

August 23, 2017

Ms. Mary Yang
State Water Resources Control Board
1001 I Street
Sacramento, CA 95814

SUBJECT: State Low-Income Rate Assistance Program

Dear Ms. Yang:

The East Bay Municipal Utility District (EBMUD) appreciates this opportunity to provide comments on the Low-Income Rate Assistance (LIRA) plan currently under development by the State Water Resources Control Board (SWRCB) as required by AB 401. EBMUD has previously provided comments on the program at the public meetings SWRCB has held, in addition to collaborating with the Association of California Water Agencies and California Urban Water Agencies. This letter addresses the full breadth of our questions, concerns and recommendations as SWRCB prepares its plan and report on a proposed LIRA program.

Background

EBMUD was one of the first water agencies in California to provide LIRA through its Customer Assistance Program (CAP), instituted in 1987. Over the years the program has evolved and offers a 50 percent discount off the standard bimonthly service charge and a 50 percent discount off the home water use in each eligible household or homeless shelter, up to a maximum of 1,050 gallons person per month. In addition, a 35 percent discount is provided to offset wastewater service and flow charges. Currently, almost 6,000 (8 percent) of EBMUD's eligible residential accounts and ten homeless shelters participate in the CAP, with many more customers having received assistance over the years. Program assistance is provided for two years and customers' self-enroll and terminate from the program daily due to changes in eligibility. Over the last five years, CAP funding has increased by over 240 percent, from \$900,000 to \$2.2 million in the current fiscal year. CAP discounts are funded by miscellaneous non-enterprise revenue sources such as property taxes, and are restricted under Proposition 218 which limits the use of utility funds. Since the CAP's inception, EBMUD has expended over \$41 million on this program and has been successful in assisting low-income customers with water affordability. CAP, in addition to payment plans and payment extensions, has been very effective in helping low-income customers manage service and their water/wastewater bills.

Recognizing that many eligible households are not enrolled in the CAP, EBMUD has redoubled its efforts this past year to increase participation, including: increased training for customer service staff; mailings and outreach of CAP information to all account holders with more than one shut-off due to non-payment; signage and a multi-lingual CAP brochure for display at local agencies; outreach to the City of Oakland to discuss its sewer charges and the potential for a

companion assistance program; promotion of the CAP on bus shelters and interior bus advertisements; and providing CAP applications at every shut-off visit.

As a result, EBMUD has a very small number of customers for whom water service is terminated for non-payment. Specifically, out of 328,000 single family residential accounts, EBMUD ceased water service to 9,064 due to non-payment during Fiscal Year 2016. Using all the assistance tools at its disposal, EBMUD was able to work with those customers and receive sufficient payment to restore service to all but 355 accounts or less than 0.1 percent of all residential accounts. It should be noted that despite EBMUD's best efforts and with such a large service area, factors other than ability to pay can result in account holders deciding not to restore service. Additionally, customers enrolled in the CAP comprise just two percent of service terminations, which confirms that the CAP assists low-income customers in maintaining service.

Notwithstanding these and other actions, barriers to increased enrollment in EBMUD's CAP remain. These include: EBMUD's access to and ability to verify and capture financial information for all of its customers; customer reluctance to provide financial information for confirming eligibility; privacy concerns, including residence status; the stigma of receiving financial assistance; intermittent eligibility as residents experience variable income; difficulty and/or unfamiliarity with filling out application forms; and lack of awareness about program information.

An additional tool EBMUD uses to assist those low-income residents that are not direct customers is the Multi-family Residential Lien Program. Low-income renters who reside in multi-family complexes do not have water accounts and are therefore not customers of record. To protect these residents from shut-off when the property owner or customer of record fails to pay the delinquent charges, EBMUD collects multi-family residential delinquent charges by monthly lien filings or annual transfers to the property tax rolls under its authority within the Municipal Utility District Act, Section 12811.1. EBMUD has used this authority as an effective alternative to terminating water service provided to renters.

EBMUD also coordinates with many non-profit and social service agencies that may provide additional emergency relief assistance. These agencies have the contacts and outreach capability to reach a larger network and provide a holistic approach to assisting those in need.

Proposed State LIRA Program

Despite a significant public outreach effort by the SWRCB, most of the elements of a state LIRA program are still conceptual and no detailed proposal has been submitted for public review. However, SWRCB staff consistently describes a program that would deliver benefits to approximately 34 percent of the state's households, based on income. The projected cost of a program varies dramatically depending on which program scenario is applied, but ranges from \$277 million to \$619 million per year. The program would rely on funding from a surcharge on retail water bills, directing revenue to the state to fund a statewide program. Retail agencies would be responsible for establishing and maintaining lists of eligible customers, and receive

LIRA funding back from the state to provide rate assistance. In addition, eligible customers would be exempt from paying the retail surcharge.

EBMUD recognizes the state's policy on the human right to water, regardless of income. As water rate increases continue to outpace the rate of inflation, affordability will continue to grow as an issue of social and economic justice. With this shared understanding, EBMUD would like to highlight the following issues for SWRCB's consideration in advancing a LIRA program proposal.

- Retail water agencies are not equipped to serve as social service providers, as they do not have access to financial and other information to broadly ascertain customer eligibility, and to administer regular updates of such information. In EBMUD's experience, self-certification and/or reliance upon other utilities' assistance programs to determine customer eligibility is not appropriate. Based on EBMUD's experience, a large percentage of customers applying for assistance had incomes exceeding the program threshold and/or there was not adequate evidence to substantiate the amount of income declared.
- The SWRCB estimates approximately \$600 million annually is needed to address low-income rate assistance, and has also proposed a public goods charge, or water tax, to fund the program. A water tax to address low-income rate assistance would likely result in a charge of no less than \$13 per month, per bill on EBMUD's retail water accounts. This rough estimate does not take into account that the SWRCB estimates approximately 34 percent of retail water ratepayers would be eligible for assistance, and therefore, would not pay the tax thereby shifting even more costs to other ratepayers. For EBMUD customers, the combined charge, as estimated, would equate to a rate increase on the average of 27 percent, and as high as 39 percent on lower water users. Such increases would severely affect the ability to pay water bills for many customers', particularly those just above the low-income threshold, and adversely impact a water agency's ability to make necessary investments in critical infrastructure which, in many parts of the state, is in urgent need of replacement and renovation. Many retail agencies paying into a statewide LIRA fund will see only a fraction of that revenue returned to their own low-income customers, as significant areas in the state cannot afford to finance their own assistance programs and therefore require subsidies from agencies such as EBMUD.
- Imposing a uniform income metric for LIRA eligibility fails to recognize that the cost of living varies widely across the state, leading to program inefficiencies and inequities.
- Barring constitutional protections, LIRA funds could be redirected to other purposes and programs by the legislature in times of budget shortfall.
- Exempting low-income ratepayers from the surcharge would shift LIRA program costs to all other ratepayers, creating an additional financial stress on customers whose income modestly exceeds the eligibility threshold. For some EBMUD ratepayers, the rate impacts from a LIRA could exceed 39 percent.
- State transaction and administrative costs would dilute the benefits of program funds. Similarly, retail water providers would shoulder new administrative responsibilities

outside their current expertise, requiring additional resources that in turn add a further burden on rates.

- Based on EBMUD's experience, a very small percentage of customers have difficulty, often repeatedly, prioritizing the water bill for payment and an assistance program that reduces the water bill is more effective at continuing water service than providing money that can be spent on other priorities.

While it has not been formally proposed, SWRCB staff indicated that a state LIRA program could include a prohibition on service shut-offs. Such an approach would create a disincentive for customers to pay their water bills, regardless of their ability to pay. This would place water agencies in financial hardship and therefore impact all rate payers. EBMUD and other retail water agencies work closely with low-income customers, and have proven approaches such as rate assistance and payment plans that can meet customers' needs without undermining the financial viability of their water providers. As described above, EBMUD's multi-family lien program has also been effective for assisting renters with maintaining water service.

In general, EBMUD is concerned that taxing a product that is considered a human right is not sustainable in the long term. Adding a water surcharge will lead to a growing financial burden that falls on a progressively diminishing subset of ratepayers. This proposal fails to consider the critical element of public acceptance, which can only erode as the financial burden increases with time. Most importantly, the state should recognize that water affordability is one aspect of a much broader problem of economic inequity that calls for comprehensive state action, rather than piecemeal remedies.

Recommendations

The state is under no obligation to institute a program that reaches every low-income household in the first years of implementation. A new program is likely to encounter unforeseen problems in its initial phases, which will only be compounded if it is scaled to meet the entire statewide need upfront. In this light, EBMUD recommends the following:

- Allow existing customer assistance programs to continue, potentially with additional requirements to comply with AB 401.
- Initiate a state LIRA program that focuses on the lowest-income customers in areas not served by an existing CAP. This initial phase would have much more modest costs that should be funded solely by the General Fund.
- SWRCB should actively engage with retail agencies that have experience with such programs, and learn more about implementation challenges and obstacles before seeking to expand the LIRA program.
- The LIRA program should remain focused on the requirements of AB 401 and refrain from incorporating other issues such as water agency rate structures, universal access to water programs, and policies regarding water shut-offs and reconnections.

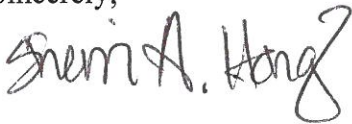
- Investigate other potential funding sources, including a tax on single-use bottled water. Additional resources such as Community Services Block Grants may be a valuable funding supplement and leverage the expertise of non-profit social service agencies to include water affordability as a benefit.
- Establish a stakeholder advisory committee to provide advice and help guide the development of the LIRA program.

Further, it is essential that a new LIRA program be subject to legislative oversight to ensure that:

- Administrative costs are minimized and funds are efficiently used to maximize program benefits;
- Delivery of benefits is expended for water affordability and streamlined to maximize reliance on existing state mechanisms and processes;
- The administrative process does not impose a burden on agencies that do not have the resources or control to certify beneficiaries;
- The list of beneficiaries is regularly updated to ensure that assistance is given to eligible parties;
- Overall program costs are contained so as to reduce the demand on funding sources; and
- The program is evaluated on an annual basis to ensure that it is meeting intended objectives and benefits.

Finally, EBMUD strongly urges the SWRCB to submit a draft of the LIRA plan for public review and comment well in advance of the statutory deadline. We are encouraged by SWRCB's continuing efforts to engage stakeholders; however, the process for developing a specific proposal has not been transparent. We remain concerned that a deliberate consideration of the potential impacts is lacking, and that a rush to implementation could impede the long-term success of this important program. If you have any questions, please contact me at 510-287-1190 or by email at sherri.hong@ebmud.com.

Sincerely,



Sherri A. Hong
Manager of Customer and Community Services

SAH:DW:dlb

cc: Board of Directors
Alexander R. Coate, General Manager