

REVISED EXHIBIT BTHE METROPOLITAN WATER DISTRICT
OF SOUTHERN CALIFORNIARESOLUTION 8520

**RESOLUTION OF THE BOARD OF DIRECTORS
OF THE METROPOLITAN WATER DISTRICT OF
SOUTHERN CALIFORNIA FIXING AND
ADOPTING WHEELING RATES**

WHEREAS, The Metropolitan Water District of Southern California (Metropolitan) owns and operates a water conveyance system including the Colorado River Aqueduct, pumping plants, reservoirs, water treatment facilities, pipelines and control structures and associated facilities for the transport, storage and delivery of water to its member public agencies;

WHEREAS, Metropolitan has a contract with the State of California which requires Metropolitan, on a take or pay basis, to pay a proportionate share of the costs of constructing and operating the State Water Project (SWP), which consists of Oroville Dam and Reservoir, the Harvey O. Banks Pumping Plant, the California Aqueduct and its pumping plants, reservoirs and associated facilities for conserving, storing and transporting water to Metropolitan's service area;

WHEREAS, under its contract with the State of California, Metropolitan has an entitlement to water and associated transportation thereof by the SWP and the right to use SWP transport facilities for its own purposes, subject to certain conditions. Metropolitan's conveyance system, and its rights to the use of the SWP conveyance system are hereafter referred to as the "conveyance system";

WHEREAS, Metropolitan has in the past wheeled water on an emergency, ad hoc basis pursuant to negotiated agreements, and continues to receive inquiries regarding the use of its facilities, or its rights to use SWP facilities, to transport water not owned or controlled by Metropolitan ("wheeling");

WHEREAS, Water Code Sections 1810-1814 provide, in part, that no public agency may deny a bona fide transferor of water the use of a water conveyance facility owned by the public agency to the extent it has unused capacity, subject to certain conditions, including that the statute applies to only 70 percent of the unused capacity;

WHEREAS, under authority of Sections 1810 and 1812 of the Water Code, the Board of Directors (“Board”) of Metropolitan has the authority to fix the rate or rates for the use of its system for wheeling as will result in recovery of “fair compensation;”

WHEREAS, “fair compensation” is defined in Section 1811(c) of the Water Code as the reasonable charges incurred for use of Metropolitan’s conveyance system, including capital, operation, maintenance and replacement costs, increased costs from any necessitated purchase of supplemental power, and including reasonable credit for any benefits for the use of its conveyance system;

WHEREAS, pursuant to Sections 1810 and 1812 of the Water Code, the use of Metropolitan’s water conveyance system is to be made without injuring any legal user of water from that system, including financial injury;

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, under Section 134 of the Metropolitan Water District Act, the Board is required to set rates that are uniform for like classes of service throughout its service area;

WHEREAS, the Board has fixed rates for the sale of water for firm, noninterruptible service and lower rates for types of non-firm water service which is subject to interruption;

WHEREAS, a Rate Refinement Team, made up of General Managers and other staff representing Metropolitan’s member agencies, has been attempting to develop recommendations for Metropolitan’s Board’s consideration regarding a wheeling policy, including a set of ten Wheeling Principles to guide that policy, which Wheeling Principles were adopted by Metropolitan’s Board at its November 19, 1996 meeting;

WHEREAS, by Resolution 8515, adopted at its meeting held November 19, 1996, Metropolitan’s Board resolved and determined that the public interest and necessity require Metropolitan to adopt a charge for the use of its conveyance system for wheeling that will recover fair compensation for such use of its conveyance system; that such charge should include the properly allocable transmission costs and unavoidable supply, storage and other costs necessary to avoid financial injury to its member agencies from such use; and that the wheeling rate should be a uniform rate per acre-foot of water wheeled, regardless of the source of the water, the facilities used in the transaction or the distance the water is moved;

WHEREAS, notice was given by Resolution 8515 to the public and to each member agency of Metropolitan of the intention of Metropolitan's Board to consider and take action at its regular meeting to be held January 14, 1997, on the General Manager's recommendation to adopt a wheeling rate for member agencies during non-shortage periods equal to \$262 per acre-foot for firm wheeling service and a rate equal to \$141 per acre-foot for non-firm wheeling service effective January 15, 1997;

WHEREAS, the wheeling rates, the method of their calculation, and the specific data used in their determination are as specified in "The Metropolitan Water District of Southern California Technical Report--Proposed Wheeling Charge" dated October 1996, a copy of which is attached as Attachment 1;

WHEREAS, notice of the proposed wheeling rates and of a public hearing on the date and at the time and location specified in Resolution 8515 was published prior to the hearing in various newspapers of general circulation within Metropolitan; and

WHEREAS, the Board's Water Planning and Resources Committee conducted a public hearing at its regular meeting on December 9, 1996, at which interested parties were given the opportunity to present their views regarding the proposed wheeling rates.

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

Section 1. That the Board of Directors of Metropolitan hereby fixes and adopts wheeling charges effective January 15, 1997.

Section 2. That, subject to the General Manager's determination of available capacity, Metropolitan will offer "firm" wheeling service, with reliability on the same basis as noninterruptible water service, and "non-firm", interruptible wheeling service, which will be on an "as available" basis.

Section 3. That in order to recover fair compensation for the use of its conveyance system for wheeling, it is necessary for Metropolitan to adopt wheeling rates according to the methodology set forth in Attachment 1.

Section 4. That it is appropriate to set the wheeling rate on a "postage stamp" basis; that is, a uniform rate per acre-foot of water wheeled regardless of the source of the water, the facilities used in the transaction or the distance the water is moved. A uniform rate is appropriate because of the integrated nature of Metropolitan's conveyance system; because Metropolitan's historic and current rate setting policy has been, and is, based on the postage stamp concept; because postage stamp rate setting is the standard among California water supply entities; because of the administrative impracticability of establishing point-to-point rates; because Section 134 of the Metropolitan Water District Act requires that rates shall be uniform for like classes of

service throughout Metropolitan; and because Water Code Section 1811(c) defines “fair compensation” to include reasonable charges for the use of the entire conveyance “system.”

Section 5. That the allocation of costs as shown in Attachment 1 to Metropolitan’s transmission function accurately reflects the capital, operation, maintenance and replacement costs incurred by Metropolitan to convey water to its member agencies, through Metropolitan’s conveyance system, including Metropolitan’s rights in the State Water Project system, and that including those costs in Metropolitan’s wheeling rate is necessary to insure recovery of fair compensation for the use of that conveyance system.

Section 6. That to the extent a wheeling transaction enables Metropolitan to avoid costs, such avoidable costs should not be included in the wheeling rate.

Section 7. That the allocation of costs in Attachment 1 as unavoidable costs attributable to Metropolitan’s supply, power, storage, divisional budget and customer related functions accurately reflect unavoidable costs which must be paid by Metropolitan, and that including those unavoidable costs in the wheeling rate is necessary in order to protect Metropolitan’s member agencies from financial injury by avoiding the shifting of those costs from a wheeling party to Metropolitan’s other member agencies.

Section 8. That the non-firm wheeling rate established for the movement of non-Metropolitan water in order to meet long term storage requirements that benefit the Metropolitan service area will be calculated according to the methodology described in Attachment 1, which appropriately reflects the cost of providing this interruptible class of service.

Section 9. That wheeling rates for member agencies during non-shortage periods shall be a rate equal to \$262 per acre-foot for firm wheeling service and a rate equal to \$141 per acre-foot for non-firm wheeling service effective January 15, 1997.

Section 10. The wheeling rates shall be reduced by the General Manager, ~~as appropriate and his sole discretion,~~ to reflect the regional water supply benefits provided to Metropolitan’s service area, if any, on a case-by-case basis in response to a particular wheeling transaction. The regional benefits, if any, shall be calculated by Metropolitan in the same manner as such benefits are calculated for use in the Local Projects and Groundwater Recovery Program.

Section 11. That such wheeling rates for the period after June 30, 1997 shall be set annually as part of Metropolitan’s rate-setting practice under Sections 4300 through 4304 of Metropolitan’s Administrative Code.

Section 12. That the rates for wheeling by member agencies during shortage periods, or for non-member agencies, shall be established by the Board on a case-by-case basis in response to specific requests for wheeling, consistent with applicable law, this Resolution and the Wheeling Principles adopted by the Board at its November 19, 1996 meeting.

Section 13. That the Board finds that such charges are reasonable and consistent with all applicable requirements of law, including any requirement to facilitate the voluntary sale, lease or exchange of water, while ensuring that the use of Metropolitan's conveyance system is fairly compensated and does not injure any other legal user of Metropolitan's water and conveyance system.

Section 14. That the General Manager is hereby directed to develop, and recommend to the Board for adoption, procedures implementing a wheeling policy consistent with applicable law, this Resolution and the Wheeling Principles adopted by the Board on November 19, 1996. The General Manager shall consult with the Rate Refinement Team in the development of such procedures.

Section 15. That the determination whether there is unused capacity in Metropolitan's conveyance system, and in particular facilities of the conveyance system, shall be made by the General Manager on a case-by-case basis in response to particular requests for wheeling.

Section 16. That whether a particular wheeling request will unreasonably affect fish, wildlife or other instream beneficial uses, or the overall economy or the environment of the county from which water is being transferred shall be reviewed by the General Manager on a case-by case basis in response to a particular request for wheeling.

Section 17. 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 18. That this Board finds that the proposed wheeling rates provided in this Resolution are exempt from the provisions of the California Environmental Quality Act (CEQA) since they are rates and 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 19. That if any provision of this Resolution or the application to any member agency 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 of application, and to that end the provisions of this Resolution are severable.

Section 20. That the Executive Secretary is hereby directed to transmit a certified copy of this Resolution to the presiding officer of the governing body of each member public agency.

I HEREBY CERTIFY that the foregoing is a full, true and correct copy of a Resolution adopted by the Board of Directors of The Metropolitan Water District of Southern California, at its meeting held on January 14, 1997.

Executive Secretary
The Metropolitan Water District
of Southern California

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