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 $63,090,981 or 17.20% in the year 2027, by $22,067,361 or 5.13% in the year 2028, and by $26,014,600 or 5.75% in the year 2029.	Application 25-07-003

MOTION OF THE PUBLIC ADVOCATES OFFICE TO STRIKE 100-DAY UDPATE OF CALIFORNIA-AMERICAN WATER COMPANY

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I. INTRODUCTION

Pursuant to Rule 11.1 of the California Public Utilities Commission's (Commission) Rules of Practice and Procedure, the Public Advocates Office at the California Public Utilities Commission (Cal Advocates) submits this motion to strike *California-American Water Company's* (Cal Am) *Update to General Rate Case Application*[1] (Update) as it is inconsistent with the 100-day update requirements set forth in the Rate Case Plan (RCP) adopted in Decision (D.) 07-05-062 and violates Cal Advocates' due process rights.

Cal Am filed Application (A.)25-07-003 on July 1, 2025 to increase its current average system rates in General Rate Case (GRC) years 2027, 2028, and 2029 for a combined total increase of approximately 30.30% by GRC year 2029.[2] The RCP allows utilities to file certain, limited updated information up to 100 days after filing an application.[3] Specifically, the RCP permits utilities to file "more recent recorded data" showing "actual historical amounts."[4] The RCP explicitly clarifies that "[n]ew or additional items or forecasted costs are not updates to recorded data and will not be accepted."[5]

On October 13, 2025, 100 days after its initial filing, Cal Am filed its Update, purportedly under the provision of the RCP. However, Cal Am's Update contains upward adjustments to its forecasted expenses, property tax, and rate base as well as updates to certain acquisitions and Minimum Data Requirements (MDR).[6] Cal Am's adjustments result in a $210,000 increase in GRC year 2027 operating expenses, $300,000 increase in GRC year 2027 forecasted revenue requirement due to adjustments to certain property taxes, and a $2.8 million increase in rate base.[7] Cal Am's upward adjustments are so extensive that they warrant an

[1] *California-American Water Company's (U-210-W) Update to General Rate Case Application*, October 13, 2025 (Update).

[2] Application (A.) 25-07-003, *Application of California-American Water Company (U210W) to Increase Revenues in Each of its Districts Statewide*, July 1, 2025 (Application).

[3] D.07-05-062, Appendix A at A-9.

[4] D.07-05-062, Appendix A at A-9.

[5] D.07-05-062 at Appendix A, p. A-9.

[6] Update at 2-5.

[7] Update at 3.

update to the entire Results of Operations Report in order to record the numerous updates that "flow through" to other areas.[8]

To meet its burden, Cal Am must clearly delineate how its forecasted costs are just, reasonable, necessary, and distinct from costs Cal Am is tracking in memorandum or balancing accounts.[9] Cal Am, in contrast, uses its Update to cure defects and inaccuracies in its initial filing. Cal Am offers no cogent rationale for deviating from the clear prohibitions in the RCP for this type of wholesale revision of its initial filing. The Commission should not tolerate Cal Am's attempt to improperly amend its Application by means of an Update. This behavior is expressly prohibited in the RCP and the Commission should strike Cal Am's Update from the record of this proceeding.[10]

II. DISCUSSION

A. Cal Am Committed a Violation of the Rate Case Plan by Adding New and Additional Items and Forecasted Costs.

Cal Am used the 100-day update as an opportunity to add new and additional items and forecasted costs to its GRC application, including upward adjustments to forecasted expenses, property tax, capital project forecasts and other parts of the rate base.[11] The RCP only allows utilities to provide updates on "[m]ore recent recorded data" on "utility plant or expense account balances showing actual historical amounts" up to 100 days after filing its initial application.[12] The scope of this information is extremely limited. Utilities are expressly prohibited from providing "[n]ew or additional items or forecasted costs," as those are not updates to recorded

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[8] Update, Attachment 1.

[9] In rate cases, the standard of proof that applicants must meet is preponderance of the evidence. See *People v. Garcia* (1975) 54 Cal.App.3d 61, 69. D.23-11-069 at 25. Preponderance of the evidence is defined "in terms of probability of truth." *See also* D.23-02-017 at 26. The Commission states that it expects utilities "to clearly delineate in their GRCs how their forecasted costs are separate and distinct, including labor and overhead, from the costs they are presently, or in the future, tracking…and to make a similar showing in any application for which they seek recovery of recorded costs."

[10] D.07-05-062, Appendix A at A-9 states, in relevant part, "Up to 45 days or 100 days after filing, as applicable, more recent recorded data used in the application/testimony may be provided by the utility. More recent recorded data are utility plant or expense account balances…*New or additional items or forecasted costs are not updates to recorded data and will not be accepted*." (Emphasis added).

[11] Update at 1.

[12] D.07-05-062, Appendix A at A-9.

data.[13] The RCP makes clear that any post-application modifications should be requested through a written motion with an opportunity for other parties to respond.[14] Cal Am has not filed such a motion, or otherwise sought permission to update the requested information.

Specifically, Cal Am made $210,000 in upward adjustments to forecasted expenses, and items that impact forecasted expenses, like service fees, tank painting costs, and irrigation sales. Cal Am claimed these adjustments are due to "changes to the supporting analysis."[15] Cal Am also updated capital cost estimates for five separate projects and adjusted engineering overhead costs that resulted in a $2.8 million increase in rate base.[16] In addition, based on a property tax adjustment, Cal Am altered the historical tax rate calculated in its model, which results in a $300,000 increase in forecasted revenue requirement for GRC year 2027.[17] Further, Cal Am added the Bass Lake acquisition and an irrigation structure in the Piru service area into rates that results in newly added items that Cal Am incorporates into applicable supporting workpapers.

These changes do not constitute updates of "more recent recorded data" to historical data but rather changes to forecasted costs and corrections to underlying data in Cal Am's initial application. Therefore, Cal Am's Update should be stricken from the record as it adds new and additional items and forecasted costs to its GRC application.

B. Past Commission Decisions Confirm that Cal Am's Violations Are Inconsistent with the Rate Case Plan.

In establishing this prohibition on providing new information and forecasts, the Commission explained that when using a future test year, "[a]ny rate case plan requires a data collection termination date; otherwise, no rate case with a forecasted test year would ever be completed. For this reason, our Rate Case Plans have always included a limitation on updates."[18] While there is a "temptation to wait for additional historical data," continually providing new estimates and forecasted figures "cannot be indulged."[19]

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[13] D.07-05-062, Appendix A at A-9.

[14] D.07-05-062, Appendix A at A-9.

[15] Update at 2-3.

[16] Update at 3.

[17] Update at 3.

[18] D.04-06-018 at 9; *see also* D.03-09-021 at p. 55 ("Updates to future projections used in a rate case are potentially endless.").

[19] D.04-06-018 at 9.

The Commission previously rejected an attempt by a water utility to update the cost for a specific project from $16 million to $17 million, noting that the Commission has "settled on a general rule that precludes updates after the filing of the application."[20] Further, the Commission stated that the utility did not "show that the [updated] costs were recorded, not forecasted, costs."[21] The Commission denied the utility's request for the additional million dollars and limited its recovery to the amount stated in the original application.[22]

Continually providing new figures and estimates places an undue burden on the Commission and Cal Advocates, which is still conducting discovery and developing its own testimony based on the initial figures Cal Am provided. A significant reason for the prohibition on updated forecasts is that parties need adequate time to analyze new data and cannot do so within the allotted schedule if a utility is able to simply change its application in the middle of a proceeding. Moreover, Cal Am's update submittal creates the specter of a "moving target" application that makes it difficult, if not impossible, to fully understand the totality of its request for rate relief since the amount being sought remains in flux.

In the present case, Cal Am provides new estimates and forecasted figures in its Update, such as upward adjustments to forecasted expenses and updated capital cost estimates, that result in a $2.8 million increase in rate base. Therefore, Cal Am's Update should be stricken from the record due to inconsistency with the RCP.

C. Cal Am's Update Prejudices Cal Advocates' Due Process Rights.

The United States and California Constitutions prohibit the deprivation "of life, liberty, or property, without due process of law."[23] Due process requires, among other things, reasonable notice and an "opportunity to be heard."[24] In *People v. Ramirez*, the Supreme Court states that in some cases, "due process may require only that the administrative agency comply with the

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[20] *See* D.06-01-025 at 16.

[21] D.06-01-025 at 16-17.

[22] D.06-01-025 at 16-17.

[23] U.S. Const. amend. XIV, § 1; Cal. Const., article. I, section 7.

[24] *Railroad Commission of California v. Pacific Gas and Electric Company* (1937) 302 U.S. 388, 393; *People v. Western Air Lines, Inc.* (1954) 42 Cal.2d 621, 632; U.S. Const. amend. XIV, § 1; Cal. Const., article. I, section 7.

statutory limitations on its authority."[25] Cal Am's Update is governed by the RCP, which limits the types of updates that Cal Am is authorized to make in its 100-day update. If the Commission does not strike Cal Am's Update, it would prejudice Cal Advocates' due process rights.

In *Southern California Edison Co. v. Public Utilities Commission*, SCE filed a writ of review pursuant to Public Utilities Code Section 1757.1, claiming, among other things, that the Commission violated SCE's due process rights.[26] The Second District Court of Appeals found that the Commission failed to proceed in a manner required by law, and that the failure was prejudicial because the ALJ amended the scope of issues to include a new proposal after the Commissioner's scoping memo and ruling was issued.[27] Further, parties were only allowed three business days to respond to the merits of the new proposal, which the Court found to be insufficient. Since the Commission violated its own rules by considering the new issue, and three business days were insufficient time for parties to respond to the new issue, the Court annulled the Commission's decision with respect to the additional scoping issue.

Similarly, if Cal Am's revised application numbers and revised estimates of expenses are allowed to become part of the record, contrary to the plain language of the RCP, the Commission would violate its own rules and Cal Advocates' procedural due process will be prejudiced. Cal Advocates will have less time to analyze the revised figures than is contemplated in the RCP, may have to perform additional discovery, and will face the prospect of reviewing an application that is only periodically accurate since significant portions have been revised with Cal Am's Update. Such an outcome would violate the Commission's rules and requirements that are

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[25] *Mohilef v. Janovici* (November 27, 1996) 51 Cal. App. 4th 267, 286. Citing *People v. Ramirez* (1979) 25 Cal.3d 260.

[26] *Southern California Edison Co. v. Public Utilities Com.* (June 26, 2006)140 Cal. App. 4th 1085, 1086. SCE petitioned for a writ of review pursuant to California Public Utilities (Pub. Util.) Code Section 1757.1, which describes the scope of review by the court as limited to determining the following: (1) The order or decision of the commission was an abuse of discretion.
(2) The commission has not proceeded in the manner required by law. (3) The commission acted without, or in excess of, its powers or jurisdiction. (4) The decision of the commission is not supported by the findings. (5) The order or decision was procured by fraud. (6) The order or decision of the commission violates any right of the petitioner under the Constitution of the United States or the California Constitution.

[27] *SCE,* 140 Cal. App. 4th 1085, 1086.

designed to ensure consistent practice and to develop a sufficient record that ensures that parties receive reasonable notice and an opportunity to be heard.[28]

Therefore, Cal Am's Update should be stricken from the record due to the aforementioned prejudice against Cal Advocates' due process rights.

III. CONCLUSION

Cal Advocates moves to strike Cal Am's 100-day update due to Cal Am's violation of the RCP and Cal Advocates' due process rights as well as inconsistency with past Commission decisions.

Respectfully submitted,

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[28] *SCE,* 140 Cal. App. 4th 1085, 1086.