

S271493

S_____

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

CALIFORNIA-AMERICAN WATER COMPANY
Petitioner,

v.

**PUBLIC UTILITIES COMMISSION OF THE STATE OF
CALIFORNIA**
Respondent.

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

Of the Public Utilities Commission of the State of California

APPENDIX OF EXHIBITS

TO PETITION FOR WRIT OF REVIEW

File 1 of 2 – Vol. I – Pages 1-268 – Exhibits A-W

Benjamin G. Shatz SBN:160229
MANATT, PHELPS &
PHILLIPS, LLP
2049 Century Park East
Suite 1700
Los Angeles, CA 90067
Telephone: (310) 312-4000
Facsimile: (310) 312-4224
Email: bshatz@manatt.com

*Lori Anne Dolqueist SBN: 218442
Willis Hon SBN: 309436
NOSSAMAN LLP
50 California Street, 34th Floor
San Francisco, CA 94111
Telephone: (415) 398-3600
Facsimile: (415) 398-2438
Email: ldolqueist@nossaman.com
whon@nossaman.com

Sarah E. Leeper SBN: 207809

CALIFORNIA-AMERICAN
WATER COMPANY

555 Montgomery Street

Suite 816

San Francisco CA 94111

Telephone: (415) 863-2960

Facsimile: (415) 863-0615

Email:

sarah.leeper@amwater.com

Attorneys for California-American Water Company

TABLE OF CONTENTS

VOLUME I (EXHIBITS A-W)

A.	<i>State Water Resources Control Board Order WR 95-10, Order on Four Complaints Filed Against the California-American Water Company, July 6, 1995.....</i>	6
B.	<i>Assigned Commissioner’s Ruling and Scoping Memo, I.07-01-022, March 8, 2007</i>	16
C.	<i>State Water Resources Control Board Order WR 2009-0060, In the Matter of the Unauthorized Diversion and Use of Water by the California American Water Company, October 20, 2009</i>	22
D.	<i>Joint Revised Scoping Memo and Ruling of the Assigned Commissioner and Administrative Law Judges, A.10-07-007, A.11-09-016, December 12, 2011.....</i>	31
E.	<i>Assigned Commissioner’s Third Amended Scoping Memo and Ruling Establishing Phase II, R.11-11-008, April 30, 2015</i>	38
F.	<i>State Water Resources Control Board Order WR 2016-0016, In the Matter Of Application of California American Water Company To Amend State Water Board Order 2009-0060, July 19, 2016</i>	43
G.	<i>Scoping Memo and Ruling of Assigned Commissioner, R.17-06-024, January 9, 2018.....</i>	51
H.	<i>Comments of the Office of Ratepayer Advocates, R.17-06-024, February 23, 2018</i>	68
I.	<i>Amended Scoping Memo and Ruling of Assigned Commissioner and Administrative Law Judge, R.17-06-024, July 9, 2018</i>	71
J.	<i>Reply Comments of California Water Association Responding to Administrative Law Judge’s June 21, 2019 Ruling, R.17-06-024, July 24, 2019.....</i>	77
K.	<i>Comments of California Water Association Responding to Administrative Law Judge’s September 4, 2019 Ruling, R.17-06-024, September 16, 2019.....</i>	88

L.	<i>Comments of Southern California Edison Company (U 338-E) on Administrative Law Judge’s Ruling Inviting Comments on Water Division Staff Report and Response to Additional Questions, R.17-06-024, September 16, 2019</i>	95
M.	<i>Reply Comments of the Public Advocates Office on the Water Division’s Staff Report and Response to Additional Questions, R.17-06-024, September 23, 2019</i>	98
N.	<i>Proposed Decision of Commissioner Guzman Aceves, R.17-06-024, July 3, 2020</i>	101
O.	<i>Comments of California-American Water Company on the Proposed Decision of Commissioner Guzman Aceves, R.17-06-024, July 27, 2020</i>	195
P.	<i>Comments of California Water Service Company (U 60 W) on the Proposed Decision of Commissioner Guzman Aceves, R.17-06-034, July 27, 2020</i>	223
Q.	<i>Comments of Golden State Water Company (U 133 W) on Proposed Decision and Order, R.17-06-024, July 27, 2020</i>	229
R.	<i>Great Oaks Water Company’s Comments to Proposed Phase I Decision, R.17-06-024, July 27, 2020</i>	236
S.	<i>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, R.17-06-024, July 27, 2020</i>	241
T.	<i>Great Oaks Water Company’s Reply Comments – Phase I Proposed Decision, R.17-06-024, August 3, 2020</i>	246
U.	<i>Reply Comments of California-American Water Company on the Proposed Decision of Commissioner Guzman Aceves, R.17-06-024, August 3, 2020</i>	252
V.	<i>Reply Comments of Comments of Golden State Water Company (U 133 W) on Proposed Decision and Order, R.17-06-024, August 3, 2020</i>	261
W.	<i>Dissent of Commissioner Randolph, R.17-06-024, September 3, 2020</i>	266

VOLUME II (EXHIBITS X-Y)

X. *California-American Water Company Application for Rehearing of D.20-08-047 and Request for Oral Argument, R.17-06-024, October 5, 2020*..... 274

Y. Executive Department, State of California, *Proclamation of a State of Emergency, October 19, 2021*..... 309

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

CALIFORNIA-AMERICAN WATER COMPANY
Petitioner,

v.

PUBLIC UTILITIES COMMISSION OF THE STATE OF
CALIFORNIA
Respondent.

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

Of the Public Utilities Commission of the State of California

EXHIBIT A

State Water Resources Control Board Order WR 95-10, *Order on
Four Complaints Filed Against the California-American Water
Company, July 6, 1995*



**Order on
Four Complaints Filed Against
The California-American
Water Company**

**Carmel River
Monterey County**

Order No. WR 95-10

JULY 6, 1995

**STATE WATER RESOURCES CONTROL BOARD
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY**

TABLE OF CONTENTS

	<u>PAGE</u>
1.0 CAL-AM, CAL-AM FACILITIES AND CAL-AM OPERATIONS	1
2.0 COMPLAINTS	7
2.1 Carmel River Steelhead Association	7
2.2 Resident's Water Committee	7
2.3 Ventana Chapter of the Sierra Club	7
2.4 California Department of Parks and Recreation	8
2.5 Monterey Peninsula Water Management District	8
2.6 Interested Persons	9
3.0 DESCRIPTION OF THE WATERSHED	9
3.1 Geologic Setting	10
3.2 Physical (Hydrologic) Characteristics of the Carmel Valley Aquifer	11
3.3 Location of Cal-Am Wells	13
4.0 ANALYSIS OF CAL-AM'S WATER RIGHTS	14
4.1 Applicable Water Law	15
4.1.1 Pre-1914 Appropriative Rights	15
4.1.2 Riparian Rights	16
4.1.3 Prescriptive Rights	16
4.1.4 Licenses	17
4.2 Analysis of Cal-Am's Water Right Claims	17
4.2.1 Analysis of Pre-1914 Appropriative Rights	18
4.2.2 Analysis of Riparian Rights	23
4.2.3 Analysis of Prescriptive Rights	23
4.2.4 Analysis of Rights Under License 11866 (Application 11674A)	24
4.3 Conclusions Regarding Cal-Am's Claimed Water Rights	24
5.0 EFFECT OF CAL-AM DIVERSION ON INSTREAM BENEFICIAL USES .	25
5.1 Vegetative Resources	25
5.2 Wildlife Resources	26
5.3 Fishery Resources	27
5.4 Extent of the Steelhead Resource	27
5.5 The Effect of Cal-Am Diversions Should be Mitigated	28
6.0 MITIGATING EFFECTS OF CAL-AM DIVERSIONS	29
6.1 Interim Relief Program	29
6.2 Water Allocation Mitigation Program	30
6.3 Other District Actions	32

TABLE OF CONTENTS
(continued)

	<u>PAGE</u>
6.4 Conditions On the Operation of Los Padres and San Clemente Dam	32
6.5 Interim Measures to Mitigating Effects of Cal-Am Diversions Should Continue to be Implemented	33
7.0 OTHER PROPOSALS FOR MITIGATING THE EFFECTS OF CAL-AM DIVERSIONS FROM THE CARMEL RIVER	33
7.1 Maximize Production in Seaside Aquifer, Minimize Production from Carmel River	33
7.2 Maximize Production from the Most Downstream Wells	34
7.3 Supply Water to the Carmel Village Filter Plant from Wells	35
7.4 Bypass Early Storm Runoff at the Dams	35
7.5 Modify Critical Stream Reaches to Facilitate Fish Passage	36
7.6 Remove Boulder Below Los Padres Dam	36
8.0 ENFORCEMENT OPTIONS	36
8.1 Considerations Mitigating Against the Use of Punitive Enforcement Options	37
9.0 SUMMARY AND CONCLUSIONS	38
ORDER	40
CERTIFICATION	45

LIST OF FIGURES & TABLE

<u>FIGURE NO.</u>	<u>TITLE</u>	<u>PAGE</u>
1	Carmel River Drawing Showing MPWMD Project Location	2
2	Carmel Valley Alluvial Groundwater Basin	3
3	Location Drawing of California-American Water Company Well	4
4	Drawing Identifying River Miles	5

<u>TITLE OF TABLE</u>	<u>PAGE</u>
Cal-Am Carmel River Wells (Cal-Am Exhibit 91)	13

objectively monitored, (2) minimize its diversions for the Carmel River, and (3) mitigate the environmental effects of its diversions.

ORDER

NOW THEREFORE, IT IS HEREBY ORDERED that Cal-Am shall comply with the following conditions:

1. Cal-Am shall forthwith cease and desist from diverting any water in excess of 14,106 afa from the Carmel River, until unlawful diversions from the Carmel River are ended.
2. Cal-Am shall diligently implement one or more of the following actions to terminate its unlawful diversions from the Carmel River: (1) obtain appropriative permits for water being unlawfully diverted from the Carmel River, (2) obtain water from other sources of supply and make one-for-one reductions in unlawful diversions from the Carmel River, provided that water pumped from the Seaside aquifer shall be governed by condition 4 of this Order not this condition, and/or (3) contract with another agency having appropriative rights to divert and use water from the Carmel River.
3. (a) Cal-Am shall develop and implement an urban water conservation plan. In addition, Cal-Am shall develop and implement a water conservation plan based upon best irrigation practices for all parcels with turf and crops of more than one-half acre receiving Carmel River water deliveries from Cal-Am. Documentation that best irrigation practices and urban water conservation have already been implemented may be substituted for plans where applicable.

(b) Urban and irrigation conservation measures shall remain in effect until Cal-Am ceases unlawful diversions from the Carmel River. Conservation measures required by this Order in combination with conservation measures required

by the District shall have the goal of achieving 15 percent conservation in the 1996 water year and 20 percent conservation in each subsequent year.²³ To the extent that this requirement conflicts with prior commitments (allocations) by the District, the Chief, Division of Water Rights shall have the authority to modify the conservation requirement. The base for measuring conservation savings shall be 14,106²⁴ afa. Water conservation measures required by this order shall not supersede any more stringent water conservation requirements imposed by other agencies.

4. Cal-Am shall maximize production from the Seaside aquifer for the purpose of serving existing connections, honoring existing commitments (allocations), and to reduce diversions from the Carmel River to the greatest practicable extent. The long-term yield of the basin shall be maintained by using the practical rate of withdrawal method.
5. Cal-Am shall satisfy the water demands of its customers by extracting water from its most downstream wells to the maximum practicable extent, without degrading water quality or significantly affecting the operation of other wells.
6. Cal-Am shall conduct a reconnaissance level study of the feasibility, benefits, and costs of supplying water to the Carmel Valley Village Filter Plant from its more nearby wells downstream of the plant. The objective of supplying water from the wells is to maintain surface flow in the stream as far downstream as possible by releasing water from San Clemente Dam for maintenance of fish habitat. The results

²³ Each water year runs from October 1 to September 30 of the following year.

²⁴ 14,106 afa represents Cal-Am's total diversions from the Carmel River.

of the study and recommendations shall be provided to the District and DFG for comment.

7. Cal-Am shall evaluate the feasibility of bypassing early storm runoff at Los Padres and San Clemente Dams to recharge the subterranean stream below San Clemente Dam in order to restore surface water flows in the river at an earlier date. The results of the study and recommendations shall be provided to the District and DFG for comment.
8. Cal-Am shall conduct a study of the feasibility, benefits, and costs of modifying critical stream reaches to facilitate the passage of fish. The study shall be designed and carried out in consultation with DFG and the District. The results of the study and recommendations shall be provided to the District and DFG for comment.
9. The studies required by conditions 6, 7, and 8 shall be carried out by persons with appropriate professional qualifications. The studies required by condition 7 shall be completed and submitted to the Chief, Division of Water Rights, within 5 months from the date of this order. The Chief, Division of Water Rights may extend the time for performing the study required by condition 8 upon making a finding that adequate flows were not available to perform the study. The studies required by conditions 6 and 8 shall be completed and submitted to the Chief, Division of Water Rights, within 12 months from the date of this order. The Chief, Division of Water Rights may extend the time for performing the study required by condition 8 upon making a finding that adequate flows were not available to perform the study. The report (or reports) transmitting the results of the study (or studies) shall describe the action (or actions) which Cal-Am will undertake to correct the problems addressed by the studies. Cal-Am shall provide a written response to any comments received on the study. If no action (or actions) will be taken to correct the underlying problem (or problems),

Cal-Am's report shall provide written justification why corrective action is not appropriate. Based upon the results of the studies, recommendations, comments by the District and DFG, and Cal-Am responses, the Chief, Division of Water Rights, shall determine what actions shall be taken by Cal-Am consistent with this Order and establish reasonable times for implementation.

10. Cal-Am shall remove the large rock immediately below the spillway of the Los Padres Dam which results in substantial loss of juvenile steelhead or implement some other reliable measure (or measures) to assure safe passage for fish over or around the rock. Prior to removing the rock Cal-Am shall consult with DFG and obtain any streambed alteration permit required by Fish and Game Code Section 1601. If Cal-Am leaves the rock in place, it shall consult with DFG when evaluating what other measures can be used to assure safe fish passage. Cal-Am shall comply with this measure within 4 months.
11. Cal-Am shall be responsible for implementing all measures in the "Mitigation Program for the District's Water Allocation Program Environmental Impact Report" not implemented by the District after June 30, 1996.²⁵ Not later than August 30, 1996, Cal-Am shall submit a report to the Chief, Division of Water Rights, identifying mitigation measures which the District does not continue to implement after June 30, 1996. At the same time, Cal-Am shall submit a plan for the approval of the Chief, Division of Water Rights, detailing how it will implement mitigation measures not implemented by the District. The Chief, Division of Water Rights, may excuse Cal-Am from implementing specific mitigation measures only upon making a finding that Cal-Am has demonstrated that it does not have

²⁵ On November 5, 1990 the District adopted a mitigation program to be carried out for five years. The plan is summarized in Section 6.2, *infra*. There is no assurance the District will continue with any or all of the elements of its mitigation program after November of 1995. (MPWMD:289, Vol. III, Appendix 2-D.)

adequate legal authority to implement the ability to finance such measures or demonstrates that such measures are demonstrably ineffective.

12. Within 90 days of the date of this order, Cal-Am shall submit for the approval of the Chief, Division of Water Rights:

- (a) A compliance plan detailing the specific actions which will be taken to comply with condition 2 and the dates by which those actions will be accomplished;
- (b) An urban water conservation plan; and
- (c) An irrigation management plan.

13. Starting with the first full month following adoption of this order, Cal-Am shall file quarterly with the Chief, Division of Water Rights:

- (a) Reports of the monthly total amounts being: (1) pumped from wells; and (2) diverted from the Carmel River,
- (b) Reports of the progress being made in complying with the schedule submitted to comply with condition 11, and
- (c) Reports of the progress being made in complying with conditions 6, 7, 8, and 9.

///
///
///
///
///
///
///
///
///
///

14. The Chief, Division of Water Rights, is authorized to refer any violation of these conditions to the Attorney General for action under Section 1052 or to initiate such other enforcement action as may be appropriate under the Water Code.

CERTIFICATION

The undersigned, Administrative Assistant to the Board, does hereby certify that the foregoing is a full and correct copy of an order duly and regularly adopted at a meeting of the State Water Resources Control Board held on July 6, 1995.

AYE: John P. Caffrey
 Mary Jane Forster
 Marc Del Piero
 James M. Stubchaer
 John W. Brown

NO: None

ABSENT: None

ABSTAIN: None



Maureen Marché
Administrative Assistant to the Board

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

CALIFORNIA-AMERICAN WATER COMPANY
Petitioner,

v.

PUBLIC UTILITIES COMMISSION OF THE STATE OF
CALIFORNIA
Respondent.

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

Of the Public Utilities Commission of the State of California

EXHIBIT B

Assigned Commissioner's Ruling and Scoping Memo, I.07-01-022,
March 8, 2007



FILED

03-08-07

02:23 PM

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

changed to quasi-legislative. The Commission preliminarily determined that hearings might be necessary to implement policy issues for individual companies. The parties also believe the rulemaking phase, *i.e.*, Phase II, may require hearings. I concur. Quasi-legislative hearings may be necessary in Phase II. If there are areas of factual dispute, hearings on those issues may proceed with pre-served testimony.

Timetable

Pursuant to the OIL, the undersigned assigned Commissioner and/or the ALJ may revise the schedule. I revise the schedule as follows:

April 23, 2007	Parties file motions proposing settlement agreements; Golden State files rate-related conservation proposals
May 23, 2007	Comments on proposed settlement agreements
June 7, 2007	Reply comments on proposed settlement agreements
June 29, 2007	Opening testimony on rate-related conservation measures or settling parties' testimony on contested issues
July 20, 2007	Reply testimony on rate-related conservation issues or contesting parties' testimony on contested issues
July 20-August 3, 2007	Hearings - Commission Courtroom, State Office Building, 505 Van Ness Avenue, San Francisco, CA 94102
TBD	Briefs
TBD	Mailing of proposed decision, first possible Commission consideration of proposed decision

The parties who intend to file notices of intent (NOI) requested an extension to file the NOIs until after the scoping memo issued in order to prepare

IN THE SUPREME COURT OF THE STATE OF
CALIFORNIA

CALIFORNIA-AMERICAN WATER COMPANY
Petitioner,

v.

PUBLIC UTILITIES COMMISSION OF THE STATE OF
CALIFORNIA
Respondent.

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

Of the Public Utilities Commission of the State of California

EXHIBIT C

State Water Resources Control Board Order WR 2009-0060, *In
the Matter of the Unauthorized Diversion and Use of Water by the
California American Water Company*, October 20, 2009

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

ORDER WR 2009-0060

In the Matter of the Unauthorized Diversion and Use of Water
by the California American Water Company

Parties

**Water Rights Prosecution Team¹
California American Water Company**

Interested Parties

**Monterey Peninsula Water Management District, City of Carmel by the Sea,
City of Seaside, Seaside Basin Watermaster, Pebble Beach Company,
Monterey County Hospitality Association, City of Monterey, City of Sand City,
Division of Ratepayers Advocates of the California Public Utilities Commission,
Public Trust Alliance, Carmel River Steelhead Association,
Ventana Chapter of the Sierra Club, California Sportfishing Protection Alliance,
Planning and Conservation League, California Salmon and Steelhead Association,
National Marine Fisheries Service**

SOURCE: Carmel River

COUNTY: Monterey

CEASE AND DESIST ORDER

BY THE BOARD:

INTRODUCTION

The California American Water Company (Cal-Am or CAW) diverts water from the Carmel River in Monterey County. The water is used to supply the residential, municipal, and commercial needs of the Monterey Peninsula area (peninsula) communities. In 1995 the State Water

¹ The Water Rights Prosecution Team includes: (1) James Kassel, Assistant Deputy Director for Water Rights, (2) John O'Hagan, Manager, Water Rights Enforcement Section (3) Mark Stretars, Senior Water Resource Control Engineer, (4) John Collins, Environmental Scientist and (5) Staff Counsels Reed Sato, Yvonne West and Mayumi Okamoto. In addition, for purposes of complying with *ex parte* prohibitions, Kathy Mrowka, Senior Water Resource Control Engineer, is also treated as a member of the Prosecution Team.

ORDER

NOW, THEREFORE, IT IS ORDERED THAT Cal-Am shall cease and desist from the unauthorized diversion of water from the Carmel River in accordance with the following schedule and conditions.⁴⁶

1. Cal-Am shall diligently implement actions to terminate its unlawful diversions from the Carmel River and shall terminate all unlawful diversions from the river no later than December 31, 2016.
2. Cal-Am shall not divert water from the Carmel River for new service connections or for any increased use of water at existing service addresses resulting from a change in zoning or use. Cal-Am may supply water from the river for new service connections or for any increased use at existing service addresses resulting from a change in zoning or use after October 20, 2009, provided that any such service had obtained all necessary written approvals required for project construction and connection to Cal-Am's water system prior to that date.⁴⁷
3. At a minimum, Cal-Am shall adjust its diversions from the Carmel River in accordance with the following:
 - a. Commencing on October 1, 2009,⁴⁸ Cal-Am shall not divert more water from the river than the base of 10,978 afa,⁴⁹ as adjusted by the following:
 - (1) Immediate Reduction: Commencing on October 1, 2009, Cal-Am shall reduce diversions from the river by 5 percent, or 549 afa.

⁴⁶ Attachment 1 to this order, "Table 1, Projected Reductions in Illegal Diversions from the Carmel River," shows the reductions in illegal diversions from the Carmel River that should result from conditions 1, 2 and 3 of this order.

⁴⁷ Multiunit residential, commercial or industrial sites may currently be served by a single water meter. The installation of additional meters at an existing service will not be viewed as a new service connection provided that the additional metering does not result in an increase in water use. Metering each unit of a multiunit building tends to increase accountability in the use of water and the effectiveness of water conservation requirements.

⁴⁸ Each water year runs from October 1 to September 30 of the following year.

⁴⁹ Cal-Am diverts 3,376 afa under legal rights and, on average, 7,602 afa without a basis of right. (3,376 + 7,602 = 10,978 afa).

- (2) Annual Reductions: Commencing on October 1, 2011, the base shall be further reduced by 121 af per year through savings that will accrue from reduced system losses, the retrofit program, the reduction of potable water used for outdoor irrigation, demand reduction and similar measures. The 121 af reduction shall be cumulative. For example, 121 af shall be reduced in the first year and 242 af shall be reduced in the second year. Commencing on October 1, 2015, annual reductions shall increase to 242 af per year. The 242 af per year reduction shall also be cumulative. Annual reductions shall continue until all unlawful Cal-Am diversions from the river have been terminated.
- (3) ASR Project: The amount of water diverted to underground storage under Permit 20808A (Application 27614A) as of May 31 of each year and which will be supplied to Cal-Am customers after that date shall be subtracted from the base.⁵⁰ On June 1 of each year, Cal-Am shall submit an operating plan to the Deputy Director for Water Rights specifying the quantity of water it intends to supply from ASR Project for its customers after May 1 of each year. Water pumped from the project for delivery to customers should be consistent with the requirements of paragraph "c" below.
- (4) Sand City Desalination Plant: Once the Sand City Desalinization Plant becomes operational, 94 af shall be subtracted from the base. In addition, based on actual production from the plant, any other water that is produced and not served to persons residing within the City of Sand City shall be subtracted from the base amount for each water year.
- (5) Small Projects: Water produced from new sources developed pursuant to Condition 4 of this order shall be subtracted from the base.
- (6) Pebble Beach: Within 90 days following adoption of the order, the Pebble Beach Company shall certify, under penalty of perjury, the total quantity of water annually used under its water entitlement from MPWMD (for the funding assurances provided for the construction and expansion of the CAWD-PBCSD

⁵⁰ This condition shall apply to Phase I and Phase II of the ASR project.

wastewater reclamation project).⁵¹ Ten percent (10%) of the amount reported shall be added to the adjusted base to allow Cal-Am to divert water from the river to supply water for PBC water entitlements initiated in the following 12 months. Thereafter, the PBC shall annually submit, on September 30, a report to the Deputy Director for Water Rights accounting for any additional water that is diverted from the Carmel River as the result of an increased use of its MPWMD water entitlement. Increased diversions from the river by Cal-Am to satisfy PBC entitlements from MPWMD shall be added to the adjusted base, and are not subject to section 2 of this order. Water Diverted from the river by Cal-Am for PBC entitlements can only be served to properties that have received a PBC entitlement from MPWMD and which are located in the Cal-Am's service area. Cal-Am shall not divert water from the Carmel River after December 31, 2016, to supply PBC's water entitlement from MPWMD.

- b. Either Cal-Am or the MPWMD may petition the State Water Board Deputy Director for Water Rights for relief from annual reductions imposed under condition 3., a (2). No relief shall be granted unless all of the following conditions are met: (a) Within 18 months of the adoption of this order, Cal-Am has imposed a moratorium on new service connections pursuant to Water Code section 350 or has obtained an order prohibiting new connections from the PUC pursuant to Public Utility Code section 2708 or MPWMD has imposed a moratorium on new service connections under its authority; (b) the demand for potable water by Cal-Am customers has been reduced by 13 percent;⁵² and (c) a showing is made that public health and safety will be threatened if relief is not granted. Any relief granted shall remain in effect only as long as (a) a prohibition on new service connections remains in effect, and (b) the 13 percent conservation requirement remains in effect.
- c. ASR project water stored in the Seaside groundwater basin under Permit 20808A (Application 27614A) should be used to mitigate the effect of Cal-Am's illegal diversions from the river. ASR water should be supplied to Cal-Am customers only during months when water is most needed in the river to preserve steelhead.

⁵¹ Water currently diverted from the river by Cal-Am to supply PBC entitlements is accounted for in the existing base.

⁵² For purposes of measuring compliance, the 13 percent reduction shall be measured against the adjusted base required by this condition for the year in which the conservation requirement is imposed.

Commencing no later than June 1 of each year, Cal-Am should use stored groundwater to supply the needs of its customers and reduce diversions from the river. Consistent with Cal-Am's operating plan, water should be pumped from the groundwater basin at the maximum practicable rate for as long as possible. This condition shall apply to both Phase I and Phase II of the ASR project. The river's habitat and fish may receive greater benefits from a substitution regime that differs from that called for by this condition, a regime requiring that substitution commence at a different date, at a different rate or be coordinated with the level of flow in the river. In addition, it may be desirable to hold stored water from one year to the next to assure that more water is available for the steelhead and its habitat in years when the potential for steelhead survival may be greater. Several substitution trials may be necessary to determine which regime will have the greatest benefit. The National Marine Fisheries Service and the California Department of Fish and Game are encouraged to negotiate different substitution regimes with Cal-Am. The State Water Board will honor such agreements, provided Cal-Am submits the written agreement to the Deputy Director for Water Rights no later than May 1 of each year and the written agreement is approved by the Deputy Director.

4. Cal-Am shall reduce its illegal diversions from the river at the same rate ASR Project water is pumped from the groundwater basin as long as stored water is available under the operating plan.
5. Cal-Am shall implement one or more small projects that, when taken together, total not less than 500 afa to reduce unlawful diversions from the river. Within 90 days of entry of this order, Cal-Am shall identify to the Deputy Director for Water Rights the projects that it will implement and shall implement the projects within 24 months of entry of this order. Cal-Am may petition the Deputy Director for additional time in which to implement the projects. However, no time extension shall be considered unless the petition is accompanied by detailed plans and time schedules for each project. Detailed justification shall be provided for additional time. Detailed justification shall be provided for any request for an extension to allow Cal-Am time to obtain prior approval from the PUC. To the maximum practicable extent, small projects shall be operated to reduce illegal diversions from the river during the months when surface flow in the river begins to go dry and through the months when surface flow in the river disappears below river mile 6.5.

6. Starting three months following adoption of this order, Cal-Am shall post quarterly reports on its website and file the quarterly reports with the Deputy Director for Water Rights. The quarterly reports shall include the following:
 - (a) Monthly summaries of the quantity of water it diverts from the river.
 - (b) Monthly summaries of the quantity of ASR project water diverted from the river under Permit 20808A and stored in the Seaside ground water basin. The monthly reporting shall also state the quantity of water beneficially used under Permit 20808A and the current balance of water in storage.
 - (c) Monthly summaries of the quantity of water being produced by the Sand City desalinization plant. The reporting shall identify new service connections within Sand City and thereafter report the quantity of water being delivered to the new connections. The monthly reports shall specify the quantity of water used to reduce diversions from the river during the reporting period.
 - (d) Monthly summaries of the quantity of water saved by reducing system losses.
 - (e) Monthly summaries of reductions in demand for potable water due to conservation actions such as increased water rates, MPWMD's retrofit program, efforts to reduce potable water for outdoor water use and demand reduction initiatives.
 - (f) Monthly summaries identifying all new service connections. The report shall include the Cal-Am account number, the service address, the name of each authority granting any approval required for connecting to Cal-Am's system and the name of each authority granting any approval required before commencing construction; the issuer of the each approval and the date of each approval shall be separately listed for each service address.
 - (g) Monthly summaries identifying existing service addresses that receive an increased supply of water due to a change in zoning or use. The report shall include Cal-Am account number, the service address and the name of each authority authorizing a change of use or of zoning and the date of such change.

- (h) Each quarterly report submitted by Cal-Am shall be certified under penalty of perjury and shall include the following declaration: *“I declare under penalty of perjury, under the laws of the State of California, that all statements contained in this report and any accompanying documents are true and correct, with full knowledge that all statements made in this report are subject to investigation and that any false or dishonest statement may be grounds for prosecution.”*
7. Starting six months after adoption of this order, Cal-Am shall file quarterly reports of its progress toward implementing Condition 3 (small project implementation) and note specifically any problems with its schedule of implementation.
8. The Deputy Director for Water Rights is authorized to modify the timing and the content of the reporting required by all of the provisions of this order to more effectively carry out the intent of this order.
9. Cal-Am shall comply with all requirements of Order 95-10, except as follows:
- (a) Condition 1 of Order 95-10 is superseded by Condition 2 of this order.
- (b) Condition 3(b) of Order 95-10 is superseded by Condition 2 of this order.
- (c) The last sentence of Condition 4 is deleted because the Seaside groundwater basin watermaster will determine the manner in which water may be withdrawn from the groundwater basin.
- (d) All other conditions of Order 95-10 shall remain in full force and effect until fully implemented.
10. The Deputy Director for Water Rights is directed to closely monitor Cal-Am’s compliance with Order 95-10 and this order. Appropriate action shall be taken to insure compliance with these orders including the issuance of additional cease and desist orders under Water Code section 1831, the imposition of administrative civil liability under Water Code section 1055, and referral to the Attorney General under Water Code section 1845 for injunctive relief and for civil liability. If additional enforcement action becomes

necessary, the Deputy Director is directed to consider including in such actions all Cal-Am's violations of Water Code section 1052 since the adoption of Order 95-10.

11. The conditions of this order and order 95-10 shall remain in effect until (a) Cal-Am certifies, with supporting documentation, that it has obtained a permanent supply of water that has been substituted for the water illegally diverted from the Carmel River and (b) the Deputy Director for Water Rights concurs, in writing, with the certification.

CERTIFICATION


The undersigned Clerk to the Board does hereby certify that the foregoing is a full, true, and correct copy of an order duly and regularly adopted at a meeting of the State Water Resources Control Board held on October 20, 2009.

AYE: Chairman Charles R. Hoppin
Vice Chair Frances Spivy-Weber
Board Member Arthur G. Baggett, Jr.

NAY: Board Member Tam M. Doduc

ABSENT: None

ABSTAIN: Board Member Walter G. Pettit



Jeanine Townsend
Clerk to the Board

IN THE SUPREME COURT OF THE STATE OF
CALIFORNIA

CALIFORNIA-AMERICAN WATER COMPANY
Petitioner,

v.

PUBLIC UTILITIES COMMISSION OF THE STATE OF
CALIFORNIA
Respondent.

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

Of the Public Utilities Commission of the State of California

EXHIBIT D

*Joint Revised Scoping Memo and Ruling of the Assigned
Commissioner and Administrative Law Judges, A.10-07-007,
A.11-09-016, December 12, 2011*



FILED
12-12-11
02:17 PM

MF1/LRR/DUG/jt2 12/12/2011

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of California-American Water Company (U210W) for Authorization to increase its Revenues for Water Service by \$4,134,600 or 2.55% in the year 2011, by \$33,105,800 or 19.68% in the year 2012, by \$9,897,200 or 4.92% in the year 2013, and by \$10,874,600 or 5.16% in the year 2014.

Application 10-07-007
(Filed July 1, 2010)

In the Matter of the Application of California-American Water Company (U210W) for an Order Authorizing and Imposing a Moratorium on New Water Service Connections in its Larkfield District.

Application 11-09-016
(Filed September 23, 2011)

**JOINT REVISED SCOPING MEMO AND RULING OF THE ASSIGNED
COMMISSIONER AND ADMINISTRATIVE LAW JUDGES**

1. Summary

This revised scoping memo ruling for Phase 2 will address rate design for all six districts of California American Water Company (Cal Am),¹ the Water Revenue Adjustment Mechanism and related accounts, and the Sacramento District's Walerga Special Facilities Fees. This revised scoping memo also

¹ Cal Am's districts are currently named Coronado, Larkfield, Los Angeles, Monterey, Sacramento and Ventura but this application includes a special request to rename the districts Larkfield District, Los Angeles County District, Monterey District, Sacramento County District, San Diego County District, and Ventura County District.

evidentiary hearings held on this issue. This ruling denies the motion filed by Cal Am, DRA, TURN and NRDC to adopt a rate design stipulation. However, as discussed above, Phase 2 provides an opportunity for parties to develop a rate design settlement for all districts once a revenue requirement is determined. If no rate design settlement agreement is reached, the existing record may be used or augmented as necessary.

Monterey Rate Design

The Phase 2 rate design and cost allocation for the Monterey District will exclude the Desalination Project costs. Rate design should be developed that will result in just and reasonable rates for the Monterey District ratepayers while allowing Cal Am a reasonable opportunity to timely recover its revenue requirement.

WRAM/Modified Cost Balancing Accounts Review (MCBA)

Based on the discussion at the September 8 joint prehearing conference, the record in A.10-09-017 pertaining to Cal Am will be incorporated into the record of this proceeding and Phase 2 will examine the WRAM/MCBA mechanisms for each relevant Cal Am district. This is consistent with the June 8, 2011 Scoping Memo in A.10-09-017 which found that the Commission should undertake further review of the WRAM/MCBA mechanisms in each utility's general rate case and that the Commission should quickly address the extraordinarily high 2010 and 2011 WRAM/MCBA balances in the Monterey District, especially in light of the unique characteristics of that district.²

The Commission granted Cal Am individual district WRAM/MCBA mechanisms as part of settlements in different general rate case proceedings,

² See June 8, 2011 scoping memo in A.10-09-017 at 12 and 13, and extended discussion of the Monterey District at 8-10.

dating back to 2008. In each case the mechanisms were part of a pilot program and the effects were to be reviewed in those districts' next general rate case. These reviews have not taken place and the current substantial undercollections for 2010 and 2011 require that this be quickly undertaken here.³

In A.10-09-017, the following undercollections of Cal Am's adopted revenue requirement, by district, were reported for 2010:⁴

	<u>2010 % Undercollection</u>
Monterey District (with Ambler Park)	27.40%
Larkfield District	19.88%
Los Angeles District	
Duarte	17.68%
San Marino	15.13%
Baldwin Hills	5.37%
Coronado District	8.58%
Village District	2.77%

The 2010 WRAM/MCBA undercollections are currently amortized, according to the adopted mechanisms, as a surcharge in customer bills over a period ranging from 12 to 36 months. WRAM/MCBA undercollections are continuing in 2011 for all Cal Am districts. The following year-end 2011 estimated balances were submitted by Cal Am on April 15, 2011 and are projected using actual 2010 sales. Cal Am will file an Advice Letter in March 2012 to request recovery of the actual 2011 WRAM/MCBA undercollections.

³ Also at issue is whether Cal Am complied with the safeguard provisions related to the WRAM/MCBA adopted in D.08-06-022.

⁴ See Appendix A of June 8, 2011 scoping memo in A.10-09-017 and Table 1 of DRA's August 31, 2011 testimony in A.10-09-017.

Following is the estimated 2011 net WRAM/MCBA 2011 undercollections in comparison to the actual 2010 undercollections:⁵

	<u>Estimated 2011 Undercollections</u>	<u>Actual 2010 Undercollections</u>
Monterey District (w/ Ambler)	\$12,942,744	\$12,061,905
Larkfield	\$ 589,003	\$ 586,634
Los Angeles District		
San Marino	\$ 1,652,818	\$ 1,706,191
Duarte	\$ 1,004,349	\$ 1,013,260
Baldwin Hills	\$ 233,201	\$ 214,009
Coronado	\$ 1,380,513	\$ 1,575,129
Village District	\$ 1,216,911	\$ 718,723

The review of the WRAM/MCBA accounts must address the following questions:

- What are the causes of the extremely high levels of WRAM/MCBA balances in several of Cal Am’s districts?
 - Are some of the undercollections accumulating in the WRAM/MCBAs unrelated to increased conservation due to tiered rate designs?
 - Would the use of a Monterey-style WRAM have prevented the high WRAM/MCBA balances?
- How can such high WRAM/MCBA balances be prevented in the future?
 - To what extent can sales forecasting prevent the high account balances?
 - What other changes or improvements will help prevent the high account balances?
- How should the WRAM/MCBA balances for the various districts be amortized/recovered?

⁵ See both Appendices A and B of June 8, 2011 scoping memo in A.10-09-017.

- Should the amortization rules be different for a district, such as Monterey, that has extremely high account balances? If so, how?
- How should the Commission's resolution of requested changes to amortization rules in A.10-09-017 be applied to Cal Am?

Walerga Special Facilities Fees

The review of the Walerga Special Facilities Fees must include a review of all costs associated with the Walerga project and the calculation of the new per unit fee requested in the application.

Larkfield District Service Connection Moratorium

The review of the application for a moratorium on water service connections in the Larkfield District must address, among other things:

- Has Cal Am sought additional water supply from the Sonoma County Water Agency? If so, what is the status of that request? If not, why not?
- Has Cal Am sought permission to use an alternate maximum day demand and if so, what maximum day demand was requested? If no request is pending, why has no request been made?
- Would the additional water supply from the Faught Road Well meet the requirements of an alternate maximum day demand?
- What impact would conservation measures have on maximum day demand?
- Has Cal Am taken all reasonable steps to avoid a moratorium on water connections in the Larkfield District?

4. Schedule

The schedule for this proceeding was developed with input from the parties and may be changed as necessary by the assigned ALJs or Commissioner.

MILESTONE	DEADLINE
Rate Design Settlement for all districts except Monterey	6 wks after Rev. Req. Decision
Proposed Walerga Settlement	12/31/2011
Walerga Schedule if no Settlement	
Cal Am Direct Testimony	January 20, 2012
Intervenor Direct Testimony	March 2, 2012
Rebuttal Testimony	May 16, 2012
Evidentiary Hearings	April 3 & 4, 2012
Opening Briefs	April 18, 2012
Reply Briefs	April 25, 2012
Walerga PD	July 25, 2012
WRAM/MCBA, Monterey District Rate Design and Larkfield Moratorium	
Monterey District PPHs	TBD
Cal Am Direct Testimony	March 30, 2012
Intervenor Direct Testimony	May 11, 2012
Settlement Negotiations/ADR Start	May 2012
Rebuttal Testimony	June 8, 2012
Settlement Negotiations/ADR Ends	June 2012
Cross Examination Estimates	June 25, 2012
Evidentiary Hearings	July 17, 18, 19, 2012
Opening Briefs	August 9, 2012
Reply Briefs	August 30, 2012
Proposed Decision	November 2012

The evidentiary hearings will be held at 10 a.m., at the Commission's Courtroom, State Office Building, 505 Van Ness Avenue, San Francisco, California.

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

CALIFORNIA-AMERICAN WATER COMPANY
Petitioner,

v.

PUBLIC UTILITIES COMMISSION OF THE STATE OF
CALIFORNIA
Respondent.

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

Of the Public Utilities Commission of the State of California

EXHIBIT E

*Assigned Commissioner's Third Amended Scoping Memo and
Ruling Establishing Phase II, R.11-11-008, April 30, 2015*



FILED
4-30-15
04:08 PM

CJS/ar9 4/30/2015

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

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.

IN THE SUPREME COURT OF THE STATE OF
CALIFORNIA

CALIFORNIA-AMERICAN WATER COMPANY
Petitioner,

v.

PUBLIC UTILITIES COMMISSION OF THE STATE OF
CALIFORNIA
Respondent.

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

Of the Public Utilities Commission of the State of California

EXHIBIT F

State Water Resources Control Board Order WR 2016-0016, *In
the Matter Of Application of California American Water Company
To Amend State Water Board Order 2009-0060*, July 19, 2016

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD
ORDER WR 2016-0016

In the Matter Of Application of

California American Water Company

To Amend State Water Board Order 2009-0060

SOURCE: Carmel River

COUNTY: Monterey County

**ORDER AMENDING IN PART REQUIREMENTS OF
STATE WATER BOARD ORDER WR 2009-0060**

BY THE BOARD:

1.0 OVERVIEW

For decades, California-American Water Company (Cal-Am) has been unlawfully diverting water from the Carmel River to provide municipal water to a large area of the Monterey Peninsula. State Water Resources Control Board (State Water Board) [Order WR 2009-0060](#) (hereafter, WR 2009-0060) is a cease and desist order that, among other requirements, established a compliance timeline for cessation of Cal-Am's unlawful diversions from the Carmel River by December 31, 2016. This timeline was based on evidence gathered at hearing that indicated that a regional desalination plant would be built, enabling the area's municipal water needs to be met by new water supplies. It is now clear that no desalination plant will be in operation by the end of this year. In light of this recognition, Cal-Am has proposed modifying the compliance schedule to accommodate the anticipated pace for approval and implementation of several proposed projects (1) a different desalination plant, the Monterey Peninsula Water Supply Project; (2) a water recycling project, entitled Pure Water Monterey; and (3) the expansion of the facilities for an existing groundwater storage project entitled Aquifer Storage and Recovery (ASR). These projects are undergoing review by permitting agencies.

Since the adoption of WR 2009-0060 in 2009, Cal-Am's diversions from the Carmel River have consistently been well below the annual diversion levels set by WR 2009-0060, but still remain thousands of acre-feet per annum above the amount available under Cal-Am's lawful water rights.(See Table 1, p. 2.) The reductions in Carmel River diversions have resulted from a number of factors, including conservation and efficiency measures and implementation of local supply projects, combined with a moratorium on increased water use within Cal-Am's service area. To address the impacts of its diversions, Cal-Am has also applied significant resources to fishery conservation and habitat improvement programs.

concerns as the reductions of 1,000 afa for each milestone missed occur. The plans also allow time for and provide incentive for additional innovation in water supply planning should the processes underway fail.

To the extent that additional demand reduction and immediate supply acquisition efforts fail, Cal-Am would face significant fines. Each day of violation of a CDO accrues a potential administrative penalty of \$10,000 in certain drought years, or of \$1,000 in wetter years. (See Wat. Code, § 1845, subd. (b)(1).)

This administrative penalty is in addition to the potential administrative civil liability penalties for unlawful diversion of water under Water Code section 1052, which may be imposed for all unlawful diversions, not just those which are in excess of the levels set in the CDO. Such penalties are up to \$1,000 per day and \$2,500 per acre-foot of unlawfully diverted water in certain drought years, and up to \$500 per day in wetter years. (See Wat. Code, § 1052, subd. (c).) Thus, in wetter years, Cal-Am would face approximately \$550,000 for each year of violation of the CDO. In certain drought years, such as those the state is currently experiencing, Cal-Am could face over \$4 million per year of violation in per-diem penalties, in addition to up to \$2.5 million in penalties for every 1,000 acre-feet that the company diverts unlawfully. These penalties would be deposited in the Water Rights Fund for the state, rather than being used directly to fund a more stable water supply for the Monterey Peninsula. To the extent that Cal-Am or others dispute the imposition of fines, the process could result in additional expenditures of time and resources on issues related to the peninsula's lack of water supply, but that do not have the potential to provide a long-term solution. The CPUC would determine the question of whether these penalties would ultimately be borne by Cal-Am as a corporation or by the area's ratepayers, or whether the burden of these penalties would be shared. (See Cal. Const., Art XII, 6; Pub. Util. Code, §§ 427, 727.5.)

The result of an immediate reduction in pumping such that Cal-Am is taking only lawful supplies by the end of December 2016 is likely to divert time and resources from building a permanent, lawful supply, and to cause significant hardship to the residents of the Monterey Peninsula and to have broad economic impacts.

An immediate end to unlawful diversions would provide significantly more water for the fishery, and NMFS continues to have serious concerns regarding the impact of diversions on the fishery. However, NMFS supports extension of the CDO for the 6 years requested, under the conditions outlined for fishery protection, habitat restoration and rescue efforts, so long as sufficient monitoring of the fishery occurs.⁷ Environmental organizations with longstanding and immediate experience in the area similarly support the limited extension of the compliance period, as conditioned.

⁷ Some comments have proposed specific additional measures during the compliance period in order to mitigate impacts to the Carmel River fisheries. The State Water Board does not have before it sufficient information regarding the potential efficacy, need for, and cost of these measures, and is reluctant to re-balance the suite of priorities that NMFS has expressed without this information. This order provides for an annual fisheries report that includes the opportunity for recommendations for any adaptive management measures, including those suggested by commenters.

ORDER

NOW, THEREFORE, IT IS ORDERED THAT as of the effective date of this Order, Cal-Am shall cease and desist from the unauthorized diversion of water from the Carmel River in accordance with the following schedule and conditions.

1. This Order shall supersede the requirements in State Water Board Orders WR 2009-0060, 95-10 and any other State Water Board orders affecting Cal-Am's diversions from the Carmel River, to the extent stated herein, or to the extent that there is an irreconcilable conflict between the requirements here and those orders. All other requirements in State Water Board orders affecting Cal-Am's diversions from the Carmel River remain in effect until terminated by operation of law or action of the Stat Water Board.

2. Cal-Am shall diligently implement actions to terminate its unlawful diversions from the Carmel River and shall terminate all unlawful diversions from the river no later than December 31, 2021. This date supersedes the December 31, 2016 date in State Water Board Order WR 2009-0060, ordering paragraph 1.

3. At a minimum, Cal-Am shall adjust its diversions from the Carmel River in accordance with the following terms and conditions. These terms and conditions supersede the annual reductions in State Water Board Order 2009-0060, ordering paragraph 3.a.(2), after the effective date of this Order:

a. **Effective Diversion Limit:** The limit set forth in this Condition 3.a., as may be further reduced or increased pursuant to the terms and conditions of this Order, is referred to as the "Effective Diversion Limit."

i. **Immediate Reduction:** Commencing on October 1, 2015 (Water Year 2015-2016) the Effective Diversion Limit shall be 8,310 acre-feet per annum (afa). This Effective Diversion Limit shall not be exceeded through December 31, 2021 except as provided in condition 3.b.ii or 3.c. of this Order. This limit supersedes the reduction limit required under Order 2009-0060 for Water Year 2015-2016.

b. Adjustments to the Effective Diversion Limit:

i. **Pure Water Monterey Groundwater Replenishment Project Offset:** In any year that Cal-Am delivers water stored in the Seaside Groundwater Basin as part of the Pure Water Monterey Groundwater Replenishment Project to its customers for use, the Effective Diversion Limit shall be reduced by one acre foot for every acre foot of Pure Water Monterey Groundwater Replenishment Project Water so delivered. If this reduction will result in the Effective Diversion Limit for that year being lower than Cal-Am's available lawful diversions from the Carmel River in that year, Cal-Am may apply to the Deputy Director for a limitation of this condition such that the provision will not limit lawful diversions.

ii. **Seaside Groundwater Basin Limitations:** The Board may adjust the Effective Diversion Limit if an unexpected reduction in Cal-Am’s production allocation from the Seaside Groundwater Basin, or access to water pumped makes the supply unavailable. The Applicants¹⁶ may request such relief whenever they can establish that access to water in the Seaside Groundwater Basin is limited due to unexpected mitigation measures imposed pursuant to the Seaside Basin Watermaster's Seawater Intrusion Response Plan, or by the court pursuant to the Seaside Groundwater Basin Judgment in response to a detection of seawater intrusion within the Seaside Groundwater Basin.

iii. **Carryover:** After October 1, 2015 if Cal-Am's diversions from the Carmel River during a given water year are less than the Effective Diversion Limit for that water year, Cal-Am will accumulate credit for the difference between the Effective Diversion Limit and Cal-Am's actual diversions. Additionally, Cal-Am may generate credits through instream flow agreements, as described in 3.b.xii, below. Any such credit may be carried over to offset an exceedance of the Effective Diversion Limit prior to December 31, 2021, subject to the restriction in Paragraph 3.b.iv below, and subject to the overall cap on diversions in Paragraph 3.a.i., above.

iv. **Cap on Carryover:** The amount of carryover water accumulated under Paragraph 3.b.iii that may be credited in any one water year shall not exceed 750 afa.

v. **Milestones:** For purposes of calculating a reduction to the Effective Diversion Limit, the following Milestones and Deadlines will apply:

Water Year	Milestone ¹⁷	Deadline
2015-2016	CPUC approval of (1) the Water Purchase Agreement for Cal-Am’s purchase of Pure Water Monterey water, and of (2) construction of the Cal-Am components of the Pure Water Monterey conveyance facilities, ¹⁸ including the Monterey Pipeline and pump station.	December 31, 2016*
2016-2017	Start of construction of the Cal-Am components of the Pure Water Monterey project, meaning commencement of physical work after issuance of required regulatory permits and authorizations to begin work.	September 30, 2017

¹⁶ “Applicants” refers to the joint applicants for the request to modify State Water Board Order WR 2009-0060: Cal-Am, the Monterey Peninsula Regional Water Authority, the Monterey Peninsula Water Management District, the Pebble Beach Company, and the City of Pacific Grove.

¹⁷ If at any point prior to completion of the facilities listed in these Milestones the CPUC authorizes Cal-Am to acquire more than 1,000 afa of water from an alternative source, then the following shall occur. Cal-Am shall submit to the Executive Director within 60 days a revised set of milestones taking this water supply source into account. If the proponents of the alternative project are unable to reach concurrence with Cal-Am on revised milestones to propose, the proponents may also submit revised milestones within that time period. The Executive Director shall determine whether to bring forward a recommendation to the State Water Board regarding amendment of the milestones.

¹⁸ “Cal-Am components” of the Pure Water Monterey Project refers to the pump station and pipeline within or leading to Cal-Am’s Service Area needed to transmit water to Cal-Am’s service area.

Water Year	Milestone ¹⁷	Deadline
2017-2018	Issuance of a Certificate of Public Convenience and Necessity to Construct the Monterey Peninsula Water Supply Project Desalination Plant ("MPWSP Desalination Plant") by the California Public Utilities Commission.	September 30, 2018
2018-2019	Start of construction for any of the Cal-Am Components of the MSWSP Desalination Plant ¹⁹ , meaning commencement of physical work after issuance of required regulatory permits and authorizations to begin work. ²⁰	September 30, 2019
2019-2020	(1) Drilling activity for at least one MPWSP Desalination Plant source water production well ²¹ complete; (2) foundation and structural framing complete for MPWSP Desalination Plant pretreatment seawater reverse osmosis, and administration buildings at desalination plant; (3) excavation complete for MPWSP Desalination Plant brine and backwash storage basins; and (4) 25% of MPWSP Desalination Plant transmission pipelines installed based on total length, including 100% installation of the "Monterey Pipeline and other ASR related improvements".	September 30, 2020
2020-2021	For MPWSP Desalination Plant: (1) 50% of drilling activity complete for source water production wells based on total number of wells required; (2) mechanical systems for brine and backwash storage basins complete; (3) construction of filtered water tanks and finished water tanks complete; (4) 50% of transmission pipelines installed based on total length.	September 30, 2021
2021-2022 and beyond	Substantial completion of the Cal-Am Components of the MPWSP Desalination Plant, meaning the Cal-Am Components are sufficiently complete and appropriately permitted to allow delivery of MPWSP Desalination Plant produced potable water to Cal-Am's Monterey Main system, eliminating further Cal-Am diversions of Carmel River water without valid basis of right	December 31, 2021

* It is anticipated that this milestone will be achieved during Water Year 2015-2016. The deadline provides a three-month extension in the event that it occurs soon after the end of the water year.

vi. **Reductions to the Effective Diversion Limit Based on Missed Milestones:** The following reductions to the Effective Diversion Limit shall apply if an applicable Milestone Deadline is not met:

¹⁹ For purposes of this proposal the Cal-Am Components of the MPWSP Desalination Plant include: source water production wells; desalination plant; brine disposal system; and transmission pipelines

²⁰ Such work may include, among other things, any of the following: desalination plant site grading and preparation; electric utility installation; yard piping; subsurface excavation for structural foundations; and transmission pipeline installation.

²¹ Not including construction of the MPWSP Desalination Plant Test Well completed in 2015.

Water Year	Milestone Missed	Reduction in Effective Diversion Limit	Date Reduction Assessed
2016- 2017	1	1,000 AFA	Dec. 31, 2016*
2017- 2018	2	1,000 AFA	Oct. 1, 2017
2018- 2019	3	1,000 AFA	Oct. 1, 2018
2019- 2020	4	1,000 AFA	Oct. 1, 2019
2020-2021	5	1,000 AFA	Oct. 1, 2020
Oct. 1, 2021 – Dec 31, 2021	6	1,000 AFA	Oct. 1, 2021

* The entire 1,000 AFA reduction for failure to meet this milestone must occur in the 9 remaining months of WY 2016-2017.

If a Milestone is not achieved by its Deadline but is subsequently achieved, the 1,000 afa reduction to the Effective Diversion Limit shall be amended on the first day of the water year following achievement of the Milestone, as follows. For Milestones achieved within the first month following the deadline, the reduction shall be 250 afa. For Milestones achieved between one and six months after the deadline, the reduction shall be 500 afa. For Milestones achieved between six and nine months after the deadline, the reduction shall be 750 afa. The 1,000 afa reduction to the Effective Diversion Limit shall remain for milestones achieved 9 months after the deadline or later.

If the reductions required under this subparagraph will result in the Effective Diversion Limit for that year being lower than Cal-Am’s available lawful diversions from the Carmel River in that year, Cal-Am may apply to the Deputy Director for Water Rights for a limitation of this section such that the provision will not limit lawful diversions.

vii. **Illustration:** The following table illustrates the effect of the reduction in the Effective Diversion Limit over the term of this Order, and assumes no Deadlines have been met and no carryover credits have been applied under Paragraph 3.b.iii, and no additional water rights have been obtained or other adjustments made to the Effective Diversion Limit. The result is an elimination of unauthorized diversions from the Carmel River on October 31, 2020 if no Deadlines are met.

Water Year	EDL if All Milestones Missed, No Other EDL Adjustments
2015-2016	8,310 AFA
2016- 2017	7,310 AFA
2017- 2018	6,310 AFA
2018-2019	5,310 AFA
2019-2020	4,310 AFA

Water Year	EDL if All Milestones Missed, No Other EDL Adjustments
2020–2021	Legal limit
Thereafter	Legal limit

viii. **Joint Annual Report:** Commencing in water year 2016-2017, at least 120 days prior to each Milestone Deadline described in Condition 3.b.v, Cal-Am, in coordination with Applicants, shall submit a joint report to the Deputy Director for Water Rights, describing progress towards that Milestone, whether Applicants expect the Milestone to be achieved by its Deadline and, if not, whether the Milestone will be missed for reasons beyond Applicants' control. Sufficient evidence supporting the reasons that missing a milestone is beyond the control of Applicants shall be included for any further action related to such a claim.

If requested, Cal-Am, in coordination with Applicants, shall present written and/or oral comments on the progress towards Milestones at a regularly scheduled State Water Board meeting that falls at least 60 days after submission of the report. If the report indicates that a Milestone is likely to be missed for reasons beyond Applicants' control, the State Water Board may make a determination during that meeting or at a subsequent meeting whether the cause for delay is beyond Applicants' control. If the State Water Board determines that the cause is beyond Applicants' control, it may suspend any corresponding reductions under Condition 3.b.vi until such time as the Applicants can reasonably control progress towards the Milestone.

ix. **ASR Project:** Commencing for water year 2015-2016, only the first 600 afa of the amount of any water diverted to underground storage under State Water Board Permits 20808A and 20808C as of May 31 of each water year shall be included in determining compliance with the Effective Diversion Limit: Diversions greater than 600 afa in a single water year shall not count as annual production of Carmel River water for the Effective Diversion Limit calculation. This section supersedes State Water Board Order WR 2009-0060, ordering paragraph 3.a.(3).

x. **Sand City Desalination Plant:** Any volume of water that is produced by the Sand City Desalination Plant and not served to persons residing within the City of Sand City shall be subtracted from the Effective Diversion Limit for the water year in which it is produced.

xi. **Pebble Beach:** Pebble Beach Company (PBC) shall continue to annually submit, on September 30, a report to the Deputy Director for Water Rights accounting for any additional water that is diverted from the Carmel River as the result of an increased use of its remaining District water entitlement. Any diversions from the river by Cal-Am to satisfy PBC remaining entitlements from District shall not be considered in calculating compliance with the Effective Diversion Limit. After December 31, 2021, Cal-Am shall not illegally divert water from the river to supply the holders of PBC entitlements. This order supersedes the last sentence of paragraph 3.a.(6) of State Water Board Order WR 2009-0060.

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

CALIFORNIA-AMERICAN WATER COMPANY
Petitioner,

v.

**PUBLIC UTILITIES COMMISSION OF THE STATE OF
CALIFORNIA**
Respondent.

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

Of the Public Utilities Commission of the State of California

EXHIBIT G

*Scoping Memo and Ruling of Assigned Commissioner, R. 17-06-
024, January 9, 2018*



MGA/eg3 1/9/2018

FILED
01/09/18
02:58 PM

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

SCOPING MEMO AND RULING OF ASSIGNED COMMISSIONER

Summary

This Scoping Memo sets forth the category, issues, need for hearing, schedule, and other matters necessary to scope this proceeding pursuant to Public Utilities Code Section 1701.1 and Article 7 of the Commission's Rules of Practice and Procedure.¹

1. Background

On July 10, 2017, the California Public Utilities Commission (Commission) issued an Order Instituting Rulemaking (OIR) to address consistency among Class A and B water companies' low income programs, affordability of rates, forecasting of rates and whether other water companies (such as water bottler companies) qualify as public utilities. In addition the OIR seeks coordination with the State Water Resources Control Board (SWRCB) regarding consolidation of water companies where a water company is unable to provide affordable, clean water to its customers. A prehearing conference (PHC) was held on September 11, 2017 in Sacramento, California.

The PHC was held to determine parties, discuss the scope, the schedule, and other procedural matters.

¹ California Code of Regulations, Title 20, Division 1, Chapter 1; hereinafter, Rule or Rules.

2. Scope

Based on the preliminary issues set forth in the OIR, information presented and comments received during two joint workshops with the SWRCB, PHC statements, and discussion at the PHC.

The issues to be addressed in this proceeding relate to a review of low-income rate assistance programs for water utilities under the Commission's jurisdiction. The OIR will examine low-income rate assistance programs of the Class A and B water utilities to determine whether consistent low-income rate assistance programs for all low-income water ratepayers can be established. This OIR will examine regionalization and consolidation (including voluntary and virtual) of at-risk water systems by regulated water utilities, forecasting and affordability issues. This proceeding will additionally consider whether other water companies qualify as public utilities under the Commission's jurisdiction for purposes of assessing a public purpose surcharge. The proceeding will be divided into two phases. Phase I of the proceeding will address the following issues:

1. Consolidation of at risk water systems by regulated water utilities
 - a. How could the Commission work with the SWRCB and Class A and B water utilities to identify opportunities for consolidating small non-regulated systems within or adjacent to their service territories that are not able to provide safe, reliable and affordable drinking water? Should the Commission address consolidation outside of each utility's general rate case (GRC)?
 - b. In what ways can the Commission assist Class A and B utilities that provide unregulated affiliate and franchise services to serve as administrators for small water systems that need operations & maintenance support as proscribed by Senate Bill (SB) 552 (2016)?
2. Forecasting Water Sales
 - a. How should the Commission address forecasts of sales in a manner that avoids regressive rates that adversely impact particularly low-income or moderate income customers?
 - b. In Decision (D.)16-12-026, adopted in Rulemaking 11-11-008, the Commission addressed the

importance of forecasting sales and therefore revenues. The Commission, in D.16-12-026, directed Class A and B water utilities to propose improved forecast methodologies in their GRC application. However, given the significant length of time between Class A water utility GRC filings, and the potential for different forecasting methodologies proposals in individual GRCs, the Commission will examine how to improve water sales forecasting as part of this phase of the proceeding. What guidelines or mechanisms can the Commission put in place to improve or standardize water sales forecasting for Class A water utilities?

3. What regulatory changes should the Commission consider to lower rates and improve access to safe quality drinking water for disadvantaged communities?
4. What if any regulatory changes should the Commission consider that would ensure and/or improve the health and safety of regulated water systems?

Phase II of this proceeding will address the technical components of the Commission's low income water programs and jurisdictional issues. The following issues will be addressed in Phase II or if necessary a Phase III of this proceeding:

5. Program Name;
6. Effectiveness of LIRA Programs;
7. Monthly Discounts;
8. Program Cost Recovery;
9. Commission Jurisdiction Over Other Water Companies; and
10. Implementation of Any Changes to Existing LIRA Programs.

Respondent Class A and B water utilities are required, Class C and D water utilities are encouraged, and interested parties are invited to provide comments and participate in the proceeding.² Comments addressing the Phase I issues identified above shall be provided by Class A and B water utilities, and may be provided by Class C and

² Pursuant to Rule 6.2 "[A]ll comments which contain factual assertions shall be verified. Unverified factual assertions will be given only the weight of argument."

D water companies and other parties participating in the proceeding consistent with the schedule set forth below.

3. Categorization

The Commission in the OIR, issued on July 10, 2017, preliminarily determined that the category of the proceeding is quasi-legislative.

This Scoping Memo confirms the categorization. Anyone who disagrees with this categorization must file an appeal of the categorization no later than ten days after the date of this scoping ruling. (*See* Rule 7.6.)

4. Need for Hearing

The Commission in the OIR preliminarily determined that hearings are not required.

This scoping memo confirms that hearings are not required at this time. If at a later date or in a later phase hearings are required, an amended scoping memo will be issued, and subsequent scoping memos for later phases in the proceeding may find that hearings are needed and will indicate accordingly.

5. Ex Parte Communications

In a quasi-legislative proceeding such as this one, *ex parte* communications with the assigned Commissioner, other Commissioners, their advisors and the assigned Administrative Law Judge (ALJ) are permitted without restriction or reporting as described at Public Utilities Code Section 1701.4(b) and Article 8 of the Rules.³

6. Intervenor Compensation

Pursuant to Public Utilities Code Section 1804(a)(1), a customer who intends to seek an award of compensation must file and serve a notice of intent to claim compensation by October 11, 2017, 30 days after the PHC.

³ Interested persons are advised that, to the extent that the requirements of Rule 8.1 *et seq.* deviate from Public Utilities Code Sections 1701.1 and 1701.4 as amended by SB 215, effective January 1, 2017, the statutory provisions govern.

7. Assigned Commissioner and Assigned Administrative Law Judge

Martha Guzman Aceves is the assigned Commissioner and Darcie L. Houck is the assigned Administrative Law Judge.

8. Filing, Service and Service List

The official service list has been created and is on the Commission's website. Parties should confirm that their information on the service list is correct, and serve notice of any errors on the Commission's Process office, the service list, and the ALJ. Persons may become a party pursuant to Rule 1.4.

When serving any document, each party must ensure that it is using the current official service list on the Commission's website.

This proceeding will follow the electronic service protocols set forth in Rule 1.10. All parties to this proceeding shall serve documents and pleadings using electronic mail, whenever possible, transmitted no later than 5:00 p.m., on the date scheduled for service to occur. Rule 1.10 requires service on the ALJ of both an electronic and a paper copy of filed or served documents

Persons who are not parties but wish to receive electronic service of documents filed in the proceeding may contact the Process Office at process_office@cpuc.ca.gov to request addition to the "Information Only" category of the official service list pursuant to Rule 1.9(f).

9. Public Advisor

Any person interested in participating in this proceeding who is unfamiliar with the Commission's procedures or who has questions about the electronic filing procedures is encouraged to obtain more information at <http://consumers.cpuc.ca.gov/pao> or contact the Commission's Public Advisor at 866-849-8390 or 415-703-2074 or 866-836-7825 (TTY), or send an e-mail to public.advisor@cpuc.ca.gov.

10. Schedule

The adopted schedule is:

EVENT	DATE
Workshop #1 – Joint Workshop with SWRCB – Consolidation	November 13, 2017
Party comments on Phase I issues identified above and Workshop #1 Staff Report attached as Appendix B to this Scoping Memo	February 23, 2018
Status Conference – 10:00 a.m. California State Personnel Board - Auditorium 801 Capitol Mall, Room 150 Sacramento, CA 95814.	March 12, 2018
Workshop #2 – SB 623 Joint Workshop with SWRCB	TBD
Party Comments Workshop #2	TBD
Workshop #3 – Water Forecasting, AB 401 Report	TBD
Party Comments Workshop #3	TBD
Public Participation Hearing(s) (PPH) location(s) to be determined	TBD
Staff Report with Proposed Recommendations for Outcomes	Within 30 days from last Workshop/PPH
Party Comments on Staff Report	TBD
Reply Comments on Staff Report	TBD
Workshop#4 and Status Conference addressing consolidation and forecasting	TBD
Proposed Decision	TBD
Comments and Reply Comments on Proposed Decision	TBD
Commission Vote	TBD

The assigned Commissioner or assigned ALJ may modify this schedule as necessary to promote the efficient management and fair resolution of this proceeding.

It is the Commission's intent to complete this proceeding within 18 months of the date this proceeding was initiated. This deadline may be extended by order of the Commission. (Public Utilities Code Section 1701.5(a).)

Notice of such workshops will be posted on the Commission's Daily Calendar to inform the public that a decision-maker or an advisor may be present at those meetings or workshops. Parties shall check the Daily Calendar regularly for such notices.

11. Settlement and Alternative Dispute Resolution

While the schedule does not include specific dates for settlement conferences it does not preclude parties from meeting at other times provided notice is given consistent with our Rules.

The Commission offers Alternative Dispute Resolution (ADR) services consisting of mediation, facilitation, or early neutral evaluation. Use of ADR services is voluntary, confidential, and at no cost to the parties. Trained ALJs serve as neutrals. The parties are encouraged to visit the Commission's ADR webpage at <http://www.cpuc.ca.gov/adr>, for more information.

If requested, the assigned ALJ will refer this proceeding, or a portion of it, to the Commission's ADR Coordinator. Alternatively, the parties may contact the ADR Coordinator directly at adr_program@cpuc.ca.gov. The parties will be notified as soon as a neutral has been assigned; thereafter, the neutral will contact the parties to make pertinent scheduling and process arrangements. Alternatively, and at their own expense, the parties may agree to use outside ADR services.

12. Outreach Pursuant to Public Utilities Code Section 1711(a)

Public Utilities Code Section 1711(a) states:

Where feasible and appropriate, except for adjudication cases, before determining the scope of the proceeding, the commission shall seek the participation of those who are likely to be affected, including those who are likely to benefit from, and those who are potentially subject to, a decision in

that proceeding. The commission shall demonstrate its efforts to comply with this section in the text of the initial scoping memo of the proceeding.

The Commission's Outreach Office conducted outreach pursuant to Public Utilities Code Section 1711(a) by working with the SWRCB to ensure that governmental entities and community groups that work with communities with at risk water systems, and low income customers were informed of the proceeding. Outreach will continue throughout the proceeding and a number of public participation hearings will be scheduled throughout the state.

IT IS RULED that:

1. The category of this proceeding is quasi-legislative. Appeals as to category, if any, must be filed and served within ten days from the date of this Scoping Memo.
2. The scope of the issues for this proceeding is as stated in "Section 2. Scope" of this ruling.
3. Hearings may be necessary.
4. The schedule for the proceeding is set in "Section 10 Schedule" of this ruling. The assigned Commissioner or Administrative Law Judge may adjust this schedule as necessary for efficient management and fair resolution of this proceeding.
5. *Ex parte* communications are permitted without restriction or reporting as described at Public Utilities Code Section 1701.4(c) and Article 8 of the Rules.
6. A party shall submit request for Final Oral Argument in its opening briefs, but the right to Final Oral Argument ceases to exist if a hearing or briefing is not needed.
7. Parties shall submit all testimony and other types of documents to supporting documents as described in Appendix A.

Dated January 9, 2018, at San Francisco, California.

/s/ MARTHA GUZMAN ACEVES

Martha Guzman Aceves
Assigned Commissioner

APPENDIX A

The following text may be attached as an appendix or included as appropriate (e.g. the filing of supporting documents is anticipated shortly after issuing the Scoping Memo). If included within the text of the Scoping Memo it is suggested it follow section 8.

Electronic Submission and Format of Supporting Documents

The Commission's web site now allows electronic submittal of supporting documents (such as testimony and work papers).

Parties shall submit their testimony or workpapers in this proceeding through the Commission's electronic filing system.¹ Parties must adhere to the following:

- The Instructions for Using the "Supporting Documents" Feature, (<http://docs.cpuc.ca.gov/SearchRes.aspx?docformat=ALL&DocID=158653546>) and
- The Naming Convention for Electronic Submission of Supporting Documents (<http://docs.cpuc.ca.gov/SearchRes.aspx?docformat=ALL&DocID=100902765>).
- The Supporting Document feature does not change or replace the Commission's Rules of Practice and Procedure. Parties must continue to adhere to all rules and guidelines in the Commission's Rules of Practice and Procedures including but not limited to rules for participating in a formal proceeding, filing and serving formal documents and rules for

¹ These instructions are for submitting supporting documents such as testimony and work papers in formal proceedings through the Commission's electronic filing system. Parties must follow all other rules regarding serving testimony.

Any document that needs to be formally filed such as motions, briefs, comments, etc., should be submitted using Tabs 1 through 4 in the electronic filing screen.

written and oral communications with Commissioners and advisors (i.e. “ex parte communications”) or other matters related to a proceeding.

- The Supporting Document feature is intended to be solely for the purpose of parties submitting electronic public copies of testimony, work papers and workshop reports (unless instructed otherwise by the Administrative Law Judge), and does not replace the requirement to serve documents to other parties in a proceeding.
- Unauthorized or improper use of the Supporting Document feature will result in the removal of the submitted document by the CPUC.
- Supporting Documents should not be construed as the formal files of the proceeding. The documents submitted through the Supporting Document feature are for information only and are not part of the formal file (i.e. “record”) unless accepted into the record by the Administrative Law Judge.

All documents submitted through the “Supporting Documents” Feature shall be in PDF/A format. The reasons for requiring PDF/A format are:

- Security – PDF/A prohibits the use of programming or links to external executable files. Therefore, it does not allow malicious codes in the document.
- Retention – The Commission is required by [Resolution L-204](#), dated September 20, 1978, to retain documents in formal proceedings for 30 years. PDF/A is an independent standard and the Commission staff anticipates that programs will remain available in 30 years to read PDF/A.
- Accessibility – PDF/A requires text behind the PDF graphics so the files can be read by devices designed for those with limited sight. PDF/A is also searchable.

Until further notice, the “Supporting Documents” do not appear on the “Docket Card”. In order to find the supporting documents that are submitted electronically, go to:

- Online documents, choose: “[E-filed Documents](#)”,

- Select “Supporting Document” as the document type, (do not choose testimony)
- Type in the proceeding number and hit search.

Please refer all technical questions regarding submitting supporting documents to:

- Kale Williams (kale.williams@cpuc.ca.gov) 415 703- 3251 and
- Ryan Cayabyab (ryan.cayabyab@cpuc.ca.gov) 415 703-5999

(END OF APPENDIX A)

APPENDIX B

Report on Joint Agency Workshop

Water System Consolidation & SB 623

California Public Utilities Commission and State Water Resources Control Board

R.17-06-024

Water Division

December 15, 2017

Summary

On November 13, 2017 in Sacramento, a joint California Public Utilities (Commission) and State Water Resources Control Board (Board) workshop was held. At the workshop, speakers from the Board, the Commission, Community Water Center, Regional Water Authority, Self-Help Enterprises, Lake County Special District, Cobb Area Water District, Somach Simmons & Dunn, California Water Service Company, and members of the public discussed the consolidation of small and troubled water systems and proposed legislative funding sources. In attendance were representatives of investor owned utilities (IOUs), municipals and public agencies, mutual water companies, non-profit organizations and consumers. Participants discussed the drivers, tools, and obstacles for prior and future consolidations and their views on the potential impact of pending legislation.

The SWRCB's Division of Drinking Water (DDW) described the progression of steps required that can eventually allow for mandatory consolidation. DDW regularly sends inspection letters to water systems so that the systems can address issues before the issues become critical and DDW informs water systems of upcoming regulatory changes. DDW noted that they provide outreach for training and technical support and they can assist water systems with contacting the Division of Financial Assistance (DFA) for capital intensive projects. They may also recommend consolidation and can provide consolidation trainings and outreach. DDW stated that Minimum Contaminant Level (MCL) or monitoring violations result in citations or compliance orders that require corrective actions or are otherwise subject to fines collected by the Attorney General. When fines and citations fail then the public is notified of drinking water violations, the water system may enter receivership, and mandatory consolidation may result.

DDW described the technical, managerial, and financial (TMF) warning signs of troubled water systems. These warning signs include irregular monitoring, failing infrastructure, managers and operators with insufficient knowledge, and inadequate revenue. When these issues become critical DDW can then issue Compliance Orders under California Health and Safety Code (CHSC) 116655 that direct preventive action be taken subject to fines or DDW may amend permits. DDW stated that the requirements for mandatory consolidation under SB-88/552 include: a viable water system nearby, consultations with other agencies (CPUC, LAFCO, Counties, etc.), previous recommendation for voluntary consolidation, public meetings, a disadvantaged community in an unincorporated area, mobile home park, or service by a mutual water company, consistent failures to provide adequate and safe drinking water, and a lack of more effective or cost-effective alternatives. DDW noted that some limitations of SB-88 include public schools in non-disadvantaged communities and water systems with TMF issues that have no mcl violations.

DDW stated that some of the lessons learned from past consolidations include: 1) voluntary consolidations are highly preferable, 2) mandatory consolidations have a large workload, 3) communicating the message to residents is difficult, 4) DDW or Local Primacy Agency (LPA) will need to bring the systems together, and 5) consolidation may be the best option available. DDW is working on a pilot for a Safe Drinking Water Partnership Plan that will check each county for out of compliance water systems, water systems with inadequate TMF, clusters of water systems that could consolidate or form partnerships, groundwater areas with known contamination, and areas served by individual wells. DDW will then rank partnership opportunities with input from counties, cities, and LAFCO water systems. DDW concluded by highlighting their current consolidation efforts and noting anticipated challenges from water supply applications for cannabis production.

The Commission's Water Division gave an overview of past acquisitions of IOUs. Water Division explained that there have been 34 IOU acquisitions since 2007 and that 33 of them were small utilities that served less than 2000 connections and one was a large utility that became public. Water Division noted that IOU acquisition authority is governed by Public Utilities (PU) Code Sections 2718-2720, Commission Rulemaking 97-10-048, and Commission Decision 99-10-064 and that in 1997 there were 200 CPUC regulated water systems. Water Division stated that fair market value can be used if the acquisition is fair and reasonable with regard to reliability, health and safety, economies of scale, and its effect on customers. On October 2014, the Commission issued Decision No. 14-10-047 that required utilities to assess whether high-cost and affordability problems exist in any of its districts, report on their findings in their General Rate Cases, and to propose consolidation projects. Water Division summarized several of its pending acquisitions and noted the challenges of operation and maintenance expenses. Water Division then discussed that with financial support for operations and maintenance, like those proposed in SB 623, some municipal water systems lacking TMF expertise frequently seek to enter into operations agreements with IOUs rather than to consider consolidation.

The non-profit Community Water Center discussed the need for safe and affordable water in California and noted that many drinking water contaminants disproportionately affect low-income and Latino communities. Community Water Center highlighted several of the policy tools that have been created to address water such as the 2012 Human Right to Water Act, the Proposition 1 Water Bond, the Office of Sustainable Water Solutions, new consolidation powers, the Sustainable Groundwater Management Act, dairies and irrigated lands regulatory programs, and school water testing and funding programs. Community Water Center stated water system funding shortfalls persist for operations and maintenance, capital, planning, technical assistance, and for emergency replacement water. Community Water Center also noted that the enactment of Assembly Bill 401 in 2014 directed the SWRCB to propose a statewide water low-income assistance program. Community Water Center presented the Lanare community as an example of a water system unable to sustain the operations and maintenance funding required to supply treated water.

Community Water Center next discussed their proposed SB 623 Safe and Affordable Drinking Water Fund (Fund) pending in the Legislature and SB 623's ability to cover funding gaps for operations and maintenance and secure long-term sustainability. SB 623 prioritizes disadvantaged communities and low-income domestic well users that consistently fail to provide adequate drinking water at affordable rates and lack other sources of funding. The bill would provide transparency through an annual needs assessment, regular public review and assessment of the Fund, and a Fund implementation developed and adopted in consultation with stakeholders. Sustained funding authorized in SB 623 would, in part, come from a sales fee on fertilizer & dairy and a new fee on non-dairy concentrated animal feeding operations (CAFO) that are estimated to raise \$30M annually for 15 years and \$10M annually thereafter. SB 623 funding would mainly come from a new drinking water fee assessed monthly on drinking water bills that is capped at \$0.95 for most water users, with an exemption for low-income households (below 200% of the Federal poverty level). Community Water Center noted that the combined fees would raise an estimated \$140M annually for the first two years and thereafter the Board may reduce fees based on an annual needs assessment.

SB 623 would also require local data collection and analysis of private wells and small water systems in order to identify high risk areas and support outreach & well testing for low-income households. Community Water Center concluded by stating that SB 623 has wide support from organizations in

agriculture, environmental justice, environmental groups, labor, public health, cities, water districts, and counties. Community Water Center also stated that polling shows Californians support a small monthly fee around \$1 to support non-local drinking water projects.

Somach Simmons & Dunn represented agricultural stakeholders (Ag Stakeholders) and highlighted their support for SB 623 and its ability to balance access to drinking water with the use of synthetic fertilizers and manure production by the agricultural industry. The Ag Stakeholders noted that California agriculture is an integral part of the economy and that fertilizer use is essential to the industry. The industry continues to make significant advances in fertilizer use with research universities in order to reduce nitrogen levels in groundwater. The Ag Stakeholders noted that SB 623 provides \$30M of funding per year directly from agriculture and time limited protections from groundwater enforcement by the Board regarding nitrogen standards if agricultural operations meet mitigation requirements.

Self-Help Enterprises discussed their water and wastewater project training and technical assistance in San Joaquin Valley counties. They have assisted over 150 communities in the Central Valley with TMF training, private well and sewer surveys, income surveys, and subcontracting. They have also assisted over 60 communities with consolidating systems for water and sewer service with current efforts that could result in the consolidation of 50 additional communities. Self-Help Enterprises noted that when Cameron Creek Colony private wells stopped producing water they were able to assist with emergency funding to build and connect a water distribution system to the city of Farmersville. Self-Help Enterprises also presented examples of obstacles that these projects can encounter. For Monterey Park Tract Community Services District (CSD) and Las Deltas CSD (CSD), there were issues with the willingness of nearby municipals to take responsibility for helping the troubled systems. After agreements were reached, the sustainability of operating systems with increasing costs at affordable rates has become a major issue.

Lake County Special Districts provided a presentation of the water systems serving Lake County and gave examples of recent consolidation projects in the county. Lake County has 87 public water systems and 56 community water systems with 45 of them serving less than 1,000 connections and with the majority in disadvantaged communities. In 1989, the area of North Lakeport began consolidating 41 struggling systems and the project was completed in 1991 with funding from the Board. Since the consolidation, the system of North Lakeport has performed well and \$716,000 in regulator fees and laboratory fees have been saved. North Lakeport currently has the ability to perform capital improvements without increasing rates by accumulating \$1.2 million in capital improvements reserves. A similar project occurred in Soda Bay where 15 water systems were consolidated in the 1980s which allowed economies of scale to keep rates affordable. Currently, there is a consolidation project between Paradise Valley and Clearlake Oaks County Water District. Clearlake Oaks is disadvantaged while Paradise Valley is not and funding is provided from Lake County. Lake County noted that there is great interest to consolidate in Lake County but the challenge is to begin formal discussions with systems in need of consolidating.

Cobb Area Water District presented on the impact to the Lake County area by the 2015 Valley fire and how consolidation is helping in the recovery. The fire completely depleted the water reserves and some districts lost 90% of their customer base. To address these issues, there is currently a project for the Cobb Area to consolidate seven water systems; \$17-20 million is needed for upgrading and replacing infrastructure. Funding is coming from a variety of resources: Prop 1, State Revolving Fund (SRF), the Board, and the Community Development Block Grant, while customers have seen a 37% increase in rates. Technical assistance is also being provided from the Rural Community Assistance Corporation,

Sacramento State, and UC Davis. The project has been ongoing for over 2 years with about a year left to complete.

Cal Water Service discussed the physical consolidation of West Goshen Mutual Water Company and the non-physical ratemaking consolidation of Lucerne. West Goshen Mutual Water Company (West Goshen) in Tulare County served a population of 500 and had a history of water quality issues. In 2012, West Goshen wells began failing and it experienced a complete loss of service in 2013 when 350-foot section of a distribution main collapsed. Cal Water's Visalia District, located a mile away from West Goshen worked with several non-profits along with the County and State to install 2 miles of main to connect Cal Water to West Goshen and provide water. The project received funding of \$3 million from the State Revolving Fund and was completed in 2014. In Lucerne, Cal Water has served the community of 3,000 residents since 2000. As Lucerne is a disadvantaged community and in need of significant infrastructure improvements, water rates became relatively high. To provide rate relief, in 2016, Cal Water combined the ratemaking area of Lucerne with the much larger Bayshore District which serves portions of the Bay Area. This ratemaking consolidation allowed for the sharing of costs spread among a larger customer base. This consolidation greatly reduced the rates in Lucerne by 30% while increasing the rates slightly in Bayshore. Lastly, Cal Water mentioned the need for streamlining consolidation to address the often tedious process of applying and receiving approvals and funding for such projects.

During public comment, several spoke in opposition to SB 623. The Association of California Water Agencies (ACWA,) which represents 440 public water agencies, does not support SB 623 and labeled the fee to fund the Safe and Affordable Drinking Water Fund as a "tax on drinking water." ACWA stated that this tax works against affordability and recommended using the general fund to address the issues of operating a water system. An environmental group, the Otter Project, spoke against SB 623 with concerns on the potential negative impacts to the environment. The Otter Project fears that a restriction of water quality enforcement on agricultural operations will lead to more groundwater pollution.

Conclusion

As this workshop has shown, ensuring the long-term sustainability of drinking water in California is critical. Consolidation has been and continues to be a great tool to address the vast issues many struggling water systems are facing. Another potential tool providing a stable funding source to assist water systems with high operation and maintenance costs. This workshop demonstrated that consolidation has proven beneficial and that However, more time and effort is still required to initiate and increase the efficiency of the consolidation process. Consolidation and additional funding proposals, like SB 623, are just two of many tools needed to provide safe, reliable, and affordable drinking water for all of California.

(END OF APPENDIX B)

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

CALIFORNIA-AMERICAN WATER COMPANY
Petitioner,

v.

PUBLIC UTILITIES COMMISSION OF THE STATE OF
CALIFORNIA
Respondent.

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

Of the Public Utilities Commission of the State of California

EXHIBIT H

Comments of the Office of Ratepayer Advocates, R.17-06-024,
February 23, 2018

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA



FILED
02/23/18
04:59 PM

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

ANAND DURVASULA
Attorney for the
Office of Ratepayer Advocates

California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102
Telephone: (415) 703-2765
Email: Anand.Durvasula@cpuc.ca.gov

ZAVED SARKAR
Engineer for the
Office of Ratepayer Advocates

California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102
Telephone: (415) 703-3250
Email: Zaved.Sarkar@cpuc.ca.gov

February 23, 2018

that have experimented with revenue decoupling for water utilities,¹³ the impact on water utilities of forecast variance is muted since nearly all revenue forecast risk has been transferred from utility investors to ratepayers. As a result of the WRAM decoupling mechanism in California, variance in forecasted revenues manifests not as the normal business risk underpinning rate-of-return regulation but as the perceived cause of large WRAM balances and increased customer surcharges.

However, it is overly simplistic to attribute a large WRAM balance to a large variance in forecasted sales since this neglects to consider the effect that the mere existence of a decoupling mechanism has in contributing to forecast variance. In fact, the Commission's earliest decoupling mechanisms were adopted not to facilitate conservation, which was a secondary consideration, but for the primary reason of removing what had been a fairly contentious aspect of general rate cases—the development of reasonable sales forecasts.¹⁴ By mitigating the consequences of inaccurate sales forecasts, WRAM and other decoupling mechanisms can be reasonably assumed to not only reflect variances in sales forecasts but to exacerbate the actual size of the variance. Without examining what contribution, if any, decoupling has made to the size of variances in forecasted sales, it becomes increasingly difficult to determine the value of developing more complex forecasting methodologies when the very same decoupling mechanisms that might be contributing to the problem remain in place. Nevertheless, recent investigations by the Water Research Foundation do point to several areas for improvement or reconsideration of the Commission's "standard" sales forecasting methodology.¹⁵

¹³ In California, the Water Rate Adjustment Mechanism (WRAM) functions to decouple quantity revenues from quantity sales while the Modified Cost Balancing Account (MCBA) tracks variance in specific variable costs.

¹⁴ See Commission Decision D.93887.

¹⁵ *Improving the Accuracy of Short-Term Water Demand Forecasts*, Water Research Foundation, 2017.

IN THE SUPREME COURT OF THE STATE OF
CALIFORNIA

CALIFORNIA-AMERICAN WATER COMPANY
Petitioner,

v.

PUBLIC UTILITIES COMMISSION OF THE STATE OF
CALIFORNIA
Respondent.

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

Of the Public Utilities Commission of the State of California

EXHIBIT I

*Amended Scoping Memo and Ruling of Assigned Commissioner
and Administrative Law Judge, R. 17-06-024, July 9, 2018*



MGA/DH7/rp4 7/9/2018

FILED
07/09/18
04:44 PM

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

AMENDED SCOPING MEMO AND RULING OF ASSIGNED COMMISSIONER AND ADMINISTRATIVE LAW JUDGE

Summary

This ruling amends the Scoping Memo issued on January 9, 2018 to include two additional issues: 1) whether the California Public Utilities Commission (Commission) should adopt criteria to allow for sharing of low-income customer data by regulated investor-owned energy utilities with municipal water utilities; and 2) how best to consider potential changes in rate design such that there is a basic amount of water that customers receive at a low quantity rate.

1. Background

On June 29, 2017, the Commission issued an Order Instituting Rulemaking (OIR) to address consistency among Class A water company low-income programs, affordability, forecasting, whether other water companies (such as water bottler companies) qualify as public utilities, and coordination with the

State Water Resources Control Board (SWRCB) regarding consolidation of water companies where a water company is unable to provide affordable, clean water to its customers. A prehearing conference (PHC) was held on September 11, 2017 in Sacramento, California. The scoping memo in this proceeding was issued on January 9, 2018. Parties provided initial comments in February of 2018.

Since February, the Commission has become aware that municipal water utilities may need more information to identify customers that qualify for discounted rates based on income.

On May 31, 2018, Governor Brown signed Assembly Bill 1668 (Ch. 15 Statutes of 2018) which codified various water management planning criteria implementing the Governor's May 2016 Executive Order B-37-16 (Making Water Conservation a California Way of Life). In particular, Section 10609.4(a) has been added to the Water Code establishing 55 gallons per day per capita as the standard for indoor residential water use until January 1, 2025. Beginning January 1, 2025, the indoor residential water use standard will be reduced to 52.5 gallons per day per capita with a further reduction to 50 gallons per day per capita beginning January 1, 2030.

2. Amended Scope

Based on the new developments described above, there is a need to ensure that water utilities can identify customers that may qualify for discounted rates based on their income. Municipal water utilities do not currently have access to the data they need to ensure discounts reach customers who need them. There is also a need to ensure that low income customers receive affordable water service

even as total water sales are reduced due to statewide water conservation efforts.

We therefore include the following issues within the scope of this proceeding:

1. How best to consider potential changes in rate design such that there is a basic amount of water that customers receive at a low quantity rate; and
2. Whether the California Public Utilities Commission (Commission) should adopt criteria to allow for sharing of low-income customer data by regulated investor-owned energy utilities with municipal water utilities.

The first issue is to analyze how water utilities could design rates such that there is a basic amount of water which a customer will receive at a low quantity rate. For purposes of comments, parties should assume 4 persons per connection, and the water use of 55 gallons/person/day. Parties are to provide comments on this issue by July 31, 2018. In providing comments, parties should consider how such a rate design will address fixed cost recovery, impacts to low-and moderate-income customers' bills, and assisting low-income residential customers behind a master meter in receiving the intended benefits from the proposed rate design change

The second issue added to the scope addresses whether the Commission should adopt criteria to allow for access by municipal water utilities to investor-owned energy utilities data concerning low-income customers. In this regard, the Commission-jurisdictional energy utilities (San Diego Gas & Electric Company, Southern California Gas Company, Southern California Edison Company, and Pacific Gas & Electric Company) have been served a copy of this Ruling and are encouraged to submit comments on this issue. Parties are to provide comments on this issue by July 31, 2018. The parties' comments should

consider pros and cons of information sharing low-income customer data between investor-owned energy utilities and municipal water utilities.

Comments should address how data sharing can promote comprehensive low-income programs to better assist low-income customers of the Commission-jurisdictional energy utilities and provide more efficient management of municipal water utilities' low-income programs.

3. Categorization

The January 19, 2018 Scoping Memo confirmed the categorization of the proceeding as quasi-legislative, and the proceeding remains categorized as such.

4. Schedule

Parties are to provide comments regarding the two additional issues added to the scope of this proceeding by July 31, 2018. An additional workshop will be set in the fall to consider Phase 1 issues.

The assigned Commissioner or assigned ALJ may modify this schedule as necessary to promote the efficient management and fair resolution of this proceeding.

It is the Commission's intent to complete this proceeding within 18 months of the date of this amended scoping memo. This deadline may be extended by order of the Commission. (Public Utilities Code § 1701.5(a).

Notice of workshops or hearings will be posted on the Commission's Daily Calendar. Parties shall check the Daily Calendar regularly for such notices.

IT IS RULED that:

1. The scope of the issues for this proceeding is amended to include the additional issues set forth in “Section 2. Scope” of this ruling.
2. Hearing is not necessary at this time.
3. The schedule for the proceeding to be concluded has been extended by 18 months as set forth in Section 4 of this ruling.
4. *Ex parte* communications are permitted without restriction or reporting as described at Public Utilities Code § 1701.4(c) and Article 8 of the Rules.
5. Parties shall submit comments on the additional issues added to the scope of this proceeding as set forth in this ruling by July 31, 2018.
6. The January 9, 2018 scoping memo remains as issued with the addition of the issues set forth in this ruling and the extension of schedule as set for thin this ruling.

Dated July 9, 2018, at San Francisco, California.

/s/ MARTHA GUZMAN-ACEVES

Martha Guzman-Aceves
Assigned Commissioner

/s/ DARCIE L. HOUCK

Darcie L. Houck
Administrative Law Judge

IN THE SUPREME COURT OF THE STATE OF
CALIFORNIA

CALIFORNIA-AMERICAN WATER COMPANY
Petitioner,

v.

PUBLIC UTILITIES COMMISSION OF THE STATE OF
CALIFORNIA
Respondent.

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

Of the Public Utilities Commission of the State of California

EXHIBIT J

*Reply Comments of California Water Association Responding to
Administrative Law Judge's June 21, 2019 Ruling, R. 17-06-024,
July 24, 2019*

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



FILED

07/24/19
04:59 PM

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)

**REPLY COMMENTS OF CALIFORNIA WATER ASSOCIATION
RESPONDING TO ADMINISTRATIVE LAW JUDGE'S JUNE 21, 2019 RULING**

John K. Hawks
Executive Director
CALIFORNIA WATER ASSOCIATION
601 Van Ness Avenue, Suite 2047
Mail Code #E3-608
San Francisco, CA 94102-3200
(415) 561-9650
jhawks@calwaterassn.com

NOSSAMAN LLP
Lori Anne Dolqueist
Willis Hon
50 California Street, 34th Floor
San Francisco, CA 94111
(415) 398-3600
ldolqueist@nossaman.com

Attorneys for CALIFORNIA WATER
ASSOCIATION

July 24, 2019

TABLE OF CONTENTS

I.	REPLIES TO PUBLIC ADVOCATES OFFICE’S COMMENTS	2
A.	PAO makes numerous arguments that go well beyond the appropriate scope of the questions presented for the upcoming August 2, 2019 workshop.	2
B.	If the Commission wants to update D.99-10-064’s water system acquisition framework, such updates should be reasonable and facilitate speedy resolution of applications and advice letters.	3
C.	PAO’s arguments regarding Assembly Bill 1751 are premature and speculative.	4
D.	The Commission should adopt a set of standard data requests that are based on actual experience in Commission proceedings and would facilitate a speedy resolution of those water system acquisition proceedings.	5
E.	PAO’s recommendation to categorically limit the scope of acquisition application proceedings to PU Code 2720 fails to acknowledge that consolidations often have unique circumstances that warrant or require simultaneous requests to the Commission.	10
F.	PAO’s recommendation regarding the processing of troubled systems and systems that are not troubled is not supported.	12
G.	The Commission should authorize sales reconciliation mechanisms and other mechanisms to adjust rates mid-year or end of year.	14
H.	PAO’s recommendation regarding water revenue adjustment mechanisms and other decoupling mechanisms is beyond the scope of this proceeding and unsupported.	18
I.	CWA plans to review the information being compiled by PAO that it intends to make available for discussion at the upcoming August workshop in this proceeding.	21
J.	The Commission should allow water utilities with existing low-income customer assistance programs to continue them until a state-funded statewide program is implemented.	22
K.	The Commission should not base low-income customer assistance program discounts on a customer’s ability to pay.	22

L.	The needs of low-income water users that do not pay their water bills directly are more appropriately addressed through new legislation.....	24
M.	The existing mechanisms to monitor and evaluate the effectiveness of low-income customer assistance programs are sufficient.....	25
II.	RESPONSES TO CENTER FOR ACCESSIBLE TECHNOLOGY/PACIFIC INSTITUTE’S COMMENTS	26
A.	CforAT/PI’s recommendations on utilizing a baseline quantity are generally consistent with CWA’s recommendations.	26
B.	CforAT/PI’s recommendations regarding the establishment of a consolidated low-income customer assistance fund among Commission-regulated water utilities raise certain problems.	28
C.	CforAT/PI’s recommendation for a high usage charge is more appropriately addressed in individual utility proceedings for establishing district-level rate designs.....	30
III.	RESPONSES TO SOUTHERN CALIFORNIA EDISON’S COMMENTS	31
A.	CWA concurs with SCE’s recommendation to improve sales forecasts by shortening the forecast period.	31
B.	SCE raises sensible arguments against setting a uniform baseline quantity of water across all water utilities.....	31
C.	The CARE program for energy utilities may provide a good model for water low-income customer assistance programs if appropriately tailored to the circumstances of water utilities.....	32
IV.	CONCLUSION.....	33

I. REPLIES TO PUBLIC ADVOCATES OFFICE'S COMMENTS

A. PAO makes numerous arguments that go well beyond the appropriate scope of the questions presented for the upcoming August 2, 2019 workshop.

In its opening comments, Public Advocates Office (“PAO”) makes a number of arguments that go well beyond the appropriate scope of the questions presented for the upcoming August 2, 2019 workshop. In several instances, PAO’s arguments appear to be attempts to re-litigate positions and proposals rejected by the Commission in other proceedings.

For example, as explained below, PAO included in its opening comments the radical proposal that, as part of this proceeding, the Commission should convert all Water Revenue Adjustment Mechanisms (“WRAM”) to “Monterey-style” WRAMs and otherwise eliminate all existing decoupling mechanisms currently in place.² This extremely broad and misguided recommendation is at best only tangentially related to the questions posed in the Ruling. The WRAM is merely a mechanism used to offset the deficiencies in sales forecasting and enable the utility (as appropriate) to timely receive from or return to customers its Commission-approved revenues (and recover its Commission-approved costs). Each WRAM now in place has been authorized by the Commission in proceedings in which all relevant information was considered, and in which PAO participated. Proposing to convert existing WRAMs, the balances of which have been decreasing steadily in recent years, to “Monterey-style” WRAMs in this rulemaking proceeding is a procedurally improper method for seeking to modify several final Commission Decisions and falls well outside the scope of this proceeding.

² PAO Opening Comments, p. 13.

The types of sweeping changes proposed by PAO have nothing to do with the rulemaking's expressed purpose of achieving consistency in utility low income ratepayer assistance programs. Nor do they have anything to do with providing assistance to low-income customers, or even with affordability, the latter of which is addressed through rate design and the LIRA programs. PAO's maneuverings distract from the important work that the parties and the Commission are seeking to accomplish in this proceeding.

B. If the Commission wants to update D.99-10-064's water system acquisition framework, such updates should be reasonable and facilitate speedy resolution of applications and advice letters.

In its opening comments, PAO argues the Commission "should also modify Decision (D.) 99-10-064 (Decision) because its procedures and timelines do not comply with Public Utilities (Pub. Util.) Code § 1701.5(b)(1) [*sic*], Rule 2.6(a) of the Commission's Rules of Practice and Procedure and General Order (GO) 96-B."³ These requirements, relating to scoping memos and opportunities for comments or protests, were enacted after the adoption of D.99-10-064, and should eventually be reviewed.⁴ Indeed, the scoping memos in recent acquisition proceedings already included these requirements, adding, for example, reply briefs, the opportunity for comments and other more recent Commission procedures.⁵ This makes clear the overall framework set out in D.99-10-064 still helps facilitate efficient and cost-effective consolidation of at-risk water systems and therefore does not require substantial overhauling. Instead of

³ PAO Opening Comments, p. 3. Throughout its opening comments, PAO cites to Pub. Util. Code Section "1701.5(b)(1)," which does not exist. CWA believes that the intended reference is to Pub. Util. Code Section 1701.1(b)(1).

⁴ CWA also noted that today's ratemaking proceedings require the issuance of a scoping memo. CWA Opening Comments, pp. 9-10 fn. 11.

⁵ See, e.g., A.17-12-006, Scoping Memo and Ruling of Assigned Commissioner (March 28, 2018).

creating procedural roadblocks against the state’s consolidation policy, PAO should offer constructive, substantive suggestions that are consistent with procedures already employed by the Commission in recent proceedings and ensure those procedures are employed in a manner that will facilitate and expedite consolidations.

If the Commission intends to incorporate these elements into the existing schedules set forth in Appendix D of D.99-10-064, it should strive nonetheless to keep any adopted schedule as brief as reasonably possible, given the required procedural elements. As CWA explained, even accounting for time-consuming factors such as protest periods and the issuance of a scoping memo, the primary issue is simply that consolidation proceedings have taken much longer than has been necessary.⁶ Even PAO highlights several examples where an acquisition proceeding has been delayed.⁷ CWA looks forward to working with the Commission and other parties at the upcoming workshop to develop a reasonable schedule for acquisition proceedings that will allow customers to realize the benefits of such transactions in a more timely and efficient manner.

C. PAO’s arguments regarding Assembly Bill 1751 are premature and speculative.

In opening comments, PAO makes numerous arguments regarding Assembly Bill 1751 (“AB 1751”), a bill currently pending before the Legislature.⁸ Specifically, PAO argues that if AB 1751 is adopted, then “D.99-10-064 will need to be rescinded or

⁶ CWA noted that setting predetermined and timely deadlines for prehearing conferences and scoping memos would provide for more efficient processing of these applications. CWA Opening Comments, p. 9.

⁷ PAO Opening Comments, p. 8 fn. 17.

⁸ PAO Opening Comments, pp. 3-8.

the water utility merely provides the actual data observed and runs the calculations mandated by the Commission in establishing the SRM. The utility then implements the rate adjustments, exactly as directed by the SRM methodology. There is no discretionary act here – it is completely ministerial and appropriate for an advice letter. To the contrary, what PAO is seeking to do is to re-litigate the merits of the SRM at each advice letter filing, which would be improper and wasteful of Commission and utility resources.

For the reasons outlined above, the Commission should disregard PAO’s arguments regarding SRMs. Instead, the Commission should seek to encourage and expand the use of SRMs to allow for more accurate sales forecasts to be used in developing rates that reflect the true cost of service.

H. PAO’s recommendation regarding water revenue adjustment mechanisms and other decoupling mechanisms is beyond the scope of this proceeding and unsupported.

PAO takes the opportunity presented by the Commission’s questions regarding whether to implement a mechanism to adjust rates mid-year or end of year to discuss Water Revenue Adjustment Mechanisms (“WRAMs”) and Modified Cost Balancing Accounts (“MCBAs”) that have been in place for several of the Class A water utilities for more than a decade. Specifically, PAO argues that 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.”³⁹ Additionally, PAO argues that “[o]nce the Commission has established improvements to sales forecasting, the Commission should eliminate

³⁹ *Id.*, p. 13.

decoupling mechanisms entirely.”⁴⁰ These arguments regarding WRAMs and other decoupling mechanisms go well beyond the scope of the question asked and are therefore outside the scope of issues appropriate for these comments and the upcoming workshop. Moreover, these arguments are contrary to the Commission’s established policies regarding these mechanisms adopted in D.16-12-026 and amount to an improper attempt by PAO to once again re-litigate its same (previously rejected) arguments against WRAMs and other decoupling mechanisms. At a minimum, PAO’s recommendations for the Commission to “expediently” convert existing WRAMs to Monterey-style WRAMs and discontinue all decoupling mechanism are improper to consider in the manner presented by PAO here. If the Commission chooses to re-open consideration of the merits of these established mechanisms for the utilities previously authorized to employ them, the Commission must carefully evaluate the arguments relating to these WRAMs, review the specific circumstances of each utility, and provide a fair opportunity for each utility to respond.

PAO asserts that “[s]ince compliance with conservation mandates is now legally required, continuing to employ decoupling mechanisms is no longer necessary to remove the disincentive to develop and implement Water IOU-run conservation programs.”⁴¹ However, PAO misunderstands the import of the two laws it cites, Senate Bill 606 (Hertzberg, 2018) and Assembly Bill 1668 (Friedman, 2018).⁴² First, these two laws do not go fully into effect until January 1, 2024, and urban water suppliers don’t begin to file reports on their progress towards achieving their urban water use objectives

⁴⁰ *Id.*

⁴¹ *Id.* (footnote omitted).

⁴² *Id.*, p. 13 fn. 20.

until November 1, 2023. Second, despite these two laws, without a decoupling mechanism such as a WRAM, the financial incentive of utilities would still not be properly aligned with conservation goals. The Commission has previously recognized that the “purpose of WRAM is to sever the relationship between sales and revenues in order to remove any disincentives for the water utility to implement aggressive conservation rates and conservation programs.”⁴³ Accordingly, these decoupling mechanisms are still as necessary, if not more, as ever.

PAO’s arguments are also incompatible with the aforementioned Resolution W-5192 for SCE’s Catalina Water System. In addition to implementing the CAM as described above, the Commission by that Resolution also established a pilot program to decouple water sales from the revenue requirement consisting of a WRAM/MCBA. First, the Commission found that “[t]he Commission’s policy for decoupling of water revenues from sales is intended to facilitate water conservation while providing adequate financial resources to water utilities to operate their systems safely and reliably.”⁴⁴ The Commission also stated that it “previously outlined these goals for decoupling when it authorized these decoupling mechanisms for its Class A Water Utilities” and that Santa Catalina’s proposed WRAM/MCBA “should be adopted consistent with the amortization schedule adopted in D.12-04-048.”⁴⁵ The recently adopted resolution also outlines the goals for decoupling as follows:⁴⁶

⁴³ D.16-12-003, p. 18.

⁴⁴ Resolution W-5192, Finding of Fact 13.

⁴⁵ *Id.*, Finding of Fact 14, 15.

⁴⁶ *Id.*, p. 13.

1. Eliminate the relationship between sales and revenues to remove any disincentive for [water utilities] to promote water conservation rates and programs.
2. Provide a mechanism to ensure that water utilities and their customers are proportionately impacted when conservation rates are implemented.
3. Ensure any cost savings resulting from conservation (i.e., purchased power, purchased water) are passed on to ratepayers.
4. Reduce overall water consumption by water customers.

PAO's arguments against WRAM mechanisms are directly in conflict with the reasoning and outcome in Resolution W-5192.

For the reasons outlined above, the Commission should disregard PAO's arguments and recommendations regarding WRAMs and other decoupling mechanisms as outside the scope of these comments, contrary to Commission policy, and simply wrong.

I. CWA plans to review the information being compiled by PAO that it intends to make available for discussion at the upcoming August workshop in this proceeding.

PAO argues that "[t]he Commission should require Water IOUs to provide a baseline quantity of water at low-cost for all customers."⁴⁷ PAO indicates that it "is currently assessing data obtained from Class A Water IOUs to assist the Commission in determining the appropriate amount and cost of basic quantity rates."⁴⁸ PAO indicates that it expects to have such data available at the upcoming August workshop in this

⁴⁷ PAO Opening Comments, p. 14.

⁴⁸ *Id.*, p. 15.

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

CALIFORNIA-AMERICAN WATER COMPANY
Petitioner,

v.

PUBLIC UTILITIES COMMISSION OF THE STATE OF
CALIFORNIA
Respondent.

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

Of the Public Utilities Commission of the State of California

EXHIBIT K

*Comments of California Water Association Responding to
Administrative Law Judge's September 4, 2019 Ruling, R. 17-06-
024, September 16, 2019*



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

FILED

09/16/19
04:59 PM

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 ASSOCIATION
RESPONDING TO ADMINISTRATIVE LAW JUDGE'S SEPTEMBER 4, 2019 RULING**

John K. Hawks
Executive Director
CALIFORNIA WATER ASSOCIATION
601 Van Ness Avenue, Suite 2047
Mail Code #E3-608
San Francisco, CA 94102-3200
(415) 561-9650
jhawks@calwaterassn.com

NOSSAMAN LLP
Lori Anne Dolqueist
Willis Hon
50 California Street, 34th Floor
San Francisco, CA 94111
(415) 398-3600
ldolqueist@nossaman.com

Attorneys for CALIFORNIA WATER
ASSOCIATION

September 16, 2019

TABLE OF CONTENTS

I.	Introduction.....	2
II.	Comments on Staff Report for August 2, 2019 Workshop.....	2
III.	Responses to Questions Presented for Party Comment	10
1.	How should utilities incorporate drought-year sales into forecasted sales?	11
2.	What weight should be assigned to drought-year sales in a forecast model?	11
3.	Should the Commission adopt a specific sales forecasting model to be used in GRCs?	11
4.	How should a sales forecasting model incorporate revisions in codes and standards related to water efficiency?	12
5.	How are penetration rates over time recognized in sales forecast models to account for changes to codes and standards related to water efficiency?	12
6.	For utilities with a full Water Revenue Adjustment Mechanism (WRAM)/Modified Cost Balancing Account (MCBA), should the Commission consider converting to Monterey-style WRAM with an incremental cost balancing account? Should this consideration occur in the context of each utility's GRC?	13
7.	Should any amortizations required of the Monterey-style WRAM and incremental cost balancing accounts be done in the context of the GRC and attrition filings?	15
8.	Should Tier 1 water usage for residential be standardized across all utilities to recognize a baseline amount of water for basic human needs?	16
9.	Should water usage for basic human needs be based on daily per capital consumption levels specified in Water Code Section 10609.4 or some other standard or criteria?	16
10.	To achieve affordability of water usage for basic human needs, should the rate for Tier 1 water usage be set based on the variable cost of the water (i.e., no fixed cost recovery should be included in Tier 1 rates)?	16

11.	Should individual household budgets be developed for setting Tier 1 usage or should the average household size in the ratemaking area be the basis for establishing Tier 1 usage, and if so, how would large-size households be protected from high water bills?	19
12.	If the Commission adopts a uniform name for utility low-income programs, what should this name be?	20
13.	How should a pilot program be designed that provides a low-income benefit to water users who are not customers of the utility in multi-family buildings?.....	21
14.	What mechanism in the pilot program design (Question 13) will ensure that the low-income benefits flow to the benefit of the water user as opposed to the utility customer?.....	21
15.	Should a reporting mechanism be established to evaluate the success of current and future iterations of utility low-income programs in delivering affordable water service to low-income households? What metrics should be reported (e.g., rate of non-payment of monthly water bills by low-income customers, rate of service disconnection among low-income customers, number of late payments and or requests for payment plans among low-income customers, enrollment penetration among the population of eligible low-income households).....	23
16.	Should the Commission adopt a specific timeline, such as suggested by CWA, in processing water system consolidation requests by Commission-jurisdictional utilities?	24
17.	Are current utility affiliate transaction rules sufficient for utilities to take on the administration of failing water systems identified by the Water Board? If not, what changes to the rules are needed to facilitate utilities assuming an administrative oversight role for failing water systems?.....	24
18.	Should the Commission’s staff role in implementing recovery in rates for safe drinking water funding loans for utilities be changed or expanded?.....	26
IV.	CONCLUSION.....	27

changes in applicable codes or standards. Where abrupt and drastic changes are anticipated, these unique circumstances should be addressed on a case-by-case basis.

CWA Response to Question 6:

- 6. For utilities with a full Water Revenue Adjustment Mechanism (WRAM)/Modified Cost Balancing Account (MCBA), should the Commission consider converting to Monterey-style WRAM with an incremental cost balancing account? Should this consideration occur in the context of each utility's GRC?**

No, the Commission should **not** consider reverting full WRAM/Modified Cost Balancing Account ("MCBA") mechanism to Monterey-style WRAMs with incremental cost balancing accounts in this proceeding. As previously explained by CWA,²⁶ proposing to convert existing WRAMs, the balances of which have been decreasing steadily in recent years, to Monterey-style WRAMs in this rulemaking proceeding is a procedurally improper method for seeking to modify several final Commission Decisions and falls well outside the scope of this proceeding. These mechanisms do not have anything to do with providing assistance to low-income customers.

Despite the similarity in name, the Monterey-style WRAM does not fulfill the same purpose as the full WRAM/MCBA. Instead, the Monterey-style WRAM is only a rate design tool limited to mitigating the uncertainty associated with rate design changes (as opposed to uncertainty associated with utility revenue more generally). Additionally, the Monterey-style WRAM does not decouple sales from revenues and therefore fails to address the perverse incentive for water utilities to increase water sales and discount conservation efforts. Over time, for the majority of the Class A water utilities the

²⁶ *Reply Comments of California Water Association Responding to Administrative Law Judge's June 21, 2019 Ruling* (July 24, 2019), pp. 2-3.

Commission has moved away from Monterey-style WRAMs and towards adoption of full WRAMs due to the shortcomings of the former. The full WRAM/MCBA mechanisms allow utilities to implement conservation rates and other policy initiatives of the Commission, without undermining their financial stability.

The Commission just recently affirmed this and other benefits associated with the full WRAM/MCBA mechanisms in D.16-12-026.²⁷ Therefore, the suggestion that the Commission should evaluate whether to revert such mechanisms back to Monterey-style WRAMs with incremental cost balancing accounts comes as an unwelcome surprise for CWA and its member water utilities. The goal should be to build upon the existing framework, not take a step backwards.

If, despite the reasons outlined above, the Commission nonetheless decides to consider reverting existing WRAM/MCBA mechanisms to Monterey-style WRAMs with incremental cost balancing accounts, it should consider doing so solely in the context of each utility's GRC. Each utility before the Commission faces widely varying circumstances and, accordingly, it would be inappropriate to broadly impose such a major change across the entire water utility sector. For such a change to be imposed against the request of the utility, it must be shown that the specific circumstances facing

²⁷ D.16-12-026, pp. 40-41 ("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. 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.").

the utility in question warrant such a change. In lieu of that showing, which cannot be made on a wholesale basis, the Commission should not consider reverting full WRAM/MCBAs to Monterey-style WRAM and incremental cost balancing accounts.

CWA Response to Question 7:

7. Should any amortizations required of the Monterey-style WRAM and incremental cost balancing accounts be done in the context of the GRC and attrition filings?

As a preliminary matter, CWA understands this question to be directed as to Monterey-Style WRAMs and incremental cost balancing accounts specifically, as opposed to general full WRAM/MCBA mechanisms. The CPUC's required methodology for amortizing water utility balancing accounts is prescribed by Standard Practice U-27-W, Standard Practice for Processing Rate Offsets and Establishing and Amortizing Memorandum Accounts ("U-27-W"). U-27-W's prescribed method of amortization is uniform for all kinds of balancing accounts, including Monterey-style WRAMs and incremental cost balancing accounts. The procedure for amortizing balancing accounts is clearly stated, allowing amortization, in addition to GRCs, by advice letter:²⁸

43. Reserve account amortization for Class A utilities will be part of the General Rate Case or may be by advice letter when the account over or under collection exceeds 2%, at the utility's option.

The existing disposition mechanisms and triggers for amortizing reserve accounts have been carefully tailored to balance the need to alleviate burgeoning cumulative under- and over-collections with the need to avoid an excessive number of

²⁸ Standard Practice U-27-W, p.10

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

CALIFORNIA-AMERICAN WATER COMPANY
Petitioner,

v.

PUBLIC UTILITIES COMMISSION OF THE STATE OF
CALIFORNIA
Respondent.

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

Of the Public Utilities Commission of the State of California

EXHIBIT L

*Comments of Southern California Edison Company (U 338-E) on
Administrative Law Judge's Ruling Inviting Comments on Water
Division Staff Report and Response to Additional Questions, R.17-*

06-024, September 16, 2019



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

FILED
09/16/19
04:59 PM

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, Affordability.

R.17-06-024

**COMMENTS OF SOUTHERN CALIFORNIA EDISON COMPANY (U 338-E) ON
ADMINISTRATIVE LAW JUDGE'S RULING INVITING COMMENTS ON WATER
DIVISION STAFF REPORT AND RESPONSES TO ADDITIONAL QUESTIONS**

R. OLIVIA SAMAD
LAUREN P. GOSCHKE

Attorneys for
SOUTHERN CALIFORNIA EDISON COMPANY

2244 Walnut Grove Avenue
Post Office Box 800
Rosemead, California 91770
Telephone: (626) 302-4906
Facsimile: (626) 302-6693
E-mail: Lauren.P.Goschke@sce.com

Dated: September 16, 2019

based on drought conditions or chronology, the forecaster can project a trend that includes a specific consideration for periods of drought. However, the Commission should not dictate what weight, if any, should be assigned to drought-year sales in water utility forecast models. The effects of drought on water utility sales is highly variable and depends on numerous factors, including: 1) how recently the drought occurred; 2) the severity of the drought; 3) the likelihood that drought conditions will be experienced during the forecast period; and 4) the extent to which customers respond to imposed conservation measure or experience rationing fatigue. As these factors vary considerably across geographies and utilities, specifying a standard weight for drought periods that utilities are required to use when developing forecast models is likely to produce inconsistent and unreliable results.

B. Water utility decoupling programs should be considered on a case-by-case basis

Currently there are two variations on a decoupling mechanism for water utilities: WRAM and a Monterey-Style WRAM. The principal difference in these mechanisms is that the Monterey-Style WRAM calculates the sales revenue over-or under-collection based on the difference between implementing a conservation rate design (i.e., “tiered” or “increasing block”) versus a standard rate design. The WRAM is also often combined with a Modified Cost Balancing Account (MCBA) which records any difference in volume-related production expense as a result of changing water sales. The idea being that a reduction in water sales will correspond with a decrease in volume-related production expense, and those cost savings can be netted with any sales revenue under-collection.

Utilities requesting authorization of a decoupling program should be considered by the Commission on a case-by-case basis. As with sales forecasting and rate design, there is no universal approach to decoupling programs. In certain situations, implementing a Monterey-Style WRAM with a MCBA may balance the benefits and risks of implementing a conservation rate design more equitably among stakeholders. However, implementing a Monterey-Style WRAM as opposed to a full decoupling WRAM requires shareholders may be required to make up the difference for any shortfalls in authorized revenue not related to the use of a conservation rate design that far exceeds normal business risk.³

³ D.91-10-042 adopted a 20-basis point reduction in return on equity when seeking recovery of drought-related memorandum accounts to reflect normal business risk.

IN THE SUPREME COURT OF THE STATE OF
CALIFORNIA

CALIFORNIA-AMERICAN WATER COMPANY
Petitioner,

v.

PUBLIC UTILITIES COMMISSION OF THE STATE OF
CALIFORNIA
Respondent.

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

Of the Public Utilities Commission of the State of California

EXHIBIT M

*Reply Comments of the Public Advocates Office on the Water
Division's Staff Report and Response to Additional Questions,*

R.17-06-024, September 23, 2019

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA



FILED
09/23/19
04:59 PM

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

**REPLY COMMENTS OF THE PUBLIC ADVOCATES OFFICE
ON THE WATER DIVISION'S STAFF REPORT AND
RESPONSE TO ADDITIONAL QUESTIONS**

SUZIE ROSE
Senior Utilities Engineer for the
Public Advocates Office

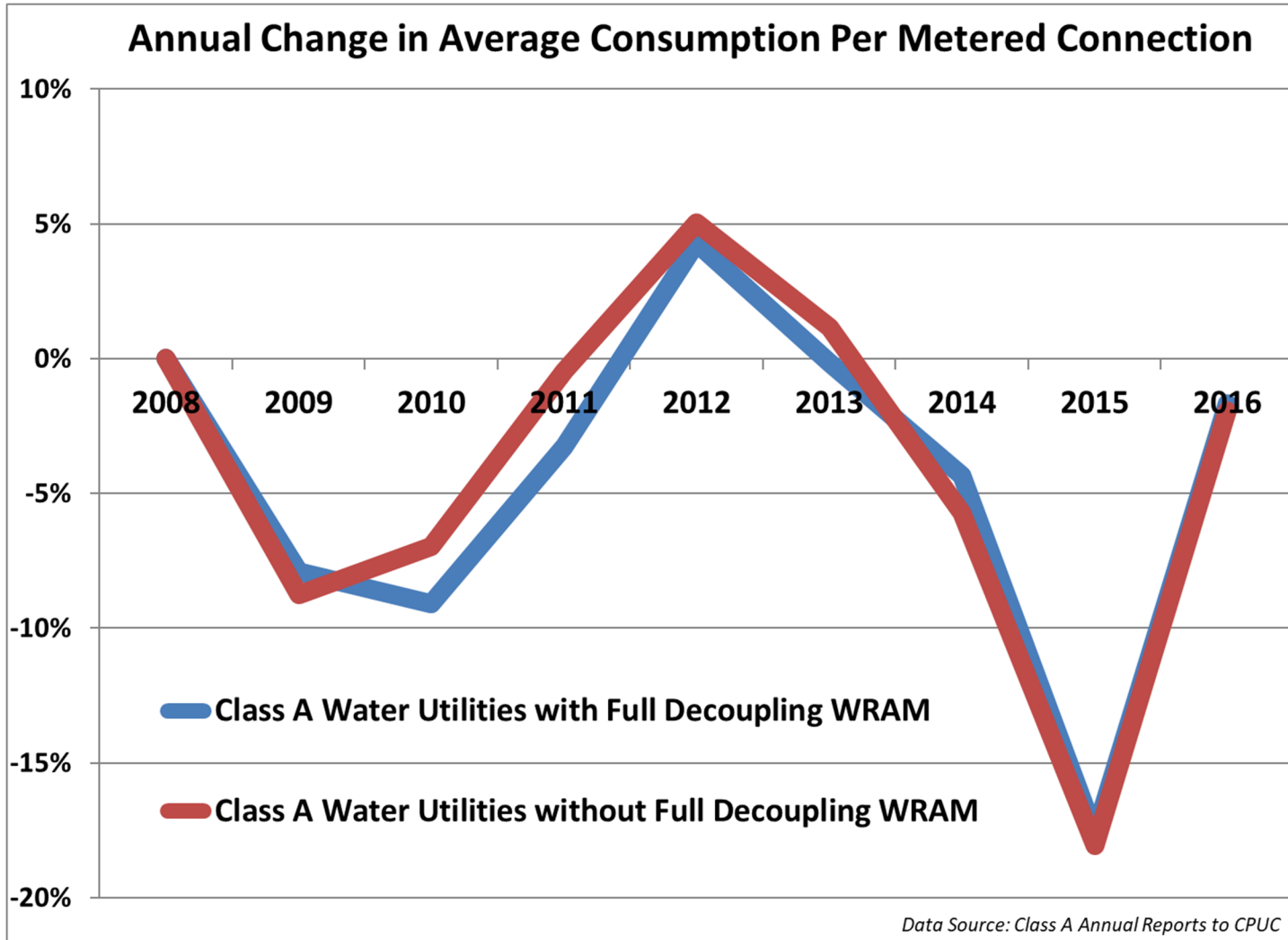
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102
Telephone: (415) 703-1254
E-mail: Suzie.Rose@cpuc.ca.gov

SELINA SHEK
Attorney for the
Public Advocates Office

California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102
Telephone: (415) 703-2423
E-mail: Selina.Shek@cpuc.ca.gov

September 23, 2019

fluctuations. CWA’s claim that the Monterey-style WRAM (or lack of a full decoupling mechanism) adversely affects conservation efforts is contradicted by a simple examination of Class A water utilities’ Annual Reports to the Commission.



CWA also incorrectly states that “the WRAM itself does not make rates more or less affordable.”¹⁹ Southern California Edison Company (SCE) similarly argues that WRAMs “permit the utilities to collect the authorized revenue requirement to invest in infrastructure and conservation programs while passing along savings in volume-related production expense to customers.”²⁰ These statements are misleading. WRAM provides

¹⁹ CWA Opening Comments at p. 7.

²⁰ SCE Opening Comments at p. 5.

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

CALIFORNIA-AMERICAN WATER COMPANY
Petitioner,

v.

PUBLIC UTILITIES COMMISSION OF THE STATE OF
CALIFORNIA
Respondent.

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

Of the Public Utilities Commission of the State of California

EXHIBIT N

Proposed Decision of Commissioner Guzman Aceves, R. 17-06-024,
July 3, 2020



PUBLIC UTILITIES COMMISSION505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298**FILED**07/03/20
11:41 AM

July 3, 2020

Agenda ID #18596
Quasi-Legislative

TO PARTIES OF RECORD IN RULEMAKING 17-06-024:

This is the proposed decision of Commissioner Martha Guzman Aceves. Until and unless the Commission hears the item and votes to approve it, the proposed decision has no legal effect. This item may be heard, at the earliest, at the Commission's August 6, 2020 Business Meeting. To confirm when the item will be heard, please see the Business Meeting agenda, which is posted on the Commission's website 10 days before each Business Meeting.

Parties of record may file comments on the proposed decision as provided in Rule 14.3 of the Commission's Rules of Practice and Procedure.

/s/ ANNE E. SIMON

Anne E. Simon
Chief Administrative Law Judge

AES:avs

Attachment

Decision PROPOSED DECISION OF COMMISSIONER GUZMAN ACEVES
(Mailed 7/3/2020)

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

DECISION AND ORDER

TABLE OF CONTENTS

Title	Page
DECISION AND ORDER.....	1
Summary	2
1. Background.....	3
1.1. Policy Background.....	3
1.2. Factual and Procedural Background.....	4
2. Issues Before the Commission	10
3. Coordination of Issues Between Statewide Water Legislation and Commission-Regulated Water Utilities	14
4. Party Comments.....	16
4.1. 2017 and 2018 Comments.....	17
4.2. Comments on the 2019 Workshops and Workshop Reports.....	33
4.2.1. Water Sales Forecasting Comments	34
4.2.2. WRAM Comments.....	37
4.2.3. Tier 1 Water Usage and Water Baselines Comments	39
4.2.4. Low-Income Water Program Name Comments.....	40
4.2.5. Low-Income Multi-Family Housing Pilots Comments.....	41
4.2.6. Reporting Mechanism Comments.....	43
4.2.7. Water Consolidation Timeline Comments.....	43
4.2.8. Utility Affiliate Transaction Rule Comments	45
4.2.9. Safe Drinking Water Loan Funds Comments.....	45
5. Water Sales Forecasting	45
5.1. Requiring Specific Factors in Future Sales Forecasts	46
5.1.1. Short Term Forecasting.....	46
5.2. Water Revenue Adjustment Mechanisms	47
5.2.1. Transitioning WRAM Utilities to Monterey-Style WRAM	48
5.2.2. GRC Decisions Subsequent to D.12-04-048 Have Not Resolved Whether to Continue Implementing the WRAM/MCBA Mechanism.....	52
5.2.3. The WRAM/MCBA Ratemaking Mechanism is Not Necessary to Achieve Conservation.....	54
5.2.4. Because the WRAM/MCBA Mechanism is Implemented Through a Balancing Account, There are Intergenerational Transfers of Costs	56
5.2.5. Transition to a Monterey-Style WRAM.....	56

5.2.6. For Utilities Without WRAM/MCBA Mechanisms, Accurate Forecasts of Water Sales in General Rate Cases Places Added Significance on the Reliability of the Adopted Forecasts 57

5.2.7 Lost Revenue Due to Reduced Sales During Droughts..... 58

5.2.8. Modifications are needed to the WRAM Process for it to Continue 59

6. Tier 1 Water Usage and Water Baselines 60

7. Consistent Terminology All Water Utilities Should Use for Low-Income Water Programs 61

8. Low-Income Multi-Family Housing Pilots..... 64

9. Reporting Mechanisms 65

10. Water Consolidation Timelines..... 68

10.1. Existing Guidance for Water Consolidation Timelines 68

10.2. Streamlining Requirements 70

10.3. Maintenance of At-Risk Timeline 76

10.3.1. Identification of Opportunities for Consolidation..... 79

11. Utility Affiliate Transaction Rules and Safe Drinking Water Loan Funds..... 79

12. Next Steps 80

12.1. Phase II Scoping Memo and Ruling Directing Covid-19 Related Reporting..... 80

12.2. Alignment with Statewide Programs and Processes 81

13. Conclusion 82

14. Comments on Proposed Decision 82

15. Assignment of Proceeding..... 83

Findings of Fact..... 83

Conclusions of Law 85

ORDER..... 87

Appendix A – Style Reference Tables

DECISION AND ORDER

Summary

This decision resolves Phase I issues in this proceeding. This decision evaluates the sales forecasting processes used by water utilities and concludes that, after years as a pilot program, the Water Revenue Adjustment Mechanisms have proven to be ineffective in achieving its primary goal of conservation. This decision therefore identifies other benefits the Water Revenue Adjustment Mechanisms provide that are better achieved through the Monterey-Style Water Revenue Adjustment Mechanisms and requires water utilities to propose Monterey-Style Water Revenue Adjustment Mechanisms in future general rate cases. This decision also:

- (1) directs water utilities to provide analysis in their next general rate case to determine the appropriate Tier 1 rate breakpoint that aligns with the baseline amount of water for basic human needs for each ratemaking area;
- (2) adopts consistent terminology for low-income rate assistance programs for all Commission-regulated water utilities and directs the creation of a low-income multi-family housing rate assistance pilot;
- (3) authorizes a pilot program that provides a discount to water users in low-income multi-family dwellings that do not pay their water bill directly through the utility; and
- (4) directs standardized reporting requirements to be followed by water utilities and provides direction with respect to specific information required to streamline consideration of consolidation requests.

This proceeding will remain open upon issuance of this decision to consider Phase II issues.

1. Background

1.1 Policy Background

In December 2005, the Commission adopted a Water Action Plan (Plan) setting forth its policy objectives for the regulation of investor-owned water utilities and highlighting the actions that the Commission anticipated or would consider taking in order to implement these objectives. The primary goal was two-fold: apply regulatory best practices from the energy utilities to the water utilities and to place water conservation at the top of the loading order as the best, lowest-cost supply.

Among the energy industry's best practices to be incorporated into the water industry was to assist low-income ratepayers struggling with payments for basic monthly water service. Similar to the Commission's practices in the telecommunications and energy industries, the Plan provides for the Commission to develop options to increase affordability of water service for these customers as well as provide specific emphasis on water conservation programs for low-income water customers.

In 2010, the Commission updated the Plan (2010 Update) in response to the severe drought conditions within the state. Among the action items added in the 2010 Update was to develop standardized tariff discounts and eligibility criteria for Class A water utilities' low-income rate assistance program.

Currently, there are nine Class A water utilities under the Commission's jurisdiction. They are: Liberty Utilities (Apple Valley Ranchos Water) Corp., California Water Service Company, California-American Water Company, Golden State Water Company, Great Oaks Water Company, Liberty Utilities

(Park Water) Corp., San Gabriel Valley Water Company, San Jose Water Company (SJWC), and Suburban Water Systems.¹

1.2. Factual and Procedural Background

On June 29, 2017, the Commission opened this Order Instituting Rulemaking (OIR) to evaluate the Commission's objective of achieving consistency between Class A water utilities' low-income rate assistance programs, evaluate affordability, and providing rate assistance to all low-income customers of investor-owned water utilities.

Currently, each Class A water utility has an individualized low-income rate assistance program which was established on a case-by-case basis, as part of the utility's general rate case (GRC). There is no standardization among these programs.² Each program differs in its name, availability of monthly discounts, and recovery of costs. Therefore, one objective we set in this proceeding was to explore the feasibility of achieving consistency among low-income rate assistance program for of all the Class A water utilities and to examine whether allowing for greater pooling within utilities and across utilities could allow a more comprehensive low-income rate assistance program.³

¹ Liberty Utilities Company acquired Class A water utilities Apple Valley Ranchos Water Company and Park Water Company at the end of 2015 (Decision (D.)15-12-029) and continues to operate them as distinctly separate Class A water utilities.

² See, Appendix A of Order Instituting Rulemaking (OIR) adopted June 29, 2017 (Rulemaking (R.) 17-06-024).

³ We noted when we began this review that there were no rate-assistance programs for low-income ratepayers of most Class B, C, and D utilities. These small water utilities serve a total of about 50,000 customers, with many of these utilities serving very few customers. While estimating the number of low-income customers served is difficult in the aggregate for Class B, C, and D water utilities, we hope those utilities will use the best practices identified by participants in this proceeding to best serve low-income customers of those Class B, C, and D utilities.

The Commission specifically sought input from water utilities regarding: (1) establishing a uniform low-income rate assistance program name for investor-owned utilities; (2) effectiveness of current programs; (3) the design of the monthly discount to low-income customers; and (4) recovery of program costs, as well as other issues regarding implementation, consolidation of systems, and administration for smaller water utilities in addition to the jurisdiction issues.⁴

On July 27, 2017, the assigned Administrative Law Judge (ALJ) noticed the first of five workshops to be held jointly with the State Water Resources Control Board (Board) on access and affordability of safe, clean, and reliable drinking water. These joint workshops were designed for the Board and the Commission to receive public input on how the current efforts could be strengthened and made more successful related to water utilities' low-income assistance programs, affordability, and consolidation efforts as a means of providing safe drinking water. The first two workshops were held on August 17, 2017, and November 13, 2017.

A Staff Report summarizes the input received during the two initial workshops⁵ and concluded that, as part of the effort to ensure the long-term sustainability of drinking water in California, consolidation has been and will

⁴ See, Cal. Pub. Util. Code § 241 ("Water corporation' includes every corporation or person owning, controlling, operating, or managing any water system for compensation within this State."), Cal. Pub. Util. Code § 261(a) ("Public utility' includes every ... water corporation ... where the service is performed for, or the commodity is delivered to, the public or any portion thereof."), *Indep. Energy Producers Ass'n, Inc. v. State Bd. of Equalization*, 125 Cal. App. 4th 425, 442 (Cal. Ct. App. 2004) (citing *Allen v. R.R. Comm'n*, 179 Cal. 68, 85, 89, 175 P. 466 (Cal. 1918); *Associated Pipe Line Co. v. R.R. Comm'n* 176 Cal. 518, 523 (1917); *Frost v. R.R. Comm'n*, 197 Cal. 230, 236, 240 P. 26 (1925), *rev'd on other grounds*, 271 U.S. 583 (1926)) (there must be "a dedication to public use to transform [a] private business[] into a public utility.").

⁵ The Staff Report summarizing inputs from the two initial workshops was attached as Appendix B to the Scoping Memo issued on January 9, 2018, in this proceeding.

continue to be an important tool to address the many issues struggling water systems face. That Staff Report also finds that to provide safe, reliable, and affordable drinking water for all of California, many tools will be needed, including consolidation and a stable funding source such as the Safe and Affordable Drinking Water Fund.⁶

Comments to the OIR were filed on August 16 and 21, 2017,⁷ and reply comments on September 7, 2017.⁸ On September 11, 2017, a prehearing conference (PHC) was held to determine parties, discuss the scope, the schedule, and other procedural matters. The assigned Commissioner issued the Scoping Memo and Ruling on January 9, 2018, and an Amended Scoping Memo and Ruling on July 9, 2018, to include two additional issues (Scoping Memo and Amended Scoping Memo, respectively). The Amended Scoping Memo also set the initial statutory deadline for this proceeding of January 8, 2020.

Comments on issues identified in the Scoping Memo and on the Staff Report on the two initial joint workshops were due February 23, 2018. Comments were filed by California-American Water Company, California Water

⁶ See, Stats. 2019, ch. 120 (An act to add Section 53082.6 to the Government Code, to amend Sections 39719, 100827, 116275, 116385, 116530, 116540, and 116686 of, and to add Chapter 4.6 (commencing with Section 116765) to Part 12 of Division 104 of, the Health and Safety Code, and to add Chapter 7 (commencing with Section 8390) to Division 4.1 of the Public Utilities Code, relating to drinking water, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.).

⁷ Opening Comments on the OIR were filed by California-American Water Company, California Water Association, Center for Accessible Technology, Consumer Federation of California Foundation, Golden State Water Company, Great Oaks Water Company, International Bottled Water Association and California Bottled Water Association, The Public Advocates Office of the Public Utilities Commission, San Gabriel Valley Water Company, and Southern California Edison Company.

⁸ Reply Comments on the OIR were filed by California Water Association and Great Oaks Water Company.

Association, Center for Accessible Technology, Consumer Federation of California Foundation, Great Oaks Water Company, the Joint Advocates (Leadership Counsel for Justice and Accountability, Community Water Center, and the Pacific Institute for Studies in Development, Environment and Security),⁹ The Public Advocates Office of the Public Utilities Commission (the Public Advocates), and San Gabriel Valley Water Company.

California Water Association, the Public Advocates, Great Oaks Water Company, the Joint Advocates (The Environmental Justice Coalition for Water, the Pacific Institute for Studies in Development, Environment and Security, National Resources Defense Council, Leadership Counsel for Justice and Accountability, Center for Accessible Technology, and Community Water Center), and Southern California Edison Company (SCE) also filed comments on the two additional issues included in the Amended Scoping Memo. Reply comments to the Amended Scoping Memo were filed by the California Water Association.

On December 18 and 19, 2018, the assigned ALJ issued rulings to provide notice of a joint workshop with the Board on January 14, 2019, to (a) receive information and assess issues pertaining to water sales forecasting, rising drought risks, and water conservation and impacts to water costs for customers, especially low-income customers; (b) determine how an improved, reliable water forecasting can enhance affordable pricing for low-income customers; and (c) receive public input on how to strengthen water forecasting and make affordability more successful.

⁹ Throughout this proceeding the Joint Advocates submitted comments in various combinations of parties; the specific signatories to each filing are identified herein with each comment.

On the same date as the workshop, January 14, 2019, a status conference was held to discuss the status of the proceeding, potential revisions to the proceeding scope, and the timeline for concluding the proceeding. On January 22, 2019, California Water Association and Eastern Municipal Water District submitted comments on the topics enumerated in the ruling setting the status conference.

Following the January 14, 2019, joint workshop, the Commission's Water Division staff prepared a Staff Report resulting from that workshop. On March 20, 2019, the assigned ALJ issued a ruling inviting comments on that Staff Report and noticed three additional workshops to be held in 2019. That Staff Report summarized the January 14, 2019, workshop presentations and concludes that as drought conditions are becoming the norm, water utility management of the drought impacts is critical. This third workshop highlighted the unique risks to small water systems and noted the successes larger water utilities had managing drought impacts in their service areas. That Staff Report finds that (a) additional collaboration will be needed to improve sales forecasting in a way that accounts for the reality of decreasing water supplies and use in California, and does not place all the financial risk on the customers; and (b) continuing communication between the Commission and the Board will be necessary to provide safe, reliable, and affordable drinking water for all of California. The California Water Association filed comments on April 5, 2019, in response to that Staff Report.

On May 2, 2019, a fourth joint workshop was held focused on rate design and basic low-income water rates. Thereafter, the Commission's Water Division staff prepared another Staff Report resulting from that workshop on water rate design for a basic amount of water at a low quantity rate. On June 21, 2019, the

assigned ALJ issued a ruling modifying the procedural schedule and inviting comments on this latest Staff Report. This Staff Report noted that the workshop had identified a number of challenges in determining a basic quantity due to varying income and household size, and master-metered properties. Parties at the workshop agreed that basic quantities are an important factor for improving water affordability for low-income customers. Though disagreeing on rate design for low-income customers, parties did provide many rate design ideas and issues for our consideration. Parties also agreed any low-income program for multi-family properties should be designed to ensure eligible customers directly receive the benefit, but there was no agreement on how that could be achieved. Participants agreed that there was a tension between conservation pricing and affordability and offered different solutions to balance those considerations.

Comments were filed on July 10, 2019, by the California Water Association, the Center for Accessible Technology and Pacific Institute for Studies in Development, Environment, and Security (Joint Comments), the Public Advocates Office of the Public Utilities Commission, and Southern California Edison Company. Reply comments were filed on July 24, 2019, by the California Water Association, the Leadership Counsel for Justice and Accountability, Community Water Center, and Pacific Institute for Studies in Development, Environment, and Security (Joint Reply Comments), and the Public Advocates Office of the Public Utilities Commission.

On August 2, 2019, a fifth joint workshop was held focused on potential changes to enhance water affordability. This workshop consisted of three panels, the first focused on Low Income Rate Assistance (LIRA), the second addressed drought forecasting mechanisms, and the third discussed consolidation of small

water systems. Another staff report was prepared by the staff of the Water Division following this fifth workshop. On September 4, 2019, the assigned ALJ issued a ruling inviting comments on the latest staff report as well as the Public Review Draft, Achieving the Human Right to Water in California, an Assessment of the State's Community Water Systems, issued in August 2019, by the Office of Environmental Health Hazards Assessment, California Environment Protection Agency.

Comments were filed on September 16, 2019, by California Water Association, Center for Accessible Technology, Public Advocates Office of the Public Utilities Commission, and Southern California Edison Company. Reply comments were filed on September 23, 2019, by California Water Association and Public Advocates Office of the Public Utilities Commission.

On October 11, 2019, Rulemaking (R.) 17-06-024 was reassigned to ALJ Robert W. Haga. D.19-12-062 extended the statutory deadline in this proceeding from January 8, 2020, to July 8, 2020. On May 26, 2020, ALJ Camille Watts-Zagha was co-assigned to this proceeding.

On June 2, 2020, the assigned Commissioner and ALJ issued a Second Amended Scoping Memo and Ruling (Second Amended Scoping Memo) directing comments to consider potential Commission response to COVID-19. This Second Amended Scoping Memo added and initiated Phase II in this proceeding as we were already addressing many of the subjects impacted by the COVID-19 pandemic as part of this Rulemaking. The Second Amended Scoping Memo extends the statutory deadline for this proceeding to December 2, 2021.

2. Issues Before the Commission

The Commission launched this rulemaking to (1) better understand the differences between Class A water utilities' low-income rate programs;

(2) evaluate whether consistency between the Class A water utilities' low-income rate programs is feasible; (3) if so, how such consistency can be attained; (4) assess whether other water companies meet the definition of a public utility under the Commission's jurisdiction; and (5) examine issues concerning affordability of clean and safe drinking water for low-income and disadvantaged communities, including greater pooling and consolidation.

As part of this rulemaking the Commission sought to continue its efforts consistent with Cal. Water Code Section 106.3 (Stats. 2012, ch. 524) and the human right to water for all Californians to ensure that low-income customers and disadvantaged communities have safe, clean, affordable, and accessible water adequate for human consumption, cooking and sanitary purposes.

After reviewing comments filed in response to the OIR as well as input from the first two joint workshops, PHC statements, and discussion at the prehearing conference, the January 9, 2018, Scoping Memo provided greater focus on the issues to be considered. Specifically, the Scoping Memo described the issues to be addressed in the proceeding included an examination of low-income rate assistance programs for Class A and B water utilities to determine whether consistency among low-income rate assistance programs for all low-income water ratepayers can be established. Further, an examination of regionalization and consolidation (including voluntary and virtual) of at-risk water systems by regulated water utilities, in addition to forecasting and affordability issues. The Scoping Memo also called for consideration of whether other water companies qualify as public utilities under the Commission's jurisdiction for purposes of assessing a public purpose surcharge. The Scoping Memo sought input from parties and respondent Class A and B water utilities on the following issues in the first phase of the proceeding:

1. Consolidation of at-risk water systems by regulated water utilities:
 - a. How could the Commission work with the SWRCB and Class A and B water utilities to identify opportunities for consolidating small non-regulated systems within or adjacent to their service territories that are not able to provide safe, reliable, and affordable drinking water? Should the Commission address consolidation outside of each utility's GRC?
 - b. In what ways can the Commission assist Class A and B utilities that provide unregulated affiliate and franchise services to serve as administrators for small water systems that need operations & maintenance support as proscribed by Senate Bill (SB) 552 (2016)?
2. Forecasting Water Sales:
 - a. How should the Commission address forecasts of sales in a manner that avoids regressive rates that adversely impact particularly low-income or moderate-income customers?
 - b. In D.16-12-026, adopted in R.11-11-008, the Commission addressed the importance of forecasting sales and therefore revenues. The Commission, in D.16-12-026, directed Class A and B water utilities to propose improved forecast methodologies in their GRC application[s]. However, given the significant length of time between Class A water utility GRC filings, and the potential for different forecasting methodologies proposals in individual GRCs, the Commission will examine how to improve water sales forecasting as part of this phase of the proceeding. What guidelines or mechanisms can the Commission put in place to improve or standardize water sales forecasting for Class A water utilities?
3. What regulatory changes should the Commission consider to lower rates and improve access to safe quality drinking water for disadvantaged communities?

4. What if any regulatory changes should the Commission consider that would ensure and/or improve the health and safety of regulated water systems?

In addition, the Scoping Memo set forth the following issues would be addressed in 2019 workshops and additional comments from parties:

1. Program Name;
2. Effectiveness of LIRA Programs;
3. Monthly Discounts;
4. Program Cost Recovery;
5. Commission Jurisdiction Over Other Water Companies; and
6. Implementation of Any Changes to Existing LIRA Programs.

After the Scoping Memo was issued, Governor Brown signed Assembly Bill (AB) 1668 and Senate Bill (SB) 606 in 2018, codifying various water management planning criteria.¹⁰ Specifically, Water Code Section 10609.4(a) established a 55 gallons per day per capita standard for indoor residential water use until January 1, 2025.¹¹ In addition, questions had been raised about municipal water company access to data needed to ensure discounts reach customers who need them. Therefore, the July 9, 2018, Amended Scoping Memo and Ruling added the following two issues for would be the focus of the 2018 portion of this proceeding:

1. How best to consider potential changes in rate design such that there is a basic amount of water that customers receive at a low quantity rate; and

¹⁰ Stats. 2018, Ch. 14 (SB 606 requires the State Water Resources and Control Board (Board) and Department of Water Resources to adopt water efficiency regulations, outlines requirements for urban water suppliers including urban drought risk assessments, and implements penalties for violations.) Stats. 2018, Ch. 15. (AB 1668 codified the Governor's May 2016 Making Water Conservation a California Way of Life Executive Order B-37-16.)

¹¹ Cal. Water Code § 10609.4(a) (after 2025 the standard is reduced to 52.5 gallons per day per capita until 2030 when it is further reduced to 50 gallons per day per capita).

2. Whether the ... Commission should adopt criteria to allow for sharing of low-income customer data by regulated investor-owned energy utilities with municipal water utilities.

The Second Amended Scoping Memo, issued on June 20, 2020, added and initiated Phase II in this proceeding to consider potential Commission response to the COVID-19 pandemic. However, this decision will not be addressing and resolving those Phase II issues.

3. Coordination of Issues Between Statewide Water Legislation and Commission-Regulated Water Utilities

The resolution of three of the scoped issues in particular will be guided by adopted or pending legislation, or regulatory processes of other California regulatory agencies.

State policy through AB 685 (Stats. 2012, Ch. 524) aims to ensure universal access to water. In furtherance of that goal, AB 401, the LIRA Act (Stats. 2018, Ch. 662) requires the Board to develop a plan for funding and implementation of a statewide low-income water rate assistance program and report to the legislature on the feasibility, financial stability, and desired structure of the program, including and recommendations for legislative action that may need to be taken. On February 25, 2020, the Board released its final recommendations to implement a statewide low-income water rate assistance program.¹² The Board recommends the creation of a statewide water rate assistance program funded through taxes on personal income, business income, and bottled water, as most

¹² See, AB 401 Final Report: Recommendations for Implementation of a Statewide Low-Income Water Rate Assistance Program, available at https://www.waterboards.ca.gov/water_issues/programs/conservation_portal/assistance/docs/ab401_report.pdf

systems are not able to fund low-income assistance programs. For qualifying customers, the program recommended by the Board will support bill discounts, crisis assistance, and a tax credit for renters who pay for their water indirectly through rent. These bill discounts are modeled on the low-income assistance program for customers of Commission-regulated energy utilities, and the crisis assistance is modeled on the federal energy crisis program known as Low-Income Heating and Assistance Program (LIHEAP). The Board estimates the first-year cost for the Board recommended program, including administrative costs, at \$606 million.

In addition, in 2019, the Legislature adopted SB 200 (States. 2019, Ch. 120) which provides up to \$130 million annually for the next 10 years to provide safe drinking water to disadvantaged communities that currently do not have access to safe drinking water. The Board will administer the program and will prioritize solutions for those most impacted by unsafe and unaffordable drinking water.

As discussed above, conservation legislation was also adopted in 2018, codifying the Governor's May 2016 Making Water Conservation a California Way of Life Executive Order.¹³ In response, the Department of Water Resources (DWR) and the State Water Board developed new standards for: indoor residential water use; outdoor residential water use; commercial, industrial, and institutional (CII) water use for landscape irrigation with dedicated meters; water loss; and urban water suppliers annual water budgets. In addition, water suppliers will need to report on the implementation of new performance measures for CII water use.

¹³ AB 1668 and SB 606.

The conservation legislation also made important changes to existing urban and agricultural water management planning, and enhanced drought preparedness and water shortage contingency planning for both urban water suppliers, as well as small water systems and rural communities.

DWR is responsible for numerous studies and investigations over the next three years, the development of standards, guidelines and methodologies, performance measures, web-based tools and calculators, data and data platforms, reports and recommendations to the State Water Board for adoption of new regulations.

All of these standards and tools are intended to help water suppliers to forecast their supplies and demands with greater accuracy, which will then benefit revenue forecasts.

4. Party Comments

Initial comments responding to the rulemaking and responding to the Scoping Memo and Amended Scoping Memo illuminated the benefits of adopting a consistent terminology for low-income rate assistance programs across water utilities.

Those comments also identified the Water Revenue Adjustment Mechanisms (WRAMs) as one way we could further adapt our policies to changing conditions while still allowing utilities the ability to earn a reasonable rate of return and keep rates just and reasonable.

In addition, parties highlighted the reality that drought is the new normal in California and that forecasts need to be more accurate so that WRAMs can be smaller, and that the Monterey-style WRAM would provide better incentives for parties to more accurately forecast sales while still providing the utility the ability to earn a reasonable rate of return. Accordingly, we sought specific input

on whether the Commission should require all utilities to use Monterey-Style WRAMs with Incremental Cost Balancing Account (ICBA), and whether such a transition should occur in the context of the utilities' next GRC.

4.1. 2017 and 2018 Comments

The 2017 and 2018 comments are summarized below.

California-American Water Company set forth two considerations it saw as important in discussing a statewide low-income water program. First, the statewide program should not result in a reduction to current assistance California-American Water Company provides its low-income customers. Second, the statewide program should avoid any increased obligation for funding of California-American Water Company's other customers. California-American Water Company also identified sales forecasting as an important issue for this rulemaking to explore as the "long-standing problem of forecasting future sales ... has been heightened by periods of drought and issues related to very substantial balances in the Water Revenue Mechanism Accounts." California-American Water Company supported a uniform name for all water utility low-income customer assistance programs and identified program structure targeting extremely low-income customers for assistance, data sharing with energy utilities, and marketing, as keys to program effectiveness. California-American Water Company also expressed support for the monthly discount being calculated as a percentage of the monthly bill and that the current \$1.21 per month surcharge to non-LIRA customers is reasonable and should not increase.

California-American Water Company expressed concern about the current process for obtaining authorization to acquire and consolidate smaller systems highlighting the importance of receiving authorization for consolidation during

the acquisition approval process. California-American Water Company also stated that it cannot provide operation and maintenance services on a temporary basis in the current environment (*see*, SB 552), noting in particular the affiliate transaction rules discourage such actions.

California-American Water Company asked the Commission to allow it and other water utilities to recalculate its sales forecast on an annual basis rather than the current six-year cycle (from start to finish) based on the current GRC process. California-American Water Company also stated that common sense drives the use of smaller triggers and more complete adjustments as such changes will provide greater precision and accuracy in forecasting as drought years become more prevalent. California-American Water Company urged the Commission to continue focusing on individual affordability while supporting needed investments to provide safe, clean water. California-American Water Company asked the Commission to continue to encourage acquisition and consolidation of systems that lack sufficient technical, managerial, or financial expertise, as well as addressing forecasting issues to improve price signals created by rates and authorizing reasonable rates of return to encourage prudent investment and acquisitions.

California-American Water Company asked that this Commission continue its support for water utility access to low-interest loans and grants where appropriate. Where California-American Water Company did not provide specific comment, it generally noted agreement with the comments of California Water Association on those matters.

California Water Association supported the goals of the OIR and stated the primary objective should be to balance the purpose of the benefits against the burdens to pay for and administer the programs. California Water Association

urged coordination with the Board and Legislature to achieve the goal of establishing a uniform program meeting the needs of low-income customers.

California Water Association recommended the Commission adopt the nomenclature of the United States Environmental Protection Agency (EPA), the Water Foundation and water utilities in other states – Customer Assistance Program, or CAP. They recommended this program name as it avoids any stigma that might come from using “low-income” and avoids using the word “rates,” which distracts from the underlying purpose of the program – assisting households that have trouble meeting essential living expenses, of which water is just one. California Water Association urged the Commission to refrain from creating verification protocols used by energy utilities given the relative lack of economies-of-scale of the water utilities.

California Water Association noted the ease of both the fixed dollar discount and percentage discount methods though both methods come with different drawbacks. California Water Association stated that a flat discount calculated by the same method (*e.g.*, 20 percent of the typical residential bill in the service area) would capture the benefits and be advantageous for both customers and utilities and would have minimal impact on conservation messaging and programming. However, California Water Association cautioned that customers will not care about the methodology, but will focus on whether the method changes their current bill, and noted that any change will result in some customers seeing a decrease in benefits and surcharges, and an increase for others.

California Water Association urged caution in applying uniform standards for surcharges in multi-district Class A water utilities but supported establishment of a statewide low-income water customer assistance program.

California Water Association did not support requiring Class B, C, and D water utilities to establish customer assistance programs. California Water Association noted the comments of other parties provided helpful information on existing low-income customer assistance programs, the challenges implementing these programs, and issues of concern. California Water Association supported workshops to explore and define the issues presented fully and carefully.

California Water Association urged the Commission to coordinate closely with the Board regarding the consolidation of systems that are not able to provide safe, reliable, and affordable drinking water. California Water Association noted it supports consolidation as a means to assist communities that are not able to provide safe, reliable, and affordable drinking water on their own, with proper incentives in place. California Water Association noted there have been more than 30 acquisitions of small systems by larger Commission-regulated water utilities over the past decade, and the Commission should focus its efforts in this areas on working to streamline the processes for physical and ratemaking consolidation, and ensuring proper incentives are provided for regulated water utilities to undertake such efforts. California Water Association noted the substantial risk that comes with acquiring troubled utility systems and the need for efficient and timely action by the Commission.

With respect to changes to water sales forecasting, California Water Association reiterated some of the recent history and changes to water sales forecasting and urged continuing the flexible alternative forecasting methodologies that take into account the impact of drought, conservation government mandated reductions, and economic developments. California Water Association urged the Commission remove restrictions on sales reconciliation mechanism implementation that tie to a drought period and allow

utilities to implement a modified sales reconciliation mechanism that captures more of the revenue differences between earlier forecasts and actual sales.

California Water Association called for the removal of the five percent trigger and the fifty percent adjustment limitation. California Water Association also called for folding the WRAM/Modified Cost Balancing Accounts (MCBA) recovery into base rates instead of surcharges. California Water Association argued these changes will send more accurate pricing conservation signals to customers, ameliorate intergenerational risk, help utilities avoid large WRAM/MCBA surcharges, and reduce confusion about cost-of-service ratemaking.

In addition, California Water Association argued there is no need to consider rate design changes to address the requirement for a basic amount of water at a low quantity rate as the concept is already part of existing water rate designs, and the issue should continue to be addressed in GRCs. California Water Association also expressed concern that adopting a single standard will have unintended consequences such as higher prices in upper tiers, greater fluctuations in revenue, larger WRAM balances, distorting price signals, and will miss many low-income individuals that live in multi-unit buildings that are not sub-metered.

California Water Association agreed with the privacy concerns expressed by Southern California Edison Company and thought the issue of sharing information with municipal utilities is best addressed by the Board in its rulemaking; to the extent it is pursued, the Commission should look to the framework it has already established for sharing such information with Commission-regulated water utilities.

Center for Accessible Technology supported the use of a uniform program name that is not LIRA, as it will help customers understand that the program is widely available, which is particularly useful for customers who move between jurisdictions. Center for Accessible Technology advocated structuring discounts to provide essential supplies of water at reduced rates, while allowing higher rates for water supplies that go beyond basic needs, essentially reinforcing an inverted block rate structure. Center for Accessible Technology argued other subsidy options might be less effective in supporting the two policy goals of affordability for essential supplies of water and establishment of rates that promote conservation. Center for Accessible Technology argued for the creation of broad cost recovery with pooled funding as the most equitable and fair cost recovery option. Center for Accessible Technology also supported efforts to promote consolidation of water systems to improve water quality and address affordability.

Center for Accessible Technology urged the Commission to focus the use of its rate design authority to support affordable access to necessary supplies of drinking water. Center for Accessible Technology stated the existing inverted tier block structure, in particular, can be used to ensure the affordability of the first allocation of water, which should be sufficient, at minimum, to satisfy a household's essential indoor usage needs. Center for Accessible Technology argued it would be appropriate for the Commission to consider more targeted use of its rate design authority as an independent mechanism to support affordability.

Consumer Federation of California Foundation urged the Commission to consider proper cost allocation, appropriate definitions, the broad jurisdiction of the Commission, and various components of the assistance programs. Consumer

Federation of California Foundation argued the Commission has broad authority to create a program to assist low-income water customers and that include other water companies not regulated by the Commission. Consumer Federation of California Foundation argued such companies can be required to participate either directly or through selective jurisdiction in any public assistance program the Commission creates.

Consumer Federation of California Foundation agreed that a common name should be adopted and suggested either the California Alternative Rates for Water (CARW) or Water Rate Assistance Program (WRAP) as appropriate program names. Consumer Federation of California Foundation suggested the effectiveness of assistance programs be measured through metrics that include participation rate, the improvement in water burden, and positive impacts on arrearage and disconnection rates.

Consumer Federation of California Foundation stated that ultimate effectiveness will need to be shown through the impact on water affordability. Consumer Federation of California Foundation offered a range of affordability thresholds between 1.5-3 percent of income, and that an effective program will have a water burden no greater than the agreed-upon target value.

Consumer Federation of California Foundation noted the ease of both the fixed dollar discount and percentage discount methods though both methods come with different drawbacks. Consumer Federation of California Foundation advocated for the adoption of some form of rate similar to the communications Lifeline program wherein a discounted rate would apply to a basic service volume and agreed that it is more practical to administer the percentage/proportional approach.

Consumer Federation of California Foundation supported the prospect of pooled low-income assistance funding, noting though that more information is needed to fully evaluate such a proposal. Consumer Federation of California Foundation agreed that any changes to the water sales forecasting process limit any annual rate increase to twice the demonstrated rate of median household income growth.

Golden State Water Company joined in the comments filed by California Water Association and added details about its low-income program and suggested that sales forecast changes be addressed in the “Balanced Rates” OIR and that the directions of D.16-12-026 be implemented before determining the need to revisit sales forecasting methodology in this proceeding.

Golden State Water Company expressed concern that a uniform program name may create potentially unmet customer expectations of a uniform level of assistance. Golden State Water Company stated that since the implementation of data sharing with the large Commission-regulated energy companies (D.11-05-020), its penetration rates have increased and that it believes its current program has been effective.

Golden State Water Company offered limited support for serving as administrators of small water systems that need operations and maintenance support, qualifying its support upon achieving no cost to the Class A water utilities’ stakeholders.

Great Oaks Water Company also joined in the comments filed by California Water Association and provided additional comments of its own. Great Oaks Water Company urged coordination with the activities of the Board under California Water Code § 189.5. Great Oaks Water Company argued the Commission and the Class A water utilities have long been leaders in ensuring

the human right to water, and industry-wide solutions should not be assumed, as company-specific customer assistance needs should be examined closely. Great Oaks Water Company stated that assessing whether other water companies meet the definition of a public utility is not difficult but should be decided on a case-by-case determination of whether the company is dedicated to public use.

Great Oaks Water Company agreed that “Customer Assistance Program” would be an appropriate uniform name for all companies to use. Great Oaks Water Company stated the current methodology it uses is highly effective in identifying and enrolling eligible customers and was made more effective through the coordination with the California Alternate Rates for Energy (CARE) program enabled in D.11-02-020.

Great Oaks Water Company urged that whatever changes the Commission makes that simplicity in presenting the result to the customer should be an important component. Great Oaks Water Company argued that a flat dollar amount is most appropriate and easily administered by utilities and customers.

Great Oaks Water Company urged the Commission to closely coordinate with the Board with respect to the consolidation of systems that are not able to provide safe, reliable, and affordable drinking water and be cognizant of the measurable risk undertaken by the acquiring company. Great Oaks Water Company also urged the Commission to evaluate the results of D.16-12-026 with respect to sales forecasting before making additional changes in this proceeding. Great Oaks Water Company reiterated that there is no “one size fits all” solution for reducing water use and that there are pros and cons to any sales forecasting methodology. Great Oaks Water Company urged the Commission to not adopt even more rigid rules simply to change the problems caused by the current set of

rigid rules. Great Oaks Water Company also argued that any low-income financial assistance program is unworkable unless the resident/tenant of a multi-family location receives a bill from the water company. Great Oaks Water Company urged the Commission to consider rate design issues in GRCs and not in rulemakings. Finally, Great Oaks Water Company argued D.11-05-020 already addressed the data-sharing issues, and the Commission should not spend time addressing data sharing with non-jurisdictional municipal utilities.

International Bottled Water Association and California Bottled Water Association stated the Commission does not have jurisdiction over bottled water companies and therefore cannot impose public purpose or extraction fees on packaged bottled water products made by these businesses or bottled water end-users.

The Public Advocates Office of the Public Utilities Commission noted the statutory directives to the Commission with respect to communication and energy utilities are detailed and comprehensive, which contrast with the general and brief direction applicable to water utilities low-income rate assistance.¹⁴ Nonetheless, the Public Advocates Office of the Public Utilities Commission argued that Pub. Util. Code § 739.8 provides valuable guidance in the development and evaluation of potential changes to existing low-income water programs. The Public Advocates Office of the Public Utilities Commission stated the need to consider the differences in water needs caused by geography, climate, and the ability of the community to support the programs that are unique to water utilities.

¹⁴ Pub. Util. Code §§ 739.1-739.5, 739.9, and §§ 871 *et. seq.*, *cf.*, Pub. Util. Code § 739.8.

The Public Advocates Office of the Public Utilities Commission agreed that a common name for low-income water programs should be adopted and recommended including the term “water” in the program name to help distinguish it from other Commission low-income programs. The Public Advocates Office of the Public Utilities Commission also recommended specific guidance be provided with respect to any metrics adopted to measure the effectiveness of the program specifically recommending participation rate be calculated as a percentage of total residential customers. The Public Advocates Office of the Public Utilities Commission also argued that participation rate on its own is not a meaningful measurement of effectiveness and that the Commission should evaluate and refine the reporting requirement to ensure it can evaluate the effectiveness based on the community being served.

The Public Advocates Office of the Public Utilities Commission recommended the Commission continue to evaluate consolidation and operator/administrator situations on a case-by-case basis. The Public Advocates Office of the Public Utilities Commission recommended expanding the requirement for Class A water utilities to identify adjacent systems, and clarified that the requirement is to report more than just those that present opportunities for interconnection or acquisition in order to get a better picture of potentially vulnerable systems. The Public Advocates Office of the Public Utilities Commission also recommended the Commission cross-check the adjacent system information provided by Class A water utilities with the Board’s data set that summarizes the compliance status of drinking water systems throughout the state as a starting point for identifying possible acquisition or consolidation candidates.

Further, the Public Advocates Office of the Public Utilities Commission recommended that forecasting of customer demand should proceed independent of affordability programs, and that throughout the process, the Commission should maintain a focus on overall bill impacts. The Public Advocates Office of the Public Utilities Commission recognizes that forecast variance is inevitable in rate-of-return regulation, but that the impact on water utilities has been muted as the result of the WRAM decoupling mechanism in California. While the Public Advocates Office of the Public Utilities Commission recognized that large WRAM balances are not solely caused by a large variance in forecasted sales, it argued that by mitigating the consequences of inaccurate sales forecasts, WRAM and other decoupling mechanisms exacerbate the actual size of the variance. The Public Advocates Office of the Public Utilities Commission also urges the Commission to instruct regulated water systems to provide in GRCs the historical data on service interruptions in order to create a repository of information from which longitudinal studies of safety and reliability performance could be conducted.

Finally, the Public Advocates Office of the Public Utilities Commission recommended the Commission provide (1) a starting point for determining the per capita amount for a low quantity rate to be utilized as part of each GRC process, (2) guidance regarding methods for determining the appropriate assumption for household size in each ratemaking area, (3) guidance regarding tier breakpoints, and (4) guidance regarding the percent difference in pricing between tiers. The Public Advocates Office of the Public Utilities Commission also supported expanding data sharing between energy utilities and municipal water utilities to improve outreach and enrollment in low-income customer assistance programs, as long as it is done in compliance with Commission

decisions¹⁵ and state privacy requirements,¹⁶ and proper cybersecurity measures are in place. The Public Advocates Office of the Public Utilities Commission agreed that those requirements are met when a customer consents to the data sharing and the Commission can modify the CARE application to specifically allow customers to opt-in to data sharing when they apply to CARE.

San Gabriel Valley Water Company provided a summary of its low-income rate assistance program and proposed moving cost recovery from the individual utility to a broad, more diverse population across the entire state. San Gabriel Valley Water Company stated that based on its high participation rates, it serves a lower-income customer base in each of its divisions when compared to other water utilities regulated by the Commission, and a more traditional means of low-income assistance or statewide customer assistance program would provide many benefits such as (1) a “one-stop shop” for all utility low-income programs would simplify the process and encourage greater participation, (2) a reduction in confusion about multiple applications, (3) comprehensive, coordinated outreach, (4) mitigate abuses by customers and streamline administration for utilities, and (5) remove duplicate administrative structures across utilities. Therefore, San Gabriel Valley Water Company supported consolidating utility low-income rate assistance programs. San Gabriel Valley Water Company also supported a program where Class A and B water utilities would report to the Board all water purveyors within or adjacent to their service territories in order to identify high-cost, small-customer base water systems and purveyors unable to provide safe, reliable, and

¹⁵ *Citing*, D.11-07-056, D.11-05-020, and D.14-05-016.

¹⁶ *Citing*, Cal. Civ. Code §§ 1798.24, 1798.82, and Cal. Pub. Util. Code § 8380.

affordable drinking water for possible acquisition. San Gabriel Valley Water Company argued that the Commission should grant exemptions to the non-tariffed products and services rules in specific cases to encourage Class A and B water utilities to serve as administrators for small water systems pursuant to SB 552. Finally, San Gabriel Valley Water Company supported the Commission re-examining its current rate design policies as long as it did so with the goal of encouraging conservation, while at the same time providing a sufficient amount of water to meet essential needs at an affordable rate, and enabling the utility to generate its revenue requirement without unduly burdening one class of customer to the benefit of another. Further, San Gabriel Valley Water Company agreed that authorizing Sales Reconciliation Mechanisms during drought periods will help mitigate the regressive nature of rates caused by amortizing high WRAM and Drought Lost Revenue Memorandum Account (DLRMA) balances.

Southern California Edison Company agreed a consistent naming convention would be beneficial to both utilities and customers. It uses the "CARE" name for its low-income program at its Catalina Water system to provide a consistent marketing message, name recognition, enrollment, and billing for customers across its electric, gas and water utilities on Catalina and recommends the CARE name would make sense for all other water utilities for those reasons. Southern California Edison Company acknowledged the various pros and cons to dollar-based and percentage-based discount methodologies, and noted that it currently utilizes a percentage discount on its water (and electric) rates and would need to consider how to shift customers to a flat dollar discount for its Catalina Water customers should such a change be required.

Southern California Edison Company stated that there is no one-size-fits-all answer when it comes to rate design and supported establishing guidelines for water utilities to consider when designing low-income rate assistance programs during each utilities' respective GRC proceedings. Further, Southern California Edison Company stated that it is important for each water utility to be given the flexibility to study its system and create a rate design, including establishing a Tier 1 amount reflective of the essential needs of customers in the system as part of a GRC.

Southern California Edison Company outlined a number of legal and policy hurdles in sharing customer data with municipal water systems and suggested a better approach would be to allow CARE customers to opt-in to data sharing when they apply to CARE and permit the sharing of their names and addresses with other utilities or municipalities to enroll them in assistance programs. Finally, Southern California Edison Company argued that this proceeding was not the best forum to consider data access issues for municipalities because the Commission has specifically rejected the question,¹⁷ and there is a process to overturn or reconsider Commission decisions.

The Joint Advocates (Leadership Counsel for Justice and Accountability, Community Water Center, and Pacific Institute) cautioned against privatization of public utilities and urged that when consolidation or acquisition does occur that appropriate language outreach and meaningful community involvement should occur. The Joint Advocates urged the Commission to work with the Board to create guidelines on best practices for consolidations and urged the Commission to independently explore opportunities for extension of service to

¹⁷ *Citing*, D.14-05-016 at 35-36

residents currently served by domestic wells. The Joint Advocates encouraged coordination with the Board with respect to its information on systems that face affordability problems or challenged to meet the requirement to provide safe, reliable, and affordable drinking water.

In addition, the Joint Advocates encouraged the Commission to use the output of SB 244 commissions formed by cities, counties, and local agencies to identify disadvantaged communities within their jurisdiction and/or sphere of influence as a source to identify small rural communities that are struggling with failing water and wastewater services.

The Joint Advocates also called for moving to a system of consumption-based fixed rates, and if that isn't feasible, capping fixed charges at 30% of revenue, and pre-approving drought surcharges that could be enacted as soon as a drought begins, limited to the second tier of use and above. The Joint Advocates also sought additional indicators to measure affordability: First, the general system-level unaffordability metric would measure when the bill for meeting minimum indoor needs is unduly burdensome for median-income households in the service area; Second, the Low-Income System Unaffordability metric would measure when the bill for meeting minimum indoor needs is manageable for median-income households, but unduly burdensome for low-income households; and Third, the Household Unaffordability metric would measure when a household has difficulty paying their bill, regardless of whether it is affordable for others in their service area with higher incomes. They offer different strategies to address each of these measurements.

Additionally, the Joint Advocates (The Environmental Justice Coalition for Water, the Pacific Institute for Studies in Development, Environment and Security, National Resources Defense Council, Leadership Counsel for Justice

and Accountability, Center for Accessible Technology, and Community Water Center) urged the Commission to develop a program to make water affordable to low-income customers without sacrificing conservation goals. The Joint Advocates also urged caution before enshrining a 55 gallons per capita per day standard for essential indoor water use as low-income households tend to be low-volume users, and the average use in California is currently below that threshold.

They also encouraged the Commission when adopting any standard to consider special cases such as where some low-income households have higher-than-average water needs because of outdated appliances, unrepaired leaks, medical conditions, special work needs, or a large number of occupants. The Joint Advocates encouraged the Commission to expand the Energy Savings Assistance Program (ESAP) to water conservation and efficiency. Finally, the Joint Advocates found promise in sharing information with municipal water utilities, but sought safeguards to ensure personal information is not shared beyond the utilities serving a given customer before such sharing of information was allowed.

4.2. Comments on the 2019 Workshops and Workshop Reports

California Water Association, the Center for Accessible Technology and Pacific Institute for Studies in Development, Environment, and Security (Joint Comments), the Public Advocates Office of the Public Utilities Commission, and Southern California Edison Company submitted comments. Reply comments were filed on July 24, 2019, by the California Water Association, the Leadership Counsel for Justice and Accountability, Community Water Center, and Pacific

Institute for Studies in Development, Environment, and Security (Joint Reply Comments), and the Public Advocates Office of the Public Utilities Commission.

4.2.1. Water Sales Forecasting Comments

The Public Advocates Office of the Public Utilities Commission called for the Commission to require each Class A Water utility in its GRC application to use a Sales Forecasting Model that accounts for at least the following factors:

- The impact of proposed revenue allocation and rate design on sales and revenue collection;
- The impact of planned conservation programs;
- Changes in customer counts;
- Previous and upcoming changes to building codes requiring low flow fixtures and other water-saving measures, as well as any other relevant code changes;
- Local and statewide trends in consumption;
- Demographics, climate, population density, and historic trends, by ratemaking area; and
- Past sales (of more than one year).

The Public Advocates Office of the Public Utilities Commission also called for ensuring that sales forecasting occur exclusively in GRCs, be done by ratemaking district, and include drought years when assessing historic data. The Public Advocates Office of the Public Utilities Commission sought to maintain transparency, accountability, and public participation opportunities for discussions of possible changes in sales forecasting process and procedures, and minimize rate changes outside of GRCs. The Public Advocates Office of the Public Utilities Commission encouraged the Commission to evaluate the accuracy of sales forecast models on an ongoing basis for continuous improvement. The Public Advocates Office of the Public Utilities Commission also sought to have sales addressed by tier, and possibly link Tier 1 breakpoints

to projected essential use quantities or assumed indoor water usage. The Public Advocates Office of the Public Utilities Commission stated that rates per tier should be assessed, and not determined exclusively as a percentage of Standard Quantity Rates (SQRs). The Public Advocates Office of the Public Utilities Commission encouraged the Commission to require water utilities to evaluate and measure the effectiveness of conservation programs. Further, the Public Advocates Office of the Public Utilities Commission stated the Commission should update the rate case plan to provide relevant guidance for sales forecasting, particularly since the rate case plan was last modified in 2007 and has not been updated to account for changes to sales forecasting due to recent drought events, legislation declaring conservation as a way of life, and the addition of WRAMs.

The Public Advocates Office of the Public Utilities Commission noted that it had recently recommended budget forecasts larger than those proposed by water utilities in GRCs in order to account for known and measurable cost increases that, in the utilities proposals, that would have resulted in rate increases via existing mechanisms that operate outside of GRCs. To increase the transparency of rate impacts, the Public Advocates Office of the Public Utilities Commission argues the Commission should reduce the number of alternative ratemaking mechanisms like WRAM rather than creating new ones like SRM. Further, the Public Advocates Office of the Public Utilities Commission argued utilities should not propose, and the Commission should not adopt sales forecasts with any particular rate outcome in mind. Instead of lowering noticed rate impacts with higher than reasonable sales forecasts and allowing new mechanisms to “stagger the impact on customers into smaller increments” as suggested by California Water Association, the Public Advocates Office of the

Public Utilities Commission suggested water utilities should propose accurate forecasts openly and transparently in GRCs. The Public Advocates Office of the Public Utilities Commission stated that customers should not be required to face the continued uncertainty of stealth rate increases that accompany the operation of existing – much less new – alternative rate mechanisms.

California Water Association called for the Commission to require each Class A Water utility in its GRC application to use a Sales Forecasting Model that accounts for at least the following factors:

- The impact of proposed revenue allocation and rate design on sales and revenue collection;
- The impact of planned conservation programs;
- Changes in customer counts;
- Previous and upcoming changes to building codes requiring low flow fixtures and other water saving measures, as well as any other relevant code changes;
- Local and statewide trends in consumption;
- Demographics, climate, population density, and historic trends, by ratemaking area; and
- Past sales (of more than one year).

The Joint Advocates (Center for Accessible Technology, Leadership Counsel for Justice & Accountability, Community Water Center, and Pacific Institute for Studies in Development, Environment, and Security) called for consideration of short-term sales forecasting (on a 3-5 year time horizon) and long-term demand forecasting (on a time horizon of approximately 30 years) as distinct issues. The Joint Advocates claimed that there has been a historic tendency to overestimate future demand in long-term demand forecasting because of a failure to incorporate the effect of water efficiency standards and codes. The Joint Advocates stated that to account for efficiency improvements,

forecasters should consider the various end uses of water by examining the stock and efficiency of appliances as well as behavioral aspects of water use, such as shower duration and frequency. They noted this approach is described in detail in the Water Research Foundation's 2018 report, Integrating Water Efficiency into Long-Term Demand Forecasting.

Southern California Edison Company called for the Commission to provide flexibility to water utilities to develop water sales forecasts based on individual water system characteristics, forecast period, data availability, and purpose of the forecast. Southern California Edison Company stated that multiple mechanisms are available for implementation that would improve the accuracy of sales forecasts and evaluate the potential for future drought when forecasting water sales. Southern California Edison Company noted that one option for improving the accuracy of a sales forecast is to shorten the forecast period. Southern California Edison Company also noted that an annual drought forecast approach is reasonable as predicting environmental and water conditions three years into the future is increasingly difficult. Southern California Edison Company claimed such an approach also supports utilities producing sales forecasts on an annual basis.

4.2.2. WRAM Comments

California Water Association argues that it is procedurally improper to seek to modify several final Commission Decisions in this proceeding, and that the WRAM/MCBA does not relate to the scope of this low-income proceeding. California Water Association strongly objects to reverting full WRAM/MCBA utilities to a Monterey Style WRAM/ICBA ratemaking mechanism. California Water Association contends that the Monterey Style WRAM does not fulfill the purpose of the full WRAM as it is a rate design tool and does not decouple sales

from revenues. California Water Association explains that financial stability is supported by the existence of WRAM, and that it allows utilities to implement conservation rates.

However, California Water Association opines that if the Commission decided to revert existing WRAM/MCBA utilities to Monterey-Style WRAM/ICBA, that should occur in the context of each utility's GRC as each utility faces different circumstances. Accordingly, California Water Association recommends a showing that such specific circumstances warrant such a transition.

The Public Advocates Office of the Public Utilities Commission contended there should be a clear change in policy and existing WRAM/MCBA utilities should be converted to Monterey-Style WRAM/ICBA. The Public Advocates Office of the Public Utilities Commission also supported implementation of this proposed change in each utility GRC. The Public Advocates Office of the Public Utilities Commission argued that use of the Monterey-Style WRAM is superior as sales risk is not with ratepayers but with the utility. The Public Advocates Office of the Public Utilities Commission further stated that a full WRAM/MCBA does not account for other impacts on sales such as economic cycles and weather, which should be considered a general business risk.

The Public Advocates Office of the Public Utilities Commission explained that because some fixed costs are included in the quantity revenues, that by providing total recovery of all quantity sales, WRAM is providing revenue recovery of estimated fixed costs, not actual. Consequently, when the estimated fixed cost portion of quantity rates does not occur, WRAM still provides recovery of these costs.

Southern California Edison Company recommended that changes in water decoupling programs should be on a case-by-case basis. Southern California Edison Company stated that implementing a change to a Monterey-Style WRAM may balance the benefits and risks of implementing a conservation rate design more equitably among stakeholders. Southern California Edison Company noted that WRAM is similar to energy sales programs and permits investment in infrastructure and conservation-related programs.

4.2.3. Tier 1 Water Usage and Water Baselines Comments

California Water Association recommends that the first tier in water usage would be set at a baseline rate for affordability and conservation purposes. However, California Water Association does not support setting a standard rate that would apply to all utilities noting that every utility, and even utility districts, is different with different use characteristics and average customer usage. California Water Association opposes setting this first-tier rate to reflect only variable costs, and no fixed costs, as this shifts all fixed cost recovery to higher tiers and other customers. California Water Association would not request utilities to develop rates based on the household size as gathering and verifying household size and data and enforcing household size rules would be extremely difficult and contentious.

The Public Advocates Office of the Public Utilities Commission agreed with California Water Association regarding not setting the first-tier usage at a standard amount, which is a position also advocated by Southern California Edison Company. The Public Advocates Office of the Public Utilities Commission argued that the Commission should require utilities to provide analysis in their GRCs to determine the baseline amount that would be Tier 1 usage for a particular service area. The Public Advocates Office of the Public

Utilities Commission argued that Tier 1 rates should consider not only variable costs but also whether an amount of fixed costs should also be included. The Public Advocates Office of the Public Utilities Commission opined that limiting the number of large households in higher tiers will help to provide essential usage to these customers.

Center for Accessible Technology supported a calculation of Essential Indoor Usage (EIU) based on household size and average usage in a water utility service area. The EIU would determine baseline amounts of water and would vary among utility service areas due to variances in local climates, demographics, and other factors. The baseline would always exceed a specified amount as an absolute baseline. Center for Accessible Technology recognizes that fixed costs may need to be included in Tier 1 rates; however the critical issue is providing a minimal amount of water necessary for human consumption. Center for Accessible Technology also believed that despite setting a Tier 1 consumption and rate, the rate design should provide an opportunity for individual customers to request variances.

4.2.4. Low-Income Water Program Name Comments

California Water Association recommends adopting “Customer Assistance Program” or CAP, as the standardized name for low-income water programs offered by Class A water utilities. This is in line with program names and recommendations from US EPA, Water Research Foundation and other states, and avoids the stigma of including term “low-income” which may deter customer adoption.

The Public Advocates Office of the Public Utilities Commission does not suggest a specific name but agrees the name selected should be non-stigmatizing.

Southern California Edison Company recommends using the CARE acronym in order to align with energy utilities as it is synonymous with low-income assistance. Southern California Edison Company currently uses the CARE name for its water program on Catalina Island.

Center for Accessible Technology supports a uniform, non-stigmatizing name and notes that “LIRA” is bureaucratic and has no direct meaning to customers.

4.2.5. Low-Income Multi-Family Housing Pilots Comments

Center for Accessible Technology supports providing benefits to low-income tenants who do not directly pay a water bill through a pilot program.¹⁸ They did not suggest specific recommendations for implementation, but did discuss some of the options that had been considered in the State Water Resources Control Board’s draft AB 401 report to deliver credit to these tenants, including delivering a credit through energy bills, the state’s CalFresh program and an income tax credit.

The Public Advocates Office of the Public Utilities Commission supported waiting until the outcome of the AB 401 process before deciding how to assist low-income water users that do not pay their bill directly.¹⁹ However, in the meantime, they recommended implementing several requirements to protect this population. These included: requiring water utilities to provide notification to tenants who do not directly pay their water bill if/when their bill is in default and service may be terminated, requiring water utilities to provide tenants, in the

¹⁸ Center for Accessible Technology Comments dated September 16, 2019 (Center for Accessible Technology 2019 Comments) at 10-11.

¹⁹ Public Advocates Comments dated September 16, 2019 at 8-9.

event their landlord is in default of a water bill, the opportunity to pay the bill directly and then deduct that amount from rent, and allowing multi-family housing units to qualify for LIRA programs if the housing is owned by a non-profit and are for the explicit purpose of providing affordable housing to low-income residents.

California Water Association supported allowing small-scale pilot programs to provide discounts to master metered low-income tenants but opposes any requirement that the benefits be passed on to low-income master metered tenants.²⁰ They believed this requirement would be difficult to enforce and did not wish to be involved in landlord-tenant relationships. They suggested that CalFresh would be the best currently existing option to distribute benefits to tenants in multi-family dwellings, and any pilot program should be designed so that the benefit is delivered through CalFresh.

Southern California Edison Company opposed a requirement that benefits be passed on to low-income master metered tenants.²¹ Instead, they recommended existing water low-income programs incorporate some tenant-level communications. This could include actions such as an approval or rejection letter issued directly to the tenant for enrollment in the program and a monthly listing of tenants receiving the discount to owners/operators.

California Water Association expressed concern that the Public Advocates' recommendations were administratively unworkable and not likely to achieve the desired result.²² California Water Association opposed requiring the notification of low-income water users who do not directly pay their water bill if

²⁰ California Water Association Comments dated September 16, 2019 at 21-23.

²¹ Southern California Edison Company Comments dated September 16, 2019, at 7.

²² California Water Association Reply Comments dated September 26, 2019 at 3-6.

it is in default and argued that since the utility does not bill these users directly, a water utility does not know who they are or how to locate them. They similarly opposed requiring water utilities to provide tenants the opportunity to pay the bill directly and then deduct that amount from rent as they believe it is infeasible and landlord-tenant disputes are outside of the jurisdiction of the Commission. Lastly, California Water Association argued allowing multi-family owned by non-profits and designated to provide affordable housing to low-income residents is better aligned with a pilot program approach than a greater Commission-wide requirement. California Water Association also opposed Southern California Edison Company's tenant enrollment approval/rejection proposal as infeasible and creating new privacy issues.

4.2.6. Reporting Mechanism Comments

California Water Association argued current reporting mechanisms are enough. Currently, Class A utilities regularly report on their low-income programs; those programs are reviewed as part of the utility's GRC; and Low Income Oversight Board (LIOB) includes a water utility representative.

The Public Advocates Office of the Public Utilities Commission suggested requiring water utilities with a low-income program to provide an evaluation of their respective program in their annual report and adopt a requirement that the final decision in each utility's GRC provide an ordering paragraph that details the required low-income program metrics for that utility to report in its annual report.

4.2.7. Water Consolidation Timeline Comments

California Water Association argued its expedited timeline should be adopted because the current schedule guidelines are often ignored. California Water Association said that if the Commission wants to update D.99-10-064's

water system acquisition framework, such updates should be reasonable and facilitate speedy resolution of applications and advice letters. California Water Association stated the scoping memo rulings in recent acquisition proceedings already included these requirements, adding, for example, reply briefs, the opportunity for comments and other more recent Commission procedures. California Water Association claimed the overall framework set out in D.99-10-064 still helps facilitate efficient and cost-effective consolidation of at-risk water systems and therefore does not require substantial overhauling.

The Public Advocates Office of the Public Utilities Commission suggested that the Commission not adopt a specific timeline like the one suggested by California Water Association because an expedited advice letter process already exists for small, distressed systems. The Public Advocates Office of the Public Utilities Commission said water utilities put auxiliary requests in their consolidation applications which often leads to them taking longer; therefore, the Commission should not be following a more restrictive schedule when processing these applications.

Center for Accessible Technology stated the Commission should not adopt California Water Association's timeline, especially since California Water Association objected to limiting the scope of requests in acquisition applications as proposed by the Public Advocates Office of the Public Utilities Commission. If a request raises new or more complex issues, an appropriate schedule should be set based on the issues raised.

4.2.8. Utility Affiliate Transaction Rule Comments

California Water Association stated current utility transaction rules are sufficient, and water utilities need the flexibility to use the administration framework that best addresses the issues the system is facing.

The Public Advocates Office of the Public Utilities Commission urged the Commission should maintain current ratepayer protections that require all incremental costs associated with providing non-tariffed (*i.e.* administrator) services to be allocated to unregulated operations and not reduce the portion of non-tariffed revenues that are credited to ratepayers.

4.2.9. Safe Drinking Water Loan Funds Comments

California Water Association recommended speedy approval of safe drinking water fund loan authorization requests and greater assistance from Commission staff in working with Board staff in the application and implementation process.

5. Water Sales Forecasting

All parties agreed that California's rising drought risks created new challenges for sales forecasting and water efficiency. However, the alternative solutions presented offered varying levels of specificity and little agreement among the parties.²³ California Water Association proposed no substantive change from the current method and advocated against any uniform requirements. The Public Advocates Office of the Public Utilities Commission provided the most persuasive approach, setting forth specific factors water utilities should use in their individual sales forecasts. Southern California Edison

²³ California Water Association at 11-12, The Public Advocates Office of the Public Utilities Commission at 1-3, SCE at 2-4.

Company sought to move the sales forecast to an annual process, similar to the electric Energy Resource Recovery Account (ERRA) with annual updates, or include the possibility for multiple forecasts to be approved in the GRC process with the water utility selecting the drought or non-drought option each year depending on more recent forecasts.

5.1. Requiring Specific Factors in Future Sales Forecasts

We have long recognized that sales forecasting is specific to each water utility and the areas they serve; however, in adopting the initial Water Action Plan in 2005, we determined that there were some uniform best practices that should be adopted to govern how all water utilities approach and work within the regulatory framework in California. After reviewing the comments and the record in this case, we are persuaded that additional guidance is needed to ensure water utilities incorporate the rising drought risk in California.

5.1.1. Short Term Forecasting

Specifically, we agree with the Public Advocates Office of the Public Utilities Commission that drought year data should be included in forecasting. Further, certain factors should be included in the sales forecasting model presented by a water utility in its GRC or equivalent. While water utilities may still choose their preferred water sales forecasting model, the following factors should be incorporated into the model they choose:

1. Impact of revenue collection and rate design on sales and revenue collection.
2. Impact of planned conservation programs.
3. Changes in customer counts.
4. Previous and upcoming changes to building codes requiring low flow fixtures and other water-saving measures, as well as any other relevant code changes.

5. Local and statewide trends in consumption, demographics, climate population density and historic trends by ratemaking area.
6. Past Sales Trends.

Thus, in any future GRC submitted after the effective date of this decision, a water utility applicant must discuss how these specific factors impact the sales forecast presented in the application.

5.2. Water Revenue Adjustment Mechanisms

The issue of adapting the sales forecast over time and matching as closely as possible the revenue generated by rates to the costs approved for the year is made more difficult as we consider the impacts of drought risks in each service area. Parties identified the WRAMs as one way we could further adapt our policies to changing conditions while still allowing utilities the ability to earn a reasonable rate of return and keep rates just and reasonable.²⁴ Southern California Edison Company's proposal to allow utilities to update sales forecasts yearly was an approach we considered, but we reject it at this time as it is more cumbersome than our preferred alternative.

In order to achieve a goal of this proceeding to improve water sales forecasting, we agree with the Public Advocates Office of the Public Utilities Commission that water utilities that currently use a WRAM²⁵ should propose a

²⁴ Pub. Util. Code § 451. Cal-Am 2017 Comments at 3, California Water Association 2018 2018 Comments at 7-9, The Public Advocates Office of the Public Utilities Commission 2018 Comments at 7-8, San Gabriel Valley Water Company 2017 Comments at 8. *See also*, The Public Advocates Office of the Public Utilities Commission Sept. 2019 Comments at 5, California Water Association Sept. 2019 Comments at 13-16, SCE Sept. 2019 Comments at 3-5.

²⁵ Cal-Am, California Water Service Company, Golden State Water Company, Liberty Utilities (Park Water) Corporation, and Liberty Utilities (Apple Valley Ranchos Water) Corporation. *See*, D.08-08-032, D.08-06-022, 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.

Monterrey-Style WRAM in their next GRC. As discussed below, we find that the problems identified in the current WRAM/MCBA process are minimized in a Monterrey-Style WRAM without reducing the benefits we seek to achieve through the use of the WRAM process.

5.2.1. Transitioning WRAM Utilities to Monterey-Style WRAM

The WRAM and MCBA were first implemented in 2008 and were developed as part of a pilot program to promote water conservation. The Commission adopted these mechanisms as part of conservation rate design pilot programs. The goals of the WRAM/MCBA are to sever the relationship between sales and revenue to remove any disincentive for the utility to implement conservation rates and programs; ensure cost savings are passed on to ratepayers; and reduce overall water consumption.

The revenue and rate impacts of WRAM/MCBA amounts are implemented through balancing accounts. When actual sales are less than forecasted sales used in establishing a revenue requirement, the revenue shortfall, less offsetting marginal expenses, is surcharged to customers in addition to their regular tariffed rates. However, these balances rarely provide a positive balance (over-collected) but instead have been negative (under-collected).²⁶ Consequently, ratepayers experience not only the rate increase attributable to GRC rate changes, including increases in attrition years, but also a subsequent rate increase due to amortizing negative WRAM balances. It is unlikely that the average customer understands how this regulatory mechanism

²⁶ D.12-04-048 at 13.

works, consequently, customers experience frustrating multiple rate increases due to GRC test year, attrition year, WRAM/MCBA, and other offsets.²⁷

The Commission adopted settlements between the Division of Ratepayer Advocates (currently the Public Advocates Office of the Public Utilities Commission) and various Class A water utilities in D.08-06-002, D.08-08-030, D.08-08-032, D.08-09-026, D.08-11-023, D.09-05-005, D.09-07-021, and D.10-06-038. These settlements included conservation rate design and adoption of WRAM as a means of promoting conservation by decoupling sales from revenues. As explained in D.08-08-030, the Commission, while citing to the 2005 Water Action Plan, found that water utilities had a financial disincentive to conserve water. The Commission then concluded that to advance the goals of conservation, the Commission would need to remove that disincentive.²⁸ These decisions adopted WRAM mechanisms for California Water Service Company, California-American Water Company, Golden State Water Company, Liberty Utilities (Park Water) Corp., and Liberty Utilities (Apple Valley Ranchos Water) Corp. These five utilities are commonly called the “WRAM utilities.” In addition, the Commission adopted a settlement between the precursor to the Public Advocates Office of the Public Utilities Commission and San Jose Water Company, which is essentially the Monterey-Style WRAM.²⁹

This Monterey-Style WRAM adjusts for the revenue effect of metered tiered rates compared to the revenue SJWC would have received from single flat quantity rates if single flat rates had been in effect. The Monterey-Style WRAM, a regulatory mechanism initiated in the Monterey District of California-

²⁷ California Water Association 2018 Phase I Comments at 7-9.

²⁸ D.08-08-030 at 28.

²⁹ D.08-08-030 at 22.

American Water Company,³⁰ recognizes that with higher rate tiers there is an unstable revenue effect on Monterey-Style utilities due to small changes in water usage.

When initiating the WRAM, the Commission recognized that quantity revenues would be offset by variable costs of water supply.³¹ Consequently, the Commission adopted an offset to WRAM through the MCBA, which reflects costs such as purchased water, purchased power, pump taxes, chemicals, and similar costs which vary according to the amount of water sold.³² As implemented by the non-WRAM utilities, the Monterey Style WRAM amounts are also offset by variable costs which are accounted for in the ICBA.³³

Subsequently, in D.12-04-048, the Commission addressed the amortization of WRAM accounts, including determining the amounts and periods over which WRAM would be recovered. In D.12-04-048, the Commission also found that the WRAM/MCBA is part of pilot programs to promote water conservation. In addition, the Commission found that there was uncertainty over the success of adopting WRAM/MCBA programs and therefore ordered each affected utility in its next GRC to provide testimony that at a minimum addressing various options:

Option 1: Should the Commission adopt a Monterey-Style WRAM rather than the existing full WRAM?

Option 2: Should the Commission adopt a mechanism that bands the level of recovery, or refund, of account

³⁰ D.96-12-005; *see also*, D.00-03-053.

³¹ D.08-08-030 at 15.

³² D.08-06-002, Appendix A, Section VIII at 7. (*See also*, D.08-08-030 at 26.)

³³ D.08-06-002, FoFs 4, 8-10. While the WRAM/MCBA is called a “pilot,” there is no indication this program included goals, metrics, or other standards usually found in a pilot program.

balances based on the relative size of the account balance?

Option 3: Should the Commission place WRAM surcharges only on higher tiered volumes of usage, thereby benefiting customers who have usage only in Tier 1 or have reduced their usage in the higher tier levels?

Option 4: Should the Commission eliminate the WRAM mechanism?

Option 5: Should the Commission move all customer classes to increasing block rate-design and extend the WRAM mechanism to these classes?³⁴

A review of subsequent GRC filings shows that while utilities included testimony addressing WRAM/MCBA options as ordered in D.12-04-048, the proceedings were resolved by settlements that did not specifically adjudicate the questions raised in D.12-04-048. Consequently, the policy to continue the use of WRAM/MCBA has not been adjudicated, and the use of WRAM/MCBA continued for the five WRAM utilities.

While the Commission concluded that the WRAM mechanism should be maintained in D.16-12-026 (in R.11-11-008), the Commission noted the uncertainty of sales forecasts, the need for conservation, and that WRAM provided a means to support sustainability and attract investment during a current drought period and beyond.³⁵ The Commission also ordered that if utilities proposed adjusting the fixed cost portion of revenues in rates, WRAM utilities also submit alternative proposals to reduce reliance on the WRAM/MCBA balances and surcharges.³⁶

³⁴ D12-04-048, OP 4.

³⁵ D.16-12-026 at 41.

³⁶ D.16-12-026 at OP 13.

As noted above, the September 4, 2019, assigned ALJ Ruling included a summary of the August 2, 2019, Workshop, where parties raised the issue of the WRAM during the discussion of mechanisms to improve sales forecasts during droughts. The scope of this proceeding includes consideration of “how to improve water sales forecasting.” Thus, based on the discussion at the workshop on ways to improve water sales forecasting, the ruling specifically 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.³⁷ Therefore, consideration 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.

**5.2.2. GRC Decisions Subsequent to
D.12-04-048 Have Not Resolved
Whether to Continue Implementing the
WRAM/MCBA Mechanism**

While the Commission has chosen not to change the existing WRAM mechanisms, it also did not endorse the continuation of the “pilot” program in an adjudicated proceeding or rulemaking. This is the first time the Commission has taken input to consider the foundational issue of whether WRAM/MCBA should continue, and if so, in what form it should continue. In addition, we note that there is no indication in the proceedings since D.12-04-048 that parties quantified the risk attributable to having a WRAM or not having a full WRAM, and no party presented any such quantification. Furthermore, there is no legal basis upon which WRAM/MCBA is required or necessary in water utility regulation. Thus, it has become clear during the course of this proceeding that

³⁷ Administrative Law Judge’s Ruling Inviting Comments on Water Division Staff Report and Responses to Additional Questions, September 4, 2019, at 3.

review of the WRAM/MCBA is an important component of our consideration of ways to improve water sales forecasting.

The continuation of WRAM/MCBA as a regulatory tool to encourage conservation, yet account for the differences between forecasted sales and actual sales, engenders other negative consequences. One that is often heard in public participation hearings is the phrase, “I continue to conserve but my bill continues to increase.”³⁸ One explanation is that the WRAM balancing account under-collections are surcharged through the quantity rates. Thus, the declining use of water through the WRAM mechanism results in shortfalls in revenue, which includes a portion of fixed costs that must be then surcharged to customers for recovery. As this shortfall in revenue is then surcharged to customers in the quantity rates, the quantity rate increases, and customers conserve further by using even less water at these higher rates, and the WRAM under-collection increases.

In 2012, the Commission observed, in reference to WRAM balances, that “After the WRAM/MCBA mechanisms were first adopted in 2008, there have primarily been under-collections, and these under-collections are often quite substantial.”³⁹ Subsequently, the WRAM balances have continued to be significantly large and under-collected. Although some of these under-collected balances reflect droughts in 2014, 2015, and 2016, a review of WRAM utility balancing accounts over the past years rarely indicates an over-collected balance.

³⁸ See, e.g., D.16-12-026 at 36.

³⁹ D.12-04-048 at 3.

5.2.3. The WRAM/MCBA Ratemaking Mechanism is Not Necessary to Achieve Conservation

While the WRAM/MCBA mechanism adjusts for differences between sales forecasts and actual sales, it is less certain that WRAM is necessary to promote conservation. Conservation is not done by the utility but instead is accomplished by the customers. The utility does not save water or use less water, but instead, the utility through its rates, especially tiered rates that increase the cost per unit of quantity, provides a signal to customers that increased usage will result in increased costs per unit consumed. This basic supply and demand message based on cost is further enhanced by consistent messages to customers to conserve a precious resource, as well as conservation programs such as low-flow showerheads, toilets, sod removal programs and other conservation messages, executive orders, Board orders, and new laws. While both the utilities and the customers should take pride in their conservation accomplishments, it is the customers that have made the choices to use less water encouraged by tiered rates or state executive orders, Board orders, and state statute.

The Public Advocates Office of the Public Utilities Commission in its reply comments argued that the annual change in average consumption per metered connection for Class A water utilities with full decoupling WRAM is very similar to the same consumption by Class A water utilities without a full decoupling WRAM. In support of this contention, the Public Advocates Office of the Public Utilities Commission provided a graph showing 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.⁴⁰

Similarly, a review of reported annual consumption from the State Water Resources Control Board 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. As shown in Table A, Water Savings Percentages, derived from public information available from the State Water Resources Control Board, during the period between 2015 and 2019, the cumulative water savings for the five WRAM utilities varied between 17 and 24%. During the same period, 2015-2019, the cumulative water savings for the four utilities with Monterey-Style WRAMs varied between 19% and 26%. That is, the water savings, or conservation, by utilities without WRAMs actually exceeded the conservation for those utilities with WRAMs.

In addition, as shown in Table A, the conservation exhibited by Class B utilities that have neither WRAM/MCBA mechanisms, nor Monterey-Style WRAMs for this period between 2015 and 2019 is between 19% and 32%, which exceeds WRAM and non-WRAM utilities. While individual water utility characteristics might explain some of these differences, it appears customer conservation is accomplished independently of whether a utility does or does not maintain a WRAM/MCBA mechanism.

These factors lead us to believe that it is not necessary for a utility to have a full WRAM/MCBA mechanism in order that their customers conserve water. Instead, it appears that over the years since WRAM/MCBA mechanisms were adopted, including drought years in 2014, 2015, and 2016, customers have

⁴⁰ The Public Advocates Office of the Public Utilities Commission Sept. 2019 Reply Comments at 7.

heeded the continuing message that water is a precious resource that should not be wasted.

5.2.4. Because the WRAM/MCBA Mechanism is Implemented Through a Balancing Account, there are Intergenerational Transfers of Costs

When WRAM balances, which have been significant and under-collected, are recovered through the WRAM/MCBA mechanism, the recovery payments may be made by a different group of ratepayers than those incurring the costs. Some customers may have moved and been replaced by others or may be new customers. In addition, usage patterns may have changed. These effects in the WRAM/MCBA mechanism implementation mean that different customer groups will be paying for the costs generated by an earlier customer group.⁴¹ While such intergenerational transfers may not be significant over long periods of time, we seek to minimize such transfers when possible in order to keep rates just and reasonable. We therefore find that the WRAM/MCBA mechanism is not the best means to minimize intergenerational transfers of costs when compared to an alternative available to the utilities and the Commission.

5.2.5. Transition to a Monterey-Style WRAM

In view of the foregoing, we believe that it is an appropriate time to move to eliminate the full WRAM/MCBA mechanism. However, to account for the consequences of inaccurate forecasts, it is reasonable that these former WRAM utilities be provided an opportunity to establish Monterey-Style WRAMs offset by ICBAAs.

In ordering this transition, we are aware that an immediate transition is unreasonable as current rates for WRAM utilities are based on adopted forecasts,

⁴¹ D.16-12-026 at 37.

which anticipate that corrections between forecasted and actual sales will be resolved through WRAM balances. To establish reasonable new rates based on forecasts that do not include this assumption, a new sales forecast should be developed and applied to rates, including a tiered rate structure for each utility.

Because the WRAM/MCBA mechanism has been used for over 10 years by the five WRAM utilities, and as there are many individual associated factors such as accounting, billing, and other related issues for these WRAM utilities, we agree with California Water Association that such a change should not be implemented immediately. Further, as noted, each WRAM utility may face different circumstances in the implementation of this major change. Therefore, as California Water Association recommends, we are ordering this transformation from WRAM/MCBA to Monterey-Style WRAM/ICBA to occur in the context of each WRAM utility's GRC. This means, our adoption of this significant policy change will not be implemented immediately but rather in the context of each GRC for each of the five WRAM utilities.

5.2.6. For Utilities Without WRAM/MCBA Mechanisms, Accurate Forecasts of Water Sales in General Rate Cases Places Added Significance on the Reliability of the Adopted Forecasts

The Commission has stated, "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."⁴² As discussed elsewhere in this decision, both utilities and their customers rely on forecasts that are as accurate as possible. Without a WRAM/MCBA mechanism, the forecast determines how all rates, both service charge and quantity rates, are

⁴² D.16-12-026 at 18.

established for the future. It will be incumbent upon the parties in each GRC to determine that the recommended forecasts are as accurate as possible. The consequences of inaccuracy can be significant to both the water utility and the customer. The WRAM/MCBA mechanism removes most of those consequences from the water utility and removes most of the risk from customers, by adding a means to adjust future rates to meet the approved revenue requirement. The earlier settlements reached in GRCs for California-American Water Company, California Water Service Company, Golden State Water Company, Liberty Utilities (Park Water) Corp., and Liberty Utilities (Apple Valley Ranchos Water) Corp. which established WRAMs for these utilities allude to the transfer of risk, but there is no evidence that this change was ever given a value to be included in determining the cost of equity for any utility. We believe this is true because, as pointed out by California-American Water Company, we cannot quantify that risk as it does not exist in a vacuum but as one element within many risks, such as the economy or weather.⁴³ Consequently, while we are ordering the utilities with WRAMs to transition to Monterey Style WRAMs, we cannot also conclude that there is a measurable change in the perceived risk component.

5.2.7. Lost Revenue Due to Reduced Sales During Droughts

During the Governor declared drought emergencies, the Commission has adopted appropriate measures which allowed utilities without a WRAM/MCBA to track lost revenues due to reductions in water use due to both voluntary and mandatory customer reductions. As described in Resolution W-4976 adopted February 27, 2014, these measures provide that a utility without a WRAM/MCBA was authorized to establish a Lost Revenue Memorandum

⁴³ D.08-08-030 at 28-29.

Account to track revenue shortfalls.⁴⁴ All non-WRAM utilities availed themselves of the opportunity to establish such accounts and thus were able to recover lost revenues caused as a result of the declared drought emergencies. If, in the future, there are Governor declared droughts, we expect that water utilities that no longer have WRAM/MCBA for tracking lost drought revenues will be provided an opportunity to establish similar lost revenue memorandum accounts during the time of declared drought.⁴⁵

5.2.8. Modifications are needed to the WRAM Process for it to Continue

We conclude that the primary reasons for adopting the WRAM/MCBA mechanism, to remove the financial disincentive on the part of the utility and to promote the conservation of water, are no longer applicable. Furthermore, our experience has been that employing the WRAM/MCBA mechanism has certain negative effects on customers and that there should be a fundamental change in policy regarding this subject. 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. Consequently, we believe there is good reason for transitioning WRAM utilities away from this mechanism and that a policy change eliminating WRAM/MCBA is a reasonable outcome.

As discussed herein, such a change should not occur immediately as we are cognizant that this transition has many implications. In the next GRCs for each of the five utilities with a WRAM/MCBA, the utilities shall transition to Monterey-Style WRAMs. While we are ordering these transitions in the next

⁴⁴ See, Resolution W-4976, adopted February 27, 2014 at 11.

⁴⁵ D.16-12-026 at 35.

GRCs for WRAM utilities, we are also providing an opportunity for these five utilities to establish Monterey-Style WRAMs upon the end of the existing WRAM/MCBA mechanisms. Allowing Monterey-Style WRAMs for these five utilities recognizes that increased rate tiers will reduce sales that would otherwise occur at a single quantity rate.

6. Tier 1 Water Usage and Water Baselines

Adoption of any baseline amount to provide a minimal amount of water at an affordable rate, which can be defined as the Tier 1 usage and rate, requires utilities to develop and propose a methodology to determine this amount and rate. The difficulty, as explained by California Water Association, is determining the number of residents in any household, is a matter of privacy and other potential concerns. The development of the proposed methodology should include determining a minimal amount of water per person, such as a calculation of an EIU or other methodology that reflects the necessary water for basic human needs. Application of this methodology to develop the Tier 1 usage and rates should include the local demographics of the water utility service area. We will not adopt a specific method that does or does not include a portion of fixed costs in the Tier 1 rates as the consequent effects would be shifting these costs totally to those customers using water above the Tier 1 usage.

While it would be difficult to determine the actual household size, we are concerned about the affordability of water rates on large households. Therefore, we expect the utilities in proposing an adopted water rate design will minimize the number of households requiring greater water usage by setting breakpoints between tiers above Tier 1 that minimize the percentage of households in these higher tiers.

While we will not require a specific methodology, we direct the investor owned utilities to provide analysis in their next GRC to determine the appropriate Tier 1 breakpoint that aligns with the baseline amount of water for basic human needs for each ratemaking area. This analysis for establishing a baseline should consider and not be set below both the EIU of 600 cubic feet per household per month, as stated in the Affordability Rulemaking (R.18-07-006) and the average winter use in each ratemaking district. At 600 cubic feet per household per month, households water usage baseline will be roughly 4,488 gallons per month.⁴⁶

In comparison to Cal. Water Code § 10609.4(a) which established a 55 gallons per day per capita standard for indoor residential water use, this baseline water usage covers up to a 3-person household.

Person(s) Per Household	Calculation	Monthly Baseline Usage	EIU Baseline (R.18-07-006)
1	1*30*55	1,650 gallons of water	4,488 gallons of water
2	2*30*55	3,300 gallons of water	4,488 gallons of water
3	3*30*55	4,950 gallons of water	4,488 gallons of water

7. Consistent Terminology All Water Utilities Should Use for Low-Income Water Programs

As part of this rulemaking, we also evaluated and took input on ways to standardize, coordinate, and evaluate the different low-income water programs implemented by water utilities. Much of that input was incorporated by the Board as part of its AB 401 recommendations. We also evaluated and took input

⁴⁶ 1 cubic foot of water = 7.48 US gallons of water.

on the value of a uniform name for the program discount offered to customers qualifying for assistance on the basis of their income. Currently, each Commission-regulated Class A water utility utilizes a name of its own design for its low-income program.⁴⁷

Commenters were generally indifferent to the new name,⁴⁸ though some preferred to be allowed to retain the existing name of their program. For example, Southern California Edison Company proposed to continue its current title CARE for its water assistance program on Catalina Island and recommended that the value of the familiarity of the CARE acronym outweighs any concern that the acronym is particular to energy, not water.⁴⁹

One concern raised was that a uniform name suggests a uniform program structure, as is the case for the statewide assistance programs administered by Commission-regulated energy companies (CARE) and telephone companies (LifeLine).⁵⁰ However, we have previously determined that while the structure of the program discount varies, the criteria for qualification in the program, and the method of qualification, is uniform among the Commission-regulated water utilities and the Commission-regulated energy utilities.⁵¹ Thus, a single, straight-

⁴⁷ While the structure of the discount across Class A water utilities also varies, we have deferred consideration of consistency of the structure of those programs.

⁴⁸ California Water Association 2019 Comments at 20. Great Oaks Water Company 2017 Comments at 8. The Public Advocates Office of the Public Utilities Commission 2017 Comments at 17. SCE 2017 Comments at 3-4. Golden State Water Company 2017 Comments at 4. Consumer Federation of California 2017 Comments at 4-5.

⁴⁹ SCE 2019 Comments at 6.

⁵⁰ The Public Advocates Office of the Public Utilities Commission 2017 Comments at 17, Center for Accessible Technology 2017 Comments at 2.

⁵¹ See OIR at 6 (“The eligibility requirement is the only consistent aspect of the Class A water utilities’ low-income rate assistance programs.”).

forward name will aid outreach to consumers and statewide coordination in the delivery of assistance to low-income consumers.⁵²

California Water Association recommends the Commission require regulated water utilities use the name “Customer Assistance Program, or CAP,” for their low-income water programs in California. California Water Association states that this name is also used by the United States Environmental Protection Agency, the Water Research Foundation, and water utilities in other states.⁵³

We agree and adopt the Customer Assistance Program (CAP) as the name to be used for all Commission-regulated water utilities for their low-income water assistance programs. On the theory that it is best to align with an existing program name specific to water, we choose the name Customer Assistance Program pending alignment of the assistance programs themselves.

We have coordinated closely with the State Water Resources Control Board AB 401 proceeding during this rulemaking and agree with parties that broader changes made to either the funding or the structure of the assistance will happen through the statewide process. Thus, while specific changes to individual water utilities may occur as part of their regular GRC process, broader standardization of funding and assistance may be considered in the future. However, we need not wait to move forward on adopting a uniform program name. We hereby require all water utilities to adopt this new name in their next GRC.

By adopting this phased approach to the uniform name, we minimize the costs passed on to ratepayers of changing a program name in the middle of a

⁵² California Water Association 2017 Comments at 5.

⁵³ California Water Association 2017 Comments at 6.

GRC cycle. Therefore, a water utility that has a pending or to be filed rate case before the Commission should adopt the Customer Assistance Program name for its low-income water assistance program when implementing the Commission's decision in that case.

Water utilities with low-income programs shall describe their programs in filings and public outreach with the name "Customer Assistance Program."

Water utilities may use the CAP acronym where appropriate.

8. Low-Income Multi-Family Housing Pilots

We agree with the Center for Accessible Technology and California Water Association that small-scale pilot programs offer a good opportunity to test delivering benefits to low-income renters in multi-family buildings that do not pay a water bill directly.

We acknowledge the Public Advocates' position on waiting on legislation, as the AB 401 process could be very lengthy. In the meantime, while we are waiting to see whether there will be a state-funded, statewide low-income rate assistance program, small pilots could provide some immediate relief to struggling tenants and allow us to gather information on better serving those tenants.

We believe California-American Water Company's Advice Letter 1221 for establishing a tariff that provided a discount to low-income multi-family renters provides a good starting point for a pilot. This was also discussed in the August 2, 2019, workshop.⁵⁴

Accordingly, we direct California-American Water Company to file a Tier 3 advice letter, within 60-days of the issuance of this decision, outlining a

⁵⁴ Staff Report at 3

pilot program that provides a discount to water users in low-income multi-family dwellings that do not pay their water bill directly through the utility. All other Class A water utilities interested in a similar pilot program should file a Tier 3 advice letter that includes at least the same level of detail.

The Advice Letter must outline and address the following:

- Locations and size of pilots
- How the utility will identify the tenants who meet the income eligibility (200% of federal poverty level)?
- How the utility will provide the program benefit directly to the users who do not receive water bills?
- Proposed evaluation plan including program audit provisions. The pilots should be evaluated after no later than two years
- How to address tenant turnover in the program administration
- Proposed budget including all administrative and audit costs
- Provisions for how the pilot program is to be funded

Lastly, we agree with the Public Advocates that multi-family housing units should qualify for LIRA programs if the housing is owned by a non-profit and are for the explicit purpose of providing affordable housing to low-income residents. We direct Class A water utilities with existing LIRA programs to update their eligibility to reflect this change.

9. Reporting Mechanisms

We agree with parties that GRCs are the appropriate proceedings to consider low-income programs and affordability issues within their systems, as well as each utility's ability to achieve Water Action Plan item 6 (balancing conservation, affordability, and investment.) That said, as GRCs occur approximately every three to five years, the data submitted in Annual Reports

provide timely updates and information to gauge and track the progress, if any, toward our goals.⁵⁵ We realize that, currently, the reporting requirements can be found in various decisions, and parties could not point to a single location summarizing the reporting requirements. To achieve our goal during the GRCs, to use both the data from Annual Reports and the Minimum Data Requirements to develop the comprehensive assessment of progress toward meeting our statutory requirements and goals, we find that it would be helpful to reiterate the current reporting requirements as discussed and summarized below.

Specifically, D.11-05-004 ordered Class A water utilities to begin including Conservation Data Reports and Low-Income Data Reports in their Annual Reports. Further, the Low-Income Data Reports were to include the average bill impact of surcharges resulting from the amortization of WRAM/MCBAs on participating low-income program customers. Further, D.14-10-047 required multi-district utilities to include in their next GRC filings a district-based rate review to assess whether high-cost and affordability problems exist in any of its districts.⁵⁶ In addition, D.12-04-048, ordering paragraph (OP) 4 set forth a number of requirements for water utilities to provide options related to WRAM during their GRC, which are superseded by this decision to transition to Monterey-Style WRAMs for all water utilities using a WRAM.

D.16-12-026 was intended to spawn a number of trials and evaluations of how to improve the balance of conservation, investment, and affordability through a variety of means. OPs 9 and 10 directed proposals for Advanced Metering Infrastructure (AMI), and these directives have appeared most often in

⁵⁵ D.11-05-004 is the most recent update to data requirements of the Annual Reports.

⁵⁶ D.14-10-047, OPs 1, 2.

subsequent GRC applications. However, it does not appear that the requirements of OP 8 to evaluate the results of AMI pilots have been fully completed. Similarly, evidence that OPs 11-14 directing more attention and creative approaches to rate design cannot be consistently identified.

Finally, in the Amended Scoping Memo initiating Phase II of this proceeding, we initiated a reporting requirement to better track the impact the COVID-19 pandemic is having on water customers and water utilities for the past few months to at least the middle of 2021.

For ease of reference, we summarize here all of the requirements, and indicate whether they are confirming prior requirements or expanding on prior requirements:

- Annual reporting requirements from D.11-05-004.
- To each Annual Report, attach Minimum Data Requests submitted in the prior-year period as part of 1) GRC filing, 2) applications for acquisitions (or expansion based on new requirements in this decision).
- Compliance, and associated data and analysis with orders from D.14-10-047 and D.16-12-026.
- Inclusion of disconnection and payment behaviors required in this proceeding beginning in June, 2020 through June, 2021.

Taken together, these existing requirements, if faithfully followed and enforced, will provide the needed foundational data, and allow analysis by which progress toward affordability for low-income and all customers can be evaluated.

Finally, we commit to providing in each utility's GRC an OP that details the required low-income program metrics and data for that utility to report in its annual report.

10. Water Consolidation Timelines

Through this Rulemaking, we have attempted to comprehensively evaluate the connections between consolidation, safety, and affordability by examining issues concerning affordability of clean, safe drinking water for low-income and disadvantaged communities, including greater pooling and consolidation.

Consolidation has been and continues to be a tool to remedy systems failing water quality health and safety standards. Consolidation may also be a means to improve affordability, by leveraging greater economies of scale and scope, and by importing best, or better, practices related to operating a water utility, as well as designing rates to allow recovery of reasonable expenses. It is incumbent upon this Commission to ensure the process to achieve consolidation is as effective and efficient as possible. Accordingly, we incorporate the multiple perspectives of the parties and workshop participants to make minor adjustments to ensure an effective and efficient consolidation timeline.

10.1. Existing Guidance for Water Consolidation Timelines

Simply from an expediency angle, the answer to the Scoping Memo's question 1a asking whether the Commission should consider consolidations outside of GRCs is an unequivocal yes. No party argued that we should limit such consideration to GRCs. Commission-regulated utilities should continue to file standalone applications and advice letters relating to acquisitions, as necessary.

The current Commission consolidation guidance is old but not outdated. D.99-10-064 adopted an agreement between California Water Association, the

Commission's Water Division,⁵⁷ and several Commission-regulated water utilities that were not opposed by the Public Advocates Office of the Public Utilities Commission or others.⁵⁸ The agreement lays out a 245-day schedule for completing consolidation applications generally, and 100 days for at-risk systems.⁵⁹ The agreement also noted that Commission approval is not a requirement for a private utility to acquire a public system, but only for the approval of the long-term financing involved in the acquisition, if different than current approval⁶⁰ and to set rates for the acquired system.⁶¹ The agreement builds upon prior guidelines from D.92-03-093.

The State of California has pending legislation, AB 1751, the Consolidation for Safe Drinking Water Act of 2019, that would establish criteria, procedures, and timelines for deciding water utility requests to acquire water systems that may be different from D.99-10-064, although according to California Water Association the schedule of AB 1751 is intended to mirror D.99-10-064.⁶² Thus, for our purposes, the legislation, as proposed, should have little impact on our consolidation timelines. While we may revisit this issue again in Phase II, as the

⁵⁷ The Ratepayer Representation Branch (RRB) within the Commission's Water Division filed the joint motion for settlement with California Water Association. This branch no longer exists.

⁵⁸ D.99-10-064 at 3.

⁵⁹ The aspirational schedule was agreed to by the parties more than twenty years ago. D.99-10-064 at 6. Also *see* Section 3 in Appendix D to D.99-10-065 defining an inadequately operated and maintained small water utility as "any operation serving under 2,000 customers that is subject to an outstanding order of the Department of Health Services to implement improvement."

⁶⁰ D.99-10-064 at 6.

⁶¹ D.99-10-064 at 11, CoL 5, OP 2.

⁶² California Water Association 2019 Reply Comments at 5.

legislation is still pending, we will move forward now with affirming the Commission's current consolidation timelines in this decision.

The Commission also established consolidation guidelines in D.14-10-047 that contain important rationale for consolidation to mitigate affordability issues. Although that decision pertained exclusively to consolidation within companies, its requirements for examining cost and affordability considerations district-by-district are consistent with our overall acquisition and consolidation consideration and timelines.

10.2. Streamlining Requirements

We take further steps here based on parties' proposed modifications designed to streamline consideration of the applications for consolidation. Both California Water Association and the Public Advocates Office of the Public Utilities Commission⁶³ recommended the practice in GRCs and cost of capital filings⁶⁴ of Minimum Data Requirements (MDRs) also apply to applications for mergers and acquisitions, although they differ on which data should be included. As California Water Association identified, several Public Advocates Office of the Public Utilities Commission recommendations were already contained within the D.99-10-064. The only reason to include these here was for ease of reference.

The current agreed-upon data elements approved by D.99-10-064 and affirmed in the instant proceeding by both the Public Advocates Office of the Public Utilities Commission and California Water Association are:

⁶³ The Public Advocates Office of the Public Utilities Commission July 2019 Comments at 4, California Water Association July 2019 Comments at 10.

⁶⁴ D.07-05-062, Appendix A, Attachments 1-2.

- A copy of the purchase agreement;⁶⁵
- A copy of any appraisals conducted in the past five years;⁶⁶
- A forecast of the results of operation for (1) the acquiring utility, (2) the acquired utility, and (3) the combined operation;⁶⁷
- A list of all assets funded by the state or federal government and other contributions;⁶⁸
- Assets funded by contributions;⁶⁹ and
- Indication of compliance orders for failures to meet drinking water standards⁷⁰

Both the Public Advocates Office of the Public Utilities Commission and California Water Association proposed additional items to be submitted with the application that we adopt. We agree that if all of the documents required for an acquisition are filed as requested, and there is no controversy over the statements or facts then there should be an acceleration in processing the application or advice letter. These nonduplicative items proposed by both California Water

⁶⁵ Required to ensure compliance with Pub. Util. Code Sections 851 – 854.

⁶⁶ Section 2.05 to Appendix A of D.99-10-064 requires just one appraisal. The Public Advocates Office of the Public Utilities Commission proposed specifying that this requirement be limited to any appraisal in connection with the sale. We are not persuaded to make such a change in this proceeding.

⁶⁷ Section 2.04 to Appendix A of D.99-10-064.

⁶⁸ Section 2.06 to Appendix A of D.99-10-064.

⁶⁹ Section 2.07 to Appendix A of D.99-10-064.

⁷⁰ Implicit in Sections 3.01 and 3.02 to Appendix A of D.99-10-064. In Reply Comments dated July 24, 2019 at 5, California Water Association recommends this indication be included as well

Association (1-2, 4-5)⁷¹ and the Public Advocates Office of the Public Utilities Commission (all items except 9, 10)⁷² are approved and listed below:

1. Estimate the potential monthly incremental cost impact on existing and acquired customers following the actual results of the Buyer's most recently authorized tariffs.
 - a. If a Buyer has pending request before the Commission to change rates, it must also calculate the above using data as proposed in its pending request.
2. If the Buyer has a present intention to increase the acquired system's rates to a certain level, please state the basis for the targeted rate and period of time for such targeted rate to be implemented.
3. Provide the annual depreciation expense using the proposed rate base of the acquired assets. If the exact depreciation expense is not available, provide the best estimate of the annual depreciation expense. Show how the depreciation expense is calculated.
4. Provide an estimate of the annual revenue requirement of the system proposed to be acquired. Provide the assumptions for the annual revenue requirement, including expected rate of return, expected depreciation expense, O&M expenses, etc.
5. Other than the revenue requirement data requested above, separately identify all other approved and/or intended impacts to customer bills (*i.e.*, surcharges, passthrough fees, etc.).
6. Provide a listing of any entities that currently receive free service from the acquired utility.
7. If the acquired utility has increased rates in the last year, please state the date of the increase and provide a copy of

⁷¹ California Water Association July 2019 Reply Comments at 5.

⁷² The Public Advocates Office of the Public Utilities Commission July 2019 Comments at Attachment 1.

the new rate schedule and the total annual revenues produced under the new rates.

8. Are there any leases, easements, and access to public rights-of-way that Buyer will need in order to provide service which will not be conveyed at closing? If yes, identify when the conveyance will take place and whether there will be additional costs involved.
9. Provide a breakdown of the estimated transaction and closing costs. Provide invoices to support any transaction and closing costs that have already been incurred.
10. Describe known and anticipated general expense savings and efficiencies under Buyer's ownership. State the basis for all assumptions used in developing these savings and efficiencies and provide all supporting documentation for the assumptions.
11. Provide a copy of the Seller's request for proposals (if there was one) and any accompanying exhibits with respect to the proposed sale of the water system or water system assets.
12. Provide a copy of the request for proposals and exhibits of the Buyer for the purchase of the acquired water system or water system assets.
13. Provide a copy of the Buyer's offer to purchase the acquired water system or water system assets and the Seller's response to that offer.
14. Provide a copy of all offers to purchase the water system or water system assets received by the Seller.
15. For each Utility Valuation Expert (UVE) providing testimony or exhibits, please provide the following:
 - a. A list of valuations of utility property performed by the UVE;
 - b. A list of appraisals of utility property performed by the UVE;
 - c. A list of all dockets in which the UVE submitted testimony to a public utility commission or regulatory

- authority related to the acquisition of utility property;
and
- d. An electronic copy of or electronic link to testimony in which the UVE testified on public utility fair value acquisitions in the past two years.
16. Explain each discount rate used in the appraisals and valuations, including explanations of the capital structure, cost of equity and cost of debt. State the basis for each input. Provide all sources, documentation, calculations and/or workpapers used in determining the inputs.
17. Explain whether the appraisal/valuation used replacement cost or reproduction cost and why that methodology was chosen.
18. Provide a copy of the source for the purchase price and number of customers for each comparable acquisition used in the appraisals.
19. Have Buyer and Seller either directly or through an intermediary (*i.e.* UVE) corresponded with regard to negotiating a fair market value or acquisition price of the assets at issue in this case? If yes, provide the following information:
- a. Identify the nature and date(s) of correspondence;
 - b. Identify the type(s) of correspondence (*i.e.* written, verbal, etc.); and
 - c. Provide copies of any written correspondence exchanged.
20. Are there any outstanding compliance issues, including but not limited to water quality violations, that the Seller's system has pending with the Board's Division of Drinking Water? If yes, provide the following information:
- a. Identify the compliance issue(s);
 - b. Provide an estimated date of compliance;
 - c. Explain Buyer's anticipated or actual plan for remediation;
 - d. Provide Buyer's estimated costs for remediation; and,

- e. Indicate whether the cost of remediation was or is anticipated to be factored into either or both fair market valuation appraisals offered in this proceeding.
21. Are there any outstanding compliance issues that the Seller's system has pending with the US Environmental Protection Agency? If yes, provide the following information:
 - a. Identify the compliance issue(s);
 - b. Provide an estimated date of compliance;
 - c. Explain Buyer's anticipated or actual plan for remediation;
 - d. Provide Buyer's estimated costs for remediation; and
 - e. Indicate whether the cost of remediation was or is anticipated to be factored into either or both fair market valuation appraisals offered in this proceeding.
 22. Provide copies of all notices of a proposed acquisition given to affected customers.
 23. Provide copies of all disclosures and customer notices required by Pub. Util. Code § 10061 related to the sale and disposal of utilities owned by municipal corporations.
 24. Describe other requests to be included in the application, including but not limited to requests for approval of:
 - a. Consulting, transition of service, water wholesaling, or other agreements;
 - b. Interim rate increases outside of a general rate case proceeding or other special rate treatment (*e.g.*, CPI-U rate increases, or rate increases under Class C/D requirements);
 - c. Facilities construction;
 - d. Memorandum or Balancing Accounts.
 25. Identify the ratepayer benefits that accrue to current ratepayers of the system being acquired due to this transaction.

26. Provide a copy of the due diligence analysis, if any, prepared by the applicant in connection with the proposed transaction.
27. Identify all actions the applicant has taken with governmental agencies related to obtaining required permits and/or approvals to effectuate the acquisition.
28. Provide all workpapers that support the testimony for each of the witnesses that accompany the application, in native format where possible.

In addition to the items listed above, we find the following information, when presented as part of the application or with the MDR and subsequently included in the record will help streamline consideration of an application for consolidation:

- A list of recommended, proposed or required capital improvements to the acquired water system for the next ten years, with cost estimates;
- If applicable, supporting documentation for the designation of Disadvantaged Community; and
- If applicable, documents required by Pub. Util. Code Section 10061(c).

The use of MDRs balances the need for speedy consideration of the applications and advice letters with our statutory requirements.

10.3. Maintenance of At-Risk Timeline

The Public Advocates Office of the Public Utilities Commission and California Water Association agreed that time has caused certain Commission procedural requirements to conflict with the 245-day and 100-day schedules. Both the Public Advocates Office of the Public Utilities Commission⁷³ and

⁷³ The Public Advocates Office of the Public Utilities Commission Comments dated July 10, 2019 at 6.

California Water Association⁷⁴ noted that D.99-10-064's 245-day timeline does not allow for a Scoping Memo, as required by Pub. Util. Code Section 1701.5(b)(1). The Public Advocates Office of the Public Utilities Commission recommended the timeline in D.99-10-064 should be modified to comport with Pub. Util. Code Section 1701.5(b)(1), Commission Rules 2.6(a) and Rule 2.6(e), and General Order (GO) 96-B (General Rules 7.4.1 and 7.4.3), with specific timelines at the beginning of applications that allow for public input and participation. Both California Water Association and the Public Advocates Office of the Public Utilities Commission acknowledged that there is no way to both stay within the current timelines and accommodate these procedural requirements.

We distinguish here between the urgency when a system is at-risk and out-of-compliance with Section 116655 of the Health and Safety Code for failure to meet primary or secondary drinking water standards, as defined in Section 116275 of the Health and Safety Code. The Public Advocates Office of the Public Utilities Commission stated that only one recent Commission water acquisition was for a troubled system, which appears consistent with the examples California Water Association provided of Commission-approved acquisitions of troubled systems.⁷⁵ As noted in the Staff Report on the Workshop held on December 15, 2017, over 30 water acquisitions have occurred over the last decade. However, according to the California's Office of Environmental Health Hazard Assessment (OEHHA) draft report attached to the September 4, 2019 Ruling, approximately one-third of the 2,903 community

⁷⁴ California Water Association Comments dated July 10, 2019 at 9. Also *see* at 11, where California Water Association simultaneously recommends against any extension of the 245-day schedule.

⁷⁵ California Water Association Comments on Scoping Memo of February 23, 2018 at 3.

water systems were out-of-compliance for the presence of one contaminant. From a composite water quality score established by OEHHHA, 9% had scores meriting concern.⁷⁶ In the spirit of all current and pending legislation incentivizing and streamlining consolidation to address these safety issues, the Commission should be encouraging Commission-regulated utilities to thoroughly consider acquiring at-risk systems. Those applications are processed through Advice Letter, therefore eliminating the need for a Scoping Memo. As outlined by the Public Advocates Office of the Public Utilities Commission, incorporating the required protest periods mean that 2.5 months of the 4 months (which is already more than 100 days) are consumed by required timeframes, leaving approximately 1.5 months for consideration.⁷⁷ Because safety is a stake, we will not extend this timeline any further and instead emphasize that these applications should be given the highest priority.

Non-troubled systems may still be ripe for consolidation purposes, especially when the affordability issues are identified and customer benefits conclusively demonstrated.⁷⁸ Communities designated as disadvantaged should be prioritized. However, these timelines can and should incorporate minor modifications to bring the timelines established by D.99-10-064 in line with subsequent Commission and Board actions. Specifically, we will modify the timeline to standardize initial steps in the proceedings⁷⁹ and change the language

⁷⁶ OEHHHA Draft Report, August 2019, at 40 and Table 17. The Public Advocates Office of the Public Utilities Commission Comments of February 23, 2018 at 3 provided that the Board identified a total of 332 out-of-compliance systems serving 513,794 connections as of February 1, 2018.

⁷⁷ The Public Advocates Office of the Public Utilities Commission 2019 Comments at 8.

⁷⁸ California Water Association 2019 Comments at 13-14.

⁷⁹ California Water Association 2019 Comments at 11.

of coordination between Commission authorization and the State Water Resources Control Board's permitting process. We decline to limit the scope of the applications as recommended by the Public Advocates Office of the Public Utilities Commission,⁸⁰ as this is an activity more properly performed in each proceeding as the Scoping Memo is developed.

10.3.1. Identification of Opportunities for Consolidation

While consolidations should be considered outside of GRC timelines, we should also enhance GRC requirements to consider in a more comprehensive manner consolidation as a remedy for safety and affordability concerns. The current requirement in GRCs is for utilities to identify adjacent mutual, or Class C or D companies, for potential consolidation.⁸¹ The Public Advocates Office of the Public Utilities Commission recommended utilities be required to perform a "cross check" with the Board's most current list of drinking water systems statewide that are out of compliance with drinking water standards.⁸² Even though GRCs will occur every three years at the most, this requirement provides an opportunity for routine oversight of Water Action Plan item 6. However, we will remove the word adjacent from the requirement, and include all types of out-of-compliance systems regardless of geographic proximity.

11. Utility Affiliate Transaction Rules and Safe Drinking Water Loan Funds

We agree with parties that no changes are needed to our affiliate transaction or safe drinking water loan fund rules at this time. Both the Public

⁸⁰ The Public Advocates Office of the Public Utilities Commission 2019 Comments at 5.

⁸¹ D.07-05-062, Appendix A, Attachment 1 (Minimum Data Requirements for Utility General Rate Case Application and Testimony), Section II.K.3.

⁸² https://www.waterboards.ca.gov/water_issues/programs/hr2w/docs/data/inventory_map_summary.xls

Advocates Office of the Public Utilities Commission and California Water Service Company argued the existing affiliate transaction rules established in D.10-10-019 provide enough flexibility to allow for Commission-regulated utilities to administer failing systems and also provide important consumer protections that guard against ratepayer subsidization of nonregulated services.⁸³ California Water Association sought greater assistance from Commission staff in working with Board staff in the application and implementation process.

We will, therefore, maintain current utility affiliate transaction rules. We did not identify any specific suggestions to improve our processes as they relate to safe drinking water loans. We agree with California Water Association that Commission staff should continue to provide as much assistance as possible in the safe drinking water application process.

12. Next Steps

12.1. Phase II Scoping Memo and Ruling Directing Covid-19 Related Reporting

On June 2, 2020, Second Amended Scoping Memo and Ruling was issued in this proceeding to gather information and consider additional Commission responses to the COVID-19 pandemic.

On March 16, 2020, Governor Newsom issued Executive Order N-28-20 requesting the Commission monitor measures undertaken by public and private utilities to implement customer service protections in response to COVID-19 pandemic.

⁸³ The Public Advocates Office of the Public Utilities Commission Comments dated September 16, 2019 at 11, California Water Association Comments dated September 16, 2019 at 25. Also see The Public Advocates Office of the Public Utilities Commission and California Water Association Comments of February 23, 2018.

On March 17, 2020, the Commission's Executive Director, Alice Stebbins, issued a letter to Class A and B water utilities ordering immediate protections for water utility customers, including a moratorium on disconnections. The Commission subsequently ratified that order through Resolution M-4842.

On April 2, 2020, Governor Newsom issued Executive Order N-42-20 affirming the Commission's moratorium on water disconnections and additional customer protections.

These actions are just some of the initial steps in responding to this emergency and in order to assess the impact of these actions, the overall impact of the emergency, and to help us formulate our next steps, we have opened a new phase in this proceeding as this Rulemaking already deals with many of the subjects impacted by the COVID-19 pandemic. Therefore, we have expanded the scope of this existing rulemaking proceeding to add a Phase II to seek input on the impact of the COVID-19 pandemic on water utilities and their customers to formulate our next step(s).

This proceeding will remain open to address these Phase II issues upon issuance of this decision.

12.2. Alignment with Statewide Programs and Processes

There remain several issues that may be affected by pending statewide legislative action. Most prominently, the low-income assistance programs may be funded and structured consistently statewide.⁸⁴ The Board's final recommendation is to fund assistance programs through general taxes. Additionally, the Board proposes to help renters who are not directly customers

⁸⁴ <https://innovation.luskin.ucla.edu/wp-content/uploads/2020/02/Recommendations-Low-Income-Water-Rate-Assistance-Program.pdf>

of water utilities through a tax credit. We do not know the timeline for implementation of the Board's final recommendation, yet we want to accommodate parties' ability to adapt as necessary the current water rate assistance programs.

13. Conclusion

This decision summarizes our review of the low-income rate assistance programs for Class A water utilities under the Commission's jurisdiction and ensures consistency in program terminology for the different utilities. In addition, the decision concludes our initial review of sales forecasting and requires utilities to adopt a Monterey-style WRAM as part of our efforts to keep rates just and reasonable. Further, we require water utilities to provide analysis in their next GRC to determine the appropriate Tier 1 breakpoint that aligns with the baseline amount of water for basic human needs for each ratemaking area. This decision also identifies areas of reporting that has been inconsistent and requires water utilities to provide consistent reporting in the future, and provides direction for a small scale pilot programs to test delivering benefits to low-income renters in multi-family buildings that do not pay a water bill directly. Finally, we have initiated a Phase II in this proceeding to address the impact of the COVID-19 pandemic on water utilities and their customers to formulate our next step(s) addressing those impacts.

14. Comments on Proposed Decision

The proposed decision in this matter was mailed to the parties in accordance with Section 311 of the Public Utilities Code and comments were allowed under Rule 14.3 of the Commission's Rules of Practice and Procedure. Comments were filed on _____ and reply comments were filed on _____.

15. Assignment of Proceeding

Martha Guzman Aceves is the assigned Commissioner and Robert Haga is the assigned ALJ in this proceeding.

Findings of Fact

1. The WRAM/MCBA ratemaking mechanism provides that when actual water sales are less than adopted, the difference in sales revenue will be recovered through a balancing account.

2. If actual sales exceed adopted sales, the WRAM/MCBA mechanism will return the over-collected revenues to customers through a balancing account. WRAM/MCBA ratemaking mechanisms were adopted by settlements in GRCs for California-American Water Company, California Water Service Company, Golden State Water Company, Liberty Utilities (Park Water) Corp., and Liberty Utilities (Apple Valley Ranchos Water) Corp. in 2008.

3. The major purpose of adopting WRAM/MCBA was to decouple sales from revenues and thus promote conservation.

4. The MCBA provides that variable costs are reduced when there is a reduction in water quantity sales.

5. The ICBA provides that variable costs are reduced under the Monterey-Style WRAM mechanism.

The various options for modifying or eliminating WRAM/MCBA as ordered by D.12-04-048 were not adjudicated and resolved in subsequent GRC proceedings.

6. Although D.16-12-026 concluded that the WRAM/MCBA ratemaking mechanism should be continued at that time, it noted the reasons for continuing WRAM included forecast uncertainty, conservation, and the need for investment during the drought.

7. The quantification of changes in risk due to the existence or elimination of WRAM/MCBA has not been addressed since the WRAM/MCBA was adopted.

8. While the WRAM/MCBA was adopted to encourage conservation, the application of this ratemaking mechanism has led to substantial under-collections and subsequent increases in quantity rates.

9. Conservation of water use is by customers, not the utility.

10. Average consumption per metered connection for WRAM utilities is less than the consumption per metered connection for non-WRAM utilities.

11. Conservation for WRAM utilities measured as a percentage change during the last 5 years is less than conservation achieved by non-WRAM utilities, including Class B utilities.

12. Since WRAM/MCBA is implemented through a balancing account, there are intergenerational transfers of costs.

13. The WRAM/MCBA mechanism is not the best means to minimize intergenerational transfers of costs when compared to an alternative available to the utilities and the Commission.

Tiered rate design causes customers to use less water at increased costs per unit consumed; thus, use of tiered rate design is a reasonable means to stabilizing revenues.

14. The Monterey-Style WRAM combined with the ICBA is a method to account for lesser quantity sales and stabilize revenues.

Implementation of a Monterey-Style WRAM means that forecasts of sales become very significant in establishing test year revenues.

15. No quantification of the risk effects of using the WRAM/MCBA mechanism is evident in past GRC proceedings.

16. During a governor declared drought emergency, it is reasonable to provide utilities not using a WRAM/MCBA mechanism to establish lost revenue memorandum accounts.

17. A single, straight-forward name will aid outreach to consumers and statewide coordination in the delivery of assistance to low-income consumers. California-American Water Company's Advice Letter 1221 for establishing a tariff that provided a discount to low-income multi-family renters provides a good starting point for a pilot.

18. The information delineated in Section 10, Water Consolidation Timelines, above is a reasonable minimum amount of information required to begin a streamlined review of the proposed consolidation transaction.

Conclusions of Law

1. This decision should be effective today to provide timely notice to Class A water utilities in advance of their next GRC filings.

2. Consideration 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.

3. Elimination of the WRAM/MCBA mechanism is a policy decision not determined by law.

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.

4. As WRAM utilities have individual factors affecting a transition to Monterey-Style WRAM mechanism, this transition should be implemented in each WRAM utilities' respective upcoming GRC applications.

5. A reasonable transition to the new uniform name should be adopted.

The Customer Assistance Program (CAP) name should be used for all Commission-regulated water utilities for their low-income water assistance programs.

6. It is reasonable to allow each water utility to adopt the uniform CAP name as part of its next general rate case.

7. The process to achieve consolidation should be as effective and efficient as possible.

8. Water utilities should provide analysis in their next GRC case to determine the appropriate Tier 1 breakpoint that aligns with the baseline amount of water for basic human needs for each ratemaking area.

9. Water utilities should consider and provide analysis for establishing a baseline not set below both the Essential Indoor Usage of 600 cubic feet per household per month, as stated in the Affordability Rulemaking (R.18-07-006) and the average winter use in each ratemaking district.

10. California-American Water Company should be directed to file a Tier 3 advice letter, within 60-days of the issuance of this decision, outlining a pilot program that provides a discount to water users in low-income multi-family dwellings that do not pay their water bill directly through the utility.

All other Class A water utilities interested in creating a low-income multi-family pilot program should file a Tier 3 advice letter that includes at least the same level of detail.

11. This proceeding should remain open to consider Phase II issues.

O R D E R

IT IS ORDERED that:

1. In any future general rate case applications filed after the effective date of this decision, a water utility must discuss how these specific factors impact the sales forecast presented in the application:

- (a) Impact of revenue collection and rate design on sales and revenue collection;
- (b) Impact of planned conservation programs;
- (c) Changes in customer counts;
- (d) Previous and upcoming changes to building codes requiring low flow fixtures and other water-saving measures, as well as any other relevant code changes;
- (e) Local and statewide trends in consumption, demographics, climate population density, and historic trends by ratemaking area; and
- (f) Past Sales Trends.

2. Water utilities shall provide analysis in their next general rate case applications to determine the appropriate Tier 1 breakpoint that aligns with the baseline amount of water for basic human needs for each ratemaking area.

3. California-American Water Company, California Water Service Company, Golden State Water Company, Liberty Utilities (Park Water) Corporation, and Liberty Utilities (Apple Valley Ranchos Water) Corporation, in their next general rate case applications, shall transition existing Water Revenue Adjustment Mechanisms to Monterey-Style Water Revenue Adjustment Mechanisms.

4. Commission regulated water utilities shall name or rename their respective low-income water assistance program as “Customer Assistance Program” as part of their next general rate case applications. Water utilities with low-income programs shall describe their programs in filings and public

outreach with the name “Customer Assistance Program.” Water utilities may use the CAP acronym where appropriate.

5. California-American Water Company shall file a Tier 3 advice letter, within 60-days of the issuance of this decision, outlining a pilot program that provides a discount to water users in low-income multi-family dwellings that do not pay their water bill directly through the utility.

6. Each water utility shall comply with existing reporting requirements as summarized below:

- Annual reporting requirements from Decision (D.) 11-05-004.
- To each Annual Report, attach Minimum Data Requests submitted in the prior year period as part of 1) General Rate Case (GRC) filing, 2) applications for acquisitions (or expansion based on new requirement in this decision).
- Compliance, and associated data and analysis with orders from D.14-10-047, and D.16-12-026 in each GRC filing.
- Inclusion of disconnection and payment behaviors required in this proceeding beginning in June 2020 through June 2021.

7. In any application by a water utility for consolidation or acquisition of another system, the utility shall provide the information identified in Section 10, Water Consolidation Timelines, above as part of the application or with the Minimum Data Request in order to help streamline consideration of its application.

8. Rulemaking 17-06-024 remains open to consider Phase II issues.

This order is effective today.

Dated _____, at San Francisco, California.

APPENDIX A – STYLE REFERENCE TABLES

Common Styles – May be Accessed from Styles Ribbon

Name	Description/Usage	Shortcut
Standard	Body text	Alt Ctrl `
Heading 1	First level headings	Alt Ctrl 1
Heading 2	Second level headings	Alt Ctrl 2
Heading 3	Third level headings	Alt Ctrl 3
List Alpha	Lower case lettered list at one indent	Alt Ctrl A
List Bullet	Bulleted list at one indent	Alt Ctrl B
Block Quote	Block quotes	Alt Ctrl Q
FoF	Findings of Fact	
CoL	Conclusions of Law	
OP	Ordering Paragraphs	

Uncommon Styles – Accessed from Styles Pane (Ctrl + Alt + Shift + S)

Name	Description/Usage	Shortcut
No Spacing	“Standard” Style – Single spaced, no indent	
Dummy	Unnumbered headings	
Heading 4	Fourth level headings (avoid deep subheadings if possible)	
Heading 5	Fifth level headings (avoid deep subheadings if possible)	
Heading 6	Sixth level headings (avoid deep subheadings if possible)	
List Num	Numbered list at one indent. Avoid if possible.	
Table Text	Text inside tables	
Main	Centered titles	
Mainex	“Order” title	
TOC 1/2/etc.	Table of Contents style by level	
TOC Heading	Table of Contents title	
Footnote Text	Footnotes	

Fonts and Usage

Font	Description/Usage
Arial 13 Bold Caps	Titles
Arial 13 Bold	Headings
Book Antiqua 13	Body text
Book Antiqua 11	Footnotes

(END OF APPENDIX A)

IN THE SUPREME COURT OF THE STATE OF
CALIFORNIA

CALIFORNIA-AMERICAN WATER COMPANY
Petitioner,

v.

PUBLIC UTILITIES COMMISSION OF THE STATE OF
CALIFORNIA
Respondent.

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

Of the Public Utilities Commission of the State of California

EXHIBIT O

*Comments of California-American Water Company on the
Proposed Decision of Commissioner Guzman Aceves, R.17-06-024,
July 27, 2020*



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

FILED
07/27/20
04:59 PM

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**

Sarah E. Leeper
Nicholas Subias
California-American Water Company
555 Montgomery Street, Suite 816
San Francisco, CA 94111
(415) 863-2960
sarah.leeper@amwater.com
nicholas.subias@amwater.com

Attorneys for Applicant California-American Water
Company

July 27, 2020

INDEX OF RECOMMENDED CHANGES

The California Public Utilities Commission (CPUC) should not eliminate the decoupling water revenue adjustment mechanism/modified cost balancing account (WRAM/MCBA).

- The issue of elimination of the WRAM/MCBA is outside the scope of the proceeding and was never explicitly identified in the scoping memos. If the CPUC intends to address this issue, it should do so in a separate proceeding that would provide parties, particularly those interested in conservation issues, a fair and full opportunity to participate.
- The Monterey-style WRAM (M-WRAM) does not provide the same benefits as the decoupling WRAM/MCBA. The M-WRAM does not address revenue fluctuation due to changes in customer usage. The M-WRAM is therefore not compatible with steeply tiered rate designs that target high-use customers.
- The necessary rate design changes resulting from elimination of the decoupling WRAM/MCBA would negatively impact low-income customers and efficient water users by increasing overall rates, while conversely providing a price break to customers with the highest usage. This would be a significant shift in cost recovery from low-income customers and would result in an ongoing burden.
- The record in this proceeding on the conservation impact of the decoupling WRAM/MCBA is incomplete and ignores the significant conservation achievements of the utilities with WRAM/MCBAs. As CAW's analysis demonstrates, the transition to a less steeply tiered rate design will weaken price signals to high-use customers, likely leading to increased consumption.

The low-income pilot program should be based on Advice Letter (AL) 1221.

- AL 1221 proposed to provide discounted water rates to low-income housing providers.
- Legal, administrative, and institutional obstacles prevent CAW from providing benefits directly to low-income non-customers.

The CPUC should modify the consolidation minimum data requirements (MDRs) to maintain the incentive to pursue such transactions.

- The MDRs should reflect California legal and regulatory requirements.
- The MDRs should not be unduly burdensome and should make the consolidation process and efficient and effective as possible.

TABLE OF CONTENTS

I.	INTRODUCTION	1
II.	ELIMINATION OF THE WRAM/MCBA WILL INCREASE RATES FOR CAW'S MOST VULNERABLE CUSTOMERS AND DISCOURAGE CONSERVATION	2
III.	ELIMINATION OF THE WRAM/MCBA IN THIS PROCEEDING IS NOT JUSTIFIED	6
	A. Elimination of the WRAM/MCBA is Outside the Current Scope of the Proceeding.....	6
	B. The Record on Conservation is Inadequate	7
	C. The M-WRAM Does Not Provide the Same Benefits as the WRAM/MCBA	8
	D. The PD Contains Concerning Errors and Inaccuracies	9
	E. If the CPUC Wishes to Again Consider Continuation of the WRAM/MCBA, it Should Do So in a Separate Rulemaking	10
IV.	THE LOW-INCOME MULTI-FAMILY HOUSING PILOT SHOULD BE BASED ON ADVICE LETTER 1221	11
V.	THE CPUC SHOULD MAINTAIN INCENTIVES FOR WATER UTILITIES TO PURSUE CONSOLIDATION.....	13
VI.	CONCLUSION.....	15

TABLE OF AUTHORITIES

	Page(s)
Statutes	
Pub. Util. Code §2719(d)	13
Pub. Util. Code §2720(b)	14
66 Pa. C.S. § 1329(a)(3).....	14
CPUC Decisions	
D.96-12-005.....	1, 8
D.20-07-032.....	2
D.12-11-006.....	2
D.16-12-003.....	2
D.18-09-017.....	6, 8
D.00-03-053.....	9
D.04-07-035.....	9
D.05-03-012.....	9
D.09-07-021.....	9
D.16-12-026.....	10
D.05-05-015.....	13
D.19-12-038.....	13
D.99-10-064.....	13, 14
D.19-04-015.....	14
CPUC Rules	
Rule 14.3	1

CPUC Rulings

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*..... 6

R.17-06-024, *Scoping Memo and Ruling of Assigned Commissioner, January 9, 2018*..... 7

R.17-06-024, *Amended Scoping Memo and Ruling of Assigned Commissioner and Administrative Law Judge, July 9, 2018* 7

R.11-11-008, *Assigned Commissioner’s Third Amended Scoping Memo and Ruling Establishing Phase II*..... 10

R.11-11-008, *Administrative Law Judges’ Ruling Setting Workshop and Further Schedule R.11-11-008, Attachment B*..... 10, 11

Other Authorities

SWRCB Recommendations for Implementation of a Statewide Low-Income Water Rate Assistance Program Appendices 12

Pennsylvania Public Utilities Commission, Section 1329 Applications (accessed July 27, 2020)..... 14

I. INTRODUCTION

Pursuant to Rule 14.3 of the Rules of Practice and Procedure of the California Public Utilities Commission (CPUC),¹ California-American Water Company (CAW) submits these comments on the *Proposed Decision of Commissioner Guzman Aceves* (PD).

CAW supports the CPUC's efforts to provide assistance to low-income customers and ensure affordability of water service. CAW has a long history of providing support to low-income customers, including establishing one of the first water low-income assistance programs in 1996,² and most recently, by its innovative proposal to provide rate relief and assure the viability of low-income housing providers.³ CAW is concerned, however, that this proceeding, which began as an examination of the low-income support programs of CPUC-regulated water utilities, has gone dangerously astray.

While well-intentioned, the PD is procedurally deficient, mischaracterizes key concepts, and is based on an inadequate record. **Instead of providing assistance and support to low-income water customers, the PD, if adopted, will result in increased rates for CAW's most economically vulnerable customers, while conversely, providing a benefit to high-volume water users in CAW's wealthiest communities.** This would not be a one-time impact – making this change would result in the largest shift of costs to low-income customers in years. Adoption of the PD would also undermine critical conservation efforts by eliminating the water revenue adjustment mechanism/modified cost balancing account (WRAM/MCBA), one of the most effective conservation tools for CPUC-regulated water utilities. The PD also makes substantial errors in law and fact with respect to the pilot program for low-income multi-family housing and recommends unworkable and burdensome reporting requirements for consolidation applications. CAW respectfully requests that the CPUC modify the PD as forth in Attachment A to these comments.⁴

At a time when Californians are facing significant challenges due to the economic effects of the COVID-19 emergency, as well as experiencing impacts from climate change such as increased temperatures, wildfires, sea level rise, and threat of drought, the CPUC should not take action that will

¹ Due to issues related to service of the PD, assigned Administrative Judge Haga confirmed via email on July 6, 2020 that the deadline for opening comments is July 27, 2020 and the deadline for reply comments is August 3, 2020.

² D.96-12-005, p. 9.

³ See Attachment B, CAW Advice Letter 1221, submitted January 18, 2019 and rejected June 7, 2019.

⁴ CAW also generally supports the comments filed by the other WRAM/MCBA companies (California Water Service Company, Golden State Water Company, and Liberty Utilities Corp.) and the California Water Association.

render low-income customers even more vulnerable.⁵ CAW urges the CPUC to take the time to conduct a thorough and comprehensive review of the relevant issues in order to avoid placing greater financial stress on millions of Californians.

II. ELIMINATION OF THE WRAM/MCBA WILL INCREASE RATES FOR CAW'S MOST VULNERABLE CUSTOMERS AND DISCOURAGE CONSERVATION

The PD recommends that the WRAM/MCBA be eliminated and that the four Class A water utilities with decoupling WRAM/MCBAs transition to what is known as a Monterey-style WRAM (M-WRAM) in their next general rate cases.⁶ CAW's current rate designs were developed to be compatible with the decoupling WRAM/MCBA, and are collectively the most conservation-oriented rate design of any CPUC-regulated water company.⁷ The PD fails to consider the impact on customers if the utilities with decoupling WRAM/MCBA rate designs transition to M-WRAM style rate designs.

In most of its districts, California American Water's current rate designs include four rate tiers, with steep differentials between the tiers and a low percentage of fixed cost recovered through the meter charge. The rates in the upper tiers are significantly higher in order to target high-volume water users. The rate design in CAW's Monterey District is even more aggressive, with five rate tiers and a spread between tier 1 and 5 of 800%. For the majority of our customers, the percentage of revenue recovered through the monthly service charge ranges from a low of 10% to a high of 27%, far lower than the standard rate design of 50%. No matter how well forecasted, revenue from these types of rate designs will always be volatile. With higher rates in upper tiers, even small changes in water usage result in large changes in revenue collection. The CPUC has recognized this, noting that for CAW's Monterey District, "revenue recovery has been particularly volatile given the high rates in the upper tiers."⁸

Because this volatility cannot be fully addressed through improved forecasting, this type of highly aggressive targeted rate design is only possible where sales have been decoupled from revenue. As discussed in more detail below, the M-WRAM is incompatible with most of CAW's current rate designs. While the non-WRAM utilities also have tiered conservation rate designs, those rates designs generally tend to have fewer tiers, less substantial differentials between the tiers, and recover a larger portion of

⁵ The CPUC recently noted, "While ensuring the affordability of utility services is a longstanding priority for the Commission, its importance has been magnified this year by COVID-19, which has placed great financial stress on millions of Californians." D.20-07-032, p. 3.

⁶ PD, pp. 47-57.

⁷ The current four-tier rate design for most CAW districts was initially adopted through the a settlement between California American Water, Natural Resources Defense Council, Division of Ratepayer Advocates and The Utility Reform Network. D.12-11-006, p. 4.

⁸ D.16-12-003, p. 48.

revenue through the monthly service charge.

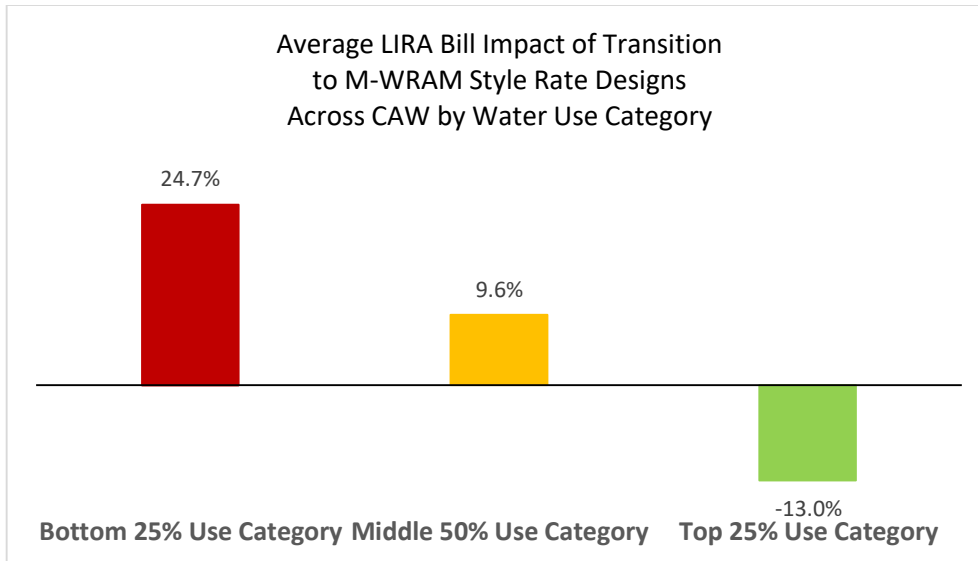
Without the decoupling WRAM/MCBA, CAW would have to modify its rate designs to reduce revenue instability, and so that they more closely resemble the rate designs of the M-WRAM utilities. While the details of the transition from the WRAM/MCBA would be addressed in CAW's next GRC, certain rate design changes would be necessary and unavoidable. **This transition would inevitably lead to rate increases for low-income customers and rate decreases for customers who use the most water.**

With the decoupling WRAM/MCBA, CAW would have to modify its rate designs to capture more revenue in the fixed monthly service charge. CAW would likely have to increase the meter charge by 1.5 to 2.0 times in districts to stabilize recovery. This is in keeping with the rate designs currently in effect for Class A water utilities without WRAM/MCBAs. All customers, including customers enrolled in CAW's low-income support program, must pay the monthly service charge. Therefore, the necessary increased recovery through the service charge will inevitably lead to higher bills for low-income customers.

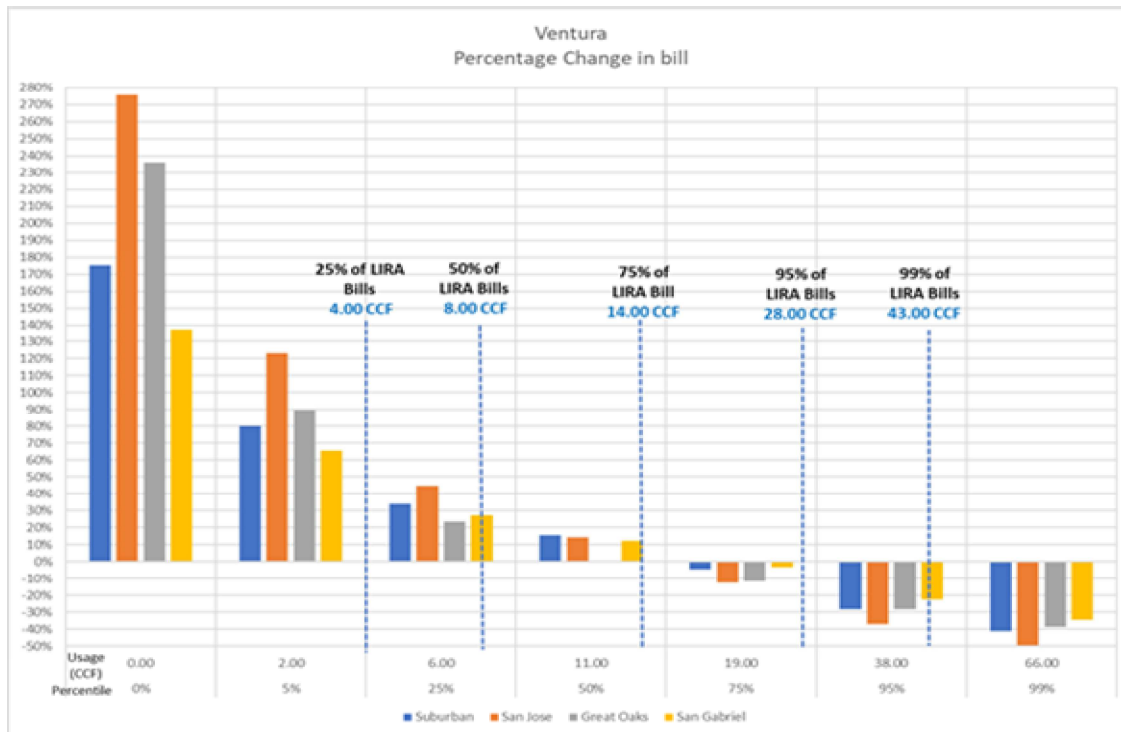
CAW would also have to reduce the number of rate tiers, since having more tiers and higher rates in the top tiers increases revenue instability. CAW currently has a five-tier rate design in its Monterey District and four-tier rate designs in most of its other districts. Without the decoupling WRAM/MCBA, CAW would need to transition to two or three-tier rate designs similar to the M-WRAM utilities. CAW would also have to decrease or "flatten" the differentials between the rate tiers. Under such a design, the rates per unit in the lower tiers would increase as compared to current rate designs.

In preparation for these comments, CAW analyzed the customer rate impact of a transition to M-WRAM style rate designs. The graph below shows that transitioning from CAW's current rate designs to M-WRAM style rate designs would have a substantially negative impact on low-income customers.⁹ The average low-income customer under an M-WRAM rate design across CAW's service divisions would see their bill increase by 25% if they consume in the bottom 25% use category or 10% if they consume in the middle 50% use category.

⁹ Average effect on CAW LIRA customers of rate designs used by Suburban, San Jose Water, Great Oaks, and San Gabriel, on customer water bills (based on 2020 authorized revenue requirement for Cal-Am and 2019 customer water use).



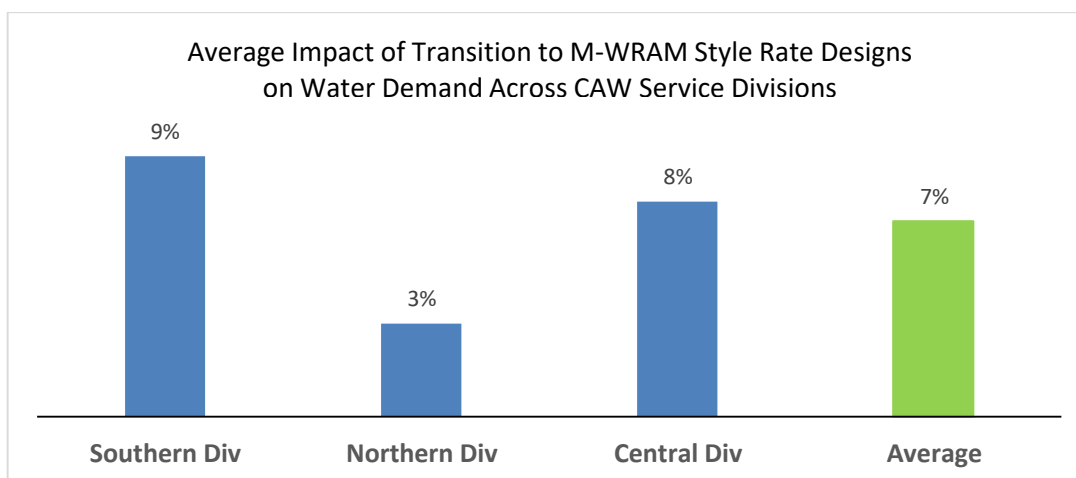
The graph below demonstrates the change in bills for a sample district under the rate designs of the M-WRAM utilities. It shows that the low use and low-income customers will experience the largest percentage bill increases, while those that consume the most water will see the largest bill decreases.



This graph shows that transition from CAW's current rate designs to M-WRAM style rate designs would increase rates for customers with the most efficient water use and reduce rates for customers with

the highest consumption. Moreover, while there are some exceptions, customers with the highest consumption levels tend to be located in wealthier communities (usually because of the link between lot size and consumption) and many customers with low consumption are located in economically disadvantaged communities.¹⁰ Therefore, **CAW's wealthiest customers will likely be the biggest beneficiaries of the transition from CAW's current rate designs to M-WRAM rate designs.**

CAW is also concerned that transitioning to an M-WRAM style rate design, which will lessen the financial consequences for high water-use customers, will lead to increased consumption. The graph below shows the projected consumption impact of the transition by CAW Division and across the state.¹¹ Statewide water use is projected to increase by 7%, with higher use customer demand growing at much higher rates. **In Monterey, the pricing signals conveyed by an M-WRAM style rate design would push demand higher by 8%, resulting in water consumption in excess of the limits established by the State Water Resources Control Board (SWRCB). This would force the Monterey Peninsula into rationing and likely result in significant customer fines and penalties by the SWRCB.**



CAW's ability to maintain consumption within legal limits in the Monterey District will be substantially impaired without its aggressive rate design, which, as discussed below, is only workable in conjunction with the WRAM/MCBA. The CPUC has previously recognized the implications of failure to comply with the SWRCB orders. "The consequences would include increasingly burdensome conservation

¹⁰ For example, LIRA customers in the Ventura or San Marino Districts, consuming at the 25th percentile would see a 50% increase in their bills, while customers in these districts that consume at the 99th percentile would see a 40% reduction. In the Monterey District, a customer in the 99th percentile would receive a bill decrease of 52% from \$528 to \$276 per month.

¹¹ Average effect to water demand in CAW's Divisions and Statewide of the transition to an M-WRAM style rate design based on an average of those used by Suburban, San Jose Water, Great Oaks, and San Gabriel (based on 2019 customer water use).

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.

Not only is the claim regarding conservation from 2015-2019 unsupported, it is factually inaccurate. Specifically, it ignores the earlier period after adoption of the WRAM/MCBA when the WRAM/MCBA water utilities achieved more substantial conservation results. Additionally, due to the drought, for much of the period cited in the PD the CPUC had expanded the use of conservation rate structures and decoupling mechanisms for the M-WRAM utilities. There is nothing in the record to support the assumption that this level of conservation could continue absent these decoupling mechanisms.

As discussed above, transition to an M-WRAM style rate design will likely lead to increased consumption for CAW's customers. CAW is concerned that there has been no opportunity to explore the difference between various types of tiered rates designs and whether the conservation benefits achieved thus far can be maintained without decoupling.

C. The M-WRAM Does Not Provide the Same Benefits as the WRAM/MCBA

The PD's other key justification for elimination of the WRAM/MCBA, that the M-WRAM provides the same benefits,²⁴ is similarly unsupported. The difference between the decoupling WRAM/MCBA and the M-WRAM is stark. The M-WRAM allows recovery (or refund) of the difference between the actual revenues billed and the revenues that would have been billed at the same usage under what is known as "standard" rate design, where 50% of fixed costs are recovered in the monthly service charge and the remainder of the revenue requirement is recovered in a single flat block rate usage charge per unit of water consumed. The M-WRAM does **not** account for changes in consumption in response to price signals from tiered rates.

CAW has experienced longstanding water supply constraints in its Monterey District.²⁵ The M-WRAM was adopted in a 1996 general rate case decision for CAW's Monterey District to allow CAW to implement an experimental conservation-oriented rate design.²⁶ The rate design adopted in that proceeding allowed for recovery of 25% of fixed cost recovery through the monthly service charge, no service charge for low-income customers, and three quantity rate tiers.²⁷ The M-WRAM tracked the difference between this new conservation rate design and the standard CPUC rate design.

Due to the water supply constraints affecting the Monterey District, and the threat of severe rationing and multi-million dollar fines, CAW had to implement increasingly aggressive conservation rate designs to specifically target non-essential uses, primarily excessive outdoor watering, through increased

²⁴ *Id.*, p. 59.

²⁵ A detailed discussion of the Monterey District water supply issues was included in D.18-09-017, pp. 3-9.

²⁶ D.96-12-005, pp. 13-16.

²⁷ The conservation rates were actually set to over-collect the authorized revenue requirement because the first tier and third tier rates were simply a percentage of the standard rate, including recovery of 75% of fixed costs in the variable quantity rates.

upper block quantity rates aimed at the customers using the most water.²⁸ As the rate designs became more aggressive, however, it became clear that the M-WRAM was insufficient, since it did not address revenue volatility due to customer reaction to increasingly strong pricing signals in upper tiers. As a result, CAW suffered severe under recoveries of the revenue requirement.

The SWRCB's issuance of a draft Cease and Desist Order in 2008 increased the possibility of severe rationing and/or fines for the Monterey District and intensified the need for even stronger pricing signals. It was only with the adoption of the decoupling WRAM/MCBA for the Monterey District, however, that CAW was able to implement its current five-tier rate design, which specifically targets high levels of use in upper tiers.²⁹ CAW would not have been able to implement this rate design under the M-WRAM. Since, as discussed above, the revenue instability inherent in this rate design (a side effect of necessarily targeting high-use customers) cannot be fully addressed through forecasting, it was only feasible with the introduction of the decoupling WRAM/MCBA.

The history of CAW's Monterey District demonstrates the error of the PD's claim that the M-WRAM provides the same or even similar benefits as the decoupling WRAM/MCBA. While the M-WRAM may have helped some of the transition to tiered rates, it does not address fluctuations in water use due to tiered rate pricing signals. Thus, the most significant conservation successes of the CPUC-regulated water utilities were achieved in conjunction with decoupling mechanisms, either the WRAM/MCBA or the temporary decoupling mechanisms authorized during the drought.

This is because not all tiered rate designs are the same. By decoupling sales from revenue, the WRAM/MCBA allows water utilities to move beyond basic tiered rates to rate designs that more strongly encourage conservation and efficient use of water, and to specifically target customers using the highest amounts of water. In the case of the Monterey District, this has allowed CAW and its customers to avoid economically crippling rationing and potential multi-million dollar fines. This benefit could not be maintained under the M-WRAM.

D. The PD Contains Concerning Errors and Inaccuracies

The PD is replete with factual errors and inaccuracies that indicate that the CPUC has not fully analyzed the continuation of the WRAM/MCBA. For example the PD incorrectly states, "This is the first time the CPUC has taken input to consider the foundational issue of whether WRAM/MCBA should continue,

²⁸ D.00-03-053, pp. 22-25; D.04-07-035, pp. 5, 12; D.05-03-012, pp. 5-7.

²⁹ D.09-07-021, pp. 123-127, Appendix A.

and if so, in what form it should continue.”³⁰ The PD ignores Rulemaking 11-11-008, which considered this exact issue, and decided to maintain the WRAM/MCBA after full and fair opportunity to develop the record by all interested parties. The scoping memo in that proceeding explicitly referenced the WRAM/MCBA, including whether there are other mechanisms that accomplish the same results as the WRAM/MCBA.³¹ Later, a proposal to eliminate the WRAM/MCBA was issued for discussion at scheduled workshops.³² In its decision, the CPUC stated, “We conclude that, at this time, the WRAM mechanism should be maintained,”³³ plainly contradicting the PD’s claim that this is the first time the CPUC has considered the issue of whether the WRAM/MCBA should continue and if so, in what form.

The PD’s discontinuation of the WRAM/MCBA is based upon statements that demonstrate a worrying lack of understanding of ratemaking and rate design. For example, the PD includes a finding of fact stating that the “use of tired [sic] rate design is a reasonable means to stabilizing revenues.”³⁴ Actually, tiered rates are inherently destabilizing, since, by design, they magnify the effect of consumption changes due to price signals. Indeed, elsewhere the PD notes that rate tiers create an *unstable* revenue effect due to changes in water usage.³⁵ It would be incorrect for the CPUC to adopt such fundamental misstatement as a finding of fact.

E. If the CPUC Wishes to Again Consider Continuation of the WRAM/MCBA, it Should Do So in a Separate Rulemaking

If the CPUC is inclined to revisit continuation of the decoupling WRAM/MCBA, it should do so in a separate proceeding with adequate notice and opportunity for interested parties to participate. A separate proceeding is important since the purported focus of the current rulemaking on low-income issues does not provide transparency regarding the potential for substantial changes to the CPUC’s water conservation policy.³⁶ As part of the proceeding, it should examine historical data with respect to conservation in order to

³⁰ PD, p. 52.

³¹ R.11-11-008, *Assigned Commissioner’s Third Amended Scoping Memo and Ruling Establishing Phase II*, pp. 13-16. “Is there a policy or procedure that would accomplish the same results as the WRAM and MCBA without the attendant issues discussed in the previous questions especially in light of the drought and the Executive Order?” *Id.*, p. 15.

³² R.11-11-008, *Administrative Law Judges’ Ruling Setting Workshop and Further Schedule R. 11-11-008*, Attachment B, p. B3.

³³ D.16-12-026, p. 41.

³⁴ PD, Finding of Fact 13, p. 84.

³⁵ *Id.*, p. 50.

³⁶ Furthermore, a second amended scoping memo was recently issued providing for a Phase II of this proceeding to address the effects of the COVID-19 pandemic on both customers and water utilities. Attempting to address an issue of the magnitude of elimination of the WRAM/MCBA through a further amendment and phase in this proceeding would be inefficient and cause confusion.

determine how the decoupling WRAM/MCBA affected conservation efforts. It should also consider how the decoupling WRAM/MCBA impacted the development of tiered rate designs, including designs that provide a lower basic quantity rate for low-income customers and target customers with inefficient water uses. As part of that proceeding, the CPUC could also address the claims made in the PD regarding customer confusion and intergenerational inequities, and whether the potential for reduced conservation and increased rates for low-income customers is an acceptable trade-off for ameliorating these issues. Based on a full and comprehensive record, the CPUC would then be prepared to determine whether the decoupling WRAM/MCBA furthers its policy goals with respect to conservation and affordability, and whether the negative consequences of elimination would outweigh any benefits.

IV. THE LOW-INCOME MULTI-FAMILY HOUSING PILOT SHOULD BE BASED ON ADVICE LETTER 1221

The PD states, “We believe California-American Water Company’s Advice Letter 1221 for establishing a tariff that provided a discount to low-income multi-family renters provides a good starting point for a pilot.”³⁷ CAW submitted Advice Letter (AL) 1221 (included with these comments as **Attachment B**) to the CPUC on January 18, 2019 and it was rejected on June 7, 2019. In AL 1221, CAW proposed to provide a low-income discount to master-metered affordable housing facilities with an entirety of tenants who each individually meet the qualifications for CAW’s low-income support program. While CAW agrees that AL 1221 provides a good starting point for a pilot, it appears, however, that the PD’s directives for the pilot program do not reflect AL 1221.

Specifically, AL 1221 did **not** propose to provide benefits directly to low-income multi-family renters. As set forth in AL 1221, the discount would be provided to the master account holder (the CAW customer), and would be equal to the applicable low-income monthly discount in the service area and all tiers of the residential or multi-residential tariff.³⁸ The goal of AL 1221 was to provide relief and assure the viability of low-income housing providers, particularly in cases where lease payments, including utilities, are set by government regulation and a potential increase in water rates might not be able to be passed on to tenants.³⁹

Although the PD cites AL 1221, which does **not** provide direct benefits to non-customers, as the starting point for the pilot, it directs CAW to file within 60 days an advice letter setting forth a “pilot program that provides a discount to water users in low-income multifamily dwellings that do not pay their water bill

³⁷ PD, p. 64.

³⁸ **Attachment B**, AL 1221, p. 2.

³⁹ *Id.*

directly through the utility.”⁴⁰ The PD provides no explanation or justification for the massive shift from providing a discount to the low-income housing provider, a direct customer of CAW, to providing benefits to low-income non-customer tenants in master-metered multi-family dwellings. There is absolutely nothing in the record of this proceeding to support the conclusion that CAW has the ability to provide a direct benefit to non-customer tenants. Indeed, comments of parties indicate the exact opposite, that due to the challenges associated with providing such direct benefits to non-customers (including but not limited to the fact that most multi-family buildings are not submetered for water service), the CPUC should await the outcome of the Assembly Bill (AB) 401 process.⁴¹

The SWRCB recommendations for implementation of a statewide low-income water rate assistance program, prepared as part of the AB 401 process, recognize the inherent challenges in attempting to provide assistance to non-customer tenants of multi-family buildings. The SWRCB report was based on an extensive record that was the result of a multiyear process that included input from experts and the public.⁴² The SWRCB report noted, “there remains no mechanism to deliver benefits to non-submetered tenants who are solely master-metered.”⁴³ The SWRCB also recognized the legal challenges associated with attempts to require landlords to pass on the full affordability benefit to tenants⁴⁴ and ultimately concluded that the most workable solution would be to provide a benefit through the state income tax system to low-income households who are not directly billed by a water provider.⁴⁵

Neither the PD nor the record of this proceeding provide any indication that CAW has the ability to overcome the legal, administrative and institutional obstacles associated with providing direct benefits to low-income non-customer tenants of multi-family buildings, and certainly not that it would be able to

⁴⁰ PD, pp. 64-65.

⁴¹ *Comments of the Public Advocates Office on Water Division’s Staff Report and Response to Additional Questions*, p. 8; *Comments of California Water Association Responding to Administrative Law Judge’s September 4, 2019 Ruling*, pp. 21-23.

⁴² “A formal process to facilitate public and expert input began in 2016. As of October 2018, there have been numerous opportunities for public comment, including 17 public events consisting of community meetings, workshops, and symposiums that allowed for remote and in-person participation. The public process engaged over 1,460 participants and generated 152 public comment letters. Moreover, an invited group of expert stakeholders from water associations, water systems, environmental justice advocacy groups, and food, energy and housing assistance programs convened three times to provide targeted input.” SWRCB Recommendations for Implementation of a Statewide Low-Income Water Rate Assistance Program Appendices, Appendix B, p. 5.

https://www.waterboards.ca.gov/water_issues/programs/conservation_portal/assistance/docs/ab401_appendices.pdf

⁴³ SWRCB Recommendations for Implementation of a Statewide Low-Income Water Rate Assistance Program Appendices, Appendix K, p. 91.

⁴⁴ *Id.*, p. 92.

⁴⁵ SWRCB Recommendations for Implementation of a Statewide Low-Income Water Rate Assistance Program, p. 31. https://www.waterboards.ca.gov/water_issues/programs/conservation_portal/assistance/docs/ab401_report.pdf

develop a plan to do so within the 60 days provided the PD. Indeed, the CPUC itself was previously “unable to determine an equitable way” to provide a low-income benefit to non-customers.⁴⁶

CAW therefore recommends that the CPUC modify the PD to implement a pilot program to allow discounts for low-income multi-family housing providers, such as set forth in AL 1221, not a program providing direct benefits to non-customer tenants of multi-family housing.

V. THE CPUC SHOULD MAINTAIN INCENTIVES FOR WATER UTILITIES TO PURSUE CONSOLIDATION

CAW is pleased that the PD recognizes consolidation as “a means to improve affordability, by leveraging greater economies of scale and scope, and by importing best, or better, practices related to operating a water utility, as well as designing rates to allow recovery of reasonable expenses,” as well as the CPUC’s obligation to “ensure the process to achieve consolidation is as effective and efficient as possible.”⁴⁷ Over the last decade, CAW has been involved in numerous consolidation efforts throughout the state, ranging from acquisition of a 173-connection mutual water company⁴⁸ to purchase of a CPUC-regulated Class B water company serving more than 4,700 customers.⁴⁹ While the timing of the proceedings associated with these transactions has varied, generally it has exceeded the schedules adopted in D.99-10-064.⁵⁰ Therefore, CAW understands the CPUC’s eagerness to take action to improve the process. As with the PD’s elimination of the WRAM/MCBA, however, CAW is concerned that adoption of the consolidation minimum data requirements (MDRs) in the PD will actually do more harm than good. The CPUC should modify the PD in order to preserve the California Legislature’s intent to incentivize such transactions.⁵¹

The PD combines the proposed consolidation MDRs from CWA and CalPA, and then adds several additional requirements. Simply adopting the lists of both parties fails to recognize the distinctions between the two proposals. CWA examined data requests issued in multiple consolidation proceedings (most of which were CAW proceedings) and developed a list based on the most frequently requested information.⁵² CalPA copied a list of “Standard Data Request” items adopted by the Pennsylvania Public Utilities

⁴⁶ D.05-05-015, p. 4.

⁴⁷ PD, p. 68.

⁴⁸ Resolution W-5080.

⁴⁹ D.19-12-038.

⁵⁰ D.99-10-064, Appendix D.

⁵¹ “Providing water corporations with an incentive to achieve these scale economies will provide benefits to ratepayers.” Pub. Util. Code §2719(d).

⁵² *Reply Comments of California Water Association Responding to Administrative Law Judge’s September 4, 2019 Ruling*, pp. 8-9.

Commission.⁵³ Since CalPA simply copied the Pennsylvania requirements, they are not necessarily compatible with California law.

For example, the PD's consolidation MDR 18 (proposed by CalPA) directs applicants to "Provide a copy of the source for the purchase price and number of customers for each comparable acquisition used in the appraisals."⁵⁴ This is copied verbatim from the Pennsylvania order,⁵⁵ and reflects Pennsylvania law requiring appraisals "employing the cost, market and income approaches."⁵⁶ In California however, CPUC-regulated utilities are required to provide a reproduction or replacement cost new less depreciation (RCNLD) appraisal.⁵⁷ Such an appraisal is not based on comparable sales of other utilities. Thus, if the appraisal was based on the information included in proposed consolidation MDR 18, it would comply with Pennsylvania law but violate the mandates in California for water system appraisals under the Public Utilities Code.

The CPUC does a disservice by incorporating a list from another state without determining its applicability to California transactions. California and the CPUC have been leaders in establishing policies to assist vulnerable populations. Given the importance of consolidation, CAW is dismayed that the CPUC has not made the effort to develop MDRs that actually apply to the California water utilities it regulates.

The changes the PD proposes are not minor. They are an extensive list of additional requirements the implications of which have not been adequately addressed in the PD or this proceeding. The PD does not provide any explanation as to how the individual MDRs would result in "an acceleration in processing the application or advice letter."⁵⁸ In practice, because many of the MDRs request irrelevant or overly burdensome information, they threaten to lengthen, not shorten, proceedings and make some acquisitions, especially of smaller entities, less likely. For example, the PD includes a requirement to include a list of recommended, proposed or required capital improvements to the acquired water system for the next ten years, with cost estimates.⁵⁹ Since there is no obligation for the CPUC to consider future capital projects in determining whether to approve a water system purchase, there is no justification for this requirement,

⁵³ *Id.*, pp. 6-8.

⁵⁴ PD, p. 74.

⁵⁵ See Pennsylvania Public Utilities Commission, Section 1329 Applications (accessed July 27, 2020), available at: http://www.puc.state.pa.us/filing_resources/issues_laws_regulations/section1329_applications.aspx#:~:text=C.S.,a%20municipal%20corporation%20or%20authority (a copy of the relevant document is available under the "Orders" section for the link titled "Standard Data Requests").

⁵⁶ 66 Pa. C.S. § 1329(a)(3).

⁵⁷ Pub. Util. Code §2720(b); D.99-10-064, Appendix D, p. 2; D.19-04-015, p. 17.

⁵⁸ PD, p. 71.

⁵⁹ *Id.*, p. 76.

which would likely require significant expenditures by the buyer.⁶⁰

The consolidation MDRs also fail to consider that many of these transactions are years in the making. Requiring provision of documentation regarding “all offers to purchase the water system or water system assets”⁶¹ or copies of “any written correspondence,”⁶² neither with any limitations with respect to timing, would require documents from years ago to be provided, without any showing as to how such documents would be necessary or even relevant to the CPUC’s review. Adopting unnecessarily burdensome consolidation MDRs will not make the process more efficient, and could make such beneficial transactions less attractive to potential buyers and sellers. Similarly, the one-size-fits all consolidation MDRs impose the same disclosure requirements for small acquisitions as for large ones. There is a danger that imposing such extensive burdens in the context of smaller acquisitions will have a chilling effect.

CAW respectfully requests that the CPUC modify the consolidation MDRs as set forth in Attachment A to take into account the different types of transactions that may occur, to reflect California legal requirements, and to ensure that the MDRs truly work to make the consolidation process as efficient and effective as possible. If more information is needed with respect to the documentation that would be most helpful to various types of consolidation proceedings, CAW recommends that the CPUC seek further input on this issue and address it in a subsequent decision.

VI. CONCLUSION

At a time when Californians are facing significant challenges due to the economic effects of the COVID-19 emergency, as well as experiencing impacts from climate change, the CPUC should not take action that will reduce conservation incentives, lead to higher bills for low-income customers, and create disincentives to provide aid to vulnerable communities. CAW urges the CPUC to modify the PD as indicated in Attachment A and take the time to conduct a thorough and comprehensive review of the relevant issues in order to avoid such harmful consequences.

⁶⁰ If adopted, the CPUC should maintain the legislative intent to incentivize such transactions by allowing for recovery of costs associated with increased documentation required by this and other consolidation MDRs.

⁶¹ PD, p. 73.

⁶² *Id.*, p. 74.

July 27, 2020

Respectfully submitted,

By: /s/ Sarah E. Leeper

Sarah E. Leeper, Attorney
California-American Water Company
555 Montgomery Street, Suite 816
San Francisco, CA 94111
For: California-American Water Company

Attachment A

FINDINGS OF FACT (PD, pp. 83-85.)

3. The major purpose of adopting WRAM/MCBA was to decouple sales from revenues and thus promote conservation.

5. The ICBA provides that variable costs are reduced under the Monterey Style WRAM mechanism. The various options for modifying or eliminating WRAM/MCBA as ordered by D.12-04-048 were not adjudicated and resolved in subsequent GRC proceedings.⁶³

8. While the WRAM/MCBA was adopted to encourage conservation, the The application of this ratemaking mechanism the WRAM/MCBA has led to substantial undercollections and subsequent increases in quantity rates in certain areas.

9. Achieving Conservation of water use is a joint effort by customers, not and the utility.

11. Conservation for WRAM utilities measured as a percentage change during the last 5 years is less than conservation achieved by non-WRAM utilities, including Class B utilities.

13. The WRAM/MCBA mechanism is not the best means to minimize intergenerational transfers of costs when compared to an alternative available to the utilities and the Commission.

The goal of Tiered rate design is to encourage causes customers to use less water at increased costs per unit consumed. More steeply tiered rate designs lead to less revenue stability. ; thus, use of tiered rate design is a reasonable means to stabilizing revenues

14. The Monterey-Style WRAM combined with the ICBA is a method to account for the change from standard rate design to tiered rate design for lesser quantity sales and stabilize revenues.

Implementation of a Monterey-Style WRAM means that f Forecasts of sales become very are significant in establishing test year revenues.

17. A single, straight-forward name will aid outreach to consumers and statewide coordination in the delivery of assistance to low-income consumers. California-American Water Company's Advice Letter 1221 for establishing a tariff that provided a discount to low-income multi-family renters housing providers provides a good starting point for a pilot.

⁶³ It appears that some of the findings of fact were mis-numbered or not numbered at all.

CONCLUSIONS OF LAW (PD, pp. 85-86.)

2. Consideration of changes to the WRAM/MCBA ~~is and has always been~~ **not** within the scope of this proceeding as part of our review of how to improve water sales forecasting.

3. Elimination of the **If the Commission wishes to assess the WRAM/MCBA mechanism it should do so in a separate proceeding with adequate notice and opportunities for interested and affected parties to provide input.** ~~is a policy decision not determined by law.~~

~~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.~~

4. ~~As WRAM utilities have individual factors affecting a transition to Monterey-Style WRAM mechanism, this transition should be implemented in each WRAM utilities' respective upcoming GRC applications.~~

10. California-American Water Company should be directed to file a Tier 3 advice letter, within 60-days of the issuance of this decision, outlining a pilot program **based on AL 1221** that provides a discount to ~~water users in low-income multi-family~~ **housing providers** ~~dwellings that do not pay their water bill directly through the utility.~~

ORDERING PARAGRAPHS (PD, pp. 87-89.)

3. ~~California-American Water Company, California Water Service Company, Golden State Water Company, Liberty Utilities (Park Water) Corporation, and Liberty Utilities (Apple Valley Ranchos Water) Corporation, in their next general rate case applications, shall transition existing Water Revenue Adjustment Mechanisms to Monterey-Style Water Revenue Adjustment Mechanisms.~~

5. California-American Water Company shall file a Tier 3 advice letter, within 60-days of the issuance of this decision, outlining a pilot program that provides a discount to ~~water users in low-income multi-family~~ **housing providers** ~~dwellings that do not pay their water bill directly through the utility.~~

6. Each water utility shall comply with existing reporting requirements as summarized below:

- Annual reporting requirements from Decision (D.) 11-05-004.
- To each Annual Report, attach **reference** Minimum Data Requests submitted in the prior year period as part of 1) General Rate Case (GRC) filing, 2) applications for acquisitions (or expansion based on new requirement in this decision).

- Compliance, and associated data and analysis with orders from D.14-10-047, and D.16-12-026 in each GRC filing.
- Inclusion of disconnection and payment behaviors required in this proceeding beginning in June 2020 through June 2021.

CONSOLIDATION MDRs (PD, pp. 72-76)

1. Estimate the potential monthly incremental cost impact on existing and acquired customers following the actual results of the Buyer's most recently authorized tariffs.
 - a. If a Buyer has pending request before the Commission to change rates, it must also calculate the above using data as proposed in its pending request.
2. If the Buyer ~~has a present intention~~ **is seeking authority** to increase the acquired system's rates to a certain level, please state the basis for the targeted rate and period of time for such targeted rate to be implemented.
3. Provide the annual depreciation expense using the proposed rate base of the acquired assets. If the exact depreciation expense is not available, provide the best estimate of the annual depreciation expense. Show how the depreciation expense is calculated.
4. Provide an estimate of the annual revenue requirement of the system proposed to be acquired. Provide the assumptions for the annual revenue requirement, including expected rate of return, expected depreciation expense, O&M expenses, etc.
5. Other than the revenue requirement data requested above, separately identify all other approved and/or intended impacts to customer bills (i.e., surcharges, passthrough fees, etc.).
6. Provide a listing of any entities that currently receive free service from the acquired utility.
7. If the acquired utility has increased rates in the last year, please state the date of the increase and provide a copy of the new rate schedule and the total annual revenues ~~produced~~ **projected** under the new rates.
8. Are there any leases, easements, and access to public rights-of-way that Buyer ~~will~~ **expects to be needed** in order to provide service which will not be conveyed at closing? If yes, identify when the conveyance will take place and whether there ~~are expected to~~ **will** be additional costs involved.
9. Provide a breakdown of the estimated transaction and closing costs. Provide invoices to support any transaction and closing costs that have already been incurred.

10. Describe known and anticipated general expense savings and efficiencies under Buyer's ownership. State the basis for all assumptions used in developing these savings and efficiencies and provide all supporting documentation for the assumptions.
11. Provide a copy of the Seller's request for proposals (if there was one) and any accompanying exhibits with respect to the proposed sale of the water system or water system assets.
12. Provide a copy of the **response to the** request for proposals **(if there was one)** and exhibits of the Buyer for the purchase of the acquired water system or water system assets.
13. ~~Provide a copy of the Buyer's offer to purchase the acquired water system or water system assets and the Seller's response to that offer.~~
14. ~~Provide a copy of all offers to purchase the water system or water system assets received by the Seller.~~
15. For each Utility Valuation Expert (UVE) providing testimony or exhibits, please provide the following:
 - a. A list of valuations of utility property performed by the UVE **in the past two years**;
 - b. A list of appraisals of utility property performed by the UVE **in the past two years**;
 - c. A list of all dockets in which the UVE submitted testimony to a public utility commission or regulatory authority related to the acquisition of utility property **in the past two years**; and
 - d. An electronic copy of or electronic link to **written** testimony in which the UVE testified on public utility fair value acquisitions in the past two years.
16. Explain each discount rate used in the appraisals and valuations, including explanations of the capital structure, cost of equity and cost of debt. State the basis for each input. Provide all sources, documentation, calculations and/or workpapers used in determining the inputs.
17. Explain whether the appraisal/valuation used replacement cost or reproduction cost and why that methodology was chosen.
18. ~~Provide a copy of the source for the purchase price and number of customers for each comparable acquisition used in the appraisals.~~
19. ~~Have Buyer and Seller either directly or through an intermediary (i.e. UVE) corresponded with regard to negotiating a fair market value or acquisition price of the assets at issue in this case? If yes, provide the following information:~~
 - a. ~~Identify the nature and date(s) of correspondence;~~
 - b. ~~Identify the type(s) of correspondence (i.e. written, verbal, etc.); and~~
 - c. ~~Provide copies of any written correspondence exchanged.~~

20. Are there any outstanding compliance issues, including but not limited to water quality violations, that the Seller's system has pending with the Board's Division of Drinking Water? If yes, provide the following information:

- a. Identify the compliance issue(s);
- b. Provide an estimated date of compliance;
- c. Explain Buyer's anticipated or actual plan for remediation;
- d. Provide Buyer's estimated costs for remediation; and
- e. Indicate whether the cost of remediation was or is anticipated to be factored into either or both fair market valuation appraisals offered in this proceeding.

21. Are there any outstanding compliance issues that the Seller's system has pending with the US Environmental Protection Agency? If yes, provide the following information:

- a. Identify the compliance issue(s);
- b. Provide an estimated date of compliance;
- c. Explain Buyer's anticipated or actual plan for remediation;
- d. Provide Buyer's estimated costs for remediation; and
- e. Indicate whether the cost of remediation was or is anticipated to be factored into either or both fair market valuation appraisals offered in this proceeding.

22. Provide copies of all notices of a proposed acquisition given to affected customers.

23. Provide copies of all disclosures and customer notices required by Pub. Util. Code § 10061 related to the sale and disposal of utilities owned by municipal corporations.

24. Describe other requests to be included in the application, including but not limited to requests for approval of:

- a. Consulting, transition of service, water wholesaling, or other agreements;
- b. Interim rate increases outside of a general rate case proceeding or other special rate treatment (e.g., CPI-U rate increases, or rate increases under Class C/D requirements);
- c. Facilities construction;
- d. Memorandum or Balancing Accounts.

25. Identify the ratepayer benefits that accrue to current ratepayers of the system being acquired due to this transaction.

26. ~~Provide a copy of the due diligence analysis, if any, prepared by the applicant in connection with the proposed transaction.~~

27. Identify all actions the applicant has taken with governmental agencies related to obtaining required permits and/or approvals to effectuate the acquisition.

28. Provide all workpapers that support the testimony for each of the witnesses that accompany the application, in native format where possible.

- ~~A list of recommended, proposed or required capital improvements to the acquired water system for the next ten years, with cost estimates;~~
- If applicable, supporting documentation for the designation of Disadvantaged Community; and
- If applicable, documents required by Pub. Util. Code Section 10061(c).

IN THE SUPREME COURT OF THE STATE OF
CALIFORNIA

CALIFORNIA-AMERICAN WATER COMPANY
Petitioner,

v.

PUBLIC UTILITIES COMMISSION OF THE STATE OF
CALIFORNIA
Respondent.

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

Of the Public Utilities Commission of the State of California

EXHIBIT P

*Comments of California Water Service Company (U 60 W) on the
Proposed Decision of Commissioner Guzman Aceves, R.17-06-034,
July 27, 2020*



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

FILED
07/27/20
04:59 PM

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**

NATALIE D. WALES
Director, Regulatory Policy & Compliance
California Water Service Company
1720 North First Street
San Jose, CA 95112
Phone: (408) 367-8566
Fax: (408) 367-8426
Email: nwales@calwater.com

Attorney for California Water Service Company

July 27, 2020

TABLE OF CONTENTS

I. SUMMARY OF COMMENTS2

II. DISCUSSION.....3

 A. The PD Will Increase Bills for Low-Income Customers and Low Water Users3

 B. Eliminating Cal Water’s Decoupling Mechanism Is Premature.....6

 C. In a Rush to Judgment, the PD Overlooks More Reasonable Options7

 D. The PD’s Findings Regarding the Performance of Decoupling Are Not Supported by Substantial Evidence.8

 E. The PD Misstates the Mechanics of What the M-WRAM Is and What It Can Do.10

 F. The PD’s Flawed Disposition of Decoupling Issues Constitutes Procedural Error.11

 1. Eliminating Decoupling Is Not Appropriately Within the Scope of This Proceeding.11

 2. Eliminating Decoupling Would Violate Due Process.13

 G. The Policy Merits of Decoupling Should Be Considered More Fully.....14

III. CONCLUSION.....15

For example, under-collections from decoupling are currently recovered through a uniform surcharge applied to each unit of water used. This is in contrast to the conservation-based rate design of basic water rates that recovers a higher proportion of the cost of water from the highest users of water. One way to leverage this more progressive rate design is to roll under-collected decoupling balances into base rates themselves each year.

Alternatively, to minimize the impact of decoupling surcharges on low-income customers, customers who are enrolled in Cal Water's low-income program could be exempted from decoupling surcharges altogether. Or, to avoid penalizing customers who have already conserved as much as possible, and whose bills never go beyond the first tier of water usage, decoupling surcharges could be applied only to water usage that fall into higher tiers. These alternative recovery mechanisms would require testing and analysis at the ratemaking area level for each company. Some obvious benefits, however, are that they could be implemented sooner (without having to wait until the end of a subsequent GRC), and because the scope of the changes is more limited, the outcome is more predictable and allows for a more informed choice.

D. The PD's Findings Regarding the Performance of Decoupling Are Not Supported by Substantial Evidence.

The PD unfairly discounts the value and performance of decoupling by reaching factually incorrect findings that are critically flawed, and are not supported by substantial evidence in light of the full record. Most significantly, the PD's decision to eliminate decoupling is premised on two interconnected findings of fact that "[a]verage consumption per metered connection for WRAM utilities is less than the consumption per metered connection for non-WRAM utilities"²¹ and that "[c]onservation for WRAM utilities measured as a percentage change during the last 5 years is less than conservation achieved by non-WRAM utilities, including Class B utilities."²² There are several significant problems with these findings. Moreover, the scant evidence used to reach those findings have considerable procedural deficiencies as outlined in these comments below.

The PD errs by unduly focusing on the comparisons of data over the previous five-year period. However, water savings during much of this period were not discretionary, but rather

²¹ PD, p. 84, Finding of Fact 10.

²² PD, p. 84, Finding of Fact 11.

were largely the result of temporary emergency mandates by the Governor and the State Water Resources Control Board, some of which applied directly to end-use customers.²³ Additionally, the PD acknowledges that the widespread use of Lost Revenue Memorandum Accounts (“LRMA”) among non-decoupled companies effectively functioned to allow those companies to “recover lost revenues caused as a result of the declared drought emergencies,” thereby partially replicating what a WRAM would have done.²⁴ Consequently, focusing on this period does not allow for a meaningful comparison of conservation performance between decoupled and non-decoupled utilities. The collective successes of water utilities and their customers during the previous drought merely **prove** rather than refute the efficacy of revenue decouple mechanisms in facilitating water conservation.

Moreover, this comparison mistakenly assumes that the water use reductions achieved during the years of a historic drought could be replicated in periods of non-drought where such conservation mandates are absent. The Commission established the decoupling in order to remove disincentives for utilities to implement cost-effective long-term conservation, which is not the same as short-term fixes applicable only during periods of drought. The PD’s consideration of only the latter and not the former is inconsistent with the State’s goal of “making water conservation a California way of life.”²⁵

A more appropriate comparison between decoupled and non-decoupled companies must take into account periods of non-drought when state conservation mandates and the LRMA are absent. Indeed, if given the opportunity to submit the evidence, Cal Water can show that the multiple years leading up to the drought have been overlooked, and yet those are the years when water utilities with conservation-focused programs and rate structures achieved substantially more conservation than those without such strategies. In particular, Cal Water can demonstrate

²³ See, e.g., State Water Resources Control Board Resolution 2015-0032 (May 5, 2015) (implementing emergency regulations in California Code of Regulations, title 23, sections 864, 865 and 866 setting forth “End-User Requirements in Promotion of Water Conservation,” “Mandatory Actions by Water Suppliers,” and “Additional Conservation Tools,” respectively), *available at* https://www.waterboards.ca.gov/waterrights/water_issues/programs/drought/docs/emergency_regulations/rs2015_0032_with_adopted_regs.pdf.

²⁴ PD, pp. 58-59. Lest the Commission conclude that permitting the LRMA during times of declared drought would be a functional substitute, Cal Water notes that in addition to only being a one-way mechanism (it only tracks lost revenue associated with reduced sales, but not over-collections above adopted forecasts), the LRMA only tracks revenue shortfalls.

²⁵ Executive Order B-37-16 (May 9, 2016).

that, between 2008 and 2014, fully decoupled utilities saw a larger decrease in average customer water use than did M-WRAM utilities. Thus, even in light of the very limited record on the full WRAM available in this proceeding, it is unreasonable for the PD to find that decoupling has not had a positive effect on water conservation. Cal Water is confident that if given an opportunity, it could present further persuasive evidence and make an even more compelling showing demonstrating the efficacy of decoupling on conservation.²⁶ However, as explained later below, the PD's rushed and incomplete evaluation of decoupling mechanisms has denied Cal Water and other parties a fair opportunity to be heard on critical disputed issues.

E. The PD Misstates the Mechanics of What the M-WRAM Is and What It Can Do.

In addition to the flawed comparisons between decoupled companies and non-decoupled companies outlined above, the PD operates with an incorrect understanding of what the M-WRAM is intended to do. The critical difference between the two is that the full decoupling WRAM is intended to mitigate external revenue risks due to sales variations by truing up the utility's conservation rate revenue to forecasts **previously approved by the Commission**, while the M-WRAM only trues up such revenues to what they would have been if the standard non-conservation rate design had been in effect.²⁷ This means that the M-WRAM only relates to how the recorded water usage translates to dollar revenues based on the rate design – **it does not capture differences due to changes in customer behavior on water consumption driven by conservation**. By comparison, full decoupling is specifically designed to track the actual impact

²⁶ For example, Cal Water made such a showing regarding the WRAM in the context of its pending GRC proceeding A.19-07-001 where it presented testimony and actual data in the evidentiary record regarding the performance of its WRAM and the benefits associated with it, subject to cross-examination by other parties.

²⁷ See D.06-08-011, p. 16 fn. 15 (“The WRAM balancing account for California-American Water Company’s Monterey Division is not intended to true up the utility’s steeply ascending, multiple-block revenues to the GRC estimate, but rather to what the revenues would have been had each customer been billed on the Commission-standard rate design described earlier. Thus, it does not relieve California-American Water Company of its normal revenue risk due to sales variation, but rather returns it to that normal risk level from the extreme revenue risk it would otherwise face under the steeply ascending, multiple-block rate structure the Commission has established to meet water production constraints placed on the utility by the California Water Resources Control Board.”).

IN THE SUPREME COURT OF THE STATE OF
CALIFORNIA

CALIFORNIA-AMERICAN WATER COMPANY
Petitioner,

v.

PUBLIC UTILITIES COMMISSION OF THE STATE OF
CALIFORNIA
Respondent.

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

Of the Public Utilities Commission of the State of California

EXHIBIT Q

*Comments of Golden State Water Company (U 133 W) on
Proposed Decision and Order, R.17-06-024, July 27, 2020*



FILED
07/27/20
04:59 PM

**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**

GOLDEN STATE WATER COMPANY
Keith Switzer
Vice President, Regulatory Affairs
630 East Foothill Boulevard
San Dimas, CA 91773-9016
(909) 394-3600, Ext. 680

Joseph M. Karp
Chris Kolosov
Winston & Strawn LLP
101 California Street, 35th Floor
San Francisco, California 94111-5894
Telephone: (415) 591-1000
Facsimile: (415) 591-1400
Email: jkarp@winston.com
ckolosov@winston.com
Attorneys for Golden State Water Company

July 27, 2020

TABLE OF CONTENTS

	<u>Page</u>
SUBJECT INDEX OF RECOMMENDED CHANGES	ii
TABLE OF AUTHORITIES	v
I. INTRODUCTION.....	1
II. THE PD’S ERRORS REGARDING THE WRAM/MCBA	3
A. Changes to the WRAM/MCBA, if Any, Should be Addressed in a Separate Proceeding or a Separate Phase of this Proceeding	3
B. The PD Fails to Consider the Unintended Consequences on Low-Income Customers of Requiring Replacement of the WRAM/MCBA with the M-WRAM/ICBA	7
C. The Utilities had no Opportunity to Review or Respond to the Data upon which the PD Relies and that Data Does Not Demonstrate what the PD Concludes	8
D. The PD Fails to Take into Account Critical Differences between a Full WRAM and an M-WRAM	13
E. The PD Relies on Incomplete and Out-of Date WRAM Balance Data	14
III. REQUESTED CLARIFICATION REGARDING IMPLEMENTATION DATE	15
IV. CONCLUSION	15

Attachments:

Attachment A: Proposed Findings of Fact and Conclusions of Law

such table. In response to questions about the missing table, ALJ Haga stated that the reference to Table A was “a clerical error” and that this will be fixed “following the review of all comments to the PD.”³⁹ Incredibly, the parties are still being denied any opportunity to review and respond to the purported evidence being relied upon in the PD. This cannot be consistent with the Commission’s due process obligations.

As to substance, neither the Cal PA graph nor, to the best that we can surmise without seeing Table A, the SWRCB data, supports any finding that use of the M-WRAM/ICBA is as effective as the WRAM/MCBA in promoting conservation objectives. The Cal PA graph purports to compare the historical change in consumption (use per customer) for the WRAM companies and the M-WRAM companies for the period 2008 to 2016. Cal PA contends, and the PD accepts, that the Cal PA graph demonstrates that there is no difference between the two mechanisms in terms of their impact on conservation. There are three problems with Cal PA’s graph that makes Cal PA’s contention wrong.

The first problem is that the graph compares the annual rate of change in average usage. This is an issue because even small differences in the annual rate of change compound and cumulate over time, becoming significant differences in average usage. A more appropriate analysis would be comparing the actual, cumulative percentage change in average usage over time, which uncovers the compounding effect on average usage that is lost in Cal PA’s graph. The chart below provides this comparison.⁴⁰

Comparison of WRAM and M-WRAM Companies
Percent Change in Usage per Customer
2008-2018

	Year over Year Percent Change		Cumulative Percent Changed Since 2008		Ratio of Aggregate Reduction In Usage from 2008 to 2018: WRAM companies compared To M-WRAM companies (4)/(3)
	<u>M-WRAM</u> (1)	<u>WRAM</u> (2)	<u>M-WRAM</u> (3)	<u>WRAM</u> (4)	
2008					
2009	-8.1%	-8.6%	-8.14%	-8.56%	5.21%
2010	-6.5%	-8.8%	-14.08%	-16.61%	17.96%
2011	-1.2%	-2.2%	-15.14%	-18.48%	22.11%
2012	5.8%	5.1%	-10.17%	-14.36%	41.15%
2013	1.3%	1.2%	-9.01%	-13.36%	48.30%
2014	-5.7%	-5.8%	-14.21%	-18.41%	29.52%
2015	-18.0%	-17.1%	-29.67%	-32.36%	9.09%
2016	-2.2%	-0.9%	-31.21%	-33.01%	5.74%
2017	5.7%	3.7%	-27.27%	-30.51%	11.92%
2018	4.1%	4.2%	-24.28%	-27.60%	13.67%

As shown in the first two columns of this table, the annual change in average usage per customer for the

³⁹ Email from ALJ Haga sent to all Parties to R.17-06-024 on July 8, 2020.

⁴⁰ The data in this chart is calculated using a weighted average of consumption based upon the relative size of each utility. In contrast, the Cal PA graph uses a simple average of consumption across the various utilities.

M-WRAM and WRAM companies has generally moved in concert with one another, the difference being less than 1% in 6 of the 8 years. This is the data that the Cal PA graph reflects. However, the third and fourth columns of this table highlight the compounding effect of these small differences over time, and the cumulative differences in per capita usage are quite different. For the period from 2008 to 2014, which, for the reasons explained below, is the period that is indicative of actual WRAM versus M-WRAM effects (as opposed to other factors affecting conservation outcomes), the annual change in per capita consumption favors the WRAM companies (either larger declines or smaller increases) every year. Between 2008 and 2014, the difference in the annual percentage change in per capita usage averaged 0.9% in favor of the WRAM companies. This meant that by the end of 2014, the cumulative change in per capita consumption was only 14.2% for the M-WRAM companies, compared to 18.4% for the WRAM companies. As reflected in the fifth column, this cumulative decrease in per capita consumption was almost 30% greater for the WRAM companies by 2014. In other words, the reduction in usage per customer for the WRAM companies from 2008 to 2014 was almost 30% greater than the reduction in usage per customer for the M-WRAM companies.

The second problem with the Cal PA graph is that it fails to take into account critical factors that impacted the conservation outcomes of the WRAM versus M-WRAM companies. One of those factors was the imposition of mandatory water usage reduction targets by then Governor Brown in 2015. In response to the Governor's Emergency Declaration, the SWRCB adopted specific targets for water conservation for each water provider, which were intended to reduce statewide urban water consumption by 25% from 2013 levels. The targets varied by water system and were set based on system-specific average residential use per customer in 2013. The targets were based on 2013 usage in order to recognize the varying levels of conservation already taking place in different water systems. For GSWC, the initial targets in 9 of the 18 systems reviewed by the SWRCB were below 20%.⁴¹ In contrast, only 1 of the 6 targets for the M-WRAM companies was less than 20%.⁴² In response to these mandated conservation targets, all of the investor-owned water utilities implemented customer usage reductions (both voluntary and mandatory) as authorized by their Rule 14.1 tariff schedule. The logical conclusion is that usage data from that time period is not a valid comparison of conservation effects of WRAM versus M-WRAM, because conservation during this period was driven by the mandatory usage restrictions and the utilities were subject to differing mandatory usage restrictions.

Thus, although the above table shows a change in annual consumption that favors M-WRAM

⁴¹ June 2014-May 2020 Urban Water Supplier Monthly Reports, available at:

https://www.waterboards.ca.gov/water_issues/programs/conservation_portal/conservation_reporting.html.

⁴² *Id.*

companies in the years 2015 to 2016 (i.e., larger decreases in both years for the M-WRAM companies versus the WRAM companies) those reductions are not valid indicators of the effectiveness of the M-WRAM or the WRAM mechanism. Rather, the impressive reductions in average usage per customer during this period (both for the M-WRAM companies and the WRAM companies) are a reflection of their abilities to comply with the Governor's directive to achieve mandatory usage reductions. As a result of the 2015 and 2016 reductions, the aggregate reduction in usage of WRAM companies as compared to M-WRAM companies declined to only 5.74% by the end of 2016 (as opposed to 29.52% at the end of 2014)). The last two lines of the table include data for 2017 and 2018, data which was not included in the Cal PA graph. These last two years are revealing because the mandated restrictions that affected customer usage in 2015 and 2016 ended in early 2017. Importantly, the table indicates that once the Governor's directive ceased to be in effect, the pendulum swung back the other way. That is, the difference in the cumulative percentage change in per capita consumption between the WRAM and the M-WRAM companies started to increase again. And by the end of 2018, the cumulative decrease in per capita consumption for the WRAM companies was 13.67% greater than for the M-WRAM companies. In other words, by 2018, the reduction in usage per customer for the WRAM companies from 2008 was 13.67% greater than the reduction experienced by the M-WRAM companies over that same time period. Accordingly, unlike what appears from Cal PA's graph, the data shows that customers of WRAM companies do in fact conserve more than customers of M-WRAM companies.

The third problem with Cal PA's analysis is that it fails to take into account that, during the time period covered by Cal PA's graph, three of the M-WRAM companies benefited from other rate decoupling mechanisms, such as Drought Lost Revenue Memorandum Accounts and Water Conservation Memorandum Accounts, which were intended to mitigate the effects of not having a full WRAM.⁴³ The practical effect of these rate decoupling mechanisms was to convert the M-WRAM into a full WRAM for these companies during the effective time period. This point was highlighted in San Jose Water Company's ("SJW") latest GRC. In response to arguments made by Cal PA (then the Office of Ratepayer Advocates ("ORA")) against the request of SJW to convert from an M-WRAM to a full WRAM during SJW's 2018 GRC, SJW's witness testified regarding this very issue, explaining:

[T]he Commission has recognized the relationship between conservation and full decoupling, by authorizing temporary decoupling like mechanisms in water

⁴³ See, e.g., AL 484 (filed Jul. 18, 2016) (San Gabriel Water Company request to amortize the net under-collected balance in its Drought Lost Revenue Memorandum Account and Drought Surcharge Revenue Memorandum Account for Jun 1, 2015 to June 30, 2016); AL 486 (effective Apr. 26, 2016) (authorized recovery by San Jose Water Company of its under-collected Water Conservation Memorandum Account balance for Jan. 1 to Dec. 31, 2015); AL 272-W (filed May 31, 2018) (Great Oaks Water Company request to offset the adjusted balance in its Conservation Lost Revenue and Expense Memorandum Account, which had been in effect since 2014).

conservation memorandum accounts for water utilities without decoupling mechanisms during periods of mandatory conservation/drought. **The impressive conservation figures for SJWC cited in ORA’s testimony largely resulted from periods during which such mechanisms, as well as price signals, were in place.**⁴⁴

Accordingly, Cal PA’s graph does not support that an M-WRAM is as effective as a full WRAM for promoting conservation.

With regard to the SWRCB data, as noted above, the PD relies heavily on data that was never part of the record and is not in the PD itself, making it exceedingly difficult to address the validity of the conclusions reached. From the research that GSWC conducted trying to figure out what data Table A purports to summarize, the SWRCB data cannot be used to analyze the comparative effects of M-WRAM versus WRAM mechanisms on conservation outcomes. One problem is that, after 2016, the SWRCB did not collect data for systems under a certain size, so the data is incomplete. The more critical problem is that, (as with the data used in the Cal PA graph), the time frame for the SWRCB data includes the years of differing mandatory use restrictions and conservation targets that resulted in differing conservation outcomes among the utilities. Generally, the SWRCB collected usage data on urban water usage by system. The SWRCB set usage reduction targets for each system based on average usage for residential customers within the system in 2013 and reported on usage/conservation results compared to those 2013 usage levels and reduction targets. For example, GSWC provides service in 18 systems designated as urban systems and had reduction targets ranging from 8% to 36%.⁴⁵ Half of our systems had targets that were below 20%; in contrast, only 1 of the six systems served by the M-WRAM companies had a target below 20%.⁴⁶ This is pertinent because the targets were set based on 2013 usage levels in a manner that recognized systems that had already achieved a certain conservation level by 2013. Critically, the conservation targets and results reflected in the SWRCB data were mandated by the Governor and had nothing to do with the relative effectiveness of the WRAM versus the M-WRAM. The PD’s conclusion to the contrary is wrong. The most that can be deduced from the SWRCB data is that the CPUC-jurisdictional utilities succeeded in achieving the mandated conservation. Nothing more.

D. The PD Fails to Take into Account Critical Differences between a Full WRAM and an M-WRAM

The PD’s conclusion that the M-WRAM is just as effective in promoting conservation as the full WRAM is erroneous not only because the data on which the PD relies fails to support this conclusion,

⁴⁴ Exh. SJW-4 in Docket A.18-01-004 (*Rebuttal of SJW to the ORA Report and Recommendations on Revenues and Rate Design, Revenue Decoupling and Refunds*) at 6 (emphasis added).

⁴⁵ See, *supra*, note 41.

⁴⁶ *Id.*

IN THE SUPREME COURT OF THE STATE OF
CALIFORNIA

CALIFORNIA-AMERICAN WATER COMPANY
Petitioner,

v.

PUBLIC UTILITIES COMMISSION OF THE STATE OF
CALIFORNIA
Respondent.

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

Of the Public Utilities Commission of the State of California

EXHIBIT R

*Great Oaks Water Company's Comments to Proposed Phase I
Decision, R.17-06-024, July 27, 2020*



FILED
07/27/20
04:59 PM

**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 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.

) Rulemaking No. 17-06-024

) Filed: June 29, 2017

**GREAT OAKS WATER COMPANY'S COMMENTS
TO PROPOSED PHASE I DECISION**

Date: July 27, 2020

Great Oaks Water Company
Timothy S. Guster
Vice President and General Counsel
Legal and Regulatory Affairs
PO Box 23490
San Jose, CA 95153
Telephone: (408) 227-9540
Facsimile: (408) 227-7126
Email: tguster@greatoakswater.com

**GREAT OAKS WATER COMPANY’S
COMMENTS TO PROPOSED PHASE I DECISION
TABLE OF CONTENTS**

Title	Page
Table of Authorities	ii
I. Introduction	1
II. Comments on Proposed Decision	2
A. The Proposed Decision adopts a uniform name for Class A water utility low-income ratepayer assistance programs	2
B. The Proposed Decision’s requirement to provide financial assistance to low-income water users who are not utility ratepayers is unlawful	3
C. The Proposed Decision cancels existing Commission policies and decisions	3
D. Eliminating WRAMs does not address water sales forecasting inaccuracies	5
E. Conservation requires a combined effort by utilities, their customers, and government agencies	7
F. WRAM accounts are more often under-collected because conservation efforts have been successful	8
G. The Proposed Decision’s comparison of WRAM vs. non-WRAM conservation is faulty and not based upon established facts	9
H. Monterey-style WRAMs are not a substitute for WRAMs/MCBAs, as a Monterey-style WRAM serves an entirely different purpose	10
I. If the elimination of WRAMs/MCBAs or the replacement of WRAMs/MCBAs with Monterey-style WRAMs actually improves water sales forecasting, the Proposed Decision should include a fact-based explanation of how this will work	11
J. Monterey-style WRAMs do not decouple sales from revenues	12
K. Including 600 cubic feet of water in the first tier of tiered rates will not solve low-income or affordability issues for larger families	13
L. The Proposed Decision’s requirement to include obsolete conservation data reports in Annual Reports should be stricken	13
III. Conclusion	14

WRAMs more often include “under-collected” balances because the Commission conservation policy of decoupling revenues and sales works. If WRAM balances were “over-collected,” that would mean that conservation efforts had failed and more water than forecasted was sold to/used by customers. The Proposed Decision cancels Commission conservation policies that work. This makes no sense whatsoever, and the Proposed Decision should be withdrawn or rejected as based upon a lack of factual support leading to erroneous conclusions.

G. The Proposed Decision’s comparison of WRAM vs. non-WRAM conservation is faulty and not based upon established facts.

The Proposed Decision relies upon a comparison produced by Cal PA (in reply comments, no less²⁷) suggesting that Class A water utilities with WRAMs produced the same basic conservation results as the Class A water utilities without WRAMs during the most recent drought period.²⁸ But the Cal PA comparison is misleading (as it did, in fact, lead to an erroneous conclusion).

During the most recent drought period, Great Oaks’ conservation goal was a 30 percent reduction from 2013 water usage. This goal was set by a local government agency (Santa Clara Valley Water District) and a state agency (State Water Resources Control Board). Not all Class A water utilities were required to conserve 30 percent as compared to 2013, as, in fact, some were required to conserve less. A broad comparison of conservation results that omits the various and different conservation requirements is very misleading.²⁹

Great Oaks does not have a WRAM or MCBA, but does have a Monterey-style WRAM.³⁰ But during the most recent drought period, Great Oaks did seek and receive authorization for a Conservation Lost Revenue and Expense Memorandum Account under the authority of Commission Res. W-4976.³¹ This memo account served the same basic purpose as a WRAM/MCBA and, in fact, the Commission declared that having a WRAM *and* a memorandum

²⁷ Producing the comparison in reply comments prevented any meaningful analysis or review of the data provided.

²⁸ *Id.*, at pp. 54 – 55.

²⁹ The Proposed Decision does note the range of conservation achieved by both WRAM and non-WRAM utilities during the drought but does not acknowledge that there was also a range of conservation goals/requirements for the utilities as well. *See* Proposed Decision, at p. 55.

³⁰ Note: The Proposed Decision erroneously includes Great Oaks among companies that have neither a WRAM/MCBA nor a Monterey-style WRAM. *See* Proposed Decision, at p. 55. Great Oaks has had a Monterey-style WRAM since 2010.

³¹ Great Oaks’ Advice Letter 238-W, with an effective date of March 1, 2014.

account to track lost revenues from voluntary or mandatory conservation would have been “redundant protection.”³²

What this means is that Cal PA’s entire argument – that water utilities without WRAM/MCBA mechanisms performed the same as or better than water utilities with WRAM/MCBA mechanisms during the drought – is entirely misleading. Cal PA advocated the use of a false comparison and the Proposed Decision accepted the misleading information without question or further inquiry. In short, the Proposed Decision’s findings and conclusions that WRAMs/MCBAs are “not necessary”³³ is completely erroneous. Findings 10 and 11³⁴ should be completely stricken from the Proposed Decision as not based upon established or accurate facts.

H. Monterey-style WRAMs are not a substitute for WRAMs/MCBAs, as a Monterey-style WRAM serves an entirely different purpose.

The Proposed Decision would change Commission policy by replacing WRAMs/MCBAs with Monterey-style WRAM accounts, even though WRAMs/MCBAs and Monterey-style WRAM accounts serve two entirely different purposes.³⁵ WRAMs and MCBAs address cost recoveries, while Monterey-style WRAMs address the differences between revenues received under tiered “conservation” rates versus what those revenues would have been under a uniform quantity (volumetric) rate. A Monterey-style WRAM is in no way a substitute for a WRAM/MCBA. And the elimination of WRAMs/MCBAs and replacing them with Monterey-style WRAMs does nothing to improve sales forecasts.

The Proposed Decision suggests that Monterey-style WRAMs offset by ICBA will “account for the consequences of inaccurate forecasts.”³⁶ This is not true. Monterey-style WRAMs have very little to do with water sales forecasts, but instead address authorized revenue differentials resulting from tiered rates.

Finding 14 of the Proposed Decision states: “The Monterey-Style WRAM combined with the ICBA is a method to account for lesser quantity sales and stabilize revenues. Implementation of a Monterey-Style WRAM means that forecasts of sales become very significant in

³² Res. W-4976, at p. 11.

³³ Proposed Decision, at p. 55.

³⁴ *Id.*, at p. 84.

³⁵ *Id.*, at p. 56; Finding

³⁶ *Id.*, at p. 56.

IN THE SUPREME COURT OF THE STATE OF
CALIFORNIA

CALIFORNIA-AMERICAN WATER COMPANY
Petitioner,

v.

PUBLIC UTILITIES COMMISSION OF THE STATE OF
CALIFORNIA
Respondent.

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

Of the Public Utilities Commission of the State of California

EXHIBIT S

*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, R.17-06-024, July 27, 2020*



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

FILED
07/27/20
04:59 PM

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)

**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**

Joni A. Templeton
Victor T. Fu
LKP Global Law, LLP
1901 Avenue of the Stars, Suite 480
Los Angeles, CA 90067
Telephone: (424) 239-1926
Facsimile: (424) 239-1882
Email: jtempleton@lkgpl.com

Dated: July 27, 2020

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

**Liberty Utilities' Joint Comments on
Proposed Decision**

Table Of Contents

Section	Page
I. THE PD'S DISPOSITION OF THE WRAM/MCBA MECHANISM MUST BE REJECTED BECAUSE IT IS PREMISED ON LEGAL AND FACTUAL ERRORS.	1
A. The PD's Misstatement That the Commission Has Not Endorsed the WRAM After Decision 12-04-048 Is A Factual Error.	2
B. The PD's Failure to Provide Parties With a Meaningful Opportunity to be Heard Constitutes Legal Error.	4
C. The PD's Misstatement That WRAM Balances Have Been Large and Under-Collected Is a Factual Error.	5
D. The PD's Invalid Comparison Between the WRAM and the Monterey-Style WRAM Constitutes Factual Error.	7
E. The WRAM/MCBA Mechanism Does Not Remove Consequences for Inaccurate Forecasts.	8
F. The PD Fails to Acknowledge That the Monterey-Style WRAM/ICBA Does Not Provide the Same Benefits to Customers as the WRAM/MCBA.	9
II. PROPOSED DATA REQUIREMENTS FOR CONSOLIDATION PROPOSALS WOULD CAUSE INEFFICIENCY AND DELAY.	10
III. CONCLUSION.	11

utility files its GRC application in January or July. If parties were given the chance to provide input in this proceeding, they would offer other possibilities to alleviate the burdens of multiple rate increases. By failing to allow parties the opportunity to review and be heard on the WRAM issue, the PD suffers from a lack of insight and perspectives that could help address these issues, correct factual errors before making conclusions, and present more alternatives. The PD's disposition of the WRAM/MCBA should be rejected, and the Commission should direct another phase of the proceeding to address these issues with the input of all stakeholders.

D. The PD's Invalid Comparison Between the WRAM and the Monterey-Style WRAM Constitutes Factual Error.

The PD concludes that a comparison of utilities using the WRAM and those using the Monterey-Style WRAM shows that both have achieved similar conservation results, and therefore the WRAM is unnecessary.¹⁴ Although it is not entirely clear what time span the PD uses for this comparison, it appears that the years used are either 2008-2016 (if referencing the graph provided by the Public Advocates Office submitted in reply comments on September 23, 2019) or 2015-2019 (if referencing the nonexistent Table A). In either scenario, the PD's comparison is invalid because California was in a prolonged drought for most or all of the evaluation period.¹⁵ Because of the drought, mandatory usage restrictions would have caused customers to reduce their water use regardless of the Monterey-Style WRAM. The PD has not considered whether utilities using the WRAM and the Monterey-Style WRAM were subject to the same conditions during the relevant time periods. Without accounting for how severe drought conditions may have impacted conservation during the relevant time periods, these comparisons are based on factual inaccuracies and do not support the PD's conclusion that the Monterey-Style WRAM is as effective in conservation efforts as the WRAM.

Furthermore, the PD acknowledges that, during the recent drought, the Commission authorized the non-WRAM companies a Lost Revenue Memorandum Account to track revenue shortfalls: "All non-WRAM utilities availed themselves of the opportunity to establish such accounts and thus were able to recover lost revenues caused as a result of the declared drought emergencies."¹⁶ The Lost Revenue Memorandum Account provided utilities using the Monterey-Style WRAM with a separate rate decoupling mechanism, which means that non-WRAM utilities essentially had a WRAM in effect

¹⁴ PD at 54-56.

¹⁵ The U.S. Drought Monitor started in 2000. Since 2000, the longest duration of drought (D1-D4) in California lasted 376 weeks beginning on December 27, 2011 and ending on March 5th, 2019. *See* <https://www.drought.gov/drought/states/california>.

¹⁶ PD at 58-59.

during the drought. Given that all utilities had access to a WRAM mechanism during the drought, it is not unexpected for non-WRAM and WRAM utilities to have shown comparable conservation for that period and in no way proves that the WRAM and Monterey-Style WRAM are equally effective at achieving conservation objectives.

The Monterey-Style WRAM is not as effective at promoting conservation as the WRAM. The Monterey-Style WRAM does not account for the change between actual sales and adopted sales. Therefore, it does not remove the disincentive for a utility to promote conservation like the WRAM does. The WRAM is part of an effective conservation rate design in furtherance of the State's goal of "Making Water Conservation A California Way of Life."¹⁷ The WRAM allows utilities greater flexibility to shift fixed costs into volumetric rates, which reduces costs for essential water use by lowering fixed charges and first tier rates. Higher upper tier rates composed of combined fixed and variable costs recovery send price signals to customers to conserve and reward efficient use. The ability to influence customer demand has, in turn, allowed the utilities to defer expensive investments in new water supplies and thereby minimized the pressure on rates.

If this issue had been fully vetted, then the crucial differences between the Monterey-Style WRAM and the WRAM would have been clarified. They were not. The PD's reliance on erroneous comparisons underscores the importance of a meaningful opportunity to be heard by all parties before rushing to conclusions on issues such as the elimination of the WRAM.

E. The WRAM/MCBA Mechanism Does Not Remove Consequences for Inaccurate Forecasts.

The PD asserts that the WRAM/MCBA eliminates the consequences of inaccuracy for the water utility.¹⁸ This assertion is false.

Even with the WRAM/MCBA, Liberty's earnings are still subject to variation because the WRAM/MCBA does not eliminate estimating error. The WRAM only provides for recovery of the revenues assumed to be recovered through commodity rates. Under Liberty Apple Valley's current adopted rate design, about 70% of its revenues are collected through commodity rates. The remaining revenue, about 30%, is still subject to estimating error. Further, while the WRAM/MCBA is generally assumed to provide a full recovery of commodity rate revenue (less production cost savings), it does not ensure the receipt of the adopted level of commodity rate revenues. The actual revenues used in the

¹⁷ See <https://water.ca.gov/-/media/DWR-Website/Web-Pages/Programs/Water-Use-And-Efficiency/Make-Water-Conservation-A-California-Way-of-Life/Files/PDFs/Final-WCL-Primer.pdf>.

¹⁸ PD at 58.

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

CALIFORNIA-AMERICAN WATER COMPANY
Petitioner,

v.

PUBLIC UTILITIES COMMISSION OF THE STATE OF
CALIFORNIA
Respondent.

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

Of the Public Utilities Commission of the State of California

EXHIBIT T

*Great Oaks Water Company's Reply Comments – Phase I
Proposed Decision, R.17-06-024, August 3, 2020*



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

FILED

08/03/20
04:59 PM

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.

Rulemaking No. 17-06-024

Filed: June 29, 2017

**GREAT OAKS WATER COMPANY'S
REPLY COMMENTS - PROPOSED PHASE I DECISION**

Date: August 3, 2020

Great Oaks Water Company
Timothy S. Guster
Vice President and General Counsel
Legal and Regulatory Affairs
PO Box 23490
San Jose, CA 95153
Telephone: (408) 227-9540
Facsimile: (408) 227-7126
Email: tguster@greatoakswater.com

**GREAT OAKS WATER COMPANY’S
REPLY COMMENTS – PROPOSED PHASE I DECISION**

TABLE OF CONTENTS

Title	Page
Table of Authorities	i
I. Introduction to Reply Comments	1
II. Reply Comments	2
A. The Cal PA Comments confirm that the Proposed Decision relies upon misleading information and data not in the record	2
B. Cal PA confirms that the Proposed Decision includes fundamental errors and omissions	4
C. Cal PA’s allegation that Class A water utilities propose inaccurate sales forecasts to “unreasonably profit” is misleading and without any factual basis	4
D. Cal PA’s Comments confirm that replacing WRAMs/MCBAs with Monterey-style WRAMs will not somehow improve forecasting	5
III. Conclusion	5
Exhibit A – Text of Administrative Law Judge Haga’s July 9, 2020 email	

Table of Authorities

Title	Page
Statutory Law	
Public Utilities Code sec. 1751.1, subd. (a)	2
Case Law	
Southern California Edison Co. v. Public Utilities Com., 140 Cal.App.4 th 1085 ...	2, 3

supposed to (but did not) evaluate whether low-income ratepayer assistance programs have achieved the Commission’s 2010 Water Action Plan objectives. If the Commission had no notice that its conservation policies and practices were being reviewed and potentially subject to outright cancelation in this “low-income” Rulemaking, then surely the Class A water utilities also had no such notice.²

II. Reply Comments

A. The Cal PA Comments confirm that the Proposed Decision relies upon misleading information and data not in the record.

The Cal PA comments reference and support three sets of data specifically relied upon in the Proposed Decision that the Class A water utilities were denied an opportunity to review.³ The first data set comparing eight years of change in average consumption for WRAM and non-WRAM utilities was presented in Cal PA’s own Reply Comments filed with respect to a Water Division Staff Report.⁴ By submitting this “data” in reply comments, the Public Advocates Office assured itself that the data could not be critically reviewed by the parties unless, of course, the data subsequently became the basis for a Proposed Decision. The Proposed Decision has provided the first so-called opportunity for any review of this Cal PA’s “data” and the Comments filed show the data to be incorrect and misleading.⁵ Ironically, in the same Reply Comments in which Cal PA introduced its faulty data, Cal PA urged that the Commission adopt a “data driven” approach to the WRAM issue. Such an approach is only appropriate when the data is accurate and when the parties have been afforded the opportunity for review. Neither of those essential conditions are present here.

The second data set relied upon by both the Proposed Decision and Cal PA purportedly includes State Water Resources Control Board “public information” from 2015 – 2019 on “annual consumption” in a “Table A” that was not included in the Proposed Decision (and is,

² See, e.g., *Southern California Edison Co. v. Public Utilities Com.*, 140 Cal.App.4th 1085, 1106 (finding the Commission’s failure to comply with its own rules concerning the scope of issues to be addressed in a proceeding to be prejudicial error because the Commission failed to proceed in the manner required by law under Public Utilities Code sec. 1757.1, subd. (a)).

³ Cal PA Comments, at p. 4.

⁴ Proposed Decision, at p. 55, footnote 40; R.1706024: Reply Comments of the Public Advocates Office on the Water Division’s Staff Report and Response to Additional Questions, at p. 7.

⁵ See, e.g., Comments of Golden State Water Company on Proposed Decision and Order (GSWC Comments), at pp. 9-13; Comments of California-American Water Company on the Proposed Decision of Commissioner Guzman Aceves (CAW Comments), at pp. 7-8; Comments of California Water Service Company on the Proposed Decision of Commissioner Guzman Aceves (Cal Water Comments), at pp. 8-10; Joint Comments of Liberty Utilities (Park Water) Corp. and Liberty Utilities (Apple Valley Ranchos Water) Corp. (Liberty Comments), at pp. 7-8.

therefore, not in the record of this proceeding).⁶ The Class A water utilities did not receive and have never been provided with an opportunity to review this alleged “public information.” When the missing but relied upon data was brought to the attention of the Administrative Law Judges assigned to this Rulemaking, Administrative Law Judge Robert Haga responded by email, saying that the “reference to Table A was a clerical error.”⁷ The Judge did not provide the data, even though it was requested for the stated reason of providing an opportunity to review and respond to the data. Instead, Judge Haga indicated that a correction would be made “following a review of all comments to the PD.”⁸ If the missing, non-record data is provided after the comment period is over, with no further opportunity to review or comment, it will be a clear denial of due process.⁹ Moreover, if the missing data is deleted from the Proposed Decision and the Proposed Decision is otherwise unaltered and adopted, then it will be clear that the Proposed Decision is not based upon facts – another clearly improper result.

Cal PA, however, makes a direct reference to this missing data in its Comments.¹⁰ This suggests either that Cal PA has been provided the opportunity to review this data or that Cal PA did not review the data but nevertheless supports its usage as a basis for the Proposed Decision. Either way, the Proposed Decision’s use of data not disclosed to the Class A water utilities (nor included in the record of this proceeding) is a clear denial of fairness and due process. Erasing the “clerical error” will not cure the problem but would instead conceal information and prevent review in direct contravention of the Commission’s policy of transparency.¹¹

The third set of data (purportedly Class B utility conservation data), relied upon in both the Proposed Decision and the Cal PA Comments, was also allegedly included in the missing “Table A.”¹² Again, the Class A water utilities have been prevented from reviewing this data in a clear denial of due process, while Cal PA has seemingly reviewed the data. Great Oaks requests an explanation for whether and how Cal PA was provided an opportunity to review data

⁶ Proposed Decision, at p. 55 (including what is referred to as “Table A,” but which has never been provided to or seen by the Class A water utilities); Cal PA Comments, at p. 4.

⁷ See Exhibit A to these Reply Comments for the text of Judge Haga’s July 9, 2020 email on this topic. This email was not filed as a Ruling in this proceeding.

⁸ *Id.*

⁹ See, *Southern California Edison Co. v. Public Utilities Com.*, *supra*.

¹⁰ Cal PA Comments, at p. 4.

¹¹ <https://www.cpuc.ca.gov/transparency/>

¹² Proposed Decision, at p. 55, Finding of Fact 11, at p. 84; Cal PA Comments, at p. 4.

relied upon in the Assigned Commissioner's Proposed Decision, while the Class A water utilities (and perhaps the other Commissioners) have been denied that opportunity.

The Proposed Decision's indictment and cancelation of Commission conservation policies and authorized conservation procedures based upon (1) inaccurate data and (2) an outright denial of an opportunity to review other allegedly supporting data is wrong in every respect. But the question remains: Will the Commission allow its long-standing and effective conservation policies and practices to be declared as failures and dumped into the trash heap based upon such obviously defective procedures, factual carelessness, and prejudicial errors?

B. Cal PA confirms that the Proposed Decision includes fundamental errors and omissions.

Even Cal PA was forced to admit that the Proposed Decision includes errors and omissions that require either modification or correction.¹³ The nature of these errors and omissions suggest that the Proposed Decision is based upon a fundamental misunderstanding or lack of knowledge about the Commission's conservation policies and practices (WRAMs/MCBAs and M-WRAMs) and ratesetting in general, or both. As noted by several of the Class A utilities, if adopted, the Proposed Decision will actually do more harm than good for low-income customers.¹⁴ It is irresponsible and a terrible disservice to the low-income customers this Rulemaking was intended to benefit to propose and support actions that will result in higher water bills for low-income customers. But that is what the Proposed Decision will do and it is what Cal PA supports.

C. Cal PA's allegation that Class A water utilities propose inaccurate sales forecasts to "unreasonable profit" is misleading and without any factual basis.

As indicated in Great Oaks Comments to the Proposed Phase I Decision, whenever a party or intervenor accuses water utilities of abusing the regulatory process to make a "profit," it does so in an effort to make the water utilities look bad.¹⁵ Cal PA resorts to this sort of dishonest argument¹⁶ in its Comments by saying the water utilities "over forecast" and "unreasonably profit" from WRAMs/MCBAs.¹⁷ Cal PA cites no evidence in the record of this or any other proceeding when making this specious allegation and thoroughly misleading argument. This is a

¹³ Cal PA Comments, at pp. 6-10.

¹⁴ See, e.g., Cal Water Comments, at pp. 1, 3; CAW Comments, at pp. 1, 5.

¹⁵ Great Oaks' Comments to Proposed Phase I Decision, at p. 5, footnote 12.

¹⁶ The argument is dishonest because it is not based upon cited facts or other record evidence, but instead is based upon nothing more than unsupported allegations.

¹⁷ Cal PA Comments, at p. 9.

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

CALIFORNIA-AMERICAN WATER COMPANY
Petitioner,

v.

PUBLIC UTILITIES COMMISSION OF THE STATE OF
CALIFORNIA
Respondent.

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

Of the Public Utilities Commission of the State of California

EXHIBIT U

*Reply Comments of California-American Water Company on the
Proposed Decision of Commissioner Guzman Aceves, R.17-06-024,
August 3, 2020*



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

FILED
08/03/20
04:59 PM

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

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

Sarah E. Leeper
Nicholas Subias
California-American Water Company
555 Montgomery Street, Suite 816
San Francisco, CA 94111
(415) 863-2960
sarah.leeper@amwater.com
nicholas.subias@amwater.com

Attorneys for Applicant California-American Water
Company

August 3, 2020

TABLE OF CONTENTS

I. INTRODUCTION 1

II. CALPA MISCHARACTERIZES THE RECORD ON CONSERVATION 1

III. CALPA MISCHARACTERIZES THE INCENTIVES CREATED BY THE WRAM/MCBA 3

IV. THE CPUC SHOULD ALLOW FLEXIBILITY IN THE LOW-INCOME MULTI-FAMILY HOUSING PILOT 4

V. THE CPUC SHOULD NOT UNECESSARILY COMPLICATE THE CONSOLIDATION PROCESS 5

VI. CONCLUSION..... 5

TABLE OF AUTHORITIES

Page(s)

CPUC Decisions

D.05-05-015.....	4
D.07-05-062.....	5
D.08-02-036.....	2
D.08-08-030.....	2
D.12-04-048.....	2
D.16-12-003.....	2, 3, 4
D.16-12-026.....	2

General Orders

General Order 96-B	3, 4
--------------------------	------

CPUC Rules

Rule 14.3	1
-----------------	---

I. INTRODUCTION

Pursuant to Rule 14.3 of the Rules of Practice and Procedure of the California Public Utilities Commission (CPUC), California-American Water Company (CAW) submits these Reply Comments on the *Proposed Decision of Commissioner Guzman Aceves* (PD). In opening comments, CAW and several other parties demonstrated that the elimination of the decoupling WRAM/MCBA would not address affordability or reduce rates for low-income customers, and would remove an important and effective conservation tool.¹ The shift in cost recovery resulting from elimination of the WRAM/MCBA would create an added ongoing financial burden for CAW's most economically vulnerable customers and would provide a benefit to high-volume water users in CAW's wealthiest communities.² Furthermore, **given the lack of transparency and the nonexistent record in this proceeding, adoption of the PD would constitute a legal error.** If the CPUC is inclined to revisit continuation of the decoupling WRAM/MCBA, it should do so in a separate proceeding with adequate notice and opportunity for interested parties to participate. At a time when Californians are facing significant challenges due to the economic effects of the COVID-19 emergency, as well as experiencing impacts from climate change, the CPUC should not risk substantial harm by acting in an arbitrary and capricious manner.

In its opening comments, CAW also raised concerns regarding the obstacles associated with developing a pilot program that would provide a direct discount to low-income non-customer residents of multi-family housing³ and with the proposed Minimum Data Requirements (MDRs) for consolidation applications.⁴ In these reply comments, CAW will focus on the misrepresentations made in the opening comments of the Public Advocates Office (CalPA), recommendations regarding timing and collaboration opportunities for the pilot program included in the comments of the Joint Advocates and the Center for Accessible Technology, and the need to avoid unnecessarily complicating the consolidation process.

II. CALPA MISCHARACTERIZES THE RECORD ON CONSERVATION

CalPA falsely claims that the record in this proceeding demonstrates that the WRAM/MCBA is not necessary to achieve conservation, thereby justifying its elimination.⁵ As discussed in more detail below, **there is**

¹ *Comments of California-American Water Company on the Proposed Decision of Commissioner Guzman Aceves* (CAW Comments), pp. 2-6; *Comments of the National Association of Water Companies on the Proposed Decision of Commissioner Guzman Aceves*, pp. 2-3; *Comments of California Water Service Company (U 60 W) on the Proposed Decision of Commissioner Guzman Aceves*, pp. 3-6; *Comments of Golden State Water Company (U 133 W) on Proposed Decision and Order*, pp. 7-8;

² CAW Comments, pp. 2-6.

³ *Id.*, pp. 11-13.

⁴ *Id.*, pp. 13-15.

⁵ *Comments of the Public Advocates Office on the Proposed Decision of the Assigned Commissioner* (Cal Advocates Comments), pp. 3-4.

no record in this proceeding with respect to the link between the WRAM/MCBA and conservation.⁶

In its comments, CalPA states that the “record” on conservation consists of three “data sets.”⁷ The first “data set” is a graph included in reply comments filed by CalPA in response to a ruling from the assigned Administrative Law Judge, purporting to compare the annual change in consumption for Class A water utilities with and without a WRAM/MCBA over an eight-year period.⁸ No information was provided with respect to the data or methodology underlying the graph, other than a cite to the “Class A Annual Reports to the CPUC.” Because this information was presented for the first time in the final set of reply comments, none of the parties had the opportunity to determine or dispute the veracity of the information presented.

The second “data set” cited by CalPA is a reference in the PD to Table A. The PD states that Table A shows, based on “public information available from the State Water Resources Control Board,” that water savings by utilities with Monterey-style WRAMs (M-WRAMs) exceeded the conservation for those utilities with WRAM/MCBAs during the period from 2015-2019.⁹ The PD does not provide a specific citation to any State Water Resources Control Board (SWRCB) data or reports. Table A was not included in the PD and, according to an email from the assigned Administrative Law Judge, does not exist. Moreover, this is the first mention in this proceeding of SWRCB conservation information. The parties did not have the opportunity to analyze SWRCB data or address whether it is appropriate to assess the effect of the WRAM/MCBA using data from this period. A record is developed over the course of the proceeding – it cannot be created in a PD.

The third “data set” cited by CalPA is another reference to the non-existent Table A. The PD states that Table A shows the conservation achieved by Class B water utilities without WRAM/MCBAs or M-WRAMs exceeded the conservation by water utilities with these mechanisms during the period from 2015-2019.¹⁰ The PD does not indicate the source for this information and there is no record to support this statement.

A graph which the parties had no opportunity to assess or refute, a non-existent table, and a generic reference to “public information” from the SWRCB (mentioned for the first time in the PD) cannot be considered a “record.” In the prior proceedings in which the CPUC assessed the WRAM/MCBA, it based its decisions on ample records developed during proceedings that provided opportunities for parties to present information and review and respond to the information presented by others.¹¹ The PD justifies the elimination of the WRAM/MCBA in large part

⁶ CAW Comments, pp. 7-8.

⁷ Cal Advocates Comments, p. 3.

⁸ *Reply Comments of Public Advocates Office on the Water Division’s Staff Report and Response to Additional Questions*, September 23, 2019, p. 7.

⁹ PD, p. 55.

¹⁰ *Id.*

¹¹ See D.08-02-036; D.08-08-030; D.12-04-048; D.16-12-003; D.16-12-026.

on the premise that the WRAM/MCBA is not necessary to achieve conservation. Given the complete lack of a record on this issue in this proceeding, adoption of the PD would constitute a legal error.

III. CALPA MISCHARACTERIZES THE INCENTIVES CREATED BY THE WRAM/MCBA

CalPA alleges that the WRAM/MCBA creates an incentive for water utilities to overestimate sales in their GRC forecasts, resulting in lower GRC rate increases and larger WRAM/MCBA balances.¹² Contrary to the claims of CalPA, however, there is no benefit in shifting recovery of authorized costs from rates to the WRAM/MCBA.

Although CalPA inaccurately states that a water utility can shift recovery of authorized costs from rates to the WRAM/MCBA “with no long-term consequence to its revenue collections,”¹³ the lag associated with revenue recovery through the WRAM/MCBA can financially harm water utilities (to the detriment of customers). The delay in recovery of these authorized costs, which can be twenty years or longer, has a direct impact on cash flow. Since CAW has had to fund the WRAM/MCBA undercollections with long-term debt and equity, the 90-day commercial paper rate applied to WRAM/MCBA balances does not allow CAW to recover the costs it incurs to fund the undercollections. Therefore, the WRAM/MCBA maintains the added incentive of water utilities to strive to accurately forecast sales in order to provide for timely recovery of authorized fixed costs and avoid the negative financial consequences of large WRAM/MCBA balances.

CalPA also appears to argue that water utilities have the incentive to shift recovery of costs to the WRAM/MCBA because recovery of WRAM/MCBA balances allegedly involves “reduced transparency and public scrutiny.”¹⁴ As an initial matter, CAW is proud of its record of providing safe, efficient and reliable water service, is committed to transparent and full communication with its customers, and does not object to public scrutiny of its costs. The costs recovered through the WRAM/MCBA are authorized costs that are transparent to the public through the GRC process, scrutinized by Cal Advocates and other interested parties, and determined to be reasonable by the CPUC.

Moreover, with respect to recovery of WRAM/MCBA balances through advice letters, the CPUC has concluded that “the advice letter process provides necessary protections”¹⁵ and “existing procedures fully protect ratepayers and the public.”¹⁶ In particular, the CPUC noted that parties, customers and the public have the opportunity to protest advice letters,¹⁷ parties have an opportunity for discovery upon request,¹⁸ the CPUC has the

¹² Cal Advocates Comments, p. 7.

¹³ *Id.*

¹⁴ *Id.*, p. 8.

¹⁵ D.16-12-003, p. 35.

¹⁶ *Id.*, p. 36.

¹⁷ *Id.*, p. 35, citing General Order 96-B, General Rule 7.4.1.

¹⁸ *Id.*, p. 36, fn. 37.

ability to reject or suspend advice letters,¹⁹ and the CPUC can require that additional notice to be provided to customers if necessary.²⁰

In addition to erroneously arguing that the WRAM/MCBA incentivizes water utilities to overestimate sales, CalPA also contends that elimination of the WRAM/MCBA will create an incentive to *underestimate* sales.²¹ The fact that these incentives allegedly occur with or without a WRAM/MCBA undercuts the arguments of CalPA in favor of its removal. Moreover, while CAW does not necessarily agree that such incentives exist, CalPA ignores the robust review of water utility sales forecasts that occurs as part of the GRC. As CalPA stated in its comments, “The GRC process provides considerable transparency, oversight, notice, and public participation.”²² It is the CPUC’s responsibility to ensure that adopted rates are just and reasonable, including the forecasts underlying such rates. To the extent that CalPA or others believe that a water utility is over- or under-estimating its sales forecast it can address this issue through testimony, hearings and briefs. Since the accuracy of sales forecasts is already addressed through the GRC process there is no need to take the drastic step of eliminating the WRAM/MCBA, with the attendant negative consequences for low-income customers and impacts on conservation, to address this issue.

IV. THE CPUC SHOULD ALLOW FLEXIBILITY IN THE LOW-INCOME MULTI-FAMILY HOUSING PILOT

The PD gives CAW 60 days to develop a “pilot program that provides a discount to water users in low-income multifamily dwellings that do not pay their water bill directly through the utility.”²³ In its opening comments, CAW noted the well-documented obstacles to providing a discount directly to non-customers,²⁴ including the CPUC’s own inability to determine an equitable way to provide such a benefit.²⁵ The Joint Advocates discussed similar hurdles in their opening comments, but also pointed out the benefits to low-income customers of discounted conservation and efficiency programs and bill discounts for certain types of multi-family housing.²⁶ The Joint Advocates, as well as the Center for Accessible Technology, recommended extending the period to develop the pilot program from 60 to 120 days, to allow CAW to collaborate with stakeholders and interested parties.²⁷

CAW welcomes the opportunity to access the expertise of these organizations and obtain the input of

¹⁹ *Id.*, p. 36, citing General Order 96-B, General Rule 7.6.1.

²⁰ D.16-12-003, p. 38.

²¹ Cal Advocates Comments, p. 8, fn. 31.

²² *Id.*, p. 7.

²³ PD, pp. 64-65.

²⁴ CAW Comments, pp. 12-13.

²⁵ D.05-05-015, p. 4.

²⁶ *Joint Advocates Comments on Proposed Decision and Order (Phase 1)* (Joint Advocates Comments), pp. 9-10.

²⁷ Joint Advocates Comments, pp. 10-11; *Comments of the Center for Accessible Technology on Proposed Decision and Order (Phase 1)*, p. 6.

stakeholders, and agrees that extending the deadline to at least 120 days would aid this effort. CAW also requests that the CPUC modify the PD to allow the pilot program to include proposals that benefit low-income residents of multi-family housing even if the discounts are not provided directly to non-customers. Making the pilot program more flexible will allow CAW and interested parties to develop innovative ways to provide assistance.

V. THE CPUC SHOULD NOT UNNECESSARILY COMPLICATE THE CONSOLIDATION PROCESS

The PD sets forth MDRs to be included with all consolidation applications.²⁸ In its opening comments, CAW cautioned that some of the MDRs may make the process less efficient (particularly since many MDRs were just copied from a list developed in another state), and could make such beneficial transactions less attractive to potential buyers and sellers.²⁹ In its opening comments, CalPA recommended that the CPUC modify the PD to give CalPA the power to determine whether the MDRs are complete.³⁰ CAW urges the CPUC to reject this request. As a potentially adverse party with its own vested interests, it would be inappropriate to give CalPA the power to determine the sufficiency of the MDRs provided. This extra step would also be unnecessary. In cost of capital filings, water utilities provide the MDR information with the application and supporting materials.³¹ Like cost of capital proceedings (and unlike GRCs), the issues to be considered for a consolidation application are relatively limited. Therefore, if the CPUC adopts the consolidation MDRs, it should similarly allow the required material to be provided with the consolidation applications. Given the benefit of consolidation recognized in the PD, there is no reason to make the process more burdensome by adding additional unnecessary steps.

VI. CONCLUSION

As discussed above and in CAW's opening comments, adoption of the PD would constitute a legal error and would result in increased rates for CAW's most economically vulnerable customers while providing a benefit to high-volume water users in CAW's wealthiest communities. CAW urges the CPUC to modify the PD as indicated in Attachment A to CAW's opening comments and take the time to conduct a thorough and comprehensive review of the relevant issues.

August 3, 2020

Respectfully submitted,

By: /s/ Sarah E. Leeper

Sarah E. Leeper, Vice President and General Counsel
California-American Water Company

²⁸ PD, pp. 71-76.

²⁹ CAW Comments, pp. 13-15.

³⁰ Cal Advocates Comments, p. 11.

³¹ D.07-05-062, Appendix A, A-32 – A-33.

IN THE SUPREME COURT OF THE STATE OF
CALIFORNIA

CALIFORNIA-AMERICAN WATER COMPANY
Petitioner,

v.

PUBLIC UTILITIES COMMISSION OF THE STATE OF
CALIFORNIA
Respondent.

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

Of the Public Utilities Commission of the State of California

EXHIBIT V

*Reply Comments of Comments of Golden State Water Company (U
133 W) on Proposed Decision and Order, R.17-06-024, August 3,
2020*



FILED
08/03/20
04:59 PM

**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

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

GOLDEN STATE WATER COMPANY
Keith Switzer
Vice President, Regulatory Affairs
630 East Foothill Boulevard
San Dimas, CA 91773-9016
(909) 394-3600, Ext. 680

Joseph M. Karp
Chris Kolosov
Winston & Strawn LLP
101 California Street, 35th Floor
San Francisco, California 94111-5894
Telephone: (415) 591-1000
Facsimile: (415) 591-1400
Email: jkarp@winston.com
ckolosov@winston.com
Attorneys for Golden State Water Company

August 3, 2020

TABLE OF CONTENTS

	<u>Page</u>
TABLE OF AUTHORITIES	ii.
I. INTRODUCTION.....	1
II. CAL PA’S COMMENTS REGARDING THE WRAM/MCBA SHOULD BE REJECTED	1
A. The Record Does Not Support Conversion to M-WRAM/ICBA Mechanisms....	1
B. Cal PA’s Factual Assertions regarding the WRAM/MCBA are False	2
C. If GSWC were Required to Convert to an M-WRAM/ICBA in A.20-07-012, the Application Would Require Extensive Changes.....	4
III. THE JOINT ADVOCATES' COMMENTS REVEAL THE DETRIMENTAL EFFECTS OF ABANDONING THE WRAM/MCBA.....	5
IV. CONCLUSION	5

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

I. INTRODUCTION

Pursuant to Rule 14.3(d) of the Commission’s Rules of Practice and Procedure, Golden State Water Company (“GSWC”) submits these reply comments identifying (i) the misrepresentations of fact and condition of the record in the comments of the Public Advocates Office (“Cal PA”) on the Proposed Decision (“PD”) in respect of the WRAM/MCBA and Monterey-style WRAM (“M-WRAM”)/ICBA, and (ii) how the comments of the Joint Advocates¹ demonstrate the unintended negative consequences, including affordability concerns, associated with converting a WRAM/MCBA to an M-WRAM/ICBA.

GSWC, and almost every other party, disagrees with Cal PA’s recommendations on the WRAM/MCBA and M-WRAM/ICBA. But there is one related point on which there is unanimity: The PD fails to support adequately any order requiring conversion from a WRAM/MCBA to an M-WRAM/ICBA. Cal PA worked hard to explain away this failing as inconsequential. GSWC and the other parties demonstrated the contrary; this failure is fatal, both because no record was established that supports this dramatic shift in policy and because the PD fails to address the negative consequences likely to result from this change. Accordingly, Cal PA’s suggested “clarifications” to the PD should be rejected and the Commission should decline to order the conversion from a WRAM/MCBA to an M-WRAM/ICBA.

II. CAL PA’S COMMENTS REGARDING THE WRAM/MCBA SHOULD BE REJECTED

A. The Record Does Not Support Conversion to M-WRAM/ICBA Mechanisms

The Commission should reject Cal PA’s recommendation to modify the PD to “[r]eflect that the record demonstrates that the WRAM/MCBA Ratemaking Mechanism is not necessary to achieve conservation” because the underlying premise is false. Cal PA identifies three data sets that it claims support this premise; none of this data actually does, and two of the data sets are not even in the record.

The first “data set” is a graph submitted by Cal PA in its final reply comments prior to the PD’s issuance,² which strategy denied the other parties any opportunity to evaluate and rebut the data, as is required by due process before the Commission may change its orders in reliance on this data.³ Cal PA’s graph fails to demonstrate that the M-WRAM/ICBA are as effective as the WRAM/MCBA in promoting conservation because that data (i) fails to show the substantial cumulative effects of the conservation efforts in WRAM utility service areas, which during the most indicative six-year period resulted in a

¹ Collectively Pacific Institute for Studies in Development, Environment, and Security, the Leadership Counsel for Justice and Accountability, the Community Water Center, and the Natural Resources Defense Council.

² Referred to by Cal PA as “eight years of annual change in average consumption for WRAM and non-WRAM utilities, showing almost identical patterns of change in consumption” (Cal PA Comments on PD at 4).

³ See Comments of Golden State Water Company (U 133 W) on Proposed Decision and Order (hereinafter “GSWC Comments on PD”) at notes 34-38 and accompanying text.

reduction in usage per customer for WRAM utilities that was almost 30% greater than for M-WRAM utilities,⁴ and (ii) fails to reflect that during the two-year period in which M-WRAM customers significantly reduced consumption (A) they were subject to mandatory conservation orders imposed by governmental authorities, and once those orders were lifted, the conservation outcomes of M-WRAM utilities reverted to being materially worse than those of the WRAM utilities,⁵ and (B) three of the four M-WRAM utilities benefitted from revenue decoupling mechanisms that effectively turned their M-WRAMs into full WRAMs.⁶ Had Cal PA's graph been subject to evaluation and rebuttal, it would be clear that this data fails to support Cal PA's and the PD's conclusion.

The other two data sets to which Cal PA points⁷ suffer from the same flaws as the Cal PA graph and also are problematic because the data only covers water utility customers in "urban" service territories.⁸ But more critically for purposes of responding to Cal PA's recommendation, neither of these data sets is in the record in this proceeding. Rather, they were discussed for the first time in the PD by reference to a certain "Table A" that was supposed to have been included in the PD but was omitted due to a "clerical error."⁹ Even if "Table A" had been included in the PD, the data would not be in the record as it would have appeared for the first time in the PD—after the evidentiary record was closed.¹⁰

Because there is no evidence that "the WRAM/MCBA Ratemaking Mechanism is not necessary to achieve conservation," the Commission should reject Cal PA's requested modification of the PD.

B. Cal PA's Factual Assertions regarding the WRAM/MCBA are False

Cal PA falsely claims that the WRAM incentivizes utilities to over-forecast consumption and propose rates that are artificially low during general rate cases ("GRCs").¹¹ This is wrong. Due to the time-value of money, WRAM companies ultimately lose money when there are significant under-collections. This is because WRAM balances accrue interest at the very low 90-day commercial paper rate¹² and WRAM surcharges are capped at 10% of the last authorized revenue requirement.¹³ So if

⁴ *Id.* at 10-11.

⁵ *Id.* at 11-12.

⁶ *Id.* at 12-13.

⁷ Referred to by Cal PA as (i) five years of water savings percentages from WRAM utilities versus M-WRAM utilities that show cumulative water savings for M-WRAMs exceeding cumulative water savings from WRAM utilities and (ii) five years of conservation data from Class B non-WRAM utilities showing conservation for non-WRAM utilities exceeding conservation for WRAM and M-WRAM utilities (Cal PA Comments on PD at 4).

⁸ GSWC Comments on PD at 13.

⁹ *Id.* at note 39 and accompanying text.

¹⁰ Decision 19-06-039 at 5 (explaining that all proceedings "must have a point where the evidence is considered submitted and no more evidence is accepted without a motion or request," and that this process "ensures that all parties have an opportunity to comment upon the evidence thereby ensuring due process").

¹¹ Cal PD Comments on PD at 2.

¹² Standard Practice U-27-W at 9.

¹³ *See* Decision 12-04-048 at 41, Ordering Paragraph #3.

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

CALIFORNIA-AMERICAN WATER COMPANY
Petitioner,

v.

PUBLIC UTILITIES COMMISSION OF THE STATE OF
CALIFORNIA
Respondent.

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

Of the Public Utilities Commission of the State of California

EXHIBIT W

*Dissent of Commissioner Randolph, R.17-06-024, September 3,
2020*

DECISION 20-08-047

RULEMAKING 17-06-024

DISSENT OF COMMISSIONER RANDOLPH

I dissent from the majority in this Decision. The Decision correctly identifies an issue of inaccurate sales forecasts leading to large Water Revenue Adjustment Mechanism (WRAM) balances. However, instead of focusing on improving sales forecasts as we recently did in Decision 16-12-026, the Decision eliminates the WRAM. Companies with a WRAM are allowed to propose a Monterey-style WRAM (M-WRAM) in their next General Rate Case application.

Despite the similar wording, an M-WRAM does not achieve decoupling as does a WRAM. Therefore, companies that have an M-WRAM are presented with a perverse incentive to increase sales in drought as well as non-drought years.

No one likes a WRAM surcharge, especially when those surcharges become large. However, simply eliminating a WRAM surcharge does not make water more affordable. This Decision is not a magic bullet slaying high bills. Indeed, it removes a revenue adjustment mechanism. Without that mechanism, companies will still need to design rates to match their revenue requirement.

While this Decision does not make changes to any company's rate design, there will be an increasing need for the water companies to limit sales risk due to the removal of the WRAM. They are very likely to propose higher service charges as well as having flatter tiers or else face a very real risk of not meeting their revenue requirement. Such an outcome would lead to increasing the bills of low-usage customers which correlates with low-income customers. This outcome is exactly opposite of this proceeding's intent by harming low-income customers. Such a rate design would also blunt the conservation signal.

Now, one could argue that such a rate design has neither been proposed nor approved. Hypothetically, assume that in the future the Commission does not allow higher service charges or the flattening of tiers. If such a rate design were to be approved, then the water companies will likely argue that they should increase their rates of return on equity as their business risk is increased. This will lead to higher rates for everyone.

I believe the majority's decision is made in good faith to lower bills; however, I fear that this Decision will have the opposite effect.

Dated September 3, 2020, at San Francisco, California

/s/ LIANE M. RANDOLPH

Liane M. Randolph
Commissioner
California Public Utilities Commission