



Docket:	:	A.19-07-004
Exhibit Number	:	Cal PA - _____
Commissioner	:	Genevieve Shiroma
Administrative Law Judge	:	Gerald F. Kelly
Cal PA Witness	:	Jayne Parker



PUBLIC ADVOCATES OFFICE



**REPORT AND RECOMMENDATIONS
ON RATES AND SURCHARGES**

Application 19-07-004

**San Francisco, California
February 14, 2020**

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MEMORANDUM

The Public Advocates Office at the California Public Utilities Commission (“Public Advocates Office”) examined requests and data presented by California American Water Company (“Cal Am”) in Application (“A.”) 19-07-004 (“Application”) to provide the California Public Utilities Commission (“Commission”) with recommendations that represent the interests of ratepayers for safe and reliable service at the lowest cost. Mukunda Dawadi is the Public Advocates Office’s project lead for this proceeding. Richard Rauschmeier is the oversight supervisor and Kerriann Sheppard and Robyn Purchia are legal counsels.

Although every effort was made to comprehensively review, analyze, and provide the Commission with recommendations on each ratemaking and policy aspect presented in the Application, the absence from the Public Advocates Office’s testimony of any particular issue does not necessarily constitute its endorsement or acceptance of the underlying request, methodology, or policy position related to that issue.

1

2 **A. INTRODUCTION**

3 Cal Am’s general rate case establishes customers’ base rates for water
4 service for a three-year period. Base rates include the monthly service charge that
5 is assessed for a customer’s meter size and quantity rates that are assessed for the
6 volume of water consumed. Base rates are calculated to meet a utility’s revenue
7 requirement and should provide the basic information necessary to evaluate the
8 impacts of requests made by a utility in a general rate case on customers’ bills.¹
9 However, over the past decade more than one-fifth of Cal Am’s average
10 residential bill has consisted not of base rates, but rather surcharges that are the
11 result of alternative ratemaking mechanisms.²

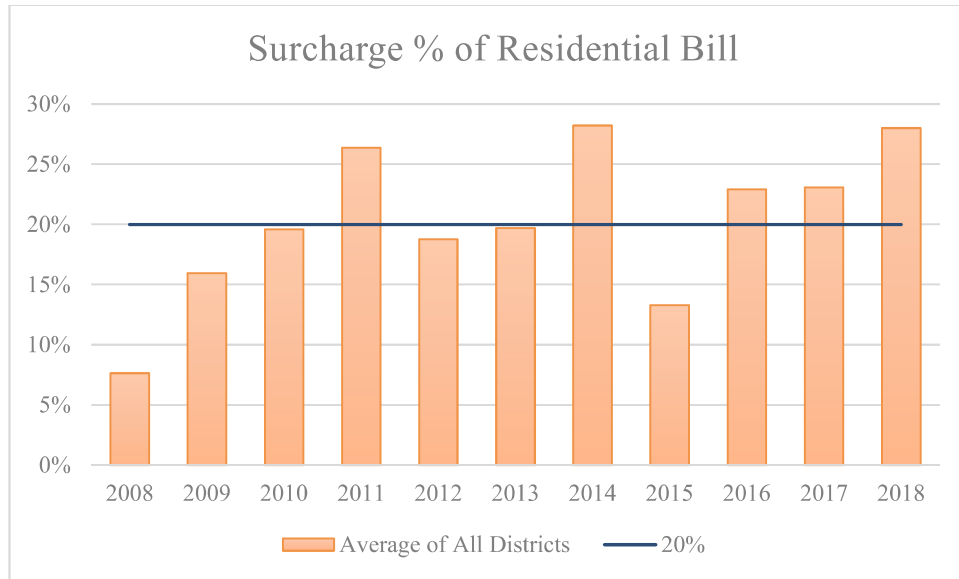
12 As shown below in Figure 1, surcharges have averaged approximately 20%
13 of the total residential bill across all of Cal Am’s districts over the past decade. In
14 Cal Am’s Monterey District, surcharges have totaled as much as 53% of the
15 average residential bill in 2011, 2014 and 2016.³

¹ A “revenue requirement” is the authorized budget that is established to cover both operating costs and provide the utility an opportunity to earn a reasonable rate of return on the property devoted to the business. *The Regulation of Public Utilities*, C.F. Phillips, Jr., 1993

² Alternative Ratemaking Mechanisms (ARMs) or Alternative Revenue Programs (ARPs) “adjust future tariffs (usually as a surcharge applied to future billings) in response to past activities or completed events.” *Revenue for Power and Utilities Companies*, KPMG, US GAAP, 2018

³ See Attachment 2: Monterey District tariff pricing from 2008-2018.

Figure 1: Surcharge Percentage of Residential Bill-Territory Wide



1 The full impact of surcharges over the three-year period that general rate
2 cases establish rates is not known at the time of the general rate case because
3 surcharges can be added to customer bills between general rate cases. For
4 example, Cal Am’s surcharges jumped from being 20% of the average residential
5 bill in 2013 to being 28% in 2014 partly because of surcharges that were approved
6 and added to customers’ bills outside of Cal Am’s general rate case.

7 Surcharges that are approved during a general rate case are not included in
8 the overall revenue increases proposed by the utility.⁴ For example, Cal Am’s
9 current general rate case Application proposes to increase revenue by
10 “\$25,999,900 or 10.60% in the year 2021, by \$9,752,500 or 3.59% in the year
11 2022, and by \$10,754,500 or 3.82% in the year 2023.”⁵ However, none of these

⁴ Cal Am’s proposed revenue increase percentage is calculated as the difference between total revenues at present rates and total revenues at proposed rates, excluding surcharges. See the Public Advocates Office’s Executive Summary and Results of Operations Report.

⁵ Cal Am Final Application 2019 GRC, p. 1.

1 proposed revenue increases include the surcharges that Cal Am is requesting be
2 approved in the general rate case.⁶

3 As of May 31, 2019, Cal Am had an outstanding balance of approximately
4 \$199,000,000 in surcharge accounts, which are known as Memorandum and
5 Balancing Accounts in California.⁷ If Cal Am’s outstanding balance of surcharge
6 accounts was collected over the three-year period that is addressed in this general
7 rate case (2021-2023), customer bills would increase by an additional 24.5% on
8 top of the base rate revenue that Cal Am proposes.⁸

9 Surcharge accounts were first created to address unforeseen circumstances
10 and, therefore, be temporary in nature.⁹ However, surcharges for Cal Am’s
11 average residential customer have been remarkably persistent over the last ten
12 years. More concerning, the forecasting methodologies and Special Requests
13 proposed by Cal Am in the current general rate case appear deliberately designed
14 to obfuscate the impacts to customer bills by shifting an increasing amount of base
15 rates into surcharge accounts and applying a shareholder return to the account
16 balances.¹⁰

⁶ Refer to the testimony of Mukunda Dawadi for the Public Advocates Office

⁷ Direct Testimony of Jeffrey M. Dana, Attachment 1.

⁸ \$199,252,617 from Cal PA ANU 16 Q005 Attachment 1 / 3 years = \$66,417,539. \$66,417,539 / \$271,241,000 (Sum of the Revenue Requirements for Cal Am’s Northern, Southern, Central and Wastewater Districts. See the Public Advocates Office’s Executive Summary and Results of Operations Report) = 24.5%.

⁹ Cal. P.U.C., Water Div. Res. W-4294 (Nov. 29, 2001).

¹⁰ Refer to the testimony of witnesses, Anusha Nagesh and Mukunda Dawadi for the Public Advocates Office

1 **B. SUMMARY OF RECOMMENDATIONS**

2 To increase transparency for all customers, including low-income residents,
3 incentivize Cal Am to operate more efficiently, and reduce the potential for abuse
4 of surcharge accounts, the Commission should:

- 5 • Prevent the continued proliferation of surcharge accounts;
- 6 • Limit surcharges to 20% of a residential customer’s total bill; and
- 7 • Reinststate an earnings test prior to authorizing surcharge recovery to
8 ensure Cal Am is not earning above its authorized rate of return.

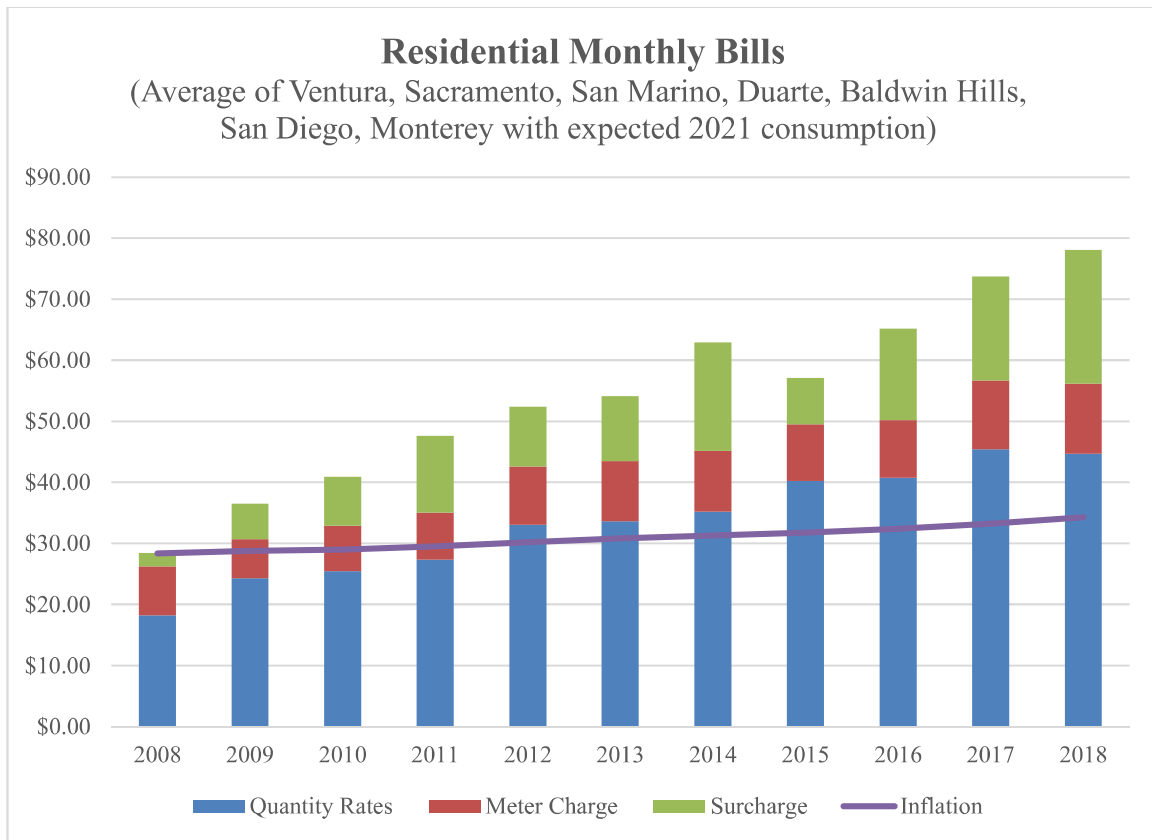
9 **C. DISCUSSION**

10 As depicted in Figure 2, Cal Am’s residential customers have experienced
11 increases in water bills averaging 9.3% per year for the last ten years.¹¹ Over the
12 same period, however, inflation increased at an average rate of just 1.92% per
13 year.¹²

¹¹ Attachment 1

¹² Attachment 3

Figure 2: Average Residential Monthly Bills



1 In its current general rate case Application, Cal Am proposes increases in
 2 base rates totaling 18% between 2021 and 2023.¹³ Additionally, Cal Am requests
 3 recovery of surcharge accounts that would add another 15% to the average
 4 residential customer’s bill.¹⁴ While Cal Am attributes its surcharge accounts to
 5 numerous external factors allegedly beyond its control,¹⁵ many of the forecasting
 6 methodologies and Special Requests proposed by Cal Am in this general rate case
 7 undoubtedly will grow the balances of its surcharge accounts.¹⁶

¹³ Cal Am Application 10.6% (2021) + 3.59% (2022) + 3.82% (2023) = 18.01%

¹⁴ Proposed surcharges % from CAW 2019 GRC Final Application Exhibits A, CD, pp. pgs: 612, 616, 621, 626, 630, 271.

¹⁵ Direct testimony of Jeffrey T. Linam, p. 60, lines 15-24.

¹⁶ Refer to the testimony of Anusha Nagesh for the Public Advocates Office

1 **1. The Commission Should Stop the Proliferation of Surcharge Accounts**
2 **and Mitigate the Potential for Abusive Surcharge Practices**

3 The Commission has explained that the purpose of surcharge accounts is to
4 protect utilities from “unforeseen expenses, of a substantial nature, beyond the
5 utilities’ management or regulatory control.”¹⁷ However, the steady presence of
6 surcharges on Cal Am’s customer bills for at least the past decade suggests
7 something different has occurred. Instead of being temporary additions,
8 surcharges seem to have become a permanent fixture on Cal Am’s customer bills.

9 According to its most recent Annual Report submitted to the Commission,
10 Cal Am was operating a total of 97 separate surcharge accounts at the end of
11 2018.¹⁸ Since filing its general rate case in July 2019, the Commission has
12 authorized Cal Am to create an additional five surcharge accounts¹⁹ and has
13 pending requests for five more in separate proceedings.²⁰ In the current general
14 rate case Application, Cal Am is requesting at least 1 additional surcharge

¹⁷ Cal. P.U.C., Water Div. Res. W-4294 (Nov. 29, 2001).

¹⁸ Cal-Am’s 2018 Annual Report, Schedule E-1.

¹⁹ New Surcharges created since July 2019: D.19-04-014: Rio Plaza Transaction Surcharge Account (1); AL 1250 A: Rio Plaza Groundwater Extraction Surcharge Account (1); D.19-12-038: Meter Installation Memorandum Account (1); D.19-12-038: Environmental improvements and Compliance Memo Account (1); D.19-12-038: Transaction Memorandum Account (1)

²⁰ Pending Surcharges: AL 1275: Public Safety Power Shut-Offs Memorandum Account (1); A.19-12-003: Consumer Privacy Memo Account (1); A.18-09-013: Bellflower Surcharge Accounts (3). New Surcharge Accounts Created Since July GRC Filing: D.19-04-014: Rio Plaza Transaction Surcharge Account (1); AL 1250 A: Rio Plaza Groundwater Extraction Surcharge Account (1); D.19-12-038: Meter Installation Memorandum Account (1); D.19-12-038: Environmental improvements and Compliance Memo Account (1); D.19-12-038: Transaction Memorandum Account (1)

1 account²¹ and is proposing significant modifications to the process by which its
2 current surcharge accounts operate.

3 In particular, Cal Am is proposing to raise the recovery cap on its most
4 comprehensive surcharge accounts²² and to begin applying its authorized rate of
5 return (which currently includes a shareholder return of 9.2%)²³ to the outstanding
6 balance of many of its existing surcharge accounts.²⁴

7 The proliferation of surcharge accounts and Cal Am’s proposals for new
8 and expanded uses of surcharge accounts should not be surprising. In 1985, the
9 then Executive Director of the Commission warned that, “[w]e can expect utilities
10 to continually press for the comfort of more [surcharge accounts] and the green
11 light to file a variety of [surcharges] between general rate proceedings...it is the
12 [Commission’s] task to recognize that desire and pressure and weigh it against the
13 need to have management incentive working to minimize costs.”²⁵

14 In 2012, a report by the American Association of Retired Persons (“AARP
15 Report”) on the increasing use of utility surcharges detailed how surcharge
16 accounts diverge from traditional ratemaking methods.²⁶ The AARP Report
17 explained how these alternative ratemaking mechanisms can diminish a utility’s
18 incentive to control or reduce expenses. “Since the utility is passing the cost on to
19 customers [via surcharges], it has less incentive to seek ways to reduce the
20 expense.” In fact, the use of surcharge accounts is nearly the opposite of

²¹ Acquisition Contingency Memorandum Account (1)

²² Special Request No. 5: Modification of 15% Cap on WRAM/MCBA Amortization CAW 2019
GRC Final Application at p. 11

²³ D.18-03-035 at p. 2

²⁴ Refer to the testimony of Mukunda Dawadi for the Public Advocates Office

²⁵ Attachment 4: Balancing Accounts History, p. 6

²⁶ Attachment 5: AARP at p. 3

1 traditional ratemaking which establishes reasonable budgets called “revenue
2 requirements” that a utility must manage to achieve profits between rate cases.²⁷

3 The AARP Report also explains that a review of surcharges “is typically
4 conducted on an expedited basis, as opposed to the thorough review that would
5 typically occur in a full rate case.”²⁸ In California, the Commission can authorize
6 surcharges in as quickly as one month through the informal advice letter process.
7 This process can operate without customer notice or consideration within an
8 evidentiary record.²⁹

9 Even when consideration of surcharges occurs within the evidentiary record
10 of a general rate case, the proliferation of surcharge accounts complicates the
11 Commission’s review and increases the likelihood of customers paying the same
12 costs twice. As Commission staff previously noted, the process of reviewing
13 surcharge accounts “has essentially shifted the burden of proof to staff and
14 intervenors to show expenditures were not prudent.”³⁰ This situation actually
15 arose in Cal Am’s previous general rate case when the Public Advocates Office
16 demonstrated that the exact same invoices used by Cal Am previously to generate
17 surcharges on customers’ bills were being resubmitted by Cal Am to increase
18 customers’ base rates.³¹

19 Although Cal Am indicates that it makes a “good faith” effort to remove
20 from its ratemaking proposals those items being tracked or recovered elsewhere,³²

²⁷ Under a traditional approach to ratemaking, a utility cannot adjust its rates outside a rate case. No matter what happens to a utility’s costs or revenues between rate cases, rates remain fixed. National Regulatory Research Institute Report No. 16-08 at p. 10

²⁸ Attachment 5: AARP Report, p. 9

²⁹ See General Order 96B (reducing notice requirements for advice letters increasing rates and granting evidentiary hearings only in limited circumstances).

³⁰ Attachment 4: Balancing Accounts History, p. 4.

³¹ D.18-12-021, pp. 182-83.

³² Direct testimony of Stephen W. Owens, p. 5, lines 6-7.

1 it has made mistakes. Ultimately, the Commission should reverse the proliferation
2 of surcharge accounts to restore incentives for utilities to control costs.

3 However, to reduce the possibility that customers pay the same costs in
4 both base rates and surcharges, the Commission should require Cal Am to
5 implement a more systematic process of identifying and categorizing costs as they
6 are incurred.³³ The Commission should also deny Cal Am’s requests in this
7 general rate case for additional surcharge accounts³⁴ and enforce the following
8 additional limitations on the operation of Cal Am’s surcharge accounts to further
9 mitigate the potential for abuse.

10 **2. The Commission Should Limit Cal Am’s Surcharges to**
11 **No More than 20% of a Residential Customer’s Bill**

12 Surcharges can mask the overall impact of utilities’ proposals in general
13 rate cases. For example, Cal Am is requesting recovery of about \$14,626,618
14 from surcharge accounts in the current general rate case.³⁵ However, this amount
15 is in addition to the \$46.5 million increase in base rates that Cal Am is also
16 requesting.³⁶ Because of this, the full impact of Cal Am’s requests on customers’
17 bills is not transparent.

18 A similar lack of transparency exists for surcharges that Cal Am may
19 request outside the general rate cases through informal advice letter proceedings.
20 The Commission’s standard practice does not require customer notification for
21 recovery of any individual surcharge account that is less than 10% of gross utility

³³ Refer to the testimonies of Anusha Nagesh and Daphne Goldberg for the Public Advocates Office

³⁴ Refer to the testimony of Anusha Nagesh for the Public Advocates Office

³⁵ Refer to the testimony of Anusha Nagesh

³⁶ \$25,999,900 in 2021, \$9,752,500 in 2022, and \$10,754,500 in 2023.

1 revenue.³⁷ However, there is no upper limit to the total number of individual
2 accounts or surcharges that Cal Am can request between general rate cases.³⁸

3 Although more detailed customer notices would improve the transparency
4 of Cal Am's requested recovery of surcharge accounts in the future, many of Cal
5 Am's proposals and forecasting methodologies in the current general rate case
6 appear deliberately designed to manipulate the notification process.

7 For example, Cal Am's Special Request #4 proposes to remove from base
8 rates and recover through surcharges the cost of providing customer leak
9 adjustments. This proposal results in a 10% decrease to Cal Am's proposed base
10 rates.³⁹ However, the cost to customers will not be 10% less. Despite giving the
11 appearance of lower rates, Cal Am's proposal ensures that the actual cost will
12 become a surcharge that is collected outside of base rates and customer noticing
13 requirements. As detailed in the testimony of the Public Advocates Office's
14 witness, Suzie Rose,⁴⁰ the Commission should not allow Special Request #4 to
15 mask the actual customer impacts of Cal Am's proposals.

16 Similarly, several of Cal Am's forecasting methodologies also provide
17 customers and the Commission with the appearance of impacts smaller than what
18 customers will actually experience. This occurs when Cal Am underestimates its
19 budget for items that are included in base rates with corresponding surcharge
20 accounts.⁴¹ Because these corresponding surcharge accounts track the variance
21 between the budgeted amount and the actual cost incurred, an underestimated

³⁷ Cal. P.U.C. Standard Practice U-27-W, p. 5.

³⁸ Surcharge account that exceeds 2% of a utility's gross revenue can be requested via an advice letter outside of a general rate case (Cal. P.U.C. Standard Practice U-27-W).

³⁹ Retaining the estimated \$2.7 million of leak adjustments in base rates would increase Cal Am's proposed increase in 2021 base rate revenue from \$25.9 million to \$28.6 million

⁴⁰ Refer to the testimony of Suzie Rose for the Public Advocates Office

⁴¹ Refer to the testimony of Anusha Nagesh for the Public Advocates Office

1 budget gives the illusion of lower costs even though customers eventually
2 experience the actual cost through additional surcharges.

3 Cal Am's underestimated costs of purchased water and purchased power
4 are especially egregious examples of masking the impacts of its general rate case
5 requests.⁴² In addition to artificially lowering its proposed and noticed revenue
6 increase by roughly \$10 million per year, the corresponding surcharge accounts
7 that track this underestimated amount are the same accounts on which Cal Am
8 proposes to begin earning a shareholder return.⁴³ This means, customers are
9 paying hidden profits for the benefit of shareholders.

10 Furthermore, Cal Am's Special Request #5 proposes to lift the existing cap
11 on recovery of these accounts.⁴⁴ If granted, Cal Am will be able to collect more
12 surcharges, more quickly, and with more profit while providing notice of only a
13 fraction of the actual bill impacts customers will experience over the next three
14 years.

15 To provide greater certainty and transparency, the Commission should limit
16 the surcharges Cal Am can collect on residential customer bills to 20% of the total
17 bill. This is approximately the same average percentage of surcharges appearing
18 on Cal Am's residential customer bills over the last ten years.

19 **3. The Commission Should Reinstitute an Earnings Test to**
20 **Prevent Cal Am from Using Surcharges to Exceed its**
21 **Authorized Rate of Return**

22 In 2003, the Commission re-affirmed its practice of applying an earnings
23 test to the recovery of surcharge accounts to prevent a utility from implementing
24 surcharges that would result in exceeding its authorized rate of return and

⁴² Refer to the testimony of Anusha Nagesh for the Public Advocates Office under Chapter 1, Table 1-1

⁴³ Refer to the testimony of Anusha Nagesh

⁴⁴ Refer to the testimony of Suzie Rose for the Public Advocates Office

1 achieving “an unanticipated windfall at ratepayer expense.”⁴⁵ The Commission
2 explained:

3 The original purpose of these [surcharge] accounts was
4 to allow the utilities to recover unanticipated expenses
5 within the normal rate case cycle to prevent financial
6 injury, and . . . to serve as insurance to utilities that
7 certain uncontrollable expenses would not affect their
8 ability to achieve authorized earnings. A utility that
9 exceeds its authorized rate of return is not in financial
10 peril; thus, there is no need for recovery of the
11 [surcharge] account amounts in excess of its authorized
12 rate of return.⁴⁶

13 Two years later and under a different set of commissioners, the industry
14 association that represents California’s investor-owned water utilities successfully
15 petitioned the Commission to modify its decision and eliminate the earnings test.⁴⁷
16 However, the Commission’s modified decision left intact the original conclusion
17 of law that, “[t]he Commission has the discretion to modify the existing procedure
18 when the procedure is producing unintended results.”⁴⁸

19 The demonstrated and increasing potential for abusive practices related to
20 surcharge accounts requires the Commission to modify existing procedure.
21 Similar to the earnings test that was required when surcharge accounts were first
22 created in 1977, the Commission should re-establish an earnings test to ensure that
23 surcharges do not result in Cal Am exceeding its authorized return. Prior to
24 authorizing recovery of any surcharge account, the Commission should be assured

⁴⁵ D.03-06-072, p. 7.

⁴⁶ D.03-06-072, p. 17.

⁴⁷ See D.06-04-037 (eliminating annual advice letter filing and application of the earnings test).

⁴⁸ Compare D.03-06-027, p. 18 (finding Commission has discretion to modify existing procedure when it is producing unintended results), with D.06-04-037, pp. 9-10 (eliminating only annual advice letter filing and application of the earnings test).

1 that recovery of the account balance would not produce a rate of return higher than
2 authorized for the period during which the balance in the account was recorded.

3 **D. CONCLUSION**

4 The pervasive nature of surcharge accounts in Cal Am's general rate case
5 illustrates that an unintended consequence of these accounts includes the ability to
6 move funds out of base rates and, therefore, obfuscate the impacts for customers
7 and decision makers. The Commission should place a 20% cap on surcharges as a
8 portion of customer's total bill and reinstitute an earnings test for Cal Am to
9 ensure that the approved surcharges do not allow for a rate of return that exceeds
10 Cal Am's authorized rate of return. These two changes will encourage Cal Am to
11 operate more efficiently and transparently and will enable a more equitable billing
12 system for customers.

Monterey Residential Monthly Bill

