

Daily Journal

“San Diego appeals \$79.5M judgment over water rates”

Sept. 14, 2022

Questions:

Superior Court Judge Eddie C. Sturgeon concluded that the City of San Diego violated the California Constitution since 2014 by overcharging water consumers by more than \$79 million.

I understand the city has appealed, and liabilities are accumulating \$634,750 per month until it corrects the rates. The process can take 18 months to 2 years to complete. Is this true?

A hearing on Sept. 20 will allow plaintiffs to comment on water rate increase issues, and the city must disclose when changes will be made to the billing system.

What can we expect on this hearing? And how is the city willing to apply changes so this overcharges won't happen again?

Response:

There is no requirement that the City “must disclose when changes will be made to the billing system.” While the appeal is pending, the City is not required to make any changes to its rate structure.

At the hearing on September 20, 2022, the City Council will consider approving a pass-through rate increase from the San Diego County Water Authority within the City's existing rate structure. The City is not proposing changes to the rate structure.

Regarding the appeal timeline, the City took actions to expedite the appeal. When we asked Plaintiffs to join our request to expedite, they refused. Then the plaintiffs vociferously fought the City's request to the Court of Appeal for an order expediting the appeal. They got their way. The Court of Appeal denied the City's request to expedite the appeal.

Since then the plaintiffs have tried to leverage the projected delay by demanding that the City come to the table to negotiate a settlement instead of waiting for the appellate decision. Now they are trying to leverage the projected delay to force the City's hand in a public hearing. These tactics will not succeed.

Below is information about the case we provided to a local television station today, which you are welcome to use:

The court's ruling, if upheld, will benefit the top 20 percent of water-using single-family households in San Diego. These high-end water users will be enriched at the expense of the 80 percent of residential households that use less water. As the City does not profit from its tiered water rates, the City will not pay whatever judgment the court awards. Rather, all San Diego water users will pay it through higher water rates.

The City of San Diego maintains the tiered water rate structure it based on Cost of Service Studies in 2013 and 2015 is perfectly legal, and it continues to fight to protect its method of charging higher rates to the

high-end users whose demand creates additional costs for the water system. The trial court judgment is on appeal, and the City's opening brief is due on September 19, 2022. As part of the appeal, the plaintiffs ask the Court of Appeal to increase the award to the high-volume water users to as much as \$120 million. The City argues that the entire case should be dismissed as wrongly decided.
