



- Board of Directors  
*Finance and Insurance Committee*

8/19/2014 Board Meeting

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**8-1**

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## **Subject**

Authorize agreement with the Municipal Water District of Orange County for a credit in the amount of \$8,145,566.18 due to overcharges on deliveries through Service Connection OC-88

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## **Executive Summary**

This board action authorizes crediting the Municipal Water District of Orange County (MWDOC) for overbilling through Service Connection OC-88. The meter at OC-88 has been in service since May 2005. The meter was incorrectly calibrated by Metropolitan's contractor at the time of installation and has recorded erroneous flow readings since being placed into service. The credit would not result in a net loss of revenues to Metropolitan.

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## **Details**

### **Background**

The OC-88 Service Connection delivers treated water from the Robert B. Diemer Water Treatment Plant to south Orange County. In the fall of 2004, as part of the OC-88 Energy Savings Modifications Capital Project, Accusonic Technologies (Accusonic) installed and calibrated an ultrasonic flow meter at OC-88. Accusonic certified the accuracy of the meter prior to its placement into service as a revenue meter on May 1, 2005.

In October 2012, MWDOC informed Metropolitan of possible metering discrepancies at OC-88, and staff from both agencies reviewed historical data to help identify the cause. In April 2013, a volume comparison test was performed in an attempt to determine the accuracy of the OC-88 meter, but the results were inconclusive. Accusonic, which manufactured and installed the OC-88 meter, was retained in September 2013 to assist in verifying the accuracy of the meter. On April 23, 2014, Accusonic delivered its final test report and concluded that the meter had been over-registering flow by 3.4 percent since it was placed into service. Metropolitan has determined that the erroneous flow readings were caused by Accusonic's failure to take into account the cement mortar lining on the inside diameter of the steel pipeline when calibrating the meter during the initial set-up and installation of the meter. The meter was recalibrated using the correct diameter on May 1, 2014.

As a result of the erroneous flow readings, Metropolitan has billed MWDOC for 3.4 percent more water than has actually been delivered through OC-88 since the meter was installed and placed into service in 2005. Metropolitan staff and MWDOC have agreed that 12,724.1 acre-feet were overbilled before the meter was recalibrated. This translates to \$8,145,566.18 of overbillings for the entire time period. This letter presents options to the Board for corrective action.

### **Administrative Code Provisions**

Sections 4506 and 4507 of the Administrative Code both address overcharges and undercharges due to meter errors. Section 4506 provides that any member agency may request that Metropolitan test any meter through which the member agency receives water. This section further provides,

In the event that any such test shall disclose an error exceeding 2 percent, an adjustment shall be made in charges made to the affected member public agency, covering the known or estimated period of duration

of such error, but in no event exceeding six months, and the expenses of such test shall be borne by the District; otherwise, such expense shall be borne by the member public agency requesting such test.

Section 4506 is applied by staff to provide corrective action for Metropolitan and member agencies for errors that result from meter malfunctions (i.e., a meter is reading fast or slow over time).

Administrative Code Section 4507 addresses billing and meter errors in water sales records. Specifically, Section 4507 (n)(5) covers “mistakes or errors in metering or recording deliveries to member agencies” and authorizes the General Manager to initiate corrections when an error is discovered by issuing a credit or charge for the under or overbilling. This section provides that an error may be corrected for up to three years prior to discovery or as specified by an agreement between the member agency and Metropolitan.

### **Corrective Actions**

It is clear that the meter at OC-88 was incorrectly calibrated during its installation by Metropolitan’s contractor and that this error resulted in more than \$8 million in overcharges to MWDOC. On April 13, 2004, the Board addressed a comparable scenario in which Metropolitan had overbilled the City of Los Angeles Department of Water and Power (LADWP) by more than \$11 million over a period of roughly 10 years due to another erroneously calibrated meter by a contractor at the time of installation. The Board authorized an agreement pursuant to Administrative Code Section 4507 to credit LADWP for the full amount of the overcharges from the in-service date of the meter to the date the calibration was corrected. Staff recommends that the Board take the same action with respect to the OC-88 overcharges.

As noted in the board letter for the action on the LADWP overcharges in 2004, the type of overcharge at issue is not the result of a malfunctioning meter for which staff applies corrective action pursuant to Section 4506. Since the overcharge results from an error in metering or recording deliveries, it falls within the purview of Section 4507(n), which permits the General Manager to issue a credit for up to three years or for a longer period as provided by an agreement approved by the Board. An agreement between Metropolitan and MWDOC to recover the full amount of the overcharge would ensure equitable treatment of member agencies and avoid penalizing MWDOC for an error attributable to a Metropolitan contractor. It would also not result in any loss of revenues to Metropolitan.

The Board has two options available for consideration:

1. Authorize the General Manager to enter into an agreement with MWDOC, pursuant to Administrative Code Section 4507(n), to provide MWDOC a credit of \$8,145,566.18 for overcharges during the period in which the OC-88 meter was improperly calibrated.
2. Do not authorize such an agreement, and the General Manager will provide a \$4,231,724.65 credit to MWDOC limited to the period commencing three years prior to the date of discovery, pursuant to Administrative Code Section 4507(n).

### **Similar Meters in Metropolitan’s System**

Including Service Connection OC-88, Metropolitan currently has a total of eight agency service connection meters manufactured and installed by Accusonic. Staff will be inspecting and evaluating the remaining meters to ensure their accuracy, as soon as shutdown schedules can be coordinated.

To ensure that any new ultrasonic meters are installed and calibrated correctly, staff from Engineering Services and Water System Operations will physically verify the pipe diameter measurements and confirm the readings with the ultrasonic flow meter manufacturer’s representative. This check, along with a point-by-point verification of the control parameters entered into the meter, will be performed prior to accepting the installation, and placing the meter into service.

### **Policy**

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Metropolitan Water District Administrative Code Section 4507. Billing and Payment of Water Deliveries

**California Environmental Quality Act (CEQA)**

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CEQA determination for Options #1 and #2:

The proposed action is not defined as a project under CEQA because it involves continuing administrative activities (Section 15378(b)(2) of the State CEQA Guidelines). In addition, the proposed action is not subject to CEQA because it involves other government fiscal activities, which do not involve any commitment to any specific project which may result in a potentially significant physical impact on the environment (Section 15378(b)(4) of the State CEQA Guidelines).

The CEQA determination is: Determine that the proposed action is not defined as a project and is not subject to the provisions of CEQA pursuant to Sections 15378(b)(2) and 15378(b)(4) of the State CEQA Guidelines.

**Board Options**

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**Option #1**

Adopt the CEQA determination that the proposed action is not defined as a project and is not subject to CEQA, and authorize the General Manager to enter into an agreement with MWDOC under Administrative Code Section 4507(n) in a form approved by the General Counsel, to credit the overbillings for OC-88 from May 1, 2005 through April 2014, as described in this board letter.

**Fiscal Impact:** \$8,145,566.18

**Business Analysis:** This option reimburses MWDOC for overbillings due to an error in the initial installation of the meter at OC-88 per agreement between Metropolitan and MWDOC, as allowed in Section 4507(n) of the Administrative Code.

**Option #2**

Adopt the CEQA determination that the proposed action is not defined as a project and is not subject to CEQA, do not authorize an agreement with MWDOC, and the General Manager will provide a credit for the overbillings for OC-88 for the period from three years before MWDOC's discovery of the error to the date the meter was correctly calibrated. Overbillings from October 2009 through April 2014 would be credited under Administrative Code Section 4507(n).

**Fiscal Impact:** \$4,231,724.65

**Business Analysis:** This option reimburses MWDOC for a period from three years before discovery of the error to the date the meter was correctly calibrated, per the authority granted to the General Manager in Section 4507(n) of the Administrative Code.

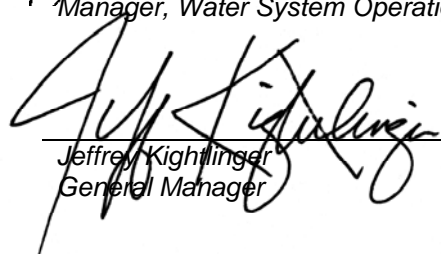
**Staff Recommendation**

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Option #1

  
James F. Green  
Manager, Water System Operations

8/4/2014  
Date

  
Jeffrey Kightlinger  
General Manager

8/12/2014  
Date