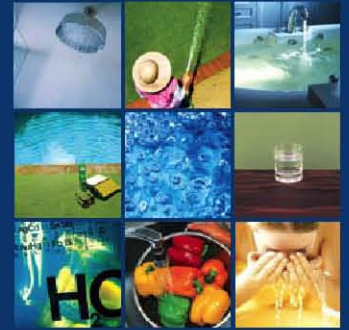


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The Weekly Wrap



August 24, 2012

No. 2012-34

TO: CWA Member Companies
FROM: Jack Hawks, Executive Director
SUBJECT: Highlights for the Week Ending August 24, 2012

CPUC Holds Everything of Importance; Withdraws Catalina Water PD—At its August 23rd Open Meeting, the California PUC surprisingly held the three major water-related items being considered – and all of them were on the consent agenda. The first hold involved Apple Valley Ranchos Water’s general rate case, in which Administrative Law Judge Douglas Long’s proposed decision (PD) adopts a settlement with the Division of Ratepayer Advocates (DRA) that calls for a 14.7% increase in base rates for Test Year 2012 and resolves other issues surrounding the revenue requirement for the next three years. Not one minute into the meeting, CPUC President Michael Peevey cryptically said he was holding the AVRW PD because “... we were unable to complete all the ... we’re working something out.”

Next, Commissioner Timothy Simon said he was holding the PD in California Water Service Co.’s application to (1) create a Low-Income Ratepayer Assistance (LIRA) Program balancing account; (2) modify the existing LIRA Program memorandum Account to track only administrative expenses; (3) implement a temporary surcharge to amortize the existing memo account balance; (4) increase the LIRA surcharge rate; and (5) to allow for an annual adjustment and true-up of its LIRA balances.

The reason for the application was the dramatic growth in Cal Water’s LIRA Program and the fact that the existing LIRA surcharge on non-LIRA customers was creating an enormous deficit in the memorandum account. All of these issues are applicable to water companies with LIRA programs as their enrollment increases as a result of the customer-information sharing plans with the energy utilities, which are now being implemented. It appears that there is no problem with this PD and that it will be approved at the next Commission Open Meeting on September 13th. However, it may require additional discussion at that time.

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In issuing his hold at the Aug. 23rd meeting, Comr Simon indicated that he preferred that this PD be placed on the Regular (Discussion) Agenda at the next meeting. No reason was given, but it became apparent to me that the issue of potential eligibility abuse in low-income programs as enrollment increases is one that the commissioners, especially Simon and Mark Ferron, want to consider more in-depth before other decisions involving LIRA programs are approved.

In the discussion on D.12-08-044, the decision involving the large energy utilities' applications for their 2012-2014 California Alternate Rates for Energy (CARE) and Energy Savings Assistance (ESA) Programs and Budgets, which the Commission approved, it appeared that the tension between the "morality" (Peevey's word) of increasing LIRA participation and the risk of wasting ratepayer dollars on those who cheat on their eligibility requirements was the overriding concern.

Interestingly, Peevey and Simon came down on the side of "morality," while Comr Ferron expressed concern on the potential abuse problem. Commissioners Florio and Sandoval remained silent during this part of the discussion. Comr Ferron is filing a concurring opinion on D.12-08-044, so we'll see whether that has any bearing on the Cal Water PD next month. As indicated previously, at least one fifth floor advisor is confident it will pass at the next meeting, and it may revert back to the consent agenda.

The third water issue to be held involves a PD that would modify Resolution W-4858, a December 10, 2010 decision by the Commission that erroneously applied the wrong rate of return to Fruitridge Vista Water's \$1.98 million buy-in fee to the City of Sacramento for the right to purchase water to replace water from FVW's wells that was contaminated. Resolution W-4858 should have applied an 11.12% ROR to this amount instead of FVW's 8.44% cost of capital. This PD rectifies the error, but it, too, was held until Sept. 13th.

Finally, the Commission withdrew the infamous PD involving the water system on Catalina Island. The details follow in the next article. As I said in the headline, all of the important water "stuff" got held from this Open Meeting ...

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ALJ Barnett Approves Delay in PD on Catalina Water GRC—California PUC Administrative Law Judge Robert Barnett issued a ruling Aug. 16th approving a motion delay a decision on the Catalina Island water distribution system’s current general rate case (GRC; Application 10-11-009) for 60 days, allowing a number of the parties to engage in settlement discussions. As you know, Southern California Edison (SCE) owns the water system, and it had persuaded the ALJ in a pending Proposed Decision, issued on June 13th, to have SCE’s electric customers subsidize \$10.7 million in system improvements that Edison has made in the past few years.

Because of resistance to the precedent being set in the PD from different parties, including several PUC commissioners, SCE and the City of Avalon, Catalina Island Chamber of Commerce, Santa Catalina Island Company, Santa Catalina Island Conservancy, Guided Discoveries, Conference of Catalina Condos and Apartments, and the Hamilton Cove Homeowners Association jointly filed the motion to delay the final decision. If no settlement acceptable to the Commission is reached, the PD would then be resubmitted to the Commission.

In his ruling, ALJ Barnett agreed that submission of the PD is set aside for 60 days to facilitate the settlement discussions. He wrote that “SCE and Protestants believe that important public policy issues are at stake in this proceeding. In the Protestants’ view, affordable water service is important to Catalina, SCE’s proposed rate increases are too high and the alternative ratemaking proposal is significant. In SCE’s view, SCE has invested millions of dollars in water infrastructure, and is entitled to a fair opportunity to earn its authorized rate of return pursuant to cost-of-service ratemaking principles.”

This has become one of the most interesting and contentious water cases in recent years. We’ll see what happens with the settlement discussions.

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AB 1650 Gets Last-Minute Amendments; AB 1541 Still Breathes—Assembly Member (Assm.). Anthony Portantino’s AB 1650, the bill that would require electric and water utilities to develop and adopt emergency and disaster preparedness plans, was amended again on Aug. 24th. The meeting requirement language for water companies isn’t exactly what CWA had been seeking, but it is better than the original language that involved “consultation” with local government agencies. Here it is:

(f) (1) A water company regulated by the commission shall develop, adopt, and update an emergency and disaster preparedness plan in compliance with the standards established by the commission pursuant to subdivision (a). This requirement shall be deemed fulfilled when the water company files an emergency and disaster preparedness plan pursuant to another state statutory requirement.

(2) A water company developing, adopting, or updating an emergency and disaster preparedness plan pursuant to paragraph (1) shall hold meetings with representatives from each city, county, or city and county in the water company’s service area regarding the emergency and disaster preparedness plan.

(g) An electrical corporation or a water corporation may fulfill a meeting requirement imposed by this section by making a presentation regarding its emergency and disaster preparedness plan at a regularly scheduled public meeting of each disaster council created pursuant to Article 10 (commencing with Section 8610) of Chapter 7 of Division 1 of Title 2 of the Government Code within the corporation’s service area, or at a regularly scheduled public meeting of the governing body of each city, county, or city and county within the service area.

The language that CWA sought (and actually got into the bill, briefly) was: “a water company shall be available to make a presentation at a regularly scheduled public meeting of local agencies or disaster councils within their service areas.” I will confirm this with CWA Legislative Advocate Meg Catzen-Brown, but I am surmising that the energy companies objected to the water companies getting softer treatment on the meeting requirement, and they advocated comparable treatment, to which the author’s office apparently agreed. Fortunately, the new language is closer to CWA’s than the original language. The bill is now awaiting passage on the Senate floor.

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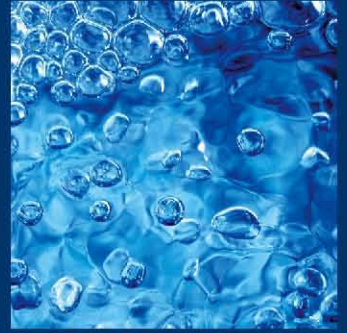
I noted last week that AB 1541 (Dickinson), the remaining bill that would subject documents filed with and produced by the California PUC to the California Public Records Act (CPRA), was on life support, with its only chance to get a special waiver off the Senate Appropriations Committee Suspense File. Assm. Roger Dickinson (D-Sacramento) has now agreed to final language (including retention of CWA's protective grandfathering language for documents filed previously with the CPUC), and discussions are underway with Senate President Pro Tempore Darrell Steinberg (D-Sacramento) to get the bill off Suspense. We'll know next week if this happens.

AWWA CA-NV Section Issues Member Alert on CrVI Lawsuit—The California-Nevada Section of the American Water Works Association issued a *Member Alert* Aug. 23rd on the Aug. 14th lawsuit against the California Department of Public Health (CDPH) by the Environmental Working Group and the Natural Resources Defense Council. As you'll recall from last week's *Weekly Wrap* article, the lawsuit claims that CDPH has taken too long to meet a statutory requirement to regulate Chromium 6 in drinking water.

In the *Alert*, AWWA CA-NV noted the news coverage in California on the legal action, consisting mainly of an article distributed by the Associated Press. The Alert also reiterated both AWWA's and the Section's position on the issue, which is to support the regulatory process contained in the Safe Drinking Water Act (SWDA). The SWDA requires regulations to incorporate the best available scientific information, as well as the factors of cost and the ability of all water systems to comply with the regulation. A letter to the editor from Section Executive Director was submitted to the Palm Springs Desert Sun and the Chico Enterprise-Record, which went beyond the AP article, reinforcing this position (it was published in the Chico paper).

The *Alert* concluded by noting that "CA-NV Section's Technical Advisory Group [co-chaired by Golden State Water's David Chang and Cal Water's Tarrah Henrie] on Chromium 6 is currently reviewing multiple items created by various entities to aid utilities' communication about the issue. Over the coming months, the Section will be reaching out to public officials and other community leaders with factual information on Chromium 6 and drinking water. Future announcements will provide members with a repository of communication materials, covering a range of technical detail."

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The Alert pointed members to two good references for facts and the AWWA policy position that can be accessed at:

- <http://www.drinktap.org/consumerdnn/Home/WaterInformation/WaterQuality/HexavalentChromium/tabid/262/Default.aspx>
- <http://www.awwa.org/files/GovtPublicAffairs/GADocuments/AWWAtestimonyEPWFeb2011.pdf>

Two-Word Error Could Cost SCVWD Half A Billion Dollars—The *San Jose Mercury News* ran an article August 19th explaining that the Santa Clara Valley Water District (SCVWD) may lose out on the opportunity to have the voters there approve a new parcel tax that would bring the District \$548 million in new revenues. The article characterized the problem as possibly “one of the costliest clerical errors in California history,” because when SCVWD turned in the ballot language election to place a \$548 million parcel tax before voters in November, the summary of the measure was 77 words. Under election law, however, summaries can be no more than 75 words.

The *Mercury News* reported that when elections officials alerted SCVWD about the error, the district rushed to hold a board meeting and approved a new measure with two fewer words. Unfortunately, SCVWD didn't post a public agenda of the Aug. 8th meeting on its website, or send it out to the media, 24 hours ahead of time as required under California's Brown Act. It missed those deadlines by less than an hour.

And the local Silicon Valley Taxpayers' Association, whose president is John Roeder, President and CEO of Great Oaks Water Company, sent a letter to SCVWD threatening a lawsuit unless it pulled the measure off the ballot. “We believe it's a violation,” Roeder said, in the newspaper article. “If they say, 'OK, we're sorry, we'll take it off the ballot,' then we won't do anything more. But if they tell us, no, they're right, then we'll decide what steps to take after that.”

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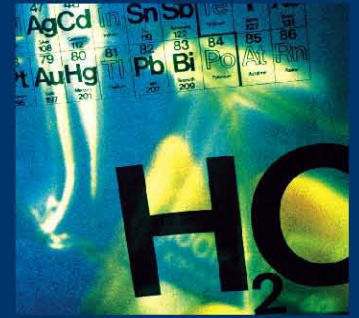


The *Mercury News* article concluded by noting that even if SCVWD wants to, it cannot go back and hold another vote to approve the 75-word version because the final deadline has passed to alter ballot measures in Santa Clara County. So, if the Aug. 8th vote is nullified, it doesn't look like the measure will live to see the November ballot. I can't imagine how the SCVWD employee who drafted (or miscounted) the words feels right now, but I can imagine how the SCVWD executives feel about John Roeder. It will be interesting to see how this one turns out.

Upcoming Industry Meetings/Conferences/Events:

- September 6, 2012 – CWA Directors Meeting (9:30a-2:30p; California American Water; 4701 Beloit Dr., CA 95838); J. Hawks will attend.
- September 11, 2012 – Pacific Institute Workshop on Conservation Rates and Declining Revenues (9:00am to 4:00pm; University of California, Davis; Buehler Alumni and Visitors Center; Alumni Lane & Mrak Hall Drive; Davis, CA 95616); J. Hawks will attend.
- September 12, 2012 – California Urban Water Conservation Council Plenary Meeting (9:30a–3:00p; City of Napa – Actual site TBD); J. Hawks will attend.
- September 12, 2012 – California Water Awareness Campaign Board of Directors Meeting (10:00a–12:00n; ACWA HQ; 915 K St., Sacramento, CA 95814)
- September 12-13, 2012 – California Water Plan 2013 Plenary Meeting (9:00-4:30p; Doubletree Hotel, 2001 Point West Way, Sacramento, CA; 95815); J. Hawks will attend the second day.
- September 13, 2012 – California PUC Open Meeting (9:00a–12:00p; 505 Van Ness Ave., San Francisco 94102)
- September 13, 2012 – Pacific Institute Workshop on Conservation Rates and Declining Revenues (9:00am to 4:00pm; West Basin Municipal Water District; 17140 South Avalon Blvd, Ste. 210; Carson, CA 90746-1296).
- September 27, 2012 – California PUC Open Meeting (9:00a–12:00p; 505 Van Ness Ave., San Francisco 94102)

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- October 3, 2012 – CWA Directors Meeting (9:30a-2:30p; Fontana Water Co.; 15966 Arrow Route, Fontana 92335); J. Hawks will attend.
- October 4, 2012 – California PUC Annual GO 156 En Banc Hearing (8:30a–3:45p; USC Bovard Auditorium; 3551 Trousdale Pkwy, Los Angeles 90089); J. Hawks will attend.
- October 7-10, 2012 – National Association of Water Companies Annual Water Summit (8:30a–5:00p; Turnberry Isle Resort; 19999 W. Country Club Drive, Aventura, FL 33180); CWA will host the CA Chapter Luncheon on 10/8; J. Hawks will attend.
- October 10, 2012 – California Water Awareness Campaign Board of Directors Meeting (10:00a–12:00n; ACWA HQ; 915 K St., Sacramento, CA 95814)
- October 11, 2012 – California PUC Open Meeting (9:00a–12:00p; 505 Van Ness Ave., San Francisco 94102)
- October 24, 2012 – Dept. of Water Resources – California Water Plan Update 2013 – Advisory Committee Meeting (9:00a – 4:30p; Cal EPA Building; 1001 I St., Sacramento, CA 95814); J. Hawks will attend
- October 25, 2012 – California PUC Open Meeting (9:00a–12:00p; 505 Van Ness Ave., San Francisco 94102)
- October 30-31, 2012 – CWA 71st Annual Conference (8:45a-4:45p; Monterey Plaza Hotel - 400 Cannery Row, Monterey, CA 93940); J. Hawks will attend.
- November 1, 2012 – CWA Annual Directors Meeting (8:00a – 11:00a; Monterey Plaza Hotel - 400 Cannery Row, Monterey, CA 93940); J. Hawks will attend.

—CWA—