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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of California-American Water Company (U210W) to Obtain Approval of the Amended and Restated Water Purchase Agreement for the Pure Water Monterey Groundwater Replenishment Project, Update Supply and Demand Estimates for the Monterey Peninsula Water Supply Project, and Cost Recovery.

Application 21-11-024

ASSIGNED COMMISSIONER'S SCOPING MEMO AND RULING

This scoping memo and ruling sets forth the issues, need for hearing, schedule, category, and other matters necessary to scope this proceeding pursuant to Public Utilities (Pub. Util.) Code Section 1701.1 and Article 7 of the Commission's Rules of Practice and Procedure (Rules).

1. Procedural Background

On November 29, 2021, California-American Water Company (California American Water) filed Application (A.) 21-11-024, requesting California Public Utilities Commission (Commission) approval of the Amended and Restated Water Purchase Agreement and associated cost recovery. California American Water also requested to update its supply and demand estimates for the Monterey Peninsula Water Supply Project (MPWSP) (Application). The Amended and Restated Water Purchase Agreement would increase the amount of water purchased by California American Water from the Pure Water Monterey (PWM) Groundwater Replenishment Project, pursuant to a project

expansion which would increase the capacity of the PWM Groundwater Replenishment Project by 2,250 acre-feet per year (afy), from 3,500 afy to 5,750 afy (PWM Project expansion).

Four parties filed timely protests or responses to the Application. On January 3, 2022, Public Advocates Office of the California Public Utilities Commission (Cal Advocates) filed a protest to the Application while responses were filed by City of Marina, Monterey One Water (M1W), and Marina Coast Water District (MCWD). California American Water filed a reply to the responses and protests to its Application on January 13, 2022.

Coalition of Peninsula Business (CPB), Monterey Peninsula Water Management District (MPWMD), and Landwatch Monterey County filed motions for party status on December 29, 2021, January 3, 2022, and January 14, 2022, respectively. Public Water Now made an oral motion for party status at the January 25, 2022 prehearing conference (PHC). CPB and MPWMD were granted party status by assigned Administrative Law Judge (ALJ) ruling on January 14, 2022, and January 21, 2022, respectively. Landwatch Monterey County and Public Water Now were granted party status at the PHC, discussed below.

A PHC was held on January 25, 2022, to address the issues of law and fact, determine the need for hearing, set the schedule for resolving the matter, and address other matters as necessary. After considering the protests, responses, the reply to protests and responses, and discussion at the PHC, I have determined the issues and initial schedule of the proceeding to be set forth in this scoping memo.

2. Issues

The issues in the proceeding will be considered in two phases, with the potential for a third phase if determined necessary after review of information provided in the first two phases. When addressing the issues below, parties should refer to the primary and secondary objectives the Commission established for the MPWSP as a whole.¹

The issues to be determined or otherwise considered in **Phase 1** are:

1. Whether Commission approval of the Amended and Restated Water Purchase Agreement is reasonable, prudent, and in the public interest, considering the following: 1) sources of supply water, 2) development costs, 3) prices for sales of the developed water, 4) contractual details, 5) environmental effects, 6) potential to obtain necessary permits, 7) water quality, 8) sources of funding, 9) possible related facilities (*e.g.*, additional pipelines or pump stations), and 10) any other information relevant and necessary for the Commission to make an informed, just and reasonable decision including details as to supply and production including not only during average rainfall years but also during a multi-year drought and the timing of expanded production.
2. Whether the ratemaking proposals for the Amended and Restated Water Purchase Agreement, and related facilities, are reasonable.
3. Whether California American Water Company's water supply and demand estimates support approval of the Amended and Restated Water Purchase Agreement.²

¹ Decision (D.) 18-09-017 at 14-15. Decision modified by D.19-01-051.

² Supplemental testimony to be submitted in Phase 1, pursuant to the adopted schedule below, is required to establish the need for the Amended and Restated Water Purchase Agreement. It is distinguished from the supplemental testimony required in Phase 2, which should address the most recent supply and demand data California American Water has available and which should further address a scenario in which the Amended and Restated Water Purchase Agreement is adopted and a scenario in which it is not adopted.

A second phase of this proceeding will also be opened. The Commission previously determined that California American Water had a total water supply of 9,044 afy and estimated the projected future demand at 14,000 afy. The Presiding Officer's Decision in C.21-05-005 directed California American Water to file an application updating its supply and demand estimates. Although that decision was never adopted, I agree with the Applicant and responding parties, that updated supply and demand estimates will provide important information for the Commission, stakeholders, and interested parties in considering issues related to the long-term water needs of California American Water's Monterey District. Issues to be determined in **Phase 2** of this proceeding are:

4. Review and approve updated water supply and demand estimates for the MPWSP.

3. Need for Evidentiary Hearing

Phase 1 presents issues that could result in parties contesting material issues of fact. Cal Advocates stated at the PHC that it was still investigating matters and may have material issue of fact that it disputes, which could require hearings. Accordingly, the schedule set forth below provides dates that allow parties to present evidence on these issues, if it is determined that hearings are needed. I therefore find that evidentiary hearings may be needed for Phase 1 of this proceeding.

4. Schedule

The following schedule is adopted here for Phases 1 and 2 of the proceeding, and may be modified by the assigned Commissioner or ALJ as required to promote the efficient and fair resolution of the Application:

Phase 1 Schedule

Event	Date
Intervenor Testimony	March 11, 2022
California American Water Supplemental Testimony on water supply and demand estimates for its Monterey Peninsula customers to support the Amended and Restated Water Purchase Agreement.	March 11, 2022
California American Water Rebuttal Testimony .	April 1, 2022
Intervenor Testimony on California American Water's Supplemental Testimony on water supply and demand estimates for its Monterey Peninsula customers to support the Amended and Restated Water Purchase Agreement.	April 1, 2022
California American Water Rebuttal Testimony as to Supplemental Testimony on water supply and demand estimates for its Monterey Peninsula customers to support the Amended and Restated Water Purchase Agreement	April 8, 2022
Meet and Confer (Rule 13.9)	April 11, 2022
Joint Case Management Statement (Rule 13.8)	April 14, 2022
Evidentiary Hearing (as needed)	May 3-4 and 6, 2022
Opening Briefs w/hearings Opening Briefs w/o hearings	May 30, 2022 April 29, 2022
Reply Briefs w/hearings Reply Briefs w/o hearings	June 20, 2022 May 20, 2022

Proposed Decision on Amended and Restated Water Purchase Agreement	Within 90 days of Reply Briefs
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Phase 2 Schedule

Event	Date
California American Water Phase 2 Direct Testimony on updated water supply and demand estimates for the MPWSP	June 20, 2022, if no Phase 1 hearings July 20, 2022, if Phase 1 hearings
Intervenor Testimony on California American Water Phase 2 Direct Testimony on updated water supply and demand estimates for the MPWSP	30 Days after California American Water Phase 2 Direct Testimony served
California American Water Phase 2 Rebuttal Testimony on updated water supply and demand estimates for the MPWSP	30 Days after Intervenor Testimony served
Meet and Confer (Rule 13.9)	Within 5 days of Rebuttal Testimony served
Joint Case Management Statement (Rule 13.8)	Within 10 days of Rebuttal Testimony served
Evidentiary Hearing (as needed)	30 Days after Rebuttal Testimony served
Opening Briefs	30 Days after Close of Evidentiary Hearings
Reply Briefs	20 Days after Opening Briefs
Proposed Decision on updated water supply and demand estimates for the MPWSP	Within 90 Days of Reply Briefs

The purpose of the meet and confer, pursuant to Rule 13.9, is to provide a forum for parties to: (1) identify and, if possible, informally resolve any anticipated motions; (2) identify the facts and issues in the case that are uncontested and may be subject to stipulation; (3) identify the facts and issues in the case that are in dispute; (4) determine whether the contested issues in the case can be narrowed; and (5) determine whether settlement is possible. Notice of the date, time, and place shall be served on all parties in advance of the meet and confer, unless all parties stipulate to waive the need for service. Parties shall notice the service list after the meet and confer has been held.

Parties shall also file a Joint Case Management Statement, pursuant to Rule 13.8, indicating whether the parties stipulate to the receipt of prepared testimony into evidence without direct or cross examination or other need to convene an evidentiary hearing or, in the alternative, the parties' resources, readiness and needs for the effective remote conduct of the evidentiary hearing, including estimates of time requested for cross-examination and identification of anticipated exhibits. Parties may also choose to file separate Case Management Statements.

Phase 1 of this proceeding will stand submitted upon the filing of reply briefs, unless the assigned Commissioner or ALJ require further evidence or argument. Based on this schedule, the proceeding will be resolved within 18 months as required by Pub. Util. Code Section 1701.5.

5. Alternative Dispute Resolution (ADR) Program and Settlements

The Commission's ADR program offers mediation, early neutral evaluation, and facilitation services, and uses ALJs who have been trained as neutrals. At the parties' request, the assigned ALJ can refer this proceeding to the

Commission's ADR Coordinator. Additional ADR information is available on the Commission's website.

Any settlement between parties, whether regarding all or some of the issues, shall comply with Article 12 of the Rules of Practice and Procedure and shall be served in writing. Such settlements shall include a complete explanation of the settlement and a complete explanation of why it is reasonable in light of the whole record, consistent with the law and in the public interest. The proposing parties bear the burden of proof as to whether the settlement should be adopted by the Commission.

6. Category of Proceeding and Ex Parte Restrictions

This ruling confirms the Commission's preliminary determination³ that this is a ratesetting proceeding. Accordingly, ex parte communications are restricted and must be reported pursuant to Article 8 of the Rules. Cal Advocates' motion at the PHC to prohibit individual *ex-parte* contacts pursuant to Rule 8.2(d) is denied.⁴

7. Public Outreach

Pursuant to Pub. Util. Code Section 1711(a), I hereby report that the Commission sought the participation of those likely to be affected by this matter by noticing it in the Commission's monthly newsletter that is served on communities and business that subscribe to it and posted on the Commission's website.

³ Resolution ALJ-3499.

⁴ RT 56:4-19.

8. Intervenor Compensation

Pursuant to Pub. Util. Code Section 1804(a)(1), a customer who intends to seek an award of compensation must file and serve a notice of intent to claim compensation by February 24, 2022, 30 days after the PHC.

9. Response to Public Comments

Parties may, but are not required to, respond to written comments received from the public. Parties may do so by posting such response using the “Add Public Comment” button on the “Public Comment” tab of the online docket card for the proceeding.

10. Public Advisor

Any person interested in participating in this proceeding who is unfamiliar with the Commission’s procedures or has questions about the electronic filing procedures is encouraged to obtain more information at <http://consumers.cpuc.ca.gov/pao/> or contact the Commission’s Public Advisor at 1-866-849-8390 or 1-866-836-7825 (TTY), or send an e-mail to public.advisor@cpuc.ca.gov.

11. Filing, Service, and Service List

The official service list has been created and is on the Commission’s website. Parties should confirm that their information on the service list is correct and serve notice of any errors on the Commission’s Process office, the service list, and the ALJ. Persons may become a party pursuant to Rule 1.4.⁵

When serving any document, each party must ensure that it is using the current official service list on the Commission’s website.

This proceeding will follow the electronic service protocol set forth in

⁵ The form to request additions and changes to the Service list may be found at <https://www.cpuc.ca.gov/-/media/cpuc-website/divisions/administrative-law-judge-division/documents/additiontoservicelisttranscriptordercompliant.pdf>

Rule 1.10. All parties to this proceeding shall serve documents and pleadings using electronic mail, whenever possible, transmitted no later than 5:00 p.m., on the date scheduled for service to occur. Rule 1.10 requires service on the assigned ALJ of both an electronic and a paper copy of filed or served documents. However, Rule 1.10 is modified herein, and parties are directed to provide electronic service of filed or served documents unless otherwise directed by the assigned ALJ.

When serving documents on Commissioners or their personal advisors, whether or not they are on the official service list, parties must only provide electronic service. Parties must not send hard copies of documents to Commissioners or their personal advisors unless specifically instructed to do so.

Persons who are not parties but wish to receive electronic service of documents filed in the proceeding may contact the Process Office at process_office@cpuc.ca.gov to request addition to the “Information Only” category of the official service list pursuant to Rule 1.9(f).

The Commission encourages those who seek information-only status on the service list to consider the Commission’s subscription service as an alternative. The subscription service sends individual notifications to each subscriber of formal e-filings tendered and accepted by the Commission. Notices sent through subscription service are less likely to be flagged by spam or other filters. Notifications can be for a specific proceeding, a range of documents and daily or weekly digests.

12. Receiving Electronic Service from the Commission

Parties and other persons on the service list are advised that it is the responsibility of each person or entity on the service list for Commission

proceedings to ensure their ability to receive e-mails from the Commission. Please add “@cpuc.ca.gov” to your e-mail safe sender list and update your e-mail screening practices, settings and filters to ensure receipt of e-mails from the Commission.

13. Assignment of Proceeding

Darcie L. Houck is the assigned Commissioner and Zita Kline is the assigned ALJ and presiding officer for the proceeding.

IT IS RULED that:

1. The scope of this proceeding is described above and is adopted.
2. The schedule of this proceeding is set forth above and is adopted.
3. Evidentiary hearing may be needed.
4. The presiding officer is Administrative Law Judge Zita Kline.
5. The category of the proceeding is ratesetting.
6. Public Advocates Office of the California Public Utilities Commission’s motion to prohibit individual ex-parte contacts to pursuant to Rule 8.2(d) is denied.

This order is effective today.

Dated February 9, 2022, at San Francisco, California.

/s/ DARCIE L HOUCK

Darcie L. Houck
Assigned Commissioner