

Rules Committee Meeting

January 23, 2013

2:00 p.m.

Committee Members Present: Michael Dahilig, *Chair*, Randall Nishimura

Board Members Present: Sherman Shiraishi

Board Members Excused/Absent: Ray McCormick

Staff Present: David Craddick, Deputy County Attorney Andrea Suzuki, Gregg Fujikawa. Dustin Moises

Guests: Shawn Shimabukuro, *Grove Farm*, Royce Kawabata, *Grove Farm*

Chair Dahilig called the Rules Committee Meeting to order at 2:07 p.m., quorum was achieved.

AGENDA

Mr. Dahilig moved to accept the agenda as amended to rearrange and take Item 4b before Item 4a; seconded by Chair Dahilig; with no objections, motioned was carried with 2 ayes.

MINUTES

Mr. Dahilig moved to approve the Rules Committee meeting minutes of November 29, 2012; seconded by Chair Dahilig; motion was carried with 2 ayes.

OLD BUSINESS

- Re: *b. Manager's Report No. 13-7 – Board Discussion and Possible Action on Part 2 Section IX of the Rules: Adjustment of Bills for Undetected Leaks and Unforeseen Damages*
i. DOW Revised Proposed Changes on Part 2 Section IX of the Rules

BACKGROUND:

Manager Craddick referenced Page 3 of 3 of the Manager's Report Section IX, Item No. 8 which states "Reduction in water bills for underground leaks is allowed "once in 10 years" for the premise the leak is found." The recommendation is to leave in the language "once in ten years" because there are a group of customers that come in annually for rebates. However, the Manager felt it does not make a difference if it is 5 or 10 years.

DISCUSSION:

Mr. Nishimura inquired after the meter, what is the Department's position on having the responsibility on the rate holder.

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Manager Craddick commented that in some cases there may be leaks right at the meter. Anything that is inside the meter box, the Department of Water (DOW) takes the responsibility even though the rules say that the customer's shut off valve is their responsibility. The shut off valve is located inside the DOW's box.

Mr. Nishimura questioned why it isn't reasonable to give a customer a leak rebate on an annual basis. Manager Craddick explained that it can be done but the same customers, usually farmers, come in year after year. Farmers saturate to soften the ground up before they plow to plant and break the ground and call it a line leak.

Mr. Nishimura feels 10 years is very restrictive. The Department should eliminate this issue with repeat customers who do this deliberately.
Manager Craddick has not done a study of those customers who come back for leak rebates.

Mr. Nishimura referred to the last sentence in Item No. 3 regarding, *"For storms, explosions or fires the leak must be stopped within 24 hours unless the service holder is unavailable, then one week will be allowed."* Manager Craddick indicated the rules states *"a period of one week after or a customer should of or known of the leak in cases of storms, explosions or fire."* This sentence could be revised to state *"a customer has one week to do this regardless of the case notified or not."* In these cases, the DOW normally does not notify the customer.

Chair Dahilig suspended the rules to ask questions for justification on Item No. 7 *"Should the customer decide they want to contest the Manager's decision, they must pay 50% of the reduced bill before the matter is put on the Board's agenda."*

Manager Craddick commented that under this rule, customers have to pay half of the disputed amount before they come before the Board because it would take up the Board's time to dispute \$30 or \$100 bills.

Chair Dahilig commented that it should not be necessary for the Board to take up disputed bills.

Mr. Nishimura inquired if the Department can charge interest on outstanding balances.

Manager Craddick indicated the Board approved to charge interest which started with the new billing system.

Mr. Nishimura asked if the Department is charging customers a service fee. If the service fee is waived, customers end up paying a high interest.

Manager Craddick indicated this could eliminate customers coming to the Board. After the Department provides what the rules allow, customers still come to the Board for a leniency on their bill. If the Board is going to have the customer pay half of their bill before they come before the Board, the Board could still waive the whole fee or not give the customer any of the half. The customer could end up getting money back.

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Deputy County Attorney Andrea Suzuki is concerned about the legality of this part. There are leak bills that are higher than others who pay a higher fee to appeal that they have a right to it in Part I of the rules.

Mr. Shiraishi agreed that there would be legitimate complaints more than once every 10 years. Item No. 1 could state *“underground leaks caused by the acts of the homeowner or land owner.”*

Mr. Dahilig commented that the repeated nature of potential deception could be brought before the Board to be determined. To have something fixed which is a right of the customer is problematic in Item No. 7 and Item No. 8. If there is something wrong, the customer should be able to contest it. But if a customer comes in 12 times in the past 12 months for leak rebates, the customer should be denied to come before the Board. This provides more room in interpretation from a departmental standpoint versus purpose over material.

Mr. Shiraishi questioned rebates of high water bills that are customarily brought before the Board.

Mr. Nishimura clarified the purpose of the rule reduces the amount of customers who come before the Board. The rules provide the Department to address the issue and provides relieve for the rate holder. Mr. Shiraishi prefers to have the issues referred to staff and not the Board.

Manager Craddick explained that if a customer does not agree with what the Department does when the rule is applied, it is the option of the customer to go before the Board.

In the last four years, Manager Craddick noted there have been about (2) two unusual requests.

At 2:17 p.m., Chair Dahilig called for a recess.

At 2:21 p.m., Chair Dahilig called the meeting back to order.

Mr. Nishimura moved to incorporate *“acts of the landowner”* after the phrase *“leaks is not caused by acts of the landowner, tenants, invitees”* and to strike Item No. 7 and Item No. 8 and to approve the amended version to the full Board for action.

At 2:23 p.m., Chair Dahilig suspended the rule.

DISCUSSION:

Manager Craddick questioned why Chair Dahilig would delete Item No. 8. There would be no incentive to fix the water system if a customer comes in once a month.

Mr. Shiraishi inquired if this is covered in Item No. 3 *“Adjustments will be allowed only if the consumer exercises diligence in stopping the leak.”*

Manager Craddick expressed that the customer can stop the leak and the next month they have another leak. This does not make them fix their water line which is the cause of the leak. New language for Item No. 8 could be changed to *“Reduction in water bills for underground leaks is allowed only once in 10 years to “5 years.””*

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Mr. Nishimura suggested to modify the language in Item No. 3 for the customer to fix their water line.

Manager Craddick explained you cannot force the customer to fix their water line if they don't want to.

Chair Dahilig's issue in Item No. 8 states that you cannot come back 10 years without a cause to show why.

Deputy County Attorney Andrea Suzuki does not think setting a time limit is arbitrary. The leak rebates are in relation to the Board's financial concerns in reducing the amount of water consumed. Some of the underground leaks are under slabs. If a customer has a leak, would the rules require the Department to look under the slab to check a customer's water system? How would the Department check the entire problem on the homeowner's private property? Would the Board be willing to do this?

Chair Dahilig acknowledged that each case is different. The Department could build a case for denial and if the landowner feels they have been wronged. There may be a legitimate reason why there may be another leak again. Chair Dahilig would rather have the customer go through due process with a call by Manager Craddick instead of a carte blanche formula.

Mr. Nishimura recommended adding language and to leave the sentence in to state "*reduce it to two (2) years*" and to add language to say "*the rate holder may appeal to the Board for relief if a leak re-occurs within the two (2) year period.*" This would allow the Department and the rate holder the opportunity to make a case. Mr. Nishimura prefers to incorporate this sentence in the rule.

Why is there this big gap and no need to repeat.

At 2:28 p.m., Chair Dahilig called the meeting back to order.

After the discussion, Mr. Nishimura restated his previous motion which was not voted on.

Mr. Nishimura moved to leave Item No. 8 in the rules and to amend the language to read "*only once in two (2) years on the premise the leak was found on*" and to add the language "*may appeal denial of rebate if a leak is found within the two (2) year period;*" seconded by Chair Dahilig; with no objections, motion carried with 2 ayes.

OLD BUSINESS

Re: a. Water System Development and FRC Proposed Rules

- i. Part V Water System Development Fee (revised 12-19-12, 11:05 p.m.)
Part V Water System Development Fee (original 11-23-12, 2:30 p.m.)**

Chair Dahilig acknowledged there was nobody from the public who wished to testify on the above agenda items.

At 2:31 p.m., Chair Dahilig suspended the rules.

DISCUSSION:

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Manager Craddick commented from the January 22nd Finance Committee Meeting, testimony was given regarding not seeing the schedule being approved ahead of the rules.

Chair Dahilig previously spoke to Finance Chair Mr. Larry Dill who expressed to have this issue resolved with the Rules Committee before the Finance Committee formally resolves their issue. Chair Dahilig clarified that the November draft was reconciled with the December draft. The November draft would be available for future purposes only.

Manager Craddick added that the December draft goes with the January 23rd Report to the Rules Committee. The Rules Committee went through section by section which were discussed. Unresolved issues were also brought up in the report. The report includes an update of the committee meetings that were held. If a developer provides 100% of source on a system and provided it at half of the DOW's fee, the current rules allows DOW to give credit for a certain amount but they still have to pay for the balance of the fee, even though they paid 100%. Manager Craddick explained that the rules state the DOW still charge the customer up to the development fee even if it cost the developer less and was unsure why this part of the rule got passed.

Manager Craddick acknowledged that the December 19th draft is the most current version since the Rules Committee accepted it. Subject to system adequacy, the credits for state money should be given outside the DOW system. The DOW put the provision in based on the input from Affordable Housing without any changes. Manager Craddick expressed there are concerns that need to be addressed.

Manager Craddick commented that state funding could be for a specific water system for source, storage and transmission or a portion of it. The water system may be a \$1M project and state funded. The state may want a 5/8" meter for a state facility in another water system that has an adequate system. If the DOW is going to give the state credits off of the state funding, restriction to where a system improvement is should not be done. This provision is not in the rules which Manager Craddick has a concern.

Mr. Nishimura does not believe that this is actionable. More work is needed before this rule change comes before the Rules Committee for action.

Mr. Nishimura questioned if the Task Force is going to continue working with the Department or will the Task Force give this back to the Department to complete? Chair Dahilig indicated the Task Force is still ongoing to give the Department the opportunity to stimulate input.

At 2:42 p.m., Chair Dahilig called the meeting back to order.

Mr. Nishimura moved that the Water System Development and FRC Proposed Rules be moved back to the Task Force until an actionable draft is submitted before the Rules Committee for action; seconded by Chair Dahilig; with no objections, motion was carried with 2 ayes.

Mr. Nishimura will not be a member of the Task Force but will continue to attend the Rules Committee meetings. He mentioned there were some questions submitted and entered into the record which may be considered for the Task Force and the Rules Committee.

With no further business, Chair Dahilig adjourned the Rules Committee Meeting at 2:45 p.m.

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