



BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

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In the Matter of the Application of San Jose Water Company (U-168-W) for Authority to Adjust its Cost of Capital and to Reflect That Cost of Capital in its Rates for the Period from January 1, 2018 through December 31, 2020	Application 17-04-001 (Filed April 10, 2017)
And Related Matters.	Application 17-04-002 Application 17-04-003 Application 17-04-006

**PROTEST OF THE OFFICE OF RATEPAYER ADVOCATES
TO THE APPLICATIONS OF CALIFORNIA WATER SERVICE COMPANY,
SAN JOSE WATER COMPANY, CALIFORNIA-AMERICAN WATER COMPANY,
AND GOLDEN STATE WATER COMPANY**

I. INTRODUCTION

Pursuant to Rule 2.6 of the California Public Utilities Commission’s (“Commission”) Rules of Practice and Procedure (“Rules”), the Office of Ratepayer Advocates (“ORA”) hereby files this protest to the following applications:

- Application (“A.”) 17-04-001 filed by San Jose Water Company (“San Jose”). San Jose’s application requests that the Commission authorize: 1) adjusting its cost of capital to reflect San Jose’s current forecast of its costs of common equity of 10.75% and long-term debt of 5.62% and its forecasted capital structure from the period January 1, 2018 through December 31, 2020; 2) adjusting its rates in accordance with the adopted cost of capital promptly upon such adoption but in coordination with other rate adjustments required to be implemented at approximately the same time; and 3) continuance of the Water Cost of Capital Mechanism (“WCCM”).¹

¹ Application (A.) 17-04-001, pp. 1-2.

- A.17-04-002 filed by Golden State Water Company (“Golden State”). Golden State’s application requests the Commission authorize: 1) a rate of return on rate base of 9.11% for the 2018 test year and 2019 – 2020 escalation years; 2) a capital structure of 43.0% of long-term debt and 57.0% of common stock; 3) a return on equity of 11.0%; and 4) a revenue increase for 2018 of \$12.1 million.²
- A.17-04-003 filed by California-American Water Company (“Cal-Am”). Cal-Am’s application requests the Commission authorize: 1) a rate of return of 8.49%; 2) a cost of equity of 10.80%; 3) a cost of debt of 5.63%; 4) a capital structure of 44.61% debt and 55.39% equity; 5) continuance of the WCCM;³ and 6) no further ROE adjustment regarding WRAM/MCBA and find that the market has fully considered the WRAM/MCBA mechanisms in its risk profiles for the water industry.⁴
- A.17-04-006 filed by California Water Service Company (“Cal-Water”). Cal-Water’s application requests the Commission authorize: 1) a rate of return on rate base of 8.31% for the period from January 1, 2018 through December 31, 2020; 2) continuance of WCCM using the base year 2018 adopted in this proceeding with a new benchmark period of October 1, 2016 through September 30, 2017.⁵

ORA will refer to San Jose, Golden State, Cal-Am and Cal-Water herein as “the Applicants.”

The Applicants raise several areas of concern that merit further investigation by the Commission. This Protest provides a non-exhaustive identification of issues that ORA will examine in this proceeding. ORA anticipates that some issues may be resolved, and others may arise, as discovery proceeds. ORA expects that hearings may be necessary to resolve the issues raised by Cal-Water, Cal-Am, San Jose, and Golden State's applications.

² A.17-04-002, p. 1.

³ A.17-04-003, pp. 2-3.

⁴ A.17-04-003, p. 3.

⁵ A.17-04-006, pp. 2-4.

II. BACKGROUND

In Decision (“D.”) 07-05-062 the Commission adopted a revised Rate Case Plan for Class A Water Utilities directing the three large multi-district Class A water utilities to file cost of capital applications on May 1, 2008, and on a triennial basis thereafter, and directed all the remaining Class A water utilities, including San Jose, to file cost of capital applications on May 1, 2009, and on a triennial basis thereafter. San Jose was subsequently ordered to file its application along with the three large multi-district Class A water utilities in D.10-10-035. D.07-05-062 also directed the Class A Water Utilities to submit a proposal to adjust cost of capital in their first cost of capital applications filed under the revised Rate Case Plan.⁶ The proceeding addressing the first cost of capital applications resolved this issue by adopting a settlement regarding the WCCM in D.09-07-051. The mechanism provides an automatic adjustment, up or down, to the adopted return on equity under specific circumstances.

In Applicants’ last cost of capital applications⁷, ORA and the Applicants reached a settlement agreement to continue the Water Cost of Capital Mechanism for the subsequent years 2013 and 2014.⁸

The Commission required the Applicants to file new applications no later than March 31, 2014 for approval of their costs of capital for the three-year period beginning January 1, 2015.⁹ Since this decision in 2012, the Applicants have requested and the Commission has granted an annual postponement.¹⁰ On December 2, 2016 the Applicants requested a further one-year postponement of the 2017 cost of capital

⁶ D.07-05-062, Ordering Paragraph 5.

⁷ A.11-05-001, A.11-05-002, A.11-05-003, A.11-05-004.

⁸ D.12-07-009, pp. 5-6.

⁹ D.12-07-009, Ordering Paragraph 4.

¹⁰ See Applicants’ letters dated January 15, 2014, November 14, 2014 and December 11, 2015 and corresponding Executive Director’s letters granting Applicants’ request.

filings.¹¹ On February 16, 2017, the Commission denied the extension and directed the Applicants to file the 2017 cost of capital application on or before April 1, 2017.

III. KEY ISSUES TO CONSIDER

While ORA is still in the process of reviewing the applications, it has identified the following issues that it intends to review and potentially address in its testimony and during this proceeding:

1. Compliance with Rule 3.2 and the Minimum Data Requirements outlined in Attachment 2 of the Rate Case Plan.¹²
2. For each Applicant:
 - a. an appropriate authorized rate of return on rate base during 2018-2020;
 - b. an appropriate authorized rate of return on common equity during 2018-2020;
 - c. an appropriate authorized capital structure during 2018-2020;
 - d. the appropriateness of continuing the WCCM; and
 - e. the appropriateness of specific adjustments requested by the Applicants.
3. Concerns raised in the discussion on pages 14 to 17 of D.12-07-009 include but are not limited to the following:
 - a. “the extent to which investors have bypassed utility stocks in favor of government-guaranteed debt or, in the alternative, have moved from riskier stock investments to the relative safety of utility stocks” (D.12-07-009, p. 15).
 - b. “whether the appropriate proxy for the risk-free rate of return is the next six quarters’ forecasted yields on the 30-year Treasury bond.” (D.12-07-009, p. 15).

IV. OTHER SCOPING ISSUES

The Legislature recently passed SB 512, which adds to the Public Utilities Code the requirement that the Commission, prior to determining the scope of a proceeding, “seek the participation of those who are likely to be affected ...[by] a decision in that

¹¹ See Applicants’ letter dated December 2, 2016.

¹² D.07-05-062, Attachment 2, p. A-32.

proceeding.” (SB 512, Ch. 808, Stats. 2016; Pub. Util. Code § 1711(a)). ORA strongly supports the spirit and intent of section 1711 to include greater public input in issues to be considered in a proceeding, and believes public participation hearings (“PPH”) will provide meaningful comments from ratepayers for the Commission to address in this proceeding. ORA therefore requests that the Commission hold PPHs in key locations in each of the Applicants’ service territories prior to the issuance of the scoping memo. In some of the recent General Rate Case PPHs for the Applicants, customers have expressed concerns of undue utility profits.¹³ Ratepayers should have an opportunity to voice their input in a cost of capital proceeding instead of the GRC, when the cost of capital has already been established.

Assembly Bill (AB) 685 requires that every Californian have the “right to safe, clean, *affordable*, and accessible water adequate for human consumption, cooking, and sanitary purposes.” (Water Code § 106.3)(emphasis added). In setting the Applicants’ cost of capital, it is important for the Commission to consider this mandate to ensure the cost of water is affordable for ratepayers.

V. CATEGORIZATION AND PROPOSED SCHEDULE

ORA agrees with the Applicants' proposed categorization of this proceeding as ratesetting. Evidentiary hearings may be necessary to resolve the issues raised in the applications. Therefore, ORA requests the Commission conduct a prehearing conference to establish a schedule for this proceeding. The various applications raise complex issues. Furthermore, the proceeding will have significant financial and policy implications. ORA anticipates that this proceeding will require a considerable amount of review, analysis, and discovery. In order to perform the research and discovery necessary to evaluate the issues raised by the Applicants thoroughly, ORA will require more time than suggested by the Applicants.

Due to current staff resource limitations, ORA has retained an outside consultant to review and analyze these applications. Each applicant requests that the Commission

¹³ E.g. Public Participation Hearing Transcript for A.15-07-015 on March 22, 2016 and April 27, 2016.

consider a different return on equity, cost of debt, and capital structure as well as unique adjustments specific to that utility. ORA’s proposed schedule reflects the complexity involved in reviewing and analyzing the applications. Also included is a summary of the schedule proposed by each applicant in this proceeding.¹⁴

	Cal-Am	Golden State	San Jose Water	Cal Water	ORA Proposed*
Application Filed	4/3/2017	4/3/2017	4/3/2017	4/3/2017	4/3/2017
Daily Calendar	--	--	4/5/2017	--	4/10/2017
ORA Protest	--	--	5/5/2017	--	5/10/2017
Prehearing Conference	4/17/2017	4/17/2017	5/12/2017	4/17/2017	6/9/2017
ORA/Intervenor Testimony	6/16/2017	6/16/2017	6/23/2017	6/16/2017	8/1/2017**
Rebuttal Testimony	7/16/2017	7/17/2017	7/14/2017	7/17/2017	30 days after ORA/Intervenor Testimony
Evidentiary Hearings Begin	8/5/2017	8/7/2017	8/7/2017	8/7/2017	20 days after Rebuttal Testimony
Opening briefs	9/4/2017	9/6/2017	9/8/2017	9/6/2017	30 days after Evidentiary Hearings
Reply briefs	9/18/2017	9/20/2017	9/22/2017	9/20/2017	25 days after Opening Briefs
Proposed decision	10/19/2017	10/20/2017	11/14/2017	10/20/2017	90 days after Reply Briefs
Comments on Proposed decision	11/8/2017	11/9/2017	12/4/2017	11/9/2017	20 days after Proposed Decision
Reply comments on proposed decision	11/18/2017	11/20/2017	12/11/2017	11/20/2017	5 days after Opening Comments
Final Decision	12/3/2017 or 12/17/2017	12/5/ 2017	12/14/2017	12/5/2017	30 days after Proposed Decision issued

*PPHs to be scheduled upon direction from the Commission.

**Or at least three weeks after the issuance of a scoping memo, whichever is later.

VI. CONCLUSION

For the reasons stated above, ORA will conduct discovery to develop its testimony and recommendations. Hearings may be required and a schedule should be established at the prehearing conference that allows for a thorough review and analysis of the applications along with any related discovery. Further, ORA requests that the Commission hold PPHs in key

¹⁴ A.17.04.001, p. 10; A.17.04.002, p. 5; A.17.04.003, pp. 4-5; A.17.04.006, p. 7.

locations in each of the Applicants' service territories prior to the issuance of the scoping memo. ORA reserves the right to assert any issue discovered after this Protest has been filed.

Respectfully submitted,

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