

PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298



November 16, 2021

Sent by E-Mail

SUBJECT: Response to Protests – San Jose Water Company Advice Letter No. 569-W

TO WHOM IT MAY CONCERN:

Please be advised that the Water Division of the California Public Utilities Commission (Water Division) is approving San Jose Water Company's (SJWC) Advice Letter No. (AL) 569-W, effective November 15, 2021. Pursuant to General Order No. 96-B (GO 96-B) Water Industry Rule 7.3.2 and as permitted by Water Division Standard Practice (SP) U-40-W, SJWC submitted AL 569-W on October 15, 2021 to request authorization to activate Schedule 14.1 at Stage 3.

Approximately 190 protests to AL 569-W were timely received prior to the protest deadline of November 4, 2021. General Rule 7.4.2 of GO 96-B states the acceptable grounds for protest:

- (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 on which the utility relies;
- (3) The analysis, calculations, or data in the advice letter contain material errors 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 relitigating a prior order of the Commission.

The timely received protests to AL 569-W cite Grounds (1) through (6) above. SJWC served its reply to received protests on November 5, 2021.

The relief requested by AL 569-W is permitted through SP U-40-W, which lays out the procedure to add and activate voluntary conservation measures via Rule 14.1 or mandatory conservation measures via Schedule 14.1. SP U-40-W directs utilities to submit a Tier 2 AL to add, modify, and/or activate its Rule 14.1 and/or Schedule 14.1. A public hearing and notice of the public hearing are required if a utility requests to activate its Schedule 14.1. SJWC provided evidence to the Water Division that the customer notice informing on the submission of AL 569-W and the required public hearing was served to the interested parties and published in The Mercury News. SJWC held the required public hearing on October 28, 2021. The Water Division does not find Ground (1) to be an applicable ground for protest.

No additional analysis, calculations, nor data were provided in AL 569-W nor are they required since this advice letter is solely requesting the authorization to activate Schedule 14.1. AL 567-W,

which was approved effective September 6, 2021, authorized the modification of Schedule 14.1, not the activation. In no way was Schedule 14.1 preemptively activated prior to the activation of Rule 14.1 via AL 567-W since AL 569-W is the AL requesting the activation of Schedule 14.1. According to SP U-40-W, utilities are permitted to modify Rule 14.1 and/or Schedule 14.1 through the submission of a Tier 2 AL. Utilities are not inclined to activate Rule 14.1 and/or Schedule 14.1 through the same AL that would modify either of them. The Water Division does not find Grounds (2) nor (3) to be applicable grounds for protest for AL 569-W.

The relief requested by SJWC in AL 569-W is associated with the resolution put forth by SJWC's water wholesaler calling for a usage reduction of 15% of 2019 levels, which lies beyond the scope of the pending GRC Application A.21-01-003. The Water Division does not find Grounds (4) nor (5) to be applicable grounds for protest for AL 569-W.

A number of received protests inquired on the drought allocation table laid out in Schedule 14.1 or inquired on seeking adjustments to drought allocations due to specific personal circumstances. To clarify, the monthly drought allocations table laid out in Schedule 14.1 are the **minimum** monthly drought allocations that SJWC would assign to customers, not the allocations that SJWC would assign to all customers. SJWC will assign customers monthly drought allocations based on a 15% reduction from their **individual** 2019 usage amounts. No customer will be assigned drought allocations lower than the minimum drought allocations laid out in the table in Schedule 14.1. If a customer does not have 2019 usage history, then that customer will be assigned the minimum drought allocations laid out in the table in Schedule 14.1. An appeals process will be made available from SJWC through which customers may seek adjustments to their drought allocations due to specific personal circumstances. The Water Division does not find Grounds (6) to be an applicable ground for protest for AL 569-W.

Regarding SJWC's Water Conservation Memorandum Account (WCMA)

In Resolution W-5210, the Commission denied SJWC's request to amortize the balance of the Water Conservation Memorandum Account (WCMA) tracked during the year of 2018 and accordingly ordered SJWC to delete the WCMA from the Preliminary Statements of its Tariff Book. However, the prior ordered deletion of the WCMA does not set a precedent that SJWC is prohibited from requesting the establishment of a new memorandum account to serve the same purpose as the prior deleted WCMA. Therefore, the establishment of the WCMA and Water Conservation Expense Memorandum Account (WCEMA) through the submission of AL 564 is permitted according to SP U-40-W.

The activation of Schedule 14.1 allows SJWC to charge and collect Drought Surcharges resulting from usage in excess of drought allocations. To clarify, Drought Surcharges will be tracked in and will solely be used to offset the balance of SJWC's WCMA. At the time that mandatory conservation requirements end and SJWC requests the amortization of its WCMA and WCEMA, the Water Division will review the accounting in both memorandum accounts for reasonableness.

Other Matters

One of the protests to AL 569-W brought a typographical error in Rule 14.1 to the attention of the Water Division. Rule 14.1, Section D.1.d.ii currently states:

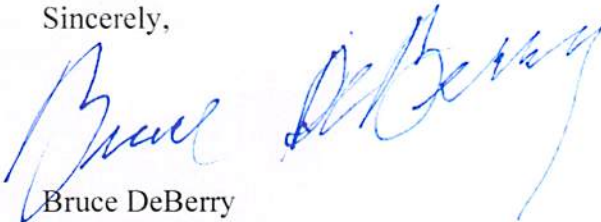
“Justification for, and documentation and calculations in support of the Schedule, including but not limited to each item in B.1.d.i above.”

SJWC clarified that “B.1.d.i” is a typographical error and that “D.1.d.ii” should be stated instead. The Water Division will request SJWC to submit a Tier 1 AL to correct this error.

The Environmental and Social Justice (ESJ) Action Plan was also mentioned in a protest to AL 569-W. The ESJ Action Plan is a document that details the CPUC’s objectives and strategies towards advancing equity in the agency’s programs and policies for ESJ communities. The ESJ Action Plan is a guidance document and does not carry specific mandates or legal requirements to which the CPUC nor utilities are subject to, nor would be implicated in the Water Division’s review of AL 569-W. Version 1.0 of the ESJ Action Plan, effective February 21, 2019, draft Version 2.0 of the ESJ Action Plan, and additional information can be found at <https://www.cpuc.ca.gov/news-and-updates/newsroom/environmental-and-social-justice-action-plan>.

If you have any questions, please contact Eustace Ednacot in the Water Division at eustace.ednacot@cpuc.ca.gov.

Sincerely,



Bruce DeBerry
Program Manager
Water Division

Cc: John Tang, V.P. Regulatory Affairs, San Jose Water Company