



December 8, 2017

Proposed Resolution W-5153  
Agenda ID: 16188

To: All Interested Persons

Enclosed is Proposed Resolution W-5153 of the Water Division, which affirms the rejection of San Jose Water Company's implementation of a Sales Reconciliation Mechanism and increasing rates due to the reduced authorized sales forecast requested in Advice Letter No. 501. Proposed Resolution W-5153 is scheduled to appear on the January 11, 2018 Commission Meeting Agenda (ID# 16188).

The Commission may act on this resolution or it may postpone action until later. When the Commission acts on a proposed resolution, the Commission may adopt all or part of the proposed resolution, as written, or amend or modify the proposed resolution; or the Commission may set the proposed resolution aside and prepare a different resolution. Only when the Commission acts does the resolution become binding.

Interested persons may submit comments on Proposed Resolution W-5153 via email to [Water.Division@cpuc.ca.gov](mailto:Water.Division@cpuc.ca.gov) on or before December 29, 2017. **Please reference "Proposed Resolution W-5153" in the subject line.**

Interested persons must also serve a copy of their comments on the utility on the same date that the comments are submitted to the Water Division. If email is unavailable, please submit comments to:

California Public Utilities Commission  
Water Division  
505 Van Ness Avenue  
San Francisco, CA 94102

Comments should focus on factual, legal, technical errors, or policy issues in the proposed resolution.

Persons interested in receiving comments submitted may contact the Water Division at [Water.Division@cpuc.ca.gov](mailto:Water.Division@cpuc.ca.gov) or (415) 703-1133. Please reference "Proposed Resolution W-5153."

/s/RAMI S. KAHLON

Rami S. Kahlon, Director  
Water Division

Enclosures: Proposed Resolution W-5153  
Certificate of Service  
Service List

# PROPOSED RESOLUTION

Resolution W-5153  
WD

Agenda ID #16188

## PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

DIVISION OF WATER AND AUDITS  
Water and Sewer Advisory Branch

RESOLUTION W-5153  
January 11, 2018

### RESOLUTION

(RES. W-5153), SAN JOSE WATER COMPANY (SJWC). ORDER  
AFFIRMING WATER DIVISION'S REJECTION OF  
IMPLEMENTATION OF A SALES RECONCILIATION MECHANISM  
(SRM) AND INCREASING RATES DUE TO THE REDUCED  
AUTHORIZED SALES FORECAST REQUESTED IN ADVICE LETTER  
NO. 501.

---

By Advice Letter 501-W, filed January 09, 2017.

### SUMMARY

This Resolution responds to a request by San Jose Water Company (SJWC) for Commission review of Water Division's rejection of SJWC's Advice letter No. 501 to implement a Sales Reconciliation Mechanism (SRM). This Resolution affirms, for different reasons, Water Division's disposition rejecting Advice Letter No. 501 dated May 3, 2017.

### BACKGROUND

On January 9, 2017, SJWC filed Advice Letter (AL) 501, as a Tier 2 advice letter requesting authorization, pursuant to Commission Decision (D.) 16-12-026, Ordering Paragraph 3, to implement a Sales Reconciliation Mechanism (SRM) to amend water sales forecast authorized in its last General Rate Case (GRC) based on recorded consumption for the period October 2015 through September 2016. AL 501 requested that the submitted rate changes become effective March 15, 2017.

Water Division suspended AL 501 prior to its effective date, stating that AL 501 was not in compliance with D.16-12-026 and that D.16-12-026 needed to be modified. On April

# PROPOSED RESOLUTION

Resolution W-5153  
WD

January 11, 2018

6, 2017, the Commission adopted D.17-04-002, correcting errors in D.16-12-026. The Commission noted that Water Division's review of AL 501 had identified an error in D.16-12-026 in its description of the SRM by the use of the word "revenue" rather than "sales." D.17-04-002 replaced references to "revenues" in the context of the SRM with references to "sales" at several points in the text and in Ordering Paragraph 3.<sup>1</sup>

On April 7, 2017, Governor Brown declared an end to the drought emergency in most of California by Executive Order B-40-17. On May 3, 2017, Water Division rejected AL No. 501 based on Governor Brown's declaration ending the drought emergency. Water Division read D.16-12-026 to require the existence of a drought to request and receive an SRM.<sup>2</sup> While AL No. 501 was filed when a drought existed, the drought was declared over before the advice letter was acted upon. SJWC's proposed SRM for 2017 is a non-drought year.

## NOTICE AND PROTESTS

SJWC mailed a copy of AL 501 to its advice letter service list. A public notice of the rate increase request was also mailed to all customers in compliance with General Order (G.O.) 96-B, Water Industry Rule 3.1 and General Rule 4.2. Five hundred forty-eight protests or comments were received as of May 1, 2017 requesting the advice letter be denied primarily because it was unjust, unreasonable, or discriminatory.

## REQUEST FOR REVIEW

By letter, submitted in accordance with Section 7.7.1 of G.O.96-B, SJWC requests Commission review of Water Division's disposition of AL 501. SJWC sets forth the specific grounds on which it contends that Water Division's action is unlawful and erroneous as summarized below.

---

<sup>1</sup> All subsequent references to D.16-12-026 are to the modified version.

<sup>2</sup> Water Division read the phrase in Ordering Paragraph 3 "in light of the drought" and language in the text of the decision to require the existence of a drought for SJWC's request to be granted and thus rejected the advice letter.

# PROPOSED RESOLUTION

Resolution W-5153  
WD

January 11, 2018

1. Water Division engaged in an unlawful discretionary review of AL 501. To provide such a review, Water Division should have prepared a resolution for the Commission's consideration.
2. Water Division fails to apply the clear wording of D.16-12-026, Ordering Paragraph 3, which unambiguously authorizes SJWC to request an SRM by Tier 2 advice letter under the circumstances on which SJWC's request was based.
3. Water Division erroneously relies on the text of D.16-12-026, which is completely consistent with Ordering Paragraph 3, to reach a conclusion inconsistent with the clear wording of that ordering paragraph.
4. Water Division fails to consider the Commission's policy discussion in D.16-12-026, which supports authorization of an SRM to mitigate a mismatch between authorized and actual sales during a drought year regardless of whether the drought has ended.
5. Water Division fails to consider the various state policies and initiatives intended to make water conservation in California a way of life, or the complementary local conservation requirements, which can be expected to prolong the mismatch between SJWC's authorized and actual sales absent allowance of an SRM.

## DISCUSSION

We affirm the Water Division's rejection of AL 501, although on slightly different grounds. We determine that denial of the advice letter is appropriate. We hereby issue a resolution rejecting SJWC's advice letter. SJWC's allegation that Water Division's advice letter rejection involved an unlawful discretionary review is moot.

When we consider a public utilities' request to increase rates we are mandated to insure that the resulting rates are just and reasonable. (Pub. Util. Code. § 451.) As discussed below, we find that SJWC's circumstances do not justify granting an SRM.

In light of the drought, in D.16-12-026 we authorized Class A and B Water Investor-Owned Utilities (IOU) that have a five percent or greater divergence between

## PROPOSED RESOLUTION

Resolution W-5153  
WD

January 11, 2018

authorized and actual sales during a drought period to consider filing a Tier 2 advice letter requesting the Commission authorize an SRM to adjust water forecasts authorized in the current General Rate Case based on actual consumption. (D.16-12-026, p. 86 [Ordering Paragraph 3].)

We did not require the IOUs to request an SRM nor did we make a granting an SRM automatic. As the language of Ordering Paragraph clearly provides, Class A and B IOUs “shall **consider** filing . . . a Tier 2 Advice Letter **requesting** a Sales Reconciliation Method.”<sup>3</sup> (D.16-12-026, p. 84 [Ordering Paragraph 3], emphasis added.) We recognized that such requests should be considered in light of the drought and circumstances faced in their district(s) (*Id.*)

When D.16-12-026 was issued, we were still in a Governor-declared drought emergency. At the time we thought it was likely that the drought would continue. (D.16-12-026, p. 33.) We recognized that during the prolonged drought we needed to authorize a mechanism between GRCs to address growing WRAM balances. (D.16-12-026, p. 33.) We referred to our authorization of a “drought SRM” and we stated that we are authorizing an advice letter process to “Initiate an SRM during drought years between GRCs.” (D.16-12-026, pp. 9, 33, 83.) Thus, while our decision does not specifically require that a drought exists to grant an SRM, there was an underlying assumption that the drought would likely continue.

When SJWC requested an SRM the drought emergency existed. However, after SJWC filed its advice letter, circumstances changed. The Governor Brown issued his Executive Order declaring an end to the drought emergency in most of California. Because circumstances changed significantly after SJWC filed its advice letter, it is appropriate for us to consider whether an SRM is warranted.<sup>4</sup>

We find that SJWC’s circumstance does not warrant granting an SRM. Earlier this year, SJWC requested authority in AL No. 505 to suspend its Schedule 14.1 Drought Allocations and Drought Surcharges effective February 1, 2017 in response to this

---

<sup>3</sup> Page 6 of D.16-12-026 contains similar language and also stated that the IOUs may **propose** an SRM for individual districts or combination of districts.

<sup>4</sup> By requiring the IOU’s request to be made by Tier 2 advice letter, we have allowed for review of the request when circumstances warrant.

## PROPOSED RESOLUTION

Resolution W-5153  
WD

January 11, 2018

winter's above average rainfall and local water storage conditions.<sup>5</sup> Hence, SJWC neither has the drought conditions, nor the need to implement drought allocations that we find would justify an SRM adjustment for 2017 and 2018.

We understand that the Santa Clara Water District continues to call for *voluntary* 20 percent water conservation. We do not, however, believe that this call for voluntary conservation justifies granting SJWC's SRM request. The current adopted sales from SJWC's most recent general rate case decision, D.16-06-004, is the sales forecast proposed by SJWC during a period where 20 percent *mandatory rationing* by the Santa Clara Water District was in effect.

SJWC's argument that rejection of AL 501 is at odds with various state policies and initiatives on water conservation is baseless. We have a long history of authorizing various conservation measures and programs, including mandating Tariff Rule 14.1 specifying conservation policies, and rules for retail customers and enactment of conservation rate design policies, dating back almost a decade, to incentivize customers to conserve in their use of water. All conservation measures and programs existed at the time SJWC's proposed water sales forecast was adopted. Rejection of AL 501 will do nothing to alter the existing conservation efforts.

Moreover, our principal reason for authorizing SRM requests was to address increasing Water Revenue Adjustment Mechanism (WRAM) balances. We first considered an SRM in D.14-08-011. There, we authorized California Water Service Company's (Cal Water) to implement an SRM as a pilot program to mitigate against high WRAM balance as the SRM would reduce the WRAM/MCBA balances in the second and third years of a rate case cycle. (D.14-08-011, pp. 19-20.) We determined that an SRM was in the public interest because "it would limit the revenue disparity that is tracked by the WRAM by changing rates, as opposed to applying surcharges and surcredits after the fact, when a disparity between adopted and actual sales will contribute to the WRAM balance at the end of the year." (D.14-08-011, pp. 19-20.) As part of the SRM, we authorized Cal Water to open a drought SRM Balancing Account to track any changes in rates associated with the mechanism so as to capture cost savings associated with reduced water sales. (D.14-08-011, p. 20.) Thus, the SRM mitigated the rate adjustments under the WRAM. By reducing the increases to the WRAM balance, the

---

<sup>5</sup> During the drought, SJWC tracked its lost revenue associated activation of Schedule 14.1 in a lost revenue memorandum account and subsequently recovered the lost revenues in rates through a surcharge.

# PROPOSED RESOLUTION

Resolution W-5153  
WD

January 11, 2018

SRM sent a more accurate price signal and was more transparent to the customer about the cost of the water service.

In this case, SJWC does not have a WRAM but rather has a Monterey-Style WRAM.<sup>6</sup> Thus the primary reason for the SRM does not exist. Moreover, SJWC has not demonstrated that an SRM will necessarily lead to decrease in a Monterey-Style WRAM balance.

Finally, SJWC is scheduled to file its next GRC application in January 2018. We believe the appropriate place to consider an SRM in the absence of a drought is during SJWC's next GRC application as provided for in D. 16-12-026, Ordering Paragraph No. 4.

## COMMENTS

Public Utilities Code Section 311(g) (1) generally requires that resolutions must be served on all parties and be subject to at least 30 days public review and comment prior to a vote of the Commission. On December 8, 2017, this Resolution was mailed for 30-day public review and comment to the utility, protestants, and to the parties on the service list for AL 501.

## SAFETY CONSIDERATIONS

The implementation of SRM during drought years would be appropriate due to mandatory reduction in water usage which allows the utility to *safely* operate and maintain its water distribution system for the benefit of its customers, employees, and members of the general public. However in the absence of drought SJWC's existing authorized sales enacted during a period of mandatory rationing should allow the utility the necessary revenues to safely operate and maintain its water distribution system.

---

<sup>6</sup> A Monterey-Style WRAM tracks the difference between the actual recorded revenue the utility receives from its tiered rates and revenue the utility would have received through a uniform, single or standard quantity rate (SQR).

# PROPOSED RESOLUTION

Resolution W-5153  
WD

January 11, 2018

## FINDINGS AND CONCLUSIONS

1. On January 9, 2017, San Jose Water Company filed Advice Letter (AL) 501
2. In AL 501, SJWC seeks authorization to implement an SRM to amend water forecasts authorized in last GRC based on recorded consumption for the period October 2015 through September 2016.
3. On February 8, 2017, Water Division suspended AL 501, prior to its effective date because D. 16-12-026 had to be modified.
4. On February 2, 2017, San Jose Water Company timely filed a response to 48 customer protests to AL 501.
5. On April 6, 2017, the Commission adopted D.17-04-002, correcting errors in D.16-12-026 for the inadvertent use of word “revenue” rather than “sales” in describing SRM.
6. In D.16-12-026, the Commission provided for a Tier 2 advice letter procedure for requesting an SRM.
7. On April 7, 2017, Governor Brown declared an end to the drought emergency in most of California by Executive Order B-40-17.
8. San Jose Water Company, a water retailer in Santa Clara County, purchases water from Santa Clara Valley Water District. Santa Clara Valley Water District currently requests a voluntary 20% conservation instead of the 20% mandatory rationing that was in place when current authorized sales were adopted.
9. On January 27, 2017, San Jose Water Company requested authority to suspend its Schedule 14.1 Drought Allocations and Drought Surcharges by AL 505 effective February 1, 2017.
10. On May 3, 2017, Water Division rejected AL 501 given Governor Brown’s Executive Order B-40-17 declaring an end to the drought emergency in most of California.

## PROPOSED RESOLUTION

Resolution W-5153  
WD

January 11, 2018

11. On May 10, 2017, SJWC requested Commission review of Water Division's rejection of its Advice Letter No 501.
12. SJWC does not have a full WRAM.
13. SJWC is scheduled to file its next GRC application in January 2018. The appropriate place to consider an SRM in absence of a drought is during SJWC's next GRC application as provided for in D.16-12-026, Ordering Paragraph No.4.

## PROPOSED RESOLUTION

Resolution W-5153  
WD

January 11, 2018

### THEREFORE, IT IS ORDERED THAT:

1. Water Division's rejection of San Jose Water Company's Advice Letter No. 501 is affirmed for alternative reasons.

This resolution is effective today.

I certify that the foregoing resolution was duly introduced, passed, and adopted at a conference of the Public Utilities Commission of the State of California held on January 11, 2018; the following Commissioners voting favorably thereon:

---

TIMOTHY J. SULLIVAN  
Executive Director

# PROPOSED RESOLUTION

Resolution W-5153  
WD

January 11, 2018

## CERTIFICATE OF SERVICE

I certify that I have by either electronic mail or postal mail, this day, served a true copy of Proposed Resolution No. W-5153 on all parties in these filings or their attorneys as shown on the attached lists.

Dated December 8, 2017 at San Francisco, California.

/s/ JENNIFER PEREZ

Jennifer Perez

Parties should notify the Division of Water and Audits, Third Floor, California Public Utilities Commission, 505 Van Ness Avenue, San Francisco, CA 94102, of any change of address to ensure that they continue to receive documents. You must indicate the Resolution number on which your name appears.

# PROPOSED RESOLUTION

Resolution W-5153  
WD

January 11, 2018

## SAN JOSE WATER COMPANY ADVICE LETTER NO. 501 SERVICE LIST

Richard Smith  
[Richard.Smith@cpuc.ca.gov](mailto:Richard.Smith@cpuc.ca.gov)

Richard Rauschmeier  
[Richard.Rauschmeier@cpuc.ca.gov](mailto:Richard.Rauschmeier@cpuc.ca.gov)

Lisa Bilir  
[Lisa.Bilir@cpuc.ca.gov](mailto:Lisa.Bilir@cpuc.ca.gov)

Office of Ratepayer Advocates  
[ORA@cpuc.ca.gov](mailto:ORA@cpuc.ca.gov)

John B. Tang  
[john.tang@sjwater.com](mailto:john.tang@sjwater.com)

Martin Mattes  
Attorney for San Jose Water Company  
Nossaman LLP  
[mmattes@nossaman.com](mailto:mmattes@nossaman.com)

Protestants to Advice Letter 501