

THE METROPOLITAN WATER DISTRICT
OF SOUTHERN CALIFORNIA

RESOLUTION 8535

**RESOLUTION OF THE BOARD OF DIRECTORS
OF THE METROPOLITAN WATER DISTRICT OF
SOUTHERN CALIFORNIA
ADOPTING AND SUSPENDING COLLECTION OF
NEW DEMAND 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 new demand 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 new demand charge shall be as determined by the Board and allocation of such charge among member public agencies shall be in accordance with the method established by the Board;

WHEREAS, the new demand charge is a charge imposed by Metropolitan upon its member agencies, and is not a fee or charge imposed upon real property or upon persons as an incident of property ownership;

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

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, new demand 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 impose a capital facilities fee to pay the capital cost of facilities for the provision of water service;

WHEREAS, the new demand charge is intended to recover the debt service of expenditures for projects needed to satisfy anticipated new demands on Metropolitan, as shown in the Nexus Study dated March 1996, prepared by Metropolitan in support of the new demand charge;

WHEREAS, under authority of Section 134.5 of the Metropolitan Water District Act, an availability of service charge may be collected from the member public agencies within Metropolitan;

WHEREAS, Metropolitan and its member agencies have engaged in a collaborative process (the "Rate Refinement Process") designed to further refine Metropolitan's rate structure and revenue sources;

WHEREAS, the Rate Refinement Process Phase I recommendations were approved by the Board on July 9, 1996;

WHEREAS, such Phase I recommendations included suspension of collection of the new demand charge while other alternatives are being pursued, with collection to resume if normal system demands exceed 2.2 million acre-feet per year and no alternative has been implemented, as further provided in this Resolution.

WHEREAS, by Resolution 8525, adopted at its meeting held January 14, 1997, Metropolitan's Board resolved and determined that the public interest and necessity require Metropolitan to develop firm net revenues, exclusive of ad valorem property taxes, through imposition of a new demand charge on all sales representing new demands on Metropolitan, as described below, to be collected from Metropolitan's member public agencies;

WHEREAS, notice was given by Resolution 8525 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 11, 1997, on the General Manager's recommendation to impose a new demand charge for fiscal year 1997-98 in the amount of \$1,000 per acre foot for all new demands by a member agency on Metropolitan, as described in Resolution 8525;

WHEREAS, notice of the proposed new demand charge and of a public hearing on the date and at the time and location specified in Resolution 8525 was published prior to the hearings in various newspapers of general circulation within Metropolitan; and

WHEREAS, the Water Planning and Resources Committee of the Board conducted a public hearing at its regular meeting on February 10, 1997, at which interested parties were given the opportunity to present their views regarding the proposed new demand charge.

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 new demand charge for fiscal year 1997-98; provided, however, that collection of such charge shall be suspended until the occurrence of the events described in Section 14 below.

Section 2. That such new demand 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 serve anticipated increases in demands on Metropolitan.

Section 3. That such new demand charge for 1997-98 shall be a water rate of \$1,000 per acre-foot for all new demands by a member agency on Metropolitan, determined as provided in Section 7 below.

Section 4. That in the alternative, and without duplication, the new demand charge shall be a capital facilities fee in the amount of \$1,000 per acre-foot of new demand on Metropolitan, determined as provided in Section 7 below.

Section 5. That this Board finds that the new demand 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.

Section 6. That in the alternative, and without duplication, the new demand charge shall be an availability service charge pursuant to Section 134.5 of the Metropolitan Water District Act.

Section 7. That the new demand charge shall be incurred by a member public agency when the average of the member public agency's purchases (in acre feet) from Metropolitan in the four most recent years, including fiscal year 1997-98, after adjustment for long-term storage water, exceed such member agency's new demand charge base. Long-term

seasonal storage deliveries, seasonal storage deliveries during May through September 1993 and May and June 1994, cyclic storage, direct groundwater replenishment deliveries, and water taken under one-time drought storage agreements, Cooperative Storage Program through April 12, 1994, the 1993 Demonstration Program and Cooperative Storage purchases paid for in fiscal year 1995-96 are subtracted from the water sales calculation through the fiscal year period ending June 30, 1994. Beginning with fiscal year 1994-95, 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). Long-term seasonal storage service, cyclic storage, Cooperative Storage Program, direct groundwater replenishment and contractual long-term storage water deliveries are excluded from the new demand charge 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; provided that member public agencies which elect to pool their purchases for purposes of the readiness-to-serve charge calculation must also pool their purchases for purposes of the new demand charge. Metropolitan sales of reclaimed water under the Local Projects Program and groundwater under the Groundwater Recovery Program shall not be included in the new demand charge calculation.

Section 8. That each member public agency's new demand charge base (in acre-feet) will be determined on the largest of three averages: 1) the average of its purchases from Metropolitan in the three fiscal years 1989-90 through 1991-92, excluding one-time drought storage sales; 2) the average of its purchases from Metropolitan in the four fiscal years 1989-90 through 1992-93, excluding one-time drought storage agreement sales and long-term seasonal storage deliveries attributable to May and June 1993; or 3) its readiness-to-serve charge allocation for fiscal year 1995-96. Each member public agency's new demand charge base is as follows:

New Demand Charge Base

<u>Member Agency</u>	<u>Base Amount (AF)</u>
Anaheim	24,944
Beverly Hills	13,614
Burbank	20,446
Calleguas MWD	99,025
Central Basin MWD	115,834
Chino Basin MWD	76,265
Coastal MWD	41,441
Compton	5,026
Eastern MWD	55,603
Foothill MWD	9,610
Fullerton	12,262
Glendale	26,456
Las Virgenes MWD	18,525
Long Beach	42,539
Los Angeles	358,504
MWD of Orange Co.	243,828
Pasadena	22,638
San Diego CWA	559,247
San Fernando	903
San Marino	1,327
Santa Ana	15,840
Santa Monica	8,889
Three Valleys MWD	69,664
Torrance	20,311
Upper San Gabriel MWD	71,899
West Basin MWD	167,634
Western MWD of Riverside Co.	78,177
TOTAL	2,180,451

Section 9. That this Board finds and determines that such new demand charge base is a reasonable approximation of each member agency's current demands on Metropolitan's system. The calculation of the new demand charge base is based on sales data recorded by Metropolitan and shall be conclusive in the absence of manifest error.

Section 10. That upon payment of any new demand charge by a member agency, that member agency's new demand charge base shall be increased by an amount equal to the quantity of water on which the new demand charge was paid.

Section 11. That the new demand charge shall be incurred upon Metropolitan's determination that a member agency's historic average deliveries of Metropolitan water in the immediately preceding four fiscal years have exceeded such member agency's new demand charge base. New demand charges are incurred on the basis of the amount of water purchased by the member agency and are not imposed upon real property or upon a person as an incident of property ownership. The determination of new demand charges for Metropolitan water delivered in 1997-98 shall be made early in fiscal year 1998-99. In no event shall a new demand charge be incurred for water delivered in any fiscal year after 1994-95 if in such year the member agency has not purchased Metropolitan water in an amount at least equal to its initial new demand charge base.

Section 12. That such new demand charge shall be due and payable in the fiscal year following the year in which Metropolitan determines that the new demand charge has been incurred. Such new demand charge may be paid, without penalty, in equal monthly installments over a period of up to fifteen (15) years, provided that amounts subject to deferred payment shall bear interest at a rate determined by Metropolitan (which shall be equal to Metropolitan's weighted average cost of funds at the time of such determination), from the date due until payment is received by Metropolitan.

Section 13. That the new demand charge and the new demand charge base for each member public agency, the method of its calculation, and the project costs, cost allocations and other data used in its determination are as specified in the Nexus Study dated March 1996, which is on file and available for review by interested parties at Metropolitan's headquarters.

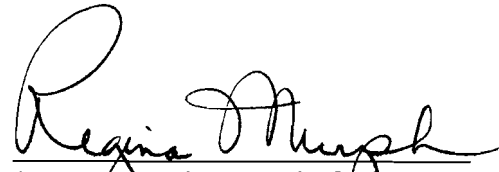
Section 14. That notwithstanding the foregoing, the Board hereby suspends collection of all new demand charges which may be incurred for fiscal year 1997-98, pending imposition by Metropolitan of an area-wide fee based on new development or other alternative charge; provided, however, that if the General Manager shall determine and certify that normal system demands have reached levels in excess of 2.2 million acre-feet, collection of the new demand charge shall resume. It is the intent of the Board that if collection of the new demand charge resumes, a new Nexus Study will be prepared, including revised new demand charge base figures for the member agencies, and such collection shall not retroactively include new demand charges incurred prior to the date that the General Manager certifies that normal system demands exceed 2.2 million acre-feet.

Section 15. 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 16. That this Board finds that the proposed new demand charge is exempt from the provisions of the California Environmental Quality Act (CEQA) since it constitutes 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 which will have CEQA documentation in place prior to construction of any facility or facilities.

I HEREBY CERTIFY that the foregoing resolution was adopted by the Board of Directors of The Metropolitan Water District of Southern California on March 11, 1997.


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