

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA



FILED

11-14-12
04:59 PM

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)

**COMMENTS OF THE DIVISION OF RATEPAYER ADVOCATES ON
THE DRAFT FORM ADVICE LETTER AND POLICY GUIDELINES
DISCUSSED AT 5TH WORKSHOP HELD OCTOBER 23 AND 24, 2012**

ROBERT HAGA

Attorney for the Division of Ratepayer
Advocates

California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102
Phone: (415) 703-2538
Fax: (415) 703-2262
E-mail: robert.haga@cpuc.ca.gov

**CHARI WORSTER
SUZIE ROSE**

Analysts for the Division of Ratepayer
Advocates

California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102
Phone: (415) 703-1585
Fax: (415) 703-2262
E-mail: chari.worster@cpuc.ca.gov

I. INTRODUCTION

The Division of Ratepayer Advocates (DRA) offers these Comments pursuant to the September 28, 2012 Amended Scoping Memo and Ruling of Assigned Commissioner (Amended Scoping Ruling) and Rule 6.2 of the Commission's Rules of Practice and Procedure.

DRA does not attempt to address all of the issues raised in the draft form advice letter and policy guidelines that were discussed at the Fifth Workshop on October 23 and 24, 2012, but tries to follow the structure established in the workshop and subsequent changes to the documents. DRA may comment on additional questions in comments on the January 2013 Workshop Report and/or April 2013 Proposed Decision.

There are many issues raised in the draft documents that should be addressed by the Commission before a proposed decision is issued in this docket. DRA will more fully address those issues in comments to the workshop report. As an initial matter, DRA hopes that the workshop report will ensure that the minimum requirements adopted apply to all recycled water projects, that the workshop report will ensure recycled water projects are developed in conjunction with demand and supply side management efforts, and that the Tier 3 Advice Letter template will include a requirement to provide a thorough analysis and disclosure of the rate impacts and fixed costs burden resulting from the shift of potable water customers to recycled water. Finally, DRA seeks to have additional statutory references added and that the workshop report recognizes that ultimately each project will have to be evaluated based on its own merits and considerations.

II. DISCUSSION

A. Policy Concerns with Draft Minimum Criteria

1. Minimum Requirements Should Apply to All Recycled Water Projects.

DRA agrees that the minimum requirements proposed should apply to all recycled water projects whether filed as part of a General Rate Case application or a stand-alone

application. As such, the omission of Tier 3 Advice Letter from the list of the type of procedures that may be used to obtain Commission approval should be corrected. There appears to be consensus that there will be some projects in which the Investor-Owned Water and Sewer Utility (“IOWSU”) should follow the Tier 3 template for ease of Commission review and approval.¹ The purpose section of the guidelines should be amended to make it clear that the minimum criteria applies to all applications and to explicitly list “Tier 3 Advice Letter” as a means for an IOWSU to submit a project for Commission approval.

2. IOWSU’s Should Develop Recycled Water Projects in Conjunction With Demand and Supply Side Management Efforts.

To justify and warrant the need for an additional water supply, DRA believes that IOWSU’s should develop recycled water projects in conjunction with other demand and supply side management efforts as noted in the second section of the minimum criteria, “Need for the Proposed Recycled Water Project.” This is necessary to ensure cost effective recycled water. In this context DRA would define “Demand Side Management Efforts” as efforts that promote conservation by the customer² (e.g., tiered rates and incentives like installing low flow toilets) and “Supply Side Management Efforts” as efforts undertaken by IOWSUs within their systems (e.g., leak loss detection within the raw water intake system, and treatment plant systems, and the distribution system).

B. Specific Concerns With the Draft Minimum Criteria For a Proposed Recycled Water Project

DRA has a number of recommendations that it believes would improve the minimum criteria to meet the Commission’s goal of a comprehensive framework for

¹ DRA conforms to the terminology of the draft documents in order to ensure consistency. The draft documents use of “IOWSU” to refer to Class A investor-owned water and comparable size sewer utilities and to smaller size Commission regulated water and sewer utilities that are engaging in the production, distribution or use of recycled water.

² DRA defines customer as Residential, Commercial and Industrial water users.

recycled water for IOWSUs. DRA's suggested changes are presented in redline format as Attachment A.

First, using "present status" instead of "present stage" better captures the goal of the background section. Present stage implies a single point in the process while present status more accurately describes the relative state or continuum of the proposed project.

Second, the "general structure of the proposed project" section should, in addition to contracting parties, include a description of partnerships and a summary of incentives for recycled water use.

Third, DRA believes that an application should also include not only an explanation of the contracts but a justification for the reasonableness of the terms of the contract.

Fourth, DRA believes the Commission should require detailed information on partnerships and partnering entities on the application. The feasibility and cost of the project will often be strongly tied to factors related to the partnering agency (e.g., timeline, funding, and status) as well as the agreements developed between the IOWSU and the partnering agency. Partnerships can also increase the likelihood of stranded costs resulting from a failed project for reasons beyond the IOWSU's control. The information should include the nature of the partnership, the partnering entity's schedule and project status, and the contract protections planned or in place.

Fifth, DRA provides a template for a project overview summary as Appendix A to Attachment A.

Sixth, the cost-benefit analysis should provide sufficient information for the Commission to evaluate the cost effectiveness of the project on a case by case basis. It is the responsibility of the IOWSU to justify that the project is the most cost effective solution available. The proposal should refer to the most recent Urban Water Management Plan which includes information regarding the need for and plan for additional water supply sources. Further, the cost benefit analysis should only reflect benefits that directly accrue to both water and sewer ratepayers in the service area. DRA believes that ratepayers should not be responsible for underwriting regional and/or

statewide benefits and these benefits should not be included in the cost effectiveness analysis. To the extent that there are other benefits, the IOWSUs should seek other funding to make the project more cost effective from a ratepayer perspective.

Seventh, the Commission should consider including a contingency provision in the due diligence section in the event that an Integrated Water Resource Plan does not exist in a region. In such a situation DRA believes the Commission should require IOWSUs to submit additional information regarding potential project partners to avoid duplicative costs to ratepayers.

Eighth, DRA believes the Commission should require IOWSUs to provide proposed recycled and potable water rates that will result from the addition of the proposed project because potable water rates may change if the revenues from the recycled water rates are not enough to cover the project revenue requirement.

C. A Thorough Analysis and Disclosure of the Rate Impacts and Fixed Costs Burden Resulting from the Shift of Potable Water Customers to Recycled Water Should Be Included in the Tier 3 Advice Letter Template.

As the Draft Tier 3 Advice Letter closely mirrors the Draft Minimum Criteria, all of the concerns raised in the previous section apply. In addition, in the purpose section of the Draft Tier 3 Advice Letter, DRA believes a 5% cap of the IOWSU's total revenue requirement would work better than a specific dollar cap. Smaller districts would be significantly impacted by a \$5 million cap with up to a 50% impact on revenue requirement, yet districts with a larger customer base and revenue requirement could see an impact of less than 1%. Disclosure and analysis of the rate impacts and fixed cost burden would be more meaningful based on a 5% total revenue requirement cap than one based on a specific dollar cap.

D. Specific Comments on Recycled Water Policy Guidelines

While it is clear to DRA that the statutory framework discussed in the first section is not meant to be an exhaustive list of applicable statutes, DRA does believe that any

such list should specifically reference P.U. Code § 1501 since the link between used and useful assets and rates is one of the pillars of California water law and regulation

As explained previously, the Commission should require IOWSUs to explore and take advantage of partnerships with other agencies for joint recycled water projects as joint recycled water projects will likely be more cost effective and provide greater benefits to ratepayers in the service territory. Accordingly, the Guidelines should be explicit that costs and benefits to ratepayers are considered and that costs and benefits external to ratepayers do not factor into the Commission's consideration. DRA believes that ratepayers should not be responsible for underwriting regional and/or statewide benefits and these benefits should not be included in the cost effectiveness analysis. To the extent that there are other benefits, the IOWSUs should seek other funding to make the project more cost effective from a ratepayer perspective.

DRA is particularly concerned with two of the proposed rate impact guidelines. While it is a truism that only reasonable costs associated with approved projects are recoverable and that an equitable allocation is desired. Determining what specific costs are deemed reasonable and how those costs are equitably allocated may differ by project. DRA believes that each project should be evaluated based on its own merits and considerations. In a situation where only one customer benefits from a project, the principle of cost-causation requires that customer to pay for the project. If ratepayers in the service area only receive indirect benefits, an equitable distribution of costs would have to be determined on a case by case basis. Similarly, it is generally true that plant investments funded by the IOWSUs would be allowed in rate base; however, there may be situations where such treatment is not appropriate. DRA intends to evaluate proposals on a case-by-case basis and thus may or may not recommend such expenses be allowed into rate base.

III. CONCLUSION

DRA believes that many of the questions posed in the OIR, cannot be addressed adequately absent the changes to the draft documents proposed herein and encourages the Commission to address those issues in the workshop report and Proposed Decision.

Respectfully submitted,

/s/ ROBERT HAGA

Robert Haga
Staff Counsel

Attorney for the Division of Ratepayer
Advocates

California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102
Phone: (415) 703-2538
Fax: (415) 703-2262
E-mail: robert.haga@cpuc.ca.gov

November 14, 2012