

January 22, 2021

California Public Utilities Commission  
c/o April Mulqueen  
505 Van Ness Avenue  
San Francisco, CA 94102  
Email: April.Mulqueen@cpuc.ca.gov

**RE: California Water Association Comments on  
Draft Resolution M-4849**

Dear California Public Utilities Commission,

Pursuant to Rule 14.5 of the Rules of Practice and Procedure of the California Public Utilities Commission (“Commission”), California Water Association (“CWA”) provides its comments on Draft Resolution M-4849, issued on January 15, 2021 (“Draft Resolution”).<sup>1</sup> The Draft Resolution would extend the existing emergency customer protections established in Resolution M-4842 in response to the on-going COVID-19 pandemic through June 30, 2021 and require electric, gas and water corporations in California to file advice letters presenting their transition plans associated with the eventual discontinuance of such emergency customer protections.

CWA supports the Commission’s continued efforts to assist customers during this difficult time, and offers the following recommendations and minor clarifications regarding the Draft Resolution. As CWA has explained in multiple Commission proceedings, California water utilities face unique circumstances arising out of the COVID-19 pandemic that requires a tailored set of solutions carefully designed to meet those challenges.

**1. The Draft Resolution should acknowledge the important role that the Water Shutoff Protection Act of 2018 will play when emergency customer protections expire.**

The Draft Resolution should be revised to expressly acknowledge the important role of the Water Shutoff Protection Act of 2018 (Senate Bill 998, Dodd 2018) (“SB 998”), which two years ago established a set of customer protections aimed to limit disconnections for non-payment for water service. Just prior to the Commission taking action to address the COVID-19 pandemic in March 2020, water utilities filed advice letters to implement the customer protections mandated by SB 998. These existing SB 998 protections will play a key role as part of the “transition plan” contemplated by the Draft Resolution following the expiration of the emergency customer protections extended therein.

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<sup>1</sup> CWA is the statewide association representing the interests of water utilities subject to the jurisdiction of the Commission. CWA’s members provide safe, reliable, high-quality drinking water to approximately six million Californians. CWA submits these comments on behalf of its member water utility companies.

In particular, SB 998 sets forth procedures applicable to all public water systems in California that supply water to more than 200 service connections, including both Commission-regulated water utilities and municipal water agencies.<sup>2</sup> It establishes minimum waiting periods and stringent notice requirements before a residential customer may be disconnected for non-payment.<sup>3</sup> Thus, the existing SB 998 protections provide a logical framework for “statewide consistency” within the water industry as contemplated by the Commission.<sup>4</sup>

The Draft Resolution mentions SB 998 just once in passing, explaining that the mandated transition plans for Class A water utilities must include “a schedule that complies with SB 998 requirements of providing a 79-day period after the payment is past due before a customer may be disconnected.”<sup>5</sup> CWA recommends including a more robust summary of the statute in the Draft Resolution, as SB 998 was specifically enacted by the Legislature to provide customer protections against disconnections for nonpayment, even in the absence of emergency conditions.

## **2. The Draft Resolution should recognize concurrent directives for water utilities with respect to customer protections in light of the COVID-19 pandemic.**

As explained in the Draft Resolution, the Commission took action by Resolution M-4842 to require Class A and B water utilities to take certain emergency customer protections, including to “work cooperatively with affected customers to resolve unpaid bills, and minimize disconnections for non-payment.”<sup>6</sup> The Draft Resolution would extend those emergency customer protections through June 30, 2021, with the possibility of further extensions if necessary.

CWA agrees that the Draft Resolution’s extension of those emergency customer protections is appropriate at this time. As work continues on this issue, CWA respectfully urges the Commission to recognize the concurrent directives that water utilities are facing during this emergency. In addition to the existing customer protections under SB 998 summarized above, CWA highlights some of the other recent actions taken by the Legislature and other State agencies:

- As the Draft Resolution notes in footnote 5, Governor Newsom’s Executive Order N-42-20, issued April 2, 2020, separately prohibited urban and community water systems from disconnecting certain residential and small business customers for non-payment. Executive Order N-42-20 differs in a number of ways from the customer protections applicable to water utilities under the Commission’s Resolution M-4842. Notably, the water service disconnection moratorium enacted under Executive Order N-42-20 does not contain an express end date, but instead is intended to be in place until lifted in a subsequent executive order.

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<sup>2</sup> Health & Safety Code § 116902(d) (defining “Urban and community water system” as used under SB 998 to mean “a public water system that supplies water to more than 200 service connections.”).

<sup>3</sup> Health & Safety Code §§ 116906-116926.

<sup>4</sup> Draft Resolution, p. 13.

<sup>5</sup> *Id.*, p. 14. CWA also notes that SB 998 provides that “An urban and community water system shall not discontinue residential service for nonpayment until a payment by a customer has been delinquent for at least 60 days.” Health & Safety Code § 116908(a)(1)(A). Therefore, CWA recommends revising the relevant statement in the Draft Resolution to refer to “a schedule that complies with SB 998 requirements of providing a 79-day period after the **bill date** before a customer may be disconnected,” rather than “after the payment is past due.”

<sup>6</sup> Draft Resolution, p. 7, *citing* Resolution M-4842.

- On January 19, 2021, the State Water Resources Control Board (“SWRCB”) announced the results of surveys it has been conducting on the COVID-19 financial impact on water systems and their customers.<sup>7</sup> The SWRCB indicated that it “will be exploring all avenues to help systems and households recover from the impacts of this pandemic.”<sup>8</sup> Previously, the SWRCB issued guidelines and best practices for water and wastewater systems during the COVID-19 pandemic.<sup>9</sup>
- The California Legislature will be considering two recently introduced bills addressing the financial impacts of the COVID-19 pandemic on customers. Senate Bill 222 (Dodd, 2021) would establish the Water Affordability Assistance Fund to help provide water affordability assistance, for both drinking water and wastewater services, to low-income ratepayers and ratepayers experiencing economic hardship in California. Senate Bill 223 (Dodd, 2021) would expand and refine the customer protections previously mandated in SB 998, including requiring water utilities to offer a prescribed debt-forgiveness program for water utility customers.

In light of these multiple, overlapping efforts applicable to all water utilities, CWA respectfully urges the Commission to continue to work closely with the Legislature, the Governor’s office, and its sister agencies to ensure that the State addresses the challenges of the COVID-19 pandemic in a consistent and coordinated fashion.

CWA also reiterates its earlier recommendations for the Commission to coordinate with its sister agencies to lobby Congress to include relief in any potential COVID-19 relief package for customers of water utilities in California. If such a relief package is passed, it is absolutely imperative for the Commission to take a lead role in ensuring that such funding is properly administered in a timely and efficient fashion in order to help address the financial challenges and impacts being discussed in this proceeding. The Commission should do everything in its authority to ensure that customers of Commission-regulated water utilities are not unfairly excluded from any funding that may otherwise be available for customers of municipal water providers. This is a rare opportunity for Federal funding to assist customers that must not be missed.

### **3. The Commission should review the reasonableness of marketing, education and outreach expenses when the utility seeks to amortize the actual expenses incurred.**

The Draft Resolution directs utilities to conduct or propose certain marketing, education and outreach (“ME&O”) strategies as part of their respective transition plans.<sup>10</sup> With respect to costs and accounting for such activities, the Draft Resolution directs utilities to use existing ME&O budgets to the greatest extent possible, but provides that “[i]f an IOU estimates that it cannot both comply with this Resolution and maintain compliance with existing Decision mandates leveraging only existing

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<sup>7</sup> SWRCB, Media Release: *Survey results show COVID-19 financial impact on water systems, customers* (January 19, 2021), available at [https://www.waterboards.ca.gov/press\\_room/press\\_releases/2021/covid\\_water\\_survey\\_press\\_release19Jan2021\\_v11am.pdf](https://www.waterboards.ca.gov/press_room/press_releases/2021/covid_water_survey_press_release19Jan2021_v11am.pdf).

<sup>8</sup> *Id.*, p. 2.

<sup>9</sup> *Implementation of Executive Order N-42-20: Guidelines and Best Practices for Water and Wastewater Systems* (April 30, 2020), available at [https://www.waterboards.ca.gov/resources/covid-19\\_updates/docs/eo\\_implementation\\_guidelines\\_04302020.pdf](https://www.waterboards.ca.gov/resources/covid-19_updates/docs/eo_implementation_guidelines_04302020.pdf).

<sup>10</sup> Draft Resolution, pp. 12-14.

authorized budgets, it shall note in its Advice Letter the cost estimate, with details of the incremental new activity, and use the memorandum account to record and track incremental costs associated with transition plan implementation.”<sup>11</sup>

CWA does not object to requiring utilities to provide cost estimates for incremental transition plan activities. However, CWA cautions that it would be inappropriate to prejudge the reasonableness of projected costs, particularly during this uncertain chapter in the COVID-19 pandemic. CWA asks that the Commission conduct the applicable reasonableness review **at the time the utility seeks to amortize the expenses**, consistent with the Commission’s standard treatment of memorandum account balances.<sup>12</sup> It would be inappropriate to prematurely disallow incremental costs for ME&O strategies that may be reasonably incurred to comply with the Draft Resolution.

#### **4. The Commission should provide adequate time for water utilities to develop a more robust and thoughtful transition plan.**

Currently, the Draft Resolution would require utilities to submit draft transition plan advice letters on February 25, 2021— just two weeks following the anticipated adoption of the Draft Resolution at the February 11, 2021 voting meeting.<sup>13</sup> CWA recommends providing more time for water utilities to prepare this draft advice letter in order to coordinate and develop a more robust and thoughtful transition plan. There are several factors unique to the water industry that suggest the Commission need not rush through this important process:

- First, other mandates applicable to water utilities will continue to be in place even when the Commission’s emergency customer protections are lifted. As explained above, the existing customer protections under SB 998 provide the processes and procedures crafted by the Legislature to equitably address disconnections for non-payment. Additionally, even in the absence of the emergency customer protections mandated by the Commission, water utilities will remain subject to the disconnection moratorium implemented by the Governor in Executive Order N-42-20. These and other continued protections would help to mitigate challenges for customers even once the Commission’s emergency customer protections are lifted.
- Second, both SB 998 and Executive Order N-42-20 are applicable not only to Commission regulated utilities, but to municipal water agencies as well. While the energy utilities subject to the Draft Resolution serve a large portion of the State’s residents, the subject water utilities serve only a small fraction (approximately 16% of Californians) with the rest served by municipal water agencies and other providers. Therefore, it would be best to coordinate the timeline for developing transition plans for water utilities with the approaches taken for the water service providers throughout the State. CWA recommends the Commission work closely with the SWRCB to co-lead such an effort.

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<sup>11</sup> *Id.*, p. 16. CWA observes that the rates of many regulated water utilities do not provide for any ME&O expenses at all.

<sup>12</sup> D.04-03-039, p. 39 (“Before a utility can recover in rates the costs recorded in the account, the utility must demonstrate the reasonableness of the costs. [...] When [the water utility] seeks to recover the costs, it will apply to the Commission to do so, and will demonstrate the reasonableness of those costs.”).

<sup>13</sup> Draft Resolution, p. 22.

- Lastly, while many of the energy utilities have service areas that extend over large portions of the State, water utilities are considerably smaller and serve diverse customer bases for which specifically tailored transition plans may be appropriate. While CWA agrees with the Draft Resolution's direct to "strive for statewide consistency within each industry,"<sup>14</sup> the transition plan for each individual water utility will necessary be designed with its own customer base in mind. Therefore, more time should be provided to allow water utilities to develop transition plans tailored to address the specific issues their customers are facing.

For these reasons, CWA believes the two-week period set in the Draft Resolution to prepare draft transition plan advice letters unnecessarily rushes this important process for water utilities and does not allow sufficient time to prepare a robust and thoughtful transition plan. Therefore, as suggested above, CWA recommends that the timeline for such advice letters instead be coordinated with efforts co-led by the SWRCB to ensure a consistent set of approaches by water service providers throughout the State. In order to obtain input from the Low-Income Oversight Board ("LIOB") as contemplated in the Draft Resolution, the Commission might encourage the LIOB's Water & Climate Change Subcommittee to convene a special meeting to provide feedback for water utilities.

## 5. Conclusion

CWA appreciates this opportunity to provide comments on the Draft Resolution and asks that the Commission incorporate the suggestion outlined above. CWA looks forward to continuing to work with the Commission and other stakeholders to navigate the challenges presented by the on-going COVID-19 pandemic for both customers and utilities.

Sincerely,



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Executive Director

Cc: Service list for Proceeding A.20-03-014  
Service list for Proceeding A.19-11-003  
Service list for Proceeding A.19-09-014  
Service list for Proceeding R.18-07-006  
Service list for Proceeding R.18-07-005  
Service list for Proceeding R.18-03-011  
Service list for Proceeding R.17-06-024  
Service list for Proceeding R.15-03-010  
Service list for Proceeding R.12-06-013

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<sup>14</sup> *Id.*, p. 13.