



STATE OF CALIFORNIA

GAVIN NEWSOM, Governor

PUBLIC UTILITIES COMMISSION

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TO PARTIES OF RECORD IN RULEMAKING 23-04-003:

This is the proposed decision of Commissioner Darcie L. Houck. Until and unless the Commission hears the item and votes to approve it, the proposed decision has no legal effect. This item may be heard, at the earliest, at the Commission's July 2, 2026 Business Meeting. To confirm when the item will be heard, please see the Business Meeting agenda, which is posted on the Commission's website 10 days before each Business Meeting.

Parties of record may file comments on the proposed decision as provided in Rule 14.3 of the Commission's Rules of Practice and Procedure.

/s/ MICHELLE COOKE --
Michelle Cooke
Chief Administrative Law Judge

MLC:avs
Attachment

Decision **PROPOSED DECISION OF COMMISSIONER DARCIE L. HOUCK**
(Mailed 5/29/2026)

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to review the existing guiding framework set forth in Decision 99-10-064 (consistent with the Public Water System Investment and Consolidation Act of 1997) regarding acquisitions involving water utilities under the Commission's jurisdiction.

Rulemaking 22-04-003

**DECISION ON ORDER INSTITUTING RULEMAKING REGARDING
ACQUISITIONS INVOLVING WATER UTILITIES UNDER
THE COMMISSION'S JURISDICTION**

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- Attachment A – Schedule for Acquisitions Filed with the Commission**
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Public Utilities**

**DECISION ON ORDER INSTITUTING RULEMAKING REGARDING
ACQUISITIONS INVOLVING WATER UTILITIES UNDER
THE COMMISSION'S JURISDICTION**

Summary

This decision adopts comprehensive reforms to the existing water utility acquisitions framework. These changes modernize the process for reviewing and approving acquisitions of water systems, with a focus on prioritizing failing at-risk, and potentially at-risk systems, safeguarding ratepayer interests, and ensuring transparency. The updated framework aligns policy with the Safe Drinking Water Act of 2021 and the State Water Resources Control Board's (SWRCB) Safe Affordable Funding for Equity and Resilience Program.

Major changes adopted in this decision include the following:

- **Updating definitions:** Aligns terms like “failing” and “at-risk” systems with SWRCB standards; retires outdated terms such as Inadequately Operated and Maintained Small Water Utility.
- **Expedited review timelines:** Decisions for failing, at-risk, and potentially at-risk acquisitions within 12 months for applications; systems not at-risk reviewed in up to 18 months for applications; 100 days for unopposed advice letters under \$5 million for failing, at-risk, and potentially at-risk systems; 120 days for unopposed advice letters under \$5 million for systems that are not at-risk; and 12 months for opposed advice letters under \$5 million for systems that are not at-risk.
- **Refined incentives:** Retains memorandum accounts only for unforeseen repair costs in failing, at-risk, and potentially at-risk acquisitions; eliminates other incentives to focus support.
- **Dual valuation requirement:** Acquiring utilities must submit both fair market value and replacement cost analyses to justify price and rate base treatment.

- Enhanced ratepayer protections: Mandatory detailed rate impact analyses for both existing and acquired customers; expanded public notice requirements and mandatory community engagement.
- Stronger SWRCB coordination: Recommends an updated memorandum of understanding (MOU) with SWRCB, the creation of a Joint Task Force, improved data sharing, and better alignment of acquisition and grant funding processes.
- Municipal/mutual acquisitions oversight: California Public Utilities Commission authorization now required for water investor-owned acquisitions of these systems, with coordination involving local agencies including Local Agency Formation Commissions.
- This decision maintains, unmodified, the existing Tier 2 approval pathway for service area extensions if they have a *de minimis* purchase price.

The reforms adopted in this decision are designed to enable faster, targeted acquisitions of distressed water systems while delivering greater transparency in acquisition pricing, valuations, and rate impacts. The decision also seeks to align regulatory oversight with public health, environmental social justice, and safe drinking water goals. Finally, the decision seeks to ensure clear, consistent review and approval processes for water utility acquisitions.

This proceeding is closed.

1. Procedural Background

On April 18, 2022, the California Public Utilities (Commission) approved this Order Instituting Rulemaking (OIR) to improve the current acquisition process and develop a framework which will better guide the Commission in reviewing water utility acquisitions for regulated water utilities. Attached to the OIR was a White Paper drafted by staff of the Commission's Water Division. Respondents and other interested parties were provided with the opportunity to

file opening and reply comments on the OIR and White Paper. A prehearing conference (PHC) was conducted remotely on August 5, 2022. On October 21, 2022, the assigned Commissioner's Scoping Memo and Ruling (Scoping Memo) was issued.

The first of four Workshops was conducted on November 29, 2022.¹ The Workshop Report for Workshop 1 was issued on February 10, 2023. The second Workshop was held on March 9, 2023, and the Workshop Report for Workshop 2 was issued on June 26, 2023.² The third Workshop was held on June 13, 2023, and the Workshop report for Workshop 3 was issued on September 18, 2023.³ The fourth and final Workshop was held on December 5, 2023, and the Workshop report for Workshop 4 was issued on March 8, 2024.⁴ Parties were provided with the opportunity to make opening and reply comments on all Workshop Reports.

On March 7, 2024, Decision (D.) 24-03-019 extended the statutory deadline in this matter to December 31, 2024. On June 3, 2024, this matter was reassigned from Commissioner Genevieve Shiroma to Commissioner John Reynolds. On December 19, 2024, D.24-12-048 extended the statutory deadline in this matter to September 30, 2025. On January 9, 2025, the Water Division's Staff Proposal was issued for comment. Parties were presented with the opportunity to file opening and reply comments on the Staff Proposal. On September 18, 2025, D.25-09-019 extended the statutory deadline in this matter until March 31, 2026. On February 26, 2026, D.26-02-042 extended the statutory deadline in this matter

¹ The topic for Workshop 1 was *Options for Inadequately Operated and Maintained Systems*.

² The topic for Workshop 2 was *Price and Valuation*.

³ The topic for Workshop 3 was *Ratepayer Impacts*.

⁴ The topic for Workshop 4 was *Wrap-up*.

until July 31, 2026. On March 26, 2026, this matter was reassigned from President John Reynolds to Commissioner Darcie L. Houck.

2. Policy Background

D.99-10-064 established the existing framework under which the Commission reviews acquisition applications. The settlement agreement approved by D.99-10-064⁵ includes agreements on:

1. The data requirements for acquisition applications;
2. Appraisal and asset funding practices;
3. Use of the Commission's advice letter process to apply for the acquisition of an inadequately operated and maintained small water utility;
4. Rate design and memorandum account practices to incentivize the acquisition of inadequately operated and maintained small water utilities;
5. Purchase price premiums;
6. Public Utilities Code Sections 852 and 854;
7. Authorization to file advice letters to establish rates of the acquiring utility, rates of the acquired utility, or rates lower than either utility;
8. Customer noticing requirements;
9. Long-term financing involved with an acquisition; and
10. Timelines for acquisition applications and advice letters.

D.20-08-047 expanded the Commission's existing acquisition framework by addressing the timeline for acquisition applications brought forth to the Commission and expanding the list of data items required to be included in acquisition applications. D.20-08-047 affirms the acquisition proceeding timelines established by D.99-10-064 of 245 days for general acquisition applications and

⁵ D.99-10-064, Appendix D, Settlement Agreement of the Ratepayers Representation Branch of the Water Division and California Water Association.

100 days for at-risk systems.⁶ To streamline the Commission's review of acquisition applications and advice letters, D.20-08-047 expanded the data requirements laid out by D.99-10-064,⁷ similar to Minimum Data Requirements that are already included in general rate cases (GRCs) and cost of capital filings. In addition to the data requirements originally required by the existing framework of D.99-10-064, D.20-08-047 ordered that acquisition applications must also include the 24 additional data elements and three additional documentation elements.⁸

3. Staff Proposal

The Water Division's Staff Proposal recommends various changes and refinements to the existing water utility acquisitions framework. Among other things, the Staff Proposal aims to align the Commission's water acquisition goals with the Safe Drinking Water Act of 2021 and the SWRCB's SAFER Program.

The Staff Proposal recommends focusing on failing, at-risk, and potentially at-risk systems. It seeks clearer guidelines for valuations of water systems, in-depth reviews of ratepayer impacts, changes to reporting and scheduling requirements, enhanced coordination with SWRCB, and addresses acquisitions involving municipal or mutual water systems.

3.1 Opening Comments on Staff Proposal

Opening comments on the Staff Proposal were received from the Monterey Peninsula Water Management District (MPWMD), California Water Service Company (Cal Water), The Public Advocates Office at the California Public

⁶ D.20-08-047, at 87.

⁷ D.20-08-047, at 88.

⁸ D.20-08-047, at 89 – 93; The list of additional information is also included in the Water Division Staff Proposal as Attachment A.

Utilities Commission (Cal Advocates), California Water Association (CWA), The Center for Accessible Technology (CforAT), California American Water Company (Cal-Am), the Union of Concerned Scientists (UCS) and the Rural Community Assistance Corporation (RCAC) filed joint comments, Small Water Investor Owned Utilities⁹ (Small IOUs) submitted joint comments, and Community Water Center (CWC), Clean Water Fund (CWF), and Leadership Counsel for Justice & Accountability (LCJA) also submitted joint comments.

The following is a summary of relevant opening comments submitted by the parties concerning the Staff Proposal.

MPWMD submitted opening comments in support of the Staff Proposal to reform the water system acquisition process. MPWMD agrees that the proposal appropriately prioritizes acquisitions of failing, at-risk, and potentially at-risk water systems and introduces important procedural reforms aimed at streamlining Commission review. MPWMD supports using the State Water Resources Control Board's (SWRCB) definition of failing systems but recommends refining it to distinguish systems failing due to neglect from those in disadvantaged communities. MPWMD urges the Commission to prioritize acquisitions that address failures in disadvantaged communities first.

MPWMD also supports the Staff Proposal's procedural changes to expedite the review process and require a Prefiling Conference before any acquisition filing. However, MPWMD recommends expanding the scope of the Prefiling Conference to explore whether nearby failing systems could be more effectively acquired, whether management issues can be resolved without full

⁹ The Small Water Companies are comprised of 77 companies chaired by Lukins Brothers Water Company and Del Oro Water Company. *See*, Attachment A of the joint comments submitted by Lukins Brothers Water Company and Del Oro Water Company for the 77 companies.

acquisition, and whether real estate assets could be used to fund improvements. MPWMD endorses the shift toward acquisitions in disadvantaged communities, where investor-owned utilities (IOUs) have historically underinvested.

Regarding valuation, MPWMD opposes the Staff Proposal's definition of fair market value (FMV) as simply the agreed-upon purchase price, citing the lack of true market competition in the water utility sector. MPWMD urges the use of California Code of Civil Procedure (CCP) Section 1263.320(b), typically applied in eminent domain cases, and recommends incorporating the Replacement Cost New Less Depreciation (RCNLD) method alongside a clear assessment of system liabilities. MPWMD supports expanding gain-on-sale rules to ensure that some acquisition proceeds benefit ratepayers. On water rights, MPWMD argues that rights already allocated to customers should not be separately valued and requests clarification that they are part of the overall purchase price unless explicitly excluded.

Finally, MPWMD emphasizes the need for greater transparency in ratepayer impacts. It supports the revised requirement for acquiring utilities to submit detailed rate impact analyses and quantify benefits, not just costs. MPWMD further recommends ensuring public access to all acquisition-related filings. Overall, MPWMD supports the Staff Proposal with refinements aimed at ensuring fair valuation, prioritization of vulnerable communities, and full transparency on rate impacts and water rights.

Cal Water submitted opening comments in response to the Water Division's Staff Proposal and expressed strong opposition to many of its recommendations. While supporting the rulemaking process and general prioritization of failing, at-risk, and potentially at-risk systems, Cal Water contends that the Staff Proposal introduces excessive regulatory burdens that

will deter water IOUs from acquiring smaller, distressed systems. According to Cal Water, the existing framework¹⁰ already enables effective acquisitions and should be preserved with only minor adjustments. It criticizes the Staff Proposal for adding delays, new valuation requirements, and what it believes to be cumbersome processes that threaten the feasibility of timely and efficient acquisitions.

Specifically, Cal Water objects to extended acquisition timelines, especially for non-failing systems, and opposes the mandatory 60-day Prefiling Conference, suggesting it be reduced to 30 days or less. Cal Water recommends hiring more Commission staff, enabling automatic approvals of uncontested acquisitions, and adopting elements from the Cal Water proposal to streamline processes. The company also criticizes the proposed incentives as ineffective or outright disincentives, particularly restrictions on memorandum accounts and elimination of other financial motivators such as enhanced return or consumer price index (CPI) based adjustments.

Cal Water takes issue with proposed valuation reforms, opposing multiple valuation methods, gain-on-sale rules applied to acquiring entities, and separate water rights valuation. It supports maintaining the existing FMV standard based on a willing buyer/willing seller model. Regarding acquisitions involving municipal or mutual systems, Cal Water opposes added regulatory layers, including new benefit quantification and extended timelines. On coordination with the SWRCB, Cal Water argues the proposed sequential grant approval process creates funding delays that may jeopardize deals, advocating instead for streamlined funding pathways.

¹⁰ The existing framework is the Settlement Agreement in D.99-10-064.

Lastly, Cal Water criticizes the Staff Proposal's ratepayer impact analysis requirements as excessive, stating they go beyond what is required under D.20-08-047. Overall, Cal Water argues that the Staff Proposal will discourage IOU participation, eliminate useful incentives, and complicate otherwise straightforward acquisitions. The utility urges the Commission to reject the proposal in its current form and adopt Cal Water's alternative framework to maintain momentum in water system consolidation efforts. Cal Water concludes that adopting the Staff Proposal as written would send a negative signal about California's commitment to supporting water system acquisitions.

Cal Advocates submitted comments strongly supporting the Water Division's Staff Proposal, commending its focus on prioritizing acquisitions of failing, at-risk, and potentially at-risk water systems while safeguarding ratepayer interests. Cal Advocates states the proposal aligns with the Human Right to Water Safe Drinking Water Act of 2021 and the SWRCB's Safe and Affordable Funding for Equity and Resilience (SAFER) Program by ensuring that Commission resources are directed toward communities in critical need. The organization supports expedited acquisition processes for distressed systems and endorses rigorous oversight to prevent unjustified acquisitions of stable, non-troubled utilities.

Cal Advocates agrees with restricting memorandum accounts to failing, at-risk, and potentially at-risk systems only, citing concerns that IOUs have used them to shift unanticipated costs onto ratepayers. They also support mandatory Prefiling Conferences to improve efficiency and ensure complete applications. On valuation issues, Cal Advocates strongly backs the Staff Proposal's reaffirmation of the Commission's authority to regulate acquisition prices and urges the use of multiple valuation methods – including book value, RCNLD,

and FMV – to prevent inflated prices. They support third-party appraisals, citing examples from Pennsylvania and Florida, and call for feasibility studies to justify acquisitions.

On ratepayer impact, Cal Advocates endorses the requirement that IOUs provide detailed rate forecasts and quantifiable benefits to ensure transparency and avoid vague efficiency claims. They also support strengthening public notice standards and holding IOUs accountable for cost estimates, arguing that shareholders, not ratepayers, should bear the risk of miscalculations.

Cal Advocates also advocates stronger coordination between the Commission and SWRCB, streamlined grant funding processes, and requirements that grant funds reduce rate base, not increase IOU profits. Finally, they recommend tracking mutual and municipal system acquisitions for regulatory transparency.

Overall, Cal Advocates urges full adoption of the Staff Proposal and emphasizes the need for a clear, fair, and accountable framework that centers public benefit, protects ratepayers, and advances equitable access to safe drinking water across California.

CWA submitted opening comments on the Staff Proposal, expressing concern that the proposal, while well-intentioned, would impose excessive regulatory burdens and disincentivize the very acquisitions it aims to promote. CWA agrees that consolidation provides critical economic, operational, and environmental benefits and that acquisitions are aligned with the Public Water System Investment and Consolidation Act of 1997. However, CWA opposes proposals that increase delays, expand valuation requirements, and apply gain-on-sale rules, changes they argue would complicate or even deter needed investments in smaller or failing systems.

CWA supports aligning the definition of failing systems with SWRCB's SAFER Program, and endorses expedited acquisition processes, but proposes shorter approval timelines (90–180 days) and reducing the Prefiling Conference window to 30 days. CWA strongly opposes limiting memorandum accounts to failing, at-risk, and potentially at-risk systems, proposing instead a Water Utility Consolidation Memorandum Account (WUCMA) to recover acquisition-related costs for all transactions. On valuation, CWA supports existing methods FMV and RCNLD and opposes additional valuation requirements and third-party appraisals unless voluntary and cost recoverable. It warns against separating water rights valuation and expanding gain-on-sale rules, arguing such moves conflict with existing law and create seller pricing distortions.

CWA further objects to the Staff Proposal's requirement for extensive ratepayer impact forecasts, especially before sufficient system data is available, and advocates for streamlined reporting consistent with existing GRC processes. While CWA supports transparency, it cautions against overly burdensome public notice and documentation requirements that raise acquisition costs. CWA also rejects the proposed Quantifiable Ratepayer Benefit test, supporting instead the continued use of the Ratepayer Indifference Test. On grant coordination, CWA supports stronger collaboration between Commission and SWRCB but warns that additional layers of review could delay funding and acquisition completion.

In conclusion, CWA urges the Commission to reject aspects of the Staff Proposal that would slow approvals, increase costs, or deter IOU participation. Instead, it recommends maintaining current valuation practices, allowing broader use of memorandum accounts, rejecting gain-on-sale expansion,

simplifying rate impact analysis, and improving funding coordination – all aimed at supporting viable, ratepayer-friendly water system consolidations.

CforAT submitted comments supporting the Water Division’s Staff Proposal on water system acquisitions, with a focus on protecting ratepayers – particularly in vulnerable communities, while ensuring fair, just, and reasonable rates. CforAT generally endorses the Staff Proposal’s emphasis on prioritizing acquisitions of failing, at-risk, and potentially at-risk water systems and agrees with its efforts to redirect incentives away from well-functioning systems toward those in greatest need. CforAT submitted no opening comments on the areas of the definition of failing, at-risk, and potentially at-risk systems, water rights, rate deferment, and reporting and scheduling in the Staff Proposal. Additionally, CforAT did not express a firm position on the gain on sale discussion in the Staff Proposal.

CforAT supports the Staff Proposal’s restriction of memorandum accounts to acquisitions of failing, at-risk, and potentially at-risk systems, noting this ensures utility resources are used where they are most needed. CforAT highlights that IOUs have historically focused on stable systems and need stronger regulatory incentives to take on distressed ones. CforAT supports the introduction of four new incentives, especially the prioritization of failing systems, and emphasizes that these changes will better align acquisitions with public interest goals.

On acquisition pricing and valuation, CforAT supports strengthening the Commission’s authority to regulate acquisition premiums, asserting that IOUs must justify any markup before it can be included in rates. CforAT favors using both FMV and RCNLD, requiring disclosure of system liabilities, and enabling alternative valuation proposals. They endorse a Pennsylvania-style third-party

appraisal process and support analysis of historical acquisition costs per connection to prevent inflated pricing.

CforAT strongly supports enhanced ratepayer impact transparency. They advocate for mandatory rate impact analyses for both existing and acquired customers, improved public notice procedures, and increased community participation. They also back the Staff Proposal's requirement that IOUs quantify acquisition benefits, criticizing past reliance on vague, unmeasurable promises. While they did not take positions on water rights, rate deferment, or reporting schedules, CforAT supports greater data sharing and coordination between the Commission and the SWRCB to streamline acquisition processes.

Finally, CforAT supports requiring Commission authorization for IOU acquisitions of mutual and municipal systems to ensure transparency and fairness. Overall, CforAT urges the Commission to adopt a ratepayer-centered, transparent, and accountable framework that prioritizes vulnerable communities and ensures acquisitions truly deliver measurable public benefits.

Cal-Am submitted opening comments expressing strong criticism of the Water Division's Staff Proposal, aligning itself with the CWA position. Cal-Am argues that several key recommendations in the proposal conflict with established legislative requirements and long-standing regulatory practices governing water system acquisitions. Central to Cal-Am's objections is its contention that the Staff Proposal violates Public Utilities (Pub. Util.) Code Sections 2719 and 2720, which outline permissible valuation methods and acquisition incentives.

Cal-Am specifically opposes the Staff Proposal's restriction of memorandum accounts to only acquisitions involving failing, at-risk, and potentially at-risk systems. Cal-Am contends that memorandum accounts serve

an essential role in tracking acquisition-related costs and should remain available for all acquisitions, ensuring only prudent costs are subject to recovery. It further argues that restricting these accounts is not only unjustified but also inconsistent with existing law.

On valuation and rate base, Cal-Am strongly disputes the proposed changes that would alter how acquisition premiums are evaluated. It argues the proposal undermines the statutory definition of FMV, which is based on the agreed-upon purchase price under specified conditions – and that the Commission lacks authority to disregard this standard. Cal-Am warns that deviating from legislatively established valuation principles would introduce legal uncertainty and regulatory overreach.

Cal-Am also rejects the Staff Proposal’s recommendation to expand the gain-on-sale doctrine to full-system acquisitions, arguing it would create disincentives for responsible system investment and maintenance. Cal-Am maintains that applying this doctrine in such contexts is inappropriate and legally questionable, potentially reducing investor interest in acquiring and improving water systems.

Throughout its comments, Cal-Am emphasizes that the Staff Proposal misinterprets or exceeds the Commission’s authority under current law. It calls on the Commission to reject the more controversial elements of the Staff Proposal, arguing that they could hinder the state’s goal of promoting reliable, efficient water service through acquisitions and consolidation. Cal-Am concludes by urging the Commission to adhere to statutory mandates and preserve regulatory practices that have historically enabled successful water system integrations.

UCS and the RCAC submitted joint opening comments largely supporting the Staff Proposal. Their comments emphasize the need for stronger stakeholder engagement, fair acquisition pricing, and protection for disadvantaged communities served by failing, at-risk, and potentially at-risk water systems. They agree with many Staff Proposal recommendations and advocate for a more inclusive, transparent, and accountable acquisition process.

UCS and RCAC support using the SWRCB Needs Assessment process to define failing, at-risk, and potentially at-risk water systems and emphasize that acquisition efforts should prioritize those serving disadvantaged or low-resource communities. They also stress the importance of a robust consultation process involving the SWRCB, impacted customers, and other key stakeholders before any acquisition is proposed to the Commission.

On price and valuation, UCS and RCAC recommend limiting how much an acquisition premium may be included in rates and support requiring multiple third-party appraisals to ensure FMV is properly established. They further support applying gain-on-sale rules to water system acquisitions to prevent ratepayers from bearing unjustified acquisition costs unless they result in direct, measurable benefits.

UCS and RCAC also strongly endorse enhanced ratepayer impact protections, calling for effective public notice and community engagement, especially in communities with limited resources. They advocate for public notices to be accessible, multilingual, and detailed, clearly explaining how the acquisition may affect rates and governance.

In terms of inter-agency coordination, they call for deeper collaboration between the Commission and SWRCB, including the creation of a Joint Task Force to streamline acquisition processes and enhance regulatory alignment.

They recommend including Local Agency Formation Commissions (LAFCOs) in acquisition reviews, especially for tribal or non-IOU systems, to ensure a holistic and locally informed process.

Overall, UCS and RCAC support the Staff Proposal's direction and urge adoption of their recommendations to ensure water system acquisitions prioritize vulnerable communities, promote equity, and maintain long-term access to safe and affordable drinking water.

The Small IOUs submitted opening comments on the Staff Proposal, expressing conditional support but voicing strong opposition to the proposed application of gain-on-sale rules to water system acquisitions. While they agree with elements such as streamlining the acquisition process and enhancing interagency coordination, they argue that applying gain-on-sale rules to entire system acquisitions would undermine long-standing legislative and policy goals aimed at improving access to safe, reliable, and affordable water through consolidation.

The Small Water IOUs assert that extending gain-on-sale rules would significantly reduce financial incentives for small system owners to sell, effectively discouraging consolidation efforts. They warn that this could result in fewer acquisitions, particularly in rural and disadvantaged communities where system consolidation is often the most viable path to infrastructure improvement and long-term service reliability. The group emphasizes that the current framework already delivers customer benefits by fostering economies of scale and enabling capital investment in aging or underperforming systems.

Further, the Small Water IOUs argue that adopting gain-on-sale rules could deter private investment in small water utilities and delay critical upgrades to water infrastructure. They express concern that such a change

would contradict the state's objectives to improve water quality and service delivery in underserved areas.

In addition to policy arguments, they raise legal concerns, stating that the gain-on-sale proposal conflicts with existing law and prior Commission precedents. They argue it would represent regulatory overreach and could invite legal challenges, threatening the stability and effectiveness of the state's water acquisition framework.

In conclusion, the Small Water IOUs strongly urge the Commission to reject the proposal to extend gain-on-sale rules to water system acquisitions, emphasizing that such a move would be counterproductive, legally questionable, and harmful to the state's broader goals of improving water service for all Californians – particularly those in small and vulnerable systems.

CWC, CWF, and LCJA submitted joint opening comments emphasizing their commitment to ensuring clean, safe, and affordable drinking water for frontline communities. Their comments focus on strengthening community engagement, protecting disadvantaged populations, and aligning the Commission's acquisition framework with the SWRCB SAFER Program, a key initiative created under Senate Bill 200 to support the consolidation of failing, at-risk, and potentially at-risk water systems.

CWC, CWF, and LCJA highlight the SAFER Program's success in identifying over 300 failing systems and supporting numerous consolidations, urging the Commission to prioritize acquisitions that serve disadvantaged communities consistent with the program's goals. They support the Staff Proposal's general direction but express concern over the lack of clarity around what constitutes "adequate notice" for affected customers during water system consolidations.

To address this, they recommend specific improvements to the customer notification and outreach process, including establishing clear and enforceable standards for community engagement; translating outreach materials into all threshold languages used by affected residents; and ensuring that all potentially impacted parties are notified in a timely and accessible manner. They stress that effective notice is essential to building community trust and avoiding the risk of forced or unsupported consolidations.

Additionally, the commenters recommend amendments to the Staff Proposal to require public hearings near the affected communities, provide detailed explanations of the reasons and consequences of consolidations, and include clear instructions for how residents can protest or comment on proposed acquisitions. They emphasize that these changes are essential to achieving a fair, transparent, and community-driven consolidation process.

In conclusion, CWC, CWF, and LCJA express strong support for the Commission's efforts and reiterate their commitment to working collaboratively to ensure that consolidation processes are equitable, transparent, and aligned with the needs of the state's most underserved communities.

3.2 Reply Comments on Staff Proposal

Reply comments on the Staff Proposal were filed by MPWMD, Cal Advocates, CWA, CforAT, Cal-Am, and jointly by the Small IOUs. The following is a summary of the key reply comments.

MPWMD submitted reply comments supporting the overall direction of the Staff Proposal, while opposing several alternative suggestions made by other parties, particularly CWA. MPWMD's comments emphasize protecting ratepayers, prioritizing vulnerable water systems, and preserving regulatory oversight in the acquisition process.

MPWMD strongly supports the prioritization of failing, at-risk, and potentially at-risk water systems as defined by the SWRCB. It opposes CWA's proposal to provide incentives for all small system acquisitions, warning that doing so would divert resources away from the most vulnerable communities. MPWMD also supports the expedited review timelines proposed in the Staff Proposal but opposes CWA's call for automatic approvals if deadlines are missed, citing the risk of bypassing essential oversight.

In terms of public engagement, MPWMD stresses the importance of clear, multilingual communication, accessible public meetings, and transparency around consolidation impacts, including rate changes and governance. It supports requiring IOUs to demonstrate meaningful outreach and coordination with the SWRCB before seeking expedited treatment.

On memorandum accounts, MPWMD agrees with Cal Advocates that these accounts should be limited to unforeseen, post-acquisition costs. It opposes CWA's position that foreseeable expenses like legal and engineering fees should be recoverable, arguing this would improperly shift acquisition risk to ratepayers.

Regarding valuation, MPWMD rejects the assumption that a negotiated purchase price reflects FMV, noting that IOUs function as monopolies. It advocates using Civil Code Section 1263.320(b), which governs valuation in eminent domain proceedings, to prevent overpayment. MPWMD also opposes CWA's claim that ratepayer impacts cannot be accurately forecast before acquisition, asserting that IOUs conduct significant due diligence and should provide full cost projections.

In conclusion, MPWMD urges the Commission to adopt the Staff Proposal with revisions that (1) prioritize failing systems, (2) ensure transparency,

(3) protect ratepayers from pre-planned acquisition costs, (4) enforce fair valuation practices, and (5) require disclosure of rate impacts before approval. These changes, MPWMD argues, will create a fairer and more accountable acquisition framework.

Cal Advocates submitted comprehensive reply comments strongly supporting the Water Division's Staff Proposal and reinforcing the need for a regulatory framework that prioritizes safe, equitable, and transparent water system acquisitions. Central to their position is the belief that regulatory efforts must focus on systems that are failing, at-risk, or potentially at-risk, in alignment with the Safe Drinking Water Act of 2021 and the SWRCB's SAFER Program. Cal Advocates opposes granting incentives to the acquisitions of stable systems, arguing that doing so would divert resources from communities with the greatest need.

In response to industry stakeholders, particularly IOUs and the CWA, Cal Advocates rejects claims that the Commission lacks authority to ensure acquisitions serve the public interest. It criticizes utility efforts to expand acquisition incentives to all small systems, warning that such proposals primarily benefit shareholders, not ratepayers. Cal Advocates supports the Staff Proposal's targeted approach and urges the Commission to maintain a focus on failing and disadvantaged systems.

On valuation and financial transparency, Cal Advocates endorses the use of diverse valuation methods, including third-party appraisals, to ensure fair pricing. It also supports requiring thorough ratepayer impact analyses before acquisition approval, highlighting the need to disclose how transactions will affect both existing and new customers. It further calls for a complete evaluation

of potential liabilities – such as deferred maintenance and capital needs – so that ratepayers are not saddled with hidden costs post-acquisition.

Cal Advocates also takes a firm stance against the broad use of memorandum accounts, arguing that they obscure true cost accountability. It recommends limiting such accounts to failing, at-risk, and potentially at-risk systems where they directly support necessary remediation. Additionally, Cal Advocates critiques proposals for overly expedited approval processes, which could reduce regulatory scrutiny and increase risks to ratepayers.

Finally, Cal Advocates supports extending gain-on-sale rules to full-system acquisitions to ensure that any financial gains are equitably shared with ratepayers. In conclusion, it urges the Commission to adopt the Staff Proposal in full, emphasizing that acquisitions must serve the public interest, not utility profits, and that regulatory integrity and transparency are essential to delivering safe, affordable water services statewide.

In its reply comments, CWA addressed key components of the Staff Proposal concerning acquisitions of small, failing, at-risk, and potentially at-risk water systems. CWA's response focused on correcting misconceptions, defending current valuation practices, and emphasizing the importance of regulatory flexibility. It also included an appendix with real-world examples of acquisitions that improved water quality and service reliability.

On acquisitions involving small or troubled systems, CWA rebutted claims that water IOUs avoid acquiring distressed water companies. It cited numerous past acquisitions where water quality and system reliability significantly improved post-consolidation, demonstrating utilities' ongoing commitment to responsible ownership. These examples highlight proactive efforts by utilities to address contamination, infrastructure failures, and regulatory non-compliance.

Regarding price and valuation, CWA reaffirmed its support for using the agreed-upon purchase price as FMV, in accordance with the Public Water System Investment and Consolidation Act. It opposes proposals to expand gain-on-sale rules, arguing such changes conflict with legislative intent and could deter future acquisitions – especially those involving smaller or high-need systems.

On the issue of information available at the time of acquisition, CWA emphasized the difficulty of forecasting precise post-acquisition rates and costs. It warned against rigid pre-approval requirements and urged the Commission to retain flexibility in evaluating each acquisition on a case-by-case basis, recognizing that benefits and costs become clearer once integration begins.

The appendix to CWA's comments provided detailed transaction histories where utility acquisitions resolved serious problems such as arsenic contamination, inadequate treatment systems, and lack of operational capacity. These examples illustrate tangible benefits to customers, including improved compliance, enhanced water quality, and more reliable service delivery.

In conclusion, CWA urges the Commission to adopt a balanced regulatory approach that aligns with existing statutes, maintains fair valuation practices, and avoids punitive policies like expanded gain-on-sale rules. It advocates for a framework that supports utility participation in consolidations and protects public health by facilitating timely improvements in water service for struggling communities.

CforAT submitted reply comments in strong support of the Staff Proposal, while directly challenging positions taken by IOUs. CforAT's response centers on correcting what it sees as misrepresentations by the IOUs concerning legislative intent and regulatory obligations related to water system acquisitions. Their

comments emphasize fairness, transparency, and prioritizing the public interest – particularly for communities served by failing systems.

CforAT disputes the IOUs’ interpretation of the Public Water System Investment and Consolidation Act of 1997, arguing it does not mandate acquisition incentives but merely establishes FMV as a potential valuation method. They criticize the IOUs for using a self-serving definition of FMV, particularly in cases where pricing fails to account for future costs such as infrastructure repairs and regulatory compliance.

CforAT supports the Staff Proposal’s use of multiple valuation methods – including reproduction cost, book value, and third-party appraisals – as essential to achieving a more accurate and balanced assessment of acquisition costs. They also oppose the broad use of memorandum accounts, agreeing with the Staff Proposal that such accounts should be restricted to acquisitions involving failing, at-risk, and potentially at-risk systems. CforAT argues that acquisition costs should be planned through the GRC process, not passed onto ratepayers after the fact.

On gain-on-sale rules, CforAT supports revisions that would more fairly allocate the financial outcomes of acquisitions between IOUs and ratepayers. They further endorse a separate appraisal of water rights as non-depreciable assets to avoid double-counting and ensure ratepayer protections. CforAT also strongly supports requiring a ratepayer impact analysis in all acquisition applications, arguing that clear and justified rate forecasts are critical to accountability and transparency.

In conclusion, CforAT reiterates its endorsement of the Staff Proposal and its goal to prioritize acquisitions that serve the public good, particularly in vulnerable communities. Their comments reflect a commitment to ensuring that

water system consolidations are conducted under a regulatory framework that balances utility sustainability with consumer protection, fairness, and long-term affordability.

In its reply comments on the Staff Proposal regarding water system acquisitions, Cal-Am reaffirms its alignment with CWA and directly responds to criticisms raised by the MPWMD. Cal-Am makes clear that any issues it does not explicitly address should not be interpreted as agreement with opposing views.

Cal-Am criticizes MPWMD for perceived hypocrisy, noting that despite MPWMD's advocacy for prioritizing acquisitions of failing, at-risk, and potentially at-risk systems, it made an unsolicited bid to acquire Cal-Am's Monterey system, a stable and fully operational utility. Cal-Am explains that this offer was rejected due to legal and regulatory complications, including MPWMD's lack of proper authority to own or operate a public water system, thereby casting doubt on the credibility of MPWMD's policy arguments.

On the issue of FMV, Cal-Am strongly opposes MPWMD's interpretation, arguing that California law, specifically the Consolidation Act, defines FMV as the price agreed upon by a willing buyer and seller. Cal-Am insists that the Commission must adhere to this legislative standard and cannot substitute alternative valuation frameworks based on stakeholder preferences.

Cal-Am accuses MPWMD of misunderstanding key statutory provisions, especially regarding valuation and acquisition premiums. It points out that current law already requires RCNLD valuations to be provided, and that acquisition premiums can be justified under existing rules, contrary to MPWMD's suggestions.

Regarding water rights, Cal-Am refutes MPWMD's claim that they should not be independently valued in acquisitions. Cal-Am asserts that water rights are

integral and valuable utility assets and should be recognized as such in system valuations. Excluding them, it argues, would result in inaccurate and undervalued assessments of utility acquisitions.

In conclusion, Cal-Am urges the Commission to disregard MPWMD's comments, which it views as legally flawed and inconsistent with established legislative and regulatory frameworks. Cal-Am emphasizes that future acquisition policies must be grounded in the intent of the Legislature and the realities of how water systems are bought, sold, and operated in California. This response underscores the broader legal and policy disagreements among stakeholders navigating water system consolidation in the state.

The Small IOUs, as members of CWA, submitted reply comments expressing strong opposition to the gain-on-sale provisions included in the Staff Proposal. While supporting the overall goal of expanding access to affordable and reliable water service, they argue that the proposed changes would create harmful disincentives, especially for small, often family-owned utilities that provide service to rural and disadvantaged communities.

They highlight a critical concern regarding the misalignment of incentives: by redirecting a significant portion of sales gains away from system owners, the proposal would disincentivize investment and discourage potential sellers. They warn that this could result in underinvestment, service degradation, and fewer voluntary consolidations, ultimately harming both current and future ratepayers.

From a legal and policy perspective, the Small IOUs assert that the Staff Proposal contradicts long-standing precedents and the intent of the Public Water System Investment and Consolidation Act of 1997, which aims to promote consolidation through fair compensation. They raise potential constitutional concerns, citing United States Supreme Court decisions affirming that utility

customers do not acquire ownership interests in utility property simply by paying for services.

Their reply comments also highlight the practical challenges of applying gain-on-sale rules, especially to transactions involving municipal utilities, where inconsistent treatment could lead to unfair and legally questionable outcomes. They argue that the proposed rules would impose a disproportionate burden on small operators and jeopardize the financial viability of sales needed to maintain or improve water system performance.

In conclusion, the Small IOUs urge the Commission to reject the gain-on-sale proposal, advocating instead for maintaining existing practices that respect legislative intent and the operational realities of small utilities. They call for further record development before implementing any rule changes, emphasizing that careful consideration is essential to avoid unintended consequences that could undermine water system consolidation and harm ratepayers.

4. Acquisitions Involving Failing, At-Risk, and Potentially At-Risk Water Systems

This section addresses the definition of failing or at-risk water systems, treatment of incentives under the existing framework, and use of memorandum accounts.

4.1 Definition of Failing, At-Risk, and Potentially At-Risk Water Systems

The existing framework refers to "Inadequately Operated and Maintained (IOM) Small Water Utility" for systems serving under 2,000 customers with outstanding improvement orders. This terminology is outdated, as further discussed below. The Staff Proposal suggests discontinuing the use of the term "IOM" and aligning with the definitions used by the SWRCB in implementing the Safe Drinking Water Act (Calderon, 2021).

The Safe Drinking Water Act introduced specific definitions and focus areas, notably addressing small community water systems (serving no more than 3,300 connections or 10,000 people) and state small water systems (serving between 5 to 14 connections and no more than 25 people). SWRCB conducts an annual Needs Assessment, which categorizes water systems based on their operational status and compliance with drinking water standards. SWRCB's assessment includes systems up to 30,000 connections or 100,000 people, significantly expanding the scope compared to the existing framework.

The Staff Proposal recommends that the Commission adopt SWRCB's definitions for failing systems, at-risk systems, and potentially at-risk systems. Failing systems are those that are out of compliance or consistently fail to meet primary drinking water standards. At-risk systems are identified based on the results of the Needs Assessment, indicating potential vulnerabilities that could lead to failing status. Potentially at-risk systems are a new category recognizing systems that are not currently failing or at-risk but may become so due to identifiable trends or pending issues. Systems that are not failing, not at-risk, and not potentially at-risk are referred to as "not at-risk" systems herein, in alignment with the SWRCB's usage.

The Staff Proposal emphasizes the importance of prioritizing acquisitions that involve small community or state small water systems identified as failing, at-risk, or potentially at-risk. This prioritization is supported by Pub. Util. Code Section 2721(d), which mandates expedited review and support for acquisitions addressing these critical systems, thereby ensuring that the most vulnerable populations have reliable and safe drinking water access.

We agree with the Staff Proposal that the term IOM is outdated and should be updated to align with SWRCB's definitions for failing systems, at-risk

systems, and potentially at-risk systems. No party objected to this change, and Cal Advocates and CWA supported the proposal.¹¹ Overall, these changes reflect a systematic and data-driven approach to managing water system acquisitions, focusing regulatory resources where they are most needed to protect public health and ensure water system reliability. Therefore, we adopt the Staff Proposal's recommendation to adopt SWRCB's definitions for failing systems, at-risk systems, and potentially at-risk systems.

By aligning definitions with the SWRCB's standards and current legislation, the Commission aims to enhance the effectiveness of its regulatory oversight, ensuring that interventions are timely, appropriately targeted, and based on the most current data and assessments. This approach not only helps in managing public health risks but also supports the sustainability and resilience of California's water infrastructure by addressing problems in smaller water systems before they escalate.

4.2 Incentives Under the Existing Framework

The existing framework offers four main incentives to encourage the acquisition of failing, at-risk, and potentially at-risk systems. These incentives are:

- A. **Memorandum Account:** Allows for the creation of accounts to cover unexpected repair costs post-acquisition.
- B. **Recovery of Fixed Costs:** Designing rates to recover up to 100% of fixed costs.
- C. **Rate Increases Based on CPI:** Facilitates filing for rate increases aligned with the Consumer Price Index.

¹¹ See, Cal Advocates Opening Comments on Staff Proposal at 2 and CWA Opening Comments on Staff Proposal at 5. CforAT expressed no opinion on this proposal. (See, CforAT Opening Comments on Staff Proposal at 1.)

D. **Rate of Return:** Setting rates based on the rate of return for smaller utilities (Class C or D).

The Staff Proposal suggests retaining only the memorandum account incentive, and only for acquisitions involving failing, at-risk, or potentially at-risk systems because this incentive has been the most consistently applied and directly addresses the unforeseen financial burdens that might arise after taking over a failing or at-risk system.

The Staff Proposal argues that limiting the memorandum account incentive to failing, at-risk, or potentially at-risk systems focuses resources on acquisitions of failing, at-risk, and potentially at-risk systems, thereby enhancing the resilience and reliability of water services in vulnerable areas.

The Staff Proposal recommends that, in addition to keeping the memorandum account, there be shorter review periods and flexibility in review standards and public noticing requirements for acquisitions of failing, at-risk, and potentially at-risk systems. These recommendations are discussed in the sections pertaining to noticing and review standards.

We agree with the Staff Proposal that memorandum accounts should be limited to acquisitions of failing, at-risk, and potentially at-risk systems and that the other existing incentives should be removed.

4.3 Memorandum Accounts

The Staff Proposal identifies memorandum accounts as specialized accounting tools that Water IOUs can use to track and manage unforeseen or extraordinary expenses that arise during the acquisition and integration of a failing, at-risk, or potentially at-risk water system. The Staff Proposal's restriction of memorandum accounts to failing, at-risk, or potentially at-risk systems is

intended to ensure that these tools are used in scenarios where unexpected costs are more likely due to the condition of the systems being acquired.

In the Staff Proposal, for acquisitions of not-at-risk systems, where the infrastructure is less likely to necessitate immediate and extensive repairs, the acquiring utilities are required to forecast the related acquisition costs as part of their GRC applications. This approach places the financial risk of these forecasts on the utilities until such time as the costs can be formally reviewed and incorporated into new rates through the GRC process.

Requiring the utility to bear the risk for forecasting costs in GRC applications for acquisitions involving not-at-risk systems promotes fiscal prudence and encourages utilities to undertake thorough due diligence and cost management. This policy also aligns with regulatory goals of promoting responsible management of utility finances, ensuring that ratepayers are not unduly burdened by costs resulting from potentially speculative or poorly planned acquisitions.

CWA, Cal-Am, and Cal Water argue that memorandum accounts should not be limited to failing, at-risk, or potentially at-risk systems. CWA is against this recommendation and believes that water utilities should be allowed to track all transaction costs related to the acquisition.¹² Cal-Am asserts that the Commission should reject the proposal concerning memorandum accounts because it blindly rejects their use.¹³ Cal Water believes that this requirement creates unnecessary hurdles and will cause acquisitions not to occur.¹⁴

¹² CWA Opening Comments on Staff Proposal at 9-12. See also, CWA Reply Comments on Staff Proposal at 25.

¹³ Cal-Am Opening Comments on Staff Proposal at 2.

¹⁴ Cal Water Opening Comments at 15.

Cal Advocates supports the Staff Proposal's limitation of memorandum accounts and states that utilities cannot be allowed to expect reimbursement for incurring costs for an acquisition that is not in the public interest.¹⁵ CWA supports the memorandum account proposal set forth in the Staff Proposal and argues that the Commission should reject CWA's request for a memorandum account in all acquisitions.¹⁶

We reject the arguments put forth by CWA, Cal-Am, and Cal Water and reject their request to continue to allow the use of these accounts outside of failing, at-risk, or potentially at-risk systems. We agree with Cal Advocates that the utilities failed to make a case for showing that memorandum accounts provide any public or ratepayer benefit in acquisitions of not-at-risk systems.¹⁷

Therefore, we adopt the recommendations set forth in the Staff Proposal concerning the use of memorandum accounts. Allowing these accounts only for failing, at-risk, or potentially at-risk systems will incentivize acquisitions of these systems. IOUs shall use the GRC process for forecasting related acquisition costs for not-at-risk systems.

We agree with the Staff Proposal that the language used in requesting a memorandum account must clearly specify which costs will be tracked and when they will be applied to failing, at-risk of failing, or potentially at-risk of failing systems. This requirement aims to enhance the transparency of the acquisition process and ensure that only justifiable expenses are recorded and potentially recovered. The Staff Proposal also defines the conditions under which costs

¹⁵ Cal Advocates Reply Comments on Staff Proposal at 4.

¹⁶ CforAT Reply Comments on Staff Proposal at 1, 6, and 7.

¹⁷ Cal Advocates Reply Comments on Staff Proposal at 5.

recorded in the memorandum account can be recovered, ensuring that these expenses meet stringent criteria for necessity and prudence.

We also agree with Cal Advocates that limiting memorandum accounts to failing, at-risk, or potentially at-risk system acquisitions ensures that resources are concentrated where they are most needed and provides an incentive for utilities to target these priority systems for acquisitions.¹⁸ Cal Advocates also asserts that utilities could use memorandum accounts to distort the rate impact by strategically shifting unanticipated costs to ratepayers after the acquisition is approved.¹⁹ MPWMD also agrees with Cal Advocates that utilities could use the memorandum account to distort the impact on ratepayers.²⁰

The Commission rejects arguments from certain utilities, such as CWA, Cal-Am, and Cal Water, which sought broader use of memorandum accounts. These utilities failed to demonstrate that such a broad application would provide clear benefits to the public or ratepayers. Additionally, the Commission agrees with Cal Advocates that limiting memorandum accounts to high-priority acquisitions will ensure that resources are directed to the most urgent needs and prevent utilities from manipulating costs to the detriment of ratepayers. With enhanced transparency and stringent criteria for cost recovery, the adopted proposal fosters a more prudent and responsible approach to managing utility acquisitions.

In conclusion, the Commission adopts the Staff Proposal's recommendation to limit the use of memorandum accounts to acquisitions involving failing, at-risk, and potentially at-risk water systems. This restriction is

¹⁸ Cal Advocates Opening Comments on Staff Proposal at 4.

¹⁹ *Id.*

²⁰ MPWMD Reply Comments on Staff Proposal at 5.

intended to ensure that these specialized accounting tools are only used in situations where unexpected costs are most likely, thereby protecting ratepayers from undue financial burdens. By requiring utilities to forecast acquisition costs for not-at-risk systems through the GRC process, the proposal promotes fiscal responsibility and incentivizes utilities to conduct thorough due diligence.

5. Price and Valuation

The Price and Valuation section of the Staff Proposal made various recommendations concerning how the Commission should address the price and valuation of water acquisitions. During this proceeding, the Commission held a workshop on this topic. The Staff Proposal examined the following topics:

Commission's Valuation Authority; Valuation Methods; Third Party Appraisals; Valuation Trend Analysis; Gain on Sale; and Water Rights.

5.1 Commission's Valuation Authority

As explained in the Staff Proposal, Pub. Util. Code. Section 2720 defines fair market value²¹ (FMV), reproduction cost (herein referred to as reproduction cost new less depreciation, or RCNLD), and establishes the Commission's discretion as to how much of the difference (herein referred to as the acquisition premium) a utility may include in its rate base for ratesetting purposes. CforAT supports the Staff Proposal.²² Additionally, Cal-Am notes that the Legislature clearly laid out the process for the Commission to follow.²³

According to the Staff Proposal, interpretations of Section 2720 have "led to the perception that ... the entire purchase price must be placed into rate base; however, Pub. Util. Code Section 2720(b) allows the Commission significant

²¹ As defined by Section 1263.320 of the Code of Civil Procedure.

²² CforAT Opening Comments on Staff Proposal at 3.

²³ Cal-Am Opening Comments on Staff Proposal at 4.

discretion.”²⁴ According to the Staff Proposal, this power instead “allows the Commission to apply protections when the purchase price exceeds the cost to replace the system.”²⁵

We agree with the Staff Proposal and affirm that the Commission retains the discretion to include all or part of the acquisition premium in the rate base. This flexibility is crucial in cases where the purchase price may exceed the tangible and direct benefits to the ratepayers. By using its discretionary power, the Commission acts as a safeguard against inflated pricing agreements between selling and buying utilities, ensuring that acquisitions are conducted in a financially prudent manner. The acquiring utility bears the burden to justify the inclusion of any part of the acquisition premium into its rate base. This requirement ensures that only reasonable, justifiable costs are passed on to ratepayers, protecting them from the potential financial burden of overvalued acquisitions.

Furthermore, the potential for the Commission to disapprove the recovery of an unjustifiably high acquisition premium serves as a significant incentive for the acquiring utility to negotiate more cautiously and strategically. CWA supports this approach, noting that it encourages purchasing utilities to aim for lower purchase prices, aligning their financial interests more closely with those of the customers they serve.²⁶

²⁴ Staff Proposal at 7.

²⁵ Staff Proposal at 8.

²⁶ CWA Opening Comments on Staff Proposal at 13 and CWA Reply Comments on Staff Proposal at 12.

Cal Advocates asserts that acquisition premiums should be FMV minus book value instead of RCNLD.²⁷ This interpretation runs counter to a plain reading of Pub. Util. Section 2720(b) and is therefore rejected.

We recognize the urgent need and public interest in securing the continuity and improvement of failing, at-risk, and potentially at-risk water systems. The Commission will consider whether a system is failing, at-risk, or potentially at-risk and may allow a higher proportion of the acquisition premium into the rate base for these systems. This policy is designed to further incentivize utilities to undertake acquisitions of failing, at-risk, or potentially at-risk systems by potentially offering a more favorable financial outcome for taking on the risks associated with such systems.

We affirm the Commission's valuation authority as set forth in the Staff Proposal and Pub. Util. Code Section 2720(b). This regulatory approach balances the need to protect ratepayers from potential financial excesses while promoting the acquisition of failing, at-risk, and potentially at-risk water systems that require immediate intervention. By mandating strict proof requirements and retaining discretionary powers, the Commission ensures that acquisitions are both financially justified and aligned with broader public service objectives. This framework not only safeguards consumer interests but also supports the financial health of the water utility sector by fostering responsible pricing practices and strategic financial planning.

5.2 Valuation Methods

Valuation methods are used for determining the value of a water system during an acquisition. It is important for the valuation methods to aim for fair

²⁷ Cal Advocates Opening Comments on Staff Proposal at 6 and Cal Advocates Reply Comments on Staff Proposal at 6.

and transparent pricing practices. The Staff Proposal outlines four valuation methods drawn from Cal Advocates' Workshop 2 presentation: RCNLD, book value, comparable value, and income value.²⁸

RCNLD calculates the current cost to reproduce the water system infrastructure net of depreciation and liabilities. It reflects the cost to rebuild the system to its current state without considering its historical cost. Per Pub. Util. Code Section 2720, RCNLD is used to determine if there is an acquisition premium.

Book value represents the original cost of the system assets minus accumulated depreciation as recorded in the financial books. Cal Advocates argues that book value should also be considered for valuations.²⁹ We reject Cal Advocates' recommendation because book value is an accounting construct that does not account for market conditions, the time-value of money, or the system's current operational state.

The comparable value method involves comparing the system to similar utilities that have been recently acquired, adjusting for differences in size, customer base, and geographical location. This method helps establish market-based value by looking at what investors are willing to pay for similar systems, providing a real-world context to the valuation.

Income value estimates the present-day value of expected future income from the water system, discounting future cash flows to their present value. This is particularly relevant for systems with stable, predictable revenue streams

²⁸ Staff Proposal at 9.

²⁹ Cal Advocates Opening Comments on Staff Proposal at 7.

because this method assesses the profitability and financial viability of the system.

The Staff Proposal also addresses the issue of FMV. FMV is defined by Code of Civil Procedure (CCP) Section 1263.320(a) as “the highest price on the date of valuation that would be agreed to by a seller, being willing to sell but under no particular or urgent necessity for so doing, nor obliged to sell, and a buyer, being ready, willing, and able to buy but under no particular necessity for so doing, each dealing with the other with full knowledge of all the uses and purposes for which the property is reasonably adaptable and available.” Under certain conditions, CCP Section 1263.320(a) sets the FMV equal to the purchase price.

The Staff Proposal recommends that “the revised framework should require the acquiring utility to provide valuations of both the fair market value and the RCNLD.”³⁰

CWA and Cal-Am oppose this approach.³¹ They argue that FMV is equal to the purchase price, and as such, no valuation analysis is necessary. This argument misses the mark. Transparency and accountability demand that the utility establish how the purchase price was determined. Requiring the IOU to provide both the FMV and RCNLD will help promote transparency and accountability. This dual-valuation approach ensures a comprehensive assessment of the water system's worth.

To promote transparency, the acquiring water IOU must also provide details on existing, pending, and potential liabilities of the acquired system. This

³⁰ Staff Proposal at 9.

³¹ See, CWA Reply Comments on Staff Proposal at 15-16 and Cal-Am Reply Comments on Staff Proposal at 3-4.

enables a more informed decision-making process, ensuring that all financial aspects of the acquisition are thoroughly considered.

In formal proceedings, parties other than the acquiring utility may present alternative valuations using different methods, adding depth to the regulatory review. For advice letters, the Water Division will have the authority to request a second valuation, ensuring that the valuation withstands scrutiny and aligns with regulatory standards. This supports our goal of providing additional transparency in how the purchase price was determined and provides additional protection to ratepayers.

5.3 Third-Party Appraisals

The Staff Proposal suggests that the Commission recommend to the California Legislature the implementation of a third-party appraisal process like that used by the Pennsylvania Public Utility Commission (PA PUC) for water system acquisitions. In short, the PA PUC's model requires third-party evaluations by an approved vendor and provides the opportunity for stakeholder input before the PA PUC renders a verdict.

Use of the PA PUC model was supported by UCS/RCAC, Cal Advocates and CforAT. Cal Advocates argues that pursuant to Pub. Util. Code Section 2720, the Commission already has the authority to implement third-party appraisal without legislative action, and they assert that third-party appraisals assist the Commission's review of water system valuations.³² UCS/RCAC argue that the Commission should require multiple appraisals to ensure that the value is accurate.³³ CforAT also noted their support of requiring third party appraisals, but provided minimal discussion as to why they supported them.

³² Cal Advocates Opening Comments on Staff Proposal at 8-9.

³³ UCS/RCAC Opening Comments on Staff Proposal at 5.

CWA and Cal Water oppose the use of the PA PUC model, arguing that third-party appraisals could add procedural complexity without delivering added value or protection to ratepayers. CWA notes that it sees no necessity for them, and Cal Water notes that if adopted, there must be various exemptions to any third-party appraisal requirements.³⁴

Requiring mandatory third-party appraisals would require ongoing administrative oversight of the Commission. This could consume significant resources without a proven benefit. Accordingly, we decline to adopt this recommendation. We find that refinements to the use of FMV and RCNLD adopted in Section 4.2.2 are sufficient at this time.

5.4 Valuation Trend Analysis

Section 10.2 of D.20-08-047 provides a list of required documents for the acquiring utility to submit with its application for a proposed acquisition.³⁵ The Staff Proposal recommends an expansion of the previously adopted list to require the acquiring utility to submit a valuation trend analysis. This was supported by Cal Advocates and CforAT. Cal Advocates believes that this is required to understand and address affordability concerns. They believe that historical trends show that per connection costs have skyrocketed.³⁶ CforAT simply stated that “CforAT supports the Staff Proposal’s recommendation that acquiring utilities be required to include an analysis of the purchase price-per-

³⁴ See, CWA Opening Comments on Staff Proposal at 18 and Cal Water Opening Comments on Staff Proposal at 12-13.

³⁵ As previously noted, the required documents are now due during the pre-filing conference with Water Division.

³⁶ See, Water Division Workshop Report 2, Cal Advocates at A-15, slide 116; Cal Advocates Opening Comments on Staff Proposal at 9-10; and Cal Advocates Reply Comments on Staff Proposal at 8.

connection as part of its valuation analysis.”³⁷ CWA argues that this is duplicative and a waste of resources.³⁸ Cal Water argues that it is premature to establish additional required documentation and that there are no exemptions provided, and it does not see how such an analysis will help inform the Commission’s decision-making process.³⁹

Requiring utilities to submit trend analyses and comparative purchase price-per-connection reports creates an administrative and analytical burden that is disproportionate to its usefulness, particularly in small or distressed system acquisitions. Utilities would be responsible for:

- Collecting market data that may not be publicly available or comparable.
- Analyzing variables that vary widely (e.g., geography, compliance needs, infrastructure age).
- Creating economic models without a clear standard methodology.

This may discourage participation in acquisitions, particularly where the value of the system is not driven by market trends but by the need to restore safe and reliable water service. Water system acquisitions, especially in California, occur in highly diverse regulatory, geographic, and financial contexts:

- Some systems serve rural, under-resourced, or disadvantaged communities.
- Others may involve large urban systems with sophisticated infrastructure needs.
- Purchase prices may include non-economic considerations like environmental liabilities or public health emergencies.

³⁷ CforAT Opening Comments on Staff Proposal at 4.

³⁸ CWA Opening Comments on Staff Proposal at 15.

³⁹ Cal Water Opening Comments on Staff Proposal at 13.

As a result, purchase price-per-connection is not a meaningful or consistent benchmark across cases.

The Commission already has adequate tools that can be used. Under Section 10.2 of D.20-08-047, the Commission already requires a robust package of documentation to assess acquisitions, including engineering assessments, business plans, valuation studies, and due diligence documentation. These tools allow the Commission to evaluate the prudence and reasonableness of proposed purchase prices on a case-by-case basis. Adding a loosely defined requirement to analyze trends in system value would not significantly enhance this authority and may instead lead to confusion or inconsistency in application. The result would complicate proceedings without improving outcomes, particularly when acquisition value is driven more by public health needs or compliance urgency than market-based pricing.

Accordingly, we decline to implement this recommendation as additional work is needed on this proposal.

5.5 Gain on Sale

When utilities sell land, buildings, or other assets, they may incur a gain (or loss) on sale. Gain on sale is typically calculated as the difference between the purchase price of an asset and its book value. Commission policy allocates, under typical conditions, 100% of gains (or losses) from the sales of depreciable assets and 67% of the gains (or losses) from non-depreciable assets to ratepayers.⁴⁰ This is intended to ensure that ratepayers share in the profits of asset sales proportionate to the risk they bear in buying assets. Under present

⁴⁰ D.06-05-041 at 96 as modified by D.06-12-043 (see page 21).

Commission policy, these rules apply to the sale of assets that are no longer used and useful by a utility, not to the sale of an entire utility.

The Staff Proposal recommends applying the same rules to water utility acquisitions, allowing flexibility in the application of these rules to failing, at-risk, and potentially at-risk systems. The Staff Proposal asserts application of gain on sale rules could potentially impact the negotiation dynamics to favor lower purchase prices.⁴¹

Cal Advocates, CforAT, MPWMD, and UCS/RCAC support this proposal. Cal Advocates asserts that the Commission adopt the gain on sale recommendation in the Staff Proposal. Cal Advocates believes that the application of gain on sale to water acquisitions will allow the Commission to appropriately allocate the financial risks and rewards associated with utility assets and that it will ensure consistency in the regulatory process.⁴² CforAT noted in its Opening Comments on the Staff Proposal that “CforAT does not have a position on this issue at this time, except to note that we have to keep rates affordable, rather than being used to increase profit of the IOUs’ shareholders or investors.”⁴³ MPWMD was very supportive of the idea of applying gain on sale in water acquisitions.⁴⁴ UCS/RCAC also supports the proposal.⁴⁵

⁴¹ Staff Proposal at 11-13.

⁴² Cal Advocates Opening Comments on Staff Proposal at 10-11 and Reply Comments on Staff Proposal at 8-11.

⁴³ See, CforAT Opening Comments on Staff Proposal at 4; CforAT Reply Comments on Staff Proposal at 7; CforAT Opening Comments on Workshop 3 Report at 9 and CforAT Reply Comments on Workshop 3 Report at 8-10.

⁴⁴ MPWMD Opening Comments on Staff Proposal at 7-8.

⁴⁵ See, Joint Consumer Comments on Workshop 3 Report at 9; Joint Consumer Reply Comments on Workshop 3 Report at 8-10 and UCS/RCAC Opening Comments on Staff Proposal at 6.

CWA, Cal-Am, Cal Water and Small IOUs oppose this proposal. CWA asserts that applying gain on sale rules to water system acquisitions would have far reaching regulatory, legal, and financial impacts beyond this rulemaking.⁴⁶ CWA argues that expanding gain on sale rules would “create a perverse incentive for sellers to increase the purchase price.”⁴⁷ CWA further argues that choosing not to apply gain on sale to failing, at-risk, and potentially at-risk systems “would potentially reward bad actors, while penalizing sellers with the foresight to seek out buyers before water quality, operational, and service issues arise.”⁴⁸

Cal-Am argues that this conflicts with Pub. Util. Code Section 2720 and would create perverse incentives, potentially punish well-run systems, and reward operators of neglected systems.⁴⁹ They further note that the application of gain on sale as set forth in the Staff Proposal would be destructive and unprecedented.⁵⁰ Cal Water recommends that the Commission reject the gain on sale recommendation set forth in the Staff Proposal and notes that the Commission has previously rejected the notion of gain on sale being applied to whole system acquisitions.⁵¹

Small IOUs argue that “[a]dopting the Staff Proposal to extend gain-on-sale rules to system acquisitions would eliminate any rationale for small water

⁴⁶ CWA Opening Comment on Staff Proposal at 20.

⁴⁷ Opening Comments of Cal Water Association on Staff Proposal at 22.

⁴⁸ Reply Comments of California Water Association on Staff Proposal at 20.

⁴⁹ Cal-Am Opening Comments on Staff Proposal at 11-15.

⁵⁰ *Id.*

⁵¹ Cal Water Opening Comments on Staff Proposal at 14 and referring to D.21-08-002 in A.20-04-003 at 29.

system owners to divest of their investments.”⁵² They also note that this could harm customers and disincentivize water consolidations.⁵³ We agree with Small IOUs; if sellers are required to return a significant portion of the sale proceeds to ratepayers, they may have less motivation to sell. This could chill the market for system sales at a time when the Commission is actively encouraging voluntary consolidation.

The primary purpose of the Commission’s water system acquisition framework is to facilitate the transfer of failing, at-risk, potentially at-risk systems into the hands of capable operators to protect public health, ensure compliance, and promote service reliability. We agree with CWA, Cal-Am, Cal Water, and the Small IOUs that applying gain on sale rules to water system acquisitions is inconsistent with this policy goal. Furthermore, we agree with CWA’s concern that the Staff Proposal’s policy could encourage water system owners to let systems fall into disrepair.

California law provides a framework for addressing acquisition premiums. Under Pub. Util. Code Section 2720, the Commission may allow a portion of the acquisition premium into rate base if the transaction provides net benefits to ratepayers, including service reliability and cost efficiencies. Imposing additional gain-on-sale recovery mechanisms on top of acquisition premium rules creates a redundant and potentially conflicting regulatory structure. The Workshops and other evidence presented during this proceeding fail to demonstrate the need to justify this expansion. Accordingly, we reject the gain on sale recommendation set forth in the Staff Proposal.

5.6 Water Rights

⁵² Reply Comments of the Small Water Companies on the Staff Proposal at 5.

⁵³ *See*, Small Water Companies Opening Comments on the Staff Proposal at 4-12.

Under the existing framework, water rights have been bundled with other assets in the transaction and not separately valued, leading to a lack of transparency and potential undervaluation or overvaluation of these rights. The existing framework does not have a consistent approach for valuing water rights, often leaving the approach to be determined on a case-by-case basis, which can result in inconsistencies and unpredictability in regulatory decisions.

The Staff Proposal's revised framework suggests treating water rights as non-depreciable assets that are included in the rate base. The Staff Proposal would further require acquiring utilities to conduct and submit a cost/benefit analysis regarding the inclusion of water rights in the rate base. Finally, under the revised framework the Commission would retain discretion in deciding how much the cost associated with water rights can be included in the rate base.

Various parties support this proposal. Cal Advocates argues that ensuring that water rights are only included in valuations to the extent that they are safe, used, and useful, and not valued independently, helps prevent ratepayers from paying for assets that provide little or no benefit.⁵⁴ CforAT supports the Staff Proposal's recommendation to include water rights as non-depreciable assets included in the rate base.⁵⁵ UCS/RCAC believe that water rights should be a non-depreciable asset.⁵⁶ MPWMD supports the proposal with the caveat that the Commission clarify its authority on water rights that exceed reproduction costs.⁵⁷

CWA and Cal-Am strongly oppose the suggestion put forth in the Staff Proposal. CWA notes that the Consolidation Act requires the Commission to

⁵⁴ Cal Advocates Opening Comments on Staff Proposal at 11-12.

⁵⁵ CforAT Reply Comments on Staff Proposal at 8.

⁵⁶ UCS/RCAC Opening Comments on Staff Proposal at 6.

⁵⁷ MPWMD Opening Comments on Staff Proposal at 8.

allow the acquiring utility to put the fair market value of the acquired system into rate base.⁵⁸ They go on to argue that acquiring water rights as part of an acquisition should be encouraged because water utilities that acquire additional water rights rely less on purchased water, which may become less available and more expensive as droughts continue in California.⁵⁹ CWA also contends that the Commission only has discretion on water rights that exceed reproduction costs pursuant to Pub. Util. Code Section 2720.⁶⁰ Cal-Am asserts that it would not make sense to allow utilities to acquire assets in the form of water rights, but then to exclude those assets from a valuation of the utility.⁶¹ They believe that water rights should be valued just like the utility's other assets.⁶²

The proposed changes to the treatment of water rights in water system acquisitions are designed to bring greater clarity, consistency, and fairness to a complex area of utility regulation. By formally recognizing water rights as critical, non-depreciable assets and requiring detailed financial analyses of their impact on ratepayers, the revised framework aims to ensure that these rights are treated as valuable and integral components of water systems. This approach not only aligns with broader regulatory goals of transparency and fairness but also helps safeguard the long-term sustainability and reliability of water supply in the context of increasing demand and competition for water resources.

The mandatory cost/benefit analysis ensures that the interests of ratepayers are carefully considered before any costs associated with water rights

⁵⁸ CWA Opening Comments on Staff Proposal at 27.

⁵⁹ *Ibid.*

⁶⁰ *Id.* at 26-27

⁶¹ Cal-Am Reply Comments on Staff Proposal at 6.

⁶² *Ibid.*

are recovered through rates. This process is intended to protect consumers from excessive charges and ensure that acquisitions are financially justifiable.

We adopt the Staff Proposal's revised framework with clarification. First, we do not require utilities to separate water rights from the purchase price. Rather, water utilities have the discretion to treat water rights as an individual asset separate from the purchase price, provided they produce a ratepayer cost/benefit analysis. Second, we agree with CWA that the Commission's authority is limited by Section 2720, so we clarify that the Commission retains discretion on the amount of water rights exceeding RCNLD which may be placed into rate base.

6. Ratepayer Impacts

The Staff Proposal makes recommendations concerning a ratepayer impact analysis, public noticing, rate deferment and quantifying ratepayer benefits and costs. These are taken in turn below.

6.1 Ratepayer Impact Analysis

D.20-08-047 requires utilities to provide a rate impact analysis for customers of the acquired utility but not for their existing customers.⁶³ This decision marked a change in how acquisitions are reviewed, prioritizing transparency and accountability. Prior to D.20-08-047, under the existing framework, utilities undergoing acquisitions were not obliged to present any rate impact analysis, which left ratepayers uninformed about the potential financial impact of such acquisitions.

Under the Staff Proposal's revised framework, acquiring utilities would be required to conduct and submit comprehensive rate impact analyses when they

⁶³ The reporting requirements from D.20-08-047 were included as Appendix A to the Staff Proposal and are attached to this decision as Attachment B.

apply for an acquisition. This includes forecasting rate changes, annual revenue requirement, and a dual rate impact analysis.

The Staff Proposal proposes that, as in a GRC, the acquiring utility must forecast the revenue increases that will result from the acquisition at the time of the filing. This involves comparing the proposed rates with the current rates and estimating the impact these changes will have on the average residential customer's monthly bill.

The Staff Proposal would retain D.20-08-047's mandate that utilities provide a detailed estimate of the annual revenue requirement expected from the acquisition. This includes laying out the assumptions used in the forecast, such as the expected rate of return, the rate base (the value of property on which the utility is allowed to earn a specified rate of return), and projected expenses.

Under the Staff Proposal's Revised Framework, the acquiring utility must conduct a dual ratepayer analysis, one for existing customers of the acquiring utility and one for those of the acquired utility. To implement these requirements, the Staff Proposal would require utilities to submit workpapers alongside their acquisition applications or advice letters. These documents must use current effective rates and typical water usage patterns to analyze the rate impacts. This analysis must project what the average residential monthly bills would be under the new rates at the time of the filing. The workpapers must also reflect any recently approved rate increases or surcharges that have been authorized for both the acquiring and acquired utilities. This should include information from the most recent GRCs, as well as other relevant applications and advice letters filed within the previous year.

For acquisitions valued over \$5 million, utilities must provide an analysis that models how rates would change if they were phased in over three years.

This helps mitigate the immediate financial impact on customers. Even if an acquiring utility proposes delaying the rate increases to a future GRC, they are still required to provide the detailed rate impact analysis at the time of acquisition. Additionally, for Class A IOUs, compliance with additional directives, such as using a rate tracker as required by specific decisions (*e.g.*, D.22-08-023 from Affordability Proceeding R.18-07-006), is mandated. This rate tracker helps by continuously monitoring the impacts of rate changes post-acquisition.

These recommendations were supported by Cal Advocates, CforAT, MPWMD, and UCS/RCAS.⁶⁴ Cal Advocates notes that the revised framework set forth in the Staff Proposal promotes transparency and accountability because it requires water companies to present detailed forecasts of how acquisitions will impact customer rates.⁶⁵ Throughout this proceeding, CforAT has argued that any application for an acquisition should include an analysis of the impact on rates for both new and existing customers.⁶⁶ MPWMD correctly notes that the existing framework has no requirement to include a rate impact analysis on existing customer, but the Staff Proposal addresses this deficiency in the revised framework by requiring the acquiring utilities to provide a rate impact analysis for both new and existing customers.⁶⁷

⁶⁴ *See*, UCS/RCAS Opening Comments on Staff Proposal at 6-9.

⁶⁵ *See*, Cal Advocates Opening Comments on the Staff Proposal at 12 and Cal Advocates Reply Comments on the Staff Proposal at 11-12.

⁶⁶ CforAT comments on Workshop 3 Opening Comments at 3; CforAT Reply Comments on Workshop 3 Reply Comments at 2-3; CforAT Opening Comments on Staff Proposal at 4-5; and CforAT Reply Comments on Staff Proposal at 8.

⁶⁷ MPWMD Opening Comments on Staff Proposal at 8. *See also*, MPWMD's Opening Comments on Workshop 3 Report at 2.

CWA and Cal Water oppose this recommendation. CWA asserts that forecasting rates on a proposed acquisition is not feasible as the acquiring utility simply does not possess the necessary information to formulate the rates prior to the acquisition being approved.⁶⁸ Cal Water believes that the proposal will make potential acquisitions more difficult and adds more requirements than those of D.20-08-047.⁶⁹ We disagree with CWA and Cal Water. Requiring a ratepayer impact analysis enhances transparency and shows how an acquisition might impact the ratepayers of both systems.

The revised framework for utility acquisitions underlines a commitment to greater transparency and detailed analysis, ensuring that all ratepayers are well-informed about how acquisitions could affect their bills. It also enhances the Commission’s ability to oversee and validate these financial impacts, thereby protecting consumer interests while ensuring the viability of utility operations post-acquisition.

Accordingly, we will require a rate impact analysis for both new and existing customers for all water acquisitions. The rate impact analysis shall conform to the following table as set forth in the Staff Proposal:

Ratepayer Impact Analysis⁷⁰

Existing [name of acquiring utility] Residential Customers						
Hypothetical Effective Date	Meter Size: 5/8"	Usage*	Pre-Acquisition Monthly Bill	Post-Acquisition Monthly Bill	\$ Increase	% Increase
Oct 17, 2024	Average	92.01 CGL	\$129.53	\$129.53	\$0.00	0%
	Tier 1	59.8 CGL	\$69.97	\$69.97	\$0.00	0%
Acquired Residential Customers of [name of acquired utility]						

⁶⁸ CWA Opening Comments on Staff Proposal at 29-30.

⁶⁹ Cal Water Opening Comments on Staff Proposal at 15-16.

⁷⁰ Sample Figures taken from Res. W-5279: Acquisition of Corral De Tierra Water Company by California-American Water Company.

Hypothetical Effective Date	Meter Size: 5/8"	Usage*	Pre-Acquisition Monthly Bill	Post-Acquisition Monthly Bill	\$ Increase	% Increase
Oct 17, 2024	Average	136.65 CGL	\$125.00	\$212.61	\$87.61	70.1%
	Tier 1	59.8 CGL	\$125.00	\$69.97	-\$55.03	-44.0%

Usage in CGL = 100 gallons

6.2 Public Noticing

Section 4.03 of the existing framework outlines the requirements for notifying customers about proposed utility acquisitions. Current notice requirements only apply to the proposed acquisitions of mutual or municipally-owned water systems. There is no specific language in the existing framework that mandates public noticing for acquisitions where the acquired system is a water IOU.

The revised framework proposes that public notices should be required for all proposed acquisitions filed with the Commission, regardless of the type of water system being acquired. The revised framework proposes that the public notice for a proposed acquisition should mirror the requirements of a GRC process. According to Rule 3.2(d) of the Commission's Rules of Practice and Procedure, utilities must notify affected customers within specific timeframes about any application to increase rates. This notice must detail the amount of the rate change, reasons for the change, and how to engage with the Commission's review process.

For advice letters that request higher rates or more restrictive terms, the Staff Proposal's Revised Framework applies the public noticing rules from General Order (GO) 96-B. This includes providing at least 30 days' notice to affected customers through various methods such as bill inserts, notices on bills, separate mailings, or email, depending on the customer's consent and the authorized methods under Industry Rules.

The Staff Proposal proposes that a draft notice should be included as part of the Prefiling Conference for the Water Division's review, ensuring that all necessary information and comparisons are accurately presented to the public. For proposed acquisitions involving failing, at-risk, or potentially at-risk water systems, the revised framework emphasizes that public noticing should be conducted at the lowest cost to ensure that affected customers are adequately informed. This approach is intended to facilitate the expedited acquisition process and encourage Water IOUs to take over failing, at-risk, or potentially at-risk systems.

Generally, parties support the adjustment to the noticing requirements. CforAT noted that public noticing allows ratepayers the opportunity to participate in the acquisition process and that ratepayers often have little opportunity to participate in the acquisition process.⁷¹ MPWMD asserts that proper noticing allows for additional public engagement.⁷² CWA noted that they support transparency but argues that the Staff Proposal increases public noticing requirements and notes that much of the information in the new public noticing requirements is often not available at the time the public notice is issued and they warn against excessive requirements that could increase costs.⁷³

The Revised Framework aims to enhance transparency and engagement with affected customers during the acquisition process by standardizing and extending the notice requirements across all types of acquisitions.⁷⁴ This includes

⁷¹ CforAT Opening Comments on Staff Proposal at 5.

⁷² MPWMD Reply Comments on Staff Proposal at 3-4.

⁷³ CWA Opening Comments on Staff Proposal at 30.

⁷⁴ Cal Advocates supports increased transparency in the water acquisition process. *See*, Cal Advocates Opening Comments on Staff Proposal at 6. CforAT also supports transparency in the process. *See*, CforAT Opening Comments on Staff Proposal at 5.

detailed comparisons of rates before and after the acquisition, explanations of the Commission process, and clear instructions for customer participation. By applying these rules uniformly, the framework seeks to ensure that all ratepayers have the necessary information to understand and potentially influence the outcomes of utility acquisitions affecting their service and rates.

Accordingly, we adopt the notice requirements set forth in the Staff Proposal with the following additional requirements. The public notice shall also demonstrate what public engagement or community meetings are planned. We agree with Cal Advocates and CforAT that transparency in the acquisition process is fundamental. We also agree that early noticing allows more opportunity for the affected ratepayers to engage in the acquisition process.

The type of community meetings will depend on the acquisition proposed. For advice letter filings, the community meetings should be similar to public meetings held by small water utilities in informal GRCs.⁷⁵ The acquiring utility should be responsible for holding at least one informal public meeting and would coordinate with Water Division staff for location and time of meeting. To the extent feasible, the location should be accessible for both the new potential customers of the acquired utility and existing customers of the acquiring utility. Representatives from the acquiring utility should explain the proposed acquisition and potential rate impact. Water Division staff should explain the Commission review process for acquisitions.

For proposed acquisitions that are filed through a formal application, the community meetings should be held via formal Public Participation Hearings (PPH) through coordination with the assigned Commissioner's office and

⁷⁵ Water Division Standard Practice U-9-SM Processing Informal General Rate Cases of Small Water and Sewer Utilities.

Administrative Law Judge (ALJ). There should be a minimum of two PPHs with one located in the service area of the acquired and another in the service of the acquiring utility, respectively. Similar to PPHs for GRCs of Class A water utilities⁷⁶, the acquiring utility should present details of the proposed acquisition and potential rate impacts in coordination with the assigned Commissioner's office and ALJ.

6.3 Rate Deferment

The current policy allows acquiring utilities flexibility to defer the implementation of rate increases resulting from an approved acquisition to a future GRC, particularly when these increases are substantial. Rate deferment provides many benefits, including minimizing customer confusion and reducing the frequency of rate changes. The Staff Proposal recommends leaving this policy in place.

Deferring rate increases may avoid customer confusion that could arise from experiencing multiple rate changes in a short period. This approach provides a more stable and predictable billing experience for customers, reducing the frequency of adjustments they need to track and adapt to.

By spacing out the timing of rate increases, the policy also aims to decrease the overall number of rate changes that ratepayers experience. This can lead to a perception of more stable and consistent pricing, which may improve customer satisfaction and trust in the utility service.

Although we do not change the rate deferment policies, water IOUs are required to provide a rate impact analysis and public notices, even when rate increases are deferred, as this is crucial for maintaining transparency, allowing

⁷⁶ D.07-05-062 Rate Case Plan for Class A Water Utilities.

the Commission and the ratepayers to fully understand the implications of the acquisition at the time of approval. Without these disclosures, stakeholders, including the regulating body and the consumers, would lack the necessary information to assess the true cost and impact of the acquisition, potentially leading to uninformed or misguided approval decisions.

No party opposed maintaining the status quo rate deferment policy.⁷⁷ Therefore, we adopt the Staff Proposal to leave the rate deferment policy unchanged.

6.4 Quantifying Ratepayer Benefits and Costs

The existing framework does not clearly outline how the Commission should evaluate the impact of acquisitions on ratepayers. Historically, the Commission has relied on two standards during its review process:

1. **Ratepayer Indifference Test:** This standard ensures that an acquisition does not cause ratepayers to prefer the acquiring utility over the acquired utility, maintaining the quality and continuity of service.
2. **Tangible Ratepayer Benefit:** This standard requires that an acquisition provides a net benefit to the ratepayers. However, this has often been interpreted broadly, with acquiring utilities claiming benefits such as enhanced management and operational expertise without quantification.

To address these ambiguities and support a more thorough review of ratepayer impacts, the Staff Proposal recommends that the Commission apply the Ratepayer Indifference Test alongside a new Quantifiable Ratepayer Benefit standard (replacing the Tangible Ratepayer Benefit standard). The Staff Proposal

⁷⁷ Various parties supported this recommendation. *See*, CWA Opening Comments on Staff Proposal at 31; Cal Advocates Opening Comments on Staff Proposal at 13-14; and CforAT Opening Comments on Staff Proposal at 5-6.

states that “[q]uantifying the benefits puts the responsibility on the acquiring utility to detail evidence to the Commission that ratepayers will benefit from an acquisition. This proposal would increase transparency for impacted ratepayers and allows the Commission to better assess the reasonableness of the acquisition proposal.”

Acquiring utilities would be required to provide detailed evidence of how the acquisition would benefit ratepayers. This includes specifying how the acquisition would affect the customer bills of both the acquired and acquiring utilities. For instance, acquiring utilities should demonstrate how economies of scale from the increased customer base would spread the costs and minimize ratepayer impacts.

The Staff Proposal allows for flexibility when the acquisition involves failing, at-risk, and potentially at-risk water systems. In such cases, the benefits of ensuring access to clean, safe, and reliable water might outweigh the costs, even if the benefit standards under these tests are not fully met.

There was some opposition to any changes to the current process. CWA argues that “not only is the ratepayer indifference standard the most developed test backed by significant Commission precedent, but it also complies with the legal requirements of the Consolidation Act.⁷⁸ Cal Water asserts that the Staff Proposal not only changes the name of the Tangible Ratepayer Benefit to Quantifiable Ratepayer Benefit but impose an additional burden to quantify the benefits. They claim that many acquisition benefits like operational efficiencies and water conservation programs are difficult to quantify. Cal Water also states that these proposed changes will hamper acquisitions and will be an impossible

⁷⁸ CWA Opening Comments on Staff Proposal at 32-34.

standard to meet.⁷⁹ UCS/RCAC believe that the Ratepayer Indifference Test and Quantifiable Ratepayer Benefit standard should be applied to all acquisitions, including acquisitions of failing, at-risk and potentially at-risk systems.⁸⁰

Cal Advocates supports the recommendations set forth in the Staff Proposal. According to Cal Advocates, “The Staff Proposal’s approach for quantifying ratepayer benefits and costs under a proposed acquisition will ensure proposals result in a fair and reasonable customer bill impact.”⁸¹ CforAT also notes support for the recommendation in the Staff Proposal.⁸² MPWMD also urged the Commission in comments to require full disclosure of rate impacts, which will benefit consumers.⁸³

We disagree with CWA and Cal Water. Reliability, low-income program participation, conservation assistance, and other factors can be quantified.

While the Commission has relied on the Ratepayer Indifference Test and the Tangible Ratepayer Benefit standard, these principles have often been inconsistently applied. The Ratepayer Indifference Test ensures that customers do not experience diminished service quality post-acquisition, but it does not guarantee ratepayer savings or improvements.

Meanwhile, the Tangible Ratepayer Benefit standard has been interpreted loosely, allowing acquiring utilities to cite vague improvements – such as better management or operational expertise – as justification, even when those claims

⁷⁹ See, Cal Water Opening Comments on Staff Proposal at 7-8.

⁸⁰ UCS/RCAC Opening Comments on Staff Proposal at 9.

⁸¹ Cal Advocates Opening Comments on Staff Proposal at 15.

⁸² CforAT Opening Comments on Staff Proposal at 5. See also, CforAT Reply Comments on Workshop 3 Report at 6.

⁸³ MPWMD Opening Comments on Staff Proposal at 6.

are not backed by measurable data. As a result, the lack of quantification and uniform criteria has limited the Commission's ability to thoroughly assess whether acquisitions genuinely serve the public interest.

We agree with the Staff Proposal and the parties who support this proposal. Accordingly, we adopt the recommendations set forth in the Staff Proposal concerning quantifying ratepayer benefits and costs. The Commission shall apply the Ratepayer Indifference Test alongside the Quantifiable Ratepayer Benefit standard to systems that are not at-risk. The Commission maintains flexibility for applying these review standards for systems that are failing, at-risk, or potentially at-risk.

7. Reporting and Scheduling

This proceeding addressed Reporting and Scheduling requirements associated with water acquisitions. The Staff Proposal made various recommendations concerning this topic. Below, we discuss the recommendations and set forth our decision.

7.1 Prefiling Conference

The Staff Proposal introduces Prefiling Conference requirements designed to streamline and improve the efficiency of the acquisition review process by the Commission. The aim of requiring a Prefiling Conference is to expedite the review process for water utility acquisitions, ensuring that all necessary discussions and document reviews occur before formal filing.

The Staff Proposal would require water IOUs to engage in a Prefiling Conference at least 60 days before submitting their acquisition application or advice letter. The conference can be conducted virtually or in-person, providing flexibility and accommodating the logistical needs of different stakeholders. This flexibility is crucial for facilitating timely and effective discussions regardless of

geographical and scheduling constraints. In person conferences may be held at any Commission office.

A set of specific documents must be presented during the Prefiling Conference, as detailed in Section 10.2 of D.20-08-047 and Appendix A of the Staff Proposal. These documents serve as the basis for preliminary discussions and assessments, ensuring that all critical aspects of the acquisition are considered from the outset. The Staff Proposal states the Prefiling Conference shall include at least the following key documents:

- **Purchase Agreement:** Details of the purchase including terms, conditions, and any contingencies.
- **Infrastructure Upgrades:** Proposals for potential or planned infrastructure improvements, which are often necessary for failing systems.
- **Grant Funding:** The current status or applications for grant funding which can play a crucial role in financing acquisitions, especially for financially distressed systems.
- **Forecasted Rates:** Projections of rate adjustments that might be necessary post-acquisition, which are critical for assessing the financial impact on ratepayers.

MPWMD supports the Prefiling Conference suggestion but suggests that there be additional requirements added, such as whether there are closer failing or at-risk systems to the acquiring IOU that are being overlooked.⁸⁴ Cal Water argues that a Prefiling Conference creates unnecessary delays and asserts that they are dismayed by the Staff Proposal adding additional processing time to acquisition applications.⁸⁵ CWA supports the proposal, but recommends that the

⁸⁴ MPWMD Opening Comments on Staff Proposal at 4-5.

⁸⁵ Cal Water Opening Comments on Staff Proposal at 5.

timeframe be reduced from 60 to 30 days.⁸⁶ Cal Advocates, on the other hand, supports this requirement. Cal Advocates asserts that Prefiling Conferences will reduce delays by ensuring that applications are complete and this will expedite the processing of these acquisitions.⁸⁷

Prefiling Conferences allow for many benefits, including:

Efficiency: By addressing potential issues and document requirements upfront, the Commission and the acquiring entity can reduce the likelihood of delays during the formal review process.

Clarity and Transparency: Early discussions provide clarity and foster transparency, allowing for better preparation and alignment of expectations between the Water Division and the water IOU.

Strategic Planning: The conference allows the Water Division to provide feedback that could influence strategic decisions regarding the acquisition, such as adjustments in the proposed rates or changes in the scope of infrastructure upgrades.

We agree with Cal Advocates that the Prefiling Conference requirements set forth in the Staff Proposal will provide benefits to the acquisition process. We appreciate the suggestions from MPWMD for there to be additional requirements included in the Prefiling Conference. However, the suggested additions could create delays in the processing of these proceedings. We also believe that a 30-day timeframe would not allow adequate time for the Commission to adequately review the required documents. Therefore, we reject CWA's recommendation for the Prefiling Conference to be changed from 60 to 30 days. We also reject Cal Water's argument that the Prefiling Conference will create unnecessary delays.

⁸⁶ CWA Opening Comments on Staff Proposal at 9.

⁸⁷ Cal Advocates Opening Comments on Staff Proposal at 3.

The Prefiling Conference requirement ensures that all parties are well-prepared and informed before formal proceedings begin, which can significantly expedite the regulatory review and approval process. This proactive approach reflects the Commission's commitment to maintaining a robust and reliable water service infrastructure across California. We adopt the Staff Proposal's recommendations regarding the Prefiling Conference requirements. Water IOUs are required to meet with Water Division staff and provide the proper documentation concerning the proposed acquisition 60 days before the application or advice letter is filed.⁸⁸

7.2 Reporting Requirements

The existing framework for water utility acquisitions sets forth rigorous reporting requirements for applications and advice letters, aiming to ensure transparency, compliance, and the evaluation of the impact on ratepayers.

The existing framework requires the following detailed reporting requirements relating to water acquisitions:

1. **Appraisal:** An accurate assessment of the value of the assets involved.
2. **Proposed Rates:** Detailed information on the proposed rate changes covering the expected monthly bill impacts, estimated revenue requirements, and the rate impacts for the acquiring and acquired utility.
3. **Purchase Agreement:** The full terms of the purchase must be documented, providing transparency on the acquisition's conditions and obligations.
4. **Service Area Map:** Specifically for acquisitions involving mutual and governmental entities, a map detailing the

⁸⁸ The flowchart from the Staff Proposal is included as Attachment A to this decision. The flowchart provides a guideline that is helpful to Water IOUs in determining the required steps necessary for filing either an application or advice letter for a water acquisition.

service area is necessary to visualize the scope of the acquisition.

5. **Notice to Customers:** A formal notice must be provided to all affected customers, outlining the details of the acquisition and its potential impact on their service and rates.
6. **Service List:** A comprehensive list of all expected interested parties, including wholesale suppliers and adjacent utilities.

The Settlement Agreement in D.99-10-064 provides additional reporting requirements necessary for the acquisition process. Below is a summary of these requirements:

- **Section 2.04:** Requires a forecast of the Result of Operations for the first and fifth years after the acquisition.
- **Section 2.05:** Mandates a complete appraisal for each acquisition proposal, ensuring that all asset valuations are up-to-date and accurate.
- **Sections 2.06 and 2.07:** These sections require that appraisals differentiate assets involved in acquisitions funded by governmental or external contributions by noting that any plant or improvement of a privately-owned utility that is funded by a loan from the federal or state government and not included in the rate base should not be included in the appraisal for the purpose of setting rates. The acquiring utility should be allowed to continue any surcharge established to repay any such loan until fully repaid. Any assets funded by a contribution should be valued in appraisals in accordance with section 820 of the Evidence Code:
- **Sections 3.01 and 3.02:** For the acquisition of failing or at-risk water systems, the utility must detail any existing drinking water compliance orders, ensuring that regulatory issues are known and plans for remediation are in place.

D.20-08-047 expanded the original reporting requirements to include more detailed analyses and documentation. The expanded criteria include the following:

- **Customer Bill Impact and Revenue Requirements:** Utilities must provide a clear picture of how the acquisition will financially impact customers.
- **Cost Savings and Efficiencies:** Expected operational efficiencies and cost savings must be documented, illustrating the tangible benefits of the acquisition.
- **Appraisal Methodologies:** Detailed methodologies for appraisals must be provided, ensuring that asset valuations are performed consistently and transparently.
- **Compliance Orders and Remediation Plans:** Information on any compliance issues from regulatory bodies like the SWRCB or Environmental Protection Agency and detailed plans and costs for remediation must be included.

The revised framework in the Staff Proposal recommends the continuation of existing requirements from the existing framework and the additional requirements set forth in D.20-08-047. Additionally, it introduces new requirements for conducting trend analyses on water system valuations (*see* Section 4.2.4) and documenting the history of rate increases. Furthermore, it mandates feasibility studies for acquiring nearby failing or at-risk systems, aligning with broader environmental and social justice goals.

To enforce the reporting requirements, the Staff Proposal suggests that non-compliance with reporting requirements can lead to the rejection of applications or advice letters without prejudice. Additionally, utilities are encouraged to submit preliminary reports for review at the Prefiling Conference with the Water Division. The revised requirements would mandate a response to

data requests from Water Division within 10 business days in advice letter filings, with provisions for extending review deadlines if necessary.

UCS/RCAC support the recommendations set forth in the Staff Proposal concerning reporting requirements.⁸⁹

Cal Advocates has advocated that acquiring utilities should conduct feasibility studies of acquiring nearby failing, at-risk, and potentially at-risk systems since the first workshop of the instant proceeding.⁹⁰ Cal Advocates has stated that “By thoroughly evaluating the feasibility of nearby acquisitions, the Commission can ensure that acquisitions are in the best interests of ratepayers while contributing to the overall goal of securing safe, affordable, and reliable water services to all Californians.”⁹¹ CWA argues against feasibility studies of potential acquisitions, arguing that they are not useful and time-consuming.⁹²

We agree with Cal Advocates that this proposal will help secure safe, affordable, and reliable water for Californians. Requiring utilities to conduct feasibility studies of acquiring nearby failing, at-risk, and potentially at-risk systems, therefore, promotes the Commission’s Environmental and Social Justice Action Plan 2.0 (ESJ 2.0) Goal 3 of “improv[ing] access to high-quality water.”⁹³ Acquisitions of failing, at-risk, and potentially at-risk systems also supports California law. Since 2012, California statutes have recognized that “every human being has the right to safe, clean, affordable, and accessible water

⁸⁹ UCS/RCAC Opening Comments on Staff Proposal at 9.

⁹⁰ Cal Advocates Opening Comments on Workshop 1 at 3.

⁹¹ Cal Advocates Opening Comments on Staff Proposal at 16.

⁹² CWA Opening Comments on Staff Proposal at 35.

⁹³ California Public Utilities Commission, *Environmental & Social Justice Action Plan Version 2.0* (ESJ 2.0), April 7, 2022, at 24.

adequate for human consumption, cooking, and sanitary purposes.”⁹⁴ The a feasibility studies envisioned by the Staff Proposal will support this right under California law and the Commission’s ESJ Action plan.

Therefore, we adopt the Staff Proposal’s recommendation to require feasibility studies for nearby failing, at-risk, and potentially at-risk water systems as part of any acquisition of not-at-risk systems. We will also require acquisitions to include a reporting requirement to evaluate the potential impact of acquisitions on environmental resources, such as water sources, ecosystems, and sensitive habitats. We agree with Cal Advocates that feasibility studies are a concrete step to advance the Commission’s ESJ and Human Right to Water goals. Since feasibility studies promote our ESJ goal of securing safe, affordable, and reliable water service in California, utilities may include in this report how the acquisition supports Goal 3 of the ESJ 2.0 Action Plan.

In the feasibility study, the acquiring utility should identify adjacent water systems that are considered failing, at-risk, or potentially at-risk by the SWRCB. This is similar to existing requirements from the Minimum Data Requirements (MDR) report that Class As submit in their GRCs, specifically MDR Section II.K.3⁹⁵ which states: “Identify Class C and D or mutual water companies adjacent to current service territories and opportunities for interconnection or acquisition.” When a water system acquires a non-failing, at-risk, or potentially at-risk system, they must conduct a feasibility study of all nearby water systems that are failing, at-risk, or potentially at-risk, including municipals or special districts. For each adjacent water system, the acquiring utility should assess its

⁹⁴ California Water Code Section 106.3(a).

⁹⁵ D.07-05-062 Appendix A, Attachment 1.

ability to potentially acquire the water system and evaluate the estimated costs and rate impact of a potential acquisition.

In summary, we remove no requirements from the existing framework or the expanded requirements set forth in D.20-08-047. We adopt the revised framework set forth in the Staff Proposal, except for the requirement to include a valuation trend analysis, which we previously declined to implement. Feasibility studies are not required for failing, at-risk, and potentially at-risk systems. The purpose of the feasibility study is to help the Commission identify if there are any failing, at-risk, and potentially at-risk systems that should be acquired and to determine if the acquisition of the not at-risk system is reasonable.

7.3 Scheduling

The existing framework and recent legislative changes have specified timelines for the Commission to review and make decisions on water system acquisition applications and advice letters, with particular emphasis on failing, at-risk, and potentially at-risk water systems. These measures are part of an effort to streamline the acquisition process and address urgent needs more promptly.

The existing framework allowed 245 days for the Commission to place a decision regarding a water system acquisition application on its agenda. For advice letters, a resolution was required to be ready for Commission consideration within 100 days. Effective January 1, 2022, new legislation introduced more stringent deadlines to ensure expedited handling of critical cases involving failing and at-risk water systems (the legislation does not include potentially at-risk systems). Pursuant to Pub. Util. Code Sections 2721 and 2722, the Commission must approve or deny an application concerning failing and at-

risk systems within 12 months, and the Commission has 180 days to dispose of advice letters related to failing and at-risk systems.

Pub. Util. Code Section 851 provides flexibility for acquisitions of smaller utilities. Utilities are permitted to file an advice letter instead of a formal application if the water system being acquired is valued at \$5 million or less. This provision aims to simplify the process for smaller transactions. Additionally, the Commission is required to approve or deny the acquisition within 120 days of filing if such advice letters are not protested.

The Staff Proposal's revised framework incorporates these legislative deadlines to ensure compliance and efficiency for acquisitions involving failing or at-risk water utilities and provides clarity on the processing schedule for systems not at-risk:⁹⁶

- **12-Month Review Period:** Aligning with statutory requirements, the Commission has up to 12 months to review acquisition applications for failing and at-risk water systems, providing sufficient time to assess the complexities involved in these cases.
- **Up to 18 Month Review Period:** The review period for applications involving systems not at-risk is extended to up to 18 months. This extension aligns with the typical duration of a GRC for larger Class A IOUs, allowing the Commission time to conduct a thorough review.
- **180-Day Review Period for Protested Advice Letters:** The revised framework specifies a 180-day period for protested advice letters concerning failing or at-risk systems valued at less than \$5 million, streamlining the process while ensuring thorough review.
- **100-Day Review for Unprotested Advice Letters:** The revised framework specifies a 100-day period for unprotested advice letters concerning failing or at-risk

⁹⁶ Parties may refer to Attachment A for a flow chart detailing the adopted processing schedule.

- systems valued at less than \$5 million, streamlining the process while ensuring adequate review
- **120-Day Review for Unprotected Advice Letters:** The revised framework allows 120 days for unprotected advice letters concerning systems valued at \$5 million or less that are not failing or at-risk.
 - **12-Month Review Period for Protested Advice Letters:** The revised framework allows 12 months for protested advice letters concerning systems valued at \$5 million or less that are not at-risk. This provides an additional six-month period for the Commission to review and evaluate these advice letters.

The Staff Proposal would allow water IOUs to use the advice letter process for acquiring failing and at-risk systems valued at \$5 million or less. The advice letter process is typically faster than the formal application process, aiming to expedite acquisitions and mitigate risks associated with failing water.

When Water IOUs need to file a full application (for acquisitions over \$5 million or when otherwise required), applications involving the acquisition of failing and at-risk systems are prioritized over applications for systems not identified as at-risk.

The Staff Proposal details a set of strategic and procedural updates aimed at expediting and prioritizing the acquisition of water systems that are failing and at-risk. The proposal emphasizes creating a more responsive regulatory framework to address urgent needs in California's water utility infrastructure.

Cal Water asserts that instead, the Commission should focus on augmenting its staffing, with automatic approvals once deadlines are exceeded.⁹⁷ We reject Cal Water's arguments. First, the Commission's staffing is outside the scope of this proceeding. Second, automatic approval of acquisition applications

⁹⁷ Cal Water Opening Comments on Staff Proposal at 5-6.

would violate the Commission's statutory duty, enshrined in Pub. Util. Code Section 451, to ensure that all rates are just and reasonable.

CWA opposes any lengthening of processing times and has proposed processing times shorter than recommended in the Staff Proposal. During its Workshop #4 presentation, CWA proposes that review durations should be tiered based on the value of the water system, its status as failing or at-risk, and whether the acquisition application or advice letter is protested.⁹⁸ We disagree with CWA that the processing times should be shorter than what is proposed in the Staff Proposal. The Commission needs adequate time to evaluate the implications for ratepayers of both the acquiring and acquired system and a rushed approach would impair the Commission's ability to do this.

We agree with Cal Advocates that prioritizing failing and at-risk systems helps to ensure access to safe drinking water.⁹⁹ We also agree with Cal Advocates that the expedited advice letter process incentivizes IOUs to focus on failing and at-risk water systems.

These structured review periods under the existing framework, enhanced by the incorporation of the 2022 legislative changes, improve the Commission's responsiveness to the needs of failing and at-risk water systems while accommodating simpler acquisitions through a streamlined advice letter process. This approach ensures that both urgent and less critical acquisitions are handled with the appropriate thoroughness and the need for swift action in critical infrastructure situations. The revised framework for water system acquisitions introduces specific adjustments to review periods based on the status of the

⁹⁸ CWA Workshop 4 Presentation at 64-77.

⁹⁹ Cal Advocates Opening Comments on Staff Proposal at 4.

water system being acquired, which will streamline the process while ensuring adequate oversight. Accordingly, we adopt the scheduling recommendations in the Staff Proposal.

We now turn to the Staff Proposal's recommendations on the implementation of new rates and tariffs. Under the existing framework, the acquiring utility is not immediately allowed to implement new rates and tariffs after the Commission approves a decision or resolution authorizing an acquisition. The acquiring utility must first file an advice letter with the Commission's Water Division to implement the new rates and tariffs.

The Staff Proposal's revised framework clarifies that this should be a Tier 1 Advice Letter and must occur within 30 days from the issuance of the operating permit by the SWRCB, or, if no permit is required or the permit has been obtained, within 30 days from the decision or resolution's issuance date.

The revised framework further clarifies that new rates and tariffs become effective on the date the advice letter is filed pending disposition (which is consistent with the treatment of other Tier 1 Advice Letters under Water Division Rule 7.3.1). If new rates are deferred to the next GRC or a later date, the acquiring utility still needs to file a Tier 1 Advice Letter to update the tariffs to include service to the newly acquired system.

Modifications to review timelines in the revised framework are designed to provide flexibility, prioritize acquisitions of failing and at-risk systems, and ensure regulatory processes are clear and consistent. The differentiation in review timelines based on the system's status and value facilitates providing more focused and efficient regulatory oversight, while the structured approach to implementing new rates ensures compliance and continuity of service post-acquisition.

8. Coordination with SWRCB

To enhance the acquisition process, the Staff Proposal makes various recommendations concerning the Commission's interactions with the SWRCB. These recommendations included improvements to the communication process, the development of shared documents and data, and improvements to the grant funding process.

8.1 Communication Improvements

The Staff Proposal recommends enhanced collaboration between the Commission and the SWRCB to optimize the acquisition process for water systems. This proposal includes revising existing agreements and establishing structured communication channels.

The Staff Proposal recommends updating the current Memorandum of Understanding (MOU) to reflect the latest needs and challenges in water system acquisitions. The updated MOU is expected to define regular meetings, reporting mechanisms, and established channels of communication between the two agencies.

The Staff Proposal also endorses a recommendation by Cal Advocates to establish a Joint Task Force comprising staff from both the Commission and SWRCB. This task force would act as a dedicated platform for regular coordination, facilitating smoother collaboration and knowledge exchange. It would also address specific challenges and pinpoint areas needing improvement in the acquisition process. Cal Advocates asserts that this should speed up acquisition applications for troubled systems.¹⁰⁰

¹⁰⁰ Cal Advocates Opening Comments on Staff Proposal at 17.

In addition to being supported by Cal Advocates, Cal Water states that they support greater coordination between the Commission and SWRCB for acquisitions and grant funding.¹⁰¹ Additionally, CWA requested to be included in the Joint Task Force and UCS/RCAC recommended that Tribal representatives and LAFCOs should be included in the Joint Task Force.¹⁰² No parties opposed this proposal.

We agree with the Staff Proposal that the Commission should revisit its current MOU with SWRCB to update and improve the communication process between the two agencies. We agree that there should be a Joint Task Force created between the Commission and SWRCB. We also agree that when an acquisition proceeding involves Cal Advocates, CWA, Tribes, and/or LAFCOs, the Joint Task Force may invite the parties to join for that specific case.

We adopt the recommended communication improvements with SWRCB set forth in the Staff Proposal, as modified above. These protocols aim to ensure the timely sharing of relevant information, keeping both agencies well-informed and aligned throughout different stages of the acquisition process.

8.2 Development of Shared Documents and Data

The Staff Proposal recommends collaboration between the Commission and SWRCB to develop and maintain shared documents and data of potential and proposed acquisitions. Additionally, the Staff Proposal suggests the creation of additional annual reporting requirements.

The recommended additional annual reporting requirements would pertain to:

¹⁰¹ Cal Water Opening Comments on Staff Proposal at 14.

¹⁰² CWA Opening Comments on Staff Proposal at 38 and UCS/RCAC Opening Comments on Staff Proposal at 9-10.

1. potential acquisition opportunities;
2. status of proposed current acquisitions;
3. progress of previously authorized acquisitions;
4. community engagement and stakeholder feedback; and,
5. ESJ considerations.

CforAT and Cal Advocates supported these changes to annual reporting.¹⁰³ CWA emphatically opposed these changes, asserting that items 2 and 3 are already provided in a GRC and that requirements 4 and 5 should be included in the filing of proposed acquisitions and not annual reports.¹⁰⁴

We agree with the Staff Proposal that there should be collaboration between the Commission and SWRCB on shared documents and data. However, we do not agree with the Staff Proposal that there should be additional requirements added to the annual reports. We note that requirement 1 is like the feasibility study discussed in Section 7.2 of this decision. We concur with CWA that requirements 2 and 3 are duplicative of requirements in a GRC. We also find that requirement 4 is like the community engagement requirement adopted in the section addressing Public Notice in this decision. Finally, requirement 5 was previously adopted in the Reporting Requirements section in this decision.

Accordingly, we adopt the recommendations of the Staff Proposal, which supports further collaboration between the Commission and SWRCB. However, we decline adoption of additional reporting requirements. Although supported by Cal Advocates and CforAT, we decline to require additional annual reporting

¹⁰³ Cal Advocates Opening Comments on Staff Proposal at 17 and CforAT Opening Comments on Staff Proposal at 6.

¹⁰⁴ CWA Opening Comments on Staff Proposal at 39.

requirements 2 and 3 because they are already required in GRC applications and requirements 1, 4, and 5 are addressed in other sections of this decision.

8.3 Grant Funding Procedure

The Staff Proposal proposes to separate the SWRCB's grant funding from the Commission's acquisition approval process while ensuring the two processes can progress concurrently.

Grant funding is aimed at securing financial assistance for specific projects and improvements. In contrast, the acquisition approval process evaluates the overall viability and benefits of acquiring a particular utility. The Staff Proposal suggests that separation facilitates smoother and faster completion of both tasks without procedural entanglements.

The recommended steps set forth in the Staff Proposal are as follows:

1. **Commission Decision or Resolution:** The process begins with the Commission reviewing the proposed acquisition and issuing a decision or resolution that authorizes the proposed acquisition. This decision includes granting the Certificate of Public Convenience and Necessity (CPCN) to the acquiring utility, if necessary.
2. **Follow-Up with SWRCB:** Following the Commission's authorization, the Commission will coordinate with the SWRCB to notify SWRCB of the acquisition approval.
3. **Notification of Grant Approval:** Once the SWRCB reviews and approves the grant funding, it notifies both the Commission and the acquiring utility.
4. **Filing of Tier 1 Advice Letter by Acquiring Utility:** After receiving notification of grant approval, the acquiring utility proceeds to finalize the acquisition. This includes filing an advice letter with the Commission to implement new rates. These new rates reflect the financial impact of the acquisition and the inclusion of grant funding, ensuring that rate adjustments accurately account for the

benefits of improved infrastructure and operational efficiencies resulting from the acquisition.

Cal Advocates supports the requirement for utilities to identify and apply for grants. They believe that the process could be improved and argue that utilities should be required to demonstrate their efforts in applying for grant funding.¹⁰⁵ CWA argues that receiving grant funding should not be a requirement for approval of an acquisition.¹⁰⁶ Cal Water notes that the recommendation in the Staff Proposal creates an unnecessary procedure that will be difficult to implement and result in delays in acquisitions.¹⁰⁷ We agree with CWA and Cal Water and find that proposed acquisitions are not required to seek grant funding. We do, however, encourage acquiring utilities to seek grant funding.

Therefore, we adopt the Staff Proposal without modification, but with the clarification that seeking grant funding is not required.

9. Acquisitions Involving Non-IOUs

The existing framework lacks detailed guidelines on how the Commission should handle acquisitions by IOUs that involve mutual or municipally owned water systems. The current legal framework can be found in Pub. Util. Code Sections 852, 854 and 10061.

According to Sections 852 and 854, Commission authorization is not required for IOU acquisitions involving a mutual or municipally owned water system. The existing guidance suggests that the advice letter should be filed for

¹⁰⁵ Cal Advocates Opening Comments on Staff Proposal at 17-18.

¹⁰⁶ CWA Opening Comments on Staff Proposal at 39-41.

¹⁰⁷ Cal Water Opening Comments on Staff Proposal at 14-15.

implementing rates (existing or lower), notifying customers about the acquisition, and filing an application if long-term financing is involved.

Section 10061 outlines the procedure for a municipality authorizing the sale of its water or sewer system, including requirements for voter approval and mandatory disclosures to the municipal customers prior to the election:

- A. A summary of the purchase agreement.
- B. A comparison of rates before and after the acquisition.
- C. An estimation of the savings or additional costs resulting from the acquisition.

Notably, this section does not detail the Commission's role in reviewing these sales.

The revised framework in the Staff Proposal mandates that utilities seek Commission authorization for acquisitions involving mutual or municipally owned systems. The review process would mirror that of acquisitions between two IOUs.

The Commission would ensure compliance with Pub. Util. Code Section 10061 and other relevant local government regulations. This process involves coordination with LAFCOs, facilitating integration early in the acquisition process to streamline approvals and compliance.

In situations where acquisitions involve IOU takeovers by a mutual or municipal system, there is no statutory mandate for Commission review. However, the revised framework would require the issuance of a Commission Resolution to formally accept the acquisition and revoke the CPCN of the acquired IOU. Additionally, the IOU being acquired must file a Tier 3 Advice Letter detailing its acquisition by a mutual or municipal entity and terminate its CPCN. The same process applies if an IOU is involved in an

eminent domain case, ensuring all acquisitions are properly documented and comply with regulatory expectations.

Cal Advocates, CWA, CforAT, and UCS/RCAC support the revised framework. Cal Advocates correctly notes that this will help the Commission to remain informed.¹⁰⁸ CforAT and UCS/RCAC both noted support in their Opening Comments on the Staff Proposal.¹⁰⁹ CWA asserts that the recommendation in the Staff Proposal is consistent with current practice.¹¹⁰ Cal Water opposed these changes noting that additional requirements will make the acquisition process more complex without adding any value or benefit to water utilities or their customers.¹¹¹

We agree with the proposal put forth in the Staff Proposal. The revised framework introduces changes to enhance the oversight and documentation of acquisitions involving IOUs and mutual or municipally owned water systems. By requiring Commission authorization, the Commission is better able to protect ratepayers of the existing water utility. We agree with Cal Advocates that this requirement will help to keep the Commission informed. We reject CWA's allegation that the recommendation will not add any value to the acquisition process. We believe that it will help to inform the public and will undoubtedly result in additional protections for ratepayers of the existing utility.

10. Maintaining the Existing Tier 2 Advice Letter Pathway for Service Area Extensions

¹⁰⁸ Cal Advocates Opening Comments on Staff Proposal at 18.

¹⁰⁹ CforAT Opening Comments on Staff Proposal at 41 and UCS/RCAC Opening Comments on Staff Proposal at 11.

¹¹⁰ CWA Opening Comments on Staff Proposal at 41.

¹¹¹ CWA Opening Comments on Staff Proposal at 9-10.

According to GO 96-B Water Industry Rules 7.3.2(1) and 8.1, an acquisition of a mutual or municipal water system can be classified as a service area extension and processed by a Tier 2 Advice Letter rather than a Tier 3 Advice Letter with resolution when the following three criteria are met:

1. The acquiring utility already provides service within the same city as the system being acquired.
2. The service area of the acquired system is contiguous to the acquiring utility's service area.¹¹²
3. The acquired system is a mutual or municipal service provider and not an IOU.

Water Division has approved three of these types of acquisitions in the last three years and the purchase price for each of them was \$1 each.¹¹³ Cal Water mentioned these acquisitions in its comments on the Staff Proposal and noted support for the continuation of this process as appropriate. We agree that this process should continue to be used when appropriate. These types of system expansions benefit all customers and support state law and the ESJ 2.0 Action Plan Goal 3.

Therefore, we explicitly continue the above practice of allowing Tier 2 Advice Letters to be used when the three conditions above are met, with the additional requirement that: The purchase price of the acquired system is *de minimis*. The current Tier 2 Service Extension pathway remains unchanged and

¹¹² Contiguous means the distance between the existing service area and new service area does not exceed 2,000 feet at the points of closest proximity or the service area will be provided by the extension of line, plant or system from the utility's existing service area. If entirely separate sources of supply and distribution are used in the new service area and the separation is over 2,000 feet, the extension is not contiguous.

¹¹³ See, Cal Water Advice Letters 2444 and 2463 and San Jose Water Company Advice Letter 600.

none of the changes to the Commission's acquisition policy in the foregoing sections apply to these acquisitions through Tier 2 advice letters.

11. Summary of Public Comment

Rule 1.18 allows any member of the public to submit written comment in any Commission proceeding using the "Public Comment" tab of the online Docket Card for that proceeding on the Commission's website. Rule 1.18(b) requires that relevant written comment submitted in a proceeding be summarized in the final decision issued in that proceeding. There were no public comments received on this rulemaking.

12. Comments on Proposed Decision

The proposed decision was mailed to the parties in accordance with Section 311 of the Public Utilities Code. Comments allowed under Rule 14.3 of the Commission's Rules of Practice and Procedure. Opening comments were filed on _____ by _____ and reply comments were filed on _____ by _____.

13. Assignment of Proceeding

Darcie L. Houck is the assigned Commissioner and Gerald F. Kelly is the assigned ALJ in this proceeding.

Findings of Fact

1. This OIR was initiated on April 18, 2022, to improve the current acquisition process and develop a framework which will assist the Commission in reviewing water utility acquisitions for regulated water utilities.

2. There were four Workshops conducted in this proceeding. The first Workshop was held on November 29, 2022. The topic for Workshop 1 was *Options for Inadequately Operated and Maintained Systems*. The second Workshop was held on March 9, 2023. The topic for Workshop 2 was *Price and Valuation*.

The third Workshop was held on June 13, 2023. The topic for Workshop 3 was *Ratepayer Impacts*. The fourth Workshop was held on December 5, 2023. The topic for Workshop 4 was *Wrap-up*.

3. At the completion of each Workshop, Water Division drafted a Workshop Report. Parties were provided with the opportunity to make opening and reply comments on each Workshop Report.

4. Following the four Workshops, Water Division drafted a Staff Proposal, which set forth various recommendations for the resolution of this rulemaking. On January 9, 2025, parties were provided with the opportunity to make opening and reply comments on the Staff Proposal.

5. The Staff Proposal made various recommendations to refine the existing water utility acquisitions framework.

6. Failing systems are those that are out of compliance or consistently fail to meet primary drinking water standards. At-risk systems are identified based on the results of the SWRCB's Needs Assessment, indicating potential vulnerabilities that could lead to failing status. Potentially at-risk systems are a new category recognizing systems that are not currently failing or at-risk but may become so due to identifiable trends or pending issues.

7. Current incentives to encourage the acquisition of failing, at-risk, and potentially at-risk systems include the use of memorandum accounts, recovery of fixed costs, rate increase based on CPI, and rates set on the rate of return for Class C or D utilities.

8. The Staff Proposal recommends retaining the incentive of memorandum accounts and replacing the other three incentives with a faster review process, flexibility in review standards and flexibility in applying noticing requirements for acquisitions involving failing, at-risk, and potentially at-risk utilities.

9. RCNLD calculates the current cost to reproduce the water system infrastructure minus any depreciation and liabilities.
10. Significant work is needed to implement a third-party appraisal system like that of the PA PUC.
11. Gain on Sale in the context of water system acquisitions involves complex financial calculations and regulatory considerations that influence both the acquired and acquiring utilities.
12. Rate trackers for class A IOUs help in monitoring the impacts of rate changes post-acquisition.
13. Community engagement promotes transparency in the acquisition process.
14. The existing framework allows rate increases to be deferred without providing estimated rate impacts.
15. The existing framework does not clearly evaluate the impact of acquisitions on ratepayers.
16. Historically, the Commission has used the Ratepayer Indifference Test and Tangible Ratepayer Benefit test to evaluate acquisitions.
17. The existing framework requires detailed reporting requirements relating to water acquisitions.
18. The existing framework requires the acquiring utility to file a Tier 1 advice letter within 30 days of the issuance of an operating permit from SWRCB or 30 days from the issuance of the decision or resolution authorizing an acquisition when an operating permit is not required or has already been issued.
19. Under the existing framework, if the acquiring utility is deferring rates to the next GRC, they file a Tier 1 advice letter to include the service area of the newly acquired system.

20. Grant funding is aimed at providing an opportunity to secure financial assistance for specific projects and improvements.

21. The existing framework does not provide clear guidance concerning review of acquisitions involving non-IOUs.

Conclusions of Law

1. It is reasonable for the Commission to review and update the existing acquisition framework set forth in D.99-10-064.

2. It is reasonable for the Commission to prioritize acquisitions involving failing or at-risk systems.

3. It is reasonable for the Commission to improve coordination with SWRCB.

4. It is reasonable for the Commission to discontinue the use of the term Inadequately Operated and Maintained Small Water Utility.

5. It is reasonable for the Commission to use the same terminology and definitions as SWRCB when referring to Failing Systems, At-Risk Systems, Potentially At-Risk Systems, and Not At-Risk Systems.

6. It is reasonable for the Commission to encourage the use of the advice letter process for acquisitions involving failing and at-risk systems valued at \$5 million or less.

7. For acquisitions over \$5 million or when otherwise required, it is reasonable to prioritize applications for failing and at-risk water systems over applications identified not at-risk.

8. It is reasonable to eliminate three of the four incentives in the existing framework pertaining to the acquisition of failing, at-risk, and potentially at-risk systems.

9. It is reasonable to allow the use of memorandum accounts as an incentive only for acquisitions involving failing, at-risk, and potentially at-risk systems.

10. Requiring the utility to bear the risk for forecasting costs in GRC applications involving systems not at-risk, promotes fiscal prudence and encourages utilities to undertake due diligence and cost management.
11. It is reasonable to replace the recovery of fixed costs, rate increases based on CPI, and using rate of return with shorter review periods, flexibility in applying review standards, and flexibility in applying public notice rules as incentives for acquiring failing, at-risk, and potentially at-risk systems.
12. It is reasonable to institute a requirement for a Prefiling Conference to expedite the review process for water utility acquisitions.
13. It is reasonable to require the utility to provide key documents during the Prefiling Conference as detailed in Section 10.2 of D.20-08-047 and Appendix A of the Staff Proposal.
14. The Prefiling Conference promotes efficiency, clarity and transparency, and strategic planning.
15. The recommended streamlined acquisition process in the Staff Proposal concerning failing or at-risk of failing water systems will streamline the acquisition of these systems.
16. Pub. Util. Code Section 2720(a) requires the Commission to use the standard of FMV when establishing the rate base value for the distribution system of a public water system acquired by a water corporation.
17. If FMV exceeds reproduction costs, the Commission may include the difference in the rate base for ratesetting purposes if it finds that the additional amounts are fair and reasonable.
18. Pub. Util. Code Section 2720(b) sets various standards the Commission should consider in reviewing acquisition premiums.

19. It is reasonable to require acquiring utilities to provide both the FMV and RCNLD as part of their valuation submissions.

20. Requiring the utility to provide both the FMV and RCNLD as part of their valuation submissions promotes transparency and accountability in the acquisition process.

21. It is reasonable to require the acquiring utility to provide details on existing, pending, and potential liabilities of the acquired system.

22. In formal proceedings, it is reasonable to allow other parties to present alternative valuations. For advice letters, the Water Division should have authority to request a second valuation.

23. To improve transparency in the acquisition process, it is reasonable to require public engagement or community meetings during the acquisition process.

24. It is not reasonable to require mandatory third-party appraisals.

25. It is not reasonable to require the acquiring utility to submit a valuation trend analysis and comparative purchase price-per-connection report.

26. Section 10.2 of D.20-08-047 requires a robust package of documentation that must be submitted to assess acquisitions, including engineering assessments, business plans, valuation studies, and due diligence documentation. These tools allow the Commission to evaluate the prudence and reasonableness on a case-by-case basis. Adding a loosely defined requirement to analyze “trends” in system value and price-per-connection comparisons would not improve or add value to the Commission’s assessment authority.

27. It is not reasonable to include the recommendations in the Staff Proposal concerning Gain on Sale at this time as additional work on this proposal is needed.

28. Imposing additional Gain on Sale recovery mechanisms on top of acquisition premium rules could create a potentially conflicting regulatory structure.

29. Under Pub. Util. Code Section 2720, California law provides an adequate framework for addressing acquisition premiums.

30. It is reasonable to treat water rights as non-depreciable assets that are included in rate base.

31. Requiring water rights to be itemized and valued as part of the acquisition process enhances transparency and allows for a more accurate assessment of the total value of the water system being acquired.

32. It is reasonable to require acquiring utilities to conduct and submit a cost/benefit analysis regarding the inclusion of water rights in rate base that justifies the financial impact on ratepayers.

33. It is reasonable for the Commission to retain discretion in deciding how much of the acquisition premium associated with water rights can be passed on to ratepayers through the rate base.

34. The policy of deferring rate increases post-acquisition offers significant benefits by simplifying ratepayer experiences and minimizing frequent rate changes.

35. It is reasonable for the Commission to require acquiring utilities to conduct and submit comprehensive rate impact analyses, which include forecasting rate changes, annual revenue requirements and a dual rate impact analysis.

36. For acquisitions over \$5 million, it is reasonable to require an additional analysis that models how rates would change if they were phased in over three years.

37. It is reasonable to require Class A IOUs with additional directives, such as using a rate tracker as required by D.22-08-023.

38. It is reasonable to require public notices for all proposed acquisitions filed with the Commission.

39. It is reasonable to require a draft proposed notice to be included as part of the Prefiling Conference for the Water Division's review.

40. For applications, it is reasonable for noticing requirements to mirror the requirements of a GRC process set forth in Rule 3.2(d).

41. For advice letter filings that request higher rates or more restrictive terms, it is reasonable to apply the public notice requirements set forth in GO 96-B.

42. It is reasonable for there to be flexibility concerning the noticing requirements for acquisitions of failing, at-risk, and potentially at-risk water systems. Specifically, noticing should be at the lowest cost.

43. It is reasonable to continue allowing utilities to defer implementing rate increases from an approved acquisition to a subsequent GRC.

44. It is reasonable to require utilities to submit a ratepayer impact analysis and comply with public noticing requirements regardless of whether the rate increase is implemented or deferred to a subsequent GRC.

45. It is reasonable to replace the Tangible Ratepayer Benefit standard with the Quantifiable Ratepayer Benefit.

46. It is reasonable to require a showing under the Quantifiable Ratepayer Benefit standard of detailed evidence of how the acquisition benefits ratepayers.

47. It is reasonable under the Quantifiable Ratepayer Benefit standard to require benefits to be measurable and quantifiable.

48. It is reasonable for there to be flexibility in the application of the Quantifiable Ratepayer Benefit analysis when dealing with acquisitions pertaining to failing, at-risk, and potentially at-risk water systems.

49. It is reasonable to require feasibility studies of acquiring nearby failing, at-risk, and potentially at-risk systems in acquisition proceedings filed with the Commission.

50. Conducting feasibility studies of acquiring nearby failing, at-risk, and potentially at-risk systems promotes the Commission's ESJ 2.0 Action Plan goals.

51. Pub. Util. Code Sections 2721-2722 require that the Commission approve or deny acquisitions of failing and at-risk water systems by application within 12 months and by advice letter within 180 days.

52. It is reasonable not to make any changes to the existing framework requirements pertaining to the submission of a Tier 1 advice letters within 30 days of the issuance of an operating permit from SWRCB or within 30 days of the issuance of the decision or resolution when an operating permit has already been obtained or is not required.

53. It is reasonable to adopt the recommended review periods set forth in the Staff Proposal concerning the timeframe for applications and advice letter filings for all systems.

54. It is reasonable to revisit the existing MOU between the Commission and SWRCB and establish a Joint Task Force for regular coordination of potential and proposed acquisitions.

55. It is reasonable for the Joint Task Force to invite participation of interested parties such as Cal Advocates, CWA, tribes, and/or LAFCOs when appropriate.

56. It is not reasonable to adopt the additional reporting requirements set forth in the Staff Proposal because requirements 2) status of proposed current

acquisitions and 3) progress of previously authorized acquisitions is included in GRC applications. Additionally, additional reporting requirements 1) potential acquisition opportunities; 4) community engagement and stakeholder feedback; and 5) ESJ considerations were adopted in other sections in this decision.

57. It is reasonable to treat grant funding and the acquisition approval process as separate and distinct.

58. It is reasonable to require advice letter filings concerning new rates to include and reflect the inclusion of any grant funding received.

59. It is reasonable to adopt the revised framework recommendations which would require the acquisitions of a non-IOU by an IOU to follow the same Commission review process as an IOU acquiring another IOU.

60. Concerning acquisitions of an IOU by a non-IOU, it is reasonable to continue to follow the requirements set forth in GO 96-B Water Industry Rule 7.3.3(9), which requires the filing of a Tier 3 advice letter to allow the Commission to issue a resolution revoking the IOU's CPCN.

61. It is reasonable to continue allowing Tier 2 advice letter acquisitions that comply with the requirements of GO 96-B when the acquisition price is *de minimis*.

62. Party participation at the four Workshops, the Workshop Reports, comments filed by the parties on the Workshop Reports, the Staff Proposal and comments received on the Staff Proposal guided the Commission in the resolution of this proceeding.

63. It is reasonable to close this proceeding.

O R D E R**IT IS ORDERED** that:

1. The State Water Resources Control Board's definitions for failing systems, at-risk systems, and potentially at-risk systems are adopted in place of Inadequately Operated and Maintained Small Water System.
2. Coordination with the State Water Resources Control Board shall continue and be improved as appropriate.
3. The Commission will now use the same terminology and definitions as the State Water Resources Control Board when referring to Failing System, At-Risk Systems, Potentially At-Risk, and Not At-Risk Systems.
4. Failing systems are defined as systems that are out of compliance or consistently fail to meet primary drinking water standards.
5. At-risk systems are identified based on the results of the State Water Resources Control Board's annual Needs Assessment.
6. Potentially at-risk systems are defined as systems that are not currently failing or at-risk but may become so due to identifiable trends or pending issues.
7. Water systems identified as failing, at-risk, or potentially at-risk are to be prioritized for acquisitions over water systems not at-risk.
8. Recovery of fixed costs, rate increases based on the consumer price index, and rates set on the rate of return for Class C or D water utilities, will no longer be offered as incentives for acquisitions involving failing, at-risk and potentially at-risk utilities.
9. Shorter review periods, flexibility in applying review standards, and flexibility in applying public notice rules are adopted as incentives for acquiring failing, at-risk, and potentially at-risk systems.

10. Memorandum accounts will only be allowed as incentives for the acquisition of failing, at-risk, and potentially at-risk systems.
11. The Reporting Requirements set forth in Decision (D.) 99-10-064 and D.20-08-047 are affirmed and updated as set forth in this decision.
12. The schedule for processing acquisitions is adopted as set forth in Attachment A.
13. The Commission encourages the use of the advice letter process for acquisitions involving failing and at-risk systems valued at \$5 million or less.
14. The advice letter process for an acquisition of water systems with a purchase price under five million dollars is adopted as set forth in Attachment C.
15. The application process for the acquisition of a water system with a purchase price at or over five million dollars is adopted as set forth in Attachment D.
16. The general requirements regarding acquisitions and mergers of public water utilities adopted herein are summarized in Attachment E.
17. Investor-owned water utilities are not required to seek grant funding from available sources but are strongly encouraged to do so.
18. Water utilities shall bear the risk for forecasting costs in General Rate Case applications involving systems not at-risk.
19. Investor-owned water utilities shall file Tier 3 advice letters or applications when they seek to acquire a mutual or municipally owned water system.
20. Fair Market Value will continue to be used when establishing the rate base value for the distribution system of a public water system acquired by an investor-owned utility.

21. In situations where the Fair Market Value exceeds reproduction costs, the Commission may include the difference in the rate base for ratesetting purposes if the additional amounts are fair and reasonable.

22. Acquisition premiums shall continue to be reviewed pursuant to Public Utilities Code Section 2720(b).

23. For acquisitions filed via an application, other parties are permitted to present alternative valuations. For acquisitions filed via an advice letter, the Water Division has authority to request a second valuation.

24. Public engagement or community meetings during the acquisition process shall be conducted to improve transparency in the acquisition process.

25. Mandatory third-party appraisals shall not be required.

26. Acquiring utilities are not required to submit a valuation trend analysis and comparative price-per-connection report.

27. The recommendation in the Staff Proposal concerning Gain on Sale is rejected.

28. Water rights are non-depreciable assets and acquiring utilities shall conduct and submit a cost/benefit analysis regarding the inclusion of water rights in rate base that justifies the financial impact on ratepayers.

29. The Commission retains discretion in deciding how much of an acquisition premium associated with water rights can be passed on to ratepayers through rate base.

30. Deferring rate increases post-acquisition simplifies ratepayer experiences and minimizes frequent rate changes.

31. Acquiring utilities shall conduct and submit comprehensive rate impact analyses, which include forecasting rate changes, annual revenue requirements and a dual rate impact analysis.

32. If an investor-owned (IOU) water utility is acquired by a municipal or mutual water utility, the IOU water utility shall file a Tier 3 advice letter to terminate its Certificate of Public Convenience and Necessity.

33. Rulemaking 22-04-003 is closed.

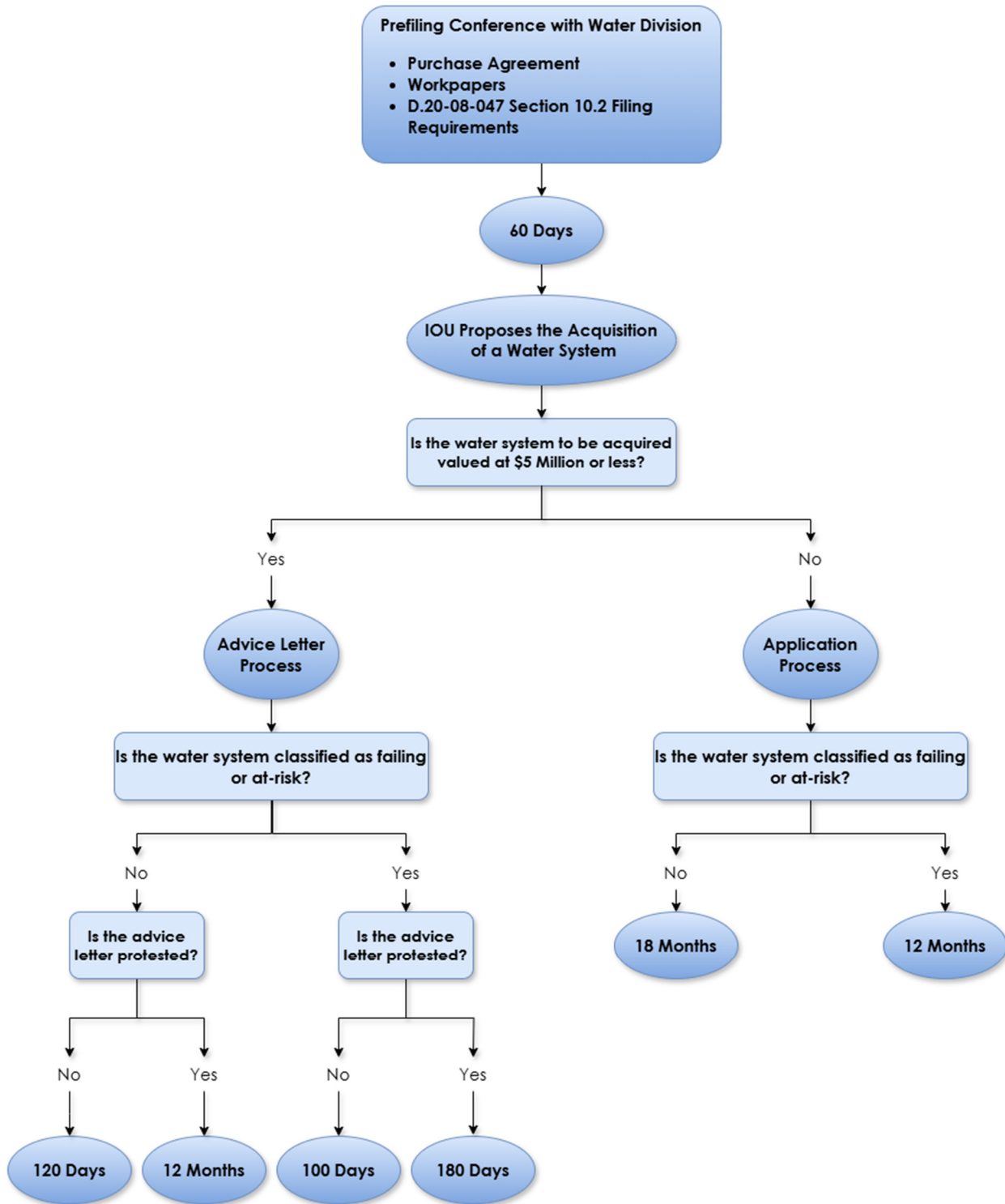
This order is effective today.

Dated _____, 2026, _____, California.

ATTACHMENT A

Schedule for Acquisitions Filed with the Commission

Schedule for Acquisitions Filed with the Commission



(END OF ATTACHMENT A)

ATTACHMENT B

Decision 20-08-047 Reporting Requirements

Decision 20-08-047 Reporting Requirements

Commission Decision (D.) 20-08-047 approved the below expanded reporting requirements for acquisitions:

1. Estimate the potential monthly incremental cost impact on existing and acquired customers following the actual results of the Buyer's most recently authorized tariffs.
 - a. If a Buyer has pending request before the Commission to change rates, it must also calculate the above using data as proposed in its pending request.
2. If the Buyer is seeking authority to increase the acquired system's rates to a certain level, please state the basis for the targeted rate and period of time for such targeted rate to be implemented.
3. Provide the annual depreciation expense using the proposed rate base of the acquired assets. If the exact depreciation expense is not available, provide the best estimate of the annual depreciation expense. Show how the depreciation expense is calculated.
4. Provide an estimate of the annual revenue requirement of the system proposed to be acquired. Provide the assumptions for the annual revenue requirement, including expected rate of return, expected depreciation expense, O&M expenses, etc.
5. Other than the revenue requirement data requested above, separately identify all other approved and/or intended impacts to customer bills (i.e., surcharges, passthrough fees, etc.).
6. Provide a listing of any entities that currently receive free service from the acquired utility.
7. If the acquired utility has increased rates in the last year, please state the date of the increase and provide a copy of the new rate schedule and the total annual revenues projected under the new rates.
8. Are there any leases, easements, and access to public rights-of-way that Buyer expects to be needed in order to provide service which will not be conveyed at closing? If yes, identify when the conveyance will take place and whether there are expected to be additional costs involved.

9. Provide a breakdown of the estimated transaction and closing costs. Provide invoices to support any transaction and closing costs that have already been incurred.
10. Describe known and anticipated general expense savings and efficiencies under Buyer's ownership. State the basis for assumptions used in developing these savings and efficiencies and provide all supporting documentation for the assumptions.
11. Provide a copy of the Seller's request for proposals (if there was one) and any accompanying exhibits with respect to the proposed sale of the water system or water system assets.
12. Provide a copy of the response to the request for proposals (if there was one) of the Buyer for the purchase of the acquired water system or water system assets.
13. For each Utility Valuation Expert (UVE) providing testimony or exhibits, please provide the following:
 - a. A list of valuations of utility property performed by the UVE in the last two years;
 - b. A list of appraisals of utility property performed by the UVE in the last two years;
 - c. A list of all dockets in which the UVE submitted testimony to a public utility commission or regulatory authority related to the acquisition of utility property in the last two years; and
 - d. An electronic copy of or electronic link to written testimony in which the UVE testified on public utility fair value acquisitions in the past two years.
14. Explain each discount rate used in the appraisals and valuations, including explanations of the capital structure, cost of equity and cost of debt. State the basis for each input. Provide all sources, documentation, calculations and/or workpapers used in determining the inputs.
15. Explain whether the appraisal/valuation used replacement cost or reproduction cost and why that methodology was chosen.
16. Explain the basis for any comparable acquisitions used in the appraisal/valuation including the purchase price and number of customers for each comparable acquisition.
17. Are there any outstanding compliance issues, including but not limited to water quality violations, that the Seller's system has pending with the Board's Division of Drinking Water? If yes, provide the following information:

- a. Identify the compliance issue(s);
 - b. Provide an estimated date of compliance;
 - c. Explain Buyer's anticipated or actual plan for remediation;
 - d. Provide Buyer's estimated costs for remediation; and,
 - e. Indicate whether the cost of remediation was or is anticipated to be factored into either or both fair market valuation appraisals offered in this proceeding.
18. Are there any outstanding compliance issues that the Seller's system has pending with the US Environmental Protection Agency? If yes, provide the following information:
- a. Identify the compliance issue(s);
 - b. Provide an estimated date of compliance;
 - c. Explain Buyer's anticipated or actual plan for remediation;
 - d. Provide Buyer's estimated costs for remediation; and
 - e. Indicate whether the cost of remediation was or is anticipated to be factored into either or both fair market valuation appraisals offered in this proceeding.
19. Provide copies of all notices of a proposed acquisition given to affected customers.
20. Provide copies of all disclosures and customer notices required by Pub. Util. Code § 10061 related to the sale and disposal of utilities owned by municipal corporations.
21. Describe other requests to be included in the application, including but not limited to requests for approval of:
- a. Consulting, transition of service, water wholesaling, or other agreements;
 - b. Interim rate increases outside of a general rate case proceeding or other special rate treatment (e.g., CPI-U rate increases, or rate increases under Class C/D requirements);
 - c. Facilities construction;
 - d. Memorandum or Balancing Accounts.
22. Identify the ratepayer benefits that accrue to current ratepayers of the system being acquired due to this transaction.
23. Identify all actions the applicant has taken with governmental agencies related to obtaining required permits and/or approvals to effectuate the acquisition.
24. Provide all workpapers that support the testimony for each of the witnesses that accompany the application, in native format where possible.

The Commission also found that the following information, when presented as part of the application or with the MDR and subsequently included in the record will help streamline consideration of an application for consolidation:

- A list of recommended, proposed or required capital improvements to the acquired water system known at the time of the application, with cost estimates, if available;
- If applicable, supporting documentation for the designation of Disadvantaged Community; and
- If applicable, documents required by Pub. Util. Code Section 10061(c).

(END OF ATTACHMENT B)

ATTACHMENT C
Acquisition Flowchart/Advice Letter

Acquisition - Advice Letter Process

For Acquisition of Water Systems with Purchase Price under \$5,000,000
(Including Mutual and Municipal Water Systems)

1) 60 Days Before Filing of Advice Letter

- a) Prefiling Conference is held
- b) Acquiring utility is required to provide:
 - i) All reporting requirements set forth in D.99-10-064 and D.20-08-047
 - ii) Draft notices to the public



2) Advice Letter is Filed (Tier 3)

- a) Failure to comply with reporting requirements results in rejection without prejudice
- b) Noticing requirements
 - i) Must comply with Rule 3.2(d) of the Commission's Rules of Practice and Procedure
- c) Public meetings
 - i) Informal community meeting similar to those held for small water utility General Rate Cases (GRCs)



3) Commission Review of Advice Letter

- a) Acquiring utility is required to provide:
 - i) Fair Market Value (FMV) and Replacement Cost New Less Depreciation (RCNLD)
 - ii) Justification for inclusion of Acquisition Premium in Rate Base
 - iii) Existing, pending, and potential liabilities of the acquired utility
 - iv) Cost/benefit analysis on Water Rights included in Rate Base
 - v) Rate Impact Analysis
 - (1) Recently approved rate increases or surcharges for both the acquired and acquiring utility
 - (2) Estimate of average monthly bill as a result of the acquisition for both the acquired and acquiring utility
 - (3) Forecast of revenue requirement as a result of the acquisition
 - (4) Class A utilities required to use the D.22-08-023 Rate Tracker

(continues next page)

3) Commission Review of Advice Letter (continued)
(5) Rate Impact Analysis must conform to Table 2 in Staff Proposal

- b) Apply both the Ratepayer Indifference Test (RIT) and Quantifiable Ratepayer Benefit Test (QRB)
- c) Acquiring utility must respond to data requests within 10 business days

4A) Acquisition of Failing, At-Risk, or Potentially At-Risk Water Systems

- a) If protested, review period of 180 days
- b) If unprotested, review period of 100 days
- c) Memorandum account requests are allowed
- d) Feasibility study of adjacent water systems that are failing, at-risk, or potentially at-risk not required
- e) Commission flexibility in applying both RIT and QRB
- f) Lowest cost option allowed to fulfill noticing requirements

4B) Acquisition of Water System that is Not Failing, At-Risk, or Potentially At-Risk

- a) If protested, review period of 12 months
- b) If unprotested, review period of 120 days
- c) Memorandum account requests are not allowed
- d) Feasibility study of adjacent water systems that are failing, at-risk, or potentially at-risk are required
 - i) Similar to the existing Minimum Data Requirements (MDR) Section II.K.3 for a Class A utility GRC
 - ii) Must include evaluation of impact on environmental resources and analysis of ESJ Action Plan 2.0

5) Proposed Resolution

6) After Resolution is Authorized

- a) Implementation of Rates and Tariffs
 - i) Acquiring utility shall file a Tier 1 advice letter within 30 days from the issuance of the operating permit by the State Water Resources Control Board; or,
 - ii) Within 30 days from the resolution’s issuance date if permit is not required or already obtained

(END OF ATTACHMENT C)

ATTACHMENT D
Acquisition of Water System

Acquisition - Application Process

For Acquisition of Water Systems with Purchase Price at or over \$5,000,000

(Including Mutual and Municipal Water Systems)

1) 60 Days Before Filing of Application

- a) Prefiling Conference is held
- b) Acquiring utility is required to provide:
 - i) All reporting requirements set forth in D.99-10-064 and D.20-08-047
 - ii) Draft notices to the public



2) Application is Filed

- a) Failure to comply with reporting requirements results in rejection without prejudice
- b) Noticing requirements
 - i) Must comply with Rule 3.2(d) of the Commission's Rules of Practice and Procedure
- c) Public meetings
 - i) Formal Public Participation Hearings similar to those held for Class A General Rate Cases (GRCs)



3) Commission Review of Application

- a) Acquiring utility is required to provide:
 - i) Fair Market Value (FMV) and Replacement Cost New Less Depreciation (RCNLD)
 - ii) Justification for inclusion of Acquisition Premium in Rate Base
 - iii) Existing, pending, and potential liabilities of the acquired utility
 - iv) Cost/benefit analysis on Water Rights included in Rate Base
 - v) Rate Impact Analysis
 - (1) Recently approved rate increases or surcharges for both the acquired and acquiring utility
 - (2) Estimate of average monthly bill as a result of the acquisition for both the acquired and acquiring utility
 - (3) Forecast of revenue requirement as a result of the acquisition
 - (4) Class A utilities required to use the D.22-08-023 Rate Tracker

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3) Commission Review of Application (continued)

- (5) Rate Impact Analysis must conform to Table 2 in Staff Proposal
- (6) Analysis of rates phased in over 3 years
- b) Apply both the Ratepayer Indifference Test (RIT) and Quantifiable Ratepayer Benefit Test (QRB)
- c) Acquiring utility must respond to data requests within 10 business days

4A) Acquisition of Failing, At-Risk, or Potentially At-Risk Water Systems

- a) Review period of 12 months
- b) Memorandum account requests are allowed
- c) Feasibility study of adjacent water systems that are failing, at-risk, or potentially at-risk not required
- d) Commission flexibility in applying both RIT and QRB
- e) Lowest cost option allowed to fulfill noticing requirements

4B) Acquisition of Water System that is Not Failing, At-Risk, or Potentially At-Risk

- a) Review period of 18 months
- b) Memorandum account requests are not allowed
- c) Feasibility study of adjacent water systems that are failing, at-risk, or potentially at-risk are required
 - i) Similar to the existing Minimum Data Requirements (MDR) Section II.K.3 for a Class A utility GRC
 - ii) Must include evaluation of impact on environmental resources and analysis of ESJ Action Plan 2.0

5) Proposed Decision

6) After Decision is Authorized

- a) Implementation of Rates and Tariffs
 - i) Acquiring utility shall file a Tier 1 advice letter within 30 days from the issuance of the operating permit by the State Water Resources Control Board; or,
 - ii) Within 30 days from the decision's issuance date if permit is not required or already obtained

(END OF ATTACHMENT D)

ATTACHMENT E
General Requirements Regarding Acquisitions
and Mergers of Public Utilities

ATTACHMENT E

General Requirements Regarding Acquisitions and Mergers of Public Utilities**A. Basic Definitions**

1. Acquisition: An “acquisition” is a merger, a purchase of stock or assets, or an exchange of stock.¹
2. Small Community Water System: A small community water system is defined as serving no more than 3,300 service connections or 10,000 persons.²
3. A State Small Water System (SSWS) is defined as a system for the provision of piped water to the public for human consumption that serves at least 5 but not more than 14 service connections and no more than an average of 25 individuals daily for more than 60 days out of the year.³
4. Failing System: A public water system that is out of compliance or consistently fails to meet primary drinking water standards.⁴
5. At-Risk System:
 - i. “At-Risk public water systems” or “At-Risk PWS” means community water systems with 3,300 service connections or less and K-12 schools that are at risk of failing to meet one or more key Human Right to Water goals: (1) providing safe drinking water; (2) accessible drinking water; (3) affordable drinking water; and/or (4) maintaining a sustainable water system. “⁵
 - ii. “At-Risk state small water systems and domestic wells” or “At-Risk SSWS and domestic wells” means state small water systems and domestic wells that are located in areas where groundwater is at high risk of containing contaminants that exceed safe drinking

¹ D.99-10-064, Appendix D at 1.

² Health and Safety Code Section 116275(z).

³ Health and Safety Code Section 116275 (n).

⁴ See, State Water Resources Control Board, Failing Water Systems: The Human Right to Water (HR2W) List Criteria (April 2021).

⁵ SWRCB’s Failing Water Systems: The Human Right to Water (HR2W) List Criteria (April 2021).

water standards. This definition may be expanded in future iterations of the Needs Assessment as more data on domestic wells and state small water systems becomes available.”

- iii. “Potentially At-Risk means community water systems with 3,300 service connections or less and K-12 schools that are potentially at risk of failing to meet one or more key Human Right to Water goals: (1) providing safe drinking water; (2) accessible drinking water; (3) affordable drinking water; and/or (4) maintaining a sustainable water system.”

B. Incentives: A utility acquiring a failing, at-risk, or potentially at-risk of failing is permitted to establish a memorandum account to cover unexpected repair costs post-acquisition.

C. Mutual or Municipal Acquisition:

1. Utilities shall seek Commission authorization for acquisitions of mutual or municipal water utilities.
 - i. The Commission review process shall consist of the same processes as an acquisition between two IOUs, as well as ensuring that the acquisition of a mutual or municipal water system complies with Pub. Util. Code Section 10061 and other local government regulations, including coordination with the local agency formation commission (LAFCO).
 - ii. Coordination between the Commission and LAFCOs shall be early in the acquisition process.
 - iii. When an acquisition involves an IOU being acquired by a mutual or municipal water system, there is no statutory requirement that requires the Commission to review the proposed acquisition.
 - a. The Commission shall issue a Resolution accepting the acquisition and formally revoke the CPCN of the IOU being acquired.
 - b. The acquired IOU shall file a Tier 3 advice letter to the Commission detailing its acquisition by a mutual or municipal and to terminate its Certificate of Public Convenience and Necessity.

- iv. All the reporting requirements for a proposed acquisition should still be required. This process should still apply if an IOU is involved in an eminent domain case.
- v. An acquisition of a mutual or municipal water system can be classified as a service area extension and processed by a Tier 2 Advice Letter rather than a Tier 3 Advice Letter with resolution when the following are met:
 - a. The acquiring utility already provides service within the same city as the system being acquired.
 - b. The service area of the acquired system is contiguous to the acquiring utility's service area.
 - c. The acquired system is a mutual or municipal service provider and not an IOU.
 - d. The purchase price of the acquired system is de minimis; The current Tier 2 Service Extension pathway remains unchanged

D. Processes for Acquisitions of Commission Regulated Water Utilities

1. Pre-Filing Conference

- i. The Prefiling Conference shall be held before an application or advice letter is filed to expedite the review of all acquisitions presented before the Commission, especially for those involving failing or at-risk water systems.
- ii. The Prefiling Conference requirement are applicable to all proposed acquisitions and may be held virtually or in-person at any Commission office.
- iii. At the Prefiling Conference, the applicant or Water IOU proposing the acquisition shall meet with Water Division to discuss the proposed acquisition and provide proper documentation as required in Section 10.2 and Appendix A of D.20-08-047.
 - a. These documents include, but are not limited to, the following: 1) Purchase Agreement; 2)

Proposed/potential infrastructure upgrades; 3)
Grant Funding application/status; and 4)
Forecasted rates

- b. At least 60 days before the water IOU plans to submit a proposed acquisition filing, it must participate in a Prefiling Conference.

2. PUBLIC NOTICE

- i. Per D.99-10-064: Notice of a proposed acquisition should be given to all affected customers at the time when any advice letter or application is filed with the Commission. Additionally, the notice should contain a comparison of the rates before the acquisition and for the first year after the acquisition and identify any cost, including a reasonable return, not fully reflected in the first year's rates. With respect to the acquisition of a water system of a municipality, similar notice should be given to all affected customers prior to any election.
- ii. Public notice of an application for a proposed acquisition shall be provided to customers of acquiring and acquired utilities pursuant to the public notice under Rule 3.2(d) of the Commission's Rules of Practice and Procedure:
- iii. For advice letter filings, the public notice requirements are pursuant to GO 96-B General Rule 4.2:
- iv. As with applications, an acquiring utility may defer rate increases in the advice letter filing to a later period. Deferring rate increases does not exempt the acquiring utility from the public noticing requirements stated here.
- v. Public notice for both an application or advice letter filing shall contain an explanation of the proposed acquisition, a comparison of the rates before and after the acquisition, an explanation of the Commission process, and instructions for customers seeking participation or more information. A draft proposed notice shall be included as part of the Prefiling Conference for Water Division review.

- vi. The public notice shall also demonstrate what public engagement or community meetings are planned.
- vii. The type of community meetings will depend on the acquisition proposed.
- viii. For advice letter filings, the community meetings should be similar to public meetings held by small water utilities in informal GRCs.⁶ The acquiring utility should be responsible for holding at least one informal public meeting and would coordinate with Water Division staff for location and time of meeting. To the extent feasible, the location should be accessible for both the new potential customers of the acquired utility and existing customers of the acquiring utility. Representatives from the acquiring utility should explain the proposed acquisition and potential rate impact. Water Division staff should explain the Commission review process for acquisitions.
- ix. For proposed acquisitions that are filed through a formal application, the community meetings should be held via formal Public Participation Hearings (PPH) through coordination with the assigned Commissioner's office and Administrative Law Judge (ALJ). There should be a minimum of two PPHs with one located in the service area of the acquired and another in the service of the acquiring utility, respectively. Similar to PPHs for GRCs of Class A water utilities,⁷ the acquiring utility should present details of the proposed acquisition and potential rate impacts in coordination with the assigned Commissioner's office and ALJ.
- x. For proposed acquisitions involving failing or at-risk water systems, adhering to the public noticing rules shall be completed at the lowest cost option to provide adequate notice to affected customers.

⁶ Water Division Standard Practice U-9-SM Processing Informal General Rate Cases of Small Water and Sewer Utilities.

⁷ D.07-05-062 Rate Case Plan for Class A Water Utilities.

3. **Schedule for Processing of Acquisition Applications and Advice Letters**
 - i. **12-Month Review Period:** Aligning with statutory requirements, the Commission has up to 12 months to review acquisition applications for failing and at-risk water systems, providing sufficient time to assess the complexities involved in these cases.
 - ii. **Up to 18 Month Review Period:** The review period for applications involving systems not at-risk is extended to up to 18 months. This extension aligns with the typical duration of a GRC for larger Class A IOUs, allowing the Commission time to conduct a thorough review.
 - iii. **180-Day Review Period for Protested Advice Letters:** The revised framework specifies a 180-day period for protested advice letters concerning failing or at-risk systems valued at less than \$5 million, streamlining the process while ensuring thorough review.
 - iv. **100-Day Review for Unprotested Advice Letters:** The revised framework specifies a 100-day period for unprotested advice letters concerning failing or at-risk systems valued at less than \$5 million, streamlining the process while ensuring adequate review
 - v. **120-Day Review for Unprotested Advice Letters:** The revised framework allows 120 days for unprotested advice letters concerning systems valued at \$5 million or less that are not failing or at-risk.
 - vi. **12-Month Review Period for Protested Advice Letters:** The revised framework allows 12 months for protested advice letters concerning systems valued at \$5 million or less that are not at-risk. This provides an additional six-month period for the Commission to review and evaluate these advice letters.
 - vii. Water IOUs shall use the advice letter process for acquiring failing and at-risk systems valued at \$5 million or less.

- viii. Water IOUs shall file a full application for acquisitions over \$5 million or when otherwise required. Applications involving the acquisition of failing and at-risk systems are prioritized over applications for systems not identified as at-risk.

4. **Processing:**

i. **Requirements for Applications and Advice Letters**

- a. To enforce the reporting requirements, application and advice letter filings for acquisition proposals shall be subject to Commission rejection without prejudice if reporting requirements are not met.
- b. In advice letter filings, applicants shall have 10 business days to respond to data requests from Water Division. Providing a response beyond the 10 business days may delay the review process of the proposed acquisition. If such instance were to occur, Water Division would be granted an extension of the review deadline for a proposed acquisition. During the review of an acquisition proposal, the revised framework supports coordination between the Commission and the SWRCB to confirm any outstanding compliance issues of a failing or at-risk water system and incorporate any concerns the SWRCB may have with the acquisition proposal.
- c. Documentation of the history of recent rate increases.

5. **Financing Subject to Approval by Commission:**

Each utility is required to file an application for approval of long-term financing involved in each acquisition. An example of long-term financing is a municipality that agrees to sell its water system in exchange for annual payments from the acquiring utility. A utility may either file an application for the long-term financing of a particular acquisition or rely on authorization previously given by the Commission for long-term financing.

6. **Water Rights**

- i. The acquiring utility may treat water rights as an individual asset separate from the purchase price,

provided they include a detailed ratepayer cost/benefit analysis of adding the price paid for water rights into rate base.

- ii. The Commission retains discretion as to the amount of water rights exceeding the RCNLD which may be placed in rate base.

7. Premium above Purchase Price:

- i. Pursuant to Public Utilities Code Section 2720(b), the Commission may apply protections when the purchase price exceeds the cost to replace the system, also known as reproduction cost or RCNLD (replacement cost new less depreciation). Therefore, the Commission has discretion to permit none, all or part of the difference, also known as the acquisition premium, into the acquiring utility's rate base. Thus, using the entire purchase price to establish rate base is not a guarantee. The acquiring utility bears the burden of proof for placing all or part of the acquisition premium into rate base.

8. Valuation Methods

- i. Applicants shall provide valuations of both the Fair Market Value (FMV) and Reproduction Cost New Less Depreciation (RCNLD).
- ii. Applicants may also include the results of other valuation methods, IN ADDITION TO presenting the calculation and results of FMV and RCNLD.
- iii. Applicants shall also provide details on existing, pending, and potential liabilities of the proposed acquired system.

9. Feasibility Study

- i. Feasibility Studies are required for nearby failing, at-risk, and potentially at-risk water systems as part of any acquisition of not-at-risk systems.
- ii. Applicants shall provide an evaluation of the potential impacts of acquisitions on environmental resources, including but not limited to water sources,

ecosystems, sensitive habitats, and how this report supports Goal 3 of the ESJ 2.0 Action Plan.

- iii. In the feasibility study, the acquiring utility shall identify adjacent water systems that are considered failing, at-risk, or potentially at-risk by the SWRCB.
- iv. All water systems that are failing, at-risk, or potentially at-risk, including municipals or special districts, shall be included.
- v. For each adjacent water system, the acquiring utility shall assess its ability to potentially acquire the water system and evaluate the estimated costs and rate impact of a potential acquisition.

10. **Quantifying Ratepayer Benefits**

- i. Acquiring utilities shall present quantifiable benefits in acquisition proposals, using both the Ratepayer Indifference Test and the Quantifiable Ratepayer Benefit standards.
- ii. For a ratepayer benefit to be considered for review by the Commission in a proposed acquisition, it must be quantifiable, including but not limited to detailed evidence that ratepayers benefit from the acquisition regarding increased economies of scale, the impact on customer bills, and the minimization of ratepayer impacts.
- iii. If the proposed acquired utility involves a failing or at-risk water system, flexibility is allowed in applying the two standards.
- iv. If the proposed acquired utility involves a non-failing or not at-risk system, the two standards should be applied for a proposed acquisition.

11. **Ratepayer Impacts**

- i. The acquiring utilities shall provide a rate impact analysis in their acquisition application or advice letter filing for both new and existing customers. The forecasted rates developed in an acquisition proceeding would be similar to the forecasted rates developed in a

GRC where the acquiring utility forecasts at the time of filing the revenue increase; compares the proposed rates with present rates; and estimates the monthly bill impact for the average residential customer.

- ii.** As required by D.20-08-047, the acquiring utility must provide an estimate of the annual revenue requirement as a result of the acquisition and provide the assumptions for the annual revenue requirement, including expected rate of return, rate base, and expenses. Since an acquisition involves two utilities, the acquiring utility shall create two separate analysis of rate impacts: one for the existing customers and the other for the customers of the utility to be acquired.
- iii.** Any utility with a proposed acquisition shall provide workpapers to Water Division that analyze the rate impacts using the current effective rates and water usages of both utilities at the time of filing the application or advice letter.
- iv.** The acquiring utility would be required to calculate the average residential monthly bills for customers of both utilities as if the rates were going to be in effect at the time of filing.
- v.** For acquisitions over \$5 million, the acquiring utility would provide an additional analysis that shows forecasted rates if rates were phased in over a 3 year period.
- vi.** The acquiring utility shall be required to provide this ratepayer analysis even if the acquiring utility proposes to defer the rate increases to the next GRC or a later period.
- vii.** Supplementing the rate impact analysis, the workpapers shall also include recently approved rate increases and/or surcharges from both the acquiring and acquired utility.
- viii.** For water IOUs, this shall include the most recently authorized GRCs and applications and advice letters approved or filed within the prior year. Both utilities

involved in the proposed acquisition shall provide workpapers to Water Division that explain the rate increases and provide the monthly bill impacts as a result.

- ix. For Class A IOUs that are required to submit a rate tracker in accordance with D.22-08-023 of the Affordability Proceeding R.18-07 006, the rate tracker may be used to fulfill this requirement.
- x. If the acquiring utility has a recent history of approved acquisitions, the same data must be provided in a current acquisition proposal.
- xi. Example of Comparison

Table 2: Ratepayer Impact Analysis²²

Existing [name of acquiring utility] Residential Customers						
Hypothetical Effective Date	Meter Size: 5/8"	Usage*	Pre-Acquisition Monthly Bill	Post-Acquisition Monthly Bill	\$ Increase	% Increase
Oct 17, 2024	Average	92.01 CGL	\$129.53	\$129.53	\$0.00	0%
	Tier 1	59.8 CGL	\$69.97	\$69.97	\$0.00	0%
Acquired Residential Customers of [name of acquired utility]						
Hypothetical Effective Date	Meter Size: 5/8"	Usage*	Pre-Acquisition Monthly Bill	Post-Acquisition Monthly Bill	\$ Increase	% Increase
Oct 17, 2024	Average	136.65 CGL	\$125.00	\$212.61	\$87.61	70.1%
	Tier 1	59.8 CGL	\$125.00	\$69.97	-\$55.03	-44.0%

Usage in CGL = 100 gallons

12. Implementation of New Rates and Tariffs

- i. The acquiring utility (whether via an advice letter or application) must first file a Tier 1 advice letter with the Commission’s Water Division to implement the new rates and tariffs.
- ii. The Tier 1 Advice Letter must be filed within 30 days from the issuance of the operating permit by the SWRCB, or, if no permit is required or the permit has been obtained, within 30 days from the decision or resolution’s issuance date.
- iii. The new rates and tariffs become effective on the date the advice letter is filed pending disposition.
- iv. If new rates are deferred to the next GRC or a later date, the acquiring utility still needs to file a Tier 1 Advice Letter to update the tariffs to include service to the newly acquired system.

13. Coordination with Safe Drinking Water Control Board

- i. Communication Improvement
 - a. The Commission shall revisit its current MOU with SWRCB to update and improve the communication process between the two agencies.
 - b. A Joint Task Force shall be created between the Commission and SWRCB.
 - c. When an acquisition proceeding involves Cal Advocates, CWA, Tribes, and/or LAFCOs, the Joint Task Force may invite the parties to join for that specific case.
- ii. Development of Shared Documents and Data
 - a. There shall be increased collaboration between the Commission and SWRCB regarding shared documents and data.
- iii. Grant Funding Procedure
 - a. Applicants are not required to seek Grant funding regarding their proposed acquisition.
 - b. Commission Decision or Resolution: The process begins with the Commission reviewing the proposed acquisition and issuing a decision or resolution that authorizes the proposed acquisition. This decision includes granting the Certificate of Public Convenience and Necessity (CPCN) to the acquiring utility, if necessary.
 - c. Follow-Up with SWRCB: Following the Commission's authorization, the Commission will coordinate with the SWRCB to notify SWRCB of the acquisition approval.
 - d. Notification of Grant Approval: Once the SWRCB reviews and approves the grant funding, it notifies both the Commission and the acquiring utility.
 - e. Filing of Tier 1 Advice Letter by Acquiring Utility: After receiving notification of grant

approval, the acquiring utility proceeds to finalize the acquisition. This includes filing an advice letter with the Commission to implement new rates. These new rates reflect the financial impact of the acquisition and the inclusion of grant funding, ensuring that rate adjustments accurately account for the benefits of improved infrastructure and operational efficiencies resulting from the acquisition.

14. Requirements for Applications and Advice Letters pursuant to D.99-10-064

- i. Proposed Rates; Copy of Purchase Agreement; Service Area Map (mutual and governmental acquisitions only); Copy of Notice to Customers; Service List, Including Expected Interested Parties (such as wholesale suppliers and adjacent utilities); forecast of the results of operation for (1) the acquiring utility, (2) the acquired utility, and (3) the combined operation for the first and fifth years following acquisition, together with all supporting documentation. (D99 2.04)

15. Requirements for Applications and Advice Letters pursuant to D.20-08-047:

- a. Estimate the potential monthly incremental cost impact on existing and acquired customers following the actual results of the Buyer's most recently authorized tariffs.
- b. If a Buyer has pending request before the Commission to change rates, it must also calculate the above using data as proposed in its pending request.
- c. If the Buyer is seeking authority to increase the acquired system's rates to a certain level, please state the basis for the targeted rate and period of time for such targeted rate to be implemented.
- d. Provide the annual depreciation expense using the proposed rate base of the acquired assets. If the exact depreciation expense is not available, provide the best

estimate of the annual depreciation expense. Show how the depreciation expense is calculated.

- e. Provide an estimate of the annual revenue requirement of the system proposed to be acquired. Provide the assumptions for the annual revenue requirement, including expected rate of return, expected depreciation expense, O&M expenses, etc.
- f. Other than the revenue requirement data requested above, separately identify all other approved and/or intended impacts to customer bills (*i.e.*, surcharges, passthrough fees, etc.).
- g. Provide a listing of any entities that currently receive free service from the acquired utility.
- h. If the acquired utility has increased rates in the last year, please state the date of the increase and provide a copy of the new rate schedule and the total annual revenues projected under the new rates.
- i. Are there any leases, easements, and access to public rights-of-way that Buyer expects to be needed in order to provide service which will not be conveyed at closing? If yes, identify when the conveyance will take place and whether there are expected to be additional costs involved.
- j. Provide a breakdown of the estimated transaction and closing costs. Provide invoices to support any transaction and closing costs that have already been incurred.
- k. Describe known and anticipated general expense savings and efficiencies under Buyer's ownership. State the basis for assumptions used in developing these savings and efficiencies and provide all supporting documentation for the assumptions.
- l. Provide a copy of the Seller's request for proposals (if there was one) and any accompanying exhibits with respect to the proposed sale of the water system or water system assets.

- m.** Provide a copy of the response to the request for proposals (if there was one) of the Buyer for the purchase of the acquired water system or water system assets.
- n.** For each Utility Valuation Expert (UVE) providing testimony or exhibits, please provide the following:

 1. A list of valuations of utility property performed by the UVE in the last two years;
 2. A list of appraisals of utility property performed by the UVE in the last two years;
 3. A list of all dockets in which the UVE submitted testimony to a public utility commission or regulatory authority related to the acquisition of utility property in the last two years; and
 4. An electronic copy of or electronic link to written testimony in which the UVE testified on public utility fair value acquisitions in the past two years.
- o.** Explain each discount rate used in the appraisals and valuations, including explanations of the capital structure, cost of equity and cost of debt. State the basis for each input. Provide all sources, documentation, calculations and/or workpapers used in determining the inputs.
- p.** Explain whether the appraisal/valuation used replacement cost or reproduction cost and why that methodology was chosen.
- q.** Explain the basis for any comparable acquisitions used in the appraisal/valuation including the purchase price and number of customers for each comparable acquisition.
- r.** Are there any outstanding compliance issues, including but not limited to water quality violations, that the Seller's system has pending with the Board's Division of Drinking Water? If yes, provide the following information:

 1. Identify the compliance issue(s);

2. Provide an estimated date of compliance;
 3. Explain Buyer's anticipated or actual plan for remediation;
 4. Provide Buyer's estimated costs for remediation; and,
 5. Indicate whether the cost of remediation was or is anticipated to be factored into either or both fair market valuation appraisals offered in this proceeding.
- s. Are there any outstanding compliance issues that the Seller's system has pending with the US Environmental Protection Agency? If yes, provide the following information:
1. Identify the compliance issue(s);
 2. Provide an estimated date of compliance;
 3. Explain Buyer's anticipated or actual plan for remediation;
 4. Provide Buyer's estimated costs for remediation; and
 5. Indicate whether the cost of remediation was or is anticipated to be factored into either or both fair market valuation appraisals offered in this proceeding.
- t. Provide copies of all notices of a proposed acquisition given to affected customers.
- u. Provide copies of all disclosures and customer notices required by Pub. Util. Code § 10061 related to the sale and disposal of utilities owned by municipal corporations.
- v. Describe other requests to be included in the application, including but not limited to requests for approval of:
1. Consulting, transition of service, water wholesaling, or other agreements;
 2. Interim rate increases outside of a general rate case proceeding or other special rate treatment (*e.g.*,

- CPI-U rate increases, or rate increases under Class C/D requirements);
3. Facilities construction;
 4. Memorandum or Balancing Accounts.
- w. Identify the ratepayer benefits that accrue to current ratepayers of the system being acquired due to this transaction.
- x. Identify all actions the applicant has taken with governmental agencies related to obtaining required permits and/or approvals to effectuate the acquisition.
- y. Provide all workpapers that support the testimony for each of the witnesses that accompany the application, in native format where possible.
- z. A list of recommended, proposed or required capital improvements to the acquired water system known at the time of the application, with cost estimates, if available;
- aa. If applicable, supporting documentation for the designation of Disadvantaged Community; and
- bb. If applicable, documents required by Pub. Util. Code Section 10061(c).

(END OF ATTACHMENT E)