



## AGENDA REPORT

**Meeting Date:** January 5, 2016

**Item Number:** F-1B

**To:** Honorable Mayor & City Council

**From:** Trish Rhay, Assistant Director of Public Works Services – Infrastructure & Field Operations  
Caitlin Sims, Senior Management Analyst

**Subject:** B. RESOLUTION OF THE COUNCIL OF THE CITY OF BEVERLY HILLS MODIFYING THE PENALTY SURCHARGE FOR WATER USAGE CONTRARY TO THE PROVISIONS OF THE STAGE D WATER CONSERVATION MEASURES

**Attachments:** 1. Resolution  
2. June 30, 2015, City Council Staff Report  
3. Revised Penalty Surcharge Report

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### **RECOMMENDATION**

Staff recommends the City Council adopt RESOLUTION OF THE COUNCIL OF THE CITY OF BEVERLY HILLS ESTABLISHING A PENALTY SURCHARGE FOR WATER USAGE CONTRARY TO THE PROVISIONS OF THE STAGE D WATER CONSERVATION MEASURES. This Resolution would supersede Resolution No. 15-R-13045.

### **INTRODUCTION**

On May 5, 2015, the City Council approved Resolution 15-R-13037, declaring and implementing the Stage D Water Conservation Measures, in response to the Governor's drought declaration. Among other items, Stage D allows for penalty surcharge assessments on water use in excess of the 70% baseline. At its June 30, 2015, meeting, the City Council adopted Resolution 15-R-13045, which established a penalty surcharge multiplier for customers that reduced their water consumption by less than 30% compared to the baseline period and another penalty surcharge multiplier for customers that reduced their water consumption by less than 12% compared to the baseline period. Resolution 15-R-13045 established the same billing period in 2013 as the baseline period.

Attachment 2 provides the staff report that was presented to the City Council at its June 30, 2015, meeting to show how the penalty surcharge framework was developed. The penalty surcharge was developed to address the costs that will likely be imposed on the City if water users fail to meet the conservation goals established by Stage D. These potential costs include acceleration of the City's ten-year conservation strategy, if mandated by the State Water

Resources Control Board (“SWRCB”), fines from the SWRCB if the City does not meet its conservation target, and higher rates to purchase water from the Metropolitan Water District (“MWD”) if the City does not reduce its water demand. To date, the City has been fined \$61,000 by the SWRCB for failure to meet its 32% reduction target. The Level 1 Penalty Surcharge multiplier was set at a rate to recover the costs if the City was forced to accelerate its water conservation strategy or if it received fines from the SWRCB. The Level 2 Penalty Surcharge multiplier was set at a rate to recover the costs if the City did not meet its reduction target from MWD.

The existing Penalty Surcharge Structure is as follows:

1. **Level 1 Penalty Surcharge.** Customers pay 1.59 times the base rate for excess usage above 70% of their respective baseline water use during the same period two years earlier.
2. **Level 2 Penalty Surcharge.** Customers pay an additional 3.08 times the base rate for excess usage above 88% of their respective baseline water use during the same period two years earlier (cumulative 4.67 times the base rate).

Those customers achieving a minimum of 30% cutback pay only the base rate and are not subject to the any Penalty Surcharge. In addition, those Single-Family Residential and Multi-Family Residential customers in Tier 1 are not to be subject to the Penalty Surcharge.

**DISCUSSION**

Since July 2015, City staff and the Public Works Commission’s Conservation Subcommittee have been working with HF&H Consultants, LLC, (“HF&H”) to analyze the City’s existing rate structure. The City and consultants conducted a comprehensive analysis and re-evaluation of the tiered rate structure itself, considering the San Juan Capistrano Court Case, the City’s mandatory water use reductions, and the implementation of the City’s Water Enterprise Plan. The proposed rate structure was presented to the City Council at the November 17, 2015, Study Session, and the City Council directed staff to move forward with the public hearing process. The introduction of AN ORDINANCE OF THE CITY OF BEVERLY HILLS TO MODIFY THE RATES AND CHARGES FOR WATER SERVICES AND FACILITIES FURNISHED BY THE CITY and the public hearing will occur at the January 5, 2016, City Council Meeting.

As a result of the proposed changes to the City’s base water rates, should the City Council approve its implementation, the Level 1 and Level 2 Penalty Surcharge Multipliers must be revised accordingly. Otherwise, the City may generate Penalty Surcharge revenue in excess of the potential costs that would likely be borne by the City if the City does not comply with the State’s water use reduction target. As the base rates increase, the multipliers decrease to net the same projected revenue.

HF&H and staff used the same surcharge methodology as was initially used to calculate the Penalty Surcharges. The estimated volume of water subject to the Level 1 Penalty Surcharge and the Level 2 Penalty Surcharge was calculated and multiplied by the respective tiers’ proposed base rates. This established a multiplier that would cover the Level 1 and Level Risk Costs. The new proposed Penalty Surcharge multipliers can be found below:

**Table 1: Penalty Surcharge Multiplier Approach**

Base Rate	Less than 30% Conservation	Less than 12% Conservation
	For usage above 70% baseline, the multiplier is:	For usage above 88% baseline, the multiplier is:
Current Base Rate	1.44 times the base rate	2.29 times the base rate (Cumulative 3.73 times the base rate)

The Level 2 Penalty Surcharge is applied in addition to the base rate and the Level 1 Penalty Surcharge. As such, those customers that reduce by less than 12% compared to their 2013 water consumption will be subject to a cumulative multiplier of 3.73 times the base rate.

The Stage D Water Conservation Measures stipulate that Tier 1 customers in the Single Family Residential and Multi-Family Residential Class are exempt from the mandatory 30% reduction target. The new proposed tiered structure increases Tier 1 in the Single-Family Residential Class from 10 units in a billing period to 42 units in a billing period and from 4 units in a billing period to 9 units in a billing period (on a per dwelling unit basis) in the Multi-Family Residential Class. Staff proposes that all Tier 1 Single-Family Residential and Multi-Family Residential customers continue to be exempt from the mandatory 30% reduction target, and HF&H has factored this proposal into their calculation of the aforementioned multipliers.

If the City Council approves the presented resolution and the updated multipliers, the effective date of the new penalty surcharges would be the same date that the new tiered rate structure goes into effect. At this time, the tiered rate structure is anticipated to go into effect no earlier than late February 2016, upon completion and testing of billing system structure changes.

### **FISCAL IMPACT**

With the proposed revised penalty surcharge structure, the City would still recover the full amount risk amount of \$6,585,605 over 12 months if the City achieved an overall average water use reduction of 18.8%.

Collected funds will be used to cover potential risk costs such as the need to accelerate programs to achieve conservation targets, the purchase of MWD water at the higher rates, and/or any additional fines and penalties that may be imposed by the SWRCB for non-compliance.

Don Rhoads

Approved By

George Chavez

Approved By