

October 24, 2022

VIA E-FILE

Clerk of the Court
Supreme Court of California
350 McAllister Street
San Francisco, CA 94102

Re: Golden State Water Company, California-American Water Company, California Water Service Company, Liberty Utilities Corp. and California Water Association v. Public Utilities Commission of the State of California.
California Supreme Court Case No. S269099 (Consolidated with S271493)

Dear Clerk of the Court:

On October 21, 2022, the California Public Utilities Commission (“Commission”) filed a motion with the Court to dismiss the petitions filed by Golden State Water Company, California-American Water Company, California Water Service Company, Liberty Utilities Corp. and California Water Association (collectively, “Petitioners”) or, in the alternative, to reconsider the issuance of the writ (“Commission’s Motion”), because the Commission contends that certain new legislation (Sen. Bill No. 1469, approved by Governor Newsom on September 30, 2022) renders the petitions moot. Counsel to the Commission has informed the Petitioners that the Commission intends to request that the Court suspend the briefing schedule while it considers the Commission’s Motion. Petitioners request that the Court deny any request of the Commission to suspend the briefing schedule, for the reasons set forth below.

Any suspension of the briefing schedule would be unwarranted and would prejudice the Petitioners for several reasons:

- Four of the utility Petitioners have already been harmed by the Commission decisions under review in this case, Decisions 20-08-047 and 21-09-047 (the “Decisions”), because those utilities were required by the Decisions to file general rate case applications that do not include requests to continue their Water Revenue Adjustment Mechanism (WRAM) and Modified-Cost Balancing Account (MCBA) mechanisms and have already done so; the new legislation that becomes effective on January 1, 2023 is insufficient to remedy that harm; and delaying a decision from the Court may delay the ability of those utilities to mitigate that harm.
- The Petitioners intend to oppose the Commission’s Motion in part because the issues it raises cannot be separated from the merits of the petitions. Accordingly, if the Commission believes the new legislation renders the petitions moot, the Commission should raise those arguments in its reply brief, rather than in a separate pleading that requires the Petitioners to file an opposition. Accordingly, the Court should not render any decision on the Commission’s Motion until the completion of all briefing in this case.

- Time is of the essence with regard to the Court's issuance of a decision in this case because a subsequent (third) phase of the Commission proceeding in which the Decisions were issued remains ongoing, and procedural problems similar to those discussed in the Petitioner's opening brief are recurring. For example, the Commission's Public Advocates Office recently filed a motion in the subsequent phase that raises the same concerns regarding the unlawfulness of the Commission's issuance of ratemaking decisions in quasi-legislative proceedings as the Petitioners raised in their opening brief. The Court's prompt issuance of a decision in this case ultimately may obviate the need for the Petitioners to seek similar relief from the Court in the future.
- The matter before the Court is clearly not moot, in part for the reasons explained in this letter (e.g., several petitioners have already been harmed and require Court action to mitigate that harm; the matters before the Court are at risk of recurring). There would be no purpose served in delaying the Court's consideration of the underlying matter while the Court considers, and ultimately rejects, the Commission's erroneous mootness claim.

In light of the above, the Petitioners respectfully request that the Court deny any request of the Commission to suspend the briefing schedule in this case.

Sincerely,

SHEPPARD, MULLIN, RICHTER &
HAMPTON LLP

October 24, 2022

By: /s/ Joseph M. Karp

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October 24, 2022

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CERTIFICATE OF SERVICE

I, John D. Ellis, am over 18 years old and not a party to this action. I am employed in the City and County of San Francisco, California. My business address is Four Embarcadero Center, 17th Floor, San Francisco, CA 94111-4109.

On October 24, 2022, I served a true and correct electronic copy of the above Letter on all parties by electronically filing and serving the documents via True Filing and/or email:

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I provided the document listed above electronically on the TrueFiling Website for electronic service to the persons on the above service list and/or sent the document to the persons on the above service list by e-mail.

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

Executed on October 24, 2022 in San Francisco, California.

/s/ John D. Ellis

John D. Ellis

STATE OF CALIFORNIA
Supreme Court of California

PROOF OF SERVICE

STATE OF CALIFORNIA
Supreme Court of California

Case Name: **GOLDEN STATE WATER COMPANY v. PUBLIC UTILITIES
COMMISSION**

Case Number: **S269099**

Lower Court Case Number:

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

10/24/2022

Date

/s/John Ellis

Signature

Ellis, John (269221)

Last Name, First Name (PNum)

Sheppard Mullin Richter & Hampton

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