BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

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Order Instituting Investigation to Consider Policies to Achieve the Commission's Conservation Objectives for Class A Water Utilities.	Investigation 07-01-022 (Filed January 11, 2007)
In the Matter of the Application of Golden State Water Company (U 133 E) for Authority to Implement Changes in Ratesetting Mechanisms and Reallocation of Rates.	Application 06-09-006 (Filed September 6, 2006)
Application of California Water Service Company (U 60 W), a California Corporation, requesting an order from the California Public Utilities Commission Authorizing Applicant to Establish a Water Revenue Balancing Account, a Conservation Memorandum Account, and Implement Increasing Block Rates.	Application 06-10-026 (Filed October 23, 2006)
Application of Park Water Company (U 314 W) for Authority to Implement a Water Revenue Adjustment Mechanism, Increasing Block Rate Design and a Conservation Memorandum Account.	Application 06-11-009 (Filed November 20, 2006)
Application of Suburban Water Systems (U 339 W) for Authorization to Implement a Low Income Assistance Program, an Increasing Block Rate Design, and a Water Revenue Adjustment Mechanism.	Application 06-11-010 (Filed November 22, 2006)
Application of San Jose Water Company (U 168 W) for an Order Approving its Proposal to Implement the Objectives of the Water Action Plan.	Application 07-03-019 (Filed March 19, 2007)

OPENING BRIEF OF CALIFORNIA WATER SERVICE COMPANY (U-60-W)

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OPENING BRIEF OF CALIFORNIA WATER SERVICE COMPANY

Pursuant to the Rules of Practice and Procedure of the California Public Utilities Commission ("Commission') and the instructions provided by Administrative Law Judge ("ALJ") Janice Grau, California Water Service Company ("Cal Water") hereby sbmits its opening brief in the Commission's Order Instituting Investigation (I.) 07-01-022 (Conservation OII).

I. INTRODUCTION AND SUMMARY OF ARGUMENT

Cal Water, The Utility Reform Network ("TURN") and the Division of Ratepayer Advocates ("DRA") ("Settlement Parties") filed an Amended Settlement Agreement in I.07-01-022 on June 15, 2007 ("Amended Settlement"). The Amended Settlement proposes a conservation rate design, Water Revenue Adjustment Mechanism ("WRAM"), which fully decouples sales and revenues, and a Modified Cost Balancing Account ("MCBA"). The Commission should adopt the Amended Settlement. The Amended Settlement is in the public interest, it complies with Commission directives and the Commission's water policy objectives. Moreover, the Amended Settlement is endorsed by Cal Water and two of the most active and experienced ratepayer interest groups that appear before the Commission.

II. PROCEDURAL HISTORY

Please see the Settlement Parties motion to approve Amended Settlement Agreement, dated June 15, 2007. The motion provides the procedural history through June 15, 2007.

Additionally, Cal Water submitted the prepared testimony of David Morse dated, October 23, 2006, (Exhibit 17) that was filed in Cal Water's Application 06-10-026, which has been consolidated with this investigation.

On June 29 2007, individual comments on the settlement were filed by the Consumer Federation of California ("CFC") and Disability Rights Advocates ("DisabRA") and joint comments ("Joint Comments") were filed by the National Consumer Law Center ("NCLA"), the Latino Issues Forum ("LIF"), and CFC. In addition, the DRA filed a report

in this proceeding on June 29, 2007, entitled "Phase 1A Report of the Division of Ratepayer Advocates Regarding Suburban Water Systems", which in part deals with the issue of data collection and customer education for all Class A water utilities. On July 6, 2007, Cal Water filed reply comments to the comments filed by the parties above. On July 13, 2007, Cal Water filed prepared testimony on contested issues (Exhibit 18). NCLC (Exhibit 16) and CFC (Exhibit 19) also filed prepared testimony on July 6.

On July 11, 2007, a prehearing conference was held during which ALJ Grau indicated that Cal Water's request for a conservation memo account as discussed in Exhibit 18 would be a phase 1A issue. ALJ Grau indicated that this issue will be addressed in the October hearings.[1] A Phase 2 scoping memo that sets the dates for testimony from other parties on Cal Water's conservation memo account and Cal Water's rebuttal testimony is expected to be issued in advance of the scheduled October 22, 2007, hearings.[2]

ALJ Grau conducted hearings on the settlement and contested issues July 30, 2007, through August 2, 2007. Assigned Commissioner Bohn attended the morning session of the hearing on August 2, 2007.

III. THE AMENDED SETTLEMENT

The settling parties consist of Cal Water and the two most active and experienced consumer groups representing ratepayer interests before the Commission. "The Amended Settlement fulfills the criteria that the Commission requires for approval of such settlements in that it is reasonable in light of the whole record, consistent with the law, and in the public interest."[3]

- The settlement takes into account the requirements of Decision (D.) 06-08-011, by proposing an increasing block rate design, a sales and revenue decoupling mechanism (water revenue adjustment mechanism or WRAM), and a modified cost balancing account (MCBA).[4]

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[1] Transcript, July 11, 2007, prehearing conference, page 74.
[2] Transcript, July 11, 2007, prehearing conference, page 74.
[3] Motion of TURN, DRA, and Cal Water to Approve Amended Settlement Agreement," June 15, 2007, page 2.
[4] Ordering paragraph 3 states: "Cal Water shall within 60 days file a new application that addresses the goals of the Water Action Plan by proposing an increasing block rate design for each of the districts in this general rate case for years 2007/2008 and 2008/2009, and an accompanying mechanism to decouple sales from revenues."

- The parties are not aware of any "statutory provision or prior Commission decision that would be contravened or compromised by the Amended Settlement."[5]

- The Amended Settlement is in the public interest.[6]

- "The Amended Settlement is consistent with the Commission's Water Action Plan objective for setting rates that balance investment, promote conservation, and ensure affordability."[7]

- "…Commission approval of the Amended Settlement will provide speedy resolution of contested issues, will save unnecessary litigation expense, and will conserve Commission resources. The Commission has acknowledged that "[t]here is a strong public policy favoring the settlement of disputes to avoid costly and protracted litigation." Re PG&&E, D.88-12-083, 30 CPUC 2d 189,221.[8]

- The Amended Settlement provides the Commission with a ready to adopt and implement work product including rates and rate design policies for implementation of a pilot program within the Commission approved cost structure.[9]

A. The Amended Settlement complies with the Commission's request for information and responds to specific questions as outlined in the March 8, 2007, scoping memo.[10]

For example, the Amended Settlement addresses the Commissions questions on:

> Low-income programs: Cal Water had a Low-Income Ratepayer Assistance Program (LIRA) for all of its districts approved in D.06-11-053.[11]

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[5] Motion of TURN, DRA, and Cal Water to Approve Amended Settlement Agreement," June 15, 2007, page 17.
[6] Motion of TURN, DRA, and Cal Water to Approve Amended Settlement Agreement," June 15, 2007, page17.
[7] Motion of TURN, DRA, and Cal Water to Approve Amended Settlement Agreement," June 15, 2007, page 17.
[8] Motion of TURN, DRA, and Cal Water to Approve Amended Settlement Agreement," June 15, 2007, page 17.
[9] Transcript, August 1, 2007, Mr. Morse, page 354 and 354; and August 2, 2007, Mr. Morse, page 503; and 504 and Ms. Olea page 504.
[10] Motion of TURN, DRA, and Cal Water to Approve Amended Settlement Agreement," June 15, 2007, pages 5 to 17.
[11] Motion of TURN, DRA, and Cal Water to Approve Amended Settlement Agreement," June 15, 2007, page 5.

> Metered service, monthly or bimonthly bills: residential customers in 15 districts have metered service, while the other 9 districts have customers with flat-rate or metered service and bill frequency data is included in Appendix A.[12]
>
> All other issues raised in the March 8, 2007, Scoping memo.

Furthermore, the Motion of the Utility Reform Network, The Division of Ratepayer Advocates, and California Water Service Company to Approve Amended Settlement Agreement, dated June 15, 2007 provides a detailed response to all the issues and questions raised in the Commission's March 8, 2007, scoping memo.

B. The Amended Settlement's residential rate design is a fair and logical step to introduce conservation rates.

The rate design proposal is a reasonable balance of providing an incentive for customers with higher levels of consumption to conserve while tempering the rate change by minimizing the overall increase to 20% in the third block to avoid rate shock.[13]

> The proposed rate design separates Cal Water's 24 districts into four groups. The groupings provide a logical and fair way to distinguish groups. Groups 1, 2A, and 2B have increasing block rates, with either two blocks (So. San Francisco and East LA) or three blocks (all other districts in Groups 1 and 2). Group 3 districts will not have increasing block rates.

Under the proposed residential rate design customers receive price signals based on seasonality. By using winter and summer average consumption in setting the rate block (also referred to as tiers) break points the inclining block rate proposal addresses seasonality.[14] Furthermore, this provides a reasonable balance between increasing price signals and minimizing rate shock.[15] Customers with below average levels of consumption will experience minor decreases in the winter months.[16] For example, in Bakersfield, "Customers with average monthly consumption of 33 ccf/month or less will receive lower winter bills, but an increase in the summer months…"[17] The rates are designed so that

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[12] Motion of TURN, DRA, and Cal Water to Approve Amended Settlement Agreement," June 15, 2007, page 5.
[13] Transcript, August 1, 2007, Mr. Morse, page 259.
[14] Transcript, July 31, 2007 Ms. Olea, pages 272 to 273.
[15] Transcript, August 1, 2007, Mr. Morse, page 259.
[16] Transcript, August 1, 2007, Mr. Morse, page 350 and page 427.
[17] Ex 17, Testimony of David Morse, page 40.

customers that have consumption above the midpoint of the average consumption will be billed in the third rate tier.[18] The actual effect on bills varies by district.[19]

Water consumption patterns in Cal Water are skewed. This uneven consumption pattern results in a rate design that is geared more to consumption than the number of customers.[20] For example, in Cal Water's "…Bakersfield district, 26.21% of the residential customers have annual average consumption of 13 ccf a month or less. However those customers represent only 6.91% of total consumption…Customers with consumption of 52 ccf a month or more represent only 5.5% of customers, yet represent almost 20% of consumption."[21] Thus, while in some cases there may be a small percentage of customers who will be in the third rate block, they represent a much large proportion of over all water consumption.[22]

Because weather, water production costs, water infrastructure investment, household income, and household size vary significantly among districts the Settlement Parties developed the block rate (tier) break points based on consumption patterns unique to each district.[23] DRA's witness, Ms. Olea, points out that such an approach is supported by several studies including the American Waterworks Association and the California Water Conservation Council's published manual.[24]

1. Rate block break points should not be based on a theoretical level of consumption, where each district is forced into a one size fits all of the appropriate level of use (also called "budget-based rates") for several reasons:

a. The Commission OII did not specify a value judgment on the appropriate level of water consumption.[25]

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[18] "Amended Settlement," page 4.
[19] Please see the Residential Customer Bill Impact Analysis, Attachments I and II of the Amended Settlement. For example, page 4 displays Residential Customer Bill Impact Analyses for Bear Gulch residential customers. It shows that customers with average summer consumption of 49ccf/mo will have a 5.33% increase in their water bills. The highest user will see a 22 % increase.
[20] Ex 17, Testimony of David Morse, page 38.
[21] Ex 17, Testimony of David Morse, page 38
[22] Please see the rate design summary page, Attachments I and II of the Amended Settlement. For example, in the Bakersfield district at page 15, while only 9.46% of customers (100%-90.54 %) have consumption above the annual average and summer average mid point and thus putting them in block 3, 19.94% (100%-80.06%) will have consumption in block 3.
[23] Transcript, July 31, 2007 Ms. Olea, page 262 and August 1, 2007, Mr. Morse, page 355 and page 356.
[24] Transcript, July 31, 2007 Ms. Olea, page 288.
[25] Transcript, July 31, 2007, Ms. Olea, page 269.

b. Budget-based rates do not account for the variation in consumption patterns by district. The Amended Settlement proposed rate design does not make a value judgment as to appropriate levels of consumption.[26]

c. Budget-based rates are a form of rationing rather than conservation rate design.[27]

d. A variation in rate blocks is needed to account for household size which varies significantly among Cal Water's service area.[28]

e. Budget-based rates are contrary to the Commission's policy for setting base rates in energy, which includes a geographical factor.[29]

f. Rate block break points for some districts would be greater than average summer consumption in the district. For example, using CFC's proposed 10 ccf as a first block rate point would be higher than the average summer consumption (9 ccf) in Cal Water's South San Francisco district.[30]

g. Budget based rates would require additional information, such as the number of occupants in each house and the size of the house.[31] This information is not available.[32]

2. Direct comparison to municipal water utility rates is not appropriate in designing water conservation rates for Cal Water:

a. Municipal cost structures are different than privately owned water utilities.[33]

b. CFC's municipal rate information does not include all relevant rates, e.g. service charges and actual rates.[34]

c. The Amended Settlement's initial proposal, which changes rates from a single quantity block rate to increasing block rates is not comparable to CFC's examples of municipal water utility rates that have been refined over many years.

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[26] Transcript, July 31, 2007, Ms. Olea, page 262 and August 1, 2007, Mr. Morse, page 355 and page 356.
[27] Transcript, July 31, 2007, Ms. Olea, page 269.
[28] Transcript, August 1, 2007, Mr. Morse, page 355.
[29] Transcript, August 1, 2007, Mr. Morse, page 356.
[30] Transcript, August 1, 2007, Mr. Morse, page 357.
[31] Transcript, August 2, 2007, Ms. Wodtke, page 547.
[32] Transcript, July 31, 2007, Ms. Olea, pages 280 to 281.
[33] Transcript, July 31, 2007 Ms. Olea, pages 256 to 257.
[34] Transcript, July 31, 2007, Ms. Olea, page 279 to 280.

d. The Amended Settlement proposal is a trial proposal; the rate design will be modified over time to incorporate lessons learned and refinements.[35]

e. Many of Cal Water's districts include unmetered customers that will experience metered rates and increasing block rates when converted to meters.[36] CFC's municipal water utility information does not indicate if any of the rates include areas where customers would be converting to metered service. Cal Water is required to convert all unmetered customers to metered service.

f. The CFC's examples of a few municipal water utility increasing rates are not illustrative of municipal rates.[37] Thus, the illustration does not provide the Commission with a useful reference of current municipal water utility rate design.

The Amended Settlement residential rate design proposal is a logical first step in moving from single quantity rates to increasing block rates. Moreover, it will be reviewed in the next general rate case filing, where modification and evolution of the rate design will be considered.[38]

C. The Amended Settlement's non residential rate design is a fair and logical step to introduce Conservation Rates.

The proposed rate design includes conservation rates for non residential customers by lowering the fixed service/meter charge and increasing the quantity charge. This will provide all non residential customers a greater price signal.[39] "Developing increasing block rate would likely require reclassification of these customers based on customer and consumption data that is not available at this time."[40] The rate design proposal "reduces meter charges by approximately 10% to 25%, with corresponding increases in the quantity charge to achieve revenue neutrality and minimize impact to

[35] Transcript, August 1, 2007 Mr. Morse, page 507.
[36] Transcript, July 31, 2007 Ms. Olea, pages 278, line 17 to 19.
[37] Transcript, August 2, 2007 Ms. Wodtke, page 530.
[38] "Amended Settlement Agreement…" page 2 and transcript, August 2, 2007, Mr. Morse, pages 505 and 506 and Transcript August 1, 2007, Mr. Morse, page 507.
[39] "Amended Settlement Agreement…" page 6.
[40] "Motion …to Approve Settlement…" page 11.

ratepayers."[41] "The resulting higher quantity charge provides customers with an incentive to reduce consumption."[42]

D. The Amended Settlement's WRAM and MCBA should be adopted by the Commission.

By proposing the WRAM and MCBA the Settlement Parties have proposed a full decoupling of sales and revenues/earnings. As stated in the Amended Settlement and in testimony the proposal will:

> "Sever the relationship between sales and revenue to remove any disincentive for the utility to implement conservation rates and conservation programs."
>
> "Ensure cost savings resulting from conservation are passed on to ratepayers."
>
> "Reduce overall water consumption by Cal Water ratepayers."[43]

Thus the Amended Settlement WRAM and MCBA proposals are consistent with the Water Action Plan, which recommends removal of the "current financial disincentive to water conservation."[44] Furthermore, the Commission noted that:

> "Because water utilities recover their costs through sales, there is a disincentive associated with demand side management: a successful campaign to reduce water use leads to less revenue and less profit. The Commission will consider de-coupling water utility sales from earnings in order to eliminate current disincentives associated with conservation." [45]

The WRAM and MCBA also satisfy the requirements of D.06-08-011 by providing a "mechanism to decouple sales from revenues."[46]

1. The Amended Settlement proposal for WRAM has broad support outside of the PUC.

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[41] "Motion …to Approve Settlement…" page 11.
[42] "Motion…to Approve Settlement…" page 11.
[43] "Amended Settlement Agreement…" page 8 and transcript, July 31, 2007 Ms. Olea, page 275.
[44] CPUC, Water Action Plan, December 15, page 9.
[45] CPUC, op cit., page 9.
[46] Ordering paragraph 3.

The proposed WRAM and MCBA are supported in a 2005 report to the legislature and governor, prepared by a broad group including environmental organizations, utilities, and others.[47] The WRAM and MCBA are further supported by a broad coalition of water utilities and environmental organizations in a joint letter sent to the Commission on July 25, 2006.[48]

2. There are many benefits of the proposed WRAM and accompanying MCBA.

The WRAM and MCBA provide benefits to both Cal Water and its customers. The mechanisms are symmetrical in the treatment of revenues and costs for Cal Water and its customers. As was noted by DRA's Ms. Olea: "The WRAM in the Cal Water-DRA proposal is what I would refer to as symmetrical, meaning that the risk is on both ends...when sales are under the forecast and the utility collects less than it anticipated in fixed costs primarily, the WRAM account will record that under collection of cost as a balance."[49] And also: "So the benefit to the ratepayer of the proposed WRAM is that it works both ways: if it's over or if it's under."[50]

Benefits of the WRAM and MCBA include the following as indicated in Exhibit 17, page 9:

a. Implement Objectives and Actions discussed in the Water Action Plan;

b. Align the Commission's water ratemaking mechanisms with energy conservation ratemaking mechanisms;

c. Promote water conservation programs by removing the disincentive of lost sales;

d. Remove the incentive for utilities to promote sales;

e. Align the State's policy for water efficiency and water demand management measures with the ratemaking interests of water utilities;

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[47] Ex 17, Testimony of David Morse page 5, in reference to "Actions to Improve the Efficiency of Water Uses in California Urban Landscapes; AB 2177 Landscape Task Force Findings, Recommendations, and Actions: Report to the Governor and Legislature," September 10, 2005.
[48] Ex 17, Testimony of David Morse, page 6, and the full letter is contained in Exhibit A, of the Testimony of David Morse.
[49] Transcript, July 31, 2007 Ms. Olea, page 297.
[50] Transcript, July 31, 2007 Ms. Olea, page 298.

f. Comply with the Public Utilities Code sections related to water conservation;

g. Minimize the importance of sales forecasting, which reduces litigation time and expense;

h. Encourage the development of better price signals for water conservation, such as reducing customer service charges and increasing commodity rates.

3. How the WRAM and MCBA will work.

The WRAM will track the difference between adopted metered sales revenue and actual metered sales revenue.[51] Thus the WRAM does not include service charge revenue or other non metered revenues such as private fire protection service.[52] The MCBA complements the WRAM by capturing the cost savings and cost increases associated with variations from the adopted levels of price and quantity of purchased water, purchased power, and pump taxes.[53] This is discussed in more detail, including a numerical example, in the Amended Settlement.

4. The WRAM does not guarantee revenues or a rate of return

The proposed WRAM would not cause utilities to earn more than the revenue requirement allowed by the Commission.[54] The proposed WRAM does not guarantee that a utility will earn its authorized rate of return.[55]

5. The Commission should not adopt California American Water Company's (Cal Am) Monterey style WRAM for Cal Water.

Cal Am's Monterey style WRAM is not a conservation decoupling mechanism. It only tracks over or under collecting revenues associated with rate design changes and does not account for differences caused by variations in consumption."[56]

6. The Commission should not adopt a conservation loss adjustment mechanism as a substitute for a WRAM that decouples sales from revenues.

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[51] "Amended Settlement Agreement…" page 9
[52] "Amended Settlement Agreement…" page 9.
[53] "Amended Settlement Agreement…" page 10.
[54] Transcript, July 31, 2007 Ms. Olea, page 276.
[55] Transcript, July 31, 2007, Ms. Olea, page 300 and August 2, 2007 Ms. Wodtke, page 550.
[56] Ex 17, Testimony of David Morse page 14.

ALJ Grau referred to the "Peevey alternate proposed decision in Application 06-06-005 supports a conservation loss adjustment mechanism." [57]

While the conservation lost revenues approach reimburses a utility for the theoretical financial losses from successful conservation programs it does not remove the incentive a utility has to promote sales. Since a utility is reimbursed for the "theoretical financial losses," via a side calculation, any further reduction in sales leads to reduced revenues and thus reduced profits. Accordingly, if conservation programs do better than the estimate the utility's earnings are reduced. Moreover, the loss revenue method leads to complicated and controversial high stakes calculations of water conservation program savings[58] necessitating extensive litigation.

E. Opposition to the Amended Settlement

CFC is the only party that opposes the Amended Settlement. As discussed below and in testimony by the Settlement Parties the Commission should not rely on CFC's testimony, comments, or briefs to reject or modify the Amended Settlement.

1. CFC's witness Ms. Wodtke has no experience in water rate design and her opinions on water rate design should be given little or no weight when compared to the water rate design experts that are supporting the Amended Settlement.

Ms. Wodtke is an attorney and has no training in economics, accounting or engineering.[59] Admittedly, Ms. Wodtke states that she has acquired an understanding of water rate design by reading various water related materials.[60] Reading in itself is not sufficient to proclaim oneself an expert, no more than merely reading the Constitution makes one an expert on Constitutional Law. A key issue that is the corner stone of the Amended Settlement rate design proposal is the fact the Cal Water customers will be transitioning from a single block rate design to an increasing block rate design. However,

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[57] Transcript, July 30, 2007, page 84.

[58] Ex 17, Testimony of David Morse page 23, please also see Table 1.1 on page 24 which compares decoupling to the lost revenues method.

[59] Resume of Alexis Wodtke, in support of CFC exhibit 19 and Transcript, August 2, 2007, pages 462 and 463.

[60] Transcript, August 1, 2007, page 327, Ms. Wodtke states that "In order to understand the differences between electric rates and water rates, I did read a great deal of material so that I could adapt my experience to the water policy issues that are being resolved in this proceeding." Also see transcript August 2, 2007, page 464.

as Ms. Wodtke testified she did not read anything on "how to transition from a single block rate to a multiple block rate."[61]

Clearly, the Commission should not rely on opinions that are based on literature reviews and ignored the importance of transitioning from single block rates to multiple increasing block rates. In contrast, the Settlement Parties have extensive water rate design expertise and have spent over two years developing increasing block rates for Cal Water.[62]

2. CFC has not provided the Commission with an alternative proposal.

What is clear from CFC's testimony is that CFC does not fully comprehend the Amended Settlement, including the rate design recommendations. Moreover, CFC's recommendations overlook a fundamental utility rate design principle. Nowhere in CFC's testimony does it address the issue of transitioning from single block rates to multiple increasing block rates and the impact on customers. Rate impact is a fundamental principle of rate design (water and energy) upon which the Amended Settlement was developed. In contrast to CFC's recommendations, which do not consider rate shock, the Settlement Parties took the rate impacts on all customers into consideration by tempering the change between rate bocks.

Additionally, if CFC understood the Amended Settlement it would have realized that the Amended Settlement recommends several rate design policies:

a. Transitional rates that will be reviewed in subsequent rate proceedings,

b. An initial first tier based on average winter usage, which takes into account district specific customer data and use patterns. [For example, by using district specific data variations average household size among districts is reflected.]

c. Differentials between rate tiers that will minimize rate shock while providing price signals of approximately a 20% increase between tiers,

d. Non residential conservation rates that do not result in higher average water rates based only on the amount of water consumed. [Two commercial customers that engage in the same business, but one business is small in size and the other is large in size, will pay the same commodity rate for water. Accordingly, one customer will not gain a

[61] Transcript, August 2, 2007, Ms. Wodtke, page 548 and 549.
[62] Transcript, August 2, 2007, Ms. Olea and Mr. Morse, page 505 and 506.

competitive advantage related to the cost of water based on the size of the business.]

e. Low-income subsidies addressed through Cal Water's low-income rate assistance program, and

f. Basic water usage, unlike energy, that is not affected by weather.

The Amended Settlement provides the Commission with a complete work product, ready for adoption and implementation. In contrast, CFC has not provided the Commission with a proposal comparable to the Amended Settlement proposal.[63] The CFC has not offered a rate design for residential or nonresidential classes, or a mechanism to decouple sales from revenues. Hence, adoption of CFC's recommendations would result in a significant delay in implementing decoupling and conservation rates. If the Commission rejects the Amended proposal, it is rejecting a significant body of work prepared by recognized experts representing Cal Water, DRA and TURN.

While CFC has not provided an alternative proposal its witness testified to the following recommendations:

a. "The rates in the settlement should not be placed in effect, if at all, until the Commission makes policy decisions concerning the design of conservation rates."[64]

   As discussed above policy recommendations are included as part of the Amended Settlement.

b. "I recommend that the Commission consider them. Consider the policies that it is implementing when it approves the rates."

   Since the Amended Settlement includes policy recommendations they will be considered when the Commission addresses the Amended Settlement.

c. "I think I have recommended that the first tier rate be established at a level which allows a minimal amount of water, whatever is needed for basic needs, so that low-income people can afford water and so that the amount of subsidy that other customers are required to provide to low-income customers is minimized."

[63] Transcript, August, 2, 2007, Ms. Wodtke, page 540.
[64] The quotes for items a through g are from Transcript, August 2, 2007, Ms. Wodtke, pages 545 to 547.

In developing the Amended Settlement the Settlement Parties took into consideration that the Commission established a low-income rate assistance program that addresses affordability of water and the amount of subsidy paid by other customers. Furthermore, the Amended Settlement proposes a first tier that is based on the average winter usage in each district, which reflects basic water needs.

d. "That the differential between rates be established at a level that will give customers a significant price signal that they'll notice, is what I mean by significant, that their conservation has reached a level that is in excess of their needs."

The Amended Settlement provides for approximately a 20% price differential between tiers, which is significant when the rate impact caused by eliminating single tier pricing is considered.

e. "That the Commission take into account the fairness of imposing an inclining block rate structure on some customers and not others so that residential customers are not unfairly burdened with the efforts to promote conservation."

Conservation rate design is not limited to an inclining block rate structure. The Amended Settlement addresses conservation rate design for non-residential customers by reducing the service charge and increasing the commodity rate. This approach allowed the Settlement Parties to address fairness issues within and among the non-residential customer classes while promoting water conservation.

f. "I think I have also recommended that water companies themselves be encouraged to engage in a resource acquisition policy that minimized their costs."

Cal Water currently has and under the Amended Settlement will continue to have an incentive to minimize water costs. Moreover, these costs are reviewed at least every three years in Cal Water's general rate cases.

g. "I would think from what I've read and heard at this hearing that the minimal allowance (first tier) is something that will have to be determined taking into account various factors. But generally, since it's intended to cover indoor water use, it should be pretty much the same. Basic bathing, cooking, cleaning, those kinds of uses should not change very much with weather, geography, those kinds of factors."

Basic uses, such as bathing, cooking, and cleaning, do vary by district for a variety of factors including household size. The Amended

Settlement takes into consideration these basic uses on a district specific basis rather than a "one size fits all".

3. CFC acknowledges that there is insufficient data to implement its policies.

Implementation of the CFC rate design suggestions would require new information not currently available. For example, CFC's residential rate design recommendations would require information as to household size.[65] Furthermore, data that would distinguish customer classes or usage in the non residential sector is not currently available.[66] Moreover, the value of this data has not been established and the cost to obtain and maintain the data is a deterrent. Additionally, Cal Water has no interest in adding employees to police household size. Privacy is an important issue that should not be taken lightly.

4. Ms. Wodtke's recommendations should be given little or no weight because she has demonstrated a lack of understanding of fundamental ratemaking issues, water utility terminology and operations, Commission decisions on related energy issues, and the settlement applications.

As the transcript of this proceeding clearly demonstrates, prior to this proceeding Ms. Wodtke had no experience with water rate design issues. Moreover, during her testimony Ms. Wodtke did not understand key aspects of the settlement proposals that CFC opposes. A credible "expert" is expected to have a full understanding of the material/proposals on which he or she is offering testimony. Even after extensive questioning by the parties on the settlement proposals, Ms. Wodtke was still unable to explain fundamental issues such as how the WRAM and MCBA will function.[67] Ms. Wodtke's misunderstandings of the proposed settlements, ratemaking issues and terms, and water utility operations are numerous. Listed below are a few examples:

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[65] Transcript, July 31, 2007, Ms. Olea, page 280 to 281 and "Reply of California Water Service Company to Comments on the Settlement Between It and the Division of Ratepayer Advocates and The Utility Reform Network," July 6, 2007, page 13.

[66] Exhibit 17, Testimony of David Morse, and "Reply of California Water Service Company to Comments on the Settlement Between It and the Division of Ratepayer Advocates and The Utility Reform Network," July 6, 2007, page 14.

[67] Ms. Wodtke did not understand that the MCBA which deals with production costs has an effect on revenues, see the transcript, August 2, 2007 Ms. Wodtke, Pages 551 to 554.

- Ms. Wodtke did not understand the difference between BMP 11, which deals with the portion of revenues in quantity rates versus service charges, and Commission water rate design policy that addresses the amount of fixed costs recovered through the service charge.[68]

- Ms. Wodtke did not understand that the Suburban Water WRAM was different than other WRAM proposals.[69]

- Ms. Wodtke, incorrectly states that the Cal Water WRAM proposal "is calculated by multiplying the billed consumption times the authorized rate for adopted."[70] The language and WRAM examples in the Amended Settlement do not indicate such a calculation.

- Ms. Wodtke thought that Cal Water proposed five inclining rate blocks; apparently, she confused Cal Water's documentation of five steps to implement rate design criteria with Cal Water's proposed rate blocks.[71]

- Ms. Wodtke did not understand the ratemaking workings of an interest bearing balancing account.[72]

- In the CFC's separate comments on the Settlements of Park and Cal Water, CFC makes an erroneous reference to a Commission energy decision to argue that "electric utilities' Rate Adjustment Mechanisms were authorized by the Commission under unique circumstances arising during the energy crisis."[73] The CFC referenced Commission decision D.04-07-022 "…has nothing to do with the WRAM mechanism proposed in the Settlement or the Electric Revenue Adjustment Mechanism (ERAM) instituted for energy utilities…"[74]

IV. CUSTOMER EDUCATION

Cal Water has considered the suggestions by DisabRA, NCL, LIF, and CFC regarding customer education and data collection. In addition the DRA filed a report in this proceeding on June 29, 2007, entitled "Phase 1A Report of the Division of Ratepayer Advocates Regarding Suburban Water Systems," which in part deals with the issue of data collection and customer education for all Class A water utilities.

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[68] Transcript, August 2, 2007, Ms. Wodtke, page 480
[69] Transcript, August 2, Ms. Wodtke, page 485.
[70] Transcript, August 2, Ms. Wodtke, page 551 and 552.
[71] Transcript, August 2, page 411.
[72] Transcript, August 2, pages 440 to 445.
[73] CFC Comments on the Settlement Agreement Between DRA, TURN, and Cal Water Servic Company, June 27, 2007, page 9.
[74] "Reply Comments of Park Water Company," July 6, 2007, page 5.

In response to these comments, Cal Water will provide customer notices to the Commission's Public Advisor for review[75] and do the following:

a. Provide notice regarding new conservation rates on customer bills to alert customers to read the bill insert material.[76]

b. Use its current procedures for customer notices to reach Spanish speaking customers. This includes the following:
    i. For districts with 0 to 1% of customers Spanish speaking only: one sentence in Spanish explaining content.
    ii. For districts with 1.1 % to 5% of customers Spanish speaking only: explanation of rate change in Spanish and a statement that a Spanish version of the material is available on request.
    iii. For districts with 5.1 % to 15% of customers Spanish speaking only: material will be provided in English and Spanish.
    iv. Districts with large Spanish speaking populations have customer representatives that speak Spanish.
    v. In districts with a low number of Spanish speaking customers, customers will be informed to contact Cal Water's Call Center (once it is implemented) to obtain information in Spanish.

c. Contact community based organizations to seek their assistance in communicating with customers about conservation rates. Also, Cal Water will combine education on the conservation rate structure with its LIRA education program to the extent possible.[77]

d. Cal Water has reviewed the recommendations of Disability Rights Advocates and agrees to steps that will improve Cal Water's Communication with its customers with hearing or vision impairments.[78] Cal Water believes that these improvements, which are shown below will enable it to better serve its customers:
    i. Cal Water will include TTY service company-wide as part of its request for a 24 hour Call Center in its current general rate case filing (A. 07-07-001). Once the 24 hour call center has been approved by the Commission and implemented, Cal Water will note the availability of TTY service in its customer bills and will train its customer representatives on the use of the TTY system.

[75] Op cit, Cal Water Comments, July 6, page 6.
[76] Op cit, Cal Water Comments, July 6, page 6.
[77] Op cit, Cal Water Comments, July 6, page 6.
[78] Ex 18, David Morse, prepared Testimony on Contested Issues, July 13, 2007.

ii. In conjunction with its planned website improvements Cal Water will include accessibility for vision-imparted customers.

V. DATA COLLECTION

After implementing the Amended Settlement's conservation rate proposal Cal Water will perform extensive data collection and monitoring. "Cal Water will track customer consumption information for all customers and customer class, including a sub grouping of customers using Cal Water's Low-Income Rate Assistance (LIRA) program…" Cal Water will provide weather normalization data for the districts where Cal Water is required to make this calculation for other PUC filings.[79] Additionally, Cal Water will maintain the following information.[80]

a. Annual number of customers in each class.
b. Monthly number of residential customer accounts.
c. Monthly number of LIRA accounts.
d. Monthly customer usage in billing units by tier separated by meter size and by customer class. LIRA customer usage by tier and meter size.
e. Monthly customer usage for the current month and the prior year's current month, using average customer profiles at different usage levels (with a separate profile for LIRA customers).[81]

With this information Cal Water will be able to track customer responses before and after rate design changes.

TURN and NCLA have not demonstrated that it is necessary to collect customer disconnect and past due account information.[82] First, the hardship on low income energy customers that can have heating or cooling requirements resulting in energy utility bills in the hundreds of dollars is not comparable for water. Water customers do not have basic water needs weather sensitive demand since their basic water needs are indoor requirements.[83]

TURN and NCLA contend that disconnect information is necessary to assess the impact of conservation rates on low-income customers. However, the parties

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[79] "Reply of California Water Service Company to Comments on the Settlement Between it and the Division of Ratepayer Advocates and The Utility Reform Network," I. 07-01-022, July 6, 2007.
[80] Transcript, August 1, 2007, Mr. Morse, page 423.
[81] Full implementation of Cal Water's LIRA program began in January 2007.
[82] Transcript, August 1, 2007, Mr. Morse, pages 348 to 351.
[83] Transcript, August 1, 2007, Mr. Morse page 350.

have not provided any evidence that there is likelihood that low income customers will see significant increases in their bills. In contrast, Cal Water has testified that a bill increase for low-income consumers would only occur if a low-income household had high outdoor water usage. A large household's (family of 8 or more) indoor consumption will not exceed average consumption statistics used to set the tiers.[84] Furthermore, indoor usage levels will not exceed tier 2.[85] Also, the conservation rate design proposal provides for a maximum increase of 20% for customers whose consumption is above average levels.[86] Thus, customers with average or less than average consumption will not have an increase in their water bills.[87]

VI. CONCLUSION

Cal Water requests that Commission adopt the Amended Settlement as well as Cal Water's recommendations on Consumer Education and Data Collection.

Date: August 27, 2007

Respectfully Submitted,

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[84] Transcript, August 1, 2007, Mr. Morse, page 349.
[85] Transcript, August 1, 2007, Mr. Morse, page 349 to 350.
[86] Transcript, August 1, 2007, Mr. Morse, page 359.
[87] Transcript, August 1, 2007, Mr. Morse, page 350 and page 427

CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT I HAVE THIS DAY SERVED A COPY OF "OPENING BRIEF OF CALIFORNIA WATER SERVICE COMPANY," IN I 07-01-022, ET AL. BY USING THE FOLLOWING SERVICE:

[X] **E-Mail service:** sending the entire document as an attachment to all known parties of record who provided electronic mail addresses.

[X] **U.S. Mail service:** mailing by first-class mail with postage prepared to all known parties of record who did not provide electronic mail addresses, if any.

Executed on **August 27, 2007,** at San Jose, California.

/s/ Thomas F. Smegal
Thomas F. Smegal

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Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address and/or e-mail address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.
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