



**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 \$55,771,300 or 18.71% in the year 2024, by \$19,565,300 or 5.50% in the year 2025, and by \$19,892,400 or 5.30% in the year 2026.

Application 22-07-001

(Filed July 1, 2022)

**CALIFORNIA-AMERICAN WATER COMPANY'S NOTICE OF EX PARTE
COMMUNICATIONS**

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Water Company

October 1, 2024

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

Application of California-American Water Company (U210W) for Authorization to Increase its Revenues for Water Service by \$55,771,300 or 18.71% in the year 2024, by \$19,565,300 or 5.50% in the year 2025, and by \$19,892,400 or 5.30% in the year 2026.

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COMMUNICATIONS**

Pursuant to Rule 8.4 of the Rules of Practice and Procedure of the California Public Utilities Commission (“Commission” or “CPUC”), California-American Water Company (“California American Water”) hereby gives notice of the following individual virtual ex parte meetings related to the above-captioned proceeding.

On Thursday, September 26, 2024, California American Water representatives Sarah Leeper – American Water – Vice President and Managing General Counsel, Kevin Tilden – California American Water – President, Cathy Hongola-Baptista – California American Water – Senior Director Corporate Counsel, and Stephen (Wes) Owens – California American Water – Senior Director Rates and Regulatory, met with the following Advisors:

- Khalil Johnson, Energy and Water Advisor, and Syche Cai, Energy Advisor for President Alice Reynolds at 9:03 a.m. for approximately 33 minutes via WebEx

On Friday, September 27, 2024, Kevin Tilden – California American Water – President, Cathy Hongola-Baptista – California American Water – Senior Director Corporate Counsel, and Stephen (Wes) Owens – California American Water – Senior Director Rates and Regulatory, met with the following Advisors:

- Amin Younes, Advisor for Commissioner John Reynolds, at 1:00 p.m. for

approximately 35 minutes via WebEx

On Friday, September 27, 2024, California American Water representatives Sarah Leeper – American Water – Vice President and Managing General Counsel, Kevin Tilden – California American Water – President, Cathy Hongola-Baptista – California American Water – Senior Director Corporate Counsel, and Stephen (Wes) Owens – California American Water – Senior Director Rates and Regulatory, met with the following Commission and Advisor:

- Commissioner Karen Douglas, and Kourtney Vaccaro, Chief of Staff to Commissioner Douglas, at 4:06 p.m. for approximately 20 minutes via WebEx

At each meeting California American Water representatives addressed the Proposed Decision (“PD”) issued on August 27, 2024, in the above-captioned proceeding. Mr. Tilden acknowledged that the PD properly adopts the settlement between California American Water and the Public Advocates Office on revenue requirement issues. Company representatives expressed concerns that the PD’s rejection of key policy proposals, including California American Water’s full decoupling proposal, the Water Revenue Sustainability Plan (WRSP), is improper and fails to recognize the record on conservation and affordability. Company representatives also discussed the critical conservation and affordability benefits of decoupling through the WRSP, including the two-way nature of the WRSP¹, and support for decoupling in the legislation² as well as the Supreme Court opinion.³

Furthermore, California American Water representatives expressed concern that the PD improperly rejects California American Water’s request to continue its Annual Consumption Adjustment Mechanism (ACAM), which allows annual adjustments of quantity rates based upon the prior year’s sales, which provides a more accurate conservation signal to customers.

¹ See Attachment 2 at Appendix E.

² Senate Bill No. 1469, Chapter 890.

³ *Golden State Water Company v. Public Utilities Commission*, 16 Cal.5th 380 (July 8, 2024).

Attachment 1 is a PowerPoint presentation that was displayed via WebEx screen-share at the September 26 meeting.

Attachment 2 is a PowerPoint presentation that was displayed via WebEx screen-share at the September 27 meetings.

Respectfully submitted,

October 1, 2024

/s/ Cathy Hongola-Baptista

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Attorneys for Applicant California-American
Water Company

ATTACHMENT 1



2022 General Rate Case A.22-07-001 Ex Parte Discussion

September 26, 2024

Proposed Decision Overview

Positives

The Proposed Decision adopts the settlement agreement between Cal Am and the Public Advocates Office

However,

In denying Cal Am's proposed full decoupling Water Resources Sustainability Plan (WRSP) the Proposed Decision disregards the preponderance of evidence and ignores clearly stated intent of the Legislature
and

In eliminating the existing Annual Consumption Adjustment Mechanism (ACAM) the Proposed Decision eliminates the ability to provide timely and consistent conservation rate signals and to align sales with cost of service

Solution,

Revise the Proposed Decision, or issue an Alternate Proposed Decision, approving the full decoupling WRSP and the ACAM

Overview of Water Resources Sustainability Plan (WRSP)

The WRSP is a revenue decoupling mechanism that removes the financial disincentive to encourage water conservation

- As found by the California Legislature in SB 1469: *“Because water suppliers have very significant fixed costs that do not fluctuate with changes in consumption patterns, they have a financial disincentive to encourage water conservation as reductions in water consumption directly translate into cost recovery challenges.”* (See Appendix A.)

The WRSP does provide for recovery of only CPUC authorized fixed costs (capital improvements, labor, etc.)

- Proposed Decision provides for recovery of approximately \$120M of authorized fixed costs through quantity rates. If sales are above, or below, authorized levels Cal Am will over-collect, or under-collect, on these unavoidable costs of service in the absence of a decoupling mechanism.

The WRSP is a two-way mechanism that refunds over-collections to customers

- The historical WRAM full decoupling mechanism has been triggered 9 times for overcollections since 2010 providing customers approximately \$3.7 million in credits.

“Monterey-WRAM” is not a Suitable Substitute

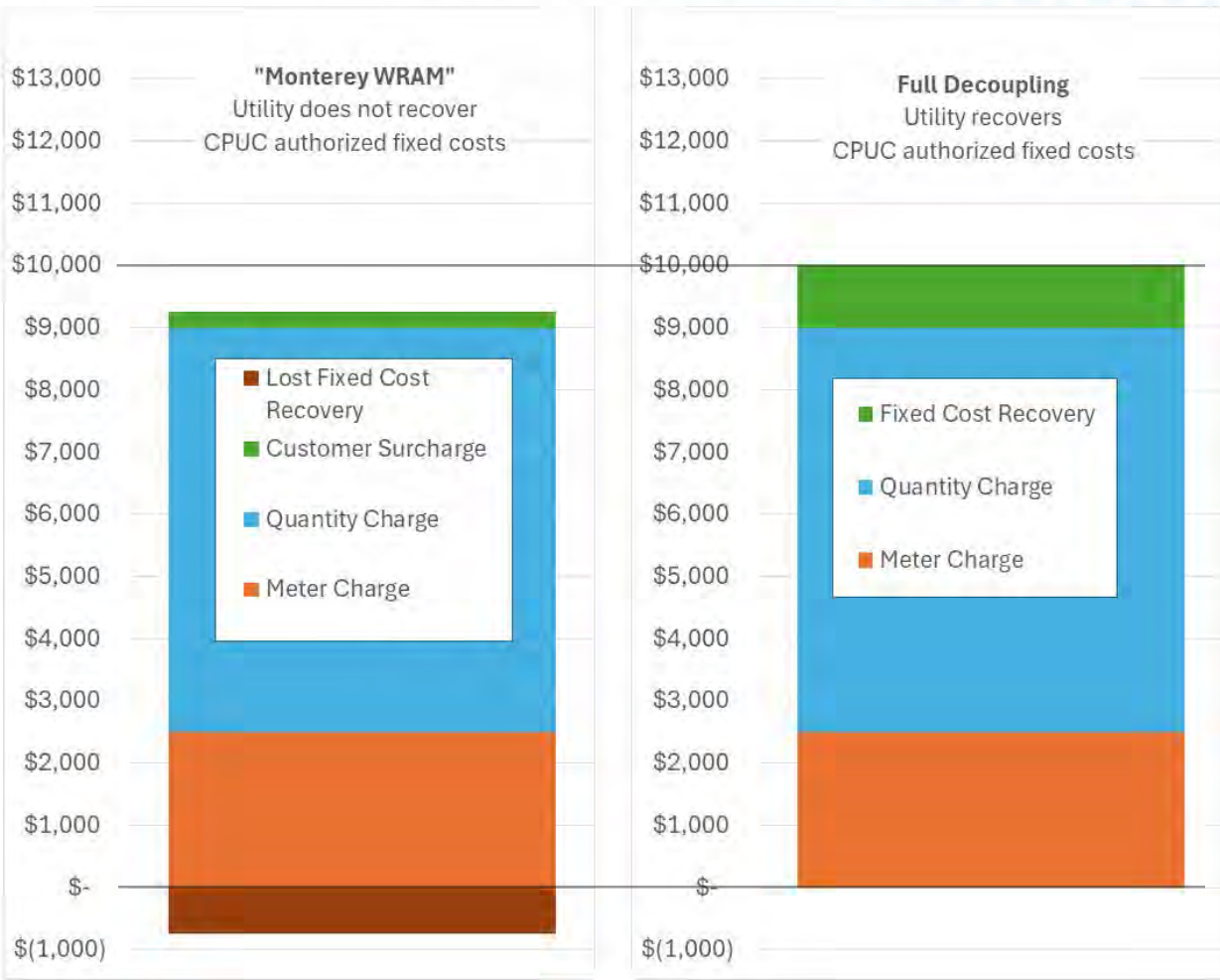
	Full Decoupling WRSP	“Monterey-WRAM”
Mitigates Risk for both Customers and the Utility?	Yes. Any over-collection of revenues is returned to customers and any under-collection of revenues is collected by utility	No. Customers are at risk of utility profit maximization (revenues > authorized) and utility is at risk of not recovering CPUC authorized fixed costs (revenue < authorized). Unless sales forecast is <u>perfect</u> either the customers or the utility will be harmed
Decouples Revenue from Sales?	Yes. The WRSP fully decouples sales from revenues and eliminates the conservation disincentive for <u>all</u> customer classes	No. The “Monterey-WRAM” is <u>only</u> a rate adjustment mechanism that converts tiered rates to single quantity rates based on actual sales
Designed to Collect CPUC Authorized Fixed Costs?	Yes. The WRSP is designed only to allow the utility to collect the <u>CPUC authorized fixed costs</u> , including labor, maintenance, infrastructure investment, etc.	No. The “Monterey-WRAM” is designed only to allow for recovery of revenues collected under single quantity rate design (i.e. non-tiered rate design) for residential customers
Address Conservation For All Customer Classes?	Yes. The WRSP removes the conservation disincentive for residential <u>and</u> non-residential customers	No. The “Monterey-WRAM” is only applicable to residential customers with tiered rate design
Incentivizes Profit Maximization?	No. Any over-recovery of revenue vs authorized is refunded to customers	Yes. Any over-recovery of revenue vs authorized is kept by the utility.

Full Decoupling vs M-WRAM Example*

Scenario 1 – Sales Above Authorized



Scenario 2 – Sales Below Authorized



*See Appendix D for numerical comparison details

Decoupling Enhances Affordability

Revenue decoupling allows utilities to implement more aggressive conservation-oriented rate designs that enhance **affordability**

Fully Decoupled Rate Designs

Lower bills for lower usage customers

Non-Decoupled Rate Designs

Higher bills for lower usage customers

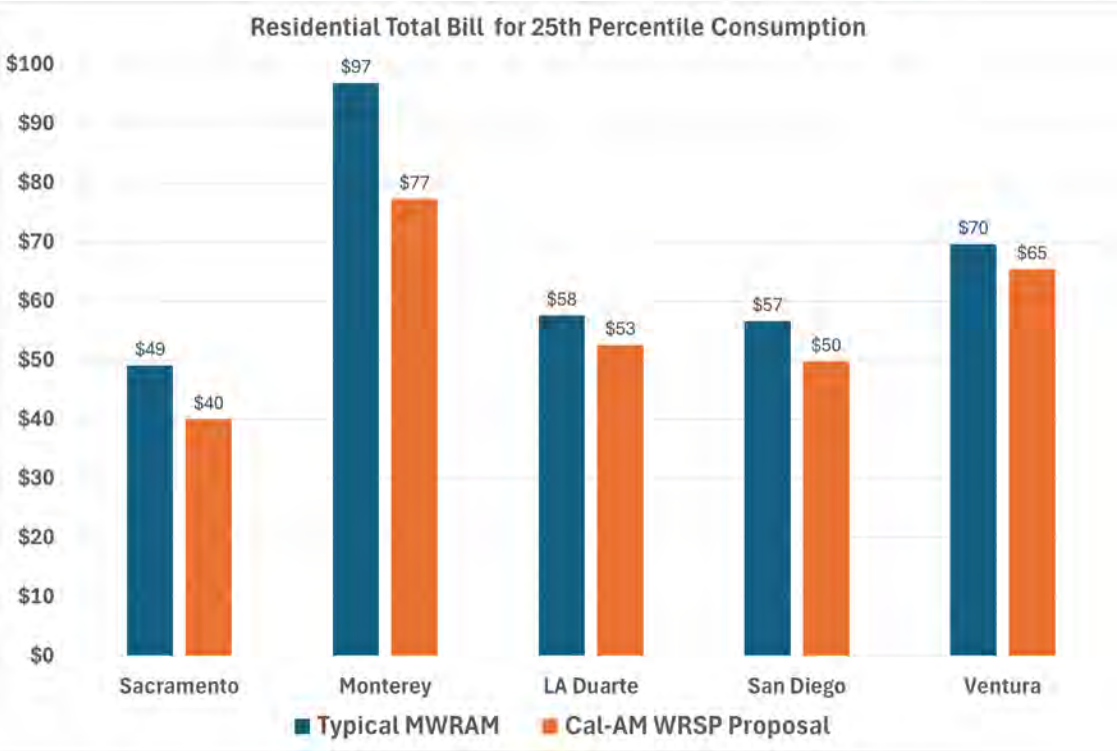
Studies have shown transition to non-decoupled rate design will negatively impact affordability*

Low Income, low-usage customers bills **increase** on average by 9%

Non-Low Income, high-usage customers bills **decrease** on average by 8%

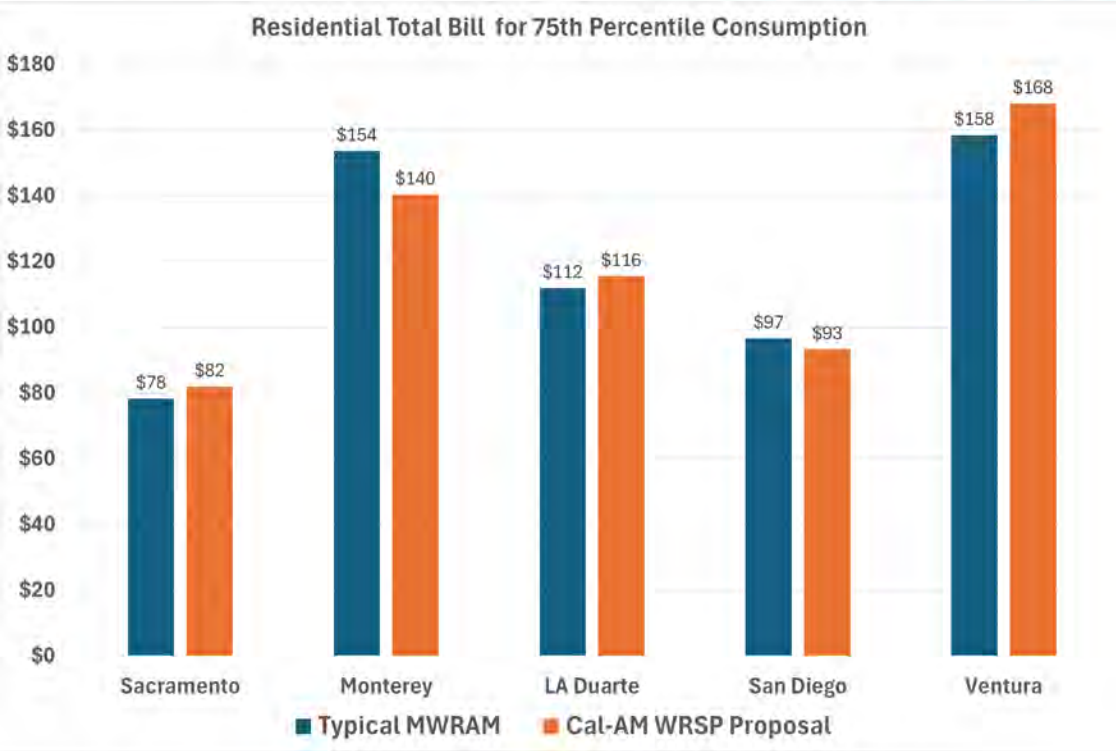
**Impacts on Customer Bills and Water Use of Recoupling Water Utility Revenue and Sales”, prepared by D.Mitchell, G.Fiske, T.Chesnutt, pp. 14-19, August 2020 (Exhibit CALAM-DM-002, Attachment 1)

Affordability – Residential Customers



Notes:

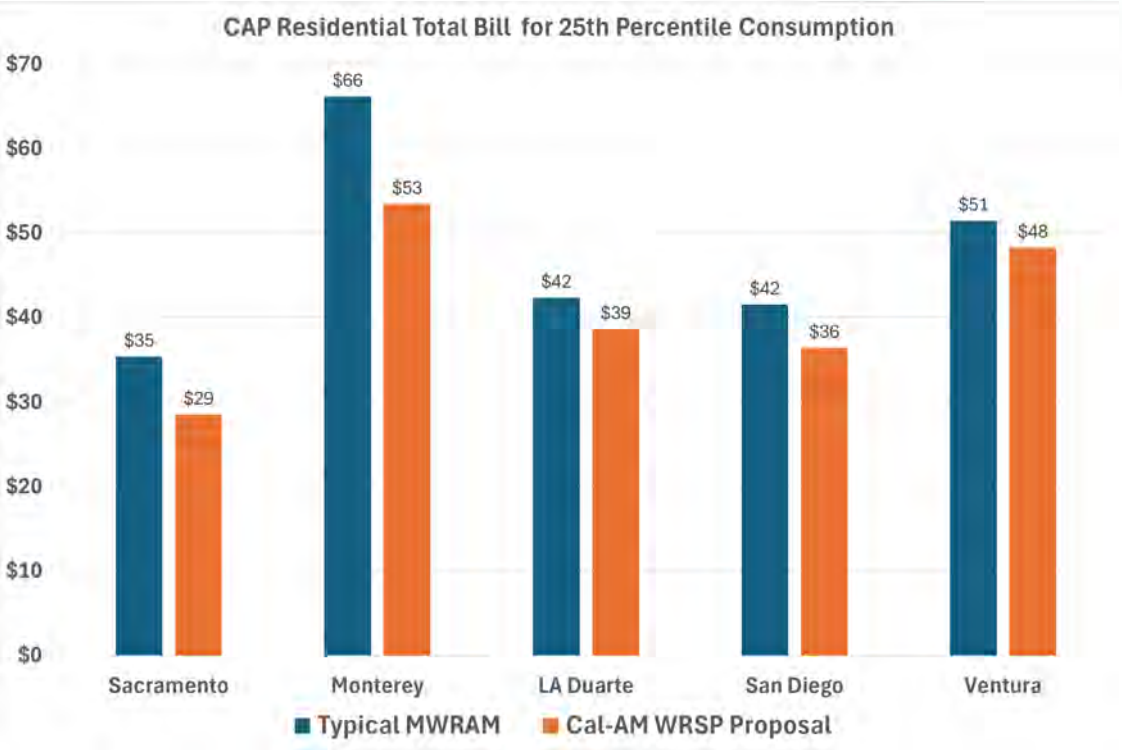
- 1) “Typical MWRAM” reflects rate design incorporating CPUC approved standard features of the Monterey-Style WRAM for Class A utilities
- 2) “Cal-AM WRSP” reflects Cal Am’s proposed fully decoupled conservation-oriented rate design



Notes (cont’d):

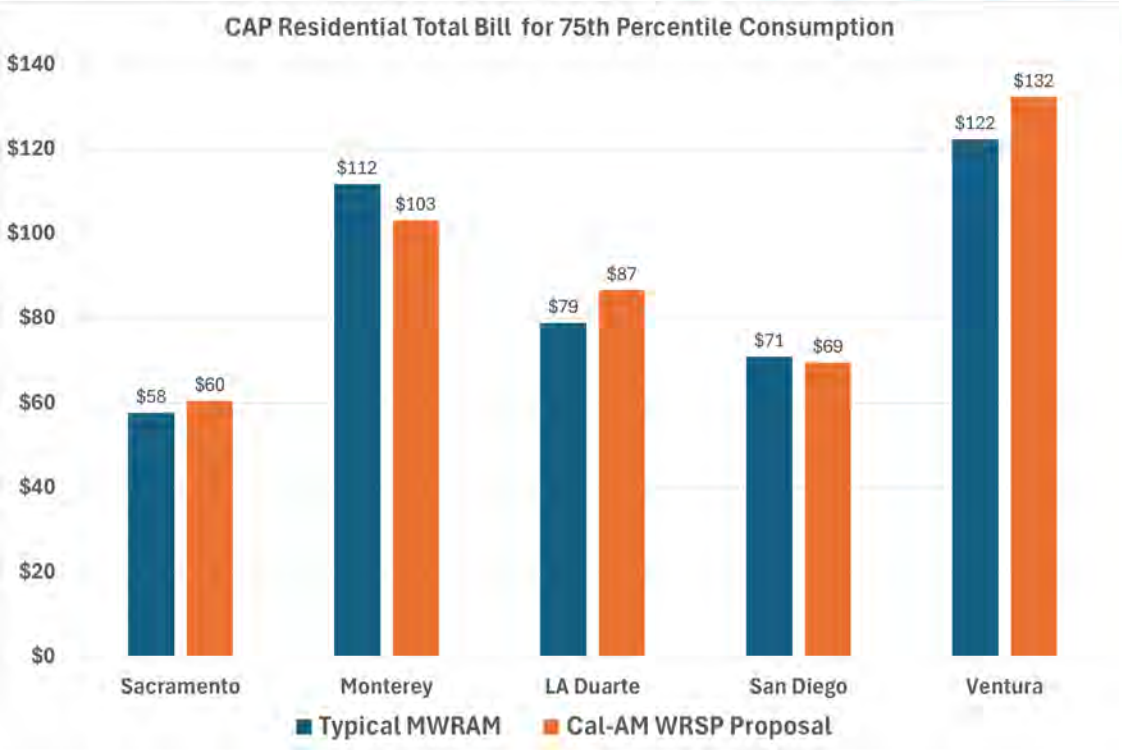
- 3) “25 Percentile” reflects customers at the 25th percentile of usage; reflects low-consumption
- 4) “75 Percentile” reflects customers at the 75th percentile of usage; represents high-consumption customers

Affordability – Low-Income Program Customers



Notes:

- 1) "Typical MWRAM" reflects rate design incorporating CPUC approved standard features of the Monterey-Style WRAM for Class A utilities
- 2) "Cal-AM WRSP" reflects Cal Am's proposed fully decoupled conservation-oriented rate design



Notes (cont'd):

- 3) "25 Percentile" reflects customers at the 25th percentile of usage; reflects low-consumption
- 4) "75 Percentile" reflects customers at the 75th percentile of usage; represents high-consumption customers

Decoupling Reduces Costs for All Customers

Long-term water use reductions benefit all customers through short run avoided costs and long run avoided costs

Short Run Avoided Costs

Purchased water, pumping costs, and variable treatment costs

Long Run Avoided Costs

Capital infrastructure investments for increased supply, distribution, and storage

Studies have shown that California American Water customers benefitted from significant avoided costs*

Percent bill reductions of 4.3% to 31.4% from 2012 to 2021
Cumulative cost savings of approximately \$470M from 2012 to 2021

**The Economic Value of Water Efficiency in California American Water Districts: Lowering Water Bills”, prepared by T.Chesnutt, D.Pekelney, D.Mitchell, pg. 24, 2023 (Exhibit CALAM-TWC-001, Attachment 2)

Proposed Decision Ignores the Intent of the California Legislature

“It is the intent of the Legislature to ensure that water corporations are authorized to establish revenue adjustment mechanisms that provide for a full decoupling of sales and revenue in order to further incentivize water conservation efforts.” (See Appendix A)

SB 1469 was approved unanimously by the California Legislature in the Fall of 2022

SB 1469 was supported by over four dozen organizations (see Appendix C), including the Natural Resources Defense Council, Alliance for Water Efficiency, and the California Labor Federation

The Proposed Decision does not even acknowledge, **let alone address**, the intent of the California Legislature to establish revenue adjustment mechanisms for water utilities

CA Supreme Court Decision

- On July 8, 2024, the California Supreme Court issued an opinion setting aside the portion of D.20-08-047 (LIRA Phase 1 Decision) forbidding companies from proposing decoupling, as well as the accompanying findings and conclusions
- Although it did not address the merits of decoupling, the opinion did recognize the tension between the financial incentive to sell more water and the need for conservation:

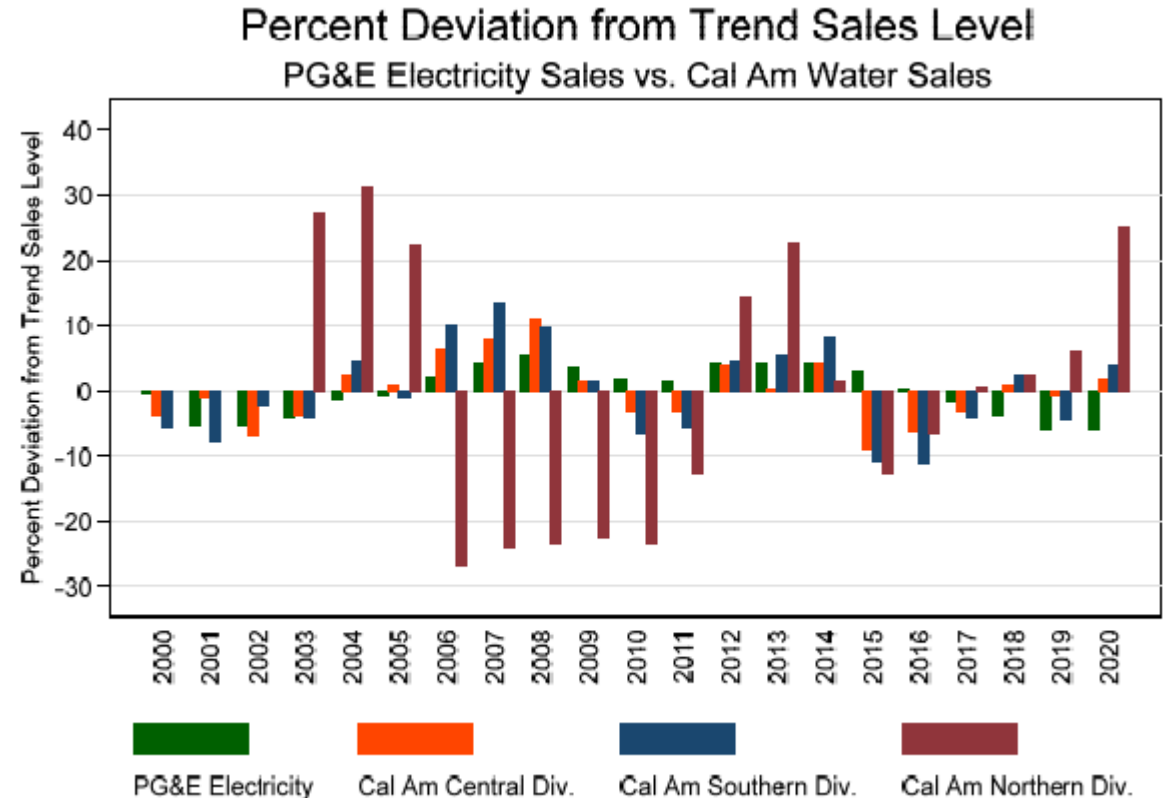
“Because water utilities’ revenue comes in part from quantity charges – that is, charges based on the amount of water sold to customers – companies in the business of selling water generally have a financial incentive to sell more water. That incentive is in tension with California’s interest in reducing water consumption – an interest that is particularly acute in an era marked by frequent and sustained periods of drought.” (See Appendix B)

Decoupling Has Been a Best Practice for Decades

Decoupling has been in place for CPUC regulated investor-owned utilities for decades.

Decoupling is even more critical for water utilities due to increased sales variability versus energy utilities

Cal Am's annual sales were at least three times more variable than PG&E's from 2000-2020

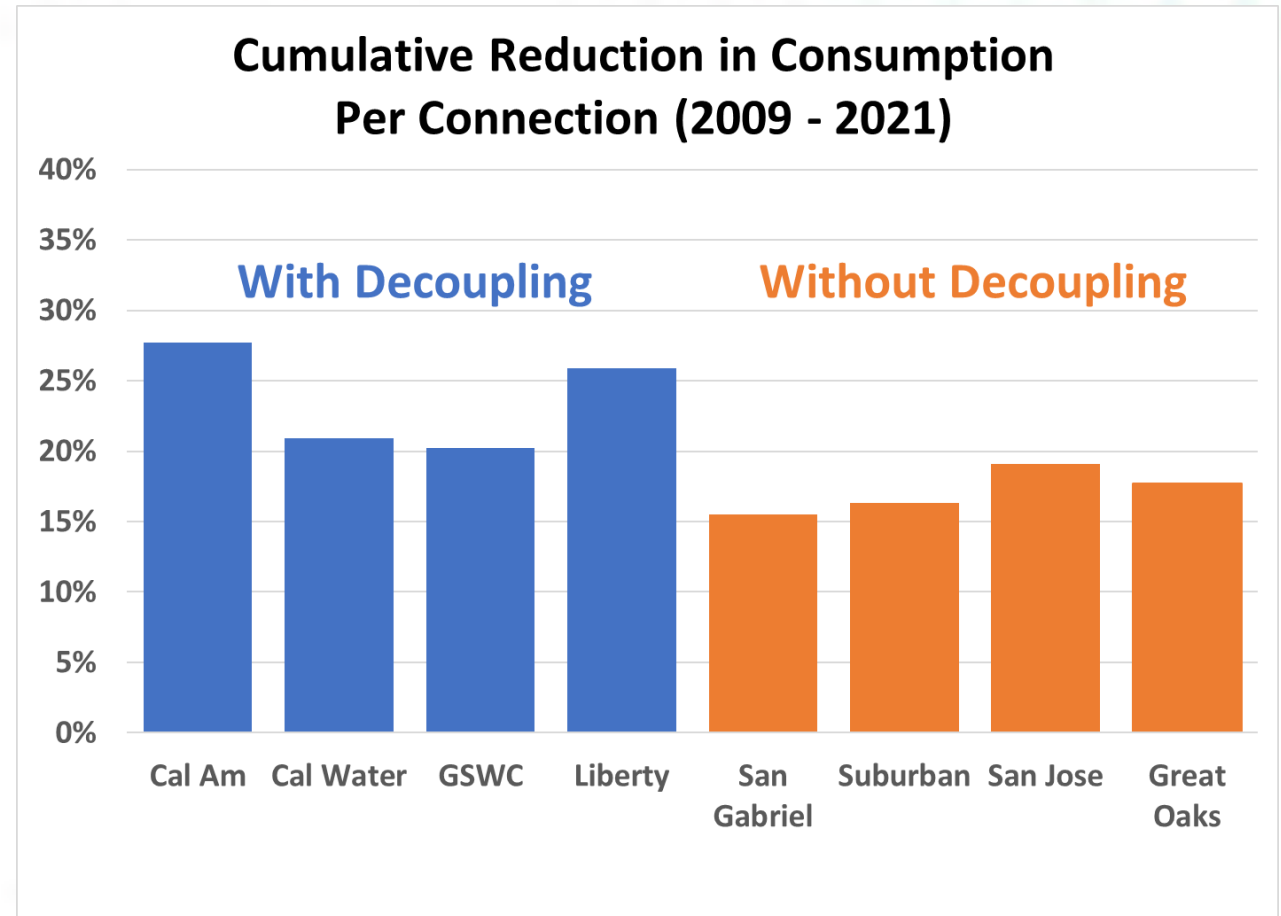


Decoupling Protects Customers

- Aggressive conservation rates present a substantial risk for both customers and the company of either overcollection or under collection of revenues. Cal Am's current WRAM has been triggered 9 times for overcollections since 2010 and customers have received \$3.7 Million in credits.
- Due to this variability, companies may not be able to recover in revenue the costs that the CPUC has determined are necessary to provide safe and reliable service. Or companies may recover more revenue than the CPUC has determined is necessary.
- Decoupling mitigates that risk for **both** customers and the company.
- Unlike decoupling, the M-WRAM does not provide any protection against over-recovery by the company. It is riskier for customers.
- Decoupling does not transfer risk from the company to customers. Ensuring that companies can recover the costs that the CPUC has deemed to be reasonable and necessary while promoting conservation is not a "risk" to customers. Ensuring that companies do not over-recover actually lessens customer risks.

Proposed Decision Misstates Conservation Record

- The Proposed Decision states that decoupling is at best “part of an array of measures that promoted conservation”, however **actual data** shows that since decoupling was adopted the per-capita water use reduction for every single decoupled Class A utility was greater than every single non-decoupled Class A utility
- Further, Cal Am has the **highest** cumulative reduction in per-capita consumption of any Class A utility since decoupling was adopted



Potential Elimination of Decoupling Problematic for Regulatory Climate

Published September 16, 2024

Global Water Intelligence

Ian Elkins

Decoupling takes a sinister new turn in California

A move by the California Public Utilities Commission to deny the request submitted by California-American Water to implement [a decoupling mechanism](#) in its rate-setting could have far-reaching implications for other investor-owned water utilities in the state.

Although the company has the chance to provide a rebuttal and ultimately to submit an appeal, any final vote which upholds administrative law judge Jake Rambo's proposed decision will reinforce the impression of inconsistent regulation within California, where gas and electric utilities have had their revenues decoupled from volumetric sales for decades.

At the same time, the Cal-Am decision could impact upcoming decoupling applications from Golden State Water (American States Water), Liberty Utilities, and California Water Service.

The move also illustrates the dichotomy between the CPUC's approach and that of the State Water Resources Control Board, which is actively promoting the concept of revenue decoupling as a tool to boost water conservation in California.

Existing ACAM is Necessary With, or Without, Decoupling

Annual Consumption Adjustment Mechanism (ACAM) allows for annual update to CPUC authorized rates based on historical consumption

ACAM benefits customers and the utility through alignment of rates with actual consumption and reducing risk of over-collection and under-collection

ACAM was made permanent in the Monterey District and expanded to most other service areas as a pilot in Cal Am's 2019 GRC (D.21-11-018) and was not contingent on decoupling

Commission identified benefits (D.18-05-027) of sales adjustment mechanisms (improved price information, timely and consistent conservation signals, intergenerational equity) are applicable with, or without, decoupling

Absence of **ACAM** unreasonably locks in sales for three year GRC period based on forecasts developed nearly two years before the Test Year even begins

Additional Issues with the Proposed Decision

- Proposed Decision denies **Special Request #4: Partial Consolidation of Transmission and Distribution (T&D) Net Plant Costs**
 - Request: Combine all T&D net plant assets into central pool to be allocated back to each tariff area
 - Benefit: Moderated statewide rate impacts from T&D asset renewal and replacement
- Proposed Decision denies **Special Request #9: Placer County Water Agency (PCWA) Capacity Cost Recovery**
 - Request: Update tariffs to reflect Commission authorization to include allowance for funds used during construction in existing memorandum account per Res W-5111
 - Benefit: Ensures customers are not impacted by the cost of development and that costs for additional capacity is paid for by development
- Proposed Decision denies **Special Request #13: Chemical Cost Balancing Account**
 - Request: Establish a balancing account for chemical costs based on actual costs incurred
 - Benefit: Allow for recovery only of costs actually incurred for a necessary, but volatile from cost perspective, component of providing safe and reliable water service

Language for PD Implementation Creates Confusion

- Problem: Proposed Decision creates customer confusion due to multiple rate adjustments in short period
 - PD OP#11 puts rate implementation 60 days from Decision date, on or about December 16, 2024. PD OP#13 requires escalation year 2025 rates implemented in conformance with Revised Water Rate Plan, which would be on January 1, 2025. Multiple rate changes in a short period cause rate proration and customer confusion.
 - Solution: Allow flexibility to implement the 2024 Test Year and 2025 Escalation Year rate adjustments simultaneously by adopting CAW's proposed OP language included in PD Comments
- Problem: Proposed Decision is unclear about WRAM retroactivity to January 1, 2024
 - The PD addresses amortization of WRAM balances accrued through 2023, but is silent about balances accrued through rate implementation. Interim rates in 2024 were based on the aggressive conservation rate design applicable only with full decoupling.
 - Solution: In the event the MWRAM is adopted incorporate CAW's proposal to transition upon the effective date of new rates.



Thank you!

Appendix A – Senate Bill No. 1469, Chapter 890



Senate Bill No. 1469

CHAPTER 890

An act to amend Section 727.5 of the Public Utilities Code, relating to water corporations.

[Approved by Governor September 30, 2022. Filed with Secretary of State September 30, 2022.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1469, Bradford. Water corporations: rates.

Existing law requires the Public Utilities Commission, in establishing rates for water service, to consider separate charges for costs associated with customer service, facilities, variable operating costs, or other components of the water service provided to water users. Existing law requires the commission to consider, and authorizes the commission to authorize, a water corporation to establish programs, including rate designs, for achieving conservation of water and recovering the cost of these programs through the rates.

This bill would, upon application by a water corporation with more than 10,000 service connections, require the commission to consider, and authorize the commission to authorize, the implementation of a mechanism that separates the water corporation's revenues and its water sales, as provided.

Under existing law, a violation of the Public Utilities Act or any order, decision, rule, direction, demand, or requirement of the commission is a crime.

Because the above provision would be part of the act and a violation of a commission action implementing this bill's requirements would be a crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. (a) The Legislature finds and declares all of the following:

- (1) Adequate water supply reliability for all uses is essential to the future economic and environmental health of California.
- (2) California is in a severe drought, and in 2021 the Governor issued executive orders declaring a drought emergency.

(3) Droughts in California are expected to become more frequent and more severe as a result of climate change.

(4) The frequency of droughts highlights the continued importance of encouraging both water suppliers and their customers to practice water conservation as the most cost-effective means of ensuring that there are adequate water supplies for the environment and people in the state.

(5) Because water suppliers have very significant fixed costs that do not fluctuate with changes in consumption patterns, they have a financial disincentive to encourage water conservation as reductions in water consumption directly translate into cost recovery challenges.

(6) The Legislature has addressed this same financial challenge for electricity suppliers by requiring that changes in demand do not result in material overcollections or undercollections of revenue.

(b) It is the intent of the Legislature to ensure that water corporations are authorized to establish revenue adjustment mechanisms that provide for a full decoupling of sales and revenue in order to further incentivize water conservation efforts.

SEC. 2. Section 727.5 of the Public Utilities Code is amended to read: 727.5. (a) In establishing rates for water service, the commission shall consider, and may establish, separate charges for costs associated with customer service, facilities, variable operating costs, including fixed and variable costs associated with supplying the water, or other components of the water service provided to water users.

(b) The commission shall consider, and may authorize, a water corporation to assess a fee for future water service, or a reservation charge for future water service, for persons or entities occupying or owning property within the service territory of the water corporation.

(c) The commission shall consider, and may authorize, a water corporation to establish a balancing account, rate stabilization fund, or other contingency fund, the purpose of which shall be the long-term stabilization of water rates.

(d) (1) The commission shall consider, and may authorize, a water corporation to establish programs, including rate designs, for achieving conservation of water and recovering the cost of these programs through the rates.

(2) (A) Upon application by a water corporation with more than 10,000 service connections, the commission shall consider, and may authorize, the implementation of a mechanism that separates the water corporation's revenues and its water sales, commonly referred to as a "decoupling mechanism."

(B) An authorized decoupling mechanism shall be designed to ensure that the differences between actual and authorized water sales do not result in the overrecovery or underrecovery of the water corporation's authorized water sales revenue.

(C) An authorized decoupling mechanism shall not enable the water corporation to earn a revenue windfall by encouraging higher sales.

(D) The water corporation may only submit an application to the commission pursuant to this paragraph as part of its triennial general rate case application described in Section 455.2, unless the commission and the water corporation mutually agree for the application to be otherwise submitted.

(e) In establishing rates for recovery of the costs of used and useful water plant, the commission may use a capital structure and payback methodology that maintains the reliability of water service, minimizes the long-term cost to ratepayers, provides equity between present and future ratepayers, and affords the utility an opportunity to earn a reasonable return on its used and useful investment, attract capital for investment on reasonable terms, and ensure the financial integrity of the utility.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

Appendix B – Golden State Water Company v. Public Utilities Commission, 16 Cal.5th 380 (July 8, 2024)

IN THE SUPREME COURT OF
CALIFORNIA

GOLDEN STATE WATER COMPANY,
Petitioner,
v.
PUBLIC UTILITIES COMMISSION,
Respondent.

S269099 -1-

Cal.P.U.C. Decision No. 20-08-047

CALIFORNIA-AMERICAN WATER COMPANY et al.,
Petitioners,
v.
PUBLIC UTILITIES COMMISSION,
Respondent.

S271493

Cal.P.U.C. Decision Nos. 20-08-047 and 21-09-047

July 8, 2024

Justice Kruger authored the opinion of the Court, in which
Chief Justice Guerrero and Justices Corrigan, Liu, Groban,
Jenkins, and Evans concurred.

SUPREME COURT
FILED
JUL 08 2024
Jorge Navarrete Clerk
Deputy

GOLDEN STATE WATER COMPANY v. PUBLIC
UTILITIES COMMISSION*
S269099

Opinion of the Court by Kruger, J.

In recent decades, California has experienced severe and recurring drought conditions that have heightened concerns about how water is sold. Like any other service provider, water companies typically have a financial incentive to sell more of their service. To reduce that financial incentive to sell more water to more consumers, and thus to encourage water conservation, the Public Utilities Commission in 2008 allowed certain water companies to structure their rates in a way that “decouples” revenue from the amount of water sold. More than a decade later, in a proceeding ostensibly focused on improving the accuracy of water sales forecasts necessary for use of this decoupling mechanism, the Commission ordered that the mechanism be eliminated altogether.

The issue before us does not concern the merits of this decision, but the process that led up to it. The question is whether the Commission gave adequate notice that the elimination of the decoupling mechanism was one of the issues to be considered in the proceeding. We conclude that the answer is no. We further conclude that the Commission’s failure to give adequate notice requires us to set the order aside.

* Consolidated with *California-American Water Company et al. v. Public Utilities Commission* (S271493).

GOLDEN STATE WATER COMPANY v. PUBLIC UTILITIES
COMMISSION
Opinion of the Court by Kruger, J.

I.

Petitioners are five large water utilities and an association that represents investor-owned water utilities’ interests; for simplicity’s sake, we refer to the utilities collectively as the Water Companies. They seek to set aside an order of the Public Utilities Commission eliminating a type of conservation-focused ratesetting mechanism known as the Water Revenue Adjustment Mechanism, based on defects in the proceedings that led to the issuance of the order. This case does not concern the substance of the Commission’s decision, but some understanding of the substance helps to explain the nature of the procedural dispute now before us. We therefore begin by offering a brief overview of the mechanisms at issue in the challenged order before turning to the history of how that order came to be.

A. Water Revenue Adjustment Mechanism
and Modified Cost Balancing Account

The Water Companies are what is known as Class A water utilities, a term the Commission uses to refer to water utilities with more than 10,000 service connections. Under the Public Utilities Code, these large water utilities must periodically seek the Commission’s approval of future rates through a formal “general rate case” (often abbreviated as “GRC”) application process. (See Pub. Util. Code, § 455.2, subd. (c).)¹

One issue relevant to the amount and structure of rates is California’s interest in water conservation. Because water

¹ Other, smaller utilities must also seek the Commission’s approval to change the rates they charge customers. (See, e.g., Pub. Util. Code, § 454, subd. (b).)

Appendix B – Golden State Water Company v. Public Utilities Commission, 16 Cal.5th 380 (July 8, 2024), cont.

GOLDEN STATE WATER COMPANY v. PUBLIC UTILITIES
COMMISSION
Opinion of the Court by Kruger, J.

utilities' revenue comes in part from quantity charges — that is, charges based on the amount of water sold to customers — companies in the business of selling water generally have a financial incentive to sell more water. That incentive is in tension with California's interest in reducing water consumption — an interest that is particularly acute in an era marked by frequent and sustained periods of drought.

Seeking to alleviate that tension, the Commission in 2008 authorized certain utilities to implement concepts known as the Water Revenue Adjustment Mechanism and the Modified Cost Balancing Account. A Water Revenue Adjustment Mechanism (WRAM) works by tracking the difference between quantity-rate revenues authorized by the Commission and quantity-rate revenues billed by a utility. If the Commission authorizes more quantity-rate revenue than the utility bills, the utility may be able to surcharge customers. If the Commission authorizes less quantity-rate revenue than the utility bills, a credit to customers might instead be appropriate. To determine whether a surcharge or credit is warranted, and in what amount, the difference between authorized and actual quantity-rate revenue is netted against a Modified Cost Balancing Account (MCBA), which tracks the difference between certain authorized and actual water provision costs.

As the Commission has explained, "[t]he major purpose" of adopting this approach "was to decouple sales from revenues and thus promote conservation." The incentive to sell more water is reduced if revenues above those authorized must be returned to customers and revenues below those authorized can be surcharged. Because the WRAM approach depends on tracking the difference between actual quantity-rate revenues

GOLDEN STATE WATER COMPANY v. PUBLIC UTILITIES
COMMISSION
Opinion of the Court by Kruger, J.

posed — "should the Commission consider converting to [a] Monterey-style WRAM . . . ? Should this consideration occur in the context of each utility's GRC?" — are reasonably understood to contemplate a separate, future proceeding. Finally, the record indicates that the lack of notice hampered the Water Companies' efforts to submit and contest evidence relevant to whether the mechanisms at issue should be maintained. The Commission was not required to agree with the Water Companies, but its failure to issue an adequate scoping memo frustrated the Water Companies' ability to advocate effectively for their position.

IV.

We set aside the portion of the Commission's order, and the accompanying findings and conclusions, directing that the Water Companies, "in their next general rate case applications, shall not propose continuing existing Water Revenue Adjustment Mechanisms/Modified Cost Balancing Accounts." (See Pub. Util. Code, § 1758.)

KRUGER, J.

We Concur:
GUERRERO, C. J.
CORRIGAN, J.
LIU, J.
GROBAN, J.
JENKINS, J.
EVANS, J.

Appendix C – SB 1469 Support for Decoupling

- ▶ Acterra: Action for a Healthy Planet
- ▶ Alliance for Water Efficiency
- ▶ Alliance to Save Energy
- ▶ American Council for an Energy-efficient Economy
- ▶ Bay Area Council
- ▶ Bay Area Water Supply and Conservation Agency
- ▶ California Community Economic Development Association
- ▶ California Labor Federation
- ▶ California Water Efficiency Partnership
- ▶ California Water Utility Council Locals: 160, 160C, 160D, 205, 283, & 484
- ▶ California-Nevada Conference of Operating Engineers
- ▶ California-Nevada Section, American Water Works Association
- ▶ Central Valley Business Federation
- ▶ Chamber of Commerce: California Hispanic, Carson, Commerce Industrial Council, Cupertino, East Los Angeles, Greater Bakersfield, Greater Stockton, Hawthorne, Hermosa Beach, Los Angeles Area, Livermore Valley, Lomita, Menlo Park, Montebello, Palos Verdes Peninsula, Redondo Beach, San Joaquin County Hispanic, San Jose, San Mateo Area, and Visalia
- ▶ City of Salinas
- ▶ City of San Mateo
- ▶ El Concilio
- ▶ Friends of the River
- ▶ ICON CDC
- ▶ International Federation of Professional & Technical Engineers - Local 26
- ▶ International Union of Operating Engineers Local 3
- ▶ Natural Resources Defense Council
- ▶ Regional Water Authority
- ▶ Santa Clara Valley Water District
- ▶ Silicon Valley Leadership Group
- ▶ South Bay Association of Chambers of Commerce
- ▶ Steve McShane, Salinas City Council Member
- ▶ Sustainable Silicon Valley
- ▶ Tuolumne River Trust
- ▶ West Basin Water Association

Appendix D – Full Decoupling vs M-WRAM Example

Assumptions

- 1 customer Yearly billing
- Approved rate case established the following:
 - Sales forecast of 1,000 units
 - Customer charge of \$2,500
 - Tier 1 - \$5 per unit for first 500 units
 - Tier 2 - \$10 per unit for amounts over 500 units
- Single volumetric rate of \$7.50 per unit $((\$5 * 500) + (\$10 * 500)) / 1,000$
- Total revenue requirement is \$10,000 calculated as $(\$2,500 + (\$5 * 500) + (\$10 * 500))$

SCENARIO 1 – SALES ABOVE CPUC AUTHORIZED

Let's assume that the customer uses 1,100 units vs. the 1,000 units authorized by the CPUC and the total collected revenues are \$9,000 calculated as $(\$2,500 + (\$5 * 500) + (\$10 * 600))$. As a result, the Company would over-collect by \$1,000.

Full Decoupling

Under Full Decoupling, the Company would return the \$1,000 over-collection to customers

Monterey-WRAM

Under the Monterey WRAM, the Company would return to customers only \$250 of the \$1,000 of over-collection calculated as follows:

Estimated collections using single volumetric rate of \$10,750 calculated as $(\$2,500 + (\$7.50 * 1,100))$ Less: Actual collected revenues of \$11,000
Equals: Amount of surcredits \$250 Company keeps over-collection of \$750

No Decoupling

Company over-collects by \$1,000 and no refund is provided to customers

SCENARIO 2 – SALES BELOW CPUC AUTHORIZED:

Let's assume that the customer uses 900 units vs. the 1,000 units authorized by the CPUC and the total collected revenues are \$9,000 calculated as $(\$2,500 + (\$5 * 500) + (\$10 * 400))$. As a result, the Company would under-collect by \$1,000.

Full Decoupling

Under Full Decoupling, the Company could pass through surcharges to collect the full \$1,000 of the under-collection to recover CPUC authorized fixed costs.

Monterey-WRAM

Under the Monterey WRAM, the Company could pass through surcharges to collect only \$250 of the \$1,000 of under-collection calculated as follows:

Estimated collections using single volumetric rate of \$9,250 calculated as $(\$2,500 + (\$7.50 * 900))$ Less: Actual collected revenues of \$9,000
Equals: Amount of surcharges \$250 Company under-collects by \$750

No Decoupling

Company under-collects by \$1,000

ATTACHMENT 2



2022 General Rate Case A.22-07-001 Ex Parte Discussion

September 27, 2024

Proposed Decision Overview

Positives

The Proposed Decision adopts the settlement agreement between Cal Am and the Public Advocates Office

However,

In denying Cal Am's proposed full decoupling Water Resources Sustainability Plan (WRSP) the Proposed Decision disregards the preponderance of evidence and ignores clearly stated intent of the Legislature
and

In eliminating the existing Annual Consumption Adjustment Mechanism (ACAM) the Proposed Decision eliminates the ability to provide timely and consistent conservation rate signals and to align sales with cost of service

Solution,

Revise the Proposed Decision, or issue an Alternate Proposed Decision, approving the full decoupling WRSP and the ACAM

Overview of Water Resources Sustainability Plan (WRSP)

The WRSP is a revenue decoupling mechanism that removes the financial disincentive to encourage water conservation

- As found by the California Legislature in SB 1469: *“Because water suppliers have very significant fixed costs that do not fluctuate with changes in consumption patterns, they have a financial disincentive to encourage water conservation as reductions in water consumption directly translate into cost recovery challenges.”* (See Appendix A.)

The WRSP does provide for recovery of only CPUC authorized fixed costs (capital improvements, labor, etc.)

- Proposed Decision provides for recovery of approximately \$120M of authorized fixed costs through quantity rates. If sales are above, or below, authorized levels Cal Am will over-collect, or under-collect, on these unavoidable costs of service in the absence of a decoupling mechanism.

The WRSP is a two-way mechanism that refunds over-collections to customers

- The historical WRAM full decoupling mechanism has been triggered 9 times for overcollections since 2010 providing customers approximately \$3.7 million in credits. (See Appendix E)

“Monterey-WRAM” is not a Suitable Substitute

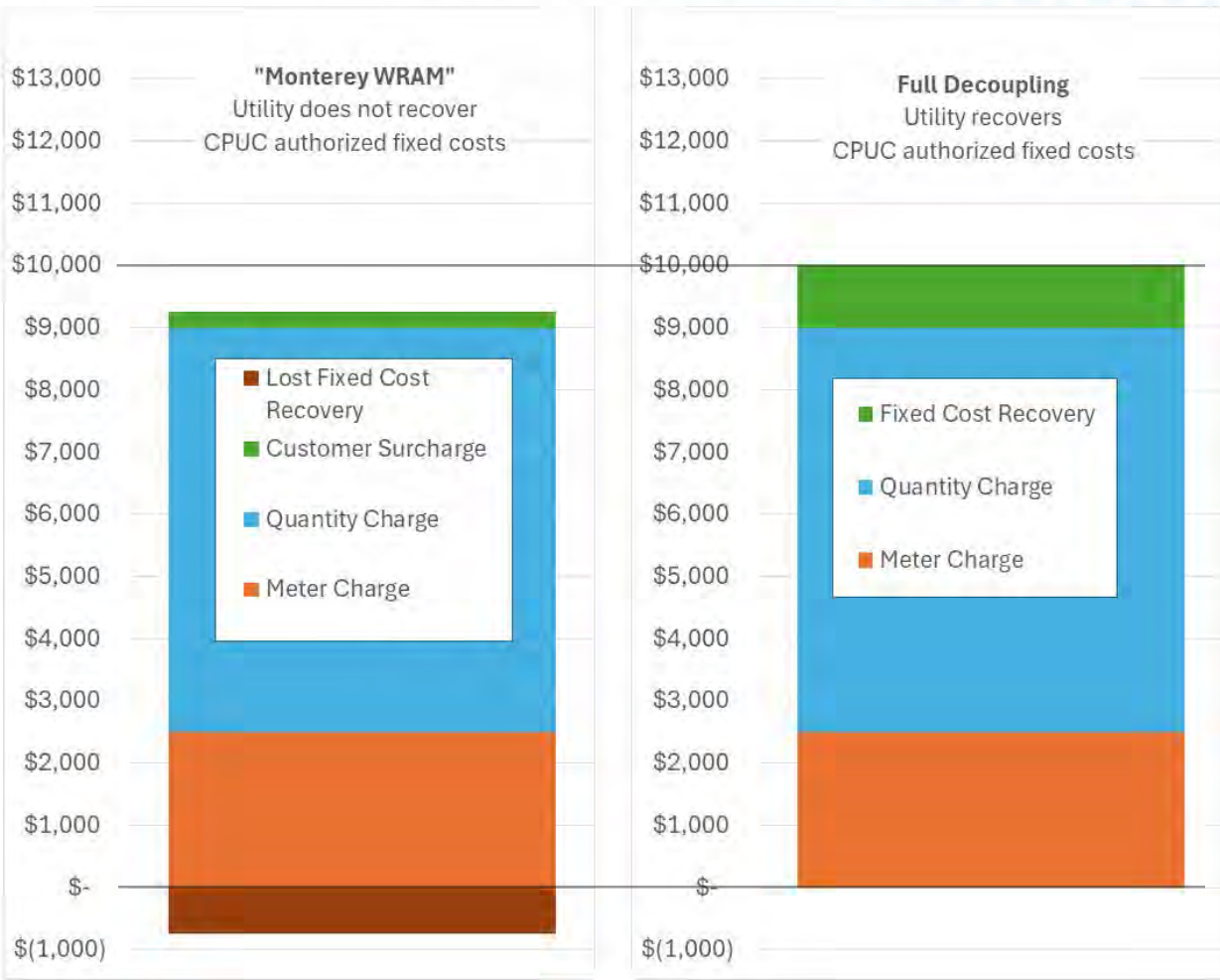
	Full Decoupling WRSP	“Monterey-WRAM”
Mitigates Risk for both Customers and the Utility?	Yes. Any over-collection of revenues is returned to customers and any under-collection of revenues is collected by utility	No. Customers are at risk of utility profit maximization (revenues > authorized) and utility is at risk of not recovering CPUC authorized fixed costs (revenue < authorized). Unless sales forecast is <u>perfect</u> either the customers or the utility will be harmed
Decouples Revenue from Sales?	Yes. The WRSP fully decouples sales from revenues and eliminates the conservation disincentive for <u>all</u> customer classes	No. The “Monterey-WRAM” is <u>only</u> a rate adjustment mechanism that converts tiered rates to single quantity rates based on actual sales
Designed to Collect CPUC Authorized Fixed Costs?	Yes. The WRSP is designed only to allow the utility to collect the <u>CPUC authorized fixed costs</u> , including labor, maintenance, infrastructure investment, etc.	No. The “Monterey-WRAM” is designed only to allow for recovery of revenues collected under single quantity rate design (i.e. non-tiered rate design) for residential customers
Address Conservation For All Customer Classes?	Yes. The WRSP removes the conservation disincentive for residential <u>and</u> non-residential customers	No. The “Monterey-WRAM” is only applicable to residential customers with tiered rate design
Incentivizes Profit Maximization?	No. Any over-recovery of revenue vs authorized is refunded to customers	Yes. Any over-recovery of revenue vs authorized is kept by the utility.

Full Decoupling vs M-WRAM Example*

Scenario 1 – Sales Above Authorized



Scenario 2 – Sales Below Authorized



*See Appendix D for numerical comparison details

M-WRAM Incentivizes Utilities to Under-Forecast

- Utilities with the M-WRAM have an incentive to under-forecast sale for General Rate Case purposes but increase sales in practice.
 - In the case of the M-WRAM, the consequences of a forecast that errs on the high-side is under-recovery of revenue and one that errs on the low-side is over-recovery of revenue.
 - The record shows that PAO succumbed to this temptation in this proceeding. In proposing sales forecasts in this proceeding, PAO did not rely on a consistent forecasting methodology but instead admitted that it used whichever method resulted in a higher sales forecast.
- WRSP changes these incentives because the utility can only earn what is authorized in the General Rate Case.

**Record Exhibit CALAM-DM-002, pp. 7-8 and Attachment 1, p.4 n.6; Record Exhibit CALAM-DM-003, p. 7.

Decoupling Enhances Affordability

Revenue decoupling allows utilities to implement more aggressive conservation-oriented rate designs that enhance **affordability**

Fully Decoupled Rate Designs

Lower bills for lower usage customers

Non-Decoupled Rate Designs

Higher bills for lower usage customers

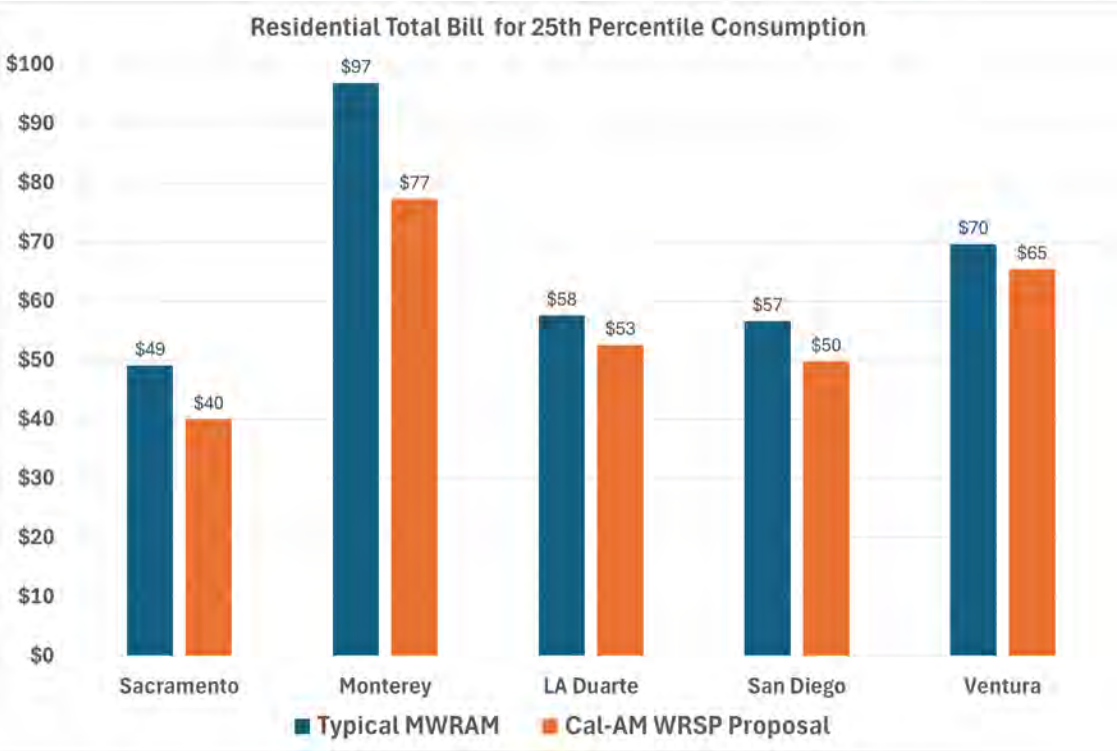
Studies have shown transition to non-decoupled rate design will negatively impact affordability*

Low Income, low-usage customers bills **increase** on average by 9%

Non-Low Income, high-usage customers bills **decrease** on average by 8%

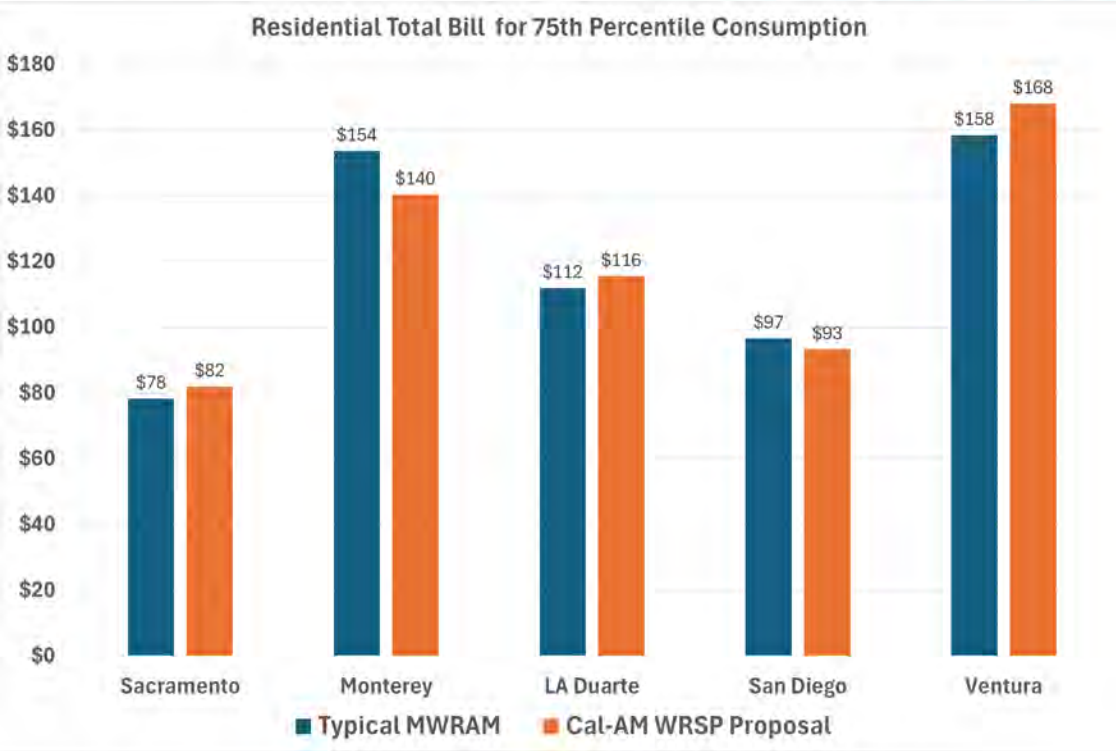
**Impacts on Customer Bills and Water Use of Recoupling Water Utility Revenue and Sales”, prepared by D.Mitchell, G.Fiske, T.Chesnutt, pp. 14-19, August 2020 (Exhibit CALAM-DM-002, Attachment 1)

Affordability – Residential Customers



Notes:

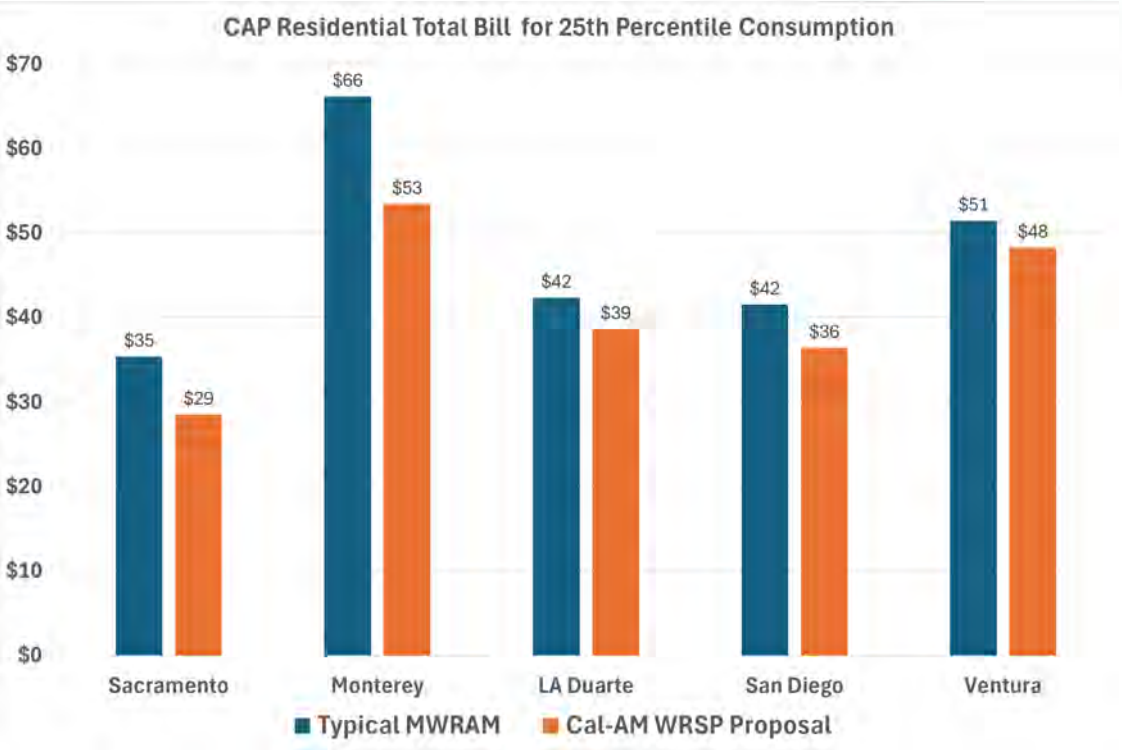
- 1) “Typical MWRAM” reflects rate design incorporating CPUC approved standard features of the Monterey-Style WRAM for Class A utilities
- 2) “Cal-AM WRSP” reflects Cal Am’s proposed fully decoupled conservation-oriented rate design



Notes (cont’d):

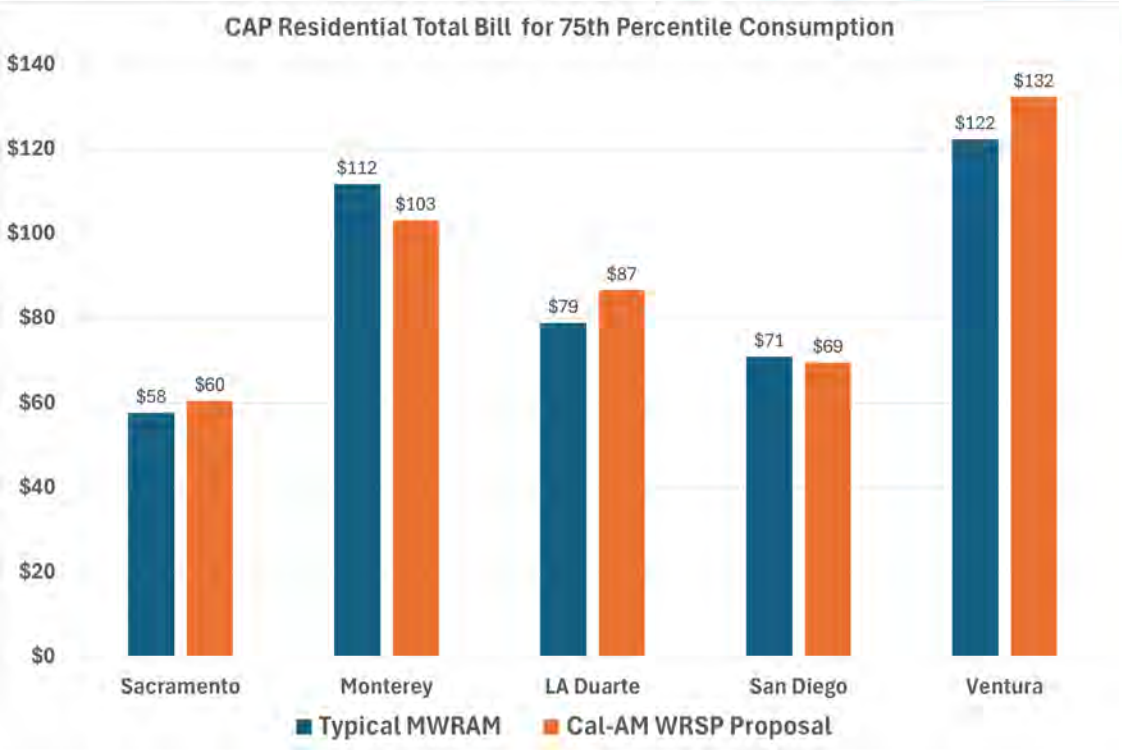
- 3) “25 Percentile” reflects customers at the 25th percentile of usage; reflects low-consumption
- 4) “75 Percentile” reflects customers at the 75th percentile of usage; represents high-consumption customers

Affordability – Low-Income Program Customers



Notes:

- 1) "Typical MWRAM" reflects rate design incorporating CPUC approved standard features of the Monterey-Style WRAM for Class A utilities
- 2) "Cal-AM WRSP" reflects Cal Am's proposed fully decoupled conservation-oriented rate design



Notes (cont'd):

- 3) "25 Percentile" reflects customers at the 25th percentile of usage; reflects low-consumption
- 4) "75 Percentile" reflects customers at the 75th percentile of usage; represents high-consumption customers

Decoupling Reduces Costs for All Customers

Long-term water use reductions benefit all customers through short run avoided costs and long run avoided costs

Short Run Avoided Costs

Purchased water, pumping costs, and variable treatment costs

Long Run Avoided Costs

Capital infrastructure investments for increased supply, distribution, and storage

Studies have shown that California American Water customers benefitted from significant avoided costs*

Percent bill reductions of 4.3% to 31.4% from 2012 to 2021
Cumulative cost savings of approximately \$470M from 2012 to 2021

**The Economic Value of Water Efficiency in California American Water Districts: Lowering Water Bills”, prepared by T.Chesnutt, D.Pekelney, D.Mitchell, pg. 24, 2023 (Exhibit CALAM-TWC-001, Attachment 2)

Proposed Decision Ignores the Intent of the California Legislature

“It is the intent of the Legislature to ensure that water corporations are authorized to establish revenue adjustment mechanisms that provide for a full decoupling of sales and revenue in order to further incentivize water conservation efforts.” (See Appendix A)

SB 1469 was approved unanimously by the California Legislature in the Fall of 2022

SB 1469 was supported by over four dozen organizations (see Appendix C), including the Natural Resources Defense Council, Alliance for Water Efficiency, and the California Labor Federation

The Proposed Decision does not even acknowledge, **let alone address**, the intent of the California Legislature to establish revenue adjustment mechanisms for water utilities

CA Supreme Court Decision

- On July 8, 2024, the California Supreme Court issued an opinion setting aside the portion of D.20-08-047 (LIRA Phase 1 Decision) forbidding companies from proposing decoupling, as well as the accompanying findings and conclusions
- Although it did not address the merits of decoupling, the opinion did recognize the tension between the financial incentive to sell more water and the need for conservation:

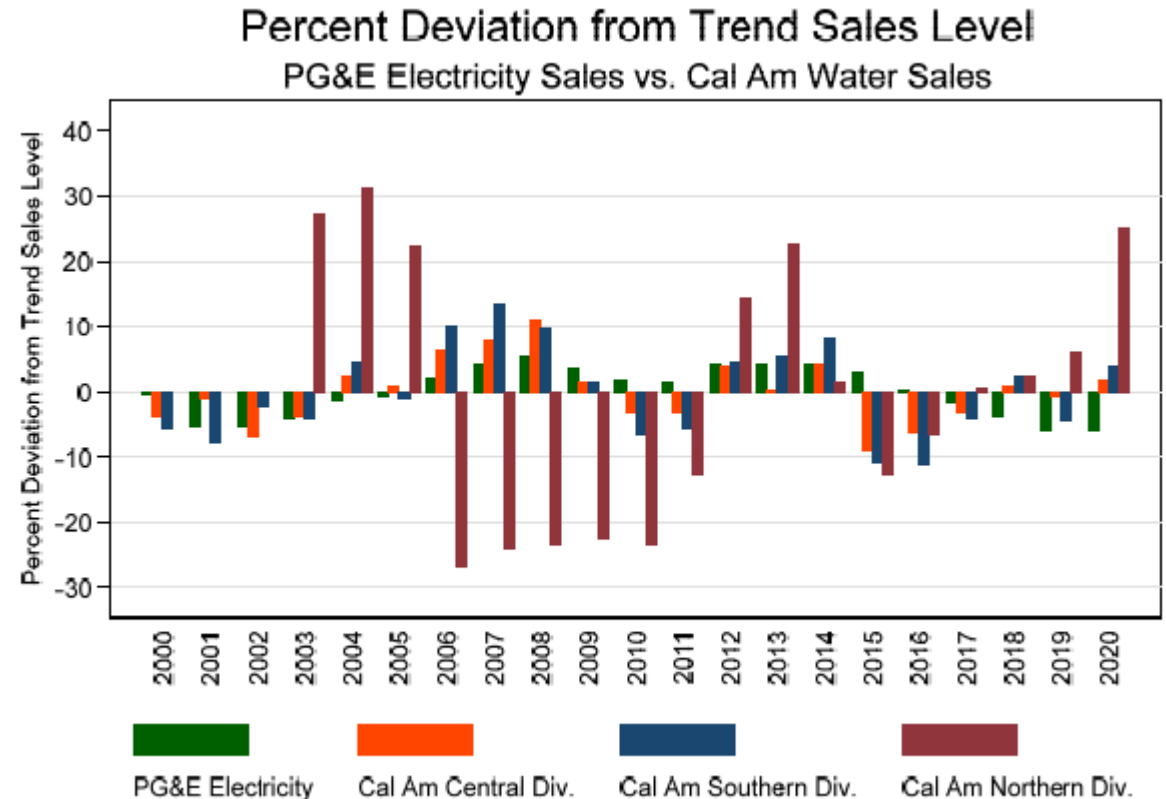
“Because water utilities’ revenue comes in part from quantity charges – that is, charges based on the amount of water sold to customers – companies in the business of selling water generally have a financial incentive to sell more water. That incentive is in tension with California’s interest in reducing water consumption – an interest that is particularly acute in an era marked by frequent and sustained periods of drought.” (See Appendix B)

Decoupling Has Been a Best Practice for Decades

Decoupling has been in place for CPUC regulated investor-owned utilities for decades.

Decoupling is even more critical for water utilities due to increased sales variability versus energy utilities

Cal Am's annual sales were at least three times more variable than PG&E's from 2000-2020

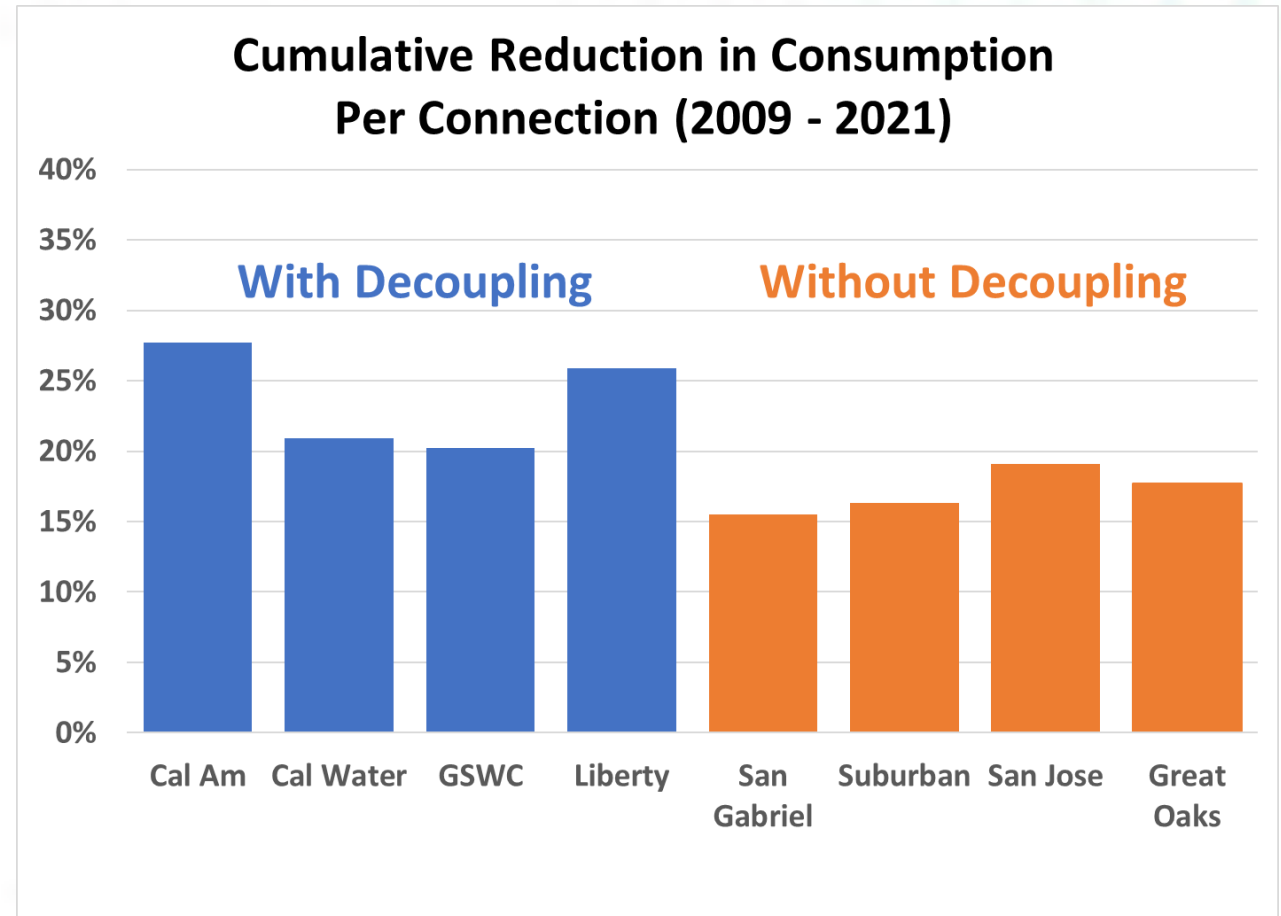


Decoupling Protects Customers

- Aggressive conservation rates present a substantial risk for both customers and the company of either overcollection or under collection of revenues. Cal Am's current WRAM has been triggered 9 times for overcollections since 2010 and customers have received \$3.7 Million in credits.
- Due to this variability, companies may not be able to recover in revenue the costs that the CPUC has determined are necessary to provide safe and reliable service. Or companies may recover more revenue than the CPUC has determined is necessary.
- Decoupling mitigates that risk for **both** customers and the company.
- Unlike decoupling, the M-WRAM does not provide any protection against over-recovery by the company. It is riskier for customers.
- Decoupling does not transfer risk from the company to customers. Ensuring that companies can recover the costs that the CPUC has deemed to be reasonable and necessary while promoting conservation is not a "risk" to customers. Ensuring that companies do not over-recover actually lessens customer risks.

Proposed Decision Misstates Conservation Record

- The Proposed Decision states that decoupling is at best “part of an array of measures that promoted conservation”, however **actual data** shows that since decoupling was adopted the per-capita water use reduction for every single decoupled Class A utility was greater than every single non-decoupled Class A utility
- Further, Cal Am has the **highest** cumulative reduction in per-capita consumption of any Class A utility since decoupling was adopted



Potential Elimination of Decoupling Problematic for Regulatory Climate

Published September 16, 2024

Global Water Intelligence

Ian Elkins

Decoupling takes a sinister new turn in California

A move by the California Public Utilities Commission to deny the request submitted by California-American Water to implement [a decoupling mechanism](#) in its rate-setting could have far-reaching implications for other investor-owned water utilities in the state.

Although the company has the chance to provide a rebuttal and ultimately to submit an appeal, any final vote which upholds administrative law judge Jake Rambo's proposed decision will reinforce the impression of inconsistent regulation within California, where gas and electric utilities have had their revenues decoupled from volumetric sales for decades.

At the same time, the Cal-Am decision could impact upcoming decoupling applications from Golden State Water (American States Water), Liberty Utilities, and California Water Service.

The move also illustrates the dichotomy between the CPUC's approach and that of the State Water Resources Control Board, which is actively promoting the concept of revenue decoupling as a tool to boost water conservation in California.

Existing ACAM is Necessary With, or Without, Decoupling

Annual Consumption Adjustment Mechanism (ACAM) allows for annual update to CPUC authorized rates based on historical consumption

ACAM benefits customers and the utility through alignment of rates with actual consumption and reducing risk of over-collection and under-collection

ACAM was made permanent in the Monterey District and expanded to most other service areas as a pilot in Cal Am's 2019 GRC (D.21-11-018) and was not contingent on decoupling

Commission identified benefits (D.18-05-027) of sales adjustment mechanisms (improved price information, timely and consistent conservation signals, intergenerational equity) are applicable with, or without, decoupling

Absence of **ACAM** unreasonably locks in sales for three year GRC period based on forecasts developed nearly two years before the Test Year even begins

Additional Issues with the Proposed Decision

- Proposed Decision denies **Special Request #4: Partial Consolidation of Transmission and Distribution (T&D) Net Plant Costs**
 - Request: Combine all T&D net plant assets into central pool to be allocated back to each tariff area
 - Benefit: Moderated statewide rate impacts from T&D asset renewal and replacement
- Proposed Decision denies **Special Request #9: Placer County Water Agency (PCWA) Capacity Cost Recovery**
 - Request: Update tariffs to reflect Commission authorization to include allowance for funds used during construction in existing memorandum account per Res W-5111
 - Benefit: Ensures customers are not impacted by the cost of development and that costs for additional capacity is paid for by development
- Proposed Decision denies **Special Request #13: Chemical Cost Balancing Account**
 - Request: Establish a balancing account for chemical costs based on actual costs incurred
 - Benefit: Allow for recovery only of costs actually incurred for a necessary, but volatile from cost perspective, component of providing safe and reliable water service

Language for PD Implementation Creates Confusion

- Problem: Proposed Decision creates customer confusion due to multiple rate adjustments in short period
 - PD OP#11 puts rate implementation 60 days from Decision date, on or about December 16, 2024. PD OP#13 requires escalation year 2025 rates implemented in conformance with Revised Water Rate Plan, which would be on January 1, 2025. Multiple rate changes in a short period cause rate proration and customer confusion.
 - Solution: Allow flexibility to implement the 2024 Test Year and 2025 Escalation Year rate adjustments simultaneously by adopting CAW's proposed OP language included in PD Comments
- Problem: Proposed Decision is unclear about WRAM retroactivity to January 1, 2024
 - The PD addresses amortization of WRAM balances accrued through 2023, but is silent about balances accrued through rate implementation. Interim rates in 2024 were based on the aggressive conservation rate design applicable only with full decoupling.
 - Solution: In the event the MWRAM is adopted incorporate CAW's proposal to transition upon the effective date of new rates.

Thank you!

Appendix A – Senate Bill No. 1469, Chapter 890



Senate Bill No. 1469

CHAPTER 890

An act to amend Section 727.5 of the Public Utilities Code, relating to water corporations.

[Approved by Governor September 30, 2022. Filed with Secretary of State September 30, 2022.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1469, Bradford. Water corporations: rates.

Existing law requires the Public Utilities Commission, in establishing rates for water service, to consider separate charges for costs associated with customer service, facilities, variable operating costs, or other components of the water service provided to water users. Existing law requires the commission to consider, and authorizes the commission to authorize, a water corporation to establish programs, including rate designs, for achieving conservation of water and recovering the cost of these programs through the rates.

This bill would, upon application by a water corporation with more than 10,000 service connections, require the commission to consider, and authorize the commission to authorize, the implementation of a mechanism that separates the water corporation's revenues and its water sales, as provided.

Under existing law, a violation of the Public Utilities Act or any order, decision, rule, direction, demand, or requirement of the commission is a crime.

Because the above provision would be part of the act and a violation of a commission action implementing this bill's requirements would be a crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. (a) The Legislature finds and declares all of the following:

- (1) Adequate water supply reliability for all uses is essential to the future economic and environmental health of California.
- (2) California is in a severe drought, and in 2021 the Governor issued executive orders declaring a drought emergency.

(3) Droughts in California are expected to become more frequent and more severe as a result of climate change.

(4) The frequency of droughts highlights the continued importance of encouraging both water suppliers and their customers to practice water conservation as the most cost-effective means of ensuring that there are adequate water supplies for the environment and people in the state.

(5) Because water suppliers have very significant fixed costs that do not fluctuate with changes in consumption patterns, they have a financial disincentive to encourage water conservation as reductions in water consumption directly translate into cost recovery challenges.

(6) The Legislature has addressed this same financial challenge for electricity suppliers by requiring that changes in demand do not result in material overcollections or undercollections of revenue.

(b) It is the intent of the Legislature to ensure that water corporations are authorized to establish revenue adjustment mechanisms that provide for a full decoupling of sales and revenue in order to further incentivize water conservation efforts.

SEC. 2. Section 727.5 of the Public Utilities Code is amended to read: 727.5. (a) In establishing rates for water service, the commission shall consider, and may establish, separate charges for costs associated with customer service, facilities, variable operating costs, including fixed and variable costs associated with supplying the water, or other components of the water service provided to water users.

(b) The commission shall consider, and may authorize, a water corporation to assess a fee for future water service, or a reservation charge for future water service, for persons or entities occupying or owning property within the service territory of the water corporation.

(c) The commission shall consider, and may authorize, a water corporation to establish a balancing account, rate stabilization fund, or other contingency fund, the purpose of which shall be the long-term stabilization of water rates.

(d) (1) The commission shall consider, and may authorize, a water corporation to establish programs, including rate designs, for achieving conservation of water and recovering the cost of these programs through the rates.

(2) (A) Upon application by a water corporation with more than 10,000 service connections, the commission shall consider, and may authorize, the implementation of a mechanism that separates the water corporation's revenues and its water sales, commonly referred to as a "decoupling mechanism."

(B) An authorized decoupling mechanism shall be designed to ensure that the differences between actual and authorized water sales do not result in the overrecovery or underrecovery of the water corporation's authorized water sales revenue.

(C) An authorized decoupling mechanism shall not enable the water corporation to earn a revenue windfall by encouraging higher sales.

(D) The water corporation may only submit an application to the commission pursuant to this paragraph as part of its triennial general rate case application described in Section 455.2, unless the commission and the water corporation mutually agree for the application to be otherwise submitted.

(e) In establishing rates for recovery of the costs of used and useful water plant, the commission may use a capital structure and payback methodology that maintains the reliability of water service, minimizes the long-term cost to ratepayers, provides equity between present and future ratepayers, and affords the utility an opportunity to earn a reasonable return on its used and useful investment, attract capital for investment on reasonable terms, and ensure the financial integrity of the utility.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

Appendix B – Golden State Water Company v. Public Utilities Commission, 16 Cal.5th 380 (July 8, 2024)

IN THE SUPREME COURT OF
CALIFORNIA

GOLDEN STATE WATER COMPANY,
Petitioner,
v.
PUBLIC UTILITIES COMMISSION,
Respondent.

S269099 -1-

Cal.P.U.C. Decision No. 20-08-047

CALIFORNIA-AMERICAN WATER COMPANY et al.,
Petitioners,
v.
PUBLIC UTILITIES COMMISSION,
Respondent.

S271493

Cal.P.U.C. Decision Nos. 20-08-047 and 21-09-047

July 8, 2024

Justice Kruger authored the opinion of the Court, in which
Chief Justice Guerrero and Justices Corrigan, Liu, Groban,
Jenkins, and Evans concurred.

SUPREME COURT
FILED

JUL 08 2024

Jorge Navarrete Clerk

Deputy

GOLDEN STATE WATER COMPANY v. PUBLIC
UTILITIES COMMISSION*

S269099

Opinion of the Court by Kruger, J.

In recent decades, California has experienced severe and recurring drought conditions that have heightened concerns about how water is sold. Like any other service provider, water companies typically have a financial incentive to sell more of their service. To reduce that financial incentive to sell more water to more consumers, and thus to encourage water conservation, the Public Utilities Commission in 2008 allowed certain water companies to structure their rates in a way that “decouples” revenue from the amount of water sold. More than a decade later, in a proceeding ostensibly focused on improving the accuracy of water sales forecasts necessary for use of this decoupling mechanism, the Commission ordered that the mechanism be eliminated altogether.

The issue before us does not concern the merits of this decision, but the process that led up to it. The question is whether the Commission gave adequate notice that the elimination of the decoupling mechanism was one of the issues to be considered in the proceeding. We conclude that the answer is no. We further conclude that the Commission’s failure to give adequate notice requires us to set the order aside.

* Consolidated with *California-American Water Company et al. v. Public Utilities Commission* (S271493).

GOLDEN STATE WATER COMPANY v. PUBLIC UTILITIES
COMMISSION

Opinion of the Court by Kruger, J.

I.

Petitioners are five large water utilities and an association that represents investor-owned water utilities’ interests; for simplicity’s sake, we refer to the utilities collectively as the Water Companies. They seek to set aside an order of the Public Utilities Commission eliminating a type of conservation-focused ratesetting mechanism known as the Water Revenue Adjustment Mechanism, based on defects in the proceedings that led to the issuance of the order. This case does not concern the substance of the Commission’s decision, but some understanding of the substance helps to explain the nature of the procedural dispute now before us. We therefore begin by offering a brief overview of the mechanisms at issue in the challenged order before turning to the history of how that order came to be.

**A. Water Revenue Adjustment Mechanism
and Modified Cost Balancing Account**

The Water Companies are what is known as Class A water utilities, a term the Commission uses to refer to water utilities with more than 10,000 service connections. Under the Public Utilities Code, these large water utilities must periodically seek the Commission’s approval of future rates through a formal “general rate case” (often abbreviated as “GRC”) application process. (See Pub. Util. Code, § 455.2, subd. (c).)¹

One issue relevant to the amount and structure of rates is California’s interest in water conservation. **Because water**

¹ Other, smaller utilities must also seek the Commission’s approval to change the rates they charge customers. (See, e.g., Pub. Util. Code, § 454, subd. (b).)

Appendix B – Golden State Water Company v. Public Utilities Commission, 16 Cal.5th 380 (July 8, 2024), cont.

GOLDEN STATE WATER COMPANY v. PUBLIC UTILITIES
COMMISSION
Opinion of the Court by Kruger, J.

utilities' revenue comes in part from quantity charges — that is, charges based on the amount of water sold to customers — companies in the business of selling water generally have a financial incentive to sell more water. That incentive is in tension with California's interest in reducing water consumption — an interest that is particularly acute in an era marked by frequent and sustained periods of drought.

Seeking to alleviate that tension, the Commission in 2008 authorized certain utilities to implement concepts known as the Water Revenue Adjustment Mechanism and the Modified Cost Balancing Account. A Water Revenue Adjustment Mechanism (WRAM) works by tracking the difference between quantity-rate revenues authorized by the Commission and quantity-rate revenues billed by a utility. If the Commission authorizes more quantity-rate revenue than the utility bills, the utility may be able to surcharge customers. If the Commission authorizes less quantity-rate revenue than the utility bills, a credit to customers might instead be appropriate. To determine whether a surcharge or credit is warranted, and in what amount, the difference between authorized and actual quantity-rate revenue is netted against a Modified Cost Balancing Account (MCBA), which tracks the difference between certain authorized and actual water provision costs.

As the Commission has explained, "[t]he major purpose" of adopting this approach "was to decouple sales from revenues and thus promote conservation." The incentive to sell more water is reduced if revenues above those authorized must be returned to customers and revenues below those authorized can be surcharged. Because the WRAM approach depends on tracking the difference between actual quantity-rate revenues

GOLDEN STATE WATER COMPANY v. PUBLIC UTILITIES
COMMISSION
Opinion of the Court by Kruger, J.

posed — "should the Commission consider converting to [a] Monterey-style WRAM . . . ? Should this consideration occur in the context of each utility's GRC?" — are reasonably understood to contemplate a separate, future proceeding. Finally, the record indicates that the lack of notice hampered the Water Companies' efforts to submit and contest evidence relevant to whether the mechanisms at issue should be maintained. The Commission was not required to agree with the Water Companies, but its failure to issue an adequate scoping memo frustrated the Water Companies' ability to advocate effectively for their position.

IV.

We set aside the portion of the Commission's order, and the accompanying findings and conclusions, directing that the Water Companies, "in their next general rate case applications, shall not propose continuing existing Water Revenue Adjustment Mechanisms/Modified Cost Balancing Accounts." (See Pub. Util. Code, § 1758.)

KRUGER, J.

We Concur:
GUERRERO, C. J.
CORRIGAN, J.
LIU, J.
GROBAN, J.
JENKINS, J.
EVANS, J.

Appendix C – SB 1469 Support for Decoupling

- ▶ Acterra: Action for a Healthy Planet
- ▶ Alliance for Water Efficiency
- ▶ Alliance to Save Energy
- ▶ American Council for an Energy-efficient Economy
- ▶ Bay Area Council
- ▶ Bay Area Water Supply and Conservation Agency
- ▶ California Community Economic Development Association
- ▶ California Labor Federation
- ▶ California Water Efficiency Partnership
- ▶ California Water Utility Council Locals: 160, 160C, 160D, 205, 283, & 484
- ▶ California-Nevada Conference of Operating Engineers
- ▶ California-Nevada Section, American Water Works Association
- ▶ Central Valley Business Federation
- ▶ Chamber of Commerce: California Hispanic, Carson, Commerce Industrial Council, Cupertino, East Los Angeles, Greater Bakersfield, Greater Stockton, Hawthorne, Hermosa Beach, Los Angeles Area, Livermore Valley, Lomita, Menlo Park, Montebello, Palos Verdes Peninsula, Redondo Beach, San Joaquin County Hispanic, San Jose, San Mateo Area, and Visalia
- ▶ City of Salinas
- ▶ City of San Mateo
- ▶ El Concilio
- ▶ Friends of the River
- ▶ ICON CDC
- ▶ International Federation of Professional & Technical Engineers - Local 26
- ▶ International Union of Operating Engineers Local 3
- ▶ Natural Resources Defense Council
- ▶ Regional Water Authority
- ▶ Santa Clara Valley Water District
- ▶ Silicon Valley Leadership Group
- ▶ South Bay Association of Chambers of Commerce
- ▶ Steve McShane, Salinas City Council Member
- ▶ Sustainable Silicon Valley
- ▶ Tuolumne River Trust
- ▶ West Basin Water Association

Appendix D – Full Decoupling vs M-WRAM Example

Assumptions

1 customer Yearly billing
Approved rate case established the following:

- Sales forecast of 1,000 units
- Customer charge of \$2,500
- Tier 1 - \$5 per unit for first 500 units
- Tier 2 - \$10 per unit for amounts over 500 units
- Single volumetric rate of \$7.50 per unit $((\$5 * 500) + (\$10 * 500)) / 1,000$
- Total revenue requirement is \$10,000 calculated as $(\$2,500 + (\$5 * 500) + (\$10 * 500))$

SCENARIO 1 – SALES ABOVE CPUC AUTHORIZED

Let's assume that the customer uses 1,100 units vs. the 1,000 units authorized by the CPUC and the total collected revenues are \$9,000 calculated as $(\$2,500 + (\$5 * 500) + (\$10 * 600))$. As a result, the Company would over-collect by \$1,000.

Full Decoupling

Under Full Decoupling, the Company would return the \$1,000 over-collection to customers

Monterey-WRAM

Under the Monterey WRAM, the Company would return to customers only \$250 of the \$1,000 of over-collection calculated as follows:

Estimated collections using single volumetric rate of \$10,750 calculated as $(\$2,500 + (\$7.50 * 1,100))$ Less: Actual collected revenues of \$11,000
Equals: Amount of surcredits \$250 Company keeps over-collection of \$750

No Decoupling

Company over-collects by \$1,000 and no refund is provided to customers

SCENARIO 2 – SALES BELOW CPUC AUTHORIZED:

Let's assume that the customer uses 900 units vs. the 1,000 units authorized by the CPUC and the total collected revenues are \$9,000 calculated as $(\$2,500 + (\$5 * 500) + (\$10 * 400))$. As a result, the Company would under-collect by \$1,000.

Full Decoupling

Under Full Decoupling, the Company could pass through surcharges to collect the full \$1,000 of the under-collection to recover CPUC authorized fixed costs.

Monterey-WRAM

Under the Monterey WRAM, the Company could pass through surcharges to collect only \$250 of the \$1,000 of under-collection calculated as follows:

Estimated collections using single volumetric rate of \$9,250 calculated as $(\$2,500 + (\$7.50 * 900))$ Less: Actual collected revenues of \$9,000
Equals: Amount of surcharges \$250 Company under-collects by \$750

No Decoupling

Company under-collects by \$1,000

Appendix E – Customers Received \$3.7M in Credits

By Instance	Advice Letter		Dollar Amount
2010	900	Los Angeles Baldwin Hills	(162,540)
2011	943	Los Angeles Baldwin Hills	(149,896)
2014	1074	Los Angeles San Marino	(230,789)
2015	1122-A	Los Angeles Baldwin Hills	(16,140)
2015	1122-A	Los Angeles San Marino	(690,898)
2016	1159-A	Los Angeles Baldwin Hills	(9,285)
2016	1159-A	Los Angeles San Marino	(563,952)
2017	1196	Los Angeles San Marino	(81,697)
2021	1385	Northern Division	(1,800,464)
Total			(3,705,660)

Excerpt of Record Exhibit CALAD-30, p.12