

WATER/RSK/FLC/JB5/TS2/jlj

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

DIVISION OF WATER AND AUDITS
Water and Sewer Advisory Branch

RESOLUTION NO. W-4781
August 20, 2009

R E S O L U T I O N

(RES. W-4781), THIS RESOLUTION APPROVES, WITH MODIFICATIONS, THE DIVISION OF WATER & AUDITS' (DWA) DISPOSITION OF GOLDEN STATE WATER COMPANY'S (GSWC) ADVICE LETTERS (AL) 1326-W, 1327-W, 1328-W, 1329-W, 1330-W, AND 1332-W. THIS RESOLUTION ALSO APPROVES GSWC'S PENDING AL'S 1335-W AND 1336-W.

SUMMARY

This Resolution approves, with modifications, DWA's disposition of GSWC's ALs 1326-W, 1327-W, 1328-W, 1329-W, 1330-W, and 1332-W. This resolution also approves GSWC's pending AL's 1335-W and 1336-W with modifications. All these ALs were filed pursuant to Standard Practice U-40-W¹ and include requests to establish Tariff Schedule 14.1 (Schedule 14.1)² to provide for mandatory rationing if voluntary measures do not yield the necessary reduction in consumption. The governing water agencies³ that provide wholesale water to GSWC, in response to the reduced allocation program of the Metropolitan Water District of Southern California (MWD), issued declarations to GSWC that reduced its allocations to 15% below its 2004-2006 historical usage. GSWC must then flow through this reduced allocation to its customers by

¹ SP 40 outlines the general procedure for utilities to request and implement Tariff Rule 14.1 and Schedule 14.1. Rule 14.1 is implemented in response to a utility's request for voluntary rationing from customers in order to reduce consumption. This may be accomplished by voluntary compliance with water use restrictions.

² Schedule 14.1 is activated in response to a governing agency such as a water wholesaler or Metropolitan Water District declaring a water shortage and imposing mandatory rationing on a utility that may result in the utility's reduction of customer water allocations based on a percentage of the customer's historical usage.

³ The governing water agencies are the 26 cities and water districts that comprise the membership of MWD.

determining its customers' current demands and comparing these amounts to its total available water supply. Based on these calculations, the utility then creates individualized allocations for each of its customers. Under Schedule 14.1, GSWC must track the following in a memorandum account: (1) any additional revenues (in the form of volumetric penalties from its customers for consumption over their allocations) generated from Schedule 14.1; (2) its incremental operating expenses incurred after the date Schedule 14.1 is activated;⁴ (3) any penalties paid to its water wholesalers; and (4) any additional revenues in the form of penalties paid by customers for violating water use restrictions.⁵ For its Simi Valley District, GSWC also filed for a memorandum account to track the revenue shortfall from the reduced sales due to Schedule 14.1; the expenses eligible to be tracked must be outside the scope of any existing conservation-related adjustment mechanism.⁶

The Division of Ratepayer Advocates (DRA) protested ALs 1326-W, 1327-W, 1328-W, 1329-W, 1330-W, and 1332-W. DWA in its disposition of these items denied DRA's protests. DRA is seeking Commission review and resolution pursuant to Rule 7.7.1 of General Order 96-B. DRA requests Commission review of the following questions:

1. Are GSWC's requests to establish Schedules 14.1 filed as Tier 2 ALs subject to DWA disposition?
2. Should GSWC's requests to activate Schedules 14.1 and more restrictive stages by means of Tier 1 ALs be permitted?
3. Are GSWC's requests to establish memorandum accounts that are not pre-authorized by the Commission subject to DWA disposition?
4. Is DWA's approval of memorandum accounts to track "lost revenues" due to rationing the appropriate policy?

⁴ Schedule 14.1 provides for a series of progressively restrictive water allocations (stages) to the utilities' customers corresponding to decreasing levels of available water supply. Schedule 14.1 is first *activated* when mandatory water use allocations, rather than voluntary conservation measures, are necessary. GSWC files for initial activation of Schedule 14.1 as well as more restrictive stages by filing a Tier 1 AL stating a specific need for decreased water allocations to its customers.

⁵ Water use restrictions prohibit non-essential or unauthorized water usage by customers for such things as washing hard-surfaced areas which results in excess run-off and outside watering of vegetation during certain hours. Fines start at \$50 per instance at Stage 1 and 2 of Schedule 14.1 and increase incrementally by another \$50 with the activation of each higher stage.

⁶ Simi Valley in Region I is the only district addressed here that does not currently have a Water Revenue Adjustment Mechanism (WRAM).

5. Is DWA's approval of GSWC's Schedules 14.1 in which customer allocations are based on historical use the appropriate policy?
6. Is DWA's approval of GSWC's Schedules 14.1 where customer penalties are based on billing-period allocations as opposed to annual allocations the appropriate policy?
7. Is DWA's approval of GSWC's Schedules 14.1 where customers in different service areas are subject to the same rationing regime the appropriate policy?

We resolve these matters as discussed below, and order GSWC to revise its tariffs as detailed in this Resolution.

BACKGROUND

GSWC, a California corporation, is a Class A utility and a subsidiary of American States Water Company. As one of California's largest Commission-regulated water utilities, it serves approximately 240,000 customers in districts throughout the state. GSWC serves approximately 13,200 customers in the City of Simi Valley and vicinity within Region I. The Region II service territories include: Artesia, Bell, Bell Gardens, Carson, Cerritos, Compton, Cudahy, Culver City, Downey, El Segundo, Gardena, Hawaiian Gardens, Hawthorne, Huntington Park, Inglewood, Lakewood, La Mirada, Lawndale, Long Beach, Norwalk, Paramount, Santa Fe Springs, South Gate, and the communities of Athens, Lennox, Willowbrook, Moneta, Florence-Graham, Del Aire and other unincorporated areas in Los Angeles County. The Region III service territories include: Claremont, Orange County, San Dimas and San Gabriel. The above mentioned service territories are all provided wholesale water by MWD and its member agencies.

Advice Letter Filings

ALs 1326 & 1327 were filed by GSWC for its Simi Valley Customer Service Area (CSA) (SVCSA) on May 26, 2009 in response to MWD implementing a reduced allocation program affecting its member agencies, including Calleguas Municipal Water District

(CMWD). CMWD supplies approximately 89% of the water for the SVCSA. On April 14, 2009, MWD approved its reduced allocation plan, with an effective date of July 1, 2009. In the plan, MWD will limit supplies and impose penalty rates on member agencies for any water use above the target levels. MWD reduced CMWD's allocations for fiscal year 2009/2010 to 15% below CMWD's historical 2004-2006 average usage. In turn, CMWD has reduced GSWC's allocation based on MWD's reduction. With GSWC's reduced allocation from CMWD, Simi Valley Customers will have to reduce their usage from recent consumption levels in order for GSWC to stay within CMWD's allocation. Additionally, CMWD is implementing the same penalty rate structure that MWD is imposing on its member agencies. If GSWC stays 15% or more below its historical average usage of CMWD water, there will be no penalty charges assessed to

GSWC. GSWC's tariffs contain a similar penalty rate structure for its customers as it is receiving from its wholesalers.⁷

AL 1326 was filed by GSWC to request establishment of Schedule 14.1 while AL 1327 was filed by GSWC to request establishment of two memorandum accounts: (1) the Simi Valley Mandatory Conservation Rationing Implementation Memorandum Account (SIMCRIMA), which would track the following: (i) any additional revenues (in the form of volumetric penalties from its customers for consumption over their allocations) generated from Schedule 14.1; (ii) its incremental operating expenses incurred after the date Schedule 14.1 is activated; (iii) any penalties paid to its water wholesalers; and (iv) any additional revenues in the form of penalties paid by customers for violating water use restrictions.; and (2) the Simi Valley Water Rationing and Conservation Memorandum Account (SIWRCMA) in which the revenue shortfall from reduced sales due to the establishment of Schedule 14.1 would be tracked.

AL 1328 was also filed on May 26, 2009 by GSWC to request establishment of Schedule 14.1 for its Orange County Service Area also in response to MWD's allocation program. The member agency responsible for supplying these GSWC customers is the Municipal Water District of Orange County (MWDOC). MWDOC is imposing the same types of restrictions as CMWD. The only difference is in the lower percentage of supply (39.84%) that MWDOC provides to GSWC's Orange County Service Area. GSWC has requested the same type of implementation program for its Orange County Service Area as it did for its SVCSA.

AL 1329 was filed by GSWC on May 28, 2009 to request establishment of Schedule 14.1 for its Region II Service Area in response to a reduced allocation program from MWD's member agencies including Central Basin Municipal Water District (CBMWD) that supplies, according to GSWC, approximately 24% of the water for Region II and West Basin Municipal Water District (WBMWD) that supplies approximately 70% of the water for Region II.

AL 1330 was filed by GSWC requesting establishment of one memorandum account: the Region II Mandatory Conservation Rationing Implementation Memorandum Account (MEMCRIMA), which would track the same four items as the SIMCRIMA.

⁷ GSWC's customer penalty amounts are similar to what GSWC is subject to from its water wholesaler. However, GSWC has chosen to impose customer penalties on a billing period basis as opposed to the annual penalties it is subject to from its water wholesalers.

AL 1332 was filed by GSWC on June 5, 2009 requesting establishment of Schedule 14.1 for its San Dimas and Claremont Customer Service Areas (SDCCSA) in response to a reduced allocation program from MWD's member agency, Three Valleys Municipal Water District (TVMWD). TVMWD supplies approximately 66% of the total water supply in San Dimas and approximately 35% of the total water supply in Claremont.

AL 1335 was filed on June 10, 2009 by GSWC to request establishment of one memorandum account: the Region III⁸ Mandatory Conservation Rationing Implementation Memorandum Account (R3MCRIMA), which would track the same four items as the SIMCRIMA.

AL 1336 was filed by GSWC on June 11, 2009 requesting establishment of Schedule 14.1 for its San Gabriel Customer Service Area (SGCSA) in response to a reduced allocation program from MWD's member agency, Upper San Gabriel Valley Municipal Water District (USGVMWD), which supplies approximately 7% of the total water supply for SGCSA.

DRA's Protests

On June 15, 2009, DRA filed protests to ALs 1326-W, 1327-W, and 1328-W. With regard to AL 1326 & 1328, DRA raised the following issues in its protest: (1) filing Schedule 14.1 as a Tier 2 advice letter is inconsistent with Commission Decision (D.) 90-08-055, which states that rationing plans must be authorized by Commission resolution; (2) the proposed Schedule 14.1 allows GSWC unduly broad discretion over the implementation of rationing; (3) the rationing allocation design penalizes customers who have conserved water in the past; and (4) GSWC is imposing a greater burden on its customers than it is facing from its wholesaler.

With regards to AL 1327, DRA raised a number of issues in its protest: (1) The Commission should reject GSWC's request for the SIWRCMA to track lost revenues associated with the establishment of Schedule 14.1, but should rather track the lost revenues as a result of implementing Schedule 14.1 in the Water Revenue Adjustment Mechanism (WRAM) which should be effective when GSWC activates mandatory rationing rather than waiting for the currently authorized WRAM effective date which is expected to occur in the Fall of 2009; (2) Memorandum accounts are not the appropriate mechanism for tracking lost revenues due to conservation; (3) GSWC should terminate the Mandatory

⁸ The Region III service territories include: Claremont, Orange County, San Dimas and San Gabriel.

Conservation Rationing Implementation Memorandum Accounts when GSWC no longer has costs associated with implementing Schedule 14.1; and (4) The Commission should direct GSWC to revise its ALs to allow customers to “bank” the difference between their allocated and actual usages from billing period to billing period, if a Schedule 14.1 is approved for each Customer Service Area.

GSWC's Response

On June 22, 2009, GSWC responded to each point of DRA's protest. With respect to the Tier Designation for AL 1326 & 1328, GSWC argues that SP 40 allows for utilities to file a Schedule 14.1 through a Tier 2 AL under Section F - Mandatory Rationing. GSWC argues that DRA's request to have these filings require a resolution delays the process for meeting the water supply restrictions imposed on GSWC by MWD's member agencies.

GSWC contends it is the most capable entity for managing the implementation of rationing as it can monitor wholesale supplies, local groundwater supplies and changes in usage patterns to determine which stage is most appropriate to address current supply deficiencies. GSWC argues that California Water Code 350 specifically allows a privately-owned public water supplier to determine when “ordinary demands and requirements of water consumers cannot be satisfied without depleting the water supply of the distributor to the extent that there would be insufficient water for human consumption, sanitation, and fire protection.”

On June 24, 2009, DWA filed a disposition approving ALs 1326, 1327, and 1328 as consistent with SP 40 with the stipulation that a termination date be cited by GSWC for the Mandatory Conservation Rationing Implementation Memo Accounts. DRA then filed a Request for Review of the disposition on July 6, 2009. Similarly, DRA protested ALs 1329 & 1330 on June 18, 2009 with GSWC filing a reply on June 25, 2009. DWA filed the disposition approving these two ALs on June 29, 2009 with the same stipulation that a termination date be instituted for the MEMCRIMA. DWA's disposition was followed by DRA's request for review on July 9, 2009. AL 1332-W was dealt with similarly with a DRA protest received June 25th, a GSWC reply received July 2nd, a DWA disposition approving AL 1332-W filed on July 6th, and a DRA request for review on July 16th. ALs 1335 and 1336 raise similar issues. Both have been protested by DRA. Given the overlapping procedural and policy questions, DWA suspended ALs 1335 and 1336 on July 10th. Given the similarity of issues and for administrative efficiency, disposition of all these advice letters are addressed in this Resolution.

NOTICE AND PROTESTS

GSWC gave public notice of the Water Conservation and Rationing Program for the Simi Valley (in the Region I Service Area); for the Region II Service Area; and for Orange County, San Dimas-C Claremont, and San Gabriel in the Region III Service Area. All of the affected customers in GSWC's Service Areas received notices in the mail about the Schedule 14.1 filings with the CPUC and the time and location for public meetings in their district. Additionally, legal advertisements were placed in local newspapers in advance of the meetings. The public meetings informed customers of the background about GSWC, the water shortage, and the impact of the proposed plan on customers. An outline was provided of GSWC's Rule and Schedule 14.1 filing, including information about how customers can contact the Commission with comments and the proposed process for filing for an exception to a customer's historical allotments. GSWC also gave indoor and outdoor water efficiency tips and resources for more water conservation information. The utility also maintained a booth to distribute free water conservation kits, shower timers, automatic shut-off nozzles, and brochures. A question and answer session followed GSWC's presentation in order for customers to voice their concerns. The meeting minutes were then provided to DWA staff with customer comments and questions being noted.

In addition to DRA's protests, more than sixty letters in opposition were received from customers in regards to the above-mentioned advice letters. Many stated that the rationing program was unreasonable and unjust, since GSWC was issuing penalties on a bi-monthly billing period compared to the penalties assessed by MWD and its member agencies on an annual basis. Several letters raised concerns that the conservation program would negatively affect their rates that are being reviewed concurrently in GSWC's existing general rate case proceeding, A.08-07-011. These letters also reference the tough economic times and the hardships of higher rates. A few also claimed that they did not understand why they should be "punished" with a surcharge when they have been conserving water in response to the drought. Others disagreed with GSWC's authorized rate of return being "guaranteed" through these rate recovery mechanisms.

DISCUSSION

We address DRA's request for review on the outstanding procedural and substantive issues that were disputed in DWA's dispositions.

Procedural Questions:

- Are GSWC's requests to establish Schedules 14.1 filed as Tier 2 ALs subject to DWA disposition?

SP 40 outlines the process for a utility to establish Schedule 14.1 by Tier 2 and activate Schedule 14.1 by Tier 1 advice letters. During the 4th Quarter of 2008, DWA began to encourage participation from the Class A utilities and DRA in revising SP 40. A workshop was held on December 1, 2008 to address the utilities' water supply concerns and discuss the implementation of various conservation programs. An initial draft of the revised SP 40 was issued on February 2, 2009 to all parties for comments and input on the process for Schedule 14.1 filings. These comments were then incorporated into a second draft of the revised SP 40 before being circulated one more time. After making revisions, DWA issued SP 40 on March 30, 2009.

We need not reach the procedural question raised by DRA as this Resolution authorizes GSWC's tariffs with specified revisions. Moreover, it would be best to provide an expeditious process for staff to approve these advice letters which, because they deal with imminent drought situations, are time sensitive. Therefore we direct DWA to work with Legal Division to draft a revised SP 40 for our approval. The revised SP 40 should (1) contain revisions to be consistent with the requirements this Resolution imposes on GSWC, and (2) provide sufficient standards as to which advice letters can be approved such that most advice letters authorized by SP 40 can be approved by staff ministerial action consistent with General Order 96-B, Rule 7.6.1. DWA may consult with others as it believes desirable in the process of drafting these revisions, but in any event shall publish for public comment a draft resolution approving the revised SP 40.

- Should GSWC's requests to activate Schedules 14.1 and more restrictive stages by means of Tier 1 ALs be permitted?

If the water wholesaler, other governing agency, or the utility were to declare an immediate change in water allotments, the utility would need to act promptly.

Requesting a change in a rationing stage⁹ should require only a Tier 1 AL as the utility would be flowing through the changes mandated from the governing agency or a reduced availability of water from the utility's own supplies. Since the rationing stages required to activate Schedule 14.1 are reviewed through the Tier 2 AL process establishing Schedule 14.1, DWA, DRA, and other interested parties have the ability to review and address the Schedule 14.1 requirements. Once these requirements have been addressed, the utility should be able to request activation of individual rationing stages through a Tier 1 advice letter. DWA still retains the option of rejecting a Tier 1

⁹ Each successive rationing stage is activated once the overall water supply to the utility is reduced by 5%, consequently leading to a reduction of 5% in customer allocation and a higher fine for a water use violation.

AL should deficiencies in a utility's activation of Schedule 14.1 occur. We approve the Tier 1 advice letter process for activating rationing stages in a Schedule 14.1. These are time-sensitive decisions whose review and approval can be done by staff on a ministerial basis.

We note that the initial activation in certain customer service areas has occurred with GSWC's Tier 1 AL filings requesting an August 1, 2009 activation of Stage 3 of Schedule 14.1 for Simi Valley in AL 1338; Stage 2 of Schedule 14.1 for Orange County in AL 1339; and Stage 1 of Schedule 14.1 for Region II in AL 1340. DRA protested these three AL's. DWA has approved ALs 1338 and 1340. With our action today on AL 1335 (the Mandatory Conservation Rationing Memo Account for Orange County), any impediment the pendency of AL 1339 posed to staff disposition of that AL has now been removed.

- Are GSWC's requests to establish memorandum accounts that are not pre-authorized by the Commission subject to DWA disposition?

DRA objects to DWA's disposition of memorandum accounts that are not pre-authorized by the Commission. DRA believes filings for new memorandum accounts, such as the Mandatory Conservation Rationing Implementation Memorandum Account require Commission authorization. GSWC utilized the five-prong test of reasonableness in requesting this memo account by stating the following: (1) GSWC has no control over MWD's reaction to either the California drought condition or its proposed plan for rationing; (2) GSWC's last general rate cases for these districts were filed prior to MWD's plans for rationing; (3) MWD's allocation plan has an effective date of July 1, 2009 while GSWC's next general cases are schedule to be filed in 2010 and 2011; (4) GSWC believes that the amount of money involved is of a substantial nature; and (5) GSWC believes this memorandum account has ratepayer benefits because its

customers will benefit from conserving water supplies for the future or until natural replenishment can occur.

We do not need to reach the procedural question raised by DRA to approve GSWC's requests to establish conservation-related memorandum accounts. We will review the establishment of these memorandum accounts using the five-prong test¹⁰ we have used

¹⁰ See for example Resolution W-4534 (2005).

in past decisions dealings with establishment of memorandum accounts.¹¹ Here, we will address each of these criteria in relation to GSWC's AL filings:

1. The expense is caused by an event of an exceptional nature that is not under the utility's control. The drought in California is in its third year and has affected GSWC's water wholesalers by limiting the total amount of water available to be purchased. We agree with GSWC that the reduced allotments of water from its wholesalers are not under GSWC's control.
2. The expense cannot have been reasonably foreseen in the utility's last General Rate Case (GRC). GSWC's last GRC in 2007 for these districts forecasted available water supplies with no indication of rationing, since their water wholesalers did not provide them with any evidence that this would occur in the near future. MWD's water rationing program and penalty provisions was not known until April 2009, well after GSWC's latest rate case.
3. The expense will occur before the utility's next scheduled rate case. GSWC's next general cases are schedule to be filed in 2010 and 2011, which would occur well past the effectiveness of rationing and limiting customers' water usage. Customers' rationing response and the resulting penalties, if any, as well as GSWC's operating and administrative costs of implementing Schedule 14.1 will occur before GSWC's next scheduled rate case.
4. The expense is of a substantial nature in the amount of money involved. The costs recorded in each memo account may well reach 2% of projected operating costs considering that each memo account includes the following: (1) GSWC's incremental operating expenses incurred after the date Schedule 14.1 is activated and (2) any penalties paid by GSWC to water wholesalers. We have looked to the 2% of projected operating costs as a threshold representing a substantial expense.¹² Given this, we believe the substantial financial prong is satisfied.
5. The ratepayers will benefit by the memorandum account treatment adopted. Ratepayers benefit in that those who have conserved water during the current drought and continue to do so will not be penalized through this memo account. Customers who were conserving during the 2004-2006 historic period can seek to have their base allocation adjusted through GSWC's appeal process. Customers using water over their allotments will be paying penalties into this memo account that will offset penalties GSWC may receive from its wholesaler, as well as potentially offsetting some or all

¹¹ See for example Resolution W-4276 (2001) and D.08-03-020 (2008).

¹² See D.02-07-011 at p. 7.

incremental operating expenses resulting from the implementation of Schedule 14.1 if penalty amounts collected from customers exceed penalty amounts that GSWC would be subject to from its wholesaler.¹³ Finally, all customers will benefit from water conservation efforts that work to ensure future supply availability.

Given our determination that GSWC has met all five prongs for establishing a memorandum account, we reaffirm DWA's authorization for GSWC to establish conservation memorandum accounts to track the following: (1) any additional revenues (in the form of volumetric penalties from its customers for consumption over their allocations) generated from Schedule 14.1; (2) its incremental operating expenses incurred after the date Schedule 14.1 is activated; (3) any penalties paid to its water wholesalers; and (4) any additional revenues in the form of penalties paid by customers for violating water use restrictions. GSWC shall stop booking costs to the memo accounts once the drought is over and all costs have been incurred and recorded. Requested amortization of memo account balances shall be considered in GSWC's next GRC or other formal proceeding. GSWC should revise its tariffs to expressly reflect the above provisions.

Substantive Concerns:

- Is DWA's approval of memorandum accounts to track "lost revenues" due to rationing the appropriate policy?

With regards to DRA's objection to memorandum accounts to track "lost revenues" due to rationing, we have already addressed this in Resolution W-4751 (April 16, 2009) authorizing the Simi Valley Water Rationing and Conservation Memorandum Account (SIWRCMA). Resolution W-4751 authorized GSWC to recover in rates the extraordinary expenses and revenue shortfall associated with conservation measures in conjunction with the declared drought in California. The following procedures for amortizing the SIWRCMA were approved in Res. W-4751: before seeking recovery of the memorandum account balance, GSWC subtracts from the balance an amount equal to a 20-basis point reduction in the utility's most recently adopted return on equity; then if necessary, the utility further reduces the amount to be recovered to a level sufficient to ensure that such recovery does not cause the utility to exceed its authorized rate of return for the period covered by the memorandum account.¹⁴ DWA's approval of memorandum accounts to track lost revenues associated with the implementation of

¹³ This could occur if overall customer conservation efforts offset in whole or in part usage over historical allotments by some customers.

¹⁴ This methodology was originally adopted in D.90-08-055 and D.91-10-042 in I.89-03-005 and applied again in Resolution W-4751.

Schedule 14.1 is consistent with that determination, since GSWC is applying the same methodology used in Res.W-4751. Tracking the lost revenues associated with implementation of Schedule 14.1 is a short-term mechanism until a water revenue adjustment mechanism is instituted. When a water revenue adjustment mechanism is implemented, entries to the conservation-related memorandum account approved in this resolution will cease. GSWC should revise its tariffs to make this termination provision explicit. Further, tracking these dollars for potential recovery is consistent with the direction in which we have been moving: to decouple sales and revenue to remove the disincentive for utilities to implement conservation programs.¹⁵ In previous drought conditions, water utilities were allowed to track lost revenues resulting from their compliance efforts through water conservation programs.¹⁶

We affirm DWA's determination that GSWC can track the Simi Valley CSA's lost revenues resulting from implementation of Schedule 14.1 in a memorandum account using the accounting methodology prescribed in Resolution W-4751. Requested amortization of this memo account balance shall be considered in GSWC's next GRC or other formal proceeding.

- Is DWA's approval of Schedules 14.1 in which customer allocations are based on historical use the appropriate policy?

DRA contends that basing customer allocation on historical average usage can be unfair to customers who have conserved in the past. GSWC agrees that there may be other, more precise methods such as (i) individual water budgets and/or (ii) banking differences between allocated and actual water usages between billing periods. Currently, GSWC does not have the necessary data to develop a customized allocation for each customer, nor does it have the capability to use this data if it were available. GSWC is in the process of implementing a new Customer Information System (CIS), which is scheduled to be active in 2011. GSWC, however, is being asked to reduce usage starting July 1, 2009. GSWC has based its current staged reduction program to mirror the allocation method adopted by MWD, which excludes consumption during 2007, 2008, and 2009, in which some customers were already conserving from the base year 2004-2006 usage.¹⁷ In addition, GSWC has an appeal process in place to adjust a

¹⁵ This has been most recently articulated in D.09-07-021 in our approval of the Settlement Agreement between the Division of Ratepayer Advocates and California-American Water Company on Conservation Rate Design Issues.

¹⁶ See D.90-08-055 (1990).

¹⁷ MWD's Water Supply Allocation Plan (WSAP) determines the allocations for each of its member agencies based on their historical 2004-2006 average usage and accounting for

customer's base allocation for customers who believe they are unable to meet their historic allocation based on years 2004-2006 for justifiable reasons.

Since GSWC's rationing allocation methodology for its customers closely follows the implementation program adopted by its water wholesaler and MWD's WSAP, which uses a historical base period, we affirm GSWC's use of customer's historical usage as the appropriate methodology to use at this time.

- Is DWA's approval of Schedules 14.1 where customers in different service areas are subject to the same rationing regime the appropriate policy?

DRA points out that "customer allocation should reflect the weighted average reduction in water supply reflected on the total water supplied by wholesalers and the utility's own pumped water." GSWC states that it will comply with this request by including these calculations when requesting implementation of a specific stage and by adding a note in the text of Schedule 14.1 stating, "Activation of the specific stage and amount of reduction will be determined by the total available water supplies, conservation programs, customer usage demand, and customer adjustments and appeals." GSWC has provided a sample of this imputed allocation with the reply to DRA's protest and in response to the data request made by DWA.

We agree with DRA that GSWC should amend its Schedule 14.1 to clarify that in activating a specific rationing stage, the amount of reduction will be determined by the total available water supplies (both purchases and GSWC's own pumped water), compared with customer usage demand adjusted for (i) conservation programs and (ii) adjustments to individual customer allotments due to appeals. GSWC should include all necessary documentation in its Tier 1 filings to activate Schedules 14.1 to allow a determination whether the proposed reductions are consistent with the above direction.

In AL 1335, GSWC requests establishment of one memorandum account: the Region III Mandatory Conservation Rationing Implementation Memorandum Account (R3MCRIMA), which would track all expenses to implement Schedule 14.1 as well as penalty charges imposed on GSWC by MWD, and additional penalty revenues from its customers generated from implementing Schedule 14.1. All these amounts should be tracked on a district by district basis. As the AL is currently filed, this memo account will spread costs across all of Region III's CSAs, and not only the CSAs that have activated a Schedule 14.1. Under the current filing, a customer in a CSA that does not

customer growth and local supply before reducing the allocation by the necessary 15% reduction in response to the drought conditions.

have an activated Schedule 14.1 may be forced to pay a surcharge to recover costs that GSWC has incurred due to implementation of Schedule 14.1. In order to alleviate this inequity, GSWC should file an AL revising the language to create sub-accounts to track the costs and expenses for each CSA from and after the date that Schedule 14.1 is activated for that CSA.

- Is DWA's approval of Schedules 14.1 where customer penalties are based on billing-period allocations as opposed to annual allocations the appropriate policy?

DRA's initial protests involved proposals for water "banking," which required the utility to track each customer's bimonthly consumption but only assessing the penalty for usage over allocation on an annual basis. The draft resolution adopted this approach. In DRA's comments on the draft resolution, it stated that there could be unintended negative consequences for customers of an annual penalty structure. For example, changing GSWC's CIS to implement a "banking" system, rather than assessing penalties on a billing-period basis, would be costly. DRA also stated that there could be a potential "rate shock" for a customer that accumulates penalties through each billing period and must pay a large penalty at the end of the 12-month period. DRA now requests adoption of GSWC's assessment of penalties on a billing period basis rather than on an annual basis.

GSWC in its comments on the draft resolution stated that additional programming costs would be required to implement the customer banking proposal outlined in the draft resolution. GSWC also stated that its bi-monthly assessment of penalties would provide a price signal to modify water use behavior, thereby encouraging more efficient water usage during the shortage. "Banking" would not send such a strong, immediate, monetary message to the customer. GSWC also noted that MWD is requiring all retail agencies to report total demand and total local supply usage on a month-by-month basis.

We agree with the position now taken by both GSWC and DRA that bi-monthly penalties should be adopted. Given the limitations of GSWC's billing system and the strong price signals that bi-monthly penalties provide, they should be implemented here. GSWC shall file advice letters revising its tariff sheets to explicitly provide for penalty amounts to customers that are based on usages above their allotments calculated on a bi-monthly billing period basis. These penalty amounts paid by the customers to GSWC shall be tracked in the Mandatory Conservation Rationing Implementation Memorandum Accounts along with the other amounts GSWC is being directed to record.

COMMENTS

Public Utilities Code Section 311(g) (1) provides that resolutions must generally be served on all parties and subject to at least 30 days public review and comment prior to a vote of the Commission. Accordingly, on July 21, 2009, the draft resolution was mailed to parties based on the service lists attached to the ALs with comments due on August 10, 2009. The customers who wrote letters in opposition were mailed the draft resolution on August 5th and given until August 17th to submit comments. The time for comment for the customers on the draft resolution was shortened pursuant to Rule 14.6(c)(9) of the Rules of Practice and Procedure. This comment period was reduced in light of the need for immediate action due to current drought conditions, but the period for customers to comment was extended beyond August 10, 2009 (the due date for comments filed by others) in order to mitigate the effect of reducing the comment period on these customers. Comments were received from DRA and GSWC on August 10, 2009; replies were received from DRA and GSWC on August 17, 2009. Comments from four customers were also received; the disposition of the issues they raised is discussed above.

In its comments, DRA requested the following: (1) that SP 40 be removed from this resolution and not be adopted at this time; (2) supplements to GSWC's ALs "to document where and how water sources are shared among CSAs wherever one Schedule 14.1 is applied to multiple CSAs"; (3) a supplement to AL 1335 to establish separate memorandum accounts for each CSA in Region III; (4) submission of a proposal to the Commission for designing annual customer allocations, including cost estimates for implementing the proposal; and (5) opening of a new OII to address rationing plans, memorandum accounts, and associated issues related to drought conditions. This resolution: (1) defers further consideration of SP 40; (2) requires GSWC's activation ALs to include calculations correctly showing the available water supply and that it triggers the stage requested; (3) requires sub-accounts for GSWC's Region III Memorandum Account; and (4) & (5) defers consideration of future allocation and rationing plans. The Commission needs to determine whether, in light of its work load, it is appropriate to proceed with DRA's requests (4) & (5).

GSWC's comments reinforced the following points: (1) Establishing Schedule 14.1 should be done through a Tier 2 AL filing while activating a rationing stage for Schedule 14.1 should be done through a Tier 1 AL filing consistent with SP 40; (2) GSWC believes requests to establish Schedules 14.1 should not be "event specific" but rather the utility should be required to provide justification of the stage and level of conservation requested at the time it files to activate a specific stage based on the total available water supplies at the time; and (3) Penalties for usage over a customer's allocation should remain on a bi-monthly billing period basis. In response to GSWC's

points (1) & (2), this resolution retains the use of Tier 2 and Tier 1 ALs as previously proposed, and defers consideration of whether staff can approve the Tier 2 ALs until the Commission has an opportunity to review the revised SP 40. In response to GSWC's point (3), this resolution approves bi-monthly penalties.

GSWC submitted the following reply comments: (1) The Commission should approve the Standard Practice U-40-W attached to Draft Resolution 4781 and then consider any recommendations that may come out of an OIR, if one is deemed necessary, at a future date; (2) GSWC documented the water mixes from total available supplies in Region II and the Region III CSA's; (3) Requiring separate accounting for the different Region III CSAs in the R3MCRIMA would go against prior Commission decisions including, D.00-06-075, which generally provide for region-wide amortization of memo accounts; and (4) GSWC does not currently have an estimate on what it would cost to reprogram its current CIS system to allow for an annual allocation but will complete installation by January 2011 of its new CIS authorized by Resolution W-4733 (January 29, 2009). This resolution: (1) defers further consideration of SP 40 to allow staff to propose any changes necessary to facilitate staff approval of these ALs; (2) orders GSWC to document these water mixes when activating Schedules 14.1; (3) explains the inequity in spreading the costs of this memo account to those not affected by Schedules 14.1; and (4) recognizes that the CIS is currently being remodeled.

DRA's reply comments called for the following: (1) GSWC should elaborate on the triggers for stages in Section C of each Schedule 14.1 and indicate a reduction in total supply in this section or indicate that rationing requests will be made via Tier 2 AL, rather than by Tier 1 AL; (2) GSWC should document the shared water between Placentia and Los Alamitos and between San Dimas and Claremont; (3) GSWC should document reduced allocations from wholesalers, reduced availability in wells, or any other causes of rationing in its requests to implement rationing along with calculations on how these reduction affect overall supply. This resolution orders GSWC to document the water mix for each CSA when activating Schedules 14.1, requires GSWC to report on the total available water supplies in its activation filings, and continues use of Tier 1 for the activation filings.

FINDINGS AND CONCLUSIONS

1. Golden State Water Company filed Advice Letters No. 1326-W & 1327-W for its Simi Valley Customer Service Area and AL 1328-W for its Orange County Service Area on May 26, 2009; Advice Letters 1329-W & 1330-W for its Region II Service Area on May 28, 2009; Advice Letter 1332-W for its San Dimas and Claremont Customer Service Areas on June 5, 2009; Advice Letter 1335-W for Region III on June 10, 2009; and Advice Letter 1336-W for its San Gabriel Customer Service Areas on June 11, 2009.

2. The Division of Ratepayer Advocates filed protests to Advice Letters 1326-W, 1327-W and 1328-W on June 15, 2009; protests to Advice Letters 1329-W & 1330-W on June 18th; a protest to Advice Letter 1332-W on June 25th; and protests to Advice Letters 1335-W & 1336-W on June 30th and July 1st, respectively. Among the concerns raised in its protests, the Division of Ratepayer Advocates questioned the validity of the procedure for approving Schedule 14.1 filings and their associated memorandum accounts.
3. Golden State Water Company filed replies to each of the protests: for Advice Letters 1326-W, 1327-W, and 1328-W on June 22nd; Advice Letters 1329-W & 1330-W on June 25th; Advice Letters 1332-W on July 2nd; and Advice Letters 1335-W & 1336-W on July 7th and 8th.
4. On June 24, 2009, the Division of Water and Audits filed a disposition approving Advice Letters 1326-W, 1327-W, and 1328-W with modifications. The Division of Water and Audits filed the disposition approving Advice Letters 1329-W & 1330-W with modifications on June 29, 2009 and a disposition approving Advice Letter 1332-W with modifications on July 6th, 2009.
5. Pursuant to Section 7.7.1 of General Order 96-B, the Division of Ratepayer Advocates requested Commission review on July 6, 2009 of the Division of Water and Audits disposition of Advice Letters 1326-W, 1327-W, and 1328-W. The Division of Ratepayer Advocates requested Commission review on July 9, 2009 of the Division of Water and Audits disposition of Advice Letters 1329-W and 1330-W. The Division of Ratepayer Advocates requested Commission review on July 16, 2009 of the Division of Water and Audits disposition of Advice Letters 1332-W.
6. In light of this resolution's action on Advice Letters 1326-W, 1327-W, 1328-W, 1329-W, 1330-W, and 1332-W and the direction to staff to revise Standard Practice U-40-W and present it to the Commission for review, there is no need to decide here whether the Division of Water and Audits acted properly in approving Golden State Water Company's Schedules 14.1 and the memorandum accounts Golden State Water Company requested.
7. The Division of Water and Audits suspended Golden State Water Company's Advice Letters 1335-W & 1336-W on July 10, 2009.
8. Given the similarity of issues and for administrative efficiency, Advice Letters 1335-W and 1336-W are reviewed in this Resolution.

9. Requesting activation or a change in a rationing stage follows from changes mandated from the governing agency or a reduced availability of water from the utility's own supplies.
10. Activation of rationing stages in a Schedule 14.1 are time-sensitive decisions whose review and approval can be done by staff on a ministerial basis.
11. Golden State Water Company's rationing allocation methodology for its customers, based on a 15% reduction below historic 2004-2006 water usage, follows the allocation methodology implemented by its water wholesalers
12. Penalties by Golden State Water Company's water wholesalers are calculated on an twelve-month basis.
13. Golden State Water Company's penalty implementation for its customers is based on a billing period allocation.
14. An annual penalty allocation will impose costs to program Golden State Water Company's billing system.
15. An annual penalty allocation may result in rate shock.
16. Establishment of the Mandatory Conservation Rationing Implementation Memorandum Accounts requested by Golden State Water Company was reviewed using the five-prong test previously used by the Commission.
17. Establishment of the Mandatory Conservation Rationing Implementation Memorandum Accounts satisfies all five prongs of the test.
18. Tracking lost revenues in the Simi Valley Water Rationing and Conservation Memorandum Account is a short-term mechanism until a water revenue adjustment mechanism is instituted
19. Tracking lost revenues in the Simi Valley Water Rationing and Conservation Memorandum Account is consistent with Commission direction to decouple sales and revenue to remove the disincentive for utilities to implement conservation programs.
20. Before seeking recovery of the Simi Valley Water Rationing and Conservation Memorandum Account balance, Golden State Water Company should subtract from the balance an amount equal to a 20-basis point reduction in the utility's most recently adopted return on equity; then, if necessary, it should reduce the amount to

be recovered to a level sufficient to ensure that such recovery does not cause the company to exceed its authorized rate of return for the period covered by this memorandum account.

21. Golden State Water Company's various Customer Service Areas rely on differing percentages of water supplied from Metropolitan Water District of Southern California's member agencies.
22. Golden State Water Company's establishment of Tariff Schedules 14.1 is in response to reduced water allocation allotments imposed by the Metropolitan Water District of Southern California on its member agencies. The member agencies pass the reduced water allocation allotments on to Golden State Water Company.
23. Golden State Water Company's activation of Tariff Schedules 14.1 is in response to reduced water allocation allotments from member agencies of the Metropolitan Water District of Southern California.
24. Golden State Water Company should file new Tier 1 advice letters to revise Advice Letter Nos. 1326-W, 1328-W, 1329-W, 1332-W, and 1336-W to reflect the effect of reduced allocations from Metropolitan Water District's member agencies on the supply for each Customer Service Area based on the total available water supplies (both purchases and Golden State Water Company's own pumped water), compared with customer usage demand adjusted for (i) conservation programs and (ii) adjustments to individual customer allotments due to appeals. Golden State Water Company should also include all necessary documentation in its Tier 1 filings to activate Schedules 14.1 to allow a determination whether the proposed reductions are consistent with the above requirement.
25. Golden State Water Company should add a note in Section C - Stages of Mandatory Conservation and Rationing of its Schedules 14.1 stating, "Activation of the specific stage and amount of reduction will be determined by the total available water supplies (both purchases and Golden State Water Company's own pumped water), compared with customer usage demand adjusted for (i) conservation programs and (ii) adjustments to individual customer allotments due to appeals.
26. Golden State Water Company should include language in Section 4. "Disposition" of the Preliminary Statements of its Mandatory Conservation Rationing Implementation Memorandum Accounts stating that Golden State Water Company shall stop booking costs to the memo accounts once the drought is over and all costs have been incurred and recorded. Requested amortization of this memo account balances shall be considered in Golden State Water Company's next GRC or other formal proceeding.

27. Golden State Water Company should file Tier 1 advice letters to revise its Tariff Schedules 14.1 to include language in the Special Conditions Section stating that penalty amounts to customers are based on usages above their allotments calculated on a bi-monthly billing-period. Golden State Water Company should state in its tariffs that the penalties described above are applied to usage starting from August 1, 2009, or a later date specified in the tariff. The date should be no earlier than the date of the Tier 1 activation advice letter filing for that customer service area.
28. Golden State Water Company proposes in Advice Letter 1335-W that a customer in a Customer Service Area that does not have an activated Schedule 14.1 may be forced to pay a surcharge that Golden State Water Company has incurred due to implementation of Schedule 14.1.
29. To relieve the inequity in Advice Letter 1335-W, Golden State Water Company should file a Tier 1 advice letter revising the language in the Region III Mandatory Conservation Rationing Implementation Memorandum Account to establish subaccounts to separately track the costs and penalties associated with each Customer Service Area that has established a Schedule 14.1.
30. The Division of Water & Audits should revise STANDARD PRACTICE U-40-W to conform with the modifications outlined in this resolution and should prepare a draft resolution for the Commission's consideration which would adopt that Standard Practice as the process to be used to establish and activate Tariff Rule and Schedule 14.1.

THEREFORE IT IS ORDERED THAT:

1. Golden State Water Company is directed to maintain the Simi Valley Water Rationing and Conservation Memorandum Account using the following procedure: before seeking recovery of the memorandum account balance, GSWC shall subtract from the balance an amount equal to a 20-basis point reduction in the utility's most recently adopted return on equity; then if necessary, the utility shall further reduce the amount to be recovered to a level sufficient to ensure that such recovery does not cause the utility to exceed its authorized rate of return for the period covered by the memorandum account. When a water revenue adjustment mechanism is implemented for the Simi Valley Customer Service Area, entries to this account shall cease.
2. Golden State Water Company may seek recovery of amounts recorded in its Mandatory Conservation Rationing Implementation Memorandum Accounts and the Simi Valley Water Rationing and Conservation Memorandum Account in its next general rate case filing or other formal proceeding.

3.
 - a. Golden State Water Company shall file Tier 1 advice letters to revise its Tariff Schedules 14.1 to include language in the Special Conditions Section stating that the penalty amounts to customers are based on usages above their allotments calculated on a bi-monthly billing-period basis.
 - b. Golden State Water Company shall file Tier 1 advice letters to state in its tariffs that the penalties described in part a. of this Ordering Paragraph are applied to usage starting from August 1, 2009, or a later date specified in the tariff. The date shall be no earlier than the date of the Tier 1 activation advice letter filing for that customer service area.

4.
 - a. Golden State Water Company shall file Tier 1 advice letters to add a note in Section C - Stages of Mandatory Conservation and Rationing of its Schedules 14.1 stating, "Activation of a specific rationing stage will be determined for each Customer Service Area based on the total available water supplies (both purchases and Golden State Water Company's own pumped water), compared with customer usage demand adjusted for (i) conservation programs and (ii) adjustments to individual customer allotments due to appeals."
 - b. Golden State Water Company shall include all necessary documentation in its Tier 1 filings to activate Schedules 14.1 to allow a determination whether the proposed reductions are consistent with part (a) of this ordering paragraph.

5. Golden State Water Company shall file Tier 1 advice letters to revise the tariff language for its Mandatory Conservation Rationing Implementation Memorandum Accounts to expressly state that these memorandum accounts track the following: (1) any additional revenues (in the form of volumetric penalties from its customers for consumption over their allocations) generated from Schedule 14.1; (2) its incremental operating expenses incurred after the date Schedule 14.1 is activated; (3) any penalties paid to its water wholesalers; and (4) any additional revenues in the form of penalties paid by customers for violating water use restrictions.

6. Golden State Water Company shall file Tier 1 advice letters to include language in Section 4 "Disposition" of the Preliminary Statements of its Mandatory Conservation Rationing Implementation Memorandum Accounts stating that (i) GSWC shall stop booking costs to the memo accounts once the drought is over and all costs have been incurred and recorded; and (ii) requested amortization of memo account balances shall be considered in Golden State Water Company's next GRC or other formal proceeding.

7. Golden State Water Company shall file a Tier 1 advice letter revising the language in the Region III Mandatory Conservation Rationing Implementation Memorandum Account to establish sub-accounts to separately track the costs and penalties associated with each Customer Service Area that has established a Schedule 14.1 from and after the date that Schedule 14.1 is activated for that Customer Service Area.
8. The Division of Water & Audits will revise STANDARD PRACTICE U-40-W to conform with the modifications outlined in this resolution] and prepare a draft resolution for the Commission's consideration which would adopt that Standard Practice as the process to be used to establish and activate Tariff Rule and Schedule 14.1.
9. The tariff schedules attached to Advice Letters 1326-W, 1327-W, 1328-W, 1329-W, 1330-W and 1332-W are approved with the modifications described in Ordering Paragraphs 1-7, effective as of the dates of their approval by the Division of Water and Audits. The tariff schedules attached to Advice Letters 1335-W and 1336-W are approved with the modifications described in Ordering Paragraphs 2-7 and shall be made effective as of the date of this Resolution.
10. The Tier 1 advice letter(s) required to be filed by this Resolution shall be filed within 10 days of the date of this Resolution. Golden State Water Company may combine the required tariff revisions into one or more advice letters.

11. This resolution is effective today.

I certify that the foregoing resolution was duly introduced, passed, and adopted at a conference of the Public Utilities Commission of the State of California held on August 20, 2009; the following Commissioners voting favorably thereon:

/s/ PAUL CLANON

Paul Clanon
Executive Director

MICHAEL R. PEEVEY
President

DIAN M. GRUENEICH

JOHN A. BOHN

RACHELLE B. CHONG

TIMOTHY ALAN SIMON

Commissioners