

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

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

Rulemaking 17-06-024

**COMMENTS OF CALIFORNIA WATER ASSOCIATION
ON THE AMENDED SCOPING MEMO AND RULING OF ASSIGNED
COMMISSIONER AND ADMINISTRATIVE LAW JUDGE**

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I. INTRODUCTION

As provided in the *Amended Scoping Memo and Ruling of Assigned Commissioner and Administrative Law Judge* (“Amended Scoping Memo”), issued July 9, 2018, California Water Association (“CWA”) files these comments on the two additional issues added to the scope of this proceeding: (1) whether to consider changes to 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 investor-owned energy utilities with municipal water utilities.¹

As discussed in more detail below, the concept of a basic amount of water at a low quantity rate is already reflected in current water rate designs. Additionally, while Commission-regulated water utilities have benefitted from access to low-income customer data from investor-owned energy utilities, sharing this data with entities that are not regulated by the Commission

¹ The assigned Administrative Law Judge extended the deadline for filing these comments to August 15, 2018. *Administrative Law Judge's Ruling Noticing Related Proceedings of Issuance of an Amended Scoping Memo in this Proceeding and Comment Period*, August 2, 2018.

could raise privacy concerns. Therefore, CWA urges the Commission to exercise caution in acting on these two proposals.

II. BASIC AMOUNT OF WATER AT LOW QUANTITY RATE

A. Current Water Rate Designs Already Make Available a Basic Amount of Water at a Low Quantity Rate

More than a decade ago, the Commission opened an investigation to address policies to achieve its conservation objectives for Class A water utilities.² As part of that proceeding and in subsequent general rate cases, Class A water utilities established tiered rates for residential water service to help further Commission and statewide conservation goals and policies. For these rate designs, the first tier generally consists of an amount meant to represent indoor water usage – the “basic” amount discussed in the Amended Scoping Memo. The rate per unit of water for the first tier is often a reduced or discounted rate, relative to the traditional uniform rate – this first tier is, effectively, the “low rate” suggested by the Amended Scoping Memo.³ Therefore, there is no need to “consider potential changes in rate design such that there is a basic amount of water that customers receive at a low quantity rate,”⁴ since this concept is *already* part of existing water rate designs.

B. Rate Design Issues Are Best Addressed in General Rate Cases

When it comes to rate design, every water utility is different because the component elements of the revenue requirement are different. Hence, development of rate designs to secure that revenue recovery are necessarily specific to each utility. Rate design must take into account the unique characteristics of the utility’s service area(s), such as water supply, water quality and

² I.07-01-022, *Order Instituting Investigation to Consider Policies to Achieve the Commission’s Conservation Objectives for Class A Water Utilities*, January 11, 2007.

³ See D.08-02-036, *Order Instituting Investigation to Consider Policies to Achieve the Commission’s Conservation Objectives for Class A Water Utilities*, Opinion Resolving Phase 1A Settlement Agreements and Contested Issues, p. 14, noting that a proxy for indoor use was used for the first tier and that the rate for the first tier is discounted compared to rates for subsequent tiers and D.08-08-030, *Order Instituting Investigation to Consider Policies to Achieve the Commission’s Conservation Objectives for Class A Water Utilities*, Decision Resolving Phase 1B Settlement Agreement and Return on Equity Adjustment, pp. 7, 19, noting the same.

⁴ Amended Scoping Memo, p. 3.

treatment, water usage patterns, number of customers, and the demographics and characteristics of customer base (including the proportion of residential, multi-unit, commercial, etc.). Under the current tiered rate designs, the amount of water allowed in the first tier varies by company and even by districts within a company. The Amended Scoping Memo suggests that the “basic amount,” or the amount in the first tier, be based on water usage of 55 gallons per day (“gpd”) per customer with four persons per connection.⁵ This general assumption, however, may not reflect the particular characteristics and usage for each company or district. This assumption may not be an appropriate basis for a rate design for areas where average usage is less than 55 gpd per customer, or where the majority of households have significantly less (or significantly more) than four people.

The Amended Scoping Memo states that a basic amount of water should be made available at a “low” quantity rate, but provides no further information. Low as compared to what? Low as considered by whom? Presumably, the Amended Scoping Memo intends the comparison to be against either present-day first tier rates or whatever the traditional uniform rate would be. Regardless, the current first tier rates of the Class A and Class B water utilities would be deemed “affordable” under any commonly accepted metric. Under the current water utility rate designs, the discounted rates for the first tiers vary, since they are a function of the unique revenue requirement for each company or district and are generally not comparable due to the different factors facing each water provider. The pricing of the first (or “basic”) tier should continue to be determined as part of the general rate case process that takes these factors into account.

As the Commission has recognized, “Flexibility, as opposed to establishing uniform standards for all water districts, enables water companies to account optimally for and recover fixed variable costs in light of varying circumstances of water districts, water supplies, geographic conditions, and ratepayer demographics, while supplying safe drinking [water] and

⁵ *Id.*

meeting fire response standards.”⁶ Issues related to rate design are best addressed in general rate cases, where the Commission’s policy goals can be properly considered in the context of these individual factors. While CWA believes that the current water rate designs already include a basic amount of water at a low quantity rate, if the Commission determines that further analyses and assurances are needed it should consider the issue as part of its rate design evaluation in individual general rate cases.

C. This Issue May Involve Concepts Being Considered in a Different Rulemaking

In addition to being better suited to general rate cases, CWA is also concerned that some of the concepts underlying the idea of an appropriate “low” quantity rate are linked to the issues that the Commission will be exploring in its recently opened rulemaking on establishing a framework and process for assessing the affordability of utility service (R.18-07-006).

To the extent that the Commission attempts to set a standard for what constitutes an appropriate “low” quantity rate for a basic amount of water, it could end up involving some sort of “affordability” assessment (whether implicit or explicit). Until the Commission develops the appropriate definitions, framework and methodologies for affordability, however, it will be nearly impossible to assess it in an informed and consistent manner. CWA therefore recommends that the Commission coordinate the policy developments in this proceeding with the affordability rulemaking, to allow for more efficient consideration of the related issues.

D. Adopting a Standard Requirement Could Have Negative Consequences

CWA is also concerned that adopting a standard requirement for a basic amount of water available at a low quantity rate could have negative unintended consequences.

First, basing rates and rate design on household size, as set forth in the Amended Scoping Memo, brings about its own particular challenges, which the Commission has recently

⁶ D.16-12-026, *Order Instituting Rulemaking on the Commission’s Own Motion into Addressing the Commission’s Water Action Plan Objective of Setting Rate that Balance Investment, Conservation, and Affordability for Class A and Class B Water Utilities, Decision Providing Guidance on Water Rate Structure and Tiered Rates*, p. 46.

addressed. As part of early efforts to encourage conservation, California-American Water Company (“Cal-Am”) established a tiered rate design for its Monterey District based on residential allotments determined by household size. Customers provided the allotment information.⁷ In 2016, the Commission eliminated the allotment-based rate design, noting that it was “complex and difficult to administer” and was “subject to abuse and has resulted in inequities.”⁸ In a subsequent decision, the Commission noted that trying to verify customer information or require additional documentation “would have required incremental increases in administrative costs and potential jeopardy with customer relations.”⁹

Second, establishing a low quantity rate for a basic tier of usage will have certain consequences, since the costs unrecovered due to the lower rate will have to be recovered elsewhere or for companies without a Water Revenue Adjustment Mechanism (“WRAM”), not recovered at all. Recovery of costs could be shifted to the service charge, resulting in a higher service charge on all bills. Rate designs could also be modified to recover more costs through the higher quantity rates in the upper tiers. Usage in upper tiers is frequently more variable, however, since it often represents outdoor usage and customers may be more responsive to pricing signals in these tiers.

Fluctuating usage in upper tiers is more difficult to forecast, leading to more inaccuracies and a greater divergence between forecasted and actual revenue. As the Commission has found, for companies with a WRAM shifting a greater portion of revenue recovery to upper tiers leads to revenue instability, larger WRAM balances, and a distortion of pricing signals.¹⁰ For

⁷ D.16-12-003, *Application of California-American Water Company (U-210W) for Authorization to Modify Conservation and Rationing Rules, Rate Design, and Other Related Issues for the Monterey District*, Decision Addressing WRAM Balances, Rate Design, Conservation and Rationing Rules, and Other Issues for the Monterey District, p. 39.

⁸ *Id.*, p. 40.

⁹ D.18-07-010, *Application of California-American Water Company (U-210W) for Authorization to Modify Conservation and Rationing Rules, Rate Design, and Other Related Issues for the Monterey District*, Decision Adopting Phase 3B Settlement Agreement, p. 17.

¹⁰ D.16-12-003, p. 34.

companies that do not have a WRAM, reductions in sales could prevent these utilities from collecting revenue that the Commission has approved for recovery and, in extreme cases, result in solvency issues.

The Commission recently grappled with the consequences of shifting recovery to upper tiers in the context of electricity rate design. Legislation passed in the wake of the energy crisis limited the Commission's ability to increase Tier 1 and Tier 2 residential electricity rates, which meant that increases in utility costs could only be recovered by increasing rates in the upper tiers.¹¹ Over time, it became "more difficult for [utilities] to recover the necessary revenue requirement even from Tiers 3 and 4 customers."¹² When the Commission issued its decision reforming electricity residential rate design, it noted that the previous design, where revenue was increasingly recovered from the upper tiers, "resulted in unfair prices to many customers."¹³ Specifically, the Commission noted that changes were necessary "to move back to fair rates that reflect cost and allow customers to make smart decisions."¹⁴

In considering the best way to make a basic amount of water available at a low quantity rate the Commission should keep its experience with the energy utilities in mind.

E. Multi-Unit Residential Customers

The Amended Scoping Memo directs commenters to consider "assisting low-income residential customers behind a master meter in receiving the intended benefits from the proposed rate design change."¹⁵ Unlike energy utilities, who frequently serve customers in multi-unit

¹¹ R.12-06-013, *Order Instituting Rulemaking on the Commission's Own Motion to Conduct a Comprehensive Examination of Investor Owned Electric Utilities' Residential Rate Structures, the Transition to Time Varying and Dynamic Rates, and Other Statutory Obligations*, p. 13.

¹² *Id.*, p. 16.

¹³ D.15-07-001, *Order Instituting Rulemaking on the Commission's Own Motion to Conduct a Comprehensive Examination of Investor Owned Electric Utilities' Residential Rate Structures, the Transition to Time Varying and Dynamic Rates, and Other Statutory Obligations*, Decision on Residential Rate Reform for Pacific Gas and Electric Company, Southern California Edison Company, and San Diego Gas & Electric Company and Transition to Time-of-Use Rates, p. 3.

¹⁴ *Id.*

¹⁵ Amended Scoping Memo, p. 3.

residential buildings through individual meters, most multi-unit residential buildings receive water service through a master meter. This means that the owner of the building is the customer, not the end users in the individual units. Presumably, the owner of the building passes on the cost of the water to the individual units, but this is not a transparent process. If the concept of a basic amount of water at a low quantity rate were to be applied to multi-unit residential buildings, there would be no way to ensure that the benefits of this low rate are being passed on to the end users in the building, since they are not water utility customers and the Commission has no jurisdiction over the costs passed on by the building owner. Since it would be expensive and impractical to individually meter multi-unit buildings for water service, this obstacle exists for all end-users behind a master meter, whether low-income, as specified by the Amended Scoping Memo, or not.

III. SHARING LOW-INCOME CUSTOMER DATA WITH MUNICIPAL UTILITIES

As authorized by the Commission, investor-owned energy utilities currently share low-income customer information with Commission-regulated water utilities with overlapping service territories.¹⁶ This sharing allows water utilities to increase participation in their low-income ratepayer assistance programs by automatically enrolling water customers who are also enrolled in energy low-income assistance programs. Although there may have been some programs in the past that provided data sharing between investor-owned energy utilities and municipal water utilities,¹⁷ CWA is not aware of the current status of these programs.

Additionally, in its opening comments on the Amended Scoping Memo, Southern California

¹⁶ D.11-05-020, *Order Instituting Rulemaking on the Commission's Own Motion to Determine Whether Sharing of Customer Information Between Regulated Water Utilities and Regulated Energy Utilities/Municipal Energy Providers Should be Required; and if so, to Develop the Rules and Procedures Governing Such Sharing, Decision Adopting Guidelines for Sharing of Low-Income Customer Information.*

¹⁷ "PG&E currently shares qualified CARE customer data with Sacramento Municipal Utility District and Modesto Irrigation District. SCE shares data with the Imperial Irrigation District. In April, 2009, SoCalGas and the Los Angeles Department of Water and Power began exchanging customer data as part of a pilot program to automatically enroll customers into low income rate discount programs." D.11-05-020, pp. 10-11.

Edison identified privacy concerns that could prevent Commission-regulated energy utilities from sharing certain types of customer information with municipal water utilities.¹⁸

As CWA has previously discussed, the State Water Resources Control Board, at the direction of the Legislature, is developing a proposal for a statewide low-income assistance program for water customers.¹⁹ It is unclear at this time whether this program will apply equally to both municipal utilities and Commission-regulated utilities. Nonetheless, to the extent that it can be achieved without infringing on customer privacy rights, there may be a benefit to allowing *all* water utilities access to low-income customer information from investor-owned energy utilities in order to maintain consistency and facilitate customer participation in low-income water rate assistance programs statewide.

IV. CONCLUSION

As discussed above, current water tiered rate designs already make basic amounts of water available to customers at low quantity rates. There is no need to adopt a standard requirement in this rulemaking proceeding, particularly since rate design issues are best addressed in water utility general rate cases, where the Commission's policy goals can be properly considered in the context of the unique circumstances of each water company or district.

Respectfully submitted,

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¹⁸ *Southern California Edison Company (U 338-E) Response to CPUC Amended Scoping Memo and Ruling*, pp. 9-14.

¹⁹ *Opening Comments of California Water Association on Order Instituting Rulemaking*, p. 4.