

# **ATTACHMENT 1**

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF CALIFORNIA

Application of SAN JOSE WATER  
COMPANY (U 168 W) for Approval of  
Cost Recovery for Advanced Metering  
Infrastructure.

A.19-12-002

**ALL PARTY SETTLEMENT AGREEMENT BETWEEN SAN JOSE WATER  
COMPANY, WATER RATE ADVOCATES FOR TRANSPARENCY, EQUITY  
SUSTAINABILITY AND THE PUBLIC ADVOCATES OFFICE**

RODERICK D. HILL  
Public Advocates Office  
California Public Utilities Commission  
505 Van Ness Avenue  
San Francisco, CA 94102  
(415) 703-4478  
Roderick.Hill@cpuc.ca.gov

*Attorneys for the Public Advocates Office*

LORI ANNE DOLQUEIST  
Willis Hon  
Nossaman LLP  
50 California St., 34th Fl.  
San Francisco, CA 94111 (415) 398-3600  
[ldolqueist@nossaman.com](mailto:ldolqueist@nossaman.com)

*Attorneys for Applicant San Jose Water  
Company*

PATRICK KEARNS, M.D.  
7 W Central Avenue  
Los Gatos, CA 95030  
(408) 234-6727  
pjk3@comcast.net

*Representative for Water Rate Advocates  
for Transparency, Equity and Sustainability  
(WRATES)*

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**I. GENERAL PROVISIONS**

A. Pursuant to Article 12 of the Rules of Practice and Procedure (“Rules”) of the California Public Utilities Commission (“Commission”), the Public Advocates Office at the Public Utilities Commission (“Cal Advocates”) Water Rate Advocates for Transparency, Equity and Sustainability (“WRATES”) and San Jose Water Company (“San Jose Water”) (collectively, “the Parties”) have agreed on the terms of this All Party Settlement Agreement (“Settlement Agreement”), which they now submit for the Commission’s review and consideration. This Settlement Agreement addresses the disputed issues between San Jose Water, WRATES and Cal Advocates. The Parties respectfully request that the Commission approve the Settlement Agreement as submitted.

B. The issues that the Parties agree to resolve through this Settlement Agreement are set forth in Section II below. For each issue, Section II describes the positions of the Parties, the difference between San Jose Water’s position and that of WRATES and/or Cal Advocates’ position, and the resolution of these issues provided by the Settlement Agreement, with references to the evidence of record relevant to each issue.

C. Because this Settlement Agreement represents a compromise of the Parties’ positions with respect to each issue addressed herein, the Parties have agreed upon the resolution of each issue addressed in the Settlement Agreement on the basis that its approval by the Commission should not be construed as an admission or concession by any Party regarding any fact or matter of law that may be in dispute in this proceeding. Furthermore, consistent with Rule 12.5 of the Rules, the Parties intend that the approval of this Settlement Agreement by the Commission should not be construed as a precedent or statement of policy of any kind for or against any Party in any current or future proceeding with respect to any issue addressed in the Settlement Agreement.

D. The Parties agree that no signatory to the Settlement Agreement assumes any personal liability as a result of his or her execution of this document. All rights and remedies of the Parties are limited to those available before the Commission.

E. This Settlement Agreement may be executed in counterparts, each of which shall be deemed an original, and the counterparts together shall constitute one and the same instrument.

F. This Settlement Agreement constitutes and represents the entire agreement between the Parties and supersedes all prior and contemporaneous agreements, negotiations, representations, warranties and understandings of the Parties with respect to the subject matter set forth herein.

G. If after approval by the Commission, one Party fails to perform its respective obligations under this Settlement Agreement, the other Party may come before the Commission to pursue a remedy, including enforcement of the terms of this settlement agreement.

H. The Parties agree that this Settlement Agreement is an integrated agreement, and the provisions of the Agreement are not severable. Therefore, if the Commission rejects, conditions, or modifies any term or portion of this Settlement Agreement, the Parties shall convene a conference within fifteen days thereof and engage in good faith negotiations to determine whether some or all of the remainder of the Settlement Agreement is acceptable to the Parties. In the event an agreement is reached, both Parties must consent in writing to any changes or the Settlement Agreement is void. If the Parties cannot agree to resolve any issue raised by the Commission's actions within thirty days of their conference, this Settlement Agreement shall be rescinded, the Parties shall be released from any obligation, representation, or condition set forth in this Settlement Agreement, including their obligation to support this Settlement Agreement, and the Parties shall be restored to their positions prior to having entered into this Settlement Agreement. Thereafter, the Parties may pursue any action they deem appropriate.

I. The Parties agree that this Settlement Agreement shall be governed by the laws of the State of California as to all matters, including validity, construction, effect, performance, and remedy.

J. Certain elements of San Jose Water's Application were not challenged by WRATES and/or Cal Advocates and do not present contested issues. Similarly, the positions presented by WRATES and/or Cal Advocates on certain issues were accepted by San Jose Water and so also do not present contested issues. This Settlement Agreement does not address such uncontested matters except as noted specifically below.

K. References to the Parties' prepared testimony and reports are included with respect to each issue addressed in the Settlement Agreement.<sup>8</sup> The referenced evidentiary materials are identified as follows:

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<sup>8</sup> WRATES did not submit testimony in this proceeding. The issue positions of WRATES referenced in this document are those set forth in Attachment C to the Joint Statement of the Parties, filed and served on May 29, 2020.

<b>Exhibit</b>	<b>Title</b>
SJW-1	Direct Testimony of John Tang
SJW-2	Direct Testimony of Jake Walsh, P.E.
SJW-3	Direct Testimony of Tricia Anklan (Public)
SJW-3C	Direct Testimony of Tricia Anklan (Confidential)
SJW-4	San Jose Water Company Rebuttal Testimony (Public)
SJW-4C	San Jose Water Company Rebuttal Testimony (Confidential)
PAO-1	Public Advocates Office Report and Recommendations (Public)
PAO-1C	Public Advocates Office Report and Recommendations (Confidential)

## **II. TERMS OF THE SETTLEMENT AGREEMENT AND ISSUES RESOLVED**

### **A. Performance Incentive Mechanism**

**SAN JOSE WATER POSITION:** In support of its request for cost recovery for Advanced Metering Infrastructure (“AMI”) deployment, San Jose Water stated that AMI would help customers comply with state water use standards, reduce water loss through the early detection and notification of leaks, and minimize San Jose Water’s carbon footprint. San Jose Water stated that the cumulative savings over a 20-year period for implementing AMI technology amount to \$204.8 million, with net savings of \$45.1 million.

San Jose Water argued in rebuttal that its savings are not speculative since they are well substantiated via vendor contractual guarantees, industry-leading water loss experts, precedent from other water utilities, and a nearly year-long analysis of San Jose Water’s operations. San Jose Water also argued that the Performance Incentive Mechanism recommended by Cal Advocates is unprecedented, punitive and unnecessary.

**CAL ADVOCATES POSITION:** Cal Advocates stated that many of San Jose Water’s benefits are highly speculative and likely overstated. Cal Advocates recommended that the Commission should adopt a Performance Incentive Mechanism (PIM) to measure and monitor whether San Jose Water is meeting its goals and achieving its stated customer benefits. Cal Advocates recommends five standards in the PIM in order for San Jose Water to share the cost of the proposed AMI deployment in the event that San Jose Water’s alleged benefits fail to materialize.

**WRATES POSITION:** WRATES stated that the costs for the project are not reasonable and that implementation of the AMI project as proposed would be risky. WRATES stated that it could stipulate that the project (AMI) may be reasonable if a PIM is implemented.

**REFERENCES:** Application, pp. 2-4, 8-9; SJW-1, Direct Testimony of John Tang (“Tang Direct”), pp. 2-4; SJW-3, Direct Testimony of Tricia Anklan (Public) (“Anklan Direct Public”), pp. 9-13; SJW-3C, Direct Testimony of Tricia Anklan (Confidential) (“Anklan

Direct Confidential”), pp. 9-123, Confidential Attachment 1; PAO-1, Public Advocates Office Report and Recommendations (Public) (“PAO Report Public”), pp. 5-13, 22-29; Public Advocates Office Report and Recommendations (Confidential) (“PAO Report Confidential”), pp. 5-13, 22-29; SJW-4, San Jose Water Company Rebuttal Testimony (Public) (“SJW Rebuttal Public”), pp. 14-20, 25-31; SJW-4C, San Jose Water Company Rebuttal Testimony (Confidential) (“SJW Rebuttal Confidential”), pp. 14-20, 25-31; Joint Statement of the Parties filed on May 29, 2020, Attachment C.

RESOLUTION and AGREEMENT: The Parties agree to the use of the Performance Incentive Mechanism (“PIM”) as described below.

**B. PIM Compliance**

a. San Jose Water shall achieve full deployment of its AMI within four years after a final decision in this matter by the Commission. San Jose Water shall meet with Cal Advocates as soon as any deployment delays are encountered as a result of permitting and other regulatory approvals beyond the company’s control and to discuss any modifications to the deployment schedule. San Jose Water shall inform the Commission’s Water Division in a letter of any agreed-upon modifications to the deployment schedule. San Jose Water will provide an annual update during the deployment phase, which will inform the Commission of the number of meters deployed, the anticipated remaining deployment schedule, and associated delays with the deployment beyond the company’s control.

b. San Jose Water shall annually demonstrate compliance with the five PIM requirements as detailed under the “PIM Requirements” section below, beginning the year following one year of full deployment and ending 15 years later.

c. Compliance with the PIM requirements shall be verified for each year starting in the year following one year of full deployment through either San Jose Water’s Step-Rate filings or General Rate Case (“GRC”) filings. One year of data from October 1 of the previous year through September 30 of the current year will be used to evaluate the PIM requirement compliance in the month of November for the next calendar year’s revenue requirement.

d. If San Jose Water does not meet all of the five PIM requirements annually, it shall not recover 50% of the yearly revenue requirement requested for its AMI deployment.

e. Substantial compliance with each of the five requirements shall have equal weight. San Jose Water may request one-fifth of the 50% of AMI related revenue requirement for each of the five PIM requirements for which it substantially complies.

f. Any reductions in San Jose Water’s revenue requirement resulting from its failure to comply with each of the PIM requirements shall not be recovered. Revenue recovery shall only be for each year’s PIM compliance and there shall be no retroactive revenue recovery.

g. San Jose Water can continue to recover the revenue requirement associated with the PIM requirement(s) it meets, as long as it remains in compliance with that PIM requirement(s) in the subsequent annual review period.

h. In each compliance review, all PIM requirements shall be evaluated, including any PIM requirements that San Jose Water failed to meet in the prior year. If the compliance review finds that San Jose Water has complied with a PIM requirement that it failed to meet during the prior compliance inspection, San Jose Water can recover the associated revenue for that PIM requirement beginning in the next calendar year.

### **C. PIM Requirements**

#### **a. Customer/Subscriber Enrollment in the WaterSmart Portal**

(1) San Jose Water shall add all customers to the AMI WaterSmart Portal upon full deployment. All new or existing customers who provide a valid email address will be auto enrolled to access the WaterSmart Portal.

(2) Customers/subscribers can opt-out of the AMI program and associated engagement at their discretion and the opted-out customers/subscribers shall be excluded from any enrollment percentage calculation.

(3) San Jose Water shall keep a record of its customers/subscribers who have opted out of the AMI program and that number/percentage shall be reported in each of its annual filings (Step-Rate/GRC) as part of San Jose Water's PIM compliance requirements.

(4) San Jose Water shall provide Cal Advocates and the Commission with an annual report on customer engagement with the WaterSmart Portal that includes but is not limited to, the frequency of customer use of the WaterSmart Portal, session time of customers (how long the customer remains using the WaterSmart Portal) per visit, and the types of requests or resolutions attained through the WaterSmart Portal. The annual report shall also provide a comparison of water conservation outcomes comparing customers who use the WaterSmart Portal and customers who do not.

### **D. Customer/Subscriber Leak Alerts**

(1) AMI shall achieve a ratio of leaks alerted to leaks detected of 75% upon full deployment of AMI. This requirement excludes any customers/subscribers who override default leak alert configurations or opt-out of AMI.

(2) Residential customer/subscriber leaks shall be defined as having a minimum continuous flow rate of 5 gallons per hour for 24 consecutive hours. This initial leak formula may be adjusted based on San Jose Water's customer/subscriber feedback and internal analysis.

(3) San Jose Water shall notify 100% of its customers/subscribers of leaks detected by AMI, which includes the WaterSmart Portal and Non-WaterSmart Portal methods. The methods of Non-WaterSmart Portal customer contacts include, but are not limited to;



phone calls, texts, letters, and door-hangers.

**E. Water Loss**

- (1) Water loss associated with leaks shall be less than 10%.
- (2) This annual requirement shall be based on non-revenue water as a percent by volume of water supplied, calculated using the American Water Works Association's "water audit tool."

**F. Bill Adjustments for Leaks**

(1) AMI shall achieve 80% reduction in the total dollar amount of annual courtesy leak adjustments after full deployment, compared to the five-year average of 2015-2019 leak adjustments, adjusted for inflation.

(2) Any leak adjustments provided during a state or federal declared emergency would be removed from this requirement during the pendency of the declared emergency.

**G. Savings from Field Operations**

(1) AMI shall achieve field operations cost savings as presented in SJW-3C, Anklan Direct Confidential, Confidential Attachment 1 as part of its annual Step-Rate and GRC filing reporting requirements for AMI.

(2) San Jose Water shall verify in these filings that the line items for the Field Operation Cost Savings, presented in Confidential Attachment 1 have actually been removed from San Jose Water's accounts, demonstrating that those one-time savings have actually occurred.

**H. Depreciation Rate Agreement**

**SAN JOSE WATER POSITION:** San Jose Water used the adopted composite plant depreciation used in San Jose Water's 2018 general rate case (D.18-11-025). San Jose Water noted that the Commission generally does not depreciate assets on an individual basis and that its use of a composite depreciation rate is in keeping with the Commission's Standard Practice U-27-W.

**CAL ADVOCATES POSITION:** AMI's plant depreciation rate should be based on the project's life span of 20 years. Plant components planned to be replaced multiple times over the 20-year span should be depreciated over the life span of that plant component. San Jose Water underestimates depreciation expense by using a composite plant depreciation rate in their depreciation expense calculation.

**WRATES POSITION:** WRATES did not take a position on this issue.

**REFERENCES:** SJW-1, Tang Direct, Attachment 1, p. 2; PAO-1, PAO Report Public, pp. 7-10; PAO-1C, PAO Report Confidential, pp. 7-10; SJW-4, SJW Rebuttal Public, pp. 13-14; SJW-

4C,SJW Rebuttal Confidential, pp. 13-14.

RESOLUTION and AGREEMENT: The depreciation rate for calculating the savings of the AMI program shall be based on the life of the AMI project. San Jose Water can use its GRC-authorized depreciation rate for calculating the revenue requirement.

**I. Meter Replacement Savings Agreement**

SAN JOSE WATER POSITION: San Jose Water included in the estimated cost savings associated with AMI the estimated cost savings for meter replacements during 2022-2027. San Jose Water's decision to include the full replacement costs in this application avert the cost recovery associated with General Order 103-A replacements in 2022-2027. The AMI business case recognizes this as savings because cost recovery will no longer be required for this meter population in the next GRC.

CAL ADVOCATES POSITION: San Jose Water's estimated capital cost savings for meter replacements during the 2022-2027 period should not be considered capital cost savings since these meters would have to be replaced regardless of whether or not the proposed application for AMI implementation is adopted.

WRATES POSITION: WRATES did not take a position on this issue.

REFERENCES: Application, Exhibit A, AMI Report, p. 53; SJW-3C, Anklan Direct Confidential, Confidential Attachment 1; PAO-1, PAO Report Public, pp. 11-12; PAO Report Confidential, pp. 11-12; SJW-4, SJW Rebuttal Public, pp. 17-19; SJW-4C, SJW Rebuttal Confidential, pp. 17-19.

RESOLUTION and AGREEMENT: This issue has been resolved through the Savings from the Field Operations metric of the PIM. See Section II.A.2.e, Savings from Field Operations.

**J. Customer Outreach and Education Agreement**

SAN JOSE WATER POSITION: San Jose Water intends to implement robust customer outreach techniques. San Jose Water developed a comprehensive plan to educate customers about the AMI program, prepare customers for the rollout of AMI, maintain regular communications during the implementation process to keep customers informed about timing and milestones, and address any questions, concerns or issues in a timely manner.

CAL ADVOCATES POSITION: Cal Advocates noted that San Jose Water is planning a more extensive outreach campaign with the full implementation of AMI as compared to its pilot program, including community events, publishing brochures in multiple languages, and conducting a Google Ads campaign.

WRATES POSITION: WRATES criticized the proposed customer outreach methods. WRATES stated that "a trusted source" is necessary to inform the ratepayers of the advantages of PIM.

REFERENCES: Application, Exhibit A, San Jose Water AMI Report, pp. 47-48, Appendix D; PAO Report Public, p. 25; SJW Rebuttal Public, pp. 31-34; Joint Statement of the Parties filed on May 29, 2020, Attachment C.

RESOLUTION and AGREEMENT: San Jose Water shall utilize all traditional and electronic means to educate and inform its customers as to the AMI program, these may include but are not limited to “door hangers,” mailings, phone calls and emails.

**K. Customer/Subscriber Privacy Agreement**

SAN JOSE WATER POSITION: All bidders for the AMI system were required to indicate compliance with certain security requirements to safeguarding data from the time of initial transmission through long-term storage. Security standards and customer privacy protections applied to other San Jose Water technology programs will also be applied to AMI. Customer-specific information such as customer name, address, account number, and/or bill payment status is not transmitted over the network.

CAL ADVOCATES POSITION: Cal Advocates did not contest San Jose Water’s privacy and data security provisions.

WRATES POSITION: WRATES stated that San Jose Water’s proposal did not provide adequate data privacy.

REFERENCES: Application, Exhibit A, San Jose Water AMI Report, pp. 21-22; Joint Statement of the Parties filed on May 29, 2020, Attachment C.

RESOLUTION and AGREEMENT: San Jose Water shall comply with the California Consumer Privacy Act as it relates to the AMI program.

**L. Cost Recovery Agreement**

SAN JOSE WATER POSITION: At the time it filed its Application, San Jose Water proposed that the 2021 rate adjustment be implemented at the time of Commission decision and by an advice letter filed effective January 1, 2021. San Jose Water proposed that 2022-2024 project investments be included in the calculation of revenue requirements in San Jose Water’s next GRC to be filed in January 2021.

CAL ADVOCATES POSITION: Beyond the recommendation of the PIM, discussed above, Cal Advocates did not contest San Jose Water’s cost recovery proposal.

WRATES POSITION: WRATES did not take a position on this issue.

REFERENCES: Application, pp. 9-10; SJW-1, Tang Direct, pp. 8-9.

RESOLUTION and AGREEMENT: San Jose Water and Cal Advocates agree that the recorded costs of the AMI deployment, after being used and useful, will be included in rate base through annual Tier 2 advice letter filings. Interest during construction will be accrued on a monthly basis at San Jose Water’s actual weighted average cost of debt (including short-term debt).

Capitalized interest will not be compounded.

**M. Billing Agreement**

CAL ADVOCATES POSITION: A detailed analysis of San Jose Water’s current billing practices reveals the potential for San Jose Water to recover more than its estimated costs of AMI deployment. As a result of San Jose Water’s erroneous interpretation of its authorized tariffs, customer bills in any given year may fund over 3% more than the necessary and actual costs of AMI. The Commission should require San Jose Water to adopt a standard and uniform process of pro-rating monthly service charges and increase the precision of the pro-ration constant detailed in San Jose Water’s tariffs to accommodate the additional day of billing that occurs every four years during a leap year. The Commission should require San Jose Water, not its customers, to absorb the costs of correcting its billing practices.

SAN JOSE WATER POSITION: The Cal Advocates proposed formula to replace San Jose Water’s formulas for calculation of service charges is currently not supported by San Jose Water’s tariff. San Jose Water recommends the followings steps: (1) adjust the meter reading schedule to ensure reads are conducted within the current tariff definitions, (2) implement management controls to ensure operating adherence to current tariff definitions; (3) work with Cal Advocates to clarify any ambiguities in the tariff via the advice letter process.

WRATES POSITION: WRATES stated that San Jose Water’s methods for calculating service charges are inaccurate and do not conform to the tariff, and that adjustments should be made at San Jose Water’s expense.

REFERENCES: PAO-1, PAO Report Public, pp. 35-46; PAO-1, PAO Report Confidential, pp. 35-46; SJW-4, SJW Rebuttal Public, pp. 38-39; SJW-4C, SJW Rebuttal Confidential, pp. 38-39; Joint Statement of the Parties filed on May 29, 2020, Attachment C.

RESOLUTION and AGREEMENT: By no later than three months from the issuance of a Commission Decision approving this settlement agreement and resolving A.19-12-002, San Jose Water shall implement one standard “Uniform Formula” for accurately calculating and prorating monthly service charges for all San Jose Water customers/subscribers. The costs to implement a “Uniform Formula” shall not be recovered from San Jose Water customers/subscribers.

**III. CONCLUSION**

A. The Parties mutually believe that, based on the terms and conditions set forth above, this Settlement Agreement is reasonable, consistent with the law, and in the public interest.

B. Each Party to this Settlement Agreement represents that his or her signature to this Settlement Agreement binds his respective party to the terms of this Settlement Agreement.

Respectfully submitted,

THE PUBLIC ADVOCATES OFFICE

By:           /s/ Chris Ungson            
Chris Ungson  
Deputy Director

California Public Utilities Commission  
505 Van Ness Avenue  
San Francisco, CA 94102  
(415) 703-2571  
chris.ungson@cpuc.ca.gov

August 5, 2021

SAN JOSE WATER COMPANY

By:           /s/ John Tang            
John Tang  
Vice President for Regulatory Affairs  
and Government Relations

110 West Taylor Street  
San Jose, CA 95010  
(415) 279-7933  
john.tang@sjwater.com

August 5, 2021

WATER RATE ADVOCATES FOR  
TRANSPARENCY,  
EQUITY AND SUSTAINABILITY

By:           /s/ Patrick Kearns            
Patrick Kearns, M.D.

7 W Central Avenue  
Los Gatos, CA 95030  
(408) 234-6727  
pjk3@comcast.net

August 5, 2021

(END OF ATTACHMENT 1)