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VIA HAND DELIVERY AND ELECTRONIC MAIL

April 8, 2011

Hon. Michael R. Peevey, President
Hon. Timothy Alan Simon, Commissioner
Hon. Michel P. Florio, Commissioner
Hon. Katherine J.K. Sandoval, Commissioner
Hon. Mark Ferron, Commissioner
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102-3214

Re: Response of California Water Association to TURN's Proposal for an "Alternative Approach" for Draft Resolution L-411

Dear Commissioners:

On behalf of its members, comprising nearly all the Class A and B water utilities and many of the smaller water utilities subject to the Commission's jurisdiction, California Water Association ("CWA") has provided detailed comments on several prior versions of draft Resolution L-411 and participated actively in the recent all-party meeting with Commissioners Sandoval and Ferron addressing the current version of the draft Resolution. By letter to you of April 5, 2011, The Utility Reform Network ("TURN") proposed an alternative approach for "capturing the benefits" of increased bonus depreciation allowed by the new tax laws while not discouraging incremental investments in needed utility infrastructure that the new tax laws are intended to induce. CWA appreciates TURN's effort to fashion a procedure that attempts to limit the need for Commission pre-approval of utilities' incremental infrastructure investments, but must advise the Commission that TURN's proposal is based on a fundamental misunderstanding, and also fails to address the situation facing California's Commission-regulated water utilities.

TURN proposes that to the extent a utility's additional capital expenditures associated with bonus accelerated depreciation go to incremental infrastructure replacements, there would be no need for before-the-fact approval, but if the bonus accelerated depreciation supports capital expenditures in areas not tied to infrastructure replacement, TURN would require prior Commission review or approval by application or advice letter. TURN sees this approach as consistent with what it claims to be the "central feature of the most recent version of the draft Resolution – that the "benefits of the New Tax Laws must either fund necessary capital expenditures for utility plant, or flow to benefit ratepayers." This statement indicates a fundamental misunderstanding of Federal tax law governing accelerated depreciation, which prescribes that any utility that flows any benefits of accelerated depreciation to ratepayers will

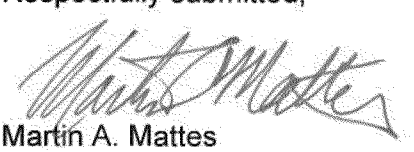
lose eligibility for ***any and all*** accelerated depreciation. That is why, for ratemaking purposes, deferred taxes (that ultimately will be paid) are deducted from rate base in the interim.

TURN's proposal is designed solely with the circumstances of the major energy utilities in mind. In fact, all the details and examples presented in TURN's letter relate specifically to energy utilities. TURN admits as much, but assumes that its proposed criteria seeking to direct tax benefits to infrastructure replacement will assure "that the benefits are being put to good purpose" as applied to all classes of utilities. TURN letter, page 3. In fact, the circumstances of electric and water utilities are quite different. While General Order 131-D requires electric utilities to obtain Commission authorization before constructing power plants, substations, or transmission lines, no such prior approval requirement applies to water utilities. Water utilities may, and often do, undertake plant investments without specific Commission approval, subject to after-the-fact review during their triennial general rate cases.

In fact, TURN's attempt to distinguish infrastructure replacement investments from other utility plant investments makes no sense for water utilities. While it is true that some water utilities are challenged to maintain an adequate pace for replacing infrastructure, especially pipe replacement and well refurbishment, other new capital investment projects – for such purposes as enhanced treatment to meet increasingly stringent water quality standards and installations to help meet water and energy conservation goals – are at least equally necessary and important. To impose an unprecedented before-the-fact regulatory review and authorization process on the latter projects will seriously impair water utilities' ability to make critical incremental infrastructure investments that the new tax laws are meant to encourage.

As the discussion at last week's all-party meeting made clear, the effects of the new tax laws on utility revenue requirements can be expected to vary greatly from industry to industry and from company to company within each utility sector. Those effects will be best reviewed, analyzed, and calculated in each utility's general rate case. Especially in the case of the water utilities and other relatively small utilities, the administrative and regulatory expenses required to implement the memorandum account procedures envisioned by draft Resolution L-411, especially if coupled with the sort of prior approval requirement proposed by TURN, will impose burdens far exceeding any potential benefits to ratepayers and will discourage many of the infrastructure investments the new tax laws are intended to promote. The best solution for water utilities and their ratepayers, as well as for the community at large that will benefit from additional job creation, is therefore to exempt all water utilities entirely from the scope of Resolution L-411.

Respectfully submitted,



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Service List for draft Resolution L-411

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