



## COALITION FALSE CLAIMS ON CPUC REGULATORY PROCESS

The California Coalition on Water Rates Reform makes false and misleading claims on the California Public Utilities Commission (CPUC) regulatory process.

Incorrect assertions made by the Coalition include:

**The Coalition claims that regulated utilities are earning a “record 36.4% return”<sup>i</sup> that is “guaranteed”<sup>ii</sup> by the CPUC. The Coalition says that “private water companies can’t lose”<sup>iii</sup> under the current CPUC regulatory framework.**

These claims are false. Here are the facts:

The CPUC is not authorized to guarantee a return on equity to any water utility.

The CPUC provides a reasonable opportunity for utilities to earn a return on the equity or capital they use to finance Commission-approved infrastructure investments. Providing this opportunity to earn a return is necessary for the utility to attract financing for the replacement and expansion of infrastructure necessary to provide safe, clean, reliable drinking water and reliable wastewater services.<sup>iv</sup> Because the return on equity is not guaranteed, regulated utilities are incentivized to control costs and operate efficiently.<sup>v</sup>

In 2017, the authorized return on equity for the four largest regulated water utilities in California averaged 9.57%.<sup>vi</sup> This return was comparable to the national average of 9.56% for large regulated water utilities.<sup>vii</sup> In a March 2018 decision,<sup>viii</sup> the CPUC reduced the ROE for all four of these utilities to an average of 9.05%, well below the national average. Experts agree that the lower ROE will make it more difficult for these companies to attract capital for investments in community water systems, and will ultimately raise costs for customers.<sup>ix</sup>

**The Coalition claims that the CPUC allows regulated utilities to “charge customers for product they don’t use.”<sup>x</sup>**

This claim is false and ignores important contexts. Here are the facts:

In the rate-setting process, the CPUC determines the revenues required to operate a given water system. Regulated utilities are allowed to charge rates that will achieve but not exceed this “revenue requirement.”<sup>xi</sup>

Given that the rate-setting process is forward-looking, rates for a water system are based on projected water consumption, a figure that is vigorously analyzed and considered by experts at the CPUC’s Public Advocates Office (Cal-PA) and the utility. Due to conservation measures related to drought conditions in California, in recent years virtually all water utilities in the state – both regulated and municipal – have experienced significantly reduced consumption. Lower than expected consumption has resulted in utilities across the state failing to generate the revenue necessary to operate their systems.

To address this shortfall, the CPUC has allowed regulated Class A utilities (those with more than 10,000 service connections) to use a Water Revenue (or Rate) Adjustment Mechanism (WRAM) surcharge to enable these utilities to recover their previously authorized costs. The WRAM does not raise “additional money” or “punish those who conserve” as the Coalition claims.<sup>xii</sup> Rather, the WRAM provides a mechanism to ensure utilities generate the revenue necessary to operate their systems during periods of lower than expected consumption.

Notably, municipal utilities across California have also faced revenue shortfalls due to lower water consumption during the drought. In fact, the Public Policy Institute of California found in June 2017 that 75% of all water utilities in the state had been forced to adjust rates or add surcharges in recent years to account for shortfalls caused by declining consumption.<sup>xiii</sup>

It is important to note that when higher than projected consumption occurs and water rates generate a surplus of funds above the revenue requirement, the WRAM mechanism automatically provides refunds to customers.<sup>xiv</sup> No such refund mechanism exists for municipal utilities that generate surplus revenues.

### **The Coalition claims that the advice letter process is “rigged” and “used by utilities in the same way a college freshman might write home to mom and dad for more money.”<sup>xv</sup>**

This claim is nonsense and misrepresents the purpose of the advice letter process. Here are the facts:

The advice letter process enables the CPUC and the utility to implement projects that have already been approved in a formal rate case proceeding.<sup>xvi</sup>

For instance, in some proceedings, the CPUC may approve a water system improvement project whose costs are not fully confirmed due to cost variables related to permits, bids, contracts and construction. In California, a utility is not allowed to recoup costs for any system improvements or expansions until that infrastructure has actually been put into operation and is serving customers. Thus, when certain costs are not fully known, the CPUC will establish parameters for the project and enable the advice letter process to be used to determine the specific amount to be recouped by the utility.

Just like during formal rate-setting proceedings, customer interests are represented and protected by the Cal-PA during the advice letter process.<sup>xvii</sup> Cal-PA’s statutory mission is to “obtain the lowest possible rate for service, consistent with safety, reliability and the state’s environmental goals.”<sup>xviii</sup> The Cal-PA has a full staff of legal and technical experts in place to review all utility requests. In addition, the advice letter process is open to input from the public, local officials, and other consumer advocates including individual customers.

Notably, regulated utilities also use the advice letter process when costs that are built into rates come in lower than expected. For instance, a utility’s electricity costs may wind up being lower than projected during a rate case. In this circumstance, the advice letter process would be used to make the required refunds to customers.

### **The Coalition claims that settlement conferences lack transparency and that only parties to proceedings may attend.<sup>xiv</sup>**

This claim ignores key facts on settlement conferences. Here is the full story:

A settlement conference enables the utility, the Cal-PA and other parties to negotiate an agreement on contested issues in a general rate case without going through expensive litigation on every single issue. Customer interests are fully represented and protected by the Cal-PA and other consumer organizations well versed in the CPUC’s legal proceedings during a settlement conference.

If a settlement conference is successful, the resulting rates agreement is put before the CPUC for a formal review and ruling.

Any individual or organization may become a party to a proceeding and therefore may participate in a settlement conference. The CPUC Rules of Practice and Procedure outline the methods available to become a party in rate-setting, adjudicatory or quasi-legislative proceedings.<sup>xx</sup>

## The Coalition claims that the CPUC is “failing to track or verify spending and results for infrastructure projects.”<sup>xxi</sup>

This claim is false. Here are the facts:

Regulated water utility rates are set by the CPUC. In setting rates every three years through the general rate case process, as mandated by California state law<sup>xxii</sup>, the California Public Advocates Office, acting in its capacity as the staff lead on a rate case for the CPUC, thoroughly reviews the utility’s application and issues a report on the utility’s operations for the Commission. In so doing, the CPUC undertakes a detailed analysis of the company’s costs, audits system needs, conducts public hearings for customers, holds formal evidentiary hearings adjudicated by administrative law judges, and issues a final decision authorizing an approved rate structure and terms of service for the utility. Throughout this process, a regulated utility’s spending is scrutinized in detail by experts at the CPUC.<sup>xxiii</sup>

A primary objective of the general rate case process is ensuring that rates are fair to customers. As noted above, Cal-PA has a statutory mission to obtain the lowest possible rate for service consistent with safety, reliability, and the state’s environmental goals. Further, customers are able to participate in the general rate case process through comments and hearings. Rate setting through the CPUC is always a public process that includes opportunities for input by all interested individuals and groups, especially customers.<sup>xxiv</sup>

### Sources

<sup>i</sup>Coalition Summit held 2/16/18.

<sup>ii</sup>Coalition Summit held 2/16/18; “Water: The Case for CPUC Reform” Presentation by WRATES in Lancaster, CA, 16 February 2018.

<sup>iii</sup>Coalition Summit held 2/16/18.

<sup>iv</sup>California Public Utilities Commission, “An Introduction to Utility Cost of Capital” April 2017; California Public Utilities Commission, “What is Cost of Capital (CoC)?” Accessed 8 March 2018.

<sup>v</sup>California Public Utilities Commission, “An Introduction to Utility Cost of Capital” April 2017; California Public Utilities Commission, “What is Cost of Capital (CoC)?” Accessed 8 March 2018.

<sup>vi</sup>California Public Utilities Commission, Decision 12-07-009; 12 July 2012; the ROEs for California Water Service, Golden State Water and San Jose Water were subsequently adjusted downward pursuant to the application of the Water Cost of Capital Mechanism.

<sup>vii</sup>Letter to CPUC President Michael Picker and Commissioners, “Proposed Decision of ALJ Bernesderfer” 27 February 2018.

<sup>viii</sup>California Public Utilities Commission, Decision 18-03-035, 22 March 2018, “Decision Fixing Cost of Capital for Calendar Years 2018, 2019 and 2020 for California Water Service Company, California-American Water Company, Golden State Water Company and San Jose Water Company” (page 2).

<sup>ix</sup>NAWC Letter to CPUC, 27 February 2018; CWA Letter to CPUC, 9 March 2018.

<sup>x</sup>Coalition Summit held 2/16/18.

<sup>xi</sup>California Public Utilities Commission, “Total Actual Revenue Requirement” Accessed 8 March 2018; California Public Utilities Commission, “Utility General Rate Case – A Manual for Regulatory Analysts” November 2017.

<sup>xii</sup>Coalition website, “Parris: Screw Water Agency”

<sup>xiii</sup>Public Policy Institute of California, “Building Drought Resilience in California’s Cities and Suburbs” June 2017.

<sup>xiv</sup>California Public Advocates Office, “Water Revenue Adjustment Mechanism” Accessed 8 March 2018.

<sup>xv</sup>Coalition Summit held 2/16/18; Coalition website, “Surrender Follows When Cities Fight Corporate Water Barons Alone” February 2017.

<sup>xvi</sup>California Public Advocates Office, “2017 Annual Report” January 2018.

<sup>xvii</sup>California Public Advocates Office, “2017 Annual Report” January 2018.

<sup>xviii</sup><http://www.ora.ca.gov/>; ORA’s statutory mission.

<sup>xix</sup>Coalition Summit held 2/16/18.

<sup>xx</sup>California Public Utilities Commission, “Rules of Practice and Procedure” July 2016; California Public Utilities Commission, “Methods for Becoming a Party to a Proceeding” Accessed 8 March 2018.

<sup>xxi</sup>Coalition Facebook, “Sins and omissions” post, 2/22/18.

<sup>xxii</sup>California Public Utilities Code Section 455.2: (c) The commission shall establish a schedule to require every water corporation subject to the rate case plan for water corporations to file an application pursuant to the plan every three years.

<sup>xxiii</sup>California Public Utilities Commission, “Utility General Rate Case – A Manual for Regulatory Analysts” November 2017.

<sup>xxiv</sup>California Public Utilities Commission, “Utility General Rate Case – A Manual for Regulatory Analysts” November 2017; For more information, see: <http://www.ora.ca.gov/>.