

ALJ/AN4/avs

**PROPOSED DECISION**

Agenda ID #19906 (REV. 1)

Ratesetting

10/21/21 Item 12

Decision PROPOSED DECISION OF ALJ NOJAN (Mailed 9/17/2021)

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Application of Suburban Water Systems  
(U339W) for Authority to Increase Rates  
Charged for Water Service by  
\$14,268,446 or 17.33% in 2021, by  
\$5,787,612 or 6.04% in 2022, and by  
\$5,784,955 or 5.70% in 2023.

Application 20-03-001

**DECISION APPROVING AND ADOPTING SETTLEMENT AGREEMENT,  
RESOLVING REMAINDER OF DISPUTED ISSUES AND AUTHORIZING  
SUBURBAN WATER SYSTEMS' GENERAL RATE INCREASES FOR 2021,  
2022, AND 2023**

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## ATTACHMENT

**APPENDIX A – REVISED Settlement Agreement**

**APPENDIX B – Table CAPEX Projects**

**APPENDIX C – Water Contamination Litigation Memorandum Account**

**APPENDIX D – Catastrophic Event Memorandum Account**

**APPENDIX E – Rule 16 (Tariff Language)**

**APPENDIX F – SWWC IT Rate Base**

**DECISION APPROVING AND ADOPTING SETTLEMENT AGREEMENT,  
RESOLVING REMAINDER OF DISPUTED ISSUES AND AUTHORIZING  
SUBURBAN WATER SYSTEMS' GENERAL RATE INCREASES  
FOR 2021, 2022, AND 2023**

**Summary**

This decision adopts the revenue requirement for a test year 2021 and two subsequent years of adjustments and authorizes Suburban Water Systems' general rate increases for 2021, 2022, and 2023, as follows: \$7,779,335 or 9.10% for 2021; \$4,150,027 or 4.41% for 2022; and \$4,304,118 or 4.38% for 2023.

This decision approves and adopts the Settlement Agreement between Suburban Water Systems and the Public Advocates Office that addresses all but eight issues in the proceeding.

The decision also resolves the eight outstanding issues in the proceeding as follows:

- (1) Suburban is directed to amortize any remaining balance in the Recycled Water Balancing Account and close it at the end of this GRC cycle. Suburban is further directed to forecast its recycled water costs going forward as part of its TY 2024 GRC proposal;
- (2) Suburban is authorized to keep the Mandatory Conservation Memorandum Account open;
- (3) Suburban is authorized to keep the Low Income Customer Data Sharing Memorandum Account open;
- (4) Suburban is directed to amortize any remaining balance in the Military Family Relief Program Memorandum Account and to close the account thereafter;
- (5) Suburban is authorized to keep the Asbestos Litigation Memorandum Account open;
- (6) Suburban's Special Request No. 2 for authorization to establish a liability premium balancing account is denied. Suburban is directed to continue forecasting its expenses

for insurance premiums in its GRC proposal going forward;

- (7) Suburban's Special Request No. 5 to modify Rule No. 10 and Rule No. 18 of its Tariff is denied; and
- (8) As for Suburban's Special Request No. 6, the request for the single surcharge based on the offsets presented is granted; the request for authority to continue the Employee Healthcare Balancing Account and authority for removal of the cap on undercollections is denied; and Suburban is directed to forecast employee healthcare costs as part of its GRC.

This proceeding is closed.

## **1. Background**

Suburban Water Systems (Suburban) is a class A investor-owned water utility and is therefore subject to the jurisdiction of the California Public Utilities Commission (Commission). Consistent with the Commission's Rate Case Plan in Decision (D.) 07-05-062, on March 2, 2020, Suburban filed Application (A.) 20-03-001 (Application) for authority to increase rates charged for water service by \$14,268,446 or 17.33% in 2021, by \$5,787,612 or 6.04% in 2022, and by \$5,784,955 or 5.70% in 2023. On April 3, 2020, the Public Advocates Office filed a protest to the Application, and on April 13, 2020, Suburban filed a reply to the protest. Suburban and the Public Advocates Office are henceforth referred to collectively as the Parties.

The Commission held a prehearing conference on May 27, 2020, and the assigned Commissioner issued a Scoping Memo and Ruling (Scoping Ruling) on July 24, 2020, defining the scope and schedule of the proceeding.

The Public Advocates Office served testimony on August 10, 2020, and Suburban served its rebuttal testimony on August 26, 2020.<sup>1</sup> The Commission held remote Public Participation Hearings on September 3, 2020.

The Parties engaged in informal settlement discussion and mediation under the Commission's Alternative Dispute Resolution Program from August 12, 2020, through December 3, 2020.

On September 22, 2020, the Public Advocates Office filed a Motion for an Order to Show Cause.

On December 11, 2020, the assigned Administrative Law Judge (ALJ) issued a ruling granting interim rates.

On February 17, 2021, the Parties filed a Joint Motion to Move Exhibits into Evidence as well as a Joint Motion for Approval of Settlement Agreement. The Settlement Agreement resolves all but eight of the issues identified in the scope of this proceeding. On April 14, 2021, the Parties filed a Joint Motion to Request Approval of Revised Settlement Agreement. The Revised Settlement Agreement supersedes the initial Settlement Agreement and reflects certain minor corrections and does not change the substantive outcomes of the initial Settlement Agreement, including the overall proposed revenue requirement.<sup>2</sup> The Revised Settlement Agreement is henceforth referred to as the Settlement Agreement in this decision.

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<sup>1</sup> By a ruling dated March 9, 2021, ALJ marked, identified and admitted Public Advocates Office's August 10, 2020 testimony as Exhibit PAO-1 and PAO-1-C and Suburban's August 26, 2021 rebuttal testimony as Exhibits SWS-1 through SWS-20 and SWS-4C, SWS-9-C, SWS-11-C, SWS-12C, SWS15-C, and SWS-19-C.

<sup>2</sup> See Joint Motion of the Public Advocates Office and Suburban Water Systems to Request Approval of Revised Settlement Agreement, at 1.

The issues not resolved by the Settlement Agreement are: (1) Recycled Water Balancing Account; (2) Mandatory Conservation Memorandum Account; (3) Low Income Customer Data Sharing Memorandum Account; (4) Military Family Relief Program Memorandum Account; (5) Asbestos Litigation Memorandum Account; (6) Special Request 2: Establish a Liability Memorandum Account; (7) Special Request 5: Modification to Rule No. 10 “Disputed Bills” and Rule No. 18 “Meter Tests and Adjustment of Bills for Meter Error”; and (8) Special Request 6: Various Offsets and the Continuation of the Employee Healthcare Balancing Account and Removal of its Cap.

On February 17, 2021, the Public Advocates Office filed a Motion to Withdraw its Motion for an Order to Show Cause Upon the Adoption of the Settlement Agreement.

On March 9, 2021, the assigned ALJ issued a ruling granting the Joint Motion to Move Exhibits into Evidence.

On March 1, 2021, parties filed concurrent opening briefs. On March 15, 2021, parties filed concurrent reply briefs. The record was submitted with the filing of reply briefs on March 15, 2021.

## **2. Settlement Agreement**

Suburban made various requests in its application. The Public Advocates Office reviewed those requests and opposed or otherwise proposed several recommended adjustments to Suburban’s requests and underlying assumptions. To avoid continued litigation on these issues, the Parties engaged in settlement negotiations and have settled the below listed issues, details of which are further set forth in the attached Settlement Agreement (Attachment A to this decision). The Settlement Agreement represents compromises, as discussed below.

### Water Consumption and Operating Revenues



1. Suburban accepted the Public Advocates Offices' forecast for Residential Water Sales Per Customer.<sup>3</sup>
2. Suburban accepted the Public Advocates Offices' forecast for Business Water Sales Per Customer.

#### Expenses

1. The Parties compromised on Account 752-123: Gardening Services, settling on figures between Suburban and Public Advocates' estimates.
2. The Parties compromised on Account 792-338: Machine Rent/Repair, settling on figures between Suburban and Public Advocates' estimates.
3. The Parties compromised on Account 792-242: Customer Service – Other, settling on figures between Suburban and Public Advocates' estimates.
4. The Parties compromised on Account 795-320: Training/Seminars, settling on figures between Suburban and Public Advocates' estimates.
5. The Parties compromised on Account 795-417: Auto Insurance, settling on figures between Suburban and Public Advocates' estimates.
6. The Parties compromised on Account 797-344: Regulatory Expense, 2023 GRC & 2024 Cost of Capital, settling on figures between Suburban and Public Advocates' estimates.
7. Parties compromised on Account 798-312: Audit Fee, settling on figures between Suburban and Public Advocates' estimates.
8. Parties compromised on Account 903-102: Car/Truck Gas, settling on figures between Suburban and Public Advocates' estimates.

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<sup>3</sup> See Section 4.1.1. below for details.

9. The Public Advocates Office accepts Suburban's recommended escalation factors for the 2021-2023 Medical and Dental Insurance expenses.
10. For 2021 and 2022 General and Administrative Expense Capitalized, Suburban and the Public Advocates compromised on an amount that falls between each party's respective positions.
11. Suburban agreed to adopt Cal Advocates' forecast for Uncollectible Expense Ratio.
12. Suburban agreed to adopt Cal Advocates' forecast for General Office Gross Expense.
13. Suburban agreed to adopt Cal Advocates' calculation for 3-Factor Component – Contracts' Gross Plants, settling on \$43 million for SouthWest's Service Contracts in the Three-Factor Calculation and 42.50 percent allocation percentage to Suburban.
14. Parties compromised on General Office – 2018 IT Capital Expenditures Related to Cloud Computing Costs, settling on an amount that falls between each party's respective position.
15. Parties compromised on General Office – IT Expenditures, settling on an amount that falls between each party's respective position.
16. The Public Advocates Office accepts Suburban's position on Conservation Expense.

#### Income Taxes and Taxes Other Than Income

1. Suburban agreed to Public Advocates' position on CCFT Deduction in FIT.
2. The Public Advocates' Office agreed to Suburban's forecast for Ad Valorem Expense Ratio.

#### Payroll

1. Parties compromised on Payroll, settling on an amount that falls between each party's respective position.

#### Rate Base

1. The Public Advocates' Office accepts Suburban's position on Construction Work in Progress (CWIP).
2. Parties compromised on Working Cash, agreeing to include non-cash expenses for the purposes of calculating working cash, while also agreeing to utilize lag days of 39.6 days for the purposes of calculating working cash.

#### Capital Projects

1. Parties compromised on Company-Funded Capital Expenditures (CAPEX), settling on Suburban's position for 2020 Total Authorized CAPEX, and figures between each party's respective position for 2021 Total Authorized CAPEX and for 2022 Total Authorized CAPEX.

#### Memorandum and Balancing Accounts

1. Parties compromised on Reporting of Balancing and Memorandum Accounts. Specifically, Suburban agreed to include reserve account balances with its semi-annual reports for balancing accounts balances to the Commission's Water Division and Utility Audits, Risk, and Compliance Division going forward.
2. The Water Revenue Adjustment Mechanism Balancing Account is discussed as part of item 4 under "Special Requests" below.
3. Parties compromised on Water Contamination Litigation Memorandum Account. Specifically, the parties agreed that Suburban should continue the Water Contamination Litigation Memorandum Account and that Suburban will file a Tier 1 Advice Letter to incorporate language into its preliminary statement.<sup>4</sup>
4. Parties compromised on Tax Cuts and Jobs Act (TCJA) Memorandum Account, agreeing that Suburban should continue the TCJA Memorandum Account during this

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<sup>4</sup> See at 23-24 of the Revised Settlement Agreement Between Suburban Water Systems and the Public Advocates Office (Revised Settlement Agreement).

GRC period and that Suburban will close this account in its next GRC.

5. Parties compromised on Interim Rates Memorandum Account (IRMA), agreeing that Suburban should continue the IRMA Memorandum Account during this GRC period and that Suburban will close this account in its next GRC.
6. Parties compromised on Catastrophic Event Memorandum Account (CEMA) and Emergency Customer Protection Memorandum Account (ECPMA), agreeing that Suburban should incorporate both in a single preliminary statement account for the CEMA. Suburban agreed to file a Tier 1 advice letter to incorporate language into its preliminary statement that includes an expanded discussion of the prescribed accounting.

#### Special Requests

1. Parties compromised on Special Request No. 1: Cross Connection Tariff Changes – Update Rule No. 16. Parties agreed that the Commission should authorize Suburban to have a third-party test a customer’s backflow prevention device on the customer’s behalf and pass the costs of that test on to the customer if the customer does not timely test and report those results to Suburban. Parties agreed that third-party services should be competitively procured and Suburban may record the processing fees and any customer reimbursement of costs associated with the third-party services as miscellaneous revenue for review in its next GRC. Suburban agreed to file a Tier 1 advice letter to incorporate specific language into its preliminary statement.<sup>5</sup>
2. Parties compromised on Special Request No. 3: January 2018 – June 2019 SWWC IT Rate Base Offset. Parties agreed that the Commission should authorize Suburban’s requested 2018 SWWC IT Rate Base Offset (removed 2018 excess spend over \$2,687,000 as authorized in D.19-05-029, also removed January through June 2019

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<sup>5</sup> See at 25-26 of Revised Settlement Agreement.

- recorded spend) and that the recalculated amount for 2018 amortization resulted in under-collection of \$74,197, and the updated amount as a one-time surcharge of \$0.049 per 100 cubic feet of water consumed. The Parties agreed that Suburban will file the 2019 and 2020 SWWC IT Rate Base Offset via Tier 3 Advice Letter filing after the projects from years 2019 – 2020 are completed. Suburban will file Tier 1 Advice Letter to incorporate specific language into its preliminary statement.<sup>6</sup>
3. Suburban agreed to withdraw its Special Request No. 4: Modification to Rule No. 9 “Rendering and Payment of Bills.”
  4. Parties compromised on Special Request No. 9: Amortization of Water Revenue Adjustment Mechanism Balancing Account for Period October 2019 – December 2020. Parties agreed that Suburban should continue amortization of the remaining period October 2019 through December 2020 in the WRAM account and that Suburban will update the amortization of this account in its next 2023 GRC. The parties also agreed that the Commission should allow Suburban to continue this account following amortization.

#### Escalation Year Increases

1. Parties compromised on Escalation Year Increases. Parties agreed that Suburban shall file a tier one advice letter with the Commission for escalation year increases and parties proposed mutually agreed to language in the form of ordering paragraphs for Commission adoption.<sup>7</sup>

#### Water Rights Leases

1. Parties compromised on Water Rights Leases and the Public Advocates Office withdrew its Motion for an Order to Show Cause. Parties agreed that Suburban will file a

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<sup>6</sup> See at 26-27 of Revised Settlement Agreement.

<sup>7</sup> See Revised Settlement at 29.

Tier 1 Advice Letter with the Commission before leasing out its water rights to other entities.

### **3. Standard of Review**

The Settlement Agreement resolves all but eight outstanding issues in the scope of this proceeding.

#### **3.1. Standard of Review for Settlements**

Pursuant to Rule 12.1(d), the Commission will only approve settlements that are reasonable in light of the whole record, consistent with the law, and in the public interest. Proponents of a settlement agreement have the burden of proof of demonstrating that the proposed settlement meets the requirements of Rule 12.1 and should be adopted by the Commission.<sup>8</sup>

#### **3.2. Standard of Review for the Outstanding Disputed Issues**

As for the outstanding disputed issues, Suburban, the Applicant, bears the burden of proof to show that the regulatory relief it requests is just and reasonable and the related ratemaking mechanisms are fair.<sup>9</sup> The applicant likewise “has the burden of affirmatively establishing the reasonableness of all aspects of its application. Intervenor’s do not have the burden of proving the unreasonableness of [the utility’s] showing.”<sup>10</sup>

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<sup>8</sup> D.12-10-019 at 14-15; D.09-11-008 at 6.

<sup>9</sup> In the Rate Case Plan for Class A Water Utilities (D.04-06-018), the Commission stated that: “A utility’s application for a rate increase must identify, explain, and justify the proposed increase.” (D.04-06-018, Appendix at 5.) The application must be supported by testimony, with supporting analysis and documentation, describing the components of the utility’s proposed increase. All significant changes from the last adopted and recorded amounts must be explained, and all forecasted amounts must include an explanation of the forecasting method.

<sup>10</sup> D.06-05-016 at 7.

#### **4. Discussion on the Settlement Agreement**

We review the Settlement Agreement below and find that the Settlement Agreement is reasonable in light of the whole record, consistent with the law, and in the public interest.

##### **4.1. Water Consumption and Operating Revenues**

###### **4.1.1. Sales Forecast**

The Parties disagreed on the data Suburban used to determine the average-use-per-customer for its residential and business customers. Specifically, the Public Advocates Office objected to the exclusion of mandatory drought restriction data when calculating the average-use-per-customer and to the inclusion of monthly temperature as an independent variable in the regression model because they skew the regression model used to estimate the forecasted use to indicate a larger decline in use-per-customer. The Parties settled on this issue, with Suburban agreeing to accept the numbers that approximate the sales forecast numbers as proposed by the Public Advocates Office.<sup>11</sup>

##### **4.2. Expenses**

###### **4.2.1. Account 752-123: Gardening Services**

Suburban forecasted the gardening cost based on the most recent recorded amount for 2018, adjusted for inflation. The Public Advocates Office objected to this forecast, arguing that the five-year historical average should be used to reflect variation in cost from year to year. Suburban argued that the costs have been increasing from 2016 through 2019. To settle this issue, the Parties agreed

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<sup>11</sup> The final forecast numbers vary by, at most, less than 2 cubic feet from the actual number proposed by the Public Advocates Office. (See at 5 of the Revised Settlement Agreement.)

to settle on a number that fell at the halfway point between Suburban's forecast and the number proposed by the Public Advocates Office.

**4.2.2. Account 792-338: Machine Rent/Repair**

Suburban forecasted this cost based on the most recent recorded amount for 2018, adjusted for inflation. The Public Advocates Office objected to this forecast, arguing that the five-year historical average should be used to reflect variation in cost from year to year. To settle this issue, the Parties agreed to settle on a number that fell at the halfway point between Suburban's forecast and the number proposed by the Public Advocates Office.

**4.2.3. Account 792-242:  
Customer Service – Other**

Suburban forecasted this cost based on the most recent recorded amount for 2018, adjusted for inflation. The Public Advocates Office objected to this forecast, arguing that the five-year historical average should be used to reflect variation in cost from year to year. To settle this issue, the Parties agreed to settle on a number that fell at the halfway point between Suburban's forecast and the number proposed by the Public Advocates Office.

**4.2.4. Account 795-320: Training/Seminars**

Suburban forecasted this cost by using the most recent recorded amount for 2018, adjusted for inflation, and added the Utility Group's annualized nine months recorded 2019 costs in addition to an additional cost of \$26,577 for the engineering department. The Public Advocates Office objected to this forecast, arguing that the five-year historical average from 2014 to 2018, adjusted for inflation, should be used instead of the recorded amount for 2018. The Parties agreed to settle on a number that fell at the halfway point between Suburban's forecast and the number proposed by the Public Advocates Office.



**4.2.5. Account 795-417: Auto Insurance**

Suburban forecasted this expense for 2019 and 2020 based on actual costs. Suburban's request for 2021 and 2022 and projected at the same level as 2020. The Public Advocates Office argued this amount should be reduced because Suburban did not adequately justify its costs and that the pandemic will result in less travel. The Parties settled on this issue, agreeing on a number that fell at the halfway point between Suburban's forecast and the number proposed by the Public Advocates Office.

**4.2.6. Account 797-344: Regulatory Expense,  
2023 GRC \$ 2024 Cost of Capital**

Suburban forecasted the legal and non-legal expenses related to its 2023 and 2024 Cost of Capital proceedings using the 2018 recorded non-legal expenses, adjusted for inflation, and estimated attorney hours based on anticipated contentious issues in the 2023 GRC proceeding. The Public Advocates Office argued for a reduced number of attorney hours, noting that the Parties have been able to resolve differences through the Alternative Dispute Resolution process in the past. The Parties settled on this issue, agreeing on a number that fell at the halfway point between Suburban's forecast and the number proposed by the Public Advocates Office.

**4.2.7. Account 798-312: Audit Fee**

Suburban forecasted this cost based on the most recent recorded amount for 2018, adjusted for inflation. The Public Advocates Office objected to this forecast, arguing that the five-year historical average should be used to reflect variation in cost from year to year. The Parties agreed to settle on a number that fell at the halfway point between Suburban's forecast and the number proposed by the Public Advocates Office.

**4.2.8. Account 903-102: Car/Truck Gas**

Suburban forecasted this cost based on the most recent recorded amount for 2018, adjusted for inflation. The Public Advocates Office objected to this forecast, arguing that the five-year historical average should be used to reflect variation in cost from year to year. The Parties agreed to settle on a number that fell at the halfway point between Suburban's forecast and the number proposed by the Public Advocates Office.

**4.2.9. 2021 – 2023 Medical and Dental Insurance Escalation Factors**

Suburban escalated its per enrolled employee per month (PERM) medical/prescription drug plan costs by the known rate of 3.0% in 2020, by the capped renewal rate of 9.0% in 2021 and by another 9.0% in 2022 and 2023. Suburban escalated its PERM dental plan cost by 4.0% annually for 2020 through 2023. The Public Advocates Office did not apply any escalation factors for medical and dental insurance expense projections. The Parties settled on this issue, with the Public Advocates Office agreeing to Suburban's proposed escalation factors.

**4.2.10. 2021 – 2022 G&A Expense Capitalized**

Suburban calculated its General and Administrative (G&A) expense transferred to be \$3,849,039 for 2021 and \$4,649,845 for 2022, reflecting the sum of work order capital expenditures and the cost of removal for the two years. The Public Advocates Office using its Results of Operation model calculated \$1,547,438 for 2021 and \$1,351,028 for 2022. The Parties reexamined their respective calculations and settled by agreeing to \$3,642,725 for 2021 and \$4,139,218 for 2022.

**4.2.11. Uncollectible Expense Ratio**

Suburban calculated its uncollectible expense ratio to reflect the requirements in The Water Shutoff Protection Act (SB 998), resulting in an increase from the recorded uncollectible rate of 0.11% in 2018 to an estimated 0.45% for Test Years 2021 and 2022. The Public Advocates Office argued that the uncollectible expense ratio should be 0.13% as this is the average ratio of uncollectible expense for years 2014-2018. The Parties settled on this issue, agreeing to the Public Advocates Office's proposed Uncollectible Expense Ratio.

**4.2.12. 2021 General Office Gross Expense**

Suburban calculated its General Office (GO) expenses by forecasting the gross expenses of its parent company, Southwest Water Company (Southwest), for Test Year 2021, deducting the forecasted depreciation, and then applying an allocation factor to determine the amount allocated to Suburban. The Public Advocates office argued that the calculation use Southwest's 2018 expense for Test Year 2021 because Suburban's forecast did not consider the economic impacts of the pandemic. The Parties settled on this issue, adopting the Public Advocates Office's calculation proposal.

**4.2.13. Three-Factor Component –  
Contracts' Gross Plants**

The Public Advocates Office imputed \$43 million for Southwest's Service Contracts in the Three-Factor Calculation, resulting in a decrease of 0.8% in the cost allocation percentage to Suburban. Suburban argued that Southwest does not have visibility into the value of gross plant for these contractually operated facilities because they are not owned by Southwest and Southwest cannot compel the owners to provide the information. The Parties settled on this issue, agreeing to the Public Advocates Office's recommendation to the 0.8% reduction in the Three-Factor Allocation to Suburban.

**4.2.14. General Office – 2018 IT Capital Expenditure  
Related to Cloud Computing Costs**

Decision 19-05-029 found the inclusion of Information Technology (IT) costs in Suburban rate base to be reasonable up to an amount of \$2.7 million in 2018. The Public Advocates Office argued that Suburban's request for recovery of IT costs resulted in a \$3.8 million expenditure in 2018. The Parties settled on this issue with Suburban's agreement to reduce its request so that it does not exceed the \$2.7 million limit authorized in D.19-05-029.

**4.2.15. General Office – IT Expenditures**

Suburban forecasted General Office IT expenditures of \$4,155,000 for Test Year 2021 and \$2,660,000 for Test Year 2022. The Public Advocates Office argued that the Commission should impose a cap on Southwest's IT costs included in Suburban's rate base at the amount presented to the Commission in Suburban's Test Year 2018 GRC because the IT projects exceeded the scope of projects the Commission adopted in D.19-05-029. The Parties settled on this issue, agreeing to include compromised General Office IT expenditures of \$3,158,266 for Test Year 2021 and \$3,158,266 for Test Year 2022.

**4.2.16. Conservation Expense**

Suburban requested an annual conservation budget of \$450,000 each year for 2021-2023. The Public Advocates Office argued that the Commission should require Suburban to continue tracking its conservation spending and revenue sources in its existing one-way balancing account with an annual maximum of \$403,000, including any rebates for its conservation programs, and that Suburban should not be permitted to use the conservation expense budget as a carryover budget for its three GRC years. The Parties settled on this issue, agreeing to Suburban's forecast of \$450,000 for conservation expenses and allowing for the

carryover of funds for its three GRC years and Suburban agreed not to request more than \$11,000 in cost recovery for mulch.

### **4.3. Income Taxes and Taxes Other Than Income**

#### **4.3.1. CCFT Deduction in FIT**

The Internal Revenue Service allows a taxpayer to deduct California Corporate Franchise Tax (CCFT) expense when calculating its Federal Income Tax (FIT) expense. Suburban used the 2020 estimated CCFT to calculate the deduction used to reduce Suburban's 2021 gross federal taxable amount and used its estimated 2021 CCFT to calculate the deduction used to reduce its 2022 gross federal taxable amount. The Public Advocates Office argued that the Commission should adopt \$1,426,089 as the CCFT as it was approved by the Commission in Suburban's 2020 attrition filing as the FIT deduction for Test Year 2021, instead of the \$497,643 initially estimated by Suburban. The Parties settled on this issue and Suburban agreed to the figure proposed by the Public Advocates Office.

#### **4.3.2. Ad Valorem Expense Ratio**

To calculate its ad valorem tax expense, Suburban used 2018 amounts to arrive at the ad valorem expense ratio of 0.94% of taxable plant in 2018. The Public Advocates Office argued the Commission adopt a five-year average due to year-to-year fluctuations in ad valorem taxes. Suburban argued that the last three years demonstrate the ad valorem tax rate has been increasing. The Parties settled on this issue and agreed to the 0.94% ad valorem expense ratio as proposed by Suburban.

### **4.4. Payroll**

Suburban proposed to increase the number of positions currently authorized in rates from 129 to 140. While some of the additional positions are

due to a reorganization Southwest's utility group, others are due to additional positions needed for Suburban's proposed pipeline replacement program. The Public Advocates Office recommended the Commission use Suburban's 2018 payroll expense for Test Year 2021 payroll expense because of the economic impact of the pandemic on Suburban's customers. The Parties settled on this issue, agreeing to reduce Suburban's forecasted 2021 and 2022 Subtotal Regular Payroll from \$11,918,140 to \$9,521,723 for 2021 and from \$12,132,666 to \$9,592,714 in 2022.

#### **4.5. Rate Base**

##### **4.5.1. Construction Work in Progress**

Suburban calculates average Construction Work in Progress (CWIP) for rate base by averaging the CWIP balance for the start of the year it is being calculated with the CWIP balance for the following year. The Public Advocates Office recommended excluding projects that remain in CWIP for longer than one year when calculating the beginning of the 2020 CWIP. The Parties settled on this issue, agreeing to Suburban's proposal of \$15,186,074 for the Beginning of Year 2020 CWIP.

##### **4.5.2. Working Cash**

The Public Advocates Office recommended the Commission require Suburban to use the final payment due date to calculate Property Tax lag days because it reflects the actual lag time between when expenses are incurred and when payment is due. Using this due date, the Property Tax lag days increases from 31.1 days to 39.6 days. The Public Advocates Office also recommended that non-cash expenses be excluded from working cash calculations since they do not require advance funding from investors. Suburban argued that its practices are consistent with Commission Standard Practice U16W. The Parties settled on this

issue, agreeing to include non-cash expenses for the purposes of calculating working cash and to the use of 39.6 lag days for the purposes of calculating working cash, as recommended by the Public Advocates Office.

#### **4.6. Capital Projects**

##### **4.6.1. Company-Funded Capital Expenditures**

Suburban proposed several capital projects in its company-funded capital expenditure (CAPEX) budget for this GRC to maintain the physical integrity of its water system to enable it to continue to provide a satisfactory level of water service. The Public Advocates Office recommended the Commission deny several of these proposed capital projects or to approve a reduced amount. The Parties settled on this issue by agreeing to Suburban's proposal of \$25,445,439 for Total Authorized CAPEX in 2020, reducing Suburban's Total Authorized CAPEX in 2021 from \$41,485,279 to \$30,000,257, and reducing Suburban's Total Authorized CAPEX in 2022 from \$52,613,777 to \$35,076,159.

#### **4.7. Memorandum and Balancing Accounts**

##### **4.7.1. Reporting of Balancing and Memorandum Accounts**

The Public Advocates Office argued that the Commission should require Suburban to revise all past filings where balancing account reporting is missing to include reporting balances for its balancing accounts, and that going forward, Suburban should submit all balancing account balances to the Commission's Water Division on a semi-annual basis. Suburban argued that it properly reported its balancing account balances. The Parties settled on this issue with Suburban's agreement that, going forward, it will include reserve account balances with its semi-annual reports for balancing accounts balances to the Commission's Water Division and Utility Audits, Risk, and Compliance Division.

**4.7.2. Water Revenue Adjustment Mechanism (WRAM)  
Balancing Account**

This item is discussed below as Special Request No. 9 in Section 4.8.7.

**4.7.3. Water Contamination Litigation  
Memorandum Account**

Commission Resolution W-4094 authorized all water utilities under Commission jurisdiction to establish memorandum accounts for recording expenses resulting from water contamination litigation and to file for recovery of reasonable expenses recorded in the memorandum account in a subsequent rate case application or separate advice letter. The Public Advocates Office recommended that the Commission allow Suburban to continue the Water Contamination Litigation Memorandum Account but require also Suburban to submit a preliminary statement for this memorandum account. Suburban's current preliminary statement makes no mention of this memorandum account. The Parties settled on this issue and Suburban agreed that it will file a Tier 1 Advice Letter to incorporate language into its preliminary statement as shown in Appendix B of the Settlement Agreement.

**4.7.4. Tax Cuts and Jobs Act (TCJA)  
Memorandum Account**

The Public Advocates Office recommended that the Commission authorize Suburban to amortize the balance, if any, in the Tax Cuts and Jobs Act (TCJA) Memorandum Account and that following amortization the Commission direct Suburban to close the account, arguing that Suburban has already incorporated the new federal tax rate directly into its revenue requirement in the current general rate case (GRC) and that the account is no longer needed. Suburban argued that the account is still required because it must still refund costs to customers related to the 2020 revenue requirement. Suburban filed Advice Letter 356, refunding the 2020 costs to customers on July 30, 2021. The Parties



settled on this issue, with Suburban's agreement to continue its TCJA Memorandum Account for this GRC period and that it will close this memorandum account in its next GRC.

**4.7.5. Interim Rates Memorandum Account (IRMA)**

The Public Advocates Office recommended that the Commission authorize Suburban to amortize the balance, if any, in the Interim Rates Memorandum Account (IRMA) and that following amortization the Commission direct Suburban to close the account, arguing that the IRMA was terminated upon the implementation of the Commission's final decision in A.17-01-001 on June 5, 2019, with D.19-05-029. Suburban argued that its latest surcharge will be in effect until August 2022 and that the IRMA should remain open until it recovers all revenue shortfall due to rate differential between the adopted rates in D.19-05-029 and the interim rates. The Parties settled on this issue, with Suburban's agreement to continue the IRMA during this GRC period and that Suburban will close this account in its next GRC.

**4.7.6. Catastrophic Event Memorandum Account (CEMA) and Emergency Customer Protection Memorandum Account (ECPMA)**

The Public Advocates Office recommended that the Commission require separate preliminary statements for its Catastrophic Event Memorandum Account (CEMA) and its Emergency Customer Protection Memorandum Account (ECPMA). Suburban argued that there is substantial commonality between the two accounts that does not warrant showing them separately. The Parties settled on this issue, agreeing that Suburban will file a Tier 1 advice letter to incorporate an expanded discussion of the prescribed accounting for the memorandum account as shown in Appendix C of the Settlement Agreement.

#### **4.8. Special Requests**

##### **4.8.1. Special Request No. 1: Cross Connection Tariff Changes – Update Rule No. 16**

Suburban requested authorization to update Rule No. 16 of its tariff in order to test backflow devices on the customer's behalf if the customer does not timely test and report those results to Suburban and to pass on the costs of these tests to the customers through charges on water bills. The Public Advocates Office recommended the Commission deny this request, arguing that Suburban's current notices have been deficient, the proposed tariff language does not specify a processing fee, and that Suburban's existing backflow device testing program is acceptable. The Parties settled on this issue with the following compromises: (1) the Commission should authorize Suburban to competitively procure a third-party to test a customer's backflow prevention device; (2) Suburban may pass on the cost of that test if the customer does not timely test and report those results to Suburban; and (3) Suburban will record processing fees and any customer reimbursement of costs associated with the third-party services as miscellaneous revenue for review in its next GRC, and Suburban will file a Tier 1 advice letter to incorporate specified language into its preliminary statement as shown in Appendix D of the Settlement Agreement.

##### **4.8.2. Special Request No. 3: January 2018 – June 2019 SWWC IT Rate Base Offset**

Suburban requested authorization to amortize the net under collection balance of \$125,951 from 2018 and January – June 2019 SWWC IT rate base offsets to be combined and recovered as a one-time surcharge of \$0.09 per hundred cubic feet of water consumed per customer. The Public Advocates Office recommended the Commission deny Special Request No. 3, arguing it is unreasonable because the decision resolving the prior GRC (D.19-05-029) stated

that recovery of memo account balances is limited to total spending amounts approved in the last general rate case (GRC). The Parties settled on this issue with the following compromises: (1) the Commission should authorize the recalculated amount of \$74,197 for 2018 amortization of under collection, which would be recovered as a one-time surcharge of \$0.049 per 100 cubic feet of water consumed; (2) Suburban will file the 2019 and 2020 SWWC IT Rate Base Offset via Tier 3 Advice Letter filing after the projects from years 2019 -2020 are completed; and (3) Suburban will file a Tie 1 Advice Letter to incorporate language into its preliminary statement as shown in Appendix E of the Settlement Agreement.

**4.8.3. Special Request No. 4: Modification to Rule No. 9  
“Rendering and Payment of Bills”**

Suburban requested to change the number of days in an average billing period from 30.4 days to 30 days, arguing that California Water Company was granted a similar request in a settlement in D.14-08-011. The Public Advocates office recommended the Commission should deny this request, arguing that the 0.4 difference accounts for the extra day in a leap year and is therefore more accurate for use when calculating monthly service charges. The Parties settled on this issue and Suburban withdrew its request to change its average billing period from 30.4 days to 30 days.

**4.8.4. Special Request No. 9: Amortization of Water Revenue  
Adjustment Mechanism Balancing Account for Period  
October 2019 – December 2020**

Suburban requested Commission authorization to continue the amortization of the Water Rate Adjustment Mechanism (WRAM) Balancing account for October 2019 – December 2020 and be allowed to true-up the remaining balance in the 2023 GRC. The Public Advocates Office recommended

the Commission deny this Special Request No. 9, arguing that the decision authorizing Suburban to utilize the WRAM Balancing Account (D.08-02-036) states that Suburban must file an advice letter for amortization of the balance, consistent with Standard Practice U27W. The Parties settled on this issue, agreeing that Suburban should continue amortization of the remaining period of October 2019 through December 2020 in the WRAM account and that Suburban will update the amortization of this account in its next 2023 GRC.

#### **4.9. Escalation Year Increases**

The Public Advocates Office recommended the Commission require Suburban to file a Tier 2 Advice Letter proposing new revenue requirements and corresponding revised tariff schedules for a decrease in tariff rates as part of its 2022 and 2023 escalation/attrition year filings. Suburban argued that the Public Advocates Office's recommendations were significant deviations from established procedures related to escalation and attrition year filings set forth under the adopted Rate Case Plan. The Parties settled on this issue, agreeing that Suburban will file a Tier 1 Advice Letter with the Commission for test year increases in accordance with the language set forth in Ordering Paragraphs 3 and 4 of this decision.

#### **4.10. Water Rights Leases**

##### **4.10.1. Water Rights Leases and Withdrawal of Cal Advocates' Motion for Order to Show Cause**

The Public Advocates Office filed a Motion for an Order to Show Cause on September 22, 2020, arguing that Pub. Util. Code §851 requires Suburban to obtain Commission authorization via advice letter prior to leasing water rights to other entities. Suburban argued that Pub. Util. Code §851 was not applicable to the leasing of its water rights. The Parties settled on this issue, agreeing that

Suburban will file a Tier 1 advice letter before leasing its water rights out to other entities.

#### **4.11. Conclusion**

We find that the Settlement Agreement is reasonable in light of the whole record. As discussed above, we recognize that the Parties carefully considered the facts relevant to each issue. We have weighed each party's argument, noting that each party reasonably and mutually compromised on the issues resulting in compromises in the Settlement Agreement that substantially lessen the burden on ratepayers relative to Suburban's initially requested rate increases in the instant application. In turn, the Settlement Agreement will keep the rate burden as low as practicable while allowing Suburban to recover a reasonable amount of increased costs and while continuing to provide safe and clean water service in an efficient and cost-effective manner. We therefore find the terms of the Settlement Agreement mutually beneficial to both Suburban and ratepayers.

We also find that the Settlement Agreement is consistent with the law and Commission decisions. As discussed above, the Parties complied with the provisions of Rule 12. Furthermore, we find that there are no terms within the Settlement Agreement that would bind the Commission in the future or violate existing law. The Parties are aware of no statutory provision or prior Commission decision that would be contravened or compromised by the Settlement Agreement. Further, the Parties entered into the Settlement Agreement voluntarily and upon review and advice by their respective legal counsels and technical staff.

Finally, we find that the Settlement Agreement is in the public interest for the following reasons:

1. The Parties represent both sides of this case: the utility and the ratepayers and the Settlement Agreement balances those interests at stake;
2. The Settlement Agreement serves the public interest by resolving competing concerns in a collaborative and cooperative manner;
3. The Settlement Agreement avoids the costs of evidentiary hearings and resources of the Commission, thus saving public and ratepayer funds to litigate the dispute;
4. The Settlement Agreement will provide efficient resolution of the majority of the contested issues, thus saving unnecessary litigation expenses and Commission resources;
5. The Settlement Agreement is consistent with the Commission's long-standing policy favoring the settlements of disputes to avoid costly and protracted litigation; and
6. The Settlement Agreement ensures that customers have continued access to an affordable, safe, and reliable water supply system.

Adoption of the Settlement is binding on all parties to the proceeding. However, pursuant to Rule 12.5, the Settlement Agreement does not bind or otherwise impose a precedent in this or any future proceeding. Suburban should not presume that the Commission would deem the outcome adopted in this decision to automatically be reasonable in any subsequent application. Hence, future applications filed by Suburban should fully justify every request and ratemaking proposal, as required by statute and Commission rule, and without reference to, or reliance on, the adoption of the Settlement Agreement.

## **5. Other Undisputed Issues Not Covered in Settlement**

### **5.1. Conservation Expenses One-Way Balancing Account**

In D.19-05-029, the Commission adopted the settlement agreement between Suburban Water Systems and the Public Advocates Office for Suburban's TY 2018 GRC filing. As noted in D.19-05-029, the Parties agreed that Suburban would track all expenses associated with Suburban's water conservation program, including rebates received for the three years of the 2018 – 2020 GRC cycle in a Conservation Expenses One-Way Balancing Account (CEOWBA). The purpose of the CEOWBA is to track the actual versus authorized conservation expenditures, plus rebates received over the 3-year general rate case cycle, so that any unspent funds collected through rates can be returned to ratepayers.

Suburban proposes continuing the practice of maintaining a one-way balancing account to track water conservation costs, consistent with the terms of the settlement in Suburban's last general rate case, D.19-05-029.<sup>12</sup> The Public Advocates Office agrees with Suburban and recommends the Commission allow Suburban to continue this account so that any unspent funds collected through rates can be returned to ratepayers.<sup>13</sup>

We agree that the proposed account is beneficial to ratepayers and Suburban should be authorized to continue this account going forward, consistent with the terms of the settlement in Suburban's last general rate case, D.19-05-029.

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<sup>12</sup> See Suburban Water Systems Application: Results of Operations for Test Years Ending December 31, 2021 and 2022, and Attrition Year 2023, at 5-4.

<sup>13</sup> See the Public Advocates Office's Report on the Results of Operations: Suburban Water Systems Test Year 2021 General Rate Case A.20-03-001, at 17-11.

## **6. Outstanding Disputed Issues**

There are eight contested substantive issues that were not resolved in the adopted Settlement Agreement. We discuss and address them below.

### **6.1. Balancing and Memorandum Accounts**

#### **6.1.1. Recycled Water Balancing Account**

The Parties disagree as to whether Suburban should be allowed to continue its Recycled Water Balancing Account.

Suburban requests that the Recycled Water Balancing Account remain open and argues that the balancing account is necessary to recover expenses over which Suburban has no control. Suburban argues that the Recycled Water Reserve Account has consistently reflected undercollections. Suburban further contends that its current proposed cost of service for this GRC has not been adjusted for the absence of a recycled water balancing account.

The Public Advocates Office argues that, since the opening of this account in 2011, Suburban has a decade of data upon which to base a forecast and budget of recycled water costs. Furthermore, Public Advocates argues that the most recent years of data show a significantly decreased balance in this account, reflecting the decreasing difference between forecasting and actual amounts. The Public Advocates Office therefore argues that the Commission require Suburban to amortize any remaining balance in the Recycled Water Balancing Account and order that (1) the account be closed upon amortization and (2) the forecasting of recycled water costs to be made as part of Suburban's GRC request going forward to avoid burdening customers with unexpected balancing account surcharges.

We agree with the Public Advocates Office that unexpected balancing account surcharges are burdensome to customers. For customers, unexpected



surcharges can make budgeting and financial planning difficult. For the utility, data on recycled water since the opening of the balancing account in 2011 can be used as a basis upon which to make a forecast for future recycled water expenses. In any instance of forecasting costs, there is an inherent risk that actual costs will differ from what was forecasted. Suburban is directed to, at the end of this GRC cycle, amortize any remaining balance in the Recycled Water Balancing Account and close the Recycled Water Balancing Account . Suburban is also directed to forecast its recycled water costs going forward as part of its TY 2024 GRC proposal.

#### **6.1.2. Mandatory Conservation Memorandum Account**

Suburban requests that the Mandatory Conservation Memorandum Account remain open so that it may respond to a variety of water supply conditions or catastrophic events that cause severe water shortages. Suburban argues that because of the increased frequency with which droughts have been recurring in California due to climate change, the Commission should not close the Mandatory Conservation Memorandum Account at this time.

The Public Advocates Office argues that because the drought state of emergency was lifted in 2017, Suburban no longer incurs costs associated with mandatory drought related conservation efforts nor will it incur penalties associated with mandatory drought restrictions. Therefore, the Public Advocates Office recommends the Commission authorize Suburban to file an advice letter to amortize any balance remaining in the Mandatory Conservation Memorandum Account and order Suburban to close the account following that amortization.

California's state of drought is subject to change on a year-to-year basis. California experiences wet years and dry years in an increasingly unpredictable

fashion. Conservation measures may be lifted when the State experiences a particularly wet year, as it did in the later months of 2016 continuing into 2017. We therefore find it reasonable to retain this balancing account to keep it open as it will allow Suburban to address the unexpected when it comes to managing its water supply, as conditions can vary significantly from year to year.

### **6.1.3. Low Income Customer Data Sharing Memorandum Account**

Suburban requests that this account remain open as there is substantial uncertainty in future costs associated with sharing low-income customer data. Suburban cites that low-income customer data sharing costs are not predictable or under its control. Suburban notes that the Commission is currently considering whether to further modify the current requirements for water and energy utilities to share low-income customer data in Phase II of Rulemaking (R.) 17-06-024. Suburban also argues that pending legislation may alter the current data sharing framework.

The Public Advocates Office argues that the Commission should authorize Suburban to file an advice letter to amortize any balance remaining in the Low-Income Customer Data Sharing Memorandum Account and order Suburban to close the account following that amortization. The Public Advocates Office argues that because it has been nearly a decade since the Commission first required Class A and B water utilities to share low-income customer information, Suburban should be able to forecast ongoing costs in its GRC.

The Commission modified requirements on the frequency of sharing low-income customer data in D.21-07-029, however these changes occurred after Suburban submitted its forecasted revenue requirement for this GRC. .

Therefore, Suburban's Low Income Customer Data Sharing Memorandum Account is authorized to remain open.

**6.1.4. Military Family Relief Program  
Memorandum Account**

Suburban requests that the Military Family Relief Program Memorandum Account remain open. Suburban argues that the provisions requiring Suburban to provide shutoff protection for a 180-day period to families of service members who are called to active duty are still in effect under the California Military Families Financial Relief Program Act, and therefore the associated account should remain open.

The Public Advocates Office argues that because the Military Family Relief Program Memorandum Account has had an end of the year balance of \$0 from 2015-2018, the account is no longer needed. Therefore, the Public Advocates Office argues that the Commission should authorize Suburban to file an advice letter to amortize any balance remaining in the Military Family Relief Program Memorandum Account and order Suburban to close the account following the amortization.

While Suburban is still obligated to provide shutoff protections under the Military Families Financial Relief Program Act, we find that an end of the year balance of zero and the negligible amounts recorded in the account in the last few years raises the question of whether there is still a need for the account. Therefore, Suburban is ordered to amortize any remaining balance in the Military Family Relief Program Memorandum Account and close the account thereafter. If, in the future, Suburban can demonstrate that the costs associated with carrying out its obligations under the Military Family Relief Program Memorandum Account are significant, it may request the reinstatement of a memorandum account to track and recover those costs.

**6.1.5. Asbestos Litigation Memorandum Account**

Suburban seeks authorization to keep the Asbestos Litigation Memorandum Account open. Suburban notes that asbestos-cement pipes comprise approximately 78 percent of its installed pipe throughout its service territory. Suburban argues that this represents a higher concentration of asbestos cement pipe than any of California's other Class A water utilities and because of the high percentage of asbestos-cement pipe throughout its water system, future litigation on this issue is likely. Suburban also notes that the Commission authorized the extension through January 5, 2023, of the Asbestos Litigation Memorandum Account in Resolution W-5214, issued on January 16, 2020.

The Public Advocates Office argues that because this account has had an end of the year balance of \$0 from 2017-2018 and that the account will sunset in 2023, that it should not be reauthorized. Therefore, the Public Advocates Office recommends the Commission authorize Suburban to amortize the balance in the Asbestos Litigation Memorandum Account and order that Suburban close this account once it expires in 2023.

Although Suburban has been fortunate not to incur expenses in this account for the 2017-2018 period, given that the large majority of its pipes are constructed from asbestos-cement, future litigation on this issue is a very real possibility. The Commission recognized this when granting an extension of the account in Resolution W-5214. Requiring Suburban to close the Asbestos Litigation Memorandum Account at this time is premature. We therefore authorize Suburban to continue to maintain this account open, as authorized in Resolution W-5214.

## **6.2. Special Requests**

### **6.2.1. Special Request 2 – Establish a Liability Insurance Premium Balancing Account**

Suburban requests authorization to establish a two-way balancing account for liability insurance premiums. Suburban argues that market fluctuations and the recent wildfires in California make insurance costs for utilities difficult to predict. Suburban further contends that there are factors affecting insurance premiums that are difficult to foresee or that are out of the utility's control. Suburban argues that because of the uncertainty, it is difficult to accurately project what a reasonable level of liability insurance expense will be during this GRC period. Suburban suggests that a two-way balancing account is an equitable way to account for the uncertainty.

The Public Advocates Office argues that Suburban's recorded allocated liability insurance amounts do not show significant increases, with Suburban's Test Year 2021 request of \$511,138 being less than the eight-year recorded average (2011-2018) of \$521,366. The Public Advocates Office argues that a balancing account for liability insurance would remove Suburban's incentive to control costs, as Suburban could require ratepayers to fund any increased costs via a balancing account surcharge. Therefore, the Public Advocates Office recommends the Commission deny Suburban's Special Request No. 2 for a Liability Insurance Balancing Account.

We are persuaded by the Public Advocates Office. Suburban has not met its burden in proving that liability insurance premiums are significantly difficult to forecast to warrant the creation of a balancing account. Furthermore, the creation of a balancing account for liability insurance premiums would allow the costs to pass through to consumers with little incentive for Suburban to control costs. Therefore, Suburban's Special Request 2 seeking Commission

authorization to establish a two-way balancing account for liability insurance premiums is denied. Suburban is directed to continue forecasting its expenses for insurance premiums in its GRC proposal going forward.

**6.2.2. Special Request 5 – Modification to Rule No. 10 “Disputed Bills” and Rule No. 18 “Meter Tests and Adjustment of Bills for Meter Error”**

Suburban requests the Commission authorize the addition of new tariff language to expressly address billing errors. Specifically, Suburban seeks to modify Rule No. 10 and Rule No. 18 of its Tariff. Suburban argues that its proposed changes provide clarifications for customers and Suburban in the event of billing errors by establishing a reasonable process for addressing them. Suburban argues that California’s major energy utilities have tariff language similar to the language Suburban is requesting and that therefore the Commission should grant Special Request No. 5 to allow Suburban to provide greater clarity in its tariffs when billing errors occur. Suburban argues that nothing in its proposed tariff language would preclude customers from notifying Suburban of broader systemic billing errors nor would anything preclude the Commission from investigating such issues.

The Public Advocates Office recommends the Commission deny Suburban’s Special Request 5 to modify these rules because it would limit customers’ ability to receive a refund for past overbilling. The Public Advocates Office argues that Suburban’s proposed language would limit a refund for overcharging to a period of three years. The Public Advocates Office contends that Suburban fails to explain why limiting customer refunds is necessary as part of its guidance to ratepayers in the event of a billing error. The Public Advocates Office argues that the language Suburban proposes limiting refunds to three years is more restrictive than Public Utilities Code (Pub. Util. Code) § 736, by

interpreting the three-year statute of limitations in Pub. Util. Code § 736 to apply from the time the overbilling is or should have been discovered, not from when the overbilling occurred.

We are not persuaded by Suburban's argument. Suburban has proposed language to modify Rule 10 and Rule 18 of its tariff, but Suburban has failed to identify a problem that necessitates the change. We also share the concern noted by the Public Advocates Office that modifying Suburban's Rule 10 and Rule 18 to include the proposed language could have the potential and unintended effect of limiting customers' ability to receive a refund for overbilling to three years. This request is therefore denied as Suburban has failed to provide adequate justification for its authorization.

**6.2.3. Special Request 6 – Various Offsets  
and the Continuation of the Employee  
Healthcare Balancing Account**

Suburban requests authorization for a single surcharge consisting of the sum of ten offsets, which are proposed to be netted and recovered as a one-time surcharge of \$0.13 per hundred cubic feet of water consumed per customer. The Public Advocates Office agrees that the surcharge is reasonable.

As part of Special Request 6, Suburban requests authorization to continue its Employee Healthcare Balancing Account and to eliminate the previous cap on the recovery of under-collections. Suburban argues that determining the actual utilization of medical and dental plans for its employees is impossible to consistently forecast accurately or to control. Suburban argues that because of the substantial uncertainty in the healthcare insurance market, the Commission should grant Suburban's request to continue its Employee Healthcare Balancing Account. Suburban further seeks authorization, once the Employee Healthcare Balancing Account is renewed, to eliminate the existing 85 percent cap on

recovery of its healthcare costs through the Employee Healthcare Balancing Account. Suburban requests that for future years when actual costs exceed forecasted costs that the recovery rate be increased from 85 percent to 100 percent to achieve parity between Suburban and customers with respect to variability in healthcare costs.

The Public Advocates Office argues that Suburban can influence its employee healthcare expenses by prudently selecting and managing its healthcare plans and negotiating cost sharing with its employees. The Public Advocates Office further contends that allowing the recovery of healthcare costs in a balancing account removes some incentive to control costs as there is less risk to the company should it imprudently select or manage its healthcare plan. The Public Advocates Office therefore recommends the Commission deny Suburban's request to continue its Employee Healthcare Balancing Account and request to eliminate the undercollection cap on recovery.

We share the concern that allowing recovery of healthcare costs in a balancing account lessens the incentive to act prudently in selecting healthcare plans and managing costs. Through negotiations, cost sharing with its employees, and prudently selecting an economical healthcare plan, Suburban should be able to influence costs in a way that will minimize the variance in actual costs from forecasted costs. Therefore, Suburban's request to continue its Employee Healthcare Balancing Account and request to eliminate the undercollection cap on recovery is denied.

## **7. Comments on Proposed Decision**

The proposed decision of ALJ Amin Nojan in this matter was mailed to the parties in accordance with Section 311 of the Public Utilities Code. Comments were filed on October 7, 2021, by the Public Advocates Office and Suburban



Water Systems, and reply comments were filed by the same parties on October 12 .

Rule 14.3 requires that comments “focus on factual, legal, or technical errors in the proposed or alternate decision and, in citing such errors, shall make specific references to the record or applicable law. Comments which fail to do so will be accorded no weight.” The Commission gives no weight to comments that do not comply with this rule.

In its comment and reply comment, Suburban reargues that the Commission should authorize it to continue its Recycled Water Balancing Account and its Military Family Relief Program Memorandum Account. Suburban also reargues that the Commission grant its Special Request No. 2 for a two-way liability insurance premium balancing account and its Special Request No. 5 for authorization to modify Tariff Rules No. 10 and 18.

Suburban does not raise any new arguments, nor does it make a compelling case for why its requests should be granted.

Suburban also reargues that the Commission should authorize it to continue its Employee Healthcare Balancing Account. In support of its argument, Suburban cites to D.20-12-007, in which “the Commission authorized California Water Service Company’s request for a similar pension and healthcare balancing account.”<sup>14</sup>

We are not persuaded by this citation here. Suburban has the burden of proving each of its requests as supported by the record of this proceeding. The circumstance today is very different from that of twelve months ago when D.20-12-007 was issued, with the advent of vaccines, rapid testing, and expanded

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<sup>14</sup> Suburban Opening Comments at 10.

hospital capacity for critically ill patients. Forecasting costs by nature is an uncertain practice and recent trends and developments are used to inform such forecasts. Suburban has not made a compelling case for the Commission to authorize the continuance of its Employee Healthcare Balancing Account.

The Public Advocates Office argues that the Commission erroneously finds uncertainty regarding future low-income data exchanges and therefore Suburban's Low Income Customer Data Sharing Memorandum Account should not be reauthorized. The Public Advocates Office argues that because the D.21-07-029 has been issued, the uncertainty regarding costs has been removed. Although the frequency may have been determined, the new requirements still need to be implemented and will likely result in costs in excess of what Suburban forecasted at the time of its filing. Therefore, Suburban is authorized to continue its Low Income Customer Data Sharing Memorandum Account.

**8. Upon review of the comments and reply comments, we have made non-substantive changes to the proposed decision to clarify, to account for changes in the status of pending proceedings, or to update the authorized escalation factor and revenue requirement. To the extent justified, revisions have been incorporated herein to reflect the substance of comments received. Assignment of Proceeding**

Genevieve Shiroma is the assigned Commissioner and Amin Nojan is the assigned ALJ in this proceeding.

**Findings of Fact**

1. Consistent with the October 10, 2019 letter from then Executive Director Alice Stebbins to Robert Kelly, Vice President of Regulatory Affairs for Suburban Water Systems, on March 2, 2020, Suburban filed A.20-03-001 for authority to increase rates charged for water service by \$14,268,446 or 17.33% in 2021, by \$5,787,612 or 6.04% in 2022, and by \$5,784,955 or 5.70% in 2023.

2. On April 3, 2020, the Public Advocates Office filed a protest to A.20-03-001 and is the only other party in this proceeding, aside from Suburban.

3. On February 17, 2021, the Parties filed a Joint Motion to Move Exhibits into Evidence as well as a Joint Motion for Approval of Settlement Agreement.

4. On April 14, 2021, the Parties filed a Joint Motion for Approval of the Revised Settlement Agreement. That Revised Settlement Agreement supersedes the prior Settlement Agreement and is referred to in this decision throughout as the Settlement Agreement.

5. The Settlement Agreement resolves all but eight of the issues identified in the scope of this proceeding; the issues not resolved in the Settlement Agreement are: (1) Recycled Water Balancing Account; (2) Mandatory Conservation Memorandum Account; (3) Low Income Customer Data Sharing Memorandum Account; (4) Military Family Relief Program Memorandum Account; (5) Asbestos Litigation Memorandum Account; (6) Special Request 2: Establish a Liability Memorandum Account; (7) Special Request 5: Modification to Rule No. 10 “Disputed Bills” and Rule No. 18 “Meter Tests and Adjustment of Bills for Meter Error”; and (8) Special Request 6: Various Offsets and the Continuation of the Employee Healthcare Balancing Account and Removal of its Cap.

6. On September 22, 2020, the Public Advocates Office filed a Motion for an Order to Show Cause; and on February 17, 2021, the Public Advocates Office filed a Motion to Withdraw its Motion for an Order to Show Cause Upon the Adoption of the Settlement Agreement.

7. The Parties carefully considered the facts relevant to each issue and reasonably and mutually compromised on the issues resulting in compromises in the Settlement Agreement that substantially lessen the burden on ratepayers relative to Suburban’s initially requested rate increases in the instant application.

8. The Settlement Agreement will keep the rate burden as low as practicable while allowing Suburban to recover a reasonable amount of increased costs and while continuing to provide safe and clean water service in an efficient and cost-effective manner.

9. The terms of the Settlement Agreement are mutually beneficial to both Suburban and ratepayers.

10. The Settlement Agreement results in the following public interest benefits:

- a. The Parties represent both sides of this case: the utility and the ratepayers and the Settlement Agreement balances those interests at stake;
- b. The Settlement Agreement serves the public interest by resolving competing concerns in a collaborative and cooperative manner;
- c. The Settlement Agreement avoids the costs of evidentiary hearings and resources of the Commission, thus saving public and ratepayer funds to litigate the dispute;
- d. The Settlement Agreement will provide efficient resolution of the majority of the contested issues, thus saving unnecessary litigation expenses and Commission resources;
- e. The Settlement Agreement is consistent with the Commission's long-standing policy favoring the settlements of disputes to avoid costly and protracted litigation; and
- f. The Settlement Agreement ensures that customers have continued access to an affordable, safe, and reliable water supply system.

11. There are no terms within the Settlement Agreement that would bind the Commission in the future or that would violate existing law.

12. The Parties represent the utility and the ratepayers.

13. The Settlement Agreement reasonably balances the competing interests.

14. Balancing accounts result in unexpected surcharges to customers.
15. The Conservation Expenses One-Way Balancing Account tracks actual versus authorized conservation expenditures, plus rebates received over the three-year GRC cycle, so that any unspent funds collected through rates can be returned to ratepayers.
16. Suburban has historical data on recycled water costs to utilize in forecasting costs in future GRC proposals.
17. California's drought conditions are unpredictable from year to year.
18. The Commission modified the requirements for water and energy utilities to share low-income customer data in D.21-07-029.
19. The changes to requirements on the sharing of low-income customer data were adopted after Suburban submitted its forecasted revenue requirement.
20. Suburban recorded negligible costs to the Military Family Relief Program Memorandum account from 2015 to 2018.
21. Memorandum Accounts are for costs that are of a substantial nature such that the amount of money involved is worth the effort of processing a memorandum account.
22. Asbestos-cement pipes comprise approximately 78 percent of installed pipe throughout Suburban's service territory.
23. Suburban's Test Year 2021 request of \$511,138 for liability insurance is less than the eight-year recorded average of \$521,366 for years 2011 through 2018.
24. Employee healthcare expenses can be influenced by prudent selection and management of healthcare plans and the negotiation of cost sharing with employees.
25. Balancing accounts remove the incentive to control costs as they allow a mechanism for recovery of costs in excess of those forecast as part of the GRC.

**Conclusions of Law**

1. Suburban should be authorized the general rate increases for 2021, 2022, and 2023, as follows: \$7,779,335 or 9.10% for 2021; \$4,150,027 or 4.41% for 2022; and \$4,304,118 or 4.38% for 2023.

2. The joint motion (filed on April 14, 2021) for adoption of the Settlement Agreement should be granted.

3. The Settlement Agreement (attached to this decision as Appendix A) is reasonable in light of the whole record, consistent with the law, and in the public interest and should be approved and adopted.

4. The Parties complied with the provisions of Rule 12.

5. Pursuant to Rule 12.5, the Settlement Agreement does not bind or otherwise impose a precedent in this or any future proceeding.

6. Suburban should be authorized to continue its Conservation Expenses One-Way Balancing Account.

7. Suburban should amortize any remaining balance in the Recycled Water Balancing Account and close the account at the end of this GRC cycle.

8. Suburban should be authorized to continue its Mandatory Conservation Memorandum Account.

9. Suburban should be authorized to continue its Low-Income Customer Data Sharing Memorandum Account.

10. Suburban should close its Military Family Relief Program Memorandum Account.

11. Suburban should continue its Asbestos Litigation Memorandum Account, as authorized in Commission Resolution W-5214..

12. Suburban should not be authorized to establish a liability insurance premium balancing account.

13. Suburban should forecast expenses for insurance premiums in its GRC proposal going forward.

14. Suburban's Special Request 5 should be denied, and Suburban should not be authorized to modify Rule No. 10 or Rule No. 18 of its Tariff.

15. Suburban's Special Request 6 for a single surcharge consisting of the sum of ten offsets should be granted.

16. Suburban's Special Request 6 should not be authorized to continue the Employee Healthcare Balancing Account or to remove the cap on undercollections.

17. Suburban's Special Request 8 should be granted to remove its Tariff Schedule WLM-3, the tariff schedule for recycled water meter service in the Whittier/La Mirada service district.

18. To maintain the surcharge and monthly benefit of Suburban's Low-Income Ratepayer Assistance program at the same level, the Commission should increase both the per-ccf surcharge and the monthly benefit by the same percentage as the rate increase adopted by the Commission in this GRC.

19. All rulings issued by the assigned Commissioner and ALJ should be affirmed herein; and all motions not specifically addressed herein or previously addressed by the assigned Commissioner or ALJ should be denied.

20. This proceeding should be closed.

## **O R D E R**

### **IT IS ORDERED** that:

1. Suburban Water Systems is authorized the general rate increases for 2021, 2022, and 2023, as follows: \$7,779,335 or 9.10% for 2021; \$4,150,027 or 4.41% for 2022; and \$4,304,118 or 4.38% for 2023.

2. The joint motion (filed on April 14, 2021) for adoption of the Settlement Agreement is granted, and the Settlement Agreement attached to this decision as Appendix A is approved and adopted.

3. Suburban Water Systems shall continue its Conservation Expenses One-Way Balancing Account to track water conservation costs, consistent with the terms of the settlement adopted by the Commission in D.19-05-029.

4. Suburban Water Systems shall amortize any remaining balance in the Recycled Water Balancing Account and close it at the end of this general rate case (GRC) cycle. Suburban shall forecast its recycled water costs going forward as part of its TY 2024 GRC proposal.

5. Suburban Water Systems shall continue its Mandatory Conservation Memorandum Account.

6. Suburban Water Systems shall continue its Low-Income Customer Data Sharing Memorandum Account.

7. Suburban Water Systems shall close its Military Family Relief Program Memorandum Account.

8. Suburban Water Systems shall continue its Asbestos Litigation Memorandum Account, as authorized in Commission Resolution W-5214.

9. Suburban Water Systems shall forecast expenses for liability insurance premiums in its general rate case proposal going forward.

10. Suburban Water Systems' Special Request 5 to modify Rule No. 10 and Rule No. 18 of its Tariff is denied.

11. Suburban Water Systems' Special Request 6 for one surcharge consisting of the sum of ten offsets is granted.

12. Suburban Water Systems' Special Request 6 for continuation of the Employee Healthcare Balancing Account and the removal of the undercollection



cap is denied. Suburban Water Systems shall forecast employee healthcare costs in its general rate case going forward.

13. Suburban Water Systems' Special Request 8 to remove its Tariff Schedule WLM-3 is granted.

14. Suburban Water Systems shall file a joint Tier 1 advice letter for implementation of its General Rate Case rates in this decision and its 2022 escalation year rate increases no later than 45 days prior to their effective date on January 1, 2022. Suburban Water Systems shall submit its 2023 Tier 1 Escalation advice letter no later than 45 days prior to its effective date on January 1, 2023.

15. Suburban Water Systems shall increase both the per-ccf surcharge and the monthly benefit by the same percentage as the rate increase adopted by the Commission in this GRC.

16. All rulings issued by the assigned Commissioner and Administrative Law Judge are affirmed; and all motions not specifically addressed herein or previously denied by the assigned Commissioner or Administrative Law Judge are denied.

17. Application 20-03-001 is closed.

This order is effective today.

Dated \_\_\_\_\_, at San Francisco, California.

**ATTACHMENT**

**(APPENDICES A, B, C, D, E, E, and F)**