

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA



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Order Instituting Rulemaking on the
Commission's own Motion to Consider a
Comprehensive Policy Framework for
Recycled Water.

Rulemaking No. 10-11-014
(Filed November 19, 2010)

**COMMENTS
OF THE OFFICE OF RATEPAYER ADVOCATES**

ROBERT HAGA

Attorney for
The Office of Ratepayer Advocates

California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102
Telephone: (415) 703-2538
Email: rwh@cpuc.ca.gov

**SUZIE ROSE
DAPHNE KORTHAMAR**

Utility Engineers for
The Office of Ratepayer Advocates

California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102
Telephone: (415) 703-1585
Facsimile: (415) 703-2262
E-mail: suzie.rose@cpuc.ca.gov

July 14, 2014

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I. INTRODUCTION

Pursuant to Rule 14.3 of the California Public Utilities Commission's ("Commission") Rules of Practice and Procedure ("Rules"), the Office of Ratepayer Advocates ("ORA") hereby submits these comments on the *Proposed Decision Adopting a Comprehensive Policy Framework and Minimum Project Criteria Requirements for Recycled Water Projects*, mailed June 26, 2014 ("Proposed Decision").

The Proposed Decision has adequately addressed the issues discussed in the Recycled Water proceeding. ORA appreciates that the Proposed Decision and Appendices incorporate many of ORA's previous recommendations and suggestions. The Proposed Decision is timely in that it will provide clear rules and a framework for encouraging recycled water projects. ORA advocated for the recycled water OIR to be a vehicle to improve water utilities supply options, especially during prolonged drought cycles.

ORA has two specific concerns not addressed by the Proposed Decision, which are as follows: 1) The cost benefit analysis of the recycled water projects should only reflect benefits that directly accrue to the ratepayers in the service area of the project; and 2) The Investor-Owned Water and Sewer Utilities (IOWSUs) should be encouraged to include planned recycled water projects as a part of General Rate Case applications, and recycled water projects applied for via Tier 3 Advice Letter filings should be kept to a

minimum. ORA make these recommended changes to provide for cost containment measures and additional protections for ratepayers.

II. DISCUSSION

ORA recommends that the Commission specify that the cost-benefit analysis presented as a part of the Minimum Criteria Requirements for a Proposed Recycled Water Project (Appendix A of the Proposed Decision) should only reflect benefits that accrue directly to the ratepayers in the service area of the project. ORA recommends modifying the discussion on page 24 regarding GHG emissions, Ordering Paragraph (OP) 6, and OP 12 in the Proposed Decision to reflect this objective.

ORA also recommends that the Commission specify that for a Proposed Recycled Water Project to qualify for the Tier 3 Advice Letter Process (Appendix B of the Proposed Decision), the project must not contribute to more than 5% of the proposing Investor-Owned Water and Sewer Utilities' cumulative revenue requirement impact per utility District within any one GRC cycle and that it must be exclusively a recycled water project. ORA recommends modifying the discussion on page 33, and OP 20 modified to reflect this objective.

A. The cost-benefit analysis presented for a Proposed Recycled Water Project should only reflect benefits that accrue directly to the IOWSU ratepayers in the service area of the proposed project.

Throughout the instant proceeding, ORA has been open to the concept of including “indirect” benefits to ratepayers, including environmental benefits, supply reliability benefits, social benefits, etc. However, ORA has maintained throughout that if indirect benefits are to be considered, ratepayers should not be responsible for underwriting regional and/or statewide benefits and these benefits should not be included in the cost-benefit analysis of the proposed projects. Accordingly, ORA asserts that the Proposed Decision should be explicit that only costs and benefits that accrue to the IOWSU ratepayers in the service area of the proposed project be considered in the cost-benefit analyses, and that costs and benefits external to ratepayers do not factor into the Commission’s consideration of proposed Recycled Water projects. To the extent that

there are additional benefits that accrue on a statewide and/or regional level, the IOWSUs should seek statewide and/or regional funding to underwrite the costs associated with these benefits.

Towards this end, ORA is concerned with 1) the idea of incorporating a comparative analysis of greenhouse gas (GHG) emissions into the economic analysis for each proposed recycled water project;¹ and 2) the language in OP 12 regarding the ratemaking treatment of recycled water projects.

ORA recognizes the importance of GHG emission reductions statewide,² and understands that the use of recycled water in place of an alternative source of water supply can, in some cases, reduce GHG emissions (and can, in some cases, increase GHG emissions). ORA is not opposed to the Commission requiring IOWSU's to conduct a comparative analysis of the effect of recycled water and alternative sources of water supply on GHG emissions, subject to limitations in data availability, as recommended in the Proposed Decision.³ However, the potential benefits (or costs, if the proposed project increases GHG emissions) associated with GHG emissions are, in reality, regional and/or statewide benefits (or costs). Therefore, it would not be appropriate to attribute the full economic value of the GHG emission differential to the proposed recycled water project presented to the Commission.

Additionally, there is currently no defined method by which the IOWSU's should perform this analysis. As stated at footnote 58 on page 24 of the Proposed Decision, "Greenhouse gas (GHG) emissions issues associated with the energy used in the production, treatment, and the conveyance of water supplies generally extend beyond the scope of this Rulemaking." In absence of a standard methodology for calculating GHG emission differentials, and without guidance on exactly which "alternative sources of

¹ See, Proposed Decision at p. 24 and OP 6 at p. 39.

² See, California Global Solutions Act of 2006, Assembly Bill No. 32, Chapter 488, Statutes of 2006.

³ Proposed Decision at p. 24 and OP 6 at p. 39.

water supply” should be used for comparison, the Proposed Decision leaves this calculation extremely open-ended for utility interpretation. As stated above, ORA is not opposed to the Commission requiring IOWSU’s to conduct a comparative analysis, however the incorporation of the analysis “into the economic analysis for each proposed recycled water project”⁴ remains problematic.

The discussion on page 24 and at OP 6 both state “[t]his analysis should be incorporated into the economic analysis for each proposed recycled water project.” ORA recommends striking this statement. The Proposed Decision should be modified to read: *“The Investor-Owned Water and Sewer Utilities shall conduct a comparative analysis of recycled water and alternative sources of water supply in terms of greenhouse gas emissions, to the extent that the data needed for such comparative analysis exist or can be reasonably produced or collected.”*

Regarding OP 12, ORA appreciates that the Proposed Decision attempts to protect ratepayers by specifying that the costs and benefits considered will be exclusively those that “the project will provide for customers in the service area and region where the project will be implemented.”⁵ However, ORA recommends modifying the OP to read: *“The ratemaking treatment of recycled water project costs shall consider all the costs and benefits the project will provide for **IOWSU** customers in the service area and region where the project will be implemented.”* Defining exactly which customers are accruing the cost and benefits is an important component of obtaining the intended ratepayer protection in OP 12.

ORA recommends that the discussion on page 24 and Ordering Paragraph 6 on page 39 of the Proposed Decision, and Ordering Paragraph 12 on page 40 of the Proposed Decision be modified to reflect that the cost-benefit analysis presented as a part of the

⁴ *Id.*

⁵ *Id.* at p. 40.

minimum requirements for recycled water projects should only reflect benefits that accrue directly to the IOWSU ratepayers in the service area of the proposed project.

B. To Qualify for the Tier 3 Advice Letter Process, a Proposed Recycled Water Project Should Be Exclusively a Recycled Water Project and Not Contribute More Than 5% of the IOWSU's Cumulative Revenue Requirement Per Utility District for a Single GRC Cycle.

This Proposed Decision allows IOWSUs to submit recycled water projects through the Tier 3 Advice Letter process. As mentioned in the *Comments of the Division of Ratepayer Advocates on the February 1, 2013 Recycled Water Workshop Report*, “DWA, DRA, and the California Water Association all agree that the Commission should “establish one set of minimum criteria for all recycled water projects, and that the Tier 3 Advice Letter (“AL”) process be [the only] vehicle for the expedited review of ‘straightforward’ projects meeting the minimum threshold requirements discussed below.”⁶

While ORA understands that certain straightforward recycled water projects do not require the same amount of time for the Commission to review as other larger projects might, ORA is concerned with the possible cumulative impact of Recycled Water Tier 3 Advice Letters. Specifically, ORA is concerned with 1) cumulative customer rate impacts within each utility District due to recycled water projects across a GRC cycle, and 2) ensuring that the proposed project submitted by Tier 3 Advice Letter is exclusively a recycled water project.

To address these concerns, ORA recommends that the Commission define the Tier 3 Advice Letter submittal process in the Proposed Decision as one to be used for projects that provide exclusively recycled water, and do not include other non-recycled water project components. ORA also recommends limiting Recycled Water Project Tier 3

⁶ Comments of the Division of Ratepayer Advocates on the February 1, 2013 Recycled Water Workshop Report, R.10-11-014, November 19, 2010, page 2.

Advice Letter filings to a cumulative 5% revenue requirement impact for each utility District within any one GRC cycle. A cumulative 5% revenue requirement impact will provide cost containment of Recycled Water Tier 3 Advice Letter submittals across each GRC cycle, and ensure that customer rate impacts are fully realized at the time of the Tier 3 Advice Letter submittal.

The Proposed Decision references Water Code Section 13580.8 which “explicitly allows the IOWSUs’ to recover revenue shortfalls that result from discounting recycled water from general metered customers.”⁷ In addition, the Proposed Decision states “we adopt a policy to allow recovery of recycled water project costs from both recycled and potable water services customers in the IOWSU’s service area.”⁸ ORA agrees that both recycled and potable water customer rates will be affected by the Commission’s approval of recycled water projects. Therefore, limiting the revenue requirement impact to a cumulative maximum 5% within any one GRC cycle is a necessary component of providing cost containment for potable as well as recycled water customers in the District, and allows for a more accurate analysis of rate impacts to customers at that time. Furthermore, to better understand future customer rate impacts, ORA encourages IOWSUs to include planned or proposed recycled water projects that meet the Proposed Decision’s criteria in applicable GRC filings.

The Proposed Decision on page 33 and OP 20 on page 42 both state “To qualify for the Tier 3 Advice Letter Process the proposed recycled water project must: (1) have a revenue impact of less than 5% of the proposing IOWSU’s revenue requirement in the associated ratemaking area...” ORA appreciates that the Proposed Decision attempts to limit customer rate impacts of Recycled Water Tier 3 Advice Letters by setting a maximum revenue impact of 5%. However, ORA recommends that the language be modified to provide additional cost containment and ratepayer protection. ORA

⁷ Proposed Decision at p. 30.

⁸ *Id.*

recommends that the language on page 33 and OP 20 be modified to read: *“To qualify for the Tier 3 Advice Letter Process the proposed recycled water project must: (1) be exclusively a recycled water project which does not contribute to more than 5% of the proposing Investor-Owned Water and Sewer Utilities’ cumulative revenue requirement impact per utility District within any one GRC cycle.”* Defining a time limit of one GRC cycle and defining the project to be exclusively a recycled water project are important components of obtaining the intended ratepayer protection in OP 20.

III. CONCLUSION

ORA believes that the changes recommended herein provide a more reasonable approach to 1) analyzing the costs and benefits associated with proposed recycled water projects, and 2) the filing of Tier 3 Advice Letters than those presented in the Proposed Decision. The recommended changes provide for cost containment measures and additional protections for ratepayers that should be critical components of the Commission’s Comprehensive Policy Framework for Recycled Water.

Respectfully submitted,

/s/ ROBERT HAGA
ROBERT HAGA

Attorney for
The Office of Ratepayer Advocates

California Public Utilities Commission
505 Van Ness Avenue.
San Francisco, CA 94102
Telephone: (415) 703-2538
Email: robert.haga@cpuc.ca.gov

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APPENDIX A
ORA Recommended Changes to
Ordering Paragraphs for Recycled Water PD

ORDERING PARAGRAPHS:

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6. The Investor-Owned Water and Sewer Utilities shall conduct a comparative analysis of recycled water and alternative sources of water supply in terms of greenhouse gas emissions. ~~This analysis shall be incorporated into the economic analysis for each proposed recycled water project,~~ to the extent that the data needed for such comparative analysis exist or can be reasonably produced or collected.

...

12. The ratemaking treatment of recycled water project costs shall consider all the costs and benefits the project will provide for IOWSU customers in the service area and region where the project will be implemented.

...

20. To qualify for the Tier 3 Advice Letter process a proposed recycled water project shall: (1) Be exclusively a recycled water project which does not contribute to more required to have a revenue impact of less than 5% of the proposing Investor-Owned Water and Sewer Utilities' cumulative revenue requirement impact per utility District within any GRC cycle in the associated ratemaking area; (2) be exempt from review under the National Environmental Protection Act (NEPA) or California Environmental Quality Act (CEQA), or the lead agency must have completed and certified NEPA/CEQA review for the proposed project; and (3) not require direct potable water reuse as defined by Water Code Sections 13560 et seq.