



UTILITY CONSUMERS' ACTION NETWORK

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January 29, 2007

Mayor Jerry Sanders
City of San Diego
202 "C" St.
San Diego, CA 92101

Jim Barrett
Water Department Director
San Diego City Water Department
600 B St., 11th Floor,
San Diego, CA 92101

RE: Reissuance of City of San Diego Water/Sewer Notice

Dear Mayor Sanders and Mr. Barrett,

UCAN has received a number of inquiries and complaints from its members about the nature and substance of "Notice of Water and Sewer Fees and Charges" sent to San Diego customers just two weeks ago. In response to those inquiries, we found a number of significant omissions and inaccuracies that render the "protest" process a meaningless exercise. As will be explained below, UCAN requests that the City reissue a notice that is more accurate so that San Diegans can make an informed choice as to whether to formally protest the proposed water and sewer rate increase.

Let me briefly state UCAN's interest in this matter. UCAN has not generally injected itself into City of San Diego water and sewer issues. It did so recently through a civil lawsuit filed by myself when the City refused to provide refunds for residential sewer customers who had illegally subsidized large companies. This lawsuit, *Shames v. City of San Diego*, compelled the City to reimburse small customers for almost \$40 million dollars. As will be explained below, it would appear that the City is attempting to recoup the \$40 million by overcharging residential customers for water rates.

UCAN's principal concern is that customers be given accurate information about the City's rate proposal. We found the January mailer to be seriously deficient; if the notice were an advertisement, the City would have been found to have made material misrepresentations in violation of Business & Professions Code Section 17200. Not only is it inaccurate, but it appeared to be intentionally designed to confuse customers and to discourage them from mailing in the "protest" form. I offer the following summary facts that we've gleaned from the City's own internal reports which I believe contradict the notice given to consumers:

Fact: The notice only informs customers a flat 6.5% increase. Not disclosed is an alternative or supplemental "Cost of Service" rate plan that poses a rate increase of far more than 6.5% to most residential customers. UCAN understands that the City will likely choose the Cost of Service-based rates yet the notice only informs customers of a flat rate increase.

Water/Sewer Rate Increase
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Fact: The Cost of Service proposal, identified above, would impose a 12% increase upon a majority of the residential customers. The average Single Family ratepayer (assume 13 HCF monthly usage) will see an 11.7% increase in the water portion of their July 2007 water of bill.

Fact: It's a bailout for businesses. Under the Cost of Service proposal, a Single Family ratepayer class will pay -- on average -- 12.12% more than in it did 2007 while Commercial Ratepayer class will only pay 1.39% more.

Fact: More rate hikes are on the way in 2007. At page 15 of the December 18, 2006 *Report to the City Council* it states: "The Water Department will "come back to council in the Fall of 2007 to request authorization to notice any future pass through, and increase rates accordingly." The City should disclose to the public that this proposal is the first of at least two rate increases that would be approved this year.

Fact: Salaries and wages are not included. The proposed rates assume that City workers' salaries and wages are increased by 4% in FY08 but are not increased thereafter until FY2013." Is the City serious that it plans no pay hikes for five years? We don't think so.

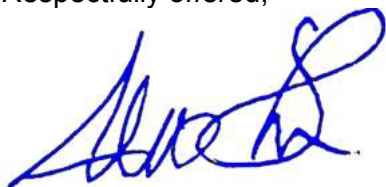
Fact: The proposed Cost of Service rate hike discourages water conservation. Currently the difference between the residential class' lowest tier rate of \$1.731HCF and the highest tier rate of \$2.372 is 37%. Under the new rate proposal, the lowest tier rate is \$2.262HCF and the highest tier is \$2.775. This is a difference of only 22.7% vs. the previous 37% differential. This means that under the proposed rates, the greater burden of revenues are being shifted to lower volume users while large residential water users will be paying less, proportionately. This makes no sense in a region that needs to be encouraging moderate and wise water use.

Fact: The chart contained in the January notice states that the Shames settlement results in a sewer rate *increase* for customers. Both of you know that is not truthful; the Shames settlement results in *lower* sewer rates for a vast majority of San Diegans. The chart is deceptive and unfairly characterizes the spirit and letter of the settlement terms.

For these reasons, alone, UCAN urges that a new, accurate notice be issued to all San Diegans well prior to the February 26th council hearings. Additionally, the inaccuracy of the mailer will effectively negate the legitimacy of the protest process that the City Attorney has opined as being an essential element to the City Council's consideration of the proposed rate increase. Thus, this letter also serves as full notice that the City Council's decision on a rate increase will be legally challenged unless the notice is revised and reissued.

Thank you for your prompt attention to this matter.

Respectfully offered,



Michael Shames
Executive Director