

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA



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Application of California-American Water) A.08-01-027
Company (U210W) for Authorization to Increase)
its Revenues for Water Service in its Monterey) (Filed January 30, 2008)
District by \$24,718,200 or 80.30% in the year)
2009; \$6,503,900 or 11.72% in the year 2010; and)
\$7,598,300 or 12.25% in the year 2011 Under the)
Current Rate Design and to Increase its Revenues)
for Water Service in the Toro Service Area of its)
Monterey District by \$354,324 or 114.97% in the)
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Current Rate Design)
_____)

**PROTEST OF THE MONTEREY PENINSULA WATER MANAGEMENT
DISTRICT TO THE APPLICATION OF CALIFORNIA-AMERICAN
WATER COMPANY TO INCREASE REVENUES IN ITS
MONTEREY DISTRICT**

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MANAGEMENT DISTRICT**

Date: March 3, 2008

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

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I. INTRODUCTION

Pursuant to Rule 2.6 of the California Public Utilities Commission's ("CPUC" or "Commission") Rules of Practice and Procedure, the Monterey Peninsula Water Management District ("MPWMD") files its Protest to Application ("A.") 08-01-027, wherein California-American Water Company ("CAW") seeks authority to increase its rates for water service in its Monterey District.

The Application raises several areas of concern that merit further investigation. Therefore, MPWMD recommends that the Commission schedule both evidentiary and public participation hearings for this proceeding.

II. BACKGROUND

On January 30, 2008, CAW filed A.08-01-027 requesting authority to increase its rates for water service in its Monterey District by \$24,718,200 or 80.30% in 2009, \$6,503,900 or 11.72% in 2010, and \$7,598,300 or 12.25% in 2011.¹ The Application first appeared in the Daily Calendar on February 4, 2008. MPWMD's protest is timely filed.

MPWMD was created by special legislation in 1977 and approved by the voters in 1978. It is governed by an elected Board of Directors and is the sole authority for integrated management of the ground and surface water resources within the Monterey Peninsula area encompassing the waters of the Carmel River System and the Seaside Groundwater Basin.

MPWMD regulates and manages all water distribution systems within its territory including CAW's main system² and subsystems in Ryan Ranch, Hidden Hills and Bishop.³

All water resources used by CAW are under restrictions. The Carmel River System is subject to State Water Resources Control Board ("SWRCB") Order No. WR 95-10 ("Order 95-10") limiting extractions to 11,285 acre-feet per year ("AFY"). A draft Cease and Desist Order is currently being considered which could restrain production even further. The Seaside Groundwater Basin was adjudicated in 2006 establishing specific production allocations. These allocations will ultimately be reduced to eliminate the existing overdraft and potential for seawater intrusion.

¹ Monterey Application at 2.

² CAW's main system is supplied with water from the Carmel River (surface water and alluvial aquifer) and the Coastal Subareas of the Seaside Groundwater Basin.

³ CAW's subsystems are supplied with water from the Laguna Seca Subarea of the Seaside Groundwater Basin.

The Monterey District faces complex challenges with restricted water resources, newly proposed and expensive purchased water, aging and outdated mains, production wells, and other infrastructure whose replacement has been under funded for decades, silt-laden reservoirs, subsystems requiring extensive capital improvements, and major water supply replacement projects. Whether or not CAW has adequately justified burdening today's ratepayers with its proposed "catch-up" capital expenditures on these long-deferred investments is a key issue that should be examined in detail during this proceeding.

III. DISCUSSION

MPWMD is still reviewing CAW's Application, but has identified several issues it will review through discovery and address as needed in the evidentiary hearings.

A. CAW's List of Contentious Issues

CAW has identified its list of contentious issues which include: 1) estimation of water use per customer using a decreased level of consumption from historical patterns, 2) changes in rate design⁴ to implement more stringent conservation, 3) implementation of a Distribution System Improvement Charge ("DSIC") surcharge based on a system needs analysis, and 4) authorization for an Endangered Species Act ("ESA") Memorandum Account that includes recovery of all fees and assessments.

B. CAW's Special Requests Requiring MPWMD Review

MPWMD will evaluate whether certain Special Requests in this Application are appropriate including:

⁴ Rate design issues will be resolved in a separate proceeding, A.07-12-010. MPWMD is participating fully in this Conservation Program Application.

Special Request #1: Implementation of a DSIC to recover additional fixed costs associated with capital expenditure investments for replacement or rehabilitation of certain facilities.⁵ CAW proposes to recover these costs through a surcharge applied to each monthly bill.

Special Request #6: Implementation of a memorandum account to track special levies and assessments incurred as a result of ESA compliance issues.⁶

Special Request #9: Placement of all San Clemente Dam seismic retrofit expenditures either in Plant in Service or Construction Work in Progress (“CWIP”).

MPWMD understands that Special Requests #2, 3, 4, and 8 will be addressed in the Conservation Program Application 07-12-010.

MPWMD continues its review of CAW’s application. Further review may identify additional issues of concern. MPWMD reserves the right to submit data requests, develop testimony, and cross-examine CAW witnesses on said issues.

C. MPWMD Issues or Requests

MPWMD has identified key issues based on this filing or continued from the 2005 GRC proceeding (Decision (“D.”) 06-11-050).⁷ These identified issues include:

1) **Infrastructure Replacement:** While the CAW system infrastructure requires replacement, extraordinary expenditures for this replacement will place a burden on today’s ratepayers and warrant close examination. Issues raised in this context relate to the cost and nature of system improvements including replacement of defective customer

⁵ Monterey Application at 8.

⁶ Id.

⁷ MPWMD’s continuing review of the CAW Application may identify additional issues.

meters and CAW's rationale for replacement schedules; unaccounted-for water standards; historical levels of investment; and consequences of CAW's investment decisions.

2) **Seaside Basin Adjudication Expense:** CAW seeks reimbursement of its litigation expenses related to the Seaside Basin adjudication. Neither the amount of expense incurred nor the request for reimbursement is reasonable. Issues raised in this context relate to the reasonableness of the substantive and procedural positions presented by CAW, and reasons alternative settlement approaches were rejected by CAW.

3) **Subsystem Subsidies:** CAW proposes that its main system customers continue subsidizing substantial capital improvements for its previous subsystem acquisitions. Issues raised under this topic relate to the scope of the subsidy, whether it is equitable, and whether increased contribution by subsystem customers should occur, such as a capital improvement surcharge on those customers.

4) **Purchased Water Costs:** CAW has entered into a lease agreement with the City of Sand City to purchase desalinated water when the Sand City desalination facility is constructed and begins operation. CAW also seeks recovery in rates of over \$4.5 million in 2009 for Seaside Basin fees and assessments.⁸ Issues raised in this context relate to the reasonableness of the desalinated water costs and whether CAW has properly reflected credits it can receive for its Coastal Water Project expenditures against the assessments as allowed by the adjudication decision.⁹

5) **Replacement Projects:** CAW has identified several projects which may not be properly categorized. Issues raised in this context relate to whether certain

⁸ Direct Testimony of David P. Stephenson at 23.

⁹ The Seaside Basin 2006 adjudication decision provides in Section III-M-1-d that CAW can annually provide the Watermaster "with an accounting of all expenditures it has made for water supply augmentation that it contends has or will result in replenishment of the Basin."

infrastructure activities are warranted and if so, whether stated justifications for those activities are accurate.

IV. CATEGORIZATION AND PROPOSED SCHEDULE

MPWMD agrees with CAW that the proper categorization for this proceeding is ratesetting.

MPWMD also agrees that both evidentiary hearings¹⁰ and public participation hearings ("PPH") are necessary.¹¹ MPWMD requests that any PPH be held locally in Monterey to facilitate ratepayer participation. MPWMD further requests that public notice of these proceedings be carefully crafted to distinguish this proceeding from other CAW matters pending before the CPUC. The notice should clearly differentiate the CPUC proceedings from pending hearings planned by the SWRCB related to the scope of CAW's water rights¹² in order to minimize public confusion about the multiplicity of CAW-related hearings.

MPWMD has reviewed CAW's Proposed Schedule for this proceeding and notes potential conflicts with the Conservation Application 07-12-010 Phase II evidentiary hearings scheduled for October 13 – 15, 2008 and GRC hearings to commence October 16, 2008. The GRC hearings then bump up against the Conservation Phase II opening brief schedule. DRA may have additional concerns and conflicts. These should be resolved at the Pre-Hearing Conference.

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¹⁰ Monterey Application at 2.

¹¹ Monterey Application at 3.

¹² The Division of Water Rights for the SWRCB issued a Notice of Hearing and pre-hearing calendar on February 22, 2008, relating to consideration by the SWRCB of a *Cease and Desist Order Against California American Water for Unauthorized Diversion of Water From the Carmel River in Monterey County* (SWRCB Cease and Desist Order WR 2008-00XX-DWR). Dates related to the Cease and Desist proceedings shall include a pre-hearing conference on March 19, 2008, a public participation meeting on April 1, 2008, and evidentiary hearings that commence on June 19, 2008.

V. CONCLUSION

CAW's Application requests extraordinary rate increases. MPWMD will conduct discovery to develop its testimony and recommendations. Evidentiary hearings will be required. A schedule should be established at the Pre-Hearing Conference which allows for a diligent review of this Application. Since MPWMD has not completed discovery nor filed testimony, it reserves the right to assert any issue discovered after this Protest is filed.

For the reasons stated above, MPWMD shall participate as a protestant in the full scope of the proceeding.

Respectfully submitted,

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MANAGEMENT DISTRICT**

Date: March 3, 2008

VERIFICATION

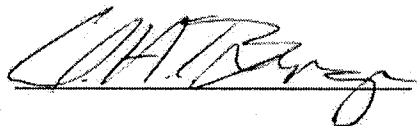
I, David A. Berger, declare:

I am the General Manager of the Monterey Peninsula Water Management District and am authorized to make this Verification for and on its behalf, and I make this Verification for that reason.

I have read the above document and know its contents. I am informed and believe and on that ground allege that the matters stated in it are true.

Executed on March 3, 2008, at Monterey, California.

I declare under penalty of perjury that the foregoing is true and correct.



David A. Berger

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A.08-01-027

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(Updated February 26, 2008)

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CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of the **Protest of Monterey Peninsula Water Management District to the Application of California-American Water Company to Increase Revenues in its Monterey District** on all known parties in A.08-01-027 via electronic mail to those whose addresses are available and via U.S. mail to those who do not have an electronic address.

Executed at Pacific Grove, California on March 3, 2008

A handwritten signature in cursive script that reads "Wanda Gooch". The signature is written in black ink and is positioned above a horizontal line.

Wanda Gooch