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Commissioner Liane Randolph
Commissioner Clifford Rechtschaffen
Commissioner Committee on Policy & Governance
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102-3214
PolicyandGovernance@cpuc.ca.gov

Re: Informal Comments on Enhancing Public Participation in California Public Utilities
Commission Proceedings

Dear Commission Randolph and Commissioner Rechtschaffen:

I am submitting this letter on behalf of California Water Association ("CWA") and its member water companies regulated by the California Public Utilities Commission ("Commission"). We welcome the opportunity to provide informal comments on ways to enhance public participation in Commission proceedings. CWA previously participated in the discussion of this issue at the Commissioner Committee on Policy & Governance meeting and at the August 30, 2018 workshop on this topic.

As CWA stated at the recent workshop, the best way to enhance public participation in Commission proceedings is to make sure that customers are well informed, that customers do not receive confusing, duplicative or conflicting notices, and that interested parties and the Commission have an opportunity to respond to issues raised by the public. Any efforts to enhance public participation, however, must be weighed against the Commission's legal obligation to base its decisions on record evidence and with full consideration of the potential cost to customers of such efforts.

Well-Informed Customers

As CWA and its members have previously discussed, Commission-regulated water utilities frequently engage in customer outreach and education, particularly with respect to rates, drought management, conservation and other issues that may be addressed in Commission proceedings. Water utilities educate customers by a variety of means, including open houses, public meetings, bill inserts, traditional media, and social media. Water utilities also provide information about Commission proceedings through the official customer notices required by the Commission and the Public Utilities Code. While CWA recognizes that some of the content of these notices is required by law, it also believes that there is room for improvement and that the

notices can be made easier to understand and more customer-friendly. In particular, it can be confusing to customers when multiple notices are mailed regarding a single Commission proceeding, since customers may believe that each notice is for a separate rate request. Customers may also be confused if notices for separate Commission proceedings are mailed in proximate time to each other. This problem can easily occur when rate-setting proceedings are occurring concurrently and involve public participation hearings. As part of the process of enhancing public participation, the Commission should consider engaging the Public Advisor's Office and other interested parties to explore ways to improve the content, timing and frequency of customer notices, since they are often the first information that customers receive about Commission proceedings.

Potential for Commission Response

Customers are more likely to take the time to participate in Commission proceedings if they believe that the Commission values their input and responds to relevant issues. The best use of public comments is to identify issues that may not have been addressed in pleadings or raised by the official parties to the proceeding. The appropriate way to incorporate any relevant issues should be left to the assigned Administrative Law Judge and the parties, but could include adding the issues to the scoping memo, directing the parties to address the issues in testimony, or inviting the applicant to provide a response.

This can only be done fairly and effectively, however, if opportunities for public participation are scheduled early enough in a proceeding to allow sufficient time for the parties and the Commission to respond. For many Commission proceedings of interest to the public, such as general rate cases, the filing date and approximate schedule are known well in advance. It may be possible for the applicants, the Public Advisor's Office and the Administrative Law Judge Division to work together on the logistics for public participation hearings even before an application is filed.

Outside of public participation hearings, customers and members of the public often provide comment to the Commission by letters or emails. This correspondence is supposed to be included with the file for the proceeding, but may take time to get there and is often difficult to access. CWA supports the Public Advisor's proposal to make this information more readily available, perhaps via the Commission's website. This would allow applicants and other interested parties to respond to issues raised in these communications if necessary.

Weight of Public Comment

At the August 30, 2018 workshop, some of the speakers criticized Commission processes as being too formal. Such procedures, however, are necessary to ensure that Commission is able to support its findings by substantial evidence, as required by the California Public Utilities Code and due process standards. The Legislature has imposed semi-judicial procedural standards on adjudicatory and ratesetting Commission proceedings. The Commission must keep in mind these legal obligations as it considers how best to incorporate public input in its decisions.

While recognizing the value of public input, particularly when helping to identify relevant issues, CWA cautions the Commission against placing too much weight on public comments.

These comments are not sworn testimony, are not subject to cross-examination, and cannot be given the weight of evidence. Moreover, public comments, even if well intentioned, may mischaracterize the issues, misconstrue the facts or rely on inaccurate information. To the extent that the Commission incorporates public comment into its decision making process, it must do so in a way that allows parties the opportunity address and correct potential mischaracterizations and inaccuracies.

Cost to Customers

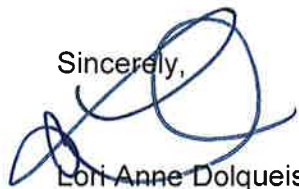
As the Commission examines ways to enhance public participation in its proceedings, it should remain mindful of the cost of such efforts. This is of particular concern to water utilities, which have to spread such costs over significantly smaller customer bases as compared with the energy utilities.

The Commission's intervenor compensation program helps parties that may have limited financial resources to participate in formal Commission proceedings. Some have suggested relaxing the requirements for intervenor compensation or expanding the categories of costs that can be recovered. While CWA supports the Commission's efforts to encourage parties with different perspectives to participate in formal proceedings, it is important to note that these efforts are funded by utility customers. The Commission must ensure that customers only bear the cost of truly meaningful contributions by qualified parties to Commission proceedings.

The costs for notices or bill inserts are also part of the cost of service and are, therefore, borne by utility customers. As part of this process, the Commission should consider how to maximize the efficiency and cost-effectiveness of such communications.

CWA is prepared to expand on these informal comments at upcoming workshops and in future formal comments. CWA is pleased to assist the Commission in its efforts to enhance public participation in Commission proceedings and looks forward to continued participation as the Commission considers this issue. If you have any questions, please feel free to contact me at LDolqueist@nossaman.com or (415) 438-7221.

Sincerely,



Lori Anne Dolqueist
of Nossaman LLP
Attorneys for California Water Association

cc: Administrative Law Judge Hallie Yacknin