

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

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 \$140,558,101 or 17.1% in test year 2026, (2) authorizing it to increase rates on January 1, 2027 by \$74,162,564 or 7.7%, (3) authorizing it to increase rates on January 1, 2028 by \$83,574,190 or 8.1% in accordance with the Rate Case Plan, and (4) adopting other related rulings and relief necessary to implement the Commissions ratemaking policies.

Application 24-07-003

PROTEST OF THE PUBLIC ADVOCATES OFFICE

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I. INTRODUCTION

Pursuant to Rule 2.6 of the California Public Utilities Commission's (Commission) Rules of Practice and Procedure (Rules), the Public Advocates Office at the California Public Utilities Commission (Cal Advocates) submits this protest to California Water Service Company's (Cal Water) Application (A.) 24-07-003 (Application) filed on July 8, 2024.¹

Despite Cal Water's past statements recognizing the need for capital expenditure to timely comply with the U.S. Environmental Protection Agency's (U.S. EPA) new Polyfluoroalkyl Substances (PFAS) Minimum Contaminant Levels (MCLs) regulations, the Application contains no estimated capital expenditure budget for a PFAS treatment program. Cal Water's failure to address this imminent water quality issue in the present Application raises serious health and safety concerns. As further discussed in the next section, the Commission should include the issue of estimated capital budget(s) for PFAS mitigation in the scope of this proceeding, and direct Cal Water to amend its proposed capital budget forecast to include PFAS mitigation.

II. ISSUES

Cal Advocates is currently reviewing and conducting discovery on Cal Water's Application and supporting materials. This protest provides a non-exhaustive identification of issues for the Commission to consider in this proceeding. Cal Advocates anticipates that some issues may be resolved, and others may arise, as discovery proceeds. Cal Advocates will raise any additional issues for consideration promptly after their identification.

Cal Advocates has identified several issues, below, that it intends to review further and address during this proceeding.

A. Omission of PFAS Treatment Program Budget

In September 2023, Cal Water filed A.23-09-002, requesting expansion of an

¹ Cal Water's Application first appeared on the Commission's Daily Calendar on July 9, 2024, so this protest is timely filed under Rule 2.6(a).

existing PFAS-related memorandum account to allow tracking of capital costs, along with expedited cost recovery, for the treatment of PFAS-contaminated water in compliance with the US EPA’s National Primary Drinking Water Regulation (NPDWR).² The NPDWR establishes maximum contaminant levels (MCL) for six PFAS compounds.³ Cal Advocates moved to dismiss the application on the basis that Cal Water would be filing its proposed General Rate Case (GRC) application in less than five months.⁴ Further, Cal Advocates argued that the final NPDWR had not yet been adopted,⁵ making it difficult for the Commission to review the reasonableness of any proposed PFAS capital budget.⁶

To provide transparency on the comprehensive rate changes over this period and to ensure that Cal Water prioritizes its capital spending within a single budget, Cal Advocates recommended that Cal Water present the proposed PFAS projects in its upcoming GRC (the present Application).⁷ The Commission granted Cal Advocates’ motion to dismiss,⁸ noting that “Cal Water is already required to file detailed information about prospective capital costs associated with its State and Federal PFAS compliance projects in its 2024 GRC due in July 2024.”⁹ The final decision, however, directed Cal Water to seek approval of forecasted PFAS capital projects and costs either in its Test Year 2025 GRC or in a separate application.¹⁰

² *Application of California Water Service Company to Modify the Scope of its PFAS Memorandum Account to Include Capital Costs and Provide for Periodic Rate Base Adjustments* (A.23-09-002), filed September 5, 2023, at 1 and 3.

³ A.23-09-002 at 3.

⁴ *January 12, 2024 – Prehearing Conference (Telephonic) – Volume 1* (PHC Transcript), at 15:2-6.

⁵ PHC Transcript at 13:23-14:10. The final NPDWR was published April 26, 2024 with an effective date of June 25, 2024.

⁶ PHC Transcript at 13:23-14:10; Decision (D.)24-04-012, at 2.

⁷ PHC Transcript at 15:2-6.

⁸ D.24-04-012 at 1.

⁹ D.24-04-012 at 6.

¹⁰ D.24-04-012 at 8 and Conclusion of Law 4 at 10.

The U.S. EPA adopted a final NPDWR on April 26, 2024, shortly after the Commission dismissed Cal Water’s initial PFAS application. Despite the issuance of the final NPDWR and the Commission’s statement that Cal Water is “already required” to file capital costs associated with PFAS compliance projects in this GRC application,¹¹ Cal Water excluded PFAS treatment from its Test Year 2025 GRC Application’s estimated capital expenditure budget, stating that it would submit a separate application at some unspecified time in the future.¹²

In reviewing Cal Water’s May, 2024 proposed Application, Cal Advocates determined that the lack of a PFAS capital budget was a material deficiency under the Rate Case Plan Minimum Data Requirements (MDRs) for Class A water utilities’ general rate cases.¹³ Cal Water appealed Cal Advocates’ finding of deficiency to the Commission’s Executive Director, Rachel Petersen, who granted the appeal on July 3, 2024 and authorized Cal Water to proceed with filing the present Application.¹⁴ Director Petersen further instructed Cal Water to file an application for approval of forecasted PFAS compliance costs by December 2, 2024.¹⁵ Given that this deadline is less than four months from the date of this protest, the Commission should include PFAS compliance in the scope of this proceeding to promote transparency on rate changes that will occur in the current GRC cycle (2026 to 2029) and to promote efficient use of the Commission’s resources.

¹¹ D.24-04-12 at 6.

¹² In the Executive Director Response to Appeal Letter (issued July 3, 2024) at 1, Director Petersen ordered Cal Water to file an application for approval of forecasted PFAS compliance costs by December 2, 2024.

¹³ MDR II.G.10: “Recommend additional water quality requirements, tests, conditions, protocols, etc. that may be needed in the future to assure water quality and safety, including costs and enforcement.” D.07-05-062, Appendix A, at A-30. When there are material deficiencies, Cal Advocates does not instruct the Commission’s Docket Office to accept the utility’s GRC application filing, requiring the utility either to cure the deficiency or appeal the finding to the Commission’s Executive Director.

¹⁴ California Water Service Company General Rate Case Application – Appeal of Deficiency (Appeal Letter) (June 28, 2024) at 2; Executive Director Response to Appeal Letter at 1.

¹⁵ Executive Director Response to Appeal Letter at 1.

Following the Commission’s dismissal of A.23-09-002 and before Cal Water filed the present Application, Cal Water repeatedly stressed the urgent need for capital investment in PFAS treatment. Cal Water’s comments on the proposed decision that dismissed A.23-09-002 accused the Commission of “kicking the can down the road” on PFAS treatment.¹⁶ Cal Water’s April 18, 2024 press release, affirmed its “commitment to investing an estimated \$215 million in PFAS treatment and to working as quickly as possible to complete planned projects.”¹⁷ During the California Water Service Group’s First Quarter 2024 Earnings Call on April 25, 2024, Chief Executive Officer Marty Kropelnicki criticized the Commission’s dismissal of A.23-09-002 as “short-sightedness” due to the urgent need to “get this PFAS treatment in the ground.”¹⁸ Mr. Kropelnicki also emphasized that PFAS treatment would be put in place for “approximately 100 wells in all the states that we operate in.”¹⁹ Mr. Kropelnicki also stated that Cal Water plans to spend between \$12 million and \$20 million in 2024 on PFAS treatment.²⁰ Mr. Kropelnicki further noted health and safety concerns, stating that PFAS capital investment is about “making sure the water’s safe for customers and implementing that capital as quickly as possible,”²¹ a point Cal Water stressed both in A.23-09-002 and in its comments on the proposed decision that dismissed A.23-09-002.²²

¹⁶ A.23-09-002, *California Water Service Company’s Opening Comments on Proposed Decision Dismissing Application* (April 4, 2024), at 3 and 6.

¹⁷ California Water Service Group Press Release, April 18, 2024, available at <https://www.calwatergroup.com/news-media/press-releases/detail/603/california-water-service-group-moving-forward-to-install> (emphasis added).

¹⁸ Transcript, *California Water Service Group First Quarter 2024 Earnings Call* (April 25, 2024), pdf p. 7.

¹⁹ Transcript, *California Water Service Group First Quarter 2024 Earnings Call* (April 25, 2024), pdf p. 7.

²⁰ Transcript, *California Water Service Group First Quarter 2024 Earnings Call* (April 25, 2024), pdf p. 7.

²¹ Transcript, *California Water Service Group First Quarter 2024 Earnings Call* (April 25, 2024), pdf p. 17.

²² A.23-09-002, *California Water Service Company’s Opening Comments on Proposed Decision Dismissing Application* (April 4, 2024), at 3 and 6; A.23-09-002 at 6-7.

Based on Cal Water’s repeated public statements of its commitment to customer safety and expedited mitigation of PFAS, the fact that the U.S. EPA finalized PFAS MCL regulations in April, and the existing requirement that Cal Water file a request for a capital PFAS budget no later than four months from now, it is reasonable that the Commission require Cal Water to include PFAS capital cost estimates in the present GRC. Therefore, to provide rate transparency, protect the health and safety of its customers, and promote efficient use of Commission resources, Cal Water should include its known and anticipated PFAS treatment cost estimates in the instant GRC.

B. General Issues

1. Whether Cal Water should be required to include its known and anticipated PFAS treatment cost estimates in this GRC Application;
2. Whether Cal Water’s proposed rate increases for the Test and Escalation Years are just and reasonable;
3. Whether Cal Water’s estimates of its operation and maintenance, and administrative and general expenses are reasonable;
4. Whether Cal Water’s proposed additions to plant and cost adders are just, reasonable, and correctly apply the “used and useful” doctrine;
5. Whether Cal Water’s proposed revenue requirement is just and reasonable;
6. Whether Cal Water’s proposed rate designs are just and reasonable;
7. Whether Cal Water has complied with prior Commission orders, including those in the decision that resolved Cal Water’s last GRC, D.20-12-007;
8. Whether Cal Water’s proposal for the Low Use Water Equity Program (LUWEP) is just and reasonable;
9. Whether Cal Water’s Water Rights Leases comply with prior Commission orders;
10. Whether Cal Water is in compliance with California’s regulatory requirements for the provision of safe and reliable water service, including adequate Emergency Preparedness Plans, the Low Income Rate Assistance (LIRA) program, and any other conservation, accessibility, and water equity safeguards;
11. Whether Special Requests 1 through 15 are reasonable;

12. Whether Cal Water's Special Request 8 seeking to amortize the balances in specific authorized memorandum and balancing accounts (but not others) within 90 days of a final decision is reasonable;
13. Whether Cal Water's Application supports the goals and objectives of the Commission's Environmental and Social Justice Action Plan; and
14. Whether Cal Water's proposed alternative ratemaking mechanisms including its proposed Safe Infrastructure Balancing Account (SIBA), Supply Cost Balancing Account (SCBA), and other various balancing and memorandum accounts are reasonable and in the public interest.

III. CATEGORIZATION AND NEED FOR HEARINGS

Cal Advocates agrees that this proceeding should be categorized as ratesetting, and that evidentiary hearings may be necessary.

IV. EX PARTE COMMUNICATIONS

Cal Advocates requests that the Commission exercise its authority in this proceeding to prohibit individual ex parte communications.²³ In lieu of individual ex parte communications in this proceeding, the Commission should allow only all-party meetings. Limiting the parties' communications with decision makers to all-party meetings, rather than a series of individual meetings with decision makers, will enhance both efficiency and transparency in this proceeding and will support the issuance of decisions in this proceeding that are based solely on the evidentiary record.

V. SCHEDULE

The following is Cal Advocates' proposed schedule, which preserves the cadence of Cal Water's proposed schedule (A.24-07-003, Attachment A). Cal Advocates proposes public participation hearings and preserves the remainder of the 20-month schedule specified in the Rate Case Plan, D.07-05-062 (Appendix A, page A-5). Deviation from committed dates for discovery responses may, however, necessitate a commensurate amount of additional time for submission of any testimony affected by the delayed document submissions.

²³ Rule 8.2(d).

Proposed GRC Schedule	Cal Advocates	Cal Water
Application	July 8, 2024	July 8, 2024
Prehearing Conference	August 2024	July 18, 2024
Public Participation Hearings start	September 2024	September 2024
100-day Update of Application (optional)	October 16, 2024	October 18, 2024
Public Participation Hearings end	TBD	November 2024
Cal Advocates Testimony	January 28, 2025	January 21, 2025
Other Parties Testimony (if any)	February 11, 2025	February 4, 2025
Rebuttal Testimony	March 28, 2025	March 24, 2025
Settlement Discussion begins	April 7, 2025	March 28, 2025
ADR Session	April 8, 2025	March 28, 2025
Evidentiary Hearings start	April 29, 2025	April 18, 2025
Evidentiary Hearings end	TBD	TBD
Deadline to Request Oral Argument	June 10, 2025	--
Opening Briefs	June 13, 2025	June 6, 2025
Motion for Interim Rates	June 13, 2025	June 6, 2025
Mandatory Status Conference	June 14, 2025	June 6, 2025
Reply Briefs	June 23, 2025	June 16, 2025
Technical Conference (with Water Division)	July 14, 2025	July 7, 2025
Proposed Decision	October 2025	October 6, 2025
Comments on Proposed Decision	Within 20 days of Proposed Decision	October 24, 2025
Reply Comments	Five days after Comments filed	October 31, 2025
Final Decision	--	--

VI. CONCLUSION

Cal Advocates respectfully requests that the Commission require Cal Water to modify its Application to include PFAS treatment costs within its revenue request. If the

Commission does not require Cal Water to modify its Application, the Commission should consolidate Cal Water's future application for PFAS capital projects and costs, which must be filed by December 2, 2024, with this proceeding. The Commission should also incorporate the issues identified in this protest in the scoping memo for this proceeding. Finally, the Commission should adopt Cal Advocates' proposed schedule, which includes adequate time for discovery, analysis, preparation of testimony, preparation for evidentiary hearings, and briefings.

Respectfully submitted,

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