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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking on the Commission's own Motion to Consider a Comprehensive Policy Framework for Recycled Water.	Rulemaking 10-11-014 (Filed November 19, 2010)

ASSIGNED COMMISSIONER'S RULING AND SCOPING MEMO

1. Summary

This ruling and scoping memo determines the category of the proceeding, the need for a hearing, the issues to be considered in the proceeding and the procedures and timetable for their resolution. Included in the timetable is notice of four workshops to be convened by the Policy and Planning Division on August 30, October 18 and December 6, 2011, and January 24, 2012, at the Commission Courtyard Room, State Office Building, 505 Van Ness Avenue, San Francisco, California. This ruling is appealable only as to the category of these proceedings under Rule 7.6 of the Commission's rules.[1]

[1] Rules of Practice and Procedure, accessible at: http://www.cpuc.ca.gov , "Laws, Rules, Procedures."

2. Background

2.1. Overview

This rulemaking was initiated to develop a comprehensive policy framework for recycled water for regulated Class A and B water utilities and comparably-sized sewer utilities.

2.2. Procedural History

The Order Instituting Rulemaking (OIR)[2] issued on November 23, 2010, identified nineteen issues, within six categories (planning, cost allocation, rate design, inter-agency coordination, environmental matters and accountability)[3] for purposes of a preliminary scoping. The proceeding was assigned to President Michael R. Peevey and Administrative Law Judge (ALJ) Gary Weatherford on November 23, 2010, and reassigned to Commissioner Mike Florio on April 13, 2011.

In the OIR the Commission directed that all regulated water utilities, and several other interested entities, be served with the OIR. Respondents were ordered to identify by December 8, 2010, public agencies with which they had partnered in the production, sales or delivery of recycled water. Nine responses were received and the identified public agencies were sent a copy of the OIR. The respondents were ordered, and other parties invited, to file by January 18, 2011, Prehearing Conference Statements addressing the issues and questions identified in the OIR as well as the subjects of scope, schedule, category, need for hearing, and other procedural matters. Fifteen such

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[2] Order Instituting Rulemaking on the Commission's Own Motion to Consider a Comprehensive Policy Framework for Recycled Water.

[3] *Id*. at 5-9.

statements were filed and three responses to those statements thereafter were filed.

On January 28, 2011, persons on the service list were notified that a Prehearing Conference (PHC) would be held in San Francisco on April 7, 2011. On March 30, 2011, ALJ Weatherford issued a ruling containing a tentative agenda for the PHC and a draft summary of comments, responses and topics presented up to that date in the proceeding. At the PHC the agenda and the summary were modified in response to comments from attendees, and workshops were planned and scheduled subject to the preparation and issuance of a scoping memo by the assigned Commissioner. The modified summary is appended to this memo and ruling as Attachment A.

The determinations made in this scoping ruling are informed by the PHC, and comments and reply comments of the parties, and are guided by the OIR.

3. Categorization, Need for Hearings, *Ex Parte* Rules and Designation of Presiding Officer

The OIR preliminarily categorized the proceeding as "quasi-legislative" under Rule 1.3(d) and determined that the matter should not be set for hearing. No party has opposed the preliminary categorization and I hereby affirm both the preliminary categorization of rulemaking and the preliminary determination that there is no need for hearing. To accommodate a possible determination, after the issuance of the final workshop report, that a hearing may be needed, I am inserting a placeholder date in the schedule for hearings.

This ruling only as to categorization is appealable under Rule 7.6. As a quasi-legislative proceeding, *ex parte* communications are allowed without restriction under Rule 8.2(a). I am designating ALJ Weatherford the Presiding Officer.

4. Scoping Memo

In light of the responses filed before and made during the PHC, I am slightly recasting the issues preliminarily identified in the OIR. The overarching issue in this rulemaking is: What comprehensive policy framework for recycled water relative to water and sewer investor-owned utilities (IOUs)[4] should the Commission adopt? Among the specific issues that further define the scope of the rulemaking are the following:

1. [Inventory] What are the quantities, types and uses of recycled water produced and/or delivered by the water and sewer IOUs?
    a. In the past, with what source of funding and in collaboration with whom?
    b. Currently, with what source of funding and in collaboration with whom?
    c. Potentially, with what possible/expected source of funding and in expected/possible collaboration with whom?
2. [Studies] What studies are planned or completed relative to the production, sale and/or delivery of recycled water by water and sewer IOUs and relevant public agencies?
3. [Cost Effectiveness] What financial, economic and integrated resource efficiency benefit-cost factors are appropriate for the Commission and the water and sewer IOUs to consider in determining the relative cost effectiveness of augmenting water supplies with recycled water?
4. [Integrated Water Resource Planning] What relationship should there be between a comprehensive policy framework for recycled water and integrated water resource planning?
5. [Plans] What changes if any, are needed to the Rate Case Plan adopted in Decision 07-05-062, relative to recycled water?

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[4] Use of the word "and" in the phrase "water and sewer IOUs" in this document should be read "and/or" where appropriate.

6. [Plans]. Should the Commission require water and sewer IOUs to submit recycled water plans in addition to any required of them by other state agencies; if so, what elements should the Commission-required plans contain?
7. [Goals/Benchmarks] What mandatory or voluntary recycled water production, sales and/or end-use goals or benchmarks, if any, should the Commission set for the water and sewer IOUs?
8. [Outreach/Education] What types of public outreach and education, if any, concerning recycled water should the Commission require of water and sewer IOUs?
9. [Cost Allocation] How should the costs of recycled water infrastructure be allocated, locally and/or regionally, among water and sewer IOUs, their customers, public agencies and/or other stakeholders?
10. [Joint Public-Private Projects] In joint private-public projects, should the Commission
    a. Require water and sewer IOUs to seek public funds in advance of applications to the Commission?
    b. Condition final project approval by the Commission on an award of public funds to the water-sewer IOU?
11. [Rate Design] What rate structures and designs are appropriate for the sale of recycled water by water and sewer IOUs, taking into account, among other factors,
    a. Linkage, or not, to cost of service?
    b. Relationship, or not, to conservation pricing?
    c. Provision of discounted rate (below cost) for recycled water?
    d. Regulatory requirements such as backflow prevention and cross connection?
    e. Inclusion, or not, of recycled water in Water Revenue Adjustment Mechanisms (WRAMs) and/or Modified Cost Balancing Accounts (MCBAs)?
12. [Incentivized Use] What incentives for customer use of recycled water, if any, are appropriate? Should mechanisms such as balancing accounts be established for recycled water costs and revenues?

13. [Competing Beneficial Uses] What processes and roles are appropriate for the Commission and water and sewer IOUs in addressing inter- and intra-regional competition among beneficial uses in relevant
    a. Adjudicated water basins?
    b. Unadjudicated water basins?
14. [Service Area Disputes] What processes and roles are appropriate for the Commission and water and sewer IOUs in addressing recycled-water related service area expansions and/or disputes between those IOUs and public agencies?
15. [Access to Public Funding] How can greater access by water and sewer IOUs to public funding for recycled water projects be promoted and achieved?
16. [State Agency Coordination] How should the Commission's recycled water policies be coordinated with the recycled water policies and programs of other state agencies and with regional water resource planning and management efforts?
17. [Public Health Requirements] How should California Department of Public Health requirements governing recycled water be reflected in the Commission's policies concerning recycled water?
18. [CEQA Role] Under what circumstances should the Commission serve as lead agency or responsible agency under the California Environmental Quality Act relative to recycled water projects?
19. [Greenhouse Gases/Climate Change Nexus] How should AB 32-related requirements, program elements and GHG emission reduction goods, as well as state water and energy use goals, be reflected in the Commission's policies concerning recycled water?
20. [Incentives for IOUs] What incentives, if any, should the Commission adopt, in response to what liabilities and other risks, to encourage water and sewer IOUs to produce, promote the use of, sell and/or deliver recycled water?
21. [Penalties for IOUs] Should the Commission impose penalties on water and sewer IOUs for failure to meet applicable goals or benchmarks, if any?

22. [Reporting Requirements] What recycled water reporting requirements, if any, should the Commission set for water and sewer IOUs within and/or outside a general rate case?

5. Schedule

August 30-31, 2011	Policy and Planning Division Workshop #1, Commission Courtyard Room, 505 Van Ness Avenue, San Francisco, California
October 18-19, 2011	Workshop #2, Commission Courtyard Room, 505 Van Ness Avenue, San Francisco, California
December 6-7, 2011	Workshop #3, Commission Courtyard Room, 505 Van Ness Avenue, San Francisco, California
January 24-25, 2012	Workshop #4, Commission Courtyard Room, 505 Van Ness Avenue, San Francisco, California
March 2012	Draft Workshop Report filed for Comments
April 2012	Comments and Reply Comments filed
May-June 2012	Final Workshop Report filed (Also reserved for possible hearings and related briefing)
October 2012	Proposed Decision mailed for comment
November 2012	Decision on Commission Meeting Agenda

The date of the final decision in this rulemaking shall not exceed 18 months from the date of this Scoping Memo and Ruling.

6. Filing, Service and Service List

When you serve a document, use the official service list published at the Commission's website as of the date of service. You must comply with Rules 1.9 and 1.10 when you serve a document to be filed with the Commission's Docket Office.

The Commission encourages electronic filing and e-mail service in this Rulemaking. You may find information about electronic filing at http://www.cpuc.ca.gov/PUC/efiling. E-mail service is governed by Rule 1.10. If you use e-mail service, you must also provide a paper copy to the assigned Commissioner and ALJ. The electronic copy should be in Microsoft Word or Excel formats to the extent possible. The paper copy should be double-sided. E-mail service of documents must occur no later than 5:00 p.m. on the date that service is scheduled to occur.

If no email address was provided, service should be made by United States mail. In this proceeding, I require concurrent e-mail service to ALL persons on the service list for whom an email address is available, including those listed under "Information Only." Parties are expected to provide paper copies of served documents upon request.

E-mail communication about this proceeding should include, at a minimum, the following information on the subject line of the e-mail: Rulemaking 09-03-014. In addition, the party sending the e-mail should briefly describe the attached communication; for example, Reply Comments. Paper format copies, in addition to electronic copies, shall be served on the assigned Commissioner and the assigned ALJ.

The official service list for this proceeding is available on the Commission's web page. Parties should confirm that their information on the service list is correct, and serve notice of any errors on the Commission's Process Office, the service list, and the assigned ALJ. Prior to serving any document, each party must ensure that it is using the most up-to-date service list. The list on the Commission's website meets that definition.

Any person interested in participating in this proceeding who is unfamiliar with the Commission's procedures or who has questions about the electronic filing procedures should contact the Commission's Public Advisor (public.advisor@cpuc.ca.gov).

If you have questions about the Commission's filing and service procedures, contact the Docket Office.

7. Intervener Compensation

The PHC in this matter was held on April 7, 2011. Under Rule 17.1 notice of intent to claim intervener compensation may be filed up until 30 days after the PHC. As a reminder to parties, the Legislature has instructed the Commission to administer the intervener compensation program in a manner that "avoids unproductive or unnecessary participation of similar interests otherwise adequately represented …"[5] We expect all parties to closely coordinate their work to avoid unproductive or unnecessary participation. Furthermore, we expect each party requesting compensation to distinguish its contributions from those of other parties in its request for compensation. Parties are also reminded that work on issues determined to be outside the scope of this proceeding will not be compensated. A separate ruling will address eligibility to claim compensation.

IT IS RULED that:

1. The final categorization of this proceeding is quasi-legislative rulemaking and hearings may later be required. This ruling on category may be appealed, as provided in Rule 7.6 of the Commission's Rules of Practice and Procedure.

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[5] Section 1801.3(f). Decision 06-12-041, pp. 13-14.

2. *Ex parte* Communications are permitted without restrictions.

3. The scope of this proceeding is as set forth in Section 4 of this Ruling. While this scoping memo provides guidance regarding the manner in which each identified issue will be considered, the Assigned Administrative Law Judge (ALJ) may make any revisions or provide further direction regarding the manner in which the issues are to be addressed, as necessary for a full and complete development of the record.

4. The schedule for this proceeding is as set forth in Section 5 of this Ruling. The assigned ALJ may make revisions to the schedule where circumstances warrant.

5. Parties must serve all filings as set forth in Section 6 of this Ruling.

6. The deadline for filing a notice of intent to claim compensation in this proceeding is at the end of the 30th day following the Prehearing Conference.

7. Assigned ALJ Gary Weatherford is designated the Presiding Officer in this proceeding.

8. Because this proceeding may consider changes to the Rate Case Plan adopted in Decision 10-11-014, this ruling shall be filed on the service list in Rulemaking 06-12-016.

Dated June 16, 2011, at San Francisco, California.

/s/ MICHEL PETER FLORIO
Michel Peter Florio
Assigned Commissioner

ATTACHMENT A

Recycled Water OIR (R.10-11-014)

Summary of Comments, Answers and Issues Presented to Date

I. Planning:

A. Party Answers to OIR Questions

The majority of the Investor-Owned Water Utilities (IOUs) report purveying some recycled water produced by public agencies. One IOU reports producing and purveying recycled water in one of its districts. Two IOUs report planning for new recycled water plants in one or more of their utility districts, and at least two report plans for the expansion of existing regional treatment plants to increase the amount of recycled water available for retailing to their customers. Recycled water supplies which are either produced by IOUs or retailed by them are currently used to irrigate golf courses, parks and medians, for agricultural applications, and for groundwater recharge. New supplies under development will also be used for environmental purposes such as fish recovery.

All of the IOUs and the California Water Association argue against mandatory production goals and against the submission of separate CPUC-mandated recycled water plans and reports. Certain parties call for establishing mandatory recycled water goals, plan submissions and increased reporting by IOUs. DRA supports setting different goals for different uses and asks that the delivery goal criteria be addressed at an OIR workshop. All parties expressed support for integrating IOU recycled water supply planning with on-going regional water resource management efforts through Intergrated Regional Water Management Plans (IRWMPs), Water Supply Facilities Master Plans (WSFMPs), or other regional regulatory and/or resource management programs.

All of the parties agreed that public information and outreach about recycled water should be made available to IOU customers. Several parties

called for tailoring public information and outreach to address particular regional conditions related to uses, and/or fears about the use, of recycled water. Certain of the parties emphasized that public outreach and education should not be required of all IOUs without consideration of district-specific conditions.

Parties commenting on the resolution of potential and/or existing service disputes between IOUs and public/municipal water systems agree that existing laws, i.e. Service Duplication Act, and Water Code 13575, and appointed regulatory entities, i.e. Watermasters, among others, already provide legal guidance for settling these disputes and suggest that the Commission (CPUC) continue to represent the IOUs in these established dispute- resolution processes as necessary and where permitted.

B. Issues Presented in OIR Document

1. Tailoring Public Outreach to Regional Conditions: striking balance between general public education about recycled water and shaping public education and outreach to address potential issues/fears associated with particular regional recycled water projects/uses.

2. Requiring an IOU Recycled Water Plan as a stand alone report required for each district vs. leaving reporting requirement to the data reporting standard required in the Urban Water Management Plan (UWMP), and retaining the UWMP as the only required form for reporting recycled water deliveries by IOUs.

3. Requiring IOU Recycled Water Plans as stand alone planning efforts vs. utilization of IRWMPs and/or other regional planning initiatives to determine beneficial use of recycled water supplies based upon local water supply needs and management, i.e. groundwater replenishment vs. service to customers.

4. Understanding the relationship between, and balancing and/or integrating pre-existing multiple regional planning requirements for recycled water, i.e., WSFMPs, UWMPs, IRWMPs, etc., with potential CPUC requirements for Recycled Water Planning by IOU districts.

5. Clarifying competing interpretations of Service Duplication Act as a means of resolving the competition for service territory between public agencies and IOUs: IOUs claim Act supports IOUs' right to provide all water services in their service territories without encroachment by other utility agencies, and public agencies claim that they have right to provide recycled water in districts where IOUs, by not providing recycled water, are in violation of the law mandating the use of recycled water where it is available in sufficient quantity, at an acceptable quality and at a reasonable price.

6. Limiting recycled water delivery goal setting to voluntary goals established in concert with IRWMPs/regional water supply planning entities vs. establishing mandatory goal setting for each IOU district in concert with IRWMPs/regional supply planning processes.

7. Establishing mandatory goal setting for recycled water by IOUs to allow for planning and evaluation beyond one rate cycle vs. voluntary goal setting by IOUs.

C. Issues Presented in Party Comments

1. Establishing process by which IOUs file applications for extending water recycling services to contiguous service territories vs. allowing such requests via advice letter filings.

2. Other?

II. Cost Allocation

A. Party Answers to OIR Questions

Party comments regarding cost allocation address how best to assess the benefits and liabilities of recycled water for both the IOU water sector and ratepayers. Parties concerned with the bill impact of recycled water on potable water customers call for minimizing the impact if one customer class potentially subsidizes another customer class, i.e., residential underwriting commercial/industrial, by calling for the tailoring of rate structures where costs are allocated across customer classes in proportion to benefits and liabilities. Suggestions also include minimizing cost impacts to customers by the formation of public and private partnerships to subsidize the cost of recycled water infrastructure with loan and grant funding. Other parties condition the call for more public funding for IOUs engaged in the development/purveying of recycled water on "cost of service" ratemaking where recycled water rates would reflect the cost of service and cost recovery for that service without tying IOUs to obligatory public/private funding pursuits which may impede the provision of recycled water services during lengthy public funding decision-making cycles. Party comments also suggest that should efforts to expand IOU access to public funding be unsuccessful, a joint petition to the Legislature should be considered to ensure by statute IOU access to public funding for recycled water projects.

Party comments also call for the equalization of the costs for recycled water across all customer classes as a form of universal drought surcharge to ensure adequate water supplies when imported water supplies may be reduced or practicably unavailable in certain regions of the state during drought conditions.

B. Issues Presented in OIR Document

1. Cost sharing/cost bearing issues: if, and how, to spread costs for recycled water across all potential recycled water customers and current potable water customers in a district vs. limiting cost

spreading across/among recycled water customers/customer classes. Some parties argue that all customers should share in the cost of recycled water development as a surcharge for "drought protection" while others argue that costs should be determined on a case-by-case basis whereby costs are distributed across distinct customer classes based upon the benefits accruing to particular customer classes.

2. Requiring vs. encouraging IOU public/private partnerships in the pursuit of funding for recycled water projects from local, state, regional, and federal agencies, to reduce cost impacts on water customers; prioritize least cost financing for recycled water projects as a driver of best public/private mix on a case-by-case basis vs. across the board joint funding requirements.

3. Problem if IOU required to pursue funding prior to/with application for recycled water project/distribution without guaranteeing IOU access to full array of public funding available for recycled water projects.

4. Some IOU districts have had appreciable declines in recycled water demand due to business failures/closures among customers yet their potable water customers continue to pay higher costs for imported water to subsidize the continued expansion of recycled water projects underway by their regional water suppliers for delivery elsewhere. Is there a regional cost allocation solution to the lack of parity between the demand for recycled water, and recycled water supply development in such regions?

5. Who should pay for distribution systems for recycled water? Regional public/municipal recycled water wholesalers argue that purveying utilities/IOUs should rate-base cost of distribution systems and also seek available loans, grants, rebates, and other financing mechanisms to reduce financial burden on ratepayers.

C. Issues Presented in Party Comments

1. Issue of "stranded costs" resulting from large number of potable customers shifting to recycled water thereby eroding potable customer base for purposes of covering fixed costs.

2. Rate-basing customer retrofits as an incentive for conversion to recycled water vs. requiring upfront conversion costs.

3. Issue of new cost-sharing/cost-bearing mechanisms to compensate utilities for cost to develop recycled water delivery systems, i.e., should the CPUC devise, implement, promote, and approve a "stand by" or "availability" fee whereby all customers who do not utilize recycled water where it is already readily available for their use in their districts pay a stand-by fee to help offset the cost of recycled water systems development and/or maintenance.

III. Rate Design

A. Party Answers to OIR Questions

Party comments pertaining to rate designs for recycled water cover a variety of different approaches. One party calls for the use of conservation pricing as a driver for IOUs' recycled water rate designs and argues against the use of declining block rates to incentivize the use of recycled water. The California Water Association (CWA) cites the Water Recycling Act of 1991 (Section 13576(l), Calif. Water Code) as a requirement for the "equitable sharing of costs and benefits" associated with the development and use of recycled water, notes the unique challenges associated with cost-of-service ratemaking for recycled water, and would allow the discounted rate to be included in the revenue requirement as is done for general ratemaking as appropriate, pursuant to existing law (Section 13580.8(d)). Consumer and ratepayer advocates argue for cost-of--service ratemaking as it is employed in General Rate Cases. These

parties, absent of DRA, argue that the rates for recycled water should be lower than potable water rates if and only if the cost of service for recycled water is lower. Consumer and ratepayer advocate parties also call for linking rates to operating costs in particular service territories such that commercial-industrial rates for irrigation water, for example, might be higher than potable water rates for domestic water in certain areas, and hence, rate structures for recycled water would differ by customer class.

Party comments also call for the rate-basing of costs to meet regulatory requirements for recycled water, including backflow prevention and cross connection activities. Public/municipal utility parties argue that recycled water purveyors such as IOUs should finance recycled water distribution systems and should rate base the costs of such infrastructure. Public/municipal utility parties also request that the CPUC require the provision/increased provision of recycled water by IOUs as a condition to positive revenue adjustments made through Water Revenue Adjustment Mechanisms (WRAMs) and Modified Cost Balancing Accounts (MCBAs) which reflect declining sales.

IOU party comments underscore their concern that rates should be structured to encourage the entry of new recycled water customers and new connections into the system rather than keeping rates low for all recycled water customers in a particular utility district. The IOUs argue that the latter rate structure favoring new customers will maximize the use of the infrastructure already in place and will increase the overall demand for recycled water.

B. Issues Presented in OIR Document

1. Conservation pricing vs. declining block rates: forgoing declining block rate designs as incentive pricing to promote recycled water use in order to prioritize water conservation objectives.

2. With declining block rates/discounted rates: balance tension between cost of service ratemaking approach with statutory

parameters regarding "equitable sharing of costs and benefits" as outlined in Water Recycling Act of 1991 (Section 13580.8, Calif. Water Code).

3. Offsetting revenue losses by IOUs due to discounted recycled water rates with WRAMs or balancing accounts versus treating aggregate revenue losses due to discounted rates like any revenue loss which is recoverable in adjustments to metered service rates through GRCs.

4. Matching regulatory requirements, i.e., back flow prevention and cross connections programs, to rate design by rate-basing costs implied by regulations.
5. Mandatory setting of recycled water rates lower than potable water rates vs. rate comparability: Set rates linked to operating costs in service territories with rate structures differing by customer class vs. singular rate structure for all customer classes.

C. Issues Presented in Party Comments

1. WRAMs and MCBAs used in the ongoing CPUC water conservation pilots merit evaluation before a decision is made to utilize similar tools to offset potential revenue losses due to discounted recycle water rates, declining block rates, etc.

IV. Inter-agency Coordination

A. Party Answers to OIR Questions

Party comments reflect the general agreement that efforts need to be made by the CPUC to coordinate waivers from the State Water Resources Control Board (SWRCB) asserting that the increased provision of recycled water by IOUs, which currently retain use rights for surface water, will not result in penalties for their failure to exercise surface water rights and/or

their sacrificing of district-specific allocations to imported water during a drought.

Party comments from IOUs and consumer and ratepayer advocates also indicate a desire for the CPUC to work with other state agencies to assure the extension of public funding for recycled water projects to IOUs since restraints on limited public funding for IOUs potentially could result in IOU customers paying higher costs for recycled water than their public-water- sector- customer counterparts as a consequence of the rate-basing of the full costs of recycled water infrastructure and/or delivery systems.

B. Issues Presented in OIR Document

1. Increased access to public funds for IOUs to finance recycled water projects vs. limiting IOU financing to private sources: IOUs could lessen the financial burden on ratepayers for financing recycled water distribution systems if they had equal access to all existing public funding sources for recycled water projects thereby ensuring that all ratepayers are treated equally regardless of their water utility. Some public agencies argue that public funding should not be directly available to for-profit entities except in connection with public/private partnerships.

C. Issues Presented in Party Comments

1. Resolving contradictory resource management goals wherein requiring or incentivizing increased use of recycled water and reduced use of surface water by IOU might result in water rights jeopardy judgment against IOU by SWRCB for not exercising existing surface water right under "use it or lose it" provisions, i.e., waiver from SWRCB needed?

2. Resolving party differences over if, and how, recycled water shall be evaluated for the purposes of reducing potable water demand pursuant to SBX7 7, the 2009 Water Conservation Act,

which calls for a 20 percent reduction in per capita urban water use by 2020.

V. Environmental Matters

A. Party Answers to OIR Questions

Parties generally agreed that consistent with Public Resources Code Section 21000 et seq., the CEQA lead agency for any recycled water project should be the public agency that has the primary responsibility for approving a project that may have a significant impact upon the environment, with CPUC serving as lead or responsible agency as appropriate under the particular circumstances. One party particularly notes that the CPUC may wish to be the lead agency where possible as CEQA lead agencies may determine which information may be requested for the filing and, moreover, may establish certain parameters and thresholds to be determined as part of the CEQA filing which may provide the CPUC with more adequate data for its regulatory work with IOUs, as well as for more general statewide water resource planning.

There is general agreement among the parties that there is still insufficient data and/or established metrics for calculating Greenhouse Gas (GHG) impacts associated with increased recycled water and/or for precisely understanding how these impacts will be evaluated for purposes of A.B. 32 enforcement, i.e., offsetting more energy intensive imported water supplies.

B. Issues Presented in OIR Document

NONE

C. Issues Presented in Party Comments

NONE

VI. Accountability

A. Party Answers to OIR Questions

While IOU party comments reflect the general desire that all reports of recycled water development and distribution by IOUs be limited to that already required in current UWMP's filings, consumer and ratepayer advocate parties requested that IOUs be required to file annual reports of recycled water production and delivery. One party argues that GO 103A already requires the filing of IOUWC O&M plans every five years and this should be expanded to include recycled water infrastructure and services, and another party argues that since some IOUs do not complete UWMPs, they should be required to report their recycled water production and distribution in compliance filings to the CPUC on an annual basis.[6] Consumer advocates further argue that the failure of IOUs to reach established goals for recycled water production set as part of this proceeding should result in monetary penalties based upon units of deficit up to a maximum similar to the penalty assessed for procurement deficits in the Renewable Portfolio Standards (RPS) program. Conversely, CWA, the water utilities and the LA County Sanitation Districts argued against setting "arbitrary goals" for production and delivery. CWA stressed that penalties for failure to meet any such goals are contrary to the spirit of this proceeding – to *encourage* recycled water use – and cannot properly account for the factors outside the utility's control in pursuing recycled water opportunities including availability of supply.

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[6] Under the Urban Water Management Planning Act (Water Code section 10610 et seq.), every urban water supplier that either provides over 3,000 acre-feet of water annually or serves more than 3,000 or more connections is required to complete an Urban Water Management Plan.

B. Issues Presented in the OIR Document

1. Additional reporting by IOUs on recycled water production and delivery directly to CPUC vs. use of UWMPs existing reporting requirements for fulfillment of CPUC recycled water reporting requirements.

C. Issues Presented in Party Comments

1. If there is a penalty structure associated with any eventual recycled water goals established for IOUs, what is the best model/approach to designing those penalties, i.e., RPS penalty structure based upon a procurement deficit charge per kWh up to an established maximum penalty.

(END OF ATTACHMENT A)