

Decision 11-05-020 May 5, 2011

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking on the Commission's Own Motion to Determine Whether Sharing of Customer Information Between Regulated Water Utilities and Regulated Energy Utilities/Municipal Energy Providers Should be Required; and if so, to Develop the Rules and Procedures Governing Such Sharing.

Rulemaking 09-12-017
(Filed December 17, 2009)

**DECISION ADOPTING GUIDELINES FOR SHARING OF
LOW-INCOME CUSTOMER INFORMATION**

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DECISION ADOPTING GUIDELINES FOR SHARING OF LOW-INCOME CUSTOMER INFORMATION

1. Summary

This decision requires water and energy utilities with overlapping service territories to share low-income customer information to increase the participation rates in water low-income assistance programs. This decision also encourages water and municipal utilities to share low-income customer information and water and energy utilities to collaborate on outreach efforts to low-income customers. Mandatory customer information sharing is limited to Class A and B water utilities that offer low-income assistance programs. For the smaller water utilities, sharing should be assessed on a case-by-case basis. Automatic enrollment of eligible customers will occur as the result of maximizing the effectiveness of information sharing; however, an opt-out notification is required should the customer decline to be automatically enrolled in the water utility's low-income assistance program. Water utilities should automatically enroll customers only if the programs' income and eligibility requirements are comparable. The categorical eligibility procedures adopted for the energy utilities, which permit a customer to demonstrate eligibility with documentation of participation in a government means-tested program, are extended to the water utilities' low-income assistance programs. Data sharing guidelines are adopted that incorporate these directives and establish procedures for handling confidential customer data and unauthorized disclosure of such data.¹

¹ These guidelines are attached to this decision as Attachment 1.

Water utility expenditures to implement customer information sharing should be cost effective and rely on existing systems and processes when feasible. Water utilities are authorized to track reasonable and legitimate data sharing implementation and ongoing costs in memorandum accounts for a future determination on recovery if those costs are not already included in rates. Energy utilities may include data sharing costs in their 2012-2014 program and budget applications.

2. Background

This rulemaking was opened to determine whether sharing of qualifying low-income customer information between regulated water and energy utilities should be required and whether sharing of this information between regulated water and municipal energy utilities should be encouraged to increase enrollment in water and energy low-income assistance programs. The rulemaking requested comments on those issues and asked whether the rules adopted in this proceeding should be based on the existing data sharing program between regulated energy utilities and other energy utilities, including municipal utilities.² The schedule was suspended by Administrative Law Judge's (ALJ) electronic mail rulings, and a February 17, 2010 ruling set a workshop to address low-income information sharing programs. A workshop was held on March 3, 2010 to inform workshop participants about low-income data sharing programs among the regulated energy utilities, to discuss the applicability of these programs as potential models for data sharing among water and energy utilities, and to identify guidelines governing data sharing

² Proposed rules were attached as Appendix B.

among water and energy utilities. Pacific Gas and Electric Company (PG&E), Southern California Edison Company (SCE), and Southern California Gas Company (SoCalGas) representatives participated in a panel discussion on their low-income data sharing programs. A discussion on the applicability of these programs and proposed guidelines on data sharing among energy and water utilities followed the panel discussion.

The April 1, 2010 ruling and scoping memo requested comments on low-income customer information sharing among water and energy utilities, including the use of categorical eligibility, and proposed guidelines.³ Comments were submitted on April 23, 2010 by California Water Association⁴ (CWA); Division of Ratepayer Advocates (DRA); Joint Consumers (National Consumer Law Center, Disability Rights Advocates and The Utility Reform Network); two sets of Joint Utilities, one set is SCE and PG&E, and the other set is San Diego Gas & Electric Company (SDG&E) and SoCalGas; PacifiCorp d.b.a. Pacific Power (PacifiCorp); Park Water Company (Park); and Southwest Gas Corporation (Southwest).

A January 18, 2011 ALJ ruling requested comments on several issues and proposed outcomes, including consistent guidelines between low-income energy and water assistance programs, a data sharing plan, procedures for cost

³ Proposed guidelines were attached as Attachment A.

⁴ CWA members supporting those comments are Alisal Water Company (dba Alco Water Service), California American Water Company (California American), California Water Service Company (CalWater), Del Oro Water Company, East Pasadena Water Company, Golden State Water Company (GSWC), San Gabriel Valley Water Company, San Jose Water Company (San Jose), Suburban Water Systems, and Valencia Water Company.

recovery, and monitoring of the low-income data sharing program. On February 1, 2011, CWA, DRA, Joint Consumers, PG&E, SDG&E/SoCalGas and Southwest submitted responses to the ruling.

3. Issues before the Commission

This decision addresses three issues:

- Sharing customer information among regulated water and energy utilities (and encouraging sharing among regulated water and municipal energy utilities) to increase participation in water utilities' low-income ratepayer assistance programs;
- Adoption of proposed guidelines and additional policies on customer information sharing; and
- Adoption of the same categorical eligibility requirements for water utilities' low-income ratepayer assistance programs as have been adopted for energy utilities' Energy Savings Assistance Program (ESAP), formerly known as Low-Income Energy Efficiency, and California Alternate Rates for Energy (CARE) programs.

4. Discussion and Analysis

We find that sharing of low-income customer information is necessary to increase participation in low-income ratepayer assistance programs and adopt guidelines to ensure such sharing. We examine the parties' positions and reach conclusions on sharing of qualifying customer information, automatic enrollment and categorical eligibility, implementation, guidelines, outreach, consistent CARE and water low-income assistance program criteria, data sharing plan, monitoring the impact of sharing customer information, and cost recovery.

4.1. Sharing Customer Information

We first consider requiring the sharing of low income customer information among regulated water and energy utilities and encouraging the sharing of that information among water and municipal energy utilities. We

further determine the applicability of the sharing requirement to all regulated water utilities.

4.1.1. Sharing Among Regulated Water and Energy Utilities

The parties support the sharing of qualifying low-income customer information among regulated water and energy utilities with overlapping service territories, provided adequate measures and safeguards to protect confidential customer data are in place. Most parties supported a mandated sharing of low-income customer information, although PacifiCorp and Southwest prefer a voluntary approach.⁵ The parties agree that data sharing could be a very cost-effective way to increase participation in the low-income water assistance programs and enhance penetration rates.

As of November 2010, the energy utilities reported achieving a combined penetration rate above 93% for the CARE program.⁶ The penetration rate is the total number of participating households as a percentage of the estimated total number of program eligible households.⁷ As reported in D.08-11-031, these rates have been achieved through a variety of outreach efforts, including:

- Electronic applications available in several languages which are publicly accessible through the Internet;

⁵ Unlike other energy utilities, PacifiCorp does not currently participate in the customer information sharing with other energy utilities because its service territory does not overlap with the service territory of any other energy utilities.

⁶ Energy utilities' low-income assistance program monthly reports for December 2010.

⁷ Program eligible includes those households that are both "technically eligible" and "demographically eligible." "Technically eligible" means households meeting the metering criteria for the program (households having an individual meter or eligible sub-meter) and "demographically eligible" means that a household meets the programs' eligibility rules based on household size and income.

- Automated CARE data exchange between utilities; and
- Eligibility assistance provided by contracted community organizations that are provided a per application financial incentive to encourage and reward application assistance to community members that result in a successful CARE application.

As higher penetration rates have been achieved, the energy utilities have pursued a variety of innovative outreach efforts to capture those hardest to reach low-income customers. In addition to data sharing, efforts include door-to-door outreach by third-party vendors, contracting with community-based organizations, mass media advertising, bill inserts, and direct mailings.

However, it costs more to reach and enroll new CARE customers as the penetration levels increase. For example, a direct mailing campaign may cost \$21 per customer enrolled and a mass media campaign can cost as much as \$266 per customer enrolled but yet produce less than impressive results. Even with these challenges, in 2010 over 265,000 new participants were automatically enrolled in CARE, at a very low or no cost, as a result of data sharing.⁸ This number represents just under 20% of all new enrollments for 2010. Data sharing is not only cost-effective for SoCalGas, but is also responsible for about 40% of all its new enrollments since 2007 - the highest of all its outreach efforts. The energy utilities' experience with data sharing demonstrates that this type of outreach has been the most successful effort to increase participation rates in the low-income assistance programs at a low cost. Data sharing has proven to be a cost-

⁸ The energy utilities also share data with local agencies and municipalities and share internal databases with the other low-income programs they administer. In 2010, one utility reported a cost of \$.44 per new enrollment, and the remaining three utilities showed enrollments at no cost.

effective method of expanding participation in low-income programs, particularly when penetration rates are lower, as is the case for the water low-income programs.

CWA states that dramatic increases in penetration rates, comparable to those achieved by the energy utilities, are not realistic for the water utilities. The water utilities have different demographics, and most low-income assistance programs apply only to direct customers, those directly billed for water service by the water utility. The low-income water utility penetration rates noted in the Order Instituting Rulemaking (OIR) were part of a Division of Water and Audits' (DWA) "Assessment of Water Utility Low-Income Assistance Programs" (2007 assessment). Those numbers reflect a growth in penetration rates of less than one percent (15.2% in 2006, and 16.1% in 2007). Since the current economic crisis likely has prompted an increase in the number of eligible participants, these penetration rates should have increased significantly. A fairly recent authorization of these low-income programs by the Commission may be partially responsible for the low penetration rates. Even if penetration rates do not approach those of the energy utilities, it is necessary to ensure that the low-income population that is eligible for the programs receives the assistance offered. Measuring how the enrollment levels compare to the number of eligible customers is then also necessary to evaluate continuous progress of the assistance programs towards fulfilling their purpose of reaching the low-income population. CWA noted that those assessments could be a very broad approximation, which could be made more precise by accurate exclusions for master metered (MM) (and therefore ineligible) low-income water users. MM households are precluded from participating in most water low-income assistance programs because residents are not billed directly by the water utility

for service, so there is no direct customer connection between the resident and the utility.⁹ The 2007 assessment noted that even when the limitations and shortcomings are considered, this estimate is the best that could be performed internally.

An updated and more accurate calculation of water utilities' current penetration rates is necessary in order to establish a baseline and enable a future assessment of the effectiveness of an adopted data-sharing program and other efforts to increase penetration rates. By way of comparing current water utility records with CARE customer records, implementing a data sharing program between water and energy utilities may enable the Commission to track the low-income customers residing in MM facilities within each water utility's service area. The energy utilities are required to provide CARE assistance to eligible MM low-income customers provided that they are sub-metered,¹⁰ and exclude indirect households that are not submetered from their estimates of eligible customers. There are also instances where a household enrolled in CARE is individually metered for energy utility service, and thus a direct customer of that utility, but MM for water service and an indirect customer of the water utility. Tracking these energy low-income customers will enable the Commission and the water utilities to refine and calculate more accurate penetration rates and potentially set realistic and measurable goals for the water utilities.

⁹ Some water utilities include MM households as eligible customers. GSWC's eligible customers include residential sub-metered tenants in mobile homes or apartment complexes. San Jose's eligible customers include MM mobile homes.

¹⁰ Cal. Pub. Util. Code § 739.5(h).

DRA recommends the use of geographic information system (GIS) maps of different utilities' service territories to track participation. Most Class A water utilities have GIS capabilities and may overlay low income information data in the maps for further analysis. The Commission also has GIS capabilities. The water utilities should explore using this tool, along with the 2010 census data when available, to propose methods to estimate eligible low-income households. As this data becomes available, DWA should hold an informal workshop to discuss proposals and other estimation methods, such as those used by the energy utilities.¹¹ In the meantime, it is necessary to have a better picture of current penetration levels. As recommended by DRA, DWA estimated those penetration rates, using the methodology presented in the 2007 Assessment. DWA's estimates are attached to this decision as Attachment 2.

We find that regulated water and energy utilities should be required to share low-income customer information to increase the participation rates in water low-income assistance programs.

4.1.2. Sharing Among Regulated Water Utilities and Municipal Utilities

In addition to sharing information with other regulated utilities, the energy utilities have implemented data sharing programs with municipal utilities, including irrigation and water districts. These programs have been successful. PG&E currently shares qualified CARE customer data with Sacramento Municipal Utility District and Modesto Irrigation District. SCE

¹¹ The energy utilities retain a contractor to develop demographic eligibility estimates. Critical to these estimates is the use of Public Use Microdata Sample data from the Census' American Community Survey. Estimates of eligibility are updated annually and filed with the Commission on October 15 of every year.

shares data with the Imperial Irrigation District. In April, 2009, SoCalGas and the Los Angeles Department of Water and Power began exchanging customer data as part of a pilot program to automatically enroll customers into low-income rate discount programs.

The parties generally support sharing low-income customer information among regulated water utilities and municipal energy utilities. DRA supports sharing information with municipal energy utilities when income qualifications are the same. SCE and PG&E agree that this form of information sharing would enhance penetration. Joint Consumers note that Cal. Pub. Util. Code § 386(c) requires municipal electric utilities to collaborate with energy providers to streamline enrollment in low-income programs. Encouraging collaboration among water and municipal energy utilities would ensure that a low-income water customer with a municipal power provider is not unfairly disadvantaged by being excluded from an information-sharing program. CWA supports such sharing if it results in the enrollment of direct customers.

The energy industry's experience provides valuable insight into the potential success of this collaboration.¹² As the service areas of some regulated water utilities may only or partially overlap with those of municipal energy utilities, sharing would encourage greater participation in low-income programs and create the same opportunity to participate for customers of all water utilities.¹³ This collaboration among utilities with like programs would increase

¹² In addition to data sharing for low-income assistance programs, energy utilities collaborate with local water agencies and community organizations on water conservation efforts targeted at low-income customers.

¹³ However, some water utilities, like Park, have no customers in municipal utilities' service territories.

penetration rates. Even if eligibility requirements differ, those customer records serve as leads for potential participants to whom targeted outreach should be performed. As long as only eligible customers are enrolled and customers from programs with differing guidelines are not automatically enrolled, there are no apparent drawbacks to this form of collaboration.

We find that water and municipal energy utilities should be encouraged to share data. However, automatic enrollment for those customers must only take place if the municipal energy utilities' low-income programs have comparable income and eligibility requirements.

4.1.3. Applicability of Sharing to All Water Utilities

The parties generally supported consistent treatment for sharing of low-income customer data. However, most parties noted that, due to the different circumstances of smaller water companies, the Commission should continue to differentiate between small water utilities (Class C and D) and larger ones (Class A and B) for purposes of data sharing, similar to the different requirements for requiring low-income programs. CWA recommended that information sharing apply to all water utilities that offer low-income programs. CWA further recommended that the Commission not require small companies, with greater problems maintaining adequate cash flow, to provide low-income assistance. CWA also recommended adoption of a procedure to petition for exemption from information sharing, either during a specific period after the issuance of this decision or in the context of a future general rate case. Joint Consumers recommend that sharing apply to all water utilities offering a low-income discount. DRA stated sharing only should apply to Class A and B water utilities.

Class C and D water utilities are not required to institute low-income assistance programs. Since the demographics of the smaller water companies' service areas tend to be quite homogeneous, with either the majority of customers or no customers meeting low-income guidelines, these programs would become cost prohibitive or serve no purpose. The Commission is aware of only one Class C that has a low income program, SCE's Santa Catalina Water. Although there may be some other small utilities that could have a service area adequate to institute a low-income program, they would be the minority. The many variables that affect the feasibility of such programs for small water utilities have led to assessing their circumstances on a case-by-case basis. Therefore, it would be appropriate to continue that approach when it comes to considering data sharing for the smaller utilities. SCE's Santa Catalina Water is a good example of where data sharing may be feasible, since the water company shares customers with the parent company.

We find that mandatory customer information sharing should be limited to Class A and B water utilities that offer low-income assistance programs. Sharing should be assessed on a case-by-case basis for the smaller water utilities and encouraged for smaller water utilities with low-income assistance programs. We decline to adopt a procedure for Class A and B water utilities to apply for exemption from this requirement. Class B water utilities with low-income assistance programs in smaller districts (fewer than 2,000 service connections) could have a longer time to implement data sharing if data exchanges for those districts result from agreements with an energy utility sharing fewer than 2,000 of the water utility's total customers.

4.2. Automatic Enrollment and Categorical Eligibility

We consider whether to require automatic enrollment of eligible energy low-income customers in low-income water programs and protections governing automatic enrollment. We further consider whether the categorical eligibility requirements adopted for energy utilities, permitting enrollment in regulated utilities' programs based on enrollment in other programs, should be extended to water utilities.

4.2.1. Automatic Enrollment

The parties generally agree that the automatic enrollment of eligible customers can and should be performed. SCE and PG&E support automatic enrollment and sending an opt-out letter. Joint Consumers identified customer ease in understanding qualifications for low-income programs if the programs' criteria are the same. CWA agrees that automatic enrollment should occur if a "hard match" of the customer surname and address is made. If there is no "hard match," outreach should be the next step. PacifiCorp would prefer to conduct its own eligibility determinations, because eligibility guidelines vary. Southwest noted that eligibility requirements are not consistent among California-only energy utilities and small multi-jurisdictional utilities (SMJU).¹⁴ Currently only one Class A water utility -- Apple Valley -- shares customers with an SMJU -- Southwest. However, Southwest's eligibility requirements are either the same or

¹⁴ Decision (D.) 08-12-019 defines the SMJU's to include Southwest, Sierra Pacific Power Company, Golden State Water Company/Bear Valley Electric, West Coast Gas Company, PacifiCorp, and Alpine Natural Gas Operating Company.

more stringent than those employed by the large California-only energy utilities.¹⁵

Data sharing only identifies potential participants. It is difficult to track customers who were identified as potential participants and subsequently enrolled in the program after being served with targeted outreach material. Automatic enrollment is the only by-product of data-sharing through which the energy utilities have been able to measure the success of data sharing efforts. As noted by the energy utilities at the workshop, and further reinforced by the parties' comments, automatic enrollment decreases costs by eliminating duplicative efforts and streamlines customer enrollment through a hassle-free method. Thus, automatic enrollment will further increase penetration rates at a low cost. Data sharing alone might not achieve the same results. The energy utilities have had significant experience with and have attested to the benefits of automatic enrollment within their own programs.

Automatic enrollment requires that only eligible customers are enrolled in water low-income assistance programs. To achieve that result, only customers with matched surnames and addresses are eligible for automatic enrollment. Further, an opt-out letter is sent to the eligible customer that explains that the customer will automatically be enrolled in the water low-income assistance program in 30 days unless the customer contacts the utility to opt out of automatic enrollment.¹⁶ The eligible customer will receive the low-income

¹⁵ Southwest's income eligibility requirements are currently set at 200% of the federal poverty level, the same level employed by the large California-only energy utilities.

¹⁶ The opt-out letter should inform eligible customers that they are receiving this letter because they are enrolled in CARE, automatically will receive a discount on their bill and can elect not to participate by contacting the utility at the contact number provided.

Footnote continued on next page

discount in the bill following the expiration of the 30-day period, if the customer does not opt out. If eligible customers are given the opportunity to opt out prior to enrollment and proper measures to protect confidential customer information are in place, the water utilities should engage in this cost-effective outreach activity.

We adopt automatic enrollment as a necessary adjunct to a cost-effective data sharing program and require a 30-day opt-out notification should the customer decline to participate in the water utility's low-income assistance program.

4.2.2. Categorical Eligibility

As described in D.08-11-031, categorical eligibility is another enrollment procedure designed to ease enrollment processes in current energy assistance programs. The Commission approved energy utilities' proposals to implement categorical eligibility procedures in D.06-12-038. Categorical eligibility permits a customer to demonstrate eligibility, with documentation of participation in a government means-tested program, rather than having to provide evidence of income. D.08-11-031 lists those programs approved by the Commission since November, 2008.¹⁷ The Commission found these programs to have similar income guidelines.

The opt-out letter should identify the approximate amount of the discount and should allow the customers the opportunity to inform the water utility that they are no longer eligible for the water low-income program.

¹⁷ The qualifying programs for CARE benefits are Medi-Cal, Food Stamps, Temporary Assistance for Needy Families, Women, Infants, and Children, Low Income Home Energy Assistance Program, Healthy Families Categories A and B, and Supplemental Security Income.

The adoption of categorical eligibility was generally supported by the parties. In particular, the energy utilities perceived categorical eligibility as a necessary measure to implement a successful data-sharing program. The responding parties recognized the benefits that can be attained through categorical eligibility as a step towards streamlining enrollment in the Commission's regulated utilities' low-income assistance programs. Alignment of eligibility criteria by adopting the same categorical eligibility requirements used by the energy utilities for the water utilities was generally supported by the participating parties. The Joint Consumers noted that customers would benefit from uniform eligibility criteria. CWA stated that the workshop panelists indicated categorical eligibility facilitated enrollment by streamlining verification. However, the Commission must consider how differences in eligibility requirements among various programs will be addressed. DRA supports categorical eligibility if it only includes government programs with equal or more stringent income eligibility criteria as a basis for automatic enrollment in the utility low income programs. Southwest noted that the SMJUs do not currently use categorical eligibility.¹⁸

To be eligible for program assistance, water customers must meet the same CARE income levels and other requirements. Water utilities currently use proof of participation in CARE programs as an option to qualify a customer for participation in the low-income water programs. Utilizing the same categorical eligibility requirements as used for CARE would ensure that the programs

¹⁸ As noted earlier, Southwest is the only SMJU that shares customers eligible for a low-income program offered by a Class A water utility. However, the electric provider in

Footnote continued on next page

remain consistent. If discrepancies exist between what is approved for the energy utilities and the water utilities, automatic enrollment would not be a feasible process and each customer's enrollment eligibility would need to be determined. Since the low-income water programs are based on CARE's eligibility requirements, it is reasonable to adopt the same categorical eligibility requirements. Water and energy utilities have the same household definitions. Since the Commission has found that the difference in household definitions between CARE and the telephone LifeLine programs precludes the energy utilities from using LifeLine for categorical eligibility, the water utilities cannot automatically enroll customers from LifeLine into their assistance programs.

The adoption of categorical eligibility would not make income eligibility requirements uniform for all programs, but instead would ease the enrollment process for those eligible customers who are enrolled in other assistance programs with eligibility requirements that the Commission has found to be comparable or identical to those used for CARE. Thus, we adopt categorical eligibility as another basis to demonstrate eligibility for water assistance programs using documentation of participation in a government means-tested program. The categorical eligibility requirements adopted in D.06-12-038 and D.08-11-031 for the energy utilities shall apply to the water utilities.

4.3. Data Sharing Implementation

Data sharing implementation requires privacy safeguards, agreements among the entities sharing data, and the coordination of technological requirements. Customer authorization is necessary before a customer's data can

that same service territory is a large California-only energy utility that does use categorical eligibility for acceptance into the CARE program.

be shared. Memorandums of understanding and nondisclosure agreements provide further safeguards for the customer and the utilities. When the utilities have different technical resources, they must coordinate carefully the sharing of customer information.

4.3.1. Customer Authorization

Customer authorization is necessary prior to the sharing of customer information. The energy utilities obtain authorization from their customers at the time of application for assistance and, as a result, will be able to share customer information with the water utilities. Not all of the water utilities seek permission to share customer information at the time of application. However, Park, Apple Valley Ranchos Water Company, CalWater and California American do obtain authorization from their customers in a manner similar to the energy utilities. At this time, the lack of customer authorization for data sharing by some of the water utilities limits sharing of low-income customer information from the water utilities to the energy utilities. To assist the energy utilities in achieving the benefits of receiving customer information from the water utilities, the water utilities lacking authorization should start to seek it. For new customers, the water utilities can seek authorization at the time of application for the assistance program. Existing customers' authorization can be obtained during program recertification, scheduled to occur at least every two years. Where customer authorization exists or is obtained, the water utilities shall share customer information with energy utilities and are encouraged to share customer information with municipal energy utilities.

4.3.2. Agreements

The energy utilities entered into memorandums of understanding and nondisclosure agreements to implement data sharing and ensure the

confidentiality of customer information. The energy and water utilities, and if applicable the water and municipal energy utilities, similarly will need to enter into these agreements. The energy utilities' memorandums of understanding can be examples of what information should be contained in the agreements; however, the agreements must be utility specific due to differing billing practices, customer information databases, available resources and technology as well as differing low-income assistance program practices. Entering into memorandums of understanding and nondisclosure agreements is a step toward establishing data sharing plans.

4.3.3. Technical Requirements

The responding utilities stated that they possess the necessary technology for electronic data sharing. The data transfer methods currently used by the energy utilities range from secure file transfer protocols (SFTP) to password-protected Excel files, with the latter utilized for smaller volume exchanges. The utilities stated that one-time costs will be incurred for coordinating and implementing the appropriate data sharing plans. Most utilities requested that they be authorized to establish a memorandum account for future recovery of costs incurred to implement the data-sharing program, although some identified that a cost estimate at this time was not possible.

CWA did not identify any information sharing technology requirements. Park noted that it would need to develop a programming application to automate data matching and modify systems to interface with that application. However, it is likely that the water utilities' technical resources generally are more limited than the energy utilities'. Southwest notes that SFTP is recommended for large data exchanges although it requires substantial

programming. SDG&E and SoCalGas state that there are both high level and key data sensitivity requirements that must be addressed prior to data sharing.

Data sharing negotiations can require a considerable amount of time, because it is necessary to coordinate technical, legal and procedural requirements and ensure customer privacy and proper handling of confidential information. DRA recommends Commission oversight of the utilities' implementation of the data sharing programs in order to ensure that implementation costs are kept low. DRA opposes incurring major new hardware, software or billing system overhaul costs.

Purchasing major hardware and/or software could be avoided by utilizing resources that the water utilities already own. Password-secured Excel files, such as those utilized by the energy utilities for smaller volume data exchanges, could be used, because all of the water utilities can produce Excel files. However, some water utilities may already have the technological capabilities that are used for data sharing by the energy utilities, such as SFTP. Providing the utilities with the flexibility to coordinate and agree on a method is the preferable approach, as long as the method and data-sharing plan is both efficient and cost effective. In order to ensure that data sharing is cost effective, updating of the utilities' data systems should be avoided, if possible, and kept to a minimum, when necessary.

4.4. Guidelines

The proposed guidelines for sharing low-income customer information support and encourage the development of programs among regulated water and energy utilities and among water and municipal utilities. The proposed guidelines define customer data and establish procedures for handling confidential customer data and unauthorized disclosure of confidential data.

The proposed guidelines establish procedures to obtain customer authorization for sharing confidential data and require the development of a data matching process to ascertain eligibility for automatic enrollment. All of the participating parties expressed that, with a few modifications, the proposed guidelines provide the necessary framework to facilitate the exchange of information among water and energy utilities.

The proposed modifications sought mainly to clarify and refine the guidelines. The parties' concerns with the proposed guidelines are voluntary participation, the definition of customer confidential data, consent to share information, notification to customers of a breach of confidential data, customer authorization, the type of match required for automatic enrollment, and coordinated outreach. Those substantive modifications are identified and discussed below.

4.4.1. Proposed Guideline 1 (Regulated Utilities Data Sharing)

This proposed guideline requires the development of a data sharing program. Southwest recommends that participation in data sharing be voluntary. As discussed above, we will require data sharing among regulated water and energy utilities. This sharing requirement will be limited to Class A and B water utilities, although we encourage Class C and D water utilities to develop low-income assistance programs and share customer information.

4.4.2. Proposed Guidelines 4 and 5 (Confidential Customer Information)

Proposed guideline 4 defines confidential customer information and proposed guideline 5 excludes information in the public domain. CWA recommends that proposed guideline 4 be modified to define customer data to

include recertification and random post-enrollment status information. CWA also recommends that proposed guideline 5 be deleted, because some low-income customer confidential information may be in the public domain. Those modifications are reasonable and will be adopted.

In its comments on the proposed decision, CWA further recommended that customer data include household size and that “other pertinent information” be deleted. Although recertification status, *i.e.*, the date of last certification, is subject to data sharing, sharing of household size is not required. Including “other pertinent information” in the definition of customer data permits flexibility in data sharing and encourages ongoing collaboration with the energy utilities on data sharing. We decline to further modify the definition of customer data.

4.4.3. Proposed Guideline 9 (Disclosure of Confidential Information)

This proposed guideline requires notification of the other utility if confidential information is disclosed. CWA recommends that proposed guideline 9 be modified to remove reference to “accidental” or “misused” disclosure of confidential customer information and substitute “unauthorized.” The Joint Consumers recommend that customers also be notified of any unauthorized disclosure of names and addresses alone. CWA’s modification is reasonable and will be adopted. We decline to adopt a customer notification safeguard for the disclosure of names and addresses. It is unlikely that the disclosure of names and addresses alone would constitute a disclosure of confidential information, because names and addresses generally are publicly available and existing best practices do not consider breach of name and address alone to trigger notification requirements. For example, under the California

Office of Privacy Protection's "Recommended Practices on Notice of Security Breach Involving Personal Information." name and address alone do not trigger a privacy breach.¹⁹ Disclosure of name and address plus additional data, including but not limited to enrollment in a low-income program, would constitute a disclosure of confidential information. The utilities should follow their internal privacy policies in handling any breach.

4.4.4. Proposed Guideline 11 (Customer Authorization)

This proposed guideline mandates customer authorization for the sharing of confidential customer data. CWA recommends that proposed guideline 11 be modified to substitute terms such as "is authorized to" and "acknowledge and agree" for "can" and "understand" in the authorization permitting the sharing of information with other utilities to enroll in their assistance programs. DRA also recommends modifying the proposed guideline to clarify that the other utility is one from which the customer currently obtains service. The Joint Consumers recommend that some flexibility be built into the timing of obtaining the customer's consent, since the proposed guideline appears to require a data match. We will retain the existing language, using "can" and "understand," in order to keep the authorization simple. We decline to modify the proposed guideline to note the express choice of service from the utility, because to implement that proposal would narrow the data sharing to direct customers. Joint Consumers' proposed timing modification is reasonable and will be adopted.

¹⁹ Those recommendations are found at http://www.privacy.ca.gov/res/docs/pdf/COPP_Breach_Reco_Practices_6-09.pdf.

4.4.5. Proposed Guideline 12 (Automatic Enrollment and Opt-Out Letter)

This proposed guideline requires a data matching process to identify customers eligible for automatic enrollment and an opt-out letter to those identified customers 30 days prior to enrollment to permit those customers to decline to be automatically enrolled. CWA recommends that this proposed guideline identify the level of match to qualify the customer for automatic enrollment. Only a hard match of customer surname and address would make the customer eligible for automatic enrollment. Southwest recommends that the Commission permit an opt-out bill message as an alternative to an opt-out letter. CWA's proposed modification is reasonable and will be adopted. We decline to permit an opt-out bill message. Water utilities have varying billing cycles, some bill bi-monthly. The extended billing cycles would unfairly prevent a customer from promptly receiving a discount if a bill insert was to be used. Furthermore, customers routinely fail to read bill messages and are more likely to read an opt-out letter.

4.4.6. Proposed Guideline 13 (Recertification and Post-Enrollment Verification)

This proposed guideline permits water utilities to rely on the energy utilities' verification requirements for the CARE program. Southwest recommends that this proposed guideline be eliminated, because not all energy utilities have the capability to provide recertification and/or random post-enrollment verification. We decline to adopt this proposed modification. If a water utility is unable to obtain recertification or post-enrollment verification from an energy utility, it can note that fact in its data sharing plan.

With the modifications discussed above, the guidelines attached to this decision as Attachment 1 should be adopted. The guidelines provide direction for the utilities to engage in data sharing and a framework that is also sensitive to the utilities' individual practices while ensuring the required customer confidentiality. The adopted guidelines can be refined, as necessary, with experience implementing data sharing.

4.5. Outreach

The energy utilities actively coordinate outreach activities with each other and other agencies to increase participation levels and leverage costs. Some of these activities include coordinated marketing efforts and targeted recruitment, promoting other low-income programs, and referring low-income customers to assistance programs offered by other utilities and agencies in the appropriate service territories. This type of collaboration has proven to be very efficient, and is not just limited to the CARE program, but also includes ESAP.²⁰

Due to the energy utilities' experience, a possible continued collaboration with the energy utilities would ensure that the water assistance programs will continue to grow. The leveraging of costs also would permit the water utilities to engage in more effective outreach activities at a lower cost. Beginning with data-sharing, and encouraging the utilities to explore future collaboration, could have very positive impacts for the growth of the low-income assistance programs in the future.

The parties supported coordinated outreach to low-income customers, because it could benefit the utilities by increasing participation in low-income

programs and leveraging outreach costs. Some parties provided useful examples of coordinated outreach activities that could take place. Although CWA did not explicitly endorse further collaboration aside from data sharing, Park recognized that the water utilities could benefit from the experience of the energy utilities to improve the effectiveness of their low-income programs.

Joint Consumers recommended that the proposed guidelines include a provision encouraging coordination of outreach and enrollment efforts between energy and water utilities following the sharing of customer data. Joint Consumers further recommend that utilities be encouraged to collaborate on targeted outreach for specific groups of consumers. Consumers find it helpful to learn about related assistance programs at the same time. In addition, Joint Consumers submit that low-income energy and water customers need to be educated about having the same household member as the account holder.

DRA further recommends the Commission consider having a third party operate a centralized database for future multi-utility outreach efforts to low-income customers of all the regulated utility industries.

We encourage the water and energy utilities to further collaborate on outreach activities to low-income customers. The potential benefits in cost savings and avoidance of duplicative efforts to reach low-income customers support such coordinated efforts. Although we decline to mandate coordination in the data sharing guidelines, the main reason for not including outreach is to keep the guidelines to their intended purpose, data sharing. We direct that the water utilities discuss potential collaboration efforts in the data-sharing plan.

²⁰ ESAP provides no-cost weatherization services to low-income households who meet the CARE income guidelines to increase energy efficiency.

We further decline to consider DRA's proposal. Prior to implementing data sharing, it is premature to consider whether a third-party administered database would be useful.

4.6. Consistent CARE and Water Low-Income Assistance Program Criteria

Automatic enrollment of eligible customers is essential for data sharing to be an efficient and cost-effective outreach method. Automatic enrollment requires a certain level of consistency between CARE and water low-income assistance programs. Eligibility for both programs is based on 1) demographic criteria -- income and household size requirements; and 2) technical criteria -- the service connection's metering condition (i.e., master-metered, sub-metered, or unmetered.) Although the utilities have or can derive technical information on their customers to ensure those customers technically qualify, they do not have the demographic information necessary to automatically enroll customers not already enrolled in the low-income assistance programs. If a customer qualifies under one program's demographic guidelines, certain demographic guidelines for the other program must be compatible. Automatic enrollment can only occur among water and municipal energy utilities if certain program guidelines are comparable.

Income eligibility for CARE is based on a percentage of the federal poverty level. The current income eligibility requirement for the energy utilities is 200% of the federal poverty level. Most water utilities have the same requirement, but GSWC's Regions II and III have income guidelines established in D.02-01-034 at

175% of the federal poverty level.²¹ Thus, GSWC's data sharing plan should include its proposal to modify its income guidelines for Regions II and III to 200% of the federal poverty level.

Water utilities' future data sharing with the energy utilities requires accurate customer information. In addition, the goal of ensuring that only eligible customers participate in low-income assistance programs requires re-certification of eligibility for low-income assistance programs. The CARE program requires re-certification every two years.²² In D.08-11-031, the Commission stated re-certification precluded ineligible customers from receiving energy program subsidies. Similarly, the water low-income assistance programs were approved with the requirement that customers be re-certified at least every two years. Re-certification information should be shared among energy and water utilities. Water utilities can rely on the energy utilities' re-certification information, when available, but must conduct re-certifications every two years if there is no re-certification information. Water utilities shall provide an overview of their existing re-certification programs or a plan for re-certification, if none currently exists, in their data sharing plans.

The CARE program uses self-certification to establish eligibility as a means to remove a potential barrier to participation in the program. The water utilities' Commission-approved low-income assistance programs, with the exception of San Jose's, endorse self-certification/eligibility declarations or proof of

²¹ GSWC's Region 1 eligibility guidelines currently are at 200% of the federal poverty line. Some of the SMJUs have income eligibility guidelines at 175% of federal poverty line. These SMJUs do not share customers with any of the Class A water utilities.

²² However, PG&E recertifies customers enrolled in government means-tested programs every four years.

enrollment in CARE. Automatic enrollment will permit water utilities to continue enrolling customers who have self-certified for CARE. All water utilities similarly must permit self-certification for enrollment in their low-income assistance programs in order to ensure all customers have the same opportunity to participate in low-income assistance programs. Income verification, as approved for San Jose, requires verification for water customers without an energy bill in their name. San Jose's income verification requirement is contrary to the need for consistent requirements for data sharing and automatic enrollment. The water utilities shall submit eligibility declaration statements that permit self-certification as part of their data sharing plans. As part of its data sharing plan, San Jose shall submit a proposal to move from income verification to self-certification.²³

4.7. Data Sharing Plan

To ensure that the data sharing programs are both efficient and cost-effective, the water utilities should be required to submit a proposed data sharing plan through an information-only filing with service on the service list of

²³ Energy and water utilities also have inconsistent accounting and financial recovery mechanisms, discussed in Section 4.8. Energy utilities use low-income budgets for their programs, which are Commission-approved and contain costs generally common to all energy utilities. These budgets are funded through a rate surcharge assessed on customers other than low-income customers. By contrast, water utilities are required to provide details of low-income expenses and revenues in Schedule E-2 of the Annual Report. Reporting often is incomplete. In addition, some water utilities include costs for administering and providing low-income programs in base rates, and some utilities include an estimate of the costs of discounts in base rates and track the difference between actual and estimated amounts in memorandum/balancing accounts. Authorized memorandum/balancing accounts either do not include program costs or specify them as "incremental" program costs.

this proceeding. These plans should be submitted within six months of the issuance of this decision and should include, but not be limited to, the following information:²⁴

- Copy of Memorandum of Understanding/Non-disclosure Agreement for each energy utility and each municipal energy utility that will participate;
- Description of proposed data-sharing program's components, including:
 - Measures to ensure security and confidentiality of customer information.
 - Data transfer file format.
 - Description of data transfer method, process and system requirements.
 - Number of anticipated annual data exchanges.²⁵
 - Procedures for matching customer information.
 - Automatic enrollment procedures, including opt-out procedures.
 - Other technical and procedural requirements pertinent to the data-sharing program operations;
- Description of anticipated programming logistics including a program implementation timeline;
- Description of any additional resources and/or system requirements necessary for implementation of the data sharing program, with detailed cost information broken down by type of expense, including labor hours performed by utility staff or

²⁴ The water utilities are encouraged to work with DWA, DRA and the Joint Consumers in the development of the data sharing plan.

²⁵ Data sharing will be an ongoing process. Rather than mandating a specific timeframe for each data sharing event, the data sharing plan should include a timetable (*e.g.*, every three months, every six months, or a specific number of times annually) that can be met by the parties to the data sharing memorandum of understanding.

- contract labor, for 1) estimated additional one-time program implementation costs, and 2) estimated ongoing operational costs not already included in rates. Specify which costs are already included in rates, if any;
- Describe the current accounting procedure used to track low-income program costs and discounts, their corresponding ratemaking treatment, the financial mechanism in place for recovery of those costs and discounts, and detailed categories of program costs/expenses. Specify what category of costs, if any, are included in rates and what are considered “incremental” costs;
 - List and eligibility description of all assistance programs to be used for “categorical eligibility,” as coordinated with the corresponding energy utility or municipal energy utility;
 - Description of existing or proposed re-certification procedures;
 - Copies of low-income assistance program application and re-certification form (if different from application) consistent with re-certification, self-certification, and customer information sharing consent requirements adopted in this decision and with key information in large print and provisions for complete copies in alternate formats upon customer request;²⁶
 - Copy of proposed opt-out letter;²⁷
 - Identification of languages and accessible formats to be used in low-income sharing documents by district;
 - Description of other possible low-income collaboration efforts with the energy utilities and municipal energy utilities;
 - The number of low-income program participants broken down by month for the last three years;

²⁶ Water utilities that currently do not seek authorization to share customer information should do so for new customers at the time of application and for existing customers at the time of re-certification.

²⁷ The water utilities should submit the opt-out letter to the Commission’s Public Advisor’s office in advance of filing the data sharing plan.

- The number of residential customers in the service areas where a low-income program is offered;
- Class Bs with districts with fewer than 2,000 service connections served by energy utilities sharing fewer than 2,000 of the water utilities' total customers; and
- Description of other data sharing opportunities with municipal utilities and local agencies and other possible collaborative outreach with the energy utilities.

DWA will review the data sharing plan and work with the utilities to ensure that the plans will achieve the goal of efficient and cost-effective data sharing programs. Data sharing shall commence within 60 days of the filing of the data sharing plan.

4.8. Data Sharing Cost Recovery

The water utilities anticipate incurring one-time costs to implement the data-sharing program. The water utilities subject to the sharing of customer information have current low-income assistance program memorandum or balancing accounts. Most of these accounts were created to record low-income assistance program discounts, surcharges, implementation and incremental program costs. A few accounts only include program discount costs and surcharges. Just over half of the water utilities that offer low-income assistance programs have current memorandum accounts authorized for incremental program costs.

The water utilities should be authorized to track in memorandum accounts any significant additional costs for implementing the data sharing program that

exceed costs already included in rates.²⁸ If memorandum accounts exist that include program costs, the water utilities should be authorized to track the one-time and ongoing data sharing costs in those accounts and should be required to identify those costs corresponding to data-sharing program separately from other program costs. If no memorandum account is in place, the water utilities should file a Tier 1 advice letter, subject to review and approval by DWA, within 60 days of the issuance of this decision to establish the memorandum accounts. All data-sharing program costs must be itemized to include the type of task and type of expense.²⁹

The Class A water utilities with existing memorandum accounts should separately track costs related to the sharing of low-income customer information.

²⁸ There is no consistent accounting procedure by which water utilities track costs related to low-income programs nor is there a consistent financial mechanism used by which costs are recovered or consistent ratemaking treatment. Due to the varying scope of costs tracked in existing low-income memorandum/balancing accounts and the different accounting and financial practices and ratemaking treatment used for funding the water low-income assistance programs, some costs already may be included in rates. Requiring inclusion of accounting procedures for low-income program costs and financial mechanisms used to recover them in the data sharing plan will assist in ensuring that duplicate costs are not tracked.

²⁹ In order to evaluate any outreach activity, like the data sharing program, or even to monitor the cost effectiveness and management of the low-income programs as whole, it would be helpful to separate all low-income program related costs, discounts and surcharges, from base rates and to separately identify discounts, surcharges and program costs while carefully itemizing actual program costs. The Commission should consider separately identifying and itemizing costs in each of the water utilities' upcoming general rate case. In order to permit the Commission to perform cross utility cost comparison, a concerted effort to standardize the itemized program costs should also be made in each water utility's upcoming general rate case. The itemized expenses listed in the energy utilities' CARE program budgets, with modifications to suit the water low-income programs, could serve as an example for the water low-income program cost tracking.

These utilities should itemize costs for the low-income assistance programs and for the sharing of low-income customer information.

A memorandum account allows a utility to track costs arising from events that were not reasonably foreseen when existing rates were set. By tracking these costs in a memorandum account, a utility preserves the opportunity to seek recovery of these costs at a later date without raising retroactive ratemaking issues. However, when the Commission authorizes a memorandum account it has not yet determined whether recovery of booked costs is appropriate. While this overall policy applies to memorandum accounts for all utilities, we here focus on those factors that should guide us for water utilities.

The Commission has not applied a fixed set of factors in considering whether to establish memorandum accounts for water utilities. Some of the factors the Commission has considered have been articulated in Resolution No. W-4276, D.02-08-054, and D.04-06-018. Standard Practice U-27 W, paragraphs 25 and 44, contain similar lists of factors. When the Commission has applied these factors, it has not always applied all of them or required that they all be met before authorizing a memorandum account.

The utility bears the burden when it requests recovery of recorded costs, to show that separate recovery of the types of costs is appropriate, that the utility acted prudently when it incurred these costs and that the level of costs is reasonable. The water utilities shall seek recovery of the data sharing costs tracked in existing memorandum accounts in the forum established for those accounts. Water utilities filing for authority to track these costs in a memorandum account shall seek amortization of these accounts in their next general rate case or by filing Tier 3 advice letters.

The energy utilities similarly anticipate incurring one-time implementation costs to establish data sharing. The energy utilities may include the information technology and administrative costs associated with data sharing in the low-income budget contained in the program applications for 2012-2014.

4.9. Monitoring the Impact of Sharing Customer Information

The low-income data sharing program will increase low-income program penetration rates and make available additional data on low-income households. Evaluation of the data-sharing program should occur in the water utilities' general rate cases. The general rate case will evaluate the increase in penetration rates from data sharing and associated outreach activities. In order to assess the success of the data sharing program, the water utilities should track information on data files received, including customers successfully matched and not matched, enrollment results, and program costs. As discussed above, the water utilities should estimate the number of indirect customers by comparing their billing records to the CARE customer records received, which did not result in a match but were located in their service territory. The specific data requirements are contained in Attachment 3 to this decision.

The data should be submitted to DWA in an annual information-only low-income filing. The low-income data information-only filing should include the data requirements contained in Attachment 3 and the data requirements adopted in the Phase 2 decision in Investigation 07-01-022. The information-only filings should be filed concurrent with the Annual Reports.

The water utilities should file a Tier 1 advice letter annually to update the CARE income guidelines. In order to establish automatic enrollment it is necessary to ensure conformity with the CARE guidelines is maintained at all

times, so the water utilities should revise their tariffs annually to reflect new CARE guidelines within 30 days after the Energy Division sends its notice to establish the CARE income guidelines. The Energy Division shall serve a copy of the annual income guideline notice on the Class A and B water utilities.

5. Comments on Proposed Decision

The proposed decision of the assigned Commissioner in this matter was mailed to the parties in accordance with Section 311 of the Public Utilities Code and comments were allowed under Rule 14.3 of the Commission's Rules of Practice and Procedure. Comments were filed on April 25, 2011 by CWA, DRA, and Joint Consumers, and reply comments were filed on May 2, 2011 by CWA and Joint Consumers.

6. Assignment of Proceeding

Mike Florio is the assigned Commissioner and Janice L. Grau is the assigned ALJ in this proceeding.

Findings of Fact

1. A workshop was held on March 3, 2010 on low-income data sharing programs. PG&E, SCE, and SoCalGas representatives participated in a panel discussion on their low-income data sharing programs. A discussion on the applicability of these programs and proposed guidelines on data sharing among energy and water utilities followed the panel discussion.

2. The parties support the sharing of qualifying low-income customer information among regulated water and energy utilities with overlapping service territories, although PacifiCorp and Southwest preferred a voluntary approach.

3. In 2010, over 265,000 new participants (just under 20% of new enrollments) were automatically enrolled in CARE, at a very low or no cost, as a result of data sharing.

4. DWA's 2007 assessment determined that the low-income water utility penetration rates were 15.2% in 2006 and 16.1% in 2007.

5. CWA noted DWA's 2007 assessment could be a broad approximation, which could be made more precise by accurate exclusions for excluded MM low-income water users.

6. MM households are precluded from participating in most water low-income assistance programs, because residents are not billed directly by the water utility for service.

7. The energy utilities have implemented data sharing programs with municipal utilities, including irrigation and water districts.

8. The parties generally support sharing low-income customer information among regulated water and municipal energy utilities.

9. Class C and D water utilities are not required to institute low-income assistance programs.

10. The parties generally agreed that automatic enrollment of eligible energy low-income customers who are matched can and should be performed, although PacifiCorp would prefer to conduct its own eligibility determinations.

11. The energy utilities at the workshop and the parties in comments noted automatic enrollment decreases costs by eliminating duplicative efforts and streamlining enrollment.

12. The parties generally supported an opt-out letter for customers who decline to participate in the water utility's low-income assistance program.

13. The Commission approved energy utilities' proposals to implement categorical eligibility procedures in D.06-12-038.

14. The Commission approved qualifying government means-tested programs for CARE benefits in D.08-11-031.

15. Water utilities currently use proof of participation in CARE as an option to qualify a customer for participation in low-income water programs.

16. Water and energy utilities have the same household definitions.

17. The energy utilities obtain customer authorization on data sharing at the time of application for assistance.

18. Not all of the water utilities seek permission to share customer information, although Park, Apple Valley Ranchos Water Company, CalWater and California American do obtain authorization.

19. The energy utilities entered into memorandums of understanding and nondisclosure agreements to implement data sharing and ensure the confidentiality of customer information.

20. The utilities stated they possess the necessary technology for electronic data sharing.

21. The parties supported the proposed guidelines circulated in the April 1, 2010 ruling and scoping memo with modifications.

22. Proposed modifications to the proposed guidelines include voluntary participation, the definition of customer confidential data, consent to share information, notification to customers of a breach of confidential data, customer authorization, the type of match required for automatic enrollment, and coordinated outreach.

23. The energy utilities actively coordinate outreach activities with each other and other agencies to increase participation levels and leverage costs. Some of

these activities include coordinated marketing efforts and targeted recruitment, promoting other low-income programs and referring low-income customers to assistance programs offered by other utilities and agencies in the appropriate service territories.

24. The parties generally support coordinated outreach to low-income customers.

25. Income eligibility for CARE is based on a percentage of the federal poverty level, and the current requirement for energy utilities is 200% of the federal poverty level.

26. Most water utilities use 200% of the federal poverty level as an income guideline but GSWC Regions II and III have income guidelines of 175% of the federal poverty level.

27. The CARE program uses self-certification to establish eligibility as a means to remove a potential barrier to participation in the program.

28. Most water utilities' low-income assistance programs endorse self-certification/eligibility declarations, but San Jose requires verification for water customers without an energy bill in their name.

29. The water utilities anticipate incurring one-time and ongoing costs to implement the data sharing program.

30. The water utilities with low-income assistance programs have current low-income assistance program memorandum or balancing accounts.

31. Most low-income assistance program memorandum or balancing accounts were created to record low-income program discounts, surcharges, implementation and incremental program costs. A few accounts only include program discount costs and surcharges.

32. The energy utilities anticipate incurring one-time implementation costs to establish data sharing.

33. The low-income data sharing program will make additional data available on low-income households and will increase penetration rates.

Conclusions of Law

1. The Guidelines for Sharing Low-Income Customer Information, attached to this decision as Attachment 1, are a reasonable response to the record and should be adopted for Class A and B water utilities with low-income assistance programs.

2. It is reasonable to apply the categorical eligibility requirements, adopted for the energy utilities, to water utilities' low-income assistance programs.

3. Prior to implementing data sharing and within six months of the issuance of this decision, it is reasonable for water utilities to file a data sharing plan in an information-only filing.

4. It is reasonable for a water utility to implement data sharing within 60 days of the filing of its data sharing plan.

5. It is reasonable to permit water utilities to track in memorandum accounts the one-time and ongoing expenses, not already recovered in rates, for implementing low-income information sharing.

6. It is reasonable to permit energy utilities to include the information technology and administrative costs associated with data sharing in the low-income budget contained in the program applications for 2012-2014.

7. The Information-Only Low-Income Data Report, attached to this decision as Attachment 3, is a reasonable response to the record and should be adopted.

8. The Information-Only Low-Income Data Reports should be filed as an information-only filing concurrent with the Annual Reports.

9. The water utilities with low-income assistance programs should file a Tier 1 advice letter annually to update the CARE income guidelines 30 days after the CARE guidelines are published.

10. This decision should be effective today to provide guidance on the sharing of low-income customer information.

O R D E R

IT IS ORDERED that:

1. The Guidelines for Sharing Low-Income Customer Information, attached to this decision as Attachment 1, are hereby adopted.

2. All Class A and B water utilities with low-income assistance programs (Class A water utilities: Apple Valley Ranchos Water Company, California-American Water Company, California Water Service Company, Golden State Water Company, Great Oaks Water Company, Park Water Company, San Gabriel Valley Water Company, San Jose Water Company, Suburban Water Systems, and Valencia Water Company; Class B water utilities: Alisal Water Corporation (dba Alco Water Service), Del Oro Water Company, East Pasadena Water Company and Fruitridge Vista Water Company) are subject to the guidelines adopted in Ordering Paragraph 1. Class C and D water utilities with low-income assistance programs are encouraged to follow the guidelines.

3. Categorical eligibility, *i.e.*, documentation of participation in a government means-tested program, shall apply to low-income water assistance program eligibility. The categorical eligibility requirements adopted in Decision 06-12-038 and Decision 08-11-031 for the energy utilities shall apply to the water utilities.

4. The Class A and B water utilities identified in Ordering Paragraph 2 shall each file an information-only filing with a data sharing plan and service on the

service list to this proceeding, containing the following information, within six months of the issuance of this decision:

- a. Copy of Memorandum of Understanding/Non-disclosure Agreement for each energy utility and each municipal energy utility that will participate
- b. Description of proposed data-sharing program's components, including:
 - i. Measures to ensure security and confidentiality of customer information.
 - ii. Data transfer file format.
 - iii. Description of data transfer method, process and system requirements.
 - iv. Number of anticipated annual data exchanges.
 - v. Procedures for matching customer information.
 - vi. Automatic enrollment procedures, including opt-out procedures.
 - vii. Other technical and procedural requirements pertinent to the data-sharing program operations;
- c. Description of anticipated programming logistics including a program implementation timeline;
- d. Description of any additional resources and/or system requirements necessary for implementation of the data sharing program, with detailed cost information broken down by type of expense, including labor hours performed by utility staff or contract labor, for 1) estimated additional one-time program implementation costs, and 2) estimated ongoing operational costs not already included in rates. Specify which costs are already included in rates, if any;
- e. Describe the current accounting procedure used to track low-income program costs and discounts, their corresponding ratemaking treatment, the financial mechanism in place for recovery of those costs and discounts, and detailed categories of program costs/expenses. Specify what category of costs, if any, are included in rates and what are considered "incremental" costs;

- f. List and eligibility description of all assistance programs to be used for “categorical eligibility,” as coordinated with the corresponding energy utility or municipal energy utility;
- g. Description of existing or proposed re-certification procedures;
- h. Copies of low-income assistance program application and re-certification form (if different from application) consistent with re-certification, self-certification, and customer information sharing consent requirements adopted in this decision and with key information in large print and provisions for complete copies in alternate formats upon customer request;
- i. Copy of proposed opt-out letter;
- j. Identification of languages to be used in low-income sharing documents by district;
- k. Description of other possible low-income collaboration efforts with the energy utilities and municipal energy utilities;
- l. The number of low-income program participants broken down by month for the last three years;
- m. The number of residential customers in the service areas where a low-income program is offered;
- n. Class Bs with districts with fewer than 2,000 service connections served by energy utilities sharing fewer than 2,000 of the water utilities’ total customers; and
- o. Description of other data sharing opportunities with municipal utilities and local agencies and other possible collaborative outreach with the energy utilities.

5. Each Class A and B water utility with a data sharing plan filed as ordered in Ordering Paragraph 4 shall commence data sharing within 60 days after filing the plan.

6. Class A and B water utilities with existing memorandum accounts that include low-income assistance program costs may track one-time and ongoing data sharing costs not already included in rates in those accounts and shall identify those costs separately from other program costs.

7. Class A and B water utilities without memorandum accounts that include low-income assistance program costs may file a Tier 1 advice letter within 60 days of the issuance of this decision to establish a memorandum account to track one-time and ongoing data sharing costs not already included in rates. Once these memorandum accounts are established, the Class A water utilities may seek recovery of the expenses booked to their memorandum accounts in their next general rate case or by filing Tier 3 advice letters.

8. Authorization to track costs in existing memorandum accounts and to establish memorandum accounts does not guarantee recovery of expenses booked to these accounts that have been otherwise authorized in rates or are imprudent or unreasonable.

9. Pacific Gas and Electric Company, Southern California Edison Company, San Diego Gas and Electric Company, Southern California Gas Company, and Southwest Gas Corporation may include information technology and administrative costs associated with data sharing with the water utilities, not already included in rates, in the low-income budget contained in the low-income program applications for 2012-2014.

10. The Information-Only Low-Income Data Report, attached to this decision as Attachment 3, is adopted. Apple Valley Ranchos Water Company, California-American Water Company, California Water Service Company, Golden State Water Company, Great Oaks Water Company, Park Water Company, San Gabriel Valley Water Company, San Jose Water Company, Suburban Water Systems, and Valencia Water Company shall file this report as an information-only filing concurrent with the Annual Reports.

11. Each water utility with a low-income assistance program shall file a Tier 1 advice letter to update California Alternate Rates for Energy guidelines within

30 days after the Commission's Energy Division sends its notice to establish the California Alternate Rates for Energy income guidelines.

12. The Energy Division shall serve a copy of the annual California Alternate Rates for Energy income guideline notice on Apple Valley Ranchos Water Company, California-American Water Company, California Water Service Company, Golden State Water Company, Great Oaks Water Company, Park Water Company, San Gabriel Valley Water Company, San Jose Water Company, Suburban Water Systems, Valencia Water Company, Alisal Water Corporation (dba Alco Water Service), Del Oro Water Company, East Pasadena Water Company and Fruitridge Vista Water Company.

13. Each Class A water utility shall include in its general rate case application a low-income assistance program participation estimate, as developed in the informal workshop to be scheduled by the Division of Water and Audits.

14. Rulemaking 09-12-017 is closed.

This order is effective today.

Dated May 5, 2011, at San Francisco, California.

MICHAEL R. PEEVEY
President
TIMOTHY ALAN SIMON
MICHEL PETER FLORIO
CATHERINE J.K. SANDOVAL
MARK FERRON
Commissioners

Attachments 1, 2, and 3

ATTACHMENT 1

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**GUIDELINES FOR SHARING LOW-INCOME
CUSTOMER INFORMATION**

These guidelines apply to the sharing of customer information among regulated water and energy utilities.

1. Class A and B regulated water utilities with low-income assistance programs shall develop a data sharing program and negotiate associated agreement(s) with regulated energy utilities in which the utilities share Customer Data of those customers enrolled in low-income assistance programs. Class C and D water utilities are encouraged to develop such programs and the associated agreement(s).
2. Regulated water utilities are encouraged to and may develop a program and associated agreement(s) with municipal energy utilities in which the utilities share Customer Data of those customers enrolled in low-income assistance programs.
3. All programs and agreements shall comply with State and Federal laws, as well as Commission codes, decisions, orders, and rules.
4. Customer Data is defined as the name, address, re-certification and random post-enrollment status, and other pertinent information to the provision of low-income assistance.
5. Confidential Customer Data consists of customer names, addresses, and other customer-specific information.
6. All utility employees who access the Confidential Customer Data shall be instructed as to the use and handling of Confidential Customer Data and advised that the information is confidential and must not be used other than for purposes directly related to the enrollment of the customers in and continued provision of the low income assistance program.
7. Utilities must restrict disclosure of the Confidential Customer Data to utility employees with an authorized "need to know" and not disclose it to any other person or entity without prior written consent.

ATTACHMENT 1

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8. All reasonable measures shall be taken to protect Confidential Customer Data. Utilities must protect Confidential Customer Data through appropriate security safeguards against risks of loss, unauthorized access or use, destruction, modification, or unintended or inappropriate disclosure.
9. In the event of any unauthorized disclosure of Confidential Customer Data, the utility responsible for such disclosure must immediately notify in writing the other utility with which it has entered into a data sharing agreement.
10. Each utility must develop a secure data transfer system that protects the privacy of the data transferred.
11. Regulated water utilities must obtain customer authorization from all customers, both current and new, to share Confidential Customer Data by including a declaration statement on both 1) the low income assistance program application; and 2) the re-certification and random post-enrollment verification forms; that reads as follows:

“I understand that *[insert regulated water utility name]* can share my information with other utilities or their agents to enroll me in their assistance programs.”
12. Regulated water utilities must develop a process to match data received from regulated energy utilities and municipal utilities to effectively ascertain customer eligibility for enrollment in a low-income assistance program.
 - a. A customer whose surname and address is successfully matched and is identified as eligible, consistent with Commission policy, shall be automatically enrolled in the program provided that the customer is served with an “opt-out” letter 30 days prior to enrollment, providing the customer with the opportunity to opt-out from receiving the discount automatically.
 - b. A customer whose eligibility, consistent with Commission policy, cannot be reasonably ascertained without further information on the customer, shall be considered a “Potential Participant” and must be provided with outreach material identifying said customer as potentially eligible for low-income assistance and providing the opportunity to enroll via the traditional application method.

ATTACHMENT 1

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13. Regulated water utilities need not request re-certification and/or random post-enrollment verification directly from the customer if said customer is also enrolled in CARE and the re-certification and/or random post-enrollment verification requirement has been successfully established by the energy utility for its CARE program.
14. Regulated water utilities shall negotiate agreements with regulated energy utilities to share low-income customer re-certification and random post-enrollment verification information.

(END OF ATTACHMENT 1)

ATTACHMENT 2

Table: 2009 Participation Rate by utility and total weighted average, per Method outlined in "Assessment of Water Utility Low-Income Assistance Programs," October 2007.

Company	Participants in 2009 ¹	Estimated Eligible in 2009 ²	2009 Penetration Rate ²
Apple Valley Ranchos	1,311	6,060	21.6%
California-American	2,988	85,006	3.5%
California Water Service	40,951	123,148	30.3%
Golden State	24,939	79,711	31.3%
Great Oaks	236	4,154	5.7%
Park	1,940	8,584	22.6%
San Gabriel Valley	17,604	28,169	61.2%
San Jose	6,456	42,221	15.3%
Suburban	3,926	22,417	17.5%
Valencia	319	8,903	3.6%
Class A Weighted Average	100,670	421,129	23.9%

¹ Per Data Requests and Annual Reports.

² Using 2009 US Census American Community Survey data following the methodology described under the Section for "Estimating Low-Income Eligibility in California" and "Estimating Participation Rates" in the "Assessment of Water Utility Low-Income Assistance Programs", October 2007. The estimates also exclude multi-family housing units.

(END OF ATTACHMENT 2)

ATTACHMENT 3

INFORMATION-ONLY FILING INFORMATION-ONLY LOW-INCOME DATA REPORT

- For each data file received:
 - Number of CARE customer records received.
 - Number of CARE customers not matched to water utility records.
 - Number of CARE customers successfully matched.
- Enrollment Results:
 - Number of CARE customers automatically enrolled.
 - Number of customers re-certified for assistance.
 - Number of CARE customers ineligible for enrollment due to metering conditions (as compared with water utility records).
 - Number of customers opting-out.
 - Number of potential customers identified and served with outreach material.
- Program Costs:
 - Itemized annual expenses specifically incurred for operating and administering the data sharing program, including:
 - Personnel with number of hours allocated to particular data sharing tasks.
 - Special equipment.
 - Translation services.
 - Printing, mailing and other costs.Specify if any costs are included in rates.
 - Summary of annual low-income program discounts, surcharges, and itemized low-income program costs.
Specify which costs are included in rates, if any.

(END OF ATTACHMENT 3)