

IMSD/MLC/jt2

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Executive Division

Resolution M-4818

R E S O L U T I O N

**RESOLUTION M-4818 SUPPORTING IMPROVED COORDINATION
WITH LOCAL AGENCY FORMATION COMMISSIONS BY WATER
AND WASTEWATER UTILITIES**

This resolution directs all water and wastewater utilities under our jurisdiction to cooperate with data and information requests from a Local Agency Formation Commission (LAFCO) issued by the LAFCO in order to meet its obligations under Government Code (GC) § 56425 (Sphere of Influence Update) and GC § 56430 (Municipal Service Reviews) and to notify their local LAFCO of the filing of any application for authority under Pub. Util. Code §§ 851 (property transfers), 852 (stock purchases), and 854 (mergers).¹

BACKGROUND

Over the course of the last several years, the California Public Utilities Commission has worked to improve coordination and cooperation with other state agencies whose jurisdiction touches the industries we regulate. In October 2006, we undertook the first step to expanding our cooperative relationships to local governments by beginning discussions with representatives of LAFCOs, whose responsibility, among others, is to review and establish the sphere of influence of local governmental agencies that provide municipal services. In particular, we find that we have common interests in improved communication between the Commission, LAFCOs and the utilities we regulate, particularly in the provision of water and wastewater services.

¹ LAFCOs were established by the Knox-Nisbet Act of 1963 with regulatory authority over local agency boundary changes. There is a LAFCO in every county in California. Additional information on LAFCO law can be found at www.calafco.org.

As part of their responsibilities, each LAFCO prepares a Sphere of Influence Update (under GC § 56425) and a Municipal Service Review (under GC § 56430), the timely and thorough completion of which requires sufficient information from local agencies and other providers of utility services whose service territory falls within the LAFCO domain. Complete information from investor-owned utilities facilitates the LAFCO's review of the appropriate sphere of influence of local municipal utility providers' requests to serve new development, and improves decisionmaking on the part of LAFCOs. It is therefore important that the water and wastewater providers under our jurisdiction cooperate with LAFCO information requests.

In addition, although we are considering requiring water utilities to provide notice to LAFCOs of service area expansions as part of our revisions to General Order 96-A (Rules Governing Advice Letter Filings), there is no current obligation to serve notice of applications to sell, transfer, assign property to others, or undertake similar transactions that require our consent. As a result, LAFCOs may be unaware of proposed changes in ownership of regulated utility property that could affect their sphere of influence determinations for local municipal service agencies.

DISCUSSION

In order to improve coordination between water utilities regulated by the Commission and LAFCOs, we will require the water and wastewater providers under our jurisdiction to cooperate with data and information requests from a LAFCO issued in order to meet its obligations under GC § 56425 (Sphere of Influence Update) and GC § 56430 (Municipal Service Reviews). Additionally, we will require these water and wastewater utilities to notify their local LAFCO of the filing of any application for authority under Pub. Util. Code § 851 to sell, transfer, or assign property to another entity; for authority under § 852 to purchase or acquire the capital stock of another public utility; or for authority under § 854 to merge, acquire, or control directly or indirectly any public utility. A list of contact information for each LAFCO is attached as Attachment 1.

Neither requirement should result in significant burden to water and wastewater providers under our jurisdiction. The notice of §§ 851, 852, and 854 applications simply requires service of a notice on the local LAFCO within which the affected utility property is located. For a water or wastewater provider engaged in ongoing planning to serve its customers, complying with data and information requests from the LAFCO should not be difficult. The issues the LAFCO analyzes, as set forth in GC § 56430, are similar to those reviewed by this Commission in each general rate case. The public interest served by this coordination outweighs the minimal production burden on the water and wastewater providers to which it would apply.

Nothing in this resolution is intended to limit the rights of parties in Commission proceedings to object to data and information requests made in the course of a proceeding. The resolution only applies to requests made by LAFCOs outside of Commission proceedings in furtherance of the LAFCO's obligations under GC §§ 56425 and 56430.

COMMENTS

In accordance with Pub. Util. Code § 311(g), copies of this draft were mailed to all water and wastewater providers under our jurisdiction and all California LAFCOs for comment consistent with Rule 14.5 of the Commission's Rules of Practice and Procedure. Comments were due February 27, 2007. No comments were received.

THEREFORE, IT IS ORDERED THAT:

1. Effective February 1, 2007, each water and wastewater utility under our jurisdiction shall provide non-confidential information, in a timely fashion, in response to data and information requests from a Local Agency Formation Commission (LAFCO) issued by the LAFCO in order to meet its obligations under Government Code (GC) § 56425 (Sphere of Influence Update) and GC § 56430 (Municipal Service Reviews).
2. Effective February 1, 2007, all water and wastewater utilities under our jurisdiction shall notify their local LAFCO of the filing of any application for authority under Pub. Util. Code § 851 to sell, transfer, or assign property to another entity; for authority under § 852 to purchase or acquire the capital stock of another public utility; or for authority under § 854 to merge, acquire, or control directly or indirectly any public utility.
3. Nothing in this resolution limits the rights of parties in Commission proceedings to object to data and information requests made in the course of a proceeding. The resolution applies only to requests made by LAFCOs outside of Commission proceedings in furtherance of the LAFCO's obligations under GC §§ 56425 and 56430.
4. This resolution shall be served on all water and wastewater utilities under our jurisdiction and all California LAFCOs by either electronic mail (if an email address is available) or postal mail if no email address is available.

5. I certify that this resolution was adopted by the Public Utilities Commission at its regular meeting of March 15, 2007, and that the following Commissioners approved it.

/s/ STEVE LARSON

Steve Larson
Executive Director

MICHAEL R. PEEVEY

President

DIAN M. GRUENEICH

JOHN A. BOHN

RACHELLE B. CHONG

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Commissioners

ATTACHMENT 1

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