

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

COMMISSION ADVISORY AND COMPLIANCE DIVISION
Water Utilities BranchRESOLUTION NO. W-3643
May 8, 1992RESOLUTION

(RES. W-3643), ORDER AUTHORIZING WATER UTILITIES TO ESTABLISH MEMORANDUM ACCOUNTS FOR RECORDING CHARGES BY THE DEPARTMENT OF HEALTH SERVICES RESULTING FROM AB 21, AND AUTHORITY TO FILE ADVICE LETTERS FOR THE RECOVERY OF SUCH CHARGES.

BACKGROUND

By enacting Chapter 823, Statutes of 1989 (AB 21) the Legislature added Sections 4018 and 4019 to the Health and Safety Code (Code). In so doing it required water utilities delivering water of less quality than that measured by standards established by the Department of Health Services (Department), to evaluate all reasonable means of reducing the level of contaminants in the water, and when directed by the Department, to prepare a water quality improvement plan. The plan along with a fee covering the cost of reviewing it are to be submitted to the Department. The legislation authorized these costs to be passed on to the affected utilities' customers. Section 454 of the Public Utilities Code requires that any charges to the customers of regulated water utilities must be first authorized by the Commission.

DISCUSSION

Code Section 4018 requires that following the Department developing and publishing a list of all applicable existing or proposed maximum contaminant levels, public water systems that serve more than 10,000 service connections and which exceed contaminants on a basis established by the Department must annually evaluate all reasonable means of reducing the level of the contaminant to as close to the recommended public health level as feasible, and submit an evaluation to the Department. Upon being notified by the Department of the need to do so, the water system must submit a water quality improvement plan.

The water quality improvement plan must identify all reasonable measures available to the water system to reduce the level of the contaminant, the costs to consumers and the water system of implementing the measures, and a proposed schedule of actions to be undertaken by the water system to reduce the level of the contaminant. If the water system determines that it is unable to reduce the level of the contaminant due to technical or economic

limitations, the basis for that determination must be described in the plan.

The Department must review the water quality improvement plan and may approve it as submitted or may require additional information from the water system. Upon approval of the plan, the department must amend or revise the domestic water supply permit issued to the water system to include a time schedule for implementation of those measures which are technically and economically feasible.

Code Section 4019 requires any public water system required to submit a water quality improvement plan to the Department pursuant to Section 4018 to pay a fee to the Department. The fee, as established by the Department, must be sufficient to cover the reasonable and necessary cost to the Department in implementing this legislation. In establishing the fee, the Department is ~~required to take into consideration the amount of water purveyed~~ and the number of service connections in the water system. Section 4019 allows any public water system subject to this legislation to recover the fees paid to the Department from its customers.

Since these fees will constitute operating costs that have not been factored into Commission regulated utilities authorized rates for service, the Water Utility Branch (Branch) believes it appropriate that action be taken by the Commission to protect these utilities from the adverse consequences of such unanticipated expense. Since the utilities will be unable to show what these expenses are until actual billing for fees are received, the matter of retroactive rate-making becomes an issue. Additionally, there is no Commission authorized procedure for passing such cost on to customers.

Given these circumstances, the Branch believes it appropriate to authorize any utility that was not allowed coverage of such costs in its last general rate proceeding to establish a memorandum account in which to record payment of fees resulting from the referenced provisions of the Code. The Branch also believes it appropriate to allow such utilities to subsequently request rate recovery of the payments recorded in the memorandum account by advice letter under the provisions of General Order No. 96-A. Utilities opening such a memorandum account should be authorized to hold it open until the utility's next general rate proceeding. At that time future costs to the utility for this purpose may be reasonably known based on recorded information. If this proves not to be the case, as part of that rate proceeding the utility may be authorized to continue the memorandum account.

NOTICE AND PROTEST

Public notice is not required at this time. When a utility seeks recovery of expenses recorded in the memorandum account, public notification will be required as prescribed in the advice letter procedures of General Order No. 96-A.

FINDINGS

THE COMMISSION FINDS that:

1. Utilities regulated by the Commission and subject to the provisions of Code Sections 4018 and 4019 should be authorized to establish a memorandum account in which to record payments of fees as required under those provisions of the Code.
2. Subsequent to recording such payments in a memorandum account utilities may file an advice letter under the provisions of General Order No. 96-A requesting recovery of the amount in the account.

IT IS ORDERED that:

1. Each water utility regulated by the Commission and subject to the provisions of Health and Safety Code Sections 4018 and 4019 is authorized to establish a memorandum account in which to record payment of Department of Health Services fees resulting from those code sections.
2. Each water utility having recorded payment of fees as authorized above, is authorized to file an advice letter as prescribed by General Order 96-A requesting recovery of those costs.
3. The memorandum account as authorized above may remain open until the utility's next general rate proceeding.
4. This resolution is effective today.

I certify that this Resolution was adopted by the Public Utilities Commission at its regular meeting on May 8, 1992. The following Commissioners approved it:

DANIEL WM. FESSLER
President
JOHN B. OHANIAN
PATRICIA M. ECKERT
NORMAN D. SHUMWAY
Commissioners


NEAL J. SHULMAN
Executive Director