

**BEFORE THE PUBLIC UTILITIES COMMISSION OF
THE STATE OF CALIFORNIA**

**Order Instituting Rulemaking on the Commission’s
Own Motion into Addressing The Commission’s
Water Action Plan Objective of Setting Rates that
Balance Investment, Conservation, and
Affordability For the Multi-District Water Utilities
of: California-American Water Company (U210W),
California Water Service Company (U60W), Del
Oro Water Company, Inc. (U61W), Golden State
Water Company (U133W), and San Gabriel
Valley Water Company (U337W).**

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) **R.11-11-008**
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) **(Filed November 10, 2011)**
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**THE NATIONAL CONSUMER LAW CENTER’S COMMENTS
ON THE ALTERNATE PROPOSED DECISION**

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September 2, 2014

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I. INTRODUCTION

Pursuant to Rule 14.3,¹ the National Consumer Law Center (NCLC) submits the following comments on the Alternate Proposed Decision of Commissioner Michael R. Peevey (“APD”) to the Proposed Decision of Commissioner Catherine J.K. Sandoval (“PD”) in the instant rulemaking proceeding.² Although they are few in number, the substantive differences between the PD and the APD are significant.

First, the APD would eliminate the 1992 Consolidation Guidelines for Combining Water Utility Districts for Ratemaking and Public Utilities Commission Reporting Purposes (“Consolidation Guidelines” or “the guidelines”), by declaring them “no longer relevant” and a barrier to consolidation requests.³ The 1992 Guidelines set out four main criteria for consideration of district consolidation: (1) Proximity -- whether districts are within close proximity (i.e., within 10 miles); (2) Rate Comparability -- whether present and future rates of the districts are relatively close, differing no more than 25%; (3) Water Supply -- whether sources of supply are similar; and (4) Operation -- whether the districts should be operated in a similar manner.⁴ Additionally, while it was not specifically laid out as a fifth criterion, the

¹ 20 CA ADC §14.3.

² See Alternate Proposed Decision of Commissioner Michael R. Peevey (Aug. 11, 2014), Docket R. 11-11-008 (APD) and Proposed Decision of Commissioner Catherine J.K. Sandoval (May 27, 2014), Docket R.11-11-008 (PD).

³ See APD at 7-8 (stating Consolidation Guidelines are not relevant), 12 (Finding of Fact Nos. 4-5 (finding consolidation can be used to argue against consolidation request and should be eliminated)).

⁴ See Letter from Division of Ratepayer Advocates to All Class A Water Utilities (Aug. 20, 1992) (letter setting forth the Consolidation Guidelines), available at <http://ora.ca.gov/general.aspx?id=2220> (click on link to “1992 Guidelines”). See also D.05-09-004 at 7-8 (explaining the Consolidation Guidelines).

Commission noted that DRA and the Class A water companies had “agreed that no districts would be combined for the express purpose of having one district subsidize another.”⁵ In contrast to the APD’s elimination of the Consolidation Guidelines, the PD takes a more measured approach, and finds “no need to develop a prescriptive revision of the guidelines developed in 1992.”⁶ The approach taken by the PD is preferable. The APD’s conclusion to eliminate the Consolidation Guidelines is flawed, and is not supported by the record. The PD’s retention of the guidelines is more likely to result in non-discriminatory outcomes for both utilities and consumers.

Secondly, the PD appears to consider that the problems of high cost of water and affordability should be considered for mitigation regardless of whether they are present in combination or exist independently.⁷ On the other hand, the APD focuses the Commission’s inquiry into the balancing of investment, conservation, and affordability in a given district where a high cost problem and affordability problem co-exist.⁸ The Commission should adopt the focus of the PD, and not the APD, because the problem of customer bill affordability,

⁵ D.05-09-004 at 7-8.

⁶ PD at 12 (Finding of Fact No. 4). *See also* PD at 7-8.

⁷ The existence of a high cost of water issue is defined by whether Revenue Requirement/Customer is greater than 150% of the utility average. The existence of an affordability issue is defined by whether the cost of essential indoor use of water is greater than 2.5% of median household income. *See* APD Attachment A (Staff Report at 23).

⁸ *Compare* APD at 2, 13 (Ordering Paragraph 1 requires identification only of a circumstance where a high cost problem and affordability problem co-exist) *with* PD at 2 (directing utilities to review districts for “high-cost and/or affordability problems and to report on the review”), 13 (Ordering Paragraph 1 requires identification whether a high cost or affordability problem exist together or independently in a district; Ordering Paragraph No. 2 requires a solution be proposed if either a high-cost or affordability problem exists).

particularly for low-income customers, can exist independently of whether there is a high cost problem. The PD would address such situations, whereas the APD would not.

NCLC recommends that the Commission adopt the conclusions and findings of the PD, along with the additional recommendations made by NCLC here and in Reply Comments on the PD.⁹

II. COMMENTS

A. The APD Errs in Concluding that the Consolidation Guidelines are Irrelevant, Despite Commission Decisions that Find the Guidelines Useful.

The APD incorrectly finds that the 1992 Consolidation Guidelines are “no longer relevant.”¹⁰ The APD would “eliminate the guidelines in their entirety and signal that the Commission is open to consolidation requests that balance investment, conservation and affordability.”¹¹

The 1992 Consolidation Guidelines are clearly not dispositive.¹² However, the fact that the guidelines inform, rather than mandate, a particular outcome in a Commission decision

⁹ See *generally* Reply Comments of the National Consumer Law Center on Proposed Decision of Commissioner Sandoval Providing Further Guidance Following Release of Staff Report (June 23, 2014) (NCLC Reply Comments on the PD). NCLC recommended that the PD be amended to explicitly require Golden State Water Company (GSWC) file its high cost/affordability review in 2014, as a supplement to its GRC application filing of July 15, 2014. The APD appears to have incorporated this recommendation, which NCLC submits should also be carried over to a final Commission decision adopting the PD. See NCLC Reply Comments on PD at 1-2.

¹⁰ APD at 8, 12 (Finding of Fact No. 4).

¹¹ APD at 9.

¹² APD at Attachment A (Staff Report at 18). The Staff Report summarized the parties' discussion as a general agreement among the parties that the Consolidation Guidelines are not dispositive. In D.05-09-004, Finding of Fact No. 3 states that while the Consolidation Guidelines are not dispositive, they are useful in evaluating a consolidation request. D.05-

should not be taken to mean that the guidelines are irrelevant and should be eliminated. In recent cases, parties have relied upon the guidelines and the Commission has recognized their value.¹³ As the Commission has stated that the guidelines are “reasonable and useful and should be viewed in conjunction with the Water Action Plan,” the same guidelines should not suddenly be considered irrelevant to this proceeding.¹⁴

It is error to call the Consolidation Guidelines, “irrelevant” when the Commission has declared that the guidelines comprise one basis for a *prima facie* case for consolidation.¹⁵ The elements of a *prima facie* showing of the reasonableness of a proposed consolidation cannot be irrelevant to the question of whether the consolidation would be reasonable.

Having the Consolidation Guidelines in place as a “convenient ‘fall-back’ position” is a benefit, rather than the detriment that the APD views them to be.¹⁶ The “fall-back” benefit of the Consolidation Guidelines is that they enable the undertaking of an evaluation of a

09-004 at 34. The Commission also noted that meeting the Consolidation Guidelines is one means of making a *prima facie* showing of reasonableness for consolidation, and did not rule out other showings. *See* D.05-09-004 at 36 (Conclusion of Law No.1).

¹³ PD at 8 & n.7; Comments of the National Consumer Law Center and The Utility Reform Network (Mar. 1, 2012) (NCLC/TURN Opening Comments) at 15-16.

¹⁴ *See, e.g.*, D.08-05-017 at 33-34.

¹⁵ *See* D.05-09-004 at 36 (Conclusion of Law No.1 states that meeting Consolidation Guidelines can constitute a *prima facie* showing).

¹⁶ APD at 8-9; APD at Attachment A (Staff Report at 19) (the guidelines are a convenient “fall-back” position for the Commission and parties).

consolidation proposal where such evaluation may be stymied absent any guidelines. There is no need to eliminate the Consolidation Guidelines as an optional tool.¹⁷

The APD also would reject the Consolidation Guidelines by reasoning that they “can be used by parties to argue against consolidation requests, ironically in cases where consolidation makes the most sense, e.g., areas that have high water rates. Areas that have vulnerable water supplies, etc. [sic]”¹⁸ However, if the Consolidation Guidelines provide a framework for arguing not only the pros but also the cons of consolidation, this should be viewed positively. This should be the result of any fair standard of proof --- that its application will not dictate only one outcome.¹⁹

B. The APD’s Conclusion to Eliminate the Consolidation Guidelines is Unsupported by the Record.

The APD appears to be influenced by the bald statements from the utilities which proclaim that the 1992 Consolidation Guidelines are no longer applicable to today’s realities, and therefore should be eliminated.²⁰ However, those same parties have largely failed to make any showing on the record of exactly how industry advancements have caused the guidelines to no longer be relevant.

¹⁷ NCLC/TURN Opening Comments at 16-17; Reply Comments of the National Consumer Law Center and The Utility Reform Network (Mar. 22, 2012) (NCLC/TURN Reply Comments) at 2.

¹⁸ APD at 7-8, 12 (Finding of Fact No. 4).

¹⁹ The Staff Reports notes that “[t]he 1992 guidelines are used to evaluate consolidation requests, some of which are approved while others are denied.” APD at Attachment A (Staff Report at 19).

²⁰ The APD does not make a specific cite reference to what on the record supports its conclusion.

For example, California American Water Company (“California American”) states generally that technology and operational advancements since 1992 render the guidelines outdated,²¹ but California American fails to show how those advancements actually affect application of the guidelines. California American describes how it now uses SCADA to remotely operate its wells and pumps.²² The company, however, stops short of making any showing that a SCADA-operated water system cannot fit within the analytical framework of the Consolidation Guidelines. That is, the fact that SCADA allows California American to remotely monitor and operate wells and pumps may mean some water system operations are not dependent upon proximity, but does not render the proximity element of the Consolidation Guidelines irrelevant.²³ Even where SCADA is in use, proximity of two districts to each other can still be a factor in determining reasonableness of a consolidation request. For example, although SCADA remotely operates pumps and wells, it cannot perform all necessary maintenance and repairs. The more closely that maintenance personnel and equipment shared between two districts are located, the lower the costs of travel and time for that maintenance; whether operation and maintenance costs can be lowered remains relevant to evaluating the reasonableness of a consolidation proposal. Additionally, the existence of SCADA does not appear to affect the usefulness of any of the other prongs of a consolidation analysis under the

²¹ California American Water Company’s Comments on Draft Report (Aug 23, 2013) (California American Comments on DR) at 4-5.

²² California American Comments on DR at 4-5 & n.9.

²³ See D.05-09-004 at 8-9. In D.05-09-004, the Commission rejected California American’s arguments that “advances in communications and connectivity” rendered the proximity element no longer necessary in a consolidation proposal. *Id.* at 9. The Commission ruled that, “[w]hile not determinative, the proximity criterion is nonetheless relevant” due in part to environmental costs and local control issues. *Id.* at 10.

Consolidation Guidelines -- rate comparability, water supply, and operations. There appears to be no problem in subjecting a SCADA-operated water system to an evaluation under the guidelines of: the rates of the districts to be consolidated; the similarity of the two districts' source of supply (and therefore treatment and delivery costs); and whether the districts should be operated in the same manner. Similarly, California American's call for elimination of the guidelines, based on increased scarcity of water, conservation, and increased infrastructure is not supported.²⁴ In no way does California American explain how this laundry list of changes actually affects the feasibility of California American applying the Consolidation Guidelines. NCLC agrees with the Office of Ratepayer Advocates' criticism that "many things have changed since 1992, [but] what Cal-Am fails to establish with its comments is what aspects of the 1992 guidelines are no longer applicable to today's reality."²⁵

Golden State Water Company ("GSWC") has recommended the elimination of the guidelines which it views as a barrier to the Commission's goal of rates that balance investment, conservation, and affordability, but GSWC fails to give any valid example of how the guidelines actually pose a barrier.²⁶ GSWC states that the Consolidation Guidelines are contradictory with Commission policy as stated in the PD.²⁷ NCLC, however, has already demonstrated that

²⁴ See Comments of California-American Water Company on the Proposed Decision of Commissioner Sandoval (June 16, 2014) (California American Comments on PD) at 2-3.

²⁵ Reply Comments of the Office of Ratepayer Advocates on the Proposed Decision (June 23, 2014) at 3.

²⁶ See Reply Comments of Golden State Water Company on Proposed Decision (June 23, 2014) (GSWC Comments on PD) at 6.

²⁷ See Comments of Golden State Water Company on Proposed Decision (June 16, 2014) (GSWC Comments on PD) at 5-6.

GSWC incorrectly attributed a fifth element (regarding a prohibition against district subsidization) to the Consolidation Guidelines which explicitly enumerate only four elements (proximity, rate comparability, water supply, and similar operations).²⁸ GSWC also has incorrectly attributed *parties' preference* to avoid district subsidization to *Commission policy*.²⁹ There is no inconsistency in the Commission's policies if the Commission retains the Consolidation Guidelines as an optional reference.

The various calls for the Commission to eliminate the Consolidation Guidelines for being irrelevant have failed to draw a nexus between their proclamations of "changed times" and how such changes make the guidelines irrelevant.³⁰ Arguments that the Consolidation Guidelines are inconsistent with Commission policy are incorrect and must also fail. It would be error for the Commission to accept any of these arguments that are not supported by the record.

It would be more consistent with the record for the Commission to conclude that the guidelines may be "outdated, in part." Commission reliance on additional consolidation factors is justified, based on the record. Instead of eliminating the Consolidation Guidelines, the

²⁸ See NCLC Reply Comments on PD at 2-3.

²⁹ See *id.* Furthermore, the Commission has explicitly stated that the guidelines are useful, but that the Commission is not bound by them. See, e.g., D. 05-09-004 at 8-9.

³⁰ In fact, it appears that the only element of the Consolidation Guidelines which were possibly established as being outdated is the proximity factor. None of the other three elements have been criticized. The Staff Report seems to agree. See APD at Attachment A (Staff Report at 19). In summarizing the party positions, the Division of Water Audits points only to proximity as a factor of the Consolidation Guidelines that several parties agreed may be outdated. *Id.* DWA additionally notes that the rate comparability factor of the Consolidation Guidelines need not be strictly applied, but this statement seems intended more to favor greater flexibility than to be a criticism of the rate comparability element as being outdated. See *id.*

Commission could keep them intact as the PD does, or modify them as NCLC and The Utility Reform Network (collectively, “Joint Consumers”) have previously recommended.

For example, Joint Consumers have recommended that the Commission may want assign a weight to each factor of the Consolidation Guidelines, perhaps giving a lower weight to proximity.³¹ Joint Consumers have recommended that the proximity and operation criteria be updated, and that the criteria considered be broadened to include, for example, “(1) rate and revenue requirement impacts; (2) operational efficiencies (as opposed to the current Guideline stating that the current operations of the two districts are similar, this new criteria would weigh the efficiencies gained through consolidation, if any); (3) service impacts; (4) regulatory impacts; (5) possibility of public ownership; (6) customer preference and (7) the presence of other alternatives to achieve the desired balance.”³²

As demonstrated above, the APD’s conclusion that the record is persuasive in favor of eliminating the Consolidation Guidelines is in error. The guidelines’ focus on proximity, rate

³¹ NCLC/TURN Opening Comments at 16-17; Comments of the National Consumer Law Center and The Utility Reform Network on Draft Staff Report (Aug. 23, 2013) (NCLC/TURN Comments on DR) at 4, 19-23.

³² NCLC/TURN Opening Comments at 17-18. These are all considerations used by the Commission in the past. *See* D.05-09-004 at 13-29. Other economic and political considerations could include: (1) condition of the infrastructure; (2) whether each district in question (and its customers) can support the costs of necessary improvements; (3) whether the districts under consideration have fair rates and terms of service prior to consolidation as separate entities and whether the consolidated entity would also have fair rates and terms; (4) whether consolidation will enhance the possibility of securing state and federal grants for improvements; (5) what impact will new debt for improvements have on customers; (6) whether consolidation will result in reduction of expenses that counteract new debt; (7) do resources include technically capable staff who can operate a consolidated system; and (8) how will customers react and be impacted. NCLC/TURN Opening Comments at 19.

comparability, water supply and operations are still valid and critical considerations. While proximity may not be as important as before, it is still a factor. It is not necessary to eliminate the guidelines in order to signal Commission openness to new consolidation proposals. This objective can be achieved by alternate means, such the simple statement that the Commission is open to consolidation proposals and that there are additional factors beyond the elements of the current Consolidation Guidelines which can be considered to establish a *prima facie* case for consolidation.

C. Public Policy Weighs against the APD’s Over-reliance on Consolidation as a Tool for Achieving Affordability.

From a policy perspective, the APD’s conclusion to eliminate the Consolidation Guidelines could result in discriminatory treatment of both ratepayers and utilities and therefore is less sound than the PD’s conclusion to keep the guidelines intact as an optional tool. By eliminating the Consolidation Guidelines as a *prima facie* showing of reasonableness, without providing other specific guidance in their stead, the Commission may be faced with an unintended consequence of further muddying the waters of a consolidation analysis. While the APD invites consolidation proposals that “balance investment, conservation and affordability,”³³ this broad invitation is too vague and as such, is subject to uneven or unfair application. Is it considered “balanced” ratemaking when utility overinvestment (*i.e.*, goldplating) in a district occurs but customers do not voice affordability concerns because the costs are spread out across the customer base? At what point is the burden met for a showing of reasonableness for “investment,” “conservation” or “affordability”?³⁴

³³ APD at 9, 12 (Finding of Fact No. 5).

³⁴ For example, when the Commission decides to apply the Consolidation Guidelines, and the guidelines are not met so that a *prima facie* case is not established, the applicant bears

NCLC is not opposed to the concept of consolidation, but NCLC strongly disagrees with a Commission policy that invites consolidation proposals without a more specific standard to evaluate them against. In fact, until now, it has been Commission practice to set a high bar when evaluating consolidation proposal. Since 1992, applying the guidance of the Consolidation Guidelines has been part of those high standards.

While NCLC understands there is a temptation to fling open the doors to consolidation where the issue of affordability or high costs is pressing, NCLC cautions the Commission against taking an overly permissive position in favor of consolidation, while dismissing many years of past Commission practice.³⁵ NCLC counsels against over-reliance on consolidation as a solution because of the negative effects it can have on affordability to consumers. As noted in Joint Consumers' comments, "Joint Consumers disagree with the utilities' perspective that consolidation should be a model for high cost mitigation techniques. Their comments too often downplay or even ignore the negative impacts of consolidation."³⁶ For example, the City of Visalia has highlighted the issue of several small, costly consolidations in the Visalia District where one low-income community has borne another low-income community's water system

the burden of showing that the advantages of the consolidation outweigh the disadvantages. D.05-09-004 at 36.

³⁵ Along with the Commission's use of the guidelines since 1992, the Commission's review of the 2005 Water Action Plan resulted in the elimination of the explicit reference to "consolidation of districts or rates" as an option for balancing affordability, conservation, and investment. *See* NCLC/TURN Opening Comments at 16 & n.58. The Commission's decision to omit emphasis on consolidation as an option to balance investment, conservation and affordability should not be ignored. *Id.* *See also* PD at 8 & n.7.

³⁶ Reply Comments of the National Consumer Law Center and The Utility Reform Network on Draft Staff Report (Sept. 13, 2013) (NCLC/TURN Reply Comments on DR) at 16. *See also* NCLC/TURN Opening Comments at 16-19 (consolidation should not be taken lightly).

costs and also the issue of cost control.³⁷ Additionally, NCLC has noted concerns with consolidation's potential effect on low-income and other customers.³⁸

D. The APD Errs in Limiting an Affordability Review to Only Where Affordability and High Cost Problems Co-exist.

The APD sends the wrong message to consumers when it appears to require an affordability review only if both high cost and affordability problems are found in a district together. The APD would order, "If the review determines that high-cost **and** affordability problems exist in one or more districts, the GRC application or Tier 3 GRC ALs also must propose one or more solutions to mitigate those problems."³⁹ This is in contrast to the PD which would have the companies propose solutions if a high cost or affordability problem exists in one or more districts.⁴⁰ The PD would order, "If the review determines that high-cost **and/or** affordability problems exist in one or more districts, the general rate case application or Tier 3 Advice Letters also must propose one or more solutions to mitigate those problems, as further specified in Ordering Paragraph No. 3."⁴¹ The PD's approach more appropriately recognizes that affordability problems for consumers can exist absent high cost issues.

³⁷ City of Visalia Response to Draft Report (Aug 23, 2013) at 5, 7-8; NCLC/TURN Reply Comments on DR at 16.

³⁸ NCLC/TURN Reply Comments at 8 (low-income concern) & 9-12 (general concerns regarding consolidation including the incentive for excessive investment to ratepayer detriment).

³⁹ APD at 14 (Ordering Paragraph No. 2) (emphasis added). The "and" construction also is found in Ordering Paragraph No. 1, which states, "the respondent shall perform a district-based rate review to assess whether high-cost *and* affordability problems exist." APD at 13 (Ordering Paragraph No. 1) (emphasis added).

⁴⁰ See PD at 13 (Ordering Paragraphs Nos. 1 & 2 use "and/or" construction).

⁴¹ PD at 13 (Ordering Paragraph No. 2) (emphasis added).

As a policy matter, the Commission should signal that it intends not just to address high costs, but also directly address high water bills, and that it is very concerned about the inability of customers to pay their bills. Low-income customers are more likely to directly benefit from expansion of low-income programs under the Affordability Track Review, for example, than a high-cost solution such as consolidation under the High Cost Track review.⁴² The financial benefit of consolidation might only be experienced by a payment-troubled customer in the event that rates are particularly designed to flow a financial benefit through to the customer, whereas low income assistance programs can provide more direct assistance. The PD does a better job of maximizing the Commission's opportunities to directly address ratepayers' bill affordability problems. The Commission should adopt the "high cost **and/or** affordability" construction of the PD rather than the "high cost **and** affordability" construction of the APD.

III. CONCLUSION

NCLC respectfully requests that Commission adopt the PD, rather than the APD, together with the changes recommended above and in NCLC's Reply Comments on the PD. The record does not support eliminating the Consolidation Guidelines, which remain relevant to determining the reasonableness of a consolidation proposal. If the Commission does eventually eliminate the Consolidation Guidelines, it should not do so until other more specific guidance is in place. Such guidance need not be overly prescriptive, but more specific guidance is needed to provide focus and ensure that different consolidation proposals are held to the same, fair standard.

⁴² See APD at Attachment A (Staff Report at 23). The decision flow chart in the Staff Report shows that under the Affordability Track analysis, expanding or targeting low income assistance programs are actions that may be taken. Under the High Cost track, consolidation and rate design are possible mitigation measures.

Additionally, a review for solutions to affordability problems should not be made to depend upon the existence of high costs. Of the two proposed decisions, the Commission should adopt the PD. The PD offers the more comprehensive, reasonable approach that is supported by the record.

Respectfully Submitted,

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DATED: September 2, 2014

APPENDICES

(Additions are indicated by italics and underlining. Deletions are indicated by strike-outs.)

APPENDIX A

PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW

Findings of Fact

1. Supply and distribution costs for different water utilities and for different districts within multi-district water utilities can vary significantly, based on the different costs linked to local or imported water sources, water quality protection and contamination remediation, infrastructure needs, etc. This cost variability among water utilities contrasts markedly to the comparative uniformity across electric utilities, which operate with statewide “postage stamp” rates.
2. At this time, district-specific conditions within each multi-district water utility remain too variable for prescriptive guidelines on an intra-utility Rate Support Fund or other cross-subsidy mechanism.
3. The record does not compel a choice between authorizing cross-subsidy mechanisms within multi-district water utilities and authorizing further consolidation of districts.
4. At this time there is no need to develop a prescriptive revision of the guidelines developed in 1992 by the then-DRA and Class A water utilities, titled, “1992 Guidelines for Combining Water Utility Districts for Ratemaking and Public Utilities Commission Reporting Purposes.” However, other factors beyond the guidelines may be considered in assessing the reasonableness of a proposed consolidation, such as rate and revenue impacts, operational efficiencies gained from consolidation, service impacts, regulatory impacts, possibility of public ownership, customer preference, and the presence of other alternatives to achieve the desired balance.

~~The record continues to support consolidation and persuades us that the guidelines developed in 1992 by the then DRA and the Class A water utilities, titled, “1992 Guidelines for Combining Water Utility Districts for Ratemaking and Public Utilities Commission Reporting Purposes.” are no longer relevant and can be used by parties to argue against consolidation requests, ironically in cases where consolidation makes the most sense, e.g. areas that have high water rates. Areas that have vulnerable water supplies, etc.~~

5. *Each multi-district water utility should perform a district-based rate review, report on the review in the GRC application it tenders at the notice of intent state or in its district-specific Tier 3 ALs, and propose any rate balancing solution or solutions there.*

~~We eliminate the guidelines in their entirety and signal that the Commission is open to consolidation requests that balance investment, conservation and affordability.~~

6. Rate balancing solution(s) to mitigate high-cost and/or affordability problems may include any of those discussed in the body of this decision and identified in the Ordering Paragraphs, but need not be limited to them.

Conclusions of Law

1. Fundamental fairness and due process limit the scope of this rulemaking to intra-utility rate balancing mechanisms for the respondent multi-district water utilities.
2. Any unresolved requests or motions filed in this rulemaking should be denied.
3. This decision should be effective today to provide timely notice to respondent multi-district water utilities in advance of their next general rate case filings.

APPENDIX B
PROPOSED ORDERING PARAGRAPHS

IT IS ORDERED that:

1. Prior to the next General Rate Case (GRC) applications or Tier3 GRC Advice Letter filings required by each respondent (other than the Office of Ratepayer Advocates), the respondent shall perform a district-based rate review to assess whether high-cost and or affordability problems exist in any of its districts. One tool available for determining whether high-cost and affordability problems exist is the high-cost and affordability screening framework found at Appendix A of the Report on Balanced Rate Rulemaking (Rulemaking 11-11-008), dated January 30, 2013, by the Division of Water and Audits and appended to this decision as Attachment A.

2. Each respondent to this rulemaking (other than Golden State Water Company (GSWC) and the Office of Ratepayer Advocates) must report on the review required by Ordering Paragraph No. 1 in its next General Rate Case (GRC) application or in each district-specific Tier 3 GRC Advice Letter (AL) filing (as applicable). Because GSWC has been scheduled to file its GRC application on July 15, 2014, it shall report on that review within 90 days of the effective date of this decision. If the review by respondents, including GSWC, determines that high-cost and affordability problems exist in one or more districts, the GRC application or Tier 3 GRC ALs also must propose one or more solutions to mitigate those problems, as further specified in Ordering Paragraph No. 3.

3. The proposed solution(s) referenced in Ordering Paragraph No. 2 may include the following but need not be limited to them:

- a. a Rate Support Fund or similar cross-subsidy fund;
- b. reduction in high costs;
- c. consolidation in some form (i.e., rate consolidation, cost consolidation, rate base consolidation, operational consolidation)
- d. intra-utility grant/loan funding;
- e. rate design (affordability through the first rate tier); and
- f. budget plans

4. Any unresolved requests or motions filed in this rulemaking are denied.

This order is effective today.

Dated _____, at San Francisco,
California.

