

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

Application of California-American Water Company (U210W) for Authorization to Increase its Revenues for Water Service by \$34,559,200 or 16.29% in the year 2018, by \$8,478,500 or 3.43% in the year 2019, and by \$7,742,600 or 3.03% in the year 2020.

Application 16-07-002
(Filed August 1, 2016)

**COMMENTS OF THE OFFICE OF RATEPAYER ADVOCATES ON THE
PROPOSED PARTIAL SETTLEMENT AGREEMENT BETWEEN
CALIFORNIA-AMERICAN WATER COMPANY AND THE CITY OF
CORONADO ON SAN DIEGO ISSUES IN THE GENERAL RATE CASE**

I. INTRODUCTION

Pursuant to Rule 12.2 of the California Public Utilities Commission (“Commission”) Rules of Practice and Procedure (“Rules”), the Office of Ratepayer Advocates (“ORA”) files comments in opposition to the proposed settlement agreement which was signed by California-American Water Company (“Cal Am”) and the City of Coronado (“City”) (together, the “Settling Parties”), and filed on August 18, 2017. ORA’s comments are timely filed pursuant to Rule 12.2.

In relevant part, Rule 12.4 provides that “[t]he Commission may reject a proposed settlement whenever it determines that the settlement is not in the public interest....” ORA opposes the proposed settlement agreement because five of its sections are not in the public interest, are not supported by the record in this proceeding, and are improper because at least one of the Settling Parties either did not provide any testimony or evidence on the settled issues, or the issues were not in dispute amongst the Settling Parties. The “settlement” of these issues does not constitute a true compromise of the Settling Parties’ positions, and instead represents

Cal Am settling with itself on each of these issues. Therefore, the proposed settlement should be rejected as it does not serve the public interest and is not supported by the record in this proceeding.¹

II. DISCUSSION

A. **The proposed settlement agreement is not in the public interest because it does not represent the reasonable range of interests affected as none of the Settling Parties represent ALL of the affected ratepayer interests.**

The proposed settlement agreement was signed by Cal Am and the City of Coronado. ORA represents the San Diego ratepayers in this proceeding but is not a party to the proposed settlement agreement. Contrary to the settling parties claim that “the Parties are fairly representative of the affected interests,”² the proposed settlement affects the Los Angeles and Ventura Districts but is not signed by the intervenors representing these districts. The proposed settlement agreement fails to address the concerns of all affected ratepayers regarding the cost of service and adequate oversight of rate impacts that would result from the proposed settlement agreement which is not in the public interest.

Furthermore, the proposed settlement agreement would improperly circumvent ORA’s and other intervenors’ opposition in this proceeding in that Cal Am is “settling” with a party on issues on which the party provided no testimony or evidence. Since the proposed settlement agreement purports to resolve issues that are not in dispute amongst the Settling Parties it is not a true compromise of the Settling Parties’ positions and seeks to resolve issues directly disputed by ORA and other intervenors in a way that is unfair to the affected ratepayers. As a result, the proposed settlement is not fairly representative of all affected interests and must be rejected because it does not serve the public interest.

¹ ORA also notes that the Motion is deficient as it does not comply with Rule 12.1(a) which requires that the motion be supported by a comparison exhibit indicating the impact of the settlement in relation to the utility’s application.

² *Id.*, Exhibit A at p. 1, § 1.

B. Implementation of AMI in San Diego is premature and the AMI Balancing Account should not be adopted by the Commission because they are not supported by the record in this proceeding (Special Requests #5 and #8).

The City agrees with Cal Am's requested implementation of a two-way AMI system in the entire San Diego District.³ However, the record in this proceeding does not support full AMI implementation or a two-way balancing account. As ORA states in its Opening Brief, AMI implementation should not be granted at this time because Cal Am has not provided evidence that AMI is: 1) cost effective for ratepayers; 2) effective in detecting leaks, results in a higher rate of leak repairs compared to customers without AMI meters, or a decrease in customer billing adjustments; 3) at least as cost effective as other methods of conservation and leak detection; and 4) effective at detecting backflow.⁴ Furthermore, it is not in the public interest to grant Cal Am an AMI balancing account as it would reduce Cal Am's incentive to control costs where the cost effectiveness of the project is unknown. Therefore, the Commission must deny this settlement proposal and order Cal Am to continue its AMI pilots until Cal Am is able to provide quantitative evidence that sufficiently addresses the four aforementioned deficiencies.

Also, the City did not address AMI issues in testimony nor did it provide any evidence on this issue in this proceeding. Therefore, this is not a disputed item amongst the Settling Parties. Cal Am inappropriately seeks to circumvent legitimate concerns raised by ORA and other intervenors about these issues by attempting to "settle" with a party that offered no opposition to or testimony or evidence on these issues. As a result, Cal Am is effectively settling with itself. The proposed settlement does not result in a true compromise of the Settling Parties' and must be rejected.

Furthermore, the term "two-way" AMI system as referenced in the settlement agreement is vague and ambiguous because it is unclear whether this term refers to the capital investment or the AMI balancing account. The Commission cannot reasonably

³ *Id.* at pp. 2-3, § 3.1.

⁴ ORA's Opening Brief at pp. 69-76.

adopt a proposal that is vague and ambiguous and lacks specificity and clarity as to what is being proposed.

C. The Commission should deny the proposed settlement agreement's proposal for planning dollars for the Strand Water Pipeline Replacement Project because it is not a contested issue between the Settling Parties.

Although the City had no position on this request, the proposed settlement adopts Cal Am's proposal to replace the Strand Water Pipeline.⁵ Again Cal Am improperly attempts to settle an issue with a party that did not provide any testimony or evidence, or otherwise take a position on this issue. Moreover, the settlement agreement fails to address the uncertainties regarding this project identified by ORA on record.⁶ As ORA states in its Opening Brief, there are many uncertainties with this project. These uncertainties include the scheduling of the project, challenges in construction, and Cal Am's start date for the project, make the settlement proposal unrealistic. Unlike the Settling Parties ORA contests these issues and recommends that ratepayers only be responsible for a replacement of two miles of pipeline during the 2018-2019 period. This corresponds to a budget of \$6,655,434 during the 2018-2019 period.⁷ Therefore, the Commission should reject the proposed settlement's proposal and adopt ORA's recommendation regarding the Strand Pipeline Replacement Project.

D. The Commission should deny the proposed settlement agreement's proposal for planning and design funds for the Coronado/Imperial Beach Recycled Water Project.

The proposed settlement agreement would, without justification, grant Cal Am \$925,000 for planning dollars for this project.⁸ Cal Am first requested planning dollars for this project in its rebuttal testimony but has not provided enough information for the

⁵ Motion for Adoption of the Partial Settlement Agreement, Exhibit A at p. 4, § 3.2.

⁶ ORA Opening Brief at pp. 92-94.

⁷ Exhibit ORA-1 at p. 45-46.

⁸ Motion for Adoption of the Partial Settlement Agreement, Exhibit A at pp. 5-6, § 3.3.

Commission to determine whether it is prudent to approve design dollars for this project.² By requesting funding in rebuttal testimony, Cal Am has deprived ORA and the Commission the opportunity to conduct a reasonableness review of the amounts requested. Additionally, requesting additional funding in rebuttal testimony disguises the impact of these amounts on customer rates. The requested amount would increase Cal Am's rates but this increase was not included in Cal Am's initial application, its 100-day update, nor in the customer notices related to this proceeding. The Settling Parties provided no discussion or demonstration of the impact on rates for customers in the San Diego District if this proposal was adopted.

Furthermore, it is important to note that the construction portion of the project would likely not begin until Cal Am's next rate case cycle (2021-2023).¹⁰ Also, this project has significant uncertainty in the scope, cost, demand, cost-effectiveness, and number of customers for the proposed recycled water project,¹¹ which makes it unreasonable to consider granting Cal Am planning dollars for this project until it first resolves these uncertainties. It is also not necessary for the Commission to grant Cal Am planning dollars for this project at this time because Cal Am would be able to recoup its reasonable costs incurred for this project when it files its Tier 3 advice letter upon completion of the project. Therefore, the Commission should deny this proposal.

E. The Commission should deny the proposed settlement agreement's rate consolidation proposal because it does not provide sufficient evidence to demonstrate that the disparate impacts would truly be mitigated, nor is it supported by the record in this proceeding or by the affected ratepayers.

The City did not provide any testimony regarding Cal Am's consolidated rate design proposal, but agreed to settle on this issue.¹² Here again Cal Am inappropriately

² ORA Opening Brief at pp. 23, 77-79.

¹⁰ Exhibit CAW-12 at p. 162 for I15-300016, p. 156 for I15-500059, and p. 187 for I15-600091. For I15-600091, I15-300016, and I15-500059, only design and permitting is scheduled for this rate case cycle.

¹¹ Exhibit ORA-1 at p. 24.

¹² Motion for Adoption of the Partial Settlement Agreement, Exhibit A at p.7, § 4.1.

attempts to subvert ORA’s and other intervenors’ position on rate consolidation by settling a highly contested issue with a party that provided no testimony or evidence regarding this issue. As the Settling Parties acknowledge, disparate impacts would result from the proposed settlement’s rate consolidation proposal.¹³ While the proposed settlement agreement purportedly modifies the rate design proposed by Cal Am to “address [] various concerns raised by intervenors in testimony,”¹⁴ it does not provide any evidence that the Settling Parties’ proposal would actually mitigate the disparate impacts. The record in this proceeding also demonstrates that rate consolidation is not supported by the affected ratepayers because of the rate shock and disparate impacts. While the City’s settlement with Cal Am would benefit the City’s residents, it would unduly burden the residents of the Los Angeles district. Along with being unreasonable and unjustified, this demonstrates that the Settling Parties’ interests does not fairly represent all affected ratepayer interests.

As ORA states in its Reply Brief, when the rate consolidation proposal would create a burden on some ratepayers for the benefit of others, the Commission must weigh whether such disparate impacts are in the public interest. Where the burden on the minority of customers outweighs the benefit to the majority of customers, it would be unjust to adopt Cal Am’s proposal,¹⁵ even if modified by the proposed settlement agreement.

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¹³ *Id.* at pp. 7-8.

¹⁴ *Id.* at p. 9.

¹⁵ ORA Reply Brief at pp 6-7.

III. CONCLUSION

For the reasons stated herein, the Commission must reject the proposed settlement agreement.

Respectfully submitted,

/s/ KERRIANN SHEPPARD
KERRIANN SHEPPARD

Attorney for the
Office of Ratepayer Advocates

California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102
Telephone: (916) 327-6771
Email: sk6@cpuc.ca.gov

September 18, 2017