

No. S271493

**IN THE SUPREME COURT OF THE STATE OF
CALIFORNIA**

CALIFORNIA WATER ASSOCIATION
Petitioner,

v.

PUBLIC UTILITIES COMMISSION OF THE STATE OF
CALIFORNIA
Respondent.

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

Of the Public Utilities Commission of the State of California

**APPENDIX OF EXHIBITS
TO REPLY TO ANSWER TO
PETITIONS FOR WRIT OF REVIEW
File 2 of 2 - Volume II - Exhibits V-HH - Pages 244-397**

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EXHIBIT V

California Public Utilities Commission Rules of Practice and
Procedure, 20 Cal. Code Reg., Div. 1, ch. 1, § 1.3(g) (“Rule 1.3(g)”)

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Barclays Official California Code of Regulations Currentness
Title 20. Public Utilities and Energy
Division 1. Public Utilities Commission
Chapter 1. Rules of Practice and Procedure
Article 1. General Provisions (Refs & Annos)

20 CCR § 1.3

§ 1.3. (Rule 1.3) Definitions.

(a) “Adjudicatory proceedings” are: (1) enforcement investigations into possible violations of any provision of statutory law or order or rule of the Commission; and (2) complaints against regulated entities, including those complaints that challenge the accuracy of a bill, but excluding those complaints that challenge the reasonableness of rates or charges, past, present, or future.

(b) “Catastrophic wildfire proceedings” are proceedings in which an electrical corporation files an application to recover costs and expenses pursuant to [Public Utilities Code Section 451](#) or [451.1](#) related to a covered wildfire as defined in [Public Utilities Code Section 1701.8](#).

(c) “Category,” “categorization,” or “categorized” refers to the procedure whereby a proceeding is determined to be an “adjudicatory,” “ratesetting,” or “quasi-legislative,” or “catastrophic wildfire” proceeding.

(d) “Financial interest” means that the action or decision on the matter will have a direct and significant financial impact, distinguishable from its impact on the public generally or a significant segment of the public, as described in [Article 1 \(commencing with Section 87100\)](#) of Chapter 7 of Title 9 of the Government Code.

(e) “Person” means a natural person or organization.

(f) “Quasi-legislative proceedings” are proceedings that establish policy or rules (including generic ratemaking policy or rules) affecting a class of regulated entities, including those proceedings in which the Commission investigates rates or practices for an entire regulated industry or class of entities within the industry, even if those proceedings have an incidental effect on ratepayer costs.

(g) “Ratesetting proceedings” are proceedings in which the Commission sets or investigates rates for a specifically named utility (or utilities), or establishes a mechanism that in turn sets the rates for a specifically named utility (or utilities). “Ratesetting” proceedings include complaints that challenge the reasonableness of rates or charges, past, present, or future. Other proceedings may be categorized as ratesetting, as described in Rule 7.1(e)(2).

(h) “Scoping memo” means an order or ruling describing the issues to be considered in a proceeding and the timetable for resolving the proceeding, as described in Rule 7.3.

Note: Authority cited: [Sections 1701 and 1701.8, Public Utilities Code](#). Reference: [Sections 1701, 1701.1 and 1701.8, Public Utilities Code](#).

HISTORY

1. New section filed 12-4-91; operative 1-20-92. Submitted to OAL for printing only (Register 92, No. 9).
2. Repealer of former section 1.3 and renumbering of former section 5 to section 1.3, including amendment of section heading, section and Note filed 9-13-2006; operative 9-13-2006 pursuant to [Government Code section 11351\(a\)](#) (Register 2006, No. 37).
3. New subsection (c), subsection relettering and amendment of Note filed 1-30-2018; operative 4-1-2018. Submitted to OAL for limited review pursuant to [Government Code section 11351](#) and [Public Utilities Code section 311\(h\)](#) (Register 2018, No. 5).
4. Amendment of section and Note filed 3-15-2021; operative 5-1-2021 pursuant to [Government Code section 11343.4\(b\)\(3\)](#). Submitted to OAL for limited review pursuant to [Government Code section 11351](#) and [Public Utilities Code section 311\(h\)](#) (Register 2021, No. 12).

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20 CCR § 1.3, 20 CA ADC § 1.3

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EXHIBIT W

California Public Utilities Commission Rules of Practice and
Procedure, 20 Cal. Code Reg., Div. 1, ch. 1, § 7.6 (“Rule 7.6”)

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Barclays Official California Code of Regulations Currentness
Title 20. Public Utilities and Energy
Division 1. Public Utilities Commission
Chapter 1. Rules of Practice and Procedure
Article 7. Categorizing and Scoping Proceedings (Refs & Annos)

20 CCR § 7.6

§ 7.6. (Rule 7.6) Appeals of Categorization.

(a) Any party may file and serve an appeal regarding the categorization of a proceeding to the Commission, no later than 10 days after the date of: (1) an assigned Commissioner's ruling on category pursuant to Rule 7.3; (2) the instructions to answer pursuant to Rule 7.1(b); (3) an order instituting investigation pursuant to Rule 7.1(c); or (4) any subsequent ruling that expands the scope of the proceeding. Such appeal shall state why the designated category is wrong as a matter of law or policy. The appeal shall be served on the Commission's General Counsel, the Chief Administrative Law Judge, the President of the Commission, and all persons who were served with the ruling, instructions to answer, or order.

(b) Any party, no later than 15 days after the date of a categorization from which timely appeal has been taken pursuant to subsection (a) of this rule, may file and serve a response to the appeal. The response shall be served on the appellant and on all persons who were served with the ruling, instructions to answer, or order. The Commission is not obligated to withhold a decision on an appeal to allow time for responses. Replies to responses are not permitted.

Note: Authority cited: [Section 1701, Public Utilities Code](#). Reference: [Sections 1701 and 1701.1, Public Utilities Code](#).

HISTORY

1. Renumbering of former section 6.4 to new section 7.6, including amendment of section heading and section filed 9-13-2006; operative 9-13-2006 pursuant to [Government Code section 11351\(a\)](#) (Register 2006, No. 37).
2. Amendment of subsection (a) and Note filed 1-30-2018; operative 4-1-2018. Submitted to OAL for limited review pursuant to [Government Code section 11351](#) and [Public Utilities Code section 311\(h\)](#) (Register 2018, No. 5).
3. Amendment of subsection (a) filed 3-15-2021; operative 5-1-2021 pursuant to [Government Code section 11343.4\(b\)\(3\)](#). Submitted to OAL for limited review pursuant to [Government Code section 11351](#) and [Public Utilities Code section 311\(h\)](#) (Register 2021, No. 12).

This database is current through 3/11/22 Register 2022, No. 10

20 CCR § 7.6, 20 CA ADC § 7.6

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

Of the Public Utilities Commission of the State of California

EXHIBIT X

*Order Instituting Investigation to Consider Policies to Achieve the
Commission's Conservation Objectives for Class A Water Utilities,
Investigation 07-01-022, D.08-02-036 (February 28, 2008)*

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Decision 08-02-036 February 28, 2008

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Investigation to Consider Policies to Achieve the Commission's Conservation Objectives for Class A Water Utilities.	Investigation 07-01-022 (Filed January 11, 2007)
In the Matter of the Application of Golden State Water Company (U 133 E) for Authority to Implement Changes in Ratesetting Mechanisms and Reallocation of Rates.	Application 06-09-006 (Filed September 6, 2006)
Application of California Water Service Company (U 60 W), a California Corporation, requesting an order from the California Public Utilities Commission Authorizing Applicant to Establish a Water Revenue Balancing Account, a Conservation Memorandum Account, and Implement Increasing Block Rates.	Application 06-10-026 (Filed October 23, 2006)
Application of Park Water Company (U 314 W) for Authority to Implement a Water Revenue Adjustment Mechanism, Increasing Block Rate Design and a Conservation Memorandum Account.	Application 06-11-009 (Filed November 20, 2006)
Application of Suburban Water Systems (U 339 W) for Authorization to Implement a Low Income Assistance Program, an Increasing Block Rate Design, and a Water Revenue Adjustment Mechanism.	Application 06-11-010 (Filed November 22, 2006)
Application of San Jose Water Company (U 168 W) for an Order Approving its Proposal to Implement the Objectives of the Water Action Plan.	Application 07-03-019 (Filed March 19, 2007)

(See Appendix A for a list of appearances.)

**OPINION RESOLVING PHASE 1A SETTLEMENT
AGREEMENTS AND CONTESTED ISSUES**

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APPENDIX A – List of Appearances

OPINION RESOLVING PHASE 1A SETTLEMENT AGREEMENTS AND CONTESTED ISSUES

In today's decision, the first of two Phase 1 decisions, we adopt eight settlements on conservation rates, revenue adjustment mechanisms, modified cost balancing accounts, return on equity (ROE) adjustment, a low-income assistance program, customer education and outreach, and data collection and reporting. We also approve a conservation memorandum account for extraordinary legal and regulatory expenses and endorse the parties' efforts to resolve access for customers with disabilities in light of the adoption of conservation rate designs.

1. Background and Summary

The Commission opened this investigation to address policies to achieve its conservation objectives for Class A water utilities and ordered the consolidation of four pending conservation rate design applications – Application (A.) 06-09-006 (Golden State Water Company (Golden State)), A.06-10-026 (California Water Service Company (CalWater)), A.06-11-009 (Park Water Company (Park)), and A.06-11-010 (Suburban Water Systems (Suburban)).¹ Those objectives include adoption of conservation rate designs and revenue adjustment mechanisms that decouple sales from revenues. Parties filed responses to the preliminary scoping memo on January 29, 2007, and a prehearing conference (PHC) was held on February 7, 2007. A second PHC was held on July 11, 2007. The first phase of this proceeding addresses rate-related

¹ A January 16, 2007 ruling affirmed consolidation of the applications with the OII.

conservation measures, including the parties' increasing block rate and water revenue adjustment mechanism (WRAM) proposals.

The Phase 1 scoping memo issued on March 8, 2007. The Scoping Memo defined Phase 1 to include rate-related conservation measures, WRAMs and Suburban's proposed low-income assistance program. By a May 29, 2007 ruling, the conservation rate design application of San Jose Water Company was consolidated with this application. Phase 1 was divided into Phases 1A and 1B; the issue of return on equity adjustment for adoption of WRAMs was deferred to Phase 1B. From July 30 to August 2, 2007, Phase 1A hearings were held on contested issues raised by the parties on the settlement agreements and Suburban's proposed memorandum account. Opening and reply briefs were filed on August 27, 2007 and September 17, 2007, respectively.

The settlement agreements addressed in this decision were filed before and after the Phase 1A hearings, as follows:²

- Suburban/Division of Ratepayer Advocates (DRA) on conservation rate design trial program on April 24, 2007;
- Suburban/DRA on low-income ratepayer assistance program (LIRA) on April 24, 2007;
- Park/DRA on conservation rate design, WRAM, and modified cost balancing account (MCBA) trial program on June 15, 2007;
- CalWater/DRA/TURN on conservation rate design (amended settlement), WRAM, and MCBA trial program on June 15, 2007;

² The settlement agreements were e-filed with the Commission. The provisions of the settlements are summarized *infra*. The settlements can be obtained on the Commission's website under the index of currently opened proceedings.

- Park/DRA on conservation memorandum account on July 30, 2007;
- Suburban/Joint Consumers³ on customer outreach and education and data collection and reporting on August 10, 2007; and
- Park/Joint Consumers/Consumer Federation of California (CFC) on data collection, monitoring, and reporting on August 10, 2007.

In addition, a memorandum of understanding was reached between Suburban and DisabRA on disability access issues in July 2007. DRA and Suburban filed a settlement agreement on the ROE adjustment on October 19, 2007, after Phase 1A was submitted on the filing of reply briefs. DRA and Suburban requested that we address the ROE settlement in this Phase 1A decision, rather than in the Phase 1B decision. No party opposed the settlement or the proposal to address the settlement in this decision. Thus, we set aside submission to resolve the Suburban/DRA ROE settlement herein.

CFC opposed, for policy reasons, adoption of the three conservation rate design settlements and the CalWater and Park WRAM settlements. The Joint Consumers opposed the Suburban LIRA settlement, which adopts a flat-rate discount of the service charge. Hearings were held on these contested settlements. Suburban's conservation memorandum account proposal was not resolved by settlement and was addressed in this phase's hearings.⁴

³ The Joint Consumers are The Utility Reform Network (TURN), the National Consumer Law Center (NCLC), Disability Rights Advocates (DisabRA), and Latino Issues Forum (LIF).

⁴ CalWater's conservation memorandum increase proposal is addressed in Phase 1B.

The conservation rate design settlements propose trial programs, which will remain in effect until the company's next general rate case (GRC). Prior to addressing the settlement agreements, we address CFC's procedural and policy concerns and adopt the goal of a targeted reduction in consumption for Class A water utilities with price and non-price conservation programs and a tentative targeted reduction for the trial programs. We then address the settlements and the Suburban conservation memorandum account and memorandum of understanding on access for persons with disabilities. We approve the following settlements:

- Suburban/DRA on conservation rate design;
- Suburban/DRA on LIRA program;
- Park/DRA on conservation rate design, WRAM, and MCBA;
- CalWater/DRA/TURN on conservation rate design, WRAM, and MCBA;
- Park/DRA on conservation memorandum account;
- Suburban/Joint Consumers on customer outreach and education and data collection and reporting;
- Park/Joint Consumers/CFC on data collection, monitoring, and reporting; and
- Suburban/DRA on ROE adjustment.

We authorize Suburban and the other Class A water utilities to establish memorandum accounts to track the legal and related costs of participating in this proceeding; we limit such authorization to the circumstances of this proceeding. We will not authorize Suburban to track in its memorandum account expenses

incurred between the issuance of Decision (D.) 06-08-017 and the issuance of this order instituting investigation (OII).

2. Objection to Scope of Phase 1

In testimony, at the hearings, and in its briefs, CFC has urged us to postpone implementation of conservation rates until the utilities provide cost allocation studies, to be reviewed in general rate cases, and cost information, which would illustrate how conservation rates are aligned with costs. CFC also requests that the utilities provide conservation rates for all customer classes prior to adoption of conservation rates. To address CFC's proposed delay in the adoption of conservation rates, we must consider the context in which CFC's proposal arises.

This OII consolidated pending conservation rate design applications and requested comments on both rate and non rate design conservation issues. The OII issued a preliminary scoping memo and noticed parties that the Commission would implement increasing block rates for residential customers and WRAMs by advice letter or subsequent decision after issuing a decision on the broad policy issues.

DRA proposed an alternate process. Settlement negotiations for trial conservation rate design programs were underway; DRA proposed that they continue and be the subject of a Phase 1 decision. A Phase 2 would include broader policy issues and be re-categorized as quasi-legislative. A Phase 3 would develop company-specific rates based on the policies adopted in Phase 2. No party opposed the request in responses to the OII and at the PHC. The Joint Consumers, which at that time included CFC, noted at the PHC that there might be difficulties in proceeding as DRA envisioned, but they had no other proposal.

7. WRAMs and MCBAs

The Suburban settlement proposes a Monterey-style WRAM. The CalWater and Park settlements propose full decoupling WRAMs and MCBAs. CFC opposes the CalWater and Park WRAMs.

7.1. Suburban

Suburban and DRA propose a Monterey-style WRAM, which will track the differences between revenue received for actual sales under the proposed conservation rate design and the revenue Suburban would have received if its existing rate design, a single quantity rate, remained in place. The over- or under-collection of revenues will be amortized consistent with Standard Practice U-27-W, once the threshold of 2% of the tracked revenue requirement is reached. Any balance in the WRAM account will accrue interest at the 90-day commercial paper rate and Suburban will file an advice letter for amortization of the balance consistent with Standard Practice U-27-W. CFC initially objected to Suburban and DRA's WRAM proposal but later withdrew the objection.

In D.06-08-017, we ordered Suburban to propose a Monterey-style WRAM. Suburban and DRA agree that Suburban's unique circumstance, obtaining 70% of purchased water from 25 different sources, creates a different incentive than that envisioned in our WAP. Suburban has the incentive to avoid additional purchases of water at higher incremental rates. A full decoupling WRAM would remove this conservation incentive. The proposed Monterey-style WRAM is reasonable for Suburban.

7.2. CalWater and Park

The goals for both CalWater's and Park's WRAMs and MCBAs are to sever the relationship between sales and revenue to remove the disincentive to implement conservation rates and conservation programs, to ensure cost savings

are passed on to ratepayers, and to reduce overall water consumption. The parties agree that the WRAMs and MCBAs are designed to ensure that the utilities and ratepayers are proportionally affected when conservation rates are implemented, so that neither party is harmed nor benefits. The MCBAs will replace existing cost balancing accounts for purchased power, purchased water, and pump tax. The WRAMs will track the difference between adopted revenue and actual revenue and will ensure recovery of fixed costs that are recovered through the quantity charge and variable costs that are not included in the MCBAs.²⁴ The MCBAs will track the difference between actual variable costs and adopted variable costs for purchased water, purchased power, and pump tax. MCBAs track all changes in those costs due to consumption, including changes in unit price.²⁵ Annually the revenue over- or under-collection tracked in the WRAMs and the difference between adopted and actual costs tracked in the MCBAs will be reported to the Commission's Water Division.²⁶ If the combined over- or under-collection exceeds 2% of Park's and 2.5% of CalWater's prior year revenue requirement, the combined balance of the accounts will be amortized. Combined under-collections will be passed through as surcharges on volumetric charges; combined over-collections will be passed through as

²⁴ The WRAMs will not include service charge revenues. The WRAMs will exclude revenue from fire service, unmetered service, reclaimed water metered service, and fees (Park) and fire service revenue, unmetered service revenue and other non-general metered service revenue (CalWater). CalWater will have a separate WRAM for each district. The WRAM accounts will track revenues by customer class.

²⁵ The incremental cost balancing accounts replaced by the MCBAs track costs attributable to changes in unit price for purchased water, purchased power, and pump taxes but not changes in the amount of consumption.

²⁶ Interest on amounts in the accounts will accrue at the 90-day commercial paper rate.

surcredits on volumetric charges.²⁷ Park and CalWater commit to maintaining a least cost water mix.

CFC states a WRAM only should be adopted only if there is a financial disincentive to conserve and there is no evidence that Cal Water and Park have a financial disincentive to conserve water. CalWater and Park provide examples concerning their financial disincentive to promote water conservation. CalWater notes that the Commission's water ratemaking procedures, based on sales forecasts, permit utilities to earn more revenue if sales increase above forecasts and less revenue if sales are lower and provide a disincentive to promote successful water conservation programs. For example, CalWater proposed a toilet replacement program in its Bear Gulch District, which would result in water savings of 15 acre-feet per year. At current rates, revenue loss would be \$15,682 annually. (Exhibit 17, p. 8.) Park illustrates that its revenue loss exceeds its cost savings for every unit of water that is not sold. The most expensive source of the adopted cost of purchased water is \$1.14/ccf, less than half the adopted single tier commodity rate. (Park's Reply Brief, p. 13.)

With WRAMs in place, the utility and the ratepayers are not at risk for under- and over-collection of revenues following the adoption of conservation rates. A WRAM also removes weather and economic risk associated with sales volatility from both the utility and ratepayers. (See Exhibit 17, p. 17.) Removing sales risk also reduces the importance of sales forecasting in regulatory proceedings. (*Id.*)

²⁷ Remaining balances will be addressed in GRCs.

The WAP concluded water utilities had a financial disincentive to conserve water and full decoupling of sales and revenues was necessary to remove that disincentive.²⁸ CalWater and Park have illustrated how the WAP's generic conclusion is applicable to their existing rate structure. The conservation rate design and accompanying WRAMs and MCBAAs move CalWater and Park to pricing that sends conservation signals while providing the financial incentive to adopt effective non-price conservation programs.

CFC states the conservation rate design must be experimental in order to authorize a WRAM, in reliance on an earlier decision adopting a Monterey-style WRAM. (*See* D.96-12-005, 69 CPUC 2d 398.) That decision adopted a settlement, which the parties characterized as experimental, and did not endorse use of a WRAM only for experimental conservation rates. The WAP supported full decoupling WRAMs and did not tie the need for them to an experimental rate design. There is no support for tying a WRAM to an experimental rate design.

8. Adoption of Conservation Rate Design and WRAM Settlement Agreements

We have reviewed the conservation rate design and WRAM settlements before us and CFC's objections to the specific rate designs and the full decoupling WRAMs. We find CalWater's, Suburban's and Park's trial conservation rate designs will advance our conservation objectives; they incorporate increasing block rates for residential customers and CalWater and Park move their non-residential customer classes to CUWCC's requirement that over 70% of revenues are recovered through quantity charges. We will review

²⁸ Pub. Util. Code § 2714.5 requires the Commission to report to the Legislative progress on implementing WAP issues by June 30, 2008.

these rate designs to determine whether they meet targeted reductions in consumption. If they do not meet those goals or are unlikely to meet future goals, Suburban and Park will propose rate designs that will accomplish those goals.²⁹

Suburban and DRA's WRAM proposal is consistent with the CalAm WRAM that has been in effect since 1996 and will address any changes in revenue resulting from the adoption of conservation rates, assuming the same level of sales. CalWater and Park's WRAMs and MCBAs will balance utility and ratepayer interests and will ensure that neither is harmed nor benefits from the adoption of conservation rates. These WRAMs and MCBAs implement our objective of decoupling sales and revenues to encourage successful conservation programs. The CalWater, Suburban and Park settlements are reasonable in light of the record, consistent with the law, and in the public interest and will be adopted.

Amortization of CalWater's and Park's WRAMs and MCBAs shall be subject to any return on equity (ROE) adjustment adopted in Phase 1B of this proceeding. If an ROE adjustment is adopted in Phase 1B prior to the annual report to the Water Division and the trigger for over- or under-collection of revenues, the ROE adjustment will be calculated in determining the resulting surcharge or surcredit. If no ROE adjustment is adopted or the implementation of any ROE adjustment is deferred, amortization will proceed according to the settlement agreements.

²⁹ We shall require Suburban, Park and CalWater to provide specific data in their next GRCs, as set forth in Ordering Paragraph 7, to assist in evaluating these trial programs.

ratemaking. Because these costs were anticipated at the time of Suburban's GRC proceeding, there is no reason to consider recovery of them now.

8. In light of the summary staff rejection of Cal-Am's advice letter seeking memorandum account treatment, it is reasonable to authorize Suburban and other Class A water utilities to track legal and related expenses, incurred after the issuance of this OII, that arise due to our requiring the utilities' participation in this generic proceeding to develop conservation rate designs and address non-rate design issues.

9. It is reasonable to modify the conservation rate design settlement agreements to permit Suburban, Park, and CalWater to file Tier 1 compliance advice letters under General Order 96B to submit rates recalculated to reflect the 2008 revenue requirement. The 90-day implementation of the settlements shall run from the date the advice letters are deemed approved.

10. In order to promptly implement conservation rates, WRAMS, MCBAs, customer education and outreach, data collection and reporting, and the Suburban LIRA and memorandum account, this decision should be effective immediately.

O R D E R

IT IS ORDERED that:

1. The following settlement agreements are approved and adopted:
 - April 24, 2007 Suburban Water Systems (Suburban)/Division of Ratepayer Advocates (DRA) on conservation rate design;
 - April 24, 2007 Suburban/DRA on low-income ratepayer assistance program;

- June 15, 2007 California Water Service Company (CalWater)/DRA/The Utility Reform Network (TURN) on conservation rate design, water revenue adjustment mechanism (WRAM), and modified cost balancing account (MCBA);
- June 15, 2007 Park Water Company (Park)/DRA on conservation rate design, WRAM, and MCBA;
- July 30, 2007 Park/DRA on conservation memorandum account;
- August 10, 2007 Suburban/The Utility Reform Network, the National Consumer Law Center, Disability Rights Advocates, and Latino Issues Forum (Joint Consumers) on customer outreach and education and data collection and reporting;
- August 10, 2007 Park/Joint Consumers/Consumer Federation of California on data collection, monitoring, and reporting; and
- October 19, 2007 Suburban/DRA on return on equity adjustment.

2. Suburban, Park, and CalWater shall file Tier 1 compliance advice letters under General Order 96B to submit rates recalculated to reflect the 2008 revenue requirement, as set forth herein. The 90-day implementation of the settlements shall run from the date the advice letters are deemed approved.

3. Amortization of the CalWater and Park WRAMs and MCBAs is subject to the return on equity adjustment under review in Phase 1B of this proceeding, as set forth herein.

4. A conservation memorandum account is authorized for Park to book prospective conservation expenses, as set forth herein.

5. A memorandum account is authorized for Suburban and other Class A water utilities to track legal and related expenses incurred in participating in this proceeding from the date of issuance of this order instituting investigation (OII).

Costs of preparing applications consolidated with this proceeding, whether incurred prior or subsequent to the issuance of the OII, shall not be tracked in the authorized memorandum accounts. Suburban's request to track legal and consulting expenses incurred prior to the issuance of this OII is denied.

6. Suburban, Park, and CalWater shall provide the following information in their next general rate case: monthly or bimonthly (depending upon the billing cycle) per customer or service connection changes in consumption by district, separated by meter size and customer class, following the implementation of the conservation rate design trial programs; surcredits or surcharges by district and customer class implemented in amortizing WRAMs and/or WRAMs/MCBAs; increase or decrease in disconnecting low-income program participants for nonpayment by district after adoption of conservation rate designs; increase or decrease in low-income program participation by district after adoption of conservation rate designs; increase or decrease in residential disconnections for nonpayment by district after adoption of conservation rate designs; identification of any weather or supply interruption that might contribute to consumption changes in districts; and any other district-specific factor that might contribute to consumption changes.

This order is effective today.

Dated February 28, 2008, at San Francisco, California.

MICHAEL R. PEEVEY
President
DIAN M. GRUENEICH
JOHN A. BOHN
RACHELLE B. CHONG
Commissioners

No. S271493

IN THE SUPREME COURT OF THE STATE OF
CALIFORNIA

CALIFORNIA WATER ASSOCIATION
Petitioner,

v.

PUBLIC UTILITIES COMMISSION OF THE STATE OF
CALIFORNIA
Respondent.

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

Of the Public Utilities Commission of the State of California

EXHIBIT Y

*Order Instituting Investigation to Consider Policies to Achieve the
Commission's Conservation Objectives for Class A Water Utilities,
Investigation 07-01-022, D.08-08-030 (August 21, 2008)*

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Decision 08-08-030 August 21, 2008

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Investigation to Consider Policies to Achieve the Commission's Conservation Objectives for Class A Water Utilities.	Investigation 07-01-022 (Filed January 11, 2007)
In the Matter of the Application of Golden State Water Company (U 133 E) for Authority to Implement Changes in Ratesetting Mechanisms and Reallocation of Rates.	Application 06-09-006 (Filed September 6, 2006)
Application of California Water Service Company (U 60 W), a California Corporation, requesting an order from the California Public Utilities Commission Authorizing Applicant to Establish a Water Revenue Balancing Account, a Conservation Memorandum Account, and Implement Increasing Block Rates.	Application 06-10-026 (Filed October 23, 2006)
Application of Park Water Company (U 314 W) for Authority to Implement a Water Revenue Adjustment Mechanism, Increasing Block Rate Design and a Conservation Memorandum Account.	Application 06-11-009 (Filed November 20, 2006)
Application of Suburban Water Systems (U 339 W) for Authorization to Implement a Low Income Assistance Program, an Increasing Block Rate Design, and a Water Revenue Adjustment Mechanism.	Application 06-11-010 (Filed November 22, 2006)
Application of San Jose Water Company (U 168 W) for an Order Approving its Proposal to Implement the Objectives of the Water Action Plan.	Application 07-03-019 (Filed March 19, 2007)

DECISION RESOLVING PHASE 1B SETTLEMENT AGREEMENTS AND RETURN ON EQUITY ADJUSTMENT

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**DECISION RESOLVING PHASE 1B SETTLEMENT
AGREEMENTS AND RETURN ON EQUITY ADJUSTMENT**

In today's decision, the second of two Phase 1 decisions, we adopt two settlement agreements for Golden State Water Company (GSWC) on conservation rates, a revenue adjustment mechanism and a modified cost balancing account, and customer education and outreach, and data collection and reporting. We also adopt a settlement expanding a conservation memorandum account for California Water Service Company (CalWater). We adopt two settlement agreements for San Jose Water Company (San Jose) on conservation rates and a pricing adjustment mechanism, customer education and outreach and data collection and reporting. Adoption of these settlements concludes our implementation of conservation rate objectives advanced in the Commission's Water Action Plan (WAP) for the five Class A water utilities whose conservation rate design applications were consolidated with this investigation.

We also reject the Division of Ratepayer Advocates' (DRA) proposal to adjust the return on equity (ROE) in association with the adoption of decoupling water revenue adjustment mechanisms (WRAM) and modified cost balancing accounts (MCBA) in trial conservation rate design programs.

1. Background and Summary

The Commission opened this investigation to address policies to achieve its conservation objectives for Class A water utilities and ordered the consolidation of four pending conservation rate design applications – Application (A.) 06-09-006 (GSWC), A.06-10-026 (CalWater), A.06-11-009

(Park Water Company (Park)), and A.06-11-010 (Suburban Water Systems (Suburban)).¹ Those objectives included adoption of conservation rate designs and revenue adjustment mechanisms that decouple sales from revenues. A prehearing conference (PHC) was held on February 7, 2007. A second PHC was held on July 11, 2007. The first phase of this proceeding addressed rate-related conservation measures, including the parties' increasing block rate and WRAM proposals and ROE adjustment.

The Phase 1 scoping memo issued on March 8, 2007. The Scoping Memo defined Phase 1 to include rate-related conservation measures, WRAMs, and Suburban's proposed low-income assistance program. A May 29, 2007 ruling established Phases 1A and 1B, consolidated San Jose's conservation rate design application, and set hearings in Phase 1B on whether the consolidated applicants' ROE should be adjusted if a WRAM was adopted.² The ruling asked the parties to address ten issues in their testimony on the ROE adjustment.³ The

¹ A January 16, 2007 ruling affirmed consolidation of the applications with the OIL.

² The parties' Phase 1A filed settlements on conservation rate designs, WRAMs and MCBAs did not resolve the return on equity adjustment issue. CalWater/DRA/TURN stated in the amended settlement that the impact of the trial program on ROE is not a part of the settlement and deferred to the Commission's decision on any impact on ROE. Park and DRA stated that they had failed to agree on the impact the WRAM and rate design would have on return on equity and could address that issue by submitting testimony in this proceeding.

³ Specifically, the ruling asked 1) what measures of risk should be considered in setting a return on equity and in determining whether these risks have been altered when a WRAM is applied? 2) What impact(s) could adopting a return on equity adjustment have on the Commission's conservation objectives for Class A water utilities? 3) Should any return on equity adjustment be made if the adopted WRAM recovers all fixed costs affected by the proposed conservation rate design? 4) Should the adoption of a modified cost balancing account affect whether a return on equity adjustment is adopted? 5) Should company-specific factors be considered in weighing whether a

Footnote continued on next page

Commission held five days of hearings on the ROE adjustment issue and one day of hearings on CalWater's conservation memorandum account in November 2007. In hearings, the administrative law judge (ALJ) requested that DRA provide an implementation witness to address how its proposal would be implemented. DRA and TURN sponsored one witness. DRA presented one implementation witness. CalWater, California American Water (CalAm), Park, and California Water Association (CWA) sponsored six witnesses.⁴ Opening and reply briefs were filed on January 16 and February 6, 2008, respectively.

In D.08-02-036, the Phase 1A decision, the Commission adopted eight settlement agreements affecting CalWater, Park and Suburban on conservation rates, revenue adjustment mechanisms, MCBA, ROE adjustment, a low-income assistance program, customer education and outreach, and data collection and reporting. In an April 25, 2008 ruling, submission of Phase 1B was set aside to consider the GSWC and Joint Consumer settlement and the proceeding was

return on equity adjustment should be adopted? What methods (e.g., Discounted Cash Flow (DCF); Capital Asset Pricing Model (CAPM); Risk Premium; Multiple Regression; other) for estimating any potential impact of a WRAM on the required return on equity should be utilized *prior* to instituting the WRAM? 6) What methods (e.g., DCF; CAPM; Risk Premium; Multiple Regression; other) for estimating any potential impact of a WRAM on the required, and achieved, return on equity should be utilized *after* instituting the WRAM? 7) How much historical data (e.g., 1 year? 3 years? 5 years?) would be required for an accurate estimate of this potential impact? 8) Should publicly-traded companies with similar operating, financial, and business risks be utilized for these calculations? 9) Is the experience of non-water utilities germane? 10) Should any return on equity adjustment be interim subject to reconsideration in the separate cost of capital proceeding?

⁴ Suburban also sponsored a witness to address its pending settlement on ROE; D.08-02-036 adopted that settlement. San Jose offered a witness and withdrew it after San Jose and DRA's settlement, including an agreement on the ROE adjustment, was filed.

resubmitted on May 2, 2008. GSWC and DRA filed a motion for an extension of time from April 30 to July 15, 2008 to file the Region I conservation rate design application referenced in the settlement agreement. In a June 20, 2008 ruling, the motion was granted. In that ruling, submission was set aside until June 30, 2008 to consider the San Jose and Joint Consumer settlement.

The joint motions and settlement agreements addressed in this decision were filed before and after the Phase 1B hearings as follows:⁵

- GSWC/ DRA on conservation rate design trial program on October 19, 2007 and amendment to settlement on March 21, 2008;
- GSWC/Joint Consumers⁶ on data collection and reporting, customer outreach and education initiatives on March 21, 2008;
- San Jose/DRA on conservation rate design and pricing adjustment mechanism trial program on November 14, 2007;
- San Jose/Joint Consumers on customer education and outreach and data collection and reporting initiatives on June 12, 2008; and
- CalWater/DRA on conservation memorandum account on December 21, 2007.⁷

The Consumer Federation of California's (CFC) request for hearings on the GSWC/DRA and San Jose/DRA settlement agreements was denied by October 30, 2007 and March 7, 2008 rulings, respectively.

⁵ The settlement agreements were e-filed with the Commission. The provisions of the settlements are summarized *infra*. The settlements can be obtained on the Commission's website under the index of currently opened proceedings.

⁶ The Joint Consumers are The Utility Reform Network (TURN), the National Consumer Law Center (NCLC), Disability Rights Advocates (DisabRA), and Latino Issues Forum (LIF).

⁷ Hearings were held on CalWater's conservation memorandum account proposal. The parties settled after hearings had concluded.

3.2. WRAM and MCBA

GSWC and DRA propose separate WRAMs for each ratemaking area, which will ensure recovery of the portion of GSWC's fixed costs that are recovered through the quantity charge and all variable costs not included in the MCBA.¹⁶ The WRAM will track the difference between adopted and actual revenue.¹⁷

CFC recommends that we reject the proposed WRAM because it is unlikely that the proposed conservation rate design will result in any revenue loss to GSWC.¹⁸ GSWC and DRA state that without a WRAM a rate design that is intended to promote conservation could substantially reduce GSWC's earnings. The WAP supported the adoption of decoupling mechanisms due to existing financial disincentives to conserve water. GSWC proposed reducing monthly service charges, because it was concurrently proposing a WRAM. With a WRAM, GSWC's earnings and revenue requirement would not be subject to the fluctuation of sales resulting from reducing service charges and recovering the costs captured in that portion of the service charges in quantity rates. (*See generally* Exhibit 1, pp. 13-14, 17.) Increasing block rates also increase volatility in sales, sales forecasts, and earnings. The proposed WRAM eliminates that volatility. (*Id.* at 14-15.)

¹⁶ The variable costs included in the WRAM are variable costs other than purchased power, purchased water, and pump tax.

¹⁷ Fire service, unmetered service and other non-general metered service revenues are not included.

¹⁸ CFC's concerns about reduction in business risk and the impact on return on equity will be discussed in the return on equity adjustment section.

GSWC notes that for Region III's six water programs, GSWC's 2005 water conservation budget would save about 753 acre feet of normal annual consumption. That level of savings would result in a revenue loss of \$567,000. (Exhibit 4, p. 6.) Adoption of a WRAM removes the risk of that revenue loss. Adoption of a WRAM also removes weather and economic risk associated with sales volatility from both GSWC and its customers. (*Id.* at 14.) A WRAM will not affect GSWC's incentive to reduce costs, since it only adjusts actual revenues or sales. (*Id.* at 17.) We conclude the record sufficiently demonstrates GSWC is at risk for any revenue losses associated with adoption of the conservation rate design. Although the proposed conservation rate design was modeled to be revenue neutral, there is no guarantee it will achieve that result.

The MCBAs will capture the cost savings and cost increases associated with purchased water, purchased power, and pump taxes by tracking the difference between actual and adopted variable costs. The MCBAs will replace the existing supply cost balancing account, which only tracks cost changes attributable to changes in unit price. GSWC stipulates that it will exercise due diligence in ensuring the least-cost mix of its water sources and will track significant changes in water purchases.¹⁹

Annually the over- or under-collection traced in the WRAMs and the difference between adopted and actual costs tracked in the MCBAs will be reported to the Commission's Water Division. If the combined over- or under-collection exceeds 2.5% of GSWC's prior year revenue requirement, the

¹⁹ Significant changes occur when the annual volume of purchased water in a region is greater than 10% of the purchased water adopted in the most recently adopted test year for that region.

combined balance of the accounts will be amortized. Combined under-collections will be passed through as surcharges on volumetric charges; combined over-collections will be passed through as surcredits on volumetric charges.²⁰

3.2.1. Adoption of Conservation Rate Design and WRAM/MCBA Settlement Agreement as Amended

We have reviewed the conservation rate design and WRAM/MCBA settlement as amended and CFC's objections to the specific rate design and decoupling WRAM. We find GSWC's trial conservation rate design will advance our conservation objectives; it incorporates increasing block rates for residential customers and moves its nonresidential customer class to CUWCC's requirement to recover over 70% of revenues through the quantity charge. We will review this rate design to determine whether it meets targeted reductions in consumption. If it does not meet these goals or is unlikely to meet future goals, GSWC will propose rate designs that will accomplish these goals.

GSWC's WRAM and MCBA will balance utility and ratepayer interests and will ensure neither is harmed nor benefits from the adoption of conservation rates. The WRAM and MCBA implement the WAP's objective of decoupling sales from revenues to encourage successful conservation programs. The GSWC/DRA settlement agreement is reasonable in light of the record, consistent with the law, and in the public interest and will be adopted.

²⁰ Remaining balances will be addressed in GRCs.

21. CWA's witness found credit rating agencies did not heavily weight electric revenue adjustment mechanisms in their rating deliberations.

Conclusions of Law

1. The proposed settlements generally are reasonable in light of the whole record, consistent with the law and in the public interest.

2. The conservation rate designs will advance the WAP's conservation objectives and will be reviewed to determine whether they meet targeted reductions in consumption. The GSWC WRAMs and MCBAs implement the WAP's objective of decoupling sales and revenues to encourage successful conservation programs. The San Jose pricing adjustment mechanism meets San Jose's unique circumstances.

3. Implementation of WRAMS and MCBAs may result in a diminution of shareholder risk relative to ratepayers, other things being equal.

4. It is reasonable to delay quantification of an ROE adjustment until it can be reviewed comprehensively with other risk changes in a cost of capital proceeding.

5. In order to promptly implement conservation rates, WRAM/pricing adjustment mechanism, MCBAs, customer education and outreach, data collection and reporting, and conservation memorandum accounts and changes to those accounts, this decision should be effective immediately.

O R D E R

IT IS ORDERED that:

1. The following settlement agreements are approved and adopted:
 - Golden State Water Company (GSWC)/Division of Ratepayer Advocates (DRA) on conservation rate design trial program and

- amendment to settlement except the interim rate design for Region I;
- San Jose Water Company (San Jose)/DRA on conservation rate design and pricing adjustment mechanism trial program;
 - California Water Service Company (CalWater)/DRA on conservation memorandum account;
 - San Jose, TURN, NCLC, DisabRA, and LIF on customer education and outreach and data collection and reporting initiatives on June 12, 2008; and
 - San Jose, TURN, NCLC, DisabRA, and LIF on customer education and outreach and data collection and reporting initiatives on June 12, 2008.

2. GSWC and San Jose shall provide the following information in their next general rate cases: monthly or bimonthly (depending on the billing cycle) per customer or service connection changes in consumption by district, separated by meter size and customer class, following the implementation of the conservation rate design trial program; surcredits or surcharges by district and customer class implemented in amortizing water revenue adjustment mechanisms (WRAM) and modified cost balancing accounts (MCBA) for GSWC and pricing adjustment mechanism for San Jose; increase or decrease in disconnecting low-income program participants for nonpayment by district after adoption of conservation rate designs; increase or decrease in low-income program participation by district after adoption of conservation rate designs; increase or decrease in residential disconnections for nonpayment by district after adoption of conservation rate designs; identification of any weather or supply interruption that might contribute to consumption changes in districts; and any other district-specific factor that might contribute to consumption changes.

3. Class A water utilities whose residential conservation rate design trial programs have been implemented for at least one year shall propose increasing block rates for nonresidential customer classes in the next general rate case.

This order is effective today.

Dated August 21, 2008, at San Francisco, California.

MICHAEL R. PEEVEY
President
DIAN M. GRUENEICH
JOHN A. BOHN
RACHELLE B. CHONG
TIMOTHY ALAN SIMON
Commissioners

No. S271493

IN THE SUPREME COURT OF THE STATE OF
CALIFORNIA

CALIFORNIA WATER ASSOCIATION
Petitioner,

v.

PUBLIC UTILITIES COMMISSION OF THE STATE OF
CALIFORNIA
Respondent.

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

Of the Public Utilities Commission of the State of California

EXHIBIT Z

*Order Instituting Rulemaking on the Commission's Own Motion
into Addressing the Commission's Water Action Plan Objective of
Setting Rates that Balance Investment, Conservation, and
Affordability for Class A and Class B Water Utilities, Rulemaking
11-11-008, Decision 16-12-026 (December 9, 2016)*

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Decision 16-12-026 December 1, 2016

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking on the Commission's Own Motion into Addressing the Commission's Water Action Plan Objective of Setting Rates that Balance Investment, Conservation, and Affordability for Class A and Class B Water Utilities.

Rulemaking 11-11-008
(Filed November 10, 2011)

**DECISION PROVIDING GUIDANCE ON
WATER RATE STRUCTURE AND TIERED RATES**

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Attachment A - Goals and Objectives for Balanced Rate Design

DECISION PROVIDING GUIDANCE ON WATER RATE STRUCTURE AND TIERED RATES

1. Introduction and Summary

1.1. California's Historic Drought Reshapes Water Use and Rate Design

In light of California's ongoing commitment to water conservation and the changed water landscape spurred by this historic period of drought, we adopt goals and objectives articulated in Attachment A to this Decision that update the water rate case plan, along with policies and methods to promote accuracy and transparency in water rates, and water service sustainability, quality, and affordability. This Decision adopts as a primary objective an emphasis on rate design that fosters safe, reliable service at just and reasonable rates for all rate payers by using principles of: flexibility to address utility and district circumstances, equity, conservation signals to promote sustainability with a directive to address outlier customer behavior, and action to increase data availability and use for customer and system use.

Phase II of this Balanced Rates Order Instituting Rulemaking was initiated through the April 30, 2015, Scoping Memo which encouraged "bold, creative ideas, including radical departures from our current way of doing business" in light of California's ongoing drought. This proceeding gathered a record "to better understand the effects of our current policies regarding tiered rates, conservation rates, forecasting, data and technology, metering and billing, accounting mechanisms and other programs and how to improve these policies and mechanisms." The drought shaped our evaluation of rate design mechanisms adopted in 2007 and implemented over the past nine years.

As we consider this proceeding, El Niño of 2016 is over. It brought average to moderate rain to parts of Northern California and very little rain to Southern California. Neither has La Niña, a weather pattern that usually augers drought, been declared for 2017, but drought is still on California's horizon. Five years of drought, likely to stretch into six years, demand new steps to account for California's changed reality of scarcer and more expensive water supply, and less water consumption. We must consider bold ideas better suited to ongoing levels of conservation. New approaches are merited to minimize leaks, protect drinking water quality, provide more transparency to consumers about data, consumption, and system requirements, and increase data for system management to maintain safe, reliable, and sustainable water service. Our rate design and collection system must account for this "new normal," and provide customers with timely information and price signals to spur and support conservation and sustainability.

During Phase I of this proceeding, Governor Brown declared a Drought State of Emergency on January 17, 2014, under the California Emergency Services Act in light of California's drought conditions. The Governor issued a Proclamation of a Continued State of Emergency on April 25, 2014 calling for voluntary conservation in light of the continued drought, and the Commission ordered water Investor-Owned Utilities (IOUs) to implement voluntary conservation measures. On April 1, 2015, Governor Brown issued Executive Order B-29-15 that, in part, directed the State Water Resources Control Board (SWRCB) and the Commission to impose restrictions on water suppliers to achieve a statewide 25 percent reduction in potable urban water usage through February 28, 2016. On November 13, 2015, the Governor by Executive Order extended mandatory urban water use restrictions to October 31, 2016. On May 9,

2016, the Governor issued an Executive Order B-37-16 that aims to make conservation a way of life in California, and directed the Commission to take action to address and stem water leaks.

The Commission implemented each of these Executive declarations through resolutions directing our regulated water utilities to take bold action to promote water conservation. The Commission authorized the initiation of voluntary, then mandatory, then a limited version of mandatory conservation, following the SWRCB's policy. The 2014, 2015 and 2016 resolutions urged bold action to encourage conservation, particularly by outlier users such as the top 10 percent of water customers, or in some cases, the top 10 water customers, who used significantly more water than other customers, and to file appropriate advice letters.¹

Even after mandatory conservation restrictions were removed in June 2016, water consumption levels remained 20 percent or more below 2013 levels, the comparison base year established in the conservation orders and resolutions. California's water consumption landscape has shifted literally and figuratively. During the drought, thousands of lawns were replaced by drought-tolerant, lower water using gardens, outdoor watering decreased, and Californians found creative ways to use less water indoors.

Governor Brown's May 9, 2016 Executive Order B-37-16 directed this Commission to order the water IOUs to accelerate efforts to minimize leaks. It directed the SWRCB to propose, by January 2017, long-term conservation plans to spur mandatory reductions in urban water usage. Those long-term plans

¹ See, Resolution W-4976 (February 27, 2014), Res. W-5000 (August 14, 2014), Res. W-5032 (April 9, 2015), Res. W-5041 (May 7, 2015), Res. W-5082 (February 11, 2016), and Res. W-5103 (June 9, 2016) as corrected by Res. W-5105 (June 30, 2016).

build on the 25 percent water reduction levels imposed by previous Executive Orders, and reflect lessons learned during the drought. Executive Order B-37-16 also directed the Department of Water Resources (DWR) to develop, by January 10, 2017, new water use targets as part of a permanent framework for urban water agencies. Those targets complement existing laws that require a 20 percent reduction in urban water use by 2020. New targets will recognize local conditions, revise indoor residential per capita water use targets, consider local outdoor irrigation needs and climate, commercial, industrial and institutional water use, and water lost through leaks.

The Commission will evaluate the SWRCB and DWR 2017 proposals and consider a resolution to direct water IOU action in light of these proposals. Water conservation levels will likely continue and may even accelerate following such a resolution implementing the SWRCB and DWR decisions. Any adopted rate design must provide continued incentives for conservation of water supplies.

1.2. Policy Decisions to Promote the Goals and Objectives of Balanced Ratemaking

To promote transparency, sustainability, and conservation, this Decision orders Class A and B water IOUs to propose forecast methodologies in their General Rate Case (GRC) applications following the effective date of this Decision to more accurately determine how GRC-authorized revenue will be collected through water rates. Proposed forecast methods shall consider consumption trends during and following the drought which began in 2012. Proposals shall analyze factors that may affect consumption in the next GRC such as drought, flood, climate change, water supply, any proposals to shift the collection of rates to fixed as opposed to variable charges, and the transition to Advanced Metering Infrastructure (AMI). Proposals shall provide analysis and

information to make a showing that they are appropriately designed to achieve the objectives of this Decision, and consider the factors stated herein.

Current forecasting methods use the past 10 years of water consumption, and the past 30 years of weather and rain data to predict water consumption. Those forecasts have been wildly off during both the recession of 2008-2010 and the drought years of 2014-2016 following the Commission's institution of voluntary conservation. This divergence between forecast consumption and actual consumption drives up Water Revenue Adjustment Mechanism (WRAM) balances and surcharges, a mechanism used to collect authorized revenues months or even years after the events occurred that caused the disjunction between authorized and actual revenue. Improving forecasting methodologies is key to reducing WRAM and surcharge balances. Inaccurate forecasts provide the air that balloons the WRAM and surcharges.

This Decision orders Class A and B water IOUs that have a five percent or greater divergence (higher or lower) between authorized and actual revenue during a drought period in their current GRC cycle, to consider filing a Tier 2 Advice Letter requesting a Sales Reconciliation Mechanism (SRM) to conform water forecasts authorized in the GRC to actual consumption in light of the circumstances faced in their districts. The SRM will recalculate rates for the remainder of the GRC so that 50 percent of the divergence between authorized and actual revenues will be recovered in rates through the remainder of the GRC cycle, with the balanced recovered through a WRAM if authorized for that IOU, or surcharges. The SRM may be proposed for an individual district, or a combination of districts, based on district circumstances.

This Decision orders Class A and B water IOUs to consider filing in the next GRC application following this Decision a proposal to institute an SRM that

puts at least 50 percent of the divergence between authorized and actual revenues in rates to be recovered through the remainder of the GRC cycle, if consistent with the principles adopted in this Decision. That filing may include alternative mechanisms to reduce WRAM balances and surcharges, and shall propose different triggers or time periods for the SRM, such as whether it should only be available during drought or similar periods, or whether it should be an ongoing mechanism. The application shall provide analysis and information to make a showing that the proposals are well-calculated to provide more timely cost information to customers to inform the Commission's deliberation about the appropriate mechanism to address this issue and achieve the policy goals articulated herein.

The GRC may examine whether an application proposing a divergence below five percent is an appropriate trigger for an SRM, or alternative mechanism, and whether recovery of more than 50 percent of that divergence is appropriate for the remaining GRC years to reduce WRAM balances and surcharges, maintain affordability, equity, sustainability, and transparent and clear water price signals. The GRC may also consider whether the SRM should be limited to drought or similar periods or events that effect consumption, or whether the mechanism should be used more broadly and over a longer period of time to minimize resort to WRAMs or surcharges.

We order Class A and B water IOUs to file in the next GRC application following this Decision one or more proposals to adjust customer tiers including consideration of higher tiered rates for outlier consumers or a superuser charge. Such proposals shall provide analysis and information to make a showing that the proposals balance promoting conservation, particularly by outliers,

protecting ratepayers from rate shock, recovering authorized revenue to sustain the system and operations, and ensure fairness between ratepayers.

We direct Class A IOUs to consider filing a request in their next GRC a plan, or in a separate application, to install AMI meters over the course of one or two rate case cycles so customers can benefit from more timely data captured to minimize leaks and backflow incidents that endanger water quality, and to enhance customer and system manager information. We order Class B water IOUs to file a request in the GRC application to install AMI meters over the course of one to three rate case cycles for customers to realize the benefits above. These proposals should analyze costs, options for AMI meters, collector and communications networks, barriers to deployment, and options to achieve the above benefits such as use of Advanced Meter Reading (AMR) in areas where collector or communications networks are not reasonably available. The Commission will evaluate the appropriateness of any such request in that GRC or application.

We order Class A and B water IOUs to consider proposing in the GRC application rate design changes such as billing water at daily usage, consistent with AMI readings, as opposed to the current practice of billing for water consumption based on monthly usage. Such proposals shall be consistent with the principles adopted in this Decision including providing correct and timely information to consumers about their behavior, and bills that reflect water conservation and consumption.

This Decision orders Class A and B water utilities, that seek to adjust current rate design, to consider submitting proposals in their next GRC application to shift more water rate collection to fixed charges, with a floor of 40 percent of revenues collected from fixed charges, and up to 50 percent fixed

charges. Such proposals shall provide analysis and information to make a showing that they are well-designed to lessen WRAM balances and surcharges as water quantity consumption declines, and to meet the principles adopted in Attachment A of this Decision. The Commission will analyze in the GRC the projected effect of such proposals on WRAMs, Modified Cost Balancing Accounts (MCBAs) balances, surcharges, equity, affordability, and sustainability, and the principles outlined above in this Decision. Such proposals shall consider changes to low-income programs to promote affordability, equity, conservation, and transparency.

Water utilities that propose changes in the monthly or bi-monthly service charges so that greater revenue recovery of fixed costs comes from such charges and less from the quantity rates need to ensure that low-income customers continue to be served affordably. This Decision does not alter current methods for recovery of capital investments, or current low-income programs as other proceedings are considering these issues.

This Decision maintains the current WRAM and MCBA ratemaking mechanism, and the current 10 percent cap on the recovery of revenues that applies to the WRAM mechanism though utilities may propose alternative in their GRC proposals and negotiate those outcomes. The authorization of drought SRMs, requests for GRC proposals to change in forecasting methodologies, and potential shifts to recover more revenue through fixed rather than variable rates should reduce WRAM and MCBA balances and surcharges.

This Decision recognizes that water utilities and water utility districts must manage distinct variables, including varying water supplies, geographies, conditions, customer-related characteristics, and available accounting

mechanisms² to adopt and administer rate design. These factors render a single, uniform rate design unreasonable. This Decision's emphasis on flexibility allows water utilities to respond to their particular operational and customer needs while reflecting the Commission's policy decisions.

This Decision also determines that any GRC proposed settlement should be consistent with these principles and this Decision is found to be a factor in considering the public interest.

This proceeding is closed.

2. Procedural Background

The Commission issued this Order Instituting Rulemaking (OIR) on November 10, 2011 to address a major policy objective in the Water Action Plan³ as it affects multi-district water utilities. That policy objective, the sixth among the six objectives identified in the plan, is to set rates that balance investment, conservation, and affordability. Initially, the Commission focused this OIR on balancing investment, conservation, and affordability in multi-district water utilities.⁴ Administrative Law Judge (ALJ or Judge) Gary Weatherford was assigned as the Judge.

² Some water utilities have WRAM and MCBA accounting mechanisms while others do not. The MCBA accounts for lower costs associated with reduced water sales.

³ The Water Action Plan guides the Commission's regulation of investor-owned water utilities. The original plan, adopted by the Commission in 2005, is available on the Commission's website at:

http://www.cpuc.ca.gov/uploadedFiles/CPUC_Public_Website/Content/Utilities_and_Industries/Water/water_action_plan_final_12_27_05.pdf.

The current 2010 Water Action Plan, adopted on October 28, 2010, updates the 2005 plan and is available at: <http://docs.cpuc.ca.gov/PUBLISHED/Graphics/125501.PDF>.

⁴ The five multi-district water utilities are: California-American Water Company (Cal-Am); California Water Service Company (CWS); Del Oro Water Company, Inc. (Del Oro); Golden State Water Company (GSWC); and San Gabriel Water Company.

5. Statutory Goals of Water Rate Design per Public Utilities Code Section (Pub. Util. Code §) 701.10

Pub. Util. Code § 701.10 provides policy direction to the Commission in its regulation of water utilities. This code sections states:

The policy of the State of California is that rates and charges established by the commission for water service provided by water corporations shall do all of the following:

- (a) Provide revenues and earnings sufficient to afford the utility an opportunity to earn a reasonable return on its used and useful investment, to attract capital for investment on reasonable terms, and to ensure the financial integrity of the utility.
- (b) Minimize the long-term cost of reliable water service to water customers.
- (c) Provide appropriate incentives to water utilities and customers for conservation of water resources.
- (d) Provide for equity between present and future users of water service.
- (e) Promote the long-term stabilization of rates in order to avoid step increases in rates.
- (f) Be based on the cost of providing the water service including, to the extent consistent with the above policies, appropriate coverage of fixed costs with fixed revenues.²⁰

The regulatory policies adopted below reflect the policy direction in this code section.

6. Scoping Memo Topics, Summary of Comments, and Discussion

We discuss and analyze below, by topic, comments submitted in response to the third amended scoping memo and to the Workshop Report. After

²⁰ Pub. Util. Code § 701.10.

weighing the record in this proceeding, we make policy determinations as discussed herein regarding these topics and the appropriate rate-making mechanisms to address these issues.

6.1. Forecasting

Rates should yield sufficient revenues to allow a utility to cover its operating expenses and capital costs, that is, service on debt and equity.²¹ The public utility commissions must set rates that protect both: “(1) the right of the public utility company and its investors to earn a return reasonably sufficient to maintain the utility’s financial integrity; and (2) the right of consumers to pay a rate which accurately reflects the cost of service rendered.”²² The reasonableness of a utility's rates is not measured exactly, but is left to the discretion of the regulatory commission.²³

Forecasted sales drive rates as they determine how authorized revenue (based on determination of costs, return on equity, and other factors) are to be recovered through quantity rates. Through “forecasts the costs required to deliver that level of water service are estimated and consequently the revenue requirement to support those costs is established.”²⁴ Inaccurate forecasts escalate

²¹ Federal Power Comm'n v. Hope Natural Gas Co., 320 U.S. 591, 603, 64 S. Ct. 281, 88 L. Ed. 333 (1944).

²² Public Serv. Co. v. Public Utils. Comm'n, 644 P.2d 933, 939 (Colo. 1982) (en banc).

²³ See Southern Bell Tel. & Tel. Co. v. Mississippi Pub. Serv. Comm'n, 237 Miss. 157, 238, 241, 113 So.2d 622, 654 (1959).

²⁴ Richard White, Principal author, Marzia Zafar, Editing Author, Evaluating Forecast Models, the Water Revenue Adjustment Mechanism, achieving an efficient urban water economy requires that the nexus between water rates, water consumption, and water revenues are well balanced, at 5, Policy and Planning Division, California Public Utilities Commission, August 17, 2015, [hereinafter “PPD, WRAM White Paper”], at 5.

WRAM balances and surcharges when actual sales do not match the forecast adopted in the GRC.

Forecasts are by nature a prediction submitted two or more years before a GRC is adopted to anticipate consumption up to five or more years later. Circumstances such as prolonged drought, voluntary, and mandatory conservation, the economy, and other factors may make forecasts diverge greatly from predictions, resulting in inaccuracies that drive WRAM balances or surcharges.

CWA urged this Commission to reform the forecasting methodology. CWA argues that “the cause of under-collections and associated surcharges has been the difference between sales forecasts and actual sales, including projected allocation of sales within rate tiers.”²⁵ ORA acknowledges the importance of forecast accuracy, and has agreed in the Cal Water Service GRC to the SRM mechanism to allow more frequent updates to forecasts. CWA points out that due to declining sales in recent years, the current New Committee Method²⁶ of adopted sales forecasting has not provided reasonable or accurate results. CWA characterizes the current forecasts methodology as unreliable, and urges the Commission to allow updates of forecasts during the rate case cycle to reduce the difference between projected and actual water sales that today drives large WRAM balances. Indeed, the time to permit the implementation of sales adjustments is overdue as improvements to sales forecasting might prevent large under-collection.

²⁵ CWA Workshop comments at 10.

²⁶ The New Committee Method was adopted May 24, 2007, as the sales forecasting method in The Rate Case Plan, D.07-05-062.

Policy and Planning Division (PPD) describes the New Committee Method as “a regression model that takes into account several factors that contribute to a water utility’s bottom line such as population, household size, climate, and other factors that drive water demand.” The New Committee Method includes the following:

- Use monthly sales data for the past 10 years
- Use 30 year average of past years for forecasted values of temperature and rain
- Remove periods from historical data in which sales restrictions (e.g. rationing) were imposed.

These requirements are flexible but designed to reflect the typical or average conditions that a water utility should expect to confront in the coming three year accounting/GRC cycle.²⁷

6.1.1. Discussion

The New Committee Method of forecasting is based on the theory that the past 10 years of water sales and the past 30 years of temperature and rain reasonably predict water consumption over the three year rate case cycle. This method is based on the assumption that the past is a prologue for the future and is a reliable basis upon which to predict consumption and set rates. The drought shattered that paradigm.

Following Governor Brown’s 2014 declaration of a State of Emergency due to the drought, Governor Brown and this Commission asked Californians to break from previous consumption patterns, and we thank Californians for doing so. This Commission urged efforts to reduce outdoor watering and replace lawns with drought tolerant plants, and to reduce indoor water consumption.

The Commission and IOUs worked with state and local agencies and Californians to accomplish this objective. The New Committee Method's use of the past 10 years of water consumption as the basis to forecast future water sales is incongruous with conservation goals adopted during the drought, and does not reflect the success and the hard work of Californians to escalate conservation.

Since Governor Brown declared a State of Emergency due to the drought in February 2014, water consumption declined for most Class A and Class B water IOUs by more than 10 percent, then by 15 percent, then by 20 percent, then by 25 percent or more, and has settled at more than a 20 percent decline as compared to 2013. Water consumption data for 2011 is an inaccurate predictor for water sales in 2017, let alone sales data from 2007. Similarly, California experienced warmer temperatures during the drought period. The past 30 years of weather and rain patterns is a stark mismatch for this prolonged drought period.

California's drought that began in 2012 was preceded by a nationwide recession that begins in 2007-2008. PPD's analysis of the five water IOUs that use WRAMs showed that "during the recession consumption drops from 2008 through 2010, ranging from a five percent to 35 percent drop."²⁸ While water use increased for those utilities between 2011 and 2013 it dropped again in 2014 to 2016 to recession levels.²⁹ Even after the removal of mandatory water conservation in mid-2016, water demand has remained 20 percent lower than 2013 levels.

²⁷ PPD, WRAM White Paper, *supra* n. 21 at 5.

²⁸ PPD, WRAM White Paper, *supra* n. 21 at 7.

²⁹ *Id.*

The “New Committee Method” relies on historic consumption, weather, and rain pattern to forecast water sales that will be collected by rates. To determine costs that will go into rates, this Commission embraces a “future test year” model, not a “historical test year,” creating a disjunction between a forward-looking cost model and a backward looking forecast model. PPD explained the historic vs. future test year model to predict costs:

Historic test year estimate[s] assume that historical costs are a good predictor of future costs. For example a system of a certain size has a historic record of the fixed costs that are required to maintain and operate the system. In addition to the fixed cost the utility will also incur variable costs which are driven by the amount of water demanded. This includes electricity used to pump water and chemicals used to treat water.

The CPUC also incorporates a “future” test year model which includes costs for which there may not be a good historical record. These costs could include new water source acquisition, system retirement costs, pilot programs, new technology investment, expansion projects or other system upgrades. The future test year provides some level of certainty to a utility, since they know which project costs can be recovered before they commit to building/completing to those projects.

Current rate design model is forward looking regarding costs by using a future test year. In contrast, forecasting to determine the rates to recover those costs has been based on historical consumption, weather and rain patterns. Our current rate design model uses historic consumption and weather data, and future cost data.

Drought periods reveal the anachronism of using 10-year historical consumption and 30-year historical weather data to predict future water consumption. Inaccurate forecasts drive differences between authorized and

collected rates, and are the engine that drive WRAM balances and surcharges, and mute the price signal from tiered rates into a distant echo.

PPD explains how the disjunction between sales forecasts affects rates and distorts the price signal by shifting its effect to a WRAM or surcharge balance collection. The WRAM and other surcharges are often collected one or more years after the consumption the price signal was intended to affect.

Consider a revenue forecast that estimates a certain level of water demand q (1) and a commensurate level of water production. Now if there is a drought, a call for water conservation may reduce the total water demand and actual revenue will be less than the forecast revenue. This water demand shortfall effectively raises the cost per unit water produced, i.e. the rate. This effective rate because in decoupled water utilities the revenue requirement must be met regardless of the water delivered. When water demand goes down, the rate must go up. These prices however are not experienced by the consumer in the year of the drought; rather costs are passed on in the following year, p (2). In the following year the utility must decide how much water to procure based on the previous years' consumption and the current year price - including the last year drought surcharge. Consumers will respond to those new distorted prices and land at some new level of consumption according to their demand function. Producers once again update their production schedule based on the 3rd incarnation of distorted a price signal and around the cycle goes.³⁰

Inaccurate forecasts and mechanisms that correct this imbalance over years mute the price signal to a dissonant sound often uttered by a mystified consumer reading their bill, puzzled over a WRAM or surcharge. Delayed recovery mitigates the rate shock that can occur with prompt recovery of under-collection. It also mutes price signals and passes the buck to future bills. Better forecasts

³⁰ PPD, WRAM White Paper, *supra* note 21 at 9.

could stop this cycle, as would mechanisms to allow for timely true-up of forecasts to actual consumption behavior.

We have entered a new paradigm for water consumption as the drought continues and the weather brings us less rain and snow. Californians have heeded our calls and conserved in record numbers, and water IOU customers have done a particularly good job at conservation. As Governor Brown stated in his 2016 Executive Order B-37-16, water conservation must be a California way of life. Governor Brown's orders and the Commission's resolutions, the work of sister state and local agencies and the efforts of Californians have literally changed the landscape of California by incentivizing the removal of lawns, less outdoor watering, and taking steps to eliminate water waste and minimize leaks.

We need new forecast methods. The "New Committee Method" is based on assumptions not applicable in this prolonged and likely continuing drought. High levels of conservation are the "new normal." We should not defend inaccuracy in forecasting or prolong this ill-suited mechanism for the new drought-conscious California landscape. Our forecast mechanisms must recognize and use the drought years as a basis for forecasting or at least explain why any non-drought years should be considered a reliable predictor of future consumption, weather or rain. The time to expect better forecasting has arrived.

6.1.2. SRM and other proposals to update forecasts between GRCs

In addition to updating the forecast mechanism, CWA recommends establishing a policy favoring timely adjustment of sales forecasts for the WRAM/MCBA companies, and any other company that may request such a mechanism, when current forecasts prove inaccurate. CWS and CWA request that the Commission approve use of methods such as the SRM adopted in D.14-08-011 to correct more frequently for GRC forecast errors.

That SRM allows a water IOU that experiences more than a five percent difference (higher or lower) between aggregates sales for the past year as compared to adopted test year sales to adjust the estimated annual sales forecast during the remainder of the rate case cycle by 50 percent of the difference between the GRC-adopted forecast and actual water sales. Changes in rates due to SRM adjustments are included in the annual escalation year rate changes for the following GRC test years. The balance of the 50 percent of the mismatch between sales as adopted in the GRC and recorded sales, as well as imbalances under the five percent trigger, are collected through surcharges imposed over the following six months to three years, as is customary with the recovery of WRAM/MCBA under-collections. CWS and CWA argue that the SRM amplify conservation price signals sent to customers due to their clarity and swiftness as compared to the WRAM.

CWS and CWA also request two changes in applying the SRM: (1) eliminating the five percent trigger so that the SRM would be applied for any variation between actual and forecasted sales; and (2) eliminating the current 50 percent adjustment limitation used in the CWS SRM so that rates are adjusted for the entire change in sales. CWS argues that the SRM should adjust the forecast to account for 100 percent of the difference between forecasted as compared to actual recorded sales to reduce WRAM amounts and include revenue shortfalls in base rates, a position supported by CWA. CWA would also apply the SRM to all WRAM/MCBA companies, and allow non-WRAM/MCBA utilities to apply it at their discretion.

ORA counters that SRM is not a necessary tool for mitigating drought effects and it opposes allowing all utilities discretion to implement SRM. ORA argues that such discretion may allow some utilities to manipulate the

ratemaking process. ORA argues that forecasts are not the only consideration and that accounting mechanisms are also important. ORA recommends forecasts be adopted at conservation levels set by Commission policy and that deviations should result in financial penalties. We note that ORA and Cal Water have proposed authorization of an SRM in the settlement of the pending Cal Water GRC before this Commission.

The Water Demand Attrition Model (WDAM) proposed by the Commission's PPD in a white paper that was attached to Judge Weatherford's Ruling as Attachment C is another mechanism for forecast updates that reflect the effect of reduced demand on forecasts. CWA's comments in response to the workshop recommend adopting the Sales Reconciliation Mechanism/Demand Attrition Model as a permanent feature for WRAM companies and any other companies that may request such a mechanism. PPD's WDAM proposes:

The algorithm would specify how the water sales forecast would be updated in each year. Some inputs to the algorithm might include drought conditions, reduction in water demand, and hardening of water demand. With this knowledge, an updated expected water demand could be calculated. This new recalculated water sales forecast would establish an updated revenue requirement. The new rate could then be recalculated using the same algorithm establish in the GRC. This is not the same as WRAM balance adjustment, which simply tracks costs and then recovers them in subsequent years.¹⁷

PPD ran a simulation of a WDAM on a theoretical water IOU and found that "cumulative WRAM balances are reduced by more than half simply by updating the sales forecasts in year 2 and 3."³¹ CWA recommends making the WDAM a rate design option for water utilities that request them.

³¹ PPD, WRAM White Paper, *supra* n. 21 at 15.

PPD did not urge adoption of the WDAM model through the Balanced Rates OIR, but suggested that “If the Commission wanted to develop further and discuss this idea then we suggest opening a formal Rulemaking to further investigate.” We agree that the WDAM merits further exploration, and encourage utilities to file in their GRC for a WDAM after analyzing mechanisms to analyze and account for drought conditions and hardening of water demand. Such an application should compare the benefits of the WDAM as compared to the SRM, and show that the suggested mechanism is consistent with the principles adopted in this Decision.

The SRM was litigated in Cal Water’s 2014 GRC, D.14-08-011, and ordered by the Commission, though the parties did not include it in the proposed settlement in the GRC. The SRM is triggered by a five-percent difference (higher or lower) between forecast and recorded sales, and allows 50 percent of the difference to be recovered in rates during the remaining second and third years of the rate case cycle, with the balance recovered through a WRAM/MCBA mechanism.

The Commission found in D.14-08-011 that the SRM was in the public interest “as it would limit the revenue disparity that is tracked by the WRAM by changing rates, as opposed to applying surcharges and surcredits after the fact, when a disparity between adopted and actual sales will contribute to the WRAM balance at the end of the year.”³² The Decision added, “Rather than benefit Cal Water as TURN claims, the SRM can mitigate the rate adjustments under the WRAM. Such a result would be consistent with the Commission’s objective, expressed in D.12-04-048, to consider ways to bring revenue closer to the adopted

³² Cal Water General Rate Case Decision, 2014, D.14-08-011 at 19-20.

revenue requirement.”³³ The Commission approved the SRM for Cal Water in 2014 in light of the drought, and authorized a drought SRM Balancing Account to track rate changes associated with this mechanism and enable review of the SRM in the next GRC.³⁴ Both the SRM and the WDAM reduce WRAM balances and surcharges, increasing immediately the accuracy of price signals, and providing more transparency to the customer about the cost of water service.

6.1.3. Decision Regarding Forecasting and SRM

Over-estimates of water sales lead to deficits in revenue recovery, and corresponding increases in WRAM balances, surcharges, or other revenue collection adjustment mechanism. PPD’s White Paper on the WRAM describes the relationship between the forecasting model currently used in water GRCs to authorize and collect water rates, and high WRAM and under-collection balances that lead to surcharges collected often years after water consumption declines:

If forecast revenues exactly matched actual revenue than WRAM balances would be exactly zero. When demand is lower than expected, however, revenues drop off and utilities collect less than expected: an under-collection of revenue. Conversely, when demand is greater than expected, utilities will exceed the revenue requirement and over collect revenue. These over and under collections are tracked by the WRAM accounts on a yearly basis. One would expect - if the forecast models were both accurate and stable - that these balances would cancel each other out over time. Over the 7 years of the WRAM program, however, utilities have consistently experienced under collection. This experience has brought attention to the quality and accuracy of

³³ *Id.*, at 20 (citing Decision Addressing Amortization of Water Revenue Adjustment Mechanism Related Accounts and Granting in Part Modification to Decision D.08-02-036, D.08-08-030, D.08-09-026, and D.09-05-005).

³⁴ Cal Water General Rate Case Decision, 2014, D.14-08-011 at 19-20.

the demand forecast models that underpin the revenue requirement.³⁵

Of the Class A water IOUs using the WRAM, all experienced under-collection in at least some of their districts in 2015, with some under-collections exceeding 20 percent or more of authorized revenue. Under-collections accelerated in 2016 with mandatory water conservation and an increase in voluntary conservation even after mandatory restrictions were removed.

Although the Commission has adopted different mechanisms for forecasting sales, including the “Modified Bean Method”³⁶ and the New Committee Method, recent drought conservation effects were not adequately captured by these forecasting methods. Neither do those methods account for expected changes in water consumption resulting from the Governor’s Executive Orders and this Commission’s resolutions and decisions.

To accelerate conservation, Governor Brown’s Executive Order B-37-16 ordered the SWRCB to, by January 2017, propose mandatory reductions in water that builds off of the 25 percent water reductions imposed by previous Executive Orders in 2016, and the lessons from 2016. That Executive Order also directed the DWR to develop new water use targets as part of a permanent framework for urban water agencies. Those targets build on existing laws that require a 20 percent reduction in urban water use by 2020. The new targets will recognize local conditions, consider indoor residential per capita water use, local outdoor irrigation needs and climate, commercial, industrial and institutional water use

³⁵ PPD, WRAM White Paper, *supra* note 21 at 3.

and water lost through leaks, and issue a proposed draft framework by January 10, 2017. While we await the development of those targets and mandatory water reductions, the process initiated by the Executive Order highlight the steps that many California water agencies are taking to promote and mandate conservation.

Enhanced conservation efforts increase the likelihood that past forecasts will not align with actual consumption. While forecasting is by definition a projection, we adopt methodologies to make forecasting more refined with more robust data inputs that reflect changes in conditions during a rate case cycle. Increasing data inputs to forecasting methodologies helps to achieve another goal of developing more available water data for customer and system use.

This Decision encourages water utilities to leverage the work by the California Urban Water Conservation Council, Department of Water Resources and other organizations attempting to bring water demand forecasting to a higher standard, such as the level employed by energy utilities.³⁷ Annual adjustments to the sales forecast must be permitted so that unintended consequences, like growing WRAM/MCBA balances and surcharges can be reduced or eliminated.³⁸

6.1.4. Updating Forecast Methodologies through the GRC

We agree that forecasting based on the New Committee method has become increasingly inaccurate as a means to predict water sales and thus water

³⁶ The Modified Bean Method is a multiple-correlation regression method which adjusts recorded data for temperature and precipitation and forecasts future water usage.

³⁷ Comments on the Workshop Report by California Water Association.

³⁸ Comments on the Workshop Report by Great Oaks Water Company.

rates. Particularly during the drought period and likely ongoing conservation initiated by Governor Brown's drought declaration and Executive Order and this Commission's decisions, forecast methodologies need to be updated to take into account changed water consumption patterns during and following drought years.

Like the Big Bang Echo, WRAMs and surcharges that collect authorized revenue years after a change in water sales or conditions caused authorized and actual revenue to diverge send nearly unintelligible signals originating from events in the distant past, discernible only to the cognoscenti of rate design. This rate delay distorts present and future price signals, spurs confusion about the reason for WRAMs and surcharges, and mutes conservation signals. More accurate forecasts and updates during a ratecase cycle to account for actual consumption patterns as each year progresses align rates to behavior and make the price signal clearer. The record demonstrates a clear relationship between forecasting of future water sales, increased conservation, and resulting WRAM/MCBA balances. ORA and CWA's recommendation to consider new forecasting methods is reasonable.

We order Class A and B water utilities to bring forth proposals in their next GRC application to improve their forecasting methods to align rates to costs, and send timely conservation signals. Those proposals should reflect changes in consumption patterns due to long-term conservation, allow for annual forecast adjustments to yield more accurate rates, and lower WRAM balances and surcharges. These proposals shall be evaluated for consistency with the principles adopted herein and the reasonably predicted effects of such changes on reducing WRAM balances and/or surcharges, affordability, conservation signals, equity among ratepayers, and providing timely and accurate data to

customers to promote transparency and signal conservation. These principles are consistent with the objectives of the Bonbright principles: economic efficiency, revenue recovery and stability, rate and bill stability, and customer acceptance and satisfaction.³⁹

Changes to low-income programs may also be proposed to maintain affordability and equity with more accurate forecasts. In concert with other policies adopted herein such as shifting more revenue recovery to fixed as opposed to variable rates and AMI deployment, we conclude that the shifts in forecast methodology adopted herein will achieve a balance between conservation incentives, reasonableness of customer bills, and sustainability.

This Decision orders Class A and B water IOUs to consider filing in their next GRC application for an SRM that puts at least 50 percent of the divergence between authorized and actual revenues into rates recovered during the remainder of the GRC cycle, and/or is triggered by divergences of less than five percent. The GRC may also consider whether the SRM should be more broadly available to minimize resort to WRAMs or surcharges that may occur with floods, fire, climate change, changes in public policy, or other factors. That filing may include alternative mechanisms to reduce WRAM balances and surcharges and provide more timely cost information to customers to inform the Commission's deliberation about the appropriate mechanism to address this issue and achieve the policy goals articulated herein. The SRM or alternative mechanism may be proposed for an individual district, or a combination of districts, based on district circumstances. Those proposals shall provide analysis

³⁹ Bonbright, James R., *et al.*, PRINCIPLES OF PUBLIC UTILITY RATES (Columbia Univ. Press 1961).

and information to make a showing that the proposals are well-calculated to meet this Decision's objectives, and shall be evaluated for their consistency with the principles adopted in this Decision.

Any proposed GRC settlement on forecasting methodologies shall be consistent with the goals and principles adopted herein to be found to be in the public interest.

6.1.5. Authorization of an Advice Letter Process to Initiate an SRM during drought years between GRCs to Aligning Forecasts with Recorded Sales

In light of the record of large WRAM balances by all Class A utilities who use them, and large surcharges associated with the drought leading to collection of authorized revenues months or years later after water consumption, we determine that it is not sufficient to defer these policy recommendation to the next water IOU GRC. A Commission decision on a GRC application filed in 2017 would not be expected until late 2018, with rates going into effect in 2019-2021. Waiting two or three years more to consider in a GRC authorization of mechanisms to improve forecasts, reduce WRAM balances and surcharges, and increase the timeliness and accuracy of conservation signals communicated through rates is not prudent during the ongoing drought. While we do not know when the drought will end, we know WRAM balances and surcharges have been persistent and growing with declining water sales. It is important that we authorize mechanisms in the interim between rate cases during this prolonged drought period to address these circumstances not anticipated when the rate case was adopted.

The record of substantial WRAM balances or surcharges imposed over months or years on Class A and B water IOUs customers due to mismatches

between authorized revenue and sales demands action now to better align forecasted rates to recorded sales. Accordingly, this Decision orders Class A and B water IOUs that have a five percent or greater divergence between authorized and actual revenue during declared drought years in their current GRC cycle, to consider filing a Tier 2 Advice Letter requesting an SRM to conform water forecasts authorized in the GRC to recorded consumption in light of the circumstances faced in their districts. The SRM recalculates rates for the remainder of the GRC so that 50 percent of the divergence between authorized and actual revenues will be recovered in rates through the remainder of the GRC cycle, with the balance recovered through a WRAM if authorized for that IOU, or surcharges. The SRM may be proposed for an individual district, or a combination of districts, based on district circumstances.

As currently utilized, the SRM adjusts future usage according to recent recorded usage as part of the escalation year increases which occur in the two years following a GRC Test Year. The Advice Letter may request a delay or an update to the escalation factor filing (for escalation of rates during GRC cycle years) to consolidate the request for SRM and the escalation filing, or be filed and considered as a separate Tier 2 Advice Letter requesting authorization of an interim SMR is appropriate during this prolonged drought period and in light of the conservation record and in anticipation of ongoing conservation with the implementation of the B-36-16 regulations from Governor Brown's Executive Order and this Commission's anticipated and existing resolutions.

6.2. WRAM/MCBA

6.2.1. Party Comments and Proposals

Five investor-owned water utilities, Cal-Am, CWS, GSWC, Liberty Utilities (Park Water Company) and Liberty Utilities (Apple Valley Ranchos Water

Company) are currently authorized to use WRAM accounting mechanisms to track the difference between adopted revenue requirement and actual revenues. This difference is further adjusted for in the difference between authorized and actual variable costs for purchased water, purchased power, and pump tax.⁴⁰

Water utilities that do not have an authorized WRAM may use a lost revenue memorandum account or similar mechanism to impose a surcharge on customers to recover authorized revenues when sales fall short of forecasts. Revenue shortfalls of 0-5 percent are collected over 12 months, shortfalls of 5-10 percent are collected over 24 months, and shortfalls of 10 percent or greater are collected over 36 months. Such collections appear as bill surcharges when the utility applies for recovery of the lost revenue.

CWS states that differences between sales forecasts and estimates of consumption levels per tier in the rate designs and actual sales and consumption per tier resulted in substantial under-collections and large WRAM balances during the early years when the rate designs were implemented. Cal-Am, CWS and CWA argue that the continuing drought increases the size of WRAM under-collections.

PPD's analysis of the WRAM mechanism concurs with the findings of substantial WRAM balances associated with economic downturn and drought.⁴¹ WRAM balances grew with each divergence between forecasts and actual sales, whether caused by response to calls for conservation generally, the drought, economic conditions that led to water conservation, or other conditions. The drought that began in 2012 resulted in unforecasted levels of voluntary, then

⁴⁰ See, D.12-04-048, adopted April 19, 2012.

⁴¹ PPD, WRAM White Paper, *supra* note 21 at 7.

mandatory conservation, and prior consumption levels did not resume when mandatory consumption ended. As of October 2016, Class A and B water IOU consumption is down by approximately 24 percent compared to 2013 levels. Meanwhile, WRAM balances and surcharges grew with the reduction in water sales.

Customers under conservation directives who receive service from companies with WRAMs or revenue recovery surcharges are billed later, often years later, to collect authorized revenue as quantity consumption and actual revenue decline. PPD's White Paper Evaluating Forecast Methods, the WRAM, observed that the WRAM has been interpreted to allow "costs incurred in one year should be spread out over several years."⁴² "While this type of price smoothing may reduce rate shock it does not reduce the overall cost and also sends confusing price signals to customers," PPD's White paper commented.⁴³ The WRAM and/or the surcharge produces a delayed signal about the cost of water service and the importance of conservation.

All parties noted problems with communicating with water utility customers about the WRAM/MCBA mechanism, its purpose, methodology, and why it is necessary. A surcharge following conservation is a difficult mechanism for customers to understand. Customer concerns have been expressed in Commission Public Participation Hearings, workshops, community meetings, and customer outreach programs. Customers continue to ask why their bills do not decrease when they consume less water, and are frustrated by mechanisms to collect authorized revenue regardless of conservation. Some customers

⁴² PPD WRAM White Paper, *supra* note 21 at 3.

⁴³ *Id.*

characterize the WRAM/MCBA as a mechanism to collect profit rather than authorized revenue. PPD's White Paper analyzing the WRAM mechanism observed that the WRAM "has left consumers confused and frustrated - as the cost for water consumed in one year is collected in following years."⁴⁴ All parties noted various frustrations faced by customers in understanding rate changes generally, tier structures, application of conservation restrictions, and related matters.

WRAMs and extended surcharges also result in inter-generational inequities as WRAM balances and surcharges are recovered long after lower water sales are booked. Though these water utility parties continue to support the WRAM/MCBA mechanisms and surcharges as effective tools to encourage conservation, they urge reform to forecast and rate recovery mechanisms to shrink WRAM and surcharge balances.

To encourage conservation and allow water utilities to recover revenue requirements despite reduced sales ORA proposes a Water Conservation Memorandum Account (WCMA) methodology. ORA would apply an earnings test to WRAM recovery, and a 20 basis point reduction in return on equity (ROE), to recognize what ORA characterizes as a reduction in sales risk to water utilities resulting from the WRAM.

In response to ORA, CWA argues against applying reductions in ROE to WRAM collections explaining that D.06-04-037 determined that such reductions were intended for water utilities that did not make regular GRC filings. That

⁴⁴ Richard White, Principal author, Marzia Zafar, Editing Author, Evaluating Forecast Models, the Water Revenue Adjustment Mechanism, achieving an efficient urban water economy requires that the nexus between water rates, water consumption, and water revenues are well

Footnote continued on next page

matter was resolved with the regularly scheduled filings required for Class A water utilities under D.04-06-018. CWA contends that WCMA is not a viable conservation revenue recovery mechanism as it reflects past rate designs based on single volumetric rates. Cal-Am takes exception to referring to the WRAM as a risk management tool and instead characterizes it as a conservation tool. Cal-Am, CWS and CWA recommend lifting the current 10 percent cap on recovery of WRAM/MCBA under-collections established in D.12-04-048.⁴⁵ CWA urges the Commission to resolve the forecast mechanisms that drive WRAM balances and long recovery periods.

CWA and ORA disagree over the implications of the transfer of risk of revenue recovery as a consequence of the WRAM mechanism. CWA argues that the WRAM/MCBA corrects for customer growth and usage variations by the simple comparison of revenues recorded and revenues estimated. Consequently, the risk that customers will pay more for their water than is reasonable is balanced by the risk that the utility will receive less than their adopted revenues. CWA contends that the current WRAM interest rates do not compensate for the losses when revenues are not timely received. ORA points out that the Commission has not adjusted ROE to recognize the reductions in earnings risk that are compensated when a utility employs a WRAM//MCBA. ORA argues that earnings risk decreases as the WRAM/MCBA reduce the impact of revenue volatility. ORA notes that WRAM provides for revenues otherwise lost through

balanced, [hereinafter "Evaluating Forecast Models White Paper"] Policy and Planning Division, California Public Utilities Commission, August 17, 2015, at 2.

⁴⁵ The cap represents the percentage of the last authorized revenue requirement that can be recovered in a year as a result of WRAM under-collections. WRAM under-collections exceeding the cap are recovered over periods exceeding a year.

pipeline leaks, and courtesy billing adjustments.⁴⁶ ORA argues for re-imposing the earnings test prior to authorizing WRAM recovery.

CWA proposes to increase the current 10 percent cap on WRAM recovery.⁴⁷ CWA cites the current drought and related mandatory reductions in water usage as creating significant declining sales that enlarge WRAM balances and delay collected for regulatory assets. CWA recommends that the Commission provide for amortizing all WRAM balances within 12 months.

ORA recommends that WRAM continue to be applied as it is currently, including the 10 percent cap, as this provides protection for ratepayers against bill spikes and would allocate some of the WRAM costs back to shareholders. ORA opposes the application of the cost of capital as the interest rate for WRAM balances, arguing that such rates elevate WRAM charges, effectively punishing water conservation.

Parties make differing recommendations regarding recovery of WRAM surcharges. ORA contends the Commission should reduce the number of rate and surcharge approvals outside of GRCs, while CWA suggests more frequent rate changes. CWS does not recommend changes to the current WRAM/MCBA process, and believes it incentivizes conservation. As a solution to reducing WRAM shortfalls, CWA proposes to utilize the SRM to update forecasts to recorded sales,⁴⁸ a proposal addressed herein and discussed above. CWA also

⁴⁶ These are adjustments to customer's bills that provide forgiving a portion of a bill.

⁴⁷ CWA Comments on the Workshop at 25.

⁴⁸ SRM was adopted in D.14-08-011, ordering paragraph 43: "If recorded sales are more than 5 percent different than adopted sales, CWS is authorized to adjust its overall sales forecast by 50 percent of the recorded sales variation, flow that change through the revenue requirement (also proportionally changing production costs to match the proposed sales change), and calculate rates based on the adjusted sales." Customers must be provided a notice that the rate

Footnote continued on next page

proposes to increase the interest on WRAM balances to reflect the current rate of return on rate base by including it in the working cash calculation. CWS requests more frequent recovery of drought memorandum accounts by not requiring a two percent threshold for recovery of such accounts.

6.2.2. Discussion

In D.12-04-048, we addressed WRAM/MCBA filings and related problems with under-collections, amortization schedules, changes in the WRAM mechanism, and related matters. Although the draft decision proposed that the WRAM cap be 7.5 percent, in response to comments citing financial accounting and cash flow impacts as well as intergenerational equity, D.12-04-048 adopted a cap of 10 percent.⁴⁹

The MCBA accounts for lower costs associated with reduced water sales. With demand reduction, water utilities purchase less water from its purchased water sources, use less energy to pump water through the system, buy and use fewer chemicals to provide safe drinking water. Wholesale water costs have increased during the drought as competition for scarcer water supplies drove up prices. Pumping of groundwater increased for some water IOUs as they were unable to obtain purchased water when the SWRCB severely curtailed, and for a time ceased state water project deliveries. Reductions in water consumption did not always result in commensurate cost reductions for the water IOU, and the MCBA accounted for the cost effects.

changes results from the SRM. The remaining 50 percent of the balance of the mismatch between sales as adopted in the GRC and actual sales is collected through surcharges imposed over the following months to years, as is customary with revenue recovery surcharges.

⁴⁹ D.12-04-048, Ordering Paragraph (OP) 3.

We conclude that, at this time, the WRAM mechanism should be maintained. There is a continuing need to provide an opportunity to collect the revenue requirement impacted by forecast uncertainty, the continued requirement for conservation, and potential for rationing or moratoria on new connections in some districts. These effects will render uncertainty in revenue collection and support the need for the WRAM mechanism to support sustainability and attract investment to California water IOUs during this drought period and beyond.

Concomitantly, we adopt steps to lessen resort to and impact of WRAMs by allowing for requests to institute a drought SRM and propose improvements to forecasting as discussed above. Poor consumption forecasts, with mismatches between forecasts and actual sales, is a primary driver of WRAM balances.

Since we order Tier 2 Advice letters for Class A and B water IOUs who apply to implement SRMs during the rate case cycle years in this drought period, and order proposals to adjust the forecast mechanisms in the next GRC, we decline to adjust the 10 percent cap on the WRAM at this time. The SRM should reduce WRAM balances, and adjustments to forecast mechanisms will further reduce those balances. Maintaining the 10 percent cap at this time is prudent but this cap can be negotiated in GRC or alternative application filings if a water utility wants to take advantage of the flexibility promoted by this decision. Neither do we adopt CWA's recommendation that the Commission authorizes amortization of all WRAM balances within 12 months in light of the potential rate impacts of a one-size-fits-all shortening of WRAM balance recovery and our focus on reducing WRAM balances by improving forecasts and rate design. Class A and B water IOUs may propose to change the 10 percent cap on the WRAM or the WRAM amortization period in their GRC as part of a rate design

proposal including adjustments to forecast mechanisms to provide clearer price signals, more transparency, and to reflect better the cost of water service. Those proposals shall be analyzed for conformity to the principles of this Decision.

Likewise, at this time we decline to authorize cost of capital treatment for WRAM balances while we implement mechanisms to minimize WRAMs through authorization of drought SRMs, GRC proposals to improve forecasts, and collection of more rates through fixed rather than variable charges. We recognize the need to maintain financial integrity and the opportunity to earn a reasonable return on used and useful investment to attract capital for investment on reasonable terms for regulated water utilities as provided in Section 701.10, and to maintain sustainable water utility service. This issue is being litigated in Cal-Am's Application 15-07-019 and for Cal-Am will be addressed in that application. For other water IOUs with a WRAM, we will continue to apply the 90-day Commercial Paper Rate to water balancing accounts including the WRAM.

We will not adopt the alternative mechanism of using the WCMA methodology proposed by ORA. WCMA was one method for addressing changes in water usage and corresponding revenues. WCMA was developed at a time when water utilities charged a single quantity rate, a factor that is no longer in effect due to conservation and tiered rate design. This proposed method would add additional complexity to the process of recovering lost revenues through tiered rates.

As discussed below, we propose flexibility to account for individual district, utility, customer, water supply, and other circumstances, and allow Class A and B IOUs to propose an appropriate mix of fixed to variable rate charges with a floor of 40 percent revenue collected through fixed charges as discussed in

more detail below. Such proposals should achieve safe, reliable service at just and reasonable rates, equity for low-income rate-payers, reduce WRAM balances, signal conservation, and increase data availability for customer and water system management. Any proposed settlement that does not recommend a floor of 40 percent of recovery from fixed charges shall be accompanied by substantial analysis to show that the proposed rate structure is likely to reduce WRAM/MCBA balances, while providing timely conservation signals and promoting sustainability.

Proposals to increase recovery of rates through fixed as opposed to variable charges will also reduce WRAM balances when consumption declines. We will not adopt a uniform ratio between these two revenue recovery characteristics, but direct the utilities to propose adjustments to the percentage of revenue recovery collected from fixed charges with a 40 percent floor and up to 50 percent fixed charges, or submit alternative proposals reduce reliance on WRAM/MCBA balances, for those utilities that seek to adjust their current rate designs for collection of revenues through fixed rates as explained in more detail below. We expect that water utilities in their GRCs will propose some changes to existing ratios to promote transparency, sustainability, affordability, equity, and timely signals and data to customers as discussed in more detail below. SRMs, adjustments to forecast mechanisms, recovery of more rates through fixed rather than variable charges, and flexibility in tiers, with increased deployment of AMI and low-income programs are well-calculated to reduce reliance on high WRAM balances and delayed billing on ratepayers.

Findings of Fact

1. An inclining tiered rate structure is designed to promote conservation, but must be accompanied by timely information to consumers to signal conservation.
2. Universal rate design for all water IOUs would not reflect the differences in operating, geographic, and water supply characteristics between various water utility districts.
3. It is reasonable to increase the percentage of fixed costs included in the service charge to reduce WRAM/MCBA balances and surcharges, provide greater certainty of revenue requirement recovery, and reduce inter-cycle and intergenerational rate recovery shifts.
4. Increases in service charges to recover more rates through fixed costs should not diminish the conservation incentive provided through increasing rate tiers for quantity usage.
5. A 10 percent cap on the amount of WRAM/MCBA revenue that can be recovered in a year will be reviewed in GRCs to protect against rate shock, particularly as other rate design changes are implemented to reduce WRAM/MCBA balances. Greater amounts are recovered over longer periods.
6. Many customers have expressed difficulty in understanding the WRAM/MCBA mechanism and its interaction with rates and revenue recovery, decreasing its effectiveness and increasing administrative burdens.
7. In D.08-02-036, the Commission stated that one of the goals of the WRAM was to sever the relationship between sales and revenue to remove the disincentive to implement conservation rates and conservation programs.
8. In D.13-05-011, the Commission found that in some service areas there were high WRAM balances that lead to high WRAM surcharges, due to the inaccuracy of forecasters' estimates of water consumption.

9. Authorizing Class A and B water IOUs to consider filing a Tier 2 advice letter requesting an SRM to conform water forecasts authorized in the GRC to actual consumption in light of the circumstances faced in their districts

10. Through an SRM, if recorded sales differ by more than 5 percent from adopted sales, an IOU is authorized to adjust its overall sales forecast by 50 percent of the recorded sales variation, flow that change through the revenue requirement, and calculate rates based on the adjusted sales for the remainder of the GRC rate case cycle years, and provide notice to customers that the rate change is due to the SRM, and collect the 50 percent balance of that difference through a WRAM or surcharge.

11. AMI reduces water leakage by providing real time information on water use to customers and system operators, reduce costs for meter reading, provides timely information about backwash incidents that may affect water quality, and improves system management.

12. AMI enables real-time information for customers and water managers that current water meters cannot provide.

13. It is reasonable to consider installing AMI for meter replacements, new construction, and for transitioning flat rate customers to metered customers to enable customers to receive closer to real-time water usage information than is available today.

14. It is reasonable to require Class A and B water utilities to propose in their GRC, or in separate, standalone applications, AMI meters for existing customers, and a schedule to transition existing customers to AMI.

15. It is reasonable to consider new forecasting methods to increase accuracy and reduce WRAM/MBCA balances.

16. The application of SRM to modify forecasts in escalation years may be reasonable for some utilities, and Class A and B water utilities may propose an SRM in the GRC if necessary to achieve conservation, sustainability, and equity incentives in light of other rate design proposals.

17. To send accurate conservation signals to customers, it is reasonable to authorize Class A and B water IOUs to propose rate design changes such as billing water at daily usage, consistent with AMI readings, as opposed to the current practice of billing for water consumption based on monthly usage.

18. Water rate or low-income programs based on household size raise verification and administration issues that undercut their effectiveness and reliability.

19. Changes in low-income programs are being considered through other proceedings and by other state agencies, and may be affected by changes in rate design, indicating that it is not timely to adjust low-income programs through this Decision.

20. The record supports changes to existing rate design to allow for more flexibility, and flexibility is required in water utility rate design to enable creative consideration of conditions affecting water districts and utilities including variable water sources, geography, customer base, and other factors.

21. Proposed settlements are often used to resolve GRCs. After the date of this Decision, requiring proposed settlements filings to respect this Decision's Orders, the principles adopted herein, and the Goals and Objectives of Attachment A is necessary to finding that any proposed settlement is in the public interest.

Conclusions of Law

1. The changes proposed in Phase II of this rulemaking conform to the policy direction given in Pub. Util. Code § 701.10.

2. This Decision implements Governor Brown's Executive Order B-37-16 issued May 9, 2016 to order water utilities to accelerate steps to minimize leaks including implementing AMI for flat to meter conversion, replacement of aging or broken analog meters, new construction, and new customers.

3. Authorizing Class A and B utilities to consider filing a Tier 2 Advice letter to implement a drought SRM is consistent with this Commission's resolutions to promote conservation, our policies to communicate transparent cost-signals to ratepayers, and Pub. Util. Code § 701.10.

4. Ordering Class A and B utilities to propose in their next GRC filings: adjustments to forecast mechanisms; an SRM or alternative to reduce reliance on WRAMs and surcharges; changes in tiered rate structures; very high tiers, superuser charges, or other mechanisms to address outlier high water users including incorporation of Long Run Marginal Cost of water into some tiers; and shifts to collect more revenue from fixed as opposed to variable charges, in addition phasing in a transition to ARM, is consistent with Pub. Util. Code § 701.10 and this Commission's policies to promote conservation, cost-based rates, equity, flexibility to account for local circumstances, and to promote more transparency and data access for consumers and water system managers.

5. This Decision should be effective today to provide timely notice to Class A and Class B water utilities in advance of their next GRC application and filings.

6. This proceeding should be closed.

O R D E R

IT IS ORDERED that:

1. For General Rate Case or separate, stand-alone applications following the effective date of this Decision, Class A and Class B water utilities shall consider proposing rate designs which implement the various changes discussed herein.

2. Class A and B water Investor-Owned Utilities shall propose improved forecast methodologies in their General Rate Case application, or in standalone, separate applications, following the effective date of this decision to more accurately determine how authorized revenue determined in a General Rate Case will be collected through water rates, and shall consider consumption trends during and following the drought that began in 2013, and factors that may affect consumption in the next General Rate Case such as drought, flood, climate change, water supply, any proposals to shift the collection of rates to fixed as opposed to variable charges, and the transition to Advanced Metering Infrastructure.

3. Class A and B Water Investor-Owned Utilities that have a five percent or greater divergence (higher or lower) between authorized and actual revenue during a drought period in their current General Rate Case cycle, shall consider filing for an individual district or several districts a Tier 2 Advice Letter requesting a Sales Reconciliation Method to conform water forecasts authorized in the current General Rate Case to actual consumption, in light of the drought and circumstances faced in their district(s).

4. Except where Sales Reconciliation Mechanism (SRM) has already been authorized, Class A and B Water Investor-Owned Utilities may file in the next General Rate Case application following this Decision a proposal to institute an SRM that puts at least 50 percent of the divergence between authorized and

actual sales in rates to be recovered through the remainder of the General Rate Case cycle, or alternative mechanisms to reduce Water Revenue Adjustment Mechanism balances and surcharges, and provide timely cost information to customers.

5. Class A and B water utilities shall consider proposing pilot programs in their next General Rate Case application to implement very high tiered rates, a superuser charge, or other mechanisms to enable the utility to provide clear conservation signals to outlier users.

6. Class A and B water utilities shall propose pilot programs in their next General Rate Case application, or in a separate, standalone application, to adjust tiers, impose a superuser charge, or deploy other mechanisms taking into account other rate design changes and deployment of Advanced Metering Infrastructure to promote conservation, rate recovery, cost-based rates, and equity, providing analysis and a showing to allow the Commission to evaluate the likely effectiveness of those proposals.

7. Class A and Class B water utility Advanced Metering Infrastructure (AMI) proposals currently before the Commission shall receive due consideration. Class A and Class B water utilities shall consider filing, in the General Rate Case or in a standalone, separate application, proposals for Commission consideration to deploy AMI when converting flat rate customers to metered customers, for replacement of obsolete or damaged meters, and for meters in new construction. In districts or areas where the existing or anticipated communications infrastructure and other factors indicate that Advanced Meter Reading (AMR) would be substantially more cost-effective than AMI, Class A and B water utilities may deploy AMR to such customers if comparable leak detection and data communication benefits can be achieved. The Commission will decide on

No. S271493

IN THE SUPREME COURT OF THE STATE OF
CALIFORNIA

CALIFORNIA WATER ASSOCIATION
Petitioner,

v.

PUBLIC UTILITIES COMMISSION OF THE STATE OF
CALIFORNIA
Respondent.

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

Of the Public Utilities Commission of the State of California

EXHIBIT AA

*Order Instituting Investigation to Consider Policies to Achieve the
Commission's Conservation Objectives for Class A Water Utilities,
Investigation 07-01-022, Assigned Commissioner's Ruling and
Scoping Memo (March 8, 2007)*

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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Investigation to Consider Policies to Achieve the Commission's Conservation Objectives for Class A Water Utilities.

Investigation 07-01-022
(Filed January 11, 2007)

In the Matter of the Application of Golden State Water Company (U 133 E) for Authority to Implement Changes in Ratesetting Mechanisms and Reallocation of Rates.

Application 06-09-006
(Filed September 6, 2006)

Application of California Water Service Company (U 60 W), a California Corporation, requesting an order from the California Public Utilities Commission Authorizing Applicant to Establish a Water Revenue Balancing Account, a Conservation Memorandum Account, and Implement Increasing Block Rates.

Application 06-10-026
(Filed October 23, 2006)

Application of Park Water Company (U 314 W) for Authority to Implement a Water Revenue Adjustment Mechanism, Increasing Block Rate Design and a Conservation Memorandum Account.

Application 06-11-009
(Filed November 20, 2006)

Application of Suburban Water Systems (U 339 W) for Authorization to Implement a Low Income Assistance Program, an Increasing Block Rate Design, and a Water Revenue Adjustment Mechanism.

Application 06-11-010
(Filed November 22, 2006)

ASSIGNED COMMISSISONER'S RULING AND SCOPING MEMO

This ruling revises the scope of the proceeding and the schedule as set forth in the preliminary scoping memo in the Order Instituting Investigation (OII). It also determines that the proceeding will have two phases, the first to consider rate-related conservation measures, including proposed settlement agreements establishing conservation rate design pilot programs, and the second to consider non-rate design conservation measures.

I deny Golden State Water Company's (Golden State) petition to modify the OII but grant Golden State the opportunity to amend its rate-related conservation proposals. I decline to consolidate the California American Water Company (Cal-Am) general rate case (GRC) applications with this proceeding. Instead, I will coordinate review of rate-related conservation measures in this investigation and in those GRC applications.

Background

The Commission opened this investigation to address policies to achieve its conservation objectives for Class A water utilities and ordered the consolidation of four pending conservation rate design applications— Application (A.) 06-09-006 (Golden State Water Company (Golden State)), A.06-10-026 (California Water Service Company (CalWater)), A.06-11-009 (Park Water Company (Park)), and A.06-11-010 (Suburban Water Systems (Suburban)).¹ Parties filed responses to the preliminary scoping memo on January 29, 2007, and a prehearing conference (PHC) was held on February 7,

¹ A January 16, 2007 ruling affirmed consolidation of the applications with the OII.

2007. Settlement discussions are underway in the consolidated applications, with the exception of Golden State.

Golden State filed a petition both to modify the OII and the ruling consolidating the proceedings on February 6, 2007. Responses to the petition were filed on February 16, 2007. By e-mail ruling on March 2, 2007, the administrative law judge (ALJ) suspended the schedule set forth in the OII pending issuance of this ruling and scoping memo.

Phase 1: Rate-Related Conservation Measures

The proposal to create two phases is unopposed. The first phase of this proceeding will address rate-related conservation measures, including the parties' increasing block rate and Water Revenue Adjustment Mechanism (WRAM) proposals.² Any settlements and motions proposing their adoption under Rule 12.1 of the Commission's Rules of Practice and Procedure shall be filed on or before April 23, 2007. In order to assess how any settlement addresses the rate-related conservation objectives identified in the OII, I will order the settling parties to discuss relevant issues in the motion proposing the settlement agreement and/or the settlement.

The motion and/or settlement agreement shall state whether the company has a low-income affordability program, metered service, and monthly or bimonthly bills. The motions shall address the impact of the settlement agreements on low-income affordability. The motion and/or settlement shall discuss how increasing block rate levels and the percentages between them were

² Suburban also filed for approval of a low income assistance program; that proposal will be addressed in Phase I.

determined and shall provide the settling parties' position on whether the increase in rates between tiers will effectively promote conservation. The motion and/or settlement shall provide data on elasticity of demand, *e.g.*, how do they calculate it, what assumptions were included, what studies were referenced, and what timeframe was used. The parties shall provide charts which illustrate the effect of the proposed rate structures, such as marginal and/or average price curves. These charts shall include fixed and consumption charges. If the settlement agreements do not include seasonal rates, the parties shall state why they believe they are unnecessary. The parties shall state whether the WRAM includes all or a subset of revenue and the basis for that determination. The parties shall justify whether the conservation rate design proposal should be effective after completion of this proceeding or after the next GRC. The parties shall propose customer education initiatives necessary to implement the settlements, including outreach efforts to limited English proficiency customers, monitoring programs to gauge the effectiveness of the adopted conservation rate design, and recommendations on how these results will be reported to the Commission.

Comments on the motions and settlement agreements and replies to those comments shall be filed on May 23 and June 7, 2007, respectively. By focusing the motions and comments on rate-related conservation issues identified in the OII, I seek to avoid hearings on the proposed conservation rate design programs. However, I will schedule dates for testimony and hearings, should they be necessary.

Phase 2: Non-Rate Design Conservation Measures

The second phase of this proceeding will consider the non-rate design conservation measures identified in the OII. The Division of Ratepayer

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

Of the Public Utilities Commission of the State of California

EXHIBIT BB

Application of California-American Water Company (U210W), California Water Service Company (U60W), Golden State Water Company (U133W), Park Water Company (U314W) and Apple Valley Ranchos Water Company (U346W) to Modify D.08-02-036, D.08-06-002, D.08-08-030, D.08-09-026, D.08-11-023, D.09-05-005, D.09-07-021, and D.10-06-038 regarding the Amortization of WRAM-related Accounts, Application 10-09-017, Assigned Commissioner and Administrative Law Judge's Ruling and Scoping Memo (June 8, 2011)

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MP1/CMW/jt2 6/8/2011

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of California-American Water Company (U210W), California Water Service Company (U60W), Golden State Water Company (U133W), Park Water Company (U314W) and Apple Valley Ranchos Water Company (U346W) to Modify D.08-02-036, D.08-06-002, D.08-08-030, D.08-09-026, D.08-11-023, D.09-05-005, D.09-07-021, and D.10-06-038 regarding the Amortization of WRAM-related Accounts.

Application 10-09-017
(Filed September 20, 2010)

**ASSIGNED COMMISSIONER AND ADMINISTRATIVE LAW JUDGE'S
RULING AND SCOPING MEMO**

1. Summary

Pursuant to Rule 7.3 of the Commission's Rules of Practice and Procedure, this ruling and scoping memo determines the procedural schedule (with a proposed submission date), the category of the proceeding, the issues to be addressed, the designated presiding officer, and the need for hearing.

2. Background

This application was submitted on September 20, 2011 by California-American Water Company (Cal-Am), California Water Service Company (Cal-Water), Golden State Water Company (Golden State), Park Water Company (Park) and Apple Valley Ranchos Water Company (Apple Valley), together

designated as “applicants”. Applicants request modification of decisions adopting the conservation-related balancing accounts that decouple revenues from water sales – the Water Revenue Adjustment Mechanisms and the Modified Cost Balancing Accounts (WRAM/MCBA), as well as other Commission processes related to amortizing these balancing accounts. The WRAM/MCBA decisions are: Decisions (D.) 08-02-036, 08-06-002, 08-08-030, 08-09-026, 08-11-023, 09-05-005, and 10-06-038.

There are nine specific requests set forth in the application. The first request, a proposal to shorten the existing amortization schedule, is the primary focus of the application. In each of the WRAM/MCBA decisions shown in the caption of this proceeding, the Commission adopted an annual advice letter filing process to recover or refund the WRAM/MCBA balances but did not address the amortization period over which the balances should be recovered/refunded. Therefore, the Commission’s Division of Water and Audits has applied the amortization period adopted by the Commission in D.03-06-072, a generic proceeding on procedures for water utilities’ offset rate increases and balancing accounts (Rulemaking 01-12-009); this amortization schedule is also reflected in Water Division’s Standard Practice U-27W.

Applicants assert that it has recently become clear to them that a financial accounting standard, generally known as Emerging Issues Task Force Issue No. 92-7 (EITF 92-7) of the Financial Accounting Standards Board (FASB) may preclude applicants from recognizing their largest WRAM/MCBA undercollection as current (rather than deferred) revenue unless the Commission

shortens the amortization schedule for these balances.¹ Applicants request expedited treatment of this application in order to avoid a potential need to restate their 2009 and 2010 financial statements.

Prior to the December 3, 2010 prehearing conference (PHC), applicants were requested to provide their actual WRAM/MCBA balances for 2008 and 2009, as well as an estimate of 2010 balances. Each applicant's WRAM/MCBA balances for these periods, by district, is presented in Appendix A to this ruling.²

Also at the first PHC, a discussion was held on whether customers should have been provided notice of this application under Rule 3.2 of the Commission's Rules of Practice and Procedure (Rule 3.2). Parties were granted an opportunity to brief the applicability of Rule 3.2, following which a ruling was issued on December 20, 2010 affirming the need for notice and directing applicants to comply with the requirement as soon as possible. On May 4, 2011, pursuant to Rule 3.2(d), Apple Valley, Cal-Water, Golden State and Park submitted proof of customer notice. Cal-Am submitted its compliance filing on May 23, 2011.

While waiting for customer notice to be completed, applicants prepared additional data for review addressing possible causes of the high

¹ EITF 92-7, codified as Accounting Standards Codification 980-605-25, is currently under review for proposed elimination in FASB's June 24, 2010 Exposure Draft. Comments have been received on the Exposure Draft, and the effective date of any revised standard is estimated to be in the 2014-2015 timeframe. *See* November 22, 2010 Administrative Law Judge (ALJ) Ruling and the November 29, 2010 Prehearing Conference Statement of Golden State at 2-3.

² These summaries have been updated to reflect the final 2009 and 2010 balances, as submitted in applicants' advice letter filings, rather than the initial estimates provided in January 2011.

WRAM/MCBA balances, options for dealing with the balances, and why adopted safeguards had not alerted the Commission to this issue sooner.

On January 24 and February 17, 2011, additional PHCs were held to discuss the data identified above, and on April 15, the applicants submitted the requested material. Due to the very high WRAM/MCBA balances in Cal-Am's Monterey District, and Cal-Am's projection that high balances would continue to accumulate throughout 2011, consideration was given to taking immediate action for this district. Cal-Am and the Commission's Division of Ratepayer Advocates (DRA) submitted proposals for separately addressing the Monterey District, and a PHC was scheduled for April 25, 2011 to discuss this.

On April 22, 2011, Cal-Am filed a motion requesting the preparation of a final scoping memo and all parties responded to the motion on May 9, 2011.

3. Categorization, Need for Hearings, *Ex Parte* Communications Rules, and Designation of Presiding Officer

In Resolution ALJ 176-3262, issued October 14, 2010, this proceeding was preliminarily categorized as rate-setting with no need for evidentiary hearings. We affirm the categorization.³

Based on DRA's request for an opportunity to submit testimony on the limited scope it proposes for review here, we find that there are disputed material facts at issue and, therefore, evidentiary hearings are necessary. Pursuant to Rule 7.5, an Assigned Commissioner's Ruling on this change in the preliminary determination on the need for hearing will be placed on the Commission's Consent Agenda for approval.

³ This scoping memo, only as to the category, is appealable under the procedures set forth in Rule 7.6.

The primary areas of disputed fact that have arisen in this proceeding are:

- whether failure to grant the relief requested in the application will have a significant impact on the financial health of applicants;
- whether failure to grant the relief requested will have a chilling effect on conservation efforts of the utilities;
- whether the operation of the WRAM/MCBA mechanisms have had a disproportionate effect on ratepayers, and especially low-income ratepayers;
- whether there has been compliance with Commission decisions on the WRAM/MCBA; and
- whether California's municipal water districts and investor-owned energy utilities have experienced similar revenue shortfalls and rate impacts since 2008.

Assigned Commissioner Michael R. Peevey designates ALJ Christine M. Walwyn as the presiding officer in this proceeding. The Commission's *ex parte* communications rules applicable to this proceeding are set forth in Rules 8.1 – 8.5. These *ex parte* communication and reporting rules apply to all parties of record and, more broadly, to all persons with an interest in any substantive matter; the broad category of individuals subject to our *ex parte* communications rules is defined in Public Utilities Code Section 1701.1(c)(4) and Rule 8.1(d).

4. Scope of the Proceeding

4.1. Discussion of the WRAM/MCBA Mechanisms

In setting the scope of this proceeding, we first look to the Commission's intent in adopting the WRAM/MCBA mechanisms. The Commission adopted the mechanisms as part of conservation rate design pilot programs for the applicants, and specifically stated that the goals of the WRAM/MCBA mechanisms are to:

1. Sever the relationship between sales and revenue in order to remove any disincentive to implement conservation rates and conservation programs;
2. Ensure cost savings are passed on to ratepayers; and
3. Reduce overall water consumption.⁴

In each decision adopting the WRAM/MCBA mechanisms, the Commission stated these mechanisms were part of pilot conservation rate design programs and would be closely monitored and reviewed in the following general rate case (GRC) proceedings, with the need for refinements considered based on the measurement and evaluation of residential and commercial consumption data and the demand response that occurs within each customer class and service area. In addition to this safeguard, one of the earlier WRAM/MCBA mechanisms contained additional provisions. In D.08-06-002, for Cal-Am's Los Angeles District, the Commission stated:

- The conservation rate design being proposed is expected to have a measurable but not substantial impact on sales during the Pilot Program. (Finding of Fact 16);
- The Settlement provides for adjustments to the Pilot Program if a disparate impact on ratepayers or shareholders occurs. The parties should meet to discuss adjustments and then either jointly or individually file a petition to modify this decision. (Finding of Fact 17);
- Given the expected modest balancing account impacts, the safeguard provisions of the settlement, and the limited time period of the Pilot Program, we find it reasonable to adopt the proposed WRAM and MCBA mechanisms. (Conclusion of Law 4);

⁴ See D.08-02-036 at 25, and the underlying settlement agreements of the other WRAM/MCBA decisions.

- Cal-Am shall include in its next GRC filing a discussion of the feasibility, as well as the costs and benefits, of revenue adjustment mechanisms that are focused solely on conservation impacts. (Ordering Paragraph 7).⁵

Cal-Am implemented the Los Angeles District pilot program on August 1, 2008. In the next GRC, it signed a settlement with DRA to extend the pilot conservation rate design program and full review of the pilot until the 2010 GRC. In the pending 2010 GRC, both Cal-Am and DRA recommend that the Commission again delay a review, and instead open a new rulemaking to assess all conservation rate design pilot programs.⁶

The existing WRAM/MCBA balances, through 2010, by each applicant and ratemaking district, are attached to this ruling at Appendix A and the estimated balances for 2011 are attached at Appendix B.

The full WRAM/MCBA mechanisms were first implemented in 2008 and 2009. For 2008 and 2009, Appendix A shows that as of the March 2010 advice letters requesting surcharge recovery, 18 of the 36 ratemaking districts had undercollected revenues that exceeded 5%, seven of these 18 districts had undercollections that exceeded 10%, and one district of the seven had an undercollection that exceeded 20%. For the following year, the March 2011 advice letter filings show that of the 37 districts with WRAM/MCBA mechanisms, 32 had undercollected their 2010 revenues by over 5%, 11 of the 32

⁵ See D.08-06-002, issued June 16, 2008 at 22-26.

⁶ See Cal-Am and DRA February 10, 2011 submissions regarding compliance with D.08-06-002.

had undercollected revenues that exceeded 10%, and five of the 11 had undercollected revenues that exceeded 20%⁷.

Similar to the Los Angeles District experience, there has been no comprehensive review of the WRAM/MCBA mechanisms in any of the applicants' GRCs since adoption of the pilot programs, nor has there been a discussion of the accumulating large WRAM/MCBA undercollections.⁸ We note that the electric utilities' revenue adjustment mechanisms, the model for adoption of the WRAM/MCBA mechanisms, do not show undercollections as dramatic as the water utilities do.⁹

The Commission intended the WRAM/MCBA mechanisms to protect the applicants from decreasing sales due to the adopted conservation rate designs and utility sponsored conservation programs. All parties agree that the large undercollections represent more than these factors, but there is limited data available to identify and quantify the causes. Other contributing causes suggested by the parties for further analysis are the drought conditions in recent years, the economic recession in California, and inaccurate sales forecasting.

In reviewing the large undercollections, special attention focused on Cal-Am's Monterey District. The Monterey District has had tiered conservation rates for approximately 15 years combined with a limited WRAM mechanism

⁷ We also include in Appendix A Cal-Am's disclosure in its May 27, 2011 Advice Letter #904 filing that Ambler Park, a separate system and WRAM/MCBA mechanism within the Monterey District, has a 77.32% undercollection.

⁸ See January 24, 2011 PHC transcript at 58-78.

⁹ At the January 24 PHC, a discussion was held regarding why energy revenue adjustment mechanisms were not reporting any undercollections over 10%. (Transcript at 48.)

known as the Monterey-style WRAM that allowed recovery of only the revenue undercollection directly attributable to the adopted conservation rate design.¹⁰ As part of a settlement in the last GRC, Cal-Am was granted a full WRAM/MCBA. Under the full mechanism, Cal-Am projects an undercollection of 27.3% of 2010 annual revenue and a continuing undercollection of over 30% of its adopted revenue requirement throughout 2011.

4.2. Parties' Positions

4.2.1. Cal-Am's WRAM for the Monterey District

To address the large undercollection, Cal-Am requests an immediate 35% surcharge to quantity rates in its Monterey District, in addition to a surcharge for 2010 undercollections. It states it is amenable to additional notice via a separate mailer to its Monterey District customers prior to implementation of the 35% surcharge.

DRA recommends that the Commission reject Cal-Am's proposed accelerated surcharge and instead revert to the former Monterey-style WRAM and the previously existing purchased power cost balancing account for the rest of 2011, while the Commission considers longer term options in the current GRC proceeding, Application (A.) 10-07-007, and the rate design phase of the Coastal Water Project proceeding, A.04-09-019. DRA asserts that the unique circumstances in the Monterey District, which include limits on authorized water production, a recent Commission moratorium on new water hook-ups for the

¹⁰ The Monterey-style WRAM is not a revenue decoupling mechanism as such, it is rather a revenue adjustment mechanism that allows the utility to true-up the revenue it actually recovers under its conservation rate design with the revenue it would have

Footnote continued on next page

district, and the pendency of large new capital projects, create circumstances that result in such a disparate rate impact on customers that an immediate adjustment is needed. While DRA expresses concerns with the high undercollections in several of Cal-Am's other districts, it finds the Monterey District unique in that Cal-Am needs no additional incentives to support conservation and there is no symmetrical benefit possible from a WRAM/MCBA mechanism for customers.¹¹

DRA recommends that the Commission address Monterey District issues separately from those of the other districts. Cal Water, Golden State, Park, and Apple Valley agree with this recommendation.

4.2.2. WRAMs for Other Districts

In its April 22 motion, Cal-Am recommends that the Commission limit itself to the nine specific proposals of applicants and not consider the rate impacts of these proposals here.¹²

DRA takes issue with several parts of Cal-Am's motion, and presents its own proposal for either a limited or comprehensive scope for this proceeding.

DRA indicates that it would prefer a limited review be undertaken here, one that focuses on (1) the nine issues identified in the application, which

collected if it had an equivalent uniform rate design at actual sales levels. (See DRA's April 8, 2011 response at 9.)

¹¹ Supporting DRA's assertion that there is no opportunity for sales to be above the adopted sales forecast is Cal-Am's statement at the April 25 PHC that the Commission adopted the utility's Cal-Am's recommended sales forecast for 2010 and 2011 and this forecast is just slightly below the maximum level Cal-Am is allowed to produce, as set by the State Water Resource Control Board and the Seaside Basin watermaster. (Transcript at 131.)

¹² Motion at 9.

includes the amortization of recorded WRAM/MCBA balances to date, (2) applicants' compliance with WRAM/MCBA decisions, including safeguards, and (3) an evaluation of the questions and topics identified at the PHCs and in the filings to date. DRA asserts that if it can defer its responses to some of the analysis submitted by applicants on April 15th to a later comprehensive proceeding, it is can submit testimony within 90 days.

While DRA recommends a limited scope, it also states that based on the substantial 2010 WRAM/MCBA undercollections many of the districts show in Appendix A, as well as other information presented in this proceeding, the Commission needs to take a comprehensive look at the WRAM/MCBA mechanisms. DRA would prefer a comprehensive review be done in a generic proceeding that would allow all Class A water utilities, as well as other interested parties, to participate.

Cal Water, Golden State, Park, and Apple Valley support maintaining the focus of this proceeding on the nine items requested in the application as well as DRA's identified limited scope. Their proposed schedule would provide DRA 90 days to complete its testimony and would provide for a final decision by the end of 2011. They also support DRA's proposal for a separate industry-wide proceeding on the WRAM/MCBA mechanisms.

4.2.3. Request for Immediate Interim Surcharge

In the April 15 submission, Applicants also request an ALJ ruling to allow them to immediately implement an additional surcharge to recover those 2008, 2009, and 2010 WRAM/MCBA amounts that will not otherwise be recovered consistent with EITF 92-7. While applicants agree that they can change to FIFO accounting under their own authority, all expect they will still need to restate

their 2010 financial statements if the applications' requested relief is not granted, and all expect to disclose this risk in their financial statements.¹³

4.3. Adopted Scope

We agree with Cal-Water, Golden State, Apple Valley, Park, and DRA on the limited scope we should adopt here, as well as the bifurcation of the issues raised for Cal-Am's Monterey District. We exclude from the scope the applicants' request for immediate interim authority via ALJ ruling for rate surcharge. The Commission has not delegated to the ALJ the authority to approve a surcharge. In addition, we do not find a need for an interim decision because in our review of Cal-Am's, Cal-Water's, and Golden State's Security and Exchange Commission's (SEC) 10-K annual reports for 2010 and 10-Q First Quarter 2011, we found no disclosure by these applicants of the possible need to restate their 2010 financial statements.¹⁴

We agree with all parties that the Commission needs to undertake further review of the WRAM/MCBA mechanisms in other proceedings. DRA and four of the applicants' recommend a further review be undertaken in a generic proceeding. The Commission's conservation rulemaking is concluded and staffing resources may delay opening a new rulemaking. However, there are open general rate case proceedings for several of the applicants. Therefore, to timely review the WRAM/MCBA mechanisms further, a review should be done in each applicant's GRC and the risk consequences of the mechanisms should be

¹³ See discussion at January 24, 2011 PHC Transcript at 43-49.

¹⁴ Apple Valley and Park are privately held and, therefore, not subject to SEC filing requirements.

evaluated in the recently consolidated cost of cost of capital proceeding for Cal-Am, Cal-Water, Golden State, and San Jose Water Company.

For Cal-Am's Monterey District, we agree with Cal-Am that considering DRA's proposal to revert to a Monterey-style WRAM/MCBA would require hearings and lead to a very limited implementation period for 2011. Therefore, we will limit our scope here to addressing the amortization period for 2010 and 2011 balances.

Based on our discussion above, the scope of this proceeding is bifurcated into two areas:

1. Quickly address the extraordinarily high 2010 and 2011 WRAM/MCBA balances in Cal-Am's Monterey District, especially in light of the unique characteristics of that district, and specify the procedural forum and timetable to address longer-term options;
2. Resolve the nine specific requests identified in the application, and do this in light of the data submitted by applicants on the WRAM/MCBA balances incurred to date and estimated for 2011 (Appendices A and B to this ruling). Include an examination of whether the high volatility experienced in some districts comports with the Commission's expectations in adopting the mechanisms, including our stated conservation objectives and the safeguards articulated in D.08-06-002 and other decisions. Also analyze the volatility of the WRAM/MCBA mechanism in light of the data presented by the applicants in their April 15, 2011 filing, unless DRA specifically reserves an area of analysis for later, more comprehensive review.

5. Procedural Schedule

We set the following procedural schedule for this proceeding:

IT IS RULED that:

1. This proceeding is categorized as ratesetting and that category determination is appealable under the procedures set forth in Rule 7.6. *Ex parte* communications are permitted with restrictions, as set forth in Rules 8.2, 8.4, and 8.5, and are subject to the reporting requirements of Rule 8.3.

2. Evidentiary hearings are required. This is a change to the preliminary determination and, therefore, an assigned Commissioner's ruling shall be placed on the Commission's Consent Agenda for approval of this change.

3. Administrative Law Judge Christine M. Walwyn is the presiding officer.

4. The scope of this proceeding is to:

- 1) Quickly address the extraordinarily high 2010 and 2011 WRAM/MCBA balances in Cal-Am's Monterey District, especially in light of the unique characteristics of that district, and specify the procedural forum and timetable to address longer-term options;
- 2) Resolve the nine specific requests identified in the application, and do this in light of the data submitted by applicants on the WRAM/MCBA balances incurred to date and estimated for 2011 (Appendices A and B to this ruling). Include an examination of whether the high volatility experienced in some districts comports with the Commission's expectations in adopting the mechanisms, including our stated conservation objectives and the safeguards articulated in D.08-06-002 and other decisions. Also analyze the volatility of the WRAM/MCBA mechanism in light of the data presented by the applicants in their April 15, 2011 filing, unless DRA specifically reserves an area of analysis for later, more comprehensive review.

5. The hearing schedule and procedural process are as set forth in Section 5 of this ruling.

Dated June 8, 2011, at San Francisco, California.

/s/ MICHAEL R. PEEVEY

Michael R. Peevey
Assigned Commissioner

/s/ CHRISTINE M. WALWYN

Christine M. Walwyn
Administrative Law Judge

No. S271493

IN THE SUPREME COURT OF THE STATE OF
CALIFORNIA

CALIFORNIA WATER ASSOCIATION
Petitioner,

v.

PUBLIC UTILITIES COMMISSION OF THE STATE OF
CALIFORNIA
Respondent.

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

Of the Public Utilities Commission of the State of California

EXHIBIT CC

Order Instituting Rulemaking on the Commission's Own Motion into Addressing the Commission's Water Action Plan Objective of Setting Rates that Balance Investment, Conservation, and Affordability for the Multi-District Water Utilities of: California-American Water Company (U210W), California Water Service Company (U60W), Del Oro Water Company, Inc. (U61W), Golden State Water Company (U133W), and San Gabriel Valley Water Company (U337W), Rulemaking 11-11-008, Assigned Commissioner's Third Amended Scoping Memo and Ruling Establishing Phase II (April 30, 2015)

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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking on the Commission's Own Motion into Addressing the Commission's Water Action Plan Objective of Setting Rates that Balance Investment, Conservation, and Affordability for the Multi-District Water Utilities of: California-American Water Company (U210W), California Water Service Company (U60W), Del Oro Water Company, Inc. (U61W), Golden State Water Company (U133W), and San Gabriel Valley Water Company (U337W).

Rulemaking 11-11-008
(Filed November 10, 2011)

**ASSIGNED COMMISSIONER'S THIRD AMENDED
SCOPING MEMO AND RULING ESTABLISHING PHASE II**

Summary

This Assigned Commissioner's ruling and third amended scoping memo (Third Amended Scoping Memo) identifies the scope and schedule for Phase II of this proceeding. In Phase II we will review the California Public Utilities Commission's (Commission's or CPUC's) water conservation rate structure, tiered rates, forecasting methods, accounting mechanisms and other standards and programs that guide water investor-owned utility (IOU) rates, charges, and cost recovery. In light of Governor Brown's Executive Order B-29-15 (Executive Order), issued on April 1, 2015, this proceeding has increased in significance. California's ongoing drought, and frequent water shortages highlight the

imperative of ensuring that our water conservation programs are effective, and that rate and recovery mechanisms are aligned with conservation incentives and supplying safe, reliable water at just and reasonable rates.

This phase of this Order Instituting Rulemaking (OIR) will evaluate the effectiveness of the Commission's water rate, forecast, charge and recovery mechanisms in achieving the statutory objective of safe, reliable water service at just and reasonable rates, and in promoting water conservation. In particular, Phase II will evaluate current policies and potential improvements in policies related to: (1) rate structures, including conservation rate design, tiered rates, and other rate-design issues including forecast mechanisms especially in light of the recently issued Executive Order; (2) accounting mechanisms such as the Water Revenue Adjustment Mechanisms (WRAMs) and Modified Cost Balancing Account (MCBAs); and (3) in collaboration with the State Water Resources Control Board and the Department of Water Resources the role and use of data¹ and technology to assist in smart conservation among different sectors in the State of California.

1. Background

The Commission opened this OIR to address the policy objective of setting rates for multi-district water utilities that balance investment, conservation, and affordability.² Decision (D.) 14-10-047 resolved and closed Phase I of this

¹ Executive Order B-29-15, #9

² This is one of the six policy objectives identified in the Commission's Water Action Plans. The other five objectives are to: (1) maintain highest standards of water quality; (2) strengthen water conservation programs to a level comparable to those of energy utilities; (3) promote water infrastructure investment; (4) assist low income ratepayers; and (5) streamline CPUC regulatory decision-making. See 2005 Water Action Plan at 4; 2010 Water Action Plan at 4.

rulemaking proceeding after finding that no single solution should be adopted to mitigate all high-cost and affordability problems found to exist within one or more districts of multi-district water utilities. D.14-10-047 directed that a Phase II of this proceeding be opened to analyze and propose actions on issues regarding affordability and rate design, including but not limited to conservation rate design such as tiered rate structures, and accounting mechanisms such as WRAMs and MCBAAs. In addition, D.14-10-047 directed each multi-district water utility to perform a district-based rate review, report on the review in its next general rate case (GRC) application or in Tier 3 GRC advice letters (ALs), as applicable, and propose one or more appropriate rate balancing solutions to mitigate any high-cost and affordability problems.

As a result of the recent Executive Order and in consideration of the current drought, Phase II will necessarily consider ideas to promote smart conservation above and beyond traditional accounting mechanisms.

2. Discussion

Comments in Phase I of this proceeding raised several issues regarding affordability and rates that were not contemplated in the original scope but which are fundamentally related to balanced rates. Therefore, it is appropriate for the Commission to address these issues in Phase II, especially in light of Governor Brown's January 2014 and April 2015 drought declarations. The mandatory water restrictions and higher rates for large water users imposed by the most recent Executive Order and CPUC action regarding this Executive Order make it imperative that we examine these issues to achieve conservation goals and ensure safe and reliable water delivery, consistent with just and reasonable rates. This Phase will analyze issues and propose actions regarding affordability and rate design, including but not limited to, conservation rate

design such as tiered rate structures, technical enhancements, forecast methods, and accounting mechanisms such as Water Revenue Adjustment Mechanisms.

2.1 Tiered Rates and Conservation

The Commission set a new direction in rate structure for water utilities in 2010 based on the principles and objectives of the Water Action Plan (WAP). In particular, D.10-04-031 (the San Gabriel Rate Design Decision)³ adopted two rate design principles that have since been used by the Commission in water ratesetting proceedings. First, a high proportion of total annual revenues – at least 70 percent – are to be derived from quantity charges, that is, charges based on the amount of water received, with only a small portion – less than 30-percent – collected through fixed charges, sometimes called “service charges.” The basic principle underlying the 70-percent rule is stated in the Best Management Practices (BMPs) of the California Urban Water Conservation Council (CUWCC).⁴

³ D.10-04-031, “Decision Authorizing Changes in Rate Design and Ratesetting Mechanism, and Denying Motion for Establishment of a Memorandum Account,” Application (A.) 08-09-008, April 8, 2010.

⁴ Memorandum of Understanding Regarding Urban Water Conservation in California, California Urban Water Conservation Council, originally adopted in September, 1991, and updated most recently, September 14, 2011. The most recent version is available on the website at: <http://www.cuwcc.org/>. Specifically, see section 1.4, “Retail Conservation Pricing,” page 29 and following. On page 30, the MOU offers two options for determining whether the volumetric rate is “sufficiently consistent with the definition of conservation pricing,” i.e., high enough. Option 1 is to “Let V stand for the total annual revenue from the volumetric rate(s) and M stand for total annual revenue from customer meter/service (fixed) charges, then:

$$\frac{V}{V + M} \geq 70\%$$

The document does not reveal the provenance of the 70-percent number itself or why 60-percent would be inadequate or 80-percent would be more than sufficient. The second option is not a

Footnote continued on next page

Second, residential rates are to include tiers, sometimes called “inclining blocks,” with a low rate for the first amount of household consumption, up to the median household level of consumption, followed by a higher rate for consumption beyond the median level. In D.10-04-031, the higher-tier rate was set at 15 percent above the first-tier rate. The April 2015 Court of Appeal decision in *Capistrano Taxpayers Association, Inc. v. City of San Juan Capistrano*⁵ that applies only to municipal water providers held that tiered rates must be tied to evidence of cost of service. This decision does not apply to water IOUs regulated by the CPUC. We seek comment below on the impact of this decision on IOUs, including on their wholesale water suppliers.

2.2 Accounting Mechanisms: WRAM and MCBA

The Commission adopted the policy that accounting measures should be employed to decouple water sales from the utilities’ revenues, as the Commission has done in the regulation of energy utilities.⁶ First, decoupling is a tool intended to remove any disincentive to conservation on the part of the utility. Second, the Commission concluded that conservation rates could result in financial instability of the utility, if not properly calibrated to recover reasonable costs. This task was accomplished through risk reduction accounting mechanisms.

binding test for California water utilities and does not contain a specific percentage requirement. The CPUC’s adoption of a 70-percent target for volumetric charges is based on the equation shown above for Option 1.

⁵ *CAPISTRANO TAXPAYERS ASSOCIATION, INC. v. CITY OF SAN JUAN CAPISTRANO*, 2015 Cal. App. LEXIS 330 (April 20, 2015).

⁶ See, D.08-02-036, D 08-08-030.

Risk-reduction accounting mechanisms were created to provide the opportunity for utility recovery of revenues when variable component costs change over time.⁷ Variable component costs of an investor-owned water utility include purchased water, purchased power, and pump tax expenses. This was done in several ways.

First, the creation of an Incremental Cost Balancing Account (ICBA) allows water utilities to track changes in actual variable component prices, up or down, against the estimates authorized by the Commission in the GRC. The ICBA tracked changes between estimated and actual prices for the variable components.

Second, the WRAM gives the utilities an opportunity to earn a recovery of authorized revenues through quantity rates. The purpose of the WRAM is to decouple the utility's recovery of revenue from the utility's retail water sales while promoting water conservation.⁸ Under the current rate recovery mechanism for investor-owned water utilities, 70% of the revenues authorized to be recovered in the GRC are recovered through variable rates.

The MCBA mechanism supplanted the ICBA as a risk management accounting tool. Enacted in conjunction with the WRAM, the MCBA tracks changes in actual variable component costs against those estimated in the general rate case when the price of the variable component changed *or* there is a change in the quantity of the variable component used.

⁷ See, D. 08-02-036, D.08-08-030.

⁸ See, D.08-02-036, D. 08-08-030, D.08-09-026, D.09-05-005, D.12-04-048.

For example, under WRAM/MCBA, if actual sales are lower than estimated in the GRC, then the utility collects less revenue than authorized by the Commission. This under-collection in revenue is tracked in the WRAM. Lower actual sales may indicate that the utility experienced lower variable costs (less water purchased, less power used) resulting in the need to collect less revenue than estimated in the GRC. The potential under-collection in variable costs is accounted for in the MCBA. Conversely, increases in the commodity costs of water, including the energy costs in pumping or transporting water, may result in higher costs than estimated in the GRC, while conservation leads to lower water consumption and less cost recovery through variable rates.

Generally, the MCBA acts to offset WRAM balances arising from reduced sales from what was estimated when rates were set in the GRC. On an annual basis, utilities with a WRAM/MCBA mechanism file an AL to recover the net over – or under-collection in the previous year’s WRAM/MCBA balance through either a surcredit or surcharge on customer bills.

The Commission determined that to both promote water conservation and to reduce any financial instability resulting from the adoption of conservation rates, the Class A water utilities should be permitted to apply for WRAMs to deal with unanticipated revenue gains or losses resulting from divergences between forecasts of water consumption and actual consumption, and MCBA to address unanticipated changes in the cost of water procured. The Commission expected utilities to track the balances in the WRAMs and MCBA and request surcharge/surcredit adjustments in each rate proceeding or annually, if necessary, with the goal of keeping the balances small and trending toward zero.

The Commission’s Division of Water and Audits (DWA) analyzed the progress of the WRAM and MCBA over/under collections from 2010 through

2012, the most recent year for which complete data are available. The under-collections of the utilities, i.e., the balances that must be collected in future rates, have been large and persistent. That is, customers have generally been consuming less water than was forecast in water ratesetting decisions. As a result, the revenues collected in rates have been less than was forecast, and not only by the percentage of departure from the forecast, but by much more than that percentage. The larger deviation occurred because under tiered conservation rates the reduced consumption mostly occurred in the higher tiers. Unless the WRAM and rate mechanisms are adjusted, it is anticipated that in future GRCs the utilities will file for higher rates to make up for these losses, and may still run large WRAM balances if conservation exceeds forecasts. The fact that WRAM balances are large and persistent indicates that the existing regulatory remedies will not reduce or eliminate the balances. These trends raise questions about whether the current rate and accounting mechanisms are well-calibrated to achieve our statutory objectives of safe, reliable service at just and reasonable rates, and to incentivize water conservation, a growing imperative in California's drought. In light of the drought and the Governor's Executive Order to address the drought emergency, accounting mechanisms may not be enough to incentivize conservation and ensure safe, reliable service at just and reasonable rates, and additional creative solutions may be necessary.

2.3 Specific Concerns Regarding Policies on Conservation Rates and Accounting Mechanisms

In order to further our goals of conserving California's water in economically optimal, efficient and equitable ways, it is necessary to evaluate whether our rate structures and mechanisms, conservation rates, and accounting methods are achieving the Commission's statutory mission. Phase II will review

whether it is prudent or reasonable to create standardized or revised tiered rates, better accounting methods, and consider new types of solutions. Conservation rates are supposed to provide a strong signal to customers that reducing water consumption will result in lower bills.⁹ That signal is muted through a variety of factors including delayed access to consumption information, and the pricing, accounting, forecasting, and other structures.

Specific issues concerning conservation rates include the following:

2.3.1 Marginal Prices vs. Average Prices.

Conservation rates – specifically, tiered rates – are believed to provide a clear and consistent signal to customers regarding the high cost of developing (or acquiring) and delivering safe and reliable water from new sources. This rate design is rooted in the theory that high marginal prices, such as are provided to customers in the higher tiers, provide a stronger signal to customers than do lower marginal prices. This theory has been challenged in the economic literature, at least regarding consumption of electric service. For example, a recent article found strong evidence that consumers respond to average price rather than marginal or expected marginal price, concluding that nonlinear pricing (such as tiered rates that impose higher prices for the next marginal quantity of water) may not be the best tool to achieve conservation goals.¹⁰

The tiered rates of the Class-A water utilities have been adopted in decisions on GRCs, generally resulting from settlements between the applicants

⁹ This is particularly challenging when companies have very large fixed costs.

¹⁰ Koichiro Ito, “Do Consumers Respond to Marginal or Average Price? Evidence from Nonlinear Electricity Pricing,” *American Economic Review* 2014, 104(2): pp 537-563.

and intervening parties. There are differences among the utilities in the structure of the baseline quantities associated with the break points between the tiers, in the ratios of the rates in the tiers, and in the number of tiers. Now, with several years of experience with the individual utilities' rates, it is time to review the effect of those rates and mechanisms.

At the Commission's May 1, 2014 meeting in Los Angeles, a board member of the Moulton Niguel Water District, a publicly-owned utility, suggested that large balances in WRAMs could be avoided if rates were set to meet a budget within the low tiers, and revenue from the higher tiers could be used to fund conservation programs, education, outreach, and staffing to analyze agency water use efficiency and target funding to maximize effectiveness. The speaker also suggested that rates from higher tiers could be used to construct water reliability projects. The District provided a one-page summary of the proposed program, included as Attachment 1 to this Third Amended Scoping Memo.

Conservation rates are designed to underscore the effects of conservation or lack thereof, with the general intent of reducing consumption, while promoting the optimal use of water consistent with availability, cost, customer needs and customer desires. As discussed above, currently implemented conservation rate design principles limit the amount of revenue to be recovered through a fixed customer charge. Under conservation rate designs, most revenues are collected from the volume of water consumed, and increasing block rates provide incentives to reduce consumption of water. Conservation rate designs are not based on the cost structure of providing water service because most costs are fixed and these costs do not decline measurably in response to changes in quantities of water customers consume. This approach is consistent with the 2011 CUWCC best practices discussed above.

Under the current conservation rate design, any difference between consumption forecasts and actual sales is exaggerated in the financial effects both to the utilities and to their customers. Conservation rates alone do not provide a utility with an incentive to be neutral or to encourage customers to conserve water. Without some countervailing measure, conservation rates would provide strong incentives to utilities not to encourage conservation because reduced consumption means reduced revenues. Decoupling revenues from sales through the use of WRAMs and MCBAAs removes that disincentive to conservation and reduces revenue volatility while allowing tiered rates to reflect the marginal cost of new water.

2.3.2 Customer Impacts

There are two issues associated with collecting WRAM and MCBA balances. The first is associated with the customer's frustration with the WRAM balance bill that may rise as a result of conservation. This leads many customers to puzzled exasperation "We did what you asked, we conserved, yet we have to pay more." It is an unfortunate fact that even without overhanging WRAM balances, lower consumption combined with unchanging or even escalating fixed and variable costs necessarily means that future rates may need to be higher. Attempting to reduce outstanding balances over a smaller quantity base, compounds the degree to which rates may be raised. This may affect rates for all tiers, not just the higher tiers, resulting in pressure for increased rates, even for customers who conserve water and consume primarily in the lower tiers.

The second issue is that carrying a large balance into the future for later collection has the effect of separating the consumers who incurred the costs from the consumers who must pay the costs. This is known as the "inter-generational transfer" argument. Arguably, each group of customers should pay its own

costs, and contemporaneous collection of costs is the best way to avoid an inter-generational transfer. The build-up of large and persistent balances in the WRAM and MCBA accounts compounds the inter-generational transfer issue. Moreover, efforts to reduce high WRAM balances in a reasonable time period can result in rate shock.

Some parties argue that the WRAM/MBCA policy is not intended to generally decouple revenues from sales but instead decouple only the changes in sales resulting from conservation rates. Proponents of this view argue that rate and accounting mechanisms should not insure against natural events such as the effects of drought on conservation, but only against the effects of conservation rates on consumption.

WRAM balances have been collected through surcharges on quantity sales. This proceeding will consider whether other forms of surcharge may be more efficient or equitable. Such other methods could include, but may not be limited to, a minimum quantity charge or a fixed surcharge that does not vary with quantity consumed.

3. Phase II Scoping Memo

Pursuant to D.14-10-047 the Commission is opening Phase II of this proceeding. Parties are requested to provide comments on the following issues. We encourage bold, creative ideas, including radical departures from our current way of doing business. Toward that end, the Commission wishes to better understand the effects of our current policies regarding tiered rates, conservation rates, forecasting, data and technology, metering and billing, accounting mechanisms and other programs and how to improve these policies and mechanisms. Specifically, we will consider the following issues:

1. Do tiered, inclining block rates provide a clear, appropriate, and timely signal to residential customers regarding conservation of water? Are there adjustments to existing policies or better rate policies or mechanisms that should also be considered now in light of the drought and recent Executive Order?
2. If tiered inclining block rates are appropriate, should the Commission adopt standards regarding tiered rates? In particular, should the Commission adopt a specific policy regarding the formation of baseline quantities associated with the break points between the tiers? Should household circumstances such as the number of residents and the size of the property be considered when setting baseline and other quantities? Should there be standards regarding the ratios of the rates in the tiers and or in the number of tiers. Does the drought and Executive Order change thinking and inspire new options?
3. Should the Commission consider modifying the 70-percent rule adopted from CUWCC so that a higher or lower percentage of revenue would be collected through quantity charges? Should technological innovation be somehow tied to the consideration? Does the drought and Executive Order require a new way of thinking about revenue?
4. The Governor's April 1, 2015 Executive Order on the drought requires in paragraph 17 that the California Energy Commission (CEC) and the Department of Water Resources (Water Resources) implement a Water Energy Technology program to deploy innovative technologies for businesses, residents, industries, and agriculture. The Executive Order suggests use of advanced technologies such as water use monitoring, irrigation timing, and precision water management and use technologies. The CPUC is coordinating with CEC, Water Resources, sister agencies, and the Water Energy Team of the Climate Action Team to implement the Executive Order including paragraph 17. What changes

are merited to the CPUC's tiered rate structures, accounting mechanisms, forecasting rules, technology enhancements or monitoring and billing systems including metering to achieve the CPUC's statutory objectives of ensuring that utilities provide safe, reliable service at just and reasonable rates while promoting conservation of water and addressing the drought emergency and Governor's Executive Orders?

5. Should the Commission consider a tiered inclining block pricing structure that would be designed to recover the full revenue requirement of utilities within the revenue collected from the lower tiers, with the revenues from the highest tier designated for the purpose of recovering the balances in the WRAMs and the MCBAs and/or to fund conservation programs or provide rebates to customers? Address the legal and factual issues raised by such a structure. Is such a structure well-calibrated to achieve conservation, just and reasonable rates, and safe and reliable water service?
6. What rate structure and accounting mechanisms are best suited to offer safe, reliable water service at just and reasonable rates, provide incentives to conserve, and provide sufficient revenue for water system operation and investment needs? Are there other mechanisms that should be taken into account now in light of the drought and Executive Order?
7. Do WRAMs and MCBAs, by decoupling the utilities' revenue functions from changes in sales, succeed in neutralizing the utilities' incentive to increase sales? Is there a better way?
8. Are WRAMs and MCBAs effective mechanism to collect authorized revenue in light of tiered inclining block conservation rates? Is there a better way to proceed in light of the drought and the Executive Order?
9. Do WRAMs and MCBAs appropriately incentivize consumer conservation? Are adjustments needed?

Would another mechanism be better suited for the utility to collect authorized revenue for water system needs and encourage conservation in light of the drought and the Executive Order?

10. Are WRAMs and MCBAs effective at encouraging conservation when decreases in volumetric consumption by some or all consumers lead to large balances in WRAMs and MCBAs being assessed on all ratepayers? What adjustments in the WRAM or MCBA mechanisms are needed to encourage conservation? Should such adjustments be paired with other steps such as advanced metering, other technology, and/or steps to more quickly detect leaks and notify customers about water usage?
11. Do WRAMs and MCBAs achieve the statutory objective of safe, reliable water service at just and reasonable rates? Is their function properly communicated to consumers and do consumers understand their purpose?
12. What changes, if any, should be made to the Revised Rate Case Plan adopted by D.07-05-062 or other Commission policies adopted to reduce the balances in WRAMs and MCBAs and reduce the degree of inter-generational transfers and/or rate shock? Would faster WRAM and MCBA collection be consistent with just and reasonable rates and be transparent to consumers?
13. Is there a policy or procedure that would accomplish the same results as the WRAM and MCBAs without the attendant issues discussed in the previous questions especially in light of the drought and the Executive Order?
14. Should the WRAM and MCBAs account for changes in sales generally, or should its effect be limited to changes in sales induced by the CPUC and other government agents? Is there another way?

15. Should WRAM and MCBA balances continue to be collected through surcharges on quantity sales? Would other forms of surcharge be more efficient or equitable, or better accomplish safe, reliable service, at just and reasonable rates and incentivize conservation? Such other methods could include, but are not limited to, a minimum quantity charge, a minimum bill, or a fixed surcharge that does not vary with quantity consumed.
16. Please make any other comments or recommendations that promote achieving the objectives of Phase II.

4. Categorization

Consistent with the preliminary categorization in the original OIR (which was not changed by the Commission in D.14-10-047), Phase II of this proceeding is quasi-legislative as defined in Rule 1.3(d). We anticipate that the issues in this proceeding may be resolved through comments without the need for evidentiary hearings. This phase of the proceeding will consider and may establish policies for Class A and Class B water utility rate and accounting mechanisms. The application of policies adopted in this proceeding to any particular water utility will be considered through a separate phase or through separate proceedings such as GRCs.

5. Initial Schedule

Opening comments: May 21, 2015

Reply comments: June 9, 2015

I anticipate that the assigned Administrative Law Judge (ALJ) may convene a prehearing conference (PHC) or workshops to more fully develop the questions and consider proposals or other questions that may be addressed in the Opening and Reply Comments.

No. S271493

IN THE SUPREME COURT OF THE STATE OF
CALIFORNIA

CALIFORNIA WATER ASSOCIATION
Petitioner,

v.

PUBLIC UTILITIES COMMISSION OF THE STATE OF
CALIFORNIA
Respondent.

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

Of the Public Utilities Commission of the State of California

EXHIBIT DD

In the matter of the Application of the Golden State Water Company (U133W) for an order authorizing it to increase rates for water service by \$58,053,200 or 21.4% in 2013, by \$8,926,200 or 2.7% in 2014; and by \$10,819,600 or 3.2% in 2015, Application 11-07-017, Scoping Memo and Ruling of Assigned Commissioner and Administrative Law Judge (November 2, 2011)

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Association***



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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the Application of the Golden State Water Company (U133W) for an order authorizing it to increase rates for water service by \$58,053,200 or 21.4% in 2013, by \$8,926,200 or 2.7% in 2014; and by \$10,819,600 or 3.2% in 2015.

Application 11-07-017
(Filed July 21, 2011)

SCOPING MEMO AND RULING OF ASSIGNED COMMISSIONER AND ADMINISTRATIVE LAW JUDGE

1. Summary

This scoping memo and ruling identifies the issues to be considered in this proceeding, sets a procedural schedule, determines the category of the proceeding and the need for hearings, pursuant to Rule 7.3 of the Commission's Rules of Practice and Procedure (Rules), and designates a presiding officer in accordance with Rule 13.2.

2. Background

On July 21, 2011, Golden State Water Company (Golden State) filed Application (A.) 11-07-017 (Application), a general rate case (GRC) request to increase rates for water service in each of its ratemaking areas in Regions 1, 2, and 3 of its service territory and for General Office expense for the period from

January 2013 through December 2015.¹ In addition, the Application includes twelve special requests and identifies two additional issues of controversy.

The Application appeared in the Commission's Daily Calendar on July 26, 2011.

Protests to the Application were timely filed by the Town of Apple Valley on August 18, 2011, the City of Claremont on August 22, 2011, the City of Ojai on August 19, 2011, the City of San Dimas on August 24, 2011, and the Division of Ratepayer Advocates (DRA) on August 25, 2011.² A prehearing conference was held on September 21, 2011.

3. Categorization and Need for Hearings

This scoping memo confirms the Commission's categorization of this proceeding as ratesetting as preliminarily determined in Resolution (Res.) ALJ 176-3278, issued July 28, 2011. This determination is appealable under the provisions of Rule 7.6. This scoping memo also confirms that hearings are necessary and sets forth the hearing schedule.

¹ Golden State has nine ratemaking districts within Regions 1, 2, and 3. Region 1 is comprised of the Arden Cordova, Bay Point, Clearlake, Los Osos, Ojai, Santa Maria and Simi Valley Customer Service Area (CSAs). Each Region 1 CSA is a separate ratemaking area. Region 2 is a single ratemaking area comprised of the Central Basin East, Central Basin West, Southwest, and Culver City CSAs. Region 3 is a single ratemaking area comprised of the Apple Valley, Barstow, Calipatria-Niland, Claremont, Morongo Valley, Placentia, San Dimas, San Gabriel Valley, Los Alamitos, and Wrightwood CSAs.

² On October 12, 2011, the City of Placentia filed a motion requesting party status. The motion was granted on November 2, 2011.

4. Scope of Proceeding

The purpose of this proceeding is primarily to establish just and reasonable rates for each of Golden State's ratemaking areas in Regions 1, 2, and 3 of its service territory and for General Office expense for the period from January 2013 through December 2015, and to make all other necessary orders for Golden State to offer safe and reliable water service. This proceeding will also consider Golden State's twelve Special Requests and two Issues of Controversy listed in the Application.

Interested parties identified in their protests to the Application and at the prehearing conference the issues they recommend be included in the scope of this proceeding. Except for issues concerning Golden State's cost of capital and rate of return,³ the issues identified in the protests respond to the Application and are within the scope of this proceeding.

The revised rate case plan (RRCP) adopted in Decision (D.) 07-05-062 requires Golden State to file a separate application for cost of capital determinations,⁴ and Golden State has filed A.11-05-004, pursuant to this requirement.⁵ Therefore, Golden State's cost of capital, capital structure, return on equity, rate of return, and the Water Capital Cost Mechanism adopted in D.09-07-051 will not be considered in this proceeding.

³ San Dimas states that it is unreasonable to raise rates to maintain a high rate of return, and Ojai recommends that Golden State's rate of return be considered in this proceeding.

⁴ D.07-05-062, Appendix A, Section II.D.

⁵ The scoping memo in A.11-05-004, et al., was issued on September 13, 2011.

The RRCP requires GRC proceedings to review water quality to ensure that water utilities provide water that meets public health and safety requirements. To improve the Commission's review of water quality, the RRCP requires the presiding officer to appoint a water quality expert to assist the Commission in making specific findings and recommendations concerning a utility's water quality compliance unless good cause exists to forego such appointment.⁶

The Application indicates that during the last three years eight Golden State water systems received citations, notices of violations, and orders for non-compliance with the California Department of Public Health's (CDPH's) drinking water regulatory program. Golden State has been responsive in correcting the violations and compliant with reporting to its customers in its annual Consumer Confidence Reports any contaminants exceeding Maximum Contaminant Level drinking water standards and yet-to-be-set drinking water standards.

Because there are no water quality issues that are not already addressed in the Application⁷ and because no party raises concerns about Golden State's water quality, there is no need for a more extensive report or testimony by the water quality expert.

⁶ D.07-05-062, Appendix A, Section II.F. Carmen Rocha in the Division of Water and Audits is the Commission's water quality expert.

⁷ The Application proposes capital improvements for uranium treatment at the Placentia Water System Orangethorpe Plant, and requests authority to establish a memorandum account to track costs related to this project.

Rate Design Issues

D.08-08-030 adopted a settlement that, among other things, established a pilot program containing a conservation rate design and the Water Rate Adjustment Mechanisms (WRAMs) and Modified Cost Balancing Accounts (MCBAs) decoupling mechanisms for each Golden State ratemaking area.⁸

The decision on Golden State's 2010 GRC for its Region 1 (D.10-12-059) adopted a plan that requires Golden State to file a rate design proposal in this proceeding for all service areas that complies with the settlement adopted by D.10-12-059.⁹ In particular, Golden State must design rates that address the allocation between service charge and commodity rate to comply more closely with the California Urban Water Conservation Council's Best Management Practice Number 1.4, which sets a target of recovering 30% of total revenue through the service charge and 70% of total revenue through the quantity charge.¹⁰ In addition, Golden State Water Company is required to file a rate design proposal in this proceeding for all service areas that provide more uniform tier width and price differentials between tiers.¹¹

⁸ D.09-05-005 adopted a settlement between Golden State and DRA that made changes in rate design adopted in D.08-08-030. D.10-11-035, addressing Golden State's 2010 GRC for its Regions 2 and 3, adopted a settlement that, among other things, changed the two-tier to a three-tier conservation rate design for most Regions 2 and 3 ratemaking areas.

⁹ Appendix I of D.10-12-059 describes rate design issues to be considered in this proceeding.

¹⁰ D.10-12-059, Ordering Paragraph No. 5.

¹¹ D.10-12-059, Ordering Paragraph No. 6. D.10-12-059 also requires Golden State, in this application and prepared testimony, to specifically cite to and indicate its compliance with or any deviations from the agreement embodied in Exhibit D-28 of the

Footnote continued on next page

D.09-05-005 addressed, among other things, arguments that the tiered increasing block rate structure creates a potential for meter-reading errors. D.09-05-005 directed Golden State to keep a record of meter-reading errors pertaining to tiered rates. These data should now be available, so this issue will be considered in this proceeding.

In addition to the rate design issues discussed above, the rate design issues identified in the protests are within the scope of this proceeding. Specifically, the Ojai and San Dimas protests assert that Golden State customers are penalized for reducing water usage.

First 5 LA Oral Health Community Development Program

Golden State filed Advice Letter (AL) 1455-W on August 8, 2011, to establish a memorandum account to track, among other costs, operation and maintenance expenses for the period from 2013-2015 for proposed fluoridation systems in connection with the First 5 LA Oral Health Community Development Program. In this Application, Golden State requests that, if Golden State files for a surcharge for fluoridation in connection with the First 5 LA Oral Health Community Development Program during this proceeding, the authorized expenses be incorporated into the final rates approved in this proceeding.¹²

On September 26, 2011, the Commission published Draft Res. W-4890 addressing Golden State's request in AL 1455-W. Draft Res. W-4890 is scheduled for consideration at the November 10, 2011, Commission meeting. Draft Res.

settlement adopted by D.10-12-059, and requires DRA's report to evaluate any proposals made by Golden State in this GRC. D.10-12-059 at 22.

¹² Prepared testimony of S. David Chang at 6.

W-4890 provides that the operation and maintenance costs beginning January 2013 will be reviewed and considered in this proceeding.

On October 26, 2011, Golden State filed and served a motion requesting authorization to modify the Application to request authorization for costs in connection with water fluoridation implemented pursuant to Golden State's participation in the First 5 LA Oral Health Community Development Program.¹³ No objections to this request were filed.¹⁴ The motion is granted.

Therefore, we include in this proceeding the reasonableness of the operation and maintenance costs for proposed fluoridation systems in connection with the First 5 LA Oral Health Community Development Program.

Review of Golden State's Conservation Rate Pilot Program

As noted above, D.08-08-030 adopted a settlement that established a pilot program, to be reviewed in subsequent rate cases for each region, consisting of a conservation rate design and the WRAM and MCBA decoupling mechanisms for each Golden State ratemaking area.¹⁵ This proceeding will include the first review of Golden State's conservation rate pilot program, including a review of the WRAM and MCBA decoupling mechanisms.

The Golden State/DRA settlement adopted in D.08-08-030 states that the goals of the WRAM and MCBA decoupling mechanisms are: (1) to sever the relationship between sales and revenue to remove any disincentive for Golden

¹³ The motion requests an extension of the deadline to serve opening testimony in connection with Golden State's request, and includes the Prepared Supplemental Testimony of S. David Chang as an attachment.

¹⁴ The October 27, 2011, ALJ ruling shortened time to respond to the motion.

¹⁵ Sections III.A and III.B.

State to implement conservation rates and conservation programs; (2) to ensure cost savings resulting from conservation are passed on to ratepayers; and (3) to reduce overall water consumption by Golden State ratepayers.¹⁶

The October 19, 2007 Motion of DRA and Golden State in A.06-09-006, *et al.*, requesting approval of the Golden State/DRA settlement states:

[T]he desired outcome of and purpose for using these WRAMs and MCBAs are to ensure that [Golden State] and its ratepayers are proportionally affected when conservation rates are implemented. For purposes of the Settlement Agreement, a proportional impact means that if consumption is over or under the forecast level, the effect on either [Golden State] or its ratepayers (as a whole within each ratemaking district) should reflect that the costs or savings resulting from changes in consumption will be accounted for in a way such that neither the utility nor ratepayers are harmed or benefited at the expense of the other party. (at 13.)

Therefore, we will consider whether the WRAMs/MCBAs are achieving their stated purpose (i.e., whether Golden State and its ratepayers are proportionally affected under conservation rates), and if not, what changes are needed to ensure the WRAMs/MCBAs achieve their stated purpose. In addition, we will consider whether the WRAMs/MCBAs, by severing the relationship between sales and revenue, have removed disincentives for Golden State to implement conservation rates and conservation programs; whether cost savings resulting from conservation are passed on to ratepayers; and whether overall water consumption by Golden State ratepayers has been reduced.

¹⁶ Section V.

Golden State, among others, filed A.10-09-017 (the WRAM-Related Amortization Proceeding), requesting, among other things, to shorten the amortization recovery period for balances in the WRAMs and MCBAAs established for Golden State and other water utilities.¹⁷ Golden State requests that accelerating WRAM/MCBA amortization be considered in this proceeding, if a final decision has not been issued in the WRAM-Related Amortization Proceeding in time for the effective date of rates adopted in this proceeding.¹⁸

The scoping memo in the WRAM-Related Amortization Proceeding states that a review the WRAM and MCBA mechanisms should be done in each applicant's GRC, and the risks and consequences of the mechanisms should be evaluated in the recently consolidated cost of capital proceeding for California-American Water Company, California Water Service Company, Golden State, and San Jose Water Company.

The scoping memo in the WRAM-Related Amortization Proceeding anticipates a Commission decision in December 2011 addressing the Golden State, *et al.* request to shorten the amortization recovery period. Therefore, this proceeding will not consider Golden State's request to shorten the amortization recovery period for balances in the WRAM and MCBA, or any of the other eight

¹⁷ Application of California-American Water Company, California Water Service Company, Golden State Water Company, Park Water Company and Apple Valley Ranchos Water Company to Modify D.08-02-036, D.08-06-002, D.08-08-030, D.08-09-026, D.08-11-023, D.09-05-005, D.09-07-021, and D.10-06-038 regarding the Amortization of WRAM-related Accounts.

¹⁸ Prepared testimony of Nanci Tran at 18.

requests being addressed in the WRAM-Related Amortization Proceeding.¹⁹ In addition, this proceeding will not consider issues concerning the risks and consequences of the WRAM/MCBA mechanisms that should be evaluated in A.11-05-004, *et al.*²⁰

As stated above, the purpose of this proceeding is primarily to establish just and reasonable rates for years 2013 through 2015 and make all other necessary orders for Golden State to offer safe and reliable water service. The following issues will be considered in this proceeding:

1. The just and reasonable test year 2013 and post-test years 2014 and 2015 revenue requirements, inclusive of all operating expenses and capital costs and the costs of all

¹⁹ The issues addressed in the WRAM-Related Amortization Proceeding are, (1) Amortization Period (Over what period of time should WRAM/MCBA balances be amortized?); (2) Deadline For Submitting Report (When should Applicant submit its annual WRAM/MCBA report?); (3) Deadline For Requesting Amortization (When should a utility ask to amortize a WRAM/MCBA balance?); (4) Process For Requesting Amortization (How should a utility ask to amortize a WRAM/MCBA balance?); (5) The "Trigger" for Amortization (Which WRAM/MCBA balances should be amortized?); (6) Applying Surcharge/Surcredit (How should the surcharge or surcredit be applied to customers' bills?); (7) Accounting for Amortized Amounts ("First In - First Out"); (8) "Under-Amortized" and "Over-Amortized" Amounts (When a surcharge/surcredit is not collecting/recovering the intended dollar amounts, how should the remainder balance be handled?); and (9) Additional Amortization For Outstanding WRAM Revenues.

²⁰ The scoping memo in the WRAM-Related Amortization Proceeding states that a review the WRAM and MCBA mechanisms should be done in each applicant's GRC, and the risks and consequences of the mechanisms should be evaluated in the recently consolidated cost of cost of capital proceeding for California-American Water Company, California Water Service Company, Golden State, and San Jose Water Company.

- operating or customer-related programs necessary to provide safe and reliable water service in the test year, including:
- a. Whether Golden State's proposed revenue and rate increases for test and escalation years are reasonable and justified, including sales, revenue, consumption, and number of customers;
 - b. Whether Golden State's estimate of its operation & maintenance, and administrative & general expenses are reasonable, including payroll, conservation, and payments from polluters;
 - c. Whether Golden State's proposed additions to plant are accurate, reasonable, and justified, including construction work in progress; and
 - d. Whether Golden State's General Office expenses and capital additions are reasonable, including cost allocations, insurance, pension and benefits, and overhead rates.
2. Golden State's twelve special requests (a. through l. below) and Issues of Controversy (m. and n. below), including:
- a. Whether the Commission should approve the stipulation resolving the Santa Maria Groundwater Adjudication and Litigation, and the rate adjustments necessary for Golden State to participate in implementing certain water management programs required under the stipulation;
 - b. Whether the Commission should approve Golden State's request to establish a new fire sprinkler rate structure and to add additional meter size combinations to its tariffs to accommodate the new fire sprinkler rate structure;
 - c. Whether the Commission should approve Golden State's request for a new memorandum account for carrying costs at the adopted rate of return and recovery of operating and maintenance expenses

relating to the investigation & treatment of high uranium levels at Golden State's Orangethorpe Plant;

- d. Whether the Commission should approve Golden State's request for amortizing & continuing balancing and memorandum accounts;²¹
- e. Whether the Commission should approve Golden State's request for a balancing account for group medical insurance costs;
- f. Whether the Commission should approve Golden State's special request for an increase in meter testing deposits;
- g. Whether the Commission should approve Golden State's request to track the cost of chemicals in the MCBAs in addition to the costs of purchased water, purchased power, and pumped water assessments and taxes that are currently tracked in the MCBAs;
- h. Whether the Commission should approve Golden State's request to recalculate the surcharge levied in the Arden Cordova CSA used to amortize and recover the balance of the Aerojet Water Litigation Memorandum Account;
- i. Whether the Commission should approve Golden State's request to incorporate into the final rates adopted in this proceeding the rate impact of advice letters for projects approved in D.10-12-059 that are filed and approved between the time of the filing of the Application and the implementation of the first test year rates adopted in this proceeding;

²¹ As discussed above, this proceeding will not consider Golden State's request to shorten the amortization recovery period for the WRAM and MCBA and related issues being addressed in WRAM-Related Amortization Proceeding.

- j. Whether the Commission should approve Golden State's request to include both metered and flat rate customers in the Arden Cordova WRAM;
 - k. Whether the Commission should approve Golden State's request to incorporate into the final rates adopted in this proceeding the ratemaking treatment for the abandonment of Bay Point's Hill Street water treatment facility and the replacement water agreement with the Contra Costa Water District adopted in D.11-09-017;
 - l. Whether the Commission should approve Golden State's request to incorporate into the final rates adopted in this proceeding the amount authorized in Golden State's rate base offset request to be filed in connection with its General Office Remediation memorandum account;
 - m. Whether Golden State should be authorized to include the cost of purchased water in the recorded expenses included in the four-factor allocation methodology; and
 - n. Whether pension costs in the test year and escalation years should be based on the Statement of Financial Accounting Standards No. 87 calculation for pension contributions instead of the Employee Retirement Income Security Act.
3. Whether the operation and maintenance costs for proposed fluoridation systems in connection with the First 5 LA Oral Health Community Development Program for the period from 2013-2015 should be approved.
 4. Whether Golden State's rate design is reasonable, including:
 - a. Whether Golden State's rate design adequately addresses the allocation between service charge and commodity rate to more closely comply with the California Urban Water Conservation Council's Best Management Practice Number 1.4;

- b. Whether Golden State's rate design provides more uniform tier width and price differentials between tiers, pursuant to the settlement adopted by D.10-12-059; and
 - c. Whether the tiered increasing block rate structure creates a potential for meter-reading errors.
5. A review of Golden State's conservation rate pilot program, including:
- a. Whether the WRAMs/MCBAs are achieving their stated purpose (i.e., whether Golden State and its ratepayers are proportionally affected under conservation rates), and if not, what changes, if any, are needed to ensure the WRAMs/MCBAs achieve their stated purpose;
 - b. Whether the WRAMs/MCBAs have removed disincentives for Golden State to implement conservation rates and conservation programs by severing the relationship between sales and revenue;
 - c. Whether cost savings resulting from conservation are passed on to ratepayers; and
 - d. Whether overall water consumption by Golden State ratepayers has been reduced.

5. Standard of Review & Settlement

Golden State bears the burden of proof to show through a preponderance of the evidence that its requests are just and reasonable and the related ratemaking mechanisms are fair.

In order for the Commission to consider whether any proposed settlement(s) that may be submitted in this proceeding are in the public interest, the Commission must be convinced that the parties have a sound and thorough understanding of the Application and of all the underlying assumptions and data included in the record. This level of understanding of the Application and

9. The parties must follow the procedures set forth in Section 11 of this ruling for requesting final oral argument.

10. The parties must comply with Rule 13.7 regarding exhibits.

11. The parties must comply with Rule 13.8 regarding prepared testimony. All Interested Parties must follow the procedures set forth in Section 16 of this ruling regarding prepared testimony.

12. Parties must comply with the Hearing Room Ground Rules set forth in Appendix A attached to this ruling.

Dated November 2, 2011, at San Francisco, California.

/s/ CATHERINE J.K. SANDOVAL
Catherine J.K. Sandoval Assigned
Commissioner

/s/ RICHARD SMITH
Richard Smith
Administrative Law Judge

No. S271493

IN THE SUPREME COURT OF THE STATE OF
CALIFORNIA

CALIFORNIA WATER ASSOCIATION
Petitioner,

v.

PUBLIC UTILITIES COMMISSION OF THE STATE OF
CALIFORNIA
Respondent.

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

Of the Public Utilities Commission of the State of California

EXHIBIT EE

Comments of California-American Water Company on the
Proposed Decision of Commissioner Guzman Aceves, (July 27,
2020)

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**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

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Order Instituting Rulemaking Evaluating the Commission's 2010 Water Action Plan Objective of Achieving Consistency between Class A Water Utilities' Low-Income Rate Assistance Programs, Providing Rate Assistance to All Low – Income Customers of Investor-Owned Water Utilities, and Affordability.

R.17-06-024

**COMMENTS OF CALIFORNIA-AMERICAN WATER COMPANY
ON THE PROPOSED DECISION OF COMMISSIONER GUZMAN ACEVES**

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July 27, 2020

measures almost certainly followed by rationing. There would be little to no opportunity for the Monterey Peninsula to return to normal economic conditions, nor could local agencies achieve their plan goals for moderate growth.”¹² While CAW is concerned with the weaker conservation signals that would be provided under an M-WRAM style rate design in all of its districts, the impact of such changes in the Monterey District could be particularly ruinous.

As demonstrated above, transitioning from CAW’s current rate designs to M-WRAM style rate designs due to elimination of the decoupling WRAM/MCBA will unavoidably raise rates for low-income customers and give a price break to the highest water users. This proceeding, which was established to assist low-income customers, has not provided a full and fair opportunity to examine the impact of the transition from WRAM utilities’ current rate designs to rate designs similar to those of the M-WRAM utilities, and to determine whether the alleged benefits of eliminating the decoupling WRAM/MCBA would outweigh the negative effect of such transitions on low-income customer rates and conservation.

III. ELIMINATION OF THE WRAM/MCBA IN THIS PROCEEDING IS NOT JUSTIFIED

In support of the directive that the decoupling WRAM/MCBA be eliminated and that the four Class A water utilities with WRAM/MCBAs transition to M-WRAMs, the PD claims that the decoupling WRAM/MCBA is not necessary to achieve conservation¹³ and that the non-decoupling M-WRAM will provide the same benefits.¹⁴ The record is void of any facts to support these claims. As discussed in more detail below, elimination of the WRAM/MCBA is not only beyond the scope of the proceeding, there is nothing in the record proving that the WRAM/MCBA harms low-income customers (the ostensible focus of this rulemaking) or that its elimination would in any way benefit these customers. Rather, as discussed above, the opposite is true.

A. Elimination of the WRAM/MCBA is Outside the Current Scope of the Proceeding

The PD claims that “consideration of changes to the WRAM/MCBA is and has always been within the scope of this proceeding.”¹⁵ The initial purpose of this rulemaking, however, was to examine the low-income support programs of CPUC regulated water utilities and the issues concerning affordability of water service for low-income and disadvantaged communities.¹⁶ Elimination of the WRAM/MCBA was not

¹² D.18-09-017, p. 124, fn. 333.

¹³ PD, pp. 54-56.

¹⁴ *Id.*, p. 48.

¹⁵ *Id.*, p. 52.

¹⁶ R.17-06-024, *Order Instituting Rulemaking evaluating the Commission’s 2010 Water Action Plan Objective of Achieving Consistency between the Class A Water Utilities’ Low-Income Rate Assistance Programs, Providing Rate Assistance to All Low-Income Customers of Investor-Owned Water Utilities, and Affordability*, July 10, 2017, pp. 9-13.

identified as part of the scope of this proceeding in either of the Phase I scoping memos.¹⁷

The PD cites to the fact that parties raised the issue of elimination of the WRAM/MCBA during an August 2019 workshop as support for its claim that the issue is within the scope of the proceeding,¹⁸ but just because a party raises an issue does not mean that it is within the scope. Indeed, the CPUC did not even mention the WRAM/MCBA until more than two years after the proceeding commenced, in a September 2019 ruling seeking comments on a Water Division staff report.¹⁹

The CPUC has expended significant effort in increasing the transparency and accessibility of its proceedings, including, most recently, modifying the Rules of Practice and Procedure.²⁰ Eliminating a key conservation tool like the WRAM/MCBA in a proceeding where the possibility was never identified in the initial scope and was not even raised until a ruling two years later, however, does not provide for a transparent process, and deprives parties, particularly those interested in conservation issues, of a full and fair opportunity to participate.

B. The Record on Conservation is Inadequate

The record in this proceeding is grievously inadequate to consider what the PD characterizes as “the foundational issue of whether WRAM/MCBA should continue.”²¹ For example, one of the main justifications for the PD’s elimination of the decoupling WRAM/MCBA is that it is allegedly not necessary to achieve conservation. The only purported support for this claim, however, is a citation to a graph in the September 23, 2019 reply comments of the Public Advocates Office (CalPA) (which the other parties had no opportunity to address) and a vague and confusing reference to consumption data from the SWRCB.²² The PD states that SWRCB data from 2015-2019 purportedly demonstrates that conservation achieved by the Class A and Class B water utilities without WRAM/MCBAs during this period exceeded the conservation achieved by the Class A water utilities with WRAM/MCBAs.²³ There was no citation provided to this data however, and according to an email from assigned Administrative Law Judge Haga, the PD’s reference to a “Table A” containing this data was an error.

¹⁷ R.17-06-024, *Scoping Memo and Ruling of Assigned Commissioner*, January 9, 2018, pp. 2-3; R.17-06-024, *Amended Scoping Memo and Ruling of Assigned Commissioner and Administrative Law Judge*, July 9, 2018, p. 3.

¹⁸ PD, p. 52.

¹⁹ In comments, California Water Association noted that this issue was outside the noticed scope of the proceeding. *Reply Comments of California Water Association Responding to Administrative Law Judge’s June 21, 2019 Ruling*, pp. 2-3; *Comments of California Water Association Responding to Administrative Law Judge’s September 4, 2019 Ruling*, p. 13.

²⁰ See Draft Resolution ALJ-381, issued May 14, 2020.

²¹ PD, p. 52.

²² *Id.*, pp. 54-55.

²³ *Id.*, p. 55.

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Respondent.

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

Of the Public Utilities Commission of the State of California

EXHIBIT FF

Comments of California Water Service Company (U 60 W) on the
Proposed Decision of Commissioner Guzman Aceves, (July 27,
2020)

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**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

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Order Instituting Rulemaking Evaluating the Commission's 2010 Water Action Plan Objective of Achieving Consistency between Class A Water Utilities' Low-Income Rate Assistance Programs, Providing Rate Assistance to All Low-Income Customers of Investor-Owned Water Utilities, and Affordability.

Rulemaking 17-06-024
(Filed June 29, 2017)

**COMMENTS OF CALIFORNIA WATER SERVICE COMPANY (U 60 W)
ON THE PROPOSED DECISION OF COMMISSIONER GUZMAN ACEVES**

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July 27, 2020

of conservation on customer consumption. Thus, the PD errs in asserting that the M-WRAM decouples sales from revenues.²⁸ It does not do so; nor was it ever intended to.

The PD is also misguided in concluding that the “Monterey-style WRAM provides better incentives to more accurately forecast sales while still providing the utility the ability to earn a reasonable rate of return.”²⁹ This flawed conclusion is not borne out by real world data comparing sales forecasts and actual sales between decoupled and non-decoupled companies. Instead, water utilities provide sales forecasts in their GRCs pursuant to the accepted approaches outlined by the Commission based upon actual historical data. There is no evidence whatsoever in the record of this proceeding that Cal Water or any other water utilities has ever intentionally provided inaccurate forecasted sales, or that they would have any incentive to do so, either fully decoupled or not. The PD’s consideration of the M-WRAM as a substitute is therefore premised on a significant misunderstanding of that mechanism that is not supported by the record evidence.

F. The PD’s Flawed Disposition of Decoupling Issues Constitutes Procedural Error.

1. Eliminating Decoupling Is Not Appropriately Within the Scope of This Proceeding.

The PD incorrectly asserts that “[c]onsideration of changes to the WRAM/MCBA is and has always been within the scope of this proceeding as part of our review of how to improve water sales forecasting.”³⁰ This is an unsupported and tenuous overexpansion of the identified scope of issues noticed in the Order Instituting Rulemaking, which is primarily focused on the LIRA programs of Class A water utilities and states only that “the Commission in a separate phase of this proceeding will examine standardizing water sales forecasting.”³¹ The PD’s overly broad interpretation of the noticed scope of issues for this proceeding is overreaching and fails to

²⁸ PD, p. 59 (“At the same time, we have identified some benefit to the WRAM/MCBA process with respect to decoupling sales from revenues and that the Monterey-Style WRAM captures the identified benefits without the negative effects on customers of a traditional WRAM.”).

²⁹ PD, p. 85, Conclusion of Law 3.

³⁰ PD, p. 85, Conclusion of Law 2.

³¹ *Order Instituting Rulemaking* (July 10, 2017), p. 8; *see also Scoping Memo and Ruling of Assigned Commissioner* (January 9, 2018), p. 3 (including the scope of issues, “What guidelines or mechanisms can the Commission put in place to improve or standardize water sales forecasting for Class A water utilities?”).

acknowledge the essential fact that parties were simply never given adequate notice that the elimination of the WRAM was ever properly in consideration at any point of this proceeding. Because the WRAM was outside of the scope of issues reasonably identified in either the OIR or any scoping memo, if the Commission adopts the PD as currently written, it will not have “proceeded in the manner required by law.”³²

The 2006 S. California Edison Co. v. Pub. Utilities Com.³³ opinion by the California Court of Appeals is particularly instructive here. In that case, the Commission similarly instituted a rulemaking proceeding regarding bid shopping and reverse auctions for energy utilities.³⁴ Several months into the proceeding, one of the parties similarly made a proposal that was objected to as outside the scope of that proceeding.³⁵ The Commission, as it did here, issued further rulings seeking input on those proposals, but never suggested in any manner that it “intended to modify the scope of issues in the proceeding to include the new proposals.”³⁶ The court later found that the limited, last-ditch efforts to amend the scope and allow feedback on those proposals just before the Commission adopted those new proposals in a formal decision were insufficient.³⁷ Therefore, the concluding that the Commission “failed to proceed in the manner required by law ... and that the failure was prejudicial,”³⁸ the court annulled the Commission’s decision.³⁹

Here, similar to the Edison case, the Commission would similarly fail to proceed in the manner require by law and prejudice parties including Cal Water in violation of due process if it chooses to adopt the PD as currently written. Instead, issues as complex and controversial as the

³² Cal. Pub. Util. Code § 1757(a)(2).

³³ S. California Edison Co. v. Pub. Utilities Com., 140 Cal. App. 4th 1085 (2d Dist. Ct. App. 2006) (“Edison”).

³⁴ *See Id.*, at 1091–1092.

³⁵ *See Id.*, at 1092–1093, 1105–1106. Here, the proposal to eliminate the WRAM was first introduced in this proceeding in the July 10, 2019 comments by PAO, p. 13 (“Specifically, the Commission should expediently convert all existing full WRAM/MCBA mechanisms to 1) Monterey Style WRAMs, which are directly tied to conservation rate design, with 2) an incremental cost balancing account.”).

³⁶ Edison, at 1106. Here, the PD asserts that it issued a ruling specifically calling for input on the WRAM (among several other topics) in September 2019. *See* PD, p. 52. Beyond comments and reply comments on that ruling, there have not been any substantive opportunities to further provide evidence on the WRAM.

³⁷ Edison, at 1106.

³⁸ *Id.*

³⁹ *Id.*, at 1107.

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Respondent.

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

Of the Public Utilities Commission of the State of California

EXHIBIT GG

Comments of Golden State Water Company (U 133 W) on
Proposed Decision and Order (July 27, 2020)

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**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking Evaluating the Commission's 2010 Water Action Plan Objective of Achieving Consistency between Class A Water Utilities' Low-Income Rate Assistance Programs, Providing Rate Assistance to All Low – Income Customers of Investor-Owned Water Utilities, and Affordability.

Rulemaking 17-06-024

**COMMENTS OF GOLDEN STATE WATER COMPANY (U 133 W)
ON PROPOSED DECISION AND ORDER**

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July 27, 2020

conservation efforts of the WRAM versus M-WRAM utilities over time. Further, the data put forth by Cal PA upon which the PD relies does not present a valid comparison of the conservation incentive effects of the WRAM versus M-WRAM mechanisms because there were other factors at play that impacted the utilities' conservation efforts and their customers' usage during the periods from which the data was drawn. Those factors include (1) government-imposed usage mandates, including usage restrictions that were more stringent in the service territories of some utilities as compared to other utilities, and (2) additional rate decoupling mechanisms, such as water conservation memorandum accounts, that affected conservation outcomes.⁷ The PD's failure to take these critical factors into account is an error of fact that is fatal to the PD's conclusion that, with respect to conservation outcomes, an M-WRAM mechanism is just as good as a full WRAM mechanism. Because there is no evidence supporting the PD's conclusion, requiring full WRAM/MCBA utilities to convert to M-WRAM/ICBA mechanisms may impair the Commission's conservation policy objectives.

Finally, requiring utilities to convert to M-WRAM/ICBA mechanisms would be erroneous for other policy reasons, including that the change may be detrimental to low-income customers. Abruptly abandoning the Commission's policy of decoupling revenues from sales may trigger investor and lender concerns regarding regulatory uncertainty in California,⁸ ultimately making debt and equity more expensive for California utilities—cost increases that would flow through to all customers. The elimination of the WRAM is also likely to induce rate design changes, such as increasing the monthly service charges and/or changes to tiered rate structures, which could adversely affect affordability for low usage customers. For example, companies with M-WRAM/ICBA mechanisms currently tend to recover a larger portion of their revenue requirement through fixed charges than companies with a WRAM/MCBA and have smaller “tier 1” quantities. These rate design elements often result in higher bills for low-income customers, who typically have lower water usage levels. The Commission should not ignore the failure of the PD to take these unintended consequences into account—particularly in the context of a proceeding focused on making water more affordable for low-income customers.

II. THE PD'S ERRORS REGARDING THE WRAM/MCBA

A. Changes to the WRAM/MCBA, if Any, Should be Addressed in a Separate Proceeding or a Separate Phase of this Proceeding

The PD errs in ordering the utilities that currently use a WRAM/MCBA to transition to an M-WRAM/ICBA in their next GRC as (i) the record purportedly supporting this major shift in policy is

⁷ See, *infra*, note 43 and accompanying text.

⁸ See, *infra*, notes 30 and 31 and accompanying text.

incomplete and inaccurate, and (ii) the PD fails to take into account that, in multiple proceedings, the Commission considered this very issue and, based on substantial records, concluded that the WRAM and MCBA should remain in place. If the Commission is going to institute a policy change of this magnitude, it is critical that it do so only after a record has been established that supports the change. Accordingly, if the Commission believes it necessary to reconsider maintaining the WRAM and MCBA, the Commission should do so in a separate proceeding or in a separate phase of this proceeding, during which a sufficient record can be established. To date, no such record exists.

In its comments, CWA explained that eliminating the WRAM/MCBA in this proceeding would be procedurally improper because (i) these decoupling mechanisms go well beyond this proceeding's scope, (ii) Cal PA was attempting to re-litigate the same arguments already rejected by the Commission, and (iii) if the Commission were to re-open consideration of the merits of these mechanisms for the utilities authorized to employ them, it would need to carefully evaluate the associated arguments, review the circumstances of each utility, and provide a fair opportunity for the utilities to respond.⁹ The PD dismisses these concerns out of hand, asserting that “the scope of the proceeding includes consideration of ‘how to improve water sales forecasting’” and that based on workshop discussions, a post-workshop ruling called for party input on “whether the Commission should change all utilities to use Monterey-Style WRAMs with ICBA, and whether such a transition should occur in the context of the utilities’ next GRC.”¹⁰ The PD thus claims that “consideration of the WRAM/MCBA is and has always been within the scope of this proceeding as part of our review of how to improve water sales forecasting.”¹¹

The PD, however, fails to take into account the dearth of information in the record to evaluate this issue. The Sept. 4, 2019 ALJ's Ruling posed an additional 18 questions for the parties to address in comments—but only 1 related to the M-WRAM/ICBA conversion. Question #6 asked if the Commission should consider converting WRAM/MCBAs to M-WRAMs. Cal PA answered “yes”, but their entire response was comprised of 6 sentences and included no data to support that position.¹² Later, in Cal PA's reply comments, they inserted the chart upon which the PD relies. This strategy resulted in no other party having any opportunity to demonstrate the flaws in Cal PA's analysis—the only evidence in the record purportedly supporting discontinuance of the WRAM/MCBA. As a result, with regard to its consideration of the WRAM/MCBA, the PD relies on a flawed and incomplete record.

⁹ See Reply Comments of California Water Association Responding to Administrative Law Judge's June 21, 2019 Ruling (Jul. 24, 2019) at 2-3 and 18-21.

¹⁰ PD at 52.

¹¹ *Id.*

¹² *Comments of the Public Advocates Office on the Water Division's Staff Report and Response to Additional Questions* (Sept. 16, 2019) at 5.

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Of the Public Utilities Commission of the State of California

EXHIBIT HH

Joint Comments of Liberty Utilities (Park Water) Corp. (U 314-W) and Liberty Utilities (Apple Valley Ranchos Water) Corp. (U 346-W) on the Proposed Decision (July 27, 2020)

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**BEFORE THE PUBLIC UTILITIES COMMISSION
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Rulemaking 17-06-024
(Filed June 29, 2017)

**JOINT COMMENTS OF LIBERTY UTILITIES (PARK WATER) CORP. (U 314-W)
AND LIBERTY UTILITIES (APPLE VALLEY RANCHOS WATER) CORP. (U 346-W)
ON THE PROPOSED DECISION**

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Dated: July 27, 2020

Attorneys for Liberty Utilities (Park Water) Corp. and
Liberty Utilities (Apple Valley Ranchos Water) Corp.

Commission authorized decoupling mechanism known as the Base Revenue Requirement Balancing Account (“BRRBA”). Unlike the WRAM, which only tracks the commodity revenues, the BRRBA tracks the difference between Liberty CalPeco’s authorized annual base rate revenue requirement and the annual recorded revenue from base rates. The BRRBA therefore enables Liberty CalPeco to recover 100% of its authorized base rate revenue whereas the WRAM allows for recovery of commodity revenue (which is approximately 75% of base rate revenue for Liberty Park Water and 70% for Liberty Apple Valley). There is no evidence or rationale presented in the record of this proceeding as to why the Commission would authorize a full decoupling mechanism for Liberty CalPeco but not allow a partial decoupling mechanism for Liberty Park Water or Liberty Apple Valley. This example, and others, should be considered, and parties must have a meaningful opportunity to be heard to develop an accurate record before any decision on the WRAM is made.

The PD finds that the WRAM should be eliminated based on factual errors regarding Commission decisions endorsing the WRAM. Therefore, the PD’s disposition of the WRAM/MCBA must be rejected.

B. The PD’s Failure to Provide Parties With a Meaningful Opportunity to be Heard Constitutes Legal Error.

The Commission initiated this rulemaking to address the improvement of low-income customer assistance programs. During the course of two years and multiple workshops, the topic of the WRAM was never introduced. On July 10, 2019, the Public Advocates Office first raised the WRAM issue in comments and proposed mandatory conversion of the WRAM to the Monterey-Style WRAM. In its reply comments dated September 23, 2019, the Public Advocates Office presented a graph that the PD claims proves that “the annual change in average consumption per metered connection is almost the same during the last eight years for both WRAM and Non-WRAM utilities.”⁸ The PD’s second key piece of evidence supporting its elimination of the WRAM is a nonexistent “Table A,” which, according to the PD, “is a review of reported annual consumption from the State Water Resources Control Board [that] shows that over time utilities with a WRAM/MCBA conserve water at about the same rate, or even less, than water utilities without a WRAM.”⁹ The parties had no meaningful opportunity to review and refute this alleged evidence.

As discussed above, at least two Commission decisions since D.12-04-048 have endorsed the

⁸ PD at 54-55.

⁹ PD at 55.

continuation of the WRAM. The PD attempts to change those decisions and policies without providing an opportunity for parties to review the evidence or be heard on the issue. Such an attempt is a violation of law and requires that the PD's rash disposition of the WRAM/MCBA be rejected.

Public Utilities Code Section 1708 limits the Commission's discretion to change its prior decisions:

The commission may at any time, upon notice to the parties, and with opportunity to be heard as provided in the case of complaints, rescind, alter, or amend any order or decision made by it.

Parties had no opportunity to present evidence or to cross-examine witnesses on the WRAM/MCBA issue in this proceeding. "The phrase 'opportunity to be heard' implies at the very least that a party must be permitted to prove the substance of its protest rather than merely being allowed to submit written objections to a proposal."¹⁰

The parties here had no meaningful opportunity to be heard and absolutely no opportunity to refute the dubious evidence supporting the PD's conclusion to eliminate the WRAM. After the Public Advocates Office first provided its graph on September 23, 2019, there were no other workshops addressing the WRAM issue. There were no comments addressing the WRAM issue. Indeed, between October 2019 and June 2020—when a newly assigned ALJ issued a new scoping memo—there was nothing addressing the WRAM issue. On July 3, 2020, the PD was filed, using the Public Advocates Office's graph from late September 2019 and the nonexistent "Table A" as the evidentiary support for the elimination of the WRAM. The parties have had no opportunity to be heard or to refute this graph and table. By failing to provide such an opportunity, the PD violates Public Utilities Code Section 1708, and therefore the PD's disposition of the WRAM/MCBA must be rejected.

C. The PD's Misstatement That WRAM Balances Have Been Large and Under-Collected Is a Factual Error.

The PD states that a review of WRAM utility balancing accounts over the past years rarely indicates an over-collected balance.¹¹ This statement is misleading and a factual error.

The table below shows the WRAM/MCBA balances recorded by calendar year for Liberty Apple Valley from 2009 to 2018. The table shows that, although there were significant under-collections recorded in the WRAM/MCBA from 2009 through 2014, these under-collections have radically diminished since then and represent a small percentage of authorized revenues. Moreover, the balance

¹⁰ *Cal. Trucking Assoc. v. Pub. Util. Com.*, 19 Cal. 3d 240, 243-244 (1977).

¹¹ PD at 52.

STATE OF CALIFORNIA
Supreme Court of California

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Supreme Court of California

Case Name: **CALIFORNIA-AMERICAN WATER COMPANY v. PUBLIC UTILITIES
COMMISSION**

Case Number: **S271493**

Lower Court Case Number:

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3/28/2022

Date

/s/Willis Hon

Signature

Hon, Willis (309436)

Last Name, First Name (PNum)

Nossaman LLP

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