

Exhibit:	:	<u>Cal Advocates # 14</u>
CPUC Proceeding	:	<u>A.23-01-001</u>
Sponsor/Witness	:	<u>Lopez</u>
Date Ident.	:	<u> </u>
Date Recd.	:	<u> </u>
ALJ	:	<u>Gerald F. Kelly</u>



PUBLIC ADVOCATES OFFICE
California Public Utilities Commission

DATA REQUEST BYU-11 RESPONSE

San Francisco, California
October 2-4, 2023



**Suburban
Water Systems**

1325 N. Grand Ave. Ste. 100, Covina, CA 91724-4044
Phone: 626.543.2500, Fax: 626.331.4848
www.swwc.com

September 19, 2023

To: Suliman Ibrahim
Project Coordinator

Brian Yu
Utilities Engineer/Regulatory Analyst

Shanna Foley
Attorney for Public Advocates Office

Re.: Response to A.23-01-001, Public Advocates Office DR BYU-11 (PFAS)

Dear Mr. Ibrahim et al.,

Attached is the information you requested in writing for Suburban's Total Company General Rate Case.

Sincerely,

/s/Carmelitha Bordelon

Carmelitha Bordelon
Director of Regulatory Affairs

Response to A.23-01-001, Public Advocates Office

DR BYU-11 (PFAS)

On August 28, 2023, during the Public Participation Hearing for Suburban GRC, Suburban's President Craig Gott stated "We are also pursuing insurance and litigation against the manufacturers of these chemicals to help bring down the costs of these treatment facilities" regarding Suburban seeking compensation from the manufacturers of PFAS. Please provide the following:

1. From how many manufacturers is Suburban actively seeking compensation for the PFAS contamination? Please list each manufacturer.
 - a. Provide evidence that Suburban has been or is actively seeking compensation from the manufacturer of PFAS. Provide a timeline and documentation for each manufacturer.

Response:

Suburban named the following manufacturers as defendants in its lawsuit against 3M and others: 3M COMPANY (f/k/a Minnesota Mining and Manufacturing, Co.), E.I. DU PONT DE NEMOURS AND COMPANY, THE CHEMOURS COMPANY L.L.C. F/K/A THE CHEMOURS COMPANY, DUPONT DE NEMOURS, INC., CORTEVA, INC., CHEMGUARD, INC., TYCO FIRE PRODUCTS LP (successor-in-interest to the Ansul Co.), BUCKEYE FIRE EQUIPMENT COMPANY, KIDDE FENWAL, INC., NATIONAL FOAM, INC., ARKEMA, INC., AGC CHEMICALS AMERICAS, INC., DYNAX CORPORATION, and CLARIANT CORPORATION.

On March 12, 2021, Suburban filed a complaint in the matter entitled SUBURBAN WATER SYSTEMS v. 3M Company, 3M COMPANY (f/k/a Minnesota Mining and Manufacturing, Co.), E.I. DU PONT DE NEMOURS AND COMPANY, THE CHEMOURS COMPANY L.L.C. F/K/A THE CHEMOURS COMPANY, DUPONT DE NEMOURS, INC., CORTEVA, INC., CHEMGUARD, INC., TYCO FIRE PRODUCTS LP (successor-in-interest to the Ansul Co.), BUCKEYE FIRE EQUIPMENT COMPANY, KIDDE FENWAL, INC., NATIONAL FOAM, INC., ARKEMA, INC., AGC CHEMICALS AMERICAS, INC., DYNAX CORPORATION, and CLARIANT CORPORATION; JOHN DOE DEFENDANTS 1-49, Case No. 2:21-cv-RMG ("PFAS Lawsuit"), in the multidistrict litigation proceeding pending in the U.S. District for the Southern District of South Carolina ("MDL Proceeding"). The PFAS Lawsuit remains pending in the MDL Proceeding. A copy of the PFAS Lawsuit complaint ("Complaint") is being provided.

Please see file "DR BYU-11 (PFAS)-Q.1.a. Response - 3M et al Complaint.pdf" for documentation for each manufacturer.

- b. What is the amount of compensation Suburban is seeking from each manufacturer? Please provide details.

Response:

The Complaint in the PFAS Lawsuit did not set forth a specific amount being sought from each PFAS manufacturer. In the Complaint, Suburban requested, among other things, “[a]n order that Defendants pay all damages suffered by [Suburban], including but not limited to investigation, clean-up, abatement, remediation, and monitoring costs incurred by [Suburban], or for which [Suburban] is or was legally responsible, to comply with California’s MCL and groundwater and soil cleanup target levels.”

- c. Suburban is currently proposing to add \$42,343,703 in ratebase in the years 2025 and 2026 for the Plant 201 treatment plant. How would any funds received as the result of this litigation and/or any insurance claims be accounted for from a ratemaking perspective to “help bring down the costs of these treatment facilities”?

Response:

Decision 10-10-018 provided a “list of factors” that the Commission must consider in determining any allocation of net proceeds between ratepayers and shareholders.

Ordering paragraphs 5 and 6 of D.10-10-018 state the following:

5. If an investor-owned water utility receives proceeds from any of the funding sources identified in Ordering Paragraph 1 after the contaminated plant is replaced or remediated and all costs have been determined, the remaining amount of proceeds (“net proceeds” as defined in Ordering Paragraph 6) may be shared between ratepayers and shareholders upon Commission approval where circumstances warrant and on the basis of factors relevant to the individual case, including factors set out in Appendix D to this decision.

6. “Net Proceeds” are hereby defined as:

Gross proceeds received minus all (1) reasonable legal expenses related to litigation, (2) costs of remedying plants, facilities, and resources to bring the water supply to a safe and reliable condition in accordance with General Order 103-A standards, and (3) all other reasonable costs and expenses that are the direct result and would not have to be incurred in the absence of such contamination, including all relevant costs already recovered from ratepayers (for which they have been, or will be, repaid or credited).

Therefore, the funds received as the result of this litigation and/or any insurance claims will be determined by the Commission at a later date.

2. Is Suburban a party to the 3M PFAS Settlement of June 2023?

- a. What is the amount Suburban originally sought and what is the amount of settlement Suburban is expecting to receive? Provide a copy of the settlement.

Response:

The 3M PFAS Settlement, which was preliminarily approved on August 29, 2023, is structured as a class action settlement. The parties to the settlement agreement are 3M and Interim Class Counsel; Suburban is not a party or signatory to the settlement

agreement. Suburban is a class member that can opt out of the settlement or submit a claim.

As noted in response to 1.b., above, Suburban did not specify an amount it was seeking from 3M. How much Suburban might receive from the settlement if it chooses to participate in the settlement is not known at this time and will not be known until all claims have been submitted.

A copy of the June 22, 2023, settlement agreement is being provided, see file “DR BYU-11 (PFAS) Q.2.a(1) Response - 2023.06.22 3M Settlement.pdf.” Please note that the settlement agreement was amended and modified. A copy of the August 28, 2023 “Consent Motion to Amend Exhibits to Motion for Preliminary Approval”, which identifies the changes to the settlement agreement, is being provided, please see file “DR BYU-11 (PFAS) Q.2.a(2) Response - 2023.08.28 Consent Motion re Amending Settlement Agreement.pdf.”

- b. If Suburban is not a party to the 3M PFAS case, please explain in detail why not.

Response:

Please see response to 1.a.