

RESOLUTION 8468

**RESOLUTION OF THE BOARD OF DIRECTORS
OF THE METROPOLITAN WATER DISTRICT
OF SOUTHERN CALIFORNIA
FIXING AND ADOPTING
READINESS-TO-SERVE CHARGE**

WHEREAS, at its meeting on December 14, 1993, the Board of Directors ("Board") of The Metropolitan Water District of Southern California ("Metropolitan") approved the rate structure and additional revenue sources described in the Board letter on the Financial Structure Study dated December 1, 1993, including a readiness-to-serve charge, with implementation of these charges to begin in fiscal year 1995-96;

WHEREAS, providing firm revenue sources is a primary goal of such revenue structure;

WHEREAS, the amount of revenue to be raised by the readiness-to-serve charge shall be as determined by the Board and allocation of the readiness-to-serve charge among member public agencies shall be in accordance with the method established by the Board;

WHEREAS, Metropolitan has legal authority to adopt such readiness-to-serve charge as a water rate pursuant to Section 134 of the Metropolitan Water District Act, as an availability of service charge pursuant to Section 134.5 of the Metropolitan Water District Act, and as a capital facilities fee pursuant to Section 54999.2 of the California Government Code;

WHEREAS, under authority of Sections 133 and 134 of the Metropolitan Water District Act, the Board has the authority to fix the rate or rates for water as will result in revenue which, together with other revenues, will

pay Metropolitan's operating expenses and provide for payment of other costs, including payment of the interest and principal of Metropolitan's bonded debt;

WHEREAS, pursuant to Resolution 8329, adopted by the Board on July 9, 1991, proceeds of the readiness-to-serve charge and other revenues from the sale or availability of water are pledged to the payment of Metropolitan's outstanding revenue bonds issued and to be issued pursuant to Resolution 8329;

WHEREAS, under authority of Government Code Section 54999.2 Metropolitan may levy a capital facilities fee to pay the capital cost of facilities for the provision of water service;

WHEREAS, the readiness-to-serve charge is intended to recover the debt service, not paid from taxes, of expenditures for projects needed to meet the reliability and quality needs at existing demand levels;

WHEREAS, under authority of Section 134.5 of the Metropolitan Water District Act, a readiness-to-serve charge imposed as an availability of service charge may be collected from the member public agencies within Metropolitan, or may be assessed as a standby charge against individual parcels within Metropolitan;

WHEREAS, under such authority, the water standby charge may be assessed on each acre of land or each parcel of land less than an acre within Metropolitan to which water is made available for any purpose by Metropolitan, whether the water is actually used or not;

WHEREAS, certain member public agencies of Metropolitan have requested the option to provide collection of all or a portion of their readiness-to-serve charge obligation through a Metropolitan water standby charge imposed on parcels within those member agencies;

WHEREAS, Metropolitan may fix different standby charge rates for parcels situated within different member public agencies, and Metropolitan is willing to comply with the requests of member public agencies opting to have Metropolitan levy water standby charges within their respective territories, on the terms and subject to the conditions contained herein;

WHEREAS, the provisions of the Uniform Standby Charge Procedures Act (USCPA), sections 54984-54984.9 of the Government Code,

are available to any local agency authorized by law to provide water or water service, and authorized to fix, levy, or collect any standby or availability charge or assessment in connection with the provision of that service;

WHEREAS, by Resolution 8464, adopted at its meeting held January 10, 1995, Metropolitan's Board resolved and determined that the public interest and necessity require Metropolitan to develop a reliable source of revenues less susceptible to seasonal and annual variation, through imposition of a readiness-to-serve charge to be collected from the District's member public agencies; and that said readiness-to-serve charge should be in an amount sufficient to provide for payment of the debt service, not paid from ad valorem property taxes, of capital expenditures for projects needed to meet the reliability and quality needs at existing demand levels;

WHEREAS, notice was given by Resolution 8464 to the public and to each member public agency of The Metropolitan Water District of Southern California of the intention of Metropolitan's Board to consider and take action at its regular meeting to be held March 13, 1995, on the General Manager's recommendation to impose a readiness-to-serve charge for fiscal year 1995-96 in the amount of \$56,000,000 to be allocated among member agencies and levied as described in Resolution 8464;

WHEREAS, the readiness-to-serve charge applicable to each member public agency, the method of its calculation, and the specific data used in its determination are as specified in the Engineer's Report dated January 1995, on file with Metropolitan, a copy of which is attached as Attachment 1;

WHEREAS, notice of the proposed readiness-to-serve charge and of a public hearing on the date and at the time and location specified in Resolution 8464 was published prior to the hearings in various newspapers of general circulation within Metropolitan; and

WHEREAS, the Board conducted a public hearing at its regular meeting on February 14, 1995, at which interested parties were given the opportunity to present their views regarding the proposed readiness-to-serve charge and the Engineer's Report.

NOW THEREFORE, the Board of Directors of The Metropolitan Water District of Southern California does hereby resolve, determine and order as follows:

Section 1. That the Board of Directors of Metropolitan hereby fixes and adopts a readiness-to-serve charge for fiscal year 1995-96.

Section 2. That such readiness-to-serve charge for 1995-96 shall be a water rate equal to \$36.45 per acre-foot, which shall be charged on a historic basis for each acre-foot of water included in Metropolitan's average water deliveries to its member agencies for the two fiscal year period ending June 30, 1994, for an aggregate readiness-to-serve charge for 1995-96 of \$56,000,000.

Section 3. That in the alternative, and without duplication, the readiness-to-serve charge shall be a capital facilities fee in the aggregate amount of \$56,000,000, which shall be allocated as provided in Section 6 below.

Section 4. That this Board finds that the readiness-to-serve charge is necessary for the purpose of financing construction costs of public utility facilities furnished by Metropolitan, and does not exceed the proportionate share of the cost of the public utility facilities of benefit to each person or property being charged, based upon the proportionate share of use of those facilities, as shown in the attached Engineer's Report.

Section 5. That in the alternative, and without duplication, the readiness-to-serve charge shall be an availability service charge pursuant to Section 134.5 of the Metropolitan Water District Act.

Section 6. That the readiness-to-serve charge for fiscal year 1995-96 shall be allocated among the member public agencies in proportion to the average of Metropolitan water sales (in acre feet) to each member public agency during the two fiscal year period ending June 30, 1994. Long-term seasonal storage service, seasonal storage service deliveries during May through September 1993 and May and June 1994, cyclic storage, and direct groundwater replenishment deliveries and water taken under the one-time drought storage agreements, Cooperative Storage Program through April 12, 1994, and 1993 Demonstration Program will be subtracted from the water sales calculation in the past two fiscal year period ending June 30, 1994. Long-term seasonal storage service water is defined as water that a member public agency leaves in

storage past the end of the fiscal year through avoided production during a period of availability (normally October 1 through April 30). Metropolitan sales of reclaimed water under the Local Projects Program and groundwater under the Groundwater Recovery Program are not included in readiness-to-serve water sales calculation. The amount of the readiness-to serve charge to be imposed on each member agency for fiscal year 1995-96 is as follows:

1995-1996 Readiness-to-Serve Charge

<u>Member Agency</u>	<u>Amount</u>
Anaheim	\$611,459
Beverly Hills	\$466,104
Burbank	\$713,778
Calleguas MWD	\$3,173,921
Central Basin MWD	\$2,342,478
Chino Basin MWD	\$1,108,239
Coastal MWD	\$1,418,574
Compton	\$183,208
Eastern MWD	\$1,808,841
Foothill MWD	\$285,818
Fullerton	\$279,548
Glendale	\$964,402
Las Virgenes MWD	\$641,296
Long Beach	\$1,378,138
Los Angeles	\$8,307,100
MWD of Orange Co.	\$5,810,325
Pasadena	\$370,599
San Diego CWA	\$14,866,336
San Fernando	\$7,686
San Marino	\$48,375
Santa Ana	\$442,732
Santa Monica	\$182,893
Three Valleys MWD	\$2,107,580
Torrance	\$740,410
Upper San Gabriel Valley MWD	\$325,348
West Basin MWD	\$5,443,889
Western MWD of Riverside Co.	\$1,970,922
TOTAL	\$56,000,000

Section 7. That the allocation of the readiness-to-serve charge among member agencies set forth in Section 6 above is consistent with the per-acre-foot water rate imposed pursuant to Section 2 above.

Section 8. That it is the intent of the Board that:

(a) For fiscal year 1995-96, 1996-97, and 1997-98, a member public agency's readiness-to-serve allocation will be based on the average of Metropolitan water deliveries to each member public agency during the two fiscal years prior to the most recent fiscal year then ended (i.e., for fiscal year 1995-96, the two-year period ending June 30, 1994; for 1996-97, the two-year period ending June 30, 1995; and for 1997-98, the two-year period ended June 30, 1996) .

(b) For fiscal year 1998-99, a member public agency's readiness-to-serve allocation will be based on the average of Metropolitan water deliveries to each member public agency during the past three fiscal year period ending June 30, 1997.

(c) For fiscal year 1999-2000 and thereafter, a member public agency's readiness-to-serve allocation will be based on the average of Metropolitan water deliveries to each member public agency during the four fiscal year period prior to the most recent fiscal year then ended.

(d) Beginning in fiscal year 1994-95, long-term seasonal storage service, cyclic storage, Cooperative Storage Program, direct groundwater replenishment and contractual long-term storage water deliveries will be excluded from the readiness-to-serve calculation during the year of delivery but will be included in the year of use. Member public agencies shall indicate the amount and year in which the long-term seasonal storage service, cyclic storage, Cooperative Storage Program, direct groundwater replenishment and contractual long-term storage water deliveries are used within seven years, including the year in which the water was delivered. Member public agencies overlying a common groundwater basin shall be allowed to account for their purchases as a single, common purchaser.

(e) Notwithstanding the foregoing, in no event would any member agency's readiness-to-serve charge allocation be based on less than fifty percent (50%) of the average of Metropolitan water deliveries to such member agency

during the two fiscal year period ending June 30, 1994, and calculated pursuant to Section 6 above. Such average for each member agency and its minimum readiness-to-serve allocation floor are:

	RTS (FY 92-93 and 93-94)	MINIMUM RTS FLOOR (AF)	RTS %
City of Anaheim	16,774	8,386.9	1.09%
City of Beverly Hills	12,786	6,393.2	0.83%
City of Burbank	19,581	9,790.4	1.27%
Calleguas MWD	87,069	43,534.3	5.67%
Central Basin MWD	64,260	32,130.0	4.18%
Chino Basin MWD	30,402	15,200.9	1.98%
Coastal MWD	38,915	19,457.5	2.53%
City of Compton	5,026	2,512.9	0.33%
Eastern MWD	49,621	24,810.5	3.23%
Foothill MWD	7,841	3,920.4	0.51%
City of Fullerton	7,669	3,834.4	0.50%
City of Glendale	26,456	13,228.0	1.72%
Las Virgenes MWD	17,592	8,796.2	1.15%
City of Long Beach	37,806	18,902.9	2.46%
City of Los Angeles	227,884	113,942.2	14.83%
MWD of Orange County	159,392	79,695.8	10.38%
City of Pasadena	10,166	5,083.2	0.66%
San Diego CWA	407,821	203,910.3	26.55%
City of San Fernando	211	105.4	0.01%
City of San Marino	1,327	663.5	0.09%
City of Santa Ana	12,145	6,072.6	0.79%
City of Santa Monica	5,017	2,508.6	0.33%
Three Valleys MWD	57,816	28,908.1	3.76%
City of Torrance	20,311	10,155.7	1.32%
Upper San Gabriel VA	8,925	4,462.6	0.58%
West Basin MWD	149,339	74,669.7	9.72%
Western MWD of Riverside	54,067	27,033.7	3.52%
ALL MEMBER AGENCIES	1,536,219	768,109.6	100.00%

(f) In no event will deliveries of Metropolitan water which are in excess of a member agency's new demand charge base (as described in Resolution 8465, adopted by this Board on January 10, 1995) also be used in calculating such member agency's readiness-to-serve charge allocation.

Section 9. That the readiness-to-serve charge and the amount applicable to each electing member public agency, the method of its calculation, and the specific data used in its determination are as specified in the Engineer's Report filed attached as Attachment 1 to this Resolution. The Engineer's Report, which forms the basis of the readiness-to-serve charge, is on file and available for review by interested parties at Metropolitan's headquarters.

Section 10. That except as described in Resolution 8464 with respect to any readiness-to-serve charge collected by means of a Metropolitan water standby charge, the readiness-to-serve charge shall be due monthly, quarterly or semiannually, as agreed upon by Metropolitan and the member agency.

Section 11. That such readiness-to-serve charge may, at the request of any member agency obligated to pay such readiness-to-serve charge, be raised by a Metropolitan water standby charge imposed upon land within Metropolitan's (and such member public agency's) service area to which water is made available by Metropolitan for any purpose, whether the water is actually used or not.

Section 12. That the rates of any standby charge proposed to be levied in fiscal year 1995-96 to collect all or a portion of a member public agency's readiness-to-serve charge, per acre of land, or per parcel of land less than an acre, as shown in the Engineer's Report, may vary by member public agency, and shall not exceed the amount of Metropolitan's 1994-95 standby charge for the member public agency. The proposed standby charge applicable to each electing member public agency, the method of its calculation, and the specific data used in its determination are as specified in the Engineer's Report attached as Attachment 1 to this Resolution.

Section 13. That the proposed water standby charge, if imposed, shall be collected on the tax rolls, together with the ad valorem property taxes which are levied by Metropolitan for the payment of pre-1978 voter approved indebtedness. Any amounts of such standby charges so collected shall be applied as a credit against the applicable member agency's obligation to pay a

readiness-to-serve charge. After such member agency's readiness-to-serve charge allocation is fully satisfied, any additional collections shall be credited to other outstanding obligations of such member agency to Metropolitan or future readiness-to-serve obligations of such agency. Notwithstanding the provisions of Section 10 above, any member agency requesting to have all or a portion of its readiness-to-serve charge obligation collected through standby charge levies within its territory as provided herein shall pay any portion not collected through net standby charge collections to Metropolitan within ninety days after June 30, 1996.

Section 14. That the Board will meet in regular session at its meeting on April 11, 1995, to hold a public protest hearing at which interested parties may present their views regarding any proposed standby charges and the Engineer's Report. Any member of the public may submit a written protest or other comments either at a scheduled hearing or by mail to the Executive Secretary of The Metropolitan Water District of Southern California, at Post Office Box 54153, Los Angeles, California 90054-0153. All written protests and comments presented at the hearings or received by the Executive Secretary on or before April 11, 1995, which contain a description sufficient to identify the land owned by the landowner will be given due consideration by the Board before its final action on the proposed standby charge. The USCPA provides that if the Board receives written protests (which protests are not withdrawn at the time of determination by the Board) representing 40 percent of the parcels subject to the proposed standby charge, the matter must be tabled for at least one year. If the Board receives such protests representing 15 percent or more of the parcels subject to the proposed charge, the Board may still adopt the charge, but the charge will be ineffective until approved by a majority of the vote in a landowner election within the District.

Section 15. That it is the intent of the Board that certain lands described in Resolution 8464 shall be exempt from the water standby charge, and that the procedures for application for exemptions and consideration of such applications pursuant to this Resolution shall be as specified in Resolution 8464.

Section 16. That no exemption from the water standby charge shall reduce the applicable member agency's readiness-to-serve charge obligation, nor shall any failure to collect, or any delay in collecting, any standby charges excuse or delay payment of any portion of the readiness-to-serve charge when due. All amounts collected as water standby charges pursuant to this Resolution shall be applied solely as credits to the readiness-to-

serve charge of the applicable member agency, with any excess collections being carried forward and credited against other outstanding obligations of such member agency to Metropolitan.

Section 17. That in the event that the readiness-to-serve charge is determined to be an unauthorized or invalid availability of service charge by a final judgment in any proceeding at law or in equity, which judgment is not subject to appeal, or if the collection of the readiness-to-serve charge as an availability of service charge shall be permanently enjoined and appeals of such injunction have been declined or exhausted, or if Metropolitan shall determine to rescind or revoke the readiness-to-serve charge, then no availability of service charge shall be imposed on any member agency until the procedures for collection of water standby charges by the applicable county have been completed (not including extraordinary procedures for collection of delinquent amounts, which the General Manager may waive on behalf of Metropolitan). Immediately upon revocation of the readiness-to-serve charge under these circumstances, any member agency which has not requested that Metropolitan impose a standby charge upon parcels of land within its territory as a means of collecting the readiness-to-serve charge shall be deemed to have made such request, and all readiness-to-serve charges previously paid or to be paid by member agencies to Metropolitan shall be deemed to be cash payments in lieu of standby charges. Following collection of standby charges by the counties, the readiness-to-serve charge shall be reimposed for the remainder of the fiscal year and the uncollected portion shall be due and payable on the last business day of the fiscal year and shall become delinquent if not paid within ninety days.

Section 18. That the General Manager and the General Counsel are hereby authorized to do all things necessary and desirable to accomplish the purposes of this Resolution, including, without limitation, the commencement or defense of litigation.

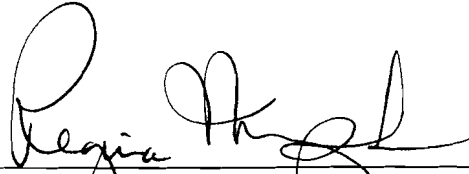
Section 19. That this Board finds that the proposed readiness-to-serve charge and other charges provided in this Resolution are exempt from the provisions of the California Environmental Quality Act (CEQA) since they are rates and other charges which are for the purposes of meeting operating expenses; purchasing or leasing supplies, equipment or materials; meeting financial reserve needs and requirements; and obtaining funds for capital projects necessary to maintain service within existing service areas; and, additionally, since they constitute the creation of government funding mechanisms which do not involve commitment to any specific project which

may result in a potentially significant physical impact on the environment or which will be used to fund projects which have CEQA documentation or will have CEQA documentation in place prior to construction of any facility or facilities.

Section 20. That if any provision of this Resolution or the application to any member agency, property or person whatsoever is held invalid, that invalidity shall not affect other provisions or applications of this Resolution which can be given effect without the invalid portion or application, and to that end the provisions of this Resolution are severable.

317

I HEREBY CERTIFY, that the foregoing resolution was adopted by the Board of Directors of The Metropolitan Water District of Southern California on March 14, 1995.

A handwritten signature in cursive script, appearing to read "Regina H. [unclear]". The signature is written in black ink and is positioned above a horizontal line.

Secretary of the Board of Directors
of The Metropolitan Water District
of Southern California