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Via Email to Mary.Yang@waterboards.ca.gov

Mary Yang
State Water Resources Control Board
Office of Research, Planning, and Performance
1001 I Street
Sacramento, CA 95814

Comment Letter on Low-Income Program Scenarios

Dear Ms. Yang:

Great Oaks Water Company (Great Oaks) is a water utility regulated by the California Public Utilities Commission (CPUC) that serves approximately 100,000 people in the City of San José and surrounding areas in Santa Clara County, California. Great Oaks appreciates the opportunity to provide to the State Water Resources Control Board (State Water Board) the following comments to the Program Scenarios to Provide Affordable Drinking Water to Low-Income Californians (Low-Income Program Scenarios).

Background

Great Oaks is one of the nine “Class A¹” water utilities regulated by the CPUC. All Class A water utilities have had CPUC-authorized low-income programs for a number of years. Great Oaks’ low-income program (Low-Income Customer Assistance Program or LICAP) was originally authorized in 2006. Customers participating in Great Oaks’ LICAP receive a flat 50% discount off monthly

¹ Class A water utilities have 10,000 or more service connections. At present, there are nine (9) Class A water utilities regulated by the CPUC: Liberty Utilities Corp. (Apple Valley Ranchos Water); California Water Service Company; California-American Water Company; Golden State Water Company; Liberty Utilities Corp. (Park Water); San Gabriel Valley Water Company; San Jose Water Company; Suburban Water Systems; and Great Oaks Water Company. Great Oaks is the smallest of the Class A water utilities.

service fees.² Costs associated with LICAP, including the low-income customer benefits, are funded through a surcharge on customers not participating in or benefitting from LICAP.

Eligibility for Great Oaks' LICAP is simple. Great Oaks' entire service area is within the service area of Pacific Gas and Electric Company (PG&E). PG&E has long had a low-income customer assistance program – California Alternate Rates for Energy (CARE). Great Oaks customers participating in PG&E's CARE program are automatically eligible for Great Oaks' LICAP. Through an CPUC-authorized data-sharing protocol, Great Oaks periodically receives information from PG&E showing all PG&E CARE participants in Great Oaks' service area. Those customers are automatically enrolled in LICAP (subject to the right to opt out). PG&E CARE information is updated at least two times per year.

Out of a total of Great Oaks' 21,348 active customer accounts, 2,317 (10.85%) are LICAP participants.³ Only customers with a direct bill-paying relationship with Great Oaks are eligible to receive a discount on their water bills under LICAP.

While there are certainly low-income households in multi-family residential housing in Great Oaks' service area, by definition, those housing units do not have individually-metered water service connections, but are instead served through a single (master) metered connection. As a result, these low-income households do not have a direct billing relationship with Great Oaks, but instead pay for water service indirectly, typically through their payment of rent.

Hard to Reach Households and How to Reach Them

That there are low-income households within Great Oaks' service area that are not eligible for LICAP is not a new or unique phenomenon. As recently as August 1, 2017, the Water Research Foundation (WRF) published a study entitled "Customer Assistance Programs for Multi-Family Residential and Other Hard-to-Reach Customers." The WRF study analyzes hard-to-reach households (WRF uses the acronym H2R for this group) and concludes that the most effective and efficient ways for water and wastewater utilities to provide support for the H2R community is to partner with existing and well-trusted community-based organizations (CBOs) and "piggyback" onto existing programs that have track records of successfully reaching, engaging, and providing support to the H2R.

Great Oaks encourages the State Water Board to review the WRF study concerning H2R water customers when considering the Low-Income Program Scenarios, as none of the offered scenarios address the H2R issue in a meaningful way.

Differences Exist Between Energy and Water Utilities Relevant to Low-Income Issues

It is important to understand that one of the major differences between energy and water utilities is that many (if not most) multi-family residential housing units are individually-metered for energy service, but are not for water service. Low-income households in multi-family residential units are not eligible for and therefore do not receive low-income customer assistance for their water bills. No direct billing relationship exists between a water utility and households, low-income or otherwise, in

² Monthly service fees are also known as meter charges, and the amount is different for different sized meters. LICAP participants receive a 50% discount off the charge for the customer's actual meter.

³ Customer numbers and LICAP participant data relates to end-of-year 2016.

multi-family residential housing with a master meter. Without that direct billing relationship, no vehicle exists for the water utility to provide low-income household benefits. This difference exists among all water utilities, whether they are regulated by the CPUC like Great Oaks, or they are local government agencies (such as a municipal water utility).

A significant, but often overlooked fact stemming from this difference between energy and water utilities is that comparing participation rates in energy and water low-income customer programs does not provide useful information on the relative effectiveness of those programs in reaching low-income households. For example, as noted above, Great Oaks had 2,317 participants in its low-income program at the end of calendar year 2016. This represents almost all eligible low-income customers, with the only eligible non-participants being the few who have opted out of LICAP. It would be fair to say that Great Oaks' LICAP includes nearly 100% of eligible LICAP participants.

On the other hand, it would also be fair to say that Great Oaks' LICAP includes none of the low-income households who are living in master-metered multi-family residential units with individual energy meters. Those multi-family residential low-income households are eligible for PG&E's CARE program – because they have a direct billing relationship with PG&E – but they are not eligible for Great Oaks' LICAP because they do not have a direct billing relationship with Great Oaks.

The solution to this dilemma is not to install individual water meters for each unit in multi-family residential housing. Water utilities do not have the right to enter onto private property to install water meters. And owners and managers of multi-family residential housing units cannot be compelled to retrofit sub-meters for each housing unit, nor should they be, as the costs of installing (potentially) millions of water meters would be passed on to the very same low-income households we are ostensibly trying to help. A different solution must be found.

Perhaps the biggest and most relevant difference between energy and water utilities on low-income issues is that energy service simply costs more, and in most cases, significantly more, than water service. This difference relates to the issue of affordability (i.e., what is and what is not “affordable”) that is addressed more fully in the comments below.

As the Low-Income Program Scenarios makes clear, federal and state programs already provide more than \$1.8 billion⁴ to low-income households to pay energy bills, and that there are no such programs on the federal or state level dedicated to helping low-income households pay their water bills. There is an obvious reason for this difference – water service is more affordable than energy service. This suggests that programs to address the affordability of water do not need to be the same as programs providing assistance to low-income households for energy costs. The issue is not just affordability, but includes the question of relative affordability.

The Human Right to Water and CPUC-Regulated Water Utilities

The current proceedings are part of the State Water Board's work to comply with the requirements and deadlines of California Water Code (Water Code) Section 189.5 (Assembly Bill 401 (Dodd, 2015)). But driving all of this is Water Code Section 106.3(a), which provides:

It is hereby declared to be the established policy of the state that every human being has the right to safe, clean, affordable, and accessible water adequate for human consumption, cooking, and sanitary purposes.”

⁴ Scenarios, page 4.

This is what is commonly referred to as the “Human Right to Water.”

Public Utilities Code Section 739.8 has guided CPUC policy since enacted in 1993. Section 739.8 provides:

- (a) Access to an adequate supply of healthful water is a basic necessity of human life, and shall be made available to all residents of California at an affordable cost.
- (b) The commission shall consider and may implement programs to provide rate relief for low-income ratepayers.
- (c) The commission shall consider and may implement programs to assist low-income ratepayers in order to provide appropriate incentives and capabilities to achieve water conservation goals.
- (d) In establishing the feasibility of rate relief and conservation incentives for low-income ratepayers, the commission may take into account variations in water needs caused by geography, climate and the ability of communities to support these programs.

There is no discernable difference between the Water Code’s “Human Right to Water” and the Public Utilities Code’s mandate that its regulated water utilities provide adequate, healthful, and affordable water to all Californians. And engaging in semantics to manufacture a difference between these two statutes will not further the cause. The point is that California’s CPUC-regulated water utilities, including Great Oaks, have been providing the “Human Right to Water” for well more than twenty years.

Part of the CPUC’s and regulated water utilities’ experience comes from the Low-Income Oversight Board (LIOB) established by Public Utilities Code Section 382.1 (and implemented through CPUC Resolution E-4095, issued June 7, 2007). Great Oaks recommends that input from LIOB be sought and utilized in this proceeding.

And, finally, it should be noted that each of the CPUC-regulated Class A water utilities have different low-income programs operating under various titles, with different benefits, both in amount and methodology. This is not the product of accident or haphazard regulation, but is instead due to the differences in the communities served by the water utilities. Each low-income program was established on a case-by-case basis in a proceeding before the CPUC with the opportunity for input from all interested parties. If all water utility customers faced the same affordability issues, the low-income programs would be the same (or at least more similar).

But not all communities in California are the same. And the answer to what is and what is not affordable when it comes to water service differs from community to community, and from water utility to water utility. Great Oaks recommends that the State Water Board, like the CPUC before it, take into account differences between communities, low-income households, and water service providers when compiling its plan and recommendations for the Legislature. A plan and series of recommendations that encompass and accommodate the wide range of needs will better serve low-income households than a single, rigid, expensive, and ultimately unresponsive mandate.

Affordability and Conservation Must be Considered Together

The ideals of affordability of water service for low-income households and conservation of water by all Californians can and must be considered together.⁵ In addition to this proceeding on the issue of water affordability, the State Water Board will be leading the way on long-term water conservation standards to make water conservation a way of life in California.

Water service providers (urban water suppliers) across the State have become accustomed to reporting and planning for water use in terms of Residential Gallons Per Capita Day (GPCD). While there are factors⁶ that can affect the use of this metric, it should be used to estimate minimum daily indoor water use requirements associated with low-income water assistance programs. The State Water Board has recognized and used the standard of 55 gallons per day for individual indoor water use during the recent drought period, and Great Oaks recommends that this indoor use standard be incorporated into the dialogue on low-income water assistance programs.

Incorporating the 55 GPCD indoor water use standard would provide a solid and easily understandable base for the State Water Board's plan and recommendations to the Legislature under Water Code Section 189.5. Using a GPCD standard for affordability issues will also allow for flexibility as long-term water conservation regulations are developed and probably will be initially based upon the same standard. If long-term water conservation regulations call for a reduction in the 55 GPCD standard over time, that too may be incorporated into water affordability programs, perhaps even automatically.

For example, if the 55 GPCD standard for indoor water use is used for the "Human Right to Water" affordability analysis, it is easy to calculate the amount of safe, clean, affordable water each person should have access to during a typical 30-day period. The math is simple: 55 GPCD X 30 days = 1,650 gallons per person/per month. As many water utilities bill in increments of 100 cu.ft. (ccf), and each ccf equals 748 gallons, the monthly amount translates to 2.2 ccf per person/per month.

In its comments, Great Oaks will refer to this amount – 2.2 ccf per person/per month – when discussing the issue of affordability. The Low-Income Program Scenarios appear to use a standard of 12 ccf per month for a low-income household of four,⁷ which equates to 3.0 ccf per person/per month, an amount above the 55 GPCD indoor water standard already in use. It serves no purpose to inflate water usage amounts above the currently accepted indoor use standard, as doing so artificially increases the cost of the water service being analyzed for affordability (making it seem less affordable). It is reasonable, at least for this exercise, to use a four-person household, making 8.8 ccf the monthly amount factored into this discussion.

Comments to Low-Income Program Scenarios

Great Oaks' comments are directed to each of the four different programs described in the Low-Income Program Scenarios prepared by the Luskin Center for Innovation. In its comments, Great

⁵ Public Utilities Code Section 739.8 requires consideration of both affordability and conservation.

⁶ http://www.waterboards.ca.gov/waterrights/water_issues/programs/drought/docs/factors.pdf.

⁷ See, e.g., Low-Income Program Scenarios, at p. 6 (4-person household), pp. 10, 13, 15 (references to 12 ccf per month usage).

Oaks will address the three key program scenario features of eligibility, household benefit, and potential annual program cost.⁸

1. Scenario #1: All state households below 200% of the FPL are enrolled in a statewide program offering 20% discount.

Eligibility

The first assumption made within this scenario is that households below 200% of the Federal Poverty Line (FPL) require financial assistance to pay the water bill. The annual income of a household at 200% of the FPL is said to be \$48,600.⁹ Is this a proper gauge for water affordability?

Many water affordability analyses use Median Household Income (MHI), rather than FPL, when making general assessments. For example, the Pacific Institute’s 2013 “Assessing Water Affordability” provided the following table for water affordability standards.

Table 1 – Affordability Thresholds

Affordability Threshold	Organization
1.5% of MHI	California Department of Public Health
2.0% of MHI	AB 2334 (Fong 2012)
2.5% of MHI	U.S. Environmental Protection Agency
3.0% of MHI	United Nations Development Program

The issues of eligibility and affordability are permanently linked. **A determination must be made on the affordability threshold for the “Human Right to Water” so that eligibility requirements may be established.** The same is, of course, true with respect to establishing the amount of benefits and the program costs. Until the affordability threshold is established, much of the work being done now is based upon unproven assumptions and speculation (*i.e.*, guesswork).

It is not reasonable to require a water utility to acquire, maintain, verify, update, and protect customer income information. Such an activity is well outside the expertise and capability of water utilities, while it is well within the expertise, capability, and responsibility of numerous state and local government agencies. There are specific agencies that are devoted not only to this series of tasks, but that do so for the purpose of determining the eligibility for and making payment of benefits to qualifying low-income households. This expertise need not be duplicated, but should instead be leveraged and fully utilized. If water utilities are made responsible for these tasks, costs will be added, while efficiencies will be decreased.

Using the 2.2 per person/per month amount explained above, a Great Oaks four-person low-income household customer with a typical 5/8” x 3/4” meter would incur monthly charges of \$41.33, or \$495.96 per year. The Median Household Income in Santa Clara County is reported to be \$102,340,¹⁰ which is the highest in the nation. Great Oaks’ water bill for low-income customers, therefore, amounts to less than 0.5% of Santa Clara County MHI, which is well within the affordability thresholds shown in Table 1.

⁸ Low-Income Program Scenarios, p. 8.

⁹ *Id.*, p. 6.

¹⁰ See <https://datausa.io/profile/geo/santa-clara-county-ca/>.

Great Oaks is not suggesting that none of its customers or none of the water users within its service area have issues with water affordability. Instead, Great Oaks is highlighting the need to dig deeper into the issue to determine appropriate solutions where needed. First and foremost, there is a critical need to establish an appropriate affordability threshold for water low-income program eligibility. Given the wide range of MHI in communities across the State, the affordability thresholds should be based upon local information, rather than statewide data.¹¹

Household Benefit

Scenario #1 includes a benefit equal to 20% of the total water bill.¹² For an eligible 4-person low-income household in Great Oaks' service area using 55 GPCD, the benefit equates to \$8.27 and would reduce a monthly water bill from \$41.33 to \$33.06.

Great Oaks' current LICAP provides a 50% discount off monthly service charges. The same customer, under LICAP, would receive a bill for \$37.16. While Scenario #1 provides a benefit that is greater than that under LICAP, one must wonder, however, if a monthly household benefit of either \$8.27 (Scenario #1) or \$4.17 (LICAP) makes a meaningful difference. This again highlights the need for an affordability threshold.

It is necessary to point out that Scenario #1 offers nothing for H2R households. If the goal is to ensure access to the "Human Right to Water," Scenario #1 fails to the extent that it omits a potentially large segment of the low-income households in the State – the low-income households that do not have direct billing relationships with their local water service provider.

Potential Program Annual Cost

Assuming existing eligibility standards, which exclude H2R households that do not have direct relationships with Great Oaks, and a benefit nearly double the current LICAP benefit, Scenario #1 would essentially double the cost of Great Oaks' current program. Because LICAP is funded by non-LICAP customers, the burden of the extra cost would fall upon the non-LICAP customers.

Conclusion: Doubling the cost of a low-income program, while at the same time neglecting H2R low-income households, should disqualify Scenario #1 from further consideration.

- 2. Scenario #2: All state households below 200% of FPL and paying less than \$100 on their monthly water bill receive a 20% discount; households below 200% of FPL paying \$100 or more on their monthly water bill receive a 35% discount.**

Eligibility

Scenario #2 incorporates two levels or tiers of eligibility. The eligibility levels, however, are irrelevant to income or ability to pay for water, but are instead dependent upon the dollar amount of a monthly water bill. The amount of a water bill includes two obvious components – rates and usage. The more water used, the higher the bill. Assuming equal rates, this scenario would reward low-income households using more water with higher discounts.

¹¹ This is, of course, how the various low-income programs were initially established through the CPUC for the Class A water utilities.

¹² *Id.*, p. 10.

Scenario #2 also adds complexity to the eligibility determination by requiring verification of not just household income, but also the amount of water bills. Discounts could be different every billing period, depending upon usage. This makes program administration more difficult and more expensive.

Scenario #2 does not reach H2R low-income households because they do not receive water bills.

Household Benefit

Scenario #2 also assumes that every low-income customer with a bill under \$100 per month requires some form of financial assistance. This highlights the need to establish an affordability threshold linked to both income and water usage. As discussed above, a Great Oaks' low-income customer using two-times the minimum monthly usage amount of 8.8 ccf would still have a bill under \$100 and receive a 20% discount under this scenario. An even less efficient low-income water user with a bill just over \$100 would be rewarded for their inefficiency with a 35% discount. Under Scenario #2, H2R low-income households would receive no benefit at all. Scenario #2 offers no advantages and would instead reward inefficiency.

Potential Program Annual Cost

This scenario combines several distinct disadvantages –higher administration costs, variable monthly benefits dependent upon the amount of monthly water bills, conservation disincentives, rewards for inefficacy – all of which would increase the annual program costs.

Conclusion: The numerous flaws in Scenario #2 are so inherent, it should also be disqualified from further consideration.

3. Scenario #3: All state households below 200% of FPL who are not served by a CPUC-regulated water system with an existing LIRA are enrolled in a separate unified program offering 20% discount.

Eligibility

Scenario #3 envisions two low-income customer assistance programs – existing programs of the nine Class A water utilities regulated by the CPUC and a statewide program serving all other low-income water customers. Eligibility requirements, again, omit low-income H2R households. The two separate low-income customer programs would have different eligibility requirements, potentially creating inequities where they did not exist before. Eligibility requirements again fail to address the issue of affordability in favor of a standard of unproven efficacy (*i.e.*, 200% of FPL).

While the scenario references “all state households below 200% of FPL,” the envisioned program would not reach the H2R low-income households that do not have a billing relationship with their local water service provider. This is the same significant (fatal) flaw as in Scenarios #1 and #2.

Household Benefit

The scenario assumes a 20% discount would make water affordable to those receiving benefits, but there is no data supporting that assumption. A 20% discount off of a monthly water bill would be a different amount every month, making planning for both utilities and beneficiaries difficult. Please see comments for Scenario #1, which also offers a 20% discount.

Potential Program Annual Cost

Because benefits would be different for each customer every month, administration of the program under this scenario would be more expensive than a program with a defined benefit amount. Having two types of low-income programs (one for Class A CPUC-regulated water utilities and one for everyone else) would duplicate costs and result in both inefficiencies and inequities.

Conclusion: Because Scenario #3 excludes low-income customers of CPUC-regulated Class A water utilities, but apparently not CPUC-regulated Class B, C, and D water utilities, this scenario would create inequities among the CPUC-regulated water utilities. Funding for Scenario #3 would likely have to be statewide and would naturally include some sort of charge levied against customers of CPUC-regulated Class A water utilities, resulting in, in effect, double taxation, as some of those customers currently fund the existing Class A low-income programs and they would also be paying for second, statewide low-income program. Scenario #3 does not address H2R low-income households and does not address the issue of what is and what is not affordable.

4. Scenario #4: All state households below 200% of FPL who are served by a water system not currently offering a compliant LIRA are enrolled in separate, unified program offering 20% discount.

Eligibility, Household Benefit, and Potential Program Annual Cost

There is no functional difference between Scenario #3 and Scenario #4, as the water systems not offering a compliant “LIRA” are those water systems that are not the CPUC-regulated Class A water systems. All comments pertinent to Scenario #3 apply to Scenario #4.

Conclusions and Recommendations

A threshold issue that is not addressed by any of the Low-Income Program Scenarios is the affordability of water. Until it is determined what “affordable water” means in the context of the “Human Right to Water,” the problem this proceeding is intended to address will remain undefined and its solutions unachievable. If we don’t understand the problem, how can we offer a solution?

The first task should be to define water affordability, both in terms of the relative amount of annual household income spent on water and the amount of water used by each household to make the affordability determination. Proceeding in this way will address both cost and conservation simultaneously. Unless or until this is accomplished, it is impossible to gauge the likelihood of success of any program intended to solve the problem.

If a statewide low-income household water affordability program is required to ensure the “Human Right to Water” for all Californians, then there should only be one such program. It should truly be a “statewide” program. Having a program for low-income customers of CPUC-regulated Class A water companies and another program for all other low-income water utility customers creates too many inefficiencies and too many inequities to be workable.

Most importantly, low-income household water affordability programs should not be dependent upon whether a low-income household is or is not a bill-paying customer of a water utility. Everyone uses water and everyone has a “Human Right to Water,” not just water utility customers. Reaching H2R low-income households is a problem that can be solved, but it cannot be solved by water utilities.

Water utilities cannot be expected to provide cash benefits to non-customers. Water utilities cannot provide cash to landlords in the hope that those landlords will use that cash to reduce the portion of their H2R low-income tenants' rent that pays for water. Such a program would be ripe for abuse and nearly impossible to effectively administer. And how a water utility would fund such a program would create substantive legal issues, not to mention issues of fairness.

Once an affordability and use standard is established, the best way to design a program to provide benefits to those who need them is to use H2R low-income households as the test. A program that reaches H2R low-income households and provides benefits at the level determined necessary to ensure their "Human Right to Water" will be the program that fulfills the needs best.

It is predicted that the only way to effectively reach the H2R low-income households is through existing social welfare programs that provide cash assistance for basic human needs. The infrastructure already exists for these statewide social welfare programs (including county and regional administration), which will eliminate the need for a new, duplicative, and expensive method to administer a new low-income household water affordability program. All of the pieces are already in place to incorporate water affordability benefits into existing programs. All, that is, except for the funding. Funding for a statewide program providing water affordability benefits will require thoughtfulness and resolve and, most likely, voter approval.

Respectfully submitted,



Timothy S. Guster
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