



## DRA

Division of Ratepayer Advocates  
California Public Utilities Commission

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October 5, 2010

Rami Kahlon,  
Director, Division of Water and Audits  
505 Van Ness Avenue, 3<sup>rd</sup> Floor  
San Francisco, CA 94102

Dear Mr. Kahlon,

DRA submits this reply to the September 20, 2010 response of California American Water Company (“Cal Am”), Golden State Water Company (“GSWC”), California Water Service Company (“CWSC”), and San Jose Water Company (“SJWC”), (collectively Water IOUs) regarding DRA’s protests to Cal Am Advice Letter (“AL”) 853, CWSC AL 1997, GSWC AL 1409-W, and SJWC AL 418 (Water IOUs’ Response).<sup>1</sup>

In the response on their behalf, the Water IOUs claim:

- (1) “The Water Utilities have no preference as to whether the Commission allows them to track the HTG Project costs in the Operational Energy Efficiency Memorandum Accounts, any other existing memorandum accounts, or by creating new memorandum accounts dedicated to the HTG Projects. The water utilities simply ask the Commission to permit them to track the RD&D costs through *some* memorandum account.....”<sup>2</sup> (italics in original).
- (2) “...the HTG Project that SJWC proposes is *entirely different* than the project proposed in the 2009 General Rate Case (“GRC”) application from which D.09-11-032 stems.”<sup>3</sup> (italics added).
- (3) “There really should be no question that the advice letter process is the appropriate mechanism for seeking approval of the HTG Projects because, as stated, they are relatively small RD&D projects that *should not be controversial and do not raise important policy questions.*”<sup>4</sup>(italics added).

DRA reiterates its recommendation that the Commission reject Cal Am Advice Letter 853, CWSC AL 1997, GSWC AL 1409-W, and SJWC AL 418, as the water IOUs ignore the purposes

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<sup>1</sup> General Order 96-B Section, 7.4.3 does not normally permit protestants to reply to a utility’s response to an advice letter protest, but DWA staff Raj Naidu requested DRA’s reply by e-mail on September 21,2010 in order to augment the record and subsequently confirmed that timely submitted replies would be considered part of the record.

<sup>2</sup>Water IOUs response, p. 3.

<sup>3</sup> Id.

<sup>4</sup> Id., p. 7.

of existing memorandum accounts, the criteria for establishing new memorandum accounts, the purposes of the advice letter process in addressing only non-controversial issues, and the Commission's own guidance in D.09-11-032 to SJWC (and therefore all the water IOUs) in allowing only hydro turbine generator (HTG) projects that directly benefit ratepayers to be approved. The establishment of a new memorandum account for HTG projects as the water IOUs are newly proposing would be more appropriately handled in a general rate case, or separate application, allowing establishment of an evidentiary record to handle these disputes regarding Commission policy and fact, as DRA outlines in this reply and its original protest.

### **Background**

The water IOUs now state in their Response to DRA's protest:<sup>5</sup>

“The Water Utilities have no preference as to whether the Commission allows them to track the HTG Project costs in the Operational Energy Efficiency Memorandum Accounts, any other existing memorandum accounts, or by creating new memorandum accounts dedicated to the HTG Projects. The water utilities simply ask the Commission to permit them to track the RD&D costs through *some* memorandum account.....” (italics in original).

Despite the water IOUs' professed indifference to the memorandum accounts used to record HTG expenses, they fail to mention which existing memorandum account the HTG project costs should be tracked in, other than the OEEP memorandum accounts which they had originally identified for tracking the HTG project costs. The use of the OEEP memorandum accounts would be problematic as explained in detail in DRA's and the Energy Utilities' original protests.

The use of some other already existing memorandum account is similarly problematic, as the Water IOUs seek to record the costs of the unproven and questionable HTG projects in accounts established for some other beneficial purpose (as is the case with all currently existing memorandum accounts). Alternatively, the water IOUs seek authority to establish a new memorandum account, ignoring long-established Commission precedent in this regard. The factors to be considered when establishing a new memorandum account were identified first in Resolution No. W-4276 and are useful in considering the Water IOUs' amended proposal.<sup>6</sup> In that resolution, the Commission described that memorandum accounts are appropriate when the following conditions exist:<sup>7</sup>

The expense cannot have been reasonably foreseen in the utility's last GRC and will occur before the utility's next scheduled rate case;

The expense is of a substantial nature in the amount of money involved; and

The ratepayers will benefit by the memorandum account treatment.” (emphasis added).

Due to the uncertain and unproven nature of the HTG Research, Development and Demonstration (RD&D) projects, it is clear that there is a distinct possibility that ratepayers will not benefit from establishing a new memorandum account, and may in fact be harmed. Furthermore, the lack of an

<sup>5</sup> Water IOUs' response, p.3.

<sup>6</sup> See also D.02-08-054 , D.04-06-018 and D.10-04-031.

<sup>7</sup> Resolution W-4276 regarding establishment of memorandum accounts, p.3.

evidentiary record regarding this newly minted proposal by the water IOUs only hampers the Commission's ability to establish such benefit or harm with any degree of certainty.

Further, the water IOUs state:

“...the HTG Project that SJWC proposes is *entirely different* than the project proposed in the 2009 General Rate Case (“GRC”) application from which D.09-11-032 stems.”<sup>8</sup>(italics added).

DRA acknowledges that the Hostetter project that SJWC is now proposing may differ in some respects from the Hostetter project that SJWC proposed in its 2009 GRC, but it is not established to be “entirely different” from the earlier project. The Hostetter project proposed by SJWC in 2009 and the current Hostetter project are similar in one important respect, as the Commission stated in Finding of Fact 15 in D.09-11-032:<sup>9</sup>

“Neither the Alum Rock hydro-turbine project nor the Hostetter hydro-turbine project has wells or pumps at their locations.”

The Commission discussed the implications of this fact, and reminded SJWC of its reason for existence in D.09-11-032 stating further that:<sup>10</sup>

“SJWC is in the business of providing quality and reliable water service to its ratepayers and not in the business producing and marketing power. Therefore, hydro-turbine projects that directly benefit SJWC and its ratepayers in providing quality and reliable water service while reducing its purchased power consumption should be given priority over hydro-turbine projects that do not.”

The Commission should not now ignore the fact that even the new Hostetter projects proposed by SJWC do not directly benefit SJWC's “ratepayers in providing quality and reliable water service while reducing its purchased power consumption.” since neither the old nor the new Hostetter projects have wells or pumps at their location.

Finally, the water IOUs state:

“There really should be no question that the advice letter process is the appropriate mechanism for seeking approval of the HTG Projects because, as stated, they are relatively small RD&D projects that *should not be controversial and do not raise important policy questions.*”<sup>11</sup>(italics added).

As is evident from the number of protests, as well as the issues outlined by DRA above and in its original protest, these HTG projects are indeed controversial, not only procedurally with respect to the memorandum account and the requested disposition via advice letter treatment but also with respect to facts at issue, with regard to the OEEP memorandum account or similarity with

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<sup>8</sup> Id.

<sup>9</sup> D.09-11-032, p. 50.

<sup>10</sup> D.09-11-032, p. 2.

<sup>11</sup> Id., p. 7.

previously proposed projects (such as the Hostetter project) rejected by the Commission. As such, the Advice Letter process is inadequate to address these controversies and inappropriate for these projects. The Commission should reject the Water IOUs' advice letters.

**Recommendation**

The Commission should not be swayed by the water IOUs' proposal to record HTG expenses in an existing unrelated memorandum account, thereby ignoring the purposes of those memorandum accounts, or to ignore the criteria for establishing new memorandum accounts. Granting the Water IOUs' request would disregard the purposes of the advice letter process in addressing only non-controversial issues, and the Commission's own guidance in D.09-11-032 to SJWC in allowing only HTG projects that directly benefit ratepayers to be approved. The establishment of a new memorandum account for HTG projects as the water IOUs propose would be more appropriately handled in a general rate case or separate application.

For these reasons, as well as the reasons mentioned in DRA's original protests, DRA reiterates its protest of Cal Am Advice Letter 853, CWSC AL 1997, GSWC AL 1409-W, and SJWC AL 418 and recommends that the Commission reject these advice letters.

The Commission should direct the water IOUs to file separate applications jointly with the Energy IOUs with full details for the evidentiary record on precisely how ratepayers will directly benefit by the establishment of any memorandum accounts for tracking the costs of these unproven HTG projects, with uncertain benefits and cost-effectiveness.

Should you have any questions regarding this, please contact Nihar Shah at (415) 703-5251 or [nks@cpuc.ca.gov](mailto:nks@cpuc.ca.gov).

Sincerely,



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Service List for A.09-01-009  
Service List for A.07-01-024  
Service List for R.09-11-014

