



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

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Application of Union Pacific Railroad Company, d/b/a Keene Water System (U 0434 W) for Adjustments to Revenue Requirement, Rate Design, and Rates

A.25-03-016

In the Matter of Application of Union Pacific Railroad Company d/b/a Keene Water System (0434W) for Authorization to be Relieved of its Public Utility Status and Water Service Obligations

A.25-03-017

**NOTICE OF EX PARTE COMMUNICATION BY
UNION PACIFIC RAILROAD COMPANY (KEENE WATER SYSTEM) (U 434 W)**

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Pursuant to Rule 8.4(a) of the California Public Utilities Commission’s (“Commission”) Rules of Practice and Procedure, Keene Water System (“KWS”), the water utility division of Union Pacific Railroad Company (“UPRR”) hereby provides this notice of *ex parte* communication in connection with the above-captioned consolidated proceedings between KWS’s representatives and Edwin Schmitt, advisor to Commissioner John Reynolds. The communication took place as part of a scheduled and previously-noticed meeting on Tuesday, January 6, 2026, starting at 2:00 p.m. and lasting approximately 30 minutes. The KWS representatives included Robert Bylsma, Senior General Attorney at KWS; Trudie McGavock, Paralegal at KWS; Barbara Orr, General Director of Financial Reporting at KWS; and Sarah Banola and Patrick Rosvall, Partners at BRB Law LLP and outside counsel to UPRR. The meeting took place via Webex, and communication was strictly oral; no written materials were used or distributed.

The KWS representatives began by inquiring about the status of the Scoping Memo in this proceeding since the Prehearing Conference (“PHC”) was held in October 2024. The KWS representatives then provided background information regarding KWS and the circumstances that led to the two consolidated applications. The KWS representatives explained that the provision of water in and around the community of Keene was a byproduct of UPRR’s historical reliance on ready water sources to support steam engines, at a time when steam engines were prominent. As the KWS representatives explained, the Keene area was never a rational location for a water system, and the lack of local water sources and overall cost dynamics of serving the area do not support the continuation of a water system in this location, despite the historical delivery of water alongside the commercial railroad-related purposes for which it was initiated. The KWS representatives summarized KWS’s long history of chronic unprofitability, and its 2006 and 2012 rate case proceedings before the Commission. The KWS representatives also noted that in the 2006 rate case decision, the Commission rejected arguments regarding alleged improper abandonment of the Tehachapi-Keene pipeline and found that KWS was reasonable and prudent in discontinuing the pipeline. The KWS representatives further discussed the extensive efforts that have been made over the past 20 years by KWS and engineering consultants to look for alternative water sources to replace the current “water hauling” mechanism. Unfortunately, as the KWS representatives discussed, these alternatives have all been unavailing, which necessitates the two applications. The KWS representatives noted that KWS’s company and expert testimony contain useful information that elaborates on these points.

In addition, the KWS representatives discussed its pending motion for interim rate relief and the motion to dismiss filed by the Public Advocates Office, Clean Water Action, the National Chavez Center, and the Dolores Huerta Foundation. They explained that KWS meets the standard that applies to small, Class D water utilities as well as the standard that has been applied to larger electric utilities given the procedural delays in this consolidated proceeding and KWS's negative revenues. The KWS representatives emphasized that there is no basis to dismiss the rate case, and that KWS is entitled to reasonable rate relief in the Rate Case Application and the pending motion for interim rate relief as the Commission cannot force KWS to operate under a rate structure where it cannot recover its costs of service or earn a reasonable rate of return. The KWS representatives explained that the Commission can and should promptly grant reasonable rate relief regardless of the ultimate outcome of the Technical Assistance Work Plan ("TA Work Plan") before the Water Board.

The KWS representatives also provided background information relating to the timing and scope of the TA Work Plan to drill test wells, and explained that there is no guarantee that a sustainable solution will be found, and that the company and expert testimony in this proceeding suggests no viable cost-effective solution is possible given KWS's and its engineering consultants' prior investigation of alternative options to water hauling and the maximum grant funding available for planning and construction. The KWS representatives explained that there are compelling reasons for the Commission to timely consider KWS's relief in the consolidated applications while the TA Work Plan is pending, and that the TA Work Plan can proceed concurrently and be incorporated into this proceeding. They noted the high costs of water hauling and impact on customer rates to provide KWS with necessary cost recovery and a reasonable rate of return, but emphasized that the time has come for the Commission to act upon its request for reasonable rate relief and/or authorization to withdraw given the well-established constitutional authorities prohibiting the Commission from forcing KWS to operate at a loss. The KWS representatives also noted potential alternatives for consideration, such as a consolidation partner, the formation of a mutual water company by the local residents, and/or the appointment of a receiver to operate the water system until a consolidation partner is confirmed or a mutual water company can be formed. They explained, however, that prior efforts to identify a consolidation partner have been unsuccessful and the Water Board is again attempting to identify a consolidation partner.

In conclusion, the KWS representatives requested that the Commission refrain from

avoiding review and consideration of the relief presented by the consolidated applications and KWS's prior efforts to obtain rate relief, grant the motion for interim rate relief, and deny the motion to dismiss. They asked, however, that the Commission issue a formal decision if the Commission grants the motion to dismiss, or denies the motion for interim rate relief given the extraordinary financial impacts on KWS and the constitutional implications. The KWS representatives thanked Mr. Schmitt for his time, and the meeting concluded.

Executed on this 9th day of January 2026.

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