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IN THE SUPREME COURT OF THE STATE OF CALIFORNIA

CALIFORNIA WATER SERVICE COMPANY
Petitioner,

v.

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA
Respondent.

Decisions No. 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 – Exhibits A-AA – Pages 1-277

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**IN THE SUPREME COURT OF THE STATE OF
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PUBLIC UTILITIES COMMISSION OF THE STATE OF
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Respondent.

Decisions No. 20-08-047 and 21-09-047

Of the Public Utilities Commission of the State of California

EXHIBIT A

*I.07-01-022, Order Instituting Investigation to Consider Policies to
Achieve the Commission's Conservation Objectives for Class A
Water Utilities (January 16, 2007)*

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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

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

FILED
PUBLIC UTILITIES COMMISSION
JANUARY 11, 2007
SAN FRANCISCO, CALIFORNIA
INVESTIGATION 07-01-022

ORDER INSTITUTING INVESTIGATION TO CONSIDER POLICIES TO ACHIEVE THE COMMISSION'S CONSERVATION OBJECTIVES FOR CLASS A WATER UTILITIES

By this order, we initiate an investigation to address policies to achieve the Commission's conservation objectives for Class A water utilities by requesting comments on increasing block rates, water revenue adjustment mechanisms, rebates and customer education, conservation memorandum accounts, and rationing programs. We also consolidate pending conservation rate design applications to set rates and adopt mechanisms and programs in accordance with policies adopted in this proceeding. A prehearing conference is set for February 7, 2007 to address the tentative schedule for this proceeding.

1. Background

The Commission's December 15, 2005 Water Action Plan (WAP) adopted the principle of efficient use of water and the objective of strengthening water conservation programs to a level comparable to those of energy utilities. In addition, the California Department of Water Resources (DWR) has recommended that California invest in reliable, high quality, sustainable, and affordable water conservation, efficient water management, and development of

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Respondent.

Decisions No. 20-08-047 and 21-09-047

Of the Public Utilities Commission of the State of California

EXHIBIT B

Decision 08-02-036, *Opinion Resolving Phase IA Settlement
Agreements and Disputed Issues* (February 29, 2008)

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Decision 08-02-036 February 28, 2008

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

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

(See Appendix A for a list of appearances.)

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

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

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

8. Adoption of Conservation Rate Design and WRAM Settlement Agreements

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

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

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

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

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

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

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Respondent.

Decisions No. 20-08-047 and 21-09-047

Of the Public Utilities Commission of the State of California

EXHIBIT C

A.09-07-001, *Assigned Commissioner's Scoping Memo and
Ruling* (October 2, 2009)

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FILED
10-02-09
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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the application of California Water Service Company (U60W), a California corporation, for an order 1) authorizing it to increase rates for water service by \$70,592,000 or 16.75% in test year 2011, 2) authorizing it to increase rates on January 1, 2012 by \$24,777,000 or 5.04% and January 1, 2013 by \$24,777,000 or 4.79% in accordance with the Rate Case Plan, and 3) adopting other related rulings and relief necessary to implement the Commission's ratemaking policies.

Application 09-07-001
(Filed July 2, 2009)

ASSIGNED COMMISSIONER'S SCOPING MEMO AND RULING

Pursuant to Article 7 of the Commission's Rules of Practice and Procedure (Rules), this Scoping Memo and Ruling addresses issues, schedule, categorization and other matters necessary to define the scope of this proceeding and move it forward.

1. Background

On July 2, 2009, California Water Service Company (Applicant) filed this application for a general rate increase. Applicant requests that rates for Test Year 2011 increase by \$70,592,900 or 16.75% on January 1, 2011. It estimates escalation rate increases of \$24,777,000 or 5.04% on January 1, 2012, and \$24,777,000 or 4.79% on January 1, 2013. Applicant says that the escalation years are shown for

5:00 p.m., on the date scheduled for service to occur.³ The ALJ shall be served by paper copy as well as by e-mail.

9. Categorization and *Ex Parte* Communication

The Commission preliminarily categorized this matter as ratesetting in Resolution ALJ 176-3237, dated July 9, 2009. The categorization of this proceeding is confirmed as ratesetting. The Commission preliminarily determined that hearings would not be necessary. However, a protest was filed and hearings are necessary.

Appeals of this ruling on category, if any, must be filed and served within 10 days.

Ex parte communications are permitted subject to the restrictions, and reporting requirements specified in Article 8 of the Rules.

10. Presiding Officer

ALJ Jeffrey P. O'Donnell is the Presiding Officer.

IT IS RULED that:

1. The final categorization of this proceeding is ratesetting and hearings are required.
2. *Ex parte* communications are permitted subject to the restrictions and reporting requirements set forth in Article 8 of the Commission's Rules of Practice and Procedure.
3. The issues and schedule are as set forth above unless amended by the assigned Administrative Law Judge.
4. Parties shall begin discovery immediately if they have not already done so.

³ See Rule 1.10.

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Respondent.

Decisions No. 20-08-047 and 21-09-047

Of the Public Utilities Commission of the State of California

EXHIBIT D

Decision 10-12-017, *Decision Authorizing General Rate Increase
for California Water Service Company* (December 9, 2010)

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Service Company***

Decision 10-12-017 December 2, 2010

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the application of California Water Service Company, (U60W), a California corporation, for an order 1) authorizing it to increase rates for water service by \$70,592,000 or 16.75% in test year 2011, 2) authorizing it to increase rates on January 1, 2012 by \$24,777,000 or 5.04% and January 1, 2013 by \$24,777,000 or 4.79% in accordance with the Rate Case Plan, and 3) adopting other related rulings and relief necessary to implement the Commission's ratemaking policies.

Application 09-07-001
(Filed July 2, 2009)

Terry J. Houlihan, Attorney at Law, for California Water Service Company, applicant.

Selina Shek, Attorney at Law, for the Division of Ratepayer Advocates; Jeffrey Young, for self; Marcos Pareas, for self; William Larry Tyler, for Leona Valley Town Council; Steven M. Solomon, for City of Visalia; and Jack L. Chacanaca, for Fremont Valley Property Owners; interested parties.

**DECISION AUTHORIZING GENERAL RATE INCREASES
FOR CALIFORNIA WATER SERVICE COMPANY**

7.6.7. Merger of South San Francisco and Mid-Peninsula Ratemaking Areas³¹

The Settlement provides for the merger of the South San Francisco and Mid-Peninsula Districts subject to a \$20,000 reduction in the annual revenue requirement to be applied in this GRC cycle to the South San Francisco District. The resulting district will be called the Bayshore District. The rates adopted herein reflect the merger.

7.6.8. Review Parameters of Conservation Rates³²

In D.08-02-036, the Commission adopted a conservation rate design for CWS. The Settlement provides that there will be no changes to the conservation rate design principles adopted in that decision. Operating in conjunction with the conservation rate design are the Water Revenue Adjustment Mechanism (WRAM) and the Modified Cost Balancing Account (MCBA), which ensure CWS and ratepayers are not at risk for under- and over-collection of revenues following the adoption of conservation rates and programs.

The Settlement provides for no change to the WRAM and the MCBA adopted in D.08-02-036 except as indicated below, or as the Commission may adopt in a future application to modify D.08-02-036 that CWS anticipates filing.³³ The changes are:

- The trial program, referenced in Section III of the Settlement, adopted in OP 1 of D.08-02-036 will be extended for the duration of this GRC cycle and reviewed in the next GRC.

³¹ Settlement Section 10, Special Request #10.

³² Settlement Section 10, Special Request #11.

³³ CWS and several other water utilities filed A.10-09-017 proposing modifications of the WRAM/MCBA mechanism.

- Recycled water revenues will be included in the WRAM/MCBA in the districts with recycled water tariffs as of the effective date of rates adopted in this decision, and CWS will concurrently cancel its recycled water memorandum account.³⁴
- CWS will provide a report, as a “minimum Data Requirement” of its next GRC filing, addressing customer usage patterns, disconnection activity, and other data as specified in the Settlement.
- If information on the long-run marginal costs of water supplies is available prior to the next GRC filing, CWS will provide it to DRA at a mutually agreeable time.

7.6.9. Rate Phase-In³⁵

CWS proposed to phase in rate increases for a number of districts because of the size of the rate increases requested. The settlement provides for rate increases which are substantially less than the increases requested by CWS in many cases. The Settlement provides for a two-year phase-in of the rate increase for the Coast Springs area of the Redwood Valley District due to the size of the increase. The Settlement also provides for a two-year phase-in of the rate increase for the Kern River Valley District due to the rate impact of amortizing WRAM/MCBA balances. As a result, no district will have a rate increase greater than 50%.

³⁴ See also Section 7.6.16 of this decision and Settlement Section 10, Special Request 28.

³⁵ Settlement Section 10, Special Request #13.

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Of the Public Utilities Commission of the State of California

EXHIBIT E

A.10-09-017, *Assigned Commissioner and Assigned
Administrative Law Judge's Ruling and Scoping Memo* (June 8,
2011)

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FILED

06-08-11
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MP1/CMW/jt2 6/8/2011

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

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

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

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

1. Summary

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

2. Background

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

IT IS RULED that:

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

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

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

4. The scope of this proceeding is to:

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

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Of the Public Utilities Commission of the State of California

EXHIBIT F

Decision 12-04-048, *Decision Addressing Amortization of Water Revenue Adjustment Mechanism Related Accounts and Granting in Part Modification to Decision (D.) 08-02-036, D.08-08-030, D.08-09-026, and D.09-05-005* (April 30, 2012)

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Decision 12-04-048 April 19, 2012

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

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

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

**DECISION ADDRESSING AMORTIZATION OF WATER REVENUE
ADJUSTMENT MECHANISM RELATED ACCOUNTS AND GRANTING IN
PART MODIFICATION TO DECISION (D.) 08-02-036,
D.08-08-030, D.08-09-026, AND D.09-05-005**

- Golden State and Park: Advice Letter filings on March 2014
- Cal Water: Advice Letter filings on March 2015
- Apple Valley: Advice Letter filing on March 2016

WRAM/MCBA account balances incurred prior to the first test year referenced above continue to be amortized under the adopted amortization schedule without being subject to the surcharge cap.

4. We require a more vigorous review of the Water Revenue Adjustment Mechanism/Modified Cost Balancing Account (WRAM/MCBA) mechanisms and options to the mechanisms, as well as sales forecasting, be conducted each applicant's pending or next General Rate Case (GRC) proceeding. In each upcoming GRC proceeding, applicants shall provide testimony that at a minimum addresses the following options:

- Option 1: Should the Commission adopt a Monterey-style WRAM rather than the existing full WRAM? The Monterey-style WRAM is not a revenue decoupling mechanism as such, it is rather a revenue adjustment mechanism that allows the utility to true-up the revenue it actually recovers under its conservation rate design with the revenue it would have collected if it had an equivalent uniform rate design at actual sales levels.
- Option 2: Should the Commission adopt a mechanism that bands the level of recovery, or refund, of account balances based on the relative size of the account balance. For example, an annual WRAM/MCBA under-collection/over-collection less than 5% of the last authorized revenue requirement would be amortized to provide 100% recovery/refund, balances between 5-10% would be amortized to provide only 90% recovery/refund, and balances over 10% would be amortized to provide only 80% recovery/refund.
- Option 3: Should the Commission place WRAM/MCBA 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/MCBA mechanisms to these classes?

For current GRC proceedings for Golden State and Park, the assigned Administrative Law Judges to those proceedings may chose to not require supplemental testimony on these options but rather conduct a different WRAM/MCBA mechanism review.

5. Applicants must submit their annual requests for amortization of net Water Revenue Adjustment Mechanism/Modified Cost Balancing Account balances by a Tier 1 Advice Letter on or before March 31st.

6. Due to the timing of this proceeding, we grant an exception to the March 31st date for requesting to amortize 2011 account balances. Advice letter filings for the 2011 account balances may be made within 30 days after adoption of a decision in this proceeding, with any applicant who has already filed its advice letter permitted to update its filing to reflect the amortization schedule adopted here within 30 days after adoption of a decision in this proceeding.

7. No good cause exists to require a specific accounting method for applicants to use to match the surcharges/surcredits with each year's Water Revenue Adjustment Mechanism/Modified Cost Balancing Account balance.

8. Applicants' request to accelerate amortization of 2010 Water Revenue Adjustment Mechanism/Modified Cost Balancing Account balances is denied.

9. Applicants cannot include any additional type or category of cost in their Tier 1 Advice Letters that was not included in their Annual Report.

10. California Water Company must modify its billing system within 90 days of the effective date of this decision to provide a separate line item showing

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

CALIFORNIA WATER SERVICE COMPANY
Petitioner,

v.

PUBLIC UTILITIES COMMISSION OF THE STATE OF
CALIFORNIA
Respondent.

Decisions No. 20-08-047 and 21-09-047

Of the Public Utilities Commission of the State of California

EXHIBIT G

*A.12-07-007, Assigned Commissioner and Assigned
Administrative Law Judge's Scoping Memo and Ruling (April 30,
2012)*

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***Attorneys for California Water
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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of California Water Service Company (U60W), a California Corporation, for an order 1) authorizing it to increase rates for water service by \$92,765,000 or 19.4% in test year 2014, 2) authorizing it to increase rates on January 1, 2015 by \$17,240,000 or 3.0%, and on January 1, 2016 by \$16,950,000 or 2.9% in accordance with the Rate Case Plan, and 3) adopting other related rulings and relief necessary to implement the Commission's ratemaking policies.

Application 12-07-007
(Filed July 5, 2012)

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

This scoping memo and ruling sets forth the category, need for hearing, issues to be addressed and schedule of the proceeding, and designates the presiding officer pursuant to Rule 7.3 of the Commission's Rules of Practice and Procedure.

1. Background

**1.1. California Water Service Company's
(Cal Water) Application**

On July 5, 2012, Cal Water filed this application for an order (1) authorizing it to increase rates for water service in 23 districts by \$92,765,000 or 19.4% in test year 2014; (2) authorizing it to increase rates on January 1, 2015 by \$17,240,000 or 3.0% and on January 1, 2016 by \$16,950,000 or 2.9% in

United States mail. Additionally, parties shall serve paper copies of all filings on the presiding officer and assigned Commissioner.

5. Categorization and Need for Hearings

This scoping memo confirms the Commission’s preliminary categorization of this proceeding as ratesetting. This determination is appealable under the provisions of Rule 7.6. This scoping memo also confirms that hearings are necessary and sets forth the hearing schedule as follows:

Event	Dates
Service of DRA Testimony	March 1, 2013
Intervenor Testimony	March 22, 2013
Rebuttal Testimony	April 30, 2013
Evidentiary Hearings at the Commission Courtroom, State Office Building 505 Van Ness Avenue San Francisco, CA 94102	June 4-18, 2013 10:00 A.M. to 4:30 P.M.
Post-Hearing Opening Briefs filed	July 16, 2013
Post-Hearing Reply Briefs filed and proceeding submitted.	July 26, 2013
Presiding Officer’s Decision (POD). The POD will resolve all issues but not include rates and tariffs. The parties will jointly propose rates and tariffs consistent with the POD in their comments on the POD. ¹	No later than 60 days after the matter is submitted.

¹ This was the process followed in Cal Water’s 2009 General Rate Case. (See Assigned Commissioner’s Scoping Memo and Ruling, Application 09-07-001 (October 2, 2009) at 4, note 2.

S_____

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

CALIFORNIA WATER SERVICE COMPANY
Petitioner,

v.

PUBLIC UTILITIES COMMISSION OF THE STATE OF
CALIFORNIA
Respondent.

Decisions No. 20-08-047 and 21-09-047

Of the Public Utilities Commission of the State of California

EXHIBIT H

Decision 14-08-011, *Decision Granting Joint Motion to Adopt the Proposed Settlement Agreement Authorizing California Water Service Company's General Rate Increases for 2014, 2015, and 2016* (August 18, 2014)

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Decision 14-08-011 August 14, 2014

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of California Water Service Company (U60W), a California corporation, for an order 1) authorizing it to increase rates for water service by \$92,765,000 or 19.4% in test year 2014, 2) authorizing it to increase rates on January 1, 2015 by \$17,240,000 or 3.0%, and on January 1, 2016 by \$16,950,000 or 2.9% in accordance with the Rate Case Plan, and 3) adopting other related rulings and relief necessary to implement the Commission's ratemaking policies.

Application 12-07-007
(Filed July 5, 2012)

**DECISION GRANTING JOINT MOTION TO ADOPT THE
PROPOSED SETTLEMENT AGREEMENT AUTHORIZING
CALIFORNIA WATER SERVICE COMPANY'S GENERAL RATE
INCREASES FOR 2014, 2015, AND 2016**

**Credit Card Pilot Program Memorandum
Account (Preliminary Statement J2)**

For the reasons discussed in Chapter 6 of the Settlement regarding Special Request #17, the Parties agree that Cal Water should be authorized to file a Tier 1 Advice Letter to modify the preliminary statement for this account consistent with the draft Preliminary Statement J2 included in Attachment 5 (Draft Preliminary Statements).

WRAM/MCBA (Preliminary Statement M)

ISSUE: The WRAM and the MCBA for each ratemaking area were adopted in conjunction with water rates intended to provide price signals that encourage customers to conserve water. The WRAM/MCBAs remove the disincentive for water companies to facilitate customer conservation.

RESOLUTION: As discussed in Chapter 6 regarding Special Request #33, the Parties agree to retain the WRAM/MCBAs without modification.

5.1.3.6. New Memo and Balancing Accounts

Cal Water and ORA agree that the Commission should authorize the establishment of the following new memorandum and balancing accounts, and that Cal Water should be authorized to add to its tariff the related preliminary statements which will be substantially similar to the draft preliminary statements included in Attachment 5 (Draft Preliminary Statements) via a Tier 1 Advice Letter.

General District Balancing Accounts

ISSUE: Cal Water identified accounts with residual amounts left over after amortization (for the Commission-authorized time period) had occurred, including the WCBA (an older conservation balancing account associated with Preliminary Statement N) and the obsolete balancing accounts for purchased

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**IN THE SUPREME COURT OF THE STATE OF
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CALIFORNIA WATER SERVICE COMPANY
Petitioner,

v.

PUBLIC UTILITIES COMMISSION OF THE STATE OF
CALIFORNIA
Respondent.

Decisions No. 20-08-047 and 21-09-047

Of the Public Utilities Commission of the State of California

EXHIBIT I

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

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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

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

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

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

Summary

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

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

2.2 Accounting Mechanisms: WRAM and MCBA

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

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

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

⁶ See, D.08-02-036, D 08-08-030.

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

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

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

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

⁷ See, D. 08-02-036, D.08-08-030.

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

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

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

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

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

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

2.3 Specific Concerns Regarding Policies on Conservation Rates and Accounting Mechanisms

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

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

Specific issues concerning conservation rates include the following:

2.3.1 Marginal Prices vs. Average Prices.

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

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

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

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

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

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

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

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

2.3.2 Customer Impacts

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

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

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

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

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

3. Phase II Scoping Memo

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

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**IN THE SUPREME COURT OF THE STATE OF
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CALIFORNIA WATER SERVICE COMPANY
Petitioner,

v.

PUBLIC UTILITIES COMMISSION OF THE STATE OF
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Respondent.

Decisions No. 20-08-047 and 21-09-047

Of the Public Utilities Commission of the State of California

EXHIBIT J

A.15-07-015, *Application* (July 9, 2015)

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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIF

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In the Matter of the Application of CALIFORNIA WATER SERVICE COMPANY (U-60-W), a California corporation, for an order (1) authorizing it to increase rates for water service by \$94,838,100 or 16.5% in test year 2017, (2) authorizing it to increase rates by \$22,959,600 or 3.4% on January 1, 2018, and \$22,588,200 or 3.3% on January 1, 2019, in accordance with the Rate Case Plan, and (3) adopting other related rulings and relief necessary to implement the Commission's ratemaking policies.

Application 15-07-____
Filed July __, 2015

APPLICATION

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Regulatory Attorney
California Water Service Company

Dated: July 3, 2015

Special Request: Permanent Conservation Rate Design

Cal Water proposes the adoption of the Conservation Rate Design Pilot (“Pilot”) as a permanent component of Cal Water’s rate structure. This program was established in D.08-02-036 and essentially reaffirmed in settlements with ORA in Cal Water’s 2009 rate case (D.10-12-017) and in Cal Water’s 2012 rate case (D.14-08-011). The attributes of the conservation rate design program include tiered residential rates, single-tariff rates for non-residential customer classes, an enhanced water conservation program, full Water Revenue Adjustment Mechanisms (“WRAMs”), and Modified Cost Balancing Accounts (“MCBAs”).

Special Request: Recognize Subsequent Offsets in Final Rates

Cal Water anticipates that, subsequent to the filing of this Application, and prior to the issuance of a decision by the Commission, increases in water production expenses in one or more districts may require the filing of a request for an expense or rate base “offset” via the informal advice letter process. Cal Water therefore requests that the Commission formally recognizes such offset filings when new rates are approved. Absent this formal recognition, Cal Water would have file to reinstitute any offsets approved between the filing of its general rate case and adoption of a rate case decision.

Special Request: Additional Memo and Balancing Accounts Requests

The settlement in the 2012 GRC highlighted the need to normalize the tracking and management of Cal Water’s Balancing and Memo Accounts (“BAMAs”). While several accounts were eliminated, and several accounts were modified or clarified, the exercise of reviewing the BAMAs, many of which did not have preliminary statements and/or were long-lived, revealed the need for continual adjustments to carry out the intent of each account. Cal Water continues the work began in the last GRC by requesting several modifications and authorizations that are needed to keep the accounts current and relevant.

MTBE Proceeds (Preliminary Statement F): Cal Water’s proposal to distribute the remaining settlement proceeds in this account is discussed in testimony sponsored by Mr. Tootle in the Testimony Book, Chapter 2 – Special Requests.

LIRA Memo Account Amortization (Preliminary Statement H): There are lingering balances that Cal Water requests be reviewed for amortization via a Tier 1 advice letter as discussed in the BAMA section of the General Report. Cal Water should also have the opportunity to amortize certain balances through the end of 2016 through a Tier 2 advice letter.

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**IN THE SUPREME COURT OF THE STATE OF
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CALIFORNIA WATER SERVICE COMPANY
Petitioner,

v.

PUBLIC UTILITIES COMMISSION OF THE STATE OF
CALIFORNIA
Respondent.

Decisions No. 20-08-047 and 21-09-047

Of the Public Utilities Commission of the State of California

EXHIBIT K

A.15-07-015, *Scoping Memo and Ruling of Assigned
Commissioner and Assigned Administrative Law Judge* (January
7, 2016)

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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of CALIFORNIA WATER SERVICE COMPANY (U60W), a California corporation, for an order (1) authorizing it to increase rates for water service by \$94,838,100 or 16.5% in test year 2017, (2) authorizing it to increase rates by \$22,959,600 or 3.4% on January 1, 2018, and \$22,588,200 or 3.3% on January 1, 2019, in accordance with the Rate Case Plan, and (3) adopting other related rulings and relief necessary to implement the Commission's ratemaking policies.

Application 15-07-015
(Filed July 9, 2015)

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

7. Categorization and Need for Hearings; Presiding Officer

This scoping memo confirms the Commission’s categorization of this proceeding as ratesetting as preliminarily determined in Resolution ALJ 176- 3360, issued July 23, 2015. This determination is appealable under the provisions of Rule 7.6. This scoping memo also confirms that hearings are necessary and sets forth the hearing schedule.

ALJ Jeanne M. McKinney is designated as the presiding officer pursuant to § 1701.3.

8. Discovery/Law and Motion Matters

Discovery will be conducted pursuant to the provisions of Article 10 and Rule 11.3. Rule 11.3 requires parties to meet and confer before bringing a formal motion. Parties are expected to engage in timely discovery well before deadlines and are expected to raise discovery issues in a timely fashion to avoid adverse impacts on the schedule.

9. Filing, Service and Service List

In this proceeding, there are several different types of documents participants may prepare. Each type of document carries with it different obligations with respect to filing and service. This proceeding will also be a pilot for a new online program to make supporting documents, such as testimony that is served but not filed, available.

Parties must file certain documents as required by the Rules or in response to rulings by either the assigned Commissioner or the ALJ. All formally filed documents must be filed with the Commission’s Docket Office and served on the service list for the proceeding. Article 1 of the Rules contains the Commission’s filing requirements. Resolution ALJ-188 sets forth the interim rules for electronic filing, which replaces only the filing requirements, not the service requirements.

S_____

**IN THE SUPREME COURT OF THE STATE OF
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CALIFORNIA WATER SERVICE COMPANY
Petitioner,

v.

PUBLIC UTILITIES COMMISSION OF THE STATE OF
CALIFORNIA
Respondent.

Decisions No. 20-08-047 and 21-09-047

Of the Public Utilities Commission of the State of California

EXHIBIT L

Decision 16-12-042, Decision Granting Joint Motion to Adopt the Proposed Settlement Agreement Authorizing California Water Service Company's General Rate Increases for 2017, 2018 and 2019, and Resolving Contested Issues and Related Special Requests (December 20, 2016)

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Service Company***

Decision 16-12-042 December 15, 2016

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of CALIFORNIA WATER SERVICE COMPANY (U60W), a California corporation, for an order (1) authorizing it to increase rates for water service by \$94,838,100 or 16.5% in test year 2017, (2) authorizing it to increase rates by \$22,959,600 or 3.4% on January 1, 2018, and \$22,588,200 or 3.3% on January 1, 2019, in accordance with the Rate Case Plan, and (3) adopting other related rulings and relief necessary to implement the Commission's ratemaking policies.

Application 15-07-015
(Filed July 9, 2015)

DECISION GRANTING JOINT MOTION TO ADOPT THE PROPOSED SETTLEMENT AGREEMENT AUTHORIZING CALIFORNIA WATER SERVICE COMPANY'S GENERAL RATE INCREASES FOR 2017, 2018 AND 2019, AND RESOLVING CONTESTED ISSUES AND RELATED SPECIAL REQUESTS

- SR 14 Coordination with Open Commission Proceedings & and Recognizing Subsequent Offsets.** Cal Water requested
- SR 16** that the final decision in this proceeding reflect the outcomes of certain open proceedings to the extent that they are resolved in a timely manner. ORA expressed concerns about the cumulative impact of reflecting the outcome of those proceedings in final rates. Specifically, ORA was concerned that the inclusion of other proceedings and offsettable expenses could potentially lead to the perception of higher revenue changes than what Cal Water has requested in its filing. The parties agree that revenue requirement changes that the Commission approved after the July, 2015, filing of Cal Water's GRC application should be incorporated into the calculation of new rates.
- SR 15 Permanent "Conservation" Rate Design.** Cal Water requested adoption of the Conservation Rate Design Pilot as a permanent component of Cal Water's rate structure. Cal Water and ORA agree that the pilot conservation rate design that has been in effect for Cal Water since 2008 should be considered permanent going forward, with the possibility for future modifications and improvements.
- SR 17 Permanent Credit Card Program.** Cal Water requested approval to make its current credit card / debit card pilot program permanent. ORA agrees with this proposal, provided the \$74,307 remaining in the Credit Card Pilot Program Memorandum Account be returned to customers via a Tier 2 advice letter, and the Memorandum Account be eliminated.
- SR 18 Temporary Metered Service Tariff.** Cal Water requested to include a new tariff for metered water service for customers engaged in temporary activities such as construction. The new tariff would permit Cal Water to collect a \$2,400 deposit for a hydrant

S_____

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

CALIFORNIA WATER SERVICE COMPANY
Petitioner,

v.

PUBLIC UTILITIES COMMISSION OF THE STATE OF
CALIFORNIA
Respondent.

Decisions No. 20-08-047 and 21-09-047

Of the Public Utilities Commission of the State of California

EXHIBIT M

*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,
Affordability, and Sales Forecasting (July 7, 2017)*

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***Attorneys for California Water
Service Company***

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.

FILED
PUBLIC UTILITIES COMMISSION
JUNE 29, 2017
SAN FRANCISCO, CALIFORNIA
RULEMAKING 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, AFFORDABILITY, AND SALES FORECASTING**

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**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, AFFORDABILITY, AND SALES FORECASTING**

Summary

This Order Instituting Rulemaking (OIR) is issued consistent with the Commission Rules of Practice and Proceeding Article 6.¹ With this OIR, the California Public Utilities Commission (Commission) begins a review of the low-income rate assistance programs of the Class A water utilities under the Commission's jurisdiction to assess the feasibility of achieving program consistency across the Class A water utilities.² In addition, the Commission will investigate assistance to low-income customers of the Class B, C, and D water utilities. The Commission also will consider water affordability, and whether other public revenue sources within and outside of our jurisdiction can be generated to contribute to affordability, including potential revenue from bottled water. This will involve working with the State Water Resources Control Board on affordability, including pooling and consolidation opportunities. The proceeding will include two initial phases that will have separate scoping memos. The preliminary issues identified for each phase are set forth below.

In this OIR, we seek initial comments to assist the Commission in:

¹ All references to Rules refer to the Commission Rules of Practice and Procedure unless otherwise noted.

² Class A water utilities includes every corporation or person owning, controlling, operating, or managing any water system for compensation within California having more than 10,000 service connections (Pub. Util. Code § 241 and Decision 85-04-076).

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

Information and determinations from this proceeding shall inform the follow-up proceedings on related issues to be adopted at a later date.

1. Safety Consideration

This Order Instituting Rulemaking (OIR) is issued to continue the California Public Utilities Commission's (Commission) efforts consistent with Cal Water Code Section 106.3 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.³

2. Background

In December of 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

³ Cal Water Code Section 106.3 (added by Stats. 2012, C.524, A.B.685).

utilities and to place water conservation at the top of the loading order as the best, lowest-cost supply.

Among the energy 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.

The 2005 Plan was adopted after one of the wettest winters in recent history. In 2010 the Commission updated the 2005 Plan (2010 Update) as a result of severe drought conditions within the state. The Commission found it was more important than ever to have in place the regulatory mechanisms to ensure that the principles and objectives set forth in the 2005 Plan were not compromised. 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, and Suburban Water Systems.⁴

Each of the Class A water utilities 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. As detailed in Appendix A to this OIR, there is no standardization among these programs. Each program differs in its name, availability of monthly discounts, and recovery of costs. Hence, we should explore the feasibility of achieving a consistent low-income rate assistance program for of all the Class A water utilities in this OIR.

Furthermore, there are no rate-assistance programs for low-income ratepayers of Class B, C, and D utilities. These small water utilities serve a total of about 62,000 customers. However, because many of these utilities serve very few customers, estimating the number of low-income customers served is difficult. The Commission therefore has limited information on how to best serve low-income customers of Class B, C, and D utilities.

The Commission also intends to examine whether allowing for greater pooling within utilities and across utilities affording a more comprehensive low-income rate assistance program.

Additionally, the Commission intends to examine the scope of jurisdiction over other water companies as public utilities for the sole purpose of imposing public purpose charges to support low-income assistance water programs. The Commission will consider which water companies qualify as a "water

⁴ Class A water utilities Apple Valley Ranchos Water Company and Park Water Company acquired by Liberty Utilities Company, pursuant to Decision (D.) 15-12-029, dated December 17, 2017, continue to operate as distinctly separate Class A water utilities.

corporation” that owns controls, operates, or manages a “water system”;⁵ performs a service, or delivers a commodity to, the public;⁶ and dedicates its water supply or water system to public use.⁷ In addition, the Commission intends to consider whether this jurisdiction should provide that additional water companies support low-income water programs. Related issues are further discussed in **Section 3.2 Issues**, including imposition of extraction fees, and bottled water end user fees.

In order that this Rulemaking proceeds in a timely manner, the parties are directed to provide comments on the questions presented as to water companies and the Commission’s jurisdiction early in the proceeding, as the Commission’s resolution of this matter may have subsequent implications, including the funding of low-income customer programs.

2.1. Eligibility Requirement

The eligibility requirement is the only consistent aspect of the Class A water utilities’ low-income rate assistance programs. To qualify for the program: (1) the water bill must be in the customer’s name; (2) customer may not be claimed as a dependent on another person’s tax return; and (3) customer’s total

⁵ 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.”).

⁶ Cal. Pub. Util. Code § 216(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.”).

⁷ *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.”).

household income must be below an amount established by the Commission.

This consistent low-income eligibility requirement for the Class A water utilities satisfies the 2010 Update action item of developing a standardized eligibility criteria and need not be addressed in this OIR.

2.2. Program Name

The low-income rate assistance program is being offered to Class A water utilities' low-income customers under four different names, dependent on which service territory that low-income customers reside. As detailed in Appendix A to this OIR, the program is being offered under the names: California Alternative Rates for Water, Low-Income Ratepayer Assistance (LIRA), Low-Income Customer Assistance Program, or Water Rate Assistance Program.

Customers are made aware of the low-income programs through various means including but not limited to bill inserts, public participation hearings, and company websites. However, the majority of low-income customers have been automatically enrolled into the low-income programs through the Commission-authorized biannual customer data exchange between water and energy utilities (D.11-05-020). Customers who receive automatic enrollment are sent notices by the utilities of their enrollment with an option to opt out of the low-income program.

2.3. Monthly Discounts

Monthly discounts available to low-income customers also differ by Class A water utility. As detailed in Appendix A to this OIR, three of the utilities provide different fixed dollar credits, two provide 50% off the service charge, one provides 15% of the total bill, one provides varied credits across its districts, and another provides 20% off the service and quantity charges.

2.4. Program Costs Recovery

The Class A water utilities recover program revenue through surcharges and track the difference between discounts offered and surcharges collected in either a memorandum or balancing account for latter amortization. As detailed in Appendix A, surcharges are based on a variety of factors (fixed amount, percent of service and quantity charges, or an amount per water usage). The degree to which water corporations are permitted to pool among a portion or all of their districts may also be examined as a way to provide more revenue for LIRA programs.

2.5. Forecasting Water Sales

Forecasts of sales can have significant impacts on ratepayers. In D.16-12-026, adopted in Rulemaking 11-11-008, the Commission addressed the importance of forecasting sales. The Commission, in D.16-12-026, directed Class A and B water utilities to propose improved forecast methodologies in their General Rate Case (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 in a separate phase of this proceeding will examine standardizing water sales forecasting.

3. Preliminary Scoping Memos

This OIR will be conducted in accordance with Article 6 of the Commission's Rules of Practice and Procedure (Rules). As required by Rule 7.1, this order includes a Preliminary Scoping Memo as set forth below.

3.1. Category of Proceeding and Need for Hearing

Rule 7.1(d) requires that an OIR preliminarily determine the category of the proceeding and the need for hearing. As a preliminary matter, we determine that this proceeding is a “quasi-legislative” proceeding, as that term is defined in the Commission’s Rules of Practice and Procedure, Rule 1.3(d). It is contemplated that this proceeding shall be conducted through initial written comments and later evidentiary hearings on issues identified in comments.

Anyone who objects to the preliminary categorization of this OIR as “quasi-legislative,” or to the preliminary hearing determination, must state the objections in opening comments to this OIR. If the person believes hearings are necessary, the comments must state: (a) the specific disputed fact for which hearing is sought; (b) justification for the hearing (e.g., why the fact is material); (c) what the party would seek to demonstrate through a hearing; and (d) anything else necessary for the purpose of making an informed ruling on the request for hearing.

After considering any comments on the preliminary scoping memo, the assigned Commissioner may issue a Scoping Memo that, among other things, will make a final category determination; this determination is subject to appeal as specified in Rule 7.6(a). The assigned Commissioner and Administrative Law Judge (ALJ) may also determine the need for and extent of further procedural steps that are necessary to develop an adequate record to resolve this OIR, and shall issue rulings providing guidance to parties, as warranted.

3.2. Issues

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 water utilities to determine whether a consistent low-income rate assistant program for all low-income water ratepayers can be established. This proceeding will also consider whether other water companies qualify as public utilities under the Commission's jurisdiction for purposes of assessing a public purpose surcharge. Respondent Class A water utilities are required, Class B, C and D water utilities are encouraged, and interested parties are invited, to answer the following questions and include associated explanations for each response:⁸

Question 1 - Program Name

- a. Which of the current low-income rate assistance programs (California Alternative Rates for Water, Low-Income Ratepayer Assistance, Low-Income Customer Assistance Program, and Water Rate Assistance Program) best describes the low-income rate assistance program?
- b. Is there a more appropriate program name that identifies the low-income rate assistance program?
- c. What are the advantages and disadvantages of establishing a uniform program name for a low-income rate assistance program for all eligible customers of investor-owned water utilities?

Question 2 - Effectiveness of Assistance Programs

- a. How effective are the current programs in reaching eligible low-income customers?
- b. How can effectiveness be improved?

⁸ 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."

Question 3 - Monthly Discounts

- a. What are the advantages and disadvantages of providing a flat dollar discount to low-income customers? Also, what impact does it have on water conservation?
- b. What are the advantages and disadvantages of providing a percentage off of a low-income customer's total bill? Also, what impact does it have on water conservation?
- c. What are the advantages and disadvantages of providing a percentage off of a low-income customer's service charge? Also, what impact does it have on water conservation?
- d. What are the advantages and disadvantages of providing a percentage off of a low-income customer's service charge plus Tier 1 and Tier 2 usage? Also, what impact does it have on water conservation?
- e. What are the advantages and disadvantages of establishing a company-wide discount method (such as: a flat dollar amount, percentage off of service charge or total bill, percentage off of service charge, plus Tier 1 and Tier 2)?
- f. What are the advantages and disadvantages of establishing a fund to provide rate assistance to all low-income customers of investor-owned water utilities (such as: a flat dollar amount, percentage off of service charge or total bill, percentage off of service charge, plus Tier 1 and Tier 2)?
- g. What is the appropriate discount method if a uniform discount method is implemented for all investor-owned water utilities?
- h. What are the advantages and disadvantages of implementing a company-wide dollar and/or percentage rate discount? If implemented, how should that dollar and/or percentage rate be determined?
- i. What are the advantages and disadvantages of implementing a uniform dollar and/or percentage rate discount for all investor-owned water utilities' low-income customers? If implemented, how should that dollar and/or percentage rate be determined?

- j. What are the advantages and disadvantages of implementing a maximum discount amount for the low-income rate assistance program? If a maximum discount amount is implemented how should that amount be calculated and should it be uniform for all Class A water utilities?

Question 4 - Program Cost Recovery

- a. Should the Commission require uniform standards for LIRA surcharges in the multi-district Class A utilities?
- b. What are the advantages and disadvantages of recovering program costs through a fixed dollar surcharge amount?
- c. What are the advantages and disadvantages of recovering program costs through a fixed surcharge amount per water usage?
- d. Is there a more appropriate method to recover program costs?
- e. Should the Commission require that LIRA programs for Class B, C, & D utilities be funded by surcharges on all non-low-income customer bills across all the utilities? How would this pooled LIRA fund be administered?
- f. What are the advantages and disadvantages of recovering program costs on a district and/or region basis? What if a majority of customers in a district and/or region are qualified low-income customers?
- g. What are the advantages and disadvantages of recovering program costs through a company-wide and/or uniform Class A water utilities' method?

Question 5 - Commission Jurisdiction over other Water Companies

- a. What is the Commission's jurisdiction over water companies for the purpose of imposing public purpose fees to support LIRA programs?
- b. Should the Commission consider (funding LIRA or pooling via) a water extraction fee?

- c. Should the Commission consider (funding LIRA or pooling via) a water end user fee?

Question 6 - Consolidation in Support of LIRA

- a. How should the Commission identify further opportunities for consolidating systems that are not able to provide safe, reliable and affordable drinking water?
- b. Should Class A utilities serve as administrators for small water systems that need operations & maintenance support as proscribed by Senate Bill 552 (2016)?

Question 7 - Implementation of Any Changes

- a. How should any changes to the low-income rate assistance programs resulting from this OIR be implemented? For example: next general rate case proceeding, advice letter, or other method.
- b. If the Commission creates a single program to provide uniform rate assistance for all investor-owned utility low-income ratepayers, how will that program be administered?
- c. How should investor-owned low-income rate assistance program changes be implemented in response to development of a statewide low-income rate assistance program resulting from legislation pursuant to Assembly Bill 401 (2015)?

3.3. Schedule

The preliminary schedule for Phase 1 is set forth below. We delegate to the assigned Commissioner and the assigned ALJ the authority to set other dates in the proceeding or modify those below as necessary. Phase 1 is divided into two sub-phases: a) consolidation of low-income water assistance programs; and b) Commission jurisdiction over other water companies. Participants in the proceeding should also provide comments on the proposed schedule, included

potential dates for workshops, serving testimony, evidentiary hearings, and filing of final comments/briefing on issues presented.

Day 1	OIR issued
Day 35	Initial Comments filed and served
Day 55	Reply Comments filed and served
Day 60	Prehearing Conference
Day 95	Scoping Memo issued
TBD	Workshop(s)
TBD	Testimony/Comments served
TBD	Rebuttal testimony/Response Comments served
TBD	Evidentiary hearings/ Additional Workshops
TBD	Opening briefs/comments
TBD	Reply briefs/response comments

The schedule for Phase 1 (A and B) for this proceeding will conform to the statutory case management deadline for OIR and quasi-legislative matters set forth in Pub. Util. Code § 1701.5. A separate scoping memo and schedule for Phase 2 will be issued at a later date. Phase 2 of this proceeding will be completed within 24 months from the date that the Phase 1 scoping memo is issued.

4. Service of OIR to Respondent Parties and Other Interested Parties

Named Respondents (and therefore parties) to this OIR include all Class A water utilities under the Commission’s jurisdiction. Within 15 days of the mailing of this OIR, each respondent shall inform the Commission’s Process

Office of the contact information for a single representative, although other representatives and persons affiliated with the respondents may be placed in the Information-Only portion of the service list.

The subject matter and issues to be addressed in this OIR are also of interest to Class B, C and D water utilities, the Office of Ratepayer Advocates (ORA), the California Water Association (CWA), The Utility Reform Network (TURN), California Bottled Water Association (CBWA), individual California water bottlers, California Environmental Justice Alliance, the Community Water Center, and the Low-Income Oversight Board. We will therefore serve this OIR on all Class B, C and D water utilities, ORA, CWA, TURN, CBWA, the Low-Income Oversight Board, California Environmental Justice Alliance, and the Community Water Center.

5. Addition to Official Service List

Other interested parties are invited to participate in this OIR. If you want to participate in this OIR or simply to monitor it, follow the procedures set forth below. The Commission's Process Office will publish the official service list at the Commission's website (www.cpuc.ca.gov), and will update the list as necessary.

Addition to the official service list is governed by Rules 1.4 and 1.9(f). Any person will be added to the "Information-Only" category of the official service list upon request, for electronic service of all documents filed in this proceeding, and should do so promptly in order to ensure timely service of documents that may be filed in this proceeding. The request must be sent to the Process Office by electronic mail (Process_Office@cpuc.ca.gov). The Docket Number of this OIR must be included in the request. The Commission has adopted rules for the

electronic service of documents related to its proceedings, available on our website at: <http://www.cpuc.ca.gov/puc/efiling>.

Once you are on the official service list, you must ensure that the information you have provided is up-to-date. To change your postal address, telephone number, e-mail address, or the name of your representative, send the change to the Process Office by electronic mail to the Process Office and copy everyone on the official service list.

5.1. Subscription Service

Persons may monitor this OIR by subscribing to receive electronic copies of documents in this OIR that are published on the Commission's website. There is no need to be on the official service list in order to use the subscription service. Instructions for enrolling in the subscription service are available on the Commission's website at <http://subscribecpuc.cpuc.ca.gov>.

6. Serving and Filing Documents

When you serve a document, use the official service list published at the Commission's website as of the date of service. You must comply with Rules 1.9 and 1.10 when you serve a document to be filed with the Commission's Docket Office. If you are a party to this OIR, you must serve by e-mail any person (whether Party, State Service, or Information-Only) on the official service list who has provided an e-mail address.

The Commission encourages electronic filing and e-mail service in this OIR. You may find information about electronic filing at <http://www.cpuc.ca.gov/PUC/efiling>. E-mail service is governed by Rule 1.10. The subject line for e-mail communications should include the proceeding number, and where the filing is related to a specific track, the track number for

the filing. In addition, the party sending the e-mail should briefly describe the attached communication, for example, *Brief*.

If you use e-mail service, you must also provide a paper copy to the assigned Commissioner and ALJ. The electronic copy should be in Microsoft Word or Excel formats to the extent possible. The paper copy should be double-sided. E-mail service of documents must occur no later than 5:00 p.m. on the date that service is scheduled to occur.

If you have questions about the Commission's filing and service procedures, contact the Docket Office at (415) 703-2121 or send an e-mail to efile-help@cpuc.ca.gov.

7. Public Advisor

Any person or entity interested in participating in this OIR who is unfamiliar with the Commission's procedures should contact the Commission's Public Advisor in San Francisco at (415) 703-2074 or (866) 849-8390 or e-mail public.advisor@cpuc.ca.gov; or in Los Angeles at (213) 576-7055 or (866) 849-8391, or e-mail public.advisor.la@cpuc.ca.gov. The TTY number is (866) 836-7825.

Cal. Pub. Util. Code § 1711(a) states the following:

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 Public Advisor's Office will contact appropriate stakeholders and local governments that may be affected by this proceeding.

8. Intervenor Compensation

Any party that expects to claim intervenor compensation for its participation in this OIR shall file its Notice of Intent to claim intervenor compensation any time after the start of the proceeding until 30 days after the time for filing responsive pleadings. If a prehearing conference is later held, the notice may be filed within 30 days after the prehearing conference (Rule 17.1).

9. Ex Parte Communications

The category of this proceeding is preliminarily determined to be quasi-legislative. (See Rule 1.3(d).) Accordingly, *ex parte* communications are permitted without restriction or reporting requirement until and unless the assigned Commissioner's Scoping Memo changes the category of the proceeding and/or the determination of need for evidentiary hearing. (See Rules 7.3 and 8.3(a).)

Therefore, **IT IS ORDERED** that:

1. The Commission issues this Order Instituting Rulemaking to continue the Commission's efforts to ensure that low-income water customers have safe, clean, affordable and accessible water adequate for human consumption, cooking and sanitary purposes.
2. This Order Instituting Rulemaking is also issued to address the Commission's 2010 Water Action Plan objective of achieving consistency between the Class A water utilities' low-income rate assistance programs, and to assess whether bottled water companies fall within the Commission's regulatory jurisdiction.
3. The category of this Order Instituting Rulemaking is preliminarily determined to be a quasi-legislative proceeding as the term is defined in Rule 1.3(d) of the Commission's Rules of Practice and Procedure.

4. This proceeding is preliminarily determined to need evidentiary hearings.

5. All Class A water utilities under the California Public Utilities Commission's jurisdiction are named respondents to this Order Instituting Rulemaking.

6. Class B, C and D water utilities, The Office of Ratepayer Advocates, the California Water Association, The Utility Reform Network, the California Bottled Water Association, individual California water bottlers, and the Low-Income Oversight Board are invited to participate as parties to the Order Instituting Rulemaking.

7. The outcome of this Order Instituting Rulemaking will be applicable to all water utilities under the Commission's jurisdiction, as defined in Pub. Util. Code § 2701.

8. Any person or representative of an entity who wishes to become a party to this proceeding must send a request to the Commission's Process Office, 505 Van Ness Avenue, San Francisco, CA 94102 (or process_office@cpuc.ca.gov) to be placed on the official service list for this proceeding. The docket number of this proceeding must be included in the request.

9. Persons and representatives of an entity who wish to monitor this proceeding but not participate as an active party shall be added to the "Information-Only" section of the official service list upon request, for electronic service of all documents filed in this proceeding. A request to be placed on the "Information-Only" service list for this proceeding must be sent to the Commission's Process Office, 505 Van Ness Avenue, San Francisco, CA 94102 (or process_office@cpuc.ca.gov). The docket number of this proceeding and designation of "Information Only" party status must be included in the request.

10. Respondent Class A water utilities shall, and other parties may, file opening comments on the issues identified in this Order Instituting Rulemaking and respond to the questions in Section 3.2 of this order, according to the schedule set forth in this order.

11. This proceeding shall be conducted in two phases. Phase 1 shall include two sub-phases: a) consolidation of low-income water assistance programs for all class A water utilities; and b) other water companies as public utilities.

12. The preliminary issues and questions to be considered in this proceeding are defined in the Preliminary Scoping Memo herein.

13. All parties shall abide by the Commission's electronic service rules contained in the Commission's Rules of Practice and Procedure.

14. Any person who objects to this order's preliminary determination regarding categorization of the proceeding as quasi-legislative, the need for hearings, issues to be considered, or scheduling shall state such objections in their comments. (*See* Rule 6.2 of the Rules of Practice and Procedure.)

15. Any party that expects to claim intervenor compensation for its participation in this Order Instituting Rulemaking shall file its Notice of Intent to claim intervenor compensation in accordance with Rule 17.1 of the Commission's Rules of Practice and Procedure.

16. The assigned Commissioner or Administrative Law Judge may make any revisions to the preliminary schedule set forth herein as necessary to facilitate the efficient management of the proceeding.

17. The Commission's Executive Director's Office shall serve this Order Instituting Rulemaking via electronic mail on all respondent Class A water utilities and on the most recent general rate case service list of those utilities.

18. The Commission's Executive Director's Office shall serve this Order Instituting Rulemaking via either electronic mail or regular mail on all Class B, C and D water utilities.

19. The Commission's Executive Director's Office shall also serve this Order Instituting Rulemaking via electronic mail on the Office of Ratepayer Advocates, the California Water Association, California Bottled Water Association, The Utility Reform Network, California Environmental Justice Alliance, the Community Water Center, and the Low-Income Oversight Board.

This order is effective today.

Dated June 29, 2017, at San Francisco, California.

MICHAEL PICKER
President
CARLA J. PETERMAN
LIANE M. RANDOLPH
MARTHA GUZMAN ACEVES
CLIFFORD RECHTSCHAFFEN
Commissioners

Appendix A

Low Income Rate Assistance Comparison

LOW INCOME RATE ASSISTANCE COMPARISON

Utility	Name	Monthly Discount for 5/8" Metered	Monthly Recovery
Apple Valley	CARW California Alternative Rates for Water	\$8.38 credit	Fixed surcharge of \$0.69
California Water	LIRA Low-Income Ratepayer Assistance	- 50% off service charge - Max credit is \$48	1.542% surcharge to total bill company wide
California-American	LIRA Low-Income Ratepayer Assistance	20% off service charge & Tier 1 & 2 quantity charges	Fixed surcharge of \$1.21 company wide
Golden State	CARW California Alternative Rates for Water	Varied credits (\$6 - \$29) among districts	Varied surcharges by region -Region 1: \$0.127 per ccf -Region 2: \$0.250 per ccf -Region 3: \$0.166 per ccf
Great Oaks	LICAP Low-Income Customer Assistance Program	50% off service charge	Surcharge of \$0.0275 per ccf
Park	CARW California Alternative Rates for Water	\$7.40 credit	Fixed surcharge of \$6.14
San Gabriel	CARW California Alternative Rates for Water	\$8.00 credit	Varied surcharges by district -Fontana District: \$0.2408 per ccf -LA District: \$0.1851 per ccf
San Jose	WRAP Water Rate Assistance Program	15% off total bill	Fixed surcharge of \$1.45
Suburban	LIRA Low-Income Ratepayer Assistance Promoted as: WISH Water Invoice and Statement Help	\$6.50 credit	Surcharge of \$0.040 per ccf company wide

S_____

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

CALIFORNIA WATER SERVICE COMPANY
Petitioner,

v.

PUBLIC UTILITIES COMMISSION OF THE STATE OF
CALIFORNIA
Respondent.

Decisions No. 20-08-047 and 21-09-047

Of the Public Utilities Commission of the State of California

EXHIBIT N

R.17-06-024, *Assigned Commissioner's Scoping Memo and Ruling*
(January 9, 2018)

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Service Company***



MGA/eg3 1/9/2018

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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

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

Rulemaking 17-06-024

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)

S_____

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

CALIFORNIA WATER SERVICE COMPANY
Petitioner,

v.

PUBLIC UTILITIES COMMISSION OF THE STATE OF
CALIFORNIA
Respondent.

Decisions No. 20-08-047 and 21-09-047

Of the Public Utilities Commission of the State of California

EXHIBIT O

R.17-06-024, *Amended Scoping Memo and Ruling of the Assigned
Commissioner* (July 9, 2018)

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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

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

Rulemaking 17-06-024

**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

S_____

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

CALIFORNIA WATER SERVICE COMPANY
Petitioner,

v.

PUBLIC UTILITIES COMMISSION OF THE STATE OF
CALIFORNIA
Respondent.

Decisions No. 20-08-047 and 21-09-047

Of the Public Utilities Commission of the State of California

EXHIBIT P

R.17-06-024, *Administrative Law Judge's Ruling Inviting
Comments on Water Division Staff Report and Modifying
Proceeding Schedule* (June 21, 2019)

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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

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

Rulemaking 17-06-024

**ADMINISTRATIVE LAW JUDGE'S RULING INVITING COMMENTS
ON WATER DIVISION STAFF REPORT AND
MODIFYING PROCEEDING SCHEDULE**

This ruling invites parties to comment on the California Public Utilities Commission's (Commission's) Water Division Report on Low-Income Workshop- Water Rate Design for a Basic Amount of Water at a Low Quantity Rate (Staff Report) held on May 2, 2019. This ruling also presents questions for the parties to respond to and provides notice of modifications to the proceeding schedule and additional workshops for completing the proceeding record.

1. Workshops, Staff Reports, and Next Steps

The proceeding was initiated in June of 2017. The scoping memo for the proceeding was issued on January 9, 2018 setting forth the issues to be addressed in the proceeding. To date joint workshops have been held with the State Water Resources Control Board (SWRCB) addressing the following areas: 1) access, affordability of safe, clean, reliable drinking water; 2) consolidation of water

systems; 3) water forecasting and rising drought risk; and 4) water rate design for a basic amount of water at a low quantity rate.

The first workshop was held on August 17, 2017 at the California Environmental Protection Agency (CalEPA) Building, in Sacramento. This was a joint workshop between the Commission and the SWRCB. This workshop provided an overview of the joint concerns and purposes of the proceeding, including water quality, affordability and consolidation efforts by the Commission and the State Water Resources Control Board (SWRCB) as a means of providing safe drinking water.

A second workshop was held on November 13, 2017. This workshop was also a joint workshop between the Commission and the SWRCB and was held at the State Personnel Board in Sacramento. The workshop addressed access and affordability of safe, clean reliable drinking water with a focus on consolidation of water systems in areas that lack safe access to water. A staff report was completed and attached to the scoping memo issued on January 9, 2018.

A third workshop was held on January 14, 2019 to address water sales forecasting and rising drought risk. This workshop was held at the CalEPA Building in Sacramento. A ruling issued on March 20, 2019 included the staff report for this workshop and party comments on the staff report were received on April 5, 2019.

A fourth workshop was held on May 2, 2019. This workshop was held at the California Energy Commission in Sacramento and addressed rate design and basic low-income water rates. Staff subsequently prepared a report summarizing the workshop. The Staff Report is attached to this ruling as Attachment A. Parties are invited to provide comment on the attached Staff Report consistent with this ruling.

An additional workshop will be held on August 5, 2019 to discuss comments received on the matters set out during the proceeding including: 1) consolidation of at-risk systems; 2) forecasting; and 3) rate design. The SWRCB Draft Assembly Bill (AB) 401 Report has not been finalized. The Commission will continue to monitor progress on finalizing the report and any subsequent legislation that results later as to a statewide low-income water program. However, the recently enacted 2019-2020 state budget includes \$130 million and AB 72, an early appropriation signed by the Governor includes \$26 million to address failing water systems. This funding presents an opportunity for public utilities to potentially consolidate or manage these failing systems.

The proposed decision in this proceeding may include amendments to the Commission's program rules in the areas of consolidation, forecasting, rate design, and other implementation measures to enhance water affordability, including low-income programs. In order to ensure a complete record for consideration in this proceeding the parties, in addition to commenting on the attached Staff Report, are to respond to the questions set out below. Parties may also provide comments on any other relevant matter within the scope of this proceeding. Comments and responses are to be provided no later than July 10, 2019 with responses to comments due on July 17, 2019.

A workshop to discuss potential changes to enhance water affordability, including the existing low-income programs, will be held on August 5, 2019. Parties are directed to provide response to the questions presented below which will be discussed at the August 5, 2019 workshop.

2. Questions Presented for Party Comment

Parties are to provide comment on the attached Staff Report (Attachment A to this ruling) in addition to responding to the following questions:

- A. Should the Commission review and consider any changes to the current rules and guidelines for acquisitions and mergers of water companies set out in D.99-10-064 for purposes of ensuring that its processes allow for efficient and cost-effective consolidation of at-risk small water systems?
 - a. If the answer to the above question is yes, what changes are recommended to allow for efficient and cost-effective consolidation of at-risk investor owned small water systems?
 - b. Are there specific existing or new processes that should be developed to maximize the Commission's work with the SWRCB's priority failing systems or for acquisition and mergers of failing public water systems by investor owned water utilities?
- B. What if any changes should the Commission consider as to its water forecasting? How do we include the potential for drought in forecasting future sales, or what other mechanism can be implemented to ensure a more accurate forecast?
- C. Should there be a mechanism to adjust rates mid-year or end of year as the shortfalls occur, especially during drought years?
- D. Should the Commission set a specific baseline quantity of water at a low-cost to ensure that low-income customers have sufficient quantities of water?
 - a. Should this rate be based on a flat fee?
 - b. Should this rate be based on the number of people in a household?

- E. If the answer to the above question is yes, what (or how) should this quantity be (determined)? Should this baseline low-cost water apply only to low-income customers or to all customers?
- F. Should the low-income water program be adjusted to account for the number of individuals residing in a household? How would the water utilities determine the number of people in a household?
- G. Should the Commission direct class B, C, and D water utilities to adopt low-income programs? If so, how should it be paid for; *i.e.* should there be one low-income water program that applies across all water utilities?
- H. Should there be a standardized monthly discount rate or amount across all water IOUs low income programs? If so, how should it be determined?
- I. Should the low-income program discount amount be based on a customer's ability to pay? How should the customer's ability to pay be measured?
- J. How should the low-income water program ensure that low-income water users that rent and do not directly pay their water bill are the beneficiary of the programs discount rather than the landlord or building owner?
 - a. Provide examples of how the program works now and whether it provides savings to low-income renters that do not directly pay their water bills; and what recommended changes to the program could provide direct savings to these water users.
 - b. Should there be a pilot program to test potential mechanisms to implement proposals?
- K. What mechanisms should be included to monitor the low-income water program to assess what works and what does not in ensuring that low-income customers are able to access sufficient quantities of quality water for human consumption?

3. Service of Ruling on Related Proceedings

This ruling directs the Commission's Process Office to serve this ruling to the following referenced proceedings as the parties to these proceedings have an interest in issues concerning low-income programs and policies concerning the sharing of energy utilities low-income customer data:

- A.14-11-007;
- A.14-11-009;
- A.14-11-010;
- A.14-11-011;
- A.15-02-001;
- A.15-02-002;
- A.15-02-003;
- A.15-02-013;
- A.15-02-024;
- A.15-03-004; and
- R.15-03-010.

Any party to the above referenced proceedings may submit comments or questions to be considered as to the relevant matters. Parties may submit comments or questions in advance of the next workshop and such comments or questions should be submitted no later than July 10, 2019 with responses to comments no later than July 17, 2019.

4. Schedule

The schedule is as follows.

Event	Date
Party comments	July 10, 2019

Reply comments	July 17, 2019
Workshop	August 5, 2019 10 a.m. – 4 p.m. California Energy Commission Imbrecht Hearing Room 1516 9 th St. Sacramento, CA
Proposed Decision	October 2019

IT IS RULED that:

1. Commission staff will host a final workshop consistent with the topics and schedule set forth in this ruling.

2. Parties may submit comments on the questions presented in this ruling and on the Staff Report attached to this ruling by no later than July 10, 2019.

3. Parties may submit responses to comments no later than July 17, 2019.

4. An All-Party Meeting will be notice consistent with the Commission’s Rules of Practice and Procedures after release of the proposed decision in this proceeding.

5. The Commission Process Office shall serve notice of this ruling and the workshops scheduled herein on the following proceedings: A.14-11-007; A.14-11-009; A.14-11-010; A.14-11-011; A.15-02-001; A.15-02-002; A.15-02-003; A.15-02-013; A.15-02-024; A.15-03-004; and R.15-03-010 .

Dated June 21, 2019, at Sacramento, California.

/s/ MICHELLE COOKE for
Darcie L. Houck
Administrative Law Judge

S_____

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

CALIFORNIA WATER SERVICE COMPANY
Petitioner,

v.

PUBLIC UTILITIES COMMISSION OF THE STATE OF
CALIFORNIA
Respondent.

Decisions No. 20-08-047 and 21-09-047

Of the Public Utilities Commission of the State of California

EXHIBIT Q

R.17-06-024, *Comments of the Public Advocates Office on
Administrative Law Judge Ruling Inviting Comments on Water
Division Staff Report and Modifying Proceeding Schedule* (July
10, 2019)

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BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

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

Rulemaking 17-06-024

**COMMENTS OF THE PUBLIC ADVOCATES OFFICE
ON ADMINISTRATIVE LAW JUDGE RULING
INVITING COMMENTS ON WATER DIVISION STAFF REPORT
AND MODIFYING PROCEEDING SCHEDULE**

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July 10, 2019

- D.16-12-026, which provides additional direction in sales forecasting
- Water IOUs have generally not been utilizing the methods specified in Rate Case Plan to adopt sales forecasts
- The direction provided in the Rate Case Plan for Step Increase Filings also needs updating – this has not been modified since the introduction of WRAM, and results in confusion as to how Step Increase Filings should be modified for IOUs with WRAM.

C. Should there be a mechanism to adjust rates mid-year or end of year as the shortfalls occur, especially during drought years?

Here, we will refer to concept of mechanisms to adjust rates mid-year or end of year to address inaccurate sales forecasts as an SRM – sales reconciliation mechanism.

There should not be a mechanism to adjust rates mid-year or end of year if shortfalls occur, even during drought years. Mid-year adjustments decrease transparency of rates, and decrease the incentive to provide accurate sales forecasts in GRCs, among other issues. Existing SRMs, including Drought SRMs, should be eliminated.

SRMs have numerous shortcomings, including but not limited to the following:

- SRMs result in more frequent rate changes for customers. More frequent rate changes should be avoided whenever possible, because:
 - Frequent rate changes (increases) make it more difficult for customers (especially lower income customers) to budget for their water bills, which may result in disconnections and requests for payment plans.
 - Rate changes occurring outside of GRCs make it harder for the Commission to see full impact of cumulative rate changes
- SRMs rely on Single Issue Ratemaking
 - SRM adjustments ONLY assess water sales, not other sources of revenue, IOU expenditures, changes to expenses, etc.
 - Capital projects can fall behind schedule resulting in expenditures not occurring at the anticipated times. Therefore, the need for revenue (as determined when calculating rates in GRCs) changes.

The Water IOUs' need for revenue is not assessed in SRMs and not taken into account when rates are changed outside of GRCs

- SRMs rely on a limited timeframe for sales forecast adjustments. This:
 - Decreases transparency
 - Requires adjustments to be based on limited analysis
 - Could place too much significance on sales in past year without taking other appropriate factors into consideration
- SRMs decrease the incentive to provide accurate sales forecasting in GRCs. This is problematic because:
 - When sales forecasts decrease, rates increase
 - IOUs could provide a high forecast in GRCs when there is a higher level of public participation and transparency regarding rates, then have those forecasts adjusted downwards (and rates upward) by an SRM when there is less public attention and scrutiny.
- SRMs can result in frequent rate adjustments via the Advice Letter (AL) process. This is problematic because:
 - ALs are designed for ministerial, non-controversial requests
 - ALs provide significantly less transparency for the general public than GRCs, as ALs:
 - Provide limited opportunity for public participation
 - Do not have public participation hearings
 - Are not subject to ex parte rules
 - Do not provide for evidentiary hearings to dispute facts.
 - ALs are generally processed in a much shorter timeframe than GRCs, with a reduced time for review. This limited timeframe is only appropriate for straightforward rate adjustments with less complexity than those associated with SRMs

It appears that the Commission is considering the question of establishing SRMs in response to customer concerns and dis-satisfaction regarding surcharges resulting from high WRAM balances. However, establishing new mechanisms (e.g. SRMs) as a means to alleviate concerns associated with the WRAM is not an effective solution. The Commission should instead assess whether existing water decoupling mechanisms (such as the WRAM/Modified Cost Balancing Account (MCBA)) are still necessary,

particularly in light of recent enacted state legislation and a Governor Executive Order declaring conservation as a way of life in California.

Since compliance with conservation mandates is now legally required,²⁰ continuing to employ decoupling mechanisms is no longer necessary to remove the disincentive to develop and implement Water IOU-run conservation programs. Moreover, the Commission could explore the option of employing independent third-party contractors to develop and implement conservation programs in Water IOU service territories to address disincentives to advancing conservation on the part of Water IOUs.

In reality, the appropriate response to alleviate customer concerns regarding surcharges resulting from high WRAM balances is to improve sales forecasting (as discussed above), and to evaluate, modify, and potentially eliminate the WRAM/MCBA mechanisms for all Water IOUs. At a minimum, any decoupling mechanism should be directly related to the effect of conservation on consumption, and should not provide a “guaranteed revenue” that insulates Water IOUs from general business risks like a downturn in the economy. Specifically, the Commission should expediently convert all existing full WRAM/MCBA mechanisms to 1) Monterey Style WRAMs, which are directly tied to conservation rate design, with 2) an incremental cost balancing account. Once the Commission has established improvements to sales forecasting, the Commission should eliminate decoupling mechanisms entirely.

If the Commission continues to utilize decoupling mechanisms for Water IOUs, it should recognize that the primary risk that water utilities face is forecasting (that is, forecasting expenses, water sales, etc.). Therefore, decoupling mechanisms result in significantly diminished risks for Water IOUs. If the Commission continues these programs, this diminished risk should be recognized, and any decoupling mechanism should be accompanied by a corresponding reduction in utilities’ rates of return – as was

²⁰ Senate Bill 606 (Hertzberg) and Assembly Bill 1668 (Friedman), both signed by Governor Brown on May 31, 2018

originally recognized when these decoupling mechanisms were established, but has yet to be realized in utilities' rates of return.²¹

- D. Should the Commission set a specific baseline quantity of water at a low-cost to ensure that low-income customers have sufficient quantities of water?**
 - a. Should this rate be based on a flat fee?**
 - b. Should this rate be based on the number of people in a household?**
- E. If the answer to the above question is yes, what (or how) should this quantity be (determined)? Should this baseline low-cost water apply only to low-income customers or to all customers?**
- F. Should the low-income water program be adjusted to account for the number of individuals residing in a household? How would the water utilities determine the number of people in a household?**

The following response addresses Questions D., E., and F.

The Commission should require Water IOUs to provide a baseline quantity of water at low-cost for all customers. This concept is consistent with California Water Code Section 106.3, in which the state statutorily recognizes that “every human being has the right to safe, clean, affordable, and accessible water adequate for human consumption, cooking, and sanitary purposes.”

Providing a baseline quantity of water at low-cost for all customers ensures that lower income customers not eligible for low income rate assistance (LIRA) programs have access to a low quantity of water at affordable rates. This is critical to realizing the

²¹ In D.08-08-030 for the Conservation OII (Investigation (I.) 07-01-022), the Commission found that WRAMs decoupling of sales from revenues eliminate almost all variations in earnings due to sales fluctuations, while the MCBAs ensure predictable cost recovery (FOF 13), concluding that implementation of these mechanisms may also reduce shareholder risk relative to ratepayers risk (COL 3) and that a Return on Equity (ROE) adjustment should be considered in the utilities' next cost of capital proceeding (COL 4). In the 2008 cost of capital proceeding for Cal Water, California American Water, and Golden State Water Company, the Commission affirmed in D.09-05-019 that WRAM/MCBA reduce utilities' revenue recovery risk (p.34), but did not make a corresponding ROE adjustment, finding that it could not quantify the risk reduction with sufficient precision (FOF 25). A decade after D.09-05-019, the Commission has still not completed any in-depth evaluation or reexamination about whether ratepayers should be compensated for assuming the revenue recovery risk as a result of granting utilities a WRAM/MCBA mechanism.

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**IN THE SUPREME COURT OF THE STATE OF
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CALIFORNIA WATER SERVICE COMPANY
Petitioner,

v.

PUBLIC UTILITIES COMMISSION OF THE STATE OF
CALIFORNIA
Respondent.

Decisions No. 20-08-047 and 21-09-047

Of the Public Utilities Commission of the State of California

EXHIBIT R

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

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



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

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

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

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July 24, 2019

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).

S_____

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

CALIFORNIA WATER SERVICE COMPANY
Petitioner,

v.

PUBLIC UTILITIES COMMISSION OF THE STATE OF
CALIFORNIA
Respondent.

Decisions No. 20-08-047 and 21-09-047

Of the Public Utilities Commission of the State of California

EXHIBIT S

R.17-06-024, *Administrative Law Judge's Ruling Inviting
Comments on Water Division Staff Report and Responses to
Additional Questions* (September 4, 2019)

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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

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

Rulemaking 17-06-024

**ADMINISTRATIVE LAW JUDGE'S RULING INVITING COMMENTS
ON WATER DIVISION STAFF REPORT AND RESPONSES
TO ADDITIONAL QUESTIONS**

This ruling invites parties to comment on the California Public Utilities Commission's (Commission's) Water Division Report on Low-Income, LIRA Program, Drought Forecasting Mechanisms, Small Water System Consolidation (Staff Report) held on August 2, 2019. The Staff Report is attached to this ruling as Attachment A. This ruling also presents additional questions for the parties to address.

1. Workshops, Staff Reports, and Next Steps

The last proceeding workshop was held on August 2, 2019 to address outstanding issues and party comments received on the following topics: 1) consolidation of at-risk systems; 2) forecasting/ drought; and 3) rate design. The State Water Resources Control Board (SWRCB) Draft AB 401 Report has not yet to be finalized. The Commission continues to work collaboratively with the SWRCB and will also continue to monitor progress on finalizing the report and

any subsequent legislation that results later as to a statewide low-income water program.

As noted in previously rulings, the proposed decision in this proceeding may include amendments to the Commission's program rules in the areas of consolidation, forecasting, rate design, and other implementation measures to enhance water affordability, including low-income programs. In order to ensure a complete record for consideration in this proceeding the parties, in addition to commenting on the attached Staff Report, are to respond to the questions set out below. Parties may also provide comments on any other relevant matter within the scope of this proceeding. Responses to the below questions are to be provided no later than September 16, 2019 with replies to responses due on September 23, 2019.

2. Questions Presented for Party Comment

Parties are to provide comment on the attached Staff Report in addition to responding to the following questions. Parties in answering the below questions should consider the information set out in the Public Review Draft, *Achieving the Human Right to Water in California, an Assessment of the State's Community Water Systems*,¹ issued in August 2019 by the Office of Environmental Health Hazards Assessment, California Environment Protection Agency, attached to this ruling as Attachment B. Parties may also include any other relevant comments as to how information in Attachment B should be considered for purposes of issues within the scope of the proceeding.

¹ <https://oehha.ca.gov/media/downloads/water/report/achievinghr2w08192019.pdf>

1. How should utilities incorporate drought-year sales into forecasted sales?
2. What weight should be assigned to drought-year sales in a forecast model?
3. Should the Commission adopt a specific sales forecasting model to be used in GRCs?
4. How should a sales forecasting model incorporate revisions in codes and standards related to water efficiency?
5. How are penetration rates over time recognized in sales forecast models to account for changes to codes and standards related to water efficiency?
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?
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?
8. Should Tier 1 water usage for residential be standardized across all utilities to recognize a baseline amount of water for basic human needs?
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?
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)?
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?
12. If the Commission adopts a uniform name for utility low-income programs, what should this name be?
 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?
 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?
 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)
 16. Should the Commission adopt a specific timeline, such as suggested by CWA, in processing water system consolidation requests by Commission-jurisdictional utilities?
 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?
 18. Should the Commission's staff role in implementing recovery in rates for safe drinking water funding loans for utilities be changed or expanded?

3. Service of Ruling on Related Proceedings

This ruling directs the Commission's Process Office to serve this ruling to the following referenced proceedings:

- Application (A.) 14-11-007;
- A.14-11-009;
- A.14-11-010;
- A.14-11-011;
- A.15-02-001;
- A.15-02-002;
- A.15-02-003;
- A.15-02-013;
- A.15-02-024;
- A.15-03-004; and
- Rulemaking 15-03-010.

Any party to the above referenced proceedings may submit comments or questions to be considered as to the relevant matters consistent with the filing dates for party responses and replies.

IT IS RULED that:

1. Parties may submit comments on the Staff Report attached to this ruling Attachment A and responses to the questions presented in this ruling no later than September 16, 2019.

2. Parties may submit replies to the comments and responses of other parties no later than September 23, 2019.

3. The Commission Process Office shall serve notice of this ruling on the following proceedings: Application (A.) 14-11-007; A.14-11-009; A.14-11-010; A.14-11-011; A.15-02-001; A.15-02-002; A.15-02-003; A.15-02-013; A.15-02-024; A.15-03-004; Rulemaking 15-03-010

Dated September 4, 2019, at San Francisco, California.

/s/ DARCIE L. HOUCK
Darcie L. Houck
Administrative Law Judge

S_____

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

CALIFORNIA WATER SERVICE COMPANY
Petitioner,

v.

PUBLIC UTILITIES COMMISSION OF THE STATE OF
CALIFORNIA
Respondent.

Decisions No. 20-08-047 and 21-09-047

Of the Public Utilities Commission of the State of California

EXHIBIT T

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

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

FILED

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

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

**COMMENTS OF CALIFORNIA WATER ASSOCIATION
RESPONDING TO ADMINISTRATIVE LAW JUDGE'S SEPTEMBER 4, 2019 RULING**

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ASSOCIATION

September 16, 2019

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

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

CALIFORNIA WATER SERVICE COMPANY
Petitioner,

v.

PUBLIC UTILITIES COMMISSION OF THE STATE OF
CALIFORNIA
Respondent.

Decisions No. 20-08-047 and 21-09-047

Of the Public Utilities Commission of the State of California

EXHIBIT U

R.17-06-024, *Reply Comments of the Public Advocates Office on
the Water Division's Staff Report and Response to Additional
Questions* (September 23, 2019)

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BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA



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

Rulemaking 17-06-024

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

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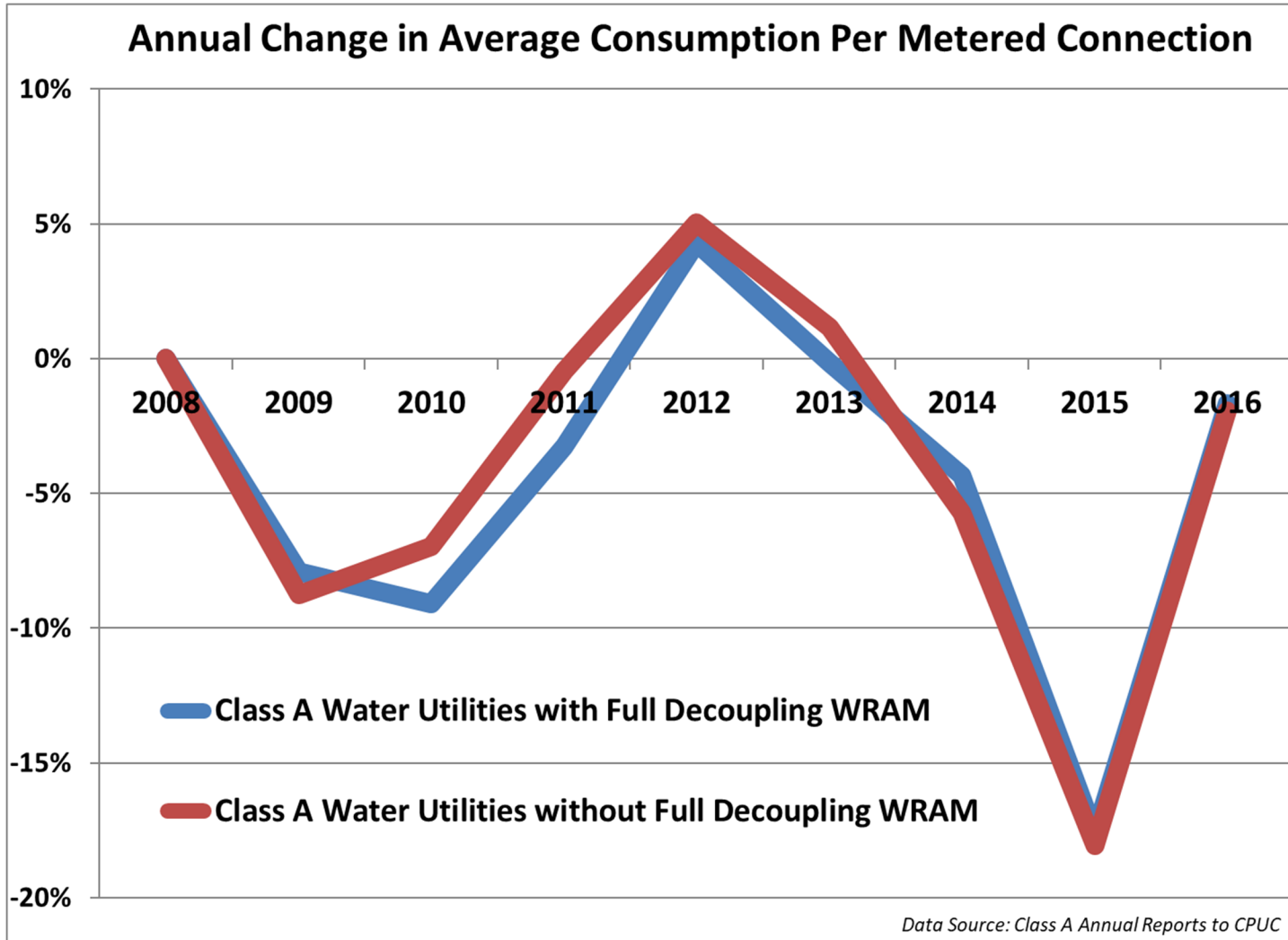
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September 23, 2019

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.

a guaranteed recovery of nearly the entire authorized revenue requirement, and the authorized revenue requirement includes the utilities' profits, or authorized rates of return. Therefore, WRAM shifts a significant portion of the risk of a utility earning authorized profits to customers, without adjusting rates of return for this reduced risk. Consequently, WRAM can in fact have a significant impact on affordability.

Furthermore, contrary to CWA's assertion that WRAM is dealing with fixed cost amounts that have already been authorized to be recovered, the WRAM actually tracks *estimated* fixed costs. If estimated fixed costs do not materialize—as is common when a utility underspends authorized capital budgets—the WRAM is incapable of detecting this variance. For customers, this adds insult to injury since WRAM surcharges are then added to bills not only for sales that did not occur but for costs that did not occur either. Thus, there should be little surprise at the widespread dissatisfaction with WRAM amongst all but the utilities who unreasonably profit from their existence.

The Commission should disregard CWA and SCE's inaccurate and misleading statements in support of WRAM and should end the experiment with full revenue decoupling for water utilities.

VI. CONCLUSION

The Public Advocates Office appreciates the opportunity to respond to the comments of other parties to this proceeding, and respectfully requests that the Commission adopt its recommendations.

Respectfully submitted,

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September 23, 2019

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

CALIFORNIA WATER SERVICE COMPANY
Petitioner,

v.

PUBLIC UTILITIES COMMISSION OF THE STATE OF
CALIFORNIA
Respondent.

Decisions No. 20-08-047 and 21-09-047

Of the Public Utilities Commission of the State of California

EXHIBIT V

*R.17-06-024, Second Amended Scoping Memo and Ruling of
Assigned Commissioner and Administrative Law Judge Directing
Comments to Consider Potential Commission Response to COVID-
19 (June 2, 2020)*

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FILED
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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

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

Rulemaking 17-06-024

**SECOND AMENDED SCOPING MEMO AND RULING OF
ASSIGNED COMMISSIONER AND ADMINISTRATIVE LAW
JUDGE DIRECTING COMMENTS TO CONSIDER POTENTIAL
COMMISSION RESPONSE TO COVID-19**

Summary

This ruling further amends the Scoping Memo issued on January 9, 2018, and the July 9, 2018, amended scoping memo to request comments to consider potential Commission response to the COVID-19 pandemic and initiates Phase II of the Order Instituting Rulemaking (OIR) Rulemaking (R.) 17-06-024. A proposed decision closing out all Phase I issues will be issued separately from the proposed decision on the Phase II issues set forth in this ruling.

1. Background

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

On March 17, 2020, the Commission's Executive Director, Alice Stebbins, issued a letter to Class A & 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 the our next steps, we are opening a new phase in this proceeding as it already addresses many of the subjects impacted by the COVID-19 pandemic.

As the COVID-19 pandemic and our collective response thereto continue, by this ruling, we expand the scope of this existing rulemaking proceeding by adding Phase II to it and to seek input on the impact on water utilities and their customers to formulate our next step. In addition, we are also seeking to add regular reports on the status of water customer billing and collection impacts from Class A water utilities.

2. Second Amended Scope (Phase II)

In addition to the actions already taken regarding disconnections and customer protections, the Commission is directing the parties to this proceeding to gather and file responses to this ruling which sets forth the following information on the effects of the COVID-19 pandemic on both customers and water utilities and the recovery from it.

A. Due to the Loss of Employment Caused by The Economic Impact of COVID-19, Many water customers will face the inability to pay utility bills, and as a result, water utilities may begin to accumulate unpaid bills (Arrearages). Provide comments on the following questions:

- 1) Is your utility experiencing a significant increase in arrearages by residential and non-residential customers?
- 2) How significant are these increases on a month to month basis?
- 3) Do you anticipate that water bills will become unmanageable for some customers?
- 4) What criteria would you propose in identifying those customers needing assistance?
- 5) Has your utility taken any preliminary actions to assist customers in reducing their unpaid bills? If yes, then what were these actions?

B. What can, and should the Commission do to assist customers with these large arrearages?

- 1) Should arrearage management plans be adopted that establish longer-term payment plans? Would a 12-month plan be a reasonable payment term?
- 2) Should arrearage management plans be adopted that includes a debt forgiveness element? If so, should a plan similar to that proposed in the Disconnections Proceeding (R.18-07-005) be adopted here?
- 3) Should certain months of arrearages be forgiven across the board?
- 4) How should these arrearage management plans be tracked and accounted for by utilities?

C. How are the current unpaid bills accounted for in a utility's system of accounts? Are they being recorded in uncollectibles? Or tracked in a separate account?

D. A certain amount of unpaid bills is considered during the general rate case process. What was that percentage in your last general rate case? Do you expect the actual percentage to be greater than that amount, and if so by how much?

E. Does a fixed monthly bill amount capped at an affordable level for a utilities' most vulnerable customers provide relief and recovery for customers impacted by the COVID-19 pandemic? Should such a monthly bill be set at a minimum quantity use plus a fixed service charge?

F. How should the current Low-income Rate Assistance Program Application process be improved?

- 1) Should the current paper application process be converted to an online process?
- 2) How should the eligibility requirements be improved on?

G. With regard to California Alternate Rates for Energy (CARE) data sharing between energy and water utilities, how can this process be improved to capture customers affected by the COVID-19 pandemic?

- 1) Should this CARE data sharing occur on a more frequent basis rather than the current bi-annual process?
- 2) How quickly can the water utilities process and increase enrollment if this data sharing is increased? If it occurs on a monthly or weekly basis?

In addition to the above questions, the Commission directs the Class A water utilities to gather and file responses to this ruling which sets forth the following additional information to better track the impact the COVID-19 pandemic is having on water customers; the following information must be broken down by month between January 2019 - April 2020:

- Number of customers requesting bill assistance;
- Number of newly enrolled customers to your low-income rate assistance program;
- Number of overall enrolled customers in your low-income rate assistance program;

- Number of customers late or behind on their bill;
- Average arrearage amount;
- Median arrearage amount;
- Range of arrearage amount;
- Overall arrearage amount; and
- Number of customers making partial payments.

In order to continue to monitor and assess the impact over both the next few months and beyond, we direct Class A water utilities to provide ongoing biweekly reports of the data requested above to the Water Division through the end of September 2020.

Finally, starting October 2020, we direct Class A Water Utilities to provide ongoing monthly reports (instead of biweekly reports) of the data requested above to the Water Division through the end of, and including data for, June 2021.

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 file comments regarding the additional issues added to the scope of this proceeding by June 30, 2020. Reply comments are due by July 14, 2020.

Class A water utilities are required to make additional biweekly and monthly reporting requirements as set forth in Section 2 of this ruling. Additional workshop(s) may also be set to consider Phase II issues.

The assigned Commissioner or assigned Administrative Law Judge 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 Phase II issues set forth in Section 2 of this ruling.
2. Schedule for Phase II of this proceeding is set forth in Section 4 of this ruling and is adopted.
3. Hearings are not necessary at this time.
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 file comments on the additional issues added to the scope of this proceeding, as set forth in Section 2 of this ruling by June 30, 2020, and reply comments by July 14, 2020.
6. Class A Water Utilities shall submit to the Water Division their biweekly reports of the data listed above in Section 2 of this ruling beginning on June 12, 2020 through the end of September and monthly thereafter through the end of June 2021.

7. The January 9, 2018, scoping memo and the July 9, 2018, amended scoping memo remain as issued with the addition of the Phase II issues set forth in this ruling and the extension of schedule as set forth in this ruling.

Dated June 2, 2020, at San Francisco, California.

/s/ MARTHA GUZMAN ACEVES
Martha Guzman Aceves
Assigned Commissioner

/s/ ROBERT HAGA
Robert Haga
Administrative Law Judge

S_____

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

CALIFORNIA WATER SERVICE COMPANY
Petitioner,

v.

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

Decisions No. 20-08-047 and 21-09-047

Of the Public Utilities Commission of the State of California

EXHIBIT W

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

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PUBLIC UTILITIES COMMISSION505 VAN NESS AVENUE
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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

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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, D09-05-005, 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 OEHHA, 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)

S_____

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

CALIFORNIA WATER SERVICE COMPANY
Petitioner,

v.

PUBLIC UTILITIES COMMISSION OF THE STATE OF
CALIFORNIA
Respondent.

Decisions No. 20-08-047 and 21-09-047

Of the Public Utilities Commission of the State of California

EXHIBIT X

R.17-06-024, *Comments of California Water Service Company (U
60 W) on the Proposed Decision of Commissioner Guzman Aceves
(July 27, 2020)*

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***Attorneys for California Water
Service Company***



**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**

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Pursuant to Rule 14.3 of the Rules of Practice and Procedure of the California Public Utilities Commission (“Commission”), California Water Service Company (“Cal Water”) hereby submits these comments on the Proposed Decision of Commissioner Guzman Aceves (“PD”), issued on July 3, 2020 and served on parties on July 7, 2020.¹ Cal Water respectfully urges the Commission to modify the PD’s flawed disposition of the decoupling Water Revenue Adjustment Mechanism/Modified Cost Balancing Account (“WRAM/MCBA” or “decoupling mechanism”). The effect of implementing the PD as adopted would be to:

- *Increase* bills for customers who have low to moderate water usage (disproportionately hurting low-income customers), and *decrease* bills for high water users, in the near term due to rate design changes;²
- Weaken water conservation efforts by encouraging less aggressive conservation rate designs and eliminating the decoupling of water sales and revenues;³
- *Increase* all customer bills in the near term because the total cost of producing water will increase if water usage increases due to weakened conservation signals;⁴
- *Increase* all customer bills in the long-term because fewer costs can be avoided in long-term infrastructure planning if water conservation is less effective due to weakened conservation signals.⁵

¹ Assigned Administrative Law Judge Robert Haga sent an email to the service list of this proceeding on July 6, 2020 confirming that “the due date for opening comments is July 27, 2020 and reply comments are due August 3, 2020.” Therefore, these comments are timely filed.

² There will be a shift in revenue collection from higher water users to lower water users. The PD acknowledges the need for a “transition” to Monterey-style WRAMs (pp. 56-57), and “expects” that future rate designs 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” (p. 60). This immediate rate increase will result in a higher bill in perpetuity.

³ Despite appearing to acknowledge the value of conservation education, programs, and rate designs run and overseen by companies, the PD is internally inconsistent by asserting that “Conservation is not done by the utility but instead is accomplished by the customers” (p. 54). This lays the groundwork for the questionable conclusion, based on one set of incomplete data that has not been subject to full review and another set of undisclosed data, that full decoupling (WRAM/MCBAs) does not result in any greater conservation than that of Monterey-style WRAMs (pp. 54-55).

⁴ The expenses associated with water production, such as chemicals, purchased water, purchased power, and pump taxes, increase when the volume of water that must be produced increases.

⁵ Water conservation is a key tool for lowering the overall cost of water by decreasing the need for additional infrastructure. For example, the Los Angeles Department of Water and Power has calculated that its residents and businesses paid water rates that were 27% lower because of investments in water conservation over the previous

Cal Water urges the Commission to cure the factual and legal infirmities of the PD that would lead to these undesirable outcomes by adopting the revised Findings of Fact and Conclusions of Law provided in **Appendix A**. In addition, Cal Water urges the Commission to re-focus attention on the goal of this proceeding – providing assistance to low-income water customers – by taking the following steps:

- In a separate industry-wide proceeding (or later phase of this proceeding), develop a complete record with the involvement of interested parties to analyze the implications of eliminating the decoupling WRAM/MCBA mechanism, including the customer bill increases described above.
- Encourage collaboration to analyze more targeted, revenue-neutral initiatives to address decoupling concerns, such as:
 - Building on the aggressive conservation rate designs of decoupled companies by rolling WRAM/MCBA balances into base rates. This would collect a greater percentage of the balance from high water users;
 - Waiving decoupling surcharges for customers who qualify for low-income programs; and,
 - Applying decoupling surcharges only to water usage in Tier 2 and higher.
- Encourage collaboration to provide guidance for company-specific affordability initiatives that can be pursued in subsequent GRCs. For example, the Commission could direct Cal Water to propose in its next GRC:
 - Modifications of its Rate Support Fund to assist customers or districts that meet certain criteria; and,
 - A proposal to increase the discount for low-income customers balanced against the cost to other customers for subsidizing the program.

I. SUMMARY OF COMMENTS

- The PD’s unsupported conclusion that decoupling mechanisms must be eliminated will hurt, rather than help, the Commission’s conservation goals, and disproportionately impact the exact customer constituencies the Commission set out to assist in this proceeding.
- It is premature to eliminate decoupling without understanding the impact of the decoupling policy changes the Commission adopted in 2016, and without

three decades (Chesnutt, Pekelney, and Spacht, 2019). A similar study for Tucson, Arizona, concluded that water conservation helped the city avoid hundreds of millions of dollars in water and wastewater operating and capital costs (Rupprecht, 2020). In yet another study, the City of Westminster, Colorado, calculated that its residents and businesses paid water and wastewater rates that were 47% lower and development fees that were 44% lower because of investments in water conservation over the previous three decades (Feinglas et al., 2017).

exploring less draconian alternatives that can ease the burden of WRAM surcharges on low-income customers.

- The PD’s misunderstanding of the technicalities of the two mechanisms – the decoupling WRAM/MCBA and the Monterey-style WRAM – results in flawed conclusions.
- The PD relies upon incomplete and erroneous data without providing interested parties the opportunity for validation, and more egregiously, without any analysis or consideration of how a mandatory transition to a Monterey-style WRAM would impact customer bills.
- The PD should be modified to move consideration of the merits of water decoupling to a different proceeding, or to a later phase in this proceeding, and should focus instead on initiatives targeted at enhancing affordability for low-income customers.

II. DISCUSSION

A. The PD Will Increase Bills for Low-Income Customers and Low Water Users

If the PD is adopted as drafted, Cal Water will be required to file its next GRC in July 2021 with proposed increases to the majority of residential customers stemming solely from implementation of a more “flattened” rate design and the transition from a decoupling WRAM/MCBA to a Monterey-style WRAM.⁶ As outlined below, while the PD is motivated by a well-meaning desire to protect low-income customers from higher water bills, it would have the opposite effect and actually lead to rate increases for everyone *except those who use the most water*. This is because the rate design associated with the Monterey-Style WRAM and advocated by the PD would shift costs away from customers with high water usage, and towards customers with less usage.

Cal Water’s low-income customers have water usage patterns that are very similar to customers who are not in its low-income program except in one key respect: low-income customers are a small proportion of the residential households who routinely have extremely high water usage.⁷ Given these usage patterns, the aggressive conservation rate design Cal Water

⁶ PD, pp. 60-61; p. 87 (Ordering Paragraph 3).

⁷ Customers who are in Cal Water’s Low Income Ratepayer Assistance (“LIRA”) program are considered to be low-income for the purposes of this analysis, while customers who are not in the LIRA program (“non-LIRA customers”) are not considered to be low-income.

implemented with decoupling is favorable for lower-income customers for the reasons discussed below.

Following the long-standing approach in the energy industry for energy conservation,⁸ the Commission advocated use of the WRAM/MCBA to decouple water usage from the revenue collected, thereby enabling water utilities to implement aggressive conservation rates that discouraged wasteful or excessive water usage. Water rates were recalculated using two principles. First, moving away from the industry standard of collecting 50% of revenues from service charges and 50% of revenues from quantity rates, the decoupled companies changed rates to collect more revenues through quantity rates.⁹ Second, for residential customers, decoupled companies designed quantity rates consisting of increasing tiered rates (or inclining block rates) so that higher water users pay more for additional units of water.

In contravention of the water conservation goals espoused by the Commission and the state of California, the PD moves away from these conservation-oriented rate design principles by eliminating decoupling and supporting a rate structure that “minimizes the percentage of households in [] higher tiers.”¹⁰ The result will be more “flattened” tiers¹¹ and increases in the service charge.¹² Reverting back to these more traditional rate design elements will mute the conservation signals, cause customers using the *least* amount of water to experience the *largest* bill increases, and *financially benefit the highest-volume water users*.

As mentioned above, the distinguishing characteristic between Cal Water’s low-income customers and other residential customers is that high-usage customers tend not to be low-

⁸ See, e.g., D.93887 (adopting Energy Rate Adjustment Mechanism (“ERAM”) for Pacific Gas and Electric Company); D.93892 (adopting ERAM for San Diego Gas & Electric Company); D.82-12-055 (adopting ERAM for Southern California Edison Company).

⁹ See, e.g., D.08-02-036, p. 15. This shift can also be described as increasing the percentage of fixed costs (not to be confused with the fixed rate, which is the service charge) that is recovered through the variable rates (also known as the quantity or commodity charges or rates). If provided the opportunity, Cal Water can present data demonstrating that the rate designs of companies *without* decoupling currently collect a higher percentage of revenues from service charges, as compared to companies *with* decoupling.

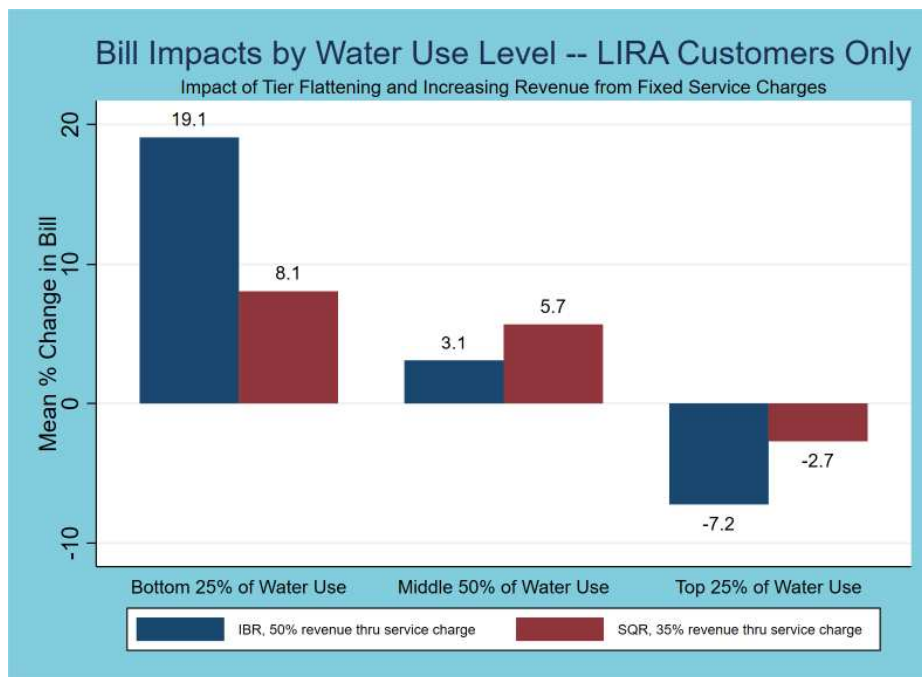
¹⁰ PD, p. 60.

¹¹ In order to minimize the households in the higher tiers, the amount of usage in the higher blocks are decreased. If less usage is calculated to be recovered from higher blocks, the rates for the lower blocks must be increased. The result is a tiered rate design that is more “flattened.”

¹² If service charges are increased so that less revenue is collected through quantity rates, cost recovery is spread out more evenly among customers regardless of the amount of water used, which results in a net benefit to customers with high water usage.

income. Therefore, this shift in rate design would *harm* not help most low-income customers, the ones who the Commission ostensibly set out to assist in this proceeding. This is demonstrated in the graph below that shows how low-income customers would be impacted if Cal Water’s current rate design were replaced under two different scenarios.

- In Scenario 1, revenue collection would be shifted to 50/50 between the service charge and the quantity rates, but Cal Water’s tiered rate structure (increasing block rates or IBRs) would be retained, though the rates would be scaled down to account for the greater level of revenue recovered by the service charge.
- In Scenario 2, a smaller amount of revenues would still be collected through the service charge (in this case, 35%), but traditional single-quantity rates (SQR) would be implemented.
- The bill impacts are broken down into three customer groups based upon their relative water usage (bottom 25%, middle 50%, and top 25%). For each group of customers, the bar graph on the left is Scenario 1, and the bar graph on the right is Scenario 2.
- For example, for low-income customers with usage that falls within the lowest 25% of consumption, the average increase in bills is 19.1% for the IBR rate design in Scenario 1 and 8.1% for the SQR rate design in Scenario 2.



It would also be troubling for customers with medium water usage who fall just outside of the eligibility criteria for Cal Water’s low-income program. This untenable situation cannot have been intended by the Commission in this proceeding. As a policy matter, the shift away

from Cal Water’s current conservation rate designs would be a major step backwards for the Commission – and the state – in both water conservation and water affordability.

B. Eliminating Cal Water’s Decoupling Mechanism Is Premature

In D.16-12-026, the Commission continued decoupling with the directive that companies should move towards collecting 40% of revenue through the service charge, rather than the 30% previously advocated.¹³ In its 2018 GRC application, Cal Water had the first opportunity to implement this policy change, and also pursued a variety of initiatives that establish a better balance between affordability, conservation, and financial stability through a proposed settlement agreement with the Public Advocates Office that is still pending.¹⁴

If adopted, the PD would prematurely pull the plug on such efforts and undo years of work developing progressive water conservation policies and rate designs. Historically, Cal Water has been proactive in seeking ways to improve both conservation and support low-income customers, while simultaneously working to limit impacts relating to decoupling. Cal Water is the only water company with the Rate Support Fund, a subsidy that makes rates more affordable for *all customers* in high-cost districts, not just low-income residential customers, through a modest surcharge applied to Cal Water customers company-wide. Prior to the most recent drought, Cal Water proposed the Sales Reconciliation Mechanism (“SRM”) to minimize the WRAM/MCBA under-collections that result in WRAM surcharges,¹⁵ and successfully implemented the SRM in 2015 just as the drought began in earnest. As a result, in 2019, the median decoupling charge for single-family residential customers was only \$2.47 per month.¹⁶ Finally, for the last several years, Cal Water has heeded the calls of customers to decrease the number of rate changes that occur over the course of a year, and now “bundles” changes in rates and surcharges/surcredits together as much as possible.

Cal Water stepped up these efforts in its currently pending GRC (A.18-07-001), where Cal Water has worked collaboratively with the Public Advocates Office to reach a settlement that

¹³ D.16-12-026, pp. 56-57.

¹⁴ Financial stability is essential for providing safe drinking water and reliable infrastructure.

¹⁵ The SRM was proposed in July 2012, and approved in D.14-08-011 (p. 19).

¹⁶ The median monthly water bill for single-family residential customers was \$53.58 for the same period. Accordingly, seventy-five percent of decoupling charges for customers in this class were less than \$5.00 per month in 2019.

significantly modifies the Rate Support Fund program to address affordability issues in high-cost districts.¹⁷ Cal Water and the Public Advocates Office also modified the revenue recovery allocated between service charges and quantity rates, and recalculated both the tier break points and the tiered rates themselves consistent with D.16-12-026.¹⁸ Because that GRC is still pending, the merits of these changes have yet to be tested.

More recently, Cal Water proactively requested to defer all bill increases until January 1, 2021, in light of the financial impacts of COVID-19 on customers.¹⁹ Each of these initiatives and efforts are aimed at assisting the most vulnerable customers during this difficult time, and are where the Commission's focus should be. The Commission should wait to evaluate the results of these efforts, rather than eliminating decoupling in this PD, and afford Cal Water the opportunity to work collaboratively with stakeholders in this proceeding, as discussed below, to address affordability without putting conservation at risk. For these reasons, if the Commission nonetheless concludes here that companies should transition from decoupling to the M-WRAM, Cal Water respectfully requests that it be allowed to undertake such a transition in its July 2024 GRC application, rather than its July 2021 GRC application.

C. In a Rush to Judgment, the PD Overlooks More Reasonable Options

One of the pitfalls of attempting to address an issue that was not within the original scope of the proceeding, and that has been shoehorned into this phase through a tenuous connection to sales forecasting, is that neither reasonable alternatives to the elimination of decoupling, nor measures to mitigate the negative impacts of decoupling, can be fully vetted. Rather than abandoning decoupling policy entirely, the Commission could consider different ways to minimize WRAM balances²⁰ and/or recover under-collected revenues relating to decoupling.

¹⁷ See A.18-07-001, *Settlement Agreement of California Water Service Company and the Public Advocates Office* (October 8, 2019), pp. 15-18.

¹⁸ *Id.*, pp. 21-23.

¹⁹ See CWS Advice Letter No. 2380 (April 1, 2020); *Motion of California Water Service Company (U 30 W) for Timely Resolution of Proceeding and Deferral of Rate Changes due to COVID-19 Pandemic*, A.18-07-001 (April 28, 2020).

²⁰ As discussed above, Cal Water and the Public Advocates Office have already agreed in its currently pending GRC to a rate design that recovers more revenue from service charges with the goal of decreasing decoupling balances, as recommended in D.16-12-026.

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.”).

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

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

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

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

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

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

²⁹ PD, p. 85, Conclusion of Law 3.

³⁰ PD, p. 85, Conclusion of Law 2.

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

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

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

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

³² Cal. Pub. Util. Code § 1757(a)(2).

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

³⁴ *See Id.*, at 1091–1092.

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

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

³⁷ Edison, at 1106.

³⁸ *Id.*

³⁹ *Id.*, at 1107.

elimination of decoupling and further changes to rate design demand clearer notice and a meaningful opportunity for parties to participate and present evidence. For example, if parties had been able to show that harm to conservation, and to the water bills of low-income and low-water-usage customers would increase, the stakeholder groups focused on environmental and socioeconomic issues in this proceeding would have been able to test the validity of these claims, and render their own opinions in turn. Now the Commission is engaged in a rushed and inadequate consideration of these issues. Cal Water therefore recommends that the Commission decline to summarily eliminate decoupling under these haphazard circumstances, and instead give due consideration to its merits and challenges in a separate proceeding, or in a third phase in this proceeding.

2. Eliminating Decoupling Would Violate Due Process.

The PD also legally errs because its flawed disposition of decoupling issues would deny parties a fair and meaningful opportunity to address disputed issues of fact and conclusions of law relating to the full WRAM/MCBA, in violation of due process. Notably, the PD relies solely on two critically deficient pieces of purported evidence to reach its linchpin finding that “it is not necessary for a utility to have a full WRAM/MCBA mechanism in order that their customers conserve water.”⁴⁰

First, the Commission relies on a graph shown in the Public Advocates Office’s September 23, 2019 reply comments purporting to show 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.”⁴¹ Notably, the Public Advocates Office’s data was newly introduced on reply and parties have not had an opportunity to respond to it before the PD was issued. Cal Water recently served a data request on the Public Advocates Office to verify those claims, and the initial response suggests that there may have been errors in the data and in the calculations underlying the assertions of the Public Advocates Office. It is therefore highly prejudicial for the PD to rely upon such disputed information without affording parties a fair opportunity to respond.

⁴⁰ PD, p. 55.

⁴¹ PD, pp. 54-55, *citing to* “The Public Advocates Office of the Public Utilities Commission Sept. 2019 Reply Comments at 7.”

Second, the PD asserts that “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.”⁴² This complex, *sua sponte* review of extra-record information was never prompted by any party, nor was notice ever given that the Commission would undertake such an analysis. While the PD refers to a “Table A” purporting to support such a finding,⁴³ no “Table A” was ever included in the PD, or otherwise made available to the parties for review. Instead, the assigned ALJ in this proceeding indicated that reference to “Table A” was merely a clerical error and would be removed in a subsequent revision.⁴⁴ Thus, given only the succinct and opaque description in the PD, parties have no practical way of understanding how the calculations were derived or of verifying whether they are correct (and nor would a reviewing court). Accordingly, the data is clearly insufficient to be the “substantial evidence” required for a Commission decision.

These two fatal deficiencies are prejudicial and in violation of due process because they are the only two pieces of evidence identified in the PD for the key conclusion that “customer conservation is accomplished independently of whether a utility does or does not maintain a WRAM/MCBA mechanism,”⁴⁵ the conclusion that leads directly to the PD’s decision to eliminate decoupling. As mentioned above, if Cal Water were given a fair opportunity to be heard and to respond to the claims of the Public Advocates Office in a properly scoped proceeding, it would offer compelling evidence refuting the PD’s assertions.

G. The Policy Merits of Decoupling Should Be Considered More Fully

Cal Water respectfully urges the Commission to revise the PD and instead consider modifications to the decoupling mechanism in a separate proceeding or, in the alternative, in a later phase of this proceeding. The evidentiary record regarding decoupling in this proceeding is woefully incomplete and fails to provide the Commission with an adequate basis for the findings of fact and conclusions of law that it attempts to reach. Given the unintended consequences and

⁴² PD, p. 55.

⁴³ *Id.*

⁴⁴ See E-mail of Administrative Law Judge Robert Haga to parties in R.17-06-024 on July 8, 2020 (“1) The reference to Table A was a clerical error; and 2) All necessary corrections, including this one, will be made following the review of all comments to the PD.”).

⁴⁵ PD, p. 55.

procedural deficiencies of the PD outlined above, the Commission should at minimum withhold judgment on decoupling until parties have an adequate opportunity to present and respond to relevant evidence.

III. CONCLUSION

At minimum, the potential consequences of the PD on water conservation and affordability are too significant to be rushed. Cal Water respectfully urges the Commission to correct the significant errors in the PD as shown in **Appendix A** and instead defer consideration of the policy merits of decoupling to a separate proceeding, or to a later phase of this proceeding, when it can be appropriately evaluated.

Respectfully submitted,

Date: July 27, 2020

Respectfully submitted,

By: /s/ Natalie D. Wales
Natalie D. Wales

NATALIE D. WALES
Director, Regulatory Policy & Compliance
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APPENDIX A

Proposed Changes to Findings of Fact and Conclusions of Law

(Proposed additions in blue bold underline and proposed deletions in red strikethrough)

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 first adopted by settlements in the Commission's water conservation Order Instituting Investigation proceeding I.07-01-022 and subsequent 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. beginning 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~~ adjusts for a reduction in variable water production costs ~~are reduced~~ when there is a reduction in water quantity sales.

5. The ICBA ~~provides that variable costs are reduced under the~~ adjusts for wholesaler price changes for water production costs among adopted water supply sources but functions independently of a 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~~ and 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.~~

~~8.7.~~ 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.

~~9.8.~~ Conservation of water use is by customers, in large part motivated by conservation programs, education and rate design from ~~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.~~9. Since WRAM/MCBA is implemented through a balancing account, there are intergenerational transfers of costs.

~~13.~~10. 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, but destabilizes revenues.

~~14.~~11. The Monterey Style WRAM/MCBA combined with the ICBA is a method to account for ~~lesser~~ the difference between adopted and recorded quantity sales and ~~stabilize revenues~~ production costs in a manner to keep utilities financially indifferent from promoting the Commission's conservation policies. ~~Implementation~~ Elimination of a Monterey Style WRAM/MCBA means that forecasts of sales become very ~~significant~~ controversial 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.~~12. 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.~~13. A single, straight-forward name will aid outreach to consumers and statewide coordination in the delivery of assistance to low-income consumers.

14. California-American Water Company's Advice Letter 1221 for establishing a tariff that provided a discount to entities providing affordable housing to low-income multi-family renters provides a good starting point for ~~a pilot~~ concepts to assist low-income multi-family renters.

~~18.~~15. 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 transactions.

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~~ was raised in this proceeding as ~~part of~~ relevant to our review of how to improve water sales forecasting.

3. Elimination of the WRAM/MCBA mechanism is a policy decision not determined by law, but is subject to procedural constraints as currently presented in this proceeding preventing the Commission from such a determination at this time.

4. 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.

5. As compared to the WRAM/MCBA, Tthe Monterey-style WRAM ~~provides better incentives to more accurately~~ will result in more contentious disputes in water utility proceedings to determine sales forecast ~~sales~~ while still providing the utility ~~the ability~~ more limited assistance to earn a reasonable rate of return.

~~4.6.~~ As WRAM utilities would have individual factors affecting a potential transition to Monterey-Style WRAM mechanism, ~~this~~ any such transition should be implemented in each WRAM utilities' respective ~~upcoming~~ GRC applications.

~~5.7.~~ 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.

~~6.8.~~ It is reasonable to allow each water utility to adopt the uniform CAP name as part of its next general rate case.

~~7.9.~~ The process to achieve consolidation should be as effective and efficient as possible.

~~8.10.~~ 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.

~~9.11.~~ Water utilities should ~~consider and~~ provide analysis for ~~establishing~~ considering 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.

~~10.12.~~ 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. 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~~13. This proceeding should remain open to consider Phase II issues.

S_____

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

CALIFORNIA WATER SERVICE COMPANY
Petitioner,

v.

PUBLIC UTILITIES COMMISSION OF THE STATE OF
CALIFORNIA
Respondent.

Decisions No. 20-08-047 and 21-09-047

Of the Public Utilities Commission of the State of California

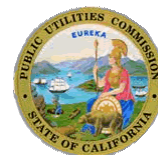
EXHIBIT Y

R.17-06-024, *Reply Comments of California Water Service
Company (U 60 W) on the Proposed Decision of Commissioner
Guzman Aceves* (August 3, 2020)

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



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

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

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

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August 3, 2020

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Rule 14.31

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

I. INTRODUCTION

Pursuant to Rule 14.3 of the Rules of Practice and Procedure of the California Public utilities Commission (“Commission”), California Water Service Company (“Cal Water”) hereby submits these Reply Comments on the Proposed Decision of Commissioner Guzman Aceves (“PD”). Cal Water supports the opening comments of several parties urging the Commission to reverse the PD’s unsupported conclusion that companies with a decoupling Water Revenue Adjustment Mechanism/Modified Cost Balancing Account (“decoupling WRAM”) must transition to a Monterey-style WRAM (“M-WRAM”). In addition, the recommendation of the Public Advocates Office (“Cal Advocates”) that such a transition should occur in Cal Water’s pending General Rate Case, A.18-07-001, should be rejected.

II. DISCUSSION

Cal Water fully supports the arguments by several parties that addressing fundamental changes to the decoupling mechanism would require the Commission to formally amend the scope of the proceeding, allow stakeholders to present additional evidence, and provide access to data relied upon by the Commission.¹ As a substantive matter, parties cite the mismatch between this requirement and the stated intent of this proceeding to increase affordability for low-income customers, explaining how decoupling will harm, rather than help them.² If the Commission pursues the elimination of decoupling, several parties indicate, like Cal Water, that the Commission must provide stakeholders an opportunity to be heard by allowing the submission of additional evidence, providing access to any data relied upon by the Commission, and enabling parties to challenge the one data set provided thus far.

¹ See, e.g., Comments of California Water Association on the Proposed Decision of Commissioner Guzman Aceves (“CWA”) at 4-7; Comments of California-American Water Company on the Proposed Decision of Commissioner Guzman Aceves (“CAW”) at 6-8; Comments of Golden State Water Company on Proposed Decision and Order (“GSWC”) at 3-13; Joint Comments of Liberty Utilities (Park Water) Corp. (U 314-W) and Liberty Utilities (Apple Valley Ranchos Water) Corp (U 346-W) (“Liberty”) at 4-5, 7-8; and Comments on the National Association of Water Companies on the Proposed Decision of Commissioner Guzman Aceves (“NAWC”) at 2-4.

² See, e.g., CAW at 2-6; GSWC at 3.

A. Cal Advocates' Comments Highlight the Flaws of the PD

1. Cal Advocates and the PD's Conclusions about Sales Forecasting Incentives Are Flawed

Cal Advocates asserts that the M-WRAM “incentivizes parties to strive for accurate sales forecasting in the GRC process.”³ Yet in a footnote that appears earlier in its comments, Cal Advocates acknowledges the *problematic incentive associated with an M-WRAM*, stating that “Eliminating the WRAM will incentivize utilities to under forecast sales, as they will not have to return the difference in revenues to customers. The Commission should remain aware of this incentive if this PD is adopted.”

This warning, buried in a footnote, should give the Commission pause. Specifically, with the transition to an M-WRAM, the current incentive for accurate sales forecasts will shift to an incentive for lower forecasts, driving water rates higher. With less effective conservation signals, customers will use more water. When water usage exceeds the lower sales forecasts, an M-WRAM company will be able to retain all additional revenues from quantity charges, rather than being required to return those revenues to customers. Neither Cal Advocates nor the PD acknowledges this significant drawback to transitioning to an M-WRAM.

Cal Water notes that, since the implementation of decoupling in 2008, Cal Advocates and Cal Water have consistently reached settlements on both sales forecasting and rate design.⁴ If Cal Advocates has believed the sales forecasts underpinning Cal Water's rates are flawed due to inappropriate incentives allegedly associated with decoupling, these settlements reflect an abdication of Cal Advocates' responsibilities.

Cal Advocates' allegation regarding a decoupled utility's incentives perpetuates a narrative that is *false* in Cal Water's case: that Cal Water prefers to charge lower rates and risk incurring high WRAM surcharges, rather than trying to generate the correct rates so that there is no WRAM balance.⁵ This perspective ignores that it is district personnel, customer service, and rates staff who respond to customer concerns every day, rather than once every three years. In the face of customer ire over both rates increases and decoupling surcharges, *decoupled companies like Cal Water have the most incentive to pursue accurate sales forecasts*. The PD's approach of supporting the redesign of rates that will immediately increase the bills of all except high water users, without any accompanying

³ Comments of the Public Advocates Office on the Proposed Decision of Assigned Commissioner and Administrative Law Judge (“Cal Advocates”) at 9.

⁴ Cal Advocates has generally accepted Cal Water's proposed sales forecasts with minor tweaks.

⁵ Cal Water notes that M-WRAM can also generate a balance that must be recovered from customers as well, either through a surcharge or by rolling the balance into base rates.

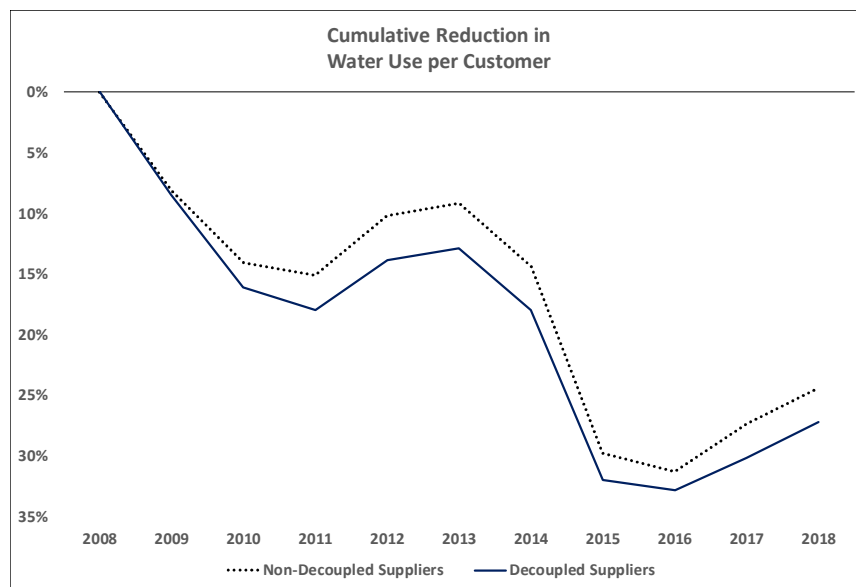
benefit to service, safety, or reliability, will generate more customer frustration.

Finally, Cal Advocates implies that the decoupling mechanism should address “when a utility underspends authorized capital budgets.” Cal Advocates does not acknowledge that the Commission requires a long-standing escalation year earnings test to specifically address underspending of authorized capital budgets. This oversight confuses the issue by raising the specter of a known concern that an existing mechanism already addresses. Notably, Cal Advocates does not argue that the earnings test is inadequate.

2. Cal Advocates’ Comments Do Not Cure the Inadequate Record

Great Oaks highlights that the PD improperly accepts without question a limited data set that has not been subject to public review, and failed to provide stakeholders the opportunity to provide different data.⁶ Cal Advocates references the three data sets upon which the PD draws the conclusion that decoupled companies do not conserve any more than non-decoupled companies. While Cal Advocates’ claim regarding its own data set is unsurprising, the public has not been given access to the two remaining data sets. Either Cal Advocates has access to what has been withheld from other stakeholders, Cal Advocates is making a claim unsupported by analysis, or Cal Advocates has been able to replicate the results cited in the PD. In the absence of the latter, Cal Advocates’ assertion that the data sets are “accurate” should be given little weight.

The importance of the Commission having access to more data is illustrated by the following graph, which uses the same data source relied upon by Cal Advocates, but tells a very different story:



The above graph shows that decoupled water companies have consistently maintained greater

⁶ Great Oaks Water Company’s Comments to Proposed Phase 1 Decision (“Great Oaks”) at 9-10.

cumulative reductions, on a per capita basis, as compared to M-WRAM companies. Before the drought, customers of decoupled companies achieved 29% more than those of non-WRAM companies. For the entire period of 2008-2018, the savings were more than 13%. Stakeholders and customers deserve a policy decision based on a comprehensive understanding of the data related to decoupling. With data like the above absent from the record in Phase 1, the Commission has yet to achieve this understanding.

B. The Commission Should Reject the Proposal to Transition Cal Water to an M-WRAM in its Pending GRC

1. The Pending Settlement Addresses the Concerns of the PD Without Jeopardizing Conservation

For Cal Water, the first opportunity to implement the sales forecasting and rate design guidance in D.16-12-026 was in its July 2018 GRC application (A.18-07-001). In comments on this PD, Cal Water described the several tools used, including a shift in revenue recovery, and re-setting both the rates and the amount of water in each tier.⁷ Furthermore, the proposed settlement is based upon a robust sales forecasting methodology that already includes each of the factors the PD recommends for improving sales forecasts.⁸ The Commission should reject Cal Advocates' last-minute proposal to eliminate decoupling in A.18-07-001 and jettison that work.⁹

More importantly, for the reasons described in Cal Water's comments on the PD, many of the customers the Commission seeks to protect would be harmed by a revenue-neutral change in rate design to reflect the characteristics associated with M-WRAM companies.¹⁰ During this time of continuing financial insecurity, the bills of lower water users should not increase due solely to a flawed policy decision, rather than to reasonable and prudent increases in costs approved by the Commission.

In addition, one factor relied upon by the PD to support the elimination of decoupling is absent from A.18-07-001. Per the settlement agreement, Cal Advocates avers that the agreed-upon sales forecasts are appropriate, regardless of the Commission's treatment of decoupling. Unlike Cal Water, Cal Advocates does not indicate that the M-WRAM it recommends in that case requires

⁷ Comments of the California Water Service Company (U 60 W) on the Proposed Decision of Commission Guzman Aceves ("Cal Water") at 6-7.

⁸ PD at 46-47.

⁹ As Great Oaks indicates, "Effective and smart regulation does not include making sweeping and abrupt policy changes without first considering whether existing policies have worked." Great Oaks at 4.

¹⁰ *See, e.g.*, Cal Water at 3-6. In its GRC, Cal Water explained that a transition to an M-WRAM would require reconsideration of rate design. Opening Brief of California Water Service Company, A.18-07-001 (September 9, 2019) at 47. ("Any significant change with respect to Cal Water's full WRAM/MCBA – including the recommended changes by [the Public Advocates Office to transition to an M-WRAM] – will necessitate a significant if not complete overhaul of Cal Water's rate design."). Cal Advocates did not object to this assertion in its Reply Brief.

reconsideration of the settled sales forecast. Because the proposed settlement reflects sales assumptions reviewed and approved by Cal Advocates, any of the concerns about the company's sales forecasting incentives in A.18-07-001 should be fully allayed.

The settlement in A.18-07-001 reflects a new balance between conservation, affordability, and reliable infrastructure for each of Cal Water's twenty ratemaking areas. Not only will the tools described above decrease the likelihood that high decoupling balances will develop in the future, customers will continue to experience strong conservation signals. The avoided costs associated with the continuing decrease in water consumption will benefit customers in both the short- and long-term.

2. The Commission Should Not Further Delay a Decision That Is Already Overdue

Reply Briefs were filed in Cal Water's GRC proceeding in September 2019, and parties filed a proposed settlement addressing the majority of issues in the case in October 2019. With the statutory deadline for resolving the case established as September 30, 2020, a proposed decision must be issued by August 25, 2020, at the latest, in order to be addressed at the Commission's September 24, 2020 Voting Meeting.

As discussed above, the record in A.18-07-001 does not reflect rate designs appropriate for Monterey-style WRAMs. The PD itself indicates that the transition to M-WRAMs "should not be implemented immediately."¹³ Cal Advocates' proposal would require re-opening the record for A.18-07-001 and initiation of a second phase devoted to rate design, potentially requiring evidentiary hearings and briefs. Resolution of the GRC proceeding is already overdue by eight months and counting. While Cal Water has requested that new rates go into effect on January 1, 2021 in order to give customers that benefit of rate stability amidst the financial disruption caused by COVID-19, a revenue-neutral re-design of rates for all twenty of Cal Water's ratemaking areas, any additional adjustments of RSF funding, and the unavoidable procedural delays for due process combine to make it unlikely that the Commission could adopt new final rates before January 1, 2021.

III. CONCLUSION

For the reasons discussed above, Cal Water continues to urge the Commission to correct the significant errors in the PD, and defer consideration of the policy merits of decoupling to a separate proceeding, or to a later phase of this proceeding, when it can be appropriately evaluated. Furthermore, Cal Advocates' proposal to modify the PD to require transition to an M-WRAM in A.18-07-001 is unwarranted and should be rejected.

¹³ PD at 56-57.

Respectfully submitted,

Date: August 3, 2020

Respectfully submitted,

By: /s/ Natalie D. Wales

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**IN THE SUPREME COURT OF THE STATE OF
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CALIFORNIA WATER SERVICE COMPANY
Petitioner,

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PUBLIC UTILITIES COMMISSION OF THE STATE OF
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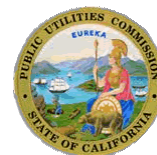
Of the Public Utilities Commission of the State of California

EXHIBIT Z

R.17-06-024, *Joint Motion of California Water Association,
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. for Oral Argument and Request to Shorten Time for
Response (August 3, 2020)*

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

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

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

JOINT MOTION OF CALIFORNIA WATER ASSOCIATION, 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. FOR ORAL ARGUMENT AND REQUEST TO SHORTEN TIME FOR RESPONSE

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

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

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

JOINT MOTION OF CALIFORNIA WATER ASSOCIATION, 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. FOR ORAL ARGUMENT AND REQUEST TO SHORTEN TIME FOR RESPONSE

In accordance with Rules 11.1 and 13.13 of the Commission's Rules of Practice and Procedure, California Water Association, 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. (together the "Joint Parties") hereby respectfully move for the Commission to direct the presentation of oral argument before it regarding potential factual, legal or technical errors in the Proposed Decision of Commissioner Guzman Aceves filed July 3 and served July 6, 2020 ("Proposed Decision") relating to the Proposed Decision's proposed requirement that the five water utilities that join in the present Motion discontinue their employment of the full decoupling Water Revenue Adjustment Mechanism/Modified Cost Balancing Account ("decoupling"). As the Proposed Decision currently appears for consideration on the agenda for the Commission's upcoming August 27, 2020 voting meeting, the Joint Parties request that the normal fifteen-day period for submission of responses to this motion be shortened to **5 days**, so that responses will be due by August 25,

2020. This will enable the Commission to consider the merits of this request as it determines whether and how to address the Proposed Decision at its August 27, 2020 voting meeting.

Oral argument is appropriate and warranted in this proceeding because it is apparent that there remain substantial disputes among the parties to this proceeding regarding alleged factual, legal and technical errors in the Proposed Decision relating to its proposed elimination of decoupling. The Commissioners each recently publicly discussed decoupling issues arising out of the Proposed Decision during their August 6, 2020 voting meeting. While parties have filed opening and reply comments on the Proposed Decision, the Joint Parties believe that an oral argument regarding those alleged factual, legal or technical errors would be the most efficient and equitable manner for the Commission to evaluate fully and fairly whether there are factual, legal or technical errors in the Proposed Decision's consideration of decoupling that must be corrected.

Accordingly, the Joint Parties respectfully request that the Commission direct the presentation of oral argument by parties regarding the discussion of decoupling and related factual, legal and technical issues in the Proposed Decision. The Joint Parties also request that the time for responses to this motion be shortened, as described above, in order that the Commission may consider the merits of this motion as it determines whether and how to act on the Proposed Decision at its August 27, 2020 voting meeting.

Respectfully submitted,

August 20, 2020

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S_____

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

CALIFORNIA WATER SERVICE COMPANY
Petitioner,

v.

PUBLIC UTILITIES COMMISSION OF THE STATE OF
CALIFORNIA
Respondent.

Decisions No. 20-08-047 and 21-09-047

Of the Public Utilities Commission of the State of California

EXHIBIT AA

R.17-06-024, *Proposed Decision of Commissioner Martha Guzman
Aceves* (Revision 1) (August 26, 2020)

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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

residential revenues whereas the WRAM/MCBA applies to other customer classes such as commercial customers as well.

The WRAM/MCBA transfers risk for utility operations from shareholders to ratepayers, eliminates the incentives to efficiently manage water production expenses, and eliminates the incentive to accurately forecast sales in a GRC. Both the WRAM/MCBA and Monterey-Style WRAM with ICBA mechanisms are independent of low-income ratepayer impacts. Both mechanisms are independent of ratepayer conservation efforts that are primarily driven by rate design considerations.

Moreover, rate design and rate impacts are independent of whether a utility has a WRAM or Monterey-Style WRAM.

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 may propose a Monterey-Style WRAM in their next GRC.

5.2.1. Barring the Use of WRAM/MCBA in Future General Rate Cases

The January 9, 2018, Scoping Memo laid out the following issues to address in this proceeding:

2. Forecasting Water Sales

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, D09-05-005, D.09-07-021 and D.10-06-038.

- 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?

...

In comments to this Scoping Memo the California Water Association, among other suggestions, called for folding the WRAM/MCBA recovery into base rates instead of surcharges²⁶ while the Public Advocates Office of the Public Utilities Commission argued that the large variances in forecasted sales are exacerbated by the WRAM/MCBA process.²⁷ Accordingly, the August 2, 2019, workshop included a panel on drought sales forecasting that identified a number of problems with the WRAM/MCBA mechanism. The September 4, 2019, Ruling specifically sought comment on whether the Commission should convert utilities with a full WRAM/MCBA mechanism to a Monterey-Style WRAM with an incremental cost balancing account.

²⁶ CWA Comments dated February 23, 2018 at 9.

²⁷ Public Advocates Office Comments dated February 23, 2018 at 8.

STATE OF CALIFORNIA
Supreme Court of California

PROOF OF SERVICE

STATE OF CALIFORNIA
Supreme Court of California

Case Name: **CALIFORNIA WATER SERVICE COMPANY v. PUBLIC UTILITIES
COMMISSION OF THE STATE OF CALIFORNIA**

Case Number: **TEMP-M25P429B**

Lower Court Case Number:

1. At the time of service I was at least 18 years of age and not a party to this legal action.
2. My email address used to e-serve: **whon@nossaman.com**
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Title(s) of papers e-served:

Filing Type	Document Title
ISI_CASE_INIT_FORM_DT	Case Initiation Form
PETITION FOR REVIEW	CWS Petition for Review of CPUC D2008047 & D2109047
ADDITIONAL DOCUMENTS	CWS Petition for Review of CPUC D2008047 & D2109047 Appendix Vol I
ADDITIONAL DOCUMENTS	CWS Petition for Review of CPUC D2008047 & D2109047 Appendix Vol II

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10/27/2021

Date

/s/Sonia Ortiz

Signature

Hon, Willis (309436)

Last Name, First Name (PNum)

Nossaman LLP

Law Firm