

**PUBLIC UTILITIES COMMISSION**505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298**FILED**05-08-12
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Agenda ID #11322
Ratesetting

TO PARTIES OF RECORD IN APPLICATION 11-06-005

This is the proposed decision of Administrative Law Judge (ALJ) Gary Weatherford. It will not appear on the Commission's agenda sooner than 30 days from the date it is mailed. The Commission may act then, or it may postpone action until later.

When the Commission acts on the proposed decision, it may adopt all or part of it as written, amend or modify it, or set it aside and prepare its own decision. Only when the Commission acts does the decision become binding on the parties.

Parties to the proceeding may file comments on the proposed decision as provided in Article 14 of the Commission's Rules of Practice and Procedure (Rules), accessible on the Commission's website at www.cpuc.ca.gov. Pursuant to Rule 14.3, opening comments shall not exceed 15 pages.

Comments must be filed pursuant to Rule 1.13 either electronically or in hard copy. Comments should be served on parties to this proceeding in accordance with Rules 1.9 and 1.10. Electronic and hard copies of comments should be sent to ALJ Weatherford at gw2@cpuc.ca.gov and the assigned Commissioner. The current service list for this proceeding is available on the Commission's website at www.cpuc.ca.gov.

/s/ KAREN V. CLOPTONKaren V. Clopton, Chief
Administrative Law Judge

KVC:gd2

Attachment

Decision **PROPOSED DECISION OF ALJ WEATHERFORD**
(Mailed 5/8/2012)

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of San Gabriel Valley Water Company (U337W) for Authorization to Implement Discounted Rates for Recycled Water Service and Apply Facilities Fees in its Fontana Water Company Division in accordance with a contract with the City of Fontana.

Application 11-06-005
(Filed June 2, 2011)

**DECISION ADOPTING SETTLEMENT AGREEMENT AND
AUTHORIZING DISCOUNTED RATES FOR RECYCLED WATER SERVICE,
APPLICATION OF FACILITIES FEES, AND RECORDATION OF
COST OF FUNDING AND OFFSETS**

1. Summary

This decision adopts a two-party settlement between San Gabriel Valley Water Company (San Gabriel) and the Commission's Division of Ratepayer Advocates. The settlement, documented in the Settlement Agreement included as Attachment A,¹ is supported by the remaining party, City of Fontana (City), and resolves all issues in this proceeding. San Gabriel is authorized to implement discounted rates for recycled water service, apply facilities fees in its Fontana Water Company Division in accordance with a contract with the City,

and construct a recycled water distribution system to provide the recycled water service.

This decision denies the joint motion seeking a waiver of comments and grants the joint motion for waiver of a hearing.

2. Background

2.1. Features of Proposed Project and its Regional Setting

The Inland Empire Utilities Agency (IEUA), overlying the Chino groundwater basin in Southern California, has allocated a supply of tertiary-treated effluent (recycled water) to several contracting retail agencies, including the City of Fontana (City). Under its contract with IEUA, the City received an allotment of approximately 12,000 acre feet annually of that recycled water, a portion of which is to be delivered by IEUA directly to the Fontana Water Company Division (FWC) of the San Gabriel Valley Water Company (San Gabriel) for direct non-potable use purposes, such as landscape irrigation. IEUA and the City are negotiating an arrangement for the construction of a regional backbone pipeline² that will convey the City's allotment of the recycled water to connection points of distribution systems, one of which would be the distribution system project for which San Gabriel seeks authorization here in Application (A.) 11-06-005.

¹ Attachment A does not include the exhibits appended to the original Settlement Agreement.

² San Gabriel's Vice President, Robert DiPrimo, estimates that the design of the regional project will be completed in May 2012 and that construction of it will start in August 2012. PHC T.R., at 49, ll.2-24.

In its last General Rate Case (GRC) for the FWC,³ San Gabriel presented plans for developing recycled water service. The decision in that proceeding ordered that such a project would have to proceed, if at all, by an application, not advice letter, to be filed after San Gabriel and the City had completed a recycled water agreement.⁴

Such an agreement between FWC and the City (FWC-City Contract) was reached on April 26, 2011. Under that agreement, FWC would obtain funding for and plan, design, construct and own a distribution system having an estimated capital cost of construction of \$6.3 million and an estimated capacity to deliver at least 1,000 acre feet of recycled water. FWC would sell and deliver that water within its service area to City-owned parks, school district properties, community facilities, and commercial and industrial customers. In its application here, San Gabriel seeks Commission authorization to implement the FWC-City Contract. In a joint motion, San Gabriel and the protestant, the Division of Ratepayer Advocates (DRA), seek Commission approval of a Settlement Agreement dated October 12, 2011,⁵ and authorization for FWC to construct the recycled water distribution system project.

³ A.08-07-009.

⁴ D.09-06-027, O.P. 8: "If, after it reaches an agreement with the City of Fontana, San Gabriel Valley Water Company decides to provide recycled water service, it shall do so through an application."

⁵ Date last signature was affixed.

2.2. Procedural History

The Application in this proceeding was filed on June 2, 2011. On July 6, 2011, DRA timely filed a Protest. A Prehearing Conference (PHC) was held before Administrative Law Judge (ALJ) Gary Weatherford on July 12, 2011, to determine parties, identify issues, consider the schedule, and address other matters as necessary to proceed with this application. Assigned Commissioner Timothy Alan Simon issued a Ruling and Scoping Memo on August 26, 2011 that categorized the proceeding as ratesetting, determined that a hearing was needed, and identified seven issues in need of resolution.

On July 28, 2011, ALJ Richard Smith was appointed as a neutral for Alternate Dispute Resolution. On October 13, 2011, a Joint Motion to Approve the Settlement Agreement between the Division of Ratepayer Advocates and San Gabriel was filed, with the settlement agreement (Settlement Agreement) attached. Filed on the same date was a Joint Motion to Waive Comments and Hearing.

On January 12, 2012, ALJ Weatherford issued a ruling setting an additional PHC to review the Settlement Agreement. San Gabriel filed a PHC statement on February 24, 2012, which provided a framework for the discussion that occurred at the additional PHC on February 28, 2012.

3. Application of Standard of Review to Terms of Settlement Agreement

3.1. Standard of Review

At issue is whether this settlement is “reasonable in light of the whole record, consistent with law, and in the public interest.” Rule 12.1(d). The proposing parties have the burden of proof as to whether the settlement should be adopted by the Commission.

The state-wide public interest in promoting the use of recycled water is clear.⁶ The Commission concludes below that the settlement resolves the issues between the parties and, further, is reasonable in light of the whole record, consistent with law, and in the public interest.

3.2. Analysis of Settlement Agreement

3.2.1. Terms and Conditions of the Settlement Agreement (Attachment A)

The settling parties agree that the Commission should grant the authorization sought by the application for San Gabriel to:

- * Implement a contract rate negotiated with the City for the delivery and sale of recycled water for beneficial uses by the City and local school districts;
- * Establish tariff rates for recycled water metered service to other customers in the FWC division as specified in the FWC-City contract;
- * Record all project costs in a separately identified project work order;
- * Offset all such recorded project costs with facilities fees and any available grants or contributions until all such costs have been offset and reimbursed, with an allowance of San Gabriel's cost of funding such costs recorded as capitalized interest (Allowance for Funds Used During Construction, or AFUDC) until such costs are offset and reimbursed; and

⁶ References to recycled water occur in the Commission's Water Action Plan 2010 (October 2010), at 4, 7, 16, 22, and 31.

- * Record all such facilities fees, grants, and contributions as Contributions in Aid of Construction, subject to certain terms and conditions.

Among the additional terms and conditions are provisions precluding project costs or accrued capitalized interest cost from being included in San Gabriel's revenue requirement for ratemaking purposes; setting the rate of interest accrued as AFUDC to be the then-current monthly cost for short-term debt and the rate of interest to be accrued as capitalized interest after the project is placed in service to be San Gabriel's authorized weighted average cost of capital; capping at \$69.3 million the additional investment in company-funded plant to be used during 2011 to 2014 in calculating rate base and revenue requirement for the Fontana Water Company District; subjecting the costs of the project to reasonableness review in the next GRC; and redirecting the facilities fees back to the Sandhill Surface Water Treatment Plant to offset its remaining rate base once there has been a full offset and reimbursement achieved for the recycled water project.

3.2.2. Implementation of the Contract Rates Applicable to the City⁷

The Settlement Agreement calls for the Commission to authorize San Gabriel to implement the FWC-City Contract, under which San Gabriel is to receive up to 1,732 acre feet per year of the City's recycled water allotment at IEUA's cost of delivery, presently \$115 per acre foot. The settling parties

⁷ The quantity rate of \$400 per acre foot that FWC will charge the City and local school districts is subject to price increases commensurate with applicable increases in IEUA's charges for recycled water. Such increases are to be passed through to the quantity rate paid by the City.

represent that the use of that recycled water will avoid the need to pump a corresponding amount of production from deep wells in the Chino Basin that would carry direct cost in groundwater pumping assessments and purchased power greater than \$500 per acre foot.

San Gabriel will deliver that recycled water, to the extent available, to points of use by the City and the local school districts for landscape irrigation for a quantity rate of \$400 per acre foot. One aspect of that contract rate deserves particular discussion because it intersects an equitable issue within the province of the Commission's pending rulemaking on recycled water, R.10-11-014, which is designed to develop guidelines for the planning, evaluation and regulation of recycled water projects. The issue is whether the impact on existing potable water customers of providing recycled water service should be neutral. Without some form of intervention, the customer who switches to recycled water is relieved of that portion of the fixed cost recovery represented by the amount of potable water use it is leaving behind; in short, the fixed cost burden of those potable water customers who remain is proportionately increased.

At the February 28, 2012, PHC, San Gabriel stated that the recycled water rate (\$400 quantity rate) that the City would pay upon its shift from potable water to recycled water would result in a "slightly greater increased contribution toward the overall utility costs of operations."⁸ Upon review, we find that the opposite would be true.⁹ We do not find the disparity to be a bar to the adoption

⁸ Second PHC R.T., at 72, ll.16-20.

⁹ According to analysis done by the staff of the Division of Water and Audits, San Gabriel's statement at that PHC appears to have been based on the use of the marginal cost of potable water rather than the average variable cost of potable water on which the

Footnote continued on next page

of the settlement before us, however, because it is uncertain how relevant we will find a neutral-impact-on-potable-rates standard in our rulemaking on recycled water.¹⁰ Among the challenges being dealt with in that rulemaking are the competing considerations the Legislature has set before us concerning water service ratemaking. On the one hand, “any unreasonable difference as to rates” is to be avoided;¹¹ on the other, discounts for recycled water users are expressly allowed, along with the spreading of that impact across all metered customers.¹²

Two factors prompt us to approve the application and settlement here without waiting for the outcome of R.10-11-014. First, potable water customers will be receiving an offsetting benefit from the recycled water project. The City is supplementing San Gabriel’s water supply portfolio by committing a significant portion of its treated waste water allotment to the project, which increases the reliability of water service for all metered customers. Second, we

rate in the FO-1 tariff of FWC is based. San Gabriel overstated the cost of water in rates and thus understated the fixed cost margin contribution. When using the correct cost of potable water in the rate analysis, the fixed cost contribution (\$580) in the potable water rate is shown to be greater than that (\$285) associated with the proposed recycled water rate for the City of Fontana. At this time it is uncertain whether the lower fixed cost margin per acre foot for recycled water as compared to potable water will be fully compensated for through a higher usage volume of recycled water, compared to the City’s historical usage volume of potable water.

¹⁰ R.10-11-014, Order Instituting Rulemaking on the Commission’s own Motion to Consider a Comprehensive Policy Framework for Recycled Water. Three workshops have been conducted as of this writing, with a fourth set for April 30, 2012, and at least one more expected before a staff workshop report is prepared and circulated for comment. Useful power point presentations from the workshops can be accessed at: <http://www.cpuc.ca.gov/PUC/Water/WaterEvents/>

¹¹ § 453, Pub. Util. Code.

¹² § 13580.8(d), Water Code.

find there to be an overriding public interest in not delaying San Gabriel's recycled water distribution project in a manner that would place it out of sync with the construction and completion of the regional recycled water trunk line project of the IEUA, upon which San Gabriel's project is dependent.¹³ Certainly, from the perspective of the Commission's 2010 Water Action Plan,¹⁴ the sooner that recycled water is available to displace potable water use in landscape irrigation, the better.

3.2.3. Establishment of Tariff Rates for Other Recycled Water Customers

The settlement directs that the FWC-City contract be implemented. That contract provides for San Gabriel to distribute recycled water, to the extent available, to customers other than the City and school districts pursuant to a proposed Tariff Schedule FO-6 for Recycled Meter Service, at a quantity rate equal to 75% of the Schedule FO-1 quantity rate of potable water service. That tariff schedule is appended to this decision as Attachment B. This 25% discount falls within the range of discounts offered by retail suppliers of recycled water.¹⁵

¹³ See discussion in the 2d PHC R.T., at 48-51.

¹⁴ At 16: "To the extent that recycled water is available, the CPUC will require its use, when practicable, as another supply source."

¹⁵ See Response of San Gabriel Valley Water Company to Questions Presented by Administrative Law Judge Weatherford, at 8-9. The approval of a 25% discount in this decision is based on the circumstances of this particular application and is not intended to have precedent value for other proceedings. Rate design issues concerning recycled water are presently under consideration in R.10-11-014.

3.2.4. Recordation of Project Costs in Project Work Order

The settlement calls for the costs of designing and constructing the local recycled water distribution system to be recorded in a separately identified project work order.

3.2.5. Cost Offset by Facilities Fees, Grants or Contributions

The settlement provides that all project costs recorded in the project work order are to be offset by (a) the amounts of facilities fees received pursuant to FWC Tariff Schedule No. FO-FF, CPUC Sheet Nos. 1875W and 1876W, and (b) any available grants or contributions received from other sources for the project, until all the project costs have been paid.

3.2.6. Recordation of Facilities Fees, Grants and Contributions

3.2.6.1. Cost of Funding as AFUDC

Under the settlement, the funding of project costs are to be recorded as an AFUDC on the unreimbursed balance, if any, in the project work order until all of the project costs are offset and paid.

3.2.6.2. Facilities Fees, Grants and Contributions as Contributions in Aid of Construction (CIAC)

The settlement states that facilities fees and grants and contributions from other sources received to offset project costs are to be recorded as CIAC, keeping them out of the rate base.

3.2.7. Non-Applicability of California Environmental Quality Act (CEQA)

The settlement takes the position, which we find reasonable, that the actions by the Commission requested in the Application are statutorily exempt from the CEQA.¹⁶ IEUA did complete the CEQA process as lead agency for its Recycled Water Master Plan.¹⁷ Under the FWC-City Contract, the City is responsible for any further CEQA compliance for the Project.

3.3. Discussion

As noted above, pursuant to Rule 12.1(d), the Commission will not approve a settlement unless it is reasonable in light of the whole record, consistent with law, and in the public interest.

We have historically favored settlements that are fair and reasonable in light of the record as a whole. Concerning the record in this proceeding, the stipulation of facts in the Settlement Agreement constitutes a clear and succinct description of the facts surrounding the dispute between the parties.

¹⁶ In its Application, at 7, San Gabriel cites Public Resources Code, §21000, which provides an exemption from CEQA for the “establishment, modification, structuring, restructuring, or approval of rates, tolls, fares, or other charges by public agencies which the public agency finds are for the purpose of...obtaining funds for capital projects necessary to maintain service within existing service areas.”

¹⁷ IEUA filed its Notice of Determination advising of its approval of its Recycled Water Master Plan Final Program Environmental Impact Report (PEIR) on July 28, 2002. See Attachment B of Joint Motion of DRA and San Gabriel for Approval of Settlement Agreement. The City Council of the City, as a “responsible agency” under CEQA, approved an Addendum to the PEIR on July 22, 2008, covering the second-tier project that includes the Project that is the focus of the instant Application. See Attachment D of Joint Motion of DRA and San Gabriel for Approval of Settlement Agreement.

According to the parties' joint motion to accept the settlement, the Settlement Agreement represents a compromise of the parties' litigation positions and resolves the issues posed in the assigned Commissioner's Ruling and Scoping Memo.¹⁸ We find that the Settlement Agreement reasonably resolves a potentially time-consuming dispute and that each party has made significant concessions to resolve the issues in this proceeding in a manner that reflects a reasonable compromise of their respective litigation positions.

Further, we find that nothing in the Settlement Agreement contravenes any statutory provisions or prior Commission decisions, and that it provides sufficient information for the Commission to discharge its future regulatory obligations with respect to the parties and their interests and obligations. The Settlement Agreement does not contradict current Commission rules, and it does not constitute a precedent regarding any principle or issue in this proceeding or any pending or future proceeding. This is particularly important in light of the pending rulemaking addressing a number of unresolved issues surrounding our regulation of recycled water service by investor-owned recycled water retailers.

The Settlement Agreement is in the public interest. It is consistent with the Commission's well-established policy of supporting resolution of disputed matters through settlement, it reflects a reasonable compromise, and it avoids the time, expense, and uncertainty of evidentiary hearings and further litigation. We find that the benefits to the public outweigh any potential value of continued litigation and its associated cost.

¹⁸ At 3.

In summary, we find the Settlement Agreement is reasonable in light of the record as a whole, consistent with law, and in the public interest. It resolves all issues before the Commission in this proceeding. Accordingly, this decision adopts the Settlement Agreement.

4. Comments on Proposed Decision

The proposed decision of the assigned ALJ in this matter was mailed to the parties in accordance with Section 311 of the Public Utilities Code. The proposed decision denied the joint motion to waive comments and comments were allowed accordingly under Rule 14.3 of the Commission's Rules of Practice and Procedure. Comments were filed on _____, 201_, and Reply Comments were filed on _____, 201_, by _____ and _____.

5. Categorization and Need for Hearing

The categorization of this proceeding in the Ruling and Scoping Memo was ratemaking and it was anticipated there that this proceeding would require evidentiary hearings. Because no hearings are now required as a result of the settlement, the hearing determination is changed to state that no evidentiary hearings are necessary.

6. Assignment of Proceeding

Timothy Alan Simon is the assigned Commissioner and Gary Weatherford is the assigned ALJ in this proceeding.

Findings of Fact

1. The settlement resolves all of the issues between two of the parties, San Gabriel and DRA, and is supported by the remaining party, the City.

2. The overall result of the settlement lies between the initial positions of the settling parties.

3. The settling parties, although they do not comprise all of the active parties, fairly represent the affected interests.

4. The settlement authorizes implementation of a recycled water contract that will allow San Gabriel to provide customers within its FWC with adequate reliable service at reasonable rates.

5. The settlement provides the Commission with sufficient information to carry out its future regulatory obligations with respect to the parties and their interests.

Conclusions of Law

1. Evidentiary hearings are not needed.
2. The settlement does not violate any statute or Commission decision or rule.
3. The settlement is reasonable in light of the whole record, consistent with law and in the public interest.
4. The settlement should be approved.

O R D E R

IT IS ORDERED that:

1. The Settlement Agreement attached hereto as Attachment A, is approved and adopted.
2. San Gabriel Valley Water Company shall record the costs of designing and constructing the local recycled water distribution system (Project Costs) covered by Application 11-06-005 in a separately identified Project Work Order.

3. San Gabriel Valley Water Company shall offset all Project Costs recorded in the Project Work Order by (a) the amounts of facilities fees received pursuant to Fontana Water Company Tariff Schedule No. FO-FF, CPUC Sheet Nos. 1875W and 1876W, and (b) any available grants or contributions received from other sources for the local recycled water distribution system project, until all the Project Costs have been offset and reimbursed.

4. San Gabriel Valley Water Company shall record the cost of funding of Project Costs as an allowance for funds used during construction on the unreimbursed balance, if any, in the Project Work Order until all of the Project Costs are offset and reimbursed.

5. San Gabriel Valley Water shall record facilities fees and grants and contributions from other sources received to offset Project Costs as contributions in aid of construction.

6. The joint motion seeking a waiver of comments is denied and the joint motion for waiver of a hearing is granted.

7. Any remaining unresolved motions or requests are denied.

8. No evidentiary hearings are necessary.

9. Application 11-06-005 is closed.

This order is effective today.

Dated _____, at San Francisco, California.

ATTACHMENT A

Settlement Agreement without Exhibits

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

In the Matter of the Application of SAN)
GABRIEL VALLEY WATER COMPANY)
(U337W) for Authorization to Implement)
Discounted Rates for Recycled Water Service)
and Apply Facilities Fees in its Fontana Water)
Company Division in Accordance With a)
Contract With the City of Fontana.)
_____)

Application No. 11-06-005
(Filed June 2, 2011)

SETTLEMENT AGREEMENT

This SETTLEMENT AGREEMENT ("Settlement") is entered into by and between SAN GABRIEL VALLEY WATER COMPANY ("San Gabriel ") and the DIVISION OF RATEPAYER ADVOCATES ("DRA") (each a "Settling Party" and together, the "Settling Parties"). This Settlement resolves all outstanding issues among the Settling Parties in connection with San Gabriel's Application for Authorization to Implement Discounted Rates for Recycled Water Service and Apply Facilities Fees in its Fontana Water Company Division in Accordance With a Contract With the City of Fontana, A.11-06-005.¹

I. INTRODUCTION

1. For many years, policies established by the California Legislature have mandated the use of recycled water where it can be provided in adequate quantity and quality, have recognized the role of Commission-regulated water utilities in the distribution of

¹ The City of Fontana (the "City") is a party to this proceeding and participated in the negotiation and settlement phase, but has not completed its internal process necessary to become a formal signatory to the Settlement. Notwithstanding its lack of signature, the City has authorized the Settling Parties to indicate to the Commission that the City supports the Settlement and the Contract for delivery of recycled water to customers in the Fontana Water Company division.

recycled water, and have called for prompt Commission approval of rates for utility sale of recycled water. *See*, Application, at 3, *citing* Stats. 1993, ch. 406; Pub. Util. Code §455.1.

2. The Inland Empire Utilities Agency (“IEUA”) receives and provides a high level of treatment of wastewater from the City’s sewer collection system. The resulting highly treated effluent is then available as the City’s Recycled Water Allotment, a portion of which is used to recharge the Chino Groundwater Basin but the remainder of which the City cannot presently put to beneficial use. Application, at 4.

3. Recognizing that conservation of potable water supplies is urgently required to assure the present and future sustainability and reliability of local groundwater and other drinking water resources, San Gabriel and the City have worked cooperatively over several years to develop a contract (the “Contract”) specifying terms for the delivery of recycled water to customers in the Fontana Water Company division. *Id.*

4. Fontana’s City Council approved the Contract on April 26, 2011, subject to approval of its rates and terms by the Commission. San Gabriel then prepared and on June 2, 2011, filed its Application and the Contract with the Commission, requesting authorization to implement rates consistent with the Contract. *Id.*

5. Under the Contract, the City will allow San Gabriel to receive up to 1,732 acre feet (“AF”) per year of its Recycled Water Allotment at only IEUA’s cost of delivery², presently \$115/AF, and San Gabriel will deliver that water, to the extent available, to points of use by the City and the local school districts for landscape irrigation at a quantity rate of \$400/AF, subject to price increases commensurate with any applicable increases in the purchase price of recycled water, which may be passed through to the price that the City pays

² Exhibit B, Chino Basin Regional Sewage Service Contract, p. 56, No. 6, “Price for Purchase of Treated Effluent.”

for recycled water in accordance with Section 1.F of the Contract. The Contract also provides for San Gabriel to distribute and supply recycled water, to the extent available, to other customers pursuant to proposed Tariff Schedule FO-6 for Recycled Metered Service, at a quantity rate equal to 75% of the Schedule FO-1 quantity rate for potable water service. Application, at 4-6.

6. Pursuant to the Contract, San Gabriel will fund all costs related to the local recycled water distribution system (the "Project") at an estimated cost of \$6.3 million, and will own, operate, and maintain the Project in accordance with standard water utility practices. IEUA is currently completing a regional backbone pipeline that will deliver recycled water to the Project. *Id.* at 5. Although the Project has yet to be submitted for competitive bidding, a more recent estimate of Project costs is \$5.7 million. See, San Gabriel Response to DRA Data Request JJS-1 dated August 10, 2011, Exhibit A attached hereto, Response to Request No. 5.

7. The Contract further provides for San Gabriel and the City to cooperate in seeking funding for the recycled water Project through federal and state grants and commits San Gabriel not to include capital costs of the Project in its rate base or in potable water rates. Instead, San Gabriel will apply Facilities Fees, in addition to any grant funding, to recover funds the company provides to pay the costs of the Project, recording those amounts as Contributions in Aid of Construction ("CIAC"). Application, at 5.

8. The Project schedule attached to the Contract indicates that construction of the Project will be completed approximately 12 months from the date that the company issues a request for bid proposals to qualified contractors.

9. Use of recycled water purchased at a direct cost of \$115/AF will obviate the need to pump a corresponding volume of production from deep wells in the Chino Basin,

thereby avoiding direct costs exceeding \$500/AF for groundwater pumping assessments and purchased power costs.

10. DRA filed a protest to this Application on July 6, 2011. In its protest, DRA stated its intention to review the reasonableness of the Contract between San Gabriel and the City to ensure its reasonableness for ratepayers, to review plans and costs for the proposed recycled water distribution system, to review the proposed funding mechanism and whether San Gabriel was seeking outside funding for the Project, to review San Gabriel's proposed pricing for recycled water services, and to investigate whether the proposed service complies with regulations of the California Department of Public Health and other state and federal agencies.

11. On July 8, 2011, the City filed a response to the Application, explaining the City's role in the plans for provision of recycled water service and supporting expeditious approval of San Gabriel's application in order to put a substantial volume of recycled water to beneficial use to water landscaping, parks, and athletic fields and for industrial processes.

12. A prehearing conference was held in this matter on July 12, 2011, before Administrative Law Judge ("ALJ") Weatherford, at which scheduling issues were addressed and the parties expressed interest in mediating contested issues. The adopted schedule included provision for San Gabriel to respond to certain initial questions posed by ALJ Weatherford. San Gabriel provided its response to those questions by a formal filing on July 26, 2011, which is attached to this Settlement Agreement as Exhibit B.

13. At the request of the parties, ALJ Richard Smith was appointed on July 28, 2011, to serve as an ALJ neutral for purposes of alternative dispute resolution.

14. On August 26, 2011, the Assigned Commissioner's Ruling and Scoping Memo was filed and served, defining the issues, procedures, and timetable for this proceeding.

15. The parties initiated informal settlement negotiations on Tuesday, August 16, 2011, continuing with such discussions through Friday, August 26, 2011. Having resolved several issues but with key issues still under discussion, the parties convened in San Francisco on Tuesday, August 30, 2011 for an all-day mediation facilitated by ALJ Smith. A copy of the confidentiality agreement signed by parties to the mediation is attached hereto as Exhibit C. The mediation resulted in agreement on the settlement terms presented herein.

16. As a result of the events described above, and on the basis of the information presented in San Gabriel's Application, the exhibits to that Application, and Exhibits A and B to this Settlement Agreement, the Settling Parties have reached agreement on a set of terms to resolve all issues presented by San Gabriel's Application.

NOW, THEREFORE, in consideration of the foregoing recitation of facts and events, which is hereby incorporated into this Settlement by reference and made a part of the mutual agreements, covenants and provisions set forth below, the adequacy of which is hereby acknowledged, San Gabriel and DRA hereby agree as follows:

II. TERMS AND CONDITIONS

The Settling Parties agree that the Commission should grant San Gabriel the authorization requested in A.11-06-005: (1) to implement a contract rate negotiated with the City for the delivery and sale of recycled water for beneficial uses by the City and the local school districts; (2) to establish tariff rates for recycled water metered service to other customers in San Gabriel's Fontana Water Company division as specified in the contract;

(3) to record all Project costs in a separately identified Project Work Order; (4) to offset all such recorded Project costs with Facilities Fees and any available grants or contributions until all such costs have been offset and reimbursed, with an allowance of the company's cost of funding such costs recorded as capitalized interest (referred to as "AFUDC" in the Application and the Contract) until all such costs are offset and reimbursed; and (5) to record all such Facilities Fees, grants, and contributions as Contributions in Aid of Construction ("CIAC"), subject to the following terms and conditions:

A. Consistent with San Gabriel's contractual commitment and the authorization request stated above, San Gabriel will apply Facilities Fees as well as any grants or contributions received to offset and reimburse any and all costs of the Project as well as any interest accrued on such Project costs as capitalized interest until all such costs and interest have been offset and reimbursed.

B. Consistent with Paragraph A, no Project costs or accrued capitalized interest costs will ever be included in San Gabriel's rate base or otherwise be included in San Gabriel's revenue requirement for ratemaking purposes.

C. The rate of interest to be accrued as AFUDC during the period of Project construction, until the Project, or any completed phase thereof, is placed into service, shall be at San Gabriel's then-current average monthly cost of short-term debt, which is the BBA Libor Daily Floating rate plus one and one-half (1.50) percentage points as published by the Federal Reserve Board's Statistical Release H.15. For example, using the August 2011 average monthly LIBOR rate, this formula produces a rate of 1.75% per annum.

D. The rate of interest to be accrued as capitalized interest during the period after the Project, or any completed phase thereof, has been placed into service and

continuing until all Project costs and accrued capitalized interest have been offset and reimbursed should be set at San Gabriel's Commission-authorized weighted average cost of capital, which is currently 9.25% per annum.

E. The total amount of additional investment in company-funded plant during the calendar years 2011 to 2014 that may be included in the calculation of rate base and revenue requirement for San Gabriel's Fontana Water Company division in the currently pending general rate case ("GRC"), A.11-07-005, shall not exceed the \$69.3 million amount of such additional investment proposed in A.11-07-005 minus the current \$5.7 million cost estimate for San Gabriel's recycled water Project, resulting in a \$63.6 million cap on additional investment in company-funded plant during calendar years 2011 to 2014 to be included in rate base and revenue requirement calculations for purposes of A.11-07-005.

F. In San Gabriel's next GRC, presently scheduled to be filed in January 2013, the costs of the recycled water Project will be subject to a reasonableness review.

G. Once San Gabriel's own actual funding of costs for the recycled water Project and related interest accruals have been fully offset and reimbursed through the application of Facilities Fees as well as any relevant grants or contributions, San Gabriel will promptly redirect further receipts of Facilities Fees to offset remaining rate base in the Sandhill Surface Water Treatment Plant for San Gabriel's Fontana Water Company division, in accordance with the provisions of D.07-04-046.

H. The settlement terms set forth in this Section II apply only to the recycled water Project as described in the Contract between San Gabriel and the City in San Gabriel's A.11-06-005.

III. SCOPING MEMO ISSUES

In accordance with the foregoing Terms and Conditions, the Settling Parties respectfully propose that the issues set forth at page 3 of the Scoping Memo should be resolved as follows:

A. The Commission should grant authority for the implementation of the recycled water supply Contract between San Gabriel and the City on the Terms and Conditions set forth in Section II of this Settlement Agreement.

B. The plans and projected costs for the recycled water distribution system are reasonable, in consideration of the Settling Parties' agreement that additional investment in company-funded plant during calendar years 2011 to 2014 to be included in rate base (and the corresponding revenue requirement calculations) as set forth in A.11-07-005 should be reduced by \$5.7 million from the company-proposed total of \$69.3 million and so should not exceed \$63.6 million.

C. The rates to be set for recycled water metered service to customers other than the City and the local school districts should be as specified in proposed Tariff Schedule FO-6, presented as Exhibit D to A.11-06-005, which represents a 25% discount off the corresponding potable water volumetric rates. The rate to be set for recycled water metered service to the local school districts should be the same contract rate as the Contract sets for such service to the City, currently at \$400/AF.

D. San Gabriel shall operate and maintain the Project so as to deliver recycled water as received from IEUA at tertiary treatment levels pursuant to Regional Water Resources Control Board and Department of Public Health criteria. San Gabriel shall support

the City's adoption and enforcement of such ordinances as may help facilitate compliance with all such laws and regulations.

E. All the costs arising from the design and construction of the local recycled water distribution system infrastructure should be recorded, offset, and accounted for in the manner proposed in the Contract and in A.11-06-005, subject to the Terms and Conditions set forth in Section II of this Settlement Agreement.

F. A.11-06-005 should be treated as statutorily exempt from the procedural requirements of the California Environmental Quality Act, for the reasons stated in Section III of the Application.

G. No additional authorizations, terms, or conditions are required apart from those specified in Section II of this Settlement Agreement.

IV. MISCELLANEOUS PROVISIONS

A. The signatories to this Settlement personally and independently verify that all elements of this Settlement are correct, complete, and internally consistent, to the best of their knowledge and belief.

B. Entering into this Settlement or approval of this Settlement by the Commission shall not be construed as an admission or concession by any Settling Party regarding any fact or matter of law in dispute in this proceeding.

C. The Commission shall have jurisdiction over this Settlement. The Settling Parties agree that no legal action may be brought by San Gabriel or DRA in any state or federal court, or any other forum, against any individual signatory representing the interests of

any of the Settling Parties, or any attorneys representing any of the Settling Parties involving any matter related to this Settlement.

D. The Settling Parties acknowledge that the positions expressed in this Settlement were reached after consideration of all positions advanced in prior submissions as well as during settlement negotiations. This Settlement embodies compromises of the Settling Parties' positions.

E. This Settlement sets forth the entire understanding and agreement between the Settling Parties, and may not be modified or terminated except by written assent of all Settling Parties.

F. Each individual executing this Settlement on behalf of an entity hereby warrants that he or she is authorized to execute this Settlement on behalf of said entity. The Settling Parties agree that no signatory to this Settlement, nor any officer or employee of San Gabriel or DRA assumes any personal liability as a result of this Settlement.

G. The Settling Parties agree to support the Settlement and use their best efforts to secure Commission approval of the Settlement in its entirety and without modification.

H. The Settling Parties agree that if the Commission adopts a Decision with respect to the Settlement that fails to approve the Settlement in its entirety, the Settling Parties shall convene a settlement conference within 15 days of such adoption to discuss whether they can resolve issues raised by the Commission's actions. If the Settling Parties cannot mutually agree to resolve the issues raised by the Commission's actions, the Settlement shall be rescinded and the Settling Parties shall be released from their obligation to support the Settlement. Thereafter, the Settling Parties may pursue any action they deem appropriate, but agree to cooperate to establish a procedural schedule.

I. This Settlement shall be governed by the laws of the State of California as to all matters, including, but not limited to matters of validity, construction, effect, performance and remedies.

IV. CONCLUSION

The Settling Parties mutually believe that based on the terms and conditions stated above, this Settlement is reasonable in light of the whole record, consistent with the law, and in the public interest.

DIVISION OF RATEPAYER ADVOCATES

By *K. Paul* for Joseph Como
Joseph Como
Acting Director

Dated: October 12, 2011

SAN GABRIEL VALLEY WATER COMPANY

By *Robert W. Nicholson*
Robert W. Nicholson
President

Dated: October 6, 2011

(END OF ATTACHMENT A)

ATTACHMENT B

TARIFF SCHEDULE NO. FO-6
FOR RECYCLED METERED SERVICE

SAN GABRIEL VALLEY WATER COMPANY

11142 GARVEY AVENUE
EL MONTE, CALIFORNIA 91733

Original _____
Cancelling _____

Cal. P.U.C. Sheet No. _____
Cal. P.U.C. Sheet No. _____

SCHEDULE NO. FO-6
Fontana Water Company Tariff Area
RECYCLED WATER METERED SERVICE

APPLICABILITY

Applicable to all recycled water metered service.

TERRITORY

Portions of Fontana, Rancho Cucamonga, Rialto, and vicinity, San Bernardino County.

RATES

Quantity Rates:

For all water delivered per 100 cu. ft. \$ 1.7063

Service Charge:	Per Meter Per Month
For 5/8 x 3/4-inch meter.....	\$ 18.54
For 3/4-inch meter.....	27.81
For 1-inch meter.....	46.35
For 1-1/2-inch meter.....	92.69
For 2-inch meter.....	148.24
For 3-inch meter.....	278.14
For 4-inch meter.....	463.52
For 6-inch meter.....	922.48
For 8-inch meter.....	1,487.88
For 10-inch meter.....	2,132.61
For 12-inch meter.....	3,055.10

(continued)

(To be inserted by utility)
Advice Letter No. _____
Decision No. _____

Issued by
R. W. Nicholson
NAME
President
TITLE

(To be inserted by Cal. P.U.C.)
Date Filed _____
Effective _____
Resolution No. _____

SAN GABRIEL VALLEY WATER COMPANY
 EL MONTE, CALIFORNIA 91733

Original _____ Cal. P.U.C. Sheet No. _____
 Cancelling _____ Cal. P.U.C. Sheet No. _____

SCHEDULE NO. FO-6
 Fontana Water Company Tariff Area
RECYCLED WATER METERED SERVICE
 (continued)

<u>RATES</u> - (continued)	<u>Per Battery</u> <u>Per Month</u>
For two 2-inch meters.....	\$ 296.58
For three 2-inch meters.....	444.38
For four 2-inch meters.....	593.17
For two 3-inch meters.....	556.46
For two 4-inch meters.....	927.44
For one 8-inch meter, one 2-inch meter.....	1,785.45
For two 8-inch meters.....	2,975.74

The Service Charge is a readiness-to-serve charge which is applicable to all metered service and to which is added the charge for reclaimed water used computed at the Quantity Rates.

SPECIAL CONDITIONS

1. The Quantity Rate is set at 75% of the Quantity Rate of Schedule No. FO-1.
2. The customer is responsible for compliance with all local, state, and federal rules and regulations that apply to the use of recycled water on the customer's premises.
3. The utility will supply only such recycled water at such pressure as may be available from time to time from the recycled water system. The customer shall indemnify the utility and save it harmless against any and all claims arising out of service under this schedule and shall further agree to make no claims against the utility for any loss or damage resulting from service under this schedule.
4. All bills are subject to the reimbursement fee set forth on Schedule No. AA-UF.

(To be inserted by utility)	Issued by	(To be inserted by Cal. P.U.C.)
Advice Letter No. _____	R. W. Nicholson	Date Filed _____
Decision No. _____	<small>NAME</small>	Effective _____
	President	Resolution No. _____
	<small>TITLE</small>	

FD-004 11

SAN GABRIEL VALLEY WATER COMPANY
 11142 GARVEY AVENUE
 EL MONTE, CALIFORNIA 91733

Revised _____ Cal. P.U.C. Sheet No. _____
 Cancelling Revised _____ Cal. P.U.C. Sheet No. _____

LIST OF CONTRACTS AND DEVIATIONS

Name & Location of Customer	Type or Class of Service	Execution and Expiration Date	Commission Authorization Number and Date	Most Comparable Regular Tariff	
				Schedule Number	Contract Differences
1. Norman's Nursery	Reclaimed Water	02/28/94	W-3882 10/12/94	N/A	N/A
2. J & E Nursery	Reclaimed Water	11/09/09	01/16/10	N/A	N/A
3. Cemex USA Construction, Inc	Non-Potable Water	11/22/00	01/24/01	N/A	N/A
4. Rose Hills	Recycled Water	05/30/02 06/30/17	09/11/02	N/A	N/A
5. County of Los Angeles Department of Parks and Recreation Amendment No. 1	Recycled Water	06/27/06 06/30/17 Amended 3/2/10	AL346 11/15/06 AL388	N/A	N/A
6. City of Fontana	Recycled Water	05/27/11		N/A	N/A

(To be inserted by utility)	<i>Issued by</i>	(To be inserted by Cal. P.U.C.)
Advice Letter No. <u>8</u>	<u>R. W. Nicholson</u>	Date Filed _____
Decision No. _____	<small>NAME</small>	Effective _____
	<u>President</u>	Resolution No. _____
	<small>TITLE</small>	

(END OF ATTACHMENT B)