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November 23, 2005

California Public Utilities Commission
Division of Strategic Planning
505 Van Ness Avenue
San Francisco, CA 94102-3298
Attention: Edward Howard

RE: Comments of California Water Association on CPUC Draft Water Action Plan

Dear Mr. Howard:

On behalf of the California Water Association (“CWA”), I am pleased to submit these comments on the California Public Utilities Commission’s (“Commission”) draft Water Action Plan (“WAP”), dated November 9, 2005. While other CWA member companies will file separate comments dealing with substantive issues associated with the specific Objectives and supporting Action Items that affect their particular business interests, these comments will address representative themes common to our member companies.

Overall, CWA supports the intent and direction of the Commission in regard to future water regulatory policy because of its effort to align the Commission’s ratemaking policies with the state’s water policies – to the benefit of all the customers of California’s investor-owned water utilities. Specifically, CWA supports the WAP’s stated objectives for consideration in a combination of issue-specific generic proceedings and company-specific cases. This approach will provide the necessary flexibility for the utilities and their customers as they move through their three-year GRC cycles and related planning processes.

1. The Water Action Plan’s objectives represent a balanced, comprehensive approach to future water policy that serves the interests of customers and water companies alike. As such, CWA supports those objectives.

CWA is pleased that the Commission has proposed objectives¹ in the WAP that provide a balanced direction for future water policy in the state. The objectives steer a

¹ The first sentence of Plan Objective No. 6 on p. 3 does contain a significant typo, however. The sentence should read: “The CPUC will ensure that the established rates will provide recovery of reasonable and prudently incurred costs and a fair and equitable return to utilities.” [not “ratepayers,” as stated in the draft].

desirable path between the need to maintain the highest standards of water quality, strengthen conservation programs, promote infrastructure investment, assist low-income customers, streamline Commission decision-making and ensure recovery of reasonable rates and investment returns. Accordingly, these guideposts will prove indispensable in the subsequent vetting of alternative action items developed to accomplish those objectives.

It is essential that the action items reflect a balancing of interests. For example, when directing all Class A and B Water Utilities to participate in the California Urban Water Conservation Council ("CUWCC") and its best conservation management practices, the Commission also will need to ensure recovery of those participation expenses, as stated on page 6. The same complementary approach is appropriate for all other conservation programs.

Comprehensive implementation also means, for instance, that if conservation measures are mandated, then steps must be taken to avoid revenue erosion that could otherwise result from those measures.

Another example of the careful balance needed concerns the use of the Water Management Program ("WMP") as a tool for planning new infrastructure. In order for this approach to be effective in terms of stimulating needed investment, there will need to be a distinction maintained – for Environmental Impact Review purposes – between the WMP and approval of major water supply projects forecasted by the WMP. That is, discussion of these major supply projects should not trigger an EIR of the WMP – only of the project itself when it moves beyond the conceptual stage.

The balancing of interests carries over to the smaller water companies and systems. For instance, action item No. 3 under the objective on streamlining CPUC regulatory decision-making emphasizes the need for creating incentives for large water utilities to acquire smaller systems. CWA recognizes the complementary need for smaller systems having an inducement to sell. One such incentive is recognition of a purchase price premium over current book cost that the acquiring company will be able to reflect for rate-base purposes.

Another concern of smaller companies properly addressed in the WAP is informal General Rate Cases filed and processed via Advice Letter. The Commission notes in action item No. 2 under the same objective that it will consider standardized and streamlined regulatory review for small water utilities (Class C & D) in lieu of a typical rate case. CWA recommends that in doing so the Commission work to simplify the Advice Letter filings and associated data requirements for Class C utilities – as is already the case with the smaller Class D utilities.

2. The Water Action Plan will work in tandem with ongoing plans and “best practices” in water policy being implemented by entities as diverse as the National Association of Regulatory Utility Commissioners (“NARUC”), the National Association of Water Companies (“NAWC”), the California Department of Water Resources (“DWR”) and the U.S. Environmental Protection Agency (“EPA”).

While the WAP specifically includes mention of the Best Management Practices (“BMPs”) embodied in the CUWCC’s MOU on urban water conservation in California, it should be noted that the WAP also comports well with the various initiatives undertaken by NARUC, NAWC, DWR and the U.S. EPA. All four of these associations and agencies either have “best practices” or resource plans in place that are properly reflected in the WAP.

For instance, NARUC passed a resolution on July 27, 2005, encouraging all state PUCs to consider adoption of regulatory policies and mechanisms identified in the 2005 NAWC Water Policy Forum. Included were recommendations associated with: 1) sustainable practices in promoting needed capital investment and cost-effective rates²; 2) minimizing rate increases and exacerbating affordability concerns³; 3) small company and system viability⁴; and 4) state drinking water program administrators.⁵

The NARUC resolution also referenced the EPA’s “Four-Pillar Approach” as another set of practices essential to a robust and sustainable infrastructure that will ensure safe drinking water and clean wastewater.⁶

² For example: a) the use of prospectively relevant test years; b) the distribution system improvement charge; c) construction work in progress; d) passthrough adjustments; e) staff-assisted rate cases; f) consolidation to achieve economies of scale; g) acquisition adjustment policies to promote consolidation and elimination of non-viable systems; h) a streamlined rate case process; i) mediation and settlement procedures; j) defined timeframes for rate cases; k) integrated water resource management; l) a fair return on capital investment; and m) improved communications with ratepayers and stakeholders.

³ For example: a) rate case phase-ins; b) innovative payment arrangements; c) allowing the consolidation of rates of a multi-district water utility to spread capital costs over a larger base of customers; and d) targeted customer assistance programs.

⁴ For example: a) stakeholder collaboration; b) memoranda of understanding among relevant state agencies and health departments; c) condemnation and receivership authority; and d) capacity development planning.

⁵ For example: a) active and effective security programs; b) interagency coordination to assist with new water quality regulation development and implementation, such as a memorandum of understanding; c) expanded technical assistance for small water systems; d) data system modernization to improve data reliability; e) effective administration and oversight of the Drinking Water State Revolving Fund to maximize infrastructure remediation, along with permitting investor owned water companies access in all States; f) the move from source water assessment to actual protection; and g) providing State drinking water programs with adequate resources to carry out their mandates.

⁶ The four pillars are: 1) better management at the local or facility level; 2) full-cost pricing; 3) water efficiency or water conservation; and 4) adopting a coordinated watershed approach to water quality protection.

It is significant to note that the Commission's WAP touches on or mirrors many of these widely accepted "best practices" for the water industry.

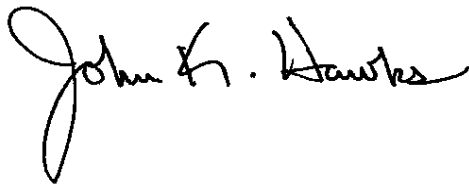
3. CWA supports a combined implementation approach for the WAP that encompasses both generic proceedings on discrete policy issues and individual company proceedings that lend themselves to flexible policy implementation.

Normally, it is bad practice to make global regulatory policy in individual company cases. However, there are specific instances where individual companies need timely resolution of issues – sometimes policy-related and sometimes tariff-related – that affect their customers, employees or shareholders. In these cases, policy flexibility is important, especially given the diverse nature of water companies. Accordingly, it is incumbent upon the Commission to make sure that WAP policy options in one company's case are *not* foreclosed for other companies.

For these reasons, CWA suggests that the Commission adopt a dual implementation approach to the WAP that combines generic proceedings on global issues identified in the plan with individual company proceedings on those policy issues that allow for some flexibility between company types. The delineation of Action Items between the two can be accomplished after receiving the initial comments on the WAP.

As noted at the outset, other CWA members will provide substantive comments on the Plan Objectives and Action Items directly affecting their customer and business interests. If you have any questions, feel free to contact me at 415.561.9650 or jkhawks@aol.com.

Respectfully submitted,



John K. Hawks
Executive Director
CALIFORNIA WATER ASSOCIATION