

Date of Hearing: June 22, 2022

ASSEMBLY COMMITTEE ON UTILITIES AND ENERGY

Eduardo Garcia, Chair

SB 1469 (Bradford) – As Amended June 6, 2022

SENATE VOTE: 36-0

SUBJECT: Water corporations: rates

SUMMARY: Authorizes the California Public Utilities Commission (CPUC) to approve the use of a mechanism that separates water corporations' revenues and water sales, commonly referred to as a "decoupling mechanism." Specifically, **this bill:**

- 1) Requires the CPUC to consider, and permits them to authorize, the implementation of a mechanism that separates a water corporation's revenues and its water sales.
- 2) Requires that an authorized mechanism be designed to ensure that the differences between actual and authorized water sales do not result in the over- or under-recovery of the water corporation's authorized water sales revenue.
- 3) Prohibits an authorized decoupling mechanism from enabling the water corporation to earn a revenue windfall by encouraging higher sales.
- 4) Makes legislative findings and declarations related to the impact of drought on water suppliers and fixed costs associated with water infrastructure.

EXISTING LAW:

- 1) Establishes and vests the CPUC with regulatory authority over water corporations. (Article XII of the California Constitution)
- 2) Requires all charges demanded or received by any public utility for any product or commodity furnished or any service rendered shall be just and reasonable. (Public Utilities Code § 451)
- 3) Requires the CPUC in establishing rates for water service to consider separate charges for costs associated with customer service, facilities, variable operating costs, or other components of the water service provided to water users. Requires the CPUC to consider, and permits the CPUC to authorize, a water corporation to establish programs, including rate designs, for achieving conservation of water and recovering the cost of these programs through the rates. (Public Utilities Code § 727.5)

FISCAL EFFECT: According to the Senate Committee on Appropriations, this bill would result in negligible costs to the state. As a result, it was sent directly to the Senate Floor without a hearing pursuant to Senate Rule 28.8.

BACKGROUND:

CPUC-regulated water utilities – The CPUC has jurisdiction over water companies, or investor-owned water utilities (IOUs), that provide water service to about 16% of California’s residents. Approximately 95% of those residents—or nearly 1.2 million customers—are served by nine large water IOUs, known as Class A water utilities.¹ As with other IOUs, the CPUC regulates the rates of water utilities under its jurisdiction to ensure they are just and reasonable. Class A water utilities file a formal General Rate Case (GRC) application for the CPUC every three years that includes information to justify any proposed rate changes. Class A water utility rates have two main components: a service meter charge and a use charge. The service charge is a monthly (or bi-monthly) charge applied to all customers regardless of how much water is used; also known as a “fixed” charge. The service charge allows water utilities to cover up to 50% of their total fixed costs to operate and maintain water systems. The use charge is a charge for actual water used during the bill period. The use charge is calculated by multiplying the individual customer’s usage by the quantity rate. Quantity rates are tiered to allow for different prices per unit of water depending on the amount used and to account for a lower tier for the basic amount of water needed. This tiered structure was created to help encourage conservation by pricing higher volumes of water use at a higher rate.

Water Revenue Adjustment Mechanism (WRAM) – WRAMs are ratemaking mechanisms developed by the CPUC to incentivize Class A water IOUs to conserve water. WRAM balances are not included in service or use charges. Instead, WRAMs are recovered through a separate surcharge on customer utility bills. The CPUC has instituted two types of WRAMs: full WRAM and Monterey-style WRAM. Full WRAM is a full sales and revenue decoupling mechanism. When actual sales to customers are less than the GRC sales forecast by the utility, the utility is permitted to recover the difference between actual and forecast through the surcharge. When sales are more than those adopted in the GRC sales forecasts, over-collected revenues may result in a refund to customers. Monterey WRAM calculates sales differences in actual sales revenue between an adopted tiered rate design and a revenue-neutral uniform rate. The Monterey-WRAM was adopted to protect the utility from reduced revenues collected under tiered rates as compared to the uniform rate design.

CPUC full WRAM pilot program – Full WRAMs were first implemented in 2008 and were developed as part of a pilot program to promote water conservation. Specifically, the settlement

¹ Class A water utilities serve more than 10,000 service connections. On a per-utility basis, the majority of the CPUC-regulated water utilities (92) have service connections of 2,000 customers or less, and 87 of those have service connections of 500 or less.

decisions between various Class A water utilities and the Public Advocates Office led to the adoption of the full WRAM mechanisms for California Water Service Company, California-American Water Company, Golden State Water Company, Liberty Utilities (Park Water) Corp., and Liberty Utilities (Apple Valley Ranchos Water) Corp. In contrast, San Jose Water Company and California American's Monterey district have Monterey-style WRAMS.

In 2020, the CPUC adopted a decision that, among other provisions, eliminated the use of full WRAMs for each of the Class A water utilities and authorized the utilities to petition for a Monterey-style WRAM mechanism.² The CPUC's decision noted that the 10-year pilot program of full WRAMs did not provide the anticipated benefits, especially in light of the issues it created. Specifically, the CPUC decision noted the full WRAMs did not result in more conservation of water than those without decoupling. The decision also noted various issues with customer billing under the full WRAMs, and acknowledged under the full WRAM it is difficult to parse out water usage declines due to the sole effects of conservation programs versus other factors such as weather, drought, economic effects, or inaccurate sales forecasts. In other words, the full WRAM have the potential to create a perverse incentive to encourage water corporations to inflate their sales forecasts, as they are guaranteed any revenue—via the WRAM surcharge—arising from the difference between actual versus forecast water sales. The CPUC stated the Monterey-style WRAMs provides for recovery of revenue and encourages water conservation, but the elimination of the full WRAMs would better induce the water utilities to provide more accurate sales forecasts. In a dissent to the 2020 decision, then-CPUC Commissioner Liane Randolph stated that neither full WRAM nor Monterey-style WRAM were ideal; both lead to perverse incentives to increase sales forecasting, but that the elimination of the full WRAM would lead water corporations to request large increases in their rates to cover for the loss in the WRAM surcharge. Rather, she noted the desire to address the issue of inaccurate sales forecasting directly, instead of eliminating the full WRAM.³

Water IOUs petition California Supreme Court. After the CPUC decision to eliminate full WRAMs, several of the water utilities petitioned the CPUC for rehearing. Prior to a rehearing decision, Golden State Water filed a petition with the Supreme Court of California for writ of review. The Court granted the CPUC's request to hold the court case in abeyance until a decision on rehearing was issued. In September 2021, the CPUC issued a decision denying rehearing. Subsequently, Golden State Water filed an amended petition with the California Supreme Court and a separate petition was filed by several of the water utilities. The Court has since combined the petitions, but has not issued a decision on the matter, as the cases remain pending.

² D. 20-08-047 in R. 17-06-024.

³ D. 20-08-047, *Dissent of Commissioner Randolph*; R.17-06-024.

COMMENTS:

- 1) *Author's Statement.* According to the author, "SB 1469 is seeking to establish for water corporations a long-held practice of ratemaking that has been used to encourage conservation. Decoupling has been in place for energy utilities since the 1980s and the Legislature made the program permanent in 2001 as part of the policies and practices established after the 2000 energy crisis. Decoupling was identified as a best practice for water utilities since 2005 as part of the CPUC's Water Action Plan and reaffirmed in its 2010 update. When utilizing rate decoupling, water conservation efforts resulted in real reductions in operating costs, resulting in *lower monthly bills for customers*. In fact, from 2008 – 2018, decoupled suppliers and their customers reduced water use by *13% more than* non-decoupled suppliers. Utility rate decoupling works - LADWP, the largest municipal utility in the United States, serving four million residents and businesses implemented decoupling for its water utility in 2016 (Ordinance 184130). SB 1469 reinstates rate decoupling to ensure that both cost savings and conservation benefits continue to be available for customers throughout California."
- 2) *Conflicting Views.* This bill permits the CPUC to authorize a full decoupling of water utility sales and revenue forecasts, thereby instituting the full WRAM. However, the bill does not require the CPUC to do so. The proponents of this bill argue that decoupling of sales and revenue supports conservation efforts, especially critical as the state continues to experience drought. Many of the water utilities supporting this bill disagree with the CPUC decision to eliminate the full WRAM. They argue that decoupling provides stability despite changes in water use and ensures that water suppliers only receive the funds they need to safely operate and upgrade the water system.

Those opposed to this bill argue that the decision to decouple water utility rates is best left to the CPUC, who already determined that full WRAMs should be discontinued. They note that the issues in determining just and reasonable rates for customers are complex and involve multiple variables, particularly as it relates to encouraging conservation. They express concerns that the surcharges imposed by full WRAMs lack transparency, create customer complaints, and can saddle customers with costs for extended periods. Moreover, they note that conservation can occur under Monterey-style WRAMs, which are still permitted by the CPUC; but that Monterey-style WRAMs result in lower costs to customers.

- 3) *Prior Legislation.*

SB 29 (Kehoe, Chapter 8, Statutes of 2001) among many provisions of the bill, decoupled electricity sales with revenue recovery for electrical corporations.

AB 2815 (Moore, Chapter 549, Statutes of 1992) authorized the CPUC, in establishing rates for water service, to establish separate charges for costs associated with customer service, facilities, and fixed and variable operating costs, as specified.

REGISTERED SUPPORT / OPPOSITION:**Support**

Acterra: Action for A Healthy Planet
Alliance for Water Efficiency
Alliance to Save Energy
American Council for An Energy-efficient Economy
Bay Area Council
Bay Area Water Supply & Conservation Agency
California American Water
California Community Economic Development Association (CCEDA)
California Hispanic Chamber of Commerce
California Water Efficiency Partnership
California Water Service
California Water Utility Council, AFL-CIO
California-nevada Section, American Water Works Association
Carson Chamber of Commerce
Central Valley Business Federation
City of Salinas
City of San Mateo
Commerce Industrial Council Chamber of Commerce
Cupertino Chamber of Commerce
East Los Angeles Chamber of Commerce
El Concilio
Friends of The River
Golden State Water Company
Greater Bakersfield Chamber of Commerce
Greater Stockton Chamber of Commerce
Hawthorne Chamber of Commerce
Hermosa Beach Chamber of Commerce
Icon CDC
International Federation of Professional & Technical Engineers, AFL-CIO & CLC - Local 26
International Union of Operating Engineers Local 3
Liberty Utilities
Livermore Valley Chamber of Commerce
Lomita Chamber of Commerce
Los Angeles Area Chamber of Commerce
Menlo Park Chamber of Commerce
Montebello Chamber of Commerce
Natural Resources Defense Council (NRDC)
Palos Verdes Peninsula Chamber of Commerce
Redondo Beach Chamber of Commerce & Visitors Bureau
Regional Water Authority
Salinas Council Member Steve Mcshane
San Joaquin Hispanic Chamber of Commerce
San Jose Chamber of Commerce
San Jose Water Company
San Mateo Area Chamber of Commerce

Santa Clara Valley Water District
Silicon Valley Leadership Group
South Bay Association of Chambers of Commerce
Sustainable Silicon Valley
Torrance Area Chamber of Commerce
Tuolumne River Trust
Utility Workers Union of America, AFL-CIO Local 160
Utility Workers Union of America, AFL-CIO Local 160-c
Utility Workers Union of America, AFL-CIO Local 160-d
Utility Workers Union of America, AFL-CIO Local 205
Utility Workers Union of America, AFL-CIO Local 283
Utility Workers Union of America, AFL-CIO Local 484
Visalia Chamber of Commerce
West Basin Water Association

Opposition

Public Water Now

Oppose Unless Amended

Public Advocates Office

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