

PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298



Draft Resolution No. W-4750
Agenda ID #8328

February 23, 2009

TO: Interested Parties to California American Water Company's Advice Letter No. 713-A

Enclosed is draft Resolution W-4750 of the Division of Water and Audits. It will be on the Commission's March 26, 2009 agenda. The Commission may then act on this Resolution or it may postpone action until later.

When the Commission acts on the draft resolution, it may adopt all or part of it as written, amend or modify it, or set it aside and prepare a different resolution. Only when the Commission acts does the resolution become binding on the parties.

Parties to this matter may file comments on this draft resolution. An original and 2 copies of the comments, with a certificate of service, should be submitted to:

Division of Water and Audits, Third Floor
Attention: Ravi Kumra
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102

Parties may submit comments on or before March 16, 2009. The date of submission is the date the comments are received by the Division of Water and Audits. Parties must serve a copy of their comments on all persons on the service list attached to the draft Resolution, on the same date that the comments are submitted to the Division of Water and Audits.

Comments shall be limited to five pages in length plus a subject index listing the recommended changes to the draft resolution, a table of authorities and appendix setting forth the proposed findings and ordering paragraphs.

Comments shall focus on factual, legal, or technical errors in the draft resolution. Comments that merely reargue positions taken in the advice letter or protests will be accorded no weight and are not to be submitted. Late submitted comments will not be considered.

Replies to comments may be submitted on or before March 23, 2009 and shall be limited to identifying misrepresentations of law, fact, or condition of the record contained in the comments of other parties. Replies shall not exceed three pages in length and shall be submitted and served in the same manner as comments.

/s/ RAMI KAHLON

Rami Kahlon, Director
Division of Water and Audits

Enclosures: Draft Resolution W-4750
Certificate of Service
Service List

DWA/JB5/RKK:jrb

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

DIVISION OF WATER AND AUDITS
Water and Sewer Advisory BranchRESOLUTION NO. W-4750
March 26, 2009R E S O L U T I O N

(RES. W-4750), CALIFORNIA AMERICAN WATER COMPANY (CAL AM). ORDER CONDITIONALLY AUTHORIZING A RATE BASE OFFSET OF \$3,124,799 AND REJECTING TARIFF SCHEDULES ATTACHED TO ADVICE LETTER NO. 713-A.

SUMMARY

By Advice Letter (AL) 713-A filed on November 21, 2008, California American Water Company (Cal Am) requests a revenue increase of \$443,622, or 1.31%, to provide a return on the addition to its rate base of \$3,124,799 for the Arsenic Treatment Projects at Ambler Park (Ambler Plant) and Luzern Well No. 2 (Luzern Project) (together Arsenic Treatment Projects).

This resolution conditionally grants Cal Am's request for a ratebase offset for the Arsenic Treatment Projects. Cal Am should file a Tier 2 advice letter requesting recovery in rates for the water treatment portion of the Arsenic Treatment Projects after it receives "certification of compliance" (Certification) from the California Department of Public Health (CDPH) that the plant meets Federal and State Drinking Water Standards. After receiving Certification from CDPH that the Ambler Plant has satisfied the CDPH's Water Supply Permit requirements for waste disposal, Cal Am may file a Tier 2 advice letter requesting recovery in rates capped at \$405,201.

BACKGROUND

Cal Am provides water services to approximately 39,000 residential, commercial, and industrial customers in the Monterey District.

Decision (D) 06-11-050, Ordering Paragraph (OP) 5, states in relevant part:

"Cal Am is authorized to file advice letters seeking Commission authorization for rate offsets in the Monterey district for the following capital projects when each has been completed and placed in service no earlier than the year indicated and at costs not to exceed those indicated:

- c. Arsenic Treatment Project, test year 2006, maximum cost of \$3,530,000.”

The Arsenic Treatment Project consists of: The Ambler Plant and the Luzern Project. Drinking water from the Arsenic Treatment Projects has to be compliant with revised Federal and State safe drinking water standard for Arsenic. The Federal and State standard requires that the maximum contaminant level (MCL) for Arsenic should be less than 0.010 mg/L or 10 parts per billion (ppb) (revised arsenic standard).

Ambler Plant

The Cal Am – Ambler Park water system is located adjacent to the south side of State Highway 68 approximately ten (10) miles west of the city of Salinas. The water system provides drinking water to the residential areas of Ambler Park, Rimrock, and Corral de Tierra. The water system is classified as a community water system that uses groundwater to provide drinking water to an estimated population of 1,109 through 396 metered service connections.

Water quality testing at the Ambler park wells indicated that the maximum levels of arsenic, iron and manganese exceeded the MCL levels that are permitted by Federal and State safe drinking water standard. The Ambler Plant provides treatment for the removal of iron, manganese, and arsenic from raw ground water through a “single pass” filtration process manufactured by Pureflow. The disinfection is accomplished through sodium hypochlorite injection. The design flow through the treatment plant is 600 gallons per minute. The Ambler Plant has been in operation since September 15, 2008.

The project description approved by the Commission required the Ambler Plant to include disposal of residuals from the plant.¹ At present, Cal Am is unable to provide an estimate of capital costs or ongoing costs associated with a solids waste or sludge handling facility as it has not finalized the design. The company has indicated that it

¹ California-American Water Company, Monterey Division, Arsenic Removal Facilities, Investment Project 02-085 (A.02-04-022):

“..... Several technologies will be considered and pilot tested to find the most cost-effective process. One of the technical challenges of the project is the disposal of residuals. Pilot testing will include residual characterization and an evaluation of disposal options..... Detailed design will be undertaken after selection of a treatment technology based on the results and conclusions of the pilot testing program. The design will allow for an automated operation of the treatment facilities, proper handling of residuals, and monitoring from a remote location.”

plans to recover costs associated with this portion of the project in its next General Rate Case (GRC) filing.²

Luzern Project

The Luzern Well is located in Seaside. Records indicate that the arsenic level from the well was in the 10 to 13 parts per billion (ppb) range. A blending station was selected as the preferred alternative to comply with the revised arsenic standard by mixing raw water from the Luzern Well with treated water from the Seaside Ozone Plant. Cal Am indicates that the Luzern Project is complete.

In AL 713 and AL 713-A, Cal Am is requesting recovery of \$3,124,799 for the Arsenic Treatment Projects. Cal Am seeks recovery of these costs through a revenue requirement increase of \$443,622 or 1.3%. Cal Am proposes to recover a portion of the increase through a quantity surcharge of \$0.0474 per 100 cubic feet. The remaining balance would be recovered through a meter-based surcharge.

Ambler Plant Permit Requirements

The CDPH issued a Water Supply Permit (Permit) to Cal Am on March 19, 1994 for the Ambler Plant. This Permit was later amended on August 25, 2008.³ The following are relevant provisions from the Permit:

- “1) The Cal Am Ambler Park District water system shall comply with all requirements set forth in the California Safe Drinking Water Act, California Health and Safety Code and any regulations, standards or orders adopted there under.”
- “2) All water supplied by the Cal Am Ambler Park water system for domestic purposes shall meet all state and federal drinking water standards.”
- “31) Cal Am must conduct quarterly analysis of the arsenic sludge waste to determine the chemical characteristics to establish whether the sludge meets the criteria for disposal at the Monterey Regional Waste

² “Additional capital costs for sludge handling facilities are under alternative review. Operating costs are dependent on the characterization of the sludge..... It is anticipated that sludge handling alternative improvements will be analyzed with a preferred alternative selected and included under the next General Rate Case submission.” Cal Am response to Division of Water and Audits Data Request, dated December 11, 2008.

³ Amendment to the Domestic Water Supply Permit issued to California American Water – Ambler Park District, Original permit: 84-013, Permit Amendment: 01, dated August 25, 2008.

Management District (MRWMD) landfill. If the sludge passes the characterization testing, Cal Am will dispose of the sludge with MRWMD. If the sludge fails to meet the criteria for disposal at the MRWMD landfill, Cal Am must dispose of the arsenic sludge at a licensed landfill approved to accept the characterized waste.”

In addition to the above, Cal Am is required to submit reports related to treatment plant operations, appropriateness of the media used in the plant and water quality testing and reporting.

COMPLIANCE

Cal Am has no outstanding compliance orders with the Commission. There are no Commission orders requiring system improvements. The utility has been filing annual reports as required.

CDPH issued Cal Am a “Citation for Noncompliance” (Citation) for the Ambler Plant on December 31, 2008.⁴ According to the Citation, Cal Am failed to comply with the monitoring and reporting requirements listed in its permit to operate the Ambler Plant. CDPH classified the violations as “continuing violations”. CDPH directed Cal Am to rectify the violations through specific corrective actions to comply with the Permit provisions. Additionally, Cal Am was required to issue public notifications to its customers regarding the violations. CDPH did not impose any civil penalties for failure to comply with the Permit provisions in the Citation. The violations are listed below:

- Cal Am did not timely submit an operations plan for approval by CDPH as required by Permit provision No. 9.⁵

⁴ “Monitoring and Reporting Violations – September, October, and November 2008; Ambler Park District – Water system No. 2710006”, Letter from Gary D. Hoffman, P. E., Acting District Engineer, Monterey District, Drinking Water Field Operations Branch, California Department of Public Health to Craig Anthony, General Manager, California American Water – Ambler park, December 31, 2008 re: Citation No. 02-05-08C-013.

⁵ 9) Cal Am must submit an Operations Plan for the iron, manganese, and arsenic treatment to the Department within sixty (60) days after initiation of treatment plant operation for approval. Cal Am must operate the treatment facilities in accordance with the approved plan. The operations plan must be completed in conformance with the Department’s guidelines and include as a minimum the following elements:

- a) A description of the unit process operations procedures.
- b) A description of the operations record that will be kept
- c) A description of the reliability features, alarms, and operator notification procedures.

- Cal Am did not timely submit documentation to CDPH that the filter vessel media used at the Ambler Plant was certified as meeting required specifications as required by Permit provision No. 13.⁶
- Cal Am did not submit monthly water production reports for each well for September, October and November 2008 as required by Permit provision No. 15.⁷
- Cal Am did not submit water quality summarizing/analyzing monitoring results for the first two weeks of the Ambler Plant operations to CDPH as required by Permit provision No. 16.⁸
- Cal Am did not submit the draft turbidity-arsenic correlation evaluation report during the first two weeks of the Ambler Plant operations to CDPH in violation of Permit provision No. 18.⁹
- Cal Am did not submit weekly monitoring results for effluent from the Ambler Plant for iron, manganese, and arsenic to CDPH during the initial three months of arsenic removal plant operations in violation of Permit provision No. 20.¹⁰

⁶ 13) Cal Am must submit documentation showing that the filter vessel media is certified as meeting the specifications of ANSI/NSF Standard 61, to the Department by September 20, 2008.

⁷ 15) Cal Am must submit monthly production reports for each active well to the Department by the tenth day following completion of the previous month. The monthly report must include daily meter readings and water production data.

⁸ 16) Cal Am shall conduct the following water quality monitoring during the initial two (2) weeks of treatment plant operations. The influent and effluent turbidity reading must be recorded at the time the combined influent and filter effluent arsenic samples are collected. Cal Am must submit a written report of the monitoring results to the Department no later than ten (10) days after completion of the sampling.

⁹ 18) Cal Am must conduct a turbidity-arsenic correlation evaluation to establish the relationship between filter effluent turbidity and arsenic concentration. The evaluation must be conducted during the initial two (2) weeks of treatment plant operation and be based on monitoring results collected from the treatment plant. A draft report of the finding must be submitted to the Department no later than ten (10) days after completion of the 2-week evaluation.

¹⁰ 20) Cal Am shall conduct weekly monitoring of the treated effluent for iron, manganese, and arsenic during the initial three (3) months of operation and report the results electronically to the Department by the tenth (10th) day of the month following the sample, except as provided in Provision Nos. 16 and 17.

- Cal Am did not submit monthly raw water monitoring results for three production wells for iron, manganese, and arsenic to CDPH for September, October and November 2008 in violation of Permit provision No. 22.^{11 12}
- Cal Am did not submit analytical results for iron, manganese and arsenic samples collected at the Ambler Plant influent to CDPH in violation of Permit provision No. 23.¹³

Cal Am responded to CDPH's Citation on January 14, 2009.¹⁴ CDPH is evaluating the submitted information. CDPH will issue a "certification of compliance" (Certification) to Cal Am after its review indicates that the utility has complied with the Permit provisions.

NOTICE AND PROTESTS

In compliance with General Rule 4.3 of General Order 96-B, a copy of this advice letter was mailed to all interested and affected parties listed in AL No. 713 on October 30, 2008. On January 2, 2009, DRA filed a "late filed" protest to the two AL's. On January 7, 2009, DRA filed a "Supplement to its Late Filed Protest". Cal Am filed a response to DRA's protests on January 15, 2009.

In its "Late Filed Protest", DRA states that it filed the protest late because it did not receive information from Cal Am in a timely manner. DRA recommends that the Commission should reject the two AL's and order Cal Am to file an AL when the project is complete according to the scope originally approved by the Commission in A.02-04-022. As an alternative, DRA states that if the Commission accepts the AL's, the

¹¹ 22) Cal Am must conduct monthly monitoring of raw water from well Nos. 4, 5, and 6 for iron, manganese, and arsenic, and report the results electronically to the Department by the tenth (10th) day of the month following the sampling, except as provided in Provision Nos. 16, 17, 20, and 21.

¹² 17) Cal Am shall conduct the following water quality monitoring for a period of two (2) weeks when the source of water entering the treatment plant changes or additional sources are brought on-line. The turbidity reading must be recorded at the time the combined influent and filter effluent arsenic samples are collected. Cal Am must submit a written report of the monitoring results to the Department no later than ten (10) days after completion of the sampling.

¹³ 23) Cal Am must conduct monthly monitoring of the combined treatment plant influent, after recycled flow addition, for iron, manganese, and arsenic and report the results electronically to the Department by the tenth (10th) day of the month following the sampling except as provided in Provision Nos. 16, 17, 20, and 21.

¹⁴ Letter from Leslie Q. Jordan, Water Quality Superintendent, California American Water to Gary Hoffman, P. E., Acting District Engineer, Monterey District, California Department of Public Health, Drinking Water Field Operations Branch, January 14, 2009.

Commission should order Cal Am to complete the delayed items at a capped total of no more than \$405,201, the difference of the original approved amount and the amount that Cal Am is seeking recovery of in the two AL's. In its "Supplement to its Late Filed Protest", DRA requests the Commission to reject ALs 713 and 713-A because of the Citation received from CDPH. DRA states that because of non-compliance with the CDPH Permit requirements, the Ambler Plant is not "used and useful. DRA recommends that Cal Am should be ordered to re-submit the AL on completion of the project scope as originally approved by the Commission in A.02-04-022, and meeting full compliance with CDPH Permit requirements.

In its response to DRA's protests, Cal Am states that DRA's assertions are not based on fact and should be rejected. Specifically: (1) DRA fails to explain how the requested rate base offset violates the Commission's long-standing "used and useful" principle; (2) CDPH permit violations only relate to administrative and reporting tasks and have nothing to do with day to day operations of providing safe, reliable, and potable water service to customers; and (3) Cal Am should be able to recover the costs of the solids waste handling facility in its next GRC.

Cal Am states that the Ambler Plant has been operating since September 2008. Cal Am contends that the Ambler Plant continues to treat and successfully remove arsenic from groundwater to acceptable regulatory levels and provides adequate, clean and safe potable drinking water to its customers. Therefore, Cal Am claims the plant is "used and useful".

Cal Am indicates it will develop the preferred alternative for solids handling at the Ambler Plant and submit it in its next GRC. Cal Am states that it would be premature for it to determine the preferred alternative for solids handling at the Ambler Plant before it has generated the first batch of solids/residuals. Cal Am states this will take approximately three to six months from the Ambler Plant start date. Cal Am indicates that the cost of the solids handling facility is not within its control and may increase after the most appropriate alternative for handling the solids waste from the plant has been selected.

DISCUSSION

DRA's "late filed" protest should be accepted. DRA did not receive information from Cal Am in a timely manner. Similarly, DRA's Supplement to its "late filed" protest should be accepted because it is based on CDPH's Citation that was received after the "late filed" protest was filed.

The Division of Water and Audits (DWA) reviewed the Arsenic Treatment Projects proposed for inclusion into rate base. DWA confirmed that each project is included in

the list of authorized projects in D.06-11-050. DWA further confirmed that each project's requested cost recovery did not exceed the amount authorized. In addition, DWA reviewed invoices supporting expenditures for each of the projects. Each project has been placed in service. However, "Certifications" have not been received from CDPH.

In compliance with Permit Provision No. 20, Cal Am submitted to CDPH the analytical results from weekly monitoring of the combined treatment for the Ambler Plant effluent for iron, manganese, and arsenic. The results indicate that for samples of effluent tested between December 2008 and January 2009, the arsenic levels exceeded the MCL levels in fourteen (14) out of twenty two (22) weekly samples. It is DWA's view that Cal Am has not shown that water from the Ambler Plant consistently meets the Federal and State safe drinking water standard for arsenic.

CDPH Permit Provision No. 31 requires Cal Am to have a mechanism for disposal of sludge produced by the Ambler plant. Cal Am states that it has not performed the required analysis of the sludge from the Ambler plant. Since the Ambler plant does not have a fully functional solids disposal facility in operation, it does not satisfy the Commission's or CDPH's solids waste disposal requirement. Without meeting this requirement, the Ambler Plant can not be certified as "completed and placed in service" as required by D.06-11-050 and expenditures for solids disposal at the facility may not be recovered in rates.

CDPH has informed the DWA that Cal Am has submitted test results for effluent from the Luzern Project to the agency. Cal Am's submittal is currently under review by CDPH. At this time, CDPH is unable to certify that the effluent satisfies Federal and State Drinking Water standards. Absent such a determination, it is not possible to certify that the Luzern Project is "completed and placed in service" as required by D.06-11-050.

We do not agree with DRA's recommendation to reject Advice Letters 713 and 713-A. However, we do agree with DRA that until the Ambler Plant receives "Certification" from CDPH, it is not complete. The projects have been in use since September 2008 under a conditional permit from CDPH. The terms of the conditional permits require Cal Am to meet certain Health and Safety Code requirements to ensure that the effluent meets Federal and State Drinking Water Standards. Therefore, Cal Am may recover costs incurred on the project after it submits "Certification" from CDPH that all Federal and State Drinking Water Standards have been met. Cal Am may seek recovery in rates via a rate base offset Tier 2 advice letter filing.

The Commission approved the Ambler Plant project subject to a cap of \$3,530,000. The approved project included the disposal of solids from the treatment plant. After the

solids waste disposal portion of the Ambler Plant has been completed and a certification of compliance with all applicable permit requirements has been obtained from CDPH, Cal Am may request cost recovery through a rate base offset AL filing. Future recovery for the solids waste disposal portion of the Ambler Plant is capped at \$405,201, the difference between the original cap of \$3,530,000 and \$3,124,799, the amount for which Cal Am is seeking recovery in AL 713-A.

COMMENTS

In compliance with the Commission's Rules of Practice and Procedure Rule 14.3, this draft resolution was served on DRA, CDPH, and Cal Am for a 30-day public review and comment.

FINDINGS

1. The Ambler Park Arsenic Removal Treatment Plant (Ambler Plant) is operating under a conditional permit from California Department of Public Health (CDPH).
2. The CDPH issued a "Citation for Noncompliance" (Citation) to Cal Am for "Monitoring and Reporting violations" of the terms of its conditional permit for the Ambler Park Arsenic Removal Treatment Plant.
3. Cal Am submitted a response to CDPH's Citation. The response is under review by the CDPH.
4. The effluent from the Ambler Plant does not meet Federal and State Drinking Water Standards on a consistent basis.
5. It is not possible to certify that the Ambler Plant is "completed and placed in service" as required by D.06-11-050, Ordering Paragraph (OP) No. 5.
6. The Luzern Well No. 2 Arsenic treatment facility (Luzern Project) does not currently have a certification of compliance (Certification) from CDPH that it has satisfied Federal and State Drinking Water standards.
7. Cal Am submitted test results for the effluent from the Luzern Project to CDPH. The results are currently under review by the CDPH.
8. It is not possible to certify that the Luzern Project is "completed and placed in service" at present as required by D.06-11-050, OP No. 5.
9. Cal Am should be permitted to recover costs of the Ambler Plant after it receives "Certification" from CDPH that it has complied with all its permit requirements and the Ambler Plant meets Federal and State Drinking Water Standards.

10. Cal Am should be permitted to recover costs of the Luzern Project after it receives "Certification" from CDPH that the effluent meets Federal and State Drinking Water Standards.
11. The Commission, in D.06-11-050, approved the Arsenic Treatment Projects subject to a cap of \$3,530,000 million.
12. Cal Am has not provided for removal of solid waste at the Ambler Plant. This is a requirement of the CDPH and also of the Commission.
13. Cal Am is requesting recovery of \$3,124,799 for the Arsenic Treatment Projects, not including the Solids Waste removal portion of the Ambler Plant.
14. The \$3,124,799 rate base increase, as conditionally authorized for the Arsenic Treatment Projects, is just and reasonable. The cost recovery should be through a rate base offset Advice Letter once Certification is received from CDPH.
15. Cal Am should be permitted to recover costs of Solid Waste removal facilities as approved by the Commission after the plant is in compliance with CDPH requirements subject to a cap of \$405,201, the difference between the original cap of \$3,530,000 and the \$3,124,799 conditionally approved here. The cost recovery should be through a rate base offset advice letter.
16. The following tariff schedules attached to Advice Letter 713-A should be rejected: 1) Schedule No. MO-1; 2) Schedule No. MO-1-PAR; 3) Schedule No. MO-1-68; 4) Schedule No. MO-1-68-PAR; 5) Schedule No. MO-1AB; 6) Schedule No. MO-4; 7) Schedule No. MO-4AB; and 8) Schedule No. MO-4H.

THEREFORE IT IS ORDERED THAT:

1. California American Water Company (Cal Am) is ordered to provide the Director, Division of Water and Audits (DWA), proof that it has received "certification of compliance" (Certification) from the California Department of Public Health (CDPH) that it has satisfied Federal and State Drinking Water Standards for the Arsenic Treatment projects at Ambler Park and Luzern Well No. 2. After satisfying this requirement, Cal Am may file a Tier 2 rate base offset advice letter to recover costs of the facilities in the amount of \$3,124,799 in rates.
2. Cal Am is ordered to provide the Director, DWA, "Certification" from the CDPH that it has completed the facilities and has complied with all permit requirements for removal of solid waste for the Ambler Park Arsenic Removal Plant. After satisfying this requirement, Cal Am may file a Tier 2 rate base offset advice letter to recover costs of the facilities subject to a cap of \$405,201.
3. The following tariff schedules attached to Advice Letter 713-A are rejected: 1) Schedule No. MO-1; 2) Schedule No. MO-1-PAR; 3) Schedule No. MO-1-68; 4)

Schedule No. MO-1-68-PAR; 5) Schedule No. MO-1AB; 6) Schedule No. MO-4; 7) Schedule No. MO-4AB; and 8) Schedule No. MO-4H.

4. This resolution is effective today.

I certify that the foregoing resolution was duly introduced, passed, and adopted at a conference of the Public Utilities Commission of the State of California on March 26, 2009; the following Commissioners voting favorably thereon:

PAUL CLANON
Executive Director

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