



GREAT OAKS WATER COMPANY

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January 22, 2021

Via email to April.Mulqueen@cpuc.ca.gov

California Public Utilities Commission
Attention: April Mulqueen, Executive Division
505 Van Ness Avenue
San Francisco, CA 94102-3298

**RE: Great Oaks Water Company's Opening Comments
Regarding Draft Resolution M-4849**

Dear Ms. Mulqueen:

On January 15, 2021, parties in various Commission proceedings, including R.17-06-024, R.18-03-011, and R.18-07-006,¹ were served with Draft Resolution (Res.) M-4849, which is scheduled to be heard and voted upon at the February 11, 2021 Commission voting meeting. The comment period was shortened to fourteen (14) days, with opening comments due on Friday, January 22, 2021 and reply comments due on Friday, January 29, 2021. Great Oaks Water Company (Great Oaks) hereby respectfully submits its Opening Comments Regarding Draft Res. M-4849.

Comments to Draft Resolution M-4849

1. Is more time what utility customers really want or need?

Draft Res. M-4849 states that in order to assist Californians affected by the ongoing COVID-19 pandemic, emergency customer protections ordered by

¹ Great Oaks is serving its Opening Comments on the service lists for these three proceedings in which Great Oaks is a party.

Commission Res. M-4842 are to be extended from April 16, 2021 through June 30, 2021, while leaving open the option for the Commission to extend the emergency customer protections even longer.² The extension is purportedly to ensure access to essential utility services to maintain Californians' health and safety during the pandemic.³

During the pandemic emergency, Great Oaks' customers have had uninterrupted access to essential water service. No facts are provided in Draft Res. M-4849 indicating that the additional 75 days of emergency customer protections will provide utility customers with the kind of assistance they want or need. Draft Res. M-4849 simply assumes, without factual support, that more time will provide a benefit to non-paying utility customers.

The emergency customer protections that would be extended by Draft Res. M-4849 another 75 days (from April 16, 2021 through June 30, 2021) were ordered through Res. M-4842 on April 16, 2020. What has the Commission learned since April 16, 2020 that would lead to the conclusion that another 75 days of emergency customer protections are what is needed or even wanted by utility customers at this time? Nothing in Draft Res. M-4849 answers this question.

Great Oaks encourages the Commission to take the time to learn what utility customers want or need at this time rather than to simply assume the Commission has all the answers, as it does in Draft Res. M-4849. If the Commission already has this information, it should be provided in detail in Draft Res. M-4849. But, as it is now written, the total lack of information about what utility customers want or need at this important time is a glaring omission from Draft Res. M-4849 and should be corrected before the Commission decides to extend emergency customer protections.

2. Draft Res. M-4849 fails to address what happens when Executive Order N-42-20 is terminated.

As noted in Draft Res. M-4849, the emergency customers protections identified in Res. M-4842 for water customers does not include a moratorium on disconnections for nonpayment.⁴ Instead, Res. M-4842 ordered Commission-regulated water utilities to “work cooperatively with affected customers to resolve unpaid bills and minimize disconnections for non-payment.”⁵

² Draft Res. M-4849, at pp. 4 and 20 (Draft Finding Number 13).

³ *Id.*, at pp. 4 and 20 (Draft Finding Number 12).

⁴ *Id.*, at p. 7.

⁵ *Id.*

The moratorium on water service disconnections for nonpayment was ordered by the Governor in Executive Order N-42-20, issued April 2, 2020.⁶ Unfortunately, however, there is no indication whatsoever in Draft Res. M-4849 that the Commission has consulted with the Governor’s office to learn whether or when the water service disconnection moratorium in Executive Order N-42-20 will be lifted. Coordination between the Commission, the Governor’s office, and the State Water Resources Control Board (State Water Board) on critical pandemic issues, including when and how the water service disconnections moratorium will be lifted, is absolutely necessary to any discussion of unpaid water utility bills, but is unfortunately missing from Draft Res. M-4849.

Of note here is that Executive Order N-42-20 affirmatively states: “Nothing in this Order eliminates the obligation of water customers to pay for water service, prevents a water system from charging a customer for such service, or reduces the amount a customer may already owe to a water system.”⁷ Water utilities in California, including Great Oaks, have fully relied upon the Governor’s Executive Order in this regard and expect to be able to demand and receive full payment for the water service provided during the pandemic emergency.

Great Oaks encourages the Commission to work collaboratively with the Governor’s office and the State Water Board so that when the water service disconnection moratorium is lifted at the State level, the Commission and its regulated utilities will have as much notice as possible. Knowing when the water service disconnection moratorium will be lifted will inform water utilities about when water service disconnections may occur. Water utilities may then use that information in communications with and notices to customers about unpaid pandemic water bills. This information is critical to any form of transition planning.

In this regard, Draft Res. M-4849 directs Commission-regulated utilities to comply with “existing statutes, regulations, and ordinances and work in cooperation with all appropriate California, federal, and local government agencies.”⁸ Great Oaks simply encourages the Commission to also work in cooperation with state, federal, and local governments, including the Governor’s office and the State Water Board, rather than establish a new and separate set of rules and regulations only applicable to Commission-regulated utilities and which may conflict with other actions across the State.

3. The Water Shutoff Protection Act provides all of the customer protections needed at this time.

⁶ *Id.*, at p. 2, footnote 5.

⁷ Executive Order N-42-20, at p. 2.

⁸ Draft Res. M-4849, at p. 4.

The Water Shutoff Protection Act, which is also specifically mentioned in Executive Order N-42-20 provides all of the necessary protections for customers with unpaid pandemic water bills, including flexible payment plan options. Moreover, the Water Shutoff Protection Act covers almost all California water utilities, eliminating any need for the Commission to establish a separate set of customer protections only for Commission-regulated water utilities.

Water utilities, like Great Oaks, must comply with the provisions of the Water Shutoff Protection Act, the provisions of which were not suspended during the pandemic emergency. This means that when the water service disconnection moratorium of Executive Order N-42-20 is lifted, any and all notices to customers concerning the nonpayment of water bills, flexible payment plans, and service disconnections must comply with the provisions of the Water Shutoff Protection Act.

Because the Commission has already approved tariff sheets that comply with the provisions of the Water Shutoff Protection Act, water utilities like Great Oaks are well prepared for the end of the shutoff moratorium. The content and purpose of customer notices resulting from the nonpayment of bills is clear – payment or payment arrangements are required to avoid a service disconnection.⁹

Unfortunately, Draft Res. M-4849’s only reference to the Water Shutoff Protection Act (SB 998) contains an error. Draft Res. M-4849 states that SB 998 provides “a 79-day period after the payment is past due before a customer may be disconnected.”¹⁰ The Act actually provides a 60-day period after a bill is past due, not 79 days after it is past due.¹¹ The tariff sheets already approved by the Commission include the proper timeline for disconnections due to nonpayment.

Great Oaks encourages the Commission to withdraw and rewrite Draft Res. M-4849 to incorporate the provisions of the Water Shutoff Protection Act and already-approved Commission tariffs governing service disconnections for nonpayment into the procedures being established for post-pandemic actions and to correct the error noted immediately above. Doing this will result in the same set of rules applicable for nearly all California water utilities as we emerge from the pandemic emergency.¹²

4. Draft Res. M-4849’s transition planning and reporting should be further refined.

⁹ The Water Shutoff Protection Act and the tariffs approved by the Commission to comply with the Act also include special provisions for when customer health and safety are issues.

¹⁰ Draft Res. M-4849, at p. 14.

¹¹ See, Health and Safety Code section 116908(a)(1)(A).

¹² There has been discussion at the Legislative level to amend the Water Shutoff Protection Act to include even the smallest water utilities that were excluded from the Act’s original coverage.

Draft Res. M-4849 describes a process requiring two advice letter filings, followed by additional and possibly extensive reporting requirements. First, water utilities are required to file a Tier 1 Advice Letter indicating that existing emergency customer protections will continue through June 30, 2021. Then, water utilities must file a Tier 2 “Transition Plan Advice Letter”¹³ designed to ease customers through the transition away from the pandemic emergency customer protections.

As noted above, the real transition customers will be facing begins when the water shutoff moratorium in Executive Order N-42-20 ends. This means that the most important factor for transition is not controlled by the Commission but is instead controlled by the Governor’s office. This is why Great Oaks has encouraged the Commission to fully coordinate its activities and communications with the Governor’s office, other State agencies (especially the State Water Board), and the Legislature. Without that coordination, a successful transition away from emergency customer protections will be at risk.

It is also critical that the Commission coordinate its own pandemic emergency actions. For example, in R.17-06-024, water utilities are already providing monthly reports with data on unpaid water bills and enrollment information about Customer Assistance Programs (CAPs). Draft Res. M-4849 appears to add more reporting requirements, but it is unclear whether the new reporting requirements are consistent with current reporting requirements. Clarity is necessary for any new reporting requirements, especially if the Commission intends to use the information being reported.

Draft Res. M-4849 references arrearage management plans without recognizing that no such plans have been authorized or adopted by the Commission for its regulated water utilities. For example, the number of customers enrolled in arrearage management plans is one of the progress tracking and reporting requirements of Draft Res. M-4849.¹⁴ Since, at this time, only energy utilities have arrearage management plans, Draft Res. M-4849 should be clarified with respect to arrearage management plan reporting.

Draft Res. M-4849 also incorrectly assumes that water utilities such as Great Oaks has a budget for marketing, education, and outreach, even going so far as to say that “all resumed and new start activities are already funded through Commission Decisions from their respective proceedings.”¹⁵ For Great Oaks, this is not accurate. Great Oaks does not have a budget for marketing, education, and outreach, and Draft Res. M-4849 should be modified so that its language is flexible enough to allow for the recovery of unbudgeted marketing, education, and outreach

¹³ Draft Res. M-4849, at p. 10.

¹⁴ *Id.*, at p. 15.

¹⁵ *Id.*, at p. 16.

expenses directly resulting from Draft Res. M-4849's new requirements. Great Oaks will include an estimate of costs associated with compliance with Draft Res. M-4849's requirements, but the assumption such costs are already budgeted is simply inaccurate.

5. If the Commission issues decisions on COVID-19 pandemic issues in currently ongoing Rulemaking proceedings, the procedures in Draft Res. M-4849 may require revisions.

Several ongoing Commission Rulemaking proceedings are addressing COVID-19 pandemic emergency issues right now. For example, the current phase of R.17-06-024 is addressing only pandemic emergency issues.

It is not known whether the Commission will be issuing decisions in those Rulemaking proceedings involving pandemic emergency issues, but any such decisions are rendered before June 30, 2021, such decisions will likely affect and may require changes to the substance of Draft Res. M-4849. Great Oaks respectfully requests that if any Commission decisions are issued that affect the requirements of Draft Res. M-4849 (and any final Resolution), then either those decisions must address any needed revisions to the Resolution, or the Resolution itself will need to be revised.

Conclusion

Great Oaks respectfully requests that Draft Res. M-4849 be withdrawn and modified consistent with these comments.

Should you have any questions, please contact me directly.

Respectfully submitted,



Timothy S. Guster
Vice President and General Counsel
Legal and Regulatory Affairs

cc: Service Lists for R.17-06-024,
R.18-03-011, and R.18-07-006