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Decision 25-05-028 May 15, 2025

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the Application of the GOLDEN STATE WATER COMPANY (U133W) for an order (1) authorizing it to increase rates for water service by $87,060,700 or 22.95% in 2025; (2) authorizing it to increase rates by $20,699,200 or 4.42% in 2026, and increase rates by $22,408,200 or 4.57% in 2027 in accordance with the Rate Case Plan; and (3) adopting other related rulings and relief necessary to implement the Commission's ratemaking policies.	Application 23-08-010

ORDER DENYING REHEARING OF DECISION 25-01-036

I. INTRODUCTION

In this Order, we dispose of the application for rehearing of Decision (D.) 25-01-036 (the Decision) filed by Golden State Water Company (GSW).[1]

The Decision resolved the issues in GSW's general rate case (GRC) application for test year 2025. GSW seeks rehearing of two ordering paragraphs in the Decision: (1) an order denying GSW's proposed Water Conservation Advancement Plan (WCAP) and requiring instead a Monterey Water Revenue Adjustment Mechanism (M-WRAM); and (2) an order to present plans for capital investments related to Polyfluoroalkyl Substance (PFAS) treatment in a separate application or in its GRC filing, rather than recording them in its PFAS Memorandum Account (PFASMA).

[1] Unless otherwise noted, all citations to Commission decisions and resolutions are to the official pdf versions, which are available at http://docs.cpuc.ca.gov/DecisionSearchForm.aspx and https://docs.cpuc.ca.gov/ResolutionSearchForm.aspx.

First, regarding the denial of the WCAP, GSW alleges that the California Public Utilities Commission (Commission) ignored the weight of the evidence and did not provide proper findings in support of its order.[2] GSW also alleges that the Commission failed to properly consider a decoupling mechanism, as is required by Senate Bill (SB) 1469, codified at Public Utilities Code section 727.5(d)(2)(A).[3] GSW claims that SB 1469 made several legislative findings that the Commission ignored, and moreover, that the law required that the Commission make several specific findings in determining water rates.[4] Finally, GSW alleges that the Commission order relies on a finding in D.20-08-047 which was vacated by the California Supreme Court in *Golden State Water Company v. Public Utilities Com*.[5]

Second, regarding the treatment of PFAS-related capital costs, GSW claims that the Commission cannot order it to report these costs in a separate application or in a GRC filing; or rather, as GSW characterizes it, that the Commission cannot order GSW not to report these costs in its Contaminant Remediation Memorandum Account ("CRMA"), because the CRMA was outside the scope of the GRC.[6] GSW claims that the Administrative Law Judge (ALJ) and the initial Proposed Decision made statements that the CRMA was not within the scope of the proceeding.[7] GSW also claims that the Decision misstates the nature of the CRMA, PFASMA, and memorandum accounts in general.

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[2] Golden State Water Company Application for Rehearing of D.25-01-036 and Request for Oral Argument (App. Rehg.), pp. 4-9, 13, 21-22.

[3] *Id.*, pp. 6, 15-17. *See* Stats. 2022, ch. 890 § 2 (SB 1469), effective January 1, 2023.

[4] *Id*., pp. 19-21.

[5] *Id*., pp. 13-14, citing *Golden State Water Company v. Public Utilities Com.* (2024) 16 Cal.5th 380, 399.

[6] App. Rehg., pp. 24-27.

[7] *Id*., pp. 24-25.

GSW also seeks oral argument, arguing that its claimed issues "present[] legal issues of exceptional controversy, complexity, or public importance" and that the challenged orders depart from Commission precedent.[8]

We have carefully considered all the arguments presented by GSW. For the reasons set forth below, we have determined that rehearing of the Decision should be denied. GSW's request for oral argument is also denied.

II. BACKGROUND AND PROCEDURAL HISTORY

Central to the main issue of the application for rehearing is the revenue mechanism to be used to prevent a water utility's incentive to collect revenues from countering water conservation goals. In the Decision, the Commission favored the use of an M-WRAM, rather than a full revenue decoupling mechanism (or WRAM), such as GSW's proposed WCAP.[9]

In Rulemaking (R.) 17-06-024, involving all Class A water utilities, the Commission considered its 2010 Water Action Plan, examined water forecasting and evaluated low-income water assistance programs, among other things. In D.20-08-047 issued in that rulemaking, among other things, the Commission ordered that Class A water utilities should no longer propose WRAMs in their subsequent GRCs but could propose M-WRAMs.[10]

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[8] *Id*., pp. 31-32, citing Commission Rules of Practice and Procedure (Rule) 16.3(a)(1), (2) & (3).

[9] Decision, Conclusions of Law (COLs) 7, 8; Ordering Paragraph (OP) 4. The M-WRAM is a revenue adjustment mechanism, but in contrast to a WRAM (such as GSW's proposed WCAP), it is not a full decoupling mechanism; the M-WRAM instead adjusts for the difference between revenue collected under a tiered conservation rate structure, designed to impose increased costs for use of water exceeding certain thresholds, and the revenue that would have been collected, at actual sales levels, with a uniform rather than tiered structure in place. (Decision, n.92.)

[10] D.20-08-047, COLs 3-5; OP 3.

SB 1469 was signed by the Governor on September 30, 2022.[11] SB 1469 effectively overturned D.20-08-047's elimination of WRAM, requiring that "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.'"[12]

On August 14, 2023, GSW filed Application (A.) 23-08-010, its GRC application. The Commission held a telephonic prehearing conference on October 27, 2023, to determine the schedule and scope of the proceeding. On January 4, 2024, Commissioner Shiroma issued the Assigned Commissioner's Scoping Memo and Ruling (Scoping Memo). On June 13, 2024, the Commission held a remote evidentiary hearing.

On July 8, 2024, the California Supreme Court issued a decision finding that the elimination of WRAM from subsequent GRCs was outside the scope of R.17-06-024.[13] The Court set aside that Commission order, as well as "the accompanying findings and conclusions."[14] As the Court noted, the case before it was only procedural, it did not concern the substance of the Commission's order eliminating WRAM.[15]

On February 3, 2025, the Commission issued the Decision. Much of the GRC, not at issue here, was resolved by a Settlement Agreement between GSW and the Public Advocates Office (Cal Advocates).[16] GSW filed its application for rehearing on March 5, 2015. On March 20, 2025, Cal Advocates, the California Water Association (CWA), and the National Association of Water Companies (NAWC) filed responses to the application for rehearing. Cal Advocates generally opposed rehearing, while CWA and NAWC supported rehearing.

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[11] Stats. 2022, ch. 890 § 2 (SB 1469), effective January 1, 2023.

[12] Pub. Util. Code § 727.5(d)(2)(A).

[13] *Golden State Water Co*., *supra*, 16 Cal.5th at 398.

[14] *Id*. at 399.

[15] *Id*. at 382.

[16] Decision, p. 5.

III. REHEARING STANDARD

"The purpose of an application for rehearing is to alert the Commission to a legal error, so that the Commission may correct it expeditiously."[17] An application for rehearing should not "relitigate issues already determined by the Commission" or seek "to reweigh the evidence."[18] The rehearing applicant bears the "burden of proving legal error."[19]

IV. DISCUSSION

A. The Decision Did Not Err in Denying the WCAP

GSW advances several arguments against the Decision's Ordering Paragraph (OP) 4, which rejected GSW's proposed WCAP and ordering a transition to an M-WRAM. Each of GSW's arguments are discussed below.

1. The Decision's Denial of the WCAP Was Properly Supported by Evidence.

GSW argues that the Commission's denial of the WCAP is unlawful because it "ignores" record evidence; the application for rehearing then restates at length much of the evidence GSW presented during the proceeding.[20] GSW includes this section of its application for rehearing with many statutory and legal citations, but in essence, it seeks to re-litigate the Commission's policy decisions.

The Commission need not re-weigh all the evidence in the proceeding, as that is not the purpose of an application for rehearing.[21] In Sections 6.3 and 6.4 of the Decision, the Commission fully examined GSW's Special Request 2, the implementation of the WCAP, as well as the use of a Sales Reconciliation Mechanism (SRM) to be used

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[17] Commission Rule of Practice and Procedure (Rule) 16.1(c).

[18] D.21-03-048, p. 4.

[19] D.17-08-015, p. 4.

[20] App. Rehg., pp. 4-12.

[21] D.21-03-048, p. 4.

in conjunction with the revenue mechanism.[22] The Commission did not list or discuss every piece of evidence that GSW presented, but there is no legal requirement to do so. The Decision provided a good review of GSW's arguments and evidence in favor of the WCAP. The Commission did not "ignore" GSW's extensive evidence, it was simply persuaded more by Cal Advocates' arguments and evidence in favor of a M-WRAM.

Substantial evidence supports the Commission's findings of fact and conclusions of law, and OP 4.[23] There is no legal deficiency in the Commission's consideration of GSW's evidence.

2. The Denial of the WCAP Was Properly Supported by Findings of Fact and Conclusions of Law.

As GSW argues, a Commission order must be supported by findings of fact and conclusions of law to "afford a rational basis for judicial review and assist the reviewing court to ascertain the principles relied upon by the commission and to determine whether it acted arbitrarily" as well as to "assist others planning activities involving similar questions . . ."[24] Pursuant to Public Utilities Code section 1705, such findings of fact and conclusions of law must be provided for all issues material to the decision.[25]

The Decision properly supported OP 4 with findings of fact and conclusions of law.[26] These findings of fact and conclusions of law are much more substantive than the "bare-bones conclusory findings . . . held insufficient" in other cases.[27] The Decision and OP 4 are well supported.

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[22] Decision, pp. 70-76.

[23] Decision, Findings of Fact (FOFs) 13-17, COLs 7-8.

[24] App. Rehg., pp. 2-3, citing *Greyhound Lines, Inc. v. Public Utilities Com.* (1967) 65 Cal.2d 811, 813.

[25] Pub. Util. Code § 1705; *see also Cal. Manufacturers Assn. v. Public Utilities Com.* (1979) 24 Cal.3d 251, 258; App. Rehg., p. 3.

[26] Decision, FOFs 13-17, COLs 7-8.

[27] *Toward Utility Rate Normalization v. Public Utilities Com.* (1978) 22 Cal.3d 529, 540

GSW also claims that Finding of Fact 16: "The M-WRAM encourages conservation through tiered rates;" and Finding of Fact 13: "The WRAM neither encourages nor discourages conservation efforts on the part of the utility;" are contradictory. GSW argues that WCAP also utilizes the same tiered rates as M-WRAM, therefore the two findings are contradictory and constitute legal error.[28] However, GSW provides no legal support for this argument, and the Decision explains why it rejects the purported conservation benefits of WRAM/WCAP.[29] For example, the Decision cites Cal Advocates' examination showing no significant difference in consumption between utilities with and without WRAM.[30] Moreover, the Decision explains how the M-WRAM, unlike the WRAM "provides a link between customer usage and utility revenue" and thus better protects against a utility seeking greater revenue by encouraging consumption, as customers would be more impacted by higher bills if they consumed wastefully.[31] The Decision is not contradictory.

3. SB 1469 Does Not Provide a Legal Basis to Overturn the Decision's Rejection of WCAP.

GSW makes several arguments relying on SB 1469 to claim legal error in the order denying the WCAP. SB 1469 states that the Commission "shall consider, and may authorize the implementation of" a decoupling mechanism that separates water revenues and sales.[32] GSW does seem to recognize that SB 1649 does not require that the Commission authorize a decoupling mechanism/WRAM. Rather, GSW argues that "[t]he Commission ignored extensive evidence of the merits of Golden State's proposed WCAP," and therefore the Commission did not properly consider a decoupling

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(citations omitted).

[28] App. Rehg., pp. 21-22.

[29] Decision, pp. 72-73.

[30] Decision, p. 72, citing Ex. PUBADV-SL-002, Figure 1; *see also* Decision, pp. 73-74.

[31] Decision, pp. 72-73, FOF 15.

[32] Pub. Util. Code § 727.5(d)(2)(A).

mechanism as required by SB 1469.[33] However, as discussed in Sections IV.A.1 and IV.A.2 above, the Commission fully considered GSW's proposed WCAP, but it decided that an M-WRAM was more appropriate. Thus, the Commission met the requirements of Section 727.5(d)(2)(A).[34] GSW also claims that the Decision runs afoul of other requirements of SB 1469.

a) The Decision Does Not Contradict the Legislative Findings of SB 1469.

GSW argues that the Commission ignores and contradicts the "findings" that the Legislature included in SB 1469.[35] However, the only legislative language that GSW discusses is not a legislative finding, rather it is an uncodified statement of legislative intent:

> 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.[36]

Thus, GSW does not actually discuss any *legislative finding* that the Commission purportedly contradicts, but rather a statement of legislative intent. California courts have repeatedly held that "such statements in an uncodified section do not confer power, determine rights, or enlarge the scope of a measure," but rather "they properly may be utilized as an aid in construing a statute."[37] Thus, the statement of legislative intent does not impose any additional duties on the Commission,[38] and does not change the statutory

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[33] App. Rehg., p. 19.

[34] *See cf. Id*., pp. 15-16, citing *Greyhound Lines, Inc. v. Public Utilities Com.* (1968) 68 Cal.2d 406, 410-11.

[35] App. Rehg., pp. 15, 19-20.

[36] App. Rehg., pp. 14-16, 18, citing SB 1469, § 1(b).

[37] *Doe v. Superior Court* (2023) 15 Cal.5th 40, 69 (citation omitted).

[38] *Shamsian v. Dept. of Conservation* (2006) 136 Cal.App.4th 621, 633.

directive that the Commission must consider, and may authorize, a full decoupling mechanism.

GSW incorrectly interprets the statement of legislative intent as a *finding* that full decoupling mechanisms necessarily incentivize water conversation efforts, which "finding" the Commission must address or run afoul of SB 1469.[39] However, the Legislature never suggested this was the purpose of its statement of legislative intent. A plain reading of the statement shows that it is not a finding that the Commission must address.

GSW also lists the actual legislative findings included in SB 1469.[40] However, GSW does not attempt to demonstrate that the Decision contradicted any of these findings. In any case, the Commission did not contradict any of these legislative findings.

b) SB 1469 Does Not Require the Commission to Make Certain Findings in Deciding Water Rates, Except Perhaps When Authorizing Full Decoupling Mechanisms.

GSW also argues that "the Legislature set forth the factors that the Commission 'shall consider' when reviewing a revenue decoupling proposal," citing Public Utilities Code sections 727.5(d)(2)(B), (C).[41] Subsection (d)(2) of the statute reads:

> (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."

[39] App. Rehg., pp. 14-16; *see also* NAWC Response to App. Rehg., pp. 2-3.

[40] App. Rehg., p. 18, citing SB 1469, § 1(a)(1)-(6).

[41] App. Rehg., pp. 18-19.

(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.

GSW argues that the Commission's failure to discuss these criteria demonstrates that the Commission did not properly consider water utility revenue decoupling proposals.[42]

First, the Legislature never stated that it was requiring that the Commission consider these criteria for all water revenue mechanisms or in all GRCs. Rather, the plain reading of subsection (d)(2) of the statute shows that these criteria only apply if a decoupling mechanism is to be authorized. Second, while the Decision never cites SB 1469 or lists these criteria verbatim, the Decision discussed that a M-WRAM, rather than a WRAM, would best prevent overrecovery or underrecovery of revenue, and utility windfalls.[43] These issues and the Commission's preference of M-WRAM were also discussed in findings of fact and a conclusion of law.[44] Thus, the Commission discussed the substance of the criteria included in Public Utilities Code sections 727.5(d)(2)(B), (C), even though it ultimately did not authorize the WCAP. In no way did the Decision run afoul of SB 1649.

4. The Order Transitioning from the WCAP to the M-WRAM Did Not Rely on a Vacated Finding.

Citing a California appellate decision, GSW claims that the Commission's order requiring a transition to M-WRAM is invalid because it relies on a finding from D.20-08-047 that was vacated by the California Supreme Court in *Golden State Water*

[42] App. Rehg., p. 19. *See also* Response of CWA to App. Rehg., pp. 3-4.

[43] Decision, pp. 71-72, 74-76.

[44] Decision, FOF 14, 15, 17; COL 8.

Company v. Public Utilities Com.[45] However, the Decision did not rely on a "vacated finding."

The language in the Decision that GSW claims was based on a vacated finding is not one of the Decision's findings of fact. The language: "[c]onsumption can change due to effects of conservation programs, rate designs, weather, drought, economic effects, or inaccurate sales forecast;" is quoted in the context of recounting Cal Advocates' argument and does not provide essential support for any of the Decision's finding or orders. As discussed in Sections IV.A.1 and IV.A.2 above, the Commission relied on other evidence, including a Cal Advocates' examination, to support its finding that WRAM did not encourage conservation.[46]

The Decision never cites D.20-08-047 in its findings or its text to support any of its factual determinations. Thus, it is simply incorrect to claim that the Decision relied on any finding from D.20-08-047, vacated or not. Moreover, the quote in question: "[c]onsumption can change due to effects of conservation programs, rate designs, weather, drought, economic effects, or inaccurate sales forecast;" was not a finding of fact of D.20-08-047. In fact, this particular language cannot be found anywhere in D.20-08-047's text. GSW claims that this sentence was somehow a "finding" of D.20-08-047 simply because the sentence was in Cal Advocates' testimony, and Cal Advocates included a reference citing a finding of D.20-08-047, that also discussed changes in consumption.[47] It is incorrect to describe the sentence in the Decision as a "finding" of

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[45] App. Rehg., pp. 13-14, citing *Toho-Towa Co., Ltd. v. Morgan Creek Productions, Inc*. (2013) 217 Cal.App.4th 1096, 1105. GSW misstates the holding of this decision. The court, interpreting California rules of appellate practice, held that a party appealing a trial court's decision could not rely on a declaration that was excluded by the trial court; the court's interpretation of appellate practice is not applicable to the Commission's reliance on findings. (*Toho-Towa Co., Ltd*., *supra*, 217 Cal.App.4th at 1105).

[46] Decision, pp, 72-73, 85, citing Figure 1, Exhibit PUBADV-SL-002 at 6-7; FOF 13.

[47] App. Rehg., pp. 13-14, citing Ex. PUBADV-SL-002 at 6-7, n.145, citing D.20-08-047, FOF 7. D.20-08-047, FOF 7 reads: "The WRAM/MCBA also adjusts for all water consumption reductions, not just consumption reductions due to implementing conservation. It is difficult to parse out consumption declines due to the sole effects of

D.20-08-047, simply because both sentences discuss factors that can impact consumption. The Decision did not rely on a "vacated finding" to support any of its orders.

B. The Commission's Order on the Treatment of PFAS-Related Capital Costs Was in the Scope of this GRC.

GSW incorrectly claims that the Decision's OP 3, where the Commission orders that GSW shall present plans for PFAS-related capital investments in a separate application or in its next GRC filing and shall not record them in its PFAS memorandum account, is outside the scope of its GRC.[48] However, GSW never directly challenges OP 3 – it never even cites or discusses it. Rather, GSW claims that because the Scoping Memo in this application did not include the specific text "Contaminant Remediation Memorandum Account" or CRMA, the Decision, in its text, could not direct GSW not to include PFAS-related capital costs in the CRMA.[49] If GSW were allowed to include PFAS-related capital costs in the CRMA, in effect, OP 3 would be rescinded. Thus, GSW seeks to indirectly rescind OP 3, without ever specifically discussing it. In any case, as demonstrated below, the proper treatment of PFAS-related capital costs, as well as the proper use of the CRMA, were both in the scope of the proceeding.

The assigned Commissioner is required to issue a scoping memo which, among other things, sets forth the issues to be addressed in the proceeding.[50] A scoping memo need not "detail every possible outcome of a proceeding."[51] Rather, the scoping memo must fairly include the issue, such that an informed observer would reasonably

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conservation programs and rate designs from other contributing factors such as weather, drought, economic effects, or inaccurate sales forecast, but the WRAM/MCBA goes beyond removing a utility's disincentive to promote conservation by taking all of these factors into account."

[48] App. Rehg., pp. 22-23; *see also* Decision, OP 3.

[49] App. Rehg., pp. 22-23; *see also* Decision, p. 78.

[50] Pub. Util. Code, § 1701.1(b)(1); Rule 7.3.

[51] *Golden State Water Co*., *supra*, 16 Cal.5th at 396.

have understood that an issue was within the scope.[52] If a scoping memo describes issues such that there is a reasonable possibility of a particular outcome, that outcome is fairly within the scope.[53] Moreover, to demonstrate legal error a party must show that any deviation from the scoping memo was significant, or that they were prejudiced by it.[54]

This application's Scoping Memo set forth the issues to be considered in the GRC, including:

> Special Request 1: Whether Golden State's report on the status of its authorized memorandum accounts and balancing accounts is accurate, and whether these accounts are reasonable and remain in the public interest; [and]
>
> Special Request 8: Whether Goldan State's request to modify its existing Polyfluoroalkyl Substances (PFAS) Memorandum Account to allow inclusion of carrying costs at Golden State's adopted rate of return on all incremental plant investments to address treatment for PFAS is reasonable.[55]

In Special Request 8, GSW requested that it be allowed to include PFAS-related capital costs in its PFASMA. Thus, the proper treatment of PFAS-related capital costs was always in the scope of the GRC. Moreover, it was a reasonable possibility that the Commission would not grant this request and would order a different treatment of these capital costs, such as ordering a separate application. In fact, in its prepared testimony, submitted with its initial application in August 2023, GSW stated:

> If the Commission should not grant GSWC's request to modify its existing PFASMA as noted above, GSWC *will plan to file separate applications* with the Commission to authorize capital for each project related to PFAS treatment. However, GSWC does not believe that the Commission's review of such individual applications would be an efficient use of Commission resources. Additionally, given the delay in the processing of GSWC's 2020 GRC, GSWC is

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[52] *Id.* at 394, 398.

[53] *Id*. at 395-96, 398.

[54] *BullsEye Telecom, Inc. v. Public Utilities Com*. (2021) 66 Cal.App.5th 301, 324-25; *Volcano Telephone Co. v. Public Utilities Com*. (2025) 109 Cal.App.5th 701, 717-18.

[55] Assigned Commissioner's Scoping Memo and Ruling, January 4, 2024, pp. 3-4.

> concerned that the Commission's timeline for processing individual applications may not support completion of the capital projects by the compliance deadline.[56]

Thus, that the Commission would order GSW to file separate application(s) for its PFAS-related capital costs was a reasonably foreseeable outcome of Special Request 8. GSW seeks to rescind OP 3 (copied below) as out of scope, even though its substance is identical to its own August 2023 proposal (copied above):

> Golden State Water Company shall present plans for capital investments related to Polyfluoroalkyl Substances (PFAS) treatment *in a separate application or in its next general rate case filing*, and shall not record them in its PFAS memorandum account.[57]

The proper treatment of PFAS-related capital costs, including a requirement for separate applications, was within the scope of the GRC from its inception.

1. Proper Use of the CRMA Was in the Scope of the GRC.

GSW seems to believe that because the Scoping Memo did not include the specific text "Contaminant Remediation Memorandum Account" or CRMA, the Decision could not discuss whether GSW should include PFAS-related capital costs in the CRMA.[58] However, as discussed in the Scoping Memo, GSW's Special Request 1 included a consideration of whether GSW's report on all its memorandum accounts was accurate and whether all these accounts were reasonable.[59] It is immaterial that the Scoping Memo did not list all thirty memorandum accounts verbatim. Proper use of the CRMA was in the scope of the GRC from its inception.

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[56] Prepared Testimony of Sunil Pillai, August 2023, p. 12 (emphasis added), assigned Exhibit No. GSW-SP-079.

[57] Decision, OP 3 (emphasis added).

[58] App. Rehg., pp. 22-23. The caution not to use the CRMA does not appear in OP 3, but in the text of the Decision. (Decision, p. 78.)

[59] Assigned Commissioner's Scoping Memo and Ruling, January 4, 2024, p. 3.

In prepared testimony submitted with its initial GRC application in August 2023, GSW described its proposed uses of the CRMA; for example, GSW proposed to use this account to "track incremental compliance and remediation costs" related to excess contaminants in water.[60] In August 2023, GSW did not specifically propose that the CRMA include PFAS-related capital costs. However, GSW subsequently asserted in its rebuttal testimony that it would track the PFAS-related capital costs in the CRMA if the Commission were to deny Special Request 8.[61] To the extent GSW claims that its proposal to track "incremental compliance and remediation costs" somehow includes PFAS-related capital costs,[62] then this proposed use of the CRMA is within the scope of Special Request 1, and the Commission may reject it in OP 3 and may address it in the Decision.[63]

Moreover, the Commission had previously stated that for GSW's PFAS-related costs, "the appropriate place to request rate increases to cover incremental plant costs is an application where the utility can make the showing that the incremental plant is necessary to provide safe water service."[64] Thus, OP 3 and the Decision's caution against using the CRMA for these costs, was just a continuation of Commission precedent regarding PFAS-related capital costs. In any case, proper use of all memorandum accounts, including the CRMA, was within the scope of the proceeding from its inception, as part of GSW's Special Request 1. Thus, the Commission may make orders related to all the memorandum accounts, including the PFASMA and the CRMA, in this proceeding.

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[60] Prepared Testimony of Ronald Moore, August 2023, p. 4, assigned Exhibit No. GSW-RM-072.

[61] Rebuttal Testimony of Sunil Pillai, April 2024, p. 24, assigned Exhibit No. GSW-SP-080.

[62] *See* App. Rehg., pp. 26-27; *see also* Rebuttal Testimony of Sunil Pillai, pp. 21-22.

[63] Decision, p. 78.

[64] Decision, p. 78, citing Resolution W-5226, Finding and Conclusion 12. This resolution established GSW's PFASMA.

2. GSW Suffered No Prejudice from Ordering Paragraph 3.

GSW did not suffer any prejudice from OP 3, as it simply paraphrased GSW's own proposal for PFAS-related capital costs found in Prepared Testimony accompanying its initial GRC application. In making this proposal, GSW expressed disagreement with it, stating that separate applications would not be an efficient use of Commission resources, and that the applications may not be processed in a timely manner.[65] GSW had already identified and discussed its objections against the requirement of separate applications for PFAS-related capital costs, at the inception of the GRC. Thus, GSW had every opportunity to expand on its objections and advocate against separate applications throughout the proceeding. GSW cannot claim that it was prejudiced by OP 3.

The proper use of all its memorandum accounts was in the scope of the application. By its own admission, GSW did not specifically propose to use the CRMA to track PFAS-related capital costs until midway during the proceeding, in rebuttal testimony.[66] Of course, GSW claims that tracking PFAS-related capital costs was already within the authorized use of the CRMA.[67] In any case, GSW had every opportunity, since the inception of the GRC, to advocate for the use of the CRMA to track PFAS-related costs, since the proper use of all memorandum accounts was within the scope of the proceeding. GSW cannot claim that it was prejudiced by OP 3 or the Commission's caution against using the CRMA to track PFAS-related costs, which merely reiterated prior Commission direction regarding PFAS-related capital costs.

[65] Prepared Testimony of Sunil Pillai, p. 12.

[66] App. Rehg., p. 24, citing Rebuttal Testimony of Sunil Pillai, p. 24.

[67] App. Rehg., p. 24; Rebuttal Testimony of Sunil Pillai, pp. 21-22.

3. Statements in the Proposed Decision and by the ALJ During a Hearing Provide No Basis to Limit the Scope of a Proceeding.

GSW claims that the initial Proposed Decision in the GRC included a statement that clarified that "issues related to [GSW's] CRMA are not within the scope of the proceeding."[68] Similarly, GSW claims that ALJ Nojan made a statement at the prehearing conference that "the CRMA is outside the scope of this proceeding."[69] First, statements in a Proposed Decision have no legal effect unless they are approved by the Commission; the Commission may reject all or portions of the Proposed Decision.[70] Oral statements made by the ALJ at the evidentiary hearing (not the prehearing conference as claimed by GSW) also do not set the scope of the proceeding.[71] GSW cannot demonstrate that these statements have any legal impact whatsoever.

Second, it is not clear that either of these statements support the proposition that "issues related to [GSW's] CRMA are not within the scope of the proceeding." Especially equivocal is the statement of the ALJ during the evidentiary hearing, saying "*I'm not sure* about the extent to which I would consider the latter to be within the scope of this proceeding."[72] In any case, it is not necessary to parse the meaning of these statements, as they do not carry any authority. It is the Scoping Memo that determines the scope of the proceeding.[73] As discussed above, the Scoping Memo included

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[68] App. Rehg., p. 24, citing Proposed Decision of ALJ Nojan, Nov. 15, 2024, pp. 73-74.

[69] App. Rehg., p. 24, citing Reporters Transcript, Virtual Proceeding, June 13, 2024, Vol. 1, at 77:17-24. In the App. Rehg., GSW mistakenly claims that ALJ Nojan made the statement at the Prehearing Conference. However, the statement occurred at the Evidentiary Hearing, not the Prehearing Conference.

[70] Pub. Util. Code §§ 311(d), 1701.3(j).

[71] See Rule 7.3 (issues to be addressed are set forth in the scoping memo issued by the assigned Commissioner).

[72] Reporters Transcript, June 13, 2024, Vol. 1, at 77:22-24 (emphasis added).

[73] *Golden State Water Co*., *supra*,16 Cal.5th at 394, citing Pub. Util. Code § 1701.1(c); *see also* Pub. Util. Code § 1701.1(b)(1); Rule 7.3.

treatment of PFAS-related capital costs and the proper uses of all memorandum accounts, including the CRMA.

C. The Decision Makes No Factual Inaccuracies Regarding Memorandum Accounts.

GSW complains about various statements in the Decisions, stating, that the Decision "is factually inaccurate as to the treatment of memorandum accounts."[74] GSW selectively quotes the Decision to claim that it portrays memorandum accounts as a "means to 'avoid Commission review.'"[75] However, the Decision was not making a factual statement about memorandum accounts here, but rather was ordering that "[t]he CRMA should not be utilized *to avoid Commission review* and authorization of capital projects in a GRC or stand-alone application, prior to capital expenditures for those projects."[76]

GSW also mistakenly claims that the Commission denied Special Request 8 in part based on a factually incorrect understanding that the tracking of PFAS treatment costs in the PFASMA would result in "lesser levels of review" of those costs.[77] Review of these costs in a GRC application or a separate application, as OP 3 requires, would necessarily require approval by the Commission in a formal application proceeding. Although GSW is unclear about the details of its proposal to include PFAS-related capital costs in the CRMA, it leaves open the possibility that it may seek a reasonableness review of these costs via advice letter.[78] An advice letter process provides a quick and simplified review process, as compared to formal applications, with disposal after a much

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[74] App. Rehg., pp. 28-29.

[75] *Id*., p. 28, quoting Decision, p. 78.

[76] Decision, p. 78 (emphasis added).

[77] App. Rehg., p. 28, quoting Decision, p. 79.

[78] App. Rehg., p. 28 ("Even if a utility seeks to recover memorandum account balances outside of a GRC, the Commission is free to require that such request be deferred to a GRC or a separate application.").

shorter review period and without the possibility of discovery or an evidentiary hearing.[79] Thus, it is factually correct to describe the request to use the existing PFASMA as potentially leading to a "lesser level of review," as compared to a full formal proceeding. The Commission wanted to ensure that such costs would be reviewed in a formal proceeding and thus adopted OP 3. There is nothing factually incorrect about the Commission's policy decision.

GSW also complains that the Commission "ignores that memorandum account treatment requires that the underlying expenses are substantial" and that the "Decision appears to limit improperly [GSW's] use of its approved capital budget."[80] GSW provides no legal authority supporting its arguments. Rather, GSW simply takes issue with the Decision's orders, and seeks to re-litigate its arguments against them. This is not a proper basis for rehearing.[81]

D. Oral Argument is not Warranted.

In connection with its application for rehearing, GSW requests oral argument pursuant to Rule 16.3.[82] Rule 16.3, subdivision (a), provides that oral argument is appropriate on rehearing where the application raises issues of "major significance" to the Commission because the challenged decision:

> (1) adopts new Commission precedent or departs from existing Commission precedent without adequate explanation;
>
> (2) changes or refines existing Commission precedent;
>
> (3) presents legal issues of exceptional controversy, complexity, or public importance; and/or
>
> (4) raises questions of first impression that are likely to have significant precedential impact.

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[79] GO 96-B, Rules 5.1, 7.5.2.

[80] App. Rehg., pp. 29-31.

[81] D.21-03-048, p. 4.

[82] App. Rehg., pp. 31-32.

Pursuant to Rule 16.3, subdivision (a), the Commission has complete discretion to determine the appropriateness of oral argument in any matter. While GSW may claim that the Commission acted controversially and did not follow precedent, in reality, the Decision was a well-supported decision. In this case, the issues are sufficiently briefed and there is no basis to conclude oral argument will benefit disposition of the application for rehearing. Therefore, the request for oral argument is denied.

V. CONCLUSION

For the reasons discussed above, we deny rehearing of the Decision.

THEREFORE, IT IS ORDERED:

1. Rehearing of Decision 25-01-036 is denied.
2. Application 23-08-010 remains open.

This order is effective today.

Dated May 15, 2025, at Kings Beach, California.

ALICE REYNOLDS
President
DARCIE L. HOUCK
JOHN REYNOLDS
KAREN DOUGLAS
Commissioners

Commissioner Matthew Baker recused himself and did not participate in the vote of this item.