

**CALIFORNIA PUBLIC UTILITIES COMMISSION
WATER DIVISION**

**STANDARD PRACTICE FOR PREPARING AND
PROCESSING ADVICE LETTERS FOR SERVICE AREA
EXTENSIONS, INCLUDING ACQUISITIONS,
AND DETERMINATION THAT A MUTUAL DOES NOT
INFRINGE ON THE SERVICE AREA OF A REGULATED
WATER COMPANY**

Standard Practice U-14-W

SAN FRANCISCO, CALIFORNIA

September, 2008

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A - PURPOSE AND SCOPE

1. The purpose of this standard practice is to provide the utility with information needed to create, and the Division staff engineer or analyst (staff) with instructions and a set of procedures to process:

- a. advice letters for acquisition of non-Commission regulated water system (NCRWS) and Inadequately Operated and Maintained Small Water Utilities (IOMSWU)
- b. advice letters for extension of service area,
- c. advice letters for extension of service area at less than General Order (G.O.) 103 standards,
- d. advice letters for acquisition of a water or sewer system utility for \$5,000,000 or less¹
- e. change of ownership due to probate
- f. requests under 10 CCR 260.140.71.2 by a mutual water company to serve a designated area.

2. Acquisitions of a Commission-Regulated Class A or B water utility for more than \$5,000,000 shall be done by application, with a Notice of Intent, Results of Operations, Appraisal and Government-funded plant exempt from valuation.²

3. Deviations from this Standard Practice require the approval of the Director of the Water Division.

¹ Public Utilities Code Section 851, Stats. 2005, Ch 370, Section 1. Effective January 1, 2006.

² D.99-10-064, October 21, 1999, Appendix D, paragraph 2.02 through 2.7

B - ACQUISITION OF NON-COMMISSION REGULATED WATER SYSTEMS AND INADEQUATELY OPERATED AND MAINTAINED SMALL WATER UTILITIES

4. Within five working days from the date of the signing an agreement to acquire a NCRWS or IOMSWWS, the utility shall file an “information only” filing with the Water Division, describing the system and the details of the proposed acquisition. (Ref. B, at 3)
5. Within 30 days of the date of execution of the agreement to acquire a NCRWS, and, for all service area extensions, not less than 30 days prior to providing service in the territory, the utility shall file an advice letter delineating the new service area on an existing service area map or as a new service area map.³

C - TRANSFER OF OWNERSHIP DUE TO PROBATE

6. Within 30 days after transfer of ownership due to probate from a decedent to member of the decedent’s family of a water system serving less than 10,000 connections, the new owner shall file an advice letter containing:
 - a. A copy of the legal instrument that conveys ownership of the regulated entity.
 - b. A new tariff title page that includes the new owner’s mailing address and contact information.

D - NOTICE

7. The utility shall serve a copy of the advice letter on all entities on the service list, and all affected landowners in the territory being acquired, including all customers of the utility being acquired.⁴
 - a. For service area extensions, the utility shall serve the advice letter on any affected county Local Agency Formation Commission,⁵ the local fire protection agency and the local subdivision permitting agency.
 - b. For acquisition advice letters, the utility shall notice all customers of the utility being acquired, and serve the advice letter on all utilities, corporations, persons or other entities, either public or private, with which the acquired system is likely to compete, and all cities and counties within which service will be rendered.

³ Public Utilities Code Sections 1001, 852 and 854 do not require that the utility receive Commission approval before a water utility extends its line plant or service into a contiguous area that is not being served by a utility of like character (ref. D.94-01-046, January 19, 1994, Ordering Paragraph 5). However, the Public Utilities Code requires that all rates charged by a public utility must be filed with and approved as just and reasonable by the Commission (D. 04-07-033 July 8, 2004, Conclusion of Law 4). By filing a new service area map, the utility is telling the public what rate area the new service territory is being added to. Consequently, no rates can be charged until the new service area map has been made effective.

⁴ Memo January 6, 1981 from Bruno A. Davis, Director, Revenue Requirements Division to Jim Pretti, Subject: Procedure - Application to acquire, sell, transfer, and purchase utilities, Doc. Mgmt. #341702.

⁵ Resolution Number M-4818, March 15, 2007

- c. For acquisition of mutual and publicly-owned water systems, the utility shall notice all affected customers. The notice must include a comparison of the rates before the acquisition and for the first year after the acquisition and identify any cost, including a reasonable return, not fully reflected in the first year's rates. For municipally owned systems this notice must be given to the customers prior to the election. (Ref A., para. 4.03)

E - SERVICE AREA EXTENSION

8. The service area map shall be of such detail that it can be determined if a single piece of property is inside or outside the service area. If the map uses a street as the border of the service area, the utility is allowed to serve property on either side of the street⁶. The new area shall be highlighted or crosshatched. The advice letter shall contain the following information:

9. If the advice letter is for a service area extension, it should generally follow the format of the advice letter outline in Appendix A and must include the following attachments:⁷

- a. A completed Water Supply Questionnaire or other document demonstrating water availability per Standard Practice U-18 (if a letter to the Department of Real Estate is required).
- b. A copy of the developer's application for service or a statement that all owners of parcels of land in the extension area have been served a copy of the advice letter.
- c. Documentation showing that the project for which the service area is being extended has sought approval from the local permitting agency and is making reasonable progress toward project completion. The showing of reasonable progress may include demonstration of a comprehensive development plan, site ownership or control, completion of engineering and architectural plans, achievement of financing milestones, or other information that indicates a reasonable likelihood of project completion.
- d. A letter from the local fire protection agency or other documentation that shows that the fire protection agency is satisfied with the fire flow capability of the system planned for the new area.
- e. A system map with supporting computations showing that the system in the new territory is in compliance with the minimum design and water supply standards of G.O. 103.

⁶ Letter from Fred Curry to all Water and Sewer Service Utilities, September 26, 2000.

⁷ Appendix A of D.97-03-028, March 18, 1997, "Memorandum of Understanding in Application 95-09-005"

F - SERVICE AREA AT LESS THAN GENERAL ORDER 103 STANDARDS

10. If the advice letter is for a service area extension that requests permission to provide service outside the service area or at less than G.O. 103 standards, it should resemble Appendix B and must address the following (Ref. C., p.3).

- (1) A showing that the customer cannot be served at G.O. 103 standards at reasonable cost.
- (2) A showing that the customer is willing to be served at less than G.O. 103 standards.
- (3) A copy of the title to the property showing that the limitation of service is shown as a deed restriction on the property.
- (4) An assertion that the area to be served is one in which additional customer growth is unlikely.
- (5) An assertion that the final installation, including all customer-provided facilities, meets all local permit requirements.
- (6) Contain a copy of the special contract providing service at less than G.O. 103 standards and delineating the limitations listed above, and a appropriate modification to the utility's tariff sheet listing Contracts and Deviations.

G - ACQUISITION

11. If the advice letter is for an acquisition, it should resemble Appendix C and must include the following attachments (Ref. B, p. 3):

- (1) A copy of the executed purchase agreement.
- (2) A copy of the notice sent to all affected customers comparing the rates before and for the first year after the acquisition and identifying any costs not fully reflected in the first year's rates. (Ref. A, para.4.03)
- (3) A copy of the appraisal with all supporting materials and workpapers. (Ref. A, para 2.05)
- (4) All necessary tariff sheets, including a tariff sheet showing rates.

For an NCRWS acquisition, the utility may use:

- (a) existing NCRWS rates, or
- (b) rates for its nearest service territory (with cost justification adequate to show that it is reasonable to apply them to the newly acquired system), or
- (c) new rates producing revenues lower than either⁸. (Ref A., p. 3; Ref. B, p. 4).

⁸ For example, the Commission has long held that the basis upon which rates should be set is the original depreciated cost or the purchase price, whichever is lower (D.83676, November 6, 1974)

For an IOMSWWS acquisition the utility may request new rates that:

- (a) establish an Unanticipated Repair Cost Memo Account
 - (b) collect 100% of fixed costs in the service charge, and
 - (c) receive revenues based on the rate of return permitted a Class C or a Class D water utility. This return may also be earned on 50 percent of the difference between book value and the price paid, and
 - (d) increase rates annually by the latest Consumer Price Index for All Urban Customers (Ref. A, at 2,3).
- (5) A detailed description of the acquired water system including a list of facilities such as wells, storage, and structures, and a distribution system map showing pipe sizes, fire flow and pressure areas.
 - (6) A list of planned water system improvements, including estimated costs and the rate impact on the acquired and existing customers.
 - (7) An estimated Summary of Earnings before and after the acquisition with and without the estimated costs of improvements in (5) above for the first and fifth year following acquisition.
 - (8) The names and addresses of all utilities, corporations, persons or other entities, either public or private, with which the acquired system is likely to compete, and all cities and counties within which service will be rendered.
 - (9) A list of the franchises and health and safety permits obtained or required to operate the system, including the status of the Technical, Managerial and Financial Capacity certification required from the Department of Health Services.
 - (10) An accounting of the original cost (or estimated original cost) of all acquired plant and depreciation reserve.

H - MUTUAL WATER COMPANY LETTER SUBMITTAL AND CONTENTS

12. Section 14312 of the Corporations Code requires in part that a new mutual water company provide:

“14312. (a) Any person who intends to offer for sale or lease lots within a subdivision within this state and to provide water for domestic use to purchasers of the lots within a subdivision through the formation of a mutual water corporation described in Section 14311, shall include as part of the application for a public report, as described in Section 11010 of the Business and Professions Code, a separate document containing all of the following information, representations, and assurances:

(1) That the provisions of this chapter have been complied with.

(2) That the area in which the mutual water company proposes to deliver water encompasses and includes the entire subdivision and, when applicable, will include parcels to be annexed to the subdivision.

(3) That the mutual water company has contacted the Public Utilities Commission and the county local agency formation commission to determine if the proposed area described in paragraph (2) will overlap an existing water service area or if an existing water service area could more appropriately serve the subdivision.”

13. The mutual should provide a letter along with a service area map. The branch will create a folder with a proposal number to track the processing of this request.

I - REVIEW AND PROCESSING

14. The tariff unit shall:

- a. review the advice letter for conformance with G.O. 96 and this standard practice, including notice requirements.
- b. If the submittal is deficient, inform the utility.
- c. When the submitted advice letter is complete, stamp the filed date on the advice letter and post a notice of the filing on the Commission Calendar.
- d. Forward to the Branch Chief for assignment to staff.

15. Staff shall, within 15 working days after assignment, review the advice letter for completeness and correctness. The following checklist contains some of the items that must be evaluated, but unique situations may require that the staff address other problems or deficiencies than those listed below.

- a. Does the advice letter contain an adequate submittal of all of the appropriate items required in above? If not, send a data request to the utility.
- b. Is the Water Supply Questionnaire over 12 months old? If so, send a data request to the utility requesting an updated Water Supply Questionnaire. The Department of Real Estate requires that water supply information be less than 12 months old.
- c. Does the new Service Area map clearly demarcate the additional service area? Is the new map of sufficient detail to indicate that a property is within or partially within the service area? If not, have the utility submit a supplement to the advice letter with an acceptable map.
- d. Is the new service area within 2,000 feet of the existing service territory at its closest point or is it the result of the extension of existing line, plant or service? If so, it is a contiguous extension under Public Utilities Code Section 1001 and may become effective on regular statutory notice. If the new territory is more than 2,000 feet distant, or is not in the same city or the same city and county in which

the utility already serves, reject the advice letter with prejudice. The utility must file for formal certification.

- e. If the service is provided at less than G.O. 103 standards, does the filing comply with the paragraph 4.b above?
- f. Have all owners of land within the territory been noticed (Ref. B, p. 6)? If not, have the utility notice them.
- g. If the advice letter is an IOMSWWS acquisition, the utility may add an Unanticipated Repair Cost Memorandum Account to the Preliminary Statement, but the account must apply to the IOMSWWS only.
- h. If the acquisition results in new rates being applied to customers of an acquired system, the advice letter must address those rates and the resolution must find them just and reasonable. (D.99-10-064, Conclusion of Law 5)
- i. If the transfer is due to probate, does it conform with Section 240 of the Probate Code?

California Probate Code Section 240. If a statute calls for property to be distributed or taken in the manner provided in this section, the property shall be divided into as many equal shares as there are living members of the nearest generation of issue then living and deceased members of that generation who leave issue then living, each living member of the nearest generation of issue then living receiving one share and the share of each deceased member of that generation who leaves issue then living being divided in the same manner among his or her then living issue.

16. If the staff submits a data request and the processing time will exceed the 30 days statutory duration in P.U. Code Section 455, the staff will send a Letter of Suspension to the utility and ask the tariff unit to post a notice in the Commission Calendar suspending the effective date of the advice letter for the number of days necessary to complete the review process. For an NCRWS acquisition advice letter, this delay should not exceed 70 days (Ref. A, at 6). For all other advice letters this delay should not exceed 120 days, with a possible further extension of 180 days.

J - DISPOSITION

17. Disposition consists of accepting the advice letter, rejecting the advice letter, or writing a resolution to accept, accept with modifications or reject the advice letter.

- a. Contiguous service area extension advice letters don't require a resolution.⁹ A contiguous extension means the new service area is 2,000 feet or closer to the existing service area. If the advice letter is protested, inform the protestants that PU Code 1001 finds that contiguous extensions do not require Commission approval and that their protest should be done in a different venue.
- b. If the advice letter is to acquire an IOMSWWS, the staff will prepare a resolution to approve or reject as appropriate.

⁹ D.93-04-028, April 7, 1993, fn 3.

- c. If the advice letter is to acquire a privately owned water system that is not an IOMSWWS, or if the new service area is not contiguous, or not within the same city or same city and county that the utility is already servicing, or not the result of the extension of existing line, plant or system, reject the advice letter with prejudice. The utility will have to file by application¹⁰.
- d. If the advice letter is to acquire a NCRWS, then a resolution is required that addresses the reasonableness of the rates¹¹ (see Appendix D).
- e. If the advice letter is for change of ownership due to probate, no resolution is required.

18. Upon completion of the review, the staff will prepare the resolution (see Appendix E) if required, annotate the cover sheet appropriately and return the work folder to the Tariff Unit for final processing.

19. After checking service area maps in the tariff files, the Branch will prepare a letter similar to Appendix F in response to the mutual water company request.

K - POLICY ISSUES

20. The utility does not need Commission authorization to extend service to contiguous areas, but, by Commission instruction, must file a new service area map (and serve nearby municipalities and other water companies) including the information required in paragraph 7 and 7a above no later than 30 days prior to providing such service, and must file a service area map once infrastructure exists to provide service.¹² There is no requirement that a water utility extend service into unserved areas.¹³

21. A water utility's responsibility ends at the discharge point of the utility's meter.¹⁴

22. A water utility must serve any parcel within its approved service territory if it has adequate water to do so and must not discriminate.¹⁵

23. The question of dedicating facilities to a new area is a matter of discretion for the utility. In the absence of conduct wherein dedication is implied, the Commission cannot order service to the area.¹⁶

¹⁰ Public Utilities Code § 1001

¹¹ D.99-10-064, October 21, 1999, at. 10, Conclusion of Law 5 and Ordering Paragraph 2.

¹² D.04-02-043, Finding of Fact 4, "GO-96-A does not require CalWater to file a new service area map until infrastructure exists for the Monastery Property's water service to commence."

¹³ D.95-07-033, July 19, 1955 at 7

¹⁴ Ibid. at 8

¹⁵ Public Utilities Code § 493

¹⁶ *California Water and Telephone Co. v. Public Utilities Commission* (1959) 51 C 2d 478.

References

- A. Appendix D of D.99-10-064, October 21, 1999, “Order Instituting Rulemaking on the Commission’s own motion to set rules and provide guidelines for the Acquisition and Mergers of Water Companies”
- B. Appendix A of D.97-03-028, March 18, 1997, “Memorandum of Understanding in Application 95-09-005”
- C. Resolution W-3937, September 7, 1995

Appendix A

(Letterhead if Available)

Advice Letter No. 123 Regulated Water Company (U 456 W) December 31, 1999

Public Utilities Commission of the State of California

Regulated Water Company requests Tier 2 review and approval of the changes to the following tariff schedules applicable to its
(District) .

Cal P.U.C. Sheet No.	Title of Sheet	Canceling Cal. P.U.C. Sheet No.
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

The effective date of the tariff schedules is requested to be _____.

Notice has been provided as required by GO 96. The service list is attached to this Advice Letter (or) This Advice Letter was served on the same parties as Advice Letter (or Decision) #_____, dated _____.

The purpose of this filing is to update and to extend our Gamma service area boundary to include two new areas. The areas are identified as follows:

- (1) North Grove Subdivision
- (2) Gamma Heights Subdivision

North Grove is an existing residential area with individual private wells that do not meet State water quality standards. The State Department of Public Health has advanced the cost of extending Regulated Water Company's lines to this area to make a safe water supply available. A full description of these new facilities is contained in the Workpapers.

Appendix A

Gamma Heights Subdivision has received final approval from the local permitting agency and is presently under construction. The developer of Gamma Heights has requested service and entered into a main extension agreement. The Water Supply Questionnaire (Number) was approved by the CPUC on _____.

Regulated Water Company is installing all facilities. (or) The developer has completed installation of all facilities, and Regulated Water Company has inspected and accepted them.

This filing will not interfere with the operation of Regulated's other public utility or the water system of a public agency.

The actions requested in this advice letter are not now the subject of any formal filings with the California Public Utilities Commission, including a formal complaint, nor action in any court of law.

Protests and Responses

A protest is a document objecting to the granting in whole or in part of the authority sought in this advice letter. A response is a document that does not object to the authority sought, but nevertheless presents information that the party tendering the response believes would be useful to the Commission in acting on the request.

A protest must be mailed within 20 days of the mailed date of this advice letter. It must state the facts constituting the grounds for the protest, the effect that approval of the advice letter might have on the protestant, and the reasons the protestant believes the advice letter, or a part of it, is not justified. If the protest requests an evidentiary hearing, the protest must state the facts the protestant would present at an evidentiary hearing to support its request for whole or partial denial of the application.

All protests or responses to this filing should be sent to:

California Public Utilities Commission, Water Division
505 Van Ness Avenue

Appendix A

San Francisco CA 94102

Fax: (415) 703-2655

E-Mail: water_division@cpuc.ca.gov,

and to this utility to _____, _____,
(name) (address)
_____, _____.
(fax number) (e-mail address)

If you have not received a reply to your protest within 10 business
days, contact this person at _____."
(phone)

Appendix B

(Letterhead if Available)

Advice Letter No. 123 Regulated Water Company (U 456 W) December 31, 1999

Public Utilities Commission of the State of California

Regulated Water Company requests Tier 2 review and approval of the changes to the following tariff schedules applicable to its
(District) .

Cal P.U.C. Sheet No.	Title of Sheet	Canceling Cal. P.U.C. Sheet No.
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

The effective date of the tariff schedules is requested to be _____.

Notice has been provided as required by GO 96. The Service List is attached to this Advice Letter (or) This Advice Letter was served on the same parties as Advice Letter (or Decision) #_____, dated _____.

By this filing Regulated proposes to add to its service area two properties adjacent to State Highway 17 in the County of Gamma. The properties are contiguous to Regulated's service area but are located in an area categorized as not conforming with GO 103.

The Construction Company, Inc., is the current owner of the two parcels identified as Lot 1 and Lot 2 on Exhibit A attached and has requested water service from Regulated. Regulated proposes to serve these lots from its existing facilities located in Exhibit B attached. Regulated is already providing service to the California Forest Service located adjacent to the two properties (Lot 3 of Exhibit A). However, the proposed water service to the two parcels will fall below the GO 103 fire flow requirement of 500 gallons per minute for 2 hours. The location of the properties is identified in Regulated's tariffs and

Appendix B

recognized with the marking F13 on the "Map of Areas with Special Pressure and Fire Flow Conditions" submitted with this filing.

Commission Resolution W-3937, dated September 7, 1995, established the following five criteria for advice letter approval for the provision of service at less than GO 103 standards:

- (1) the customer cannot be served at GO 103 standards at reasonable cost,
- (2) the customer is willing to take service at less than GO 103 standards,
- (3) the limitations will be recorded as a deed restriction,
- (4) the residence to be served is in an area in which additional customer growth is unlikely, and
- (5) the final installation, including all customer provided facilities, meets all local permit requirements.

The water service proposed for the new properties identified in this filing meets the five criteria listed above.

Assuming that the proposed service alone would have to be brought to G.O. 103 standards, Regulated estimates that the cost would be substantial (in the mid-six figures). Additionally, the property owner has been made aware that the water service to these properties will be provided with limitations. The owner's recognition and acceptance of the special service conditions has been enumerated in a "Covenant For Domestic Water Service" (Exhibit C). The property owner has agreed that permanent deed restrictions will recognize that water service to the two lots will be provided below GO 103 standards for fire flow.

Finally, the areas surrounding the subject properties have been reviewed by Regulated with respect to possible future development. State Highway 17 bounds the property to the west, while the Lexington Reservoir bounds the parcels to the north and east. The adjacent areas to the south are either already developed, cannot be developed due to terrain or would produce limited new service opportunities.

Appendix B

Regulated Water Company is installing all facilities. (or) The developer has completed installation of all facilities, and Regulated Water Company has inspected and accepted them.

This filing will not interfere with the operation of Regulated other public utility or the water system of a public agency.

The actions requested in this advice letter are not now the subject of any formal filings with the California Public Utilities Commission, including a formal complaint, nor action in any court of law."

Protests and Responses

A protest is a document objecting to the granting in whole or in part of the authority sought in this advice letter. A response is a document that does not object to the authority sought, but nevertheless presents information that the party tendering the response believes would be useful to the Commission in acting on the request.

A protest must be mailed within 20 days of the mailing date of this advice letter. It must state the facts constituting the grounds for the protest, the effect that approval of the advice letter might have on the protestant, and the reasons the protestant believes the advice letter, or a part of it, is not justified. If the protest requests an evidentiary hearing, the protest must state the facts the protestant would present at an evidentiary hearing to support its request for whole or partial denial of the application.

All protests or responses to this filing should be sent to:

California Public Utilities Commission, Water Division
505 Van Ness Avenue
San Francisco CA 94102
Fax: (415) 703-2655
E-Mail: water_division@cpuc.ca.gov,

and to this utility to _____, _____,
(name) (address)
_____, _____.
(fax number) (e-mail address)

If you have not received a reply to your protest within 10 business days, contact this person at _____.
(phone)

Appendix C

(Letterhead if Available)

Advice Letter No. 123 Regulated Water Company (U 456 W) December 31, 1999

Public Utilities Commission of the State of California

Regulated Water Company requests Tier 2 (or) Tier 3 (if the NCRWS is not contiguous to existing service territory) review and approval of the changes to the following tariff schedules applicable to its (District) _____.

Cal P.U.C. Sheet No.	Title of Sheet	Canceling Cal. P.U.C. Sheet No.
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

The effective date of the tariff schedules is requested to be _____.

Notice has been provided as required by GO 96. The Service List is attached to this Advice Letter (or) This Advice Letter was served on the same parties as Advice Letter (or Decision) #_____, dated _____.

The purpose of this advice letter is to include in Regulated's service territory the water system that Regulated recently purchased from the city of Municipal. A copy of the executed purchase agreement is attached.

Regulated proposes to serve the new customers at the same rates as were approved for its Gamma District. (or) Regulated proposes to serve these new customers at their existing rates (or) Regulated proposes to serve these new customers at the proposed rates included in this advice letter, which are lower than their former rates and the rates presently charged by Regulated in its district contiguous to Municipal. The justification for charging these rates is (provide complete

Appendix C

justification for the rates proposed. A Summary of Earnings is required.) Regulated's expected return at the proposed rates from this acquisition is ____%. Regulated's last authorized rate of return was ____% as authorized by Decision _____, dated _____.

A detailed description of the water system, including a list of facilities including wells, storage and structures, and a distribution system map showing pipe sizes, fire flow and pressure areas is attached (Exhibit A), as is an accounting of the original cost (or estimated original cost) of all plant and depreciation reserve (Exhibit B).

Exhibit C is a list of planned water system improvements, including estimated costs and the rate impact on the acquired and existing customers for the next ____ years.

Exhibit D contains an estimated Summary of Earnings before and after the acquisition with and without the estimated costs of improvements and a description of the basis for the expenses used.

Exhibit E is a status of the franchises and health and safety permits obtained or required to operate the system, including the status of the Technical, Managerial and Financial Capacity certification required from the Department of Health Services.

This letter was served on all utilities, corporations, persons or other entities, either public or private, with which the acquired system is likely to compete, and all cities and counties within which service will be rendered.

This filing will not interfere with the operation of Regulated's other public utility operations or the water system of a public agency.

The actions requested in this advice letter are not now the subject of any formal filings with the California Public Utilities Commission, including a formal complaint, nor action in any court of law.

Appendix C

Protests and Responses

A protest is a document objecting to the granting in whole or in part of the authority sought in this advice letter. A response is a document that does not object to the authority sought, but nevertheless presents information that the party tendering the response believes would be useful to the Commission in acting on the request.

A protest must be mailed within 20 days of the date the California Public Utilities Commission approves this advice letter for filing. It must state the facts constituting the grounds for the protest, the effect that approval of the advice letter might have on the protestant, and the reasons the protestant believes the advice letter, or a part of it, is not justified. If the protest requests an evidentiary hearing, the protest must state the facts the protestant would present at an evidentiary hearing to support its request for whole or partial denial of the application.

All protests or responses to this filing should be sent to:

California Public Utilities Commission, Water Division
505 Van Ness Avenue
San Francisco CA 94102
Fax: (415) 703-2655
E-Mail: water_division@cpuc.ca.gov,

and to this utility to _____, _____,
(name) (address)
_____, _____.
(fax number) (e-mail address)

If you have not received a reply to your protest within 10 business days, contact this person at _____.
(phone)

Workpapers

With respect to both companies involved in the merger or acquisition:

- The current extent of compliance with regulatory agency requirements and directives (Departments of Health, Environmental Conservation, and Public Service, and local authorities).
- The prospects for future compliance with regulatory requirements.
- The number of customers.
- Comparative income statements for the three most recent years.
- A current balance sheet.
- Estimate of rates needed to comply with SDWA or other service requirements.
- Evaluation of customer benefits and economies of scale.
- Information and data on the rate impact on all customers (acquiring and acquired companies), and the rate plan to achieve parity.
- A report on the public involvement effort and customer input.¹⁷

With respect to the acquired company:

- Identification of ownership of all transferred water plant.
- Inventory of plant being transferred.
- The location of the acquired company relative to the acquiring company and to nearby systems, both municipal and private.

With respect to the acquiring company:

- A copy of the proposed purchase contract.
- Identification of municipal approvals, if required.

If there is a proposal for the equalization of rates, include a schedule for a planned phase-in, if applicable, and an estimate of the rate impacts for typical customers. Where the engineer's report indicates that the acquired company will require a major infusion of capital expenditures in the near term, and/or other causes make it likely that a rate increase will result from the acquisition, the petition should include projections of the increase, and any phase-in of equalization.

¹⁷ In reviewing any acquisitions, we will focus on the results of the company's public involvement and information efforts.

WATER/FLC:JLJ

1/1/2000

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

**WATER DIVISION
WATER ADVISORY BRANCH**

**RESOLUTION No. W- _____
XXXX XX, XXXX**

RESOLUTION

**(RES. W-____), REGULATED WATER COMPANY (REGULATED). ORDER
APPROVING ACQUISITION OF MUNICIPAL WATER SYSTEM (MUNICIPAL)
AND RATES FILED BY ADVICE LETTER NO. _____-W.**

SUMMARY

By Advice Letter No. ____-W, Regulated requested authority to file tariffs to serve customers of the water system of the Municipal, which provides service within its boundaries within the City of Municipal. Because the advice letter was protested by the city of Nearby and rates are being set, a resolution is required. This resolution approves the filed rates as reasonable.

BACKGROUND

Regulated serves 40,000 customers in various cities and unincorporated areas of Gamma County under rates that were authorized by Decision (D.) _____. Municipal serves 4,000 customers in the city of Municipal. Regulated has negotiated an agreement whereby it would acquire Municipal for \$11.5 million subject to the provisions of Section 10061 of the Public Utilities Code, which requires approval by a vote of Municipal's customers. In an election held for that purpose, a notice was mailed with each ballot showing that bills under Regulated's proposed rates for Municipal would be 8% to 9% lower than at present. On December 7, 1999, ballots were counted showing Municipal's customers had approved the sale.

DISCUSSION

Generally, it is in the public interest for water systems to merge. In this case, a 10% increase in customers to Regulated should result in operational efficiencies that would benefit all customers. In order to facilitate mergers the Commission passed D.99-10-064, October 21, 1999, which established rules for mergers and acquisitions. In accordance with the Settlement Agreement in that decision, an investor-owned utility that acquires a water system from a municipal corporation is permitted to place into effect rates that are equal to the existing municipal rates or nearby utility rates, or rates lower than either, by filing an advice letter and receiving authorization of the Commission (Appendix D,

Section 4.2). In the discussion of this provision, the decision points out that the resulting rates must be determined to be reasonable by the Commission. Therefore, the reasonableness of the proposed rates must be addressed in the advice letter, and a resolution is required.

In its advice letter, Regulated notes that Municipal must purchase its water from the Gigantic Water District at \$430 per acre-foot and other outside sources. It has no groundwater rights of its own. Regulated, on the other hand, obtains water from its own wells and from Gamma Irrigating Company, a mutual water company in which Regulated owns shares, at a much lower cost. Regulated claims that Municipal has the highest rates in Gamma County, whereas Regulated's rates are among the lowest. Regulated claims this will allow for substantial operational efficiencies as well as allowing Municipal access to Regulated's ground water.

Regulated bases its argument that the resulting rates are reasonable as follows: The first argument is that the utility will not earn more than its last authorized return on equity. Regulated filed Exhibit III with the advice letter that forecasts a return on the combined system of 8.2%. Its last authorized return on equity is 10%.

The second argument is that Municipal effectively "bought down" its rates. Regulated claims that there is a linear relationship between the purchase price and the revenue requirement. It calculated this relationship as 7.41 to 1; that is, a \$7.41 reduction in purchase price results in a \$1.00 reduction in revenue requirement. The Advice Letter identifies a purchase price of \$13,440,000 as the amount that, on cost of service principles, would result in rates equal to Municipal's present rates. By agreeing to accept a purchase price of only \$11,500,000, Municipal achieved a decrease in water rates to its citizens, in its commodity charge, of approximately 15%.

MUNICIPAL CITY COUNCIL APPROVAL

On Tuesday, February 1, 2000, the Municipal City Council approved the contract between Municipal and Regulated to transfer the system.

NOTICE AND PROTESTS

Pursuant to General Order No. 96, Regulated mailed a copy of Advice Letter No. ____-W to all city agencies and water purveyors in its service area. It also mailed a notice of the proposed purchase and proposed rates to all customers in Municipal. The City of Nearby filed a protest to the advice letter along with five Nearby customers who wanted Regulated to purchase their system also. Such matters are contractual between Regulated and the City of Nearby. Only when a sales contract is agreed to will this Commission be required to become involved.

FINDINGS AND CONCLUSIONS

1. The acquisition of the water system of the City of Municipal by Regulated should be approved.
2. Advice Letter No. ____-W should be approved. The proposed rates for the former City of Municipal's customers are just and reasonable

IT IS ORDERED THAT:

1. Authority is granted for Regulated Water Company to serve the territory now being served by the City of Municipal Water System, and to file a compliance advice letter to place into effect the lower rates to Walnut customers as discussed in this resolution.
2. The City of Nearby's protest is dismissed.
3. This resolution is effective today.

I certify that this resolution was adopted by the Public Utilities Commission at its regular meeting on XXXX XX, XXXX. The following Commissioners approved it:

X. U. TIVE
Executive Director