

July 26, 2019

*Via E-mail & U.S. Mail*

Richard S. Nakano, Foreperson  
2018-19 Contra Costa County Civil Grand Jury  
725 Court Street  
Martinez, CA 95663

Dear Foreperson Nakano:

This letter is the response of the East Bay Municipal Utility District ("EBMUD") to the Final Report issued by the Contra Costa County Civil Grand Jury on May 13, 2019. The Grand Jury examined EBMUD's rate-setting process and found EBMUD is in full compliance with applicable law. However, the Grand Jury recommended EBMUD explore alternative rate structures and increase outreach and communication to the public regarding its rates.

The Grand Jury Final Report outlined thirteen (13) findings and nine (9) recommendations. This letter presents EBMUD's review of each finding and provides a response to each recommendation. This letter also presents some clarification and corrections to various statements in the Grand Jury Final Report.

On behalf of EBMUD's Board of Directors and staff, I want to commend the Grand Jury for its diligent efforts to assess and evaluate the work of public agencies in the public's interest. We have carefully reviewed and considered the information we provided and the Grand Jury's assessment.

The Grand Jury Final Report's findings and recommendations highlight some key points about EBMUD's recent large water rate increases and our costs to provide water service to our customers. While the public may perceive that EBMUD sells water to its customers, the purpose of the water enterprise is to provide water service to its customers. That service is the provision of reliable instantaneous access to clean water 24 hours a day 365 days a year. The typical pricing structure of water utilities creates the impression that customers are buying a commodity – a gallon of water – not a service, because they are charged mostly by the amount of water used. In most cases, this misperception is not an issue because year over year, the total amount of water used is generally stable. Similarly, water revenues are generally stable. However, a steep drop in water use over the last decade and a significant increase in infrastructure investment have necessitated significant increases in the rates EBMUD charges for each unit of water used. The announcement of these large rate increases has drawn the attention of the public and media.

As shown in this letter, the increase in the water service bill for the average customer has been much smaller than the announced increases in the rate charged for each unit of water used – in part due to customers' decreased consumption. Providing our customers a better understanding

of the relationship between the amount of water used by customers, the cost to provide water service, and water rates is challenging. The Grand Jury Final Report's findings and recommendations provide some useful steps to improving customer understanding.

## FINDINGS

The Grand Jury Final Report made the following findings:

**Finding 1 (F1).** EBMUD has developed and adopted a tiered water rate structure for single family residential (SFR) customers that complies with Article X and Article XIII D, section 6 (b) of the California Constitution.

EBMUD agrees with Finding F1.

**Finding 2 (F2).** EBMUD water rates have been increasing three to five times faster than the Consumer Price Index over the last seven years.

EBMUD disagrees partially with the finding that water rates have increased three to five times faster than the Consumer Price Index (CPI) over the last seven years. Given the Grand Jury Report statement that CPI has increased by 22% in the last seven years, Finding F2 suggests that EBMUD water rates have increased by 66% to 110% in the same time period. This finding does not take into account the impact of EBMUD customers' declining water consumption patterns during that period which resulted in a corresponding downward impact on their water bills. As a result, while EBMUD's SFR water rate has increased about three times faster than CPI between 2012 and 2019, the bill for the average SFR customer has only increased about two times faster than CPI over the last seven years due to reduced water use.

While the Grand Jury Final Report focused on the EBMUD rate increases compared to CPI, it does not consider the impact of customers' reduced water consumption on EBMUD customer bills or on EBMUD revenues. During the period of 2012 to 2019, the average SFR water use dropped from 10 to 8 hundred cubic feet (CCF)/month, and the corresponding average SFR bills were \$38.15 in 2012 to \$56.12 in 2019. This is an increase of 47%, significantly lower than the three to five times faster than CPI (i.e., 66% to 110%) that Finding F2 cites for this same timeframe. If SFR customers had instead continued to use an average of 10 CCF/month rather than decreasing usage to 8 CCF/month as they did between 2012 and 2019, their bills would have been \$38.15 in 2012 and \$66.46 in 2019. This would have been an increase of 74% on their water bills, which is 3.4 times the CPI increase during that period. However, because SFR customers reduced their average water usage to 8 CCF/month during this period, the real impact to the average customer on the amount they spent for water service was much lower than 74%. Their bills increased by just 47%, or about two times faster than CPI.

In the interest of being thorough, we also want to provide some minor clarifications regarding the graph provided on page 7 of the Grand Jury Final Report. While the details for the selected SFR rate components shown in the graph are correct, it does not include the Seismic Improvement Program Surcharge that was imposed on all EBMUD water customers in 2012 and discontinued in 2016. In addition, the graph reflects a significant rate change in water service in 2016. This change was the result of a Cost of Service (COS) Study completed by an independent outside financial consultant (Raftelis) for EBMUD in fiscal year (FY) 2015. The COS Study reviewed EBMUD water service rates and charges to ensure they are appropriately and equitably established consistent with California law. While the COS Study confirmed EBMUD's rates are generally consistent with cost of service principles, it also recommended a number of adjustments to individual water rate components, which were reflected in the FY 2016 water service rates.

We agree with the statement in the Grand Jury Final Report that large rate increases during this period were necessitated by severely reduced water consumption due to multiple sequential droughts, the economic recession, and an increased need for capital spending by EBMUD to address issues related to its aging infrastructure.

**Finding 3 (F3).** Customers are impacted by the fact that EBMUD's costs need to be covered regardless of how much or how little water customers use.

EBMUD disagrees partially that customers are impacted by the fact that EBMUD's costs need to be covered regardless of how much or how little water customers use. We understand what the Grand Jury is saying with respect to customer impacts. We also want to point out that EBMUD revenues are heavily impacted by how much or how little water customers use while EBMUD's costs are not similarly impacted by how much water is produced.

Because over 70% of its revenue is collected on the variable component of its water charges, EBMUD's revenue varies significantly with changes in customer water use. More specifically, over 90% of EBMUD's costs are fixed; yet less than 30% of its water revenue is derived from fixed charges. The remaining fixed costs are recovered from the variable component of its water rates. Thus, there is a direct, causal relationship between lower water use by its customers and decreased revenue for EBMUD, and a resulting need for EBMUD to increase its rates to meet its costs and continue to operate its water system. The same causal relationship helps customers lower their water bill with lower water use.

As described in our response to Finding F2, lower customer water use has helped mitigate the impacts of recent EBMUD rate increases on their water bills, albeit with a time lag. Furthermore, we note that owning our own water supply has significant benefits to ratepayers. When many water utilities in the state were at risk of running out of water supply during the drought,

EBMUD was able to manage its water supplies to ensure the continued availability of safe, clean drinking water to all of its customers.

**Finding 4 (F4).** SFR Tier 1 rates are based on average indoor water use, which is similar among customers east and west of the Oakland/Berkeley Hills.

EBMUD agrees with Finding F4.

**Finding 5 (F5).** EBMUD's SFR customers east and west of the Oakland/Berkeley Hills differ in terms of outdoor water use.

EBMUD agrees with Finding F5.

**Finding 6 (F6).** EBMUD uses average summer SFR monthly water use from both east and west of the Oakland/Berkeley Hills to set the break point between SFR Tiers 2 and 3.

EBMUD agrees with Finding F6 and provides the following explanation on the costs of providing outdoor water use that is collected from Tier 2 and Tier 3 rates.

As the Grand Jury Final Report references, EBMUD's water rates follow a detailed COS Study prepared by an independent outside financial consultant. The COS Study follows the principles of the American Water Works Association (AWWA) M1 manual "Principles of Water Rates, Fees, and Charges," which is widely accepted as the industry standard for setting water rates in North America. A key principle in the AWWA methodology is the concept of base demand and peak demand. The capital and operating costs of the water system are separated into the cost of providing base demand and the cost of providing peak demand, where the cost of providing peak demand is generally much higher than the cost of providing base demand.

The Grand Jury Final Report acknowledges that EBMUD incurs additional costs to provide the additional capacity to meet the peak demands of its customers as shown in the following paragraphs from page 6 of the Grand Jury Final Report:

*Tiers 2 and 3 rates capture the cost to deliver outdoor water use. These water demands, primarily for landscape irrigation, increase EBMUD's overall costs. EBMUD must build, operate, and maintain water supply and distribution infrastructure sufficient to deliver the maximum amount of water required during peak water use.*

*EBMUD indicates that the costs to deliver outdoor water use during these peak periods are allocated to those customers "responsible for generating those costs and creating peak demands." The 2018 Cost of Service Study indicates that Tier 3 has the highest peaking costs because it covers outdoor water usage for the largest SFR customer.*

As the Grand Jury Final Report indicates, EBMUD's rate structure was developed for SFR customers based on indoor water use as the base demand with its associated costs recovered in Tier 1, and outdoor water use as the peak demand with its associated costs recovered in Tiers 2 and 3. Once it was established that costs to provide peak demand would be recovered in Tiers 2 and 3, EBMUD had to decide where to set the break point between Tiers 2 and 3. The basis for having a higher Tier 3 rate for outdoor water use is that some customers place the highest level of peak demand on the system.

EBMUD's rate structure does not have an individualized rate structure for each property nor does its billing system have the ability to monitor peak daily water use. For this reason, EBMUD uses a rate structure for Tiers 2 and 3 applied equally to all SFR customers.

We selected 16 CCF/month, which corresponds to the average summer water use for all SFR customers. It is important to note that 16 CCF was not selected for Tier 2 water use as a "water budget" for outdoor irrigation for all SFR customers. Rather, it was selected as a break point to separate the highest peak demand from the other uses in the peak demand category.

**Finding 7 (F7).** Since summer temperatures are warmer, lot sizes are larger, and properties are more heavily landscaped east of the Oakland/Berkeley Hills, customers east of Hills incur Tier 3 rates more frequently than customers west of Hills.

EBMUD agrees with Finding F7 and provides the following explanation on how the cost of providing the highest peak demand is collected from Tier 3.

The Grand Jury Final Report acknowledges that Tier 3 recovers the cost of providing the highest peak demand, and also points out that due to hotter temperatures, more customers east of Hills pay Tier 3 rates than customers west of Hills. This is based on the COS principle that higher peak demand water users should pay the higher costs attributed to their higher peak demand.

As described in the Grand Jury Final Report, east of Hills SFR customers inherently have higher peak demand than west of Hills customers due to their warmer climate, larger lots, more water-intensive landscaping, and swimming pools. Therefore, it is consistent with COS principles for the east of Hills customers to have more of their outdoor water use subject to Tier 3 rates than west of Hills customers, whose outdoor water use is generally much lower.

EBMUD's water system has been designed to reflect and accommodate the higher peak demand placed on the system by east of Hills customers. For example, the east of Hills water system is designed for peak demand that is 160% more than the base demand while the west of Hills water system is designed for peak demand that is only 90% more than the base demand.

**Finding 8 (F8).** EBMUD's SFR customers east and west of the Oakland/Berkeley Hills are not homogenous in terms of their lot sizes, summer temperatures, and resulting outdoor need for water.

EBMUD agrees with Finding F8.

Neither the EBMUD COS Study nor the SFR rate structure assumes homogenous outdoor water use for all SFR customers. In fact, outdoor water use not only varies between SFR customers located east of Hills and west of Hills, there is significant variation of outdoor water use for SFR customers within east of Hills and within west of Hills.

**Finding 9 (F9).** EBMUD has not provided its customers with a narrative explanation for the cost of service, the allocation of costs among its various customers, or within each customer class.

EBMUD disagrees that we have not provided customers with a narrative explanation of the COS Study and the cost allocations among and within each customer class. When the most recent COS Study was developed, EBMUD held a formal Board workshop in 2014 to discuss the COS Study findings. The results of the COS Study were also presented at the Board workshop for the proposed FY16/FY17 budget and rates in 2015. These workshops were noticed to the public and the workshop presentations were made available on the EBMUD website.

A memorandum summarizing the COS Study outcomes was filed with the Board in a public meeting on April 28, 2015. The results and recommendations of the COS Study were also summarized in the Report and Recommendation of the General Manager for Revisions to the Water and Wastewater System Schedule of Rates and Charges for FY16 and FY17, which was filed with the Board at its open meeting on May 12, 2015. A public presentation was also provided at that meeting summarizing the results of the COS Study and the recommended revisions to the rates for FY16 and FY17.

That said, EBMUD agrees that in the future we can provide more information to the public on our COS Study and rate structure.

**Finding 10 (F10).** EBMUD has alternative methods available for setting rates: increasing the fixed rate, creating two separate classes of SFR customers, or adopting a water budget rate structure.

EBMUD agrees that there are alternative rate methodologies to be considered. The options listed by the Grand Jury are only a small subset of the alternatives available. The Grand Jury Final Report listed only three alternative rate options to the current SFR rate structure that EBMUD could consider:

- 1) Increasing the fixed rate so that variable rates comprise a smaller portion of the customer's water bill
- 2) Creating two separate classes of SFR customers: one in the east and one in the west, so the two disparate regions are not averaged together to establish the tiers
- 3) Adopting a "water budget" rate structure, in which properties are evaluated individually based on their water needs

The Grand Jury Final Report concluded that Alternatives 1 and 2 were not feasible, or were rejected by the EBMUD Board of Directors and recommends EBMUD continue to investigate water budgets as a possible alternative water rate structure. While EBMUD reviewed water budget rates in 2016, that work did not include a full COS Study and corresponding cost allocations required to support a water budget rate structure. Rather, it focused on a preliminary assessment of the data required to develop individual water budgets, how current customer water use compares to the preliminary water budgets, and costs and potential benefits of such a rate structure.

Since a full COS Study and cost allocations were not part of the 2016 effort, we should note that the resulting COS Study could potentially create a water rate structure in which rates for outdoor water use are higher overall than the current Tier 2 and Tier 3 rates.

**Finding 11 (F11).** Following a Board workshop in 2016, EBMUD staff recommended the Board continue to explore Water Budget rates.

EBMUD agrees with Finding F11. EBMUD agreed to continue reviewing water budget rates as part of its plan to review implementation of automated meter reading (AMI) technology, which is key to making water budget rates effective. Our current manual meter reads only occur once every two months, which does not provide timely feedback to customers on their water use to allow them to compare this to their water budget. Correspondingly, we have been unable to find any communities who have bimonthly billing and use water budget based rates. However, as noted in our response to Finding F10, any decision by EBMUD to implement water budget rates would require a detailed COS Study.

**Finding 12 (F12).** The Board meets twice a month on weekday afternoons in Oakland.

EBMUD agrees with Finding F12. Please also note that EBMUD holds Board committee meetings (e.g., Legislative/Human Resources, Planning, Finance/Administration, Sustainability/Energy) on the mornings of the full Board meetings in Oakland.

**Finding 13 (F13).** EBMUD continues to evaluate providing video recording and live-streaming of Board meetings.

EBMUD agrees with Finding F13. EBMUD currently provides video and audio recordings of its Board meetings on the EBMUD website and continually seeks to improve public transparency and access to its Board meetings.

## RECOMMENDATIONS

The Grand Jury Final Report made the following recommendations:

**Recommendation 1 (R1).** The EBMUD Board should consider directing its General Manager to improve transparency by providing customers with the narrative explanation of the COS methodology, as recommended by the League of California Cities, by December 31, 2019.

This recommendation has not yet been implemented. EBMUD will post information on the EBMUD website by December 31, 2019 that provides a summary of the water rate COS methodology regarding base and peak demand costs and how the SFR tiers are assigned to recover those costs.

**Recommendation 2 (R2).** The EBMUD Board should consider directing its General Manager to include a discussion on how rates are set and alternative methods for setting rates in the narrative explanation, by December 31, 2019.

This recommendation has not yet been implemented. EBMUD will include in the response to recommendation R1 a discussion on the rate-setting process and schedule. EBMUD has always provided public notice of the Board workshops, meetings and public hearings on proposed rates and rates development. Any notice of consideration of alternative methods for rates setting will be included when the Board has agreed to investigate those alternative methods.

**Recommendation 3 (R3).** The EBMUD Board should consider directing its General Manager to solicit customer input and participation in its examination of water budget rate structures by establishing a customer advisory committee by December 31, 2019.

This recommendation requires further analysis. At this time, EBMUD is concerned about raising expectations about its ability to implement a water budget rate structure. EBMUD is in the process of deploying its largest pilot study of AMI technology, which is planned to be completed by June 2021. The findings of the pilot study will inform if EBMUD pursues this major investment, which has been initially estimated to cost rate payers approximately \$150 million. EBMUD must carefully evaluate the costs and benefits of this decision. As described in our response to Finding F11, AMI technology is key to making a water budget rate structure

effective. Therefore, the decision to further investigate a water budget rate structure should be made subsequent to EBMUD's decision on AMI technology. Once a decision has been made to invest in AMI technology District-wide, EBMUD can convene a customer advisory committee to examine a water budget rate structure.

**Recommendation 4 (R4).** The EBMUD Board should consider directing its General Manager to complete an analysis of water budget rate structures and communicate its findings to customers by June 30, 2020.

This recommendation requires further analysis. In the response to Recommendation R3, EBMUD has provided the detailed steps we are taking to decide on the implementation of AMI technology necessary to make a water budget rate structure effective. EBMUD is not planning further examination of a water budget rate structure until a decision to implement AMI technology District-wide is made.

In addition, any significant changes to the rate structure must be reviewed for potential impacts to EBMUD's automated meter reading plans, customer information system requirements, billing system changes, and other implementation impacts. Furthermore, EBMUD is in the process of completing a demand study which will provide additional analysis on current and expected water usage. The results of this study will provide key water consumption data for assessing a future water budget rate model or any other alternative rate model the District explores.

Given the work currently pending which will have significant impacts on any analysis of alternative rate models, EBMUD does not feel Recommendation R4 can be accomplished by June 30, 2020.

**Recommendation 5 (R5).** The EBMUD Board should consider directing its General Manager to develop a plan to improve transparency and better engage customers in how it sets its water rates by June 30, 2020.

This recommendation has not yet been implemented. EBMUD will develop a plan to improve transparency and better engage customers in how it sets its water rates by June 30, 2020. In addition to its traditional communication tools (customer newsletter, press releases, community events and media campaigns), EBMUD has recently been leveraging technology and social media to better connect with its customers. EBMUD is using Twitter, Facebook, and Nextdoor and has expanded its website to provide access to the full scope of EBMUD activities. In addition, EBMUD recently completed a customer survey which was presented to the Board in July. The customer survey results are expected to help guide EBMUD in its external communications plans including on its rates and budget going forward.

While EBMUD has always provided public notices on proposed budgets and rates via EBMUD's website, customer newsletter, formal public notices and most recently on social media platforms, we recognize the need to continuously improve how we engage with the public on these issues.

**Recommendation 6 (R6).** The EBMUD Board should consider holding board meetings during weekday evenings, by December 31, 2019.

This recommendation has not yet been implemented. Past experiences holding Board meetings in the evenings and conducting public meetings throughout the service area on long-term water supply planning and drought rates indicate these approaches do not necessarily promote public engagement with utilities, although they certainly may be successful strategies for other local governments. For example, the Board held an evening information session on June 4<sup>th</sup> regarding the FY20/FY21 proposed rate increases, and only two members of the public attended. However, beginning in 2021, EBMUD will hold four weekday evening Board meetings during the budget and rates development period at varying locations throughout the service area including locations east of Hills.

**Recommendation 7 (R7).** The EBMUD Board should consider holding board meetings at varying locations including locations east of the Oakland/Berkeley Hills, such as in Walnut Creek, by December 31, 2019.

This recommendation has not yet been implemented. As part of our preparedness plan for emergencies, EBMUD currently holds offsite Board meetings every two years. The most recent offsite Board meeting was held in Castro Valley in May 2019. Beginning in 2021, EBMUD will hold four weekday evening Board meetings during the budget and rates development period at varying locations throughout the service area including locations east of Hills.

**Recommendation 8 (R8).** The EBMUD Board should consider directing the General Manager to complete the evaluation of live-streaming of Board meetings by December 31, 2019.

This recommendation requires further analysis. EBMUD has been providing audio recordings of its Board meetings on the District's website since 2018 and recently launched a pilot providing video recordings of Board meetings online. In addition, EBMUD is currently working with local cable government access channels to include video recordings of the EBMUD Board meetings in their programming schedule. As of the date of this letter, the government access channels for the city of Oakland, KTOP and the city of Emeryville, ETV, have agreed to broadcast video recordings of EBMUD Board meetings. Staff is scheduled to provide an update to the EBMUD Board on the pilot and review of live-streaming access at the December 2019 Board meeting. EBMUD continues to review the logistics and costs of various technologies including live-streaming Board meetings.

**Recommendation 9 (R9).** The EBMUD Board should consider streaming online or televising its Board meetings to encourage public participation and understanding of its activities by June 30, 2020.

This recommendation requires further analysis. EBMUD has been providing audio recordings of its Board meetings on the District's website since 2018 and recently began a pilot of providing video recordings of Board meetings online. In addition, EBMUD is currently working with local cable government access channels to include video recordings of the EBMUD Board meetings in their programming schedule. As of the date of this letter, the government access channels for the city of Oakland, KTOP and the city of Emeryville, ETV, have agreed to broadcast video recordings of EBMUD Board meetings. Staff is scheduled to provide an update to the EBMUD Board on the pilot and review of live-streaming access at the December 2019 Board meeting. EBMUD continues to review the logistics and costs of various technologies including live-streaming Board meetings.

## CLARIFICATIONS

In addition to the comments on the specific findings and recommendations, EBMUD would like to clarify and correct the following statements in the Grand Jury Final Report.

Page 1, 4th paragraph:

*More than 65% of its rate revenue is derived from variable rates based on usage. Fixed water service rates account for the remaining 35% of water rate revenue.*

As shown on page 79 of EBMUD's FY18/19 budget book, the actual portion of the rate revenue for FY19 based on water usage is 70.5%, which includes the volume charge (65.3%) and the elevation surcharge (5.2%). The fixed monthly service charge is 29.5% of rate revenue for FY19.

Page 2, 1st paragraph:

*This is because EBMUD has never analyzed the potential impact on customers. Nor has EBMUD explained to its customers how it sets its rates.*

An important part of EBMUD's biennial budget and rates process and of our periodic COS reviews is an analysis of the impact to our customers. Staff prepares and reviews impacts of items such as changes in operating costs, water sales assumptions, cost allocations, and water sources, all in public forums. This was also a key part of the Board's review of water budget-based rates in 2016 which focused entirely on potential water savings and potential customer impacts of a water budget-based rate. The presentations, memos, and reports on rates produced are designed to provide narrative and graphic information to our Board and to the public, our

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customers. The most frequently used tool in recent years for demonstrating impacts to customers has been: 1) the bill comparison chart showing the annual cost of average water usage in nearby communities shown at nearly every public forum discussing rates and 2) the chart showing the costs of a wider range of usage including the 25th percentile, 50th percentile, 75th percentile, and 95th percentile of use in addition to the average or mean use. This second chart has been shown in our General Manager's report on rates and charges since 2015 and was included in this year's Prop 218 notice. EBMUD is open to exploring additional approaches that may better explain this material and impacts to customers and will continue to look for more and better ways to do so.

Page 2, last paragraph:

*The communities in Contra Costa County served by EBMUD's water delivery system include: Alamo, Danville, Crockett, El Cerrito, Kensington, Hercules, Lafayette, Moraga, Orinda, Pinole, Richmond, Rodeo, San Ramon, and Walnut Creek.*

The incorporated and unincorporated communities that EBMUD serves in Contra Costa County include: Alamo, Blackhawk, Danville, Diablo, Crockett, El Cerrito, El Sobrante, Kensington, Hercules, Lafayette, Moraga, North Richmond, Oleum, Orinda, Pinole, parts of Pleasant Hill, Richmond, Rodeo, San Pablo, San Ramon, Selby, and parts of Walnut Creek.

Page 3, 6th paragraph:

*In 2018, EBMUD sold 128 million gallons per day (MGD), down from a peak consumption level of over 200 MGD in 2007.*

The last time EBMUD sold more than 200 MGD was in 2003-2004.

Page 3, 8th paragraph:

*Over 65% of its water rate revenue is derived from variable rates. Fixed water rates account for the remaining 35% of water rate revenue.*

As shown on page 79 of EBMUD's FY18/19 budget book, the actual portion of the rate revenue for FY19 that is based on water usage is 70.5%, which includes the volume charge (65.3%) and the elevation surcharge (5.2%). The fixed monthly service charge is 29.5% of rate revenue for FY19.

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Page 3, 9th paragraph:

*According to information obtained from EBMUD, over 90% of EBMUD's costs are fixed (such as salaries and benefits) yet less than 30% of its revenue is derived from fixed sources (such as property charges and power revenues). The remaining fixed costs must be recovered through water rates.*

This analysis incorrectly mixes water rate revenue with non-rate revenue. Less than 30% of the water rate revenue is from the fixed monthly service charge. Non-rate revenue includes revenue sources that are fixed such as property taxes and revenue sources that can vary significantly from year to year such as system capacity charges.

Page 3, last paragraph:

*EBMUD utilizes tiered rates to help recover its cost of service while encouraging conservation.*

While it is true that tiered rates help recover the cost of service for the SFR customer class, it is more accurate to use the statement that was included in paragraph 3 on page 5:

*EBMUD relies on tiered rates for its SFR customer class to meet the cost of service requirements for these customers.*

Page 5, 2nd full paragraph:

*EBMUD divides its customers into six classes: Single Family Residential, Multi-Family Residential, Commercial, Industrial, Institutional, and Irrigation. Single and Multi-Family residential customers make up 91% of EBMUD customer accounts, commercial customers make up 8%, while industrial, institutional, and irrigation customers combined are only 1% of the billed accounts from the utility.*

The six classes referenced in this statement refer to EBMUD's revenue categories. To clarify EBMUD's rate structure and cost of service has five customer classes: single family residential, multi-family residential, all other (includes commercial, industrial, institutional, irrigation), nonpotable/recycled, and private fire service.

Page 5, 4th paragraph:

*Water rates have the following main components ...:*

The Grand Jury Final Report does not reflect the Elevation Surcharge as a component of EBMUD's water rates. The Elevation Surcharge is assessed to certain customers based on their elevation. The Elevation Surcharge is applied to each unit of water delivered to properties in

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some pressure zones, and is calculated to recover the increased cost of power and facility costs required to pump water to locations 200 feet or more above sea level.

Page 10, 2nd full paragraph:

*The website does not state how to access information for meetings held prior to 2017.*

The EBMUD website has instructions for requesting public records including information on prior Board meetings under About Us – Public Records. However, as the Grand Jury Report points out, there are no instructions on how to request older Board meeting materials under the Board meetings web page. EBMUD has updated its Board meetings web pages to direct users to the public records page to request older Board meeting materials.

## **CONCLUDING REMARKS**

In conclusion, we thank the Grand Jury for its thoughtful review of EBMUD’s rate-setting process. We appreciate your recognition that EBMUD’s rates are in compliance with all applicable laws, as reflected by our detailed COS Study and thorough administrative record. We also appreciate your recommendations for improving communications with our customers on the current rate structure and increasing engagement with customers regarding future rate increases and changes.

These recommendations align with EBMUD’s ongoing commitment to public transparency and access. To that end, EBMUD will continue to explore improving our communications regarding water rates to advance customer understanding of EBMUD’s current rate structure, the cost of providing water service, and future rate increases and changes.

As acknowledged in the Grand Jury Final Report, EBMUD’s revenues have been impacted by the severe reduction in water sales over the last seven years. EBMUD’s overall costs do not decrease appreciably when water sales are lower. Further, EBMUD is making significant investments in infrastructure and construction costs are increasing rapidly. Together these factors have required EBMUD to increase rates significantly to maintain its financial stability. These recent large rate increases have caught the attention of the public, media and our customers.

This has led to the paradox that the Grand Jury pointed out on page 4 of the Final Report – “The more water customers conserve, the higher the rate they have to pay for what they do use.” This is not an issue unique to EBMUD, as water agencies across the nation struggle with the same issue. See, for example, <https://www.nytimes.com/2017/11/10/climate/water-pipes-plastic-lead.html>; and <https://www.circleofblue.org/2018/water-management/pricing/price-of-water-2018/>

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As we move forward in grappling with these and other important issues, we will consider the information and recommendations shared in the Grand Jury Final Report. We again express appreciation for the Grand Jury's hard work and careful review.

Sincerely,

Alexander R. Coate  
General Manager