests authority to establish memorandum accounts to track the administrative and operating costs and fines collected from customers related to the implementation of mandatory conservation measures and the costs of any penalties imposed by its water wholesalers. To date, Cal Am has not incurred any penalties from its water wholesalers, but the current water year does not end until June 30, 2011, so the possibility of penalties still exists. DRA does not oppose the request for memorandum accounts. The request is reasonable as there will be administrative and operational costs and fines collected from customers associated with the implementation of the mandatory conservation measures and potential penalties from Cal Am's water wholesalers. Therefore we grant Cal Am's request to establish memorandum accounts to track the incremental costs resulting from implementing mandatory conservation measures and any penalties assessed by its water wholesalers as well as any penalties collected from its customers.

Unless specified otherwise, authorization of memorandum accounts does not mean that the Commission has decided that the types of costs to be recorded in the accounts should be recoverable in addition to rates that have been otherwise authorized, e.g., in a general rate case. Instead, the utility shall bear the burden when it requests recovery of the recorded costs, to show that: the

costs have not been recovered through otherwise authorized rates; recovery of the types of costs recorded in the accounts -- in addition to otherwise authorized rates -- is reasonable; the utility acted prudently when it incurred these costs; and the level of costs is reasonable. Thus, Cal Am is reminded that just because the Commission has authorized memorandum accounts does not mean that recovery of costs in the memorandum accounts from ratepayers will be approved.

Categorization and Need for Hearing

In Resolution ALJ 176-3257 dated July 8, 2010, the Commission preliminarily categorized this application as ratesetting, and preliminarily determined that hearings are necessary. On July 23, 2010, parties contacted the ALJ stating they believed evidentiary hearings would not be necessary as they had reached agreement on most issues and the remaining issues could be resolved through a workshop. Therefore, the preliminary determination of ratesetting is confirmed and the preliminary determination that hearings were needed in this proceeding has been changed to no hearings needed.

Comments on Proposed Decision

The proposed decision of ALJ Linda A. Rochester was mailed to the parties on December 3, 2010. Cal Am and DRA agreed to a reduced comment period. Opening comments were filed on December 8, 2010 and reply comments were filed on December 13, 2010, by Cal Am. Edits have been incorporated to correct typos, clarify language and provide consistency in terms through the decision and attachments.

Assignment of Proceeding

John A. Bohn is the assigned Commissioner and Linda A. Rochester is the assigned Administrative Law Judge in this proceeding.

Findings of Fact

1. The mandatory rationing measures contained in the Resolution are not easily implemented without considerable effort and costly changes to Cal Am's current billing system.

2. The mandatory rationing measures contained in the Resolution would be more easily implemented during the development of a new billing system which Cal Am anticipates will occur in the next five years.

3. Implementing the mandatory rationing measures contained in the Resolution is not reasonable at this time.

4. The conservation plan and penalties contained in the Resolution were based on individual customers' past water use, and may result in more equitable treatment of customers.

5. Including a review of Cal Am's staged water conservation plan, any proposed billing system updates and their impact on implementation of the Resolution's requirements in its next general rate case, due to be filed in 2013, is reasonable.

6. The Tariff Schedules 14.1included in Attachments A through G are a result of an ALJ-facilitated workshop in which DRA and Cal Am resolved all outstanding issues regarding the mandatory water conservation measures.

7. The provisions for mandatory water conservation measures, contained in Tariff Schedules 14.1, are reasonable.

8. Cal Am's request to establish memorandum accounts to track the incremental costs resulting from implementing mandatory water conservation measures and any penalties assessed by its water wholesalers as well as any penalties collected from its customers is reasonable and should be granted.

Conclusions of Law

1. Tariff Schedules 14.1, included as Attachments A through G to this decision, implementing a staged water conservation plan should be approved, including establishing memorandum accounts to track the incremental costs resulting from implementing mandatory conservation measures and any penalties assessed by its water wholesalers as well as any penalties collected from its customers.

2. Cal Am should include updating its billing system and a review of its staged water conservation plan in its next general rate case due to be filed in 2013.

3. Because Cal Am's billing system is unable to cost effectively implement the requirements of Resolution W-4803 at the present time, the resolution is stayed.

O R D E R

IT IS ORDERED that:

1. California American Water Company is authorized to file a Tier 1 Advice Letter submitting Tariff Schedules 14.1, included as Attachments A through G, providing for the staged water conservation plans and associated memorandum accounts for California American Water Company's Village District, Coronado District, Larkfield District, and the Baldwin Hills, Duarte, and San Marino service areas of its Los Angeles District. The tariff pages shall become effective upon filing.

2. California American Water Company may seek recovery of the expenses booked to the memorandum accounts in its next general rate case or by filing Tier 3 advice letters. Authorization of the memorandum accounts does not guarantee recovery of expenses booked to the accounts. California American

Water Company shall have the burden of establishing that: the costs recorded in the memorandum accounts have not been recovered through otherwise authorized rates; recovery of the types of costs recorded in the accounts -- in addition to otherwise authorized rates -- is reasonable; the utility acted prudently when it incurred these costs; and the level of costs is reasonable.

3. California American Water Company shall include a review of its staged water conservation plan, any proposed billing system updates and their impact on implementation of Resolution No. W-4803's requirements in its next general rate case due to be filed in 2013.

4. The preliminary determination regarding the need for hearing is changed from yes to no. Hearings are not necessary.

5. Resolution W-4803 is stayed pending further action of the Commission.

6. This proceeding is closed.

This order is effective today.

Dated _____, at San Francisco, California.