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BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

In the Matter of the Application of Apple Valley Ranchos Water Company (U 346 W) for Authority to Increase Rates Charged for Water Service by $3,127,463 or 14.88% in 2015, $2,056,455 or 8.48% in 2016, and $2,160,731 or 8.19% in 2017.	)	APPLICATION NO. 14-01-002

APPLE VALLEY RANCHOS WATER COMPANY'S REPLY TO THE COMMENTS OF THE TOWN OF APPLE VALLEY AND THE OFFICE OF RATEPAYER ADVOCATES TO THE PROPOSED DECISION OF ALJ S. PAT TSEN

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November 10, 2015

BEFORE THE PUBLIC UTILITIES COMMISSION
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In the Matter of the Application of Apple Valley Ranchos Water Company (U 346 W) for Authority to Increase Rates Charged for Water Service by $3,127,463 or 14.88% in 2015, $2,056,455 or 8.48% in 2016, and $2,160,731 or 8.19% in 2017.	)	APPLICATION NO. 14-01-002

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I. INTRODUCTION

Pursuant to Rule 14.3 of the Commission's Rules of Practice and Procedure, Apple Valley Ranchos Water Company ("AVR") respectfully submits this reply to the Comments of the Town of Apple Valley (the "Town") and the Office of Ratepayer Advocates ("ORA") to the Proposed Decision ("PD") of Administrative Law Judge ("ALJ") S. Pat Tsen.

II. REPLY COMMENTS

A. The Town's Assertions Are Unfounded And Should Be Rejected.

The Town makes two basic arguments, neither of which has any merit. The Town first argues against approval of the amended settlement of AVR's main replacement program set forth in the Final Amended Settlement Agreement ("Final Settlement Agreement"). In support, the Town merely repeats its unsupported assertion that AVR has over-invested in main replacements and that AVR's main replacements should be curtailed to limit rate increases.[1] As detailed in the Final Settlement Agreement, however, the revised settlement of AVR's main replacement program is fully supported by the record, including a detailed asset management study.[2] In contrast, the Town fails to cite to any portion of the record to support its bald assertion that AVR has grossly over-investment in mains. The Town's additional argument – that the authorized amount for main replacements noted in the original PD in this proceeding is supported by the

[1]/ *See, e.g.,* Town's Comments to PD, November 5, 2015, at 1; Town's Comments to Amendment to Settlement Agreement, June 24, 2015, at 3-4; Tr. 341:27-342:25 (May 13, 2015).

[2]/ Final Settlement Agreement, at 60-65.

record – is also wrong. As noted in the Final Settlement Agreement, the original PD in this proceeding (with respect to the main replacement program) was based, in part, on an erroneous statement in ORA's Report (Ex. O-1).[3]

The Town next argues that the Commission improperly failed to take into account the "ramifications" associated with a pending condemnation proceedings involving AVR's affiliate, Mountain Water Company ("Mountain"). First, as ALJ Tsen ruled during the hearings in this proceeding, the Town and ORA failed to "make a credible argument as to how [a potential sale of Mountain] affects [AVR's] general rate case in this cycle."[4] Second, as there is no evidence in the record in this proceeding regarding any condemnation proceeding regarding Mountain, there is no evidence for the Commission to consider.[5] Finally, AVR notes that even if the Commission were to consider the Preliminary Condemnation Order, that order has been appealed to the Montana Supreme Court.[6]

For the foregoing reasons, the Town's comments to the PD should be rejected.

B. <u>ORA's Various Recommendations In Its Comments Should Be Rejected.</u>

A. <u>The Office Remodel Balancing Account Resolution Should Not Be Modified.</u>

The PD proposes to deny AVR's request to recover the costs tracked in AVR's Office Remodel Balancing Account, at this time, as AVR has not completed its construction/remodel of its office. (PD, at 27.) In its comments, ORA asks the Commission to go further by ordering AVR to remove any amounts tracked in the account and to close the account. ORA's arguments in support of this request are nothing more than a repetition of the same arguments made in ORA's Opening Brief.[7] After full consideration of ORA's arguments, the PD properly rejects ORA's request "because [AVR's] office reconfiguration has yet to be completed… [AVR] will be able to seek recovery of the balancing account when construction/remodel is completed for its office project." (PD, at 27-28.)

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[3]/ *See* Final Settlement Agreement, at 61-64.

[4]/ Tr., at 251:16-17 (June 16, 2014).

[5]/ The record in this proceeding has been closed and there has been no motion to reopen the record under Rule 13.14. Accordingly, AVR respectfully requests that the Commission not consider – and strike – Exhibit A attached to the Town's Comments (June 15, 2015 Preliminary Order of Condemnation, Missoula County Fourth Judicial District Court Case No. DV-14-352).

[6]/ *See* docket for *City of Missoula v. Mountain Water, et al.*, Case No. DA 15-3075 (https://supremecourtdocket.mt.gov/search/case?case=17901).

[7]/ *See* ORA Opening Brief, July 21, 2014 ("ORA Opening Brief"), at 12-14.

B. The PD's Resolution Of The Use Of Estimates For AVR's WRAM/MCBA Should Not Be Modified.

ORA's arguments against AVR's continuing use of estimates for WRAM/MCBA purposes are also a repeat of its arguments in its briefs.[8] As AVR has rebutted each of ORA's arguments in its briefs, AVR will not specifically address each of the erroneous contentions in ORA's Comments but notes that:[9] (1) AVR's accrual accounting complies with Generally Accepted Accounting Practice and the Commission's Uniform System of Accounts for Water Companies (Class A); and (2) AVR's methodology and procedure is the procedure in AVR's Commission-approved tariffs, which have been approved by the Commission's Division of Water and Audits, and is authorized by, and complies with, the Commission's decisions. AVR also notes that ORA's assertion that, "by allowing [AVR] to use estimates instead of actual variable costs, the proposed decision is effectively allowing [AVR] to recover the difference between two estimates" is wrong because it completely ignores the fact that AVR's methodology and procedures provide for the "true-up" of accruals such that the amounts recovered reflect actual costs.

In addition to repeating its arguments in its briefs, ORA also makes the speculative and unfounded assertion that, by allowing AVR to *continue* its current use of the accrual method for recording leased water rights expense in its MCBA, the Commission would be setting a precedent that would justify using estimates (in place of recorded amounts) for *all* balancing accounts and memorandum accounts. This is simply incorrect and has no support in the record. The PD's resolution of this issue is limited to the specific facts and circumstances in *this* proceeding. The PD's ruling has absolutely nothing to do with memorandums accounts and is specifically limited to AVR's proper accounting treatment of production costs in its Commission approved MCBA where actual cost information is not yet available due to the retroactive methodology and the timing of the water year used in the Mojave Basin. ORA's assertions ignore fundamental differences in the Commission's rules for recovery of balances recorded in balancing accounts and memorandum accounts. ORA's comments also ignore the fact that the Class A utilities regulated by this Commission use accrual accounting and therefore already have "estimates" recorded in their respective balancing accounts, to the extent necessitated by specific

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[8]/ ORA Opening Brief, at 14-18; ORA Reply Brief, August 4, 2014 ("ORA Reply Brief"), at 16-20.

[9]/ AVR Opening Brief, July 21, 2014 ("AVR Opening Brief"), at 16-27; AVR Reply Brief, August 4, 2014 ("AVR Reply Brief"), at 11-19.

circumstances. ORA's contentions are unfounded, fail to establish any legal error in the PD's resolution of this issue, and there is nothing in the record to support ORA's speculative conjecture that the PD's resolution of this issue would serve as a catalyst for the proliferation of the use of estimates in balancing accounts.

C. The PD's Approval Of AVR's Proposed Level Payment Plan Is Proper.

ORA's arguments against the PD's approval of the Level Payment Plan are again a repetition of the arguments in ORA's briefs – including the erroneous assertion that approval of the plan would violate Public Utilities Code § 451 – which have been addressed and refuted in AVR's Reply Brief.[10] In fact, the PD specifically addresses ORA's arguments regarding questions regarding costs for the plan: "[AVR] is not seeking any costs to implement the plan…[AVR] is not requesting to recover costs for to track costs associated with the pilot program." (PD, at 30.)

D. The PD's Approval Of The Inclusion Of Chemical Costs In The WRAM/MCBA Should Not Be Modified.

ORA incorrectly asserts that the PD commits legal error due to inconsistencies with D.08-02-036 and D.08-09-026. As ORA notes, the Commission authorized the WRAM/MCBA for Park Water Company ("Park") in D.08-02-036. While the Commission modeled AVR's MCBA (D.08-09-026) after the principles outlined in Park's MCBA, ORA fails to recognize the differences between the components tracked in the two balancing accounts. Notwithstanding the PD's inclusion of chemical expense in AVR's MCBA, the existing Park and AVR MCBAs track different production expenses. Unlike Park, AVR's MCBA does not contain purchased water but does include the added production expense of leased water rights expense, which is not included in Park's MCBA.

ORA further argues that the PD's treatment of chemical costs is inconsistent with D.03-06-072, a June 2003 decision on the procedures for the recovery of balancing accounts that predates the Commission's approval of the WRAM/MCBA for both Park and AVR. Conclusion of Law No. 3 of D.03-06-072 (page 26) states:

> 3. To qualify as an offsettable expense for account treatment, the Commission must have approved the expense for account tracking in a decision. A utility's advice letter requesting an offset rate increase should include a citation to the decision or other Commission document approving tracking of each type of expense requested, *except for*

[10]/ *See* ORA Opening Brief, at 18-20; ORA Reply Brief, at 21-22; AVR Reply Brief, at 19-22.

purchased power, purchased water, and pump tax expenses. (emphasis added.)

ORA's assertion that balancing account treatment is limited to the production expenses of purchased power, purchased water, and pump tax is incorrect. Clearly, the Commission envisioned that expenses other than purchased power, purchased water, and pump tax are offsettable and therefore eligible for the attendant balancing account treatment – as long as such expenses were authorized by the Commission. This is evidenced by the fact that, in D.05-12-020 (as modified by D 06-06-039), the Commission previously authorized AVR to "add leased water rights to its balancing-type memorandum account and … to offset leased water rights expense." (D06-06-039, at 19.) Here, the PD similarly authorizes chemical expense to be added to AVR's MCBA. As the PD's balancing account treatment of chemical expense is consistent with the procedures outlined in D.03-06-072, there is no legal error with the PD's resolution of this issue.

E. ORA's Technical Corrections To Table 1 Of The PD Are Incorrect.

In its Comments, ORA notes that Table 1 of the PD contains technical errors. ORA's proposed changes to the "Proposed Percentage Increase" and the "Adopted Percentage Increase," however, are incorrect. Although ORA's "Proposed Percentage Increase" and "Adopted Percentage Increase" numbers are based on total revenues, as discussed in AVR's Comments, these amounts should be based on operating revenues.[11]

III. CONCLUSION

For the foregoing reasons, AVR respectfully urges the Commission to reject the recommendations of ORA and the Town in their Comments to the PD in this proceeding.

Dated: November 10, 2015

Respectfully submitted,

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[11]/ *See* AVR's Comments, at 3-4, and Appendix A attached thereto.