

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA



FILED

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A2503016

Application of Union Pacific Railroad
Company, d/b/a Keene Water System
(U0434W) for Adjustments to Revenue
Requirement, Rate Design, and Rates.

Application 25-03-016

And Related Matters.

Application 25-03-017

**THE PUBLIC ADVOCATES OFFICE MOTION TO STRIKE
UNION PACIFIC RAILROAD COMPANY'S AMENDED OPENING
TESTIMONY OF ROBERT BYLSMA**

I. INTRODUCTION

The Public Advocates Office at the California Public Utilities Commission (Cal Advocates) moves to strike Union Pacific Railroad Company's (UPRR) Amended Opening Testimony of Robert Bylsma (Amended Testimony) pursuant to Rule 11.1 of the Rules of Practice and Procedure (Rules) of the California Public Utilities Commission (Commission). Clean Water Action and the National Chavez Center support this Motion.

II. BACKGROUND

On July 20, 2026, three days before the due date for intervenor testimony, roughly a year and four months after UPRR filed its March 28, 2025 Applications,¹ and over four months after the Assigned Commissioner's March 2, 2026 Scoping Memo and Ruling (Scoping Memo) was issued,² UPRR served Amended Testimony.

¹ Application (A.) 25-03-016, *Application of Union Pacific Railroad Company, d/b/a Keene Water System (U0434W) for Adjustments to Revenue Requirement, Rate Design, and Rates*, March 28, 2025; and A.25-03-017, *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*, March 28, 2025.

² *Assigned Commissioner's Scoping Memo and Ruling*, March 2, 2026.

UPRR's Amended Testimony is not a correction of a typographical or clerical error. It makes a substantive change to UPRR's showing in this proceeding.³ UPRR has offered no explanation of why the error occurred, when UPRR discovered the error, why UPRR waited until three days before intervenor testimony was due to correct it, or why UPRR gave no advance notice to the assigned ALJ or to any party before serving the Amended Testimony. Rather, UPRR only indicated in its cover email that it was serving the amended testimony to "correct an error," without further elaboration.⁴ Notably, UPRR did not file a motion for leave to amend its application nor did it request a modification of the procedural schedule.

Cal Advocates and the other intervenors are currently preparing testimony due July 23, 2026, based on the schedule set by the ALJ's June 8, 2026 ruling revising the procedural schedule.⁵ As such, Cal Advocates has had no opportunity to propound discovery on the Amended Testimony before the current intervenor testimony deadline.

III. DISCUSSION

UPRR's eleventh-hour Amended Testimony should be stricken for two independent reasons. First, allowing the Amended Testimony to stand on such a last minute timeline and without additional time for discovery, would deprive Cal Advocates and the other parties of due process. Second, UPRR's unilateral amendment of its evidentiary showing after issuance of the Scoping Memo and without leave of the assigned Administrative Law Judge (ALJ) violates Rules 1.2, 1.12, and 13.8 of the Commission's Rules and does harm to the regulatory process.

³ The change in UPRR's Amended Testimony is squarely substantive: UPRR's original testimony stated only that "the grant application was ultimately not submitted," whereas the Amended Testimony now discloses an entirely new factual and timing narrative that a Drinking Water State Revolving Fund (DWSRF) Planning grant application was in fact submitted to the State Water Resources Control Board in 2019 and that a second DWSRF Planning grant application was submitted on the very day UPRR filed the consolidated Applications (March 28, 2025). These facts materially alter the record on which parties must build their case.

⁴ Attachment A, UPRR Amended Testimony Service Email, July 20, 2026.

⁵ *Administrative Law Judge's Ruling Revising Procedural Schedule*, June 8, 2026.

A. UPRR’s Amended Testimony Should be Stricken Because it Deprives Parties of Due Process

Due process requires, at minimum, that parties be given adequate notice and a meaningful opportunity to be heard before the Commission acts on the merits of a substantive change to the record.⁶ That guarantee is not satisfied by formal service of a document. Rather, it requires that the timing and circumstances of that service leave parties a genuine opportunity to test the new evidence through discovery and testimony.

UPRR’s Amended Testimony fails that standard for two reasons. Its change is substantive, not clerical, and the timing of the service forecloses any realistic opportunity for Cal Advocates and other parties to respond before intervenor testimony is due.

First, while UPRR describes the Amended Testimony as the correction of “an error,” it actually changes the substance of UPRR’s showing. UPRR does not contend that it merely corrected a citation, a typographical mistake, or a calculation that does not affect any conclusion in the case. Where an amendment alters the substance of an applicant’s case-in-chief, the parties must be given an opportunity to be heard under the Due Process Clause.⁷

Second, the timing of UPRR’s service compounds the prejudice to parties. UPRR served the Amended Testimony on the afternoon of July 20, 2026, with intervenor testimony due only three days later on July 23, 2026. That interval is not enough time to serve data requests, receive responses, or otherwise investigate the basis for the change, let alone incorporate the results of that investigation into intervenor testimony. The prejudice is particularly acute given that the consolidated Applications have been pending for over a year. UPRR has had ample time to identify and correct any error in its

⁶ *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306, 313 (1950) (finding that, at a minimum, due process requires that “adjudication be preceded by notice and opportunity for hearing appropriate to the nature of the case.”); *Armstrong v. Manzo*, 380 U.S. 545, 552 (1965) (holding that “a fundamental requirement of due process is ‘the opportunity to be heard.’ It is an opportunity which must be granted at a meaningful time and in a meaningful manner.”)

⁷ U.S. Const. amend. V, “No person shall be...deprived of life, liberty, or property, without due process of law...”

testimony long before the Scoping Memo or the deadline for intervenor testimony. Nothing in the record explains why it could not, or did not, do so.

The prejudice to Cal Advocates and other parties is not hypothetical. Intervenor testimony was prepared based on the application and testimony that constituted UPRR's showing preceding the testimony deadline. Materially changing that showing mere days before responsive testimony is due prevents intervenors from conducting discovery, testing UPRR's assertions, and presenting affirmative responsive evidence.

UPRR's approach therefore forces intervenors to choose between serving testimony that does not completely address UPRR's case-in-chief or seeking to delay the submission of testimony in violation of the established procedural schedule. Meanwhile, UPRR would retain the ability to review intervenors' testimony and address it in rebuttal. That asymmetry would allow UPRR to revise its affirmative case at the end of the intervenors' preparation period while preserving its own opportunity to respond—a result fundamentally inconsistent with an orderly evidentiary process. At a minimum, due process requires that parties be afforded additional time, commensurate with the scope of the change and the discovery that it requires, before being required to respond to the Amended Testimony.

B. UPRR's Unilateral Amendment Violates Commission Rules 1.12 and 13.8 and Undermines the Regulatory Process

1. Rule 1.12 Amendments and Corrections

Rule 1.12 of the Commission's Rules of Practice and Procedure governs amendments and corrections to applications, and requires that "an amendment to an application...must be filed prior to the issuance of the scoping memo."⁸ UPRR's Amended Testimony was submitted well after the Scoping Memo issued in this proceeding, and UPRR neither sought nor obtained leave to amend before doing so. Accordingly, UPRR violates Rule 1.12.

⁸ Rule 1.12.

UPRR simply served the Amended Testimony as a fait accompli, on the assumption that a unilateral assertion that its submission corrects “an error” is sufficient to bypass the procedure the Commission’s Rules require. However, Rule 1.12 exists precisely to prevent parties from amending their showing on their own timeline, after the issues and schedule of a proceeding have been fixed by the Scoping Memo, without accountability to the assigned decisionmaker or other parties.

Permitting UPRR’s approach to stand would invite any applicant to reserve a more favorable version of its testimony and introduce it whenever tactically convenient, secure in the knowledge that the label “correction” will excuse the absence of any showing of good cause. That result is inconsistent with the orderly, predictable conduct of Commission proceedings and it does harm to the regulatory process.

2. Rule 13.8 Prepared Testimony

Rule 13.8 provides that prepared testimony served pursuant to the procedural schedule shall constitute the entirety of the witness’s direct testimony and goes on to provide that direct testimony other than minor typographical errors “will not be accepted into evidence unless the sponsoring party shows good cause why the additional testimony could not have been served with the prepared testimony or should otherwise be accepted.”² Accordingly, UPRR’s additional direct testimony may not be accepted absent a showing of good cause and UPRR has not filed a motion for leave or otherwise explained why the additional evidence could not have been included in its original testimony or otherwise demonstrates why it should be admitted.

Instead, UPRR deprived the ALJ of the opportunity to determine, before service, whether additional testimony was warranted, whether good cause existed, and what corresponding adjustments to discovery and the procedural schedule were necessary to avoid prejudice to other parties. UPRR’s failure to provide any justification for why it could not have identified or corrected the asserted error sooner is particularly concerning.

² Rule 13.8(b).

The consolidated Applications have been pending for over a year. UPRR alone possesses the facts necessary to explain when the error was discovered and why it was not addressed earlier or disclosed to the ALJ and parties in advance of its submission. UPRR's silence on each of these points, in a submission it characterizes as correcting an "error," is not a basis for excusing compliance with Rule 13.8. Accordingly, UPRR violates Rule 13.8.

IV. CONCLUSION

For the foregoing reasons, Cal Advocates respectfully requests that the ALJ issue a ruling to:

1. Strike UPRR's Amended Testimony, served July 20, 2026, in its entirety, such that the proceeding continues on the record as it existed before that amendment;
2. Preclude UPRR from relying on the new or substantively revised material in rebuttal testimony, at evidentiary hearings, or in briefing; and
3. Direct that the proceeding continue based on UPRR's previously served direct testimony and the existing procedural schedule.

UPRR's unexplained, last-minute amendment of its testimony – submitted more than a year into this proceeding, after the Scoping Memo, and days before intervenor testimony is due – threatens both the due process rights of the parties and the integrity of the Commission's procedural rules. Cal Advocates respectfully requests that the Commission grant this motion and the relief requested above.

Respectfully submitted,

/s/ MARTIN MCCORMACK

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July 22, 2026

ATTACHMENT A

From: [Darren Lee](#)
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Cc: [Patrick Rosvall](#); [Sarah Banola](#); [Jack Stoddard](#); [Megan Somogyi](#); [Mark Schreiber](#); [QC Vu](#); [Grace Amato](#); [Sophia Chung](#)
Subject: [EXTERNAL] A.25-03-016 etal Union Pacific Railroad Company (KWS) Amended Bylsma Opening Testimony (1 of 2)
Date: Monday, July 20, 2026 4:34:23 PM
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ALJ Goldberg, all,

Union Pacific Railroad Company (“UPRR”), on behalf of its water division, Keene Water System (U 0434 W), is serving the Amended Opening Testimony of Robert Bylsma to correct an error in response to question 23 of Mr. Bylsma’s originally served testimony, which was recently discovered. The changes are limited to the redlined edits made in response to this question. Other than populating the assigned proceeding numbers to this consolidated matter, there are no other changes have been made to the testimony previously served on March 28, 2025. Due to file size, Mr. Bylsma’s testimony has been split into two PDF files and sent across two service emails to avoid bouncebacks.

Please direct follow-up questions to Sarah Banola and Patrick Rosvall.

Sincerely yours,



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