

**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 No. 16-07-002

(Filed July 1, 2016)

**REPLY COMMENTS OF THE CITY OF THOUSAND OAKS  
ON PROPOSED DECISION ADOPTING  
THE 2018, 2019, AND 2020 REVENUE REQUIREMENT  
FOR CALIFORNIA-AMERICAN WATER COMPANY**

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December 10, 2018

Pursuant to Rule 14.3(d) of the Commission’s Rules of Practice and Procedure, the City of Thousand Oaks (“CTO”) replies to comments of California-American Water Company (“Cal-Am”) and Monterey Peninsula Water Management District (“MPWMD”) on the Proposed Decision (“PD”) issued in this proceeding on November 13, 2018.

**A. The PD Properly Rejects the Coronado Settlement for Failure of Proof.**

The Coronado Settlement<sup>1</sup> is a contested partial settlement between Cal-Am and the City of Coronado (“Coronado”). A contested settlement is “merely the joint position of the sponsoring parties, and its reasonableness must be thoroughly demonstrated by the record”<sup>2</sup> and such a settlement undergoes greater scrutiny than all party settlements.<sup>3</sup> Subjecting the Coronado Settlement to such scrutiny, the PD declines to adopt it, noting among other things that since Coronado had taken no position on Southern Division consolidation, “there is nothing in the record to suggest that the new proposal is anything other than Cal-Am taking a second bite at the apple. It is prejudicial to the parties that had a demonstrated interest in this issue and were actively litigating this issue to, in effect, have to respond to a new proposal by Cal-Am so late in the proceeding.”<sup>4</sup>

Cal-Am asserts the “principal error in the PD is that it continues to evaluate the original Southern Division consolidation proposal in CAW’s original Application ... rather than the Southern Division consolidation proposal presented in the San Diego Settlement ....”<sup>5</sup> Cal-Am seeks either to conflate or combine the Southern Division consolidation proposal in its Application with the Coronado Settlement proposal, stating for example “The CPUC should revise the PD to find that CAW’s Southern Division Consolidation Proposal **as presented in the San Diego Settlement** is reasonable and in the public interest ....”<sup>6</sup> Similarly, Cal-Am states it “re-craft[ed]” its Southern Division consolidation proposal.<sup>7</sup> But a “re-crafted” proposal is by definition a new one. All this proves the PD is correct: Cal-Am made a **new** consolidation proposal late in the proceeding, seeking a second bite at the apple.

However, there is no issue of the PD “continu[ing] to evaluate” an abandoned proposal, despite Cal-Am’s assertion. Cal-Am did not withdraw the consolidation proposal from its Application. Cal-Am briefed it after hearing, and neither the Coronado Settlement itself nor briefing regarding it states that the

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<sup>1</sup> See PD at p. 16, which calls the partial settlement between Cal-Am and Coronado the “Coronado Settlement.”

<sup>2</sup> D.02-01-041, *mimeo*, p. 13; see PD, p. 12 n. 16 (where case number has a typographical error).

<sup>3</sup> PD, p. 12.

<sup>4</sup> PD, p. 18.

<sup>5</sup> Cal-Am Comments, p. 6.

<sup>6</sup> Cal-Am Comments, p. ii (emphasis added).

<sup>7</sup> Cal-Am Comments, p. 6.

proposal in the Application is withdrawn or that the Commission should only evaluate the consolidation proposal contained in the Coronado Settlement.<sup>8</sup> Instead, the settling parties offered a **settlement** on Southern Division consolidation.

Still, as it should have, the PD addressed the two consolidation proposals that were before the Commission, each of which is subject to a different standard of proof.<sup>9</sup> The Commission addressed and rejected the proposal from the Application in PD §6.1.3, finding that Cal-Am failed to meet the preponderance of evidence burden of proof identified in PD § 3.1. The second proposal is in the Coronado Settlement. In § 4.2, the PD evaluates that consolidation proposal as part of the entire Coronado Settlement, finding the settling parties failed to meet the requirements of Rule 12.1.<sup>10</sup>

Cal-Am asserts, without any evidentiary proof, that the Coronado Settlement occurred “after extensive negotiations with each of the parties in this proceeding.”<sup>11</sup> Cal-Am also claims that it “took into account each of the concerns raised by the parties” who did not agree to the Coronado Settlement. These admissions only prove that, while Cal-Am convinced Coronado to agree, it did not convince “each of the [other] parties to this proceeding” to agree to the Coronado Settlement, and that the Coronado Settlement is not supported by or fairly representative of the affected interests.<sup>12</sup>

Cal-Am argues settlements are not limited to compromise of litigated positions and the Commission has considered the more general interests of settling parties.<sup>13</sup> But in D.07-03-044, which Cal-Am cites in support of this argument, the Commission recognized that each of the nine settling parties was supporting the interests of its constituencies in settling the case – including PG&E representing its shareholders’ interests and two irrigation districts representing their “particular constituencies.”<sup>14</sup> By analogy here, Cal-Am supports the Coronado Settlement to advance its shareholders’ interests. The only party other than Cal-Am that supported the settlement, Coronado, did not file comments on the PD’s decision to reject the settlement, rendering its current position unclear at best, but even if it still supports the Coronado Settlement, Coronado supports the settlement only for its own constituents. Neither Cal-Am nor Coronado represents the interests of CTO or its residents, or of

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<sup>8</sup> If Cal-Am is now abandoning the Southern Division consolidation proposal in its Application, that amounts to an agreement that the PD properly rejects that proposal.

<sup>9</sup> PD, §§ 3.1 & 3.2.

<sup>10</sup> The settling parties bear the burden to demonstrate the settlement satisfies Rule 12.1. See D.07-03-044, *mimeo*, p. 259.

<sup>11</sup> Cal-Am Comments, p. 6.

<sup>12</sup> D.07-03-044, *mimeo*, p. 259; see also PD at 15, 17-18.

<sup>13</sup> Cal-Am Comments, p. 4.

<sup>14</sup> D.07-03-044, p. 259.

any of the other parties who contested the Coronado Settlement.

Citing to an agenda for and a report regarding a recent workshop concerning accessibility of Commission proceedings, Cal-Am frets that denying a settlement will devalue the participation of parties that it speculates could not afford to engage on all issues in a matter.<sup>15</sup> But Cal-Am points to nothing in the report or agenda that supports the claim that parties may limit participation due to cost issues, and there is no record to support such a concern in this proceeding. What we do know is that approving the Coronado Settlement would even more devalue participation by rejecting significant, costly and persuasive participation by parties not eligible for intervenor funding in favor of an eleventh-hour sweetheart settlement that fully pulls the rug out from under such parties.

Cal-Am’s bald assertion that consolidation under the Coronado Settlement addresses the four issues set forth in D.14-10-47<sup>16</sup> is unaccompanied by analysis or evidentiary citation, and likewise fails.

Nor does the PD “cherry-pick” the Coronado Settlement. Cherry-picking occurs when some but not all of a settlement is approved. The PD properly rejects the entire Coronado Settlement, which was basically a sweetheart deal for the only other party Cal-Am could convince to support it.

**B. The Consolidation Rates Under the Coronado Settlement Were Properly Rejected.**

Cal-Am relies on a table with average bill impacts on pages 6-7 of its Reply,<sup>17</sup> but those average

Ventura Scenario	Usage (CGL)	August 2017	January 2018	Percent Increase/(Decrease)
Settlement Agreement Res Average	135.30	\$105.76	\$110.79	4.76%
Settlement Agreement 25th Percentile	59.80	\$50.22	\$55.71	10.92%
Settlement Agreement 50th Percentile	112.20	\$87.44	\$93.17	6.56%
Settlement Agreement 75th Percentile	179.50	\$140.82	\$148.46	5.42%
Settlement Agreement 95th Percentile	344.10	\$287.42	\$360.87	25.55%
Commercial	776.05	\$642.28	\$686.49	6.88%
OPA	18,519.83	\$1,291.42	\$1,380.12	6.87%

impacts obscure the actual impacts the Coronado Settlement would have across the various levels of usage in the Southern Division.

The two tables to the left from Attachment B starkly tell the true tale. Cal-Am claims rates go down for the hypothetical average user, but this ignores that the lowest water users in Ventura face nearly

San Diego Scenario	Usage (CGL)	August 2017	January 2018	Percent Increase/(Decrease)
Settlement Agreement Res Average	71.59	\$69.25	\$66.34	-4.21%
Settlement Agreement 25th Percentile	37.40	\$39.80	\$40.85	2.64%
Settlement Agreement 50th Percentile	59.80	\$58.39	\$57.55	-1.45%
Settlement Agreement 75th Percentile	89.80	\$86.06	\$79.92	-7.13%
Settlement Agreement 95th Percentile	179.50	\$192.39	\$154.97	-19.45%
Commercial	526.72	\$505.98	\$500.90	-1.00%
OPA	1,228.47	\$1,153.49	\$1,130.07	-2.03%

<sup>15</sup> Cal-Am Comments, p. 4, and notes 37 and 38; see generally MPWMD Comments, pp. 2-5.

<sup>16</sup> Cal-Am Comments, p. 7.

<sup>17</sup> The information in that table was provided in discovery to CTO and is in Attachment B to CTO’s Motion to Reopen (“Attachment B”). Cal-Am agrees the information is relevant and cited to it both in briefing on the Coronado Settlement and the Cal-Am Comments at p. 8, n. 69. In its Comments on the PD at pages 2-4, CTO urged the Commission to grant its unopposed Motion to Reopen in the Final Decision.

an 11% increase, the highest other than at the 95th. The lowest users in San Diego are the only San Diego users that face any increase, only 2.5%, while the highest San Diego users benefit from a 19.5% decrease. These differences are not merely the result of higher average water usage in the Ventura District. The Duarte District has similar average usage of approximately 130 CGL in comparison to the Ventura District's approximately 135 CGL, and still sees flattening of rates across the 25th, 50th, and 75th percentiles. And the San Marino District has higher average usage than the Ventura District – of approximately 158 CGL in comparison to the Ventura District's approximately 135 CGL – but has lower overall percentage rate increases across all but the 75th percentile when compared to the Ventura District.

Further, all these bill impacts occur while both Ventura and San Diego, under the Coronado Settlement, would retain 89% of their variable costs, much of which is purchased water, and while Ventura's revenue requirement is (under the PD) \$37.5 million and San Diego's is \$31 million. The adopted number of customers for the year, excluding fire protection, for Ventura is 21,204, and for San Diego is 21,317.<sup>18</sup> Under these circumstances, even with usage differences, such disparate bill impacts for these two districts make no sense. The proposed settlement rates are not just and reasonable, and the settlement is not reasonable in light of the whole record or in the public interest.

Despite claims of conservation benefits in the Coronado Settlement,<sup>19</sup> the tables in Attachment B demonstrate that Cal-Am's proposed rate structure will not further conservation goals through price signals. In attempting to manipulate the rate structure so that it can assert that average users would see a bill reduction, Cal-Am imposes percentage increases that have the effect of flattening prices across the different levels of water usage instead of maintaining – or further increasing – the price of water as usage increases. Specifically, in all but the San Marino and San Diego Districts, water users in the 25th percentile see the highest percentage increase, until reaching the 95th percentile, and there is a decrease in percentage impacts as usage moves from the 25th to the 50th percentiles and then from the 50th to the 75th percentiles. Regarding the other districts, the San Diego District's 25th percentile sees the highest percentage rate increase and the 95th percentile sees the highest percentage decrease – 19.45%. The San Marino District sees an increase for the 25th percentile that is almost three times that of the percentile increase in the 50th percentile.

There is also a genuine lack of clarity as to whether Cal-Am's table is even accurate, since it

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<sup>18</sup> PD, Appx. A, Table C-1, Ventura Dist., Avg. No. of Customers, and Table C-1, San Diego Cty. Dist, Avg. No. of Customers,. These customer numbers were as proposed by Cal-Am and agreed to by ORA.

<sup>19</sup> Cal-Am Comments, p. 7.

appears only Cal-Am can make its RO model work. Cal-Am has the burden of proof as to its case, and the settling parties have it as to the Coronado Settlement. In the absence of confidence that the RO model actually works, it cannot be said that the burden of proof for either consolidation proposal has been met.

Cal-Am asserts the retention of 89% of variable costs in Ventura and San Diego exists because the Coronado Settlement is designed to mitigate the rate shock in Los Angeles of full rate consolidation.<sup>20</sup> Rate shock would exist regardless of Cal-Am’s consolidation proposal from the Application. Without consolidation, average residential rate increases in the three Los Angeles districts range from 36% to 42% over three years.<sup>21</sup> The Coronado Settlement rate design, as is the consolidation proposed in the Application, is not a “mitigation of rate shock” resulting from consolidation. It is a subsidy, as the PD correctly recognized,<sup>22</sup> meant to address high increases in the Los Angeles districts that would exist regardless of consolidation. Further, Cal-Am fails to explain why it is in the public interest of **Ventura customers** to suffer unfair rates for three years, purportedly on the way to more fair rates after the next GRC, while **Los Angeles district customers** benefit from Ventura’s unfair rates during those three years, all in the name of “adjust[ing] to new price signals.”<sup>23</sup>

What happens in the next GRC will happen **in the next GRC**. There is no way to guarantee that even if Cal-Am proposes “full consolidation for ratemaking purposes in the Southern Division”<sup>24</sup> in its next GRC, the Commission will agree with such a proposal. As the PD found,<sup>25</sup> the Commission should evaluate what is before it now, not what might be before it later.

Finally, Cal-Am’s contention that public sentiment concerning consolidation would change with the Coronado Settlement<sup>26</sup> is pure speculation, unsupported by evidence, and should be ignored.

Dated: December 10, 2018

Respectfully submitted,

By: /s/ Dan L. Carroll

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<sup>20</sup> Cal-Am Comments, p. 7.

<sup>21</sup> Ex. CTO-14, CTO/Spurgin. Att. E, final column in each table.

<sup>22</sup> PD, p. 34, n. 82.

<sup>23</sup> Cal-Am Comments, p. 7.

<sup>24</sup> Cal-Am Comments, p. 7.

<sup>25</sup> PD, p. 32, n. 74.

<sup>26</sup> Cal-Am Comments, p. 8.