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February 01, 2019

Comments submitted via: [commentletters@waterboards.ca.gov](mailto:commentletters@waterboards.ca.gov)

Ms. Jeanine Townsend, Clerk of the Board  
State Water Resources Control Board, Division of Financial Services  
P.O. Box 100  
Sacramento, CA 95812-2000

**Subject: Comment Letter - Options for Implementation of a Statewide Low-Income Water Rate Assistance Program**

Dear Ms. Townsend:

Thank you for the opportunity to provide comments to the State Water Resources Control Board (SWRCB) on *Options for Implementation of a Statewide Low-Income Water Rate Assistance Program* draft report and appendices. The Otay Water District's (District) comments include general comments and a specific focus on *Appendix L: Options for Improving Affordability That Do Not Include Direct Rate Assistance*.

Overall, the report presents the pros and cons of the various options available to generate the revenues and distribute the benefits for a Low-Income Water Rate Assistance Program.

The report demonstrates what seems to be a simple proposal however, is convoluted and charged with logistical challenges. The District agrees with the consensus that community water systems (CWS) are not the optimal way to generate revenues or distribute benefits. In many cases, small to medium-size CWS, serving a large portion of California's population, would potentially be faced with a disproportionate expense.

**Appendix L**

***Appendix L: Options for Improving Affordability That Do Not Include Direct Rate Assistance***

In the introduction of the draft report it is stated that AB 401 (Dodd, 2015), which directed the SWRCB to prepare recommendations for a statewide Low-Income Water Rate Assistance Program, is in response to the 2012 Human Right to Water Act. Consistent with the Human Right to Water Act, the District is committed to providing safe, clean, affordable, and accessible water adequate for human consumption, cooking, and sanitary purposes to all of its customers. The Human Right to Water Act also clearly states in Water Code Section 106.3(e) that: "Implementation of this section shall not infringe on the rights or responsibilities of any public water system." The proposals regarding implementation of mandatory water-rate design standards, contained in Appendix L, are not consistent with this requirement.

In Appendix L (page 56) it states that: " ... one of the Board's proposals is for the Legislature to evaluate (or direct the Board to evaluate) options for additional state oversight and direction on how public water systems set rates." Establishing mandatory standards regarding drinking water system rate design that would be imposed on public water systems, demonstrates a clear infringement upon the rights and responsibilities of locally elected governments. As mentioned above this is not consistent with state law. (Human Right to Water Act (Water Code Section 106.3(e))). The District recommends that the proposal be deleted from the draft report and Appendix L.

As stated in Appendix L (page 53): "... a means of potential statewide affordability assistance could be extending guidance to water systems to use very progressive rate structures." As defined in the appendix, a progressive rate structure places greater emphasis on recovering revenue through the variable component of the bill, instead of the fixed component, and charge lower variable rates for lower levels of consumption (increasing block rates). On page 54 in Appendix L, it correctly states that ensuring affordability through sufficiently progressive rates would likely be widely opposed by many California water systems operations. This opposition is because existing rate structures and cost of services practices mold to the needs of each individual agency - which vary widely throughout the state - so a single "one-size-fits-all" approach cannot be applied.

It is assumed here that these new fees and charges will have to meet the test of Proposition 218. The 218-notification process will make it readily apparent to local rate payers that they are having their rates structures changed and their costs increased for the sole purpose of subsidizing other water rate payers in their community.

In most cases, all retail water fees and charges are implemented locally by elected Board of Directors or City Councils, not isolated State Boards and Commissions. There is a legitimate risk that this could result in political backlash at the local level, with regional and local water agencies potentially losing the political support of their communities, even if such changes are mandated by new federal or state law.

The adoption of mandatory rate design standards imposes a "cookie cutter" approach that would remove public water systems' ability to adopt rate structures that fit the unique characteristics of their service area and maintain the financial solvency of their utility. Water agencies arrive at rate structures based on their current service area characteristics, as well as operational and financial circumstances, all while complying with the cost-nexus requirements of Proposition 218.

CWS do not have an option to fail in their missions to reliably and safely meet water and fire protection needs of our respective service areas. Sustained efforts to efficiently and effectively operate, maintain and upgrade our facilities are required to meet this fundamental mission. Revenue stability is also a key factor for CWS to secure favorable bond ratings and affordable financing to upgrade and replace aging infrastructure.

Appendix L highlights examples of those differences in comparing communities that experience large transient, tourist populations versus those with a more stable customer base. The governing bodies of public water systems must maintain the right to establish a rate structure that ensures revenue stability for their utility so that they can continue providing safe, clean, affordable, and accessible water adequate for human consumption, cooking, and sanitary purposes to all of its customers, as outlined in the Human Right to Water Act.

Whether a progressive rate structure provides a subsidy without direct rate assistance or not, the concern for water agencies is whether the new rate structure will leave a retail water agency financially unstable and unable to reliably serve its customer base and meet its debt obligations. This is an especially vital concern considering new, more stringent regulations including the following:

- **Water Use Efficiency Mandates** will lower water demand and revenues;
- **Water Loss Standards** will force more aggressive infrastructure replacement efforts, and
- **Water Shut-off Regulations** will increase agency operating costs and impair cash flow.

Regulatory agencies and the legislature should be concerned about establishing rate standards on water agencies to convey a Low-Income Water Rate Assistance Program as there are no “standard” communities, water supply, water service area, water system operational and financial conditions or circumstances.

While it might be more politically attractive and operationally practical from the state’s perspective to achieve a Low-Income Water Rate Assistance Program, through rate structure design, such an approach could have serious financial and political ramifications on the state’s 3,000 CWS, and 400 CWS serving over 80 percent of the state’s population. Further, a financial and operational failure of the agencies, could derail all the state’s goals for improved water quality, water-use efficiency, accessibility, and affordability for all Californians.

Finally, any regulatory or legislative effort to address a Low-Income Water Rate Assistance Program, through rate structure design standards should follow an extensive and collaborative process that includes a broad cross section of water agency operational and financial expertise to assess what can or cannot be realistically achieved through rate structure design, while preserving the long-term viability of regional and retail water agencies.

Again, thank you for the opportunity to comment on this very important topic. Please do not hesitate to contact me at (619) 670-2210 or [mwatton@otaywater.gov](mailto:mwatton@otaywater.gov), if you have any questions regarding the District’s comments.

Sincerely,



Mark Watton, General Manager  
Otay Water District

cc: Dave P. Eggerton, General Manager, ACWA  
Maureen Stapleton, General Manager, San Diego County Water Authority  
Kelly Gage, Director of Water Resources, San Diego County Water Authority