

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

COMMISSION ADVISORY AND COMPLIANCE DIVISION  
Small Water Branch

RESOLUTION NO. W-4013\*  
December 20, 1996

R E S O L U T I O N

(RES. W-4013), ORDER AUTHORIZING ALL WATER UTILITIES TO ESTABLISH MEMORANDUM ACCOUNTS FOR RECORDING EXPENSES RESULTING FROM: (1) THE ENVIRONMENTAL PROTECTION AGENCY'S ADOPTED NEW NATIONAL PRIMARY DRINKING WATER REGULATIONS; (2) CALIFORNIA DEPARTMENT OF HEALTH SERVICES MANDATED FEES, ADDITIONAL WATER TESTING COSTS AND EXPENSES; AND (3) AUTHORITY TO FILE ADVICE LETTERS FOR THE RECOVERY OF SUCH CHARGES AND EXPENSES.

BACKGROUND

The United States Environmental Protection Agency (USEPA) promulgated National Primary Drinking Water Regulations (NPDWRs) for lead and copper, called the Lead and Copper Rule (LCR) on June 7, 1991, (56 FR 26460). NPDWRs established Maximum Contaminant Level Goals, Action Levels, monitoring and reporting requirements, and treatment technique requirements which are to be implemented when either contaminant exceeds its Action Level. USEPA also set standards under the Surface Water Treatment Rule (SWTR) on June 29, 1989, (54FR27486). NPDWRs have added extra costs for water testing and treatment to the water utilities. Additionally under Section 4019.10 of the California Health and Safety Code, State Department of Health Services (DHS) is now billing annually instead of twice yearly billings as stated in Resolution No. W-3784. These costs were unforeseen by the water utilities and therefore not accounted for in their last general rate cases (GRCs). These costs are also not in their control and, therefore, may be allowed to be passed on by an offset surcharge. Section 454 of the Public Utilities Code requires that any charges to the customers of regulated water utilities must be authorized by the Commission.

DISCUSSION

This resolution updates and modifies Resolution No. W-3784 which expires January 1, 1997. Under the LCR, all water systems must collect and test samples at the taps of customers with lead service lines or lead-soldered copper plumbing for lead and copper analysis every six months. Samples for other factors must be taken from within the distribution system every six months, and from entry points to the distribution system every two weeks. Both the number of sampling sites and the frequency may be reduced if, for three years, the action level is met or if optional treatment is maintained for the water system.

Under the SWTR, all water systems using surface water or groundwater under direct influence of surface water must filter and disinfect their source water supply or develop a source of water not influenced by surface water.

Section 4019.10 of California Health and Safety Code require that DHS' Office of Drinking Water and Environmental Management (ODW) develop operating cost fees on the basis of the actual costs to that office of carrying out the activities connected with the issuance of permits, conducting inspections and surveillance, taking enforcement actions, and the costs of administering any contracts with local health officers. At the time Resolution No. W-3784, dated June 23, 1993, allowing water utilities to recover ODW fees was issued, it was anticipated that these fees would eventually be included in base rates. However, on account of the possible large variation in each billing which is based on actual cost to ODW, the inclusion of such costs in base rates at this time is not possible.

Since these costs are not factored into the Commission regulated utilities authorized rates for service, the Small Water Branch (Branch) believes it appropriate that action be taken by the Commission to protect these utilities from the adverse consequences of such unanticipated expenses. At the time of general rate increase proceedings, the utilities and the Branch are unable to estimate the costs of these expenses. In the absence of an established memorandum account, the matter of retroactive ratemaking becomes an issue. Additionally, there is no Commission authorized procedure for considering such costs in rates.

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 water testing and treatment costs resulting from the USEPA regulations and ODW fees. DHS costs resulting from non-compliance and related fines should not be booked to this memorandum account. 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 (G.O. 96-A), and let such increases become effective upon verification by Branch. Utilities opening such a memorandum account should be authorized to keep it held open until normalized cost of these expenses are included in a utility's next general rate increase proceeding. At that time, future costs to the utility for this purpose should be reasonably known based on recorded information.

The utilities are encouraged to file for recovery of memorandum account amounts in a timely manner to avoid any rate shock to customers. Also the recovery of any expenses incurred prior to 36 months from the date of the advice letter filing requesting recovery of such expenses should not be allowed because of the public need that today's ratepayers not pay for yesterday's ratepayers incurred expenses.

#### 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 G.O. No. 96-A.

FINDINGS AND CONCLUSIONS

1. EPA adopted new NPDWRs for lead and copper, and the surface water treatment rule.
2. ODW developed and adopted new operating cost fees.
3. These new rules will result in additional sampling, testing, and water treatment costs to Commission regulated water utilities.
4. Utilities regulated by the Commission and subject to the provisions of the NPDWRs and ODW should be authorized to establish a memorandum account in which to record payments of water sampling, testing, and water treatment costs and ODW fees.
5. Subsequent to recording such payments in a memorandum account utilities should be authorized to file an advice letter under the provisions of General Order No. 96-A requesting recovery of the amount in the account not more than once each calendar year.

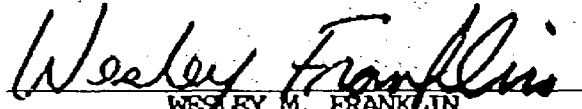
**IT IS ORDERED that:**

1. Each water utility regulated by the Commission and subject to the provisions of the National Primary Drinking Water Regulations and Department of Health Services' Division of Drinking Water and Environmental Management fees and expenses is authorized to establish a memorandum account in which to record payment of water sampling testing cost, and Department of Health Services' fees which are not already covered in rates. Costs resulting from non-compliance and related fines shall not be included in this memorandum account.
2. Each water utility having recorded payment of costs as authorized above, is authorized to file an advice letter as prescribed by General Order 96-A requesting recovery of those costs, once each calendar year. Expenses incurred prior to 36 months from the date of advice letter filing shall not be allowed. The filing shall become effective five days after the Small Water Branch verifies the accuracy of supporting computations submitted by a utility.
3. The memorandum account as authorized above shall remain open until the Commission cancels it, or January 1, 2002, whichever occurs first.

December 20, 1996

4. This resolution is effective today.

I certify that this Resolution was adopted by the Public Utilities Commission at its regular meeting on December 20, 1996. The following commissioners approved it:

  
WESLEY M. FRANKLIN  
Executive Director

P. GREGORY CONLON  
President  
DANIEL Wm. FESSLER  
JESSIE J. KNIGHT, Jr.  
HENRY M. DUQUE  
JOSIAH L. NEPPER  
Commissioners