



## **DRA**

*Division of Ratepayer Advocates  
California Public Utilities Commission*

505 Van Ness Avenue  
San Francisco, CA 94102  
Fax: (415) 703-1981

**Dana Appling, Director**

<http://ora.ca.gov>

July 31, 2006

To: Jonathon P. Tom, Program Project Supervisor  
Water Division

From: Danilo E. Sanchez, Manager  
DRA Water Branch

This letter responds to the Water Division's July 7, 2006 request for comments on the existing Rate Case Plan (RCP). In its July 7, 2006 letter, Water Division requested comments regarding:

1. Whether workshops would facilitate the process to implement the Water Action Plan (WAP) and to improve the RCP, and appeared to indicate that the Water Division is recommending that the WAP objectives should be incorporated into the general filing requirements of the general rate cases;
2. Methods to implement the WAP; and
3. Methods to improve the RCP.

### **Summary**

DRA recommends that workshops and a formal Commission rulemaking to help facilitate the process for implementing objectives of the WAP. Additionally, DRA concurs that workshops are an appropriate forum to discuss improvements to the RCP. DRA strongly believes that a transparent process that permits input from all parties on what to include in such a rulemaking is necessary to ensure participation and fairness. Workshops on these topics would be useful for scoping a rulemaking that considers options for implementing the objectives of the WAP. DRA advises that a pre-rulemaking scoping workshop would help clarify the purpose for a RCP/WAP Order Instituting Rulemaking (OIR). Overall, the Commission needs to open a rule-making, solicit views of all parties, and then adopt a decision to establish new policies related to the WAP Objectives and RCP revisions.

In this letter, DRA provides a recommended process for the next steps to implement the WAP and we provide some comments related to improving the RCP, and some recommendations regarding the appropriate forum(s) to address the comments. Finally, DRA recommends some questions to assist with framing the Commission's rulemaking.

## Discussion

DRA encourages the Commission to open formal rulemakings to consider the industry wide implications of the proposed policy changes presented by the WAP objectives rather than dealing with them individually in each utility general rate case (GRC). Addressing the proposed policy changes through rulemaking not only assures that there is due process and an opportunity for all affected parties to be heard, but is also an efficient use of Commission's and parties' resources. According to the Rules of Practice and Procedure, Article 3.5 Rulemaking, Rule 14.2(a) indicates that the Commission may elect to apply rulemaking to ...:

“(a) Proceedings to establish rules, regulations, and guidelines for a class of public utilities or of other regulated entities.”

Additionally, an OIR requires the participation of all parties to the proceeding in which the regulation is adopted. Accordingly, an OIR is an appropriate process for addressing the best forum for consideration of the various proposals to implement the WAP objectives.

DRA notes that the GRCs for Class A water companies are now on a faster track than in previous years due to P.U. Code Section 455.2 which essentially requires new rates be effective a year after the GRC is filed. General rate cases for water utilities must be handled expediently (See D.04-06-018, Appendix). Public Utilities Code Subsection 455.2 (a), effective January 1, 2003, states:

“The commission shall issue its final decision on a general rate case application of a water corporation with greater than 10,000 service connections in a manner that ensures that the commission's decision becomes effective on the first day of the first test year in the general rate increase application.”

In the Interim Order Adopting RCP, D.04-06-018, the Commission emphasizes that the Commission must timely complete its review of rate cases. Introducing additional issues such as the six WAP objectives in the general rate case cycle without a prior Commission proceeding, has the potential to delay the schedule to approve rate increases within the restricted time schedule for making those decisions. Additionally, this GRC time requirement may constrain fully fleshing out policy proposals that present a substantial departure from past practice and may limit the amount of collaboration between parties that would otherwise be possible.

In a recent GRC proceeding, A.05-08-006, the parties worked extensively to address and resolve a special request to establish a water revenue adjustment mechanism and inverted block rates to provide incentives for water conservation. This special request that is a key recommendation of the WAP was difficult to tackle within the time restrictions imposed by the RCP. Despite the combined efforts of the parties to establish rate design criteria, design conservation pricing and work out the detailed design of a water revenue adjustment mechanism, the ALJ eventually had to throw out the settlement and the underlying utility request, because the time constraints of the GRC process prevented a thorough consideration of the revenue adjustment mechanism.

In addition, parties to a GRC are generally limited to those parties in the local area, whereas a rulemaking could pull in a broad range of stakeholders. Although PU Code 455.2 allows some flexibility to waive requirements of timely rate decisions via mutual consent of the Executive Director of the Commission and the water corporation, DRA's strong preference is to handle the more complex WAP objectives separately from GRCs. If the Commission chooses not to use rulemakings as the forum for vetting the issues raised in the WAP, DRA recommends that the Commission require utilities to file separate applications where it will be possible to allow for more in depth consideration than would be possible in a GRC.

Finally, many of the WAP proposals are related and should be considered together. For example, the determination of whether and when cross-subsidization of customers in differing water districts is justified will raise issues that go beyond the scope of the particular GRC such as possible modifications to the Commission's merger and acquisition rules to include a review of potential liabilities if costs of acquired water systems will be borne by existing ratepayers in the future.

**Recommended forum to facilitate the process to implement the WAP and to improve the RCP**

DRA recommends that the Commission hold workshops and a formal rulemaking to revise the rate case plan and determine best approaches to implementing WAP objectives. Holding workshops will allow proposals and alternatives to be discussed with all the parties, and could result in joint agreements early on. The workshop framework is consistent with the intent expressed in the Interim Order Adopting RCP which encourages RCP parties to work cooperatively to resolve issues in a mutually agreeable manner.<sup>1</sup> The workshop proposals and any issues not resolved during the workshop would be used as the basis for a rulemaking.

DRA continues to recommend that the OIR be developed and preliminarily framed by involving either the Legal Division, the ALJ Division, or the Strategic Planning Division as the initiating party. DRA believes that the workshops and rulemaking may result in the creation of additional, more focused, OIRs for specific WAP objectives. DRA recommends that the RCP/WAP rulemaking consider the merits of implementing the WAP objectives via one or more separate rulemakings that consider all related issues. Doing so will ensure that related or interdependent topics are handled in a fair and balanced process, and that distinct or less related topics may be handled in parallel proceedings.

For example, DRA appreciates the initiative represented by the joint agreement among three of California's major water utilities and conservation groups proposed to the Commission on July 25, 2006. Without pre-judging the content of the joint agreement, DRA disagrees with implementation approaches recommended by the agreement's joint signatories. Instead, DRA suggests that the many water efficiency proposals identified in this letter could serve as the basis

---

<sup>1</sup> D.04-06-018, pp. 26-28.

for a discussion on how to scope a comprehensive water conservation rulemaking to possibly consider these and/or other issues raised by DRA, other utilities and additional interested parties.

As a next step, DRA recommends the Commission assign an ALJ to a rulemaking proceeding to consider revisions to the RCP as needed and best methods to implement the WAP. DRA recommends the assigned ALJ conduct a preliminary workshop to develop a comprehensive and balanced set of questions for an RCP/WAP OIR. DRA recommends the resulting OIR provide:

- Full consideration of workshop recommendations;
- Full assessment of the economic effects of Commission action as is required by PU Code §321.1;
- Framing of questions for the OIR;
- Adequate time for parties to respond to questions posed by the OIR;
- Adequate time for additional workshops during the OIR process;
- Adequate time for parties to participate with oral arguments and to hold hearings if needed.

To initiate framing for the rulemaking, DRA recommends the following questions:

1. Which WAP objectives, if any, should become required elements of the RCP?
2. How would consideration of WAP Objectives impact the Commission's ability to issue a final decision on the GRC within the one year time constraint mandated by PU Code 455.2?
3. In considering each proposal, will the proposed change allow for appropriate scrutiny of water utility operations and due diligence?
4. Should other procedural vehicles (e.g., separate applications, rulemakings, and advice letters) be used for implementing some WAP objectives or RCP objectives?

### **Recommendations to improve the RCP**

Regarding the improvements to the RCP, DRA views that there are several types of improvements or issues that need to be addressed and the forums for addressing those issues vary. DRA considered a wide range of improvements based on our experience analyzing GRC applications. In summary, we believe there are efficiencies that can be gained by optimizing the overall GRC schedule; reducing the total number of filings made by each water company, and streamlining the cost of capital review. Overall, DRA has identified ways to improve the efficiency of the GRC process and would welcome the opportunity to present our suggestions in whichever forum the Commission decides to pursue. Some of the suggestions are included in the Attachment.

DRA welcomes the opportunity to discuss these proposals with all of the parties.

Sincerely,

[Signed by DES]

Danilo E. Sanchez, Manager

DRA Water Branch

cc: Service Lists in R.03-09-005 and R.06-04-010

Steve Larson, Arocles Aguilar, Dana Appling, Pete Arth, Diana Brooks, Paul Clanon, Kevin Coughlan, Michelle Cooke, Laura Doll, Belinda Gatti, Ted Howard, Rami Kahlon, Laura Krannawitter, Monica McCrary, Angie Minkin, Atamturk Nilgun, Bob Lane, Cynthia Walker, Randy Wu

Attachment: DRA Recommendations - Summary of Proposed Rate Case Plan Improvements

## DRA Recommendations Summary of Proposed Rate Case Plan Improvements

<i>Discussion – Agreement with Utilities</i>	
<i>Cost of Capital Review</i>	Limit cost of capital review to once every three years (and apply to all districts in company).
<i>GRC Schedule</i>	Develop a consensus proposed GRC schedule for July 2007 and beyond.
<i>Master Data Request(MDR)</i>	<ul style="list-style-type: none"> <li>a) Work collaboratively with utilities to revise the MDR.</li> <li>b) Provide explicit instructions and some formatted table templates to clarify what is requested in the MDR.</li> <li>c) Require a Table of Contents, cross reference locations, and electronic provision of each document electronically.</li> </ul>
<i>Deficiency Review</i>	Have DRA and company witness collaborate on developing deficiency notice.
<i>Developing Consensus proposals early on in areas where there are no real differences.</i>	Through informal discussions with utilities, explore possibilities for early settlement of issues such as low income water rate assistance programs. This may be particularly worth pursuing in cases where a collaborative approach may yield a better result than just accepting utility proposal outright.

<i>Discussion with Water Division</i>	
<i>Waiving GRC application filing requirements</i>	Allow a water company to skip one GRC cycle and submit its next GRC application 3 years later by consensus of DRA, Water Division and water utility.
<i>GRC Schedule</i>	Discuss and consider schedule consolidation of some multi-district company reviews into one GRC.

<i>Legislative</i>	
<i>3 year GRC cycle changes</i>	Requires changes to PU Section 455.2 to change duration of rate case cycle.
<i>Interim rates</i>	Change code to give Commission discretion to use rates based on settled revenue requirement for interim rate relief.

# DRA Recommendations

## Summary of Proposed Rate Case Plan Improvements

<i>Rulemaking</i>	
<i>Standardize GRC Application</i>	Require standardized GRC Application and utility Results of Operations (RO) Tables and standardized RO files. Require standard data tables and templates for water company data and information.
<i>Reduce Total Number of GRCs</i>	Consolidate GRC filing for some multi-district companies to reduce total number of cases
<i>Streamline Cost of Capital review</i>	One case per company every three years. Apply to all districts at one time.
<i>Revise GRC schedule</i>	Create a new GRC schedule for July 2007 and beyond.
<i>Review GRC update rules.</i>	Minimize types of updates and changes that water companies may submit.
<i>Discovery process</i>	Commission should reiterate the importance of timely responses to data requests. With the tight deadlines in the RCP, delays in responses to DRs can create insurmountable hurdles. One thing that would improve compliance is a negative presumption arising from tardy responses, i.e., if the response is unreasonably delayed, the Commission must presume the expenditure in question isn't justified and exclude it.
<i>Rebuttal</i>	Place limits on number of pages that may be submitted during rebuttal. Use compressed discovery time frames related to rebuttal testimony & strict enforcement of the existing RCP provisions limiting the scope of rebuttal. More time needs to be set aside between filing of rebuttal and commencement of hearings as well.
<i>Interim Rates</i>	To alleviate huge deferred revenue surcharges resulting from retroactive imposition of final rates, allow interim rate recovery at the "settled revenue requirement" instead of the rate of inflation presently allowed in the PU Code.