

CALIFORNIA PUBLIC UTILITIES COMMISSION DIVISION OF WATER AND AUDITS

Advice Letter Cover Sheet

Utility Name: Liberty Utilities
(Apple Valley Ranchos Water) Corp. **Date Mailed to Service List:** July 28, 2022

District: N/A

CPUC Utility #: U 346-W **Protest Deadline (20th Day):** August 17, 2022

Advice Letter #: 267-W **Review Deadline (30th Day):** August 27, 2022

Tier: 1 2 3 Compliance **Requested Effective Date:** January 1, 2021

Authorization: **Rate Impact:** \$ N/A
% N/A

Description: Liberty Apple Valley submits this advice letter to
modify Rule 15.

The protest or response deadline for this advice letter is 20 days from the date that this advice letter was mailed to the service list. Please see the "Response or Protest" section in the advice letter for more information.

Utility Contact: Tiffany Thong

Phone: 562.923.0711

Email: Tiffany.Thong@libertyutilities.com

DWA Contact: Tariff Unit

Phone: (415) 703-1133

Email: Water.Division@cpuc.ca.gov

Utility Contact: AnnMarie Sanchez

Phone: 562.923.0711

Email: AnnMarie.Sanchez@Libertyutilities.com

DWA USE ONLY

<u>DATE</u>	<u>STAFF</u>	<u>COMMENTS</u>
_____	_____	_____
_____	_____	_____

[] APPROVED

[] WITHDRAWN

[] REJECTED

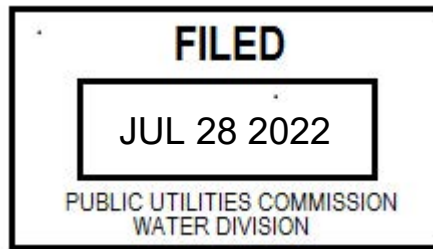
Signature: _____

Comments: _____

Date: _____



Liberty Utilities (Apple Valley Ranchos Water) Corp.
21760 Ottawa Road
Apple Valley, CA 92308-6533
Tel: 760-247-6484
Fax: 760-247-1654



Advice Letter No. 267-W

July 28, 2022

TO THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Liberty Utilities (Apple Valley Ranchos Water) Corp. (U 314-W) (“Liberty Apple Valley”) hereby submits the attached revised tariff sheets applicable to water service in its service area territory.

Summary

Liberty Apple Valley requests approval to modify language for the Income Tax Component (“ITC”) of the “Contribution” provisions in Tariff Rule No. 15 related to grants. This advice letter is submitted as a Tier 1 filing requesting a retroactive effective date of January 1, 2021.

Background

With the passage of H.R. 3684, only water services are treated as taxable income. H.R. 3684 also eliminated the taxability of grants received from governmental agencies, except for grants related to water services. The state of California did not conform its laws to the federal 2018 Tax Cuts and Jobs Act (“TCJA”), therefore no change to Rule No. 15 with respect to state taxation is required.

Liberty Apple Valley modified its Tariff Rule No. 15 in Advice Letter 233-W effective April 1, 2019, to update the income tax component of Contributions in Aid of Construction (“CIAC”) and Advances in Aid of Construction (“AIAC”) (“Contributions”), to reflect the federal TCJA signed into law on December 22, 2017.

On February 1, 2022, and the correction issued February 11, 2022 (a copy has been attached hereto), the Water Division issued a memorandum directing all water and sewer utilities to file a Tier 1 advice letter at their earliest convenience to bring their Tariff Rule No. 15 into compliance with section 80601 of H.R. 3684.¹ The changes should be made effective retroactively back to January 1, 2021, consistent with the effective date for Section 80601.

Discussion

In response to the memorandum issued by the Water Division, Liberty Apple Valley is making a minor modification to its Tariff Rule No. 15, Section E – Income Tax Component of Contributions and Advances Provision to add clarification.

Liberty Apple Valley requests approval to update Section E.5, as redline and strikethrough below.

¹ Section 80601. Modification of Tax Treatment of Contributions to the Capital of a Corporation. (page 909. H.R. 3684).

5. The ITC factor has been derived from the corporate rate and it will remain in effect until the utility's ~~net taxable income changes tax-related rates change~~ to the extent that the gross-up rate would increase or decrease by five percentage points or more. When and if that occurs, the utility will file an advice letter showing the new rates and cancel out this sheet.

Tier Designation

This advice letter is submitted with a Tier 1 designation.

Effective Date

Liberty Apple Valley is requesting that this filing become effective January 1, 2021.

Notice and Service

Customer Notice – This is a compliance advice letter that does not require customer notice, as provided in under Water Industry Rule 3.2 of General Order 96-B.

Service List - In accordance with General Order 96-B, General Rule 4.3 and 7.2, and Water Industry Rule 4.1, a copy of this advice letter will be mailed or electronically transmitted on July 28, 2022 to Liberty Apple Valley's Advice Letter service list.

Response or Protest

Anyone may respond to or protest this advice letter. A response supports the filing and may contain information that proves 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 are:

- (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 upon 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 protest shall provide citations or proofs where available to allow staff to properly consider the protest. A response or protest must be made in writing or by electronic mail and must be received by the Division of Water 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 by mail (or e-mail) to Liberty Apple Valley, addressed to:

Tiffany Thong
Manager, Rates and Regulatory Affairs
Liberty Utilities
9750 Washburn Road
P. O. Box 7002
Downey, CA 90241
Fax: (562) 861-5902
E-Mail: AdviceLetterService@libertyutilities.com

Cities and counties that need Board of Supervisors or Board of Commissioners approval to protest should inform the Division of Water and Audits within the 20-day protest period so that a late filed protest can be entertained. The informing document should include an estimate of the date the proposed protest might be voted on.

If you have not received a reply to your protest within 10 business days, contact Tiffany Thong at Tiffany.Thong@libertyutilities.com.

Very truly yours,

LIBERTY UTILITIES (APPLE VALLEY RANCHOS WATER) CORP.

/s/ Tiffany Thong

Tiffany Thong
Manager, Rates and Regulatory Affairs

Attachment

TT/as

cc: Hani Moussa, Public Advocates Office (Hani.Moussa@cpuc.ca.gov)
Public Advocates Office (PublicAdvocatesWater@cpuc.ca.gov)

Cal P.U.C. Sheet No.	Title of Sheet	Cancelling Cal P.U.C. Sheet No.
1178-W	RULE NO. 15 MAIN EXTENSIONS Sheet 15	983-W
1179-W	TABLE OF CONTENTS Sheet 1	1177-W

RULE NO. 15

Page 15

MAIN EXTENSIONS

E. Income Tax Component of Contributions and Advances Provision

1. Contributions in Aid of Construction (CIAC) and Advances in Aid of Construction (AIAC), collectively referred to as ("Contributions") shall include, but are not limited to, cash, services, facilities, labor, property, and income taxes thereon provided by a person or agency to the utility. The Contributions shall be based on the utility's estimates. Contributions shall consist of two components for the purpose of recording transactions as follows:

- a. Income Tax Component gross-up factor (ITC), and
- b. The Balance of the Contribution (Balance of Contribution).

2. The ITC shall be calculated by multiplying the Balance of Contribution by the ITC factor of:

Contributions subject to federal taxation only	15.0%
Contributions subject to federal and California taxation	21.0%

3. The tax factors are established by using Method 5 as set forth in D.87-09-026 in I.86-11-019.

4. The formula to compute Method 5 includes the following factors:

a. State Franchise tax rate of	8.84%
b. Federal Income tax rate of	21.0%
c. A discount rate of	7.35%
d. A pre-tax rate of return of	9.43%
e. Cost of debt of	4.71%
f. Return on equity of	9.35%
g. Capital ratio (debt:equity)	43:57
h. Net to gross	1.39

5. The ITC factor has been derived from the corporate rate and it will remain in effect until the utility's tax-related rates change to the extent that the gross-up rate would increase or decrease by five percentage points or more. When and if that occurs, the utility will file an advice letter showing the new rates and cancel out this sheet.

(C)

(Continued)

TABLE OF CONTENTS

The following listed tariff sheets contain all effective rates and rules affecting the charges and service of the utility, together with other pertinent information:

<u>Subject Matter of Sheet:</u>		<u>CPUC Sheet No.</u>
Title Page		900-W
Table of Contents		1179-W, 1165-W (T)
Preliminary Statement	845-W, 533-W, 1069-W, 624-W, 914-W, 1104-W, 902-W, 1070-W, 1071-W, 1072-W, 1073-W, 1074-W, 1075-W, 1076-W, 1077-W, 1078-W, 1079-W, 934-W, 1080-W, 994-W, 996-W, 1044-W, 1105-W, 1046-W, 1047-W, 1166-W, 1169-W, 1172-W, 1173-W	
Service Area Map-Apple Valley Ranchos		1131-W
Service Area Map-Yermo		846-W
<u>Rate Schedules:</u>		
Schedule No. 1	Residential General Metered Service-Apple Valley	1098-W, 1158-W, 1159-W
Schedule No. 1 YE-R	Residential General Metered Service-Yermo	1100-W, 1083-W
Schedule No. 2	Gravity Irrigation Service	1099-W, 1084-W
Schedule No. 3	Non-Residential General Metered Service-Apple Valley	1101-W, 1160-W, 1161-W
Schedule No. 3 YE-NR	Non-Residential General Metered Service-Yermo	1102-W, 1086-W
Schedule No. 4	Non-Metered Fire Services	1103-W, 1087-W
Schedule No. 5	Fire Flow Testing Charge	850-W
Schedule No. LC	Late Payment Charge	1028-W
Schedule 14.1	Water Shortage Contingency Plan	1133-W through 1135-W, 1172-W, 1137-W through 1139-W, 1173-W
Schedule UF	Surcharge to Fund PUC Reimbursement Fee	1031-W
Schedule CAP	Customer Assistance Program	1093-W, 1094-W
Schedule No. CAP-SC	Customer Assistance Program Sur-Charge	1095-W
<u>LIST OF CONTRACTS AND DEVIATION:</u>		
<u>Rules:</u>		
No. 1	Definitions	999-W, 1000-W
No. 2	Description of Service	159-W
No. 3	Application for Service	13-W, 553-W
No. 4	Contracts	361-W
No. 5	Special Information Required on Forms	1022-W, 1023-W, 1001-W, 1002-W
No. 6	Establishment and Re-establishment of Credit	362-W
No. 7	Deposits	711-W, 730-W
No. 8	Notices	1003-W through 1006-W
No. 9	Rendering and Payment of Bills	689-W through 691-W, 1033-W
No. 10	Disputed Bills	1007-W, 1008-W
No. 11	Discontinuance and Restoration of Services	1029-W, 1010-W through 1019-W
No. 12	Information Available to Public	366-W, 367-W
No. 13	Temporary Service	368-W, 369-W
No. 14	Continuity of Service	370-W
No. 14.1	Water Conservation and Rationing Plan	1141-W through 1152-W
No. 15	Main Extensions	386-W through 392-W, 529-W, 1044-W, 1045-W, 564-W, 396-W through 398-W, 1178-W, 984-W (T)
No. 16	Service Connections, Meters, and Customer Facilities	399-W through 405-W

(Continued)

Attachment
Letter from Water Division dated February 11, 2022

PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298



February 11, 2022

To: All Investor-Owned Water and Sewer Utilities

SUBJECT: Correction to **February 1, 2022** Memo on Changes in Federal Tax Law –
Contributions in Aid of Construction

It has come to our attention that a correction needs to be made to the Memo issued by Water Division on February 1, 2022, regarding compliance with changes to Federal Tax Law in accordance with H.R. 3684. Please see the below strikethrough of the original text from the memo and the revised language that follows as guidance to all investor-owned water and sewer utilities.

In response to the change in the federal tax law, Water Division requests utilities, at their earliest convenience, submit Tier 1 advice letters to bring their Tariff Rule 15 into compliance with Section 80601 of H.R. 3684. The changes should be made effective retroactively back to January 1, 2021, consistent with the effective date for Section 80601. ~~Further, any federal income taxes associated with Contributions in Aid of Construction that were received after December 31, 2020, should be refunded, with interest, to the contributor. Any ITC on Contributions in Aid of Construction collected by the utility other than for water and sewer service connections should cease immediately.~~

Further, any collections under Methods 2 or 5 as applicable to a utility's Rule 15 associated with Contributions in Aid of Construction or Advances that are no longer taxable under H.R. 3684 should immediately cease, and any such collections that were received after December 31, 2020 should be refunded, without interest, to the contributor.

Sincerely,

/s/TERENCE SHIA

Terence Shia, Director
Water Division

Cc: Jennifer Capitolo, Executive Director, California Water Association
Director, Public Advocates

Jim Hansen
Navajo Mutual Water Company
P. O. Box 392
Apple Valley, CA 92307
jhansenjr@email.com

Town of Apple Valley
Attention: Frank Robinson
14955 Dale Evans Parkway
Apple Valley, CA 92307
dcron@applevalley.org

Manuel Benitez
County of San Bernardino
Special Districts Department
Water and Sanitation Division
12402 Industrial Blvd.
Bldg. D, Ste. 6
Victorville, CA 92392

California Public Utilities Commission
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tpy@cpuc.ca.gov

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Local Agency Formation Commission
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