

Docket:	:	A.18-01-004
Exhibit Number	:	ORA - ____
Commissioner	:	C. Peterman
Administrative Law Judge	:	K. Bemederfer
ORA Witness	:	J. Montero



# **REPORT AND RECOMMENDATIONS ON NON-TARRIFED PRODUCTS & SERVICES (NTP&S)**

**(PUBLIC VERSION)**

**Application 18-01-004**

**San Francisco, California  
May 23, 2018**

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## MEMORANDUM

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The Office of Ratepayer Advocates (“ORA”) examined the requests and data presented by San Jose Water Company (“SJWC”) in Application (“A.”) A.18-01-004 in order to provide the Commission with recommendations that represent the interests of ratepayers for safe and reliable service at lowest cost. Ms. Eileen Odell is ORA’s project lead for the proceeding. Mr. Richard Rauschmeier is ORA’s oversight supervisor. Mr. Anand Durvasula is ORA’s legal counsel.

Although ORA made every effort to comprehensively review, analyze and provide the Commission with recommendations on each ratemaking and policy aspect presented in the application, the absence from ORA’s testimony of any particular issue does not necessarily constitute ORA’s endorsement or acceptance of the underlying request, methodology, or policy position related to that issue.

1 **I. NON-TARIFFED PRODUCTS & SERVICES**

2 **A. INTRODUCTION**

3 This report presents ORA’s analysis and recommendations on the amount of  
4 revenues that the Commission should adopt for San Jose Water Company’s (“SJWC”)  
5 Non-Tariffed Products & Services (NTP&S) activities. In D.10-10-019<sup>1</sup> and modified by  
6 D.11-10-034<sup>2</sup>, the Commission adopted standard rules and procedures for Class A and B  
7 water and sewer utilities that govern the use of regulated assets for non-tariffed utility  
8 services. ORA’s analysis is guided by these Commission decisions which SJWC should  
9 comply with in setting the level of its NTP&S proposals.

10 In developing its recommendations, ORA reviewed SJWC Testimony Reports,  
11 various workpapers, SJWC responses to ORA Data Requests and methods of estimating  
12 NTP&S amounts.

13 **B. SUMMARY OF RECOMMENDATIONS**

14 Revenue from SJWC’s NTP&S activities should be \$1,031,052, an increase of  
15 23% or \$195,168 from the original proposal of \$835,884. This is to comply with  
16 Rule X.C (Revenue) of D.10-10-019 as modified by D.11-10-034 sections 5 and 6 that  
17 the first \$100,000 of revenue from NTP&S activities should accrue to ratepayers and that  
18 “passive” activities should result in 30% of revenue shared with ratepayers. This  
19 additional revenue shall take the form of non-regulated business adjustment to operating  
20 expenses in workpaper (“WP”) 8-01.

21 The Commission should revise SJWC’s proposed amounts for NTP&S revenues  
22 because they understate the necessary reductions to SJWC’s regulated Operating  
23 Expenses. Adoption of SJWC’s proposed level of NTP&S revenue would result in a  
24 revenue requirement higher than is reasonable to the detriment of SJWC’s ratepayers.

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<sup>1</sup> California Public Utilities Commission (CPUC) Decision (D.)10-10-109, Adopting Standard Rules and Procedures for Class A and B Water and Sewer Utilities Governing Affiliate Transactions and the Use of Regulated Assets for Non-Tariffed Utility Service.

<sup>2</sup> CPUC D.11-10-034, Modified Decision Regarding Petition for Modification of D.10-10-019.

1           **C.     DISCUSSION**

2           The Commission has adopted rules that govern Class A and B water utilities’  
3 ability to provide non-tariffed products and services using regulated assets and personnel  
4 (formerly called excess capacity rules). In its Application, SJWC did not comply with  
5 pertinent provisions of D.10-10-019, as modified by D.11-10-034, particularly Rule X.C  
6 (Revenues) to the detriment of ratepayers who have funded the assets being used in the  
7 provision of SJWC’s NTP&S projects. ORA’s analysis is discussed below:

8                   **i.           Compliance with Rule X.C (Revenue)**

9           SJWC did not comply with Rule X.C sections 5 and 6.

10          The sharing of revenue from NTP&S projects between the utility’s shareholders  
11 and its ratepayers are governed by Rule X.C (Revenues) of D.10-10-019, as modified by  
12 D.11-10-034. Rule X.C requires the following:

- 13           1. Active NTP&S projects: 90% shareholder and 10% ratepayer  
14           apportionment.
- 15           2. Passive NTP&S projects: 70% shareholder and 30% ratepayer  
16           apportionment.
- 17           3. A utility shall classify all NPT&S as active or passive. For a new  
18           NTP&S, which requires approval by the Commission by advice letter  
19           pursuant to Rule X.G, an active project requires a shareholder  
20           investment of at least \$125,000. Otherwise the new NTP&S shall be  
21           classified as passive. No costs recoverable through rates shall be  
22           counted toward the \$125,000.
- 23           4. Revenues received that are specified in a contract as pass-through of  
24           costs, without mark-up, shall be excluded when determining revenue  
25           sharing. If an advice letter is required pursuant to Rule X.G, the utility  
26           shall specify in the advice letter any items other than postage, power,  
27           taxes, and purchased water for which it proposes pass-through treatment  
28           and must obtain Commission approval for such treatment.
- 29           5. For those utilities with annual Other Operating Revenue (OOR) of  
30           \$100,000 or more, revenue sharing shall occur only for revenue in  
31           excess of that amount. All NTP&S revenue below that level shall  
32           accrue to the benefit of ratepayers.
- 33
- 34
- 35
- 36

1           6. For those utilities with annual OOR below \$100,000, there shall be no  
2           sharing threshold, and ratepayers shall accrue all benefits for non-  
3           tariffed products and services.  
4

5           Review of SJWC's workpaper WP 8-16 (Non-Tariffed Business: Revenue  
6           Allocation for Ratemaking) revealed that revenues from NTP&S projects were derived  
7           using the gross revenue<sup>3</sup> of the last 5 years multiplied by the applicable ratepayer share,  
8           i.e., 10% for active activity and 30% for passive activity. The ratepayer shares for each  
9           of these 5 years are averaged. The average amount then flows to workpaper WP 8-01  
10          (Operating Expenses) as a non-regulated business adjustment, i.e., a reduction to the  
11          Operating Expenses

12          Rule X.C sections 5 and 6 above state that the first \$100,000 of the gross revenue  
13          should accrue to the benefit of the ratepayers. Revenue sharing shall then occur only for  
14          revenues in excess of the \$100,000. However, none of SJWC's computations in  
15          workpaper WP 8-16 took into consideration the \$100,000 that should accrue to  
16          ratepayers. Through data request, ORA asked how SJWC complied with the provisions  
17          of Rule X.C sections 5 and 6. SJWC's reply simply referred ORA to its figure of  
18          \$835,884 in the original Application in workpaper WP 8-16.<sup>4</sup> Since workpaper WP 8-16  
19          did not account for the first \$100,000 in NTP&S revenue to accrue exclusively to the  
20          benefit of ratepayers, it appears that SJWC understated the offset to regulated operating  
21          expenses.

22          ORA's computation that includes the \$100,000 (see Table 1 below) would result  
23          in an additional \$99,928 reduction to operating expenses for Test Year 2019. First, ORA  
24          prorated the \$100,000 among the different NTP&S activities using the percentage share  
25          of each activity's gross revenue to the total. For each NTP&S activity, its pro-rata share  
26          of the total \$100,000 is deducted from its gross revenue. The difference is multiplied by

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<sup>3</sup> Gross revenue amounts were provided in A.18-01-004, SJWC Attachments 18 – Response to MDR II.I.02 (CONFIDENTIAL) for 2012 to 2016.

<sup>4</sup> SJWC Response to ORA DR A1801004 SJWC GRC TY 2019 ORA JM-001 Non-Tariffed Products and Services, at Q 2. See Attachment 2 for SJWC's complete response to A1801004 SJWC GRC TY 2019 ORA DR JM-001 Non-Tariffed Products and Services.

1 the ratepayer allocation (10% for active and 30% for passive) to comply with Rule X.C 5  
2 above, i.e., revenue sharing shall occur only for revenue in excess of the \$100,000. The  
3 total revenue share of the ratepayers from SJWC’s NTP&S activities would be the  
4 \$100,000 plus the designated share of the revenue in excess of the \$100,000.

5 As shown in the Table 1<sup>5</sup> below, the additional total \$195,168 is the difference  
6 between the revenue share that SJWC calculated in its original application of \$835,884  
7 and that calculated by including the first \$100,000 of revenue exclusively to ratepayers  
8 and proper classification of the Homeserve contract as a passive activity as discussed in  
9 the following section.

10 **Table 1: Revenue Allocation for Non-Tariffed Activities**

11 <<**BEGIN CONFIDENTIAL INFORMATION**>>



12 <<**END CONFIDENTIAL INFORMATION**>>

13 **ii. Homeserve**

14 Revenue from Homeserve activity should be classified as “passive” with  
15 ratepayers’ share of the revenue increased to 30% from the current 10% allocation. This  
16 will cause operating expenses to be reduced by an additional \$95,240.

17 ORA asked SJWC to provide all justification for designating Homeserve activity as  
18 “active” with 10% of revenue being allocated to ratepayers rather than 30% allocation

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<sup>5</sup> Data for Table 1 comes from A.18-01-004, SJWC Update to Exhibit F, Workpaper CH-08, at tab WP 8-16, with Homeserve ratepayer allocation changed to 30% from 10% as explained in section ii of this testimony. Likewise, data for Table 1 can be computed using information from A.18-01-004, SJWC Attachments 18 – Response to MDR II.I.02 (CONFIDENTIAL) pages 4-8 (“Excess Capacity and Non-Tariffed Services”).

1 associated with a “passive” activity. In response, SJWC cited to D. 00-07-018 Exhibit A,  
2 which identified “customer ancillary services” as an “active” service.<sup>6</sup> However, this is  
3 not a correct identification of Homeserve activity. Section 3.1 of the Homeserve  
4 Marketing Agreement states: <<BEGIN CONFIDENTIAL INFORMATION>>

5 [REDACTED]  
6 [REDACTED]  
7 [REDACTED]  
8 [REDACTED]  
9 [REDACTED]  
10 [REDACTED]  
11 [REDACTED]  
12 [REDACTED]  
13 [REDACTED]

14 [REDACTED] <<END CONFIDENTIAL INFORMATION>>

15 Additionally, in its response to ORA discovery SJWC confirmed that it incurs no  
16 incremental cost as a result of its relationship with Homeserve nor provides any customer  
17 information. Consistent with Rule X.C of the Commission’s Affiliate Transaction and  
18 NTP&S Rules, the Homeserve activity should be designated as “passive” with a  
19 ratepayer allocation of 30%.

20 **D. CONCLUSION**

21 The Commission should adopt ORA’s proposed revenue for SJWC’s NTP&S  
22 activities. Doing otherwise would be understating the offset to regulated operating  
23 expenses thereby increasing SJWC’s revenue requirement to the detriment of SJWC  
24 ratepayers.

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<sup>6</sup> Attachment 3, SJWC Response to ORA DR A1801004 SJWC GRC TY 2019 ORA JM-009 Non-Tariffed Products and Services, at Q d. See Attachment 3 for SJWC’s complete response to A1801004 SJWC GRC TY 2019 ORA DR JM-009 Non-Tariffed Products and Services.



## **ATTACHMENT 1: Witness Qualifications**

1 **QUALIFICATIONS AND PREPARED TESTIMONY**  
2 **OF**  
3 **JOSEFINA MONTERO**  
4

- 5  
6 Q.1 Please state your name and business address.
- 7 A.1 My name is Josefina Montero. My business address is 505 Van Ness Avenue, San  
8 Francisco, CA.
- 9 Q.2 By whom are you employed and in what capacity?
- 10 A.2 I am currently employed by the California Public Utilities Commission's  
11 ("CPUC") Office of Ratepayer Advocates ("ORA") as a Public Utilities  
12 Regulatory Analyst assigned to the Communications and Water Policy ("CWP")  
13 Branch.
- 14 Q.3 Briefly describe your pertinent educational background.
- 15 A.3 I graduated from the Polytechnic University of the Philippines with a degree in  
16 Accounting. I have also completed regulatory training provided by the National  
17 Association of Regulatory Utility Commissions ("NARUC") in 2009.  
18
- 19 Q.4 Briefly describe your professional experience.
- 20 A.4 I joined the CPUC's Fiscal office in 2006. Early in 2009, I transferred to the Water  
21 Branch of ORA. I participated in various water proceedings as expense, Results of  
22 Operations and special request witness. In March, 2017, I transferred to the  
23 CWP's Customer Program Section.  
24
- 25 Q.5 What is your responsibility in this proceeding?
- 26 A.5 I am responsible for ORA's Report on Non-Tariffed Products and Services  
27 (NTP&S).  
28
- 29 Q.6 Does that conclude your direct testimony?
- 30 A.6 Yes, at this time.

**ATTACHMENT 2: Response to ORA Data Request  
A1801004 SJWC GRC TY 2019 ORA  
DR JM-001 Non-Tariffed Products and  
Services**

**DATA REQUEST RESPONSE**

Date: March 6, 2018

To: Eileen Odell  
Office of Ratepayer Advocates  
California Public Utilities Commission  
505 Van Ness Avenue  
San Francisco, CA 94102

From: John Tang  
Vice President, Regulatory Affairs  
Tel: (408) 279-7933  
Fax: (408) 279-7934  
E-mail: john.tang@sjwater.com

Re.: General Rate Case Data Request

SJWC ID: Response to DR No. A.18-01-004 ORA DR JM-001

RESPONSES

1.1 Provide excel version of Attachment 17 (Response to MDR II.I.01 (Confidential)), where applicable. In the event that you should require additional time to complete your response to this request, please prioritize the portions of Attachment 17 related to 2016 data.

R.1.1 Please see attached Excel files.

1.2 Rule X.C.5 “Revenues” of D.10-10-019 states: “Gross revenue from NTP&S projects shall be shared between the utility’s shareholders and its ratepayers. For those utilities with annual Other Operating Revenue (OOR) of \$100,000 or more, revenue sharing shall occur only for revenue in excess of that amount. All NTP&S revenue below that level shall accrue to the benefit of ratepayers.” Please explain how San Jose Water Company complied with this provision.

R.1.2 Please refer to Exhibit F WP 8-16 for the revenue sharing calculations

END OF RESPONSE

**ATTACHMENT 3: Response to ORA Data Request  
A1801004 SJWC GRC TY 2019 ORA  
DR JM-009 Non-Tariffed Products  
and Services**



San Jose  
Water  
Company

110 W. Taylor St.  
San Jose, CA 95110  
Phone 408 279-7900  
Fax 408 279-7934

May 8, 2018

Eileen Odell  
Office of Ratepayer Advocates  
California Public Utilities Commission  
505 Van Ness Avenue  
San Francisco, CA 94102  
Phone: (415) 703-3026  
Email: [eileen.odell@cpuc.ca.gov](mailto:eileen.odell@cpuc.ca.gov)

**RE: Response to Data Request JM-009**

Dear Ms. Odell:

Enclosed you will find San Jose Water Company's response to data request JM-009 dated April 26, 2018.

If you have any questions, please contact me at (408) 279-7933 or e-mail at [john.tang@sjwater.com](mailto:john.tang@sjwater.com).

Very truly yours,

A handwritten signature in blue ink, appearing to read 'John Tang'.

JOHN TANG

Vice President, Regulatory Affairs

**DATA REQUEST RESPONSE**

Date: May 8, 2018

To: Eileen Odell  
Office of Ratepayer Advocates  
California Public Utilities Commission  
505 Van Ness Avenue  
San Francisco, CA 94102

From: John Tang  
Vice President, Regulatory Affairs  
Tel: (408) 279-7933  
Fax: (408) 279-7934  
E-mail: john.tang@sjwater.com

Re.: General Rate Case Data Request

SJWC ID: Response to DR No. A.18-01-004 ORA DR JM-009



## RESPONSES

1. SJWC Workpaper 8-16 in Chapter 8 identifies non-tariffed business activities and provides the revenue allocation for ratemaking purposes.

(a) Provide the most recent contract between SJWC and Homeserve.

R.1.a The current contract between HomeServe (dba Home Emergency Insurance Solutions in California) was provided with Exhibit J, Minimum Data Requirements Response, Attachment 18. An amendment to that contract is attached with this response.

(b) Does SJWC provide customer data to Homeserve for marketing purposes? Explain.

R.1.b SJWC does not provide any customer information to HomeServe.

(c) Does SJWC incur incremental cost associated with Homeserve marketing to SJWC's customers? Explain.

R.1.c No incremental costs are incurred by SJWC.

(d) Please provide all justification for the Homeserve activity being designated by SJWC as "active" with 10% of revenue being allocated to ratepayers rather than the 30% allocation associated with a "passive" activity.

R.1.d Per D.00-07-018, effective July 6, 2000, this activity falls under Exhibit A, Customer Ancillary Services and is classified as "active."

END OF RESPONSE