

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

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

FILED
PUBLIC UTILITIES COMMISSION
DECEMBER 17, 2009
SAN FRANCISCO, CALIFORNIA
RULEMAKING 09-12-017

ORDER INSTITUTING RULEMAKING

1. Summary

This Rulemaking is initiated to determine whether sharing of qualifying low-income customer information between regulated water and regulated energy utilities should be required; whether sharing of qualifying low-income customer information between regulated water and municipal energy utilities should be encouraged; and if so, to establish standardized rules and policies applicable to the governance of such sharing between regulated water utilities and regulated energy utilities; and the sharing between regulated water utilities and municipal energy utilities.

Given the current state of the economy, and the experience and high penetration levels achieved by the regulated energy utilities with regards to the provision of low-income assistance programs – in part due to the sharing of qualifying customer information, we find it imperative that a relationship between water and energy utilities that would enhance the level of participation

in assistance programs provided by regulated water utilities be explored. This exchange could also provide a resource for other information regarding provision of low-income assistance programs, and possibly lower the cost of providing programs for all regulated utilities, given leveraging of personnel and program costs.

The development of standardized rules governing these relationships, should such sharing be required, would also assure that confidential customer and utility information is handled appropriately, and that all parties are providing and provided with the same information.

2. Background

Even though regulated water utilities were first authorized to institute assistance programs for qualifying customers over a dozen years ago, it has only been in the last few years that all Class A water utilities have been authorized to institute assistance programs (see Appendix A). Although the water utilities have performed admirably and put great effort into reaching out to the low-income community, the penetration rate for their programs, given their short existence, does not match that of the energy utilities.

Pub. Util. Code § 386,¹ which applies to municipal electric utilities, in part, requires them to collaborate with other electric and gas providers in the same service territory to streamline enrollment in low-income assistance programs. To this end, municipal utilities have entered into Memorandums of Understanding (MOUs) with Commission-regulated energy utilities that address the sharing of qualifying customer information. In turn, Commission-regulated electric utilities have also entered into such MOUs with other regulated energy utilities. As a result, awareness of and participation in the energy assistance programs have increased substantially, as discussed below. The MOUs themselves include details such as, what type of customer information is shared, confidentiality and disclosure terms, and contact information.

In 2006, the penetration rate of Class A water utility assistance programs averaged 15.2%, growing to 16.1% in 2007.² This compares to an average

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- ¹ 386. (a) Each local publicly owned electric utility shall ensure the following:
- (1) Low-income families within the utility's service territory have access to affordable electricity.
 - (2) The current level of assistance reflects the level of need.
 - (3) Low-income families are afforded no-cost and low-cost energy efficiency measures that reduce energy consumption.
- (b) The local publicly owned electric utility shall consider increasing the level of the discount or raising the eligibility level for any existing rate assistance program to be reflective of customer need.
- (c) A publicly owned electric utility shall streamline enrollment for low-income programs by collaborating with existing providers for the Low-Income Home Energy Assistance Program and other electric or gas providers within the same service territory.
- (d) A local publicly owned electric utility shall establish participation goals for its rate assistance program participation.

² Assessment of Water Utility Low-Income Assistance Programs, California Public Utilities Commission Division of Water and Audits; October 2007.

penetration rate for the large regulated energy utilities of 72.4% in 2006, which has grown to an average of 78.8% in 2008.³ Even if one assumes some growth in the water utility penetration rates over the last few years, it is unlikely that this rate will have achieved the same level as that of the energy utilities. When one compares the energy utilities current average penetration rate with that achieved prior to institution of the information sharing programs of 60.9%, the impact of such information sharing on the success of the program is obvious.

It is also important to note that in the Commission's Water Action Plan, one of our main objectives is to develop and improve assistance programs for customers of our regulated water utilities, looking to the existing assistance programs in the energy and telecommunications industries for guidance.

3. Discussion

Even though Pub. Util. Code § 386 only applies to municipal electric utilities, and no similar code exists for regulated water utilities, the format of the programs and associated agreements that have been instituted by the electric utilities as a result of Pub. Util. Code § 386 can be applied to regulated water utilities to enhance participation in those assistance programs.

Given the successful efforts of the regulated energy utilities regarding the sharing of customer information and resulting increase in reaching and enrolling customers that qualify for assistance, the application of this type of program to

³ 2006 and 2008 energy penetration values were based on an average of the four large energy utilities' low-income rate assistance program participation rates for their California Alternate Rate for Energy as reported to the Commission on January 22, 2007 and December 31, 2008, respectively.

water utilities is likely to be an efficient and effective way to increase participation in their assistance programs.

During this time of financial crisis, it is crucial that every effort be made to reach those customers in need. The application of the energy utilities' successful information sharing and outreach efforts would surely have a positive effect on the penetration rates of the regulated water utilities' assistance programs. By basing the regulated water information sharing program on the existing regulated energy utility programs, the program would not have to be recreated from scratch.

Such a program of sharing qualifying customer information would benefit both customers and utilities alike. This sharing of information would benefit water utility customers by reaching those that may not be aware of the assistance programs provided by the water utility or are not currently being reached through existing outreach methods. Both water and energy utilities could benefit from this program through reduced program costs by eliminating duplicative efforts, by providing outreach and enrollment through coordinated efforts to shared customers.

This proceeding provides a forum for all regulated energy utilities and municipal energy utilities to discuss the goals and objectives of sharing customer information with regulated water utilities in an effort to increase the number of qualified customers participating in low-income assistance programs. The overriding goal, should such sharing be required, is to develop an open yet secure exchange of information that benefits customers and utilities alike in the provision of a successful assistance program.

In this order, we provide questions for parties to respond to as well as a sample set of rules for sharing of information for parties to comment on

(attached as Appendix B). We also ask a series of questions regarding issues that may be addressed in the final rules. The rules and policies authorized in this proceeding will provide clear guidance to the regulated and municipal utilities and protect the confidential nature of customer information.

4. Preliminary Scoping Memo

As required by Rule 7.1(d)⁴ of our Rules of Practice and Procedure (Rules), this order includes a preliminary scoping memo as set forth below. The issues to be considered in this proceeding relate only to the exchange of qualified low-income customer information between regulated water utilities and either regulated energy or municipal energy utilities:

1. Should regulated water and regulated energy utilities share customer information to enhance penetration of regulated water low-income assistance programs?
 - a. If so, should this program be based on the same rules as the existing program⁵ between regulated energy utilities and other energy utilities and municipal energy utilities?

⁴ Rulemakings. An order instituting rulemaking shall preliminarily determine the category and need for hearing, and shall attach a preliminary scoping memo. The preliminary determination is not appealable, but shall be confirmed or changed by assigned Commissioner's ruling pursuant to Rule 7.3, and such ruling as to the category is subject to appeal under Rule 7.6.

⁵ Inter-Utility Data Exchange and Non-Disclosure Agreements between regulated energy utilities, such as those entered by and between Pacific Gas and Electric Company (PG&E) and Southern California Gas Company (SoCalGas), and by PG&E and Southern California Edison Company (SCE); MOUs between regulated energy utilities and municipal utilities, such as those entered by and between PG&E and the Modesto Irrigation District, and PG&E and the Sacramento Municipal Utility District. Unless mentioned otherwise, all references to the utility programs refer to this.

2. Should regulated water and municipal energy utilities share customer information to enhance penetration of regulated water low-income assistance programs?
 - a. If so, should this program be based on the same rules as the existing program between energy utilities and other energy utilities and municipal energy utilities?
3. Should rules and policies adopted in this proceeding apply to all California-regulated water utilities?

5. Schedule

This proceeding will conform to the statutory case management deadline for quasi-legislative matters set forth in Pub. Util. Code § 1701.5. In particular, it is our intention to resolve all relevant issues within 18 months of the date of the assigned Commissioner’s Scoping Memo.

The timetable for this proceeding will depend on the input we receive from the parties. For purposes of addressing the scoping memo requirements, we establish the following tentative schedule, which is subject to change by the assigned Commissioner or the assigned Administrative Law Judge (ALJ):

December 17, 2009	Issuance of Order Instituting Rulemaking
February 18, 2010	Parties file Opening Comments on issues identified in the preliminary scoping memo and proposed rules
March 22, 2010	Division of Water and Audits (DWA) workshop
April 22, 2010	DWA Workshop Report issued
May 24, 2010	Parties file Comments on Workshop Report
December 2010	Proposed Decision mailed for comment
February 2011	Final Decision on Commission agenda

Interested parties may file Opening Comments no later than February 18, 2010 addressing the issues and questions identified in the preliminary scoping memo and the proposed rules in Appendix B. Responses to questions should be complete and provide a rationale for the response. Comments should include recommended alternative approaches, and discuss the anticipated impact of the recommended approach. Interested parties may offer any other suggestions regarding policies, practices, rules, and procedures regarding the sharing of customer information between regulated water utilities and regulated energy and municipal energy utilities. The Opening Comments should follow the requirements of Rule 6.2, and should include any objections to the preliminary scoping memo regarding the category, need for hearing, issues to be considered, or schedule.

Following the receipt of Opening Comments, the assigned Commissioner will issue a scoping memo that determines the category, need for hearing, scope, and schedule of this Rulemaking. The ruling, only to category, may be appealed under the procedures in Rule 7.6. Through the scoping memo and other rulings, the assigned Commissioner or the assigned ALJ, with the assigned Commissioner's concurrence, may adjust the timetable as necessary during the course of the proceeding and establish the schedule for remaining events.

6. Category of Proceeding and Need for Hearing

Rule 7.1(d) requires that an order instituting rulemaking preliminarily determine the category of the proceeding and the need for hearing. As a preliminary matter, we determine that this proceeding is "quasi-legislative," as defined in Rule 1.3(d). We anticipate that the issues in this proceeding may be resolved through a combination of workshops and filed comments, and that evidentiary hearings will not be necessary. Any person who objects to the

preliminary categorization of this rulemaking as “quasi-legislative” or to the preliminary hearing determination, shall state the objections in their Opening Comments, as described above. After considering the Opening Comments, the assigned Commissioner will issue a scoping ruling making a final category determination; this final category determination is subject to appeal as specified in Rule 7.6.

7. Respondents

The Respondents to this Rulemaking are all Class A and Class B water utilities (listed in Appendix C), PG&E, SCE, San Diego Gas & Electric Company (SDG&E), SoCalGas, Pacific Power and Light, Southwest Gas Company, Sierra Pacific Power Company, and Golden State Water Company’s Bear Valley Electric Service Division.

In addition to the respondents, we encourage the Division of Ratepayer Advocates (DRA), municipal energy utilities and/or their representatives, and other parties to respond to the questions posed in the preliminary scoping memo and comment on the proposed rules in Appendix B to this order.

8. Parties and Service List

The rule development to be considered in this Rulemaking could affect all Commission-regulated water utilities. We will therefore direct that this Rulemaking be served on Respondents, all Commission-regulated water utilities, the Water Branch of the DRA, The Utility Reform Network, the Association of California Water Agencies, the California Water Association, and the California Municipal Utilities Association.

Such service does not confer party status upon any person or entity, and does not result in that person or entity being placed on the service list for this proceeding. If you want to participate in the Rulemaking or simply to monitor it,

follow the procedures set forth below. While all California-regulated water utilities may be bound by the outcome of this proceeding, only those who notify us that they wish to be on the service list will be accorded service until a final decision is issued. To ensure that you receive all documents, send your requests within 30 days after the order instituting rulemaking is published. The Commission's Process Office will publish the official service list at the Commission's website (www.cpuc.ca.gov), and will update the list as necessary.

8.1. During the First 30 Days

Within 30 days of the publication of this Rulemaking, any person may ask to be added to the official service list. Send your request to the Process Office. You may use e-mail (Process_Office@cpuc.ca.gov) or letter (Process Office, California Public Utilities Commission, 505 Van Ness Avenue, San Francisco, CA 94102). Include the following information:

- Docket Number of this Rulemaking;
- Name (and party represented, if applicable);
- Postal Address;
- Telephone Number;
- E-mail Address; and
- Desired Status (Party, State Service, or Information Only).⁶

If the Rulemaking names you as a respondent, you are already a party, but you or your representative must still ask to be added to the official service list.

⁶ If you want to file comments or otherwise actively participate, choose "Party" status. If you do not want to actively participate but want to follow events and filings as they occur, choose "State Service" status if you are an employee of the State of California; otherwise, choose "Information Only" status.

8.2. After the First 30 Days

If you want to become a party after the first 30 days, you may do so by filing and serving timely comments in the Rulemaking (Rule 1.4(a)(2)), or by making an oral motion (Rule 1.4(a)(3)), or by filing a motion (Rule 1.4(a)(4)). If you make an oral motion or file a motion, you must also comply with Rule 1.4(b). These rules are in the Commission's Rules of Practice and Procedure, which you can read at the Commission's website.

If you want to be added to the official service list as a non-party (that is, as State Service or Information Only), follow the instructions in Section 8.1 above.

8.3. Updating Information

Once you are on the official service list, you must ensure that the information you have provided is up-to-date. To change your postal address, telephone number, e-mail address, or the name of your representative, send the change to the Process Office by letter or e-mail, and send a copy to everyone on the official service list.

8.4. Serving and Filing Documents

When you serve a document, use the official service list published at the Commission's website as of the date of service. You must comply with Rules 1.9 and 1.10 when you serve a document to be filed with the Commission's Docket Office. If you use e-mail service, you must serve by e-mail any person (whether Party, State Service, or Information Only) on the official service list who has provided an e-mail address.

The Commission encourages electronic filing and e-mail service in this Rulemaking. You may find information about electronic filing at <http://www.cpuc.ca.gov/PUC/efiling>. E-mail service is governed by Rule 1.10. If you use e-mail service, you must also provide a paper copy to the assigned

Commissioner and ALJ. The electronic copy should be in Microsoft Word or Excel formats to the extent possible. The paper copy should be double-sided. E-mail service of documents must occur no later than 5:00 p.m. on the date that service is scheduled to occur.

If you have questions about the Commission's filing and service procedures, contact the Docket Office.

9. Public Advisor

Any person or entity interested in participating in this Rulemaking who is unfamiliar with the Commission's procedures should contact the Commission's Public Advisor in San Francisco at (415) 703-2074 or (866) 849-8390 or e-mail public.advisor@cpuc.ca.gov; or in Los Angeles at (213) 576-7055 or (866) 849-8391, or e-mail public.advisor.la@cpuc.ca.gov. The TTY number is (866) 836-7825.

10. Intervenor Compensation

Any party that expects to claim intervenor compensation for its participation in this Rulemaking shall file its notice of intent to claim intervenor compensation no later than 30 days after the scoping memo is issued.

11. Ex Parte Communications

Communications with decisionmakers and advisors in this Rulemaking are governed by Article 8 of the Rules of Practice and Procedure. (See Rule 8.4(b), Rule 8.2(c), and Rule 8.3.)

Findings of Fact

1. Even though regulated water utilities were first authorized to institute low-income assistance programs for qualifying customers over a dozen years

ago, it has only been in the last few years that all Class A water utilities have been authorized to institute low-income assistance programs.

2. In 2006, the penetration rate of Class A water utility assistance programs averaged 15.2%, growing to 16.1% in 2007.

3. The average penetration rate of low-income assistance programs for the large regulated energy utilities was 72.4% in 2006, and has grown to 78.8% in 2008.

4. Prior to institution of the information sharing programs, the average penetration rate for regulated energy utility low-income assistance programs was 60.9%.

5. Pub. Util. Code § 386, which applies to municipal electric utilities, in part, requires them to collaborate with other electric and gas providers in the same service territory to streamline enrollment in low-income assistance programs.

6. Commission-regulated electric utilities have entered into MOUs with other regulated energy utilities and municipal energy utilities that address the sharing of qualifying customer information.

7. As a result of this sharing of customer information, awareness and participation in the energy assistance programs have increased substantially.

8. No similar code to Pub. Util. Code § 386 exists for regulated water utilities.

9. One of the main objectives of our Water Action Plan is to develop and improve assistance programs for customers of our regulated water utilities, looking to the existing assistance programs in the energy and telecommunications industries for guidance.

Conclusions of Law

1. The Commission should open an Order Instituting Rulemaking, in order to determine whether sharing of qualifying low-income customer information

between regulated water and regulated energy utilities should be required; whether sharing of qualifying low-income customer information between regulated water and municipal energy utilities should be encouraged; and if so, to establish standardized rules and policies applicable to the governance of such sharing between regulated water utilities and regulated energy utilities; and the sharing between regulated water utilities and municipal energy utilities.

2. All Class A and Class B water utilities and large regulated energy utilities (PG&E, SCE, SDG&E, SoCalGas, Pacific Power and Light, Southwest Gas Company, Sierra Pacific Power Company, and Golden State Water Company's Bear Valley Electric Service Division) should be Respondents to this Rulemaking and respond to the questions posed in the preliminary scoping memo and Appendix B to this order and comment on the proposed rules in Appendix B.

Therefore, **IT IS ORDERED** that:

1. In accordance with Rule 6.1 of the Rules of Practice and Procedure, the Commission institutes this Order Instituting Rulemaking on its own motion to determine whether sharing of qualifying low-income customer information between regulated water and regulated energy utilities should be required; whether sharing of qualifying low-income customer information between regulated water and municipal energy utilities should be encouraged; and if so, to establish standardized rules and policies applicable to the governance of such sharing between regulated water utilities and regulated energy utilities; and the sharing between regulated water utilities and municipal energy utilities.

2. This Rulemaking is preliminarily determined to be a quasi-legislative proceeding as that term is defined in Rule 1.3(d) of the Commission's Rules of Practice and Procedure.

3. This proceeding is preliminarily determined not to need a hearing.

4. The expected timetable for this proceeding is as set forth in the body of this order. The assigned Commissioner by scoping memo and other rulings, and the assigned Administrative Law Judge by ruling with the assigned Commissioner's concurrence, may adjust the timetable as necessary during the course of the proceeding, provided that in no instance shall this proceeding require longer than 18 months to complete after the scoping memo is issued.

5. All Class A and Class B water utilities (listed in Appendix C to this Order), Pacific Gas and Electric Company, Southern California Edison Company, San Diego Gas & Electric Company, Southern California Gas Company, Pacific Power and Light, Southwest Gas Company, Sierra Pacific Power Company, and Golden State Water Company's Bear Valley Electric Service Division are Respondents to this Rulemaking and are parties to this proceeding pursuant to Rule 1.4(d) of the Commission's Rules of Practice and Procedure.

6. Each Respondent identified in Ordering Paragraph 5 and Appendix C to this Order shall and all other parties may respond, as Opening Comments, to the questions and comment on the proposed rules in Appendix B to this Order.

7. The Opening Comments shall be filed no later than February 18, 2010, unless that date is modified by the assigned Commissioner or assigned Administrative Law Judge.

8. Pursuant to Rule 6.2 of the Commission's Rules of Practice and Procedure, parties shall include in their Opening Comments any objections they may have regarding the category, need for hearing, issues to be considered, or schedule.

9. The Executive Director will cause this Order Instituting Rulemaking to be served on Respondents, all Commission-regulated water utilities, the Water Branch of the Division of Ratepayer Advocates, The Utility Reform Network, the Association of California Water Agencies, the California Water Association, and

the California Municipal Utilities Association. All of these entities to receive service are listed in Appendix D to this Order.

10. Interested persons must follow the directions in this Order Instituting Rulemaking to become a party or to be placed on the official service list as a non-party, and to serve and file documents in this proceeding.

11. The Commission's Process Office will publish the official service list for this proceeding on the Commission's website (www.cpuc.ca.gov) as soon as practicable. Parties may also obtain the service list by contacting the Process Office at (415) 703-2021.

12. Any party that expects to claim intervenor compensation for its participation in this Order Instituting Rulemaking shall file its notice of intent to claim intervenor compensation no later than 30 days from the date of the Scoping Memo in this proceeding.

This order is effective today.

Dated December 17, 2009, at San Francisco, California.

MICHAEL R. PEEVEY
President
DIAN M. GRUENEICH
JOHN A. BOHN
RACHELLE B. CHONG
TIMOTHY ALAN SIMON
Commissioners

APPENDIX A

**List of Class A Water Utilities and
Decision (D.) Number Authorizing Low-Income Assistance Program**

California Water Service Company	D.06-11-053
Golden State Water Company	
Regions II and III	D.02-01-034
San Jose Water Company	D.04-08-054
California-American Water Company	
Monterey District	D.00-03-052
Sacramento District	D.06-11-052
Larkfield District	D.06-11-052
San Gabriel Valley Water Company	D.05-05-015
Suburban Water Systems	D.08-02-036
Park Water Company	D.06-10-036
Apple Valley Ranchos Water Company	D.05-12-020
Valencia Water Company	D.06-11-052
Great Oaks Water Company	Resolution W-4594

(END OF APPENDIX A)

APPENDIX B

Questions and Proposed Rules

Questions

1. Should regulated water and regulated energy utilities share customer information to enhance penetration of regulated water low-income assistance programs?
 - a. If so, should this program be based on the same rules as the existing program between regulated energy utilities and other energy utilities and municipal energy utilities?
2. Should regulated water and municipal energy utilities share customer information to enhance penetration of regulated water low-income assistance programs?
 - a. If so, should this program be based on the same rules as the existing program between energy utilities and other energy utilities and municipal energy utilities?
3. Should rules and policies adopted in this proceeding apply to all California-regulated water utilities? Explain.

Proposed Rules

1. All programs and agreements shall comply with State and Federal laws, as well as Commission codes, decisions, orders, and rules.
2. Regulated water utilities shall develop a program and associated agreement(s) with regulated energy utilities in which the utilities share Customer Data of those customers enrolled in low-income assistance programs.
3. Customer Data is defined as the name, address, and other pertinent information to the provision of low-income assistance.
4. Regulated water utilities may develop a program and associated agreement(s) with municipal utilities in which the utilities share Customer Data of those customers enrolled in low-income assistance programs.
5. Confidential customer information consists of customer names, address, and other customer-specific information.
6. Confidential customer information does not include such information that can be found in the public domain.
7. All reasonable measures shall be taken to protect confidential customer information.
8. All utility employees involved in the handling of shared customer information shall be instructed as to the use and handling of confidential customer information.
9. Each utility, whether it be the water or the energy utility, must notify the other utility it has entered into an agreement with, immediately in writing in the event of any disclosure of confidential customer information.

(END OF APPENDIX B)

APPENDIX C

List of Class A and Class B Water Utilities

Class A

California Water Service Company

Golden State Water Company

San Jose Water Company

California-American Water Company

San Gabriel Valley Water Company

Suburban Water Systems

Park Water Company

Apple Valley Ranchos Water Company

Valencia Water Company

Great Oaks Water Company

Class B

Del Oro Water Company

Fruitridge Vista Water Company

Alco Water Service

East Pasadena Water Company

(END OF APPENDIX C)