



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

December 14, 2021

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

Advice Letter No. 572

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

<u>Cal. P.U.C Sheet No.</u>	<u>Title of Sheet</u>	<u>Cancelling Cal. P.U.C. Sheet No.</u>
2151-W	Preliminary Statement (Continued)	2038-W
2152-W	Preliminary Statement (Continued)	2039-W
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With this advice letter, SJWC requests authorization to update its Drinking Water Fees Memorandum Account (DWFMA) to capture the recent emergency increase in drinking water fees.

These tariffs are submitted pursuant to General Orders (GO) No. 96-B Water Industry Rules 7.3.2. This advice letter is designated as a Tier II Advice Letter.

Background

On December 19, 2016, the California Public Utilities Commission (Commission) authorized a Drinking Water Fees Memorandum Account as requested by SJWC in Advice Letter (AL) 497. This was in response to the State Water Resources Control Board (SWRCB) adopted Resolution 2016-0052. This resolution significantly revised the methodology for calculating the public water system annual fees payable to the SWRCB for public water systems. It resulted in a significant increase to the Drinking Water Fee beyond the approved general rate case (GRC) expense.

The current Drinking Water Fees Memorandum Account captures the difference between actual drinking water fees charged by the SWRCB and the fees authorized in SJWC's GRC Decision D.16-06-004. The DWFMA sunsetted on January 1, 2019, the effective date of SJWC's GRC Decision 18-11-025.

On September 22, 2021, the State Board adopted emergency regulations that adjusted drinking water fees to conform to the revenue levels set forth in the Budget Act for fiscal year (FY 2021-2022). The proposed emergency regulation adjusted the fee schedule in FY 2019-20 to increase the fees by approximately 26.6% on average for community water systems like SJWC.

SJWC is currently going through a GRC proceeding (Application 21-01-003), and this increase was not considered in the forecast test year 2022 (escalating year 2023 and 2024).

Request

SJWC requests to update its DWFMA to include incremental fees from September 22, 2021 to December 31, 2024. With this update, the difference between the drinking water fees charged under the new billing system will be tracked against the current adopted fee for 2021 and future adopted drinking water fee for 2022, 2023, and 2024 per the decision authorizing rates for SJWC's GRC Application 21-01-003.

CPUC Standard Practice U-27-W provides that each advice letter requesting a new memo account must address a set of four parameters. The parameters are addressed below:

a) The expense is caused by an event of an exceptional nature that is not under the utility's control.

The SWRCB passed emergency regulations to change the drinking water fees on September 22, 2021. Without the fee revenue increase, much of the drinking water program would be in danger of being shutdown. Therefore, this change was of an exceptional nature. Additionally, the SWRCB is not under the SJWC's control. Therefore, we can say that this change is caused by an event of an exceptional nature that is not under the utility's control.

b) The expense cannot have been reasonably foreseen in the utility's last general ratecase and will occur before the utility's next scheduled rate case.

SJWC submitted the draft application for the most recent GRC in November 2020 and filed the final Application (A.21-01-003) in January 2021. The proceeding is ongoing at this moment. Further, the revised fee methodology becomes effective this year in 2021. Due to the timing on this emergency rulemaking, these additional fees could not have been reasonably foreseen while filing the General rate case application.

c) The expense is of a substantial nature as to the amount of money involved when any offsetting cost decreases are taken into account.

SJWC's A.21-01-003 projected a lower water fee expense when compared to the emergency increase. It is also much higher than what has been previously authorized by D.18-11-025 for 2021. The request for drinking water fees in the current application was based on normal increases and not the substantial increase in drinking water fee expenses by 26.6% that was adopted by the SWRCB emergency action.

d) The ratepayers will benefit by the memo account treatment.

Payment of the drinking water fees provides funding to the SWRCB for issuing permit amendments, reviewing compliance data, and conducting sanitary inspections. These activities benefit ratepayers by ensuring a safe drinking water supply.

In the DWFMA, SJWC will track the difference between authorized drinking water regulatory fees as established in Decision (D.18-11-025) for 2021 and future adopted decision for 2022-2024 with the actual fees under the revised calculation methodology. Additionally, interest shall accrue on a monthly basis by applying a rate equal to one-twelfth of the 3-month non-financial commercial paper rate, as reported in the Federal Reserve Statistical Release, to the average of the beginning-of-month and the end-of-month balances.

If the accumulated balance of the DWFMA exceeds 2% of the total authorized revenue requirement for the prior calendar year, SJWC will file an advice letter to amortize the balance. Prior to recovery, charges made to the DWFMA are subject to a reasonableness review in a General Rate Case proceeding or in an appropriate advice letter filing.

The DWFMA will sunset with new rates incorporating the revised methodology as anticipated in the next GRC decision. Per the Rate Case Plan, SJWC's next GRC decision should become effective in January 2025.

Effective Date

SJWC requests that the updated tariff sheets become effective September 22, 2021.

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 re-litigating 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, California 95196
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.

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

SJWC currently has AL571 pending approval before the Commission. 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

Enclosures

SAN JOSE WATER COMPANY

ADVICE LETTER NO. 572

ATTACHMENT A

SAN JOSE WATER COMPANY

ADVICE LETTER NO. 572

ATTACHMENT B

Index of Work papers

Attachment A

SWRCB Notice

Attachment B

Service List

State Water Resources Control Board

NOTICE OF PROPOSED EMERGENCY RULEMAKING

Annual Drinking Water Fees

Amendments to Division 4, Chapter 14.5 of Title 22 of the California Code of Regulations

Required Notice of Proposed Emergency Action

Government Code section 11346.1, subdivision (a)(2) requires that, at least five working days prior to submission of a proposed emergency action to the Office of Administrative Law (OAL), the adopting agency provide a notice of the proposed emergency action to every person who has filed a request for notice of regulatory action with the agency. This document provides the required notice. Upon receiving the proposed emergency regulation, OAL shall publish the notice on their Website and allow interested persons five calendar days to submit comments on the proposed emergency regulation as set forth in the Government Code section 11349.6.

Proposed Emergency Action

SB 83 (2015) required the State Water Resources Control Board (State Water Board) to establish a fee schedule to support the Drinking Water Program. Effective July 1, 2016, the existing Health and Safety Code section 116565, which establishes annual fees for public water systems, became inoperative (Stats. 2015, Ch. 24, § 19), and a new section 116565 (added by Stats. 2015, Ch. 24, § 20), became operative. The law requires the fee regulations initially be set through the regular rulemaking process, which occurred on April 10, 2017. Thereafter, regulations, any amendment thereto, or subsequent adjustments to the annual fees shall be adopted as emergency regulations that are not subject to review by OAL.

On September 22, 2021, the State Water Board adopted emergency regulations that adjusted drinking water fees to conform to the revenue levels set forth in the Budget Act for fiscal year (FY) 2021-22. The proposed emergency regulation will adjust the fee schedule in FY 2019-20 to increase the fees approximately 26.6 percent on average for community water systems, nontransient noncommunity water systems, transient noncommunity water systems, and wholesalers.

Proposed Text of Emergency Regulations

See the attached proposed text of the emergency regulation.

Finding of Emergency (Gov. Code, § 11346.1, subd. (b)(2).)

The State Water Board has a mandatory legal duty to assess fees and to adopt the regulations, any amendment thereto, or subsequent adjustments to the annual schedule of fees by emergency regulation. (Health & Saf. Code, §§ 116565, 116590) Health and Safety Code section 116565, subdivisions (e)(1)-(2) state that the “[t]he adoption of these regulations is an emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health, safety, and general welfare,” and that the emergency regulations shall remain in effect until revised by the State Water Board.

Moreover, the State Water Board finds that the proposed amendments to the Board’s fee regulations must be adopted immediately in order to allow for the timely collection of fees to conform to amounts appropriated by the Legislature from the Safe Drinking Water Account for the support of drinking water program activities. Without fee revenue in the amounts appropriated, much of the drinking water program would be in danger of being shut down. Continued administration of the drinking water program is essential to the economy, public health and environment of the State of California.

The State Water Board is unable to address the situation through non-emergency regulations because, as discussed above, it has a mandatory, legal duty to adopt or change the fee schedules and language by emergency regulation.

Authority and Reference (Gov. Code, § 11346.5, subd. (a)(2).)

Health and Safety Code sections 116271, 116350, 116375, and 116565 provide authority for the emergency regulation. The emergency regulation implements, interprets, or makes specific Health and Safety Code sections 116565 and 116590.

Informative Digest (Gov. Code, § 11346.5, subd. (a)(3).)

Under the Health and Safety code and existing regulations, each public water system shall pay an annual fee to the State Board in the amount provided in Table 64305-A.

The fees are consistent with existing state laws and regulations. Ensuring that public water systems meet minimum requirements helps safeguard protection of public health and safety and the environment.

There is no comparable federal statute or regulation. The proposed regulation is not inconsistent or incompatible with existing state regulations.

Other Matters Prescribed by Statute (Gov. Code, § 11346.5, subd. (a)(4).)

No other matters are set by statute or regulation applicable to the State Water Board.

Local Mandate Determination (Gov. Code, § 11346.5, subd. (a)(5).)

The proposed emergency regulation does not impose a mandate on local agencies or school districts because it does not mandate a new program or a higher level of service of an existing program. The fee schedule applies equally to public and private entities and is not unique to local government. Public water systems can also increase the fees that they charge for their services to address the increased annual fee. No state reimbursement is required by part 7 (commencing with section 17500) of Division 4 of the Government Code.

Estimate of Cost or Savings (Gov. Code, § 11346.5, subd. (a)(6).)

Under the proposed emergency regulation there would be increases in annual fees for public water systems. There is, however, no cost for reimbursement to any local agency or school district, as the fee increase is not a state mandate. The amended fee schedule will result in a total estimated increase to state agencies of about \$110,687 and estimated increase to local agencies of about \$5,265,047. Additionally, there is no cost or savings in federal funding to the state.

October 14, 2021

Date



Jeanine Townsend
Clerk to the Board

§ 64305. Schedule for Annual Fees.

(a) Each public water system shall pay an annual fee to the State Board in the amount provided in Table 64305-A.

(b) Except as provided in subsection (c), for each community water system, the number of service connections is equal to the number of service connections that the public water system reported on the electronic Annual Report (eAR) that the public water system filed with the State Board for the calendar year immediately preceding the year in which the invoice is submitted to the public water system. If the public water system did not file an eAR, or did not report the number of service connections, for the calendar year immediately preceding the year in which the invoice is submitted, the State Board will calculate the number of service connections by increasing the number of service connections most recently reported on the eAR by 10% for each year that the number of service connections was not reported, except that if the public water system did not file an eAR for the calendar year 2012 or any calendar year thereafter, the State Board will calculate the number of service connections.

(c) For each community water system that serves a group quarters, the number of service connections for the group quarters is equal to the greater of the population for which the group quarters is designed or for which it is permitted divided by 3.3.

TABLE 64305-A – Public Water Systems Annual Fee

Water System Type	Fee
Community Water System	
100 or fewer service connections	\$275.00 <u>\$500.00</u> or \$6.60 <u>\$8.34</u> per service connection, whichever is greater.
100 or fewer service connections (disadvantaged community)	\$110.00 <u>\$250.00</u>
101 to 1,000 service connections	\$6.60 <u>\$8.34</u> per service connection
101 to 1,000 service connections (disadvantaged community)	\$110 <u>\$250</u> plus \$2.20 <u>\$2.78</u> per each service connection greater than 100
1,001 to 5,000 service connections	\$6.60 <u>\$8.34</u> per each of first 1,000 service connections plus \$3.85 <u>\$4.87</u> per each service connection greater than 1,000
1,001 to 5,000 service connections (disadvantaged community)	\$110 <u>\$250</u> plus \$2.20 <u>\$2.78</u> per each service connection greater than 100
5,001 to 15,000 service connections	\$6.60 <u>\$8.34</u> per each of first 1,000 service connections plus \$3.85 <u>\$4.87</u> per each service connection greater than 1,000 but less than 5,001 plus \$2.20 <u>\$2.78</u> per each service connection greater than 5,000
5,001 to 15,000 service connections (disadvantaged community)	\$110 <u>\$250</u> plus \$2.20 <u>\$2.78</u> per each service connection greater than 100
15,001 or more service connections	\$6.60 <u>\$8.34</u> per each of first 1,000 service connections plus \$3.85 <u>\$4.87</u> per each service connection greater than 1,000 but less than 5,001 plus \$2.20 <u>\$2.78</u> per each service connection greater than 5,000 but less than 15,001 plus \$1.49 <u>\$1.88</u> per each service connection greater than 15,000
15,001 or more service connections (disadvantaged community)	\$110 <u>\$250</u> plus \$2.20 <u>\$2.78</u> per each service connection greater than 100 but less than 15,001 plus \$1.49 <u>\$1.88</u> per each service connection greater than 15,000
Nontransient Noncommunity Water System	\$2.20 <u>\$2.78</u> per person served, but not less than \$502.00 <u>\$635.00</u> .
Transient Noncommunity Water System	\$880.00 <u>\$1,112.00</u> .
Wholesaler	\$6,600.00 <u>\$8,342.00</u> plus \$1.50 <u>\$1.90</u> per each MG

¹ “Million Gallons” (MG) means the annual average, rounded to the nearest million, as reported to the State Board by the wholesaler in the Electronic Annual Report for the four years immediately preceding the year in which the invoice is submitted to the public water system, of the total gallons of water that the wholesaler produced from surface water and from groundwater and gallons of finished water that the wholesaler purchased or received from another public water system.

Note: Authority cited: Sections 116271, 116350, 116375, and 116565, Health and Safety Code. Reference: Sections 116565 and 116590, Health and Safety Code.

SAN JOSE WATER COMPANY (U-168-W)

ADVICE LETTER 572 SERVICE LIST

Big Redwood Park Water	waldburford@gmail.com;
Brush & Old Well Mutual Water Company	BOWMWC@brushroad.com;
Cal Water	cwsrates@calwater.com;
City of Campbell	publicworks@cityofcampbell.com;
City of Cupertino City Attorney	cityattorney@cupertino.org;
City of Cupertino Director of Public Works	rogerl@cupertino.org;
City of Milpitas	tndah@ci.milpitas.ca.gov ;
City of Milpitas	smachida@ci.milpitas.ca.gov;
City of Monte Sereno	steve@cityofmontesereno.org;
City of Monte Sereno	bmekechuk@cityofmontesereno.org;
City of Santa Clara	water@santaclaraca.gov;
City of San Jose	jeffrey.provenzano@sanjoseca.gov;
City of Saratoga	jcherbone@saratoga.ca.us;
County of Santa Clara	county.counsel@cco.sccgov.org;
DB Davis	dbdavis@rockwellcollins.com;
Dept. of Water Resources, Safe Drinking Water Office	sdwo@water.ca.gov;
Valley Water	dtaylor@valleywater.org;
Gillette Mutual Water Company	gapowerz@gmail.com;
Gillette Mutual Water Company	goldiey@pacbell.net;
Gillette Mutual Water Company	keyoung@pacbell.net;
Great Oaks Water	jroeder@greatoakswater.com;
Great Oaks Water	tguster@greatoakswater.com;
Cal Water	jpolanco@calwater.com;
James Hunter	j88hunter882@gmail.com;
City of Cupertino	KirstenS@cupertino.org;
Public Advocates Office	mukunda.dawadi@cpuc.ca.gov;
Public Advocates Office	PublicAdvocatesWater@cpuc.ca.gov;
Mountain Springs Mutual Water Co.	Lorenroy@icloud.com;
Mt. Summit Mutual Water Company	wshoefler@comcast.net;
Oakmount Mutual Water Company	gortiz12@comcast.net;
Patrick Kearns MD	pjk3@comcast.net;
Raineri Mutual Water Company	info@rainerimutual.org;
Ridge Mutual Water Company	pmantey@yahoo.com;
Rishi Kumar	rkumar@saratoga.ca.us;
San Jose Mercury News	progers@bayareanewsgroup.com;
Valley Water	afulcher@valleywater.org;
Valley Water	abaker@valleywater.org ;
Saratoga Heights Mutual Water Company	sjw@shmwc.org kcarlson@swwc.com;
SouthWest Water Company	stagecoachroadMWC@gmail.com;
Stagecoach Mutual Water Company	RJonesPE@aol.com;
Summit West	board@summitwest.org;
Summit West	ppw@losgatosca.gov;
Town of Los Gatos Dir. of Public Works	rita_benton@ymail.com;
WRATES	mntmom33@comcast.net;
Villa Del Monte	

PRELIMINARY STATEMENT
(Continued)

Q. Ground Water Regulation Legal Expense Memorandum Account

1. Purpose

The purpose of the Ground Water Regulation Legal Expense Memorandum Account (GWRLEMA) is to track litigation and consensus building legal and related expenses associated with the evaluation of the character of San Jose Water Company's water rights and water rights issues related to AB 1739, SB 1168 and SB 1139 as authorized in D.16-06-004.

2. Applicability

The GWRLEMA will track the legal and related expenses incurred related to ground water regulation including:

- a. Consensus Building – expenses related to legal advice in developing a consensus groundwater management plan with the Santa Clara Valley Water District and other stakeholders.
- b. Litigation – expenses related to litigation for SJWC to defend its water supply interests and water rights.
- c. 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 GWRLEMA 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 Ground Water Regulation Legal Expense 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 GWRLEMA shall go into effect on the effective date of Advice Letter No. 496.

P. Drinking Water Fees Memorandum Account

(L)

1. Purpose

The purpose of the Drinking Water Fees Memorandum Account (DWFMA) is to track the difference between actual drinking water fees charged by the State Water Resources Control Board (based on the revised fee structure) and the drinking water fees authorized in San Jose Water Company's General Rate Case Decision D.18-03-035 for 2021 and future adopted fees for 2022-23-24 as determined by the Commission. SJWC is currently going through a GRC proceeding and waiting settlement .

2. Applicability

The DWFMA will track the difference between the annual drinking water fees charged by the State Water Resources Control Board and the drinking water fees authorized in general rate case decision D.18-03-035 for 2021 and future adopted fees for 2022-23-24 as determined by the Commission. 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.

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(To be inserted by utility)

Issued by

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

Advice No. 572

JOHN TANG

Date Filed _____

Vice President,

Effective _____

Dec. No. _____

Regulatory Affairs

Resolution No. _____

TITLE

PRELIMINARY STATEMENT
(Continued)

P. Drinking Water Fees Memorandum Account(Continued)

(L)

3. Disposition

If the accumulated balance for the DWFMA 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 DWFMA are subject to a reasonableness review in the Company's next General Rate Case effective in 2025 or in an appropriate advice letter filing. The recovery of over or under-collections will be passed on to the customers through volumetric surcredits or surcharges.

4. Effective Date

The DWFMA shall go into effect on the effective date of Advice Letter No. 572. The DWFMA will sunset with the effective date of SJWC's next General Rate Case Decision..

Q. School Lead Testing Memorandum Account

1. Purpose

The purpose of the School Lead Testing Memorandum Account (SLTMA) is to track incremental expenses associated with conducting lead monitoring and lead sample results interpretations at any Kindergarten to 12th grade (K-12) schools within SJWC's service territory, that requests this service. The SLTMA is being established pursuant to the Amendment to the Domestic Water Supply permit issued by the State Water Resources Control Board Division of Drinking Water to SJWC on January 17, 2017.

2. Applicability

The SLTMA will track the incremental operating and administrative costs incurred in developing and implementing Lead testing at K-12 schools and shall include, but is not limited to:

- a. Incremental and necessary labor costs associated with the planning and coordination with K-12 schools to develop individual sampling plans, collecting and submitting of samples to laboratories, and administering program requirements including assisting the school with interpretation of laboratory results, and contracted labor;
- b. Laboratory fees for all Lead sampling and reporting of the results to the Division of Drinking Water and the school, and all laboratory coordination and instruction;
- c. Incremental customer outreach costs that are necessary in coordination with the local school districts, local communities and local officials in compliance with the the Division of Drinking Water's Lead Testing Program;
- d. A debit entry shall be made to the SLTMA at the end of each month to record the expensed as discussed above.
- 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 SLTMA 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 SLTMA are subject to a reasonableness review in the Company's next General Rate Case or in an appropriate advice letter filing or regulatory proceeding. The recovery of over or under-collections will be passed on to the customers through volumetric surcredits or surcharges.

4. Effective Date

The SLTMA shall go into effect on January 17, 2017.

5. Sunset Date

The SLTMA will remain in effect until new rates incorporating the requirements for School Lead Testing are placed into effect under the Company's next General Rate Case decision.

(To be inserted by utility)

Issued by

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

Advice No. 572

JOHN TANG

Date Filed _____

Vice President,

Effective _____

Dec. No. _____

Regulatory Affairs

Resolution No. _____

TITLE

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(Continued)

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