

RESOLUTION 2019-8

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 XIID, 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 that receives water services that 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 an owner of a parcel.
- D. “Tenant” means a tenant of a parcel who is entitled to submit a protest pursuant to Section 53755 of the Government Code or is described in Article XIII D, Section 2(g) of the California Constitution,

SECTION 2: Notice.

- A. The District shall give notice of the public hearing on proposed charges via U.S. mail to (i) the record owner of each parcel served by the District (at the address shown on county records) and (ii) any other person to whom the District customarily sends a bill for water service at the address shown on District records.
- B. The District will post the notice of proposed charges and public hearing at its official posting sites.

SECTION 3: Protest Submittal.

- A. Written protests against the proposed charge may be submitted 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; or
 - (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 or tenant 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. If a protest is submitted in connection with a parcel by a parcel owner or tenant who is neither the record owner of the parcel nor the customer shown on the District's records, then the person may attach evidence of ownership or tenancy to the written protest. In connection with tabulation and verification of protests, the District reserves the right to request such evidence of ownership or tenancy from any such person. Such evidence, if requested by the district via a letter mailed prior to the announcement of the tabulation results, must be submitted to the District within ten days of the date the request is mailed in order for the protest to be valid.
- C. 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 person who submitted both the protest and the request that it be withdrawn.

SECTION 6: Multiple Protests.

- A. Each parcel owner or tenant 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 or tenant of the parcel identified in the protest.
- 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 or tenant 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 or tenant 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 protests 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.

SECTION 14: This resolution supersedes and repeals Resolution No. 2019-4.

SECTION 15: The District had noticed and scheduled for June 11, 2019 a public hearing on a proposed water rate increase. The District Board has rescheduled that hearing for August 13, 2019, and directed staff to mail new notice of the hearing. All written protests and testimony submitted in connection with the June 11, 2019 hearing shall be considered by the District to be a part of the record of the rescheduled hearing. Specifically, unless withdrawn by the person who submitted it, any written protest submitted in connection with the June 11, 2019 hearing will be treated by the District as if it was submitted in connection with the August 13, 2019 public hearing. There is no need for any person to submit a duplicate of their previously submitted protest. The provisions of this Resolution shall apply to the August 13, 2019 public hearing.

PASSED AND ADOPTED this 18th day of June, 2019 by the following vote:

AYES: Directors: Overmier, Blood, Claudino, Lavaroni

NOES: Directors: None

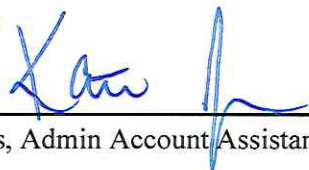
ABSENT: Directors: Dell'Orto

ABSTAIN: Directors: None

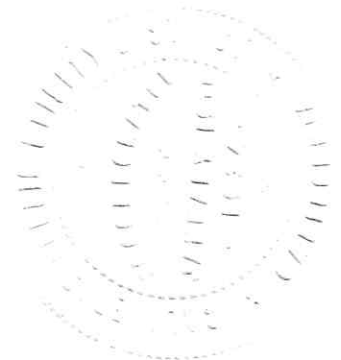


PRESIDENT, CALAVERAS PUBLIC UTILITY DISTRICT
BOARD OF DIRECTORS

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