

## RESOLUTION 2019-4

### APPROVAL OF GUIDELINES FOR THE SUBMISSION AND TABULATION OF PROTESTS IN CONNECTION WITH RATE HEARINGS CONDUCTED PURSUANT TO ARTICLE XIII D, SECTION 6 OF THE CALIFORNIA CONSTITUTION

**WHEREAS**, Article XIII D, Section 6 of the California Constitution requires the Calaveras Public Utility District to consider written protests to certain proposed increases to utility charges; and

**WHEREAS**, this constitutional provision does not offer specific guidelines as to who may submit protests, how written protests are to be submitted, or how the District is to tabulate protests; and

**WHEREAS**, a “fee protest proceeding” is not an election,

**IT IS, THEREFORE, RESOLVED** by the Board of Directors of Calaveras Public Utility District that when notice of a public hearing with respect to the adoption or increase of water rate charges has been given by the District pursuant to Article XIII D, Section 6(a) of the California Constitution, the following shall apply:

#### **SECTION 1: Definitions.**

Unless the context plainly indicates another meaning was intended, the following definitions shall apply in construction of these guidelines.

- A. “Parcel” means a County Assessor’s parcel the owner or occupant of which is subject to the proposed charge that is the subject of the hearing.
- B. “Record owner” means the person or persons whose name or names appear on the County Assessor’s last equalized assessment roll as the owner of a parcel.
- C. “Parcel owner” means a current owner of a parcel. The District will rebuttably presume that the parcel owner is the same as the record owner.

#### **SECTION 2: Notice.**

- A. The District shall give notice of the public hearing on proposed charges via U.S. mail to the record owner of each parcel served by the District.
- B. The District will post the notice of proposed changes and public hearing at its official posting sites.

#### **SECTION 3: Protest Submittal.**

- A. Any parcel owner who is subject to the proposed water charge that is the subject of the hearing may submit a written protest to the Board Secretary, by:
  - (i) Delivery to the District Office at 506 W. St. Charles Street, San Andreas, CA 95249 during published business hours.

- (ii) Mail to District Office at P.O. Box 666, San Andreas, CA 95249, or
- (iii) Personally submitting the protest at the public hearing.
- B. Protests, including those submitted by mail, must be *received* by the District no later than the close of the public testimony portion of the public hearing.
- C. The District cannot accept protests via fax or email.
- D. The Board of Directors welcomes all interested persons to comment orally at the public hearing. However, unless accompanied by a written protest, oral comments at the public hearing do not qualify as a formal protest,

**SECTION 4: Protest Contents.**

- A. A written protest must include:
  - (i) A statement that it is a protest against the proposed charge that is the subject of the hearing.
  - (ii) Name of the parcel owner that is submitting the protest;
  - (iii) Identification of assessor's parcel number, street address, or utility account number of the parcel with respect to which the protest is made;
  - (iv) Original signature and legibly printed name of the person submitting the protest.
- B. Written communications that do not include all of the elements set forth in the preceding paragraph will be treated as written comments on the proposal, but will not be counted as formal protests.

**SECTION 5: Protest Withdrawal.**

Any person who submits a protest may withdraw it by submitting to the Board Secretary a written request that the protest be withdrawn. The withdrawal of a protest shall contain sufficient information to identify the affected parcel and the name of the parcel owner who submitted both the protest and the request that it be withdrawn.

**SECTION 6: Multiple Owners.**

- A. Each parcel owner may submit a protest.
- B. Only one protest will be counted per parcel as provided by Government Code Section 53755(b).

**SECTION 7: Transparency, Confidentiality, and Disclosure.**

- A. Once a protest is opened during the tabulation, it becomes a disclosable public record, as required by state law and will be maintained in District files for two (2) years.

**SECTION 8: Board Secretary.**

The Board Secretary shall not accept as valid any protest if he or she determines that any of the following is true:

- A. The protest does not state its opposition to the proposed charges.
- B. The protest does not name a parcel owner of the parcel identified in the protest as of the date of the public hearing.
- C. The protest does not identify a parcel served by the District that is subject to the proposed charge.
- D. The protest does not bear an original signature of the parcel owner with respect to, the parcel identified on the protest. Whether a signature is valid shall be entrusted to the reasonable judgement of the Board Secretary.
- E. The protest was altered in a way that raises a fair question as to whether the protest actually expresses the intent of a parcel owner to protest the charges.
- F. The protest was not received by the Board Secretary before the close of the public input portion of the public hearing on the proposed charges.
- G. A request to withdraw the protest was received prior to the close of the public input portion of the public hearing on the proposed charges.

**SECTION 9: Board Secretary's Decisions Final.**

The Board Secretary's decision that a protest is not valid shall constitute a final action of the District and shall not be subject to any internal appeal.

**SECTION 10: Majority Protest.**

A majority protest exists if written protests are timely submitted and not withdrawn with respect to, a majority (50% plus one) of the parcels subject to the proposed charge.

**SECTION 11: Tabulation of Protests.**

At the conclusion of the public hearing, the Board Secretary shall tabulate all protests received, including those received during the public hearing, and shall report the result to the Board of Directors. If the number of protests received is insufficient to constitute a majority protest, the Board Secretary may determine the absence of a majority protest without validating the protest received, but may instead deem them all valid without further examination.

**SECTION 12: Report of Tabulation.**

If at the conclusion of the public hearing, the Board Secretary determines that he or she will require additional time to tabulate the protests, he or she shall so advise the Board of Directors, which may adjourn the meeting to allow the tabulation to be completed on another day or days. If so, the Board of Directors shall declare the time and place of tabulation, which shall be conducted in a place where interested members of the public may observe the tabulation, and the Board of Directors shall declare the time at which the meeting shall be resumed to receive and act on the tabulation report of the Board Secretary.

**SECTION 13:** This resolution will become effective immediately upon adoption.

PASSED AND ADOPTED this 16<sup>th</sup> day of April 2019 by the following vote:

AYES: Directors: Overmier, Dell'Orto, Blood, Claudino, Lavaroni

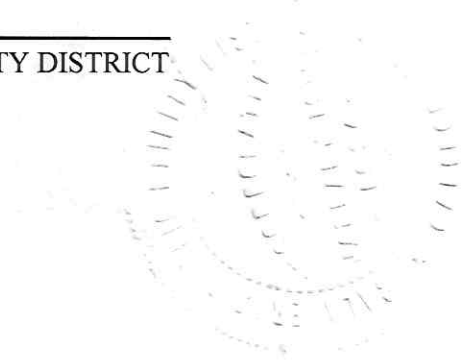
NOES: Directors: None

ABSENT: Directors: None

ABSTAIN: Directors: None

  
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PRESIDENT, CALAVERAS PUBLIC UTILITY DISTRICT  
BOARD OF DIRECTORS

ATTEST:   
\_\_\_\_\_  
Kate Jesus, Admin Account Assistant



I hereby certify that the foregoing is a true and correct copy of a Resolution passed and adopted by the Board of Directors of Calaveras Public Utility District.

\_\_\_\_\_  
Kate Jesus, Admin Account Assistant

\_\_\_\_\_  
Date