



**BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF CALIFORNIA**

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Order Instituting Rulemaking on the Commission's Own Motion to Determine Whether Sharing of Customer Information Between Regulated Water Utilities and Regulated Energy Utilities/Municipal Energy Providers Should be Required; and if so, to Develop the Rules and Procedures Governing Such Sharing

Rulemaking 09-12-017  
(Filed December 17, 2009)

**COMMENTS OF THE JOINT CONSUMERS ON THE ADMINISTRATIVE LAW  
JUDGE'S RULING REQUESTING COMMENTS**

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## I. INTRODUCTION

As directed in the Administrative Law Judge’s Ruling Requesting Comments (ALJ’s Ruling), the National Consumer Law Center (NCLC), The Utility Reform Network (TURN) and Disability Rights Advocates (DisabRA) file these comments jointly as the “Joint Consumers.” In various proceedings before this Commission, Joint Consumers have consistently advocated in favor of robust outreach and automatic enrollment efforts to assist low-income households in receiving support through the various assistance programs available for regulated utility services, including the relatively new Low Income Rate Assistance (LIRA) programs for each of the Class A water utilities. Now, the Commission has an important opportunity to improve coordination among the water and energy utilities. It should take all steps to capitalize on this opportunity.

The Joint Consumers encourage the Commission to also include the California LifeLine telephone rate assistance program in its coordination efforts. While not at issue in this Ruling, the Joint Consumers raised the importance of coordinating with the California LifeLine program in its Opening Comments on the Scoping Memo. At that time, in April of last year, the LifeLine program was under review by the Commission. In November, the Commission adopted a decision making changes to that program and setting the stage for coordination among all of the Commission-sponsored rate assistance programs.<sup>1</sup> Going forward, California LifeLine should also be included in the Commission’s work on these issues.

Finally, as discussed below, the Joint Consumers urge the Commission to strike a balance between standardizing the data sharing and enrollment processes to achieve greater efficiency and outreach for these LIRA programs and granting flexibility to the utilities. Joint Consumers are aware of the fact that, unlike the low-income energy and telephone programs, the low-income water programs are smaller and more unique to each utility. Further, the costs of these programs are spread among a smaller customer base throughout California than the energy and telephone

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<sup>1</sup> See D.10-11-033, p. 82, “We encourage the Energy Division and Communications Division staff to continue to work on a comprehensive approach to align the qualification and participation processes for both programs.”

programs. Therefore, the Joint Consumers make recommendations that should produce a robust and effective program, while still promoting flexibility for the utilities.

## **II. CONSISTENT GUIDELINES ARE IMPORTANT BUT NOT REQUIRED**

Joint Consumers support the call for consistency among the energy and water low-income programs contained in the ALJ's Ruling at Section 2.1. If the goal is to increase participation in the water low-income programs through data sharing and automatic enrollment, the need for consistency cannot be underestimated. For automatic enrollment to be successful, this consistency must cover both the eligibility guidelines (e.g., 200% of poverty) and the enrollment procedures (e.g., self-certification). As described in the ALJ Ruling, it appears there is already significant consistency among the programs. Only one utility must adjust its current enrollment processes and a different utility must change its eligibility criteria.<sup>2</sup> None of the other water utilities would have to change their programs significantly in order to facilitate automatic enrollment.

Likewise, if the Commission only requires water and energy utilities to share information for the purposes of coordinated, targeted outreach, only minimal changes would be required to allow water utilities to use that information. In such a circumstance, even if the eligibility criteria between the water and energy programs were different, water utilities could still use the information as a tool for outreach. However, Joint Consumers urge the Commission to take this opportunity to require water utilities to create an automatic enrollment process. Joint Consumers believe that once a process for information sharing exists, then the benefits of automatic enrollment would far outweigh the incremental effort and costs.

While the eligibility criteria are already similar between the programs, Joint Consumers note that some changes may have to be made to create an automatic enrollment process. Some of these changes are discussed below and in previous comments. For example, the energy

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<sup>2</sup> Joint Consumers note that the Commission considers the current CARE eligibility criteria to be temporary. In D.10-11-033, the Commission acknowledged that the current CARE eligibility guidelines are interim and that Energy Division is conducting a review of the requirements. D.10-11-033 at p. 82.

utilities will have to segregate CARE participant data by geographic area and provide the appropriate data to each water utility. This may take some initial data work, but then it would be a small incremental effort to identify the correct water utility of new CARE customers either through an inquiry to the customer or through a system of automatic matching by address.

The ALJ's Ruling also discusses the importance of re-certification. Joint Consumers agree that regular re-certification is imperative to avoid fraud and the participation of ineligible customers. However, if fraud and the drain of ineligible consumers is a serious concern, then water utilities should be required to re-certify their LIRA participants annually rather than every two years. Because the water affordability programs are so much smaller, the cost impact of ineligible participants is significantly greater than with the much larger energy affordability programs. Therefore, waiting two years to determine continued eligibility would be ineffective. Each water utility could decide whether to adopt annual re-certification either based on each participant's anniversary date or on a specific date for all participants. It is important to note that regardless of whether the water utilities recertify annually or bi-annually, the energy utilities would not have to change their processes. Water utilities could send out a mailing to each program participant annually requesting the customer to re-certify via self-certification that they are still participating in the CARE program or that they are eligible through other means. In the alternative, one way to minimize loss of LIRA customers due to failure to return re-certification forms would be to set up a procedure where water utilities use the regular CARE customer data received from the energy utilities to conduct a comparison and remove customers in their LIRA that are not on the most recent CARE list, with proper customer notice.<sup>3</sup> This could be done annually and would be seamless for the LIRA customers.

The ALJ's Ruling also discusses self-certification. Joint Consumers support the use of self-certification in the water utility programs in order to facilitate participation not only by CARE

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<sup>3</sup> The option of the water utilities relying on the energy utility re-certification process was proposed in the Scoping Memo. See Assigned Commissioner and Administrative Law Judge's Ruling Requesting Comments and Scoping Memo, April 1, 2010, ("Scoping Memo") Attachment A, Proposed Guideline 13 at A-2.

customers but also by customers who, for whatever reason, are not enrolled in CARE but want to participate in the water LIRA program. CARE enrollment should not be the sole avenue into the water LIRA programs. While it is likely that the vast majority of water LIRA customers will enroll via CARE, it is still important to provide flexibility for customers who may not be aware of the CARE program or may not want to enroll in that program. In order to provide this flexibility, the water utilities must provide avenues other than automatic enrollment via CARE, including the option to submit a paper application with income documentation or self-certification of participation in a program that qualifies a person for CARE.

The Commission has previously supported multiple options for LIRA eligibility. For example, when reviewing the California LifeLine program, the Commission made a deliberate decision to retain income-based eligibility in addition to program based enrollment despite the fact that the vast majority of LifeLine customers use program-based criteria to qualify for LifeLine.<sup>4</sup> Joint Consumers believe that the Commission should ensure the same flexibility here and, as the Ruling states, allow customers to self-certify using the same income and program eligibility as CARE to avoid discriminatory treatment of customers. The proposed Data Sharing Plan discussed below includes a list and eligibility description of all assistance programs to be used for “categorical eligibility,” as coordinated with the corresponding energy utility.<sup>5</sup> Thus, the water utilities should be able to coordinate their LIRA eligibility to capture these qualifying programs and incorporate them in their LIRA eligibility criteria.

The ALJ’s Ruling asks for comment on how often the data exchange should take place. Joint Consumers recommend that such data exchange should take place at a minimum quarterly or, if feasible and not too resource-intensive, on a monthly basis. It is the experience of Joint Consumers that there is significant churn for these programs. Customers’ economic status and living arrangements change frequently, potentially affecting their eligibility. In order to keep updated, a monthly data feed would be helpful both to ensure maximum participation in the

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<sup>4</sup> See D.08-08-029 at pp. 49-50.

<sup>5</sup> ALJ Ruling at p. 7.

program and minimum participation by ineligible customers. If a water utility uses the customer's anniversary date to re-certify then it will need ongoing data. If the water utility uses annual re-certification for all customers on a single date or range of dates, then monthly data will be less important but still valuable for outreach and monitoring.

### **III. DATA SHARING PLAN**

The ALJ's Ruling directs the water utilities to submit a proposed data sharing plan to the Director of DWA for review and approval prior to implementation.<sup>6</sup> The Ruling then sets forth a list of information that should be included in the plan. Joint Consumers understand this portion of the ruling to be an effort to develop a template for the water utilities to use in developing their data sharing plans. Thus, Joint Consumers' comments are directed at describing improvements to the proposed template.

#### **A. MOU/NDA Agreements Must Protect Consumer Privacy**

Section 2.2 of the ALJ's Ruling includes as an item for the water utilities' data sharing plans: "Copy of Memorandum of Understanding/Non-Disclosure Agreement." Joint Consumers understand that these would be agreements between the water utilities and the relevant energy utility or utilities to share customer data for purposes of coordinating enrollment in low-income programs. It appears to Joint Consumers that useful models of Memoranda of Understanding and/or Non-Disclosure Agreements of the type contemplated in Section 2.2 of the ALJ's Ruling already exist; these documents should be shared with the parties to this proceeding for review.<sup>7</sup> Following a review of sample agreements, parties to this proceeding can develop a template for agreements between the water districts and the energy utilities that protect the privacy interests

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<sup>6</sup> ALJ Ruling at p. 6.

<sup>7</sup> According to Joint Consumers' notes from the workshop previously held in this proceeding (for which no formal report was issued), the energy utilities have information sharing agreements with various entities; for example, PG&E shares data with Southern California Edison, Southern California Gas, Sacramento Municipal Utility District, and Silicon Valley Power. Joint Consumers' notes do not indicate that the actual agreements between these entities have been shared. However it appears that such models would be helpful as this proceeding continues.

of utility customers.<sup>8</sup> These templates can serve as a floor of minimum requirements to ensure they capture the necessary elements to implement the Commission's mandates; however, the utilities should be given some flexibility to adapt these agreements to specific business cases and technical requirements.

**B. More Detail Would Be Helpful For Developing Components for the Utilities' Data-Sharing Plans**

Section 2.2 of the ALJ's Ruling requires a description of each water district's proposed data-sharing program's components, including some technical items such as data transfer file formats, and other items that directly address issues of importance to customers. These include a description of measures to ensure security and confidentiality of customer information, procedures for matching customer information, and automatic enrollment procedures, including opt-out procedures. Some of these issues were previously addressed either directly or indirectly in the Proposed Guidelines attached to the Scoping Memo issued in this proceeding on April 1, 2010, and should be incorporated directly going forward. Additionally, some items noted in the ALJ's Ruling should receive further development among the parties before a plan is finalized.

**1. Measures to Ensure Security/Confidentiality**

The Proposed Guidelines previously issued and addressed by the parties in comments contained several items relevant to security and confidentiality of information. Below, Joint Consumers address several of these items from the Proposed Guidelines that should be incorporated as part of security and confidentiality measures.

***a. Customer Control Over Data***

In Joint Consumers' Comments on the Scoping Memo, Joint Consumers discussed the need to allow customers to opt-out of any initial data-sharing (separate from an opportunity to

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<sup>8</sup> Following a review of the model documents, parties to this proceeding could either submit further comments regarding an appropriate template or else participate in a further workshop under the auspices of this proceeding to develop a form agreement.

opt-out from enrollment in a water LIRA). The Scoping Memo noted that utilities generally use a simple statement as part of their program application authorizing information sharing for the purpose of enrollment in other utility assistance programs. Joint Consumers previously proposed that such a statement be accompanied by a check-box which would allow the consumer to decline to permit information sharing.<sup>9</sup> Joint Consumers continue to believe that this would be an appropriate mechanism to allow consumers control over their personal data.

In their comments on the Scoping Memo, the California Water Association (“CWA”) suggested that because a customer’s name and address is in the public domain it should not be included in the category of “Customer Confidential Information.”<sup>10</sup> However, CWA misses the fact that in this context, a name and address identifies those customers as participating in a low-income program. This is confidential information about that customer’s account. Therefore, even if the only information forwarded to the water utility is the customer’s name and address, because it identifies them as a CARE participant, that information should be subject to confidentiality protections.

***b. Notification of Data Breaches***

In Joint Consumers’ Comments on the Scoping Memo, Joint Consumers responded to ¶ 9 of the Proposed Guidelines regarding the need to notify consumers in the event of any unauthorized disclosure of confidential customer information by the water or energy utility.<sup>11</sup> The specific language proposed by Joint Consumers follows:

In the event of any disclosure of confidential customer information, whether accidental or misused, by either the energy or water utility, the disclosing utility must immediately notify in writing the consumer(s) affected.

Joint Consumers continue to believe that this is an appropriate measure regarding security and confidentiality and believe it should be included in each utility’s data sharing plan.

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<sup>9</sup> Joint Consumer Comments on Scoping Memo (April 23, 2010) at pp. 4-6.

<sup>10</sup> California Water Association Comments on Scoping Memo (April 23, 2010) at p.5.

<sup>11</sup> Joint Consumer Comments on Scoping Memo (April 23, 2010) at p. 6.

## **2. Procedures for Matching Customer Information**

In the context of the California LifeLine program, the state's low-income telecommunications affordability program, the Commission and affected carriers have invested substantial resources in addressing the nuances of customer matching information.<sup>12</sup> This is, in part, because there are reasons why individual customers might seek to have multiple telephone accounts at the same address. Unlike telecommunications, no household needs or desires multiple water accounts or multiple energy accounts. Thus, Joint Consumers continue to support a simpler matching process in the context of coordination between energy and water utilities.

Joint Consumers previously noted that the utilities have reported high levels of success matching an address field in conjunction with a customer name.<sup>13</sup> In previous comments, CWA proposed that only a "hard match" of both name and address should result in a customer being automatically enrolled in the water LIRA program, and that other matches would result in outreach material being sent or no action by the water utility.<sup>14</sup> Joint Consumers believe the matching process can be simplified yet further by relying primarily on the service address of the account, not on the name of the customer, in developing matches. This will allow matches in households where the water service is in the name of one spouse while the energy service is in the name of the other spouse, or in households where one account might be under a nickname or shortened version of a name, while the other is under the complete name (e.g., Michael on the water account and Mike on the energy account). The name of the account holder for the water and energy bills should still be exchanged for other implementation purposes, e.g., contact with the household regarding information on the program.

## **3. Automatic Enrollment Procedures, Including Opt-Out Procedures**

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<sup>12</sup> Joint Consumers described their perspective on this process in the Joint Consumer Comments on Scoping Memo (April 23, 2010) at pp. 3-4.

<sup>13</sup> Joint Consumer Comments on Scoping Memo (April 23, 2010) at p. 4 (describing workshop reports of 75% high level matches and 20% mid-level matches through this process).

<sup>14</sup> CWA Comments on Scoping Memo (April 23, 2010) at p. 6.

The Proposed Guidelines attached to the Scoping Memo issued in April 2010 described an opt-out proposal through which customers identified as eligible for automatic enrollment would be served with a letter 30 days prior to enrollment which would provide the customer with an opportunity to opt out.<sup>15</sup> In our earlier filing, Joint Consumers supported this proposal,<sup>16</sup> which was contrasted in the Proposed Guidelines with an “opt-in” option in which eligible customers would be sent information about the LIRA and invited them to enroll.<sup>17</sup> Joint Consumers continue to support automatic enrollment with an opt-out provision as this minimizes the steps a consumer must take to become enrolled in LIRA and is administratively more efficient for the utilities.

In further review of the proposal regarding opt-out options, however, Joint Consumers realize that the process described in Proposed Guideline 12.a of the Scoping Memo creates a limbo period of 30 days during which a customer is identified as eligible for LIRA, but is not enrolled in the program. Joint Consumers are aware of the concerns of the water utilities regarding internal administrative processes for tracking consumers, and recognize that this limbo status may create administrative complexity. Thus, Joint Consumer suggest an additional option for consideration: Based on a data-sharing process (which would contain its own opt-out option, discussed above), all appropriately identified customers would be immediately enrolled in a water LIRA, and then provided information (and an opt-out request form) to return to the utility in order to opt out. Those customers returning the opt-out request would then be removed from the LIRA. A customer’s submission of the opt-out letter should remain effective for a set period of time.<sup>18</sup>

While Joint Consumers have always stressed the importance of opt-out options, and continue to do so here, we recognize that the opt-out procedure can potentially create additional

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<sup>15</sup> Attachment A to Scoping Memo, Proposed Guideline 12.a at A-2.

<sup>16</sup> Joint Consumer Comments on Scoping Memo (April 23, 2010) at pp. 7-8.

<sup>17</sup> Attachment A to Scoping Memo Proposed Guideline 12.b at A-3.

<sup>18</sup> Joint Consumers propose that the opt-out remain in effect for a year from receipt by the utility of the opt-out letter or a similar timeframe, e.g., having the opt-out remain effective until an annual notice of the LIRA and CARE programs is distributed.

administrative complications that are of particular concern to relatively small utilities such as those at issue here. Thus, we set forth the option described above, which avoids the need to create a “pending” customer classification and allows all customers to be either enrolled in the LIRA or maintained in standard customer status at all times. We expect that only a very small number of customers will choose to opt-out, so this alternative proposal would be an administratively efficient design for the utilities.

Finally, Joint Consumers further recommend that the Commission consider the merits of developing an electronic opt-out tool, through a secure website maintained by the Commission,<sup>19</sup> which would sort customers by their utilities and allow each utility access to its own customer data. Joint Consumers acknowledge that such a system could not be implemented on the same schedule as the other proposals, but the Commission should require staff and the water utilities to investigate such an option as part of a later phase of this docket. Additionally, we note that in light of the relatively low level of at-home access to computers with Internet service in low-income households, electronic communications should be a complementary form of communication, not the only option.

**C. Plan Information Directed at Consumers Must Be Available in Accessible Formats and in Appropriate Languages**

Section 2.2 of the ALJ’s Ruling requires each water utility’s data sharing plan to include a copy of its proposed application form and re-certification form (if different from the application), and a copy of the proposed opt-out letter. Each of these documents will contain vital information for consumers.

As the Commission is well aware, the population of low-income consumers is more likely than average to include people with disabilities and people who do not speak English as their primary language. Because of this, it is vital that the information intended for consumers be developed carefully, so that it can be understood by as many people as possible. In order to do

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<sup>19</sup> Consistent with § C, below, any such website’s design must be accessible to customers who use screen readers.

this, each of the consumer-facing documents should be provided in different languages appropriate to that water utility's various districts. Joint Consumers propose that in the data sharing plan each utility should identify those languages appropriate for use in each district and statistics supporting why it picked those languages. Staff should review this part of the data plan to ensure the utility is proposing to include appropriate languages. In addition, consistent with multiple past Commission rulings, the documents should include key information in large print as part of the standard form, and complete copies should be available in alternative formats upon customer request.<sup>20</sup> Joint Consumers are aware that each of the energy utilities is developing a database of customers with disabilities who have identified their preferred means of communication.<sup>21</sup> To the extent that customers who have specified such preferred means of communication are identified in the data-sharing protocol, these customers should receive the information described in the data-sharing plan in their preferred format. This should be a shared data field. This information will also help water utilities prioritize the development of accessible formats based on the immediate needs in their service territory.

**D. Additional Data Sharing Should Be Encouraged**

The primary expectation is that customer information and data will flow from the energy utilities, which have large, well established low-income programs, to the water utilities, which have newer programs that do not yet have deep penetration. However, some customers who may be eligible for both a water LIRA and for CARE may first enroll in the water LIRA. Thus, the water utilities must also provide information about their LIRA participants that qualified for the

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<sup>20</sup> The Commission has required energy utilities to ensure that information regarding CARE and LIEE are accessible to customers with disabilities. *See* D.06-12-038 at p. 67. *See also*, D.08-11-031 at pp. 68-72 (requiring energy utilities to enhance outreach on LIEE to their customers with disabilities).

<sup>21</sup> *Memorandum of Understanding between Disability Rights Advocates, San Diego Gas & Electric Company and Southern California Gas Company*, adopted in A.06-12-009 and A.06-12-010 via D.08-07-046, at Section 5.1; *Memorandum of Understanding between Disability Rights Advocates and Southern California Edison*, adopted in A.07-11-011 via D.09-03-025, at Sections. 6.1, 6.2; *Memorandum of Understanding between Disability Rights Advocates and Pacific Gas and Electric Company*, in A.09-12-020, currently submitted and pending approval by the Commission, at Section VII(E)(1)-(2).

program using non-CARE criteria during the data sharing with the energy utilities, who should then enroll appropriate customers into CARE.

#### **E. Coordinated Outreach Should be a Priority**

In our Comments on the Scoping Memo, Joint Consumers previously noted that the Proposed Guidelines should include a provision encouraging coordination of outreach and enrollment efforts between the water utilities and regulated energy and municipal utilities.<sup>22</sup> At a minimum, as part of the coordinated outreach, Joint Consumers recommend that the energy and water companies provide annual notice of both the CARE and LIRA programs to their customers with information on how to apply. Joint Consumers further noted that such data sharing might reveal areas of low penetration (either via geographical pockets or via demographic consumer subsets) that could then be targeted for additional outreach. Joint Consumers also noted that coordinated outreach reduces costs for each utility and enhances efforts to make inroads in hard-to-reach communities (particularly if the targeted outreach efforts include work with CBOs). Joint Consumers continue to believe such coordinated outreach is important and must be a priority.

#### **F. The Proposal Regarding Use of Tier 1 Advice Letters Should Be Further Developed**

The proposal regarding the water utilities' data sharing plans concludes by stating that each utility's plan "should be submitted to the Commission via a Tier 1 advice letter."<sup>23</sup> Joint Consumers generally support the use of the Tier 1 advice letter process, but believe that further guidance is necessary.

Even though Tier 1 advice letters go into effect upon one day notice and do not need affirmative Commission action to be approved, upon submission of a plan via Tier 1 advice letter, Commission staff must review each proposed plan in detail, and be willing to suspend an

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<sup>22</sup> Joint Consumer Comments on Scoping Memo (April 23, 2010) at p.7. *See also*, settlements in the Conservation OII docket acknowledging the importance of this outreach. D.08-02-036 at pp. 34, 38.

<sup>23</sup> ALJ's Ruling at p. 7.

advice letter if it fails to provide a plan that adequately addresses all the elements set forth in the ALJ Ruling as well as the items discussed above.<sup>24</sup> Additionally, the Commission must be clear that, again although effective on one day notice, the proposed plans submitted through the advice letter process are subject to protest by other parties and may be suspended. Only once the protest period has expired should these advice letters be deemed “approved.” These advice letters should be served on the service list for this proceeding to ensure interested parties an opportunity to timely review such letters.

Finally, Joint Consumers expect that each utility will modify or update its plans from time to time. Any changes to the plans approved by the Commission should also be submitted through a Tier 1 Advice Letter, served on the service list for this proceeding, to permit ongoing review.

#### **IV. DATA SHARING COST RECOVERY**

The ALJ’s Ruling acknowledges that a necessary part of the development of a data sharing and automatic enrollment arrangement is a cost recovery mechanism for both the water and energy utilities. Joint Consumers are concerned, however, that the Ruling describes these costs as “one-time costs to implement the data-sharing program.”<sup>25</sup> While there will be initial costs to create and implement the program, Joint Consumers also anticipate a much smaller level of on-going costs for both the energy and water utilities to maintain the program, update the data sharing plans from time to time, and manage the automatic enrollment processes. Any final decision in this docket should be very clear as to the specific type of costs it expects ratepayers to potentially shoulder for this program.

Generally, Joint Consumers support the suggestion in the ALJ’s Ruling for the water utilities to track the data sharing costs into either existing or new memorandum accounts. It should be explicit, however, that if the water utility chooses to include these costs in an existing account, it should still file a Tier 1 advice letter to inform the Commission of this decision and

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<sup>24</sup> General Order 96-B, Water Industry Rule 7.3.1 and General Rule 7.6.1.

<sup>25</sup> ALJ Ruling at p. 8.

identify those costs. The ALJ's Ruling already proposes that the utility provide a description of its implementation and ongoing operational costs in its data sharing plan. As discussed above, the plan should be reviewed by the staff very closely, and such a review must include a reasonableness review of these cost estimates. In addition, the actual expenses should also be reviewed as part of each utility's general rate case.

Joint Consumers also support the proposal that the energy utilities include their budgets for this program in their program applications for the 2012-2014 low-income program budget.<sup>26</sup> Joint Consumers are skeptical that this docket will be complete and the budgets finalized by the utilities in time for the filing deadline in approximately May. If the energy utilities miss the deadline, they should be directed to amend their budgets when these numbers become available, but no later than 60 days from the adoption of a final decision in this docket. Further, the Ruling also anticipates that the utilities should include money spent to implement this data sharing program in 2011 into their 2012-2014 budget. Here too, Joint Consumers would only support this proposal if the costs incurred by the energy utilities in 2011 were still subject to a reasonableness review and not automatically passed through to ratepayers.

## **V. MONITORING THE IMPACT OF SHARING CUSTOMER INFORMATION**

### **A. Joint Consumers Support the Monitoring Data Points**

Joint Consumers support the evaluation of the data sharing program in each respective utility's general rate case.<sup>27</sup> Joint Consumers are sensitive to the various data reporting requirements for the water companies as has been highlighted in the Conservation OII docket dealing with data collection.<sup>28</sup> The proposed nine data points in the ALJ's Ruling are very helpful for gauging the efficiency and effectiveness of the data sharing design. The monitoring is essential and minimal and the annual reporting is through an information-only advice letter.

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<sup>26</sup> ALJ's Ruling at p. 8.

<sup>27</sup> ALJ's Ruling at p. 9.

<sup>28</sup> See Comments of the National Consumer Law Center, The Utility Reform Network, and Disability Rights Advocates on the I.07-01-022 Workshop Summary *passim* (Jan 14, 2011).

The first three data points for each “data file” raise the question of how many data exchanges will occur within a calendar year. While this could vary from utility to utility, Joint Consumers would like to see that this exchange occur at least quarterly to start. The monitoring data should provide an indication of whether more frequent or less frequent data exchanges are merited.

The ALJ’s Ruling proposes that the water utility track the results of each attempt to match a data file between the energy and water utilities. As discussed above, we urge that the actual address of the household be used as the main means of determining a high level match because utility accounts may be in different household members’ names. It is also possible, in some situations, that a third party outside of the household is responsible for the bill (e.g., adult child as the utility account holder for elderly parents or parent as the utility account holder for an adult with cognitive disabilities). We also note, as proposed by CWA, that partial matches could be used to prioritize outreach to households likely to be qualified for LIRA and CARE. These proposed data points will show if there is a region of the service territory that has an unusually low match rate time and time again. This could indicate a need for more tailored education and outreach (e.g., in-language issues).

Joint Consumers also support, with some revisions, the other proposed elements of a monitoring report:

- The number of CARE customers automatically enrolled is an important data point for the monitoring of the program and future planning. If numbers go up at a certain time each year, this could identify possible times of concern over affordability of water rates, which would be appropriate opportunities to conduct CARE and LIRA outreach; if the numbers go down substantially, this could indicate a problem with the data feeds or the need for adjusting the outreach material or forms, etc.
- The number of customers re-certified for assistance provides a measurement of how well the verification process is working. The California LifeLine program tracks, on a monthly basis, the percentage of participants who successfully enroll, verify continued

eligibility and pass an audit. When the California program began tracking these numbers after a substantial program design change, low numbers led to a realization that there was a problem in the certification and verification process (in that case, the 3<sup>rd</sup> party administrator was using third class mail, not the more reliable first class mail, to issue forms).

- The number of CARE customers ineligible for enrollment due to metering conditions (e.g., submetering of water in units where energy is individually metered) as compared with water utility records provides a ball park estimate of the unmet need. These low-income households are just as likely to be struggling to afford essential utility service and this data point will help in the design of additional mitigation measures to address affordability.
- The number of customers opting-out is a critical data point. We expect this to be low as with other programs. If, however, a significant number of customers do not want to participate in data sharing, this data point will capture that sentiment in a fairly timely fashion.
- The number of potential customers identified and served with outreach material is an important estimated number. One group of customers that fit into this category would be the customers who have low-level matches. This could also capture collaborative efforts with categorical eligibility programs for CARE, such as outreach booths at community health fairs.
- As discussed above, Joint Consumers also recognize the importance of tracking the program costs and support this data point.

**B. Advice Letters to Conform to CARE Eligibility**

The Ruling<sup>29</sup> directs each water utility to file an advice letter annually to update the CARE income guidelines. It further requires each water company to revise its tariffs annually to reflect new CARE guidelines within 30 days after the CARE guidelines are published, in order to ensure conformity with the CARE guidelines is maintained at all times. As discussed above, in a recent decision, the Commission noted that the current CARE guidelines are considered temporary and the Commission is currently in the process of updating those guidelines.<sup>30</sup> However, Joint Consumers are unaware of any active process for changing the CARE program and urge the Commission to move forward regardless of the possibility that CARE will be revised and, as proposed, merely require the water utilities to update its program based on any changes to CARE that may be adopted in the future.

## **VI. CONCLUSION**

Joint Consumers commend the Commission for moving forward to increase participation in the water Low Income Rate Assistance programs through automatic enrollment of CARE customers. Joint Consumers strongly support this coordination of CARE and LIRA as it will help struggling low-income California households maintain access to essential energy and water services.

Dated: February 1, 2011

Respectfully submitted,

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<sup>29</sup> ALJ's Ruling at p.10.

<sup>30</sup> See D.10-11-033 at p.82.

CERTIFICATE OF SERVICE

I, Larry Wong, certify under penalty of perjury under the laws of the State of California that the following is true and correct:

On February 1, 2011, I served the attached:

**COMMENTS OF THE JOINT CONSUMERS ON THE ADMINISTRATIVE LAW  
JUDGE'S RULING REQUESTING COMMENTS**

on all eligible parties on the attached list **R.09-12-017** by sending said document by electronic mail to each of the parties via electronic mail, as reflected on the attached Service List.

Executed this February 1, 2011, at San Francisco, California.

/S/  
Larry Wong

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