(6/22/16) Public Hearing
Drinking Water Fee
Deadline: 6/22/16 by 5:00pm

THE METROPOLITAN WATER DISTRICT
OF SOUTHERN CALIFORNIA

Office of the General Manager

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June 22, 2016

Ms. Jeanine Townsend, Clerk to the Board
State Water Resources Control Board
1001 I Street, 24th Floor
Sacramento, CA 95814

Dear Ms. Townsend:

Metropolitan Water District of Southern California's Comments on Proposed Drinking Water Fee Regulations

The Metropolitan Water District of Southern California (Metropolitan) appreciates the opportunity to comment on the State Water Resources Control Board's (SWRCB's) proposed drinking water fee regulation. Metropolitan, in collaboration with 26 member agencies, supplies safe and reliable water to nearly 19 million residents in more than 300 cities and unincorporated areas throughout Southern California. The nation's largest wholesaler of urban water supply, Metropolitan supports the efforts of the SWRCB's Division of Drinking Water (DDW) to provide safe, reliable and affordable water to the customers we serve.

Metropolitan staff participated in the SWRCB's stakeholder meetings and in the DDW's Transition Advisory Group which advised DDW during their transition from the Department of Public Health. Staff also participated in the Association of California Water Agencies (ACWA) working group on this issue, and supports ACWA's comment letter on the proposed regulation.

We appreciate the collaborative process which involved staff from DDW and the Division of Administrative Services (DAS). Metropolitan recognizes the importance of a sustainable revenue source for DDW; however, the drinking water fee regulation as proposed is problematic for many water agencies in California. Metropolitan respectfully offers comments on the proposed fee regulation, focusing on three areas for further consideration as described below.

Disadvantaged Community Fee Relief

A discounted per-connection charge for severely disadvantaged communities (i.e., those with household incomes less than 60 percent of the statewide median) is justified as these systems often require more assistance because of limited technical, managerial, and financial (TMF) capacity. It is important to note, however, that the terms "small" and "severely disadvantaged" are not analogous and should not be considered similarly. As you are aware, the regulatory fees

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($6/connection) paid since 2009 by the "small" systems with less than 1,000 service connections has not been shown to cause a financial burden. In fact, existing law was originally written to anticipate an *increase* in fees on small systems to $10/connection. Because of their small economies of scale, DDW spends approximately $60 per service connection to provide regulatory oversight and technical assistance for small systems. The proposed fee reduction from $6 to $4 per connection for small water systems with less than 1,000 service connections will only exacerbate the existing funding imbalance that the SWRCB and stakeholders are attempting to address.

Recognize Regulatory Economies of Scale

As the SWRCB continues its efforts on providing fee relief for severely disadvantaged systems to advance California's human right to water policy (Water Code §106.3), the SWRCB should consider the importance of maintaining an equitable balance between regulatory fees and the service or benefits provided. The proposed regulation would charge $4 per connection for small systems with less than 1,000 service connections.[1] Larger systems would pay $4 per connection for the first 1,000 service connections and then $2 per connection for all connections in excess of 1,000. As a result, the proposed regulation does not recognize a more reasonable level of fees to address the regulatory economies-of-scale for large systems, including severely disadvantaged communities. And, there is no proposed cap for the total regulatory fee for large systems.

In contrast, the SWRCB assesses Water Quality Fees for NPDES permittees based on either the number of service connections (for community water systems) or on permitted discharge flow (for wastewater systems). Both of these water quality fees are ***graduated*** based on system size and ***capped*** at some maximum yearly fee. This particular fee model is relatively successful in balancing the amount of the fee to the benefits and services received.

However, as a result of the proposed drinking water fee regulation, California's largest retail water systems[2] would experience a year-to-year fee increase averaging 260 percent, and ten percent of those systems would experience a year-to-year fee increase of greater than 500 percent. And, with such significant fee increases, it is important to note that the SWRCB's effort to regulate these large systems is not expected to increase significantly.

California's large water systems (both wholesale and retail) invest heavily in internal staff resources to ensure compliance with the Safe Drinking Water Act. These systems internalize water quality auditing, oversight, and technical assistance to improve compliance and reduce needed interventions from DDW staff. As an example, only 31 (1.1 percent) of the 2,903 total violations[3] issued in 2014 were reflective of these largest systems even though they serve more than 74 percent of the population.

[1] Very small systems with 100 or fewer service connections would be charged a flat fee of $200
[2] Retail systems with greater than 15,000 service connections.
[3] This includes all violations including monitoring, reporting, treatment technique, and maximum contaminant levels.

As stated earlier, Metropolitan supports the Association of California Water Agency's (ACWA's) comment letter submitted on this proposed regulation. ***Specifically, additional tiers with declining per-connection fees for larger retail systems should be incorporated.*** The table below suggests revisions to the proposed tiers.

Proposed and Revised Fee Tiers for Retail Water Systems

System Size	SWRCB Current Fee Schedule	SWRCB Proposed Fee Regulation	ACWA Option
Small	**15-1,000 connections:** $250 or $6/cxn, whichever is more	**100 or fewer connections: $200** (SDACs: $100)	**100 or fewer connections: $250** or **$6/cxn**, whichever is more (SDACs: $100)
		101-1,000 connections: $4/cxn (SDACs: $2/cxn)	**101-1,000 connections: $6/cxn** (SDACs: $2/cxn)
Large	**1,001+ connections: fee-for-service**	**1,001+ connections:** **$4/cxn** for first 1,000 cxns, **$2/cxn** for each cxn over 1,000 (SDACs: $2/cxn)	**1,001-5,000 connections:** $6/cxn for first 1,000 cxns, **$3.5/cxn for each cxn over 1,000** (SDACs: $2/cxn)
			5,001-15,000 connections: $6/cxn for first 1,000 cxns, $3.5/cxn for next 4,000 cxns, **$2/cxn for each cxn over 5,000**
			15,000+ connections: $6/cxn for first 1,000 cxns, $3.5/cxn for next 4,000 cxns, $2/cxn for next **10,000 cxns, $1/cxn for each cxn over 15,000**

SDAC = severely disadvantaged community
cxn = service connection

Revise Wholesaler Fee Structure

Although California has approximately 3,000 community water systems, only 44 of these wholesale water to others. These wholesale water systems vary widely in their complexity and services provided. Some treat groundwater and surface water supplies and distribute the water vast distances through complex distribution networks. Other systems simply pass finished water through much smaller distribution systems. However, the draft fee regulation proposes to charge wholesalers based on "total production" which is the sum of water produced (from ground or surface water sources) and finished water received from another public water system. Use of total production as the basis of the wholesale water fees is highly problematic for the reasons outlined below. As such, ***Metropolitan requests that the SWRCB retain a modified fee-for-service structure for wholesale water systems. This structure could include a base fee for all wholesale systems plus an hourly fee-for-service charge.***

First, wholesale water agencies' total production can vary significantly from year-to-year as water availability changes. These changes in production would greatly affect the stability and predictability of the fees paid by wholesalers. As an example, Metropolitan's 3-year average total production varied from 300 to 500 billion gallons per year between 2005 and 2015. Under the proposed fee regulation, this equates to an annual fee fluctuating from $400,000 to $700,000 which for Metropolitan would represent up to a 350 percent increase in fees and would prove difficult to plan for or budget. Finally, based on a review of past billing fees, it was noted that SWRCB staff consistently spent between 800 and 900 hours each year overseeing Metropolitan's compliance. These findings suggest that a fee structure based largely on actual billable hours would provide stable revenue for DDW and would be more conducive to sound financial planning for Metropolitan.

Second, some wholesalers serve as "intermediary wholesalers" who obtain their water from other wholesalers before distributing these supplies to retail water agencies. This situation is shown graphically in the attached figure. In this figure, for example, treated water from Metropolitan flows to Calleguas Municipal Water District, then to Port Hueneme Water Authority, and finally on to the City of Port Hueneme who retails the water to consumers. When the proposed wholesale fee is expressed as an equivalent service connection charge, the total embedded regulatory fee for the water increases by $0.32 at each wholesale step[4] for a total charge of $2.96 per connection to the customers of the City of Port Hueneme. Thus, a fee structure based on total production charges consumers multiple times for the same treated water and, as such, the embedded charges are not an equitable representation of the SWRCB's actual regulatory costs, and are duplicative.

Third, as mentioned above, wholesale agencies vary widely in the complexity of their systems and total production does not correlate with regulatory oversight requirements. A comparison of the existing fees paid by wholesale water agencies to their total production clearly showed that regulatory oversight from the DDW does not correlate with their total production. Thus, billing wholesale systems based on their "total production" is not equitable to the systems or their ratepayers.

In contrast, the existing fee-for-service structure for wholesale water systems has a variety of advantages. Preserving this fee structure would require no change on the part of the DDW and will be simple to administer. Additionally, by requiring that wholesale systems pay for the service they receive, the fee-for-service structure ensures that the program will be able to recover the full costs of providing regulatory oversight and any required assistance to these water systems. Metropolitan acknowledges that the SWRCB's proposed fee structure raises revenue to support disadvantaged community fee relief. Thus, the fee for wholesale agencies could also include a flat fee (e.g., $6,000 per wholesale system, as originally proposed) plus the actual fee-for-service charge.

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[4] This wholesale fee was calculated assuming 4.5 persons/connection, 145 gal/person/day, and $1.36/million gal ($0.32/connection).

Although there are only 44 wholesale systems affected by this regulation, these systems vary widely in their complexity and the total populations they serve. It is worth noting that the wholesaler category includes several very large systems, including the nation's largest drinking water system (Metropolitan). These large systems benefit from internal investments in staff and resources that limit their need for assistance from the DDW. However, new facilities or permit requirements do infrequently require substantial involvement of DDW staff. Further, both DDW and large wholesale systems benefit from robust technical exchanges and cross-training which today occur between large systems and DDW. Preserving the ability to recover the full cost of service from wholesale systems—including permit support and on-going technical exchanges—ensures that revenues are adaptable to changing circumstances without draining other resources needed to support severely disadvantaged communities.

Metropolitan encourages the SWRCB modify the existing fee-for-service structure for wholesale water systems to include a base fee plus hourly fee-for-service. A fee-for-service structure for wholesale systems is consistent with the stated objective of adopting a fee schedule which is equitable, simple to understand and administer, produces stable revenue, and is adaptable to changing circumstances.

Summary

Metropolitan supports the work of the SWRCB and its Drinking Water Program, and the intent to provide drinking water fee relief for severely disadvantaged communities. However, the implementation of any proposed fee requires a thoughtful balance of financial relief and assistance for disadvantaged communities with equitable fees for large retail and wholesale water districts who will absorb a significant amount of the costs. Revising the fee regulation to incorporate more tiers for larger systems and modifying the fee-for-service model for wholesale systems would achieve these two goals.

If you have any questions regarding the enclosed, please contact Brad Coffey at (213) 217-5845 or via email at bcoffey@mwdh2o.com

Very truly yours,

Jeffrey Kightlinger
General Manager

BC:ak
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Enclosures (1)

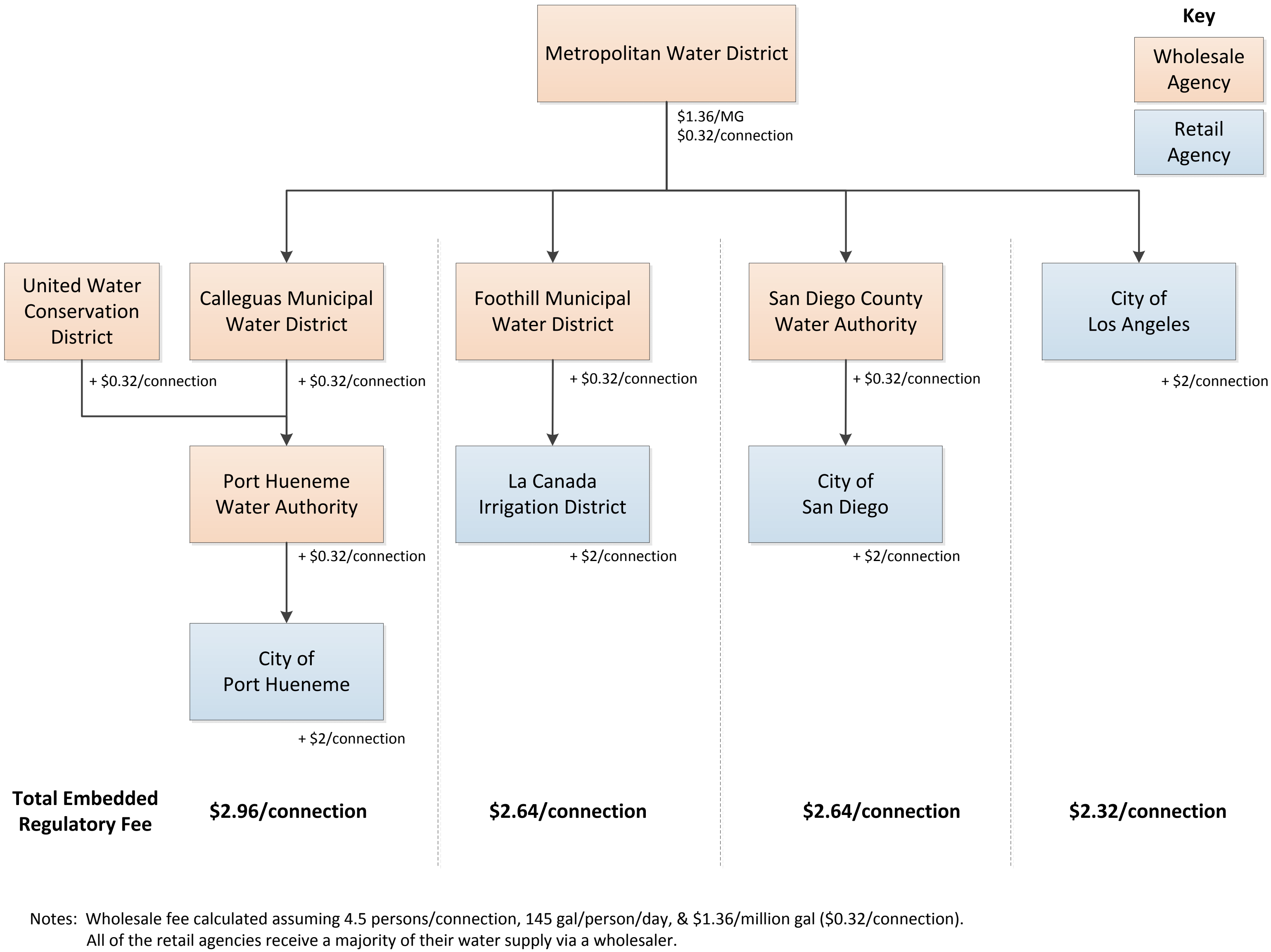

Figure 1. Embedded Regulatory Fee Created by Production-Based Fees on Wholesale Water Systems.
(Note that this figure represents only a very small segment of Metropolitan's member agencies and service area)