

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

Order Instituting Rulemaking Regarding)
Policies, Procedures and Rules for)
Regulation of Physical Security for the)
Electric Supply Facilities of Electrical)
Corporations consistent with Public)
Utilities Code Section 364 and to Establish)
Standards for Disaster and Emergency)
Preparedness Plans for Electrical)
Corporations and Regulated Water)
Companies Pursuant to Public Utilities)
Code Section 768.6.)
_____)

R.15-06-009
(Filed November 6, 2014)

**RESPONSE OF CALIFORNIA WATER ASSOCIATION
TO ALJ RULING RE COMMUNICATIONS**

John K. Hawks
Executive Director
CALIFORNIA WATER ASSOCIATION
601 Van Ness Avenue, Suite 2047
Mail Code #E3-608
San Francisco, CA 94102-3200
Tel.: (415) 561-9650
Fax: (415) 561-9652
E-mail: jhawks@calwaterassn.com

NOSSAMAN LLP
Martin A. Mattes
Mari L. Davidson
50 California Street, 34th Floor
San Francisco, CA 94111
Tel.: (415) 398-3600
Fax: (415) 398-2438
E-mail: mdavidson@nossaman.com
Attorneys for CALIFORNIA WATER
ASSOCIATION

September 14, 2018

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

Order Instituting Rulemaking Regarding)	
Policies, Procedures and Rules for)	
Regulation of Physical Security for the)	R.15-06-009
Electric Supply Facilities of Electrical)	(Filed November 6, 2014)
Corporations consistent with Public)	
Utilities Code Section 364 and to Establish)	
Standards for Disaster and Emergency)	
Preparedness Plans for Electrical)	
Corporations and Regulated Water)	
Companies Pursuant to Public Utilities)	
Code Section 768.6.)	
<hr/>		

**RESPONSE OF CALIFORNIA WATER ASSOCIATION
TO ALJ RULING RE COMMUNICATIONS**

In accordance with Rule 6.2 of the Rules of Practice and Procedure (“Rules”) of the California Public Utilities Commission (“Commission”) and the instructions set forth in the *Administrative Law Judge’s Ruling Requiring Parties to Respond to Questions Prior to the First Workshop in Phase II of This Proceeding*, dated August 31, 2018, (the “ALJ Ruling”)¹ California Water Association (“CWA”) hereby submits these responses to the 14 questions posed in the ALJ Ruling.²

INTRODUCTION

CWA is a statewide association representing the interests of investor-owned water utilities subject to the Commission’s jurisdiction. CWA’s responses below, and its ongoing participation in this rulemaking proceeding, are intended to advance the Commission’s goal of

¹ The Commission already held a workshop in Phase II of this proceeding on June 26, 2018, at the California Office of Emergency Services headquarters in Mather, California. These responses relate to the upcoming communications-focused workshop, which is to be held on September 28, 2018 in San Diego, California.

² CWA files this Response on behalf of its California Class A, B, C and D water utility members that are respondents to this Order Instituting Rulemaking.

ensuring that regulated water (and electric) companies have emergency preparedness plans that will help protect the public from utility service disruptions during and due to disasters.

RESPONSES

1. Communications Protocols

- 1. (a) What are the best practices in terms of communication protocols being used by utilities to communicate with government agencies at all levels, and other utilities during emergencies?**
(b) Would standardization of such protocols improve effectiveness of utility preparedness and response?

The appropriate communications protocols to implement in any given emergency situation will necessarily depend on the type, scale, and location of the threat, what agencies or entities are responsible for responding to and addressing the incident, the role of an affected water utility in supporting (or leading) the response effort, and the utility's resources (e.g. available staff), among other factors. Because of these many incident-specific dynamics and because of the great diversity among water utilities regulated by the Commission, creating a standardized set of Commission-approved, communications-specific protocols across this proceeding's respondent utilities is not likely to improve the effectiveness of utility preparedness and response (and may actually prove to be deleterious to the intent of this proceeding by creating conflicting and/or inappropriate mandates).

A water utility with a service area affected by a multi-jurisdictional emergency event can facilitate effective communication with government agencies and utilities in a number of ways.³ Perhaps the most fundamental "best practice" from a communications standpoint is simply for the utility to identify the person within its internal chain-of-command who is responsible for reaching out to, and communicating with, the appropriate agencies and stakeholders in an emergency, and to update the contact information for those external entities annually.

³ The list of protocols described in this section is illustrative, not exhaustive.

During an emergency, engaging with the incident command center and/or emergency operations center established as the locus of the emergency response is one of the best ways to facilitate effective communication. These command facilities serve as the strategic hub(s) for managing a comprehensive, multi-discipline response to a disaster event and allow for coordination among impacted entities based on shared and best-available information. In addition, efforts to communicate with emergency managers and personnel from government agencies and other utilities during an emergency tend to be more effective when emergency practice exercises with broad participation from overlapping or adjacent jurisdictions are conducted routinely before an emergency.

On an industry-wide level, water utilities communicate with other affected entities during an emergency through the CalWARN⁴ Water Sector Specific Position (“WSSP”). CalWARN members trained in WSSP Standard Operating Procedures are available to assist at the county level to help coordinate water response and recovery activities.

Across utilities, the California Utility Emergency Association (“CUEA”) provides a point of contact for all critical infrastructure utilities, including electric, petroleum, telecommunications, gas, water and wastewater, and the California Office of Emergency Service (“CalOES”). The Utility Operations Center is housed within the State Operations Center (“SOC”) and is staffed by CUEA employees and members pursuant to a memorandum of understanding with CalOES. It serves as an active operational component of the SOC and the Regional Emergency Operations Centers providing direct communication with state agencies such as the California Department of Forestry and Fire Protection (“CalFire”), California Highway Patrol, and California Department of Transportation (“CalTrans”). CUEA also provides trainings that focus on communication protocols between utilities and government entities consistent with multi-discipline emergency response and recovery practices.

⁴ Established in 1992, CalWARN is the statewide organization that supports and promotes statewide emergency preparedness, disaster response, and mutual assistance processes for public and private water and wastewater utilities.

CWA notes that communications “best practices” specific to water utilities are addressed in Section 6 (Communications Procedures) of the *Emergency Response Plan Guidance for Public Drinking Water Systems* authored by the State Water Resources Control Board’s Division of Drinking Water (“DDW”). This guidance document applies to all but the smallest (Class D) water utilities. CWA respectfully observes that the Commission’s General Order (“GO”) 103-A already acknowledges the primacy of the DDW in the area of emergency preparedness planning.⁵ The Commission should avoid adopting Commission-specific protocols that conflict with or merely duplicate this, and other, existing guidance or requirements relevant to water utilities.

2. What communication protocols should be considered to ensure that the utilities are adequately communicating with the following entities and stakeholders before, during and after an emergency?

(a) The Commission

(b) Local government agencies

(c) Customers, particularly customers with special needs (e.g. disabled persons, customers with medical needs)

(d) Other utilities

Please see CWA’s response to Question 1 regarding engagement with local government agencies and other utilities.

With respect to communications protocols vis-à-vis the Commission, CWA is not presently aware of any specific inadequacies in this regard. However, if there have been communications failures that cannot be resolved on a going-forward basis through existing channels, CWA agrees that it would be appropriate to consider ways to bolster such communications in this proceeding.

Regarding customer communications, CWA notes that water utilities already follow detailed customer notice requirements imposed and enforced by DDW for any water contamination-related emergency. In addition, customers receive notifications in connection

⁵ Section VII.3.A of General Order 103-A states that “[e]ach water utility shall have an Emergency Response Plan pursuant to the Department’s requirements, as set by the US EPA, Government Code Section 8607.2, or its successor.” The “Department” refers to DDW.

with drought emergencies where a utility's Commission-approved Schedule 14.1 is activated (plus additional actions, such as a public hearing, when directed by the Commission). For other emergencies that have only incidental impacts on water quality and/or supply (e.g. fire or earthquake), it is critical that a water utility's communications with customers not undermine, or conflict with, messaging done by a county, state or federal authority. Accordingly, it is not always the best course of action for a water utility to engage their customers independently or immediately during an emergency or in its aftermath. In short, customer communications made in connection with a multi-jurisdictional emergency event requires the careful exercise of patience and discretion to coordinate with other agencies and entities in terms of messaging and the timing of messaging. CWA respectfully urges the Commission to consider the need to preserve this discretion in evaluating the value of uniform and/or mandatory customer communications protocols in the context of emergency response.

3. What should be the Commission's role in ensuring better communication and community involvement in the regulated utilities emergency response plan?

The Commission's role in ensuring better communication and community involvement in the regulated water utilities' emergency response plans should be to address specific complaints or concerns about a particular water utility's level of community engagement, including, but not limited to, compliance with the requirements of Public Utilities Code Section 768.6. It also may be helpful for the Commission to encourage cooperation among all utility sectors in emergency planning and preparedness exercises.

2. Utility Engagement with Communications Providers

4. How are utilities currently communicating with communications providers in the context of emergencies?

CUEA is a critical infrastructure association that includes communications providers. CUEA conducts trainings, meetings and workshops that facilitate exchanges and cooperation among members, including water utilities and communications providers, to ensure protection of

critical infrastructure assets consistent with multi-jurisdictional cross-functional emergency response protocols. CUEA also serves as a point of contact before, during and after an emergency to facilitate communications and cooperation, and to support emergency planning and response.

5. What protocols or procedures are in place to address situations where communications providers' networks are unavailable/inaccessible?

The Class A water utilities have two-way radios that allow for inter-company communications among key utility personnel where communications providers' networks are unavailable or inaccessible. Ham radio contact is another form of communication the Class A water utilities use to maintain contact with emergency operations centers during emergency events. Where resources allow, the smaller Commission-regulated water utilities invest in comparable equipment.

As custodians of critical infrastructure, water utilities also have access to priority telecommunications functions through the federal Government Emergency Telecommunications Service ("GETS").⁶ GETS provides emergency preparedness personnel with priority access to landline networks during emergency or crisis situations when such networks are severely congested.

6. To what extent are utilities with Certificates of Public Convenience and Necessity (CPCNs) and existing communications facilities using these networks for external communication in the event of an emergency? If these facilities are not currently being used, explain why.

Most larger water utilities rely on a supervisory control and data acquisition ("SCADA") system for supervision and management of their storage, transmission, treatment, and distribution systems. The SCADA system includes a communication network spread throughout the water distribution system. Workstations, which are typically PC-based and located in a control room, allow operators to monitor operations and perform control actions.

⁶ More information about the GETS program, offered through the United States Department of Homeland Security, is available at <https://www.dhs.gov/government-emergency-telecommunications-service-gets>.

Remote terminal units (“RTUs”) are used at remote and vulnerable sites, such as pump stations, storage tanks, valve vaults and treatment facilities. The RTUs typically communicate within the SCADA system on a wireless wide area network.

SCADA systems are critical for a water utility’s internal coordination of water operations information and system status communications on a daily basis and specifically in response to water system-impacting emergencies. However, for security reasons, SCADA is a “closed system” and is never used for external communications, under either routine or emergency conditions.

3. Communication with Special Needs Populations

7. What measures do utilities currently have in place to allow for effective communication with people who cannot access standard forms of communication (due to disability or limited English proficiency)?

For reasons of privacy and practicality, water utilities do not know which of their customers or which service area residents (who may not be customers) cannot access standard forms of communication for the reasons referenced in the question and for other reasons. However, depending on the nature and urgency of the emergency and on the resources and sophistication of the utility, one or many methods may be used to get critical messaging about an emergency event out to all customers, including those customers with special needs. Such methods include, having utility personnel knock on doors, phone calls, reverse 9-1-1 calls, door hangers and other written communications in one or more languages, electronic-mail communications, and utility website and social media postings. The practice of sending out essential communications by as many methods as is feasible and practical in a particular situation helps to address the potential of any single method failing to reach any given customer.

8. What specific measures can the Commission initiate to ensure that utilities communicate more effectively with such individuals before, during and after emergencies?

The Commission-regulated water utilities generally do not have the authority to investigate or track who among their customers has special needs, which might include a disability or a lack of English proficiency. CWA would discourage the Commission from adopting any measures that might infringe upon a customer's privacy rights, that creates any added liability or unreasonable administrative burdens for the utility, or that takes for granted that a customer's personal information, including a medical diagnosis, may be readily available to the utility.

4. Engagement with Local Government

9. How should the Commission monitor and ensure compliance with the requirements in Pub. Util. Code Section 768.6 that electrical corporations and regulated water companies meet with representatives from cities and counties within their service territories when developing or updating disaster and emergency preparedness plans?

The Commission already has the ability to monitor and ensure compliance with Public Utilities Code Section 768.6 – by sending a data request to one or all of the regulated water utilities. If the Commission concludes that it is necessary and desirable to supplement this existing procedure, CWA recommends that the Commission consider adding an attestation of compliance to the Annual Report form and instructions.

10. What specific changes can the Commission introduce to make the participation of local government agencies in utilities' preparation of disaster and emergency preparedness plans participation more meaningful?

Not unlike the Commission-regulated water utilities themselves, all local government agencies are not created equal. For some, responsibilities far outweigh resources, and it is the experience of CWA's membership that emergency preparedness planning does not always get the attention it deserves from stakeholder cities and counties. This is not intended as a criticism; resource constraints are a practical reality. However, in this light, the Commission

should take care to avoid making the Commission-regulated water utilities responsible for factors that are beyond their ability to control – including whether a local government agency is willing or able to participate in a “meaningful” way in the utility’s preparation of its emergency preparedness plan. Neither the Commission nor its regulated utilities have the authority to compel local governments to participate in emergency preparedness planning efforts. CWA submits that Public Utilities Code Section 768.6 already facilitates engagement, and that further regulatory intervention is neither warranted nor necessary.

11. What new measures should the Commission put in place to improve communication and coordination by utilities with local government agencies in the context of emergencies?

Please see CWA’s response to Question 1 above.

12. How can the utilities assist counties and local emergency services in communicating alerts, emergency notifications and/or evacuation notices?

CWA is interested to hear from this proceeding’s city and county participants, and may be able to provide a response that pertains to those cities and counties after considering their comments.

13. How can utilities more effectively include local first responders in their emergency planning and response efforts?

This question appears to imply that the utilities have failed to effectively include local first responders in emergency planning efforts. CWA would respectfully dispute such an assertion, at least as it applies to the larger water utilities with resources that allow for such engagement. Fundamentally, a water utility’s role in responding to most emergencies or disasters (e.g. wildfires or earthquakes) is to address any water system failures or vulnerabilities, while supporting the broader efforts of first responders to save lives and protect property, which is where the water utilities concentrate their efforts.

14. Should utilities be required to explain their reasons for rejecting changes proposed by local government agencies during the process of developing disaster and emergency preparedness plans? If so, what would be the most appropriate mechanism for utilities to make their reasoning transparent?

No. Requiring a water utility to explain its reasoning for rejecting changes recommended by a local government agency to a utility's emergency preparedness plan would make the process unduly burdensome, would unreasonably impair the utility's managerial discretion, and might undermine an otherwise collaborative working relationship between the entities. CWA suggests that Public Utilities Code Section 768.6 already strikes the proper balance between encouraging meaningful engagement while respecting the utility's autonomy by requiring that each water utility hold meetings with city and county representatives from their service area.

CONCLUSION

CWA appreciates having the opportunity to provide these responses and looks forward to the discussion of these communications-specific issues at the Commission's September 28, 2018 workshop. We respectfully urge the Commission to consider CWA's recommendations above, and those provided in its March 1, 2018 Prehearing Conference Statement on Phase II, as this proceeding develops.

Respectfully submitted,

John K. Hawks
Executive Director
CALIFORNIA WATER ASSOCIATION
601 Van Ness Avenue, Suite 2047
Mail Code #E3-608
San Francisco, CA 94102-3200
Tel: (415) 561-9650
Fax: (415) 561-9652
E-mail: jhawks@calwaterassn.com

September 14, 2018

NOSSAMAN LLP

Martin A. Mattes
Mari L. Davidson

By: /S/ MARI L. DAVIDSON
Mari L. Davidson

50 California Street, 34th Floor
San Francisco, CA 94111
Tel: (415) 398-3600
Fax: (415) 398-2438
E-mail: mdavidson@nossaman.com

Attorneys for CALIFORNIA WATER
ASSOCIATION