

Decision **PROPOSED DECISION OF ALJ GRAU** (Mailed 1/15/2008)**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

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)

(See Appendix A for a list of appearances.)

**OPINION RESOLVING PHASE 1A SETTLEMENT**

**AGREEMENTS AND CONTESTED ISSUES**

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## OPINION RESOLVING PHASE 1A SETTLEMENT AGREEMENTS AND CONTESTED ISSUES

In today's decision, the first of two Phase 1 decisions, we adopt seven settlements on conservation rates, revenue adjustment mechanisms, modified cost balancing accounts, return on equity (ROE) adjustment, a low-income assistance program, customer education and outreach, and data collection and reporting. We reject without prejudice the non-residential rate design of one settlement, because the rationale for the rate design is insufficiently explained; we otherwise adopt the settlement. We also approve a conservation memorandum account for extraordinary legal and regulatory expenses and endorse the parties' efforts to resolve access for customers with disabilities in light of the adoption of conservation rate designs.

### 1. Background and Summary

The Commission opened this investigation to address policies to achieve its conservation objectives for Class A water utilities and ordered the consolidation of four pending conservation rate design applications – Application (A.) 06-09-006 (Golden State Water Company (Golden State)), A.06-10-026 (California Water Service Company (CalWater)), A.06-11-009 (Park Water Company (Park)), and A.06-11-010 (Suburban Water Systems (Suburban)).<sup>1</sup> Those objectives include adoption of conservation rate designs and revenue adjustment mechanisms that decouple sales from revenues. Parties filed responses to the preliminary scoping memo on January 29, 2007, and a prehearing conference (PHC) was held on February 7, 2007. The first phase of

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<sup>1</sup> A January 16, 2007 ruling affirmed consolidation of the applications with the OII.

this proceeding addresses rate-related conservation measures, including the parties' increasing block rate and water revenue adjustment mechanism (WRAM) proposals.

The Phase 1 scoping memo issued on March 8, 2007. The Scoping Memo defined Phase 1 to include rate-related conservation measures, WRAMs and Suburban's proposed low-income assistance program. By ruling, the conservation rate design application of San Jose Water Company was consolidated with this application. Phase 1 was divided into Phases 1A and 1B; the issue of return on equity adjustment for adoption of WRAMs was deferred to Phase 1B. Phase 1A hearings were held from July 30 to August 2, 2007. Opening and reply briefs were filed on August 27, 2007 and September 17, 2007, respectively.

The settlement agreements addressed in this decision were filed before and after the Phase 1A hearings, as follows:<sup>2</sup>

- Suburban/Division of Ratepayer Advocates (DRA) on conservation rate design trial program on April 24, 2007;
- Suburban/DRA on low-income ratepayer assistance program (LIRA) on April 24, 2007;
- Park/DRA on conservation rate design, WRAM, and modified cost balancing account (MCBA) trial program on June 15, 2007;
- CalWater/DRA/TURN on conservation rate design (amended settlement), WRAM, and MCBA trial program on June 15, 2007;

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<sup>2</sup> The settlement agreements were e-filed with the Commission. The provisions of the settlements are summarized *infra*. The settlements can be obtained on the Commission's website under the index of currently opened proceedings.

- Park/DRA on conservation memorandum account on July 30, 2007;
- Suburban/Joint Consumers<sup>3</sup> on customer outreach and education and data collection and reporting on August 10, 2007; and
- Park/Joint Consumers/Consumer Federation of California (CFC) on data collection, monitoring, and reporting on August 10, 2007.

In addition, a memorandum of understanding was reached between Suburban and DisabRA on disability access issues in July 2007. DRA and Suburban filed a settlement agreement on the ROE adjustment on October 19, 2007, after Phase 1A was submitted on the filing of reply briefs. DRA and Suburban requested that we address the ROE settlement in this Phase 1A decision, rather than in the Phase 1B decision. No party opposed the settlement or the proposal to address the settlement in this decision. Thus, we set aside submission to resolve the Suburban/DRA ROE settlement herein.

CFC opposed, for policy reasons, adoption of the three conservation rate design settlements and the CalWater and Park WRAM settlements. The Joint Consumers opposed the Suburban LIRA settlement, which adopts a flat-rate discount of the service charge. Suburban's conservation memorandum account proposal was not resolved by settlement and was addressed in this phase's hearings.<sup>4</sup>

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<sup>3</sup> The Joint Consumers are The Utility Reform Network (TURN), the National Consumer Law Center (NCLC), Disability Rights Advocates (DisabRA), and Latino Issues Forum (LIF).

<sup>4</sup> CalWater's conservation memorandum increase proposal is addressed in Phase 1B.

The conservation rate design settlements propose trial programs, which will remain in effect until the company's next general rate case (GRC). Prior to addressing the settlement agreements, we address CFC's procedural and policy concerns and adopt the goal of a targeted reduction in consumption for Class A water utilities with price and non-price conservation programs and a tentative targeted reduction for the trial programs. We then address the settlements and the Suburban conservation memorandum account and memorandum of understanding on access for persons with disabilities. We approve without modification the following settlements:

- Suburban/DRA on conservation rate design;
- Suburban/DRA on LIRA program;
- Park/DRA on conservation rate design, WRAM, and MCBA;
- Park/DRA on conservation memorandum account;
- Suburban/Joint Consumers on customer outreach and education and data collection and reporting;
- Park/Joint Consumers/CFC on data collection, monitoring, and reporting; and
- Suburban/DRA on ROE adjustment.

We approve the CalWater/DRA/TURN residential rate design, WRAM, and MCBA settlement; we decline to approve the non-residential rate design, because its price signal is not adequately explained. We approve the Suburban memorandum account but decline to permit costs incurred prior to the adoption of the memorandum account to be included.

## 2. Objection to Scope of Phase 1

In testimony, at the hearings, and in its briefs, CFC has urged us to postpone implementation of conservation rates until the utilities provide cost allocation studies, to be reviewed in general rate cases, and cost information, which would illustrate how conservation rates are aligned with costs. CFC also requests that the utilities provide conservation rates for all customer classes prior to adoption of conservation rates. To address CFC's proposed delay in the adoption of conservation rates, we must consider the context in which CFC's proposal arises.

This OII consolidated pending conservation rate design applications and requested comments on both rate and non rate design conservation issues. The OII issued a preliminary scoping memo and noticed parties that the Commission would implement increasing block rates for residential customers and WRAMs by advice letter or subsequent decision after issuing a decision on the broad policy issues.

DRA proposed an alternate process. Settlement negotiations for trial conservation rate design programs were underway; DRA proposed that they continue and be the subject of a Phase 1 decision. A Phase 2 would include broader policy issues and be re-categorized as quasi-legislative. No party opposed the request in responses to the OII and at the PHC. The Joint Consumers noted at the PHC that there might be difficulties in proceeding as DRA envisioned, but they had no other proposal.

The assigned Commissioner granted DRA's unopposed request to phase this proceeding in the final scoping memo. To address the rate-related conservation objectives identified in the OII in Phase 1, the assigned Commissioner ordered settlement agreements or motions proposing the

settlement agreements to discuss specific issues.<sup>5</sup> Phase 2 was set to address non-rate design conservation issues.

In light of the above, CFC's request is untimely. The time to have proposed alternatives to the preliminary scoping memo and to DRA's phased proposal was in advance of issuance of the scoping memo, either in responses to the OII or at the PHC. Once the scoping memo issues, it governs the issues the proceeding or, in this case, this phase of the proceeding will consider. Cost allocation studies and cost information were not within the scope of this phase of the proceeding. We acknowledged the utilities had not proposed conservation rate designs for other than residential customers in the OII and did not require them to amend their applications to propose them.<sup>6</sup> Thus, we will proceed with consideration of the conservation rate design settlement agreements before us and CFC's objections to them.

### **3. Alternate Conservation Rate Design Proposal**

The conservation rate design settlements before us include increasing block rates for residential customers. The Park and CalWater settlements reduce the fixed service charge for commercial and industrial customers and include full decoupling WRAMs and MCBAs for all districts and all customer classes. These WRAMs permit recovery or crediting of the difference between actual and

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<sup>5</sup> Specifically, he ordered them to discuss low-income programs and affordability, metered service, billing arrangements, how increasing block rate levels and the percentages between them were determined, ability of tier increases to promote conservation, revenue included in the WRAM, effective date of the conservation rate design proposal, and consumer education initiatives to implement the settlements, and monitoring programs to gauge their effectiveness.

<sup>6</sup> In the OII, we asked whether conservation rate designs for other than residential classes should be considered in this proceeding.

adopted quantity charge revenues. The MCBAs permit recovery or crediting of the difference between actual and adopted variable costs for purchased power, purchased water and pump tax. The Suburban settlement does not include commercial and industrial customer classes and contains a Monterey-style WRAM, which limits recovery or crediting of revenues to the difference between actual sales at proposed and single quantity rates. The settlements are trial programs, which will be in effect until the companies' next general rate cases (GRC).

CFC offers a counterproposal. CalWater and Park should implement the increasing block rates proposed in their applications.<sup>7</sup> Suburban should implement its application's increasing block rates, but rates should be differentiated between meter sizes and multi-family dwellings should be treated as commercial customers. The utilities should implement Monterey-style WRAMs, if they demonstrate they have an incentive to promote water sales. CFC states we should decide several policy issues before implementing settlement rates in order to accomplish statewide conservation objectives: whether Tier 1 should represent a subsistence level of water or average use, what level of usage should dictate additional tiers, and what price difference between rate tiers should be required.

CFC advances certain pricing proposals. The first tier of increasing block rates should be set by establishing an allowance for essential needs for residential customers and should use a commercial or industrial customer's

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<sup>7</sup> Specifically, CalWater should implement the rates in its application, as modified by the settlement with DRA and TURN, for the eight districts addressed in Decision (D.) 06-08-011.

usage to set an allowance. Second tier rates should reflect current costs and rate cases should develop future costs for Tier 3. Rates should be set for peak demand even if summer usage is not more than twice the amount of winter usage. Costs should be allocated among customer classes once residential customers reduce demand under increasing block rates.

We acknowledge the concerns that prompt CFC's policy recommendations and alternate proposal. CFC does not believe the settlements treat residential customers and multi-family units fairly and are not likely to send the appropriate price signals. While we support equitable treatment of customer classes and rates designed to prompt conservation, we decline to adopt the rates found in the CalWater, Park, and Suburban applications. We further decline to adopt specific rate objectives. As discussed above, we permitted the negotiation of settlement agreements among the parties for trial programs and did not require specific break points or percentage differences for increasing block rates. CFC's concerns do not prompt us to reconsider that choice. However, we do find it necessary to expand upon one objective in our Water Action Plan (WAP)--to strengthen water conservation programs to a level comparable to those of energy utilities.

#### **4. Conservation Goal for Class A Water Utilities**

The WAP recommended means to achieve the stated objective of strengthening water conservation programs to a level comparable to those of energy utilities, and this OII expanded upon those principles. Neither in the WAP nor in the OII did the Commission quantify that objective.<sup>8</sup> As DRA noted

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<sup>8</sup> We did include the objective of a 10% reduction in energy consumption by water utilities over the next three years.

at the hearings, the settlements' rate structures were based on actual consumption and provide an economic incentive to cut consumption to a point that had not been defined.<sup>9</sup> It is appropriate to preliminarily quantify at this time the overall goal for water conservation, absent drought or other extraordinary conditions, in order to provide guidance in adopting conservation rates and other conservation programs. We recognize that we did not signal our intent to examine this issue. Nonetheless, we prefer an overall policy objective to the narrower objectives CFC advances. We will adopt this goal, preliminarily quantify it, and take input from the parties on the targeted reduction in consumption in Phase 2 of this proceeding.

The Pacific Institute (Institute), using a Department of Water Resources model, projects that improvements in water use efficiency could result in a 20% reduction in consumption in 30 years (between 2000 and 2030).<sup>10</sup> The Institute's high efficiency scenario is based on widespread adoption of existing efficiency technologies and an annual increase in price of 1.1% (based on actual urban water price increases between 1991 and 2001). We also have reviewed the overall water conservation goals of a number of California municipal utilities (Santa Clara Valley Water District, Eastern Municipal Water District, and EBMUD) and compared those objectives with Utah's and the Southern Nevada Water Authority's. Our review focused on urban water programs that express a non-drought conservation objective as a percentage reduction in water

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<sup>9</sup> Testimony of Tatiana Olea, 2 Reporter's Transcript 268:15-20.

<sup>10</sup> Peter H. Gleick, Heather Cooley, David Groves, *California Water 2003: An Efficient Future*, pp. 2, 5.

[http://www.pacinast.org/reports/california\\_water\\_2030/ca\\_water\\_2030.pdf](http://www.pacinast.org/reports/california_water_2030/ca_water_2030.pdf)

consumption, either as a per capita or overall objective. These goals vary but are generally in the range of 12.5% to 25% over a varying number of years. These goals are consistent with the anticipated reduction of 10%-20% over 10 to 20 years that can result from a carefully designed conservation program.<sup>11</sup> Since Class A water utilities operate on a three-year rate case cycle, our goal for water conservation should range, at a minimum, from a 3%-6% reduction in per capita consumption every three years once a full conservation program, with price and non-price components, is in place. The goal of a targeted reduction in consumption shall apply to all Class A water utilities, whether we review conservation rate designs in this proceeding, in separate applications, or as part of their GRCs.

Since we are adopting conservation rates outside of the general rate case cycle for CalWater, Park, and Suburban, a realistic target for the conservation rate designs adopted in this decision should be a 0.5%-1% reduction in consumption per year for each year or partial year the program is in place prior to the utility's next rate case. This annual target should apply to all other Class A water utilities with conservation rates until we have a full conservation program, with price and non-price components, in place.<sup>12</sup> We will examine the specific targeted reduction in Phase 2 of this proceeding.

The reductions in consumption we finalize at the conclusion of Phase 2 shall apply to all customer classes. Class A water utilities shall meet these

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<sup>11</sup> William Maddaus, Gwendolyn Gleason, and John Darmody, *Integrating Conservation into Water Supply Planning*, p. 1.

[http://www.mwhglobal.com/pdf/white\\_paper\\_integrating\\_water\\_5\\_17\\_99.pdf](http://www.mwhglobal.com/pdf/white_paper_integrating_water_5_17_99.pdf)

<sup>12</sup> California American Water Company's (CalAm) Monterey district is exempt from this requirement. Its conservation rates have been in place since 1996.

targets for residential, commercial and industrial classes if conservation rates are adopted for each customer class. In Phase 2, we will determine whether we should express this goal as a range or should adopt a specific percentage reduction. If a utility with conservation rates does not meet this goal, or does not meet the goal for a customer class, the utility will adjust its conservation rate design to prospectively meet the goal in its next GRC. Since we did not express a desired reduction in consumption prior to consideration of the proposals before us, there will be no “penalty” for failure to meet the target we finally adopt. We should adopt an initial target for a reduction in consumption for the trial programs and should consider a longer range goal that will apply to conservation rates adopted after these trial programs.

In adopting a conservation goal for Class A water utilities that sets a target for a reduction in consumption, we address CFC’s concerns that policy issues should be resolved before implementing conservation rate designs. We favor this broad approach, adopting an overall reduction in consumption, because it permits individual utilities latitude to meet this goal through price and non-price policies. It also is consistent with the flexibility inherent in the assigned commissioner’s determination that the parties could continue settlement discussions and address in the settlements or motions urging their adoption the policy issues raised in this OII. Although we reject CFC’s specific policy recommendations in favor of an overall goal, we do so without determining whether those recommendations might advance our policy goal. We next will consider CFC’s specific objections to the Suburban, CalWater, and Park settlements.

## **5. Standard for Reviewing Settlements**

Our rules provide that:

The Commission will not approve settlements, whether contested or uncontested, unless the settlement is reasonable in light of the whole record, consistent with law, and in the public interest. (Rule 12.1(d) of the Commission's Rules of Practice and Procedure.)

We will review the eight settlements under this standard. CFC is the only party opposing the conservation rate design settlements. CFC also requests that revisions be made to the Suburban/Joint Consumer settlement. The Joint Consumers oppose the Suburban/DRA LIRA settlement.

## **6. CalWater, Suburban, and Park Conservation Rate Design Proposals**

The conservation rate design settlements are trial programs, which will be reviewed in the utilities' next GRCs. The purpose of the trial programs is to initiate conservation rates; the rate design will change over time. We will examine the settlements' trial programs in light of our settlement objectives. CFC objects to various aspects of the settlements' rate designs and WRAMs. The other parties either support or do not oppose the settlements.<sup>13</sup> We discuss CFC's objections below.

### **6.1. CalWater Amended Settlement**

The CalWater amended settlement has different rate designs for residential and non-residential customers by district. Most residential customers will have tiered quantity charges; some districts will have two tiers and others will have three. The same methodology was used to set the tiers; the tiers are based on consumption patterns and seasonality of each district and a proxy for indoor water consumption was used. Three tiers are used if consumption

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<sup>13</sup> We received input from CalWater's, Park's and Suburban's customers on the rate design settlements by letters and e-mails.

patterns show significant seasonal differences in which the average summer use is more than twice the average winter use. Some residential customers will have lower meter charges. Other customers with high single quantity charges and low usage will keep the single quantity charge. Rates for three-tier districts are set by discounting rates for the first tier relative to the single quantity rate, by adjusting the single quantity rate upwards or downwards to achieve revenue neutrality for the second tier, and by setting the third tier approximately 20% above the second tier rate. Rates for two-tier districts are set by discounting rates for the first tier relative to the single quantity rate and by setting rates for the second tier 18%-20% higher than the first tier. Customers without meters are not included in the conservation rates, but the impact on customers transitioning to meters is considered in the proposed rate design.

The amended settlement proposes to reduce service charges approximately 10% to 25% for non-residential customers, retain a single quantity charge, and increase the single quantity rate to achieve revenue neutrality.<sup>14</sup> Its Stockton district is an exception, since it already has a two tier rate structure, which will not change. There are two non-residential groups; the first group has a higher single quantity rate and more than 70% of revenue comes from the quantity rate, and the second group has a lower quantity rate and less than 70% of revenue derives from the single quantity rate. In general customers with meters 6" and below are in one rate group and customers with meter sizes 8"

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<sup>14</sup> CalWater supplies water to approximately 450,000 residential, commercial and industrial customers in 24 districts throughout the state. The systems are not integrated with each other. In 15 districts all of the residential customers have metered service connections. In the other nine districts, there also are residential customers with flat-rate service connections.

and above are in a second rate group. The proposed rate design for non-residential customers is consistent with California Urban Water Conservation Council's (CUWCC) definition of conservation pricing and with CUWCC's requirement that at least 70% of revenues are recovered through the quantity charge. CalWater states higher usage will result in increased charges.

CFC has a number of objections to the proposed conservation rate design, which we will address in turn. CFC objects that there are no increasing block rates for commercial and industrial customers.<sup>15</sup> As discussed above, we permitted the parties to move forward with the applications' proposals for increasing block rates for residential customers only. However, we will examine whether CalWater, DRA and TURN's proposed conservation rate design for non-residential customers meets our standards for settlements.<sup>16</sup>

CalWater's existing non-residential rate design mostly is consistent with CUWCC's requirements. As noted by CalWater, DRA and TURN, in most districts the non-residential quantity charge already captures more than 70% of revenues, consistent with CUWCC's requirement. The districts where quantity rates do not recover more than 70% of revenues are few. To meet CUWCC's requirements for each district would require a modified rate design for five districts, Chico, Marysville, Willows, Dixon, and King City. In proposing

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<sup>15</sup> Cal-Am also supports increasing block rates for non-residential customers but states implementation is more time consuming, since nonresidential customers have less homogeneous usage patterns.

<sup>16</sup> Although the amended settlement agreement was submitted by CalWater, DRA, and TURN, the Administrative Law Judge (ALJ) did not require TURN to submit testimony on the settlement agreement. TURN's contribution to the amended settlement did not include changes to non-residential conservation rates.

modifications to the rate designs in the remaining 17 districts, CalWater, DRA and TURN do not explain how adopting a lower service charge and higher quantity charge for those districts, including two sub-districts, meets the Commission's conservation goals. They do not address the specific impact of increasing the quantity charge and decreasing the meter charge for the 17 districts. Thus, we are unclear whether there was any additional conservation goals incorporated in the proposal.

The settlement partially addresses the impact of these proposed changes in attached worksheets. Non-residential customers have varying meter sizes, rates were set depending on meter size, and the bill impact analyses show a resulting bill. However, average consumption for non-residential customers results in increases or decreases in monthly bills, depending on meter size. Some of that impact results from the decision to adopt a single quantity rate by meter size with a lower quantity rate for 8" meters and up. However, that lower rate results in higher bills for smaller meter sizes, for which no explanation is given. For example, average consumption in the Los Altos district increases with meter size but the monthly bill for average consumption for a 10" meter remains the same while the monthly bill for a 6" meter increases 2.2%, even though consumption is approximately 700 cubic feet (Ccf) lower. This result occurs because the 33% meter charge reduction for 10" meters is greater and the quantity charge has increased less for 10" meter customers.<sup>17</sup> Similarly, in the Bakersfield district, customers with 8" meters receive no bill increase for average consumption while customers with 6" meters receive a 3.8% bill increase even

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<sup>17</sup> The 33% meter charge reduction for 10" meters is greater than the 10% to 25% range noted by CalWater and DRA.

though average consumption for 8" meters is twice average consumption for 6" meters.<sup>18</sup> In the Oroville district, the 8" meter customer receives no increase while 6" meter customers with only 20% of the monthly consumption of the 8" meter customer receive a 6.7% increase. CalWater, DRA, and TURN do not explain why average consumption results in increases for some non-residential customers but no or smaller increases for others with higher monthly consumption. The settling parties have not justified different single quantity rates by meter size and the resulting bill impact for average consumption. Although multi-family units are part of the non-residential customer class, Cal Water states their composition varies by district. (3 Reporter's Transcript (RT) 393:3-9.)

CalWater, DRA, and TURN have not demonstrated why adoption of their proposal for non-residential customers meets our standards for adopting settlements, specifically the public interest criterion. Although we concur with CalAm that increasing block rates for non-residential customers is a more complex process, it may be the most realistic option when 70% of revenues already are recovered through the quantity charge. Because of the discrepancies in increases for average consumption, we decline to adopt CalWater, DRA, and TURN's non-residential rate design. We have no objection to the overall goal of the proposal, ensuring all non-residential districts recover more than 70% of revenues in the quantity charge. We do not assume CalWater, DRA, and TURN

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<sup>18</sup> See also Palos Verdes, where there is no increase for average consumption for 8" meters at 1,793 Ccf, and Salinas, where average consumption for a 10" meter receives a 1.3% increase and average consumption for 4" and 6" meters receive 5.1% and 4.2% increases even though average consumption for a 10" meter is six (4") and four (6") times higher.

cannot justify their proposal. However, we reject the non-residential conservation rate design proposal without prejudice to the parties' renewing the request with a more detailed explanation of the conservation signals sent by the proposal.

We are not persuaded by CFC's other criticisms of the amended settlement. CFC states a conservation rate design should be limited to the eight districts for which we ordered CalWater to propose block rates in D.06-08-011. CalWater expanded its original proposal in its earlier GRC to conform with our WAP and an agreement it reached with environmental groups. Although we agree with CFC that coordinating proposed rate increases in pending GRCs with the conservation rate design proposal before us is not simple, we have not precluded Class A water utilities from doing so. In addition, adopting conservation rates for almost all of CalWater's districts is consistent with the WAP and furthers our conservation goals.

CFC states the amended settlement does not address the needs of low-income customers whose usage would fall in the second or third tier. CalWater, DRA and TURN state they have proposed increasing block rates that account for low-income customers.<sup>19</sup> The proposed tiered rate design establishes tiers based on the consumption patterns of each district. The first tier is set using a proxy of indoor water use based on seasonal indicators and is priced at approximately 5% less than the single quantity rate that would be adopted under standard rate design. The second tier is also based on seasonality and extends from the top of Tier 1 to the midpoint between the weather adjusted annual monthly and

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<sup>19</sup> CalWater has a low-income assistance program.

summer averages. Tier 2 is priced to be approximately the single quantity rate that would be adopted under standard rate design. The breakpoints and pricing of Tiers 1 and 2 ensure that average and low-use customers see slight decreases or no changes to their bills; they also take low-income affordability into account in that they decrease the likelihood that larger households will enter the higher tiers too soon. We are satisfied that these safeguards account for the interests of low-income customers and are sufficient for a utility that has a low-income program in place.

CFC objects that the amended settlement does not include a seasonal rate. CalWater, DRA, and TURN state the proposed conservation rates provide customers with a greater financial incentive to conserve water; the tier breakpoints are based on seasonal indicators of consumption patterns specific to each district, so bills will increase in summer months, because of higher consumption that is largely attributable to outdoor use. Since the proposed rate structure discourages use beyond indoor use, customers will have an economic incentive to reduce their outdoor use. Tiers designed to reduce summer consumption sufficiently capture “seasonality” in rates.

CFC opposes setting the first tier break point at consumption below the statewide average for the South San Francisco district. The settling parties applied the same methodology to South San Francisco, using that district’s average consumption, as they did to the other residential districts. South San Francisco’s average consumption is below statewide consumption in both winter and summer months. Customers with average consumption will not see a rate increase; only higher users will have larger monthly bills. At this time, we find no reason to exempt districts with low average consumption from increasing block rates. The impact of increasing block rates on South San

Francisco will be monitored and its impact will be assessed in CalWater's next GRC for that district.

## **6.2. Suburban Settlement**

The Suburban settlement has a two-block rate design, because the difference between summer and winter usage is not significant enough to require a third block. The parties considered seasonality in the calculation of the usage breakpoints for the various meter sizes. The two-tier structure with breakpoints by meter size minimizes the impact on large households, especially for larger meters that serve multi-unit residential buildings. The Block I price provides a 2%-2.5% discount from the authorized single quantity rate. The rates for Block II are set at 8%-14% over Block I. Rate differentials are maintained across zones. Service charges, reset in October 2006, do not change; Suburban's quantity rate recovers more than 70% of revenues, consistent with CUWCC's requirements. Pursuant to D.06-08-017, Suburban will propose a conservation rate design for non-residential customers in its next GRC.

CFC objects to Suburban and DRA's methodology for setting the settlement's tiers. CFC notes that municipalities have chosen to increase rates from the first to second tiers at a lower level of consumption than Suburban's 20 Ccf. The settling parties explain that Suburban's various elevations result in average consumption that is greater than other utilities' customers' average consumption. In the settlement, the upper level of Block I was set at the midpoint between average monthly (annual) consumption and average summer consumption to ensure that customers with low and average levels of use remain within Block I. Customers with consumption greater than the summer average would fall in Block II. Suburban and DRA used this methodology due to concerns about the impact of conservation rates on low-income customers, both

in single and multi-family units, and a desire for simplicity in setting rates for Suburban's districts with three elevation zones and multiple meter sizes.

The upper level of Block I is higher than the breakpoints in the other settlements. The settling parties have explained that the higher breakpoint is necessary for Suburban, because its customers' average consumption is higher. The breakpoint was set around average consumption to ensure that customers with lower usage receive lower rates and to mitigate the impact of conservation rates on low-income customers. These circumstances sufficiently justify why the 20 Ccf breakpoint was chosen. The impact of this choice will be reviewed in Suburban's next GRC.

CFC states a third tier should be added in the San Jose Hills district, because summer usage is more than twice winter usage and that seasonal rates should be used. CFC used three months in calculating summer usage but the settlement uses four months, June through September. Suburban and DRA tracked demand characteristics, particularly from June through September, to see how they compared to the total year, and determined that four months best reflected summer and the highest usage months. They also focused on Zone 1, where slightly more than half of the San Jose Hills customers are located, rather than equally considering all zones. The settling parties have adequately explained the rationale for setting summer consumption and for incorporating seasonality in the proposed rate design. We find no reason to overturn the parties' determination that summer usage best approximates four months rather than three. Although that choice deviates from the definition of summer usage in the other settlements, the choice to use four months will be reviewed in Suburban's next GRC.

CFC further argues Suburban's multi-family customers should be treated like commercial customers, so it would not be necessary to deviate from the general principle that winter usage should be used as a proxy for indoor use. Suburban's categorization of multi-family units is consistent with our Uniform System of Accounts for Water Utilities. We decline to require a change in categorization.

CFC commends the parties for efforts undertaken to identify usage patterns by customers at different meter sizes and notes that further analysis should be undertaken in order to develop seasonal rates. We concur with CFC that usage patterns should continue to be assessed. We express no preference for seasonal rates over incorporating seasonality in rates. Whether incorporating seasonality in rates provides the appropriate conservation signal will be reviewed in Suburban's next GRC.

### **6.3. Park Settlement**

Park's settlement reduces service charges by approximately 18%, with a corresponding increase of approximately 8% in the single quantity rate. Service charges are the same for residential and non-residential customers. Quantity rates for Blocks 1 and 2 have a 10% differential so that the average effective quantity charge for residential customers is equal to the single quantity charge for non-residential customers. The Block 1 rate is approximately 96.5% of what the single quantity rate under a single-tier rate design would be with the same reduced service charge.

CFC objects that Park's non-residential customers do not have increasing block rates. The settlement rate design results in 75% of revenue coming from the quantity charge and moves Park in compliance with CUWCC's directive that more than 70% of revenues originates from the quantity charge. Rates for non-

residential and residential customers are designed to achieve the same quantity charge for average residential usage. Park's non-residential rate design results in overall bill increases for higher usage, consistent with Park's residential rate design. Non-residential customer classes in Park's service territory do not exhibit homogeneous usage patterns so developing increasing block rates for those classes will be more time-consuming. (See 2 RT 177:1-14.) Park has examined usage data for those classes and would be prepared to propose increasing block rates for non-residential customers in its next GRC. Park's non-residential rate design implements conservation rates consistent with CUWCC's requirements.

CFC states only 35% of Park's residential customers will see slight increases in rates for usage above 10 Ccf; 65% of its residential customers will see reduced charges. The settlement increases rates for all residential customers above the current single tier commodity rate of \$2.42 Ccf. The Tier 1 commodity rate is \$2.53 Ccf, and the Tier 2 rate is \$2.78 Ccf. Sixty five percent of Park's sales would fall into Tier 1 and customers whose bi-monthly usage falls within Tier 1 will not receive rate increases. The settlement considered the impact of the proposed rates on low-income customers by setting the first tier using a proxy of indoor water use and by ensuring that larger households do not enter the higher tier too soon. Consideration of the impact of conservation rates on low-income customers is consistent with our directives.<sup>20</sup> Since increasing block rates for residential customers are greater than the existing single quantity rate and service charges are lower, the settlement promotes conservation.

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<sup>20</sup> Park has a low-income assistance program.

CFC notes there is a lower differential between tiers in the settlements than in the application. The settling parties state the rates in the settlement are higher than the application rates, because the service charges were reduced. The Tier 2 rates also are higher than most of the municipal utilities' highest tier rates. The settling parties determined the rates in the application did not best promote conservation for Park and propose higher rates, lower service charges, and a smaller differential between tiers. Focusing on one aspect of this change from the application, the differential between tiers, does not adequately reflect the overall rate design. We decline to review one aspect of the change in rate design. The differential between tiers will be one aspect of the review of conservation rates in Park's next GRC.

## **7. WRAMs and MCBAs**

The Suburban settlement proposes a Monterey-style WRAM. The CalWater and Park settlements propose full decoupling WRAMs and MCBAs. CFC opposes the CalWater and Park WRAMs.

### **7.1. Suburban**

Suburban and DRA propose a Monterey-style WRAM, which will track the differences between revenue received for actual sales under the proposed conservation rate design and the revenue Suburban would have received if its existing rate design, a single quantity rate, remained in place. The over- or under-collection of revenues will be amortized consistent with Standard Practice U-27-W, once the threshold of 2% of the tracked revenue requirement is reached. Any balance in the WRAM account will accrue interest at the 90-day commercial paper rate and Suburban will file an advice letter for amortization of the balance consistent with Standard Practice U-27-W. CFC initially objected to Suburban and DRA's WRAM proposal but later withdrew the objection.

In D.06-08-017, we ordered Suburban to propose a Monterey-style WRAM. Suburban and DRA agree that Suburban's unique circumstance, obtaining 70% of purchased water from 25 different sources, creates a different incentive than that envisioned in our WAP. Suburban has the incentive to avoid additional purchases of water at higher incremental rates. A full decoupling WRAM would remove this conservation incentive. The proposed Monterey-style WRAM is reasonable for Suburban.

## **7.2. CalWater and Park**

The goals for both CalWater's and Park's WRAMs and MCBAs are to sever the relationship between sales and revenue to remove the disincentive to implement conservation rates and conservation programs, to ensure cost savings are passed on to ratepayers, and to reduce overall water consumption. The parties agree that the WRAMs and MCBAs are designed to ensure that the utilities and ratepayers are proportionally affected when conservation rates are implemented, so that neither party is harmed nor benefits. The MCBAs will replace existing cost balancing accounts for purchased power, purchased water, and pump tax. The WRAMs will track the difference between adopted revenue and actual revenue and will ensure recovery of fixed costs that are recovered through the quantity charge and variable costs that are not included in the MCBAs.<sup>21</sup> The MCBAs will track the difference between actual variable costs and adopted variable costs for purchased water, purchased power, and pump

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<sup>21</sup> The WRAMs will not include service charge revenues. The WRAMs will exclude revenue from fire service, unmetered service, reclaimed water metered service, and fees (Park) and fire service revenue, unmetered service revenue and other non-general metered service revenue (CalWater). CalWater will have a separate WRAM for each district.

tax. MCBAs track all changes in those costs due to consumption, including changes in unit price.<sup>22</sup> Annually the revenue over- or under-collection tracked in the WRAMs and the difference between adopted and actual costs tracked in the MCBAs will be reported to the Commission's Water Division.<sup>23</sup> If the combined over- or under-collection exceeds 2% of Park's and 2.5% of CalWater's prior year revenue requirement, the combined balance of the accounts will be amortized. Combined under-collections will be passed through as surcharges on volumetric charges; combined over-collections will be passed through as surcredits on volumetric charges.<sup>24</sup> Park and CalWater commit to maintaining a least cost water mix.

CFC states a WRAM only should be adopted only if there is a financial disincentive to conserve and there is no evidence that Cal Water and Park have a financial disincentive to conserve water. CalWater and Park provide examples concerning their financial disincentive to promote water conservation. CalWater notes that the Commission's water ratemaking procedures, based on sales forecasts, permit utilities to earn more revenue if sales increase above forecasts and less revenue if sales are lower and provide a disincentive to promote successful water conservation programs. For example, CalWater proposed a toilet replacement program in its Bear Gulch District, which would result in water savings of 15 acre-feet per year. At current rates, revenue loss would be

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<sup>22</sup> The incremental cost balancing accounts replaced by the MCBAs track costs attributable to changes in unit price for purchased water, purchased power, and pump taxes but not changes in the amount of consumption.

<sup>23</sup> Interest on amounts in the accounts will accrue at the 90-day commercial paper rate.

<sup>24</sup> Remaining balances will be addressed in GRCs.

\$15,682 annually. (Exhibit 17, p. 8.) Park illustrates that its revenue loss exceeds its cost savings for every unit of water that is not sold. The most expensive source of the adopted cost of purchased water is \$1.14/ccf, less than half the adopted single tier commodity rate. (Park's Opening Brief, p. 13.)

With WRAMs in place, the utility and the ratepayers are not at risk for under- and over-collection of revenues following the adoption of conservation rates. A WRAM also removes weather and economic risk associated with sales volatility from both the utility and ratepayers. (*See id.* at 17.) Removing sales risk also reduces the importance of sales forecasting in regulatory proceedings. (*Id.*)

The WAP concluded water utilities had a financial disincentive to conserve water and full decoupling of sales and revenues was necessary to remove that disincentive.<sup>25</sup> CalWater and Park have illustrated how the WAP's generic conclusion is applicable to their existing rate structure. The conservation rate design and accompanying WRAMs and MCBAAs move CalWater and Park to pricing that sends conservation signals while providing the financial incentive to adopt effective non-price conservation programs.

CFC states the conservation rate design must be experimental in order to authorize a WRAM, in reliance on an earlier decision adopting a Monterey-style WRAM. (*See* D.96-12-005, 69 CPUC 2d 398.) That decision adopted a settlement, which the parties characterized as experimental, and did not endorse use of a WRAM only for experimental conservation rates. The WAP supported full decoupling WRAMs and did not tie the need for them to an experimental rate design. There is no support for tying a WRAM to an experimental rate design.

## **8. Adoption of Conservation Rate Design and WRAM Settlement Agreements**

We have reviewed the conservation rate design and WRAM settlements before us and CFC's objections to the specific rate designs and the full decoupling WRAMs. We find Surburban's and Park's trial conservation rate designs will advance our conservation objectives; they incorporate increasing block rates for

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<sup>25</sup> Pub. Util. Code § 2714.5 requires the Commission to report to the Legislative progress on implementing WAP issues by June 30, 2008.

residential customers and Park moves its non-residential customer classes to CUWCC's requirement that over 70% of revenues are recovered through quantity charges. We will review these rate designs to determine whether they meet targeted reductions in consumption. If they do not meet those goals or are unlikely to meet future goals, Suburban and Park will propose rate designs that will accomplish those goals. CalWater's trial residential rate design similarly will advance our conservation objectives and will be reviewed to determine whether it has met targeted reductions.<sup>26</sup>

Suburban and DRA's WRAM proposal is consistent with the CalAm WRAM that has been in effect since 1996 and will make Suburban whole for any changes in revenue resulting from the adoption of conservation rates. CalWater and Park's WRAMs and MCBAs will balance utility and ratepayer interests and will ensure that neither is harmed nor benefits from the adoption of conservation rates. These WRAMs and MCBAs implement our objective of decoupling sales and revenues to encourage successful conservation programs. The Suburban and Park settlements are reasonable in light of the record, consistent with the law, and in the public interest and will be adopted. The CalWater residential rate design, WRAM, and MCBA are reasonable in light of the record, consistent with the law, and in the public interest and will be adopted. We decline to adopt CalWater's non-residential rate design at this time without prejudice to the settling parties' providing additional justification for its adoption or proposing a modification. Until we approve a non-residential rate design for CalWater, non-

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<sup>26</sup> We shall require Suburban, Park and CalWater to provide specific data in their next GRCs, as set forth in Ordering Paragraph 7, to assist in evaluating these trial programs.

residential rates shall be excluded from the WRAMs and MCBAs shall be adjusted accordingly.

Amortization of CalWater's and Park's WRAMs and MCBAs shall be subject to any return on equity (ROE) adjustment adopted in Phase 1B of this proceeding. If an ROE adjustment is adopted in Phase 1B prior to the annual report to the Water Division and the trigger for over- or under-collection of revenues, the ROE adjustment will be calculated in determining the resulting surcharge or surcredit. If no ROE adjustment is adopted or the implementation of any ROE adjustment is deferred, amortization will proceed according to the settlement agreements.

### **9. Suburban's Low-Income Rate Assistance Program Settlement**

The Suburban and DRA settlement provides that low income residential customers who meet the requirements for the California Alternate Rates for Energy (CARE) program will receive a \$6.50 monthly credit to the service charge. The Joint Consumers oppose the monthly credit and propose a 15% reduction on the total bill. Decisions in the last five years addressing LIRAs have adopted both service charge discounts (San Gabriel Valley Water Company, D.05-05-015; Apple Valley Ranchos Water Company, D.05-12-060; Park, D.06-10-036; Cal-Am, D.06-11-050, D.06-11-052, D.07-08-030; Valencia Water Company, D.06-11-051; and CalWater, D.06-11-053<sup>27</sup>) and percentage discounts on the total bill (Golden State Water Company, D.02-01-034; and San Jose Water Company, D.04-08-054). Most recent decisions have adopted service charge discounts.

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<sup>27</sup> Both San Gabriel Valley Water Company and CalWater's low-income programs include a 50% discount to the service charge.

The parties illustrate the impact of flat service charge and total bill percentage discounts as follows:

- A \$6.50 discount at usage of 20 Ccf/month results in a bill decrease that is \$1.07 greater than a 15% discount
- A \$6.50 discount at usage of 30 Ccf/month results in a bill decrease that is \$1.67 less than a 15% discount

The parties acknowledge that \$1.07 and \$1.67 are not major differences in the two discounts. The greater benefits of the flat service charge discount at lower usage and the total bill percentage discount at higher usage also are not dramatic. The settling parties chose the impact of the discount at 20 Ccf, because setting the first tier breakpoint at 20 Ccf was done in part to accommodate the needs of larger households.

Suburban and DRA rejected a total bill percentage discount as inconsistent with the conservation rate design settlement's conservation proposal. Adopting a 15% discount could offset increased charges for higher consumption. The dual goals of Pub. Util. Code § 739.8, considering rate relief to assist low-income customers and providing incentives and capabilities to achieve water conservation goals, were considered in proposing a flat rate discount.<sup>28</sup> Suburban also had concerns that total bill percentage discounts are more costly to implement.

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<sup>28</sup> Pub. Util. Code § 739.8 provides in part: "(b) The commission shall consider and may implement programs to provide rate relief for low-income ratepayers.

(c) The commission shall consider and may implement programs to assist low-income ratepayers in order to provide appropriate incentives and capabilities to achieve water conservation goals."

The Joint Consumers point out that affordability is the key to fashioning a LIRA program. They criticize the settlement for placing conservation goals ahead of affordability. They prefer that service charges be lowered for all customers to promote conservation, not just low-income customers. A flat discount to the service charge disadvantages large households with higher usage whereas a percentage discount on the total bill is equitable for all households, regardless of size.

CWA supports the settlement, because it asserts there is no evidence that a total bill percentage discount is more effective than a flat service charge discount in addressing conservation or affordability issues. CalAm supports a flat service charge discount, because it asserts that a total bill percentage discount coupled with a tiered rate thwarts conservation. If the percent reduction is the same, there may be an incentive to disregard conservation measures. CalAm concurs that flat service charge discounts are easier and less costly to administer. With a total bill percentage discount, the discount could be applied to the bill before or after surcharges, surcredits, and taxes. CalAm proposes that Phase 2 of this proceeding consider alternative methods of rate relief, including a higher value flat service charge discount dependent on the number of people living in the household.

DRA and Suburban negotiated the LIRA and conservation rate design settlements at the same time, factoring low-income households' needs into both agreements. Therefore, Suburban and DRA's LIRA proposal cannot be assessed independent of the adopted conservation rate design. Regardless of the merits of the flat and percentage discounts, and each has merits, the Suburban and DRA LIRA was set in conjunction with a conservation rate design that would achieve greater savings at the first tier breakpoint, average consumption, than at higher

usage levels. A percentage total bill discount potentially would blunt the pricing signals associated with that rate design.

Since the conservation rate design is a trial program, there is an opportunity to assess the impact of a \$6.50 discount on large households in the context of monitoring that program. The Joint Consumers and Suburban have proposed a comprehensive outreach, education and monitoring program that will assist in measuring the impact of the Suburban LIRA on low-income customers. Further, we will consider the impact of conservation rate designs on LIRAs and higher discounts on service charges for larger households in Phase 2 of this proceeding.

The Suburban LIRA settlement proposes a LIRA consistent with those adopted for other utilities and with the adopted conservation rates for Suburban. Thus, we find the LIRA settlement reasonable in light of the record, consistent with law, and in the public interest.

## **10. Suburban's Customer Outreach and Education, Data Collection, and Reporting Settlement**

Suburban, DisabRA, LIF, NCLC and TURN reached a settlement on customer education, outreach, data collection, and reporting. The settlement includes methods for creating and distributing conservation rate customer notices, LIRA customer notices, and conservation and LIRA outreach methods. The settlement includes a summary of data collection and reporting.

### **10.1. Customer Outreach and Education**

Suburban will inform its customers about conserving water, the benefits of water conservation on the ecosystem, and the changes to the bill in light of the water conservation effort. Included in the written material will be an explanation about how rates are changing and how the changes will impact the

bill, what the average change will be, and when the change will become effective. Outreach will include a phone number to request a notice written in Spanish. Key information will be provided in large type. Finally, contact information, such as website and a TTY number, also will be provided.

Suburban will provide a separate notice to all customers about LIRA: who is eligible, how to apply, the renewal process and the discount amount. This notice will be summarized in Spanish and include a number to call for a complete notice in Spanish. The notice will also contain key information in large type and include contact information such as website and TTY number.

In addition to including the separate notices with the monthly bill, the notices will be posted on Suburban's website in a clear and conspicuous manner in both Spanish and English. Targeted flyers will be distributed throughout the Spanish-speaking communities within Suburban's service territory. A phone message system will be deployed to provide abbreviated statements on conservation rates and low income assistance and will allow a customer to leave a request for materials in Spanish.

CFC supports the settlement, with a few modifications, as an example that also can be applied to CalWater and Park. CFC recommends that the notice also instruct customers on how they can reduce their water bill.<sup>29</sup> CFC also would like to see a forum for customers to employ in communicating with Suburban. In the current plan, customers can request further information but are inhibited by the one way nature of the flow of that information. CFC states that interactive conversation is a valuable tool to encourage conservation.

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<sup>29</sup> See, e.g., Exhibit 19, Exhibit 1.

## 10.2. Data Collection and Reporting

Suburban will provide an annual report on the conservation rates and WRAM as a supplement to its Annual Report filed with the Commission. The conservation rates report will include usage data.<sup>30</sup> Suburban also will provide an annual report on the LIRA program as a supplement. The LIRA Report will include data to assess participation in the program and the impact of conservation on LIRA customers.<sup>31</sup>

The settlement is a comprehensive education and monitoring program. CFC's suggestion that notice include education about reducing water bills is well taken. The communications we have received from customers on the proposed settlements show that the information provided in bill inserts has not completely clarified the impact of conservation rates. Customers are concerned that their

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<sup>30</sup> Usage data will include: monthly customer usage in billing units by Blocks I and II separated by meter size, by zone, by service area and by customer class and the number of customers in each sub-grouping; monthly customer usage in billing units by Blocks I and II separated by meter size, by zone, by service area, for LIRA customers and the number of customers in each sub-grouping; monthly usage for current month of the current year vs. prior year, using average customer profiles; the number of customers in each customer class, with residential and commercial customers broken out; monthly number of reconnections, with LIRA customers broken out; total number of disconnections per month; total number of 48-hour shutoff notices per month; and total revenue collected under new rate design vs. calculated revenue under the adopted uniform standard rate design, by month.

<sup>31</sup> The LIRA data will include: number of customers participating by month; annual penetration rate (compared to estimate of low-income population in the service area); change in participation rate after the notices, to measure effectiveness of notice methods; costs and expenses of the LIRA program if not already tracked by the balancing account; monthly customer usage in billing units by Blocks 1 and 2 separated by meter size, by zone, by service area, for LIRA customers; monthly number of reconnections, with LIRA customers broken out; total number of residential

*Footnote continued on next page*

rates will increase; therefore, many oppose conservation programs. Educating customers about the impact of conservation rates should include information on reducing bills in light of the new rates. We will not direct Suburban to provide an additional forum for educating customers about conservation. The proposed education and outreach efforts appear to be sufficient.

The settlement promotes conservation and advises customers of the benefits of conservation and the impacts on their bill in light of the conservation rates. The settlement is reasonable in light of the whole record, consistent with the law, and in the public interest. Thus, we shall adopt the settlement.

### **10.3. Applicability to CalWater and Park**

CalWater and Park have objected to adopting the Suburban settlement as a model for customer education and outreach and for data collection. Despite its objection, Park agrees in principle with the recommendations of the Joint Consumers. Park has agreed to continue to work with the Joint Consumers on customer outreach and education, especially in areas where Park has limited or no experience. These areas include outreach to Spanish speaking customers in areas with a small population of limited English literacy. Park has reached an agreement on data collection and reporting with the Joint Consumers and CFC.

CalWater objects to the application of the settlement to its customer education and outreach efforts and to its data collection. CalWater serves a much larger population and geographic area, both of which are diverse and spread out compared with Suburban's smaller customer base and contiguous, homogeneous geography. CalWater already has in place a billing and data

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disconnections per month; and total number of residential 48-hour shutoff notices per month.

collection system which is not flexible and would require a major and expensive overhaul to accommodate some of the features that Suburban is attempting to implement in its revamped system.

In response to the Joint Consumer's assertions that CalWater does not have a plan in place to educate Spanish-speaking ratepayers in areas where they constitute a low percentage of the population in general, CalWater states it already has made plans to provide Spanish-speaking representatives at its new call center. CalWater does not believe it should be made to incur the additional expense of setting up an 800 number or voicemail to accommodate this small population in the interim.

CalWater acknowledges the Joint Consumers', and the Commission's, desire for information on arrearages and shutoffs to monitor and establish the effectiveness of the new rate design. CalWater asserts that there is no evidence to support the Joint Consumer's contention that the proposed rate design may present a hardship on consumers. Cal Water states it has demonstrated that the rate design would not increase rates for indoor usage even for large households.

We decline to require CalWater and Park to adhere to the Suburban agreement with the Joint Consumers. Although we directed parties to address customer education, monitoring and reporting in the settlement agreements or motions proposing them, we did not intend to adopt uniform standards. Further, it is not necessary to require Park to adhere to the letter of the Suburban settlement. Park has agreed to work with the Joint Consumers on areas where the Joint Consumers have expertise and has entered into a separate data collection settlement. CalWater has agreed to some customer education and reporting requirements. These efforts may be sufficient; however, we note that a number of CalWater's customers, including low-income and senior citizens, have

contacted our Public Advisor with concerns about or opposition to the settlement. It would be prudent for CalWater to coordinate with the customer education, outreach and reporting efforts of the other utilities in order to provide comparable information to its customers. While we will not require CalWater to undertake major modifications to its billing and data collections system at this time, providing some comparable data would assist us in monitoring the impact of conservation programs on CalWater's customers.

## **11. Park's Data Collection Settlement**

In order to assess the impact of the proposed conservation rates on customers, especially low-income customers, Park, the Joint Consumers and CFC recommend the collection, monitoring and reporting of monthly data on usage, arrearages and disconnections for residential and LIRA customers; monthly usage per customer for all classes and LIRA with comparison to the prior year; and weather-normalized usage data to be available during GRCs. The settlement is unopposed.

### **11.1. Data Collection and Reporting**

Park will monitor and collect data on residential and LIRA customers.<sup>32</sup> From the data collected, Park will report its findings in a supplement to its

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<sup>32</sup> The data collected for residential customers will include: annual number of customers in each customer class; monthly number of residential customers; monthly number of residential customer accounts over 30 days past due; monthly dollar value of residential customer accounts over 30 days past due; monthly number of disconnection notices generated for residential customers; monthly number of residential customers that have had service discontinued for non-payment; monthly number of residential customers that have had service restored after discontinuance for non-payment. The data collected for LIRA customers and all customers with LIRA customers broken out will include: monthly number of LIRA customer accounts; monthly number of LIRA

*Footnote continued on next page*

Annual Report to the Commission. Weather-normalized usage data will be made available to interested parties, upon request, during each GRC proceeding. Weather-normalized monthly data will not be calculated and tracked on an ongoing basis between GRCs.

Park anticipates that the availability of weather-normalized usage data during GRCs will be accomplished during the sales forecasting process at a cost of about \$1,500. The settling parties believe collection of the data is cost effective at this price, especially in light of the continued conservation effort.

### **11.2. Memorandum Account Treatment**

Expenses related to collection and reporting will be tracked in a memorandum account.<sup>33</sup> When the account is terminated, Park will file an advice letter on the recovery of the costs. The advice letter will be subject to a reasonableness review.

The settlement addresses the effectiveness of conservation efforts implemented through increasing block rates through the collection, analysis and dispersal of data. The settlement is reasonable in light of the whole record,

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customer accounts over 30 days past due; monthly number of disconnection notices generated for LIRA customers; monthly dollar value of LIRA customer accounts over 30 days past due; monthly number of LIRA customers that have had service discontinued for non-payment; monthly customer usage in billing units by Tier 1 and Tier 2 separated by meter size and customer class (with LIRA customers broken out); and monthly customer usage for current month of the current year vs. prior year, using average customer profiles at different usage levels (separate profile for LIRA customers).

<sup>33</sup> Modification of Park's customer information system will be required to track some of the agreed-to data.

consistent with the law, and in the public interest. Thus, we shall adopt the settlement.

## **12. Park's Conservation Memorandum Account Settlement**

DRA and Park propose the establishment of a conservation memorandum account for Park. The settlement is unopposed.

Park currently is authorized \$21,584 annually for conservation expenses and \$10,000 annually for expenses for joining CUWCC. Park, as a signatory to CUWCC's memorandum of understanding, will follow CUWCC guidelines, establish programs consistent with and based on the best management practices (BMP) determined to be cost-effective. DRA supports the establishment of a conservation memorandum account for Park in order to permit Park immediately to develop conservation measures consistent with the BMPs and a robust conservation program. The existing allowance will be insufficient to accomplish those goals. The proposed conservation memorandum account has a recoverable aggregate cap limitation of \$200,000 and will only track costs until December 31, 2009. The settlement does not address issues related to appropriate levels of spending, types of programs, and the future of memorandum accounts for conservation expenses, so the parties can take any position on those issues.

The settlement promotes our conservation objectives, is reasonable based on the record and is consistent with the law. Thus, we find the settlement in the public interest and adopt it.

## **13. Suburban's ROE Settlement**

DRA and Suburban agree in the ROE settlement that they will not seek a downward or upward adjustment to Suburban's ROE while the adopted

conservation rate design and Monterey-style WRAM is in effect until the next GRC. The Monterey-style WRAM does not fully decouple sales and revenues; it is consistent with Suburban's conservation rate design and does not require a downward adjustment. The Monterey-style WRAM tracks the difference between revenues Suburban achieves and revenues Suburban would have achieved through a single quantity charge, assuming the same level of sales. It has no impact on other aspects of Suburban's revenue requirement, including the impact of conservation programs. The settlement is unopposed.

The settlement promotes our conservation goals, is reasonable in light of the record, consistent with the law and in the public interest. Thus, we will adopt it.

#### **14. Suburban and DisabRA Memorandum of Understanding on Access Issues**

Suburban and DisabRA reached their memorandum of understanding on access issues in July 2007. A draft of the MOU was attached to DisabRA's testimony. (Exhibit 8.) Agreement was reached on near-term accessibility improvements, ongoing accessibility improvements and accessibility improvements associated with Suburban's Cornerstone Project, an overhaul of its billing, data and communication systems. Near-term and ongoing accessibility improvements expand on the TTY (teletypewriter) requirements contained in the Suburban/Joint Consumers settlement and include the provision of TTY and customer representative training on TTY. The billing, data, and communications systems improvements include providing key information on the customer bill in large type, tracking large type customers and providing notice to them in large type, ensuring Suburban's website meets the requirements of an accessible website, track customers with TTYs in its billing

and data systems, and track and provide information by e-mail on outages, service issues, etc. to hearing impaired customers.

DisabRA requests that the Commission adopt and enforce the MOU. We generally adopt settlement agreements that are submitted to us under our rules. The parties did not notice a settlement conference and did not provide the MOU to us by motion. In addition, we have a draft of the MOU that largely captures its terms but needed minor revisions before it was final. Nonetheless, we support the goals of the MOU in its broadening of the accessibility obligations of Suburban. Customer outreach and education on conservation rate design and non-rate design proposals will be improved by the terms of the MOU.

DisabRA and Suburban also agreed that intervenor compensation should be awarded for implementation of the MOU. Although we do not examine compensation requests in this decision, we award compensation for participation in our proceedings, not for separate activities such as ongoing implementation of policies we approve.

Park also agrees to implement the near-term and ongoing accessibility improvements contained in the MOU. Specific remedies proposed by DisabRA include large print notation and TTY phone numbers on bills and inserts as well as complete notices available on Park's website. Park notes the Cornerstone Project is specific to Suburban and does not agree to follow those terms of the MOU. We support Park's efforts in implementing accessibility improvements.

#### **15. Suburban's Memorandum Account Proposal**

Suburban requests a memorandum account to track costs for developing and establishing a conservation rate design, including legal and consulting services associated with its consolidated application and all customer notifications that are not otherwise covered separately by the low income

memorandum account. DRA supports opening a memorandum account to track prospective costs but opposes tracking expenses already incurred because to permit such recovery would be contrary to the principle of retroactive ratemaking.

In Suburban's last GRC, Suburban and DRA entered into a settlement agreement that was adopted in D.06-08-017. Suburban and DRA did not address a conservation rate design in the settlement agreement, because Suburban intended to propose one in its next GRC. In D.06-08-017, we ordered Suburban to file a conservation rate design within 90 days of issuance of the decision. In order to timely file a proposal, Suburban hired a consultant to assist with the development of its conservation rate design proposal. As of May 31, 2007, Suburban had incurred \$67,506.59 in expenses associated with this investigation. Since May 31, Suburban has incurred additional expenses related to this proceeding and will incur legal expenses for Phase 1B and Phase 2 of this proceeding.

We have permitted the creation of memorandum accounts to permit recovery of unanticipated legal and regulatory expenses, which could not have been anticipated in the utility's last GRC. DRA and Suburban concur that the legal and regulatory expenses associated with participation in this proceeding qualify as an unanticipated expense. They disagree as to whether the expenses incurred prior to creation of the memorandum account can be booked to that account.

In establishing memorandum accounts to record expenses not anticipated in the utility's last GRC, we have permitted expenses incurred after the order authorizing the memorandum account was adopted to be recorded. We have

declined to permit the inclusion of previous expenses in deference to the rule against retroactive ratemaking:

It is a well established tenet of the Commission that ratemaking is done on a prospective basis. The Commission's practice is not to authorize increased utility rates to account for previously incurred expenses, unless, before the utility incurs those expenses, the Commission has authorized the utility to book those expenses into a memorandum account or balancing account for possible future recovery in rates. This practice is consistent with the rule against retroactive ratemaking. (*Citations omitted.*) (Res. No. W-4254, 2000 Cal. PUC LEXIS 471.)

We will authorize Suburban to establish a memorandum account to track unanticipated legal and regulatory expenses incurred from the effective date of this decision. We are precluded by the rule against retroactive ratemaking from authorizing Suburban to include expenses incurred prior to the establishment of the memorandum account and decline to do so.

## **16. Implementation of Conservation Rate Design Settlements**

Park and DRA raise concerns regarding coordinating implementation of settlement rate designs 90 days after adoption by the Commission with the utilities' attrition or escalation factor for their revenue requirements. The settlements' rate designs are based on the revenue requirements in effect at the time of the agreement. If those rates are adopted and/or implemented after the attrition or escalation factor adjustment, they will not reflect the utilities' current revenue requirement.

Park proposes that the conservation rates in its settlement be recalculated to generate the 2008 revenue requirement and that the recalculated conservation rates be provided to the Commission as a late-filed joint exhibit with DRA or as

an amendment to the settlement. Park states it is likely that revision of the rate design parameters would not be necessary, since the escalation increase is likely to be in the 2%-3% range. Park also proposes that the 90-day implementation period would run from acceptance of the recalculated conservation rates. DRA prefers submission of the recalculated rates by advice letter because an informal filing imposes less of an administrative burden on the parties and the Commission. DRA does not oppose Park's suggestion that implementation be timed by when the recalculated rates are deemed approved. DRA proposes that all attrition adjustments for the utilities be handled in a similar manner. DRA states we should require the utilities to consult with DRA before the recalculated rates are submitted.

We concur with Park and DRA that the settlement agreements must be modified to incorporate a procedure consistent with ensuring that the conservation rates reflect the utilities' current revenue requirement. The compliance advice letter process provides the most efficient vehicle. The advice letters will be classified as Tier 1 under General Order 96B and will be subject to Water Division review and disposition.

We will require the utilities to work with DRA in the development of the recalculated rates and to state in the advice letter whether DRA has approved the attached rates. The 90-day implementation of the settlements shall run from the date the advice letter is deemed approved.

## **17. Requests for Compensation**

Intervenors shall request compensation for their participation in Phase 1 after the Phase 1B decision issues.

**18. Comments on Proposed Decision**

The proposed decision of the ALJ in this matter was mailed to the parties in accordance with Section 311 of the Public Utilities Code and comments were allowed under Rule 14.3 of the Commission's Rules of Practice and Procedure. Comments were filed on \_\_\_\_\_, and reply comments were filed on \_\_\_\_\_ by \_\_\_\_\_.

**19. Assignment of Proceeding**

John A. Bohn is the assigned Commissioner and Janice Grau is the assigned Administrative Law Judge in this proceeding.

**Findings of Fact**

1. The joint motions to adopt settlement agreements and settlement agreements were filed as follows:

- Suburban/DRA on conservation rate design trial program on April 24, 2007;
- Suburban/DRA on LIRA on April 24, 2007;
- Park/DRA on conservation rate design, WRAM, and MCBA trial program on June 15, 2007;
- CalWater/DRA/TURN on conservation rate design (amended settlement), WRAM, and MCBA trial program on June 15, 2007;
- Park/DRA on conservation memorandum account on July 30, 2007;
- Suburban/Joint Consumers on customer outreach and education and data collection and reporting on August 10, 2007;
- Park/Joint Consumers/CFC on data collection, monitoring, and reporting on August 10, 2007; and

- Suburban/DRA on ROE adjustment on October 19, 2007.
2. The Suburban/DisabRA MOU addresses accessibility improvements for persons with disabilities.
  3. The conservation rate design, WRAM, and MCBA settlement agreements propose trial programs, which will remain in effect until the utilities' next GRCs.
  4. The comments, testimony and hearing record provide a comprehensive record for consideration of the settlements.
  5. CFC requested the Commission delay implementation of conservation rates until cost studies were done and opposed the Suburban, Park and CalWater conservation rate designs and the Park and CalWater WRAMs. CFC requested that Suburban's, Park's and CalWater's proposed rate designs in their applications be adopted if the Commission proceeds to adopt conservation rates.
  6. The Joint Consumers opposed the Suburban LIRA's flat-rate discount.
  7. The Phase 1 scoping memo authorized ongoing settlement negotiations and ordered parties to address some of the rate-related conservation objectives identified in the OII in settlement agreements and/or motions proposing them. Preparation of cost studies is not within the scope of this proceeding.
  8. The WAP recommended means to achieve the stated objective of strengthening water conservation programs to a level comparable to those of energy utilities. The Commission has not quantified that objective.
  9. Conservation goals of selected California municipalities vary but are generally in the range of a 12.5% to 25% reduction in consumption over a varying number of years. These goals are consistent with the anticipated reduction of 10%-20% over 10 to 20 years that can result from a carefully designed conservation program.

10. Phase 2 of this proceeding will examine the specific reduction in consumption Class A water utilities should achieve through price and non-price programs.

11. In most CalWater districts the non-residential quantity charge already captures more than 70% of revenues, consistent with CUWCC's requirement. To meet CUWCC's requirements for each district would require a modified rate design for five districts, Chico, Marysville, Willows, Dixon, and King City. The proposed rate designs in the remaining 17 districts, which lower service charges and increase quantity charges, result in monthly bill increases or decreases for average consumption for non-residential customers, depending on meter size. Non-residential customers with smaller meter sizes and lower average consumption would see higher rate increases.

12. CalWater's proposed tiered residential rate design establishes tiers based on the consumption patterns of each district. The first tier is set using a proxy of indoor water use based on seasonal indicators and is priced at approximately 5% less than the single quantity rate that would be adopted under standard rate design. The second tier is also based on seasonality and extends from the top of Tier 1 to the midpoint between the weather adjusted annual monthly and summer averages. Tier 2 is priced to be approximately the single quantity rate that would be adopted under standard rate design.

13. Park's proposed non-residential rate design results in 75% of revenue coming from the quantity charge and moves Park in compliance with CUWCC's directive that more than 70% of revenues originates from the quantity charge.

14. Park's proposed rate design increases rates for all residential customers above the current single tier commodity rate of \$2.42 Ccf. The proposed Tier 1 commodity rate is \$2.53 Ccf, and the proposed Tier 2 rate is \$2.78 Ccf.

15. Suburban's various elevations result in average consumption that is greater than other utilities' customers' average consumption. In the proposed residential rate design, the upper level of Block I was set at the midpoint between average monthly (annual) consumption and average summer consumption. Customers with low and average levels of use would remain within Block I. Customers with consumption greater than the summer average would fall in Block II.

16. Suburban and DRA tracked demand characteristics, particularly from June through September, to see how they compared to the total year, and determined that those four months best reflected summer and the highest usage months.

17. The WAP concluded water utilities had a financial disincentive to conserve water and full decoupling of sales and revenues was necessary to remove that disincentive.

18. Suburban obtains 70% of purchased water from 25 different sources. Suburban has the incentive to avoid additional purchases of water at higher incremental rates, a scenario not envisioned in the WAP. The Suburban WRAM proposal is consistent with the CalAm WRAM that has been in effect since 1996.

19. CalWater proposed a toilet replacement program in its Bear Gulch District, which would result in water savings of 15 acre-feet per year. At current rates, revenue loss would be \$15,682 annually. For Park the most expensive source of the adopted cost of purchased water is \$1.14/Ccf, less than half the adopted single tier commodity rate.

20. Phase 1B is addressing whether ROE adjustments are necessary if the settlements' proposed WRAMs and MCBA are adopted.

21. The Suburban and DRA LIRA settlement provides that low-income residential customers who meet the requirements for the CARE program will

receive a \$6.50 monthly credit. The Joint Consumers propose a 15% reduction in the total bill. The Joint Consumers prefer that service charges be lowered for all customers to promote conservation, not just low-income customers.

22. Suburban and DRA rejected a total bill percentage discount as inconsistent with the conservation rate design settlement's conservation proposal, which increases charges for higher consumption.

23. Phase 2 will consider the impact of conservation rate designs on LIRAs and higher discounts on service charges for larger households.

24. Suburban requests a memorandum account to track costs for developing and establishing a conservation rate design, including legal and consulting services associated with its consolidated application and all customer notifications that are not otherwise covered separately by the low-income memorandum account. DRA supports the request for prospective expenses only.

25. Park's conservation memorandum account is unopposed.

26. The Park, CalWater and Suburban settlements' rate designs are based on the revenue requirements in effect at the time of the agreement. If those rates are adopted and/or implemented after the attrition or escalation factor adjustment, they will not reflect the utilities' current revenue requirement. The parties propose recalculated rates be presented as amendments to the settlement agreements or as compliance advice letters.

### **Conclusions of Law**

1. It is reasonable for Class A water utilities to achieve a specific goal by annually reducing consumption through price and non-price programs.

2. The proposed settlements generally are reasonable in light of the whole record, consistent with the law, and in the public interest.

3. The CalWater's non-residential rate design is not adequately justified and should be denied without prejudice.

4. The remaining conservation rate designs will advance the WAP's conservation objectives and will be reviewed to determine whether they meet targeted reductions in consumption. The CalWater and Park WRAMs and MCBAAs implement the WAP's objective of decoupling sales and revenues to encourage successful conservation programs. The Suburban WRAM best meets Suburban's unique circumstances.

5. It is reasonable that amortization of CalWater's and Park's WRAMs and MCBAAs shall be subject to any ROE adjustment adopted in Phase 1B of this proceeding, as set forth herein.

6. The Suburban LIRA program advances the WAP's conservation objectives.

7. Pursuant to Rule 12.1(d) of the Commission's Rules of Practice and Procedure, we should adopt the settlement agreements, with the exception of the CalWater non-residential rate design.

8. The rule against retroactive ratemaking precludes the Commission from authorizing a utility to book previously incurred expenses in a memorandum account. Ratemaking is done on a prospective basis.

9. It is reasonable to authorize a memorandum account for Suburban prospectively to book legal and regulatory expenses in excess of those approved in D.06-08-017, as set forth herein.

10. It is reasonable to modify the conservation rate design settlement agreements to permit Suburban, Park, and CalWater to file Tier 1 compliance advice letters under General Order 96B to submit rates recalculated to reflect the 2008 revenue requirement. The 90-day implementation of the settlements shall run from the date the advice letters are deemed approved.

11. In order to promptly implement conservation rates, WRAMS, MCBAs, customer education and outreach, data collection and reporting, and the Suburban LIRA and memorandum account, this decision should be effective immediately.

## O R D E R

**IT IS ORDERED** that:

1. The following settlement agreements are approved and adopted:
  - April 24, 2007 Suburban Water Systems (Suburban)/Division of Ratepayer Advocates (DRA) on conservation rate design;
  - April 24, 2007 Suburban/DRA on low-income ratepayer assistance program;
  - June 15, 2007 Park Water Company (Park)/DRA on conservation rate design, water revenue adjustment mechanism (WRAM), and modified cost balancing account (MCBA);
  - July 30, 2007 Park/DRA on conservation memorandum account;
  - August 10, 2007 Suburban/The Utility Reform Network , the National Consumer Law Center, Disability Rights Advocates, and Latino Issues Forum (Joint Consumers) on customer outreach and education and data collection and reporting;
  - August 10, 2007 Park/Joint Consumers/Consumer Federation of California on data collection, monitoring, and reporting; and
  - October 19, 2007 Suburban/DRA on return on equity adjustment.
2. The California Water Service Company (CalWater)/DRA settlement agreement is approved and adopted in part, as set forth herein.

3. Suburban, Park, and CalWater shall file Tier 1 compliance advice letters under General Order 96B to submit rates recalculated to reflect the 2008 revenue requirement, as set forth herein. The 90-day implementation of the settlements shall run from the date the advice letters are deemed approved.

4. Amortization of the CalWater and Park WRAMs and MCBAs is subject to the return on equity adjustment under review in Phase 1B of this proceeding, as set forth herein.

5. A conservation memorandum account is authorized for Park to book prospective conservation expenses, as set forth herein.

6. A memorandum account is authorized for Suburban to book prospective legal and regulatory expenses in excess of those approved in Decision 06-08-017 as set forth herein.

7. Suburban, Park, and CalWater shall provide the following information in their next general rate case: annual per capita changes in consumption by district and customer class following the implementation of the conservation rate design trial programs; surcredits or surcharges by district and customer class implemented in amortizing WRAMs and/or WRAMs/MCBAs; increase or decrease in disconnecting low-income program participants for nonpayment by district after adoption of conservation rate designs; increase or decrease in low-income program participation by district after adoption of conservation rate designs; increase or decrease in residential disconnection by district after adoption of conservation rate designs; identification of any weather or supply interruption that might contribute to consumption changes in districts; and any other district-specific factor that might contribute to consumption changes.

This order is effective today.

Dated \_\_\_\_\_, at San Francisco, California.

