

**CASE NO. S269099 (CONSOLIDATED WITH S271493)**

**In the Supreme Court  
of the State of California**

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GOLDEN STATE WATER COMPANY,  
CALIFORNIA-AMERICAN WATER COMPANY,  
CALIFORNIA WATER SERVICE COMPANY,  
LIBERTY UTILITIES CORP.  
AND CALIFORNIA WATER ASSOCIATION  
*Petitioners,*

v.

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA  
*Respondent.*

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**PETITIONERS' MOTION TO TAKE JUDICIAL NOTICE**

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**After Decisions Nos. 20-08-047 and 21-09-047**

Of the Public Utilities Commission of the State of California

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Liberty Utilities (Apple  
Valley Ranchos Water) Corp.*

Pursuant to Evidence Code section 459 and Rule of Court 8.252, Petitioners Golden State Water Company, California-American Water Company, California Water Service Company, Liberty Utilities (Park Water) Corp. and Liberty Utilities (Apple Valley Ranchos Water) Corp., and the California Water Association respectfully request that the Court take judicial notice of the following materials in connection with its consideration of Respondent California Public Utilities Commission’s pending Motion to Dismiss Petitions or, in the Alternative Reconsider the Issuance of the Writ:

1. The Response of the Public Advocates Office to the Motion of California American Water Company for Adoption of a Procedural Schedule to Consider a Decoupling Mechanism filed in the Public Utilities Commission of the State of California proceeding titled “Application of California-American Water Company (U210W) for Authorization to Increase its Revenues for Water Service by \$55,771,300 or 18.71% in the year 2024, by \$19,565,300 or 5.50% in the year 2025, and by \$19,892,400 or 5.30% in the year 2026 (Application 22-07-001) (“Cal Advocates’ Opposing Response”). Cal Advocates’ Opposing Response is subject to judicial notice under Evidence Code section 452, subdivision (c) and Evidence Code section 452, subdivision (g), because it is an “[o]fficial act[] of the . . . executive . . . departments” of California, and because its contents and existence “are not reasonably subject to dispute and are capable of immediate and accurate determination by resort to sources of reasonably indisputable accuracy.” (See, e.g., *Los Angeles Leadership Academy, Inc. v. Prang* (2020) 46 Cal.App.5th 270, 276, fn. 2 [taking judicial notice of filings in administrative agency]; *City and County of San Francisco v. Uber Technologies, Inc.* (2019) 36 Cal.App.5th 66, 77, fn. 4 [taking “judicial notice of various CPUC documents”]; *Wise v. Pacific Gas & Electric Co.* (1999) 77 Cal.App.4th 287, 297 [“Evidence Code section

452, subdivision (c) (official acts) permits the Court of Appeal to take judicial notice of a PUC decision.”]; *Fowler v. Howell* (1996) 42 Cal.App.4th 1746, 1750 [“Evidence Code section 452, subdivision (c) permits the [] court to take judicial notice of the records and files of a state administrative board.”].) Cal Advocates’ Opposing Response was not presented to the Public Utilities Commission in the proceedings below, and it relates to proceedings occurring after the order that is under review was issued. Cal Advocates’ Opposing Response is relevant to these review proceedings because it is evidence that the proceedings are not moot. A true and correct copy of Cal Advocates’ Opposing Response is attached to this Motion as **Exhibit A**.

2. The fact that Petitioner California Water Service Company filed a General Rate Case with the California Public Utilities Commission on July 1, 2021, titled In the Matter of the Application of CALIFORNIA WATER SERVICE COMPANY (U60W), a California corporation, for an order (1) authorizing it to increase rates for water service by \$80,484,801 or 11.1% in test year 2023, (2) authorizing it to increase rates on January 1, 2024 by \$43,582,644 or 5.4%, and ((3) authorizing it to increase rates on January 1, 2025 by \$43,197,258 or 5.1% in accordance with the Rate Case Plan, and (4) adopting other related rulings and relief necessary to implement the Commission’s ratemaking policies (Application 21-07-002) (“Cal Water’s GRC”). The filing of Cal Water’s GRC with the California Public Utilities Commission is subject to judicial notice under Evidence Code section 452, subdivision (c) and Evidence Code section 452, subdivision (g), because it is an “[o]fficial act[] of the . . . executive . . . departments” of California, and because its contents and existence “are not reasonably subject to dispute and are capable of immediate and accurate determination by resort to sources of reasonably indisputable accuracy.” (See, e.g., *Los Angeles Leadership Academy, Inc. v. Prang* (2020) 46

Cal.App.5th 270, 276, fn. 2 [taking judicial notice of filings in administrative agency]; *City and County of San Francisco v. Uber Technologies, Inc.* (2019) 36 Cal.App.5th 66, 77, fn. 4 [taking “judicial notice of various CPUC documents”]; *Wise v. Pacific Gas & Electric Co.* (1999) 77 Cal.App.4th 287, 297 [“Evidence Code section 452, subdivision (c) (official acts) permits the Court of Appeal to take judicial notice of a PUC decision.”]; *Fowler v. Howell* (1996) 42 Cal.App.4th 1746, 1750 [“Evidence Code section 452, subdivision (c) permits the [] court to take judicial notice of the records and files of a state administrative board.”].) Cal Water’s GRC was not presented to the Public Utilities Commission in the proceedings below, and it relates to proceedings occurring after the order that is under review was issued. Cal Water’s GRC is relevant to these review proceedings because it was filed after the order under review issued, and such filing is evidence that these proceedings are not moot. A true and correct copy of the “Proceeding Detail” for Cal Water’s GRC as it appears on the Public Utilities Commission’s website is attached to this Motion as **Exhibit B.**

3. The fact that Petitioner California-American Water Company filed a General Rate Case with the California Public Utilities Commission on July 1, 2021, titled Application of California-American Water Company (U210W) for Authorization to Increase its Revenues for Water Service by \$55,771,300 or 18.71% in the year 2024, by \$19,565,300 or 5.50% in the year 2025, and by \$19,892,400 or 5.30% in the year 2026. (Application 21-07-001) (“Cal-Am’s GRC”). The filing of Cal-Am’s GRC with the California Public Utilities Commission is subject to judicial notice under Evidence Code section 452, subdivision (c) and Evidence Code section 452, subdivision (g), because it is an “[o]fficial act[] of the . . . executive . . . departments” of California, and because its contents and existence “are not reasonably subject to dispute and are capable of immediate and accurate

determination by resort to sources of reasonably indisputable accuracy.” (See, e.g., *Los Angeles Leadership Academy, Inc. v. Prang* (2020) 46 Cal.App.5th 270, 276, fn. 2 [taking judicial notice of filings in administrative agency]; *City and County of San Francisco v. Uber Technologies, Inc.* (2019) 36 Cal.App.5th 66, 77, fn. 4 [taking “judicial notice of various CPUC documents”]; *Wise v. Pacific Gas & Electric Co.* (1999) 77 Cal.App.4th 287, 297 [“Evidence Code section 452, subdivision (c) (official acts) permits the Court of Appeal to take judicial notice of a PUC decision.”]; *Fowler v. Howell* (1996) 42 Cal.App.4th 1746, 1750 [“Evidence Code section 452, subdivision (c) permits the [] court to take judicial notice of the records and files of a state administrative board.”].) Cal-Am’s GRC was not presented to the Public Utilities Commission in the proceedings below, and it relates to proceedings occurring after the order that is under review was issued. Cal-Am’s GRC is relevant to these review proceedings because it was filed after the order under review issued, and such filing is evidence that these proceedings are not moot. A true and correct copy of the “Proceeding Detail” for Cal-Am’s GRC as it appears on the Public Utilities Commission’s website is attached to this Motion as **Exhibit C.**

4. The fact that Petitioner Liberty Utilities (Park Water) Corp. filed a General Rate Case with the California Public Utilities Commission on July 2, 2021, titled Application of Liberty Utilities (Park Water) Corp. (U314W) for Authority to Increase Rates Charged for Water Service by \$5,475,273 or 15.10% in 2022, \$1,820,970 or 4.35% in 2023, and \$1,752,224 or 4.00% in 2024. (Application 21-07-004) (“Liberty Park Water’s GRC”). The filing of Liberty Park Water’s GRC with the California Public Utilities Commission is subject to judicial notice under Evidence Code section 452, subdivision (c) and Evidence Code section 452, subdivision (g), because it is an “[o]fficial act[] of the . . . executive . .

. departments” of California, and because its contents and existence “are not reasonably subject to dispute and are capable of immediate and accurate determination by resort to sources of reasonably indisputable accuracy.” (See, e.g., *Los Angeles Leadership Academy, Inc. v. Prang* (2020) 46 Cal.App.5th 270, 276, fn. 2 [taking judicial notice of filings in administrative agency]; *City and County of San Francisco v. Uber Technologies, Inc.* (2019) 36 Cal.App.5th 66, 77, fn. 4 [taking “judicial notice of various CPUC documents”]; *Wise v. Pacific Gas & Electric Co.* (1999) 77 Cal.App.4th 287, 297 [“Evidence Code section 452, subdivision (c) (official acts) permits the Court of Appeal to take judicial notice of a PUC decision.”]; *Fowler v. Howell* (1996) 42 Cal.App.4th 1746, 1750 [“Evidence Code section 452, subdivision (c) permits the [] court to take judicial notice of the records and files of a state administrative board.”].) Liberty Park Water’s GRC was not presented to the Public Utilities Commission in the proceedings below, and it relates to proceedings occurring after the order that is under review was issued. Liberty Park Water’s GRC is relevant to these review proceedings because it was filed after the order under review issued, and such filing is evidence that these proceedings are not moot. A true and correct copy of the “Proceeding Detail” for Liberty Park Water’s GRC as it appears on the Public Utilities Commission’s website is attached to this Motion as **Exhibit D**.

5. The fact that Petitioner Liberty Utilities (Apply Valley Ranchos Water) Corp. filed a General Rate Case with the California Public Utilities Commission on July 2, 2021, titled Application of Liberty Utilities (Apple Valley Ranchos Water) Corp. (U346W) for Authority to Increase Rates Charged for Water Service by \$2,862,903 or 11.11% in 2022, \$2,068,273 or 7.18% in 2023, and \$2,280,637 or 7.35% in 2024. (Application A.21-07-003) (“Liberty Apply Valley Ranchos Water’s GRC”). The filing of Liberty Apply Valley Ranchos Water’s GRC with the

California Public Utilities Commission is subject to judicial notice under Evidence Code section 452, subdivision (c) and Evidence Code section 452, subdivision (g), because it is an “[o]fficial act[] of the . . . executive . . . departments” of California, and because its contents and existence “are not reasonably subject to dispute and are capable of immediate and accurate determination by resort to sources of reasonably indisputable accuracy.” (See, e.g., *Los Angeles Leadership Academy, Inc. v. Prang* (2020) 46 Cal.App.5th 270, 276, fn. 2 [taking judicial notice of filings in administrative agency]; *City and County of San Francisco v. Uber Technologies, Inc.* (2019) 36 Cal.App.5th 66, 77, fn. 4 [taking “judicial notice of various CPUC documents”]; *Wise v. Pacific Gas & Electric Co.* (1999) 77 Cal.App.4th 287, 297 [“Evidence Code section 452, subdivision (c) (official acts) permits the Court of Appeal to take judicial notice of a PUC decision.”]; *Fowler v. Howell* (1996) 42 Cal.App.4th 1746, 1750 [“Evidence Code section 452, subdivision (c) permits the [] court to take judicial notice of the records and files of a state administrative board.”].) Liberty Apply Valley Ranchos Water’s GRC was not presented to the Public Utilities Commission in the proceedings below, and it relates to proceedings occurring after the order that is under review was issued. Liberty Apply Valley Ranchos Water’s GRC is relevant to these review proceedings because it was filed after the order under review issued, and such filing is evidence that these proceedings are not moot. A true and correct copy of the “Proceeding Detail” for Liberty Apply Valley Ranchos Water’s GRC as it appears on the Public Utilities Commission’s website is attached to this Motion as **Exhibit E**.

6. The California Senate Third Reading Analysis for SB 1469 (2022) (“SB 1469 Senate Analysis”). The SB 1469 Senate Analysis is subject to judicial notice under Evidence Code section 452, subdivision (c), and Evidence Code section 452, subdivision (g), because it is an “[o]fficial



act[] of the . . . legislative . . . departments” of California, and because its contents and existence “are not reasonably subject to dispute and are capable of immediate and accurate determination by resort to sources of reasonably indisputable accuracy.” (See *People ex rel. Foundation for Taxpayer & Consumer Rights v. Duque* (2003) 105 Cal.App.4th 259, 263 [taking judicial notice of legislative history].) The SB 1469 Senate Analysis was not presented to the Public Utilities Commission in the proceedings below, and it relates to events occurring after the order that is under review was issued. The SB 1469 Senate Analysis is relevant to these review proceedings because it demonstrates that the Public Utilities Commission objected to the passage of SB 1469 and is evidence that these proceedings are not moot. A true and correct copy of the SB 1469 Senate Analysis is attached to this Motion as **Exhibit F**.

November 9, 2022

Respectfully submitted,

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**CERTIFICATE OF WORD COUNT**

I hereby certify that the foregoing Motion for Judicial Notice contains 2,064 words, according to the word processing program with which it was prepared.

November 9, 2022

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# EXHIBIT A

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 \$55,771,300 or 18.71% in the year 2024, by \$19,565,300 or 5.50% in the year 2025, and by \$19,892,400 or 5.30% in the year 2026.

Application 22-07-001

**RESPONSE OF THE PUBLIC ADVOCATES OFFICE  
TO THE MOTION OF CALIFORNIA AMERICAN WATER COMPANY  
FOR ADOPTION OF A PROCEDURAL SCHEDULE  
TO CONSIDER A DECOUPLING MECHANISM**

**I. INTRODUCTION**

On July 1, 2022, California American Water Company (Cal Am) filed a general rate case (GRC) application seeking authorization to increase its revenues for water service.<sup>1</sup> On October 10, 2022, Cal Am filed a motion requesting adoption of a procedural schedule for consideration of a “decoupling mechanism” or full Water Revenue Adjustment Mechanism (WRAM) in the current GRC.<sup>2</sup> Pursuant to Rule 11.1(e) of the Commission’s Rules of Practice and Procedure, the Public Advocates Office at the California Public Utilities Commission (Cal Advocates) responds to Cal Am’s Motion.

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<sup>1</sup> Application (A.)22-07-001 of California-American Water Company (U210W) for Authorization to Increase its Revenues for Water Service by \$55,771,300 or 18.71% in the year 2024, by \$19,565,300 or 5.50% in the year 2025, and by \$19,892,400 or 5.30% in the year 2026 (July 1, 2022) (Application).

<sup>2</sup> A.22-07-001, California-American Water Motion for Adoption of a Procedural Schedule to Consider a Decoupling Mechanism (October 10, 2022) (Motion).

## II. ARGUMENT

### A. The Commission should deny Cal Am's Motion as premature and prohibited under current law.

Cal Am's Motion is based on Senate Bill (SB) 1469,<sup>3</sup> enacted three months after Cal Am filed its current GRC application and not effective until January 1, 2023. When effective, SB 1469 will require the Commission to consider water utilities' proposals to implement mechanisms that separate the utilities' water revenues from water sales, for the stated purpose of promoting water conservation. Before January 1, 2023, however, the Commission's order in D.20-08-047 prohibiting WRAM/MCBA proposals in GRC applications remains in effect.<sup>4</sup> Therefore, utilities' GRC applications filed after September 3, 2020 (when D.20-08-047 took effect) but prior to January 1, 2023 cannot request continuation of a WRAM/MCBA, but rather "may include a proposal for a Monterey-Style WRAM...."<sup>5</sup> Cal Am's Application requests a Monterey-style WRAM. Cal Am's Motion, however, seeks a procedural schedule that would allow consideration of a full WRAM/MCBA in this GRC, explicitly prohibited by the Commission in D.20-08-047. Until SB 1469 takes effect, this prohibition remains valid. Therefore, the Commission should deny Cal Am's motion as untimely and contrary to law.

While its Motion avoids use of the term WRAM in favor of "decoupling mechanism," Cal Am's Application and testimony indicate a strong preference for continuing the full WRAM/MCBA already in place. As Cal Am states in testimony,

California American Water's current steeply tiered conservation rate designs...were developed to be compatible with the decoupling WRAM/MCBA. Without the decoupling

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<sup>3</sup> Senate Bill (SB) 1469 (Bradford), Sec. 2, amending Section 727.5(d) of the Public Utilities Code.

<sup>4</sup> See Decision (D.)20-08-047 and Order (September 3, 2020), Ordering Paragraph 3 at 106 (specifically prohibiting Cal Am and other WRAM-adopting water utilities from requesting to continue WRAMs/MCBAs in their subsequent general rate case applications). As Cal Am Application notes, D.20-08-047 and consolidated decisions are on appeal before the Supreme Court of California, and briefing is anticipated to be completed in December 2022 — thus, it is unlikely that the Court would issue a ruling before SB 1469 takes effect.

<sup>5</sup> D.20-08-047 at 72-73.

WRAM/MCBA, California American Water will have an extremely difficult time recovering its revenue requirement.<sup>6</sup>

Given this assertion of compatibility between Cal Am’s rate designs and the WRAM/MCBA, it seems unlikely that Cal Am’s “proposed decoupling mechanism” would be anything new or substantially different from the existing WRAM/MCBA. Cal Am’s Application states that if SB 1469 is enacted, Cal Am “may file an amended application...requesting implementation of the decoupling mechanism...”<sup>7</sup> Cal Am’s testimony further indicates an intent to retain the WRAM/MCBA if possible. Cal Am notes that, “*if [it] were successful in retaining the current WRAM/MCBA in its 2024 test year GRC...*”<sup>8</sup> it would make the following adjustments to its application:

California American Water would remove its request for Special Request #1 and #2, where we are requesting authorization to establish a Monterey-Style WRAM and the FCBA/ICBAs, respectively. Other than those changes and associated changes to the exemplary tariffs..., California American Water would likely not request any additional changes to its [application].<sup>2</sup>

Cal Am’s testimony shows an interest and preference to continue the WRAM/MCBA in the current GRC—something Cal Am is not permitted to request under current law. Even if the Commission authorizes a procedural schedule that allows Cal Am to seek continuation of its WRAM/MCBA in this proceeding, however, the request will create far more complexity in the proceeding than Cal Am’s Motion acknowledges.

**B. Cal Am’s Motion fails to address the full scope and impact of its request that the Commission add a phase to consider WRAM in the current GRC.**

Cal Am’s Application suggests that based on SB 1469, Cal Am might file an amended application that would request implementation of the WRAM/MCBA, and would also “withdraw Special Request Nos. 1 and 2 [pertaining to the Monterey-style

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<sup>6</sup> A.22-07-001, Direct Testimony of Jeffrey T. Linam (Linam Testimony) at 18:21-28.

<sup>7</sup> A.22-07-001 at 9.

<sup>8</sup> Linam Testimony, at 18:21-23(emphasis added).

<sup>2</sup> Linam Testimony at 18:6-12.



WRAM] if the Commission authorized the mechanism.”<sup>10</sup> The current Motion does not discuss an amended application, but the scope of issues potentially raised by a request to continue the WRAM/MCBA appears far more complex than the Motion suggests.

Cal Am offers the precedent of its 2010 general rate case (A.10-07-007) as an example of the Commission’s bifurcation of the revenue requirement issues from the WRAM/MCBA and rate design issues in a GRC, stating that in the 2010 GRC “the Commission addressed the revenue requirement in the first phase and issues related to decoupling and rate design in the second phase.”<sup>11</sup> Cal Am’s 2010 GRC, however, is itself an example of significant procedural complexity and delay.<sup>12</sup> In Phase 2 of Cal Am’s 2010 GRC, the Commission “[examined] the WRAM/MCBA mechanisms for each relevant Cal Am district,” a complex undertaking given the scope of questions and concerns that WRAM/MCBA mechanisms had generated in all the utilities that had adopted WRAM/MCBA.<sup>13</sup> The Commission adopted a settlement agreement resolving Phase 2 of Cal Am’s 2010 general rate case on July 25, 2013—just over three years from Cal Am’s July 1, 2010 application filing date.<sup>14</sup>

In contrast, Cal Am’s Motion contemplates a proposed decision in Phase 2 by November 27, 2023—less than 18 months from the July 1, 2022 Application filing date and extending Cal Am’s original proposed schedule by less than two months. Cal Am’s proposal not only schedules key milestones in Phases 1 and 2 of the proceeding almost

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<sup>10</sup> A.22-07-001 at 9.

<sup>11</sup> Motion at 3.

<sup>12</sup> See Application (A.) 10-07-007, *Joint Revised Scoping Memo and Ruling of the Assigned Commissioner and Administrative Law Judges* (December 12, 2011) (2010 GRC Phase 2 Scoping Memo) at 2-4.

<sup>13</sup> 2010 GRC Phase 2 Scoping Memo at 5 (citing an earlier ruling that the Commission should undertake further review of the WRAM/MCBA mechanisms in each utility’s general rate case, and “quickly address the extraordinarily high 2010 and 2011 WRAM/MCBA balances in the Monterey District....”)

<sup>14</sup> See *Decision (D.) 13-07-041 Adopting the Settlement Agreement Between California-American Water Company, the Division of Ratepayer Advocates, the Monterey Peninsula Water Management District, the City of Pacific Grove, the Coalition of Peninsula Businesses, the Monterey County Hospitality Association, the Independent Reclaimed Water Users Group, and the Pebble Beach Company on A.10-07-007 Phase 2 Issues* (July 25, 2013) at 1-2 (resolving “all outstanding issues regarding rate design in Cal-Am’s Monterey County District, Water Revenue Adjustment Mechanism, Modified Cost Balancing Account issues, and other issues”).

concurrently,<sup>15</sup> but also omits key issues that will inevitably lengthen and complicate the proceeding. The proposed schedule does not reflect, for example, the fact that an amended application would still be necessary; any vetting of the WRAM proposal in public participation hearings; or any impacts on timing of the scoping memo(s) including the need for a scoping memo for Phase 2.

On the scoping memo issue, Cal Am's 2010 GRC is again instructive. The Phase 2 scoping memo in Cal Am's 2010 GRC required that review of WRAM/MCBA accounts address several questions that are likely relevant to the scope of Phase 2 of the current GRC if the Commission bifurcates the current proceeding to consider continuation of the WRAM/MCBA. Some of these questions included:

- What are the causes of the extremely high levels of WRAM/MCBA balances in several of Cal Am's districts?
  - Are some of the undercollections accumulating in the WRAM/MCBAs unrelated to increased conservation due to tiered rate designs?
  - Would the use of a Monterey-style WRAM have prevented the high WRAM/MCBA balances?
- How can such high WRAM/MCBA balances be prevented in the future?
  - To what extent can sales forecasting prevent the high account balances?
  - What other changes or improvements will help prevent the high account balances?
- How should the WRAM/MCBA balances for the various districts be amortized/recovered?
  - Should the amortization rules be different for a district, such as Monterey, that has extremely high account balances? If so, how?<sup>16</sup>

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<sup>15</sup> See Motion at 4-5 (proposing that Cal Advocates' testimony in Phase 2 be served six weeks after Cal Am serves supplemental testimony).

<sup>16</sup> 2010 GRC Phase 2 Scoping Memo at 7-8.

In the decision discontinuing the WRAM/MCBA (D.20-08-047), the Commission noted that WRAM balances since utilities implemented the mechanism “have continued to be significantly large and under-collected.”<sup>17</sup> In the current proceeding, Cal Am’s Monterey District alone shows an undercollected balance of over \$12.7 million as of May 31, 2022.<sup>18</sup>

When SB 1469 takes effect, it will require the Commission to consider proposals for WRAM/MCBA mechanisms in utilities’ general rate cases, but the new law does not address any of the problems resulting in the Commission’s discontinuance of the full WRAM. Rather, the law will require the Commission to consider the same questions as before in considering WRAM/MCBA proposals, while leaving the Commission with discretion to accept or reject them. Given the amount of data accumulated by the Commission to-date about the impacts and effectiveness of the WRAM/MCBA mechanisms, the Commission should require utilities seeking to continue or adopt a WRAM/MCBA to demonstrate that the proposal is an improvement from previous iterations. A just and reasonable WRAM/MCBA proposal would need to promote sales forecasting accuracy and avoid undercollections resulting in high account balances.<sup>19</sup> Amortization of Cal Am’s existing WRAM/MCBA balance is already at issue in the current proceeding.<sup>20</sup>

Cal Am underestimates the impact of its request for a schedule to consider a full WRAM on the parties to this proceeding, and the Commission’s timely consideration of the Application.<sup>21</sup> Cal Am’s proposal for the submission of additional testimony assumes that Cal Advocates could review and respond to this additional information, along with

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<sup>17</sup> D.20-08-047 at 61.

<sup>18</sup> A.22-07-001, Direct Testimony of Michael S. Clarke (Clarke Testimony), Attachment 1, row A-2. Cal Am’s total undercollected WRAM balance as of May 31, 2022, is \$20,338,766.

<sup>19</sup> Sales forecasting is a critical input in establishing the Revenue Requirement, which under Cal AM's motion would occur in Phase 1. This being the case, Cal Am’s proposed bifurcation of Phase 1 and Phase 2 is not ideal, and an amended application would be necessary to allow the Commission to address, among other issues, the relationship between the WRAM and sales forecasting.

<sup>20</sup> A.22-07-001, Special Request no. 14 (seeking continuation of 15% cap on WRAM balance amortization).

<sup>21</sup> Motion at 3.

Cal Am's request to implement or continue the WRAM in approximately six weeks, during which time Cal Am also intends to serve rebuttal testimony. Granting Cal Am's Motion would impose an unreasonable burden on Cal Advocates, other Commission staff, and other parties to this proceeding if a second round of review, discovery, and testimony preparation must be performed on such an abbreviated schedule. This timing issue is not curable. A schedule of adequate length to permit due consideration of Cal Am's request would create delay in ratesetting that would be harmful and unfair to ratepayers.

In conclusion, the reality of proposing a full-decoupling WRAM/MCBA, even if the proposal is to continue the WRAM/MCBA already in place, is much more complex than Cal Am's Motion acknowledges. The burden imposed on Commission resources and the parties—and the potential harm and uncertainty imposed on ratepayers due to a drawn-out proceeding—outweigh Cal Am's interest in premature implementation of SB 1469.

## **VI. CONCLUSION**

Cal Am's request for a procedural schedule enabling it to prematurely seek continuation of its full decoupling WRAM/MCBA is improper and contrary to law. Creation of a second phase to consider continuation of WRAM/MCBA would require consideration of the many problematic issues raised by the WRAM/MCBA. The resulting

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complexity would impose an unreasonable burden on parties, Commission resources, and ratepayers. Therefore, Cal Advocates respectfully requests that the Commission deny Cal Am's motion with prejudice.

Respectfully submitted,

/s/ Emily Fisher

EMILY FISHER

Attorney

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October 25, 2022

# EXHIBIT B



## Proceeding Detail

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# A2107002 - Proceeding

**Filed By:** California Water Service Company

**Service Lists:** [Service List 1](#)

**Industry:** Water

**Filing Date:** July 1, 2021

**Category:** Ratesetting

**Current Status:** ACTIVE

**Description:** In the Matter of the Application of CALIFORNIA WATER SERVICE COMPANY (U60W), a California corporation, for an order (1) authorizing it to increase rates for water service by \$80,484,801 or 11.1% in test year 2023, (2) authorizing it to increase rates on January 1, 2024 by \$43,582,644 or 5.4%, and ((3) authorizing it to increase rates on January 1, 2025 by \$43,197,258 or 5.1% in accordance with the Rate Case Plan, and (4) adopting other related rulings and relief necessary to implement the Commission's ratemaking policies. [New proceeding caption effective 1/12/22, authorized by ALJ Ferguson, via his 1/12/22 email ruling. pcg - 1/26/22]

**Staff:** ALJ: Charles Ferguson (Assigned Jul 16, 2021)  
ALJ: Kimberly Kim (Assigned Jun 7, 2022)  
COMMISSIONER: Darcie L. Houck (Assigned Jul 16, 2021)

# EXHIBIT C





## Proceeding Detail

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# A2207001 - Proceeding

**Filed By:** California-American Water Company

**Service Lists:** [Service List 1](#)

**Industry:** Water

**Filing Date:** July 1, 2022

**Category:** Ratesetting

**Current Status:** ACTIVE

**Description:** Application of California-American Water Company (U210W) for Authorization to Increase its Revenues for Water Service by \$55,771,300 or 18.71% in the year 2024, by \$19,565,300 or 5.50% in the year 2025, and by \$19,892,400 or 5.30% in the year 2026.

**Staff:** ALJ: Jacob Rambo (Assigned Aug 5, 2022)  
COMMISSIONER: Genevieve Shiroma (Assigned Aug 5, 2022)

# EXHIBIT D



## Proceeding Detail

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# A2107004 - Proceeding

**Filed By:** LIBERTY UTILITIES (PARK WATER) CORP.

**Service Lists:** [No Service Lists](#)

**Industry:** Water

**Filing Date:** July 2, 2021

**Category:** Ratesetting

**Current Status:** ACTIVE

**Description:** Application of Liberty Utilities (Park Water) Corp. (U314W) for Authority to Increase Rates Charged for Water Service by \$5,475,273 or 15.10% in 2022, \$1,820,970 or 4.35% in 2023, and \$1,752,224 or 4.00% in 2024.

CONSOLIDATION ALERT: A.21-07-003 and A.21-07-004 are CONSOLIDATED pursuant to ALJ Ruling issued by ALJ Park on September 1, 2021 [September 1, 2021, jdr]

**Staff:** ALJ: Sophia Park (Assigned Aug 3, 2021)  
COMMISSIONER: Darcie L. Houck (Assigned Jun 17, 2022)

# EXHIBIT E



## Proceeding Detail

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# A2107003 - Proceeding

**Filed By:** LIBERTY UTILITIES (APPLE VALLEY RANCHOS WATER) CORP.

**Service Lists:** [Service List 1](#)

**Industry:** Water

**Filing Date:** July 2, 2021

**Category:** Ratesetting

**Current Status:** ACTIVE

**Description:** Application of Liberty Utilities (Apple Valley Ranchos Water) Corp. (U346W) for Authority to Increase Rates Charged for Water Service by \$2,862,903 or 11.11% in 2022, \$2,068,273 or 7.18% in 2023, and \$2,280,637 or 7.35% in 2024.

CONSOLIDATION ALERT: A.21-07-003 and A.21-07-004 are CONSOLIDATED pursuant to ALJ Ruling issued by ALJ Park on September 1, 2021 [September 1, 2021, jdr]

**Staff:** ALJ: Katherine MacDonald (Assigned Apr 1, 2022)  
ALJ: Sophia Park (Assigned Aug 3, 2021)  
COMMISSIONER: Darcie L. Houck (Assigned Jun 17, 2022)

# EXHIBIT F

SENATE THIRD READING  
SB 1469 (Bradford and Becker)  
As Amended June 6, 2022  
Majority vote

## SUMMARY

Authorizes the California Public Utilities Commission (CPUC), upon application by a water corporation, to consider and allow implementation of a mechanism that separates the water corporation's revenues and its water sales, commonly known as "decoupling."

## Major Provisions

## COMMENTS

The CPUC regulates the rates and service of water corporations that provide water service to about 16% of California's residents. Approximately 95% of those residents – or nearly 1.2 million people – are served by nine large water corporations.

In 2008, the CPUC instituted a pilot program by which the state's largest water corporations could decouple charges for water use from other charges the corporations collected from their respective ratepayers. The goals of the decoupling program, as described by the CPUC, were "to sever the relationship between sales and revenue to remove any disincentive for the utility to implement conservation rates and programs; ensure cost savings are passed on to ratepayers; and reduce overall water consumption." In 2020, the CPUC chose to end the decoupling mechanisms, noting no party "presented evidence or arguments that persuade us that the pilot WRAM/MCBA [decoupling] mechanism provides discernable benefits that merit its continuation."

This bill would require the CPUC to consider authorizing a water corporation to use decoupling mechanisms, upon the corporation's request. The CPUC objects to this requirement as "legislative ratemaking."

### According to the Author

According to the author, "SB 1469 is seeking to establish for water corporations a long-held practice of ratemaking that has been used to encourage conservation. Decoupling has been in place for energy utilities since the 1980s and the Legislature made the program permanent in 2001 as part of the policies and practices established after the 2000 energy crisis. Decoupling was identified as a best practice for water utilities since 2005 as part of the CPUC's Water Action Plan and reaffirmed in its 2010 update. When utilizing rate decoupling, water conservation efforts resulted in real reductions in operating costs, resulting in *lower monthly bills for customers*. In fact, from 2008 – 2018, decoupled suppliers and their customers reduced water use by *13% more than* non-decoupled suppliers. Utility rate decoupling works - LADWP, the largest municipal utility in the United States, serving four million residents and businesses implemented decoupling for its water utility in 2016 (Ordinance 184130). SB 1469 reinstates rate decoupling to ensure that both cost savings and conservation benefits continue to be available for customers throughout California."

**Arguments in Support**

A broad coalition of water corporations, labor, local chambers of commerce, water conservation organizations, local governments, and environmental organizations support this measure. The proponents argue that decoupling of sales and revenue supports conservation efforts, especially critical as the state continues to experience drought. Many of the water utilities supporting this bill disagree with the CPUC decision to eliminate full decoupling, arguing that decoupling provides stability despite changes in water use and ensures that water suppliers only receive the funds they need to safely operate and upgrade the water system.

**Arguments in Opposition**

Those opposed to this bill are consumer groups that include California Coastkeeper Alliance, Public Water Now, and the Public Advocates Office (oppose unless amended) who argue that the decision to decouple water utility rates is best left to the CPUC, who already determined that full decoupling should be discontinued. They note that the issues in determining just and reasonable rates for customers are complex and involve multiple variables, particularly as it relates to encouraging conservation. They express concerns that the surcharges imposed by full decoupling lack transparency, create customer complaints, and can saddle customers with costs for extended periods. Moreover, they note that conservation can occur under alternative mechanisms which are still permitted by the CPUC.

**FISCAL COMMENTS**

According to the Assembly Appropriations Committee, the CPUC estimates approximately \$1.3 million in ongoing funding is needed to implement this bill, with an additional \$234,000 every year for three years. According to the CPUC, these funds would be needed to consider as many as 91 new complex proceedings that the CPUC anticipates would be filed in response to this bill.

**VOTES****SENATE FLOOR: 36-0-4**

**YES:** Allen, Bates, Becker, Borgeas, Bradford, Cortese, Dahle, Dodd, Durazo, Eggman, Glazer, Gonzalez, Grove, Hueso, Hurtado, Jones, Kamlager, Laird, Leyva, Limón, McGuire, Melendez, Min, Newman, Nielsen, Ochoa Bogh, Pan, Portantino, Roth, Rubio, Skinner, Stern, Umberg, Wieckowski, Wiener, Wilk

**ABS, ABST OR NV:** Archuleta, Atkins, Caballero, Hertzberg

**ASM UTILITIES AND ENERGY: 14-0-1**

**YES:** Eduardo Garcia, Patterson, Bauer-Kahan, Carrillo, Chen, Mike Fong, Cristina Garcia, Holden, Mayes, Muratsuchi, Quirk, Reyes, Santiago, Ting

**ABS, ABST OR NV:** Cunningham

**ASM APPROPRIATIONS: 16-0-0**

**YES:** Holden, Bigelow, Bryan, Calderon, Arambula, Megan Dahle, Davies, Mike Fong, Fong, Gabriel, Eduardo Garcia, Levine, Quirk, Robert Rivas, Akilah Weber, McCarty



**UPDATED**

VERSION: June 6, 2022

CONSULTANT: Laura Shybut / U. & E. / (916) 319-2083

FN: 0003447

## 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 November 9, 2022, I served a true and correct electronic copy of the above Petitioners' Motion to Take Judicial Notice on all parties by electronically filing and serving the documents via True Filing and/or email:

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Willis Hon  
Martin Mattes  
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*Counsel for California Public Utilities Commission*

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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.

Executed on November 9, 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  
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COMMISSION**

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11/9/2022

Date

/s/John Ellis

Signature

Ellis, John (269221)

Last Name, First Name (PNum)

Sheppard Mullin Richter & Hampton

Law Firm