

Decision 09-07-022 July 9, 2009

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of California-American Water Company (U210W) for Authorization to Increase its Revenues for Service in its Monterey Wastewater District by \$1,387,600 or 83.47% in the year 2009; \$195,400 or 6.32% in the year 2010; and \$212,800 or 6.40% in the year 2011.

Application 08-01-023
(Filed January 30, 2008)

DECISION APPROVING WASTEWATER SETTLEMENT AGREEMENT AND AUTHORIZING INCREASES IN WASTEWATER RATES**1. Summary**

This decision authorizes California American Water Company to increase its 2009 wastewater revenue requirement by \$1,316,600 (77.4% increase) and to increase rates for its eight wastewater districts as follows:

System	Present Rates (monthly fixed charge)	2009 Rates (monthly fixed charge)	Percent Change
White Oaks	\$56.57	\$48.78	-13.77%
Village Green	\$56.57	\$48.78	-13.77%
Spreckels	\$35.93	\$48.78	35.76%
Oak Hills	\$39.93	\$48.78	22.16%
Las Palmas	\$56.57	\$107.81	90.58%
Indian Springs	\$49.21	\$107.81	119.08%
Carmel Valley	\$56.57	\$107.81	90.58%
Passadera	\$56.57	\$107.81	90.58%

2. Description of Application

On January 30, 2009, California American Water Company (Cal-Am) filed this application, along with Application (A.) 08-01-024 (the General Office application) and A.08-01-027 (the General Rate Case Application).

The Division of Ratepayer Advocates (DRA) filed a protest to this application.

In its initial application, Cal-Am sought Commission authorization to increase the total revenues from its approximately 2,000 wastewater customers by 83.47% in 2009, 6.32% in 2010, and 6.40% in 2011. Cal-Am justified its proposed approximately \$1.5 million increase largely based on labor-related cost increases. Payroll increases accounted for almost \$500,000 of the cost increase, allocated General Office (which is mostly labor) added in \$384,000, and pensions and benefits about \$200,000.¹

In addition to the aggregate revenue increase, Cal-Am presented “Special Request # 1 – Proposals to Improve Existing Tariffs” in which Cal-Am sought Commission authorization to bill all wastewater customers “at the same rate and at the same billing frequency.” Cal-Am explained that it acquired its wastewater systems at different times and from different owners. Pursuant to the various acquisition agreements, the systems are billed on different frequencies and at different rates. In this application, Cal-Am proposed to begin billing all systems on a monthly basis and at the same rate. As a consequence of this request, Cal-Am’s proposed rate increase varied among the various systems with three

¹ See Exhibit 1, Chapter 4, Section 1, Table 3.

systems proposed to receive 2009 rate increases substantially higher than the rate increase for all other systems:

System	2009 Proposed Increase	2010	2011
Oak Hills	135.41%	6.32%	6.31%
Spreckels	161.62%	6.32%	6.31%
Indian Springs	91.02%	6.32%	6.31%
All Others	66.17%	6.32%	6.31%

As described below, customers served by the systems with the greater proposed rate increase, Spreckels and Oak Hills, comprised the majority of the public comments at the Chualar Public Participation Hearing.

3. Background

The assigned Administrative Law Judge (ALJ) convened a prehearing conference on March 20, 2008, for the three proceedings and Public Participation Hearings were held on May 28, 2008, in Chualar, and on May 29, 2008, in Monterey.

At the Chualar hearing, several speakers were customers served by the Spreckels wastewater system and they objected to Cal-Am's proposed tripling of their wastewater bill. These customers explained that Spreckels system was a remnant of a company town that existed around the Spreckels sugar factory, which closed in 1994. They explained that the system was simple, low-cost, and would not require the level of expenses Cal-Am described. These customers also complained that Cal-Am's application was confusing and illogically set out.

The Spreckels customers' primary objection to the wastewater application was to Cal-Am's proposal to consolidate all of its eight wastewater systems for ratemaking purposes. This proposal resulted in some customers receiving over

160% rate increases and other customers only 66%. Customers strongly objected to this proposal as being unfair to those systems, such as Spreckels, that are simple and have low costs. Customers explained that many residents of Spreckels are retired and on fixed incomes and will not be able to afford the proposed dramatic increases in wastewater rates. The total proposed increase would constitute about 15% of the total annual income for some retirees on Social Security.

At the conclusion of the public participation hearing, Cal-Am agreed to prepare additional spread sheets explaining the rate increase proposal and to meet with the customers to provide further explanation.

On August 29, 2008, the Central Coast Coalition of Concerned Communities for Wastewater Equity submitted its Motion for Party Status and Objection. The Coalition stated that Cal-Am had not supplied the spreadsheets and data as ordered by the ALJ at the Public Participation Hearing in Chualar and that the Coalition found Cal-Am's cost forecasts to "soar way beyond any reasonable inflation index."

In response to the Coalition's filing, Cal-Am explained that properly preparing the spreadsheets required more time than expected but that the spreadsheets were provided to all participants, including the Coalition.

The assigned Commissioner and ALJ issued their Ruling and Scoping Memo on June 27, 2008, which set forth the procedural schedule and the issues to be resolved. The Ruling also consolidated the Monterey general rate case, General Office rate case, and wastewater rate case.

Evidentiary hearings were held in October on all three applications. On October 23, 2008, Cal-Am and DRA presented a joint witness panel in support of their then-tentative settlement agreement on the wastewater application. The

parties cross-examined the witness panel on the terms of the settlement agreement. The witnesses stated their intentions to file and serve the final settlement agreement no later than November 24, 2008.

The Coalition also presented a panel of two witnesses who explained that the substantial increase in wastewater rates sought by Cal-Am in this application was particularly burdensome for customers on fixed incomes, and that Cal-Am's presentation, which the Coalition found confusing and incomplete, had failed to justify an increase of this magnitude.

On November 24, 2008, Cal-Am and DRA jointly filed their Motion for Adoption of Partial Settlement Agreements as to Water and Wastewater Issues between the Division of Ratepayer Advocates and California-American Water Company. The final wastewater settlement agreement was substantially similar to the tentative agreement presented at the hearing, and it is described in more detail below. The settlement agreement, excluding numerous pages of photographs of the Toro System, is Appendix A to today's decision.²

On December 23, 2008, the Coalition submitted its comments in opposition to the settlement. The Coalition asked Cal-Am to keep the pledges made when acquiring the wastewater districts, and to present cost data and rate requests in a "reasonable, comprehensible, and verifiable format."

Cal-Am replied on January 8, 2009, that the Coalition had not identified any substantial objection to the settlement.

² The entire settlement agreement and motion addresses issues in both the wastewater and Monterey District water general rate cases. A complete copy may be viewed at <http://docs.cpuc.ca.gov/efile/MOTION/94575.pdf>.

4. Description of the Wastewater Settlement Agreement

The settlement agreement provides for an increase in 2009 revenue requirement of \$1,326,600, approximately the amount sought by Cal-Am, although with a few changes in line items. The revenue requirement tables based on the Settlement are Appendix B to today's decision. For example, DRA agreed to Cal-Am's proposal to add 10 new permanent employees, but also required Cal-Am to reduce its budget for temporary workers and contractors. Certain line items increased due to the availability of updated, year-end 2007 data, e.g., maintenance costs which increased to \$254,200 from Cal-Am's originally requested \$248,400. The customer number is also slightly increased to reflect the current customer count.³

Rate design was the most controversial issue presented by the wastewater application. Cal-Am's original proposal to place all customers on the same monthly rate resulted in significantly differing rate increases among the wastewater systems and, consequently, drew substantial opposition from customers in the systems with high proposed increases.

The settlement agreement addresses rate design by creating two groups of systems based on the technology used by the system. The "passive" systems - White Hills, Spreckels, Village Green and Oak Hills - use technologically simple and, thus, inexpensive wastewater treatment processes. In contrast, the "active" systems - Las Palmas, Pasadera, Carmel Valley Ranch and Indian Springs - use

³ Cal-Am stated that during 2007 it audited its wastewater customer database and discovered that 265 out of its 2,486 customers were not being billed. Cal-Am has corrected this situation and implemented measures to avoid recurrences. *See* Cal-Am Response to Stuart Burbank Letter, December 8, 2008.

technologically advanced systems with a higher cost of service. The settlement agreement sorts the systems as either active or passive, with customers of the active systems paying \$107.81 per month in 2009 and the passive systems paying \$48.78 per month.

4.1. Comments on the Settlement Agreement

As noted above, the Coalition filed formal comments pursuant to Rule 12.2 of the Commission's Rules of Practice and Procedure opposing the settlement agreement. Three sets of informal customer comments were submitted and placed in the correspondence section of the formal file. These comments opposed the revenue requirement portion of the settlement agreement and contended that additional independent review should be undertaken prior to authorizing Cal-Am this substantial increase in revenue requirement.

5. Discussion

5.1. Approval of Parties' Settlement Agreement

Rule 12.1(d) requires that in order for a settlement to be approved by the Commission, the settlement must be: (1) reasonable in light of the whole record, (2) consistent with the law, and (3) in the public interest. Each element is present here.

5.1.1. Reasonableness in Light of the Whole Record

The parties contend the Settlement Agreement is reasonable in light of the whole record because it fully addresses and substantially modifies Cal-Am's most contentious proposal, uniform rate design across the systems. The settlement agreement instead proposes to charge a higher rate to customers of the systems with higher cost of service, based on two groups of systems.

The substantial revenue requirement increase remains a contentious issue for customers of the higher cost system, but the settlement shows that DRA and Cal-Am have thoroughly reviewed each cost item and made adjustments where possible, although the overall amount remains close to that sought by Cal-Am.

We agree that the settlement is reasonable in light of the record.

5.1.2. Consistent With the Law

The proposed settlement is consistent with the law. The parties explain that the proposed wastewater rates are just and reasonable as required by Pub. Util. Code § 451, and that Cal-Am has made a sufficient presentation on the record to justify the increased revenue requirement as required by Pub. Util. Code § 454.

We find that the settlement is consistent with the law.

5.1.3. In the Public Interest

Finally, we find that the settlement is in the public interest. The proposed settlement agreement provides for more equitable rate design among the differing wastewater systems and it saves the Cal-Am, the other parties, and the Commission the expense and time required to fully litigate this proceeding.

As shown by the comments opposing this settlement, Cal-Am needs to improve its relationship with its customers and especially its explanation of costs and operational plans for these systems. The public interest will be furthered by better customer consultation in advance of the next rate filing.

The public interest is also served by approval of the settlement agreement as an efficient means to resolve this application. For the foregoing reasons, the Commission finds that the settlement in this proceeding is reasonable in light of the whole record, is consistent with the law, and is in the public interest. The Settlement Agreement should therefore be approved.

**5.2. Consolidation of this Proceeding with
A.08-01-027 and A.08-01-024**

In the scoping memo, this proceeding was consolidated with the General Rate Case and General Office proceedings due to common questions of fact and law. The decision resolving the remaining disputed issues in the Monterey Water General Rate Case and General Office proceedings is lengthy and complex, with limited relevance to wastewater customers. Therefore, we will set aside the consolidation of this wastewater proceeding and issue a decision separately resolving this application.

6. Comments on Proposed Decision

The proposed decision of the ALJ in this matter was mailed to the parties in accordance with Section 311 of the Public Utilities Code and Rule 14.3 of the Commission's Rules of Practice and Procedure. Comments were filed on May 27, 2009, by Cal-Am which requested that the final approved rates be consistent with the Commission's final decision in Application 08-01-024 on general office issues, a portion of which are allocated to the Monterey Wastewater District and that the adopted rates also reflect the final adopted rate of return from Decision 09-05-019. Today's decision reflects the Commission's resolution of both the general office and rate of return proceedings.

7. Assignment of Proceeding

John A. Bohn is the assigned Commissioner and Maribeth A. Bushey is the assigned ALJ in this proceeding.

Findings of Fact

1. Cal-Am and DRA have agreed to the settlement agreement attached hereto as Appendix A.

2. The settlement agreement provides for wastewater rate design that more closely follows cost-of-service.

3. The settlement agreement shows that Cal-Am and DRA have reviewed the wastewater revenue requirement requested and made reasonable modifications.

Conclusions of Law

1. The wastewater settlement is reasonable in light of the whole record, is consistent with the law, and is in the public interest.

2. Cal-Am should improve its relationship with and explanations to its customers.

3. Consolidation of the wastewater general rate case proceeding (A.08-01-023) with the Monterey District water General Rate Case (A.08-01-027) and General Office proceeding (A.08-01-024) should be set aside.

4. The settlement agreement as to wastewater issues should be approved.

5. Cal-Am should be authorized to file revised tariffs reflecting the wastewater rates set forth above.

O R D E R

IT IS ORDERED that:

1. The Partial Settlement Agreement between the Division of Ratepayer Advocates and the California-American Water Company on Monterey Water and Wastewater issues, filed November 24, 2008, is approved as to wastewater issues.

2. The following 2009 monthly fixed charges are adopted:

System	Present Rates (monthly fixed charge)	2009 Rates (monthly fixed charge)
White Oaks	\$56.57	\$48.78
Village Green	\$56.57	\$48.78
Spreckels	\$35.93	\$48.78
Oak Hills	\$39.93	\$48.78
Las Palmas	\$56.57	\$107.81
Indian Springs	\$49.21	\$107.81
Carmel Valley	\$56.57	\$107.81
Pasadera	\$56.57	\$107.81

3. In determining wastewater revenues, the number of customers for Pasadera shall be 275.

4. Wastewater expenses shall be determined based on the following expenses as set forth in the Settlement Agreement:

- a. Payroll - \$810,600
- b. Operations & Maintenance - \$39,400
- c. Water Treatment - \$190,500
- d. Distribution - \$195,300
- e. Customer Service Miscellaneous - \$8,500
- f. Uncollectible Rate - 0.2643%
- g. Maintenance - \$ 254,200
- h. Pensions and Benefits - \$229,100
- i. Outside Services - \$1,300
- j. Other Administrative and General - \$205,800
- k. Rents - \$9,100

5. The following wastewater capital projects are authorized:
 - a. Comprehensive Planning Study - \$140,000, amortized over three years
 - b. Sanitary Sewer Management Plan - \$ 175,000, amortized over three years
 - c. System Controls and Data Acquisition Equipment - \$10,000 per year
 - d. Routine Process Plant Replacement - \$23,700 per year
6. The settlement agreement as to wastewater issues is binding on the parties.
7. The settlement agreement as to wastewater issues shall be enforceable before this Commission.
8. The consolidation of the wastewater general rate case proceeding (Application (A.) 08-01-023) with the Monterey District water General Rate Case (A.08-01-027) and General Office proceeding (A.08-01-024) is set aside and today's decision shall resolve A.08-01-023 only.
9. The California American Water Company is authorized to file in accordance with General Order 96, and to make effective on not less than five days' notice, the revised tariff schedules for the Monterey Wastewater District that are attached as Appendix C to this order. The revised tariff schedules shall apply to service rendered on and after their effective date.
10. The rate tables attached as Appendix B to today's decision are adopted.
11. California-American Water Company is authorized to file on or after November 15, 2009, in accordance with General Order 96-B, an advice letter, with appropriate supporting workpapers, requesting an escalation adjustment for Monterey Wastewater District rates to be calculated in conformance with the rate case plan adopted by the Commission in Decision 07-05-062.

12. California-American Water Company is authorized to file on or after November 15, 2010, in accordance with General Order 96-B, an advice letter, with appropriate supporting workpapers, requesting an escalation adjustment for Monterey Wastewater District rates to be calculated in conformance with the rate case plan adopted by the Commission in Decision 07-05-062.

13. Application 08-01-023 is closed.

This order is effective today.

Dated July 9, 2009, at San Francisco, California.

MICHAEL R. PEEVEY
President
DIAN M. GRUENEICH
JOHN A. BOHN
RACHELLE B. CHONG
TIMOTHY ALAN SIMON
Commissioners