

Decision 09-07-023 July 9, 2009

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of California-American Water Company (U210W) for an Order Authorizing a Special Conservation Program and Modifications to its Rate Design in its Monterey District, and Authorization to Increase its Rates for Water Service in its Monterey District.

Application 07-12-010
(Filed December 14, 2007)

FINAL DECISION ADOPTING SETTLEMENT AGREEMENT ON WATER CONSERVATION AND RATIONING ISSUES FOR THE MONTEREY DISTRICT

1. Summary

This decision adopts a Settlement Agreement (Settlement) among California-American Water Company (Cal-Am), the Division of Ratepayer Advocates (DRA) and the Monterey Peninsula Water Management District (MPWMD). The Settlement proposes adoption of a rationing plan for Cal-Am's Monterey District that, in collaboration with actions of the regional MPWMD, will restrict outdoor watering, allocate each customer a "water ration" based on customer category and number of household residents, authorize implementation of rationing rates, and provide for flow restrictors to be installed on customer meters for repeated water waste or non-essential water use. The rationing plan, together with proposed revisions to the conservation plan adopted in Decision (D.) 09-02-006 in this proceeding, are contained in the

proposed Monterey District Rule 14.1.1 Water Conservation and Rationing Plan (Monterey District Rule 14.1.1), attached to this decision as Appendix B.¹

Cal-Am's Monterey District faces severe water supply limitations due to the region's vulnerability to drought and the legal and regulatory restrictions on Cal-Am's use of water from the Carmel River and the Seaside Groundwater Basin. The Settlement's Monterey District Rule 14.1.1 will provide Cal-Am new tools to better manage its water supply and to move quickly to reduce water production in response to a drought or a Cease and Desist Order from the State Water Resources Control Board or the Seaside Watermaster.

The water conservation and rationing issues addressed in the Settlement have been the subject of evidentiary hearings and extensive settlement negotiations. In an earlier decision in this proceeding, D.09-02-006, the Commission adopted a settlement on the conservation stages, Stages 1-3, of Rule 14.1 and found that a preliminary agreement between Cal-Am and MPWMD on the rationing stages, Stages 4-7, was not ripe for consideration. Cal-Am began further settlement negotiations with all parties after MPWMD revised its own rationing plan, Regulation XV, on December 8, 2008. This Settlement was submitted on March 10, 2009 and provides a comprehensive

¹ In this decision, we title and renumber the Settlement's proposed Rule 14.1 to "Monterey District Rule 14.1.1" in order to distinguish it from Cal-Am's recently filed Rule 14.1 for its other California districts, which also continues to apply to customers in Toro, Ambler Park and Chualar in the Monterey District. Rule 14.1 for Cal-Am's other California districts, effective February 11, 2009 pursuant to Advice Letter 726, is less restrictive than Monterey District Rule 14.1.1.

Monterey District Rule 14.1.1 that is compatible with MPWMD's Regulation XV.² No party commented on the Settlement.

The Settlement before us today resolves all remaining Phase 1 issues. All Phase 2 issues were resolved in D.09-05-029, issued on May 26, 2009. This proceeding is closed.

2. Background

Due to the special conservation needs of the Monterey District, the assigned Commissioner and Administrative Law Judge (ALJ) issued a Scoping Memo on June 27, 2008 that granted the request of California-American Water Company (Cal-Am) to consider this application separately from its pending general rate case, Application (A.) 08-01-027. This proceeding has a two-phase procedural schedule, with Phase 1 addressing Cal-Am's proposed Rule 1.4.1.1 and procedures for the sharing of customer specific data with Monterey Peninsula Water Management District (MPWMD) and Phase 2 addressing Cal-Am's proposed conservation programs and budget for 2009-2011.

Public participation hearings were held in the Monterey District on May 28 and May 29, 2008. Evidentiary hearings on Phase 1 issues were held in San Francisco on July 28-30 and August 12-13, 2008. Evidentiary hearings on Phase 2 issues were held in San Francisco on November 12-14, 2008.

The regulatory limitations on Cal-Am's water supply come primarily from a July 6, 1995 decision, Order W95-10, by the California State Water Resources Control Board (SWRCB) that found Cal-Am was illegally diverting water from the Carmel River and directed Cal-Am to reduce its diversions while diligently

² The Motion for Adoption of Settlement is dated March 10, 2009; the Settlement is dated February 26, 2009.

pursuing additional water supplies or face enforcement action. On January 15, 2008, the SWRCB issued a Draft Cease and Desist Order that, if finalized, would require Cal-Am to decrease its use of Carmel River water by 50% over a seven-year period beginning in 2009.

The other regulatory restriction on water supply arises from a lawsuit brought by Cal-Am on August 14, 2003 to adjudicate its water rights in the Seaside Groundwater Basin (Seaside Basin). The Monterey Superior Court's March 27, 2006 ruling in *California American Water v. City of Seaside, et al.*, Case No. M66343 (Seaside Basin Adjudication) found that the basin is in overdraft and that Cal-Am must reduce its take from its wells in both the Coastal Subareas and the Laguna Seca Subarea of the Seaside Basin.

Monterey District Rule 14.1.1 applies to customers served by water supplied from the Monterey Peninsula Water Resource System, which is defined as the surface water in the Carmel River and its tributaries, groundwater in the Carmel Valley Alluvial Aquifer which underlies the Carmel River, and groundwater in the Seaside Groundwater Basin. In Decision (D.) 09-02-006, the Commission included Cal-Am's three subsystems along the Highway 68 corridor that are in the Laguna Seca Subarea (Bishop, Hidden Hills, and Ryan Ranch) in what we now call Monterey District Rule 14.1.1 after finding that they are subject to the water supply limitations imposed by the Seaside Basin Adjudication production limits. Monterey District Rule 14.1.1 describes the customers in Bishop, Hidden Hills, and Ryan Ranch as "subsystem" customers and all other customers served by water supplied from Monterey Peninsula Water Resource System as the "main system" customers. In D.09-06-002 the Commission found that adopting different triggers for imposition of Stages 2 and 3 restrictions for main system and subsystem customers is fair and reasonable. The customers in

Toro, Ambler Park, Ralph Lane and Chualar in the Monterey District are not served by water supplied from the Monterey Peninsula Water Resource System and, therefore, are not included in the Monterey District Rule 14.1.1. These customers are subject to Cal-Am's less restrictive Rule 14.1 for its other California districts, pursuant to Advice Letter 726, effective February 11, 2009.

This decision resolves all remaining Phase 1 issues. All Phase 2 issues were resolved in D.09-05-029, issued May 21, 2009.

3. Proposed Settlement

The Settlement is included at Appendix A to this decision. In this Settlement, Cal-Am, the Division of Ratepayer and Advocates (DRA), and MPWMD propose changes to what we now call Monterey District Rule 14.1.1, Stages 1-7, for the main system and subsystem customers.

3.1. Standard of Review for Settlements

The Commission reviews the Settlement under the requirements set forth in Article 12, Rules 12.1 - 12.7 of the Commission's Rules of Practice and Procedure (Rules).

Rule 12.1(a) requires parties to submit a settlement by written motion within 30 days after the last day of hearing. The last day of evidentiary hearings on Phase 1 issues was August 13, 2008. While Cal-Am and MPWMD submitted a settlement on Stages 1-3 and a preliminary agreement on Stages 4-7 on October 10, 2008, further settlement negotiations with all parties did not begin until after MPWMD finalized its revised rationing plan, Ordinance 137, on December 8, 2008. On March 10, 2009, seven months after the last day of hearing, a motion to adopt this Settlement was filed. The Commission recognizes the parties have spent considerable time and effort to reach agreement, and pursuant to Rule 1.2, for good cause shown, we waive the 30 day provision of Rule 12.1(a).

Rule 12.1(d) provides that, prior to approval, the Commission must find a settlement “reasonable in light of the whole record, consistent with law, and in the public interest.”

3.2. Terms of the Settlement

In the Settlement, the parties (1) revise Monterey District Rule 14.1.1 conservation plan, Stages 1-3, to make it consistent with MPWMD’s Regulation XV as amended by Ordinance 137, and (2) include a rationing plan, Stages 4-7, in Monterey District Rule 14.1.1.³ With the proposed revisions and additions to Monterey District Rule 14.1.1, Cal-Am and MPWMD would have consistent conservation and rationing regulations.

3.2.1. Revisions to Stages 1-3

The changes to Stages 1-3 of Monterey District Rule 14.1.1 that are proposed in the Settlement are:

- to have Monterey District Rule 14.1.1 reference the current version of MPWMD’s Regulation XV as modified by Ordinance 137;
- to add several new definitions to the rule and to enumerate the specific responsibilities of Cal-Am to promote conservation and to cooperate with MPWMD in joint programs and the sharing of Cal-Am’s confidential customer survey data with MPWMD subject to an appropriate nondisclosure agreement; and

³ MPWMD’s Ordinance 137 reflects the provisions of the October 10, 2008 preliminary agreement between Cal-Am and MPWMD. The key aspects of Ordinance 137 are that it amends MPWMD’s Regulation XV, Expanded Water Conservation and Standby Rationing Plan, to include regulatory triggers in Stages 4-7, suspends Water Banking until December 31, 2010 to allow Cal-Am time to upgrade its billing system, establishes an annual procedure for Cal-Am to review and identify customers that require Landscape Water Audits and Landscape Water Budgets, and sets a minimum per person ration of 35 gallons per day for “inside residential use.”

- to place the authority to grant variances for medical or other reasons solely with MPWMD.

In addition, for Stage 1 the rule is revised to require Cal-Am to maintain its Water Year production from the Carmel River System below 11,285 acre feet rather than “within the current Water Year limits of the SWRCB Order” and to notify MPWMD of eligible customers who have not arranged for timely completion of a Landscape Water Audit and Landscape Water Budget.

For Stage 2, the revised rule tightens the notice and reporting requirements for customers required to follow a mandatory Landscape Water Budget. These customers will be provided monthly compliance status notices rather than quarterly notices, and Cal-Am shall compile a quarterly report for MPWMD showing individual customer consumption information for customers required to maintain water use within a Landscape Water Budget.

The only specific revision to Stage 3 is to include as an additional implementation trigger a resolution of the MPWMD Board declaring that an immediate water use reduction is needed.⁴

3.2.2. Rationing Stages 4-7

In this Settlement, rationing Stages 4-7 are added to Monterey District Rule 14.1.1, with specific triggers for physical shortages, emergencies, and regulatory compliance. All rationing stages are initiated by resolution of the MPWMD and water rations are calculated by MPWMD. In addition, under two

⁴ Revised Stage 3 emergency rate schedules for main system and Bishop, Hidden Hills, and Ryan Ranch subsystem customers are pending in A.08-01-027. For proposed emergency conservation rates and emergency rationing rates, *see* Appendix A, pp. 14-15 of the proposed decision mailed on May 7, 2009 in A.08-01-027.

of the three criteria, MPWMD controls when a rationing stage is rescinded.⁵ Further, Monterey District Rule 14.1.1 grants authority to MPWMD's General Manager to approve water rationing variances for Cal-Am customers and to delay implementation of a rationing stage for up to 90 days to ensure adequate operation of the program. Cal-Am is authorized to provide customer variances from flow restrictor and rationing requirements only to customers who are granted a variance by MPWMD.

The proposed Monterey District Rule 14.1.1 provides that Cal-Am shall implement water rations and a rationing rate schedule at Stage 5.⁶ Priority water rations shall be given to residential water needs to ensure health, safety, and welfare and under no circumstances shall the rations be less than 35 gallons per person per day.

Under the proposed rule, Cal-Am is required to provide written notice of mandatory water rationing to every affected customer via first-class mail at least 30 days before the first day of rationing use restrictions are imposed except when Stage 4 is declared due to regulatory noncompliance or before a change to lower numbered stages. Cal-Am shall notify customers via direct mailing of the effective date of any change in Stages, either moving up Stages or moving down Stages. Cal-Am shall notify customers via first-class mailing no less than 30 days before any increased rates are effective.

⁵ A rationing stage is rescinded by MPWMD's Board if the trigger is physical shortage limitations and by MPWMD's General Manager if the trigger is regulatory compliance. A rationing stage that is triggered by an emergency resolution of MPWMD may sunset without action by MPWMD when the water supply limitation that caused the resolution is corrected.

⁶ The rationing rate schedule is pending approval in A.08-01-027.

There are additional notice requirements at Stage 4 for large residential customers, irrigation customers, and other large water users of the immediate need to reduce outdoor water use to the greatest extent possible. At the beginning of rationing, Cal-Am will also provide its customers with a survey form to indicate any change in the number of residents or type of non-residential use.

The three triggers for a rationing stage are physical shortage limitations, an emergency declaration by the MPWMD's Board, and regulatory compliance requirements. These triggers apply to main system customers. At Stage 4, rationing shall not be imposed on subsystem customers if there is no reliance on production or production offsets from the main system, and rationing will not be imposed on subsystem customers at Stages 5-7 unless there is a Final Cease and Desist Order that reduces available supplies for subsystems that do not rely to any extent upon production or production offsets from the main system.

The physical shortage triggers are based on specified levels of total usable storage in the Carmel River System and the Seaside Coastal Subareas on May 1 of each year. The regulatory compliance triggers take effect if the prior stage has been in effect for at least 30 days and production levels in Table 1 of the tariff have been exceeded by specified amounts, with the production level requirements growing more stringent as the Water Year progresses. The emergency trigger takes effect when it is determined there is an immediate need to reduce production by a specific percentage. The emergency trigger for Stage 4 is a need for reduction of 15%, for Stage 5 between 16 and 34%, for Stage 6 between 35 and 50%, and for Stage 7, the emergency trigger is an immediate need to reduce production by more than 50%.

3.3. Discussion

The revised Tariff Rule 14.1 before us is a comprehensive expanded conservation and rationing plan that coordinates Cal-Am's and MPWMD's response to the severe water supply limitations facing customers within the Monterey Peninsula Water Resource System. Having the two entities work in a coordinated and consistent manner should increase the efficiency and effectiveness of water conservation and rationing.

Proposed Tariff Rule 14.1 provides for limiting specific types of outdoor watering, establishing Landscape Water Budgets for large water users, allocating each customer a "water ration," implementing emergency conservation rates and later rationing rates, and installing flow restrictors on customer meters for repeated water waste or non-essential water use. The Commission finds these are reasonable provisions that should help Cal-Am to comply with limitations on its water production due to physical shortage and legal constraints. Customers in the Monterey District have a strong record of conserving water with average gallons of water used for each person per day estimated to be well below the state average. The Settlement's Monterey District Rule 14.1.1 is more stringent than Cal-Am's general Rule 14.1 for its other districts and incorporates all features of the Commission's Division of Water and Audits' instructions for Water Conservation, Rationing and Service Connection Moratoria (Standard Practice U-40-W, issued March 2009) except a moratorium on new water connections.

The Commission finds it beneficial that the proposed rule provides customer notice prior to imposing rationing provisions and a formal appeal and variance process. Cal-Am customers can also avail themselves of the Commission's complaint processes. The rule also contemplates providing

customers additional flexibility to manage their water usage through a water banking program, which is delayed until Cal-Am and MPWMD complete computer programming to support the calculation and billing of water banking credits.

The Commission recognizes that Monterey District Rule 14.1.1 is an additional tool for Cal-Am to use to ensure adequate water supplies for its customers. The Commission also adopted a substantial budget for 2009-2011 conservation programs in D.09-05-029 in Phase 2 of this proceeding and Cal-Am has a potential new source of water supply pending in its Coastal Water Project proceeding, A.04-09-019. In addition, D.09-05-029 contains detailed monitoring and reporting requirements for conservation efforts and this information should allow the parties and the Commission to timely review the effectiveness of conservation measures and respond as needed.⁷

In the Settlement, the parties request approval of proposed Tariff Schedule MO-14.1 that establishes charges for the removal of flow restrictors. In D.09-02-006, the Commission approved the same Tariff Schedule MO-14.1 and authorized Cal-Am to implement it via advice letter. (*See* Ordering Paragraph 3 of D.09-02-006.) As Cal-Am has existing authority to file this tariff, we need not take further action here.

⁷ The Commission is also part of the Governor's Task Force working on state water conservation initiatives to reduce per capita water consumption by 20% statewide by 2020. The Task Force issued a draft Water Conservation Plan on April 30, 2009 and will hold a public workshop on May 29, 2009. In addition, pursuant to the Governor's Executive Order S-06-08, issued in June 2008, the Commission is also working with the California Department of Water Resources to "identify investor-owned water utility systems at risk of experiencing health and safety impacts due to drought conditions and water delivery limitations, and to mitigate such impacts."

Provision 1.E. of the Settlement provides DRA and MPWMD a right to rescind the Settlement if Cal-Am and MPWMD fail to execute a nondisclosure agreement to share confidential customer data, as specified in Ordering Paragraph 5 of D.09-02-006. When this proposed decision was mailed for comment on May 18, 2009, a nondisclosure agreement had not yet been executed and, therefore, the pending Settlement was not a final Settlement. On June 22, 2009, Cal-Am and MPWMD filed a joint motion containing an executed non-disclosure agreement.⁸ With the execution by Cal-Am and MPWMD of the non-disclosure agreement, no party to the pending Settlement has a right to rescind the Settlement.

One area of concern in reviewing the Settlement is that Cal-Am should not interpret the authority the proposed Monterey District Rule 14.1.1 gives to MPWMD's Board and General Manager to decide when and how to implement the rationing stages as in any way lessening Cal-Am's utility obligations.

While MPWMD has authority to restrict water use in the MPWRS during an emergency, Cal-Am cannot rely on the actions of any other entity to meet its utility obligation to serve its customers. It is Cal-Am's responsibility under Pub. Util. Code §§ 451 and 8201 to adequately plan for and adequately serve its customers with water. To do so, Cal-Am has a number of tools, including the

⁸ In the joint motion, Cal-Am and MPWMD state that the attached non-disclosure agreement complies with the requirements of D.09-02-006 and they request that the Commission adopt the agreement. By ALJ Ruling dated June 24, 2009, time to respond to the joint motion was shortened to July 1, 2009. No party filed a response to the joint motion. It is not Commission policy to formally adopt uncontested non-disclosure agreements that individual parties execute and, therefore, we decline to do so here.

ability to strengthen its rationing program and, under Pub. Util. Code § 2708, to request Commission authorization for a moratorium on new water connections.

In D.06-11-050, in Cal-Am's 2006 general rate case for the Monterey District, the Commission denied Cal-Am's request to authorize a memorandum account for possible State Water Resource Control Board (SWRCB) fines, finding that:

We should not authorize Cal-Am to book SWRCB fines into a memorandum account. The record shows that Cal-Am now has the conservation programs, emergency rate measures, and environmental compliance programs to operate its water supply system in a manner to avoid fines. Our earlier decisions to allow recovery of SWRCB fines were a deviation from our general policy on recovery of fines, and were a temporary measure, expected to be of brief duration, until effective rationing plans could be implemented by Cal-Am and MPWMD.⁹

Based on our review, the Commission finds that the Settlement's Monterey District Rule 14.1.1 should be adequate, when combined with Cal-Am's other efforts, to address its water supply limitations. If MPWMD's Regulation XV does not operate effectively, or if Cal-Am determines that further measures are needed, Cal-Am should request Commission authorization to change Monterey District Rule 14.1.1 or take other action as needed. As acknowledged by the Settling Parties in their motion, the Commission's regulatory oversight is maintained because any future changes by MPWMD in Regulation XV will not automatically be reflected in Cal-Am's Monterey District Rule 14.1.1. As always, any tariff changes will have to be reviewed and approved by the Commission.

⁹ See D.06-11-050, issued December 1, 2006, Finding of Fact 30, *mimeo.* at 103.

Having satisfactorily addressed our concerns above, the Commission finds the Settlement overall is reasonable. We agree with the assertions of the settling parties that the Settlement:

- takes into account the principles of water conservation and the underlying circumstances unique to the Monterey Peninsula, including the production limits for both the Carmel River System and the Seaside Basin;
- produces a just and reasonable water conservation and rationing plan that can be implemented immediately;
- sets forth conservation and water rationing measures that are equitable to all customers benefiting from the Carmel River System and Seaside Basin and will assist Cal-Am and MPWMD in their efforts to safeguard an adequate water supply for customers of the Monterey District; and
- adds automatic rationing triggers to assure that MPWMD and Cal-Am can move quickly to reduce production in response to a drought (physical shortages) or to a final Cease and Desist Order by SWRCB, the Seaside Watermaster or other court order forcing production reductions.¹⁰

Based on our review and the discussion above, the Commission finds the Settlement to be reasonable in light of the whole record, consistent with the law, and in the public interest. Therefore, we adopt the Settlement.

4. Comments on Proposed Decision

The proposed decision of the ALJ in this matter was mailed to the parties in accordance with Section 311 of the Public Utilities Code and comments were allowed under Rule 14.3 of the Commission's Rules of Practice and Procedure. No comments were filed.

¹⁰ See March 10, 2009 Motion for Adoption of Settlement, page 7.

5. Assignment of Proceeding

John A. Bohn is the assigned Commissioner and Christine M. Walwyn is the assigned ALJ in this proceeding.

Findings of Fact

1. On March 10, 2009, Cal-Am, the DRA and the MPWMD submitted the Settlement and the proposed tariff rule attached to this decision as Appendices A and B. The Settlement's proposed tariff Rule 14.1 should be titled and renumbered to "Monterey District Rule 14.1.1" in order to distinguish it from Cal-Am's recently filed Rule 14.1 for its other California districts.

2. Rule 14.1 for Cal-Am's other California districts, effective February 11, 2009 pursuant to Advice Letter 726, is less restrictive than Monterey District Rule 14.1.1.

3. No party submitted comments on the Settlement.

4. The proposed Monterey District Rule 14.1.1 is a comprehensive expanded conservation and rationing plan that coordinates Cal-Am's and MPWMD's response to the severe water supply limitations facing the Monterey Peninsula.

5. Having Cal-Am and MPWMD coordinate their efforts and provide consistency between their regulations should increase the efficiency and effectiveness of water conservation and rationing for Cal-Am's customers.

6. No action is needed at this time regarding proposed Tariff Schedule MO-14.1, as that schedule is the same as the Tariff Schedule MO-14.1 authorized to be implemented by advice letter in D.09-02-006.

7. Monterey District Rule 14.1.1 is an additional tool for Cal-Am to use to ensure adequate water supplies for its customers.

8. The proposed Monterey District Rule 14.1.1:

- a. takes into account the principles of water conservation and the underlying circumstances unique to the Monterey Peninsula,

- including the production limits for both the Carmel River System and the Seaside Basin;
- b. produces a just and reasonable water conservation and rationing plan that can be implemented immediately;
 - c. sets forth conservation and water rationing measures that are equitable to all customers benefiting from the Carmel River System and Seaside Basin and will assist Cal-Am and MPWMD in their efforts to safeguard an adequate water supply for customers of the Monterey District; and
 - d. adds automatic rationing triggers to assure that MPWMD and Cal-Am can move quickly to reduce production in response to a drought (physical shortages) or to a final Cease and Desist Order by SWRCB, the Seaside Watermaster or other court order forcing production reductions.
9. This proceeding should be closed.

Conclusions of Law

1. The Commission regulates water service provided by Cal-Am pursuant to Article XII of the California Constitution, the Public Utilities Code, and the rules and regulations of the Commission.
2. The Settlement at Appendix A is reasonable in light of the whole record, consistent with the law, and in the public interest.
3. The Settlement should be adopted, and proposed Monterey District Rule 14.1.1 attached to this decision as Appendix B Parts 1 and 2 should be effective immediately.
4. Cal-Am is responsible for meeting its obligation to provide adequate water to its customers. If MPWMD's Regulation XV does not operate effectively, or if Cal-Am determines that further measures are needed, Cal-Am should request Commission authorization to change Monterey District Rule 14.1.1.

FINAL ORDER

IT IS ORDERED that:

1. In order to avoid confusion with California-American Water Company's existing Rule 14.1 filed by Advice Letter 726 and effective February 11, 2009, Monterey District Rule 14.1, as adopted in Decision 09-02-006 in this proceeding, shall be titled and renumbered as "Monterey District Rule 14.1.1." California-American Water Company shall file an Advice Letter within 5 days to:

- a. conform the title and internal cross-references of the Settlement's proposed tariff rule with this decision; and
- b. change Advice Letter 726's Rule 14.1, Section A, to properly reference Monterey District Rule 14.1.1.

2. The Settlement Agreement attached to this decision as Appendix A is adopted. As provided in the adopted Settlement:

- a. The tariff rule, attached to this decision as Appendix B Parts 1 and 2, is adopted and is effective immediately. It shall apply to all customers in the Monterey District except customers in Toro, Ambler Park, Ralph Lane and Chualar.
- b. The adopted tariff rule replaces the current Tariff Rule 14.1 for the Monterey District adopted in Decision 09-02-006.
- c. If Monterey Peninsula Water Management District updates the Stage 2 and Stage 3 production triggers in Tables 1 and 2 of Monterey District Rule 14.1.1, California-American Water Company shall file an Advice Letter requesting Commission approval to update Monterey District Rule 14.1.1 to include the new production triggers.
- d. California-American Water Company shall file an advice letter to modify Monterey District Rule 14.1.1 to make Water Banking available to customers by December 31, 2010.

3. Consistent with the adopted tariff rule, California-American Water Company shall implement its rationing plan as follows:

- a. At the direction of Monterey Peninsula Water Management District, initiate each rationing stage of Monterey District Rule 14.1.1 based on three triggers. Two of these triggers, the physical shortage trigger and the regulatory constraints trigger, are automatic based on defined criteria. The third trigger is by Monterey Peninsula Water Management District resolution in the case of an emergency.
 - b. Provide a minimum per person water ration of 35 gallons per day during rationing Stages 5-7.
 - c. Implement Commission-approved rationing rate schedules during rationing Stages 5-7.
 - d. Provide individual customer variances from flow restrictor requirements and rationing requirements as recommended by Monterey Peninsula Water Management District through its variance and appeal process as set forth in Monterey Peninsula Water Management District's Rule 169 Water Rationing Variance of Regulation XV.
 - e. Delay implementation of a rationing stage for up to 90 days at the direction of Monterey Peninsula Water Management District's General Manager to ensure adequate operation of California-American Water Company's rationing program.
 - f. Notify its customers via direct mailing of the effective date of any change in Stages, either moving up Stages or moving down Stages. For customers subject to rationing, this notice shall be via first-class mail at least 30 days before the first day of rationing use restrictions are imposed except when Stage 4 is declared due to regulatory non-compliance or before a change to a lower numbered stage. California-American Water Company shall notify customers via first-class mailing no less than thirty days before any increased rates are effective.
4. At Stage 4 of Monterey District Rule 14.1.1, California-American Water Company shall not impose rationing on customers in the Bishop, Hidden Hills, and Ryan Ranch subsystems if there is no reliance by the subsystems on production or production offsets from the main system.

5. At Stages 5-7 of Monterey District Rule 14.1.1, California-American Water Company shall not impose rationing on customers in the Bishop, Hidden Hills, and Ryan Ranch subsystems unless there is a Final Cease and Desist Order that reduces available supplies for subsystems that do not rely to any extent upon production or production offsets from the main system.

6. Application 07-12-010 is closed.

This order is effective today.

Dated July 9, 2009, at San Francisco, California.

MICHAEL R. PEEVEY
President
DIAN M. GRUENEICH
JOHN A. BOHN
RACHELLE B. CHONG
TIMOTHY ALAN SIMON
Commissioners