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# California State Senate

SENATOR  
**SCOTT WILK**  
TWENTY-FIRST SENATE DISTRICT



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BUDGET SUBCOMMITTEE #4

April 9, 2018

The Honorable Al Muratsuchi  
Chair, Joint Legislative Audit Committee  
State Capitol, Room 2179 Sacramento, CA 95814

As representatives of the people of the Great State of California, we write today to respectfully request that the Joint Legislative Audit Committee authorize a complete audit and review of the ratesetting process administered by the California Public Utilities Commission (CPUC) in regards to investor owned utilities (IOUs) that serve California's water consumers.

The ratesetting process by nature has wide ranging impacts on California residents, over 6 million of whom are served by private IOU water companies regulated through the CPUC. For that reason it is our duty as legislators to ensure it is being conducted in a fair, predictable and transparent way. Unfortunately, that is not the case under the current system.

In some areas we serve, and no doubt areas throughout the state, water rates have increased by over 215% in the last ten years. That in itself is a troubling fact in need of auditing particularly in light of the fact that return on investment (i.e. profits) for the IOUs serving our state have climbed steadily even through recession and drought and sit now at record levels.

On the issue of ratesetting, the current practice at the CPUC establishes a general rate case process that sets the rates for the upcoming three years. As a matter of practice, however, IOUs typically augment the rate authorized in the rate case decision by submitting advice letter increases to CPUC. There are no statutory limits to the number and frequency of advice letter-style rate increases. Typically, the CPUC approves the rate requested in the advice letter.

All of these factors have led to an unprecedented, and frankly unjustifiable, series of rate increase that, if continued at their current pace, will likely see taps run dry in family homes and businesses throughout our state. As far as the water customers of private water companies are concerned, the charges and rates demanded or received by private water corporations are not "just and reasonable," as required by Section 451 of the Public Utilities Code.

It is our hope that an audit of the CPUC will lead to greater clarity and transparency as to the processes currently in place for setting the rates Californians pay for their water. It is the stated

intention of the State of California that water be made affordable for all Californians. It only goes to follow then that in ensuring this, we examine thoroughly the mechanisms and processes in place at the CPUC for setting rates that determine whether the right to affordable water is realized by our constituents.

With these facts in mind we respectfully request that the Joint Legislative Audit Committee approve a full investigative audit of the CPUC to include the following determinations:

- 1) What principals are followed by Commissioners and ALJs in determining appropriate rates to be set for water services and are those principals being applied uniformly?
- 2) Are policies implemented by the Legislature and/or the CPUC being followed in all cases during the ratesetting process?
- 3) Is the three-year general rate case term appropriate and effective, considering that rates that are set in the general rate case are frequently augmented by way of advice letter?
- 4) How often are advice letter increases requested and approved by IOU water companies?
- 5) Do advice letter rate increases appear to be being used as a way to raise rates outside the general rate case process and thus to shirk many of the more in-depth reviews and processes involved in the general rate case process?
- 6) Is the advice letter rate increase process adequately transparent and accessible to the public?
- 7) Is the CPUC adequately tracking and verifying data on the age, condition, industry standard life expectancy, repair and replacement history of IOU system components?
- 8) Does the CPUC have adequate measures in place to ensure cost of capital figures being factored in to the ratesetting process are representative of actual costs and that those costs and the repairs, replacements and upgrades they represent are indeed necessary?
- 9) Are return on investment figures being paid out in excess of the rate they are being paid in other, similar instances state and nation wide and/or are they being paid out in excess of the legally required returns established under United States Supreme Court decisions in *Bluefield Water Works v. Public Service Commission*, 262 U.S. 679 (1923) and *Federal Power Commission v. Hope Natural Gas Co.* 320 U.S. 591 (1944) or other required return levels germane to CPUC regulation?

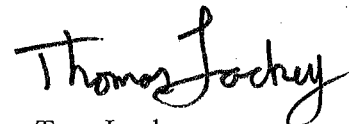
- 10) Would the current system benefit from a regulatory or legislatively imposed formula for determining rates?
- 11) Are communications between the CPUC, IOUs and the consumers and constituents they serve adequate and consistent with best practices for public entities such as the CPUC and do they promote transparency and ratepayer involvement?
- 12) Are communications between the CPUC, IOUs and the consumers and constituents they serve adequate and consistent with best practices for public entities such as the CPUC and do they promote transparency and ratepayer involvement?
- 13) Are notification procedures and policies clear and sufficient and are they being followed by the CPUC and regulated IOUs?
- 14) Are archived rate case and advice letters being made sufficiently available to the public and, if not, what policy or policies have led to this?
- 15) Are closed door sessions and meetings being held too often or without legitimate reason when and where they could easily and reasonably be held in public and is there a protocol or policy for when a meeting must be held in closed door fashion as opposed to in the light of the public?

It is the duty of the State of California and its government to ensure the natural monopolies serving our constituents water and the regulatory body overseeing them are operating in a way that serves the people of this great state first, foremost and above all else. Through the answering of these questions and auditing of processes at the CPUC we hope to ensure that is the case and, if not, to expose a clear path forward to correct whatever issues are preventing it from being so.

I appreciate your time and consideration and look forward to the outcome of this audit.

Sincerely,

Scott Wilk  
Senator, 21<sup>st</sup> District



Tom Lackey  
Assemblyman, 36<sup>th</sup> District