

Decision **PROPOSED DECISION OF ALJ BUSHEY (Mailed 6/8/2004)**

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

In the Matter of the Application of CALIFORNIA WATER SERVICE COMPANY (U 60 W), a corporation, for an order authorizing it to increase rates charged for water service in the Salinas District by \$1,353,600 or 12.4% in 200; by \$1,112,300 or 9.1% in 2003; by \$745,100 or 4.5% in 2004; and by \$756,800 or 4.5% in 2005.

Application 01-09-071  
(Filed September 10, 2001)

**(See Appendix I for List of Appearances)**

**FINAL OPINION APPROVING RATE INCREASE  
AND IMPOSING FINE**

**I. Summary**

In this decision, the Commission finds that California Water Service Company (Cal Water) has justified a total rate increase of \$1,120,6000 or 10.10% for water service in its Salinas District. The Commission also finds that Cal Water acquired three water systems without authorization, and in two of the water systems charged unapproved rates, in violation of the Public Utilities Code and Commission decisions. The Commission orders a fine of \$75,000 for the violations, and adopts a reduced return on equity (ROE) for the Salinas District.

## II. Background

In September 2001, Cal Water filed general rate case (GRC) applications for 15 districts and its general office. The Salinas District was among those for which Cal Water sought a rate increase. Finding common issues of fact or law, the assigned Administrative Law Judge (ALJ) consolidated the applications. In Decision (D.) 03-09-021, the Commission granted Cal Water authorization to increase rates in 14 of the districts and general office but removed the Salinas District due to unique issues of unauthorized service at unapproved rates. We today address both Cal Water's request for a rate increase in the Salinas District and the unauthorized service issues.

Cal Water and the Office of Ratepayer Advocates (ORA) presented a Joint Recommendation on many of the issues in the multi-district case, including the Salinas District. In D.03-09-021, the Commission adopted, with certain modifications, the Joint Recommendation for all consolidated districts with the exception of the Salinas District.<sup>1</sup> The Commission found that the issues arising from Cal Water's unauthorized service were unique to the Salinas District, and that "all issues relating to the Salinas District will be resolved in the separate docket."

Previously, in D.03-01-081, the Commission had considered ORA's allegations that Cal Water was providing unauthorized service and concluded that Cal Water was providing public utility water service in two areas formerly served by mutual water companies but now included as unapproved portions of

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<sup>1</sup> Many of the requirements in D.03-09-021 were intended to apply to all districts and in today's decision we specify the requirements and extend them to the Salinas District. See Ordering Paragraph 3.

Cal Water's Salinas District. The Commission found that Cal Water had not obtained approval of either acquisition or for rates being charged these new customers, and set a briefing schedule to resolve the issues of refunds and penalties arising from Cal Water's actions. We resolve these issues in today's decision.

### **III. Advice Letter Filings**

As discussed below, Cal Water has repeatedly acquired small water systems and then sought Commission authorization for the acquisition two years or more after the fact. The belated requests for authorization were made despite clear direction regarding such acquisitions given to Cal Water by the Commission in D.97-03-028. The Commission approved this direction pursuant to a stipulation between ORA and Cal Water.

#### **A. Indian Springs Mutual Water Company**

On March 12, 1997, Cal Water acquired the Indian Springs Mutual Water Company (Indian Springs). More than five years later, on May 6, 2002, Cal Water submitted Advice Letter (AL) 1515, which contained a Salinas District service area map, revised to include the Indian Springs acquisition, and a new tariff schedule for residential flat rate service. The AL showed that Indian Springs is not hydraulically connected with but is adjacent to Cal Water's Salinas District system and has 175 customers.

#### **B. Country Meadows Mutual Water Company**

Cal Water acquired Country Meadows Mutual Water Company (Country Meadows) on March 9, 2000. Country Meadows has 108 customers in Monterey County and is neither hydraulically connected with nor adjacent to Cal Water's Salinas District system. In AL 1514, submitted on May 6, 2002,

Cal Water included a revised Salinas District service area map with the County Meadows acquisition and a new residential flat rate service tariff.

### **C. Olcese Water District**

Cal Water acquired the Olcese Water District (Olcese) on October 29, 1999, and filed a similar advice letter (AL 1517) on June 26, 2002 (nearly three years after the fact), seeking authority to acquire Olcese and merge it with Cal Water's Bakersfield District. The advice letter filing showed that Cal Water had already merged Olcese into Cal Water's Bakersfield District without Commission authorization. Unlike the Indian Springs and Country Meadows acquisition agreements, however, the Olcese acquisition agreement provided that customers would be charged the Commission-approved rate for the neighboring Bakersfield District. The former Olcese customers were included in the Bakersfield District's last GRC, resolved by D.01-08-039 in August 2001.

### **D. Commission Resolutions**

The Water Division reviewed Cal Water's late-filed advice letters for Country Meadows and Indian Springs and found that the terms of the acquisition agreements "appeared to be contrary to law." In draft Resolution (Res.) W-4390, the Water Division recommended that the Commission deny approval of ALs 1514 (Country Meadows), 1515 (Indian Springs), and 1517 (Olcese). In comments on the draft resolution, Cal Water requested that the Commission allow Cal Water and the Water Division to meet and confer regarding possible reformation of the acquisition agreements. The Commission then revised the draft, and Res. W-4390, as adopted, directed the Water Division to assist Cal Water in reforming the agreements to comply with applicable law and policy.

On March 9, 2004, Cal Water filed reformed agreements for Country Meadows and Indian Springs. The Country Meadows reformed agreement provided that each customer will continue to pay a \$49 monthly flat rate, and that Cal Water will install meters for all customers within two years. When meters are installed, the customers will be added to Cal Water's Salinas District and charged the then-applicable rates. Cal Water believes the \$49 flat rate is reasonable based on its cost of service study, which provided for a 9.02% rate of return.

The reformed Indian Springs agreement provides that the Indian Springs customers will be incorporated into Cal Water's Salinas District and that meters will be installed within 12 months. Pending installation of the meters, the customers will be charged a flat rate of \$37.12 per month, which is based on the Salinas District cost of service.

On April 22, 2004, in Res. W-4462, the Commission approved the reformed agreements for Indian Springs and Country Meadows. The resolution also approved a reformed agreement for Olcese and consolidated in this proceeding issues related to Cal Water's prior unauthorized service in the three systems.

#### **IV. Discussion**

In this decision, we grant Cal Water's application for a rate increase in the Salinas District, but we adopt a lower ROE due to Cal Water's poor performance in the Salinas District, and we order Cal Water to pay a fine for its actions in the Salinas and Bakersfield districts.

There are no disputed issues of material fact regarding the acquisitions. Cal Water acquired the Country Meadows, Indian Springs, and Olcese systems without authorization, and charged unapproved rates to the Country Meadows and Indian Springs customers. The rates to be applied prospectively in the

former Indian Springs and Country Meadows areas were resolved by Res. W-4462.<sup>2</sup> The Olcese rates were set as part of the Bakersfield District in D.01-08-039. At issue in today's decision is ORA's request for reparations and fines for Cal Water's actions.

### **A. Reparations and Fines**

Remedies for violations of the Public Utilities Code include reparations and fines. Below, we analyze our precedents and determine that reparations are not appropriate, but that a fine is necessary to achieve our goal of deterring future violations of the Public Utilities Code.

#### **1. ORA's Position**

In D.03-01-081, the Commission found that Cal Water had acquired and provided public utility water service to customers formerly served by the Indian Springs and the Country Meadows mutual water companies, in violation of the Public Utilities Code and of California Water Service Company, 71 CPUC 2d 276 (D. 97-03-028). The Commission ordered the parties to brief the appropriate sanctions to impose for these violations.

ORA has tabulated the statutory and decisional violations and recommends a fine of \$9,578,000. ORA notes that in 1997 Cal Water had similarly been providing service without authorization. To resolve the 1997 violations, ORA reached a memorandum of understanding (MOU) with Cal Water setting out the specific steps Cal Water was to follow after any future acquisitions. The Commission approved the MOU in D.97-03-028. The MOU requirements are reproduced in Appendix A to today's decision.

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<sup>2</sup> Although the applicable Salinas District rates will change by today's decision.

ORA argues that the Indian Springs and Country Meadows<sup>3</sup> acquisitions failed to adhere to the requirements in D.97-03-028, thus violating that decision as well as § 702.<sup>4</sup> ORA also contends that by charging rates not approved by the Commission, Cal Water has violated § 451, requiring just and reasonable rates, § 453, prohibiting discriminatory rates, § 454, mandating Commission approval of rate increases, § 489, requiring that all tariffs be on file with the Commission, and § 532, prohibiting charges other than as set out in published tariffs.

Based on these violations, ORA also recommends that the Commission order Cal Water to refund all amounts collected in violation of the Public Utilities Code, that is, all charges collected from the Country Meadows and Indian Springs customers.

Regarding its recommended fine, ORA tallies each violation of a Commission decision or statute, treats each day as a continuing violation (as authorized by § 2108), and determines that Cal Water has committed 72,388 violations (52,840 with the Indian Springs acquisition and subsequent billings, and 19,544 with the Country Meadows acquisition). Based on the ranges set out in § 2107, ORA calculates a fine between \$35 million and several hundred million dollars. Applying our guidelines for setting fines (discussed below), however, ORA recommends a fine of \$9,578,000 million.

## **2. Cal Water's Position**

Cal Water urges the Commission to impose no sanctions other than a small fine. Although admitting that it failed to comply with Commission requirements

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<sup>3</sup> The Olcese acquisition was moved to this docket after ORA filed its brief, consequently, ORA did not address the proper penalties for that acquisition.

<sup>4</sup> All statutory citations are to the Public Utilities Code unless otherwise indicated.

when it acquired Indian Springs and Country Meadows, Cal Water argues that these customers are not “victims,” but rather have benefited by being part of the Cal Water system. Cal Water states that these customers enjoyed substantial capital investment from Cal Water, and access to Cal Water’s lower borrowing rate, experienced staff, enhanced response capabilities, and state-certified water quality laboratory. Cal Water concludes that these customers have received the benefit of their bargain in agreeing to the acquisition of their water systems by Cal Water, and that reparations are not justified.

Cal Water contends that ORA’s calculation attempts to inflate Cal Water’s two “honest mistakes” into a host of violations. Cal Water argues that all violations of the Public Utilities Code arise from two violations and should be counted as such. Cal Water further contends that while its two violations are “serious,” a fine at the lower end of the range in § 2107 is warranted under the circumstances.

### **3. Discussion: Reparations**

We have concluded that reparations are not appropriate because reparations would go to the Indian Springs and Country Meadows customers, who have not been harmed.

Reparations and fines serve distinct purposes. Reparations are refunds of unlawfully collected amounts. See, e.g., § 734; Cal-Dak Co., v. Delta Lines, Inc., (1962) 59 CPUC 378 (finding certain rate increases were “unlawful, illegally filed and without force.”) In D.98-12-075, 84 CPUC2d 155, the Commission set forth guidelines for the imposition of monetary sanctions. The Commission stated that the purpose of reparations is to return funds from the public utility to the victim of the unlawful collection. Unclaimed reparations escheat to the state. See generally D.98-12-075 at 188. The purpose of fines, in contrast, is to effectively

deter further violations by the current perpetrator and others. Fines are paid to the State of California, rather than victims. *Id.*

Following the guidelines in D.98-12-075, we begin our analysis with reparations. In the typical reparations fact pattern, the customers that paid the illegal amounts are victimized by the utility. The Indian Springs customers, however, have enjoyed unmetered water service at a flat rate. Country Meadows customers also received unmetered service at a flat rate and \$125,000 in capital expenditures that were intended for customers in the Salinas District as it existed before these acquisitions. Moreover, as noted by Cal Water, both groups of the customers received the benefit of the agreement into which they voluntarily entered with Cal Water. Consequently, the unique facts of this proceeding do not support the finding that the customers that paid the unauthorized charges were harmed or as a result were otherwise “victims.”

The facts show, however, that existing Salinas District customers were disadvantaged by the addition of the Indian Springs and Country Meadows customers. The Salinas District rates were set to bear the full cost of the Salinas District, based on the expectation that the district would serve only these customers. To serve the Indian Springs and Country Meadows customers, however, Cal Water diverted resources intended to serve the Salinas District.

Cal Water makes much of the capital investment, experienced staff, enhanced response time, and state-certified laboratory provided to the Indian Springs and Country Meadows customers. The cost for these services, however, was included in the revenue requirement upon which the

Salinas District customers' rates were set.<sup>5</sup> Cal Water acknowledges this diversion of resources, but argues that it would have a "very small at best" impact on the other customers in the district.<sup>6</sup> Cal Water also opposes the ORA recommendation that the Commission expand its inquiry to include analysis of whether credits or refunds are owed to existing Salinas District customers.

The existing Salinas District customers also did not benefit from additional revenue from the Country Meadows and Indian Springs customers. The amounts paid by the Country Meadows and Indian Springs customers were not included in revenue requirement as an offset to other Salinas District costs. Revenue not accounted for in revenue requirement is available for shareholders.<sup>7</sup>

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<sup>5</sup> In Res. W-4390, the Commission found that the Country Meadows agreement implied that Salinas District customers would subsidize Country Meadows customers through diversion of capital investment, and that shareholders would not absorb the costs. This section of the agreement has been reformed.

<sup>6</sup> In its Response to ORA's Recommendations, Cal Water states: "all of the ratepayers in the Salinas District benefit from the acquisitions" and cites to paragraphs 6, 12, and 13 of its declaration. Paragraph 6 details the capital investments in the Indian Springs system, and paragraph 12 does the same for Country Meadows. Paragraph 13 indicates that the existing Salinas District customers will benefit from having a slightly larger customer base over which to spread expenses. The benefit of that larger customer base, however, will not be realized until Cal Water incorporates the new areas into its revenue requirement analysis. In the case of Indian Springs, the delay is well over five years.

<sup>7</sup> Unlike the Country Springs and Indian Meadows agreements, the Olcese agreement provides that Cal Water will charge Commission-approved rates to the former Olcese customers. See AL 1517. Cal Water's cost to serve the Olcese customers, and revenue from these customers, were accounted for in the first Bakersfield rate case decided after the acquisition. *Id.* Due to the use of Commission-approved rates and the short time until the rate case, we will exercise our discretion under § 734 and find that reparations are not necessary in the Olcese acquisition. We do, however, impose a fine for Cal Water's failure to timely file the acquisition agreement.

In sum, the Indian Springs and Country Meadows customers paid unauthorized charges and thus could be eligible for reparations. These customers, however, suffered no disadvantage, while shareholders had additional, unanticipated revenue available. In contrast, the remaining Salinas District customers suffered a diversion of resources intended to serve their needs, without deriving any benefit from the incremental revenue. Thus, as among the groups affected by these acquisitions, the Indian Springs and Country Meadows customers, as well as shareholders, gained at the expense of the existing Salinas District customers.

Reparations, however, are limited to refunding illegal rates or charges. See § 734. The Salinas District rates were not unlawful and thus cannot be refunded. While § 734 provides us with broad discretion, see Ortega v. AT&T, 82 CPUC2d 310, 312-15 (D.98-10-023), we conclude that the reparations statute does not provide us the best means to redress the inequities that flow from these unauthorized acquisitions. Our statutory authority to set “just and reasonable” rates, § 451, is better suited for the unique facts of this case. Cal Water’s unfair administration of its Salinas District, and its repeated disregard of Commission directives, are factors that can and should affect our ratemaking for the Salinas District, even though, on these facts, they are not appropriately addressed through reparations. Rather, we will apply these factors in our resolution, later in today’s decision, of Cal Water’s Salinas District GRC.

#### **4. Discussion: Fines**

We conclude that a fine of \$75,000 is appropriate because Cal Water has committed five distinct and serious violations of a Commission directive.

The Commission has adopted guidelines for setting fines. These guidelines reflect two primary factors – the severity of the offense and the

conduct of the utility. The impacts may be measurable in economic or physical terms, and they may also be more abstract, as in obstructing the Commission in the performance of its regulatory oversight of utility operations.

The severity factor relates to the harm caused and the nature of its impacts. Disregarding a statutory or Commission directive, regardless of any other impacts, is considered a severe violation. Economic harm is measured as the higher of the expense imposed on the victims and the unlawful benefits gained by the public utility. The number of violations is also a component of the severity analysis. A series of distinct but similar violations suggests an on-going compliance deficiency that the utility should have addressed after the first violation. See D.98-12-075, 84 CPUC 2d at 188.

The conduct factor relates to the actions taken by the utility to prevent, detect, and rectify a violation. The utility may aggravate or mitigate a violation by its related conduct.

Financial resources of the utility also must be considered in setting a fine that is an effective deterrent, but not excessive. Finally, the Commission considers the totality of the circumstances in furtherance of the public interest to specifically tailor the package of remedies to the unique facts of each case.

Cal Water acknowledges the severity of its offenses. Cal Water's repeated disregard of specific Commission directives harms the regulatory process. In D.99-10-064, the Commission rejected the utilities' proposal to allow utilities to retain existing rates in acquired systems. The Commission directed that acquiring utilities obtain Commission authorization for rates charged in acquired areas. Cal Water disregarded this directive in the County Meadows and Indian Springs acquisitions. Similarly, as discussed above, Cal Water

disregarded its MOU with ORA and the Commission's decision by not filing the acquisition agreements.

The timeline of violations in Appendix B shows an on-going compliance deficiency that should have been addressed after the first violation. The timeline also shows Cal Water's failure to prevent and detect these violations. In partial mitigation, Cal Water did cooperate in correcting the violations.

ORA states that Cal Water has substantial financial resources, with annual revenues of over \$250 million per year. ORA recommends a multi-million dollar fine to attain our goal of deterring further violations. We reject the recommendation. Under the facts of this case, treating each day of delay in filing the required requests for authorization would result in a fine that is disproportionate to the Cal Water's financial resources and to the amount needed to deter future violations. We will therefore exercise our discretion and will treat each failure to timely file as a single violation.

Pursuant to § 2107, each violation is subject to a fine of between \$500 and \$20,000. As noted above, Cal Water's offenses are serious and have been repeated. We will therefore impose a fine of \$15,000 for each of the three agreements Cal Water failed to file timely: Country Meadows, Indian Springs, and Olcese. We also impose a fine of \$15,000 each for the unauthorized rates in County Meadows and Indian Springs. Cal Water must pay \$75,000 to the General Fund of the State of California no later than 60 days after the effective date of this order.

## **V. The Salinas District GRC**

Cal Water sought a 12.42% increase for Test Year 2002 in revenue requirement for the Salinas District. Cal Water explained that the primary reasons for the increase are purchased power expenses (96% increase), general

office expense allocation (77% increase), payroll (46% increase), and rate base amortization (46% increase). However, the Salinas District has seen a 22% increase in customers, a 49% increase in water production, and attrition and other non-GRC rate increases that greatly reduce the size of the increase. This district's last GRC was for test year 1995. ORA recommended a 4.61% decrease for the same period.

ORA and Cal Water reached a Joint Recommendation on most, but not all, issues affecting this district. The rate case issues that remained in dispute for the Salinas District (general office cost forecasts and small main replacements) were resolved in D.03-09-021. With the exception of the return on equity issue discussed below, we will adopt the Joint Recommendation, as modified by D.03-09-021, for the Salinas District. Regarding ROE, we reduce the Joint Recommendation by 50 basis points, as discussed below.

Cal Water, without the requisite Commission authorization, acquired two water systems and consolidated them within its existing Salinas District. We find that Cal Water's misconduct in the acquisitions and consolidation should affect how we exercise our discretion in setting Cal Water's ROE for the Salinas District. There are two reasons for our finding.

First, customers in the existing Salinas District were harmed by Cal Water's misconduct. The rates and charges we last authorized for this district were predicated on higher levels of service and investment, and lower levels of revenue, compared to the actual operation of the Salinas District with the unauthorized acquisitions. The fine we impose on Cal Water does not mitigate this harm, and we have already rejected reparations to these customers. If we recognize Cal Water's misconduct, however, by setting a ROE at the lower end of the range of reasonableness, we provide some relief to the existing Salinas

District customers, and we also provide an incentive to Cal Water to improve its service in the district and thereby persuade us to later restore its ROE to a level in line with that authorized for its other districts.

Second, the courts have long recognized that ratesetting involves considerable discretion, and that the regulator has latitude to set rates within a range of reasonableness. See, e.g., Permian Basin Area Cases, 390 U.S. 747, 767 (1967). On several prior occasions, we have exercised that discretion, in light of utility misconduct or resistance to regulatory direction, to expressly lower that utility's ROE. As explained in Southern California Edison Company, (1991) 42 CPUC 2d 645, 738, such negative adjustments to ROE result from offenses or actions contrary to statute, order, rule instruction, or express policy. For example, in D.82-12-055, the Commission found that Southern California Edison Company (Edison) had shown a "continuing pattern of disregard for the Commission's avoided cost policy of the past three years" in pricing of certain contracts, and the Commission reduced Edison's ROE by 10 basis points. In D.91107, 2 CPUC 2d 596, 728 (1979), the Commission found that Pacific Gas and Electric Company's (PG&E's) "poor performance" in promoting the development of cogeneration merited a reduction in ROE of 20 basis points.

In the current proceeding, Cal Water has displayed a similar inattentiveness, or resistance, to regulatory direction. Cal Water's misconduct regarding the Indian Springs and County Meadows acquisitions is not isolated. There is parallel misconduct in Cal Water's acquisition of Olcese (consolidated with the Bakersfield District.) And there are aggravating factors: All three unauthorized acquisitions took place after yet another group of unauthorized Cal Water acquisitions prompted D.97-03-028, which set forth the Commission's clear directives to Cal Water on the proper process by which it could acquire

these and similar systems. The directives themselves were the product of an MOU between Cal Water and our staff, so Cal Water cannot plead ignorance of the directives, nor can we accept Cal Water's characterization of its failure to follow the directives as an "honest mistake."

Cal Water acted not only in disregard of our procedural directions but also in disregard of substantive policy direction. Official state policy requires that the Commission set water rates that "provide appropriate incentives to water utilities and customers for the conservation of water resources." § 701.10. Cal Water agreed to provide Indian Springs and Country Meadows residential customers unmetered service at flat rates for specified periods. This type of rate structure provides customers no incentive to conserve water because the customers pay the same monthly price regardless of amount used.<sup>8</sup> In the Indian Springs and Country Meadows agreements, Cal Water made rate commitments at odds with the statutory policy to conserve water resources. These agreements were reformed to require the installation of meters as part of our review of Cal Water's ALs. Similarly, our rate review showed that Indian Springs customers' rate had to be increased by 67% to bring the rate into line with the prevailing Salinas rate. See Res. W-4462 at p.7.

In sum, we find that Cal Water's management has failed to coordinate its acquisition activities with its statutory and regulatory obligations, i.e., the corporate right hand did not know what the corporate left hand was doing. Our

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<sup>8</sup> As we observed in Res. W-4390, there is no provision in Salinas District tariffs for flat rates, and this type of rate would thus "appear to be a per se violation of § 453," which prohibits unreasonable discrimination.

goal in imposing a negative adjustment to ROE is to direct management's attention to these issues.

We find Cal Water's pattern of violating statutory and decisional requirements to be more serious than Edison's and PG&E's failure to "vigorously pursue" certain types of resources. Cal Water had the benefit of a specific Commission decision approving the 1997 MOU with ORA that set out precisely the actions required of Cal Water. Only eight weeks after signing the MOU and six days before the Commission approved it, Cal Water violated the MOU. Cal Water went on to violate the MOU again two years after signing it and again at three years.

The PG&E and Edison adjustments applied company wide, rather than to one out of 24 districts, as with Cal Water. Specifically, the PG&E adjustment ordered in 1979 applied to electric rate base of \$4.5 billion, *see* 2 CPUC 2d at 627, whereas the Cal Water adjustment applies only to rate base in the Salinas District of about \$30 million.<sup>9</sup> Thus, in terms of dollars, each negative basis point for PG&E had an impact that is orders of magnitude greater than each negative basis point for Cal Water's Salinas District.

The Indian Springs acquisition agreement itself shows that Cal Water has the capacity to conform to Commission requirements. Section 3.3 provides that non-residential customers will be metered and billed in accord with the

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<sup>9</sup> In D.91107, the Commission gave PG&E an incentive to comply with the resource acquisition policy and offered to allow PG&E to recover the negative adjustment in its next rate case if it acquired a certain amount of specific resources. The nature of Cal Water's violations precludes a similar offer here, although we expect that Cal Water's future conduct will be such as to justify our elimination of the ROE differential for the Salinas District at an appropriate time.

Commission-approved Salinas District tariff. Cal Water has not explained its decision to deviate from this approach for residential customers.

We conclude that a ROE adjustment greater than those imposed on Edison and PG&E is warranted on the facts of this case. We will adopt an adjustment of 50 basis points. The revenue requirement effect of this ROE adjustment will be to lessen slightly the rate increase authorized today for all Salinas District customers. This slight change will be in line with the “small, at best” adverse impact that the acquisitions had on the other Salinas District customers.

Setting Cal Water’s ROE for the Salinas District at 9.2% results in a return which is 50 basis points lower than the multi-district ROE contained in the Joint Recommendation but still 10 basis points higher than the 9.1% at the low end of ORA’s analysis. Targeting the adjustment to the Salinas District is appropriate in light of Cal Water’s unapproved acquisitions and unlawful rates affecting that district.<sup>10</sup>

Finally, we stress that the fine and the reduced Salinas District ROE serve distinct purposes. The fine punishes five distinct violations and deters other utilities from similar misconduct. The reduced ROE mitigates the harm done to Salinas District customers, but more importantly provides an incentive for Cal Water’s management to better coordinate its business objectives with its obligations as a public utility.

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<sup>10</sup> The unaccounted for revenue from Indian Springs and Country Meadows may also have resulted in windfall for Cal Water shareholders. The Commission has earlier observed: “we do not give a windfall to a carrier that has violated its own tariffs.” In Re Right-O-Way, Inc., 36 CPUC2d 608 (D.90-06-067).

**Comments on Proposed Decision**

The proposed decision of Administrative Law Judge (ALJ) Maribeth A. Bushey in this matter was mailed to the parties in accordance with Public Utilities Code Section 311(d) and Rule 77.1 of the Rules of Practice and Procedure. Pursuant to Rule 77.3 of the Commission's Rules of Practice and Procedure (Rules), comments on proposed decision shall "focus on factual, legal, or technical errors in the proposed decision and in citing such errors shall make specific references to the record. Comments which merely reargue positions taken in briefs will be accorded no weight and are not to be filed." ORA and Cal Water filed comments and reply comments.

ORA contended that the draft decision erred by setting the fine too low. ORA stated that the recidivist nature of Cal Water's misconduct, the harm done to its existing customers, the duration of the violations, and Cal Water's financial resources all supported a fine of \$9,578,000. We have previously considered and rejected ORA's arguments, and we do so again.

Cal Water offered several unpersuasive arguments (shown below in italics) in opposition to the fine and ROE reduction:<sup>11</sup>

- *No party proposed the ROE reduction and the Commission should adopt the settlement amount.* As provided in Rule 51.1, the Commission will only approve settlement agreements that are "reasonable in light of the whole record." Here, the Commission has determined that the ROE component of the settlement agreement is unreasonable and, based on the record, has determined a reasonable ROE.

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<sup>11</sup> Cal Water also sought a Commission ruling on its June 3, 2004, motion to bifurcate the Salinas District rate case and penalty consideration. As ORA correctly observed, the motion became moot with the issuance of the proposed decision, and we therefore deny it.

- *The rate increase should be retroactive to April 3, 2003.* The Commission excluded the Salinas District from D.03-04-033, which set an early effective date for rate increases in the other districts, because “the acquisition of two water systems in violation of the Public Utilities Code has complicated the task of determining rates.” D.03-04-033, *mimeo* at page 5. Procedurally, Cal Water’s request amounts to an untimely application for rehearing, and substantively the rule against retroactive ratemaking precludes us from granting such a request. Moreover, the delay in granting the rate increase was largely due to Cal Water’s lack of authority to serve customers included in its Salinas District service area, i.e., the Country Meadows and Indian Springs customers.<sup>12</sup> Cal Water took over 10 months to file substantially reformed acquisition agreements after the

Commission’s Water Division staff published its draft resolution rejecting the acquisition agreements because they appeared to violate §§ 451 and 453, as well as implying that the Salinas District customers would subsidize the Indian Springs and Country Meadows customers. Cal Water filed the reformed agreements on February 5, 2004, and the Commission approved them on April 22, 2004. The Proposed Decision was mailed on June 8, 2004.

- *Resources were not diverted from the Salinas District customers.* Cal Water stated that it agreed to “forego” approximately \$146,000 in expenses associated with Indian Springs and Country Meadows,<sup>13</sup> implying that shareholders had absorbed these costs. Cal Water has not, however, explained the source of

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<sup>12</sup> The Commission could not approve the Salinas District GRC proposal because it included service to Indian Springs and Country Meadows, customers Cal Water was not authorized to serve, as well as improper rates for those customers.

<sup>13</sup> The Water Division confirmed that this amount had been removed from Cal Water’s balancing account.

the \$510,530 in capital investment in these areas, nor accounted for the \$579,915 in additional revenue it collected from the Indian Springs and Country Meadows customers.

- *Commission precedent supports a nominal fine.* ORA dispelled this argument in its reply brief: “To ORA’s knowledge, there are no instances in which a utility of [Cal Water’s] size has been found in violation of such a significant number of statutes, has signed an agreement that later becomes a Commission order in which it assures the Commission that the conduct will not occur, and then does exactly the same thing.” ORA Reply Brief at 14. Cal Water characterizes its violations as “technical,” but securing Commission approval of rates for a public utility service is a “basic” function of public utility management, as we found in Resolution W-4390.

Accordingly, no substantive changes have been made to the proposed decision; however, minor editorial corrections have been incorporated.

## **VI. Assignment of Proceeding**

Susan P. Kennedy is the Assigned Commissioner and Maribeth A. Bushey is the principal hearing officer in this proceeding.

### **Findings of Fact**

1. Cal Water acquired Indian Springs on March 12, 1997, and since that time has provided public utility water service to the former Indian Springs customers. Cal Water has spent at least \$56,000 in capital investments for these customers, has not included revenue from these customers in revenue requirement, and did not file the Indian Springs acquisition agreement as required by D.97-03-028.

Cal Water has collected about \$329,778 from these customers.

2. The Indian Springs acquisition agreement provides that non-residential customers will be charged the prevailing Salinas District rate.

3. Cal Water acquired Country Meadows on March 9, 2000, and since that time has provided public utility water service to the former Country Meadows

customers. Cal Water has spent at least \$97,800 in capital investments for these customers, has not included revenue from these customers in revenue requirement, and did not file the Country Meadows acquisition agreement as required by D.97-03-028. Cal Water has collected about \$259,308 from these customers.

4. Cal Water acquired Olcese on October 29, 1999, and since that time has provided public utility water service to the former Olcese customers at Bakersfield District rates. The cost of serving these customers and revenue received from them were included in the next Bakersfield GRC, D.01-08-039.

5. Cal Water provided Indian Springs and Country Meadows customers with capital investment, experienced staff, enhanced response time, and state-certified laboratory services.

6. The Salinas District revenue requirement did not provide for the costs of serving the Indian Springs or Country Meadows customers, or include the revenue to be collected from these customers as an offset to district costs.

7. ORA recommended a 9.1% ROE for all districts in the Cal Water GRC, including the Salinas District. The Joint Recommendation provided for 9.7%, and the Commission adopted that amount in D.03-09-021 for all districts in the consolidated proceeding, other than Salinas.

8. Unmetered water service at flat rates does not encourage customers to conserve water.

9. Cal Water's offenses in failing to file the three acquisition agreements and obtain rate approval in County Meadows and Indian Springs are severe.

10. PG&E's electric system rate base determined in D.91106 was about 150 times greater than Cal Water's Salinas District rate base.

11. The timeline in Appendix B shows an on-going compliance deficiency that should have been remedied in the first instance.

12. Cal Water failed to prevent and detect its violations.

13. Cal Water has substantial financial resources.

14. The potential fine calculated by including each day of the on-going violations as a separate offense is disproportionate to the harm.

15. The Commission's guidelines on fines for violations of the Public Utilities Code and Commission decisions support a fine of \$15,000 for each of three unauthorized acquisitions and the two unauthorized rates by Cal Water reviewed in today's decision.

16. No material facts related to the unauthorized acquisitions are in dispute.

### **Conclusions of Law**

1. Cal Water and ORA agreed to and the Commission approved a set of filing requirements in D.97-03-028 for Cal Water's acquisition of non-Commission regulated water systems.

2. Cal Water did not comply with those requirements when acquiring Indian Springs, Country Meadows, and Olcese.

3. Section 702 requires that public utilities comply with decisions of the Commission.

4. The Public Utilities Code requires that all rates charged by a public utility must be filed with and approved as just and reasonable by the Commission. The Commission approved Cal Water's reformed acquisition agreements and rate plan for the Indian Springs and Country Meadows customers in Res. W-4462.

5. In D.99-10-064, the Commission held that it must approve rates charged by a utility that acquires a water system.

6. Prior to Res. W-4462, all amounts collected by Cal Water from the former Indian Springs and Country Meadows customers were collected in violation of the Public Utilities Code.

7. The Indian Springs and Country Meadows customers received the benefit of their agreements with Cal Water, and should not be awarded reparations.

8. A negative adjustment to ROE is better suited to the facts of this case than reparations.

9. Water rates should provide appropriate incentives for conservation of water.

10. The Salinas District ROE, as compared to certain other Cal Water districts, should be adjusted downward by 50 basis points to 9.2%.

11. Because Cal Water charged approved rates to the Olcese customers, reparations are not necessary in the Bakersfield District.

12. Consistent with the Commission's guidelines for assessing fines for violations of the Public Utilities Code and Commission decisions, Cal Water should be fined \$15,000 for each of its three unauthorized acquisitions and \$15,000 each for the two systems where it charged unauthorized rates.

13. The rate increase for the Salinas District included in this proceeding should be approved with a ROE of 9.2%.

14. Today's order should be made effective immediately.

### **FINAL ORDER**

#### **IT IS ORDERED** that:

1. The Joint Recommendation between California Water Services Company (Cal Water) and the Office of Ratepayer Advocates, as modified by Decision (D.) 03-09-021, is adopted for the Salinas District, with the exception that the return on equity (ROE) for the Salinas District shall be 9.2%.

2. No later than 60 days after the effective date of this order, Cal Water shall pay a fine of \$75,000 by check payable to the California Public Utilities Commission for deposit to the General Fund, and submitted to the Commission's Fiscal Office at 505 Van Ness Avenue, Room 3000, San Francisco, CA 94102. The number of this decision shall be included on the face of the check.

3. Cal Water shall comply with Ordering Paragraphs 2-10 and 12-14 of D.03-09-021.

4. Cal Water is authorized to file in accordance with General Order (GO) 96-A or its successor, and to make effective on not less than five days' notice, tariffs for the Salinas District containing the test year 2003, which shall reflect a 9.2% ROE. The revised rates shall apply to service rendered on or after the tariffs' effective date.

5. An advice letter for the authorized rate increase for attrition year 2004 may be filed in accordance with GO 96-A any time after the 2003 rates go into effect. The filing shall include appropriate work papers. The increase shall be the amount authorized herein, or a proportionate lesser increase if Cal Water's rate of return on rate base, adjusted to reflect rates then in effect, normal ratemaking adjustments, and the adopted change to this pro forma test, for the most recent recorded 12 months, exceeds 8.64%. The advice letter shall be reviewed by the Commission's Water Division for conformity with this decision including the applicable provisions of the Joint Recommendation, and shall go into effect upon Water Division's determination of compliance, not earlier than 30 days after filing. The tariffs shall be applicable to service rendered on or after the effective date. Water Division shall inform the Commission if it finds the proposed increase does not comply with this decision or other Commission requirements.

6. An advice letter for the authorized rate increase for attrition year 2005 may be filed in accordance with GO 96-A no earlier than November 1, 2004. The filing shall include appropriate work papers. The increase shall be the amount authorized herein, or a proportionate lesser increase if Cal Water's rate of return on rate base, adjusted to reflect rates then in effect, normal ratemaking adjustments, and the adopted change to this pro forma test, for the 12 months ending September 30, 2004, exceeds 8.64%. The advice letter shall be reviewed by the Commission's Water Division for conformity with this decision, including the applicable provisions of the Joint Recommendation, and shall go into effect upon Water Division's determination of compliance, not earlier than January 1, 2005 or 30 days after filing, whichever is later. The tariffs shall be applicable to service rendered on or after the effective date. Water Division shall inform the Commission if it finds the proposed increase does not comply with this decision or other Commission requirements.

7. This proceeding is closed.

This order is effective today.

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

**APPENDIX A****Page 1**

(Advice Letter filing requirements from D.97-03-028)

1. Within 5 working days from the date of an agreement to acquire a non-Commission regulated water system, Cal Water shall contact and if required meet with WD staff to explain the details of the proposed acquisition.
2. Within 30 days from the date of execution of an agreement to acquire a non-Commission regulated water system Cal Water shall file an acquisition advice letter with the WD.
3. The acquisition advice letter shall include, but not be limited to, the following items. Appendices need only be filed with WD, however, the acquisition advice letter should indicate that appendices are available upon request.

A. A copy of the executed purchase agreement. (Appendix)

B. Proposed rates.

Cal Water's established rates may be applicable to the acquired customers, but adequate justification must be provided.

C. A detailed description of water system facilities being acquired, based on the best information available from the acquired water system operator and Cal Water's good faith effort to supplement deficiencies. This should include, but not be limited to, such items as a distribution system map, showing pipe sizes and fire flow and pressure area deficiencies. Acquisition advice letters for water systems which do not meet the minimum design and service standards of General Order (G.O.) 103 shall require Commission action by Resolution.

D. Cal Water's planned water system improvements for the acquisition, including estimated costs and the rate impact on the acquired and existing Cal Water customers.

E. Estimated Summary of Earnings before and after the acquisition both with and without the estimated cost of water system improvements from D. above.

**APPENDIX A  
(Page 2)**

F. The names and addresses of all utilities, corporations, persons or other entities, whether publicly-or privately-operated, with which the acquisition is likely to compete, and of cities or counties within which service will be rendered.

G. A certification that a copy of the acquisition advice letter has been served upon or mailed to each such entity or person in F. above.

H. A map of suitable scale showing the location of the acquisition and its relation to other public utilities, corporations, persons or entities with which the same is likely to compete. (Appendix)

I. A statement identifying the franchises and such health and safety permits as the appropriate public authorities have required or may require.

J. A detailed statement of the amount and basis of the original cost (estimated if not known) of all plant and of the depreciation reserve and purchase price. The parties understand that the original cost is subject to change after verification of the acquired system's records and facilities.

**(END OF APPENDIX A)**

## APPENDIX B

### Timeline

<u>June 6, 1996</u>	Commission issues interim decision authorizing rate increase in 5 districts but setting for later phase the issue of three unauthorized acquisitions: Goshen Water System, City of Visalia Industrial Water System, and E.B. Hicks Water Co.
<u>January 7, 1997</u>	Cal Water and Commission Staff sign MOU setting out rules for filing new acquisition agreements.
<u>March 12, 1997</u>	Cal Water acquires Indian Meadows.
<u>March 18, 1997</u>	Commission issues decision approving MOU.
<u>August 10, 1999</u>	Cal Water acquires Olcese.
<u>March 9, 2000</u>	Cal Water acquires Country Meadows.
<u>May 6, 2002</u>	Cal Water files Advice Letters 1514 (County Meadows) and 1515 (Indian Springs).
<u>June 26, 2002</u>	Cal Water files Advice Letter 1517 (Olcese).

**(END OF APPENDIX B)**

**APPENDIX C****Cost of Capital as Adopted in D.03-09-021**

	Test Years 2002, 2003, Attrition Years 2004, 2005		
	Capital Structure	Cost	Weighted Cost
Debt	48.0 %	8.09%	3.88%
Preferred Stock	.5%	4.19%	.02%
Common Equity	51.5	9.7%	5.0%
<b>Total</b>	<b>100.00 %</b>		<b>8.9%</b>

**Cost of Capital for Salinas District**

	Test Years 2002, 2003, Attrition Years 2004, 2005		
	Capital Structure	Cost	Weighted Cost
Debt	48.0 %	8.09%	3.88%
Preferred Stock	.5%	4.19%	.02%
Common Equity	51.5	9.2%	4.74%
<b>Total</b>	<b>100.00 %</b>		<b>8.64%</b>

Salinas District rate base = \$30,087,000

$\$30,087,000 \times .26\% = \$78,226$  decrease in net operating revenue

$\$78,226 \times 1.83$  (net to gross multiplier) = \$143,153 decrease in gross revenues

**(END OF APPENDIX C)**

**Appendix D**  
**California Water Service Company - Salinas District**  
**Summary of Earnings**  
**Test Year 2003**

(\$ thousands)

	At Present Rates		Adopted	
	CWS	ORA	At Present Rates	At Authorized Rates
OPERATING REVENUES	\$ 11,222.7	\$ 11,560.4	\$ 11,393.0	\$ 12,212.0
OPERATING EXPENSES				
PURCHASED WATER	\$ -	\$ -	\$ -	\$ -
REPLENISHMENT ASSESSMENT	\$ -	\$ -	\$ -	\$ -
GROUNDWATER EXTRACTION CHARGE	\$ 12.7	\$ 12.7	\$ 12.7	\$ 12.7
PURCHASED POWER	\$ 1,601.8	\$ 1,731.8	\$ 1,686.3	\$ 1,686.3
PURCHASED CHEMICALS	\$ 124.9	\$ 117.4	\$ 117.4	\$ 117.4
PAYROLL -- DISTRICT	\$ 1,901.1	\$ 1,899.7	\$ 1,899.7	\$ 1,899.7
OTHER OPERATION AND MAINTENANCE	\$ 950.0	\$ 913.8	\$ 942.3	\$ 943.6
OTHER ADMIN AND GEN. EXP.	\$ 138.5	\$ 137.2	\$ 137.2	\$ 137.2
TOTAL O. & M., A. & G., & MISC. EXP.	\$ 4,746.6	\$ 4,830.3	\$ 4,795.6	\$ 4,796.9
TAXES OTHER THAN INCOME				
AD VALOREM TAXES	\$ 304.5	\$ 300.0	\$ 297.4	\$ 297.4
LOCAL FRANCHISE TAXES & BUS. LICENSE	\$ 272.9	\$ 281.1	\$ 277.1	\$ 297.0
PAYROLL TAXES	\$ 152.2	\$ 152.2	\$ 152.1	\$ 152.1
TOTAL GENERAL TAXES	\$ 729.6	\$ 733.3	\$ 726.6	\$ 746.5
DEPRECIATION	\$ 1,676.1	\$ 1,155.1	\$ 1,365.0	\$ 1,365.0
G.O. PRORATED EXPENSES:				
PAYROLL AND BENEFITS	\$ 1,393.7	\$ 1,127.8	\$ 1,136.6	\$ 1,136.6
AD VALOREM TAXES	\$ 17.6	\$ 14.3	\$ 14.4	\$ 14.4
PAYROLL TAXES	\$ 57.5	\$ 46.5	\$ 47.0	\$ 47.0
OTHER PRORATED EXPENSES	\$ 736.6	\$ 596.1	\$ 600.8	\$ 600.8
TOTAL G.O. PRORATED EXPENSES	\$ 2,205.4	\$ 1,784.7	\$ 1,798.8	\$ 1,798.8
SUB -- TOTAL -- OPERATING EXPENSES	\$ 9,357.7	\$ 8,503.4	\$ 8,686.1	\$ 8,707.3
TOTAL INCOME TAXES:	\$ 62.6	\$ 45.8	\$ 558.8	\$ 908.5
TOTAL OPERATING EXPENSES	\$ 9,420.3	\$ 8,549.2	\$ 9,244.9	\$ 9,615.8
NET OPERATING REVENUE	\$ 1,802.4	\$ 3,011.2	\$ 2,148.1	\$ 2,596.2
DEPRECIATED RATE BASE	\$ 31,943.4	\$ 30,891.0	\$ 30,046.5	\$ 30,046.5
RATE OF RETURN YEAR	5.64%	9.75%	7.15%	8.64%

**(END OF APPENDIX D)**

**Appendix E  
Tariff Schedules  
California Water Service Company  
Salinas District  
A.01-09-071**

Page 1 of 4

Schedule No. SA-BK-1

Salinas Tariff Area  
(Bolsa Knolls Division)  
GENERAL METERED SERVICE

APPLICABILITY

Applicable to all metered water service.

TERRITORY

Bolsa Knolls subdivision and vicinity, 3 miles north of Salinas, Monterey County.

RATES

Quantity Rates:	<u>2003</u>	<u>2004</u>	<u>2005</u>
Per 100 cu. ft. ....	\$ 0.8829	0.8829	0.8829

		<u>Per Meter</u>	
		<u>Per Month</u>	
Service Charge:			
For 5/8 x 3/4-inch meter .....	\$ 10.10 (I)	10.20 (I)	10.30 (I)
For 3/4-inch meter .....	15.15 (I)	15.30 (I)	15.45 (I)
For 1-inch meter .....	17.10 (I)	17.80 (I)	18.50 (I)
For 1-1/2-inch meter .....	26.25 (I)	29.00 (I)	31.75 (I)
For 2-inch meter .....	37.10 (I)	43.00 (I)	48.90 (I)
For 3-inch meter .....	70.00 (I)	82.00 (I)	94.00 (I)
For 4-inch meter .....	167.30 (I)	189.00 (I)	210.00 (I)

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

SPECIAL CONDITIONS

1. Due to the under-collection in the balancing account, a surcharge of \$0.0361 per 100 cu. ft. of water used is to be applied to the quantity rates for 24 months from the effective date of Advice Letter No. 1532.
2. All bills are subject to the reimbursement fee set forth on Schedule No. UF.

**Appendix E  
Tariff Schedules  
California Water Service Company  
Salinas District  
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Schedule No. SA-LL-1

Salinas Tariff Area  
(Las Lomas Division)  
GENERAL METERED SERVICE

APPLICABILITY

Applicable to all metered water service.

TERRITORY

Las Lomas subdivision and vicinity, near Watsonville, Monterey County.

RATES

Quantity Rates:	<u>2003</u>	<u>2004</u>	<u>2005</u>
Per 100 cu. ft. ....	\$ 1.3500	1.3500	1.3500

Service Charge:	<u>Per Meter</u>		
	<u>Per Month</u>		
For 5/8 x 3/4-inch meter .....	\$ 10.10 (I)	10.20 (I)	10.30 (I)
For 3/4-inch meter .....	15.15 (I)	15.30 (I)	15.45 (I)
For 1-inch meter .....	17.10 (I)	17.80 (I)	18.50 (I)
For 1-1/2-inch meter .....	26.25 (I)	29.00 (I)	31.75 (I)
For 2-inch meter .....	37.10 (I)	43.00 (I)	48.90 (I)
For 3-inch meter .....	70.00 (I)	82.00 (I)	94.00 (I)
For 4-inch meter .....	167.30 (I)	189.00 (I)	210.00 (I)

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

SPECIAL CONDITIONS

1. Due to the under-collection in the balancing account, a surcharge of \$0.0361 per 100 cu. ft. of water used is to be applied to the quantity rates for 24 months from the effective date of Advice Letter No. 1532.
2. All bills are subject to the reimbursement fee set forth on Schedule No. UF.



**Appendix E  
Tariff Schedules  
California Water Service Company  
Salinas District  
A.01-09-071**

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Schedule No. SA-OH-1

Salinas Tariff Area  
(Oak Hills Division)  
GENERAL METERED SERVICE

APPLICABILITY

Applicable to all metered water service.

TERRITORY

Oak Hills subdivision and vicinity, east of Castroville, Monterey County.

RATES

Quantity Rates:	<u>2003</u>	<u>2004</u>	<u>2005</u>
Per 100 cu. ft. ....	\$ 0.9444	0.9444	0.9444

		<u>Per Meter</u>	
		<u>Per Month</u>	
Service Charge:			
For 5/8 x 3/4-inch meter .....	\$ 10.10 (I)	10.20 (I)	10.30 (I)
For 3/4-inch meter .....	15.15 (I)	15.30 (I)	15.45 (I)
For 1-inch meter .....	17.10 (I)	17.80 (I)	18.50 (I)
For 1-1/2-inch meter .....	26.25 (I)	29.00 (I)	31.75 (I)
For 2-inch meter .....	37.10 (I)	43.00 (I)	48.90 (I)
For 3-inch meter .....	70.00 (I)	82.00 (I)	94.00 (I)
For 4-inch meter .....	167.30 (I)	189.00 (I)	210.00 (I)

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

SPECIAL CONDITIONS

1. Due to the under-collection in the balancing account, a surcharge of \$0.0361 per 100 cu. ft. of water used is to be applied to the quantity rates for 24 months from the effective date of Advice Letter No. 1532.
2. All bills are subject to the reimbursement fee set forth on Schedule No. UF.

**Appendix E**  
**Tariff Schedules**  
**California Water Service Company**  
**Salinas District**  
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Schedule No. SA-1

Salinas Tariff Area

GENERAL METERED SERVICE

APPLICABILITY

Applicable to all metered water service.

TERRITORY

Salinas and vicinity, Monterey County.

RATES

Quantity Rates:	<u>2003</u>	<u>2004</u>	<u>2005</u>
Per 100 cu. ft. ....	\$0.8519 (I)	0.8527 (I)	0.8536 (I)
Service Charge:			
	<u>Per Meter</u>		
	<u>Per Month</u>		
For 5/8 x 3/4-inch meter .....	\$ 10.10 (I)	10.20 (I)	10.30 (I)
For 3/4-inch meter .....	15.15 (I)	15.30 (I)	15.45 (I)
For 1-inch meter .....	17.10 (I)	17.80 (I)	18.50 (I)
For 1-1/2-inch meter .....	26.25 (I)	29.00 (I)	31.75 (I)
For 2-inch meter .....	37.10 (I)	43.00 (I)	48.90 (I)
For 3-inch meter .....	70.00 (I)	82.00 (I)	94.00 (I)
For 4-inch meter .....	167.30 (I)	189.00 (I)	210.00 (I)
For 6-inch meter .....	303.25 (I)	340.00 (I)	376.00 (I)
For 8-inch meter .....	366.00 (I)	415.00 (I)	464.00 (I)
For 10-inch meter .....	530.70 (I)	663.40 (I)	829.25 (I)

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

SPECIAL CONDITIONS

1. Due to the under-collection in the balancing account, a surcharge of \$0.0361 per 100 cu. ft. of water used is to be applied to the quantity rates for 24 months from the effective date of Advice Letter No. 1532.

2. All bills are subject to the reimbursement fee set forth on Schedule No. UF.

**(END OF APPENDIX E)**

**APPENDIX F  
BILL COMPARISON  
California Water Service  
Salinas District Bill**

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**(END OF APPENDIX F)**

**Appendix G  
Adopted Quantities  
California Water Service Company  
Salinas District  
A.01-09-071  
Page 1 of 4**

Adopted Quantities

10. Number of Services by meter size:	2002	2003
5/8 x 3/4	12,526	13,115
1	6,237	6,443
1 1/2	577	581
2	1,426	1,444
3	226	226
4	99	100
6	41	41
8	5	5
10	-	-
12	-	-
14	-	-
TOTAL	21,137	21,955

11. Metered Sales, KCcf		
All Water	12,900.8	13,238.5

12. Number of Services and Use:	Avg Services		Use, KCcf		Avg Use, Ccf/Sv/Mo	
	2001	2002	2001	2002	2001	2002
Residential	13,862	14,673	4,562.2	4,873.4	329.1	332.1
Business	6,362	6,362	5,279.0	5,279.0		
Multi-family	448	448	1,410.8	1,437.3		
Industrial	41	41	78.7	78.7		
Public Authority	353	354	1,519.1	1,519.1		
Other	71	77	51.0	51.0		
Sub-Total	21,137	21,955	12,900.8	13,238.5		
Residential Flat	35,629	35,277	16,205.7	16,205.7		
Private Fire Prot.	684	704				
Public Fire Prot.	21	21				
TOTAL	57,471	57,957	29,106.5	29,444.2		
Losses, 8.00%			2,531.0	2,560.4		
Total Production			31,637.5	32,004.6		

**Appendix G**  
**Adopted Quantities**  
**California Water Service Company**  
**Salinas District**  
**A.01-09-071**  
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	<u>2002</u>	<u>2003</u>
	( DOLLARS IN THOUSANDS )	
PURCHASED POWER		
SUPPLIER - PG&E		
Total Production ( kccf )	8,863.2	9,108.3
Kwh / ccf	1,200.2	1,200.2
Total calculated KWH	10,637,388	10,931,551
Unit Cost	\$0.15353	\$0.15426
Power Cost	\$1,633,201	\$1,686,334
<b>TOTAL PURCHASED POWER</b>	<b>\$1,633.2</b>	<b>\$1,686.3</b>
CHEMICALS		
Total Production ( kccf )	8,863.2	9,108.3
ADOPTED CHEMICAL DOLLARS	115.8	117.4
ADOPTED \$ per KCCF	<b>\$0.013065</b>	<b>\$0.012889</b>
UNCOLLECTABLES RATE		0.15705%
FRANCHISE TAX RATE		0.00000%
BUSINESS LICENSE FEE RATE		0.00000%
FEDERAL TAX RATE		35.00%
STATE CORP. FRANCHISE TAX		8.84%
NET TO GROSS MULTIPLIER		1.82788

**Appendix G**  
**Adopted Quantities**  
**California Water Service Company**  
**Salinas District**  
**A.01-09-071**  
**Page 3 of 4**

ADOPTED RATE BASE  
(DOLLARS IN THOUSANDS)

	<u>2002</u>	<u>2003</u>
RATE BASE		
WTD. AVG. PLANT IN SERVICE	64528.8	68708.5
MATERIALS AND SUPPLIES	155.5	155.5
WORKING CASH - LEAD - LAG	532.3	553
WORKING CASH - W / H EMPLOYEES	-3	-3
WTD. AVG. DEPRECIATION RESERVE	-16664.2	-18044.2
ADVANCES FOR CONSTRUCTION	-14112.2	-14812
CONTRIBUTIONS	-4794.9	-4863.5
AMORTIZATION OF INTANG.	-88.6	-107.0
DEFERRED TAXES	-4223.4	-4501.8
UNAMORT. I.T.C.	-165.5	-159.7
PRORATED G.O. RATE BASE	1068.9	1145
TAXES ON ADVANCES	1508	1502.1
TAXES ON C.I.A.C.	503.5	473.6
WTG. AVG. RATE BASE	28245.2	30046.5

**Appendix G**  
**Adopted Quantities**  
**California Water Service Company**  
**Salinas District**  
**A.01-09-071**  
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INCOME TAX CALCULATION  
(DOLLARS IN THOUSANDS)

	<u>2002</u>	<u>2003</u>
OPERATING REVENUE (PROPOSED RATES)	11,673.0	12,212.0
EXPENSES		
PURCHASED WATER	0.0	0.0
PURCHASED POWER	1,633.2	1,686.3
PUMP TAXES	12.7	12.7
CHEMICALS	115.8	117.4
PAYROLL	1,804.4	1,899.7
OTHER O & M	905.0	924.4
OTHER A & G	134.5	137.2
G.O. PRORATIONS	1,757.5	1,798.8
PAYROLL TAXES	144.5	152.1
AD VALOREM TAXES	278.8	297.4
UNCOLLECTIBLES	18.3	19.2
FRANCHISE TAX & BUS LIC. FEES	283.9	297.0
TRANSPORTATION DEPRECIATION ADJUSTMENT	-64.3	-77.0
INTEREST EXPENSE	1,070.2	1,139.3
TOTAL DEDUCTIONS	8,094.5	8,404.6
<b>STATE INCOME TAX</b>		
STATE TAX DEPRECIATION	2,247.9	2,390.2
NET STATE TAXIBLE INCOME	1,330.6	1,417.2
STATE CORP. FRANCHISE TAX @ 8.84%	117.6	125.3
<b>FEDERAL INCOME TAX</b>		
FEDERAL TAX DEPRECIATION	1,341.0	1,447.6
STATE INCOME TAX	67.5	117.6
LESS PREFERRED STOCK DIVIDEND	4.5	4.5
NET FEDERAL TAXIBLE INCOME	2,165.5	2,237.7
FEDERAL INCOME TAX @ 35.00%	757.9	783.2
INVESTMENT TAX CREDIT	0.0	0.0
TOTAL FEDERAL INCOME TAX	757.9	783.2
TOTAL INCOME TAXES	<b>875.5</b>	<b>908.5</b>

**(END OF APPENDIX G)**



**APPENDIX H**  
**Page 1 of 1**  
**California Water Service Company - Salinas District**  
**Attrition Calculation for 2004 and 2005**

Financials

Rate of Return Adopted Authorized for 2004	8.64%
Rate of Return Adopted Authorized for 2003	8.64%
Difference:	0.00%

Operational

2002 Rate of Return at Present Rates	8.64%
2003 Rate of Return at Present Rates	8.23%
Difference:	0.41%

**Total Attrition** **0.41%**

Net to Gross Multiplier 1.82788

2003 Rate Base \$30,046,538

2004 Attrition = Total Attrition x 2003 Rate Base x Net-to-Gross \$225,178

2005 Attrition = Total Attrition x 2003 Rate Base x Net-to-Gross \$225,178

Operating Revenues for 2004 = (2003 Operating Revenue + 2004 Attrition)

Operating Revenues for 2005 = (2004 Operating Revenue + 2005 Attrition)

Operating Revenue for 2003	\$12,212,000
Operating Revenue for 2004	\$12,437,178
Operating Revenue for 2005	\$12,662,356

Increase from 2003 to 2004 **1.8439%**

Increase from 2004 to 2005 **1.8105%**

**(END OF APPENDIX H)**

## Appendix I List of Appearances

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(END OF APPENDIX I)

