

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

Order Instituting Rulemaking to Establish a  
Framework and Processes for Assessing the  
Affordability of Utility Service.

---

Rulemaking 18-07-006  
(Issued July 12, 2018)

**COMMENTS OF CALIFORNIA WATER ASSOCIATION  
ON THE ORDER INSTITUTING RULEMAKING**

John K. Hawks  
Executive Director  
California Water Association  
601 Van Ness Avenue, Suite 2047  
Mail Code #E3-608  
San Francisco, CA 94102-3200  
(415) 561-9650  
jhawks@calwaterassn.com

Lori Anne Dolqueist  
Mari L. Davidson  
Nossaman LLP  
50 California Street, 34th Floor  
San Francisco, CA 94111  
(415) 398-3600  
LDolqueist@nossaman.com  
Attorneys for California Water Association

August 13, 2018

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

Order Instituting Rulemaking to Establish a  
Framework and Processes for Assessing the  
Affordability of Utility Service.

Rulemaking 18-07-006  
(Issued July 12, 2018)

**COMMENTS OF CALIFORNIA WATER ASSOCIATION  
ON THE ORDER INSTITUTING RULEMAKING**

**I. INTRODUCTION**

Pursuant to Rule 1.4(a)(2)(ii) of the Rules of Practice and Procedure of the California Public Utilities Commission (“Commission”), California Water Association (“CWA”) files these comments on the *Order Instituting Rulemaking to Develop Methods to Assess the Affordability Impacts of Utility Rate Requests and Commission Procedures* (“Order” or “OIR”) on behalf of its Class A and Class B water utility members, which are named as respondents to this rulemaking in the Order.<sup>1</sup> CWA appreciates this opportunity to assist the Commission in developing a framework and principles to identify and define affordability, and also to address the methods and processes necessary to assess the ways in which utility proceedings affect affordability.

**II. QUESTIONS TO BE CONSIDERED**

The Order sets forth several questions that the parties should be prepared to address over the course of this proceeding.<sup>2</sup> As noted in the Order, the parties are not required to answer these questions at this time. It is expected that the answers to these questions will be developed through review and analysis of relevant scholarship, workshops, and discussions of the real-life implications of developing and applying affordability concepts, definitions and metrics to Commission rates and proceedings. In keeping with the Order, CWA discusses below some of

---

<sup>1</sup> Order, pp. 20-21, Ordering Paragraph 7.

<sup>2</sup> *Id.*, pp. 11-12.

the challenges associated with assessing and seeking to ensure affordability, resources that may be useful to inform this proceeding, and consideration of how this proceeding may interact with other related efforts.

#### **A. Challenges**

The Order inquires as to the possible challenges with assessing affordability.<sup>3</sup> Certainly, the task of developing the necessary definitions, metrics and framework will be a challenging, complex and time-intensive effort.<sup>4</sup> Commission-approved rates are, by definition, reasonable, and they should be considered “affordable,” but other factors outside of the Commission’s control are causing customers to struggle and experience financial pressure.

While CWA agrees that it may make sense to attempt to assess the combined affordability of utility services, part of the challenge will be to assess the relative impact and percentage of the cost of utility services in the context of overall household and personal budgets, given the fact that the real affordability problem in California is dominated by other considerations, such as housing and healthcare. Because housing and healthcare costs put enormous pressure on other household needs, and because housing and healthcare costs are seemingly intractable problems in California, a disproportionate amount of policy attention is given to utility services – water, energy and electronic communications. While the cost of water utility service is the lowest of the household utility needs, it has still become a nationwide issue even though it is dwarfed by other household costs. This circumstance is a consideration that may affect the Commission’s determination of goals for this proceeding.

CWA notes that while the Commission may seek to conduct affordability assessments of rate requests, it must balance this task with its obligation to ensure that utilities are able to

---

<sup>3</sup> Order, p. 11.

<sup>4</sup> The Commission recently recognized some of the challenges associated with rate designs that rely on customer-supplied information regarding household size and occupancy in 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, pp. 7, 11-20.

continue to provide safe and reliable service to their customers at just and reasonable rates. The Commission must also provide proper incentives for necessary investments, compliance with the new water conservation legislation, and offer opportunities to further other policy goals, such as consolidation with other systems pursuant to state policy that calls for assisting troubled or high-cost water systems. When weighing these potentially contradictory goals and obligations, the Commission must consider where the assessment of affordability will fit.

Another challenge in assessing affordability is how to measure the impact on customers that may end up subsidizing programs designed to ensure affordability. This is of particular concern to water utilities, which have significantly smaller customer bases as compared with the energy utilities and which often develop rates at the district level. There are certain Class A water utility districts where more than half of the residential customers qualify for low-income assistance programs, which means that a minority of the residential customers is subsidizing the majority.

CWA cautions that, depending on how the affordability measures are implemented, a possible unintended consequence could be a reduction in service quality to economically challenged districts. Hard choices might need to be made regarding much-needed infrastructure investments that could make rates “less affordable” under certain metrics or frameworks. The Commission risks introducing a trade-off that could sacrifice important health and safety measures to promote affordability. Giving too much weight to affordability could end up compromising the wellbeing of water utility customers if necessary infrastructure investments are postponed.

Finally, when gathering data, developing definitions, and creating an affordability framework, the Commission should keep in mind that multi-unit residential buildings are generally not individually metered for water service. Since the individuals living in these buildings are not direct customers of water utilities, and the cost of water is usually included in

rent or monthly fees, over which the Commission has no jurisdiction, developing affordability metrics and assessments that include this sector presents a unique challenge for the utility.<sup>5</sup>

## **B. Resources**

In the Order, the Commission asks, “what data, metrics, and thresholds should be used to assess affordability in California” and whether “there is public and/or academic research available on this question.”<sup>6</sup> CWA suggests that there be at least one workshop, if not multiple workshops, devoted to this issue alone. First, however, even before the Commission embarks on a metrics mission, there should be consensus on a definition of affordability that goes well beyond the current default concept that if the cost of an item or a service is above a certain percentage threshold of household income, it is automatically deemed not affordable.

It may be helpful for the Commission to solicit scholarly contributions on these issues from academics, research institutes and others who have expertise related to the complex issue of affordability. The parties would then have the opportunity to review and analyze the available research and determine which concepts are most applicable to Commission-regulated utilities.

As a more specific recommendation, CWA suggests that the Commission consider a 2017 report prepared by the National Academy of Public Administration and the United States Environmental Protection Agency that considered a definition and framework for community affordability nationwide.<sup>7</sup> This report focused on revising existing affordability guidance, highlighting best practices for integrated planning, identifying innovative solutions to lower costs, and examining the best approaches for analyzing costs and benefits. The concepts explored in this report and the recommendations contained therein can provide the Commission with

---

<sup>5</sup> The Commission is also facing this issue in its rulemaking on low-income rate assistance programs for water utilities. R.17-06-024*Amended Scoping Memo and Ruling of Assigned Commissioner and Administrative Law Judge* (“Amended Scoping Memo”), July 9, 2018, p. 3.

<sup>6</sup> Order, p. 11.

<sup>7</sup> *Developing a New Framework for Community Affordability of Clean Water Services*, National Academy of Public Administration, October 2017. This report can be accessed at [https://www.napawash.org/uploads/Academy\\_Studies/NAPA\\_EPA\\_FINAL\\_REPORT\\_110117.pdf](https://www.napawash.org/uploads/Academy_Studies/NAPA_EPA_FINAL_REPORT_110117.pdf).

helpful insight as to the challenges and best practices related to defining and assessing affordability for water services.

### **C. Other Proceedings**

The Commission's efforts to create a framework to identify and define affordability, and to develop methodologies that will accurately assess affordability, will not occur in a vacuum. There are ongoing proceedings at the Commission and elsewhere that are grappling with these same issues.

For example, in the Commission's rulemaking proceeding examining water utility low-income ratepayer assistance programs (R.17-06-024), the assigned Commissioner and Administrative Law Judge recently issued an amended scoping memo asking whether changes are necessary to ensure that there is a basic amount of water that customers receive at a low quantity rate.<sup>8</sup> The determination of the correct rate for this basic amount of water may involve some sort of "affordability" assessment (whether implicit or explicit), but until the Commission provides the necessary definitions, framework and methodology, it will be nearly impossible to apply it in an informed and consistent manner. For this reason and because the energy utilities have now been brought into R.17-06-024,<sup>9</sup> CWA recommends that the Commission coordinate the policy developments in this proceeding with the water low-income ratepayer assistance rulemaking, to allow for more efficient consideration of the related issues.<sup>10</sup>

Beyond the Commission, the issue of water affordability is being considered on a statewide basis by the State Water Resources Control Board ("SWRCB"). In 2015, the *Low-Income Water Rate Assistance Act* directed the SWRCB to prepare a plan for funding and implementation of a statewide low-income water assistance program and to develop findings

---

<sup>8</sup>R.17-06-024, Amended Scoping Memo, July 9, 2018, p. 3.

<sup>9</sup> The Amended Scoping Memo also raised the issue of investor-owned energy utilities sharing low-income customer data with municipal water utilities and encouraged these Commission-regulated energy utilities to submit comments in the issue. *Id.*, pp. 3-4.

<sup>10</sup> CWA will also be addressing this issue in its comments on the Amended Scoping Memo in R.17-06-024, which are due August 15, 2018.

regarding the feasibility, financial stability, and desired structure of the program. As part of this process, the SWRCB has been considering the issue of affordability, most recently at an April 5, 2018 water affordability symposium.<sup>11</sup> Because the report and accompanying plan have yet to be released, it is unclear to what extent the statewide program developed by the SWRCB will apply to Commission-regulated water utilities. Nonetheless, the Commission should try to avoid developing an affordability standard for Commission-regulated water utilities that is inconsistent with the standard developed by the SWRCB.

### III. CONCLUSION

The Commission has made clear its commitment to ensuring that the utility services it regulates remain affordable and accessible to all Californians. CWA plans to be an active participant in this proceeding to help develop a well-reasoned and comprehensive framework for defining and assessing affordability of utility service.

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  
(415) 561-9650  
jhawks@calwaterassn.com

NOSSAMAN LLP

Lori Anne Dolqueist  
Mari L. Davidson

By: /s/ Lori Anne Dolqueist  
Lori Anne Dolqueist

50 California Street, 34th Floor  
San Francisco, CA 94111  
(415) 398-3600  
ldolqueist@nossaman.com

Attorneys for California Water  
Association

August 13, 2018

---

<sup>11</sup> Notice and agenda for the symposium can be found at [https://www.waterboards.ca.gov/water\\_issues/programs/conservation\\_portal/assistance/docs/2018/notice\\_20180405.pdf](https://www.waterboards.ca.gov/water_issues/programs/conservation_portal/assistance/docs/2018/notice_20180405.pdf). Commissioner Guzman Aceves moderated a panel on the foundations of water affordability.