



110 W. Taylor Street
San Jose, CA 95110-2131

December 23, 2019

California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102

Advice Letter No. 542

To Whom It May Concern:

San Jose Water Company (U-168-W) (“SJWC”) hereby transmits for filing the following changes in its rules applicable to its service area and which are attached here to:

<u>Cal. P.U.C Sheet No.</u>	<u>Title of Sheet</u>	<u>Cancelling Cal. P.U.C. Sheet No.</u>
2008-W	Preliminary Statement - Continued	1699-W
Deleted	Preliminary Statement - Continued	1700-W
2009-W	Table of Contents	2007-W

Purpose

The purpose of Advice Letter 542 is to update SJWC’s Preliminary Statement to remove the Water Conservation Memorandum Account per Resolution W-5210 approved by the California Public Utilities Commission (Commission) on December 19, 2019. SJWC is filing this advice letter in accordance with Ordering Paragraph 2 of Resolution W-5210 (Attachment A) which states:

2. Within five days of the effective date of this Resolution, San Jose Water Company shall file a Tier 1 advice letter to delete Preliminary Statement I. Water Conservation Memorandum Account from Tariff Sheet No. 1699 with an effective date of January 1, 2018.

Effective Date

Per Resolution W-5210, this advice letter is effective January 1, 2018. Public notice is not required as there is no impact on water rates.

Protests and Responses

Anyone may respond to or protest this advice letter. A response does not oppose the filing but presents information that may prove useful to the Commission in evaluating the advice letter. A protest objects to the advice letter in whole or in part and must set forth the specific grounds on which it is based. These grounds may include the following:

- 1) The utility did not properly serve or give notice of the advice letter;
- 2) The relief requested in the advice letter would violate statute or Commission order, or is not authorized by statute or Commission order on which the utility relies;
- 3) The analysis, calculations, or data in the advice letter contain material error or omissions;
- 4) The relief requested in the advice letter is pending before the Commission in a formal proceeding;
- 5) The relief requested in the advice letter requires consideration in a formal hearing, or is otherwise inappropriate for the advice letter process; or
- 6) The relief requested in the advice letter is unjust, unreasonable, or discriminatory (provided that such a protest may not be made where it would require relitigating a prior order of the Commission).

A response or protest must be made in writing or by electronic mail and must be received by the Water Division within 20 days of the date this advice letter is filed. The address for mailing or delivering a protest is:

Tariff Unit, Water Division, 3rd floor
California Public Utilities Commission,
505 Van Ness Avenue
San Francisco, CA 94102
water_division@cpuc.ca.gov

On the same date the response or protest is submitted to the Water Division, the respondent or protestant shall send a copy of the protest by mail to us, addressed to:

Regulatory Affairs
San Jose Water Company
110 West Taylor Street
San Jose, CA 95110
Fax 408.279.7934
regulatoryaffairs@sjwater.com.

The advice letter process does not provide for any responses, protests or comments, except for the utility's reply, after the 20-day comment period. Public notice is not required.

The present rates of the SJWC became effective on September 29, 2019, by Advice Letter No. 535. SJWC has Advice Letters 537 and 541 pending before the Commission.

In compliance with Paragraph 4.3 of GO 96-B, a copy of this advice letter has been mailed to all interested and affected parties as detailed in Attachment B.

This filing will not cause the withdrawal of service, nor conflict with other schedules or rules.

Very truly yours,

/S/ JOHN TANG

JOHN TANG
Vice President of Regulatory Affairs

Enclosure

SAN JOSE WATER COMPANY

ADVICE LETTER NO. 542

ATTACHMENT A

PROPOSED RESOLUTION

Resolution W-5210
WD

Agenda ID #17946

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

WATER DIVISION

RESOLUTION W-5210
December 19, 2019

RESOLUTION

(RES. W-5207), SAN JOSE WATER COMPANY (SJWC). DENIAL OF SJWC'S REQUEST FOR AUTHORIZATION TO RECOVER \$9,020,356 BALANCE IN WATER CONSERVATION MEMORANDUM ACCOUNT (WCMA) FOR THE PERIOD OF JANUARY 1, 2018 THROUGH DECEMBER 31, 2018.

By Advice Letter No. 532-W, filed March 29, 2019.

SUMMARY

This Resolution responds to a request by San Jose Water Company (SJWC) for authorization by Advice Letter No. 532 to recover the \$9,020,356 balance in its Water Conservation Memorandum Account (WCMA) for the period January 1, 2018 through December 31, 2018. This Resolution determines that SJWC request is unreasonable as SJWC had no authority to record revenue shortfalls in the WCMA during 2018. As such, SJWC's requested authorization in Advice Letter No. 532 is denied.

BACKGROUND

On January 17, 2014, Governor Edmund G. Brown Jr. proclaimed a Drought State of Emergency and directed state officials to take all necessary actions to prepare for drought conditions.¹ On February 27, 2014, the Commission adopted Resolution W-4976 authorizing water utilities without full revenue decoupling mechanisms to request a memorandum account "to track revenue shortfalls associated with reduced sales from either activation of voluntary conservation measures or a mandatory rationing plan

¹ "Governor Brown Declares Drought State of Emergency": <http://gov.ca.gov/news.php?id=18368>

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pursuant to a declared drought emergency.”² For the period of 2014 to 2017, the Commission authorized SJWC to implement surcharges on customer bills to collect more than \$40 million for reduced sales attributed to drought-related conservation mandates.³ On April 07, 2017, Governor Brown’s Executive Order B-40-17 declared the drought emergency over and rescinded the drought emergency proclamations.

SJWC filed Advice Letter (AL) No. 532 as a Tier 3 filing requesting authorization of the California Public Utilities Commission (Commission) for SJWC to recover the \$9,020,356 balance accumulated in its Water Conservation Memorandum Account (WCMA) during the period January 1, 2018 through December 31, 2018.

AL No. 532 requested recovery of the accumulated balance via a 12-month quantity-based surcharge of \$0.1960 per hundred cubic feet on all potable water usage as the balance is greater than 2% but less than 5% of SJWC’s current annual authorized revenue requirement of \$376,180,000 and that the submitted surcharge becomes effective July 1, 2019.

NOTICE AND PROTESTS

AL No. 532 was filed in accordance with General Order (G.O.) No. 96-B and pursuant to Water Division’s Standard Practice U-27-W. SJWC mailed a copy of AL No. 532 to its advice letter service list. A public notice of the rate increase request was also mailed to all customers in compliance with General Order 96-B, Water Industry Rule 3.1 and General Rule 4.2. Protests or comments were received from 375 SJWC customers as of April 18, 2019 requesting the advice letter be denied primarily because it was unjust, unreasonable, or discriminatory.

² Resolution W-4976 at p. 11.

³ The 2017 recovery was authorized as a component in the comprehensive settlement approved by the Commission in D.18-11-025 resolving SJWC most recent general rate case, A.18-01-004.

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Protests by Customers

375 protests or comments were received from SJWC customers. Some issues raised by the protestants included:

- Utility did not properly serve or give notice of the advice letter.
- The relief requested in the advice letter would violate statute or Commission order, or is not authorized by statute or Commission order on which the utility relies.
- The relief requested in the advice letter requires consideration in a formal hearing, or is otherwise inappropriate for the advice letter process.
- The relief requested in the advice letter is unjust, unreasonable, or discretionary.
- The analysis, calculations, or data in the advice letter contain material error or omissions.
- The surcharge should not penalize customers who conserved.
- SJWC should reduce their costs.

The Public Advocates Office submitted a protest to AL No. 532 on April 16, 2019 stating the analysis in AL No. 532 contains material errors regarding the purpose and calculation of the WCMA and the relief requested is unreasonable.

The City of San Jose's protest requests "the Commission recognize the concerns of ratepayers and need for increased transparency in rate setting, especially when SJWC consumers have produced 'exemplary' conservation results."⁴

City of Monte Sereno's protest indicates that "customers should not carry the burden of making SJWC's revenue 'whole' when the water sales were grossly miscalculated to begin with." The City "respectfully requests that CPUC reject SJWC's Advice letter No. 532."⁵

⁴ City of San Jose's protest at p. 5.

⁵ City of Monte Sereno Protest at p. 2.

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In its responses, SJWC indicated it had complied with all noticing requirements for AL 532 and the relief requested was reasonable.

Water Division suspended AL No. 532 on April 28, 2019 as the request required Commission review and a resolution to be drafted.

DISCUSSION

SJWC's Preliminary Statement I in its tariff indicates "The purpose of this Water Conservation Memorandum Account (WCMA) is to track revenue losses due to reduced sales and related changes in water production costs as the result of mandatory conservation for future disposition."⁶ The Preliminary Statement also states that the WCMA "shall remain in effect until the wholesaler declares the water shortage is over and the mandatory conservation mandates are ceased."⁷

On January 31, 2017, SJWC's water wholesaler, the Santa Clara Valley Water District, declared ground water storage "normal" and suspended language calling for mandatory conservation measures. On January 27, 2017 San Jose Water Company requested authority to suspend its Schedule 14.1's Drought Allocations and Drought Surcharges by Advice Letter 505 effective February 1, 2017. On April 7, 2017, Governor Brown declared an end to the drought emergency in most of California by Executive Order B-40-17.

The Commission in Resolution W-4976 provided utilities without full revenue decoupling, such as SJWC, the option of establishing a memorandum account to track revenue shortfalls during "a declared drought emergency."⁸ For the period of January 1, 2018 through December 31, 2018 that SJWC used to calculate the balance requested in AL No. 532, the declared drought emergency was over and mandatory conservation measures were not in effect.

⁶ Preliminary Statement I. Water Conservation Memorandum Account, SJWC Tariff Sheet No. 1699.

⁷ *Ibid.*

⁸ Resolution W-4976 at p. 11.

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We understand that the Santa Clara Water District continues to call for *voluntary* 20% water conservation. We do not, however, believe that this call for voluntary conservation meets either the intent which specifically requires that there exists a declared drought or the language in SJWC's Preliminary Statements I where the WCMA is to track loss revenues as the result of *mandatory conservation*. The adopted sales from SJWC's general rate case decision, D.16-06-004, covering the period in question is the sales forecast proposed by SJWC at the time when 30% *mandatory rationing* by the Santa Clara Water District was in effect.⁹

Furthermore, SJWC requested authority in Advice Letter No. 505 to suspend its Schedule 14.1's Drought Allocations and Drought Surcharges effective February 1, 2017 in response to above average rainfall and local water storage conditions. Hence, SJWC neither has the drought conditions, nor the need to implement drought allocations.

The Commission has a long history in authorizing various conservation measures and programs; including mandating Tariff Rule 14.1 specifying conservation policies and rules for retail customers and enactment of conservation rate design policies dating back almost a decade to incentivize customers to conserve in their use of water. All conservation measures and programs existed at the time SJWC's proposed water sales forecast was adopted by the Commission.

For the above reasons, we conclude that SJWC was not authorized to record revenue shortfalls in its WCMA for the period January 1, 2018 through December 31, 2018. As such, SJWC's request to amortize the 2018 WCMA balance of \$9,020,356 by a surcharge on retail customers is unreasonable and should be denied.

⁹ Santa Clara Valley Water District's Resolution 15-70 dated November 24, 2015 continued the 30% mandatory reduction from 2013 water usage levels initially put in place by the District in Resolution 15-24 dated March 24, 2015.

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COMMENTS

Public Utilities Code Section 311(g) (1) generally requires that resolutions must be served on all parties and be subject to at least 30 days public review and comment prior to a vote of the Commission. On November 15, 2019, this Resolution was mailed for 30-day public review and comment to the utility, protestants, and to the parties on the service list for AL No. 532.

SAFETY CONSIDERATIONS

The implementation of WCMA during drought years is appropriate due to mandatory reduction in water usage and revenue shortfall in order to allow the utility to *safely* operate and maintain its water distribution system for the benefit of its customers, employees, and members of the general public. However, in absence of drought, SJWC's existing authorized sales are sufficient to allow the utility the necessary revenues to safely operate and maintain its water distribution system.

FINDINGS AND CONCLUSIONS

1. On March 29, 2019, San Jose Water Company filed Advice Letter No. 532
2. In Advice Letter No. 532, San Jose Water Company seeks authorization to recover \$9,020,356 balance in Water Conservation Memorandum Account (WCMA) for the period of January 1, 2018 through December 31, 2018.
3. On April 28, 2019, Water Division suspended AL No. 532 in order to allow time for a resolution to be drafted.
4. On April 25, 2019, San Jose Water Company timely filed a response to all protests for AL No. 532.
5. On April 7, 2017, Governor Brown declared an end to the drought emergency in most of California by Executive Order B-40-17.
6. Resolution W-4976 provided for a memorandum account to track revenue shortfalls associated with reduced sales from either activation of voluntary

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conservation measures or a mandatory rationing plan pursuant to a declared drought emergency for those utilities that do not have an existing full revenue decoupling mechanism.

7. Preliminary Statement I. Water Conservation Memorandum Account provides that the purpose of the Water Conservation Memorandum Account (WCMA) is to track revenue losses due to reduce sales and related changes in water production costs as the result of mandatory conservation for future disposition. The WCMA will remain in effect until the Wholesaler declares the water shortage over and the mandatory conservation mandates are ceased.
8. On January 31, 2017, San Jose Water Company's water wholesaler, the Santa Clara Valley Water District, declared water storage normal and suspended language calling for mandatory conservation measures.
9. Santa Clara Valley Water District currently requests a voluntary 20% conservation instead of the 30% mandatory rationing that was in place at the time the San Jose Water Company's sales forecast for the 2016-2018 general rate case cycle that was adopted in D.16-06-004.
10. On January 27, 2017 San Jose Water Company requested authority to suspend its Schedule 14.1's Drought Allocations and Drought Surcharges by Advice Letter 505 effective February 1, 2017.
11. San Jose Water Company did not have authority to record revenue shortfalls in its Water Conservation Memorandum Account during 2018.
12. San Jose Water Company should delete Preliminary Statement I. Water Conservation Memorandum Account on Tariff Sheet No. 1699-W from its Tariff effective January 1, 2018.

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THEREFORE, IT IS ORDERED THAT:

1. San Jose Water Company's request in Advice Letter No. 532 to recover the balance in its Water Conservation Memorandum Account for the period January 1, 2018 through December 31, 2018 is denied.
2. Within five days of the effective date of this Resolution, San Jose Water Company shall file a Tier 1 advice letter to delete Preliminary Statement I. Water Conservation Memorandum Account from Tariff Sheet No. 1699 with an effective date of January 1, 2018.

This resolution is effective today.

I certify that the foregoing resolution was duly introduced, passed, and adopted at a conference of the Public Utilities Commission of the State of California held on December 19, 2019; the following Commissioners voting favorably thereon:

ALICE STEBBINS
Executive Director

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CERTIFICATE OF SERVICE

I certify that I have by either electronic mail or postal mail, this day, served a true copy of Proposed Resolution No. W-5208 on all parties in these filings or their attorneys as shown on the attached lists.

Dated November 15, 2019, at San Francisco, California.

/s/LEVI GOLDMAN

Levi Goldman

Parties should notify the Water Division,
Third Floor, California Public Utilities
Commission, 505 Van Ness Avenue, San
Francisco, CA 94102, of any change of address
to ensure that they continue to receive
documents. You must indicate the Resolution
number on which your name appears.

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SAN JOSE WATER COMPANY ADVICE LETTER NO. 532 SERVICE LIST

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Protestants to Advice Letter 532

SAN JOSE WATER COMPANY

ADVICE LETTER NO. 542

ATTACHMENT B

A copy of Advice Letter No. 542 has been sent to the following municipalities, water companies and interested parties:

City of San Jose
Municipal Water Dept.
Attn: Jeffrey Provenzano
3025 Tuers Road
San Jose, CA 95121

San Jose Mercury News
Attn: Paul Rogers
4 N. Second Street, Suite 800
San Jose, CA 95113

California Water Service Co.
Attn: Regulatory Affairs
1720 North First Street
San Jose, CA 95112

Town of Los Gatos
Attn: Director of Public Works
110 E. Main Street
Los Gatos, CA 95032

City of Cupertino
10300 Torre Avenue
Cupertino, CA 95014

City of Monte Sereno
Attn: Jessica Kahn, City Engineer
18041 Saratoga-Los Gatos Road
Monte Sereno, CA 95030

City of Campbell
70 North First Street
Campbell, CA 95008

City of Santa Clara
1500 Warburton Avenue
Santa Clara, CA 95050

Great Oaks Water Company
P.O. Box 23490
San Jose, CA 95153

City of Milpitas
Attn: Utilities Engineering
455 East Calaveras Blvd.
Milpitas, CA 95035

Santa Clara Valley Water District
5750 Almaden Expressway
San Jose, CA 95118

City of Saratoga
Attn: Director of Public Works
13777 Fruitvale Avenue
Saratoga, CA 95070

County of Santa Clara
70 W. Hedding Street
San Jose, CA 95110

Department of Water Resources
Safe Drinking Water Office, Room 804
1416 9TH Street
Sacramento, CA 95814

Mountain Springs Mutual Water Co.
17956 Greenwood Road
Los Gatos, CA 95033

Nina Hawk
Chief Operating Officer
Water Utility Enterprises
Santa Clara Valley Water District
5750 Almaden Expressway
San Jose, CA 95118

Stagecoach Mutual Water Co
21825 Stagecoach Road
Los Gatos, CA 95033

Gillette Mutual Water Company
21976 Gillette Drive
Los Gatos, CA 95033

Pat Kearns, MD
7 W Central Ave
Los Gatos, CA 95030

Redwood Estates Services Association
PO Box 591
Redwood Estates, CA 95044-0591

Saratoga City Council Member
Rishi Kumar
13777 Fruitvale Avenue
Saratoga, CA 95070

Big Redwood Park Water
& Improvement Assoc.
18522 Mt. View Avenue
Los Gatos, CA 95033

WRATES
Rita Benton
18555 Ravenwood Drive
Saratoga, CA 95070

Villa Del Monte Mutual Water Company
P.O. Box 862
Los Gatos, CA 95031

Saratoga Heights Mutual Water Company
P.O. Box 337
Saratoga, CA 95071

Ridge Mutual Water Company
22316 Citation Drive
Los Gatos, CA 95033

James Hunter
6475 Dwyer Street
San Jose, CA 95120

Summitt West Mutual Water Company
P.O. Box 974
Los Gatos, CA 95031

Raineri Mutual Water Company
P.O. Box 11
Los Gatos, CA 95031

Oakmount Mutual Water Company
P.O. Box 31536
Stockton, CA 95213

Mt. Summit Mutual Water Co
P.O. Box 3416
Saratoga, CA 95070

Brush & Old Well Mutual
Water Company
21105 Brush Road
Los Gatos, CA 95033

PRELIMINARY STATEMENT
(Continued)

H. Mandatory Conservation Memorandum Account

1. Purpose

The purpose of the Mandatory Conservation Memorandum Account (MCMA) is to track all operational and administrative costs associated with the implementation of Rule 14.1, Section A, as requested in AL 456-A.

2. Applicability

The MCMA will track the operating and administrative costs incurred in developing and implementing expanded and/or new conservation programs under Rule 14.1, Section A, including:

- a. Customer education and outreach activities.
- b. Program monitoring, data recording and reporting expense.
- c. Operational costs, such as water supply cost changes, associated with mandatory conservation compliance.
- e. Interest shall accrue on a monthly basis by applying a rate equal to one-twelfth of the 3-month non-financial Commercial Paper, as reported in the Federal Reserve Statistical Release, to the average of the beginning-of-month and the end-of-month balances.

3. Disposition

If the accumulated balance for the MCMA exceeds 2% of the total authorized revenue requirement for the prior calendar year, the Company will file an advice letter to amortize the balance. Prior to recovery, charges made to the Mandatory Conservation Memorandum Account are subject to a reasonableness review in the Company's next General Rate Case or in an appropriate advice letter filing. The recovery of under-collections or refunds of over-collections will be passed on to the customers through volumetric surcharges or surcredits.

4. Effective Date

The MCMA shall go into effect on the effective date of Advice Letter No. 456-A.

(D)

(Continued)

(To be inserted by utility)

Issued by

(To be inserted by Cal. P.U.C.)

Advice No. 542

JOHN TANG

Date Filed _____

Vice President,

Effective _____

Dec. No. _____

Regulatory Affairs

Resolution No. W-5210

TITLE

TABLE OF CONTENTS

The following listed tariff sheets contain all effective rates, rules and regulations affecting the rates and service of the Utility, together with information relating thereto:

Subject Matter of Sheet	C.P.U.C. Sheet No.	
Title	1495-W	
Table of Contents	2009-W, 1795-W, 848-W and 1906-W	(T)
Preliminary Statement	919-W, 1303-W, 2008-W, 1702-W, 1420-W, 1889-W, 1427-W, 1469-W, 1492-W, 1508-W, 1542-W, 1799-W, 1818-W, 1933-W and 1934-W	(C)(D)
Service Area Map Locator	1266-W	
Service Area Map Locator, Index	1589-W	
Map of Areas With Special Pressure and Fire Flow Conditions	1590-W	
Index to Map of Areas With Special Pressure and Fire Flow Conditions	1079-W, 1591-W 1082-W, 1087-W and 1404-W	
Rate Schedules:		
Schedule No. 1, General Metered Service	1981-W, 1915-W and 1962-W	
Schedule No. 1B, General Metered Service With Automatic Fire Sprinkler System	1982-W, 1741-W, 1882-W and 1963-W	
Schedule No. 1C, General Metered Service Mountain District	1983-W, 1952-W, 1884-W, and 1964-W	
Schedule No. 4, Private Fire Service	1984-W and 1965-W	
Schedule No. 9C, Construction and Other Temporary Metered Service	1118-W and 1094-W	
Schedule No. 10R, Service to Employees	152-W	
Schedule No. 14.1 Water Shortage Contingency Plan With Staged Mandatory Reductions And Drought Surcharges	1668-W,1669-W,1780-W,1671-W, 1672-W,1673-W,1766-W, and 1820-W	
Schedule No. RW, Raw Water Metered Service	1985-W, 1920-W and 1966-W	
Schedule No. RCW, Recycled Water Metered Service	1986-W and 1967-W	
Schedule No. UF, Surcharge to Fund Public Utilities Commission, Reimbursement Fee	1969-W	
Schedule No. WRAP, Water Rate Assistance Program	1972-W and 1211-W	
List of Contracts and Deviations	1857-W	
Rules:		
No. 1 - Definitions	764-W and 976-W	
No. 2 - Description of Service	525-W	
No. 3 - Application for Service	351-W and 903-W	
No. 4 - Contracts	352-W	
No. 5 - Special Information Required on Forms	1936-W thru 1937-W	
No. 6 - Establishment and Re-establishment of Credit	354-W	
No. 7 - Deposits	355-W and 356-W	
No. 8 - Notices	1054-W and 825-W	
No. 9 - Rendering and Payment of Bills	996-W, 997-W and 1146-W	

(Continued)

(To be inserted by utility)

Issued by

(To be inserted by Cal. P.U.C.)

Advice No. 542

JOHN TANG

Date Filed _____.

Vice President,

Effective _____.

Dec. No. _____.

Regulatory Affairs

Resolution No. W-5210.

TITLE