

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

**WATER DIVISION
Water Advisory Branch**

**RESOLUTION NO. W-4327
March 6, 2002**

RESOLUTION

(RES. W-4327), ORDER AUTHORIZING ALL CLASS B, C, AND D WATER UTILITIES TO ESTABLISH WATER QUALITY MEMORANDUM ACCOUNTS (WQMA) FOR RECORDING EXPENSES RESULTING FROM DRINKING WATER REGULATIONS, INCLUDING WATER SAMPLING, TESTING, REPORTING, AND TREATMENT COSTS, AND OFFICE OF DRINKING WATER (ODW) USER FEE MEMORANDUM ACCOUNTS (UFMA) TO TRACK CALIFORNIA DEPARTMENT OF HEALTH SERVICES (DHS) USER FEES NOT PRESENTLY INCLUDED IN RATES; AND AUTHORITY TO FILE ADVICE LETTERS FOR THE RECOVERY OF SUCH CHARGES AND EXPENSES.

BACKGROUND

DHS and this Commission regulate the water quality of investor-owned water systems. The CPUC regulates water quality in accordance with Section II.1 of General Order 103 and Section 116465 of the Health and Safety (H & S) Code. DHS enforces rules in the Government Code (Sections 51010 and 51017), the H & S Code (Part 1 and Part 12), and the Water Code (Division 1 and 7 and Title 17). Additionally, under Section 4019.10 of the H & S Code, DHS' ODW bills its water utilities annually for user fees; based on the time and effort ODW has expended regulating the utility in that year.

This resolution updates and modifies Resolution (Res.) No. W-4013, December 20, 1996, which expired January 1, 2002. That resolution extended Res. No. W-3784, dated June 23, 1993, which expired January 1, 1997. These resolutions authorized all water utilities to book costs for compliance with the Federal Environmental Protection Agency's (EPA) Lead and Copper Rule and the Surface Water Treatment Rule, as well as ODW user fees, to a Water Quality Memorandum Account (WQMA) for later recovery. The lead and copper rule required water utilities, for the first time, to take samples from customer's premises. Water Division (WD) believed that this new requirement might impose extraordinary efforts on the utilities' part to properly take and fix the samples, and get them to the laboratory for testing. The surface water treatment rule required utilities to filter surface water if they used it as a source of supply. Since filtration is

expensive, especially for small systems, and since there was no government funding

available then, as there has been since 1998 as provided by the Drinking Water State Revolving Fund loans, WD recommended, and the Commission agreed, that these costs could reasonably be tracked as well, to remove any disincentive to comply with these regulations.

Class A Water Utilities were included in the original memorandum accounts. In the Risk Phase 2 decision, D.94-06-033, June 22, 1994, this Commission discussed the use of these accounts by Class A companies as follows:

“A water company subject to the jurisdiction of this Commission, by application or as part of a general rate case, may seek authorization to add to its Water Quality Memorandum Account (established pursuant to Resolution No. W-3784) those prospective water quality costs that are beyond the control of the company and (a) were not foreseeable and therefore not included in the company’s last general rate case, and will be incurred prior to the company’s next general rate case, or (b) cannot be estimated accurately for inclusion in a current rate case.” (Ordering paragraph 3., D.94-06-033)

DISCUSSION

Water Quality Expenses

Since 1976, the EPA and DHS have imposed new regulations and proposed new standards affecting water quality requirements for all water utilities. While the Class A water utilities have complied expeditiously with these new rules, the smaller utilities may not comply if, for whatever reason, they do not have the financial ability to do so. The Class A companies possess the expertise to estimate these expenses in their GRCs, while Class B, C, and D Water Utilities file less often and can be limited in their ability to respond even if some of these expenses have already been included in rates.

The justification for a memorandum account to track water quality expenses is to remove the disincentive these smaller utilities might have to comply with DHS’ rules due to lack of financial ability. No such disincentive exists with respect to Class A water systems. These systems will comply with DHS’ requirements whether or not they are reimbursed. Additionally, the criteria set out in D.94-06-033 indicate that Class A utilities should request this protection by application.

Consequently, unlike Res. Nos. W-3784 and W-4013, this resolution allows only Class B, C, and D utilities to book these water quality expenses. Specifically, it allows them to book expenses required to comply with DHS rules in excess of those already authorized

in their last general rate case.

User Fees

Section 4019.10 of the H & S Code requires ODW to develop operating cost fees on the basis of the actual costs to that office of carrying out the activities connected with the issuance of permits, conducting inspections and surveillance, taking enforcement actions, and the costs of administering any contracts with local health officers. At the time Res. No. W-3784 was approved, it was anticipated that these fees would eventually be included in base rates. However, due to the variation in each billing the inclusion of such costs in base rates is often not feasible.

Memorandum Accounts

WD recommends that the Commission authorize any Class B, C, and D Water Utility to establish two memorandum accounts. The first is a new WQMA to record payment of water testing and treatment costs resulting from DHS' regulations that are not already included in rates and are incurred after the effective date of this resolution. Fines and any DHS costs resulting from utility non-compliance are not recoverable and should not be booked to this memorandum account. Second, WD recommends that Class B, C, and D water utilities be allowed to track ODW fees to an UFMA. WD also recommends that the Commission allow such utilities to request recovery of the memorandum accounts by advice letter. Because recovery of the ODW fees is a simple cost pass through that can be verified by ODW invoices, such increases can become effective upon verification by Branch. WQMA recovery will require a resolution.

Class B, C, and D Water Utilities are encouraged to file for recovery in a timely manner to avoid rate shock to customers. Also the recovery of any expenses incurred prior to 36 months from the date of the advice letter filing should not be allowed because of the public need that today's ratepayers pay the expenses they incur and not pay the expenses incurred by yesterday's ratepayers.

NOTICE AND PROTEST

Public notice is not required at this time. When a utility seeks recovery of expenses recorded in the memorandum account, public notification will be required as prescribed in the advice letter procedures of General Order No. 96-A.

FINDINGS AND CONCLUSIONS

1. DHS and this Commission regulate water quality in accordance with various provisions of the Government Code, the Water Code, and the Health and Safety Code.

2. Regulated water utilities are required to comply with DHS orders.
3. Smaller water utilities may not comply with DHS orders due to lack of financial ability.
4. Class B, C, and Class D Water Utilities subject to the provisions of the DHS' rules should be authorized to establish a Water Quality Memorandum Account in which to record payments of compliance costs such as water sampling, testing, reporting and treatment.
5. ODW has developed and adopted operating cost fees.
6. Class B, C, and D Water Utilities should be authorized to establish a memorandum account in which to record Office of Drinking Water User Fees.
7. Subsequent to recording such payments in these memorandum accounts water utilities should be authorized to file by advice letter under the provisions of General Order No. 96-A requesting recovery.
8. Approval of recovery of ODW fees should occur after review by staff.
9. Since these costs are being incurred continuously, this resolution should be made effective without delay.

IT IS ORDERED that:

1. Each Class B, C and Class D water utility regulated by the Commission and subject to the provisions of the Department of Health Services' Division of Drinking Water and Environmental Management fees and regulations is authorized to establish a memorandum account in which to record payment of sampling, testing and compliance costs, which are not already covered in rates and which are incurred after the date of this resolution. Costs resulting from non-compliance and related fines shall not be included in this account.
2. Class B, C and D water utilities are authorized to establish a memorandum account in which to record payment of Office of Drinking Water User Fees not already included in rates and which are incurred after the date of this resolution.
3. Each water utility having recorded payment of costs as authorized above, is authorized to file an advice letter requesting recovery of those costs. Expenses incurred prior to 36 months from the date of filing shall not be allowed.

4. Recovery of these memorandum accounts will be pursuant to a Commission resolution unless and until the Commission otherwise provides for recovery of expenses requested by advice letter.
5. These memorandum accounts shall remain open until the Commission cancels them or January 1, 2008, whichever occurs first.
6. 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 March 6, 2002; the following Commissioners voting favorably thereon:

WESLEY M. FRANKLIN
Executive Director

LORETTA M. LYNCH
President
HENRY M. DUQUE
RICHARD A. BILAS
CARL W. WOOD
GEOFFREY F. BROWN
Commissioners