

April 18, 2019

**Via Email and U.S. Mail**

California Public Utilities Commission  
Tariff Unit, Division of Water and Audits  
505 Van Ness Avenue  
San Francisco, CA 94102-3298

Re: Advice Letter No. 532  
San José Water Company

TO THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA:

The City of San José (City) hereby protests San José Water Company's (SJW) Advice Letter 532 (AL532). Just a few months after implementing rate increases it received during an extensive general rate hearing, SJW now requests an additional surcharge for unrecovered fixed costs based upon its and consumer's "extraordinary" conservation efforts. SJW must show the "reasonableness" of its request; it cannot do so.

**I. BACKGROUND AND STATEMENT OF THE FACTS.**

In January 2018, SJW filed its Application of San José Water Company (U168W) for an Order authorizing it to increase rates charged for water service by \$34,288,100 or 9.76% in 2019, by \$14,231,800, or 3.7% in 2020, and by \$20,581,700 or 5.17% in 2021 (Rate Proceeding). Over the course of several months, SJW, the Public Advocates Office (PAO), Water Rate Advocates for Transparency, Equality, and Sustainability (WRATES), and the City participated in discovery, exchange of written testimony, attended public hearings, and presented testimony before the Commission. In August 2018, SJW and the PAO entered into a Settlement Agreement, resolving all but two issues. On December 4, 2018, the Commission issued its Decision Approving Settlement Agreement, and, as authorized by the Commission, SJW implemented an increase in rates effective January 1, 2019.

On March 29, 2019, less than four months later, SJW filed AL 532 (Tier 3) seeking Commission authorization to recover an additional \$9,020,356 for fixed expenses as set

forth its Water Conservation Memorandum Account (WCMA) for the year of 2018. A WCMA, along with other memorandum and balancing accounts, were considered in the Rate Proceeding. SJW explains that the WCMA it received in that proceeding encompassed years 2016 and 2017, not 2018. However, another rate increase, in such a short period of time is confusing, at best; and warrants increased Commission scrutiny than is afforded through an advice letter process.

## **II. THE COMMISSION SHOULD REQUIRE ADDITIONAL SCRUTINY OF SJW'S REQUEST.**

General Order 96-B, Rule 7.4.2 provides the grounds for the protest of an advice letter, including that the issues should be considered in a formal hearing, that the letter contains errors or omissions, or the request is unjust or unreasonable. As set forth below, the reasonableness of SJW's request should be considered in light of the recent Rate Proceeding, as well as SJW's representations on the impact to a typical consumer.

### **A. Advice Letters Should Not Circumvent General Rate Setting Process.**

AL 532, and the public confusion it presents, demonstrates the risk with adjusting rates outside of a general rate context.

General Rule 5.1 states that "[t]he advice letter process provides a quick and simplified review of the types of utility requests that are expected neither to be controversial nor to raise important policy questions." Authorization to amortize a memorandum amount must be made in a Tier 3 advice letter which may only be approved through a Commission resolution. (Water Industry Rule 7.3.3) A "Memorandum Account" is further defined as a deferred charge or credit account, as described in a preliminary statement, however, "deferred charges or credits shown in the Memorandum Account may be recovered in rates only after a request by the Utility, *a showing of their reasonableness*, and approval by the Commission." (General Rule, 1.8, emphasis added.)

The use of a Memorandum Account should be for costs that are of an "exceptional nature" and not within the utilities control. The costs should not have been reasonably foreseen in the last general rate case, would occur before the next scheduled rate case, and have ratepayer benefits. (See, Standard Practice, U-27-W, ¶27.)

In this case, on January 4, 2018, SJW filed its Application in the Rate Proceeding, however, it did not address these memorandum accounts. The PAO summarized the

concern as follows:

SJWC did not make any requests related to its drought surcharges and WCMA balances in its GRC application. ... *SJWC states it did not make requests related to these accounts because they meet the 2% threshold needed to file an advice letter to recover the balances.* SJWC previously recovered \$7,700,000 in net Drought Surcharges/WCMA balances via advice letter and states its intention to do so again for 2016 and 2017 balances.

*A comprehensive review of balancing and memo accounts must be performed during the GRC. SJWC should not be allowed to choose to use the advice letter process when an active GRC is in progress. ...<sup>1</sup>*

Therefore, were it not for the PAO's insistence, SJW would have requested increases outside of the Rate Proceeding, even for previous years 2016 and 2017. Nonetheless, in August 2018, SJWC and the PAO entered into a global resolution of the Rate Proceeding except for two issues, including SJWC's request for a full Water Rates Adjustment Mechanism (WRAM), as it currently only has the benefit of a Monterey-style WRAM.

In Joint Comments on a proposed Decision, filed November 5, 2018, SJW and PAO, presented the following disposition of the Under Collection of Memorandum Accounts:

|   |              |
|---|--------------|
| Water Revenue Adjustment Mechanism                      | \$ 4,763,421 |
| Intervenor Compensation (various)                       | 28,647       |
| Calero Tank Site Memorandum Account                     | 363,345      |
| Mandatory Conservation Memorandum                       | 603,130      |
| Drinking Water Fees Memorandum                          | 73,719       |
| Net Drought Surcharge/Water Conservation Memo Acct      | 7,700,000    |
| Total (after adjustments for taxes and uncollectibles): | \$13,584,118 |

<sup>1</sup> Report and Recommendations on SWC's General Rate Case Requests Regarding Operation and Maintenance Expenses, Administrative and General Expenses and Memo Accounts for Test Year 2019, p. 36:6-20. (Footnotes omitted, emphasis added).

Thus, SJW requested, and received, surcharges for a “Mandatory Conservation Memorandum Balance” and a “Water Conservation Memorandum Account”, both of which appear substantially similar to an average consumer. Although the November 2018 filing (WP-17-2) identifies account balances as of September 30, 2017, there is no indication that SJW would seek an additional charge for a 2018 WCMA, especially in light of the conservation measures the SJW consumers have been taking since at least 2014. Multiple rate increases for similar sounding accounts create consumer confusion and distrust. The Commission should require a more formal hearing and public process than an advice letter with only 20 days to respond.

**B. SJW has not shown the Reasonableness of its Request.**

SJW has not shown that the AL 532 is reasonable. In order to provide some transparency for ratepayers, the Commission Decision in the Rate Proceeding incorporated the “agreed upon rate increases for the calendar years 2019, 2020, and 2021 as follows”:

**Table 1: Summary of Rate Increases in Comparison to Current Rates**

| Calendar Year | Dollar Amount/Per Cent Rate Increase Requested by SJWC | Dollar Amount/Per Cent Rate Increase Proposed by Cal PA | Dollar Amount/Per Cent Rate Increase Adopted in Settlement |
|---------------|--|---|--|
| 2019          | \$34,288,100 / 9.76%                                   | \$4,461,120 / 1.21%                                     | \$16,378,000 / 4.55%                                       |
| 2020          | \$14,231,800 / 3.70%                                   | \$8,688,940 / 2.34%                                     | \$12,066,000 / 3.20%                                       |
| 2021          | \$20,581,700 / 5.17%                                   | \$8,273,600 / 2.20%                                     | \$11,713,000 / 3.01%                                       |

CPUC, Decision 18-11-025, Application number 18-01-004.

In turn, SJW explained what the typical consumer should expect for a rate increase upon implementation of the approved rates:

The 2019 rate increase became effective January 1, 2019. For the typical customer with a 3/4-inch meter using 11 units of water, the total average monthly water bill increased by approximately 5.12% or \$4.32. This equates to an increase of 14 cents per day.

San José Water, “Rate Information, Cases + FAQs”, retrieved from <https://www.sjwater.com/customer-care/help-information/rate-information-cases-faqs>

However, the City is unable to replicate SJW's representation of a 5.12% or \$4.32 increase for a typical customer using the rates in its December 13, 2018, Compliance Filing Providing Illustrative Rates.

|             | Old Rate            | New Rates          |
|-------------|---------------------|--------------------|
| 3/4" Meter  | 25.28               | 39.50              |
| 0-3 CCF     | 3 @ 4.25475 = 12.76 | 3 @ 3.1951 = 9.59  |
| Next 8 CCFs | 8 @ 4.72750 = 37.82 | 8 @ 4.7975 = 38.38 |
| Total       | 75.86               | 87.47              |
| Increase    | +11.61              | 15%                |

SJW's Public Notice for AL 532 again references the typical customer with a ¾ inch meter using 11 ccfs per month, if this request is granted would see an increase of \$2.19 or 2.26% per month. However, without an accurate understanding of the rate method used to calculate the impact on the typical customer, it is impossible to determine AL 532's actual impact.

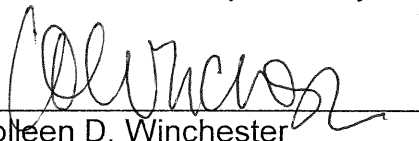
Whether AL532 is characterized as "unreasonable" or the discrepancies explained through additional calculations, the inability to replicate rate increases nonetheless demonstrates the need for heightened scrutiny and additional public process. The City further requests additional time to review PAO's response or protest to AL 532, if any.

### III. CONCLUSION

The City of San José requests the Commission recognize the concerns of ratepayers and need for increased transparency in rate setting, especially when SJW consumers have produced "exemplary" conservation results.

Very truly yours,

RICHARD DOYLE, City Attorney

By:   
Colleen D. Winchester  
Sr. Deputy City Attorney

## CERTIFICATE OF SERVICE

I, the undersigned declare as follows:

I am a citizen of the United States, over 18 years of age, employed in Santa Clara County, and not a party to the within action. My business address is 200 East Santa Clara Street, San Jose, California 95113-1905, and is located in the county where the service described below occurred.

On April 18, 2019, I caused to be served the within:

### **CITY OF SAN JOSE'S PROTEST TO SAN JOSE WATER COMPANY'S ADVICE LETTER NO. 532**

- ☒ by MAIL, with a copy of this declaration, by depositing them into a sealed envelope, with postage fully prepaid, and causing the envelope to be deposited for collection and mailing on the date indicated above.

I further declare that I am readily familiar with the business' practice for collection and processing of correspondence for mailing with the United States Postal Service. Said correspondence would be deposited with the United States Postal Service that same day in the ordinary course of business.

- ☒ by ELECTRONIC TRANSMISSION, with a copy of this declaration, to an electronic address listed below. I further declare that the electronic transmission was sent on April 18, 2019, and that the City of San Jose, City Attorney's electronic address is CAO.Main@sanjoseca.gov.

Addressed as follows:

California Public Utilities Commission  
Tariff Unit, Water Division, 3rd floor  
505 Van Ness Avenue  
San Francisco, CA 94102  
water\_division@cpuc.ca.gov

*(Via Email and U.S. Mail)*

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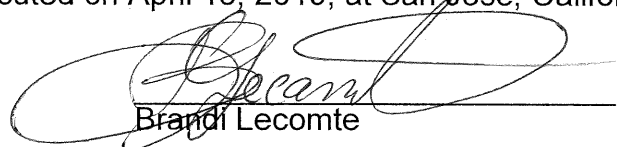
*(Via Mail only)*

San Jose Water Company  
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*(Via Email and U.S. Mail)*

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*(Via Email and U.S. Mail)*

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on April 18, 2019, at San Jose, California.

  
Brandi Lecomte