

PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298



March 11, 2022

Tiffany Thong
Manager, Rates and Regulatory Affairs
Liberty Utilities (Apple Valley Ranchos Water) Corp.
21760 Ottawa Road
Apple Valley, CA 92308-6533

Dear Ms. Thong,

The Water Division of the California Public Utilities Commission has approved Liberty Utilities' (Apple Valley Ranchos Water) Advice Letter No. 261, filed on December 15, 2021, regarding authorization to establish the Drinking Water Fee Expense Memorandum Account.

Enclosed are copies of the following revised tariff sheets, effective December 15, 2021, for the utility's files:

| P.U.C. | |
|------------------|--|
| Sheet No. | Title of Sheet |
| 1156-W | Preliminary Statement, Sheet 27 JJ. Drinking Water Fee Memorandum Account |
| 1157-W | Table Of Contents, Sheet 1 |

Please contact Eustace Ednacot at ERE@cpuc.ca.gov or 415-703-1492, if you have any questions.

Thank you.

Enclosures



Liberty Utilities (Apple Valley Ranchos Water) Corp.
21760 Ottawa Road
Apple Valley, CA 92308-6533
Tel: 760-247-6484
Fax: 760-247-1654

Advice Letter No. 261-W

December 15, 2021

TO THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Liberty Utilities (Apple Valley) Corp. (U 346-W) (“Liberty Apple Valley”) hereby submits the following revised tariff sheets applicable to water service in its service territory.

Purpose

Liberty Apple Valley requests authorization to establish a Drinking Water Fees Memorandum Account (“DWFMA”) to track the difference between drinking water fees charged by the State Water Resources Control Board (State Board) and the drinking water fees authorized in rates.

Background

On September 22, 2021, the State Board adopted emergency regulations that adjusted drinking water fees to conform to the revenue levels set forth in the Budget Act for fiscal year (FY) 2021-22. The proposed emergency regulation will adjust the fee schedule in FY 2019-20 to increase the fees by approximately 26.6 percent on average for the community water systems, including Liberty Apple Valley.

The State Board’s adopted emergency regulations result in a significant increase in drinking water fees to Liberty Apple Valley for the same level of service. The new and higher expenses are not included in presently authorized rates nor will they be included in rates authorized by Application 21-07-003 once a decision is granted. The requested memorandum account will track the difference between drinking water fees charged by the State Board under its adjusted drinking water fees and those authorized in Liberty Apple Valley’s proceedings. Liberty Apple Valley will incorporate the adjusted drinking water fees under the new State Board emergency regulations, and any future increases, into its next general rate case (to be filed in 2024).

Memorandum Account Justification

In accordance with the Commission’s Standard Practice U-27-W, establishing a memorandum account is conditional and must meet each of the following five criteria:

1. The event is not under the utility’s control.

On September 22, 2021, the State Water Board adopted emergency regulations that adjusted drinking water fees to conform to the revenue levels set forth in the Budget Act for fiscal year (FY) 2021-22. The proposed emergency regulation will adjust the fee schedule in FY 2021-22 to increase the fees by approximately 26.6 percent on average for community water systems. The State Board is not under Liberty Apple Valley’s control, making the new, higher expenses both exceptional in nature and not under Liberty Apple Valley’s control.

2. The event could not have been reasonably foreseen in the utility's last general rate case.

Liberty Apple Valley's most recent general rate case Decision 20-09-019 authorized the drinking water fees in Test Years 2019-2021. Liberty Apple Valley's current general rate case Application No. 21- 07-003 was filed on July 2, 2021 (A.20-07-011) for Test Years 2022-2024. The State Board's emergency regulation rulemaking was issued on September 22, 2021, therefore the expenses could not have been reasonably foreseen in Liberty Apple Valley's prior general rate case (A.18-01-002) and its current pending general rate case (A.21-07-003) and will be incurred before the next scheduled general rate case filing in 2024.

3. The event occurred before the utility's next schedule rate case.

Liberty Apple Valley's next general rate application is not scheduled to be filed until July 2024 for Test Years 2025-2027. The expenses will be incurred before the next scheduled general rate case.

4. The event is of a substantial nature in that the amount of money involved is worth the effort of processing a memo account.

Liberty Apple Valley was billed \$52,748 in drinking water fees for the fiscal year 2019/2020. The annual drinking fees will increase by 26.6 percent or approximately \$14,031 due to the new emergency regulations adjustment. This is a substantial increase over both currently authorized drinking water fee expenses in D.20-09-019 and those projected in A.21-07-003 (which are based upon normal increases and not the substantial increase in drinking water fee expenses that will result from the recent State Board action).

5. The Memorandum Account has ratepayer benefits.

Payment of drinking water fees provides funding in the State Board for issuing permit amendments, reviewing compliance data, and conducting sanitary inspections, all of which are activities directly benefitting ratepayers by providing a safe drinking water supply.

Memorandum Account Treatment

Liberty Apple Valley is aware that a memorandum account is not a guarantee of eventual recovery of expenses, nor it is carried as a regular account under the Uniform System of Accounts ("USOA") for water utilities. It is carried "off the books", as a memorandum account. Further, it is also known that Commission policy on memorandum account treatment has always been that the burden of proof of the reasonableness of expenses charged to the account is the responsibility of the utility requesting reimbursement of such expenses.

Additional Authority for Requested Memorandum Account

The Commission approved an identical (in nature) request for DWFMA for San Jose Water Company pursuant to its Advice Letter 497-W and Great Oaks pursuant to its Advice Letter 263-W. Liberty Apple Valley requests similar treatment under General Order 96-B, Industry Rule 8.2.

Terms and Conditions of DWFMA

Liberty Apple Valley has patterned the terms and conditions of its requested DWFMA after the authorized terms and conditions of San Jose Water Company's and Great Oaks' previously authorized DWFMA. The requested terms and conditions are provided in the proposed Preliminary Statement, Part JJ, attached to this advice letter.

Tier Designation

This advice letter is submitted with a Tier 2 designation.

Effective Date

Liberty Apple Valley is requesting that this filing become effective on December 15, 2021.

Notice and Service

Pursuant to General Order 96-B, Water Industry Rule No. 3.2, this advice letter does not require a customer notice nor a customer notice verification. In accordance with General Order 96-B, General Rule 4.3 and 7.2 and Water Industry Rule 4.1, a copy of this advice letter will be mailed or electronically transmitted to Liberty Apple Valley's Advice Letter service list.

Response or Protest

Anyone may respond to or protest this advice letter. A response supports the filing and may contain information that proves useful to the Commission in evaluating the advice letter. A protest objects to the advice letter in whole or in part and must set forth the specific grounds on which it is based. These grounds are:

- (1) The utility did not properly serve or give notice of the advice letter;
- (2) The relief requested in the advice letter would violate statute or Commission order or is not authorized by statute or Commission order upon which the utility relies;
- (3) The analysis, calculations, or data in the advice letter contain material error or omissions;
- (4) The relief requested in the advice letter is pending before the Commission in a formal proceeding;
- (5) The relief requested in the advice letter requires consideration in a formal hearing or is otherwise inappropriate for the advice letter process; or
- (6) The relief requested in the advice letter is unjust, unreasonable, or discriminatory, provided that such a protest may not be made where it would require re-litigating a prior order of the Commission.

A protest shall provide citations or proofs where available to allow staff to properly consider the protest. A response or protest must be made in writing or by electronic mail and must be received by the Division of Water within 20 days of the date this advice letter is filed. The address for mailing or delivering a protest is:

Tariff Unit, Water Division, 3rd floor
California Public Utilities Commission
505 Van Ness Avenue, San Francisco, CA 94102
Water.division@cpuc.ca.gov

On the same date the response or protest is submitted to the Water Division, the respondent or protestant shall send a copy by mail (or e-mail) to Liberty Apple Valley, addressed to:

Tiffany Thong
Manager, Rates and Regulatory Affairs
Liberty Utilities
9750 Washburn Road
P. O. Box 7002
Downey, CA 90241
Fax: (562) 861-5902
E-Mail: AdviceLetterService@libertyutilities.com

Cities and counties that need Board of Supervisors or Board of Commissioners approval to protest should inform the Division of Water and Audits within the 20-day protest period so that a late filed protest can be entertained. The informing document should include an estimate of the date the proposed protest might be voted on.

If you have not received a reply to your protest within 10 business days, contact Tiffany Thong at (562) 805-2088.

Very truly yours,

LIBERTY UTILITIES (APPLE VALLEY RANCHOS WATER) CORP.

/s/ Tiffany Thong

Tiffany Thong
Manager, Rates and Regulatory Affairs
Tiffany.Thong@LibertyUtilities.com

TT/aml

cc: Hani Mousa – Public Advocates hani.mousa@cpuc.ca.gov
PublicAdvocatesWater@cpuc.ca.gov

**Cal P.U.C.
Sheet No.**

Title of Sheet

**Cancelling
Cal P.U.C.
Sheet No.**

1156-W PRELIMINARY STATEMENT
 Sheet 27

1157-W TABLE OF CONTENTS
 Sheet 1

1155-W

PRELIMINARY STATEMENT

Page 27

JJ. Drinking Water Fee Memorandum Account

(N)

1. Purpose

The purpose of the Drinking Water Fees Memorandum Account (DWFMA) is to track the difference between actual drinking water fees charged by the State Water Resources Control Board (State Board)(based upon the revised fee schedule adopted by the State Board on September 22, 2021) and the drinking water fees authorized in rates.

2. Applicability

Liberty Apple Valley shall maintain the DWFMA by making entries at the end of each month as follows:

- a. A debit entry shall be made to the DWFMA at the end of each month to record the expenses.
- b. Interest shall accrue to the DWFMA on a monthly basis by applying a rate equal to one twelfth of the 3-month non-financial Commercial Paper Rate, as reported in the Federal Reserve Statistical Release, to the average of the beginning-of-month and the end-of-month balances. H.15, (<http://www.federalreserve.gov/Releases/H15/NFCP/M3.txt>), or its successor publication (debit or credit).

3. Effective Date

The DWFMA shall go into effect on the effective date of Liberty Apple Valley's Advice Letter 261-W. The DWRMA will sunset with the effective date of Liberty Apple Valley's rates from its July 2024 General Rate application.

4. Disposition

Disposition of amounts recorded in the DWFMA shall be determined in Liberty Apple Valley's next General Rate Case application, or as otherwise determined by the Commission if the account's cumulative balance exceeds 2% of Liberty Apple Valley's adopted gross revenues. The recovery of over/under collections will be passed on to the customers through volumetric surcredits or surcharges.

(N)

(Continued)

Advice Letter No. 261-W
Decision No.

Issued by
CHRISTOPHER G. ALARIO
PRESIDENT

Date Filed 12/15/2021
Effective 12/15/2021
Resolution No.

TABLE OF CONTENTS

The following listed tariff sheets contain all effective rates and rules affecting the charges and service of the utility, together with other pertinent information:

| <u>Subject Matter of Sheet:</u> | | <u>CPUC Sheet No.</u> |
|--|--|------------------------------|
| Title Page | | 900-W |
| Table of Contents | | 1157-W, 1097-W (T) |
| Preliminary Statement | 845-W, 533-W, 1069-W, 624-W, 914-W, 1104-W, 902-W, 1070-W, 1071-W, 1072-W, 1073-W, 1074-W, 1075-W, 1076-W, 1077-W, 1078-W, 1079-W, 934-W, 1080-W, 994-W, 996-W, 1044-W, 1105-W, 1046-W, 1047-W, 1156-W | (T) |
| Service Area Map-Apple Valley Ranchos | | 1131-W |
| Service Area Map-Yermo | | 846-W |
| <u>Rate Schedules:</u> | | |
| Schedule No. 1 | Residential General Metered Service-Apple Valley | 1098-W, 1107-W, 1108-W |
| Schedule No. 1 YE-R | Residential General Metered Service-Yermo | 1100-W, 1083-W |
| Schedule No. 2 | Gravity Irrigation Service | 1099-W, 1084-W |
| Schedule No. 3 | Non-Residential General Metered Service-Apple Valley | 1101-W, 1109-W, 1110-W |
| Schedule No. 3 YE-NR | Non-Residential General Metered Service-Yermo | 1102-W, 1086-W |
| Schedule No. 4 | Non-Metered Fire Services | 1103-W, 1087-W |
| Schedule No. 5 | Fire Flow Testing Charge | 850-W |
| Schedule No. LC | Late Payment Charge | 1028-W |
| Schedule 14.1 | Water Shortage Contingency Plan | 1133-W through 1140-W |
| Schedule UF | Surcharge to Fund PUC Reimbursement Fee | 1031-W |
| Schedule CAP | Customer Assistance Program | 1093-W, 1094-W |
| Schedule No. CAP-SC | Customer Assistance Program Sur-Charge | 1095-W 819-W |

LIST OF CONTRACTS AND DEVIATION:

| <u>Rules:</u> | | |
|----------------------|--|---|
| No. 1 | Definitions | 999-W, 1000-W |
| No. 2 | Description of Service | 159-W |
| No. 3 | Application for Service | 13-W, 553-W |
| No. 4 | Contracts | 361-W |
| No. 5 | Special Information Required on Forms | 1022-W, 1023-W, 1001-W, 1002-W |
| No. 6 | Establishment and Re-establishment of Credit | 362-W |
| No. 7 | Deposits | 711-W, 730-W |
| No. 8 | Notices | 1003-W through 1006-W |
| No. 9 | Rendering and Payment of Bills | 689-W through 691-W, 1033-W |
| No. 10 | Disputed Bills | 1007-W, 1008-W |
| No. 11 | Discontinuance and Restoration of Services | 1029-W, 1010-W through 1019-W |
| No. 12 | Information Available to Public | 366-W, 367-W |
| No. 13 | Temporary Service | 368-W, 369-W |
| No. 14 | Continuity of Service | 370-W |
| No. 14.1 | Water Conservation and Rationing Plan | 1141-W through 1152-W |
| No. 15 | Main Extensions | 386-W through 392-W, 529-W, 1044-W, 1045-W, 564-W, 396-W through 398-W, 983-W, 984-W |
| No. 16 | Service Connections, Meters, and Customer Facilities | 399-W through 405-W |

(Continued)

Attachment A

State Water Resources Control Board

NOTICE OF PROPOSED EMERGENCY RULEMAKING

Annual Drinking Water Fees

Amendments to Division 4, Chapter 14.5 of Title 22 of the California Code of Regulations

Required Notice of Proposed Emergency Action

Government Code section 11346.1, subdivision (a)(2) requires that, at least five working days prior to submission of a proposed emergency action to the Office of Administrative Law (OAL), the adopting agency provide a notice of the proposed emergency action to every person who has filed a request for notice of regulatory action with the agency. This document provides the required notice. Upon receiving the proposed emergency regulation, OAL shall publish the notice on their Website and allow interested persons five calendar days to submit comments on the proposed emergency regulation as set forth in the Government Code section 11349.6.

Proposed Emergency Action

SB 83 (2015) required the State Water Resources Control Board (State Water Board) to establish a fee schedule to support the Drinking Water Program. Effective July 1, 2016, the existing Health and Safety Code section 116565, which establishes annual fees for public water systems, became inoperative (Stats. 2015, Ch. 24, § 19), and a new section 116565 (added by Stats. 2015, Ch. 24, § 20), became operative. The law requires the fee regulations initially be set through the regular rulemaking process, which occurred on April 10, 2017. Thereafter, regulations, any amendment thereto, or subsequent adjustments to the annual fees shall be adopted as emergency regulations that are not subject to review by OAL.

On September 22, 2021, the State Water Board adopted emergency regulations that adjusted drinking water fees to conform to the revenue levels set forth in the Budget Act for fiscal year (FY) 2021-22. The proposed emergency regulation will adjust the fee schedule in FY 2019-20 to increase the fees approximately 26.6 percent on average for community water systems, nontransient noncommunity water systems, transient noncommunity water systems, and wholesalers.

Proposed Text of Emergency Regulations

See the attached proposed text of the emergency regulation.

E. JOAQUIN ESQUIVEL, CHAIR | EILEEN SOBECK, EXECUTIVE DIRECTOR

Finding of Emergency (Gov. Code, § 11346.1, subd. (b)(2).)

The State Water Board has a mandatory legal duty to assess fees and to adopt the regulations, any amendment thereto, or subsequent adjustments to the annual schedule of fees by emergency regulation. (Health & Saf. Code, §§ 116565, 116590) Health and Safety Code section 116565, subdivisions (e)(1)-(2) state that the “[t]he adoption of these regulations is an emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health, safety, and general welfare,” and that the emergency regulations shall remain in effect until revised by the State Water Board.

Moreover, the State Water Board finds that the proposed amendments to the Board’s fee regulations must be adopted immediately in order to allow for the timely collection of fees to conform to amounts appropriated by the Legislature from the Safe Drinking Water Account for the support of drinking water program activities. Without fee revenue in the amounts appropriated, much of the drinking water program would be in danger of being shut down. Continued administration of the drinking water program is essential to the economy, public health and environment of the State of California.

The State Water Board is unable to address the situation through non-emergency regulations because, as discussed above, it has a mandatory, legal duty to adopt or change the fee schedules and language by emergency regulation.

Authority and Reference (Gov. Code, § 11346.5, subd. (a)(2).)

Health and Safety Code sections 116271, 116350, 116375, and 116565 provide authority for the emergency regulation. The emergency regulation implements, interprets, or makes specific Health and Safety Code sections 116565 and 116590.

Informative Digest (Gov. Code, § 11346.5, subd. (a)(3).)

Under the Health and Safety code and existing regulations, each public water system shall pay an annual fee to the State Board in the amount provided in Table 64305-A.

The fees are consistent with existing state laws and regulations. Ensuring that public water systems meet minimum requirements helps safeguard protection of public health and safety and the environment.

There is no comparable federal statute or regulation. The proposed regulation is not inconsistent or incompatible with existing state regulations.

Other Matters Prescribed by Statute (Gov. Code, § 11346.5, subd. (a)(4).)

No other matters are set by statute or regulation applicable to the State Water Board.

Local Mandate Determination (Gov. Code, § 11346.5, subd. (a)(5).)

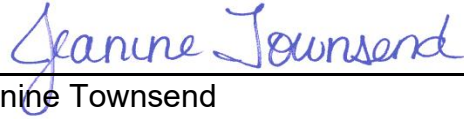
The proposed emergency regulation does not impose a mandate on local agencies or school districts because it does not mandate a new program or a higher level of service of an existing program. The fee schedule applies equally to public and private entities and is not unique to local government. Public water systems can also increase the fees that they charge for their services to address the increased annual fee. No state reimbursement is required by part 7 (commencing with section 17500) of Division 4 of the Government Code.

Estimate of Cost or Savings (Gov. Code, § 11346.5, subd. (a)(6).)

Under the proposed emergency regulation there would be increases in annual fees for public water systems. There is, however, no cost for reimbursement to any local agency or school district, as the fee increase is not a state mandate. The amended fee schedule will result in a total estimated increase to state agencies of about \$110,687 and estimated increase to local agencies of about \$5,265,047. Additionally, there is no cost or savings in federal funding to the state.

October 14, 2021

Date



Jeanine Townsend
Clerk to the Board

§ 64305. Schedule for Annual Fees.

(a) Each public water system shall pay an annual fee to the State Board in the amount provided in Table 64305-A.

(b) Except as provided in subsection (c), for each community water system, the number of service connections is equal to the number of service connections that the public water system reported on the electronic Annual Report (eAR) that the public water system filed with the State Board for the calendar year immediately preceding the year in which the invoice is submitted to the public water system. If the public water system did not file an eAR, or did not report the number of service connections, for the calendar year immediately preceding the year in which the invoice is submitted, the State Board will calculate the number of service connections by increasing the number of service connections most recently reported on the eAR by 10% for each year that the number of service connections was not reported, except that if the public water system did not file an eAR for the calendar year 2012 or any calendar year thereafter, the State Board will calculate the number of service connections.

(c) For each community water system that serves a group quarters, the number of service connections for the group quarters is equal to the greater of the population for which the group quarters is designed or for which it is permitted divided by 3.3.

TABLE 64305-A – Public Water Systems Annual Fee

| Water System Type | Fee |
|---|---|
| Community Water System | |
| 100 or fewer service connections | \$275.00 <u>\$500.00</u> or \$6.60 <u>\$8.34</u> per service connection, whichever is greater. |
| 100 or fewer service connections (disadvantaged community) | \$110.00 <u>\$250.00</u> |
| 101 to 1,000 service connections | \$6.60 <u>\$8.34</u> per service connection |
| 101 to 1,000 service connections (disadvantaged community) | \$110 <u>\$250</u> plus \$2.20 <u>\$2.78</u> per each service connection greater than 100 |
| 1,001 to 5,000 service connections | \$6.60 <u>\$8.34</u> per each of first 1,000 service connections plus \$3.85 <u>\$4.87</u> per each service connection greater than 1,000 |
| 1,001 to 5,000 service connections (disadvantaged community) | \$110 <u>\$250</u> plus \$2.20 <u>\$2.78</u> per each service connection greater than 100 |
| 5,001 to 15,000 service connections | \$6.60 <u>\$8.34</u> per each of first 1,000 service connections plus \$3.85 <u>\$4.87</u> per each service connection greater than 1,000 but less than 5,001 plus \$2.20 <u>\$2.78</u> per each service connection greater than 5,000 |
| 5,001 to 15,000 service connections (disadvantaged community) | \$110 <u>\$250</u> plus \$2.20 <u>\$2.78</u> per each service connection greater than 100 |
| 15,001 or more service connections | \$6.60 <u>\$8.34</u> per each of first 1,000 service connections plus \$3.85 <u>\$4.87</u> per each service connection greater than 1,000 but less than 5,001 plus \$2.20 <u>\$2.78</u> per each service connection greater than 5,000 but less than 15,001 plus \$1.49 <u>\$1.88</u> per each service connection greater than 15,000 |
| 15,001 or more service connections (disadvantaged community) | \$110 <u>\$250</u> plus \$2.20 <u>\$2.78</u> per each service connection greater than 100 but less than 15,001 plus \$1.49 <u>\$1.88</u> per each service connection greater than 15,000 |
| Nontransient Noncommunity Water System | \$2.20 <u>\$2.78</u> per person served, but not less than \$502.00 <u>\$635.00</u> . |
| Transient Noncommunity Water System | \$880.00 <u>\$1,112.00</u> . |
| Wholesaler | \$6,600.00 <u>\$8,342.00</u> plus \$1.50 <u>\$1.90</u> per each MG |

¹ “Million Gallons” (MG) means the annual average, rounded to the nearest million, as reported to the State Board by the wholesaler in the Electronic Annual Report for the four years immediately preceding the year in which the invoice is submitted to the public water system, of the total gallons of water that the wholesaler produced from surface water and from groundwater and gallons of finished water that the wholesaler purchased or received from another public water system.

Note: Authority cited: Sections 116271, 116350, 116375, and 116565, Health and Safety Code. Reference: Sections 116565 and 116590, Health and Safety Code.

LIBERTY UTILITIES (APPLE VALLEY RANCHOS WATER) CORP.
ADVICE LETTER 250-W
SERVICE LIST

Jim Hansen
Navajo Mutual Water Company
P. O. Box 392
Apple Valley, CA 92307
jhansenjr@email.com

Town of Apple Valley
Attention: Frank Robinson
14955 Dale Evans Parkway
Apple Valley, CA 92307
dcron@applevalley.org

Manuel Benitez
County of San Bernardino
Special Districts Department
Water and Sanitation Division
12402 Industrial Blvd.
Bldg. D, Ste. 6
Victorville, CA 92392

California Public Utilities Commission
Attention: Ting-Pong Yuen
ORA Water
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