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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking on the Commission's Own Motion to Determine Whether Sharing of Customer Information Between Regulated Water Utilities and Regulated Energy Utilities/Municipal Energy Providers Should be Required; and if so, to Develop the Rules and Procedures Governing Such Sharing.

Rulemaking 09-12-017
(Filed December 17, 2009)

**ADMINISTRATIVE LAW JUDGE'S
RULING REQUESTING COMMENTS**

This ruling requests comments on matters that the proposed decision resolving this proceeding must address in order to implement the sharing of low-income customer information and automatic enrollment, including consistent California Alternate Rates for Energy and low-income water assistance program self-certification, re-certification, and income eligibility guidelines, the submission of a data sharing plan to the Director of the Division of Water and Audits (DWA), data sharing cost recovery, and monitoring the impact of sharing customer information. The resolution of these matters relies in part on data request responses submitted to DWA that are not in the formal record; additional comments will assist in the efficient resolution of these issues. Comments are due on or before February 1, 2011.

1. Background

This rulemaking was opened to determine whether sharing of qualifying low-income customer information between regulated water and energy utilities should be required and whether sharing of this information between regulated water and municipal energy utilities should be encouraged to increase enrollment in water and energy low-income assistance programs. A workshop addressing low-income information sharing programs was held on March 3, 2010 to inform workshop participants about low-income data sharing programs among the regulated energy utilities, to discuss the applicability of these programs as potential models for data sharing among water and energy utilities, and to identify guidelines governing data sharing among water and energy utilities.

The April 1, 2010 scoping memo requested comments on low-income customer information sharing among water and energy utilities, including the use of categorical eligibility. Comments were submitted on April 23, 2010 by California Water Association;¹ Division of Ratepayer Advocates; Joint Consumers (National Consumer Law Center, Disability Rights Advocates and The Utility Reform Network); two sets of Joint Utilities, (Southern California Edison and Pacific Gas and Electric Company), (San Diego Gas & Electric Company and Southern California Gas Company); PacifiCorp d.b.a. Pacific Power; Park Water Company; and Southwest Gas Corporation. DWA requested

¹ California Water Association members supporting the comments are Alisal Water Company, California American Water Company, California Water Service Company, Del Oro Water Company, East Pasadena Water Company, Golden State Water Company (GSWC), San Gabriel Valley Water Company, San Jose Water Company (San Jose), Suburban Water Systems, and Valencia Water Company.

additional information from these energy and water utilities, and the parties supplied that information in data request responses.

2. Matters Subject to Comments

Comments are requested on the following matters necessary to implement a low-income data sharing program and automatic enrollment: consistent California Alternate Rates for Energy (CARE) and low-income water assistance program self-certification/income verification, re-certification, and income eligibility guidelines, the submission of a data sharing plan to DWA, data sharing cost recovery, and monitoring the impact of sharing customer information. Those matters and proposed outcomes are discussed more fully below, and comments are requested on the following questions:

- Are consistent CARE and low-income assistance self-certification/income verification, re-certification, and income eligibility guidelines required to enable customer information sharing and automatic enrollment?
- Is submitting a proposed data sharing plan to the Director of DWA a reasonable means to implement a low-income customer information sharing program? Is the information required to be submitted in the proposed data sharing plan sufficient?
- Are the procedures for cost recovery reasonable?
- Is the low-income data sharing program monitoring proposal reasonable?

In addition, the proposed decision will rely on the energy utilities' low-income assistance program monthly reports for November 2010 in a discussion on current CARE penetration rates and outreach efforts. If the parties have any concerns about updating penetration rates by using that data, the parties may comment on those concerns.

2.1. Consistent CARE and Water Low-Income Assistance Program Guidelines

Automatic enrollment of eligible customers is essential for data sharing to be an efficient and cost-effective outreach method. Automatic enrollment requires a certain level of consistency between CARE and water low-income assistance programs. Eligibility for both programs is based on 1) demographic criteria - income and household size requirements; and 2) technical criteria-- the service connection's metering condition (i.e., master-metered, sub-metered, or unmetered.) Although the utilities have or can derive technical information on their customers to ensure those customers technically qualify, they do not have the demographic information necessary to automatically enroll customers not already enrolled in the low-income assistance programs. If a customer qualifies under one program's demographic guidelines, certain demographic guidelines for the other program must be compatible. Automatic enrollment can only occur among water and municipal utilities if certain program guidelines are comparable.

Income eligibility for CARE is based on a percentage of the federal poverty line. The current income eligibility requirement for the energy utilities is 200% of the federal poverty level. Most water utilities have the same requirement, but GSWC's Regions II and III have income guidelines established in Decision (D.) 02-01-034 at 175% of the federal poverty level. Thus, GSWC's data sharing plan should include its proposal to modify its income guidelines for Regions II and III to 200% of the federal poverty level.

Water utilities' future data sharing with the energy utilities requires accurate customer information. In addition, the goal of ensuring that only eligible customers participate in low-income assistance programs requires re-certification of eligibility for low-income assistance programs. The CARE

program requires re-certification every two years. In D.08-11-031, the Commission stated re-certification precluded ineligible customers from receiving energy program subsidies. Similarly, the water low-income assistance programs were approved with the requirement that customers be re-certified at least every two years. Re-certification information should be shared among energy and water utilities. Water utilities can rely on the energy utilities' re-certification information, when available, but must conduct re-certifications every two years if there is no re-certification information. Water utilities shall provide an overview of their existing re-certification programs or a plan for re-certification, if none currently exists.

The CARE program uses self-certification to establish eligibility as a means to remove a potential barrier to participation in the program. The water utilities' Commission-approved low-income assistance programs, with the exception of San Jose's, endorse self-certification/eligibility declarations or proof of enrollment in CARE. Automatic enrollment will permit water utilities to continue enrolling customers who have self-certified for CARE. All water utilities similarly must permit self-certification for enrollment in their low-income assistance programs in order to ensure all customers have the same opportunity to participate in low-income assistance programs. Income verification, as approved for San Jose, is inconsistent with the need for consistent requirements under data sharing and automatic enrollment. The water utilities shall submit eligibility declaration statements that permit self-certification as part of their data sharing plans. San Jose shall submit a proposal to move from income verification to self-certification as part of its data sharing plan.

2.2. Data Sharing Plan

To ensure that the data sharing programs are both efficient and cost-effective, the water utilities should be required to submit a proposed data sharing plan to the Director of DWA for review and approval prior to implementation. These plans should be submitted within six months of the issuance of this decision and should include, but not be limited to, the following information:

- Copy of Memorandum of Understanding/Non-disclosure Agreement. The executed agreements must be filed with the Commission in a Tier 1 advice letter;
- Description of proposed data-sharing program's components, including:
 - Measures to ensure security and confidentiality of customer information.
 - Data transfer file format.
 - Description of data transfer method, process and system requirements.
 - Number of anticipated data exchanges.
 - Procedures for matching customer information.
 - Automatic enrollment procedures, including opt-out procedures.
 - Other technical and procedural requirements pertinent to the data-sharing program operations;
- Description of anticipated programming logistics including a program implementation timeline;
- Description of any additional resources and/or system requirements necessary for implementation of the data sharing program, with detailed cost information broken down by type of expense for 1) estimated additional one-time program implementation costs, and 2) additional estimated ongoing operational costs;

- List and eligibility description of all assistance programs to be used for “categorical eligibility,” as coordinated with the corresponding energy utility;
- Description of existing or proposed re-certification procedures;
- Copies of low-income assistance program application and re-certification form (if different from application) consistent with re-certification, self-certification, and customer information sharing consent requirements adopted in this decision;²
- Copy of proposed opt-out letter;
- Description of other possible low-income collaboration efforts with the energy utilities;
- Proposal on a methodology to estimate eligible low-income customers in the service areas by using methods similar to those used by the energy utilities to calculate their own estimates of program eligible customers (may collaborate and/or coordinate with the energy utilities);
- Calculation of current penetration rates using the methodology described in DWA’s “Assessment of Water Utility Low-Income Assistance Programs “ (2007 Assessment);
- The number of low-income program participants broken down by month for the last three years; and
- Description of data sharing opportunities with municipal utilities and local agencies and other possible collaborative outreach with the energy utilities.

The approved plan should be submitted to the Commission via a Tier 1 advice letter.

² Water utilities that currently do not seek authorization to share customer information should do so for new customers at the time of application and for existing customers at the time of re-certification.

2.3. Data Sharing Cost Recovery

The water utilities anticipate incurring one-time costs to implement the data-sharing program. The water utilities subject to the sharing of customer information have current low-income assistance program memorandum or balancing accounts. Most of these accounts were created to record low-income assistance program discounts, surcharges, implementation and incremental program costs. A few accounts only include program discount costs and surcharges. Just over half of the water utilities that offer low-income assistance programs have current memorandum accounts authorized for incremental program costs. The water utilities should be authorized to track in memorandum accounts any significant additional costs for implementing the data sharing program that exceed costs already included in rates. If memorandum accounts exist that include program costs, the water utilities should be authorized to track the data sharing costs in those accounts. If no memorandum account is in place, the water utilities should use the Tier 1 advice letter process to establish the memorandum accounts.

The energy utilities similarly anticipate incurring one-time implementation costs to establish data sharing. The energy utilities should include the information technology and administrative costs associated with data sharing, not already included in rates, in the low-income budget contained in the program applications for 2012-2014. Costs incurred in 2011 and not already included in rates also should be included in the low-income budget application for 2012-2014.

2.4. Monitoring the Impact of Sharing Customer Information

The low-income data-sharing program will increase low-income program penetration rates and make available additional data on low-income households. Evaluation of the data-sharing program should occur in the respective water utility's general rate case. In order to assess the success of the data sharing program, the water utilities should track the following:

- For each data file received:
 - Number of CARE customer records received.
 - Number of CARE customers not matched to water utility records.
 - Number of CARE customers successfully matched.
- Enrollment Results:
 - Number of CARE customers automatically enrolled.
 - Number of customers re-certified for assistance.
 - Number of CARE customers ineligible for enrollment due to metering conditions (as compared with water utility records).
 - Number of customers opting-out.
 - Number of potential customers identified and served with outreach material.
- Program Costs.
 - Annual expenses incurred for operating and administering the data sharing program.

The above-referenced data should be submitted to DWA in an annual information-only advice letter. As discussed above, the water utilities should extrapolate the number of indirect customers by comparing their billing records to the CARE customer records received, which did not result in a match but were

located in their service territory. Those numbers should be tracked and reported to DWA in the information-only advice letter.

The water utilities should file an advice letter annually to update the CARE income guidelines. In order to establish automatic enrollment it is necessary to ensure conformity with the CARE guidelines is maintained at all times, so the water utilities should revise their tariffs annually to reflect new CARE guidelines within 30 days after the CARE guidelines are published.

IT IS RULED that comments are due on or before February 1, 2011.

Dated January 18, 2011, at San Francisco, California.

/s/ JANICE L GRAU

Janice L. Grau
Administrative Law Judge

INFORMATION REGARDING SERVICE

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Dated January 18, 2011, at San Francisco, California.

/s/ LILLIAN LI

Lillian Li

N O T I C E

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