



Authorize the General Manager to Update Language in Demand Management Agreements

Water Planning and Stewardship Committee

Item 8-6

April 8, 2019

Metropolitan's Demand Management Programs

- Provide funding for the development of local supplies, conservation, and other programs
 - Local Resources Program (LRP)
 - Seawater Desalination Program (SDP)
 - Conservation
 - Future Supply Actions (FSA)/Foundational Actions Funding (FAF)
- Funded by Water Stewardship Rate (WSR)

2009 Board Action

- Member agency and staff recommendation
- Board Action
 - All future LRP, SDP, and similar agreements to include provision that agreement terminates if:
 - Metropolitan determines it will no longer (1) fund such programs, (2) use the WSR or similar charge to do so, or (3) charge the WSR for all water conveyed on the system; and
 - A delegate of that member agency votes in favor
 - Applies only as long as all new LRP, SDP, and similar agreements contain similar provisions
- Included in all later LRP agreements (23)

Legality Provision in FSA/FAF Agreements

- Legality provision added in 2013
- Parties represented by legal counsel
- Have reviewed agreement
- Parties agree:
 - Agreement is legally enforceable
 - Payments by Metropolitan pursuant to agreement are a legal use of Metropolitan's funds
 - Metropolitan may legally recover costs incurred pursuant to agreement in water rates charged to member agencies

Language Update

- Include legality provision in all future demand management agreements
 - Provides consistency
 - Beneficial for parties to confirm agreement and Metropolitan's obligations are enforceable
- If so, no longer include or enforce 2009 termination provision
 - With legality provision, no longer necessary
 - Based on Board's 2009 direction, would not enforce in existing agreements
- Other termination provisions unaffected

Board Options

Option 1:

- Authorize the General Manager: (1) to include in all future demand management agreements the legality provision already used in Future Supply Actions/Foundational Actions Funding agreements; and (2) to no longer include or enforce in Local Resources Program, Seawater Desalination Program, and similar agreements the termination provision directed by the Board in 2009

Option 2:

- Take no action

Staff Recommendation

Option #1

