BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

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In the Matter of the Application of San Gabriel Valley Water Company (U337W) for authority to establish a conservation rate design, including a Water Revenue Adjustment Mechanism, modified cost balancing account, and Conservation Memorandum Account in compliance with Decision No. 08-06-022.	)	Application No. 08-09-008 (Filed September 10, 2008)

REPLY BRIEF OF SAN GABRIEL VALLEY WATER COMPANY

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REPLY BRIEF OF
SAN GABRIEL VALLEY WATER COMPANY

Pursuant to Rule 13.11 of the Commission's Rules of Practice and Procedure and in accordance with Administrative Law Judge ("ALJ") Weatherford's Ruling Modifying Schedule, issued September 17, 2009, and ALJ Weatherford's ruling by e-mail on October 22, 2009 extending time for the filing of briefs, San Gabriel Valley Water Company ("San Gabriel" or "SGV") hereby submits its reply brief, responding to the opening briefs filed October 27, 2009, in this proceeding by the Division of Ratepayer Advocates ("DRA") and the Consumer Federation of California ("CFC"). This brief is organized consistently with the common outline for opening briefs agreed upon by the parties in accordance with the aforementioned ALJ's Ruling.

I.

INTRODUCTION

DRA's Opening Brief ("OB") highlights the substantial differences between San Gabriel's practical and moderate approach to conservation rate design and DRA's more theoretical, complicated, and unduly aggressive approach. As San Gabriel will show in the course of this Reply Brief, there is no sound basis for expecting that DRA's more costly and more disruptive proposals will achieve greater water conservation than the simpler pilot program San Gabriel has offered. Particularly in the context of recent legislative developments, San

Gabriel believes that the most appropriate path for the Commission and San Gabriel to follow at this time is one that acquaints San Gabriel's customers with a water conservation rate design that offers incentives to conserve to as many customers as possible while not being punitive or unduly disruptive to customers' normal life styles.

In its Opening Brief, San Gabriel noted pending legislation proposing to require each water utility to incorporate into its Urban Water Management Plan ("UWMP") stated water conservation goals and procedures for calculating all customers' reductions in water consumption as well as a timeline for achieving those goals. Last week, the Legislature adopted a revised version of that legislation in the form of SB 7 (7th Ex. Sess.), which currently awaits the signature of the Governor, who has announced he supports the legislation. The new law will enshrine in the California Water Code the Governor's policy goal of achieving a 20% reduction in urban per capita water use in California by 2020 and will require every urban retail water supplier to develop water use targets consistent with the overall goal by 2011 and achieve at least half of the adopted water use target by 2015.[1] Among the important features of this legislation are a set of alternative methods for a water retailer to determine its "water use target" a procedure for the Department of Water Resources ("DWR") to develop one of those alternative methods of setting "water use targets" by the end of 2010, and a requirement that water retailers include specified water conservation targets and procedures in their UWMPs due to be filed with DWR in 2010.[2]

Thus, this new legislation will place important and novel demands on all "urban retail water suppliers," including San Gabriel, some of which must be implemented in the near future but with the overall effort focused on a step-by-step implementation of a multi-year plan to

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[1] See, SB 7 (7th Ex. Sess.) (Steinberg), new Water Code §§10608.16, 10608.20, 10608.24. The new law defines an "urban retail water supplier" as a publicly or privately owned water supplier that, *inter alia,* directly provides potable water to more than 3,000 end users. Thus, the category apparently includes all Class A and Class B water utilities within the Commission's jurisdiction. San Gabriel respectfully urges the Commission to take official notice of SB 7 (7th Ex. Sess.), a copy of which is appended to this brief as Attachment A. It is likely that this enactment will become law by the Governor's signature prior to the Commission's adoption of a decision in this proceeding.

[2] *Id.*, new Water Code §10608.20.

achieve a 10% reduction in water use by 2015 and then a 20% reduction by 2020. This important development reinforces the wisdom, demonstrated by San Gabriel in this proceeding, of taking a moderate, incremental approach toward implementing a water conservation rate design that presents incentives to conserve to as many customers as possible. As San Gabriel has shown, substantial progress already has been made toward reducing per capita water consumption by San Gabriel's customers. The comprehensive water conservation programs and measures which the Commission already has authorized San Gabriel to implement offer a range of proactive steps and positive incentives which will be supported by an orderly conversion to conservation oriented rates starting with the pilot program San Gabriel has proposed.

In this Reply Brief, San Gabriel will show that DRA's more drastic proposals for a massive shift of revenue from Service Charges to Quantity Rates and a three-tier rate design featuring punitive upper tier Quantity Rates are unnecessary and unjustified. San Gabriel will further show that the reporting requirements DRA has proposed would impose significant burdens but are neither necessary nor useful.

If, despite San Gabriel's demonstration that a moderate conservation rate design is appropriate for this pilot program, the Commission approves a rate design along the lines DRA has proposed, then San Gabriel's proposal of a Monterey-style Water Revenue Adjustment Mechanism ("WRAM") will not be sufficient. A Monterey-style WRAM will not protect San Gabriel's revenues against fluctuations in sales, whether due to conservation or other factors, and a drastic shift of revenue requirement from Service Charges to Quantity Rates, even without the severely sloped Quantity Rates DRA proposes, would place the stability of San Gabriel's revenues in jeopardy.[3] This is why San Gabriel stated in its Opening Brief that

[3] As the Commission has described in approving a Monterey-style WRAM for Suburban Water Systems, that procedure tracks only the differences between revenue received for actual sales under a conservation rate design and the revenue that would have been received if a single quantity rate had remained in place. See, *Investigation to Consider Policies to Achieve the Commission's Conservation Objectives for Class A Water Utilities ("Water Conservation OII"),* Decision 08-02-036, *mimeo.* at 25.

adoption of a more drastic revision to San Gabriel's rates than the Company has proposed, along the lines of DRA's proposals, would increase the potential for severe revenue losses significantly, and would require San Gabriel to implement a "full" WRAM, providing for the full decoupling of revenues from sales. See, San Gabriel OB, at 29-30.

II.

RATE DESIGN

A. Overview

DRA's opening brief, like the testimony of DRA's witnesses, reflects a perspective that establishing and implementing a conservation rate design must be a highly complex and rigorous endeavor aimed to isolate particular disfavored uses of water and to direct rate increases specifically at those uses, as if "water budgets" could readily be defined for individual customers. But that is not supported by the evidence in this case. Indeed, DRA's analysis relies on theoretical averages, means, and medians for its break points between rate tiers, and so provides no basis for confidence that its proposed rate design will accurately target particular uses of water by individual customers or by the Residential customer base as a whole.

1. The catch phrases DRA uses to describe its rate design proposal do not make it more credible.

DRA's opening brief repeats the mantra of witness Burt's testimony that his proposed rate design "takes into account" Average Incremental Cost ("AIC") and is designed to target discretionary outdoor water usage "with minimal effects on overall customer bills." DRA OB, at 2; see also, *id.* at 9. Meanwhile, DRA repeatedly refers to San Gabriel's rate design proposal as "weak." *Id.* at 4, 6. For all DRA's repetition of these phrases, they do not lend support to DRA's position.

DRA applies an AIC value to set the second tier rate for the LAC division – a choice with no theoretical validity – and sets the third tier rate for the FWC division at a level close to

but different from the AIC. "Taking account" of AIC in such an inconsistent fashion undermines rather than validates DRA's approach to rate design.

DRA purports to "target" discretionary outdoor water usage by setting the break point between a Tier 2 rate and DRA's substantially higher Tier 3 rate at the level of average summer usage. Due to DRA's proposed sharply reduced Service Charge and Tier 1 and Tier 2 rates , customers with usage substantially above that summer average would bear the brunt of DRA's proposed bill increases. Many customers who continue their average summer usage would remain unaffected by Tier 3 rates – regardless of the percentage of water use that is for indoor or outdoor purposes, discretionary or not. DRA's rate design fails to reach its "target" and fails to provide most customers with an economic incentive to conserve.

DRA's claim that its rate design will have "minimal effects on overall customer bills" and will "keep customer bills reasonable" is purely theoretical, because it is based on an average. Since the rate design is intended to be revenue neutral, the average customer bill will not change. What matters is not the average impact, but rather the effects on individual bills. Most customers will enjoy bill reductions. But a minority will see their bills increase dramatically – with increases up to 86% in the LAC division and up to 48% in the FWC division. DRA OB, at 13. Such increases would be far more than "minimal."

Finally, there is nothing "weak" about San Gabriel's proposed rate design. It is a measured approach for the first implementation of tiered rates. As rate increases resulting from other proceedings and the conservation effects of San Gabriel's comprehensive, broadly-based water conservation measures approved by the Commission – including customer information and water-efficient appliance and high efficiency toilet programs – reduce water use by customers in both of San Gabriel's operating divisions, there is no need for haste in implementing an extreme conservation rate design. Depending on the response of customers to other components of San Gabriel's water conservation efforts, such an aggressive conservation rate design may never be needed. Recalling the very lively presentation of

customers' concerns at the Public Participation Hearings last June, San Gabriel urges the Commission to take a measured approach in this regard – implementing a tiered rate design that will place customers on notice that conservation will be rewarded but without unduly punitive effects, especially since customers are already successfully conserving. See, Exhibit 5 (Dell'Osa/SGV), at 5-6 and Att. C.

2. The Commission should adopt a rate calculation methodology rather than adopting specific rates.

A review of the rate recommendations in DRA's opening brief makes clear the importance of Mr. Dell'Osa's recommendation that the Commission adopt a "rate calculation methodology" rather than adopting specific rates in this proceeding. See, San Gabriel OB, at 18, citing Exhibit 2 (Dell'Osa/SGV), at 13. For example, DRA urges the Commission to "be sure to adopt a uniform or single quantity rate to be used when calculating the WRAM balance, and notes its proposal for uniform quantity rates of $1.8527 for the FWC division and $2.0266 for the LAC division. DRA OB, at 3. The trouble with this recommendation, as illustrated by Appendix A to San Gabriel's opening brief, is that the Quantity Rates associated with San Gabriel's proposed rate design already have increased significantly as a result of Commission-approved rate changes and customer classifications during the pendency of this proceeding, while DRA declined to update its rate design based on San Gabriel's new data. Compare, San Gabriel OB, App. A, with Exhibit 107 (Burt/DRA). During the course of this proceeding, San Gabriel's rates have already nearly achieved the BMP 1 goal of 70% of revenue from Quantity Rates without any shift of revenue recovery from its monthly Service Charges.

Authorized rates probably will change again before or concurrently with the July 1, 2010 effective date recommended for implementing a conservation rate design decision. Thus, the decision in this case should not attempt to adopt specific rates, but should adopt a rate design, including specific guidance for the calculation of rates. San Gabriel's recommended

methodology for that calculation is applied in Mr. Dell'Osa's updated Table E. See, Exhibit 6 (Dell'Osa/SGV), Att. 1.

3. DRA's assertions about customers' knowledge of water use and billing are unsubstantiated and improbable.

DRA takes issue with Mr. Dell'Osa's testimony that the effectiveness of water rates in sending conservation price signals will be limited by receipt of a water bill after the fact, in contrast to a driver's knowledge of gasoline prices upon approaching the pump. DRA claims Mr. Dell'Osa is wrong, because water rates are published in tariffs, and "[i]n general, people know what their past consumption has been, and should generally be able to approximate whether maintaining their consumption patterns will bring them into the second-or-third tier." Thus, according to DRA, buying water is no different than buying gasoline. DRA OB, at 7.

DRA shows limited confidence in its argument on this issue, by referring to what "people know" in general, and even less persuasively arguing that people "should generally be able" to do the relevant math. But however much DRA may have hedged its claims, the fundamental fact is that DRA provides no evidence to support arguments by which it seeks unsuccessfully to contradict Mr. Dell'Osa's expert testimony.

Mr. Dell'Osa addressed this subject in response to a question from ALJ Weatherford. He testified as follows:

> The customers normally use more water in the summer than [they] do in the winter, and they receive their bills after they use the water, approximately 45 days on average after they actually use the water. So if a customer, say under DRA's rate design, sees a very low bill in March and April, then their tendency may be to use more water in May and June as we get into the summer months. And just the opposite would happen in the fall. They would be receiving their high monthly bills from high summer usage, and they may tend to use a lot less water in the fall.
>
> And the problem I think with putting a price signal into the water rates is that the price signal is not seen at the same time that the consumer is consuming product. It's seen afterwards.
>
> When we go to a gas station, we can actually see the posted prices and we can decide where to buy gas or we can decide if we want to take a weekend trip because the price signal is given before we make the decision to

> purchase. With water the customers get the price signal after the fact. They've already used the water."

Tr. 190:11-191:4 (Dell'Osa/SGV).

DRA cites no evidence to refute Mr. Dell'Osa's clear and cogent testimony, but merely speculates about what DRA thinks people know about their water utility's tariffs and whether they "should" be able to calculate how much they will later be billed for particular uses of water. But even if customers knew and understood their utility's tariffs and were willing and able to make such calculations, they would also have to know how much water they use for various activities before they could calculate the impact of such usage on their upcoming. There is no evidence of such knowledge. DRA's claims are unsubstantiated, improbable, and contrary to the evidence in this proceeding. For these reasons, the Commission should resist DRA's argument that extreme conservation rates are a panacea that will prompt effective long-term water conservation.

4. <u>DRA has no monopoly on implementing the Commission's policy goals.</u>

DRA argues that its proposal implements the Commission's policy goals and repeatedly alleges or implies that San Gabriel does not support the Commission's goals. See, *e.g.,* DRA OB, at 4-7. That is flatly untrue. San Gabriel is engaged in a very rigorous and substantial effort to promote effective, long-term reductions in customer water use on a variety of fronts, having increased the scale of its conservation programs from $3,000 per year to Commission-adopted water conservation measures with approved annual budgets of $650,000 in the LAC division and $400,000 in the FWC division over just the past two years. See, San Gabriel OB, at 3 n. 1. While rate design is certainly an element of that effort, it is only one of a number of important elements. Mr. Dell'Osa's supplemental testimony (Exhibit 2) demonstrates that, San Gabriel has achieved nearly full compliance with BMP 1, and proposed a methodology for implementing tiered rates and other elements of rate design consistent with declared Commission policies and the terms of settlements the Commission has approved for

other Class A water utilities. San Gabriel's customers are well on their way toward achieving the 10% reduction in water usage by 2015 and the 20% reduction by 2020 that the state has now established in the newly enacted SB 7 legislation.[4]

While acknowledging the difficulty of measuring the effects of increasing block rates, DRA nonetheless opposes in this case what the Commission already approved for other Class A water companies, namely, adopting a measured pilot program of conservation rates. DRA would have the Commission rush to implement an aggressively tiered rate design without worrying about whether it will have the intended results. See, DRA OB, at 5. According to DRA, San Gabriel's two-tier rate design will not send an effective conservation signal, but a three-tier rate design "with strong price signals, balanced with minimal bill impact, is the most effective method of fostering conservation." DRA OB, at 6, 9. Aside from the fact that there is no empirical evidence to support it, this formulation is self-cancelling. Unless DRA envisions having San Gabriel include some sort of discount coupons along with its monthly bills, there is no way to combine "strong price signals" with "minimal bill impact."

DRA states that its rate design proposal is not meant to be a short-term fix, but rather is intended to permanently reduce customer demand. DRA OB, at 7. That is precisely the purpose of San Gabriel's comprehensive water conservation programs, including its proposed tier rates. In fact, DRA appears to share Mr. Dell'Osa's view that the correct approach to judging the success of a conservation-oriented rate structure is to look at how average usage per customer changes over an extended period of time. *Id.* at 8-9. In San Gabriel's view, this longer-term perspective supports the orderly step-by-step implementation of conservation-oriented rates along with customer education and conservation programs that effectively promote the widespread use of high-efficiency toilets and other low water use appliances and fixtures. The fact of the matter is, as the evidence in this case shows, conservation programs

[4] See, SB 7 (7th Ex. Sess.) (Steinberg), and text accompanying Note 1, *supra*.

are already working and are achieving long-term reductions in customer water use.[5] San Gabriel's approach is now especially timely in light of the recent enactment of SB 7 which sets a road map for establishing water conservation goals for individual utilities and a timetable for achieving those goals by 2020.

B. Legal Issues

CFC argues that it is "discriminatory to fix rates without any evidence of the cost of serving each class." CFC cites no authority to support this conclusion. CFC admits that there was no need for such a study in the past, because, according to CFC, "all classes of customers have been charged a single 'General Service' rate."[6] CFC claims that "when you break the customer base into classes, there is a need to separate the costs among customer classes do so that no class is unfairly charged more than the cost it causes San Gabriel to incur in providing service." CFC OB, at 6. What CFC fails to recognize is that the relative cost burden borne by Residential and Non-Residential customers will not change as a result of the present proceeding, because the conservation rates proposed by both San Gabriel and DRA are designed to be revenue neutral. Therefore, the rate design changes implemented for Residential customers are not intended to affect the over all revenue generated by those customers, while the rates paid by Non-Residential customers will not change, so the revenue those customers provide also will not change as a result of the proposed tiered rates. There is no need to perform a study of service costs by customer class to support rate design changes that are intended not to change the recovery of revenue among customer classes, when (as admitted by CFC) there was no need for such a study in the past.

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[5] With rate design considered as one aspect of a broader conservation effort, the challenging task of separately measuring the impacts of conservation rates need not be a priority, as it seems to be for DRA.

[6] CFC OB, at 6. CFC bases this assertion on testimony by Mr. Dell'Osa, but Mr. Dell'Osa was referring only to San Gabriel's presently uniform Quantity Rate. Tr. 269:25-270:9 (Dell'Osa/SGV). Customers long have paid differential Service Charges based on the size of the meters serving their premises.

The Commission routinely considers detailed revenue allocation studies in GRCs for major energy utilities for the purpose of informing the assignment of revenue responsibility among customer classes. The revenue allocation phase is a preliminary step in the setting of rates in those proceedings, and often involves active participation by numerous representatives of customers and customer groups. Adding such a complex exercise to the GRC process for water utilities would be of questionable value and would challenge the ability of the parties and the Commission to reach GRC decisions within the schedules dictate by the Rate Case Plan. In any event, such an exercise has no place in this proceeding. It would also significantly delay the orderly step-by-step implementation of conservation rates.

Ignoring these practical concerns, CFC claims that the Legislature has mandated that customer "groupings" must be based on cost, because Public Utilities Code Section 701.10(f) requires that "rates and charges established by the commission for water service . . . [must] be based on the cost of providing the water service." CFC OB, at 6. There is, however, no mention of customer classes or "groupings" in Section 701.10(f), which imposes only a broad requirement that water rates be "based on the cost of providing the water service . . . with appropriate coverage of fixed costs with fixed revenues." *Id.*

Addressing similar arguments by CFC in Phase 1 of the Water Conservation OII, the Commission rejected as untimely CFC''s argument that implementation of conservation rates should be postponed until the utilities provided cost allocation studies and cost information to illustrate how conservation rates are aligned with costs, and subsequently determined that CFC's arguments based on Section 701.10 lacked merit. *Water Conservation OII*, D.08-02-036, *mimeo.* at 6-7, and D.08-02-036, *mimeo.* at 12-13. The Commission denied rehearing of this issue, finding that CFC failed to substantiate that Section 701.10 required such studies, specifically noting that the revenue neutral character of the adopted conservation rate designs made the provisions of Section 701.10 inapplicable, and confirming that CFC's arguments were untimely, given that CFC had failed to challenge the omission of customer class cost allocation

issues from the issues set for consideration by the preliminary Scoping Memo. D.09-06-053, *supra*, *mimeo.* at 13-15.[7]

C. DRA's Attempt to Shift Revenue From Service Charges to Quantity Rates Beyond the Goal of BMP 1 Conflicts with Longstanding Commission Policy.

San Gabriel proposes in this proceeding to shift revenue from monthly Service Charges to Quantity Rates in order to move approximately half way toward achieving the goals of Best Management Practice ("BMP") 1 of the California Urban Water Conservation Council ("CUWCC"), which calls for total Service Charges revenues to be 30% of total revenues. But DRA seeks a much greater shift of revenue from Service Charges to Quantity Rates, proposing a rate design that looks to obtain 70% or more of Residential class revenues from Quantity Rates. DRA OB, at 10. Because San Gabriel already recovers more than 70% of revenues from the Quantity Rate with respect to other customer classes,[8] DRA in effect is proposing a significantly greater reliance on Quantity Rates for revenue production than BMP 1 calls for.

The parties and the Commission are not writing on a "clean slate" in this regard. The Commission has adopted the policy of promoting compliance with BMP 1 in the context of its longstanding commitment, in the interest of balancing a utility's interest with customers' needs, to a "statewide goal" of setting a utility's Service Charges to recover up to 50% of its fixed costs.[9] In the 1986 decision by which the Commission adopted that policy, the Commission recognized "that revenue stabilization and conservation are conflicting goals," making it "imperative that both goals be addressed in all future rate case proceedings.[10] The Commission has consistently implemented and given effect to the 50% fixed cost recovery policy, and it is very likely that that policy can be achieved concurrently with meeting BMP 1's goal of recovering

[7] In these passages addressing the deficiencies in CFC's application for rehearing, the Commission erroneously referred to "section 710.10" but the intention to refer to Section 701.10 is clear. See, D.08-02-036, at 13-14.

[8] Exhibit 2 (Dell'Osa/SGV), Table C.

[9] *Re Water Rate Design Policy*, D.86-05-064, 21 Cal. PUC 2d 158, 162. The Commission defined "fixed cost" as "those direct costs that are necessary to provide customers access to water, listing examples that included all categories of cost other than water supply and production costs. *Id.* at 165 (Ordering paragraph 4).

[10] *Id.* at 163.

70% of overall revenues through volumetric rates (as San Gabriel is on the verge of doing). There is no justification and certainly no need for the wholesale abandonment of the longstanding 50% fixed cost recovery policy implicit in DRA's quest to "overachieve" the goal of BMP 1.

DRA also ignores the statement in BMP 1 that an agency "shall not be required to increase the volumetric component of the rate structure by more than 10% in any single year until the full implementation is achieved. Exhibit 4 (Dell'Osa/SGV), Att. A, at 5. Due to the rate design constraint of revenue neutrality, the greater revenue shift from monthly Service Charges to Quantity Rates that DRA would impose exacerbates the shortcomings of its proposed rate design – namely, sharp increases for some customers and increased risk that the Company will be unable to recover its current revenue requirement.

San Gabriel's sales volumes fluctuate far more than the number of its customers, and sales volumes are not evenly spread across the year. Therefore, every dollar of fixed operating costs revenue requirement that is shifted from Service Charges to Quantity Rates raises the likelihood of San Gabriel not being able to recover its fixed costs either on a seasonal basis or even annually depending on the weather and on how much customers conserve. The Monterey-style WRAM proposed by both San Gabriel in this proceeding will not compensate for a reduction in sales, whether due to weather, the economy, or, most likely, growing customer conservation. For these reasons, San Gabriel does not support a greater shift of revenues from Service Charges to Quantity Rates than would be needed to achieve BMP 1. DRA's proposal for such a drastic shift of revenues at this time is inappropriate and should be rejected.

D. DRA Fails to Show That Its Punitive Rate Design Proposal Is Necessary to Achieve the Targeted Reduction in Water Use By San Gabriel's Customers.

DRA's rate design proposal features three rate tiers, with a very narrow usage range in the second tier and a very large percentage increase in the third-tier rate. While DRA argues that its goal is to target discretionary outdoor usage, all that the evidence shows for sure about

the effects of DRA's proposed rate design is that it would impose substantial bill increases on a small proportion of relatively high usage customers while providing no conservation price signal at all to the 80% of customers whose bills would decrease. DRA fails to show that such a punitive approach is necessary to achieve progress toward California's goal of 20% water use reduction by the year 2020.

DRA claims that under its proposed rate design, "even customers who have bills that reach into the third-tier will not have 'sticker shock,'" but the only examples DRA gives are the 48% and 86% increases for "extremely high users" of 1000 Ccf/month in the LAC and FWC divisions, respectively – increases that DRA immediately discounts by noting that such high users are "a small minority." DRA OB, at 13-14. However, as Mr. Dell'Osa showed in his rebuttal testimony, much more moderate users of, for example, 60 Ccf/month (served by the typical 5/8"x3/4" meter) would face bill increases of 45% in the LAC division and 22% in the FWC division (versus increases of 9% and 4% with San Gabriel's proposed rates). See, Exhibit 6 (Dell'Osa/SGV), Atts. A-1 and B-1. A bill increase of 45% or even 22% is very likely to produce "sticker shock" among ratepayers – especially when it cannot be justified by any increase in the utility's cost of service or any improvement in the quality or reliability of service provided, but only by DRA's forced imposition of steep penalties on a minority of water users. DRA has completely failed to show why imposing such punitive rates on one group of customers while lowering water bills for most customers serves the State's policy of encouraging all Californians to reduce their water use

1. <u>Number of tiers</u>

DRA contends that a three-tier rate design with strong price signals, balanced with minimal bill impact, is the most effective method of fostering conservation. DRA OB, at 9. The contradiction between "strong signals" and "minimal impact" has been noted above. It also must be noted that there is no evidence in the record, beyond Mr. Burt's theoretical perspective, to support DRA's claim.

Commission policy does not require a three-tier rate design. To the contrary, the Commission's most recent statement on this subject was as follows: "We have not required trial programs to include a third tier or established parameters that would require a third tier."[11]

DRA argues that a three-tier design is consistent with rate design settlements adopted in the Water Conservation OII Id. at 10. But on the very next page of its brief, DRA then argues that a two-tier conservation rate structure adopted in a different one of those approved rate design settlements "has no precedential value." *Id.* at 11. DRA cannot have it both ways, citing some approved settlements as precedent but arguing that others that DRA no longer agrees with are not precedential – even though DRA, itself, was a party to each and every one of them![12]

Mr. Burt's three-tier rate design proposal is nothing more than DRA's current effort to concentrate a higher rate impact on a group of what DRA characterizes as "high use" customers. A two-tiered rate design can achieve the same result.[13] San Gabriel cautions against DRA's punitive approach in the present vacuum of reliable information about who those "high use" customers are, why they require the amount of water they use, and whether the less punitive conservation rates and much stronger water conservation programs San Gabriel advocates are more likely to induce them to reduce their use of water voluntarily. Either a two-tier or a three-tier rate design can be adopted, as San Gabriel has proposed them, without such a punitive effect.

2. <u>Break points between tiers</u>

.DRA's proposed tiers are defined by a break point between tiers 1 and 2 based on winter median usage and a break point between tiers 2 and 3 based on summer median usage,

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[11] *Water Conservation OII*, D.08-08-030, *mimeo.* at 21.

[12] By their terms and according to Commission procedure, none of the settlemetns can be cited as precedent.

[13] Conversely, when ALJ Weatherford directed San Gabriel to design a three-tier rate, Mr. Dell'Osa provided rates with virtually identical impacts on high-use customers as San Gabriel's two-tier rate proposal. Compare, Exhibit 6 (Dell'Osa/SGV), Att. 1, at 2, and Att. 2, at 2.

after reviewing five years of monthly water consumption. DRA OB, at 12-13. DRA defends its reliance on the winter median as an estimate of indoor water use by reference to a statewide "rule of thumb" of questionable relevance in the warm inland areas of Southern California, including both of San Gabriel's operating districts, where a substantial amount of landscape irrigation occurs even during the winter months.

San Gabriel witness Dell'Osa took a more practical and more effective approach, looking for a suitable "round number" and selecting the 20 Ccf/month break point approved for Suburban Water Systems as the break point between his two recommended tiers. DRA criticizes San Gabriel's approach as "cherry-picking" and "not a proper way to formulate a rate design that is intended to curtail customer usage." DRA OB, at 12. DRA's much more laborious approach produced very inconsistent results for San Gabriel's two operating divisions, with Tier 2 limits of 14 to 20 Ccf/month for the LAC division and 17 to 30 Ccf/month for the FWC division. *Id.* at 12-13. Such differences will complicate the delivery of conservation-related information to San Gabriel's customers for the sake of DRA's useless exactitude.

The purposes of the entire conservation rate design effort is to create one of many water conservation tools to modify customer water use behavior and reduce their water usage in years to come. Necessarily, the "five-years worth of monthly water consumption for each customer in the LAC and FWC divisions" that DRA witness Burt reviewed to compute winter and summer medians for the break points around Tier 2 (*id.* at 13) will be entirely ***irrelevant*** to the actual water use characteristics even of the mythical "median" customer – let alone San Gabriel's real, individual customers – within just a few years. Mr. Dell'Osa's practical and efficient approach – adopting an easily remembered and unchanging "round number" as the

break point between Tiers 1 and 2 is far preferable to DRA's laborious but unhelpful quest for mathematical support.[14]

DRA might respond that its theoretically-based break points can be adjusted by conducting a study in every triennial GRC. That, of course, would complicate the GRC process, adding another potentially contentious set of issues. More importantly, periodic revisions to the utility's rate structure will complicate and frustrate the effective delivery of conservation messages to customers, thereby defeating the goal of informed customers modifying their water usage habits and limiting their future use of water. Moreover, such a process may convince customers that their efforts to conserve only result in more stringent goals as the break points are lowered.

3. Rates for each tier

In a puzzling argument for its proposed rate design, DRA claims that reducing most customers' bills will not send an "anti-conservation message," because it will "reward" customers "who are already prudent in their indoor water use." DRA OB, at 14. There is no evidentiary basis for this conclusion, and DRA cites no evidence to support it. There is also no logical basis for the assertion, even in the abstract world where DRA has developed its rate design. A single person or a couple without children may be extremely wasteful in their use of water and still not face a bill increase under DRA's proposed rate design, while a large family with teen-age children may be moderate in their water use but still face punitive Tier 3 rates. DRA's assertion that its rate proposal is "carefully designed to address . . . discretionary outdoor use" fails the test of real world application.

DRA quotes Mr. Burt's assertion that increasing the price of water for outdoor usage will change usage more than decreasing the price of water used indoors, as demonstrated by a "classic demand curve." Apart from Mr. Burt's conclusionary statement, DRA provided no

[14] Mr. Dell'Osa applied the same common-sense approach to designing an alternative, three-tier rate design, applying easily remembered break points of 15 Ccf and 30 Ccf/month for that proposal. Exhibit 6 (Dell'Osa/SGV), at 2-3; Tr. 184:27-185:22 (Dell'Osa/SGV).

evidence whatsoever to support his assumptions that indoor water usage will be billed entirely within DRA's proposed first tier and that excessive outdoor water usage will be billed only within DRA's third tier. See, DRA OB, at 14-15; Tr. 219:20-220:15 (Burt/DRA).

DRA also makes an abstract argument to support using Average Incremental Cost ("AIC") as "a guide for designing increasing block rates." DRA OB, at 15-16. DRA failed to follow through on its own advice, proposing highest tier rates unrelated to, and for the LAC division far higher than, AIC. A more fundamental problem is that DRA fails to address witness Dell'Osa's testimony that customers have no reason to consider supplier costs (such as AIC) when making purchasing decisions and that AIC, while relevant to economically efficient pricing, is ***not*** relevant to pricing intended to reduce water consumption based on non-economic factors. See, San Gabriel OB, at 10-12, citing Exhibit 2 (Dell'Osa/SGV), at 2-4 and Exhibit 4 (Dell'Osa/SGV), at 2-3.[15]

DRA sees a contradiction in Mr. Dell'Osa's testimony that it "remains to be seen" whether a 10% tiered rate difference will be enough to motivate reduced consumption, but that it will be difficult to gauge the isolated effect of conservation rates. DRA OB, at 16. There is no contradiction. Both statements are true. It is too soon to know at this time how effective the Company's rate design will be in reducing consumption, particularly because of the multitude of other measures concurrently affecting water use – such as weather conditions (temperature, precipitation, humidity), economic conditions (income, unemployment, foreclosures), social conditions (home ownership, household size), and increasingly intensive water conservation programs (customer information, distribution of water-efficient appliances and fixtures). It is the

[15] Yet another problem with DRA's attempts to determine and apply AIC is DRA's failure to distinguish conservation from demand management. AIC, which features both fixed and variable cost components, is useful not for conservation but for demand management and setting time-of-use rates, because the incremental production resource will be needed to serve peak demand and pricing peak usage at AIC may tend to shift usage to off-peak periods. A conservation policy, unlike demand management, does not seek to shift usage but rather seeks to reduce use of the resource at any time – and would not affect the need for production infrastructure to meet peak demand.

long-term sustainable reduction in water usage, not just that resulting from conservation rates, that is the goal. DRA disregards these important and material facts.

DRA seeks to justify its proposed price differentials between its three proposed tiers based on a comparison with the range of tier differentials that the Commission has approved for other Class A water utilities. DRA OB, at 17 and App. A. From a comparison of more than 40 different sets of authorized rates, DRA states that the Commission has adopted differentials between Tier 1 and Tier 2 rates ranging from 5% to 100% and between Tier 2 and Tier 3 rates ranging from 5% to 50%. *Id.*[16] DRA then misleadingly argues that the differentials of 11% and 29% between Tier 1 and 2 rates and of 29% and 46% between Tier 2 and 3 rates that it proposes for San Gabriel's FWC and LAC divisions fall within the ranges of tier differentials the Commission has approved for other utilities. Id. This is a disappointingly weak way for DRA to try to justify the inconsistent tier differentials it proposes for San Gabriel's two operating divisions. Obviously, fitting within a range of 5% to 100% proves no adherence to any principle of rate design.

What DRA's fails to disclose is that the 100% figure for Tier 1/Tier 2 and the 50% figure for Tier 2/Tier 3 are obvious "outliers" – each occurring only once, for California American Water Company's Monterey district, and strikingly greater than the tier differentials for any of the 42 other companies or districts listed on DRA's chart. California American's Monterey district is a uniquely stressed water system, subject to a severe long-term water shortage due in part to regulatory mandates to give up most use of its primary water source, the Carmel River[17] and in part to reliance on an overdrafted groundwater basin subject to an ongoing adjudication.[18] . The Commission adopted a uniquely aggressive rate design to address that uniquely pressing

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[16] In fact, DRA's Appendix A indicates Tier 1 to Tier 2 differentials of just 2% for two California Water Service districts.

[17] State Water Resources Control Board, Order No. WR 95-10, July 6, 1995; *Re California American Water Co. (Monterey District)*, D.06-11-050, at 59; see also, State Water Resources Control Board, Re Unauthorized Diversion of Water by California American Water Company, Order WR 2009-0060, adopted October 20, 2009.

[18] See, California *American Water vs. City of Seaside et. al.* Monterey County Sup. Ct., Case No. M66343, February 9, 2007.

problem.[19] No such urgency or necessity has driven the Commission's adoption of conservation rate designs for any of the other 42 water systems listed on DRA's chart, nor does such urgency or necessity apply in the present case.

Removing California American's Monterey district from the ranges of tier differentials indicated by DRA's Appendix A leaves a range of 2% to 22% for the differential between Tiers 1 and 2 and a range of 5% to 20% for the differential between Tiers 2 and 3. For San Gabriel, DRA proposes differentials of 11% and 29% between Tier 1 and 2 rates and of 29% and 46% between Tier 2 and 3 rates for the FWC and LAC divisions, respectively. In other words, three of the four tier differentials DRA proposes to impose on San Gabriel and its customers are substantially greater than the Commission has authorized for ***ANY*** other water system – with the exception of the uniquely stressed Monterey district of California American Water Company. DRA has utterly failed to justify that extreme and unprecedented proposal.

DRA wrongly states that San Gabriel believes increasing block rates are not effective in reducing consumption. DRA OB, at 17. However, that is not San Gabriel's position. Increasing block rates can be effective if, as in California American's Monterey district, they are set high enough to approach the true value of water for customers. But such a result is not practical or desirable in the context of a revenue neutral rate design and a non-emergency situation, where other equally effective, or even more effective, long-term water conservation tools are available. Moreover, the goal of this pilot program is to introduce customers to the concept of tiered rates, not to overwhelm them with extreme bill impacts that may or may not be needed to achieve a 10% reduction in water use by 2015 and a 20% reduction by the end of the next decade.

DRA misapplies economic theory in stating that "customers always equate their marginal value of a good or service with the price of that good or service." DRA OB, at 18. That

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[19] "In Monterey Division CalAm faces extraordinary water supply challenges and needs tools to address them beyond those we ordinarily would support." *Re California-American Water Co. (Monterey District)*, D.00-03-053, *mimeo.* at 24.

principle applies only if it is assumed that customers have perfect knowledge of all relevant information at the time of consumption. Few customers understand the complex structure of water rates or the amount (or price) of water used for any activity. If they did, that knowledge would be unlikely to stimulate conservation, because the cost of water and its price, due to the effectiveness of public subsidies for statewide water supply projects, are simply too low to be a major inducement to conserve.[20] Therefore, the academic description of marginal value in DRA's brief, at 18-19, has no relevance to water conservation ratemaking.

DRA concludes its discussion of "rates for each tier" with an odd discussion of seasonal rates, which has no foundation in the evidentiary record. DRA asserts that seasonal rates "are useful in achieving conservation" because they can provide a price signal to customers who may be doing discretionary outdoor watering during the summer. DRA OB, at 19. DRA might be arguing that setting rates higher in the summertime is a way to ratchet up bills that will already be higher due to seasonally higher upper tier usage. DRA then launches into a detailed description of seasonal rates recently adopted by settlement for a pair of California American Water Company districts. *Id.* at 19-20. These statements are not based on any evidence of record in this case and have no relevance to any issues presented in this proceeding.

E. Implementation

DRA's brief discussion of the implementation date for the decision in this proceeding is difficult to decipher. DRA claims San Gabriel has stated it intends to submit a report on "customer miscategorization" within 30 days of the decision but cites no record evidence for such a claim. DRA OB, at 20. San Gabriel finds no such statement in the record and sees no use in submitting such a report. DRA then makes inconsistent recommendations for an

[20] This circumstance is unlikely to change, judging by the most recent actions by the California Legislature to fund massive water infrastructure projects crucial to future statewide water supply by $11.1 billion in general obligation bonds, rather than by revenue bonds that would be financed by the water systems and water users. See, "Lawmakers OK $11 billion water revamp," SAN FRANCISCO CHRONICLE (November 5, 2009), at A14; see also, SB 2 (7th Ex. Sess.) (Cogdill), enrolled July 5, 2009..

implementation date, apparently proposing an accelerated implementation date if the decision is delayed. *Id.* No justification for such an odd procedure is provided.

San Gabriel strongly recommends, as both San Gabriel and DRA previously recommended, that the rate design adopted in this proceeding be made effective July 1, 2010. This effective date will serve two important purposes. First, it will provide sufficient time after the Commission's decision is adopted for San Gabriel to inform customers of the new rate design and for customers to begin to adjust their water use practices in response to the new tiered rates. Also, it will allow San Gabriel to coordinate implementation of the new rate design with other rate changes that will be effective July 1, 2010 – including escalation year rate adjustments for both the LAC and FWC division pursuant to recent GRC Decisions 08-06-022 and 09-06-027, respectively.

San Gabriel described in its opening brief the process by which the Company reclassified a significant number of customers previously included in the Residential class but now recognized to be non-residential customers and by which witness Dell'Osa then adjusted his Residential sales and revenue calculations and consequently his proposed rates to reflect the reclassification of customers. San Gabriel OB, at 24-27. An essential element of Mr. Dell'Osa's adjustments was to calculate the ratio of the five-year average sales prior to and after the reclassification of customers, and then to apply that ratio to adjust Commission-adopted sales and revenue figures for the Residential class and, on that basis, his proposed rates. See generally, Exhibit 6 (Dell'Osa/SGV); Tr. 179:13-180:14, 263:1-268:14 (Dell'Osa/SGV).

DRA now argues that San Gabriel has not met its burden of proof that using the ratio of the five-year average sales prior to and after the reclassification of customers is necessary and appropriate in order to adjust sales and revenues and recalculate proposed rates. DRA OB, at 21. San Gabriel disagrees. Mr. Dell'Osa clearly and cogently explained the need for his adjustments and the appropriateness of the adjustments he made. However, the Commission could readily review San Gabriel's pilot tiered-rate program, including calculation of sales and

revenue for the Residential class and if necessary, consider changes in rate design in San Gabriel's next GRC.

DRA goes on to claim that it has calculated the quantity revenues that would shift from the Residential class to the "non-residential customer class" under San Gabriel's proposed rate design and therefore argues that the proposed rate design is not revenue neutral. DRA claims to find "overcollections" of $970,719 and $323,054 in the two divisions, calculated by multiplying the ratio of adjusted to original Residential sales by the "number of units of water" reclassified to the "non-residential customer class" and then by the adopted single quantity rate. DRA OB, at 21. DRA provides no support for these calculations or for its conclusions, but it is clear that they are irrelevant to the adjustments Mr. Dell'Osa made. What DRA describes as "the number of units of water San Gabriel proposes to shift from the residential to the non-residential customer class" will be sold to the same customers (paying the same Service Charges) at the same Quantity Rates that they pay today – because those customers have been reclassified as non-residential and so will not be subject to any change in rates as a result of this proceeding. The whole point of Mr. Dell'Osa's adjustments was to remove sales and revenues for those customers from the "adopted sales" and "adopted revenues" for the Residential class that will be affected by San Gabriel's proposed tiered-rate design. Thus, the amounts DRA considers to be "overcollections" already have been deducted from the Residential class calculations, leaving the overall result the same as it should be for the Company's revenue-neutral proposal.

In sum, the Commission should ignore the "Implementation" section of DRA's Opening Brief. In any event, as noted at page 6, above, the Commission should adopt a "rate calculation methodology" rather than adopting specific rates in this proceeding.

III.

PROPOSED ADJUSTMENT AND TRACKING MECHANISMS

A. Water Revenue Adjustment Mechanism

DRA appears overly concerned to prevent San Gabriel from giving away water service for free and then charging the WRAM for the "lost" revenue, that is, foregoing the current billing and collection of water service revenues in favor of deferring that revenue to an uncertain future date when it might be authorized to amortize any balance. See, DRA OB, at 22-25. DRA has made no showing that San Gabriel routinely writes off legitimate water charges or that San Gabriel has any intention of modifying its bill adjustment practices with the adoption of a WRAM.

Such a notion defies common sense and sound business practices. San Gabriel already has explained that the proposed Monterey-style WRAM will be based on recorded sales and revenues, so the bill adjustment issue is not relevant . San Gabriel OB, at 29. There is no evidentiary basis for DRA's alleged concern.

As Mr. Dell'Osa testified and San Gabriel noted in its Opening Brief, DRA's proposal to exclude necessary and routine adjustments for billing errors from the WRAM would create an administrative burden to isolate and track such exclusions, and so would hinder the Company from making justifiable adjustments. See, San Gabriel OB, at 28; Exhibit 3 (Dell'Osa/SGV), at 16. DRA fails to address this administrative burden.

As noted in the Introduction, above, San Gabriel's proposal of a Monterey-style WRAM was premised on implementing a pilot program taking moderate steps toward a conservation-oriented rate design. This is because a Monterey-style WRAM will not protect San Gabriel's revenues against fluctuations in sales, whether due to conservation or other factors, and a drastic shift of revenue requirement from Service Charges to Quantity Rates, with or without the severely sloped Quantity Rates DRA proposes, would place the stability of San Gabriel's revenues in jeopardy. Adoption of a more drastic revision to San Gabriel's rates than the Company has proposed, along the lines of DRA's proposals, would significantly increase the

potential for severe revenue losses and would require San Gabriel to implement a "full" WRAM, providing for the full decoupling of revenues from sales. See, San Gabriel OB, at 29-30.

B. Supply Cost Balancing Accounts

DRA asserts without any substantive basis that the existing Full Cost Balancing Accounts ("FCBAs") for the FWC division disadvantages ratepayers because it does not give San Gabriel an incentive to maintain the least cost water mix, and that an Incremental Cost Balancing Account ("ICBA") would "ensure the lowest-cost water mix." DRA OB, at 25. DRA fails to consider or rebut the important considerations that justify maintaining FCBAs for the FWC division due to the highly variable and unpredictable availability of surface versus ground water in that division, the corresponding material differences in the costs of such supplies, San Gabriel's very limited ability to control its supply mix in the FWC division, and the strong incentives San Gabriel has to maximize its use of less costly surface water when it is available. See, San Gabriel OB, at 30-32.

Nor does DRA so much as acknowledge the Commission's 2004 decision expressly approving San Gabriel's continued use of FCBAs for the FWC division, where the Commission reasoned as follows:

> We note that for Fontana Division both water production and power supply costs are subject to wide variations and the supply mix is determined by hydrological conditions that are beyond San Gabriel's ability to predict or control. The full cost balancing account mitigates the risk of inaccurate forecasting and changed hydrological conditions and ensures that customers only pay the actual cost of service. There is no opposition to Fontana Division's continued use of full cost balancing accounts. Therefore, we grant San Gabriel's request.[21]

DRA has made no showing to justify reversing the Commission's 2004 decision on this important issue. Nor has DRA recognized that the Modified Cost Balancing Accounts approved by the Commission for other Class A water utilities are much more similar to FCBAs than to the

[21] *Re San Gabriel Valley Water Co. (Fontana Water Co. Division*), D. 04-07-034, *mimeo.* at 62, quoted at Tr. 200:24-201:13 (Dell'Osa/SGV).

ICBAs DRA advocates. San Gabriel should be permitted to retain its FCBAs in the FWC division.

C. Conservation Memorandum Account

DRA strenuously opposes San Gabriel's request for authorization to establish a conservation memorandum account, applying the four-prong test stated in Resolution W-4276. DRA argues that San Gabriel's request does not meet any of the elements of that test. DRA OB, at 25-28.

DRA continues to avoid mentioning that the Commission directed San Gabriel to propose a conservation memorandum account as one of the elements of this application.[22] In that context, applying the often-used four (or five) prong test is may not be appropriate. As San Gabriel noted in its Opening Brief, San Gabriel sees need for a conservation memorandum account to track the costs of extraordinary water conservation programs and activities not expressly identified in a prior GRC or within the scope of GRC-approved conservation budgets, in order to be able to implement such programs or activities without having to await the outcome of the next GRC. As Mr. Dell'Osa explained, conservation programs are being developed and refined at a more rapid pace than can be effectively addressed by the triennial GRC process. See, San Gabriel OB, at 34. In the public interest, the Commission or other government agencies may spur the pace of such program development beyond San Gabriel's ability to control. Thus, despite DRA's nay-saying, San Gabriel's conservation memorandum account proposal meets all the elements of the four (or five) prong test.

The Legislature's enactment just last week of SB 7 (7th Ex. Sess.) confirms the wisdom of allowing San Gabriel to establish a memorandum account to track (for potential future recovery) unanticipated conservation program costs. As noted in the Introduction to this Reply Brief, the new law will enshrine in the California Water Code the Governor's policy goal of

[22] See, *Re San Gabriel Valley Water Co. (Los Angeles County Division)*, D.08-06-022, *mimeo.* at 73 (Ordering Paragraph 13).

achieving a 20% reduction in urban per capita water use in California by 2020 and will require every urban retail water supplier to develop water use targets and achieve at least a 10% reduction by 2015.[23] Significantly, the new legislation provides that all costs Commission-regulated water utilities such as San Gabriel incur pursuant to the new law may be recoverable in rates subject to the Commission's review and approval and "may be recorded in a memorandum account and reviewed for reasonableness" by the Commission.[24] San Gabriel's proposed conservation memorandum account certainly fits that bill.

IV.

CUSTOMER EDUCATION AND OUTREACH

.San Gabriel agrees with DRA's recommendations for specific "low or no cost" conservation public outreach and education efforts.

V.

REPORTING REQUIREMENTS

.San Gabriel does not agree with DRA's recommendations for what DRA claims to be "simple and easily provided" reporting requirements – including the submission of monthly and annual usage data for every customer, the reporting of meter reading "errors" caused by "late" reading of meters, and providing "information" about any "division-specific factor that might contribute to consumption changes.". DRA OB, at . 30. As Mr. Dell'Osa testified and San Gabriel previously has shown, these proposed requirements would impose significant burdens without making it possible to isolate conservation effects from other impacts on water usage, such as weather and the economy. See, San Gabriel OB, at 38-39. In addition, the provision of customer-specific data may require obtaining the consent of each customer, posing an added burden.

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[23] See, SB 7 (7th Ex. Sess.) (Steinberg), new Water Code §§10608.16, 10608.20, 10608.24. As noted above, a copy of SB 7 (7th Ex. Sess.), is appended to this brief as Attachment A, and San Gabriel respectfully urges the Commission to take official notice of it.

[24] *Id.*, new Water Code §10608.32.

DRA's concern about meter reading "errors" due to "late" reads is unjustified. San Gabriel's Tariff Rule No. 9 allows a week-long window (between 27 and 33 days) for meter reading before a Service Charge must be prorated. Depending on the timing of meter readings compliant with the tariff, a customer may be subject to more or fewer units of billing at upper tier rates, but that does not mean the meter reading is "late" nor does it mean there is any "unjustified crossing of tiers."

This is another example of DRA's abstract and unrealistic quest for precision in conservation rate design. In order to permit water utilities to continue to operate on an efficient basis – at least until the day when there are "advanced meters" in place that can be read remotely on the same day of every month – utilities must be allowed some leeway to have billing periods vary moderately from month to month. If this makes data collection less perfect, it is not a serious loss, because rate design based on "round numbers" will be just as effective in achieving conservation as DRA's quest for needless and costly precision.

DRA proposes that San Gabriel be required to provide information about "substantial weather or supply interruptions or other division-specific factor[s] that might contribute to consumption changes in each division." DRA OB, at 30. This proposal is exceedingly vague and could result in an extremely burdensome reporting obligation. San Gabriel urges the Commission to recognize that DRA's quest to understand all details of water use and all their causative factors is an enormously expensive and probably futile proposition. Moreover, as envisioned and required by the recently enacted SB 7, it would be more appropriate for the Commission to work with the Department of Water Resources and other state agencies to develop a uniform set of water use reporting requirements for all urban retail water suppliers that is less burdensome and more effective.

Finally, DRA alleges a lack of adequate records of the customer reclassifications that San Gabriel has implemented in the past several months, complaining that a "lack of record-keeping" does not allow an audit of the reclassification. DRA OB, at 31. If DRA really wishes to

know which customers have been reclassified, they can survey customer addresses at two different points in time and develop such information. But the point of such an exercise is difficult to fathom. San Gabriel's lists of customers change constantly; the only classification of customers that will matter in practical terms will be the one that applies when the Commission approves tiered rates for Residential customers in single family homes or duplexes.

VI.

DISCOUNT FOR LOW INCOME CUSTOMERS

.DRA proposes a host of complicated and unnecessary procedures for minutely adjusting rate discounts for low-income customers. DRA claims to favor a "flat dollar discount" – a proposition with which San Gabriel agrees. San Gabriel has proposed a uniform $10.00 discount per service connection, which could be subject to adjustment as eligibility limits are increased each year. DRA, however, proposes substantially different discounts of $8.29 and $10.02 for San Gabriel's two divisions – based on a complicated and now outdated reliance on fixed cost recovery through Service Charges. See, DRA OB, at 33. To make matters more complicated, DRA wants the low-income discount recalculated with every change in San Gabriel's rates, in order to "keep up" with increases in overall rates. *Id.* at 34. These recalculations may be controversial and, contrary to DRA's intent, will not necessarily "keep up" with rate increases, since, for example, supply cost offsets adjust only the Quantity Rates and so will not affect Service Charges including, under DRA's formulation, the low-income discount.

For the sake of customer understanding and administrative efficiency, San Gabriel urges the Commission to authorize a uniform dollar amount as the low-income discount in both San Gabriel's operating districts, with that discount to be adjusted ratably with changes in the eligibility limits for the low-income rate program.

VII.

CONCLUSION

San Gabriel respectfully urges the Commission to approve a pilot program for water conservation rate design and related accounting mechanisms and reporting procedures that pursues a practical approach toward raising customers' awareness of the importance of water conservation, while avoiding harsh or punitive effects on customers and also avoiding undue administrative burdens on the utility. Mr. Dell'Osa's testimony and San Gabriel's Opening Brief have charted such a course for the Commission, and the present Reply Brief indicates a number of ways in which DRA's overly complex and theoretically abstract proposals would drive the Commission's conservation program off that course. San Gabriel urges he Commission to approve San Gabriel's proposals and to reject those of DRA that are inconsistent with a moderate, realistic approach to water conservation rate design.

Respectfully submitted,

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Attorneys for APPLICANT, SAN GABRIEL VALLEY WATER COMPANY

November 10, 2009

ATTACHMENT A

Senate Bill No. 7

Passed the Senate November 4, 2009

_____

Secretary of the Senate

Passed the Assembly November 3, 2009

_____

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day

of _____, 2009, at _____ o'clock ____M.

_____

Private Secretary of the Governor

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(2) Existing law, until January 1, 1993, and thereafter only as specified, requires certain agricultural water suppliers to prepare and adopt water management plans.

This bill would revise existing law relating to agricultural water management planning to require agricultural water suppliers to prepare and adopt agricultural water management plans with specified components on or before December 31, 2012, and update those plans on or before December 31, 2015, and on or before December 31 every 5 years thereafter. An agricultural water supplier that becomes an agricultural water supplier after December 31, 2012, would be required to prepare and adopt an agricultural water management plan within one year after becoming an agricultural water supplier. The agricultural water supplier would be required to notify each city or county within which the supplier provides water supplies with regard to the preparation or review of the plan. The bill would require the agricultural water supplier to submit copies of the plan to the department and other specified entities. The bill would provide that an agricultural water supplier is not eligible for state water grants or loans unless the supplier complies with the water management planning requirements established by the bill.

(3) The bill would take effect only if SB 1 and SB 6 of the 2009–10 7th Extraordinary Session of the Legislature are enacted and become effective.

The people of the State of California do enact as follows:

SECTION 1. Part 2.55 (commencing with Section 10608) is added to Division 6 of the Water Code, to read:

PART 2.55. SUSTAINABLE WATER USE AND DEMAND REDUCTION

CHAPTER 1. GENERAL DECLARATIONS AND POLICY

10608. The Legislature finds and declares all of the following:

(a) Water is a public resource that the California Constitution protects against waste and unreasonable use.

(b) Growing population, climate change, and the need to protect and grow California's economy while protecting and restoring our

efficiency by the year 2020, in accordance with the Governor's goal of a 20-percent reduction.

(e) Establish consistent water use efficiency planning and implementation standards for urban water suppliers and agricultural water suppliers.

(f) Promote urban water conservation standards that are consistent with the California Urban Water Conservation Council's adopted best management practices and the requirements for demand management in Section 10631.

(g) Establish standards that recognize and provide credit to water suppliers that made substantial capital investments in urban water conservation since the drought of the early 1990s.

(h) Recognize and account for the investment of urban retail water suppliers in providing recycled water for beneficial uses.

(i) Require implementation of specified efficient water management practices for agricultural water suppliers.

(j) Support the economic productivity of California's agricultural, commercial, and industrial sectors.

(k) Advance regional water resources management.

10608.8. (a) (1) Water use efficiency measures adopted and implemented pursuant to this part or Part 2.8 (commencing with Section 10800) are water conservation measures subject to the protections provided under Section 1011.

(2) Because an urban agency is not required to meet its urban water use target until 2020 pursuant to subdivision (b) of Section 10608.24, an urban retail water supplier's failure to meet those targets shall not establish a violation of law for purposes of any state administrative or judicial proceeding prior to January 1, 2021. Nothing in this paragraph limits the use of data reported to the department or the board in litigation or an administrative proceeding. This paragraph shall become inoperative on January 1, 2021.

(3) To the extent feasible, the department and the board shall provide for the use of water conservation reports required under this part to meet the requirements of Section 1011 for water conservation reporting.

(b) This part does not limit or otherwise affect the application of Chapter 3.5 (commencing with Section 11340), Chapter 4 (commencing with Section 11370), Chapter 4.5 (commencing with

water supplier or its urban wholesale water supplier, the urban retail water supplier may extend the calculation described in paragraph (1) up to an additional five years to a maximum of a continuous 15-year period ending no earlier than December 31, 2004, and no later than December 31, 2010.

(3) For the purposes of Section 10608.22, the urban retail water supplier's estimate of its average gross water use, reported in gallons per capita per day and calculated over a continuous five-year period ending no earlier than December 31, 2007, and no later than December 31, 2010.

(c) "Baseline commercial, industrial, and institutional water use" means an urban retail water supplier's base daily per capita water use for commercial, industrial, and institutional users.

(d) "Commercial water user" means a water user that provides or distributes a product or service.

(e) "Compliance daily per capita water use" means the gross water use during the final year of the reporting period, reported in gallons per capita per day.

(f) "Disadvantaged community" means a community with an annual median household income that is less than 80 percent of the statewide annual median household income.

(g) "Gross water use" means the total volume of water, whether treated or untreated, entering the distribution system of an urban retail water supplier, excluding all of the following:

(1) Recycled water that is delivered within the service area of an urban retail water supplier or its urban wholesale water supplier.

(2) The net volume of water that the urban retail water supplier places into long-term storage.

(3) The volume of water the urban retail water supplier conveys for use by another urban water supplier.

(4) The volume of water delivered for agricultural use, except as otherwise provided in subdivision (f) of Section 10608.24.

(h) "Industrial water user" means a water user that is primarily a manufacturer or processor of materials as defined by the North American Industry Classification System code sectors 31 to 33, inclusive, or an entity that is a water user primarily engaged in research and development.

(i) "Institutional water user" means a water user dedicated to public service. This type of user includes, among other users,

local water reliability or any of the following alternative sources of water:

(1) The capture and reuse of stormwater or rainwater.

(2) The use of recycled water.

(3) The desalination of brackish groundwater.

(4) The conjunctive use of surface water and groundwater in a manner that is consistent with the safe yield of the groundwater basin.

(o) "Reporting period" means the years for which an urban retail water supplier reports compliance with the urban water use targets.

(p) "Urban retail water supplier" means a water supplier, either publicly or privately owned, that directly provides potable municipal water to more than 3,000 end users or that supplies more than 3,000 acre-feet of potable water annually at retail for municipal purposes.

(q) "Urban water use target" means the urban retail water supplier's targeted future daily per capita water use.

(r) "Urban wholesale water supplier," means a water supplier, either publicly or privately owned, that provides more than 3,000 acre-feet of water annually at wholesale for potable municipal purposes.

Chapter 3. Urban Retail Water Suppliers

10608.16. (a) The state shall achieve a 20-percent reduction in urban per capita water use in California on or before December 31, 2020.

(b) The state shall make incremental progress towards the state target specified in subdivision (a) by reducing urban per capita water use by at least 10 percent on or before December 31, 2015.

10608.20. (a) (1) Each urban retail water supplier shall develop urban water use targets and an interim urban water use target by July 1, 2011. Urban retail water suppliers may elect to determine and report progress toward achieving these targets on an individual or regional basis, as provided in subdivision (a) of Section 10608.28, and may determine the targets on a fiscal year or calendar year basis.

(2) It is the intent of the Legislature that the urban water use targets described in subdivision (a) cumulatively result in a

(A) Consider climatic differences within the state.

(B) Consider population density differences within the state.

(C) Provide flexibility to communities and regions in meeting the targets.

(D) Consider different levels of per capita water use according to plant water needs in different regions.

(E) Consider different levels of commercial, industrial, and institutional water use in different regions of the state.

(F) Avoid placing an undue hardship on communities that have implemented conservation measures or taken actions to keep per capita water use low.

(c) If the department adopts a regulation pursuant to paragraph (4) of subdivision (b) that results in a requirement that an urban retail water supplier achieve a reduction in daily per capita water use that is greater than 20 percent by December 31, 2020, an urban retail water supplier that adopted the method described in paragraph (4) of subdivision (b) may limit its urban water use target to a reduction of not more than 20 percent by December 31, 2020, by adopting the method described in paragraph (1) of subdivision (b).

(d) The department shall update the method described in paragraph (4) of subdivision (b) and report to the Legislature by December 31, 2014. An urban retail water supplier that adopted the method described in paragraph (4) of subdivision (b) may adopt a new urban daily per capita water use target pursuant to this updated method.

(e) An urban retail water supplier shall include in its urban water management plan required pursuant to Part 2.6 (commencing with Section 10610) due in 2010 the baseline daily per capita water use, urban water use target, interim urban water use target, and compliance daily per capita water use, along with the bases for determining those estimates, including references to supporting data.

(f) When calculating per capita values for the purposes of this chapter, an urban retail water supplier shall determine population using federal, state, and local population reports and projections.

(g) An urban retail water supplier may update its 2020 urban water use target in its 2015 urban water management plan required pursuant to Part 2.6 (commencing with Section 10610).

(h) (1) The department, through a public process and in consultation with the California Urban Water Conservation

10608.22. Notwithstanding the method adopted by an urban retail water supplier pursuant to Section 10608.20, an urban retail water supplier's per capita daily water use reduction shall be no less than 5 percent of base daily per capita water use as defined in paragraph (3) of subdivision (b) of Section 10608.12. This section does not apply to an urban retail water supplier with a base daily per capita water use at or below 100 gallons per capita per day.

10608.24. (a) Each urban retail water supplier shall meet its interim urban water use target by December 31, 2015.

(b) Each urban retail water supplier shall meet its urban water use target by December 31, 2020.

(c) An urban retail water supplier's compliance daily per capita water use shall be the measure of progress toward achievement of its urban water use target.

(d) (1) When determining compliance daily per capita water use, an urban retail water supplier may consider the following factors:

(A) Differences in evapotranspiration and rainfall in the baseline period compared to the compliance reporting period.

(B) Substantial changes to commercial or industrial water use resulting from increased business output and economic development that have occurred during the reporting period.

(C) Substantial changes to institutional water use resulting from fire suppression services or other extraordinary events, or from new or expanded operations, that have occurred during the reporting period.

(2) If the urban retail water supplier elects to adjust its estimate of compliance daily per capita water use due to one or more of the factors described in paragraph (1), it shall provide the basis for, and data supporting, the adjustment in the report required by Section 10608.40.

(e) When developing the urban water use target pursuant to Section 10608.20, an urban retail water supplier that has a substantial percentage of industrial water use in its service area, may exclude process water from the calculation of gross water use to avoid a disproportionate burden on another customer sector.

(f) (1) An urban retail water supplier that includes agricultural water use in an urban water management plan pursuant to Part 2.6 (commencing with Section 10610) may include the agricultural water use in determining gross water use. An urban retail water

(2) This part shall not be construed or enforced so as to interfere with the requirements of Chapter 4 (commencing with Section 113980) to Chapter 13 (commencing with Section 114380), inclusive, of Part 7 of Division 104 of the Health and Safety Code, or any requirement or standard for the protection of public health, public safety, or worker safety established by federal, state, or local government or recommended by recognized standard setting organizations or trade associations.

10608.28. (a) An urban retail water supplier may meet its urban water use target within its retail service area, or through mutual agreement, by any of the following:

(1) Through an urban wholesale water supplier.

(2) Through a regional agency authorized to plan and implement water conservation, including, but not limited to, an agency established under the Bay Area Water Supply and Conservation Agency Act (Division 31 (commencing with Section 81300)).

(3) Through a regional water management group as defined in Section 10537.

(4) By an integrated regional water management funding area.

(5) By hydrologic region.

(6) Through other appropriate geographic scales for which computation methods have been developed by the department.

(b) A regional water management group, with the written consent of its member agencies, may undertake any or all planning, reporting, and implementation functions under this chapter for the member agencies that consent to those activities. Any data or reports shall provide information both for the regional water management group and separately for each consenting urban retail water supplier and urban wholesale water supplier.

10608.32. All costs incurred pursuant to this part by a water utility regulated by the Public Utilities Commission may be recoverable in rates subject to review and approval by the Public Utilities Commission, and may be recorded in a memorandum account and reviewed for reasonableness by the Public Utilities Commission.

10608.36. Urban wholesale water suppliers shall include in the urban water management plans required pursuant to Part 2.6 (commencing with Section 10610) an assessment of their present and proposed future measures, programs, and policies to help achieve the water use reductions required by this part.

(e) Identification of technical feasibility and cost of the best management practices to achieve more efficient water use statewide in the commercial, industrial, and institutional sectors that is consistent with the public interest and reflects past investments in water use efficiency.

10608.44. Each state agency shall reduce water use on facilities it operates to support urban retail water suppliers in meeting the target identified in Section 10608.16.

Chapter 4. Agricultural Water Suppliers

10608.48. (a) On or before July 31, 2012, an agricultural water supplier shall implement efficient water management practices pursuant to subdivisions (b) and (c).

(b) Agricultural water suppliers shall implement all of the following critical efficient management practices:

(1) Measure the volume of water delivered to customers with sufficient accuracy to comply with subdivision (a) of Section 531.10 and to implement paragraph (2).

(2) Adopt a pricing structure for water customers based at least in part on quantity delivered.

(c) Agricultural water suppliers shall implement additional efficient management practices, including, but not limited to, practices to accomplish all of the following, if the measures are locally cost effective and technically feasible:

(1) Facilitate alternative land use for lands with exceptionally high water duties or whose irrigation contributes to significant problems, including drainage.

(2) Facilitate use of available recycled water that otherwise would not be used beneficially, meets all health and safety criteria, and does not harm crops or soils.

(3) Facilitate the financing of capital improvements for on-farm irrigation systems.

(4) Implement an incentive pricing structure that promotes one or more of the following goals:

(A) More efficient water use at the farm level.

(B) Conjunctive use of groundwater.

(C) Appropriate increase of groundwater recharge.

(D) Reduction in problem drainage.

(E) Improved management of environmental resources.

supplier determines that an efficient water management practice is not locally cost effective or technically feasible, the supplier shall submit information documenting that determination.

(e) The data shall be reported using a standardized form developed pursuant to Section 10608.52.

(f) An agricultural water supplier may meet the requirements of subdivisions (d) and (e) by submitting to the department a water conservation plan submitted to the United States Bureau of Reclamation that meets the requirements described in Section 10828.

(g) On or before December 31, 2013, December 31, 2016, and December 31, 2021, the department, in consultation with the board, shall submit to the Legislature a report on the agricultural efficient water management practices that have been implemented and are planned to be implemented and an assessment of the manner in which the implementation of those efficient water management practices has affected and will affect agricultural operations, including estimated water use efficiency improvements, if any.

(h) The department may update the efficient water management practices required pursuant to subdivision (c), in consultation with the Agricultural Water Management Council, the United States Bureau of Reclamation, and the board. All efficient water management practices for agricultural water use pursuant to this chapter shall be adopted or revised by the department only after the department conducts public hearings to allow participation of the diverse geographical areas and interests of the state.

(i) (1) The department shall adopt regulations that provide for a range of options that agricultural water suppliers may use or implement to comply with the measurement requirement in paragraph (1) of subdivision (b).

(2) The initial adoption of a regulation authorized by this subdivision is deemed to address an emergency, for purposes of Sections 11346.1 and 11349.6 of the Government Code, and the department is hereby exempted for that purpose from the requirements of subdivision (b) of Section 11346.1 of the Government Code. After the initial adoption of an emergency regulation pursuant to this subdivision, the department shall not request approval from the Office of Administrative Law to readopt the regulation as an emergency regulation pursuant to Section 11346.1 of the Government Code.

compliance with conservation targets pursuant to Section 10608.24 and an agricultural water supplier's compliance with implementation of efficient water management practices pursuant to subdivision (a) of Section 10608.48. The form shall accommodate reporting by urban water suppliers on an individual or regional basis as provided in subdivision (a) of Section 10608.28.

Chapter 7. Funding Provisions

10608.56. (a) On and after July 1, 2016, an urban retail water supplier is not eligible for a water grant or loan awarded or administered by the state unless the supplier complies with this part.

(b) On and after July 1, 2013, an agricultural water supplier is not eligible for a water grant or loan awarded or administered by the state unless the supplier complies with this part.

(c) Notwithstanding subdivision (a), the department shall determine that an urban retail water supplier is eligible for a water grant or loan even though the supplier has not met the per capita reductions required pursuant to Section 10608.24, if the urban retail water supplier has submitted to the department for approval a schedule, financing plan, and budget, to be included in the grant or loan agreement, for achieving the per capita reductions. The supplier may request grant or loan funds to achieve the per capita reductions to the extent the request is consistent with the eligibility requirements applicable to the water funds.

(d) Notwithstanding subdivision (b), the department shall determine that an agricultural water supplier is eligible for a water grant or loan even though the supplier is not implementing all of the efficient water management practices described in Section 10608.48, if the agricultural water supplier has submitted to the department for approval a schedule, financing plan, and budget, to be included in the grant or loan agreement, for implementation of the efficient water management practices. The supplier may request grant or loan funds to implement the efficient water management practices to the extent the request is consistent with the eligibility requirements applicable to the water funds.

(e) Notwithstanding subdivision (a), the department shall determine that an urban retail water supplier is eligible for a water

implementation costs and the types of data needed to support the methodology. Nothing in this section authorizes the department to implement a methodology established pursuant to this section.

SEC. 2. Section 10631.5 of the Water Code is amended to read:

10631.5. (a) (1) Beginning January 1, 2009, the terms of, and eligibility for, a water management grant or loan made to an urban water supplier and awarded or administered by the department, state board, or California Bay-Delta Authority or its successor agency shall be conditioned on the implementation of the water demand management measures described in Section 10631, as determined by the department pursuant to subdivision (b).

(2) For the purposes of this section, water management grants and loans include funding for programs and projects for surface water or groundwater storage, recycling, desalination, water conservation, water supply reliability, and water supply augmentation. This section does not apply to water management projects funded by the federal American Recovery and Reinvestment Act of 2009 (Public Law 111-5).

(3) Notwithstanding paragraph (1), the department shall determine that an urban water supplier is eligible for a water management grant or loan even though the supplier is not implementing all of the water demand management measures described in Section 10631, if the urban water supplier has submitted to the department for approval a schedule, financing plan, and budget, to be included in the grant or loan agreement, for implementation of the water demand management measures. The supplier may request grant or loan funds to implement the water demand management measures to the extent the request is consistent with the eligibility requirements applicable to the water management funds.

(4) (A) Notwithstanding paragraph (1), the department shall determine that an urban water supplier is eligible for a water management grant or loan even though the supplier is not implementing all of the water demand management measures described in Section 10631, if an urban water supplier submits to the department for approval documentation demonstrating that a water demand management measure is not locally cost effective. If the department determines that the documentation submitted by the urban water supplier fails to demonstrate that a water demand management measure is not locally cost effective, the department

(B) The department may require additional information for any determination pursuant to this section.

(3) The department shall not deny eligibility to an urban water supplier in compliance with the requirements of this section that is participating in a multiagency water project, or an integrated regional water management plan, developed pursuant to Section 75026 of the Public Resources Code, solely on the basis that one or more of the agencies participating in the project or plan is not implementing all of the water demand management measures described in Section 10631.

(c) In establishing guidelines pursuant to the specific funding authorization for any water management grant or loan program subject to this section, the agency administering the grant or loan program shall include in the guidelines the eligibility requirements developed by the department pursuant to subdivision (b).

(d) Upon receipt of a water management grant or loan application by an agency administering a grant and loan program subject to this section, the agency shall request an eligibility determination from the department with respect to the requirements of this section. The department shall respond to the request within 60 days of the request.

(e) The urban water supplier may submit to the department copies of its annual reports and other relevant documents to assist the department in determining whether the urban water supplier is implementing or scheduling the implementation of water demand management activities. In addition, for urban water suppliers that are signatories to the Memorandum of Understanding Regarding Urban Water Conservation in California and submit biennial reports to the California Urban Water Conservation Council in accordance with the memorandum, the department may use these reports to assist in tracking the implementation of water demand management measures.

(f) This section shall remain in effect only until July 1, 2016, and as of that date is repealed, unless a later enacted statute, that is enacted before July 1, 2016, deletes or extends that date.

SEC. 3. Part 2.8 (commencing with Section 10800) of Division 6 of the Water Code is repealed.

SEC. 4. Part 2.8 (commencing with Section 10800) is added to Division 6 of the Water Code, to read:

Chapter 2. Definitions

10810. Unless the context otherwise requires, the definitions set forth in this chapter govern the construction of this part.

10811. "Agricultural water management plan" or "plan" means an agricultural water management plan prepared pursuant to this part.

10812. "Agricultural water supplier" has the same meaning as defined in Section 10608.12.

10813. "Customer" means a purchaser of water from a water supplier who uses water for agricultural purposes.

10814. "Person" means any individual, firm, association, organization, partnership, business, trust, corporation, company, public agency, or any agency of that entity.

10815. "Public agency" means any city, county, city and county, special district, or other public entity.

10816. "Urban water supplier" has the same meaning as set forth in Section 10617.

10817. "Water conservation" means the efficient management of water resources for beneficial uses, preventing waste, or accomplishing additional benefits with the same amount of water.

Chapter 3. Agricultural Water Management Plans

Article 1. General Provisions

10820. (a) An agricultural water supplier shall prepare and adopt an agricultural water management plan in the manner set forth in this chapter on or before December 31, 2012, and shall update that plan on December 31, 2015, and on or before December 31 every five years thereafter.

(b) Every supplier that becomes an agricultural water supplier after December 31, 2012, shall prepare and adopt an agricultural water management plan within one year after the date it has become an agricultural water supplier.

(c) A water supplier that indirectly provides water to customers for agricultural purposes shall not prepare a plan pursuant to this part without the consent of each agricultural water supplier that directly provides that water to its customers.

(5) Water uses within the agricultural water supplier's service area, including all of the following:

(A) Agricultural.

(B) Environmental.

(C) Recreational.

(D) Municipal and industrial.

(E) Groundwater recharge.

(F) Transfers and exchanges.

(G) Other water uses.

(6) Drainage from the water supplier's service area.

(7) Water accounting, including all of the following:

(A) Quantifying the water supplier's water supplies.

(B) Tabulating water uses.

(C) Overall water budget.

(8) Water supply reliability.

(c) Include an analysis, based on available information, of the effect of climate change on future water supplies.

(d) Describe previous water management activities.

(e) Include in the plan the water use efficiency information required pursuant to Section 10608.48.

10827. Agricultural water suppliers that are members of the Agricultural Water Management Council, and that submit water management plans to that council in accordance with the "Memorandum of Understanding Regarding Efficient Water Management Practices By Agricultural Water Suppliers In California," dated January 1, 1999, may submit the water management plans identifying water demand management measures currently being implemented, or scheduled for implementation, to satisfy the requirements of Section 10826.

10828. (a) Agricultural water suppliers that are required to submit water conservation plans to the United States Bureau of Reclamation pursuant to either the Central Valley Project Improvement Act (Public Law 102-575) or the Reclamation Reform Act of 1982, or both, may submit those water conservation plans to satisfy the requirements of Section 10826, if both of the following apply:

(1) The agricultural water supplier has adopted and submitted the water conservation plan to the United States Bureau of Reclamation within the previous four years.

subdivision (b) within 30 days after the adoption of the amendments or changes.

(b) An agricultural water supplier shall submit a copy of its plan and amendments or changes to the plan to each of the following entities:

(1) The department.

(2) Any city, county, or city and county within which the agricultural water supplier provides water supplies.

(3) Any groundwater management entity within which jurisdiction the agricultural water supplier extracts or provides water supplies.

(4) Any urban water supplier within which jurisdiction the agricultural water supplier provides water supplies.

(5) Any city or county library within which jurisdiction the agricultural water supplier provides water supplies.

(6) The California State Library.

(7) Any local agency formation commission serving a county within which the agricultural water supplier provides water supplies.

10844. (a) Not later than 30 days after the date of adopting its plan, the agricultural water supplier shall make the plan available for public review on the agricultural water supplier's Internet Web site.

(b) An agricultural water supplier that does not have an Internet Web site shall submit to the department, not later than 30 days after the date of adopting its plan, a copy of the adopted plan in an electronic format. The department shall make the plan available for public review on the department's Internet Web site.

10845. (a) The department shall prepare and submit to the Legislature, on or before December 31, 2013, and thereafter in the years ending in six and years ending in one, a report summarizing the status of the plans adopted pursuant to this part.

(b) The report prepared by the department shall identify the outstanding elements of any plan adopted pursuant to this part. The report shall include an evaluation of the effectiveness of this part in promoting efficient agricultural water management practices and recommendations relating to proposed changes to this part, as appropriate.

(c) The department shall provide a copy of the report to each agricultural water supplier that has submitted its plan to the

be required to implement the requirements of this part or Part 2.55 (commencing with Section 10608) unless sufficient funding has specifically been provided to that water supplier for these purposes.

SEC. 5. This act shall take effect only if Senate Bill 1 and Senate Bill 6 of the 2009–10 Seventh Extraordinary Session of the Legislature are enacted and become effective.

CERTIFICATE OF SERVICE

I, Jeannie Wong, hereby certify that on this date I will serve the foregoing **REPLY BRIEF OF SAN GABRIEL VALLEY WATER COMPANY**, by electronic mail or hand delivery on the attached service list for Application No. 08-09-008:

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By hand delivery:

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Administrative Law Judge
California Public Utilities Commission
505 Van Ness Avenue, Room 5020
San Francisco, CA 94102

Hon. John Bohn
Assigned Commissioner
California Public Utilities Commission
505 Van Ness Avenue, 5th Floor
San Francisco, CA 94102

Executed this 10th day of November, 2009, in San Francisco, California.

/S/ JEANNIE WONG
Jeannie Wong

CALIFORNIA PUBLIC UTILITIES COMMISSION
Service Lists

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