

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking on the Commission's Own Motion to Revise General Order 103.

FILED
PUBLIC UTILITIES COMMISSION
DECEMBER 20, 2007
SAN FRANCISCO OFFICE
RULEMAKING 07-12-015

ORDER INSTITUTING RULEMAKING TO REVISE GENERAL ORDER 103**1. Summary**

This Order Instituting Rulemaking (OIR) is being issued in order to revise and update General Order (GO) 103, *Rules Governing Water Service Including Minimum Standards for Design and Construction*. GO 103 sets forth the Commission's rules governing water and sewer service and the minimum standards for design and construction of the systems. It applies to all water and sewer system utilities operating under the jurisdiction of the Commission.

GO 103 was first adopted on July 1, 1956 by Decision (D.) 53204 and was last revised in March 1994 in D.94-03-043. The proposed changes to GO 103, appended to this decision as Attachment 1, were drafted by staff members of the Commission's Division of Water and Audits (Water Division) and the California Department of Public Health (DPH). The changes are extensive; a summary is provided in the next section. Our objectives in issuing this OIR are to add minimum standards for operation and maintenance of water and sewer systems, to include the Commission's oversight of water quality compliance, to incorporate current industry design standards, and to remove GO 103 sections that are duplicative of current tariff provisions.

We are issuing the proposed changes for public review and comment. All Class A and B water utilities subject to the Commission's jurisdiction are made respondents in this proceeding.¹ All respondents are directed, and all other water and sewer utilities and interested parties are invited, to comment on the proposed changes by January 18, 2008. We also urge the Commission's Division of Ratepayer Advocates (DRA) to file and serve comments, and to participate fully in this proceeding.

The timetable for this proceeding will depend on the input we receive from the parties. We do not anticipate the need for a hearing. We preliminarily schedule a Water Division workshop to be held on February 25, 2008. The Water Division will send out a Workshop Notice at least 10 days prior to the date the workshop is held. We anticipate issuing a final Commission decision in this proceeding within one year.

2. Proposed Changes to GO 103

2.1. Section I – General

The proposed changes in this section expand the purpose of GO 103 to include minimum standards for the maintenance of water and sewer systems. This section is also revised to make clear that GO 103 rules do not supersede the

¹ A Class A water utility is defined as an investor-owned utility with over 10,000 service connections. A Class B water utility is defined as having from 2,001 to 10,000 service connections.

filed tariff rules of the utilities. Throughout Attachment 1, where portions of GO 103 overlap with current tariff provisions, the GO 103 language is deleted.²

New definitions are provided for the expanded scope of GO 103 and existing definitions are updated. DPH is used in place of all references to the former Department of Health Services (DHS).

2.2. Section II – Standards of Service

This section is updated to reflect all current water quality standards for the utilities and to provide for water quality compliance to be reviewed by the Commission in each utility's general rate case.³ The water quality provisions proposed are consistent with the requirements for water quality review we adopted for Class A water utilities in D.07-05-062, issued May 24, 2007, *mimeo.* at pages 24 through 26 and Appendix A-29 through A-30.

Additional requirements for water supply facilities and service area extensions are added to this section, as well as the requirement that each water system have source flow meters for water supply measurement.

² Entire sections of GO 103 that are deleted are: Discontinuance of Service, Refusal to Serve, Extension of Service, Tests on Customer Request, and Adjustment of Bills for Meter Error.

³ The Commission may inquire into water quality issues under the holding of the California Supreme Court in *Hartwell Corp. v. Superior Court*, 27 Cal.4th 256, 272 (2002) (The Commission has "the authority to adopt a policy on water quality and to take the appropriate actions, if any, to ensure water safety"). *See also* D.99-06-054, Standards and Policies re Drinking Water Quality, 1999 Cal. PUC LEXIS 312 (June 10, 1999) (jurisdiction of the Commission to inquire into the safety of drinking water provided by public utilities).

2.3. Section III – Standards of Design and Construction

New requirements for system design and construction that have been issued by DPH (defined in GO 103 as “the Department”) are included in this section. Also included are specific requirements that must be met by Commission applicants for a Certificate of Public Convenience and Necessity to operate a new water system. These requirements include a detailed showing that the water supplier possesses adequate financial, managerial, and technical capability to assure the delivery of pure, wholesome, and potable drinking water.

2.4. Section IV – Measurement of Service

The changes in this section update technical measurement standards for water meters and remove language allowing a utility to separately charge customers for meter installations.

2.5. Section V – Rates and Billing

Other than deleting a provision that duplicates tariff language, there are no changes to this section.

2.6. Section VI – Fire Protection Standards

In this section, the fire flow table for residential buildings is revised in order to conform to the industry standards set forth in the American Water Works Association manual. In addition, pursuant to the requirements of Public Utilities Code Section 2713, language is added that encourages all water utilities to enter written agreements with entities providing fire protection, and to make all reasonable efforts to see that these agreements are advantageous to the utility and its customers.

2.7. Section VII – Operations and Maintenance

This is a new section and contains the most extensive additions. Under the proposed changes, all water and sewer systems would be required to compile a comprehensive Operations and Maintenance Plan, with all Class A and B water systems updating the plan at least once every five years. In addition, all water and sewer systems would be required to have a formal Emergency/Disaster Response Strategy that includes an Emergency Notification Plan for immediate notice to its customers. Proposed changes include detailed record and reporting requirements and certification requirements for personnel operating and maintaining the systems.

Another area where substantial new requirements are added is service quality. The existing GO 103 contains few service quality standards. New reporting requirements for service quality are based on Vermont Gas System's "Successor Service Quality and Reliability Performance, Monitoring & Reporting Plan," issued on May 5, 2004.⁴ We seek comment on whether a standard is necessary, and the costs and benefits of any of the proposed standards and reporting requirements. Parties should provide information on whether certain proposed requirements may be accomplished through other less burdensome means.

In addition, for water and sewer utilities with the technical capability to comply, the proposed GO 103 includes the call center performance reporting adopted in D.06-11-050 for California-American Water Company. Our draft

⁴ A copy of the plan is available electronically at <http://www.publicservice.vermont.gov/natural-gas/VGS-successor%20nd%20amended.pdf>.

rules specifically propose additional telephone performance standards and customer service related standards. We have not specified specific percentage benchmarks for the measures, however, so that parties may provide comments on benchmarks for the measures. We are interested in ensuring that these are practical and obtainable for the utilities and therefore encourage parties to make detailed and specific suggestions in their comments on the appropriate benchmarks, as well as whether we should consider different performance measurements. We will discuss the specific proposed service quality standards at the workshop in February. Asset management and maintenance requirements are set for all water and sewer utilities and include regular independent third party review.⁵

Finally, the proposed changes in this section require each utility to make available to its customers a charter detailing services offered, standards, customer rights, and information on obtaining emergency assistance and filing complaints.

3. Preliminary Scoping Memo

Rule 7.1(d) of the Commission's "Rules of Practice and Procedure" (Rule 7.1(d)) requires that an order instituting rulemaking preliminarily determine the category and need for hearing, and contain a preliminary scoping

⁵ Class A water utilities are subject to additional asset management planning requirements, as detailed under the Rate Case Plan adopted in D.07-05-062.

memo. This OIR is preliminarily categorized as a quasi-legislative proceeding, as that term is defined in Rule 1.3(d).⁶

The scope of this proceeding is to revise GO 103. The OIR includes proposed changes to GO 103 that have been prepared by the staff of the Water Division, in consultation with the Division of Strategic Planning and staff at DPH. The respondents to this OIR are all Class A and B water utilities subject to the Commission's jurisdiction.⁷ All respondents are directed and all other water and sewer utilities and other interested parties are invited to comment on the proposed changes by January 18, 2008. As stated previously, we urge DRA to file and serve comments and to participate fully in this proceeding to ensure that ratepayers are represented.

At this time, we do not anticipate holding formal hearings. Any party that believes a hearing is required to receive testimony regarding adjudicative facts must make an explicit request in its filed comments. Such request must (1) identify the material disputed facts, (2) explain why a hearing must be held, and (3) describe the general nature of the evidence that would be introduced at a hearing.

The timetable for this proceeding will depend on the input we receive from the parties. Based on our review of written comments filed on January 18, 2007, Water Division will schedule a workshop to further discuss issues. We

⁶ 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.

⁷ In order to receive service of comments, persons other than respondents should request addition to the Official Service List as "Information Only" or "State Service" by no later than December 12, 2007.

anticipate issuing a final Commission decision in this proceeding within one year of issuing this OIR.

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) after review of the comments:⁸

December 20, 2007	Order Instituting Rulemaking
January 18, 2008	Comments on Proposed GO 103 attached at Appendix A
February 25, 2008	Water Division workshop
April 21, 2008	Water Division Workshop Report issued
May 21, 2008	Comments on Workshop Report
July 21, 2008	Proposed Decision mailed for comment
September 2008	Final Commission Decision issued

4. Service of OIR, Filing Requirements, and Service List

The rules developed will affect all Commission regulated water and sewer service utilities. The subject matter and issues are also of interest to DRA, DPH, the California Water Association (CWA), and the National Association of Water Companies (NAWC). We will therefore serve this rulemaking and its

⁸ Any changes to the schedule will be by written ruling. Pursuant to Rule 7.3(b), the assigned Commissioner has the discretion not to issue a scoping memo if no timely request for hearing is filed.

attachment on all Commission-regulated water and sewer service utilities, DRA, DPH, CWA, and NAWC.⁹

Article 1 of the Rules contains all of the Commission's filing requirements. Resolution ALJ-188 sets forth the interim rules for electronic filing, which replaces only the filing requirements, not the service requirements. Parties are encouraged to file electronically whenever possible as it speeds processing of the filings and allows them to be posted on the Commission's website. More information about electronic filing is available at the Commission's website, www.cpuc.ca.gov.

We will follow the electronic service protocols adopted by the Commission in Rule 1.10 for all documents. This rule provides for electronic service of documents, in a searchable format, unless the appearance did not provide an e-mail address. If no e-mail address is provided, service should be made by first-class mail. Parties are expected to provide paper copies of served documents upon request. Paper format copies, in addition to electronic copies, shall be served on the assigned Commissioner and the ALJ.

The official service list for this proceeding is available on the Commission's web page. Parties should confirm that their information on the service list is correct, and serve notice of any errors on the Commission's Process office, the service list, and the ALJ. Prior to serving any document, each party

⁹ The names and addresses of all Commission-regulated water utilities and sewer utilities are maintained by the Water Division. The service for DPH is Rufus Howell, Chief, Division of Drinking Water and Environmental Management, PO Box 997413, MS 7400, 1616 Capitol Avenue, 2nd Floor, Sacramento, CA 95899-7413. The service of CWA is Sharun B. Carlson, Executive Secretary, 12510 Fallcreek Lane, Cerritos, CA 90701. The service of NAWC is 1725 K Street N.W., Suite 1212, Washington D.C. 20006.

must ensure that it is using the most up-to-date service list. The list on the Commission's website meets this definition.

The respondents and persons who file comments in response to this rulemaking will be added to the Official Service List as parties pursuant to Rule 1.4. While we also serve this order on all Class C and D water utilities, all sewer utilities, CWA, and NAWC, these persons will not automatically be placed on the Official Service List for this rulemaking, unless they become parties pursuant to Rule 1.4.

Non-parties who wish to receive electronic service of all documents in this rulemaking may request addition to the Official Service List by completing the Request for Addition or Change to Service List (http://www.cpuc.ca.gov/forms/service_list_addition_change.pdf) and providing it to the Commission's Process Office (process_office@cpuc.ca.gov). In order to receive service of comments, persons other than respondents should request addition to the Official Service List as "Information Only" or "State Service" by no later than January 14, 2008.

IT IS ORDERED that:

1. A rulemaking on the Commission's own motion is instituted to solicit comments and recommendations on revisions to the Commission's General Order (GO) 103.
2. This rulemaking is preliminarily determined to be a quasi-legislative proceeding as that term is defined in the Commission's Rules of Practice and Procedure, Rule 1.3(d).
3. This proceeding is preliminarily determined not to need a formal hearing.
4. The scope of issues and expected timetable for this proceeding are as set forth in the body of this order.

5. Proposed changes to GO 103 are appended to this decision as Attachment 1.

6. All Class A and Class B water utilities are respondents. All respondents are directed, and all other water and sewer utilities and other interested parties are invited, to comment on the proposed changes to GO 103 by January 18, 2008. We urge DRA to file and serve comments and to participate fully in this proceeding, in order to ensure that ratepayers are represented.

7. The service list to this proceeding is appended as Attachment 2 and the rules applicable to filing, service, and the service list are set forth in the body of this order. In order to receive service of comments, persons other than respondents should request addition to the Official Service List as "Information Only" or "State Service" by no later than January 14, 2008. Any person interested in participating in this proceeding who is unfamiliar with the Commission's procedures or who has questions about the electronic filing procedures should contact the Commission's Public Advisor at (866) 849-8390.

8. Pursuant to Rule 6.2, parties shall include with their January 18, 2008, comments any objections to the preliminary scoping memo regarding the category, need for hearing, issues to be considered, or schedule.

9. The Commission's Water Division will hold a workshop to discuss GO 103 changes on February 25, 2008, unless a later date is specified in a ruling of the assigned Administrative Law Judge. Water Division will issue a Workshop Notice at least 10 days prior to the date the workshop is held.

10. The dates and tentative schedule specified herein may be modified by the assigned Commissioner or the assigned ALJ.

This order is effective today.

Dated December 20, 2007, at San Francisco, California.

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