



Securing Your Water Supply

John V. Rossi
General Manager

Robert Stockton
Division 1

Thomas P. Evans
Division 2

Brenda Dennstedt
Division 3

Donald D. Galleano
Division 4

S.R. "Al" Lopez
Division 5

July 1, 2015

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



Sent via email: commentletters@waterboards.ca.gov

SUBJECT: Conservation Water Pricing and Implementation of Directive 8 of Executive Order B-29-15

Dear Ms. Townsend:

Western Municipal Water District (Western) thanks the State Water Resources Control Board (State Board) for the opportunity to comment on the topic of budget based conservation rates (BBCR) as the Board moves to promote water conservation pricing mechanisms pursuant to Governor Brown's Executive Order B-29-15 of April 1, 2015.

Western provides water and wastewater services on both a wholesale and retail basis, with a service territory covering 527-square miles of the semi-arid climate of western Riverside County, serving a population of nearly 900,000 people. Recognizing that effective water pricing can reduce demand by sending a clear economic signal to consumers to conserve water, Western adopted a five-tier BBCR structure in October 2011. The BBCR adoption was an integral strategy of the District's Water Use Efficiency Master Plan, adopted in 2008. The effectiveness of the BBCR, in concert with a diverse portfolio of demand management programs, is clearly demonstrated by the positive response of Western's water customers. Western's approach to demand management has resulted in a 28% decline in potable water demand since January 2009.

Per Directive 8, the State Board was ordered to direct urban water suppliers to develop rate structures and other pricing mechanisms to maximize water conservation consistent with statewide water use restrictions. The form of that direction is left to the discretion of the State Board, which has asked for specific input on the following three questions:

1. *What actions should the State Board take to support the development of conservation pricing by water suppliers that have not yet developed conservation rate structures and pricing mechanisms?*

It is important to note at the outset that no "one size fits all" rate structure can work for the diverse water agencies and communities of California. Public agency water purveyors in California are as diverse as our population. Some agencies are predominantly urban, others are predominantly rural. Some are large, some are small. Some have a multitude of water supply

sources—e.g., groundwater, surface water, desalinated water, imported water, and recycled water. Others fully rely on a single source of supply such as imported water or groundwater. Some agencies have made significant investments in water use efficiency programs, while others have yet to fully do so. Some have long-range infrastructure plans requiring multiple issues of municipal bonds, others fund their capital programs on a pay-as-you-go basis. Some may have service areas that generate high utility costs because pumps are required to lift and deliver the water to customers in higher elevations. Others may not because their systems are largely gravity driven. The average per capita income in one may be as high as \$100,000, while in another the average per capita income may be at or below the poverty level. The Legislature has consistently recognized this diversity. In short, the costs of providing water service are different for each public agency water purveyor; how they allocate those costs among their customers is equally different for each public agency.

The members of the legislative bodies of these public agencies are just as diverse in their opinions, experience and backgrounds as the agencies they serve. Their diversity influences their decision-making, and the goals and policies that guide their agencies, including their determination of what is a fair and equitable rate structure for their customers within the constraints of the law, namely California Constitution Article X, section 2 and article XIII D, section 6(b).

Western also appreciates the State Board's assertion and recognition in the workshop notice of the local, complex and constrained nature of rate-making in stating, "...rate-setting is a complex undertaking that involves numerous local determinations..." and "pricing must be carefully tailored to local circumstances to be effective..." and "...water suppliers must carefully construct and document their rate structures to comply with the constitutional limits of Proposition 218."

We agree: local agencies are best suited to determine appropriate rate structures for their customers and ratepayers, as their governing bodies are elected by the voters to represent their interests. The State Board should offer guidance, resources, and support to agencies to assist in the development of locally appropriate rate structures. There is an important role for the State Board – that is to assist local agencies that are interested in the development and adoption of a BCR structure by providing:

a. Funding Assistance

The State Board may offer guidance, resources and support to agencies, but should not regulate or mandate public agency water purveyors to implement a specific rate structure that may not meet or fit the local community's needs. For example, the State Board could offer funding assistance to:

- i. Consult with legal experts in Propositions 218 and 26 during the development of a public agency's water rate structure,
- ii. Obtain technical assistance to identify best practices and develop methods to allocate costs to tiers of water use. This may include such matters as guidance on how to allocate costs to: the peaking characteristics of water and their impact on water systems to justify charging higher rates to those who place

greater demands on water systems; water conservation and efficiency programs; sources of supply; and avoided costs.

b. Financial incentives

In addition to funding that may be offered to help defray the cost of consultants and other technical needs of agencies that choose to adopt and implement BBCR, the State Board may include funding for conversions of billing systems required for new rate structures, or GIS and other household and customer data required for developing BBCR.

c. Relief from stringent conservation metrics

BBCR are designed to achieve a permanent conservation mindset for water customers by establishing water budgets for each customer based on what is reasonable and efficient uses of water. An agency with a well-designed BBCR does not need nor should be required to implement a days-of-the-week restriction on outdoor irrigation because water budgets are designed to assist water users to manage their water use through an economic pricing signal. There is no benefit from holding that agency to a standard that might be beneficial in other rate scenarios. However, should an agency decide that it needs to, in one possible example, manage demand on its system to maintain reliability and system integrity, it would be free to implement a days-of-the-week approach.

d. "Carrots, not sticks"

Similar to what occurred with the voluntary water conservation measures released earlier in the year, the State Board may reward water agencies that have BBCR rates by not requiring strict compliance with all State Board water use regulations and restrictions, in addition to holding agencies with those BBCR rate structures in a separate category that recognizes the work accomplished by those agencies.

2. *What actions should the State Water Board take to support water suppliers that have already developed conservation rate structures and pricing mechanisms to improve their effectiveness?*

Agencies, like Western, which are early adopters of innovative pricing strategies to help customers be more water-wise, should be recognized and rewarded for their forward-thinking prior to the current emergency water shortage.

Actions to support early adopters could include, but are not limited to:

a. Funding assistance for the review and update of BBCR

Not all BBCR are created equal. For example, not all structures are inclusive of all water use sectors (examples: single family residential, multifamily residential, landscape, and commercial/industrial). Some agencies may need funding assistance to obtain technical consultant to help improve their local structure to increase the efficient use of water. Other agencies may have deployed a BBCR to one sector of water use (i.e. single family residential) but many need guidance to include other sectors (i.e. to commercial and industrial).

b. Recognition of innovative actions

Again, not all BBCR are created equal. Western's rate structure included innovations designed to increase water use efficiency while preserving customer equity. The use of

- real-time weather data and the progressive use of University of California crop research coupled with the absence of an irrigation efficiency factor make Western's structure more robust than other structures. The SWRCB should convene a stakeholder working group that could develop a guidance document including a matrix of possible BBCR components in order to be able to recognize and reward those that meet or exceed an innovative threshold.
 - c. Consideration and credit for past BBCR action**

Prior to implementation of future regulation and restrictions, the SWRCB should develop a defined mechanism to provide reduction credit to suppliers that have implemented BBCR. The State Board should review consumption prior to and following implementation of BBCR and consider the demand reduction and hardening effect already imposed on water users in these areas. Suppliers with BBCR should not be treated the same as those without progressive structures.
3. *What actions can the State Water Board take to assist water suppliers in demonstrating that existing rate structures harmonize competing legal authorities associated with water rates?*
- a. The State Board may provide support for legislation that: (i) demonstrates the harmony that BBCR bring to California Constitution Article X, section 2 and Article XIII D, section 6(b); and (ii) establishes a statute of limitations for challenges to property-related fees; and (iii) prohibits class action lawsuits to challenges to property-related fees.
 - b. With regard to legislation harmonizing Article X, section 2 and Article XIII D, section 6(b), the State Board may provide support to specific legislation:
 - i. that provides clarification of the voters' intention in adopting Article X, section 2, and
 - ii. that provides guidance that the courts may look to in interpreting the interplay between Article X, section 2 and Article XIII D, section 6(b)
 - c. The State Board may provide support for an amendment to the California Constitution that specifically authorizes BBCR.

Finally, we respectfully suggest that the State Board convene a stakeholder working group to discuss and study the issue further. Again, thank you for the opportunity to comment and your kind consideration of our input. Should you have any questions or would like clarification, please contact Lana Haddad, government affairs officer at 951-572-7208 or lhaddad@wmwd.com.

Sincerely,



John V. Rossi
General Manager

cc: Felicia Marcus, Chair, State Water Resources Control Board
Tom Howard, Executive Director, State Water Resources Control Board
Max Gomberg, Climate Change Advisor, State Water Resources Control Board