From: Ravi Bendapudi
To: Perez, Martha; LeQuang, Minh
Cc: PWebb@WebbCarey.com; Perez, Martha; Issa, Amjad; Harbour, Brooke-Sidney; LeQuang, Minh; Frank, Sam; Chairman@cit-nsn.gov; HavasuWater@Outlook.com; Kostan@Lathouris.com; Sean.McCarthy@Waterboards.ca.gov; Carr, Jane; Warner, Jessica; Ouyang, Ke Hao; Peleo, Marion; Bonin, Nicholas; Enriquez, Nikka "Nina"; Sastra, Rudy; Neal, Stephen; Curtis, Terra M.; Engelman.Alexa@EPA.gov; Merrill, Scott; Rehman, Uzma
Subject: [EXTERNAL] Re: I.25-08-007 CPED Objection to Havasu"s Oral Motion for Stay
Date: Wednesday, October 1, 2025 2:05:29 PM
Attachments: image001.png
(09.30.2025) Email to Martha Perez .pdf
HWC Easement Map.pdf

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Dear Hon. Judge LeQuang & Ms. Perez,

Yesterday I sent an e-mail to Ms. Martha Perez inviting her to set up a time for us to discuss solutions to solve all of the issues identified by the Commission. I made it very clear that HWC is committed to resolving all of those matters, but that we need the Commission to do the right thing and correct the grievous error that it made when it declared HWC's easement to be "expired." I have attached a copy of my September 30th e-mail to Ms. Perez for Your Honor to review. We are disappointed that instead of taking us up on our offer, Ms. Perez decided to double-down on what is clearly the Commission's mistake and error.

We are also disappointed to see that Ms. Perez apparently cannot conceptually understand the dilemma that the government (aka the California Public Utilities Commission) has created for itself and the Havasu Water Company (HWC) when it declared our easement to be "expired." Could somebody please explain to us and the Court how and why the government intends to move forward with the appointment of a receiver under these circumstances:

1. **CPUC Error #1**—The CPUC does not have jurisdiction to adjudicate interests in real property (*See*, Camp Meeker Water Systems, Inc. v. Public Utilities Commission (1990) 51 Cal.3d 845, 850). Therefore, the CPUC has no jurisdiction to declare or conclude that HWC's easement is "expired." Therefore, the CPUC's 2015 Resolution W-5059 is void and must be withdrawn and or corrected.

2. **CPUC Error #2**—Per the 1976 settlement agreement between HWC, the United States and the Chemehuevi Indian Tribe, the CPUC was given limited jurisdiction to determine the narrow issue of whether HWC's easement across the Tribe's land was/is necessary "for the purpose of providing sufficient access to the Colorado River." (*See*, 1976 Settlement Agreement; *see also*, CPUC Resolution W-5052

(January 27, 2022). In Resolution W-5059 the CPUC erroneously concluded that HWC's easement was "expired," **without ever addressing whether the easement was still necessary to "provide sufficient access to the Colorado River.**"

3. **CPUC Error #3**—HWC's easement across the Tribe's land gives HWC the non-exclusive right to use 40 linear feet of the Tribe's lakefront land to operate its water pumps. This easement provides THE ONLY ACCESS TO THE COLORADO RIVER for HWC and for the entire community of Havasu Lake, CA.(Please see the attached map for reference). How can the CPUC keep insisting that HWC no longer needs the easement when it has not identified a single viable alternative water source? We cannot make water appear out of thin air, and the Tribe controls all the land along the Colorado River for miles and miles in every direction. What the Tribe doesn't control is part of a National Wildlife Refuge, which means that we have no right to draw water from there. So where is the water going to come from?

4. **Ms. Perez is wrong**--the federal district court did NOT "decide" that the easement was "expired," it simply relied upon and adopted the same erroneous position taken by the CPUC in Resolution W-5059. The court concluded that (paraphrasing) "if that's what the CPUC says then that's how we're going to rule." At no point in time was an evidentiary hearing held. The district court never even considered the question of where the water is going to come from if HWC's easement is "expired?"

5. **Resolution W-5059**—How can Resolution W-5059 "supersede" the 1985 decision? Please cite for us the rule or the law that allows the CPUC to extinguish a private property easement by inserting one sentence into a rate increase advice letter, without holding a single hearing, without reviewing any evidence, and without even bothering to ask the affected parties whether they still need the easement or not. Please explain how the CPUC is able to do something like that?

6. **1985 Decision**—How is the CPUC is going to backpedal out of its 1985 decision, when that was decided by this very same ALJ court, after a six-day evidentiary hearing, and then it was signed by all of the Commissioners, including the Executive Director and the President of the Commission? Are you guys seriously trying to claim that the 1985 decision was "invalidated" by a rate increase letter?

7. **Why do you need a Receiver?**--The OII and the Commission's Application for Appointment of a Receiver should be dismissed immediately, because it is

completely pointless, and you're just harassing my client at this point. Everybody knows that without HWC's easement that there is no water, and if there is no water then there is no water company, and if there is no water company then there is nothing for a receiver to take control of, which means that there is nothing for a receiver to do. So please dismiss it.

In conclusion, we would like Ms. Perez to please answer this one simple question—**IF THE HAVASU WATER COMPANY DOES NOT HAVE AN EASEMENT TO ACCESS THE COLORADO RIVER, THEN WHERE IS IT GOING TO GET WATER FROM**???

Ms. Perez, this is not a trick question, but you and your colleagues at the CPUC need to be able to answer this before you waste any more taxpayer resources going after HWC. My client has been doing this for nearly 70-years and they are not aware of any other way to deliver water to their customers without that easement. Also, we already told you that the reason why the easement exists in the first place is because the subsoil in that area is full of salt, which is why a well is not a viable alternative. Before the CPUC does anything else, it bears the burden of proving that a viable, alternate water source exists, because our customers cannot go a day without water.

Finally, I would like to remind all of you that the CPUC's mission is to "protect consumers," by "ensuring adequate service and supply of water." So CPUC please tell us—WHERE IS THE WATER GOING TO COME FROM?

Thank you for your attention to this matter.

Sincerely,

Ravi Bendapudi, Esq.

From: Perez, Martha <Martha.Perez@cpuc.ca.gov>
Date: Tuesday, September 30, 2025 at 10:09 PM
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Subject: I.25-08-007 CPED Objection to Havasu's Oral Motion for Stay

Dear ALJ LeQuang:

Pursuant to Rule 11.1(e) of the Rules of Practice and Procedure of the California Public Utilities Commission (Commission), the Consumer Protection and Enforcement Division (CPED) respectfully requests the opportunity to respond to the oral motion for a stay of the Commission's Order Instituting Investigation (OII or I.) 25-08-007 that was made by counsel for Havasu Water Company (HWC) during the prehearing conference (PHC) for I.25-08-007 today, September 30, 2025.

HWC's motion is without merit and should be denied.

As an initial matter, it is unclear whether HWC is requesting a stay of the proceeding or a further extension of the schedule, as counsel for HWC did not, as required by Rule 11.1(d), "concisely state the facts and law supporting the motion and the specific relief or ruling requested." In any event, HWC has not demonstrated that either a stay or an extension is warranted.

The apparent basis for HWC's motion is its erroneous claim that the expiration of HWC's easement is an unresolved issue which warrants a stay or delay of this OII.

HWC is wrong.

The expiration of the easement was decided by the federal district court in a summary judgment ruling in the Tribe's favor. *Chemehuevi Indian Tribe v. Havasu Water* Co. et al., No. EDCV 20-471-GW-KKx, at 23 (C.D. Cal. July 28, 2022). The ruling provides:

> The Court is inclined at this point to conclude that the undisputed facts indicate both that (1) the 1985 Decision was not a proper extension under the terms of the 1976 Easement because it complied neither with the terms of the 1976 Agreement nor federal law, 25 U.S.C. §§ 323-325, by failing to noticing the United States and the Tribe of the consideration for the extension and (2) even if

> there were any facts to indicate that the federal government or the Tribe was noticed prior to the 1985 Decision, the CPUC has since recognized *twice* that the 1976 Easement expired at the end of the original term on June 22, 2006. (*Chemehuevi Indian Tribe v. Havasu Water* Co. et al., No. EDCV 20-471-GW-KKx, at 18 (C.D. Cal July 28, 2022).)

Commission Resolution (Res.) W-5274, issued on July 1, 2024, reiterates that the easement expiration issue has been resolved:

> In Res. W-5059, adopted on September 17, 2015, the Commission acknowledged and affirmed that the easement expired by its terms in 2006. Moreover, in Res. W-5250, adopted on January 27, 2022, the Commission affirmed Res. W-5059, again concluding that the easement expired by its terms in 2006 and that the 1985 Decision was superseded by Res. W-5059. HWC never sought rehearing of either resolution. (Res. W-5274, at 6-7.)

HWC did not seek rehearing of Res. W-5274.

The upcoming trial in federal court is for the determination of damages caused by the ongoing trespass on CIT land of HWC facilities since the expiration of the easement. The issue of damages does not need to be resolved before this OII can go forward.

For the foregoing reasons, HWC's motion should be denied.

Please inform whether this response to the oral motion should be tendered for formal filing with the Commission's docket office.

Respectfully submitted,

Martha Perez
Attorney for CPED

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