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November 15, 2019

ADVICE LETTER NO. 1273

TO THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Pursuant to General Order 96-B, California-American Water Company (“California American Water”) (U210W) hereby submits for review this advice letter, including the following tariff sheets, which are attached hereto:

<u>C.P.U.C. Sheet No.</u>	<u>Title of Sheet</u>	<u>Canceling Sheet No.</u>
XXXX-W	Preliminary Statement (Summary Table) (continued)	9264-W
XXXX-W	Preliminary Statement (Continued)	NEW
XXXX-W	TABLE OF CONTENTS (Page 1)	9323-W

PURPOSE

By this advice letter, California American Water requests authority to establish a California Consumer Privacy Act Expense Memorandum Account (CCPAEMA) to track the incremental costs for complying with the consumer privacy laws and regulations required in Assembly Bill 375 (Chau), the California Consumer Privacy Act of 2018. These tariffs are submitted pursuant to General Order No. 96-B. In accordance with GO 96B – Water Industry Rule 7.3.2(5), this advice letter is designated as a Tier 2 Advice Letter with an effective date of December 15, 2019 (30 days from filing). This advice letter will have no impact on rates.

BACKGROUND

On June 28, 2018, Governor Brown signed Assembly Bill 375, now known as the California Consumer Privacy Act of 2018 (CCPA), which grants consumers new rights with respect to the collection of their personal information. The CCPA goes into effect on January 1, 2020, and broadly applies several criteria to determine if an organization would be subjected to complying with the act. California American Water is covered under the CCPA since its gross revenues exceed \$25 million.

The CCPA grants consumers broad rights to access and manage their personal information, including:

- To know what personal information is being collected about them;

- To know whether and to whom their personal information is sold/disclosed, and to opt-out of its sale;
- To access their personal information;
- To have a business delete their personal information; and,
- To not be discriminated against for exercising their rights under the CCPA.

Violations of CCPA carry the following significant non-compliance penalties:

- \$7,500 per violation under an Attorney General statutory action for intentional violations. This may mean \$2,500 per incident or per personal information record, pending forthcoming Attorney General published guidance on CCPA compliance.
- \$2,500 per violation under an Attorney General statutory action for uncured violations. This may mean \$2,500 per incident or per personal information record, pending forthcoming Attorney General published guidance on CCPA compliance.

Furthermore, beginning January 1, 2020, CCPA entitles California residents to an individual or class action, private right of action for breaches of unencrypted customer personal information subject to CCPA without the requirement of a claimant proving actual damages. Recovery amounts under such private right of action are potentially no less than \$100 or no more than \$750 per customer or per incident, or actual proven damages, whichever is greater. The potential costs of (inadvertent) non-compliance with CCPA pose significant financial risks to California American Water.

CCPA requirements are much more onerous than existing regulatory requirements imposed by other states. The requirements for complying with the CCPA will require California American Water and American Water Works Company, Inc. to make certain enhancements systemwide to protect data. For example the CCPA will require updates business policies, processes and systems, including:

- Update our website, as required by the law that address the consumer's right to know;
- Develop a change management plan, including training, aimed at ensuring employees are aware of and understand CCPA requirements and their specific responsibilities;
- Develop internal consumer privacy policies to ensure continued compliance;
- Evaluate, select, and purchase technology to identify, inventory, and provide information and data from California American Water's repository of electronic customer personal information to customers if requested as required by the CCPA;
- Develop, test, and execute processes and procedures to deliver information to customers in response to customer requests as required by the CCPA;
- Develop, test, and execute processes and purchase technology to delete, de-identify, or anonymize customer personal information in response to requests as required by the CCPA (i.e. in the case of former customers or other third parties who live in California);
- Develop internal policies and procedures to document, audit, and confirm CCPA compliance; and
- Integrate the CCPA requirements, where applicable, into our Cybersecurity Incidence Response Plan, including communication and customer outreach elements.

Decision 19-09-026 granted requests by Pacific Gas and Electric Company, Southern California Edison Company, San Diego Gas & Electric Company, and Southern California Gas Company for memorandum accounts to record and track incremental costs to implement the CCPA.

According to a recent study commissioned by the State Attorney's Office, compliance costs for companies could total \$55 billion. California's Department of Finance provided a broad range of potential initial compliance costs of \$50,000 for firms with less than 20 employees to \$2 million for firms with more than 500 employees. Based on the size of California American Water's repository of personal customer information and data that will be subject to CCPA, our collection of robust personal customer data associated with the provision of water service (as required by the Public Utilities Code and Commission regulations), and the limitations with current staffing levels and customer information systems, we anticipate initial compliance costs could be in excess of \$1 million. We are working with outside experts to refine this estimate and ensure compliance with the CCPA.

These costs were not included in California American Water's GRC Application (A.) 19-07-004 as the final regulations were not in place at the time of filing. CPUC Standard Practice U-27-W provides that each advice letter requesting a new memo account must address a set of four parameters. These parameters are addressed below:

a. The expense is caused by an event of an exceptional nature that is not under the utility's control.

The CCPA was signed into law on June 28, 2018 with an implementation date of January 1, 2020. In 2019 there was significant legislative activity regarding the CCPA, including proposals that could have made compliance with the CCPA less onerous. Ultimately seven amendments were signed into law by the Governor in October 2019. The costs of complying with the CCPA depend on the regulations that go into effect on January 1, 2020. The scope and breadth of the final were not under California American Water's control. Therefore, these costs are of an exceptional nature that is not under the utility's control.

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

California American Water submitted the draft application for the most recent GRC in May 2019 and filed the final Application A.19-07-001 in July 2019. More than a dozen amendments surfaced during the 2019 legislative session, including proposed legislation that could have made compliance less onerous. . California American Water could not reasonably forecast these expenses in its pending GRC because the final scope of the CCPA that would be implemented on January 1, 2020 was not known until October 2019. California American Water's next GRC application will not be filed until July 2022. The expense could not have been reasonably foreseen in the utility's last general rate case and will occur before the next scheduled rate case.

c. The expense is of a substantial nature as to the amount of money involved when any offsetting cost decreases are taken into account.

The estimated initial compliance cost could exceed \$1 million with additional costs going forward. These costs are substantial in nature and will not be offset by any cost decreases.

d. The ratepayers will benefit by the memo account treatment.

The CCPA provides broad protection and treatment of customer data. California American Water's compliance will benefit ratepayers by ensuring their personal data is protected and appropriately managed in accordance with the CCPA requirements.

In the CCPAEMA, California American Water will track the initial implementation and ongoing maintenance costs to comply with the requirements. Additionally, interest shall accrue on a monthly basis by applying a rate equal to one-twelfth of the 3-month non-financial commercial paper rate, as reported in the Federal Reserve Statistical Release, to the average of the beginning-of-month and the end-of-month balances.

If the accumulated balance of the of the CCPAEMA exceeds 2% of the total authorized revenue requirement for the prior calendar year, California American Water will file an advice letter to amortize the balance. Prior to recovery, charges made to the CCPAEMA are subject to a reasonableness review in a General Rate Case proceeding or in an appropriate advice letter filing.

The CCPAEMA will sunset with new rates incorporating the compliance costs as anticipated in the next GRC decision.

Rate Impact:

None

REQUEST

As authorized in the Assembly Bill 375, California American Water requests establishment a CCPAEMA to track the incremental costs for complying with the consumer privacy laws and regulations. This advice letter is designated as a Tier 2 Advice Letter with an effective of date of December 15, 2019. This advice letter will have no impact on rates.

SERVICE LIST

Pursuant to Section 4.3 of General Order No. 96-B, a copy of this advice letter is being sent to those entities listed in the attached service list. Copies of the detailed work papers and the documents supporting this Advice Letter have also been furnished to the Commission Staff.

EFFECTIVE DATE

California American Water submits this as a Tier II filing and requests an effective date of December 15, 2019.

RESPONSE OR PROTEST¹

Anyone may submit a response or protest for this AL. When submitting a response or protest, **please include the utility name and advice letter number in the subject line.**

A **response** supports the filing and may contain information that proves useful to the Commission in evaluating the AL. A **protest** objects to the AL in whole or in part and must set forth the specific grounds on which it is based. These grounds² are:

¹ G.O. 96-B, General Rule 7.4.1

² G.O. 96-B, General Rule 7.4.2

1. The utility did not properly serve or give notice of the AL;
2. The relief requested in the AL would violate statute or Commission order, or is not authorized by statute or Commission order on which the utility relies;
3. The analysis, calculations, or data in the AL contain material error or omissions;
4. The relief requested in the AL is pending before the Commission in a formal proceeding;
or
5. The relief requested in the AL requires consideration in a formal hearing, or is otherwise inappropriate for the AL process; or
6. The relief requested in the AL is unjust, unreasonable, or discriminatory, provided that such a protest may not be made where it would require relitigating a prior order of the Commission.

A protest may not rely on policy objections to an AL where the relief requested in the AL follows rules or directions established by statute or Commission order applicable to the utility. A protest shall provide citations or proofs where available to allow staff to properly consider the protest.

DWA must receive a response or protest via email (**or** postal mail) within 20 days of the date the AL is filed. When submitting a response or protest, **please include the utility name and advice letter number in the subject line.**

The addresses for submitting a response or protest are:

Email Address:

Water.Division@cpuc.ca.gov

Mailing Address:

CA Public Utilities Commission
Division of Water and Audits
505 Van Ness Avenue
San Francisco, CA 94102

On the same day the response or protest is submitted to DWA, the respondent or protestant shall send a copy of the protest to California American Water at:

Email Address:

jonathan.morse@amwater.com

Mailing Address:

4701 Beloit Drive
Sacramento, CA 95838

sarah.leeper@amwater.com

555 Montgomery Street, Suite 816
San Francisco, CA 94111

preet.nagra@amwater.com

4701 Beloit Drive
Sacramento, CA 95838

Cities and counties that need Board of Supervisors or Board of Commissioners approval to protest should inform DWA, within the 20 day protest period, so that a late filed protest can be entertained. The informing document should include an estimate of the date the proposed protest might be voted on.

REPLIES³

The utility shall reply to each protest and may reply to any response. Any reply must be received by DWA within five business days after the end of the protest period, and shall be served on the same day on each person who filed the protest or response to the AL.

The actions requested in this advice letter are not now the subject of any formal filings with the California Public Utilities Commission, including a formal complaint, nor action in any court of law.

This filing will not cause the withdrawal of service, nor conflict with other schedules or rules.

If you have not received a reply to your protest within 10 business days, please contact me at (916) 568-4255.

CALIFORNIA-AMERICAN WATER COMPANY

/s/ Jeffrey T. Linam

Jeffrey T. Linam
Vice President of Rates & Regulatory

³ G.O. 96-B, General Rule 7.4.3

PRELIMINARY STATEMENT
Summary Table

Sheet 2

Reference	Account	Tariff
AC	Water Cost of Capital Adjustment Mechanism	9294-W
AD	Water Contamination Litigation Expense Memorandum Account	9295-W
AE	West Placer Memorandum Account	9296-W
AF	Water Revenue Adjustment Mechanism (WRAM) & Modified Cost Balancing Account (MCBA)	9297-W,9298-W,9299-W,9300-W
AG	Leak Adjustments Memorandum Account (LAMA)	9301-W
AH	Low Income Customer Data Sharing Memorandum Account	9302-W
AI	Operational Energy Efficiency Program Memorandum Account (OEEPMA)	9303-W,9304-W
AJ	Purchased Water, Purchased Power, & Pump Tax Balancing Account	9305-W
AK	Temporary Interest Rate Balancing Account (TIRBA)	9306-W
AL	School Lead Testing Memorandum Account	9307-W
AM	The Memorandum Account for Environmental Improvement and Compliance Issues for Acquisitions	9308-W
AN	Dunnigan Consulting Memorandum Account	9309-W
AO	Water-Energy Nexus Program Memorandum Account	9310-W
AP	PCWA SFF Memorandum Account	9311-W
AQ	Monterey District Pre-2015 Residential Water Revenue Adjustment Mechanism/Modified Cost Balancing Account ("WRAM/MCBA") undercollection/recovery Balancing Account	9312-W
AR	Monterey District Pre-2015 Residential Water Revenue Adjustment Mechanism/Modified Cost Balancing Account ("WRAM/MCBA") undercollection/recovery Balancing Account	9313-W
AS	Tax Cuts and Jobs Act Memorandum Account	9314-W
AT	General Rate Case Interim Rate True-up Memorandum Account	9315-W
AU	Cost of Capital Memorandum Account	9316-W
AV	Monterey County District Leak Adjustment Balancing Account	9317-W
AW	Tax Accounting Memorandum Account (TMA)	9318-W
AX	Sustainable Groundwater Management Act Memorandum Account (SGMA)	9319-W
AY	Group Insurance Balancing Account (GIBA)	9320-W
AZ	Groundwater Management Memorandum Account	9321-W
BA	Rio Plaza Transaction Memorandum Account	9322-W
BB	California Consumer Privacy Act Expense Memorandum Account	XXXX-W

(N)

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(TO BE INSERTED BY UTILITY)	ISSUED BY	(TO BE INSERTED BY C.P.U.C.)
Advice 1273	J. T. LINAM	Date Filed _____
Decision	DIRECTOR - Rates & Regulatory	Effective _____
		Resolution _____

PRELIMINARY STATEMENT
(Continued)

Sheet 61

BB. California Consumer Privacy Act Expense Memorandum Account

(N)

1. PURPOSE:

The purpose of the California Consumer Privacy Act Expense Memorandum Account (CCPAEMA) is to track the incremental expenses associated initial implementation and ongoing maintenance costs and other related expenses to comply with the requirement of the California Consumer Privacy Act of 2018.

2. APPLICABILITY:

The entries in the CCPAEMA may include the following:

- a. All initial implementation costs associated with complying with the California Consumer Privacy Act of 2018.
- b. All ongoing maintenance costs and other expenses associated with compliance with the California Consumer Privacy Act of 2018.
- c. A debit entry shall be made to the CCPAEMA at the end of each month to record the expenses as I discussed above.
- d. Interest shall accrue on a monthly basis by applying a rate equal to one-twelfth of the 3-month non-financial Commercial Paper, as reported in the Federal Reserve Statistical Release, to the average of the beginning-of-month and the end-of-month balances.

3. DISPOSITION:

If the accumulated balance for the CCPAEMA exceeds 2% of the total authorized revenue requirement for the prior calendar year, the Company will file an advice letter to amortize the balance. Prior to recovery, I charges made to the CCPAEMA are subject to a reasonableness review in the Company's next General Rate I Case or in an appropriate advice letter filing or regulatory proceeding. The recovery of under-collections will be I passed on to the customers through volumetric surcharges and over-collections will be amortized by surcredits.

4. EFFECTIVE DATE:

The CCPAEMA shall go into effect on December 15, 2019.

5. SUSNET DATE:

The CCPAEMA will remain in effect until new rates incorporating the requirements for the California Consumer Privacy Act of 2018 are placed into effect under the Company's next General Rate Case decision.

(N)

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(TO BE INSERTED BY UTILITY)	ISSUED BY	(TO BE INSERTED BY C.P.U.C.)
Advice 1273	J. T. LINAM	Date Filed _____
Decision	DIRECTOR - Rates & Regulatory	Effective _____
		Resolution _____

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(TO BE INSERTED BY UTILITY)	ISSUED BY	(TO BE INSERTED BY C.P.U.C.)
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		Resolution _____