WATER

The Magazine of the National Association of Water Companies

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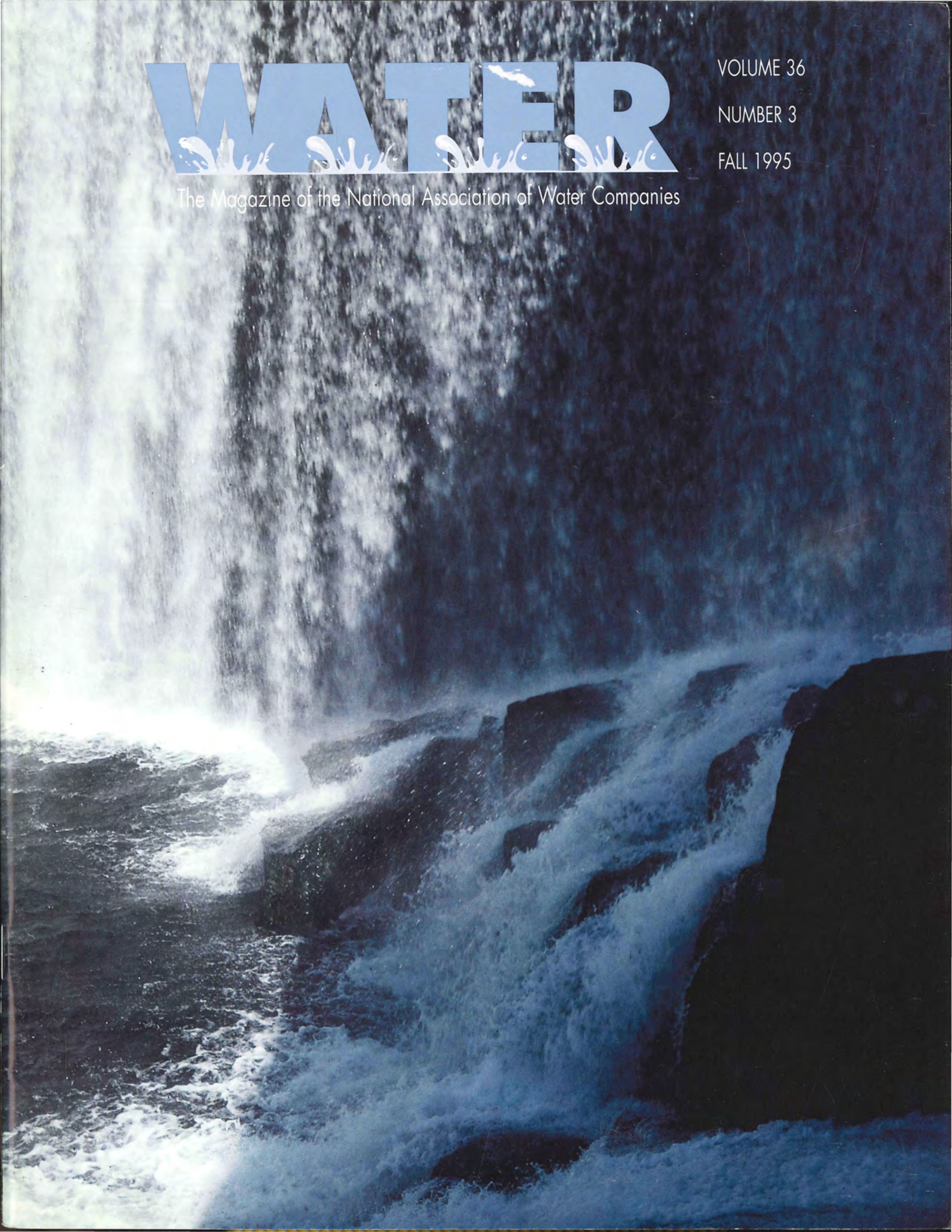

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OFFICERS

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WATER—Published four times each year by the National Association of Water Companies, Suite 1212, 1725 K Street, N.W., Washington, DC 20006. NAWC is a nonprofit trade association dedicated to serving the needs of the investor-owned state-regulated, public water supply industry. WATER is circulated to all Active and Associate Members of the Association, members and staff of public utility commissions, federal and state officials concerned with our industry and will be sent to qualified persons upon written request. Requests and changes of address should be sent to NAWC, Suite 1212, 1725 K Street, N.W., Washington, DC 20006 (202) 833-8383.

The President's Message

by Jack E. McGregor

This column was written prior to NAWC's 1995 Annual Conference.

The end of my year as president of NAWC seems to be a good time to reflect on the past 12 months and the prospects for our industry going forward.

I have mixed emotions as I prepare to step down. On the one hand, I have thoroughly enjoyed my time in office, but on the other hand, I look forward to handing the baton to your next president, Ron Dungan of United Water Management & Services Inc., who will bring a fresh perspective as NAWC begins its 101st year. I am highly optimistic about the future of the industry, and I look forward to our benefiting from Ron's leadership.

As I see it, our biggest challenge has been and will continue to be communicating to all of our various stakeholders the challenges facing the public water supply industry and its dedication to meeting state and federal standards to bring a high-quality product to customers. While the association has made great progress in this regard, I am struck by the overall lack of awareness of our industry.

At a time when certain special interest groups are increasing their criticism of water utilities, particularly through the media, it is more important than ever that our key constituencies are made aware of the problems and opportunities that we face. That is why I urge you once again to meet with and brief your state and federal representatives so they can gain an understanding of our position on such critical issues as regionalization of the Safe Drinking Water Act, what your company is doing to ensure it meets state and federal safety standards, repeal of the CIAC tax, industry consolidation and regionalization, and whatever local concerns your company may have.

Contact your legislators and arrange to meet with them or their staffers to educate them on these critical issues and your position on them. Maintain regular communication as appropriate to ensure your voice is being heard. Encourage your employees to contact them through letter-writing campaigns. Consider establishing a political action committee so your employees can help elect those state or federal candidates who share their views on issues of vital importance to the water industry.

The lack of awareness is not limited to the legislative arena, however, and includes the financial community, customers and the public-at-large. We need to do a better job conveying the industry's strengths to these audiences also, correcting whatever misperceptions exist, and debunking the myth of a sleepy, low-tech industry that suffers from a lack of a clear strategic vision. As NAWC members, we contribute indirectly to this awareness-raising effort through the Association's activities in this regard. But by working independently as well as collectively, we have a chance to make a greater impact.

The U.S. has the safest, most reliable drinking water in the world. An industry that can make a claim that its product is unsurpassed on a global scale should command a high level of awareness and understanding, especially when that product is the earth's most precious natural resource. If we all do our part, the increased attention and recognition can pay dividends, such as in the form of more equitable legislation or a lower cost of capital, as our primary constituencies become more attentive and more receptive to our concerns.

Thank you for allowing me the privilege of serving as your president. I took forward to continuing to work with you in the future.

NAWC Centennial: 1970–1995

by T. Ward Welsh
Former Chairman, NAWC Public Information Committee

This is the last of four articles about people and events in the water supply business and the National Association of Water Companies since the Association's birth in 1895. It covers the years since 1970.

There was cause for guarded optimism in the United States in 1970. President Nixon had started reducing U. S. troop strength in Vietnam from a peak of over 500,000 in 1969. Postal reform legislation created an independent U. S. Postal Service, ending 200 years of government mail delivery.

But the economy was in a funk. The worst bear market in eight years saw the Dow Jones industrials drop more than 300 points from the 1969 high.

The National Water Company Conference was settling into its new digs on 13th St., just three blocks east of the White House. Administrator Fred Allen was looking for staff to step up the group's legislative and regulatory initiatives and help prepare for the Annual Conference in Lexington, Kentucky, the first ever west of Pittsburgh. The Executive Committee felt the organization had to do more to convince regulators of the uniqueness of water companies and the unfairness of treating them like electric and gas companies, which enjoyed higher revenues and lower capital costs. Two priorities were articulated at the Lexington meeting: put together a data base to support the industry claim of uniqueness, and get industry speakers on the dais at more regulatory gatherings to make the case. Jerry Smith, who headed American Water Works Company's Lexington subsidiary, was elected president at that meeting.

A New Identity

The Conference changed its name in 1971 to the National Association of Water Companies, which members felt better reflected the nature of the organization, now representing almost 300 companies in 33 states. John Kupferer joined the Association as assistant to Allen and the Membership and Public Relations committees produced a promotional brochure to be used in recruiting new members, particularly in California and Florida.

Tropical storm Doria brought flooding to the northeast that year, causing power outages, dam failures and the shutdown of many water plants, including Elizabethtown Water Company's main plant at the confluence of the Raritan and Millstone rivers.

The Association leadership was alarmed when a survey of the nation's water systems by the new National Water Commission *didn't even mention investor-owned water companies.* They contacted the NWC and were invited to submit data on investor-owned suppliers. Jerry Smith met with Secretary of Commerce Maurice Stans to try to get water utilities exempted from a 90-day freeze on wages and prices imposed by President Nixon to curb inflation.

The annual conference that year attracted about 600 people to Indianapolis and included a tribute to John Murdock, who had headed the organization from the 1930s through the mid-'60s. William Ruckelshaus, administrator of the new Environmental Protection Agency, was a speaker. Conference host Ralph Swingley, of the Indianapolis Water Company, was elected president. In a singular tragedy, Association director C. Q. McWilliams, of the Roaring Creek Water Company in Pennsylvania, and his wife were killed in a plane crash en route to the meeting.

Agnes Brings Flooding

The following year, 1972, four men were arrested in a bizarre break-in at the Democrats' national committee headquarters in Washington's Watergate complex. Few foresaw then the ominous implications for the Nixon presidency. That also was the year the world's airlines, plagued by a rash of terrorist hijackings, began installing metal detectors at airports. Hurricane Agnes caused \$117 billion in damage and caused floods that inundated water treatment plants in seven eastern states.

The Association was formally incorporated and adopted a new formula for electing directors on the basis of the number of customers served by member companies

John van C. Parker

Gerald Smith

in each state (one director for 50,000 customers). Company mergers were skewing representation under the old formula, which was based on the number of companies in a state. Bob Paszkiewicz joined the Association as research director, bringing the office staff to five.

At the 75th annual meeting in Pittsburgh that year, John White, of Consumers Water Company, was elected president. And speaker after speaker talked about the need to communicate better. The Association's industry survey was sent along to the National Water Commission. It covered some 5,900 investor-owned water companies which served a population of 28 million (about 14% of Americans) in 7,650 communities. (The commission was dissolved after it produced a report on the state of the nation's drinking water.)

Oil Prices, Inflation Soar

Things got sticky for President Nixon in 1973. He fired a number of his key aides as the Watergate probe got hotter. And his vice president, Spiro Agnew, resigned in the face of tax evasion charges dating back to his term as Maryland governor. Rep. Gerald Ford was appointed to succeed him. The oil producing nations of the Middle East placed an embargo on exports after an outbreak of hostilities with Israel, causing a worldwide energy crisis. Oil prices—and inflation—soared in the United States, putting more than 100,000 people out of work.

Water conservation started to gain currency about this time as a strategy for extending water supplies and postponing the costly development of new wells and reservoirs. Pennsylvania PUC Commissioner James Kelly invited the Association to help set up a week-long seminar for regulators on water and sewerage issues. The upshot: an annual workshop that was to benefit regulators—and the industry—for years to come.

John van C. Parker, vice president of Consumers Water Company, noted in an article in the Association's magazine, *The Quarterly*, that of 19 actively-traded water companies, all but six were selling at below book value, indicating the investment community's lack of confidence in the industry. To make things worse, *Business Week* magazine published an article to the effect that short-sighted regulation and unimaginative management were crippling the nation's utilities. (It was one of the things that brought about the Association's Management Innovations Awards, still a feature of the Annual Conference.)

Promotional Film Debuts

Bob Keane was elected chairman of the board of Elizabethtown Water Company about this time and Henry Patterson, his colleague since college days, succeeded him as president. In the biggest business transaction in the industry that year, Continental Water Company bought several companies (St. Louis County, Northern Illinois, Long Island Water, Gary-Hobart and smaller subs) formerly owned by the Charles S. Mott family.

The 18-minute film, "*The Legacy*," produced by the Association's PR Committee, was introduced in 1973. It was financed by contributions from 10 large member-companies and was to be shown widely through the 1980s to tell the story of the nation's investor-owned water companies. It won a gold medal at a 1974 film festival in New York.

President Nixon, facing impeachment

(continued next page)

John L. White

over the Watergate cover-up, resigned in 1974 and was succeeded by Vice President Gerald Ford. Worldwide inflation brought economic growth to a standstill. Americans waited in endless lines for gasoline. (Fred Allen noted in his *Quarterly* column that he had waited for two hours at a station near his home in Alexandria.) Allen went to the Federal Energy Commission to press for special consideration for water suppliers who needed fuel to keep their trucks and generators running. The price of a barrel of crude oil had increased from $1.75 to $14 in less than two years.

Safe Water Act Is Passed

Congress passed the Safe Drinking Water Act (SDWA) in 1974, giving the Environmental Protection Agency the power to set maximum contaminant limits for scores of naturally occurring and man-made substances and to require monitoring for them. The law would impact the industry through the 1990s and be a key focus of NAWC and American Water Works Association activities in Washington for 20 years. Association president Bob Morris, of General Waterworks Corporation, exhorted members that year to focus on customer service to reduce the number of complaints to commissions about estimated bills and seasonal taste and odor problems.

Association president-elect Charles Woods hosted the annual conference that year in New Haven. The financial climate for utilities was turbulent. Con Ed had passed its dividend for the first time, prompting institutional investors to unload electrics. But all utilities were affected. The Association made urgent appeals to regulators to permit increased rates to be imposed under bond so members could deal with rising costs.

John Kupferer, director of operations for the Association, left in 1975 after four years and was replaced by George Buchanan, who had been with a power equipment trade group. Indianapolis Water Company employed $12 million in tax-free industrial bonds to finance a new treatment plant and pumping station. It was the first use of such bonds by a major company and spurred others to pursue legislation in their states to permit such financing by investor-owned companies.

Industry Takes Two Hits

William Rosenberg, chairman of the Michigan PUC, took a poke at utility executives that year, saying they weren't meeting the challenges of the times, were "stonewalling" regulators, and considered rate increases the only solution to their problems. He said that more innovative managers would be able to get things done with fewer resources. As if that weren't enough, the national media broadcast that year the story that chlorine, water suppliers' disinfectant-of-choice, might be a factor in the increased incidence of bladder and colon cancer.

It was at about this time that Jack Barr, president of American Water Works Company, stepped down as Association chairman after seven years. He was succeeded by Bob Morris.

Communist forces overran South Vietnam in 1975 and the U. S. pulled out its troops, ending 20 years of involvement there. Unemployment in the U. S. reached 9.2%, the highest since 1941. Regulators started responding to inflationary pressures in the mid-70s, granting more significant rate increases. This triggered widespread consumer protests and demands that utility rates be frozen and that state regulatory commissions be abolished.

Ed Healy, of Northern Illinois Water Company, hosted about 600 people at the 1975 conference in Champaign. The chairman of the Illinois Commerce Commission told attendees that they'd better start regionalizing their operations or the Federal government would do it for them.

'The Bomb' Falls

Healy said in a later interview that "things seemed to be going swimmingly (during his presidency) when the bomb fell." "The bomb" was the IRS' rule 75-557, which construed contributions-in-aid-of-construction (CIAC) which builders gave utilities to extend water mains to serve new housing, as taxable income. These funds had long been viewed as contributions to capital. The Association quickly marshaled its forces for a legal and legislative attack on the proposed change. It succeeded in eliminating it in the Tax Revenue Act of 1976. The victory was later described as the "coming of age" of the Association. It clearly demonstrated its political clout.

The nation's bicentennial activities and environmental issues made news in 1976. The National Academy of Sciences found that propellant gases used in aerosol cans were damaging the earth's ozone layer, which protects humans from harmful rays of the sun. And a mysterious pathogen at large in Philadelphia's Bellevue Stratford Hotel killed 29 American Legionnaires meeting there and sickened 151 others. The NAWC would convene at the same (but by then renamed) hotel four years later.

The EPA and the American Water Works Association estimated that year that it would cost from $1.5 to $2 billion dollars to bring the nation's water supply systems into compliance with the new SDWA standards. But the Association considered this a conservative figure. "Unless investor-owned systems can qualify for government assistance," Fred Allen told regulators, "they're going to have to get those dollars from increased rates."

Kelly Heads NARUC

Jim Kelly, chairman of the Pennsylvania PUC and head of NARUC's Water Committee almost since its inception, was elected president of the regulators' association that year. He warned fellow commissioners against regulating on a socio-political basis rather than a cost basis and said a trend in that direction could have ominous consequences for the nation's utilities.

The 1976 annual meeting in Chattanooga included a tribute to Jack Barr, a key figure in the shaping of the Association, who was by then retired and a director of American Water Works Company. The J. J. Barr Scholarship was established in his name and has been given every year since to a college student pursuing a curriculum that might lead to a career in the water business.

The Association's new president, Ed Limbach, of Tennessee-American Water Company, noted that more and more commissions were demanding audits of water utilities' managements. In another development that year, a Johns Hopkins University economist, Steve Hanke, made his debut in *The Quarterly*, observing that declining block service rates frustrated the efficient use of financial resources, discriminated against groups of customers and led to inefficient consumption de-

C. Robert Morris

cisions. He called for cost-based rates. Hanke was to be an articulate advocate for privatization and other industry-friendly causes through the 1980s.

Jimmy Carter moved into the White House in 1977 and called for energy efficiencies to reduce the nation's dependence on Mideast petroleum. He also called for reform of national water resources policy with conservation as a cornerstone. His actions prompted the Association to form an ad hoc committee, headed by Bob Gerber, of Hackensack Water Company, to evaluate various household water-saving devices and consider how rates might be used to promote conservation. A severe drought in California was helping to drive the issue.

Industry Efficiency Is Cited

The Association took comfort that year in a study by two Pennsylvania State University professors that found investor-owned water suppliers to be more efficient than their municipal counterparts. They said the profit motive made the difference.

Court decisions in Connecticut and Idaho about this time held that gains from the sale of surplus water company land should benefit customers, not company stockholders. This issue would cause big problems for some land-rich utilities and would engage NAWC members, regulators and the courts for the next 20 years.

Alexander Kalinski, of New Hampshire, who headed the National Association of Regulatory Commissioners in 1976, told 700 people at the annual conference in Miami that the water supply industry had its work cut out for it. "Only 15 states even pretend to meet the current drinking water standards," he said. "Twenty three million Americans probably drink substandard water and, of these, some 8 million probably are exposed to unsafe water." He said water suppliers weren't spending anywhere near enough to assure safe water.

Kalinski had other bad news. A recent survey of college students, he said, indicated that most young Americans didn't understand the concept of free enterprise and thought that governments could deliver better utility services better than profit-making companies. Utilities, with their impressive power to communicate via bill inserts, ought to be using them to focus on economic education, Kalinski said.

Barr Talks Principles

Jim Barr, president of American Water Works Company's Midwestern subsidiaries, and an NAWC director, had already launched his own economic education campaign. He told a Marion, Ohio, Kiwanis Club in 1977 that every government utility was a reflection of the erosion of America's free enterprise system. Now chairman of the Association, Barr still never misses an opportunity to speak on this subject.

Association president Neal McKenzie, of Connecticut Water Service, voiced concern about the EPA's proposed trihalomethane (THM) standards. He said the agency's call for carbon filtration of all surface water supplies was premature and needed more research. At the 1978 mid-year meeting, members visited their representatives in Congress about the issue. And the Association prevailed on the nation's utility regulators to support its position.

Association treasurer John O'Boyle, who was battling cancer, stepped down that year and was succeeded by another American Water Works System executive, Ted Jones. O'Boyle died a few months later.

Bob Morris, the Association's chairman, left the General Waterworks Corporation to join NAWC full-time as associate executive director. Jim LaFrankie, vice president of American Water Works Company, replaced him as chairman. That was about the time the Association moved to larger, more convenient offices at 1019 19th St., about a mile northwest of the Penn Building, where it had been for 10 years.

Filtration Requirement Draws Fire

In 1978, president-elect Ray Pillow, of the Baton Rouge (Louisiana) Water Company, brought the annual conference to his home town. Bob Paszkiewicz, after six years as research director, left to join a Washington economic consulting firm. Fred Allen, speaking to the Western Conference of NARUC at Couer d'Alene, Idaho, said the EPA's plan to require GAC filtration for all surface water supplies would cost millions but "wouldn't save a single life." He called it an overreaction to a small group of well-meaning, but misinformed, activists.

The following year the annual meeting was in Boston where it coincided with a nationally televised visit by Pope John Paul II. Henry Patterson, of Elizabethtown Water Company, was elected president at that meeting. NAWC and AWWA joined that year to petition for a judicial review of the impending EPA treatment regulations. One of the industry's allies in the legislative end of that fight was then-Rep. Phil Gramm of Texas, who sponsored a bill that would have reined in the EPA.

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The Association's bylaws were changed in 1980 to provide for a fourth general vice president. The idea was to enable each year's conference chairman—the president-elect—to pin down a conference site a year earlier. Bob Gerber, of Hackensack Water, was elected the fourth vice president. Fred Allen and other members attended a retirement party that year for Leo Louis, president of the Gary-Hobart Water Company.

Association president Patterson spoke to a NARUC conference at Hilton Head that spring at which consumer activists protested the opulence of the meeting site and the fact that they hadn't been invited. He returned with a warning to members that they had better prepare to deal with a new, more aggressive, consumer movement.

The 1980 conference was auspicious for its timing, too. The Phillies won the World Series and the Eagles beat Dallas during the Philadelphia meeting and more than one attendee was injured in the resultant pandemonium on Broad Street outside the Fairmount Hotel, the meeting site. Earl Graham, of Philadelphia Suburban, was elected president.

Voters Pick Reagan

Susan Shanahan, chairman of the Pennsylvania PUC, told that meeting that water suppliers in Pennsylvania ought to merge into no more than eight large companies. She also said water service rates should be increased—even to as high as $600 to $900 a year—until they reflected the true value of the service.

A month later, Ronald Reagan was elected the 40th president of the United States. Immediately after his inauguration, 52 Americans held hostage in Iran for 444 days were released when the U. S. agreed to return $8 billion in frozen Iranian assets. In July, 1981 Reagan signed a bill providing for the largest tax cut in U. S. history. A month later, he fired some 13,000 striking air traffic controllers when they defied a back-to-work order. It sent the U. S. labor movement into a tailspin that it still hasn't recovered from.

The New Haven Water Company sold out to a regional water authority that summer after 115 years as an investor-owned company. President Charles Woods, in a letter that was published in *The Quarterly*, said hostile regulation and legislation had doomed his company. Particularly, he said, Connecticut's confiscation of the gains from the sale of utility land had undermined investors' confidence in the utility.

Drought Grips Nation

A prolonged drought gripped parts of the United States in 1980 and '81. Association president Earl Graham noted that the resultant water shortages had drawn attention to the industry and its problems and had heightened the Association's chances of winning long-sought legislative and regulatory concessions.

In January, 1981, the Bridgeport Hydraulic Company put on line an $18 million state-of-the-art treatment plant it said it needed to comply with the Safe Drinking Water Act. Consumer prices had more than doubled in 10 years. Regulators in California and New York and the *New York Times* warned that the low returns utilities were reporting—lower than the cost of capital—were going to hurt service and discourage capital investment. The *Times* said that of the nation's 100 largest electric companies, 98 were selling at below book value. (The eight most actively traded water companies were trading at 76% of book, down from 89% in 1977.)

Carol Egan resigned as business manager after nine years. She was replaced by Marilyn Miller, who would handle the Association magazine and the annual con-

Water companies shared the spotlight with the World Champion Phillies.

James McGirr Kelly


W. Neal MacKenzie


Robert A. Gerber

ferences through the 1980s.

Ann Gorsuch took over the EPA in 1981 with a mandate to reorganize the agency. (She spoke at the 1982 annual meeting in Phoenix. Not long after that her management style drew fire from Congress and she stepped down.) In industry management developments, Ralph Lindberg was elected chairman of California Water Service Company and Charles Stump, executive vice president since 1975, succeeded him as president. And Bob Dolson became president of Continental Water after the death of Gerald Presberg. Charles Buescher was named chairman of the company's five operating subsidiaries.

Association Samples Opinion

The Association participated in its first national public opinion survey in 1981, paying to include three questions in the annual Roper Poll. The results indicated that the public rated water shortages third among its concerns, after the new Reagan administration's performance and the threat of inflation. Fewer than half of those questioned were making any effort to conserve water or were even aware that restaurants had stopped serving it unless requested. A high percentage was satisfied with their water service and its cost.

Steve Hanke, now an economist in the Reagan administration, was on the op ed page of the *Wall Street Journal*, urging that troubled municipal water systems be privatized. The concept gained considerable momentum under the Reagan and Bush administrations. The Association that year challenged a bill that would have created a National Water Utility Bank because investor-owned companies wouldn't have been eligible for its loans.

NAWC's first west coast conference, in San Francisco, drew nearly 700 people in 1981 and laid to rest a concern that its largely east-of-the-Mississippi membership might not travel that far for a meeting. In a fortuitous coincidence, the annual NARUC conference was going on a block away so there was cross-participation by both industry executives and regulators. Chairman Jim LaFrankie told a NARUC audience that reasonable treatment of water utilities would assure abundant, safe drinking water. Tony Garnier, of Southwest Suburban Water Company, was elected Association president at that meeting. He immediately formed a committee to establish five- and 10-year goals and recommend a strategic plan for meeting them.

AT & T Divests Its Subs

The Association sponsored its first customer service seminar in Philadelphia in 1982. It would become a popular annual event. But the landmark development in the utility business that year was the court decision which forced AT & T to divest its local telephone companies.

Jim Barr, chairman of the NAWC Government Relations Committee, told an EPA hearing at about that time that water suppliers were solidly behind the principles embodied in the Safe Drinking Water Act but that it needed some fine tuning. They wanted softer, less alarmist notification requirements, stronger evidence of contaminants' adverse health effects, and treatment decisions left to them.

Dr. Iben Browning, a climatologist who had spoken at the 1981 conference was back again at the '82 meeting in Phoenix to update his predictions. Browning and others were saying that they could discern patterns in the world's weather and could predict those two curses of the water supply business: drought and floods. For a few years, Browning was somewhat of an industry guru.

Mike Zihal, of Long Island Water Company, was elected president of the Association in Phoenix. And Fred Allen announced at that meeting that he intended to step down as executive director in a couple months after 15 years in the job. He agreed to stay on for a while to assist his successor, Bob Morris, with regulatory relations.

Meeting Moves to Boca Raton

The national news in 1983 was dominated by the terrorist bombing of a U. S. military barracks in Beirut, Lebanon, which killed 237 Marines. As the Association met in Boca Raton that October U. S. troops invaded Grenada to put down a leftist uprising. Morris reported that the Reagan administration was proposing sharp cuts in EPA funding and that chances of amending the Safe Drinking Water Act were remote. Utility commissions continued to authorize rate increases to offset inflation-driven costs; and consumer activists began to press for the election of regulators.

The EPA set up its first workshop on radioactive contaminants and the public became aware for the first time of a new environmental concern: radon.

The Hackensack Water Company reorganized in 1983 under a new holding company, United Water Resources. President Bob Gerber assured stockholders that water service would remain the company's main business but that the new structure

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Tony Garnier

James Groff

Dr. Iben Browning

would provide long-term organizational and financial stability.

The lease on the NAWC's 19th street office expired in 1984 and the rent was increased. So Morris moved the headquarters around the corner to the present offices at 1725 K. St. where there was more space . . . and better light. The move provided a rationale for upgrading the Association's computers.

That summer, Tom Moses, chairman of the Indianapolis Water Company, announced the election of Dale Luther as president and CEO, succeeding Ray Williams. In another move, Jim Kelly, former Pennsylvania regulator and president of NARUC, joined the American Water System as vice-president for regulatory practices.

Magazine Is Revamped

Association president John Parker, of Consumers Water Company, set as one of his goals in 1984 improving the organization's visibility and its communications. A visible manifestation was the renaming and redesign of *The Quarterly*. It became *WATER* magazine and was brightened by a four-color cover and more graphics. The Executive Committee changed the bylaws to end the grandfathering of Board seats so representation would continue to reflect the number of customers served by member companies in each state. The new election protocol called for a nominating committee in each state which would caucus members and elect an appropriate number of directors. The dues structure also was revised to ease the burden on smaller companies, which the Association was trying to recruit.

A committee that year analyzed the cost to water utilities of the SDWA and other regulations. It found that mandatory sludge disposal, training, monitoring for impurities, dam improvements and safety measures had increased operating costs of a typical 10,000-customer company by 37 percent.

Jim LaFrankie, Association chairman, was elected president of American Water Works Company in 1984. George Johnstone, who headed American's contract service subsidiary, became senior vice president of the company's management services arm. He would be a leading industry proponent of privatization and public-private partnerships. It was at about this time that the Association published a position paper on conservation which called for the continued development of supplies, aggressive leak detection and repair, universal metering, consumer education and rates that reflected the full cost of service.

Investor Programs Gain Momentum

The large, actively-traded companies stepped up their investor relations activities in the 1980s, appearing regularly before investment analysts' and brokers' meetings coast-to-coast. Widespread media attention to water shortages and incidents of contamination heightened interest in water utilities. The rate of inflation had slowed to about 4 percent and water utility stocks were trading at new highs. Bob Gerber declared the end of "torture by inflation."

The EPA began to talk in 1984 about prioritizing its activities according to their effectiveness, delegating enforcement authority to the states and putting more emphasis on community input and education. The Association met that year in Washington D. C. for the first time since 1969. Morris announced that he would leave the Association in 1985 to head up PS Water Resources, a non-regulated subsidiary of Philadelphia Suburban Corporation. And Fred Allen said he'd retire shortly thereafter. Incoming president Gerber had his work cut out for him.

New administrative leadership appeared in the person of James B. (Jim) Groff, a retired naval officer and decorated Vietnam Water veteran, who succeeded Morris in the summer of 1985. The Association's biennial "Financial Facts" was replaced about that time by a new "Financial and Common Stock Report," published quarterly by Edward D. Jones & Co., a brokerage that followed the industry. Joe Pope, of Hackensack Water Company, chairman of the Finance Committee, arranged the move to provide more timely and more detailed information on the water utilities.

Within months of Groff's arrival, he faced a financial crisis: $600,000 in Association assets, its reserves for emergencies, was frozen in three collapsed Maryland savings and loan associations. All the funds were eventually released in 1989, but at a loss of three or four years' interest.

Lindberg Takes Helm

At the annual conference in Monterey that year, Ralph Lindberg of California

Water Service Company, was elected Association president.

The House of Representatives introduced a tax reform bill in 1985 that once again construed contributions-in-aid-of-construction (CIAC) as taxable income. This prompted a flurry of activities to head off the provision and see that it wasn't included in the Senate's tax proposal. It was also about this time that the EPA proposed a new, tougher MCL for fluoride.

Insurance premiums were skyrocketing by the mid- 1980's, driven by changes in tort law, by concerns about the growing number of water borne impurities being enumerated by the EPA, and by the general explosion of litigation nationwide. Some small companies were losing their coverage and they petitioned the Association to address the problem. (The premiums for a policy covering NAWC directors and officers had increased six-fold, from $800 to $5000.) Lindberg, speaking to Great Lakes regulators the following summer, said if water companies couldn't get insurance, legislatures would have to limit their liability, as they had done for fire departments and other providers of public services. The Association began to look for a solution to the insurance problem and a couple years later convinced at least one agency that small water utilities were not an unusual insurance risk.

The year 1986 was a rough one for the industry and the Association:

- Congress passed a tax reform bill which reduced the corporate income tax but imposed other taxes, including the onerous one on contributions received from contractors to help pay for main extensions (CIAC). Once again, Congress construed those funds as income, not capital.

- The EPA proposed Safe Drinking Water Act amendments which identified new contaminants to be regulated but didn't include reforms the industry was seeking.

- Two esteemed industry leaders passed away: Frank Dolson, former president and chairman of the St. Louis County Water Company, and Tom Moses, chairman of the Indianapolis Water Company and, at one time, the Philadelphia Suburban Water Company.

James V. LaFrankie

LaFrankie Steps Down

At the annual conference in Indianapolis that fall Jim LaFrankie stepped down as chairman of the Association after eight years and Bob Gerber succeeded him. LaFrankie expressed pride in the Association's work since moving to Washington in the late 1960s, particularly in improving the visibility of the industry and in winning respect for its professionalism. But he–and other leaders–also noted the frustrations of working with such a large and diverse Board and of trying to move legislators and regulators on industry issues. Dale Luther was elected Association president at the Indianapolis meeting.

In corporate developments about that time, Jack McGregor was tapped as president of Bridgeport Hydraulic Company, succeeding Bill Warner, who remained chairman; Bob Luksa was elected president of Philadelphia Suburban Water Company, and American Water Works Company broke ground for a new 43,000-square-foot corporate headquarters in Voorhees, New Jersey.

Sharon Gascon joined the Association in the spring of 1986 as assistant executive director. The organization adopted a new logo, the striated water drop. And the Good Journalism Award was established to give member companies a vehicle for recognizing responsible, informative reporting about industry issues. Through it all, the advocacy work kept piling up as the EPA pressed its THM regs, radon regs and a new initiative to eliminate even trace amounts of lead in drinking water. Gascon and Groff made it a point to attend all regional and national meetings of the National Association of Regulatory Utility Commissioners.

Employee benefit costs were soaring in the 1980s. One 1986 survey showed that health and life insurance, pensions, Social Security, unemployment insurance, vacations, holidays, sick leave, and educational benefits represented about 38% of utility payrolls.

Drought Strikes Again

Much of the U.S. suffered from the worst drought in 50 years in 1987. In July, half the nation's agricultural counties were declared disaster areas. On a brighter note, the 40-year U.S. nuclear stand-off with the USSR began to wane. President Reagan and Soviet leader Mikhail Gorbachev signed an agreement calling for the dismantling of all long range missiles. Gorbachev also extended Russia's moratorium on nuclear testing and declared a glastnost, a new openness in Soviet affairs which permitted more open local elections.

The Stock Market was on a roll in early 1987. The Dow reached a record high of 2722 in August, then by October, when the Association met in Orlando, it dropped 1,000 points. There was wide-

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spread doubt whether Washington could control either the Federal budget or the nation's growing trade deficit. Any hope the Association had of changing the IRS' treatment of CIAC went out the window. But the Association was moving: for the first time, as a result of Gascon's efforts, water service issues were on the agenda at all regional NARUC conferences.

Chet Ring was elected president of Elizabethtown Water Company in 1987, succeeding Henry Patterson, who became vice chairman. A NARUC survey released about that time showed that the commissions that regulated utilities were changing. Over the past 20 years their members had tended to be Democrats (by about 2 to 1), but many were now identifying as independents. The percentage of women on the commissions had increased from about 2% in 1968 to 20% in 1987, and the percentage of regulators who were lawyers had declined from 50% to 30%. The average age of commissioners (51) and their average length of service (5 years) had stayed the same.

The Association grieved the loss of two more former leaders in 1987. Jack Barr, former president of American Water Works Company and chairman of the Association, died at age 73. And Fred Silliman, retired chairman of Bridgeport Hydraulic Company and president of NAWC in the 1960s, passed away at age 72. Within months, Barr's son, Jim, became the organization's president.

The EPA published its final rules on volatile organic contaminants that year and they required that all drinking water drawn from surface supplies be filtered unless the supplier were granted a waiver. Mike Cook, who headed the EPA's Office of Drinking Water, warned that the publicity attendant to noncompliance would erode confidence in the entire industry. This also was the year the Association helped open the doors of CoBank, a cooperative bank that financed worthy community initiatives, to small water companies.

In January, 1988, an oil company storage tank burst near the Monongahela River above Pittsburgh, releasing thousands of gallons of fuel oil into the river and threatening the drinking water of some 750,000 people in the city's suburbs. Pennsylvania-American Water Company, the area's main supplier, managed to maintain service from one of its two plants which was just upstream of the spill.

In 1988, responding to the growing public interest in water issues, Congress established National Drinking Water Week, an annual observance to highlight the importance of safe water and to provide a setting for educational activities. Association President Jim Barr told a NARUC convention that effective regulation and good management had produced results for investor-owned water companies "that few could have anticipated five years ago." Member companies were attracting investors and putting capital into new facilities at a record pace to meet new quality standards, he said.

Customers Voice Satisfaction

The Association commissioned its own opinion poll that year, interviewing 1,000 customers of member companies coast-to-coast. The results indicated that 90 percent of customers were satisfied with their water service but about 30 percent thought it cost too much. Many of those interviewed wanted more information on the quality of their water and suggested that bill inserts were the best means to provide it. Jim Groff participated in a panel at NARUC's centennial conference on Key Issues Facing Utilities and Regulators. It represented a new level of visibility for water issues.

Association president Barr told a meeting in Boston that fall that the combination of federal tax policy and subsidies to municipal water suppliers was eliminating investor-owned companies' competitive edge over municipal suppliers. He said it was incumbent upon the Association to work to "level the playing field." An economist told the meeting that the public had overreacted to the market crash a year earlier, that the GNP was up nicely in 1988, unemployment was moderate and the prognosis was for continued economic growth through 1989. A few weeks after the meeting, George Bush was elected president by a comfortable margin.

In February, 1989, Abel Wolman, the Johns Hopkins engineer who became an early driving force in AWWA and an internationally recognized authority on public water supply, died at age 96.

In the Spring 1989 issue of *Water*, Association President Chet Ring, of Elizabethtown Water Company, compared the business environment with that of 1989 and found these differences:

	1980	1989
Prime rate	20%	10%
Wage increases	10%	4%
Market-to-book value of selected water co. stocks	60%	150%
Return on equity allowed by regulators	14%	12%

No question, the environment had improved, Ring said. But he noted that the

J. James Barr

taxation of CIAC as income put investor-owned companies at a distinct disadvantage vis a vis municipal suppliers. In the next issue of the Association magazine, he commented on the high levels of capital spending among member companies: $125 million at American, $90 million at Bridgeport, $50 million at Elizabethtown and at Middlesex Water and $254 million at Philadelphia Suburban.

A NARUC study that year indicated that holders of electric and telephone company stocks had realized average total returns of 13.4% and 14.6%, respectively, in the 1970's and '80s, more than investors in non-regulated industries. The regulators said the study refuted utilities' claims of miserly regulation. Merry Mosbacher, of Edward D. Jones & Co., noted that summer that the PE ratios of the most widely traded water company stocks had risen from 8% to 11.5% since 1984, and their market-to-book value had increased from 109% to 146%. The Association's liaison with regulators had improved, too. Association representatives were now invited to attend the annual meetings of the regulatory lawyers, engineers and accountants.

Hackensack Goes Ozone

This was the year of the Exxon Valdez oil spill in Alaska and the government's savings and loan bailout, which was expected to cost U.S. taxpayers some $400 billion over 30 years. On the upside, the Hackensack Water Company put on line a new state-of-the-art treatment plant that employed ozone, instead of chlorine, for some disinfection. Company president George Haskew said the protocol improved taste and minimized the risk associated with chlorine-related THMs.

Ron Dungan was elected president and CEO of General Waterworks Corporation in 1989, succeeding Allen Rosenberg, who retired. Frank J. Pizzitola, a partner in Lazard Freres, the investment bank, was brought in as chairman and CEO of GWC Corp, General's parent. And Michael Tinkey was named president and general manager of St. Louis County Water Company, succeeding Oliver Norman, who retired.

Bob Gerber stepped down as chairman of the Association at the 1989 annual meeting in Colorado Springs and was succeeded by Jim Barr. Dave Wilson, of Philadelphia Suburban, was elected president. Gerber said later he was pleased by the Association's growing visibility in Washington but was concerned that its focus was tilting toward environmental and water quality issues at the expense of economic ones. (In 1995 he said that bias seemed to have been corrected.) The Association launched an initiative in 1989 to encourage more public/private partnerships to address water supply, waste treatment and environmental problems. It focused on legislative impediments to such arrangements and ways to eliminate them.

Climatologist Foresees Floods

Climatologist Iben Browning told a convention in Boston that year that after three years of drought in some parts of the country the nation was in for record rains and floods in the next few years. His words would prove prophetic in 1993.

The U.S. sent troops to the Middle East in the summer of 1990 after Iraqi forces invaded neighboring Kuwait. American and allied troops invaded Iraq in January and subdued Saddam Hussein's army in four days of fighting.

Marilyn Miller retired as NAWC's director of administration in 1990. A newsletter, NewsFlow, debuted at about this time. This was also the year United Water Resources announced a plan to buy the water properties of Pennsylvania Gas & Water Company. But the deal was never consummated and American Water eventually bought the properties.

A number of member companies elected new presidents in 1990. Floyd Wicks was picked to head Southern California Water Company, succeeding William Caveney, who became chairman and CEO. Soon thereafter the company moved its headquarters from downtown Los Angeles to suburban San Dimas. Don Houck became president of Cal Water Service when Charles Stump was named chairman, and Don Correll succeeded Bob Gerber as president of United Water Resources.

At the Association's 94th annual conference in St. Louis, Charles Buescher was elected president. He immediately formed an ad hoc committee to review the structure of the Association and make recommendations for streamlining it. Buescher and Groff worked a good part of the year on reform that shifted authority to the Board but reduced its size from 141 members to 35. The Executive Committee approved a plan to expand the Washington office and add staff. One new staffer, Jim Good, was brought aboard to energize the government relations program.

The Cold War Ends

The world balance of power shifted in 1991 when Soviet reformers suspended the activities of the Communist party. Several republics declared their independence and the Soviet Union was dissolved.

The bottled water business took a hit that year, too, when a New York laboratory revealed that nine of 88 brands it tested did not meet the state's drinking water standards. Perrier, a premier spring water, was found to contain 17 parts per billion of benzene, three times the New York MCL. It was quickly withdrawn from market shelves worldwide. George Johnstone was elected president of American Water Works Company that spring when Jim LaFrankie retired.

Association Chairman Jim Barr told the NAWC Board that year that the executive team of Groff and Gascon had made great strides in strengthening the group's legislative and regulatory programs

LaJuana Wilcher, deputy director of the EPA's Office of Drinking Water, told the Association's annual meeting in Palm Desert, California, that fall that the industry's best defense against Federal regulation was to solve water quality problems itself. She urged a more holistic approach to management, one that views all things in nature as interrelated. Jay Weinhardt, president of San Jose Water, succeeded Charles Buescher as president at that meeting.

The Association interceded in 1991 in an appeal General Development Utilities had filed after St. Lucie County, Florida, ruled that contributions-in-aid-of-construction were taxable corporate assets. The position, which GDU and NAWC feared would establish a precedent, was reversed as a result of the appeal.

Water conservation had become a "given" for water suppliers by 1992 and policy makers and the industry focused on the best way to promote and administer it. NAWC called for local control and warned that policies must not jeopardize the financial integrity of suppliers. Peter Haynes was elected president of

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Consumer's Water Company in 1992, succeeding John Parker. And Nick DeBenedictis, a former EPA and Pennsylvania environmental official, was named president and CEO of Philadelphia Suburban Corp.

Poll on Lead is Revealing

The Association held its second biggest annual meeting ever at Hilton Head in 1992. Bill Holmes, of Consumers Water Company, took the helm and vowed to pursue with new vigor three ongoing causes: SDWA reform, reclassification of contributions-in-aid-of-construction as capital, not income, and the promotion of public/private partnerships. The Association polled its membership that year on the EPA's new lead and copper rules. Of the 43 large companies that responded, six percent said they had exceeded the lead standard in first-draw tap samples and one percent, the copper standard. One company had exceeded both standards. The inquiry indicated that the corrosiveness of household water (which is easily corrected) was more important in determining test results than the amount of lead in household plumbing (which is not).

The Association established the David L. Owens Scholarship in 1992. The award, supported by Utilities, Inc., of Illinois, honors the man who was the company's president from 1968 until his death in 1988. It provides a $10,000 grant to a graduate student in a discipline which might lead to a career in the water business.

Bill Clinton defeated George Bush for the presidency that fall in a race in which Ross Perot, an independent, garnered almost 20 percent of the popular vote. In January, Clinton tapped Florida DEP director Carol Browner to head the EPA.

George Johnstone, president of American Water Works Company, told a New England utility conference that spring about his company's initiatives to acquire small companies and regionalize services. He touted acquisition as a workable solution to the problems of small companies. (It was about this time that American's Midwest subsidiaries bought four utilities serving almost 500,000 people in Indiana, Missouri, Ohio and Michigan.)

Members of the Washington Water Utility Association joined the NAWC in 1992, bringing to 41 the number of states represented in its membership.

Officers on Stump

Association president Bill Holmes spoke out in 1993 about the fact that the tax law caused investor-owned companies to raise rates while another law provided low-cost capital for municipal suppliers. Don Correll, of UWR, testifying before Congress, said that the tax on CIAC was causing investor-owned companies to lose business to municipal systems, increasing the cost of a new home by as much as $2,000 and leading to the creation of small, nonviable water companies. Jim Barr, addressing a NARUC conference, said the cost of water was nowhere near a financial burden on customers. Millions were paying $1 a gallon for bottled water he said, while enjoying quality tap water for about l/3d cent per gallon.

Unprecedented floods inundated the Mississippi and Missouri valleys during the summer of 1993, shutting down water treatment plants in some cities, contaminating the drinking water in others. And interest rates hit new lows, inducing many companies to refinance debt. This was the year terrorists bombed the World Trade Center in New York, killing six and injuring more than 1,000. And Federal agents stormed a religious sect's compound near Waco, Texas, killing 72 people, including dozens of women and children.

In September, 1993, United Water Resources and GWC Corporation announced plans to merge to form the nation's second largest investor-owned water utility. It would serve about 14 million people in 14 states. Lyonnaise des Eaux-Dumex, the French company that held an 82% interest in GWC, would own 26% of the new company. In another big industry development in 1993, a partnership involving IWC Resources and Lyonnaise des Eaux was selected to privatize Indianapolis' waste water treatment plants. The city said the deal would save taxpayers $65 million over the five-year term of the contract.

Tompkins is Optimistic

Rich Tompkins, of the Middlesex Water Company, was elected president of the Association at the annual meeting in Williamsburg that fall. He expressed optimism that the climate in Washington might at last be right to get some action on the taxation of CIAC.

In 1994, a Washington reception and dinner for members of congress drew a record 34 representatives and 125 Association members. And last fall, Jack McGregor succeeded Tompkins as president of the Association at the annual meeting in Scottsdale, Arizona.

The National Association of Water Companies' first 100 years culminated at a gala centennial reception and dinner in February, 1995, in the spectacular Great Hall of the Library Congress. President Jack McGregor presented awards to four members of Congress who had advanced the interests of the environmentalists and water suppliers in recent years: Reps. Bill Archer (R., Tex); Tom Bliley (R., Va.); Bob Matsui (D., Cal), and Bob Michel (D., Ill.), who had just retired as House Majority Leader. Awards also went to Bob Anderson, chairman of the Montana PSC and president of the National Association of Regulatory Utility Commissioners, and to Vice President Al Gore, for his environmental work while a U.S. senator

Association chairman Jim Barr, the principal speaker, expressed his great pride in the organization. He called to mind the 16 Pennsylvania utility operators who had traveled by horse and rail to Cresson, Pennsylvania, 100 years earlier to form an alliance to advance their common interests. "They had no idea how important that meeting was to be," Barr said. "And this evening we celebrate what they began"

Over the years, Barr recalled, members have "chewed knuckles, pounded fists, and beaten chests . . . but they never wavered in their belief in the appropriateness of their work or the fervor of their commitment." The National Association of Water Companies knows exactly where it is going, he said. "And it is still operating on the principles set down at its inception." (In just the past 10 years, the Association's staff, its budget, its office space and its cash reserve had doubled and its membership had grown by 45%.)

Barr then offered a toast "to the Association's accomplishment and its resolve and enthusiasm for the future." And each of the 300-or-so guests at the dinner raised, then sipped from . . . a glass of water.

Acquisition Incentives: Encouraging Regionalization in the Water Industry

NARUC Great Lakes Conference
Greenbriar
July 11, 1995

by Wendell Holland

Good morning. First, I am pleased to return to regulation—albeit for just a day—to speak before some very familiar faces. It is always good for the regulatory community to keep abreast of the activities of county and local government. The same conditions continue to exist today as when I was a regulator that require continued communication—namely, continued implementation of the Safe Drinking Water Act, infrastructure rehabilitation needs, the public's awareness of water quality, and most important, their demand for higher service standards. Regionalization stands out as a tremendous promise as a solution to these challenges.

Today, I will discuss regulatory issues affecting regionalization in Pennsylvania, a case study, and regionalization from an international perspective.

Pennsylvania Practice

Although there are a number of small systems that are well operated and do provide good service, there are nonetheless a number of problematic conditions inherent to small water systems. A small customer base offers little room for economies of scale. Consequently, the limited economic base often directly affects the overall quality and extent of proper operation and maintenance, as well as the adequacy of water quality and supply.[1]

Compounding the problems posed by the small water systems are the challenges and current trends affecting all drinking water purveyors. As many of you are well aware, the water industry was once rather quiet; the technology, once established, was stable and rates were well below that which caused customers' eyebrows to raise. However, with the advent of the Safe Drinking Water Act in 1974, the stringent amendments in 1986 and the current reauthorization efforts, water production and delivery has evolved to be an enormously more expensive and complicated process.[2]

Recently, the Pennsylvania Commission has taken another quantum leap toward fostering acquisitions of suitable water companies by viable water companies when such acquisitions are in the public interest. In May, the Commission issued a policy statement requesting comments on the use of regulatory incentives for acquisitions. Spearheaded by Commissioners Crutchfield and Hanger, the Commission will consider the following acquisition incentives:[3]

1. Rate of Return Premiums—Additional rate of return basis points may be awarded for certain acquisitions and/or for certain associated improvement costs, based on sufficient supporting data submitted by the utility within its rate case filing;
2. Acquisition Adjustment—In cases where the acquisition costs are greater than the depreciated original cost, that reasonable excess may be included in the costs of base rates of the acquiring utility and amortized as an expense over a ten-year period, consistent with the parameters set forth at 66 Pa. C.S.A. §1327;
3. Deferral of Acquisition Improvement Costs—In cases where the plant improvements are of too great a magnitude to be absorbed by ratepayers at one time, improvement costs may be deferred, to be recovered in phases;
4. Plant Improvement Surcharge—Collection of a surcharge from each customer of the acquired utility upon connection could be implemented to offset extraordinary improvement costs; or
5. Operating Ratios—In cases where little or no rate base exists, the use of an operating ratio may be allowed as an interim measure.

The Commission made it clear that this list is not exclusive, and utilities are invited to suggest more additions.

The Chairman invited the parties to address some additional concepts when examining the five incentives—namely:[4]

1. Whether the rate of return premium should be available under 66 Pa. C.S.A. §523(b)(7) with specific criteria established as it has been for electric utilities relating to efficiency and adequacy of service at §523(b)(5) and 52 Pa. Code §65.20;
2. Should a rate of return premium be available for accelerated accomplishment of system improvements; and
3. Whether the Commonwealth Court decision in *Popowsky v. Pa. P.U.C.*, No. 1315 C.D. (1993) on deferrals of Financial

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Acquisition Incentives, *continued*

Accounting Standards Board 106 would be a barrier to a phase-in or deferred recovery of plant improvement costs.

Yet, not all at the Pennsylvania Commissioners praised the new policy. Is this not surprising? One Commissioner considered it to be inappropriate to levy a premium that will be multiplied against all of the collective investments of the surviving or acquiring utility. Such an approach may create a disproportionate inducement. He further noted that those customers of the acquiring utility who predate the takeover or acquisition at issue could end up being penalized by having to pay a higher rate of return to the company, even though there was no corresponding improvement in the quality of service that those customers receive.

"The legislative approach articulated in Section 1327, 66 Pa. C.S. Section 1327, tends to reflect this distinction. That section allows additional costs above depreciated original cost to be included in rate base under certain circumstances. In so doing, it provides express recognition of the acquired assets which deserve to be included in the calculation of the acquiring utility's cost of service, rather than inflating the costs of service to include costs not related to the acquisition or takeover.

Of particular interest in this regard is the relationship between Section 1327 and Section 523 in defining the Commission's jurisdictional boundaries to implement incentives for acquisitions and mergers of small, nonviable water utilities. Section 1327 was enacted later in time and is more specific than the provisions of Section 523. Under Section 523 of the Public Utility Code, the Commission is expressly authorized to make adjustments to specific components of a utility's claimed cost of service to reflect relevant and material evidence of "efficiency, effectiveness and adequacy." Many believe that Section 523 provides the Commission with broad latitude to recognize significant regionalization contributions by awarding a higher than normal equity return on certain acquisitions and improvement investments.

Currently, Section 1327 allows acquisition adjustments which enable the acquiring utility to amortize the difference between depreciated original cost and purchase price over a reasonable period of time. Small financially troubled water companies often have a book value which is extremely low or even zero. Provided that the purchase price is found to be prudent and the sale was conducted at arms-length, the higher, actual purchase price can now be recognized by the Commission pursuant to 66 Pa. C.S. §1327 (Act 24 of 1990)."[5]

On balance, I believe that there is no jurisdictional imbalance between the two sections and this Commissioner's concerns should be allayed.

To accomplish the goal of increasing the number of needed mergers and acquisitions to foster regionalization, the Commission stated further that the following parameters should also be considered:

1. The acquisition will serve the general public interest;
2. The acquiring company meets the criteria of viability and such viability will not be impaired by the acquisition; that is, it maintains the managerial, technical, and financial capabilities to safely and adequately operate the acquired company, in compliance with the Public Utility Code, the Safe Drinking Water Act, and all other requisite regulatory requirements on a short and long term basis;
3. The acquired company is not viable; that is, it is in violation of statutory or regulatory standards concerning the safety, adequacy, efficiency or reasonableness of service and facilities; it has failed to comply, within a reasonable period of time, with any order of the Department of Environmental Resources or the Public Utility Commission; and that it cannot be expected to furnish and maintain safe, adequate, efficient or reasonable service and facilities in the future;
4. The acquired company's ratepayers should be provided with improved service, with the necessary plant improvements being completed within a reasonable period of time;
5. The purchase price of the acquisition is fair and reasonable and the acquisition has been conducted through arm's length negotiations; and
6. The concept of single tariff pricing should be applied to the rates of the acquired company, to the extent that is reasonable. Under certain circumstances of extreme differences in rates, and/or of affordability concerns, consideration should be given to a phase-in of the rate difference over a reasonable period of time.

In my opinion, it would be fair and appropriate for the Commission to reflect a company's regionalization efforts in its ROE as it appropriately reflects the increased risk associated with regionalization. Traditionally, water utilities, as we all know, have been relatively risk free, hence justifying the lower authorized returns, relative to their electric and natural gas counterparts. However, in acquiring a troubled water system, the company is "buying a bag of bones" as one commentator aptly put it. Hence it should be reflected in rates, particularly as the acquiring utility is pursuing a valid public purpose that clearly serves the public interest.

While we are addressing incentives, I should add that a sound viability policy could appropriately include an integrated resource plan of sorts that would incorporate land use and development issues that drive the creation of many new and small systems in the first place. As my former assistant often said "had the water planning and growth development process been historically better interrelated, Pennsylvania would not now be inundated with the number of small troubled water systems it has."[6]

A Case Study

While acquisitions for regionalization is a viable goal, it does not happen without burden. Like many regulatory proceedings, acquisition proceedings can be lengthy, and problems could arise because of foreseen or unforeseen circumstances. For example, in a matter that I recently handled, an investor-owned utility and a municipality agreed that the company could purchase that portion of the municipality's system that was outside the municipality and therefore within the jurisdiction of the Pennsylvania Commission. For years residents complained of inadequate service, and, the municipality had failed to comply with a number of Commission orders. The situation was ripe to apply the policy of regionalization.

Well, I am here to tell you that after about nearly two years and about five related legal proceedings later, the deal is not fully consummated. We were called in about three months ago to rectify the situation. What was most bothersome was the attempt by two dissenting members of the Borough Council to use its local Code to frustrate the powers of the Commission and kill the deal. Of course, if this matter involved any private companies, this jurisdictional issue probably would not have arisen. However, we expect a decision soon from the Commission resolving this jurisdictional matter so that we may move closer to closure.

In many respects, this company was ripe for a take-over under the Mandatory Takeover Act, except for the absence of a clear finding by a regulatory agency of a violation. This standard should be lessened and not reinforced. The Commission may address this issue while instituting the Policy Statement. It states that "it should be the objective of the Commission to encourage acquisition via ratemaking incentives by viable water companies of water companies *which are in violation of applicable health and safety standards* when such acquisitions are in the public interest." I believe that the Commission should not be as restrictive to include only those companies who are in actual violation. Rather my colleagues may wish to adopt an alternative standard that only requires "substantial record evidence of inadequate service" (via sworn testimony of witnesses) as an addition (or even substitute) to the requirement of an agency finding. Phrased differently, and at the risk of sounding like a regulator, ratepayers know bad service when they receive it and should not be frustrated by a higher legal standard that the non-complaint utility may strategically use to its benefit.

International Regionalization

I would be remiss if I did not mention my exposure to regionalization at the international level, particularly as I have literally just returned from overseas and have not dried out yet. South Africa and the country of Lesotho have entered into an agreement to develop the Lesotho Highland Water Project. (By way of geographical background, the country of Lesotho is wholly surrounded in the southeastern part of South Africa, and would be roughly where Tennessee and northern Georgia are in the U.S.).

The main objectives of the project are to supplement the water supply to the Greater Johannesburg/Pretoria Region (Gateung Province) and to provide Lesotho with hydro-electricity. It is the biggest of its kind under construction in the world. This major bi-national project involves impounding the surplus water from the rivers in the highlands (mountains of Lesotho) through the existing (Maluti) mountain range and across the border to South Africa where it will supplement the overtaxed water resources of the Uaal River Basin that serve the mining and industrial center of Pretoria. The construction of the project is sponsored jointly by the governments of Lesotho and South Africa. All water transferred to South Africa will be purchased in terms of the agreed royalty payments per cubic meter. An authority has been especially created to administer and run the project in terms of the international treaty signed in 1986. The ultimate development will include up to six major dams.

Now, does it satisfy the definition of regionalization, at least as defined by the Pennsylvania Commission in its Order of May 11, 1995, as the consolidation of two or more water systems for the purpose of increased viability (Docket No. M-00950686)? ABSOLUTELY: it increases viability of water systems in the respective countries. It would even satisfy the broader industry definition as "being in the range of possible approaches, from the actual physical connection of systems to an administrative and management arrangement to provide common technical, operational or financial services for two or more systems."

Second, what are the incentives? The incentives, as opposed to the results are obvious. Lesotho would realize untold revenues to what is perhaps one of the poorest economies in the world. On the other hand, South Africa's incentive is to be able to further improve international relations as it starts to regain worldwide acceptance and improve the supply of water to its agricultural and industrial base.

As a former regulator, I must ask, "Is this regionalization project in the public interest?" Again, the answer is yes. By providing water to South Africa, it furthers President Mandela's goals, as stated in his Reconstruction and Development Plan (RDP) of improving that country's infrastructure–particularly the delivery of water to both urban areas and the country's rich farmlands. Finally, it serves notice to foreign investors that "yes," there are indeed significant investment opportunities in Southern Africa: (1) assuring an adequate return (with incentives), (2) of relatively low risk, (3) in politically stable countries, and (4) with sound economies.

Conclusion

In closing, as I move back to regionalization here in the States, I would note that greater efforts by policy makers, regulators and the water purveyors will be needed in the immediate future in order to better ensure dependable future supplies of drinking water. Cooperation by customers will also be imperative as infrastructure and operating improvements will result in higher rates for this commodity, the value of which has often been underestimated.[7] The Pennsylvania Commission, with its Policy Statement out for comments, is well on its way toward effective regionalization.

Its regulations, in conjunction with other applicable state and federal laws, provide a workable system of operating standards by which its regulated utilities must abide. Hopefully, the Commission will keep its course and continue to strive toward ensuring that these regulated utilities uphold their responsibilities toward their customers of today which will, in turn, help to enable an adequate, safe and reasonably-priced supply of water for the customers of the future.

THANK YOU.

Footnotes

[1]See Brown, Stanley "Presentation for the A.W.A. Association Satellite Teleconference"

[2]Id.

[3]See Proposed Policy Statement Re: Incentives for the Acquisition of Small, Nonviable Water Utilities, Docket No. M-00950686 (Adopted May 11, 1995).

[4]Id. See Statement of Chairman Quain.

[5]Id.; Statement of Commissioner Rolka.

[6]See Allen, Carol J. "Planning and its Interrelationship to regionalization and Conservation." September 14, 1992.

[7]See Brown, supra.

Tri-County Water Supply Project Uses State-of-the-Art Technology to Meet a Region's Water Needs

by Howard J. Woods, Jr.
Vice President, New Jersey-American Water Company
Haddon Heights, N.J.

The solution to the southern New Jersey region's water supply problem is at hand. After completion at the end of this year, New Jersey-American Water Company's Tri-County Water Supply Project will start delivering water to as many as 55 communities in Burlington, Camden and Gloucester counties in New Jersey. The communities will need to supplement their water supplies as a result of a mandate by the N.J. Department of Environmental Protection (DEP) to reduce pumping from the region's aquifer.

In 1986, the New Jersey DEP designated an area of southern New Jersey as a *Water Supply Critical Area* because the Potomac-Raritan-Magothy (PRM) aquifer that serves the region was being depleted faster than nature could replenish it. The DEP also identified the Delaware River as the only reliable long-term alternative water source to the endangered aquifer. The Tri-County Water Supply Project will draw water from the Delaware River and treat it in a state-of-the-art filtration plant, then pump it out through an extensive pipeline system.

The Treatment Plant

The water treatment plant for the Tri-County Water Supply Project, being built near the Delaware River in Delran, New Jersey, represents the most advanced technology available in the water industry today. Groundbreaking took place in September 1993, and the treatment plant is expected to begin operations in January 1996, with an initial capacity of 30 mgd. The plant design allows for capacity expansion in 10 mgd increments up to 100 mgd to meet future water needs.

The ultimate 100 mgd plant will be divided into two separate 50 mgd process trains that will be combined at the clearwells and high service pump station. Each train has been designed with provisions for staged construction to economically meet the increasing demand. The plant is also designed to conform to disinfection byproduct regulations that may be adopted by the U.S. Environmental Protection Agency or the N.J. DEP in the future.

Pilot Study and Research

In 1990, New Jersey-American conducted a pilot study to determine the most effective method of treating Delaware River water to ensure that it will meet or be better than all state and federal water quality standards. The pilot study identified and evaluated various unit processes to resolve key issues such as 1) the effectiveness and cost savings associated with high rate clarification and high rate filtration; 2) selection of the most effective preoxidant/predisinfectant for disinfection, disinfection byproduct (DBP) control, taste and odor removal, and color removal; 3) alternative methods of chemical spill control; 4) alternative methods of taste and odor control; 5) alternative methods for DBP control and disinfection; and 6) corrosion control.

New Jersey-American also conducted extensive research in cooperation with other water utilities in the region to examine the effects of mixing treated surface water with the ground water supplies now in use. Results of the research were used in the treatment plant design to assure that water from the Project will be compatible with and equal to the quality of well water.

Start of the Process: Delaware River Intake

New Jersey-American has received a water allocation permit to allow for the withdrawal of up to 40 mgd from the Delaware River. This withdrawal is very small compared to the amount of water in the river: the minimum amount of water that flows past the intake site during a severe drought is nearly 2,000 mgd; after a heavy rain, the amount might be as much as 7,750 mgd.

River water will flow by gravity to the pumping station through two nearly 1800-foot-long pipes, both 54 inches in diameter. The ends of the intake pipes are constructed of wire screens similar to well screens and are located in the river about 1,000 feet from the bulkhead line at the shore, within the New Jersey state boundaries and outside of the designated shipping channels. Working with the U.S. Coast Guard, New Jersey-American visibly marked the screens and the intake pipes at the water's surface with buoys or other markers.

The Pumping Station

The raw water pumping station for the Project is being constructed about 800 feet from the Delaware River's bank in western Burlington County. Raw water will flow by gravity through the passive intake screens in the river and the subsequent intake piping into the raw water pumping station wet wells. Pumps will deliver the water to the treatment plant. Powered by electric motors and controlled by a computer system at the treatment plant, these pumps will be backed up by generators to supply power during electrical failures.

The Treatment Site

From the pumping station, raw water from the Delaware River will be pumped through a two-mile-long, 54-inch diameter pipeline to the treatment plant site. Water will flow into a 15-million-gallon storage basin constructed with a flexible membrane liner and located at the lowest point of the treatment plant. In the basin, the water will be tested to identify normal fluctuations in the quality of raw water so any irregularities can be detected and treatment adjusted accordingly. The basin also provides temporary storage to allow time to activate wells in case the intake ever needs to be closed for some reason.

From the basin, water will be pumped to the highest point of the treatment plant, where it will flow by gravity through the rest of the treatment process.

Pre-Oxidation and Disinfection

The results of the 1990 pilot study showed that ozone provides superior particle removal while keeping the production of trihalomethanes (THMs) and other disinfection byproducts to a minimum. Therefore, ozone will be used as the primary oxidant.

Clarification and Filtration

After the addition of chemical coagulants, most of the solid matter in the raw water will be removed by a clarifier called a Superpulsator®. This unit is the most flexible and cost-effective means of clarification identified by the pilot study. In addition, the unit is much smaller than more traditional devices. This size advantage lowered the construction costs of the treatment plant by reducing the amount of space needed.

Single-media, deep-bed, granular-activated carbon (GAC) filters will be used to remove additional solid particles, absorb organics, and control taste and odor. GAC filters will also give additional protection in case of an oil or chemical spill in the river.

Final Disinfection

The final disinfection process will use chlorine, the disinfectant currently used by New Jersey-American and other water utilities that will purchase water from the Tri-County Water Supply Project. The treatment process is also designed to allow ammonia to be added to the filtered water should the EPA or N.J. DEP change the THM standard.

Pumping and Distribution

The filtered water will be evenly distributed to the clearwells, where it will flow by gravity in a serpentine pattern around baffle walls for effective disinfection contact. At the end of the clearwell, finished water will enter the pumping station wet wells from pumping to the distribution system.

Other Treatment Plant Systems

The treatment plant includes many other process systems including chemical systems, backwashing systems, and residuals handling systems. Various liquid and dry chemical systems are being installed to handle zebra mussel protection at the river intake, algicide at the reservoir, preoxidation, disinfection, coagulation, taste and odor control, pH adjustment, and corrosion control.

A river intake screen backwash system will remove debris from the submerged screens. A filter backwash system will clean the GAC filters. The plant also includes a complete residuals handling and dewatering facility to treat the process wastes generated by the water treatment process.

The entire treatment process will be controlled and monitored by a Distributed Control System (DCS). The DCS will monitor the status of equipment, alarms, and process variables such as levels, pressures, turbidities, pH, chemical residuals, streaming current, flows, temperature and electrical usage.

In order to meet varying water demands without disrupting plant operations, the overall flow control philosophy will be to maintain an adequate constant pressure in the high service system by varying the flow of the high service pumps. Also, a relatively constant flow through the plant will be maintained by using the volume in the clearwells to equalize minimum and maximum demands.

The Transmission System

An extensive pipeline system, incorporating transmission mains as large as 54 inches in diameter down to 24 inches, will carry water from the treatment plant to the communities that purchase water from the Project. To keep construction and operating costs to a minimum, New Jersey-American is using existing infrastructure wherever possible. In addition, pipeline routes were designed to protect the environment and to minimize disruption of existing utilities, traffic patterns and private property.

At The Tap

When residents begin receiving water from the Project next year, they will be able to count on receiving enough clean and reliable water to meet their needs. In addition, because the water from the Project will be mixed with the water they currently drink, most people will experience very little taste difference, if any. The state-of-the-art treatment processes and the extensive pipeline system of the Tri-County Project will help to ensure that the southern New Jersey region will have access to a clean, safe water supply for many years to come.

Executive Director's Report

by James B. Groff

As most are aware, this is my last report to you as Executive Director of the National Association of Water Companies.

At some point in time, each of us has an experience that tests our resolve, perhaps even our faith. Recently, I've encountered two such experiences within a two-month time frame: the decision that I should leave the NAWC, and the death of my wife from cancer. Literally, almost overnight my world, and particularly my future, changed. During those difficult days, I will always remember and appreciate, the loving support of my family and the thoughtfulness and kindness of friends and neighbors.

But now it is time to look forward. Experience suggests, however, it is worthwhile to briefly review the past, and take at least a snapshot of the present.

A little over ten years ago, I joined the NAWC after serving as the American Water Works Association's Deputy Executive Director-Government Affairs. At that time (1985), the Association's budget was $582,000, the staff numbered five, the office occupied a little over 2700 square feet of space; there were 237 active members, membership equity was $453,000 and approximately $500,000 of the Association's funds were frozen in defunct Maryland S&Ls.

Between then and now, I made 216 trips, flew in excess of 500,000 miles, and spent many days "on the road," often traveling on weekends and holidays to take advantage of lower airfares, to represent the Association at numerous meetings and events.

Today, staff has doubled to 10 and the Association's budget is three times the 1985 figure, reflecting the Association's expanded legislative, regulatory and membership activities. Office space has grown by 70% and membership has increased by almost 50%. Membership equity has doubled and happily, none of the Association's funds are in jeopardy. More importantly, our relations with Members of Congress and particularly with commissioners and commission staff, due to the focus Sharon, the organization's leadership and I have placed on this facet of the Association's charge, have improved measurably. Certainly there is always

more to be accomplished, and no one should become complacent in this changing world, but progress and success are evident. I'm proud to have contributed to the growth of the NAWC.

Progress is not achieved however, through the efforts of a single individual, and I would be more than remiss if I did not acknowledge the particularly significant contributions of Sharon Gascon, Mike Horner, Jean Lewis, Bonnie Hayden and Audra Zellner to the NAWC.

Looking to the future, I recommended, and the Executive Committee agreed, that the Association develop a strategic plan to guide the NAWC. I believe, once developed, that plan, properly constructed, will be a good blueprint to direct the next 100 years of the Association. But the future is yours, and you should provide your thoughts to the Association's leadership, so that the plan truly represents the needs of the membership and can be structured to respond to those needs.

My 25 years as an engineer and officer in the U.S. Navy were exciting, challenging and fulfilling. Frankly, I never dreamed those days could be matched. While not as exciting, I nevertheless found my time with the Association equally stimulating and fulfilling.

It's been a full 40 years, and while I haven't, for obvious reasons, focused as yet on my life after NAWC, I look forward and to the future. My wife's long, quality of life limiting struggle with cancer, the last four years being both extremely painful and debilitating, was a study in courage, faith and love. Few, except those of us who were very close to her, witnessed her anguish, because her strength never let it show. How she did it, I'll never know.

Over 150 messages, most of which were handwritten, of condolence and sympathy came to our home and my office. A beautiful tribute to a lady who was beautiful internally and externally. On behalf of my family, thank you, and let me share the following with you, that came from dear friends.

I'm Free

Don't grieve for me, for now I'm free,
I'm following the faith God laid for me.
I took his hand when I heard him call,
I turned my back and left it all.

I could not stay another day
To laugh, to love, to work or play.
Tasks left undone must stay that way.
I found that peace at close of day.

If my parting has left a void,
Then fill it with remembered joy.
A friendship shared, a laugh, a kiss–
Ah, yes, these things, I too, will miss.

Be not burdened with times of sorrow.
I wish you the sunshine of tomorrow.
My life's been full, I savored much–
Good friends, good times, a loved one's touch.

Perhaps my time seemed all too brief.
Don't lengthen it with undue grief.
Lift up your heart and share with me:
God wants me now. He set me free.

Author Unknown

I've shared my time in the water industry with some wonderful people, and together, we've accomplished a great deal. But this phase of my life is over and it's time to get on with whatever life has in store. Life is a series of opportunities. One experience closes, another presents itself. Our best days are still to come.

While I'm disappointed that I will not be able to continue, I'm also at peace. It's been a good run of over 10 years, rare in the world of associations. Most importantly, I am blessed with excellent health and the love, so amply demonstrated recently, of my family. It's hard to ask for too much more.

The past, the present, the future, ingredients of life. I can only say, as inadequate as it seems, thanks to all of you for all you have done with me and for me. Thanks very much.

May each of you enjoy fair winds and following seas as you sail the changing oceans of life.

Regulatory Relations Report

by Sharon L. Gascon

During the summer meetings of NARUC, the Water Committee debated issues relative to the SDWA reauthorization and reaffirmed its support for the efforts of the SDWA coalition. The text of the resolution unanimously approved by NARUC's Executive Committee, appears following this article.

NARUC President, Bob Anderson (Montana PSC), recently appointed Commissioner Diane Kiesling (Florida PSC) to the Public Council on Water Supply Research of the American Water Works Association Research Foundation and Commissioner Carmen Armenti (New Jersey BPU) to the Public Advisory Forum to the Officers and Directors of the American Water Works Association. Commissioner Henry Duque (California Public Utility Commission) was appointed to the NARUC Committee on Water.

John Borrows has accepted appointment as the senior water researcher at The National Regulatory Research Institute (NRRI). John was previously the Director of the Utilities Division for the Public Utility Commission of Ohio, and has for the past four years been a senior research specialist at the NRRI. He has extensive experience in utility cost-of-service and pricing issues, quality-of-service, environmental issues, siting, and computerized information systems. John has been appointed to the NARUC Staff Water Committee.

Commission 2000

In April of this year, 60 public utility commissioners from 40 states and Canada gathered in Denver, Colorado to discuss what a public utility commission should look like in the year 2000.

From the array of missions identified by commissioners, it was found that a vital role for state utility commissioners continues to exist (1) during the transition to more competitive markets, (2) for those portions of the utility marketplace that may not be fully competitive in the short or medium-term, and (3) even in fully competitive markets. There was no doubt among commissioners that the role of the state public utility commissioner will undergo substantial change.

In defining commission "responsibilities to utility managers and shareholders" (redefined by one group as "financial viability"), commissioners at the conference emphasized the need for commissioners to provide clear direction to utilities, to limit the use of traditional rate-of-return regulation, to honor past commitments, and to enable utilities to respond quickly to market conditions.

Other generic strategies addressed the manner in which commissions themselves operate. These strategies envision a commission that is less judicial, less adversarial, and more prone to seek consensus. They also address the need for commissioners to educate the public and stockholder groups about the changing role of commissioners.

Implementation steps identified were reflective of some significant changes taking place in state public utility commissions. If these steps are implemented, PUCs will become more externally focused, rely more on dispute resolution than adjudicatory proceedings, observe a change in staff skills and achieve a better understanding on the part of staff of competitive markets, become more automated, and become more likely to question old assumptions and definitions.

STATE REGULATORY HIGHLIGHTS

Meter Tampering Cost Recovery

Baltimore Gas and Electric (BGE) has received approval from the Maryland Public Service Commission to implement a new tariff allowing it to recover certain costs incurred when a customer improperly acquires electric or gas service because

(continued next page)

Regulatory Relations Report,
continued

of unauthorized tampering with meters. The tampering customers will pay a $90 charge to help cover costs of tampering investigation, inspection, billing, and corrective action, which costs BGE $700,000 per year.

Florida Public Service Commission Reaches Jurisdictional Decision

On June 19, 1995, the Florida Public Service Commission reached a decision on its year long investigation to consider its jurisdiction over Southern States Utilities (SSU), the state's largest investor-owned water and wastewater utility.

The commission voted that SSU's facilities and land are administratively and operationally interrelated, thus constituting a single system. The commission concluded that, pursuant to Florida statutes, the service provided by this system resulted in the commission having jurisdiction over all SSU's current facilities in all counties which SSU currently serves.

In its investigation, the commission considered the jurisdictional status of all SSU's existing plants and facilities. SSU owns and operates 150 water and wastewater facilities in 21 counties including 5 counties in which the PSC's jurisdiction was not previously recognized.

PSC chairman, Susan F. Clark said, "I want to commend the parties who participated in the proceedings and the staff for their efforts in assuring that the commission was presented with all facts and arguments pertinent to our decision. We have reached a considered decision which appropriately implements legislative policy."

Post-Retirement Benefits Accounting

The United State Circuit Court of Appeals for the District of Columbia has upheld a Federal Energy Regulatory Commission policy allowing utilities to recover costs associated with a switch from cash to accrual accounting for post-retirement benefits other than pensions under SFAS 106. The court rejected arguments by the town of Norwood, Massachusetts, a wholesale customer of the New England Power Company, that: (1) the forecast of future retiree medical costs were too difficult to ascertain to qualify as a legitimate cause for rate-making and (2) imposition of the cost of the "transition obligation" (the accumulated but unrecognized obligation to current employees) was an unfair transfer of responsibilities between generations of ratepayers and constituted impermissible retroactive rate-making. (Town of Norwood, Massachusetts v. FERC, No. 93-1785, May 12, 1995 (D.C. Circuit))

Wisconsin PSC Introduces Municipal Tax Equivalent Alternatives

The Wisconsin Public Service Commission took action recently in a rulemaking proceeding to introduce an alternative method of calculating the tax equivalent for municipal utilities. The tax equivalent is calculated annually and represents the amount of money that a municipal utility pays directly into the municipality's general fund. PSC Chairman Cheryl L. Parrino expressed appreciation to the state's municipalities for providing input and suggestions that allowed the Commission to develop a rule meeting the Commission's objectives yet allow flexibility to municipal utilities during implementation.

Rulemaking was initiated in docket 1-AC-145 to address concerns that the tax equivalent being paid by municipal utilities was excessive when compared to the gross receipts tax paid by investor-owned utilities. Also, for many water utilities the tax equivalent was becoming a very significant percentage of the overall utility revenue requirement. In some of the smaller water utilities, up to 50 percent of a customer's water bill payment goes to recover the tax equivalent.

Under the proposed rule, municipal officials may retain the current tax equivalent method or switch to one based on a percentage of gross receipts. The percentage factors for gas, electric and water utilities are 0.97, 3.19 and 10.83, respectively. In addition, a municipality may freeze their tax equivalent at its existing level until such time as this amount is exceeded by a calculation based on gross receipts. This flexibility will give municipalities the ability to control the adverse rate and tax impact associated with rapid escalation in the tax equivalent resulting from major utility plant additions.

The Commission will require customer notification where the tax equivalent amount as a percentage of revenues is in excess of the above percentage factor for each respective utility industry. The notice will advise the customer that on average a certain percentage of the utility bill does not support the direct cost of utility operation and will be paid to the municipality's general fund.

The Commission's decision in this docket will be drafted into an order for Commission approval. The order will then be submitted to the legislature for its review.

Incentive Compensation Plans

While setting rates for Cincinnati Bell Telephone Company, the Kentucky Public Service Commission has approved incentive compensation programs used by the carrier for its management and non-management employees. The commission found that the incentive program for non-management employees clearly constituted a part of the normal pay negotiated by the workers' union bargaining group. The fact that the management awards were shown to be at risk, i.e., some employees do not receive, or receive only a portion of the allocated award each year–and the overall base salary increases were curtailed when the incentive plan was put in place, supported recovery of program costs from ratepayers. (Re Cincinnati Bell Telephone Company, Case No. 94-355, May 1995, Kentucky PSC)

California PUC's Vision 2000

The California Public Utilities Commission (CPUC), through a process termed Vision 2000, is taking an unprecedented look at its structure and processes to assess how it must change to better serve the public.

According to the commission's draft report on *"Our Process for Change: Vision 2000,"* shared with members of the legislature recently, "This report is not an effort by a government agency trying to find a reason to exist. It is the revamping of an agency with a vital role to play in governing the fundamental industries upon which the economic and social structure of the state rest."

As part of its self-examination and creation of a vision for how it should be organized and operate by the year 2000, the commission sought candid feedback through "visioning" workshops in both northern and southern California to hear from PUC staff, legislators and state and local officials, representatives from consumer and industry organizations, utilities, labor unions, and residential and commercial utility customers. More than 300 participated in these discussions.

In the draft Vision 2000 report, the commission summarized the comments received on its strengths as being in its staff, a diverse culture that reflects California, its regulatory framework and wide statutory authority, and its public interest mission. Comments pinpointed weaknesses in leadership structure and actions, internal communications, external relations, and internal structure and use of staff and other resources. As the commission proceeds to change, it will annually convene sessions to give staff, those affected by its proceedings and decisions, and the public the opportunity to comment.

Four critical issues to be addressed as it re-invents itself are identified in the draft report along with suggested action steps for each: (1) Strengthening the PUC's commitment to customers; (2) improving accountability to the public; (3) improving accountability within the PUC and (4) creating an effective organization structure and efficient internal operations.

Four internal task force teams will be formed to develop specific implementation steps for each of the critical areas above. That work is expected to be completed by year end. Meanwhile, implementation of many of the proposed actions outlined above will begin.

Nevada Delays Merger

The Nevada PSC has postponed indefinitely further hearings on the proposed merger between Sierra Pacific Power Co. (SPP) and Washington Water Power (WWP).

According to Commissioner Judy Sheldrew, postponement was warranted because of a press release issued by the State Consumer Advocate, which may have raised additional issues that need to be considered by the PSC. "Since the [PSC] and many of the other parties have not had an opportunity to analyze or respond to the contents of the press release, we must allow additional time for all parties to review and comment," Sheldrew said.

She said that SPP already had expressed concern that the premature and incomplete release of details of the proposed settlement might cause some negative reaction in the financial community. Sheldrew added that commissioners in other states were concerned over how the merger savings would be distributed among Washington, Idaho, Oregon, Nevada, and California.

The settlement now before the Nevada PSC is the third one presented to it. The Consumer Advocate had signed the first two, which were sent back to the parties for renegotiation at the request of the PSC, which expressed a need for additional consumer projections. Sheldrew stressed that the present proposal may be sent back to the PSC in order to assure Nevada ratepayers are adequately protected.

NARUC ADOPTS RESOLUTION REGARDING SAFE DRINKING WATER ACT

The National Association of Regulatory Utility Commissioners recently adopted a resolution at its 1995 Summer Meetings held in San Francisco, California, concerning Safe Drinking Water Act legislation and supporting the efforts of the Safe Drinking Water Act coalition. The text of the resolutions appears below:

Resolution to Support NARUC's Participation in the Safe Drinking Water Act Coalition and Reaffirm the NARUC Principles Related to the Reauthorization of the Safe Drinking Water Act

WHEREAS, The Safe Drinking Water Act Coalition is an informal consortium of organizations representing State and local officials, including administrators, regulators and legislators who oversee the implementation of the Safe Drinking Water Act at the State and local levels, and organizations representing the owners and operators of water utilities of all sizes; and

WHEREAS, The Safe Drinking Water Act Coalition has worked to encourage the Congress to adopt legislation that strengthens and improves the Safe Drinking Water Act through reforms of the Act's requirements related to standard-setting, monitoring and administration, and by creating programs to assist small water systems, improve source water protection and establish a state revolving fund financing mechanism; and

WHEREAS, Such reforms and improvements are intended to enable States, local governments and water systems to more efficiently provide clean, safe drinking water and more effectively safeguard public health; and

WHEREAS, The National Association of Regulatory Utility Commissioners (NARUC), through its Water Committee, has supported the efforts of the Safe Drinking Water Act Coalition relative to the reauthorization of the Safe Drinking Water Act and has been involved with activities of the Coalition to ensure that water utility ratepayers are provided with clean, safe and affordable drinking water; and

WHEREAS, It appears the Congress will be considering legislation to reauthorize the Safe Drinking Water Act during the 104th Congress; now, therefore, be it

RESOLVED, That the Executive Committee of the National Association of Regulatory Utility Commissioners (NARUC), convened in its 1995 Summer Meeting in San Francisco, California hereby supports the efforts of the Committee on Water to work with the Safe Drinking Water Act Coalition to strengthen and improve the Safe Drinking Water Act through meaningful reforms; and be it further

RESOLVED, That the NARUC also supports its ongoing involvement with and participation in the efforts of the Safe Drinking Water Act Coalition; and be it further

RESOLVED, That the NARUC reaffirms the principles contained in the resolution adopted by the Executive Committee of the NARUC on March 4, 1993, regarding reauthorization of the Safe Drinking Water Act; and be it further

RESOLVED, That the NARUC reiterates its past resolutions and comments concerning the Safe Drinking Water Act.

Recent Regulatory Decisions

by Stephen B. Genzer and Mark L. Mucci
LeBouef, Lamb, Greene & MacRae, L.L.P.

MASSACHUSETTS COMMISSION ISSUES ADVISORY RULING CONCERNING SPECIAL PURPOSE CORPORATION TO UTILITY TAX EXEMPT FINANCING FOR SAFE DRINKING WATER ACT IMPROVEMENTS

The Massachusetts Department of Public Utilities (Department) has issued a rare advisory ruling concerning a proposal by Massachusetts-American Water Company (Company) concerning the regulatory status of a proposed special purpose corporation (SPC) to be formed by the Company's parent, American Waterworks Company (American). The Department determined that the proposed S.C. would not constitute a company subject to regulation as a utility by the Department, under the circumstances as described by the Company. The Department also approved the proposed project finance approach for the funding of this facility. *Re: Massachusetts-American Water Company*, Case No. D.P.U. 95-41, 161 PUR 4th 614 (May 3, 1995).

The Company proposed to develop a new water treatment facility, made necessary by requirements under the Safe Drinking Water Act, with an anticipated cost of nearly \$40 million. The Company proposed to employ a "project finance" approach, through tax-exempt bond financing obtained through a state industrial finance agency. The debt, to be issued by the SPC, would be secured principally by a mortgage on the facility itself. However, in order to bring this about, the facility must be owned by an entity other than the regulated utility, or else the terms of the utility's existing financing would make the facility subject to the Company's existing mortgage lien.

In order to utilize the facility for water treatment, the Company proposes to enter into a long-term ground lease and operating lease with the SPC, under which the Company will operate and manage the facility, and supply water for treatment at the facility. Revenues received by the SPC from lease payments would be used to pay the principal and interest on the tax-free bonds. Furthermore, in order to enhance the marketability of the bonds to be issued on behalf of the SPC, the operating lease will contain a provision requiring the utility to repurchase the facility from the SPC in the event that the Department approves a level of rate recovery which is not sufficient for the Company to meet the operating lease payments. In such events, the utility would obtain funds from its parents, American Waterworks Company, for the purchase of the facility.

The Company's first request to the Department was for a ruling that the SPC would not be deemed to be a utility subject to regulation by the Department. While noting that it normally declines to issue advisory opinions, the Department stated that the ruling here was requested in order to give effect to a relatively new financing scheme, being undertaken in part to mitigate the effect of rate increases on the utility's customers. The Department concluded that, based on the Company's representations that the SPC will not distribute or sell water, or own or lease transmission or distribution pipes for the delivery of water to customers, state law granting the Department jurisdiction over any company "engaged in the distribution and sale of water in the commonwealth through its pipes or mains" would not apply to the SPC. As a result, the Department advised that the proposed creation of the SPC would not constitute a "corporation" or "company" subject to regulation by the Department.

The Company had also requested that the Department render a determination as to the proposed fall back transaction, where if necessary the Company could purchase the facility from the SPC in the event that the level of rate recovery ultimately approved by the Department was insufficient for the Company to meet the operating lease payments. The Company asked for a finding that the contribution of capital by American, its parent, would not constitute a financing proceeding requiring further approval by the Department. In response, the Department noted that the financing statutes were designed "to protect both ratepayers and the investing public from the effects of fraudulent stock or bond transactions." The Department contrasted the purpose of the statutes with the cash infusion proposed by the Company, involving the "knowing and voluntary act of a sole shareholder, such as American, which is itself not a regulated gas, electric or water company, to infuse capital into its wholly-owned subsidiary." The Department concluded that such infusion of capital would not require additional approval by the Department through a financing proceeding.

Finally, in response to the Company's request, the Department opined that a project financing approach did not *per se* offend state law, and could be beneficial to a utility's ratepayers. The Department noted particularly that as the cost of new facilities mandated by the SDWA could exceed the financial capabilities of a particular company, a project finance approach could facilitate the construction of necessary improvements. The Department cautioned that it would still judge the prudence and rate-recovery eligibility of each such project on its individual merits, and could not "categorically determine that a project finance approach to financing major items of utility plant investment is a prudent, reasonable and acceptable financing methodology."

CALIFORNIA ADOPTS LEGISLATION ON REINVESTMENT OF GAINS ON SALE OF UTILITY PROPERTY

In a previous column, we had noted the decision of the California Public Service Commission in the case of Suburban Water System, in which the utility retained 100% of the gain from a sale of property for its shareholders, after its customers were made whole for any adverse affects from the sale. In later determinations, involving other companies and other facts, the commission had begun applying a 50% rule, providing half of the gain to the customers, and half to the shareholders. Recently, the California legislature enacted, and the Governor signed, a bill backed by the California Water Association, providing a means by which all of such gain would be provided to the shareholders, on the condition that it be utilized for investment in new utility infrastructure.

Under the new law, SB 1025, when a water corporation sells any real property which is no longer necessary for the provision of utility service, the net proceeds are to be invested in "water system infrastructure, plant, facilities, and properties." Such investment will be recognized as shareholder investment, on which a return would be payable. The law contains specific findings by the legislature that water corporations in such infrastructure will continue to be required by the State. It was further stated: "It is the policy of the State that water corporations be encouraged to dispose of real property that once was, but is no longer, necessary or useful in the provision of water utility service and to invest the net proceeds therefrom in utility infrastructure."

Under the new law, upon the sale of any real property that was once necessary for the provision of utility service, the net proceeds from such sale will be invested in water system infrastructure, plant, facilities, and properties. Each utility is to maintain records in order to document such investment, and such net proceeds shall be a primary source of capital for investment in utility infrastructure. After a period of eight years from the end of the calendar year in which any sale of property occurs, the balance of any net proceeds that are not so invested shall be allocated to the company's ratepayers. A water corporation with 10,000 or fewer service connections may apply to the Commission for an exemption from the requirements of the law. The law provides that all infrastructure, constructed or acquired through the investment of the proceeds from the sale of property no longer necessary for utility service, will be included among the utility's other property on which "the Commission authorizes the water corporation the opportunity to earn a reasonable return."

ILLINOIS COMMISSION APPROVES RATE DESIGN LIMITING INCREASE TO LARGE CUSTOMER TO FORESTALL LOSS OF SYSTEM LOAD

In a decision issued April 19, 1995, the Illinois Commerce Commission (Commission) approved an 18.27% general increase in water rates for Inter-State Water Company. Among the findings made in approving that increase was the determination by the Commission that the rate increase for the utility's largest customer could be limited to 6%, in light of a threat by that customer to leave the system if its rates were increased by more than that amount. The Commission determined that the limited increase would provide a contribution to fixed system costs, whereas if the customer left the system the remaining ratepayers would face unacceptably high rate increases. *Re: Inter-State Water Company*, Case 94-0270, 161 PUR 4th (1995).

Inter-State had filed a rate proceeding on June 1, 1994, requesting an increase in operating revenues of $2.3 million. Among the intervenors was Teepak, Inc. ("Teepak") and the City of Danville, Illinois. The Commission ultimately approved a rate increase of $1.296 million, an increase of 18.27%, after an extensive evaluation of the fully-litigated case. With regard to rate design, the commission was faced with testimony on behalf of Teepak, proposing that an upper-limit be set on the Large General Service Tariff (GST) rate. The Company had proposed an increase of 23%, and in response Teepak presented testimony that the rate proposed by the Company made a Teepak-owned water facility economically attractive. Teepak's witness added that if Teepak were to construct its own water production facility, the remaining customers of Inter-State would be required to absorb non-variable costs which the Company would no longer recover from Teepak. In support of its position, Teepak presented it director of corporate engineering, detailing Teepak's analysis of the cost of constructing and operating its own water facility. Teepak stated that it would remain on the system if its increase was limited to 4% to 6%.

After review of the evidence and all of the testimony, the Commission concluded that the GST rate class should be limited to a 6% increase. Teepak, the only customer taking service under the GST rate, accounts for approximately 15% of the total water sales of Inter-State. The Commission found that the uncontroverted evidence demonstrated that revenues from Teepak make a contribution to fixed costs, and that a higher increase would

(continued next page)

make it economically feasible for Teepak to leave the system and construct its own water treatment facilities. The shortfall in rates from limiting the GST rate schedule increase was made up for by adjusting the usage rates of all remaining customer classes. Such an adjustment was found acceptable by intervenor City of Danville, whose residents make up the bulk of Inter-States's customers.

CALIFORNIA COMMISSION APPROVES INCREASE TO PAY COSTS OF PILOT CONSERVATION PROGRAM

The California Public Utilities Commission (Commission) has approved a request from Southern California Water Company (Company) for increases in rates for two of its districts in order to pay the costs of the Company's participation in pilot programs to conserve water by providing free ultra low-flow toilets (ULFT) to low-income water users in those districts. *In re Southern California Water Company*, Decision No. 95-06-054 (June 21, 1995). The Commission decision was a review and approval of a stipulation reached between the Company and the California Division of Ratepayer Advocates (DRA).

As a conservation measure, the Company proposed to provide and install the ULFTs without charge in customers' homes. The Company provided an analysis showing calculations of water savings equalling the cost of the program within 2.7 years. The Company would implement the program in conjunction with the Basin Municipal Water District, with the District supplying matching funds in order to install 15,000 ULFTs. For the Company's costs of $217,665, it estimates annual savings for purchased water of $81,860.

The Company urged that its expenditure for the program be capitalized for ratemaking purposes because of the potential long-term benefits, including reduced operating expenses, reduced purchased water needs, and reduced investment in water production and treatment facilities. The Company added that it viewed its applications in this matter as an opportunity for the Commission to adopt a new policy applicable to all future utility conservation programs. The DRA stated that it supported the applications because it viewed them as cost effective measures.

The Commission concluded that it would approve the Company's request as a pilot program, and encouraged other utilities to adopt similar programs. However, the Commission stated that its approval was only a first step towards giving water utilities incentives to invest generally in water conservation. The Commission approved a 10 year amortization of the investment, for calculation of the return. The Commission concluded that placing water conservation investments into ratebase was only one of several methods which were available to provide water utilities with appropriate incentives to invest in conservation programs.

PENNSYLVANIA COMMISSION PROPOSES POLICY STATEMENT ON INCENTIVES FOR THE ACQUISITION AND MERGER OF SMALL, NON-VIABLE WATER UTILITIES

In an order issued July 10, 1995, the Pennsylvania Public Utilities Commission (Commission) proposed the adoption of a policy statement concerning the provision of incentives for the acquisition of small non-viable water utilities. Docket No. M-00950686 (July 10, 1995). The Commission observed that small water companies, that is, those serving fewer than 1200 customer connections, "experience the greatest difficulty meeting viability criteria." The Commission added that while over the years it has approved a number of acquisitions of non-viable water companies by larger, viable water companies, it appeared "that only a few additional acquisitions are likely to occur, at a time when many are sorely needed." The Commission concluded that it was necessary to provide assistance through "incentives to increase acquisitions of small troubled water companies."

The Commission noted several issues which contributed to the limited number of acquisitions of non-viable water systems. Such acquisitions are capital intensive, and typically require system improvements. In addition, the costs to comply with the Safe Drinking Water Act, as well as other infrastructure rehabilitation programs, have already had an impact on the capital budgets of the viable water companies. Finally, the costs necessary to improve the acquired non-viable systems could amount to an unfair burden on the existing customers of the acquiring, viable company.

As a result of all of these concerns, the Commission adopted its proposed policy statement providing incentives for the acquisition of small non-viable water utilities. The Commission acknowledged the New York Public Service Commission for providing a model for such acquisition incentives. Among the parameters outlined by the Commission in its policy statement are that the acquiring company meets the criteria of viability, and that such viability would not be impaired by the acquisition that the acquired company is not viable, including failing to comply with any order of the State Department of Environmental Resources or the Commission itself; that the acquisition would result in improved service, with necessary plant improvements being completed within a reasonable time period; that the purchase price for the acquisition be fair and reasonable; and that single tariff pricing should be applied to the rates of the acquired company, to the extent that such is reasonable. The Commission added that under certain circumstances of extreme differences in rates, or affordability concerns, consideration should be given to a phase-in of the rate difference over a reasonable period of time. Among the incentives to be provided for acquisition include additional rate of return basis points for certain acquisitions, or for certain improvement costs, as well as allowing the acquiring company to include reasonable excess acquisition costs in base rates and amortized as an expense over a 10 year period. The Commission will also consider allowing a plant improvement surcharge to be applied to the rates of customers of the acquired utility, in order to offset extraordinary improvement costs.

The Commission has published its proposed policy statement and encouraged the submission of comments regarding such statement within 30 days after its publication in the Pennsylvania Bulletin. We will keep track of the Commission's review of this matter, and advise of the Commission's final action in a future column.

Quorum Call

by Louis Jenny

The new Republican Congress started the year with grand expectations for big change and lots of activity. Though they certainly have been active, it is looking like the changes will be more moderate then originally advertised.

The Senate in particular seems to be fulfilling its design by being a moderating influence on the House of Representatives. For example, the House has passed broad and controversial pieces of legislation reforming the regulatory process and revising the Clean Water Act. In the case of regulatory reform, the bill had to be pulled from Senate consideration, and may be hopelessly deadlocked. As far as the Clean Water Act, the Senate has thus far not done anything, and clearly will not do anything as aggressive as the House. This has had effects on many pieces of legislation.

Safe Drinking Water Act Reauthorization

Expectations were that the Safe Drinking Water Act (SDWA) would see legislative activity early in the year, and that by now we would be close to seeing a reauthorization signed into law. This was largely because both chambers had acted on SDWA last year, and it was thought that it would be relatively easy for this act to be reauthorized.

However, it has thus far not been high on the agenda of the House of Representatives who were first distracted by the Contract with America, and now with a tough budget battle. The Senate looked like it would act first, but those close to the process in the Senate have been mired in tough negotiations which have slowed the process to a crawl. Now, in an effort to avoid a deadlock like those I mentioned earlier, EPA and leading Democrats have

been brought into the negotiations, pushing back the process further. Though formal activity on SDWA could begin this Fall, it seems very unlikely any final reauthorization will be signed by the President this year.

This, of course, brings us to next year which is a Presidential election year. Politics and the legislative process in particular always get unusually unpredictable in an election year, and election 1996 promises to be a spirited one. Therefore any guesses for next year, are probably not much more than just that.

(The NAWC, and its coalition partners, are currently involved with a grassroots campaign to encourage activity on the part of Congress. We are encouraging all interested parties to write to their elected officials regarding the need for SDWA reauthorization. Please take part in this. If you would like issue papers, draft letters, or addresses please contact me at the NAWC.)

CIAC Tax Repeal

I am glad to say that I can be a bit more optimistic on the CIAC tax repeal front.

The NAWC's Government Relations Committee met not long ago, and Congresswoman Nancy Johnson's chief of staff, Ron Lafrancois, came by to talk with us about CIAC. (Rep. Johnson, is the sponsor of CIAC tax repeal legislation in the House, and Mr. Lafrancois, as her Chief of Staff and Tax Counsel, is close to the issue.) He gave our chances of passage at better than 50/50. Though this may not sound great, these are probably better odds than we have seen in years.

The reasons for the comparative optimism are many.

First, in July the House Ways and Means Committee held hearings on a number of "Miscellaneous Tax Provisions." CIAC repeal was on the agenda put together by the committee, which by itself is a good sign. The NAWC, along with the National Association of Home Builders and the National Association of Regulatory Utility Commissioners submitted testimony in support of CIAC repeal.

Second, based on these hearings, we understand that committee staff is currently putting together a large bill comprising many of these provisions. It is likely that this bill will be considered by the Committee shortly after Labor Day. We don't know yet if CIAC repeal language will be included in that bill in the draft stage or if we will have to seek to have it added as an amendment during committee consideration. However, either way it is good news that the committee is just preparing to move an appropriate tax vehicle to which CIAC can be attached.

Third, as part of the process, the Treasury Department commented on all of the various provisions upon which the Ways and Means Committee heard testimony. Treasury has once again officially taken the position of "not opposing" repealing the tax. Which means, while they are not actively supporting it, they also aren't going to be an enemy.

(continued next page)

Quorum Call, continued

Finally, our co-sponsorship on the bills has risen to 50 in the House and 15 in the Senate. In both bodies we enjoy bipartisan support, and are well represented on the respective tax writing committees (about one-third of both the Senate Finance Committee and the House Ways and means Committee are cosponsors of our bills).

This all adds up to the aforementioned optimism, but there are still many hurdles to jump before we break out the champagne on CIAC. For example, if we are successful in including CIAC repeal as part of this miscellaneous bill the House Committee is contemplating, what happens to it then? Answer: It will likely be incorporated into the even larger "Budget Reconciliation" legislation which is expected this fall. This bill will reflect all of the various budget savings and tax adjustments designed to get the federal government on the path to a balanced budget in seven years. As you can imagine, this legislation, though not even written, is already shaping up to be a controversial package, and its path is uncertain. Congressional Democrats and the President will probably not like much of what the Congressional Republicans put in this bill, and it will become a political football. The President might even veto the first version of it. This could mean shutting down the government, though, so the President will probably have to sign the bill at some point.

In addition to these, we could see Senate activity on a Clean Water Act rewrite, the EPA funding debate in Congress has been and will remain contentious, work on the 1995 Farm Bill will be completed, and privatization legislation codifying Executive Order 12803 could move also.

Patrick Laidlaw (c), receives the J. J. Barr Scholarship and the Pennsylvania Chapter of NAWC scholarship. Pictured with James Groff, NAWC Executive Director (l) and Bob Ross, Pennsylvania-American Water Co. (r).

Gary Prettyman (second from right), NAWC New Jersey Chapter Chairman, presents one of the Chapter's two 1995 Scholarship Awards of $2,500 to Debra Lynn Lichtenberger, of Long Valley, NJ. Debra is pursuing an Associates degree in Chemistry at County College of Morris, Randolph, NJ. Also pictured are Janet Lichtenberger, Debra's mother, and Dr. Joseph Mele, Professor of Environmental Sciences, County College of Morris. A scholarship was also awarded to Eugene Fowler, Jr., Rahway, NJ, pursuing a Masters Degree in Geoscience at Montclair State University, Upper Montclair, NJ.

Water Main Installations are Nonshareholder Contributions to Capital

by Jorge A. Caballero, Partner
Deloitte & Touche LLP—Parsippany, N.J.

Earlier this year, the IRS ruled that amounts paid to a water utility by a telecommunications provider for water main installations were nonshareholder contributions to capital and therefore were excludable from the utility's gross income (PLR 9503011).

Background

The taxpayer is a public utility that provides water service within City Y to the general public and provides water for fire protection to the residents of the city without charge. A telecommunications corporation, which is also a public utility, was in the process of installing fiber optic telephone cable between various locations within the United States and across the Pacific Ocean to foreign countries. Due to adverse newspaper publicity, the telecommunications corporation decided to deviate from its original planned route to an alternative route through City Y. At the same time, in an attempt to generate goodwill for itself, the telecommunications corporation wanted to fund a local project that would be beneficial to the general public in the county in which City Y is located.

There were two public buildings which housed governmental departments that did not have water mains close enough to supply them with water service or water for fire protection. Both buildings had their own wells for normal water usage.

The telecommunications corporation arranged to have an additional water main and associated equipment installed in the same trenches as their telecommunications equipment so that water for fire protection could be available to the two public buildings as an attempt to benefit the general public and improve its public relations.

The taxpayer has never provided nor plans to provide water service to the telecommunications corporation. Also, the public buildings had their own wells that supply adequate water for non-emergency use, so it is not expected that the buildings will ever require day to day water service from the taxpayer.

The issue is whether the water service main and equipment additions constitute a Contribution In Aid of Construction (CIAC) and therefore must be included in the utility's gross income.

Analysis and Ruling

Internal Revenue Code (IRC) § 61 provides that gross income means all income from whatever source derived, unless excluded by law. IRC § 118(a) provides that, in the case of a corporation, gross income does not include any contribution to the capital of the taxpayer. IRC § 118(b) provides that the term "contribution to the capital of the taxpayer" does not include any contribution in aid of construction or any other contribution as a customer or potential customer.

IRC Notice 87-92 provides additional guidance on the treatment of contributions. In relevant part, it states that a payment received by a utility that does not reasonably relate to the provision of services by the utility or for the benefit of the person making the payment, but rather relates to the public at large, is not a CIAC. An example provided in the notice as a payment benefiting the public at large is a relocation payment received by a utility under a government program to replace utility lines. In that situation the relocation payment is not considered a CIAC where the relocation is undertaken for either reasons of community esthetics or in the interest of public safety and does not directly benefit particular customers of the utility.

In the instant case, the contributions to the taxpayer were considered to benefit the general public by offering additional fire protection which is for the benefit of all residents. Also, the telecommunications corporation was motivated by a desire to fund the project which will benefit the general public in City Y and thus generate goodwill and favorable publicity for itself, but did not anticipate receiving any future services from the utility taxpayer.

The ruling also discussed several court cases that involved nonshareholder contributions to capital. The ruling stated that the contributions to the taxpayer were more analogous to those situations whereby the payments were considered nonshareholder contributions to capital and therefore the contributions are not included in the taxpayer's gross income.

Conclusion

All transactions that involve payments for property and contributions of property to a public utility should be carefully reviewed to determine if they meet any of the conditions which allow for excluding such payments or contributions from the gross income of the utility receiving them. If they qualify for such an exclusion, care should be taken in planning and structuring the transaction to assure that the contractual agreement meets the conditions required by the particular exclusion.

Customer Service Report

We Do It All For You?

Moving Beyond Customer Service to Customer Satisfaction

by Lisa P. Oswald
Manager, Customer Service, BHC

It was a long day and I needed some fuel. So I pulled into the drive-thru at a local McDonalds. The photo on the outdoor menu made me salivate: big juicy chicken breast, lettuce, tomato, special herb sauce and, the topper, Monterey Jack cheese on a sesame seed bun. "Give me one of those," I said.

Rushing home, I unwrapped "dinner"—a dried-out piece of pressed chicken on a stale bun. OK, I'm not naive enough to believe everything I see, but this was the third time in less than a few months that they McBotched my order. (Hmm, maybe I'm working too hard.) These bad experiences colored my perception of not only the local franchise, but of the entire McDonalds corporation.

Even with the benefit of mega-millions of dollars of advertising telling me about "food, folks and fun," that *one personal contact* was a more powerful persuader, and I haven't been back to McDonalds since.

So what's the connection with drinking water? Let's face it. A burger is just a burger. But water is a product people cannot live without. If our personal contact with the customer isn't always the best it can be, it can seriously undermine the customer's confidence in our company. That goes for every single customer contact, day-in and day-out.

Think about the front-line service providers your customers meet every day; the employees who install meters, answer the telephone and process bill payments. If your customers believe your people are less than the best, they are more likely to believe their water supply is poorly managed. That relationship exists in the customer's mind. The mind amplifies the experience geometrically, bends it, shapes it and attaches it to everything the company does.

So, given the potential for these qualitative leaps, our challenge is to not view customer service as a task, to not measure the service we deliver by the number of telephone calls or service calls we handle every day. The *real* measure is customer *satisfaction*.

It's not enough for a customer service representative to say, "my job is to answer the phone eight hours a day." We must move employees' attitudes and actions from functional measures to qualitative measures. To a place where they immediately say, "my job is to create satisfaction."

The Elements of Excellent Service

Several elements must be in place in an organization in order to deliver excellent customer service. They represent the foundation for a customer-focused organization, regardless of size or place on the service continuum.

- *Build your customer service organization from the customer up.* Remember, your customer is the sole reason for being. Look at the service you deliver from the customer's point of view. Ask them what they expect from you.
- *Market research is essential to measure and improve service quality.* You must collect information to change for the better. Make certain you're asking the right questions. Then you'll be able to pinpoint where to expend resources in areas that make a difference in your customer satisfaction index.
- *Organizational culture change is the driver in a customer-focused company.* Your company's vision, values and goals must be compatible with that of a customer-focused organization.
- *View the customer as an asset.* Calculate their lifetime value and understand their worth to your organization.
- *Lead and motivate the service provider.* The service leader's role is not that of a manager, but a coach, a role model and a cheerleader. To deliver great external customer service, you and others in your organization must deliver great service to each other. And, you as the service leader, must be of service to your employees.
- *Plan for service recovery.* When service breaks down, apologize, fix it (right away) and go the extra step to atone for your actions and regain the customer's confidence.
- *Create service guarantees.* Stand behind your product or service, and do it in writing. This can be what differentiates you from the competition.
- *Never leave well enough alone.* Success often prevents organizations from staying competitive. It can create a sense of complacency that says, "we know how to do it, we've always done it this way and it's working." Dozens of companies who did not pay attention to what their customers were saying have paid the price.

The most compelling reason to deliver excellent customer is, first and foremost, service is important to customers. As the cost of water rises in response to regulatory requirements, price-sensitive consumers will demand value. Ask consumers in Milwaukee if they'd be willing to pay more for quality water, and I believe they'd say yes. I also believe consumers think about water differently than commodities like gas or electricity because it affects their health. And if they do not, the water industry should be working to champion that mindset.

Aquarion Announces Management Succession Plan

Aquarion Company announced a management succession plan effective on October 1, 1995. Under the plan, Jack E. McGregor will become chairman of the board. He succeeds William S. Warner, who will become vice chairman of the board of Aquarion.

Succeeding McGregor as president and chief executive officer of Aquarion will be Richard K. Schmidt, president and chief executive officer of IEA, the company's environmental testing laboratory subsidiary. David C. Houle, senior vice president and chief operating officer of IEA, will become president of IEA. The company also said that Janet M. Hansen, senior vice president and chief financial officer, will become executive vice president.

Commenting on the selection of Schmidt as CEO, McGregor said, "Knowing that Aquarion will be in the extremely capable hands of Rich Schmidt made this career transition possible. His strong business experience in building shareholder value for publicly traded companies, involvement with industry consolidation initiatives and his background with federally regulated businesses make him uniquely qualified to lead Aquarion."

McGregor noted that under Schmidt and Houle's leadership, IEA has become one of the 10 largest environmental testing laboratories in the U.S., despite a difficult market for environmental services. While at Aquarion, Schmidt has been actively involved in corporate-level matters including strategic and financial planning, environmental and water-related issues, and quality-improvement programs.

Prior to joining IEA in 1992, Schmidt served as president and chief operating officer of Mechanical Technology, Inc. in Latham, New York, from 1984 to 1991. Before that, he co-founded and was president and chief executive officer of Gundle Environmental System, an AMEX-listed company based in Houston. Schmidt began his career in 1971 at Ecodyne Corporation, where he served in successively more responsible management and executive positions.

Schmidt graduated from Tulane University, where he received a bachelor of science degree in civil engineering and a master of science degree in environmental civil engineering. He earned a doctorate in environmental engineering from the University of Texas, and completed the Program for Management Development at Harvard Business School. He currently serves as a vice president and a member of the board of directors of the International Association of Environmental Testing Laboratories. Schmidt and his wife, Claudette, who have three grown children, will be relocating to Connecticut from North Carolina.

His successor as president of IEA, Dave Houle, joined IEA in 1991 as vice president of administration. Prior to that, he had served since 1982 in positions of increasing responsibility at Aquarion's forest products subsidiary, Timco, where he

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Jack E. McGregor


Richard K. Schmidt, Ph.D.


Janet M. Hansen

became president in 1985 and helped return the company to profitability in 1986. Houle is a graduate of Plymouth State College in New Hampshire.

Hansen was elected senior vice president of Aquarion in April 1993 and vice president and chief financial officer in April 1992. She has served as treasurer since 1988, has been a vice president of BHC, Aquarion's water utility subsidiary, since 1989 and was named its chief financial officer in April 1991. She joined the company in 1975, serving in various accounting and finance positions of increasing responsibility.

A graduate of Salem State College in Salem, Massachusetts, she holds an M.B.A. in finance from the University of Connecticut. Hansen, a Trumbull resident, is a director of the UST Bank of Connecticut, the Trumbull Chamber of Commerce, and the Greater Bridgeport Area Foundation, and is a trustee of the Connecticut Policies and Economic Council.

McGregor, who has headed Aquarion during a period of growth and expansion for the company, is stepping down to embark on a career focused on economic development activities in the Bridgeport region. During his tenure, he led a dramatic restructuring of its water utility subsidiaries, and the company developed a unique strategy and approach to marketing its surplus, off-watershed land to bring extra value to shareholders. Additionally, the company has been recognized for its excellence in environmental responsibility, community involvement and customer service.

McGregor joined Aquarion's predecessor company, The Hydraulic Company, in 1985 as executive officer of the company in 1990. He is a graduate of Yale University and University of Pittsburgh Law School, and was a captain in the U.S. Marine Corps.

He is a past president of the National Association of Water Companies and chairman of the Bridgeport Regional Business Council, and served as co-chair of Connecticut Governor John Rowland's transition team. McGregor is a director of several companies and organizations and serves on the Governor's Bridgeport Regional Economic Development Committee.

IWC Resources Corporation and Miller Pipeline Corporation Merge

Representatives of IWC Resources Corporation (Resources) and Miller Pipeline Corporation (MPC) announced today that they have entered into a definitive agreement by which MPC will merge into Resources as a wholly owned subsidiary.

MPC, headquartered in Indianapolis, Indiana, was founded in 1953 by Don W. Miller. MPC's business is divided into two major divisions: Construction, and Products and Services. The Construction Division works primarily for natural gas utilities, installing, repairing, and maintaining pipelines used in their transmission and distribution systems. The Products and Services Division performs technical repair and installation services and sells sealing products for the natural gas, water, and sewer industries through full-time sales personnel located throughout the country.

The Millers stated, "Of the many companies that had approached us over the years, Resources was the best fit, because of a complementary philosophy of customer service, employee relations, and local ownership." Don Miller noted that employees and customers of MPC will both benefit from the new relationship.

Approximately 60% of the purchase price to be paid to MPC shareholders in the merger will be in common stock of Resources, with the balance in cash. The merger is subject to certain conditions, and is expected to close before the end of 1995.

Resources is a holding company which owns and operates six subsidiaries including the Indianapolis Water Company and Harbour Water Corporation; SM&P Utility Resources, Inc. (provides underground facility locating services for the utility industry); Utility Data Corporation (provides customer relations, billing and other data processing services for water and sewer utilities); Waterway Holdings, Inc. (owns real estate primarily related to the water utility source of supply that it expects to develop in the future); and IWC Services (the majority partner in the White River Environmental Partnership, which operates and maintains the two advanced wastewater treatment facilities for the city of Indianapolis).

The common stock of Resources is traded on the NASDAQ National Market System under the symbol of IWCR.

At present, approximately 70% of MPC's revenues are derived from the Construction Division and 30% from the Products and Services Division. MPC has steadily grown over the years to now include offices in New Jersey, Kansas, Massachusetts, Illinois, California, as well as its offices in Ohio and Indiana. MPC had revenues for its latest fiscal year, ended March 31, 1995, in excess of $50 million. The company employs more than 600 persons.

Founder Don W. Miller will continue as chairman of the board and Dale R. Miller will continue as president and chief operating officer and director of MPC, both under employment agreements. Other directors of this new Resources' subsidiary will include Douglas Banning, Joseph R. Broyles, James T. Morris, and J.A. Rosenfeld.

James T. Morris, chairman of the board and chief executive officer of Resources, stated, "The board and I could not be more excited about this merger. Don Miller and his associates have built a remarkable company with an exceptional commitment to their customers. The long history that MPC has achieved with its technical innovations, high quality service, employee relations, and a remarkable customer service record, fit perfectly into Resources' philosophy and strategic plan to grow the Resources family into a large, high quality customer service oriented utility and utility-related services business. This transaction will add incremental earnings per share for the benefit of all Resources' shareholders."

IWC Resources Executive Changes Announced

James T. Morris, chairman of the board and chief executive officer of IWC Resources Corporation, announced certain changes in executive responsibilities as a result of the merger of Miller Pipeline Corporation into Resources in order to effectively manage the growing Resources family of businesses.

The operating companies will be divided into two divisions according to business sector lines–utility and utility related services. A new Resources division, IWC Industries, is being formed to manage the utility related services and will include Miller Pipeline Corporation and SM&P Utility Resources, Inc. Joseph R. Broyles, currently president and COO of the Indianapolis Water Company, will become the president of IWC Industries.

IWC Utilities, is being formed to manage the direct utility service companies and includes the Indianapolis Water Company; Harbour Water Corporation; IWC Services, Inc. (the majority and managing partner of the White River Environmental Partnership, which operates and manages the two advanced wastewater treatment facilities for the city of Indianapolis); Utility Data Corporation (which provides customer relations, billing and other data processing for water and sewer utilities); and Waterway Holdings, Inc., the real estate subsidiary. J.A. Rosenfeld, executive vice president and chief financial officer of Resources and its subsidiaries, will become president of this new entity, as well as the Indianapolis Water Company.

Moerbeek Joins Southwest Water

Southwest Water Co. announced that Peter J. Moerbeek has joined the company as vice president, finance, and chief financial officer. In that capacity, he will oversee the corporation's finance, control and information systems and provide guidance in strategic planning and growth.

Anton C. Garnier, President and Chief Executive Officer of Southwest Water Company, said, "Pete Moerbeek's business development experience and extensive background in financial management will be of great value to Southwest Water. He will play a significant role in the continued growth and profitability of our company, both in the utility and contract service business divisions."

Commenting on his new position, Moerbeek said, "I am exited about joining the Southwest Water management team. I believe that the company has significant growth potential in the public-private partnership segment of the service industry. I look forward to working with the team to increase the company's profitability and stockholder value."

Moerbeek was formerly Executive Vice President–Finance and Operations for Pico Products Inc., a publicly held manufacturer and distributor of electronic equipment for the cable television and telecommunications industries. Prior to that, he served in financial executive capacities for Ortel Corporation, Eisenman Chemical Company and Oroweat Foods. His career also includes public accounting experience with Price Waterhouse and Arthur Young. Moerbeek, a certified public accountant, received his MBA in Accounting and a BS in Electrical Engineering from the University of Washington.

Consumers New Jersey Water Company Names New President

Paul D. Schumann, Senior Vice President of Consumers Water Company announced that the Board of the Company's Consumers New Jersey Water Company (CNJWC) subsidiary is appointing Sharon E. Schulman as President of CNJWC, effective August 14, 1995.

Schumann stated that Schulman's experience in marketing and community relations, as well as her regulatory background, will serve her well in managing and growing the New Jersey water utility. Schulman most recently was Manager, Community, Governmental and Regulatory Planning for Atlantic Electric, a large New Jersey electric utility company. Prior to joining Atlantic Electric, Schulman was Chief Executive Officer of the New Jersey Board of Regulatory Commissioners and before that, served as Chief of Staff of the same Board. Schulman also founded and was a principal of Spe-Schul Communications, a public relations and advertising firm specializing in service industries.

Schulman's educational background includes an M.A. in Public Relations and a B.S. in Biomedical Communications. She resides in Vineland, New Jersey.

Stoffel Joins Coopers & Lybrand

Gerry Stoffel has recently joined the Human Resource Advisory Group at Coopers & Lybrand LLP as a Senior Consultant. Prior to joining Coopers & Lybrand, Gerry had his own consulting firm, Saje Consulting Group, Inc. Saje has conducted an annual compensation and benefits survey among NAWC member companies for the past four years. The most recent survey was distributed to survey participants in September. Gerry will be continuing the survey in future years at Coopers & Lybrand. Gerry can now be reached at (215) 963-8447 or fax (215) 963-3637.

Becker Joins Southwest Water

Southwest Water Company announced that Edward R. Becker has joined ECO Resources Inc., the company's rapidly growing contract service business subsidiary, as Director and Senior Consultant.

Becker has more than 25 years of technical and management experience in water supply and wastewater treatment. Currently owner and president of Novus Utility Services Inc., Becker is a professional engineer. He received his B.S. in Civil Engineering from Utah State University and his M.S. in Environmental Engineering from California State University in San Jose. His career includes 10 years with Envirotech Operating Services Inc. (EOS), a division within the Waste Management Inc. family of companies. At EOS, Becker served as president from 1986 to 1991 and guided the company to earn more than 50 operation and safety awards.

Anton C. Garnier, president and chief executive officer of Southwest Water Company, said, "I am extremely pleased to welcome Ed Becker to our organization. His broad background and expertise in water and wastewater management, process control, client relations and contract administration will be of significant value in helping ECO Resources continue its strategic growth in the contract operation and maintenance of water and wastewater facilities."

Becker said, "I look forward to working with all the fine people at ECO Resources. The service industry is a growth industry, and I intend to help ECO Resources benefit from this expanding market."

ECO Resources has secured seven new contracts in 1995, which will generate more than $24 million in revenue over their initial five-year terms. The subsidiary has recently expanded into three new geographic markets, including California's Central Valley, west Texas, and New Mexico.

Gottschalk Joins AWM

Applied Watershed Management LLC has announced that Kevin Gottschalk has joined the company as business development manager. Gottschalk brings 17 years of business development and technical services expertise to the industrial marketplace, with specialization in water and wastewater systems operation. He is an accomplished environmental consultant whose knowledge spans such environmental arenas as oil refineries, chemical plants, integrated pulp and paper mills, and electric utility/cogeneration facilities.

Applied Watershed Management (AWM) is a joint venture of E'town Corporation and Applied Wastewater Technology (AWT) that pursues opportunities related to water quality management including design, financing, construction and operation of water and wastewater facilities.

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Jim Good, Vice President of Corporate Communications and Marketing for California Water Service Company (l), and Jim Smith, Manager of the company's Salinas District (r), present Roya Camp, a reporter with the Salinas Californian, with the NAWC Good Journalism Award for her coverage of water issues affecting Monterey, California.

Water Company Dedicates New Facility

Consumers Pennsylvania Water Company, Roaring Creek Division, celebrated its new water filtration plant with a dedication ceremony and open house on August 17th. The plant brings customers the latest in water treatment technology and will provide extra protection from harmful bacteria. Built to comply with state and federal regulations, the facility represents the largest investment in the company's 111-year history.

The new filtration plant at Consumers Pennsylvania Water Company, Roaring Creek Division, went into service in June, 1995. The plant filters water, providing an extra layer of protection against waterborne contaminants.

"In addition to providing multi-barrier protection from bacteria like cryptosporidium and giardia, this state-of-the-art facility will improve the taste and smell of the water," said Richard Subasic, vice president and general manager, CPWC, Roaring Creek Division. The new plant will provide more reliable removal of naturally-occurring minerals like manganese and iron, reduced levels of chlorine, and the flexibility to treat changing surface water characteristics. The facility is also easily expandable to accommodate future state and federal regulations.

The plant draws water from CPWC's watershed, located on over 12,000 acres of forested land. The raw water can be supplied through the new Bear Gap Pumping Station or drawn by gravity from a reservoir in the watershed. Upon reaching the treatment facility, the raw water is injected with small doses of chemicals which promote the collection of very fine particles into larger, more manageable solids. After the chemicals are dispersed in the raw water, the water is slowly mixed to further promote the collection of fine particles.

The water then flows through one of two settling basins to remove the large particles by gravity. Each of these basins is equipped with Lamella Plate type settlers, which increase the capacity of the settling basins over that offered by conventional basins and provide superior particle removal at a reduced cost. From the basins, the water flows to one of four multi-media filters for removal of any fine suspended particles that remain. The filters consist of three separate granular media which work in harmony to remove the smallest-sized particles.

After the water has been filtered, it is disinfected with chlorine, providing the extra measure of protection against waterborne disease. The chlorine is added as water flows to the 1 million gallon reservoir, which allows sufficient contact time to ensure proper disinfection. In addition to coagulant, polymers and chlorine, caustic soda and lime are added to the treatment process at various locations to adjust the pH of the water and make it more treatable. A polyphosphate is added to guard against corrosion of the water mains in the distribution system.

Philadelphia Water Commissioner Kumar Kishinchand (l) presents the Samuel S. Baxter Award to Philadelphia Suburban Water Company Chairman Nicholas DeBenedictis. The Baxter Award is the organization's most prestigious award and is given to an individual whose contributions to water resource management exemplify the standards of the former Philadelphia Water Commissioner for whom the award is named.

Southwest Contract in El Paso

Southwest Water Company has announced further growth at ECO Resources Inc., its service business division. The subsidiary has been awarded a five-year, $4 million contract to operate and maintain the water supply and wastewater treatment systems for the El Paso County Water Authority in Horizon City, Texas. The contract officially began on August 1.

Commenting on the new contract, Southwest Water president Anton C. Garnier said, "We are excited about this opportunity to be of service to the El Paso County Water Authority for two reasons. First, this contract marks our entry into the El Paso-area marketplace. Second, it represents important progress in our strategy of service business development as the seventh new contract acquired in 1995. Most recently, we announced new contracts in Rio Rancho, New Mexico and Taft, California. Together, they will generate more than $20 million in new business revenue over their initial five-year terms."

ECO Resources' general management responsibilities under the El Paso County Water Authority contract include daily operations and maintenance of the water and wastewater systems in a 225 square-mile service area with a population of roughly 8,000. Facilities include nine water wells, five water storage tanks, five sewer lift stations and a wastewater treatment plant that processes half a million gallons of sewage daily. ECO Resources will also be responsible for meter reading, billing and collection, full district accounting, and capital expense planning.

Operating under an Agreed Order issued in April of this year by the Texas Natural Resources Conservation Commission, the Water Authority will issue $8.6 million in bonds on August 30, 1995, to improve water quality, water supply and wastewater treatment capacity. ECO Resources' scope of work under the new contract will include oversight responsibility for the development of two water well fields, construction of a water quality "blending pipeline," and the planning, design and construction of a new wastewater treatment facility.

Elizabethtown Recognized for Outstanding Safety Record

Elizabethtown Water Company, of Westfield, was recently recognized for its continuing commitment to safety when it was presented the Liberty Mutual Silver Award for its outstanding achievement of having 1,000,000 work hours without a lost-time injury.

Michael Blancato, Assistant Manager–Operations Services was presented the 8 x 10 inch satin finished plaque by Liberty Mutual's Dennis Dougherty, Senior Loss Prevention Consultant.

Elizabethtown Water Company, received assistance from Liberty Mutual in developing safety training, routine safety inspection procedures, employee safety incentives and safety meeting formats, all helping to contribute to its award winning safety record. The Silver Award is one of the most prestigious recognitions Liberty Mutual awards its policyholders in the area of loss prevention.

(l to r) Michael Blancato, assistant manager—operations services, Elizabethtown Water Company; Dennis Dougherty, senior loss prevention consultant, Liberty Mutual Insurance; Michael Kebles, director—operations services and safety, Elizabethtown Water Company, and Edward Cash, vice president—customer services.

Suburban Participates in Dedication of Treatment Plant

Suburban Water Systems and several public agencies dedicated the Big Dalton Wellhead Treatment Plant as part of a public-private partnership aimed at restoring and protecting the San Gabriel Valley Basin's groundwater.

In cooperation with the Water Quality Authority, a local agency charged with coordinating groundwater clean-up programs, Suburban will operate and maintain the treatment plant. Upon completion of the project, the plant will extract and treat approximately 1.3 billion gallons of groundwater per year, providing water to about 6,000 families within Suburban's service area.

According to Senior Vice President Reg Stone, Suburban is pleased to participate in a program that is aimed at protecting its most vital asset, the San Gabriel Valley Basin. "As stakeholders in the Basin, we are committed to working with other agencies in groundwater clean-up programs," he said. "We will ensure water supply, quality and reliability for future generations through the support of the Water Quality Authority, U.S. Congressman Esteban Torres, the Main San Gabriel Basin Watermaster and other involved parties."

The San Gabriel Valley Basin is a 160-square-mile area that supplies drinking water to more than one million people. The Basin is listed as a "Superfund" site by the U.S. Environmental Protection Agency. The Big Dalton Well, owned by Valley County Water District, was closed in 1985 after volatile organic compounds were found. To remove these contaminants, the treatment plant will use a granular activated carbon system. This project and similar treatment sites will prevent the movement of contaminated plumes into clean aquifers.

Congressman Torres, who represents a portion of the San Gabriel Valley, told the audience at the dedication that the Superfund program needs reform, but is still a valuable tool.

"Our experience here in the San Gabriel Valley demonstrates that many aspects of the Superfund can work effectively if there is innovation and flexibility," Torres said. He added that progress on the cleanup shows that "creativity, diligence and cooperation can resolve the thorniest and hardest of problems."

The project is funded by the State of California Department of Toxic Substances Control through a $2 million grant and represents efforts by public/private agencies to coordinate a cooperative groundwater clean-up program.

Michael A. Kaheo, deputy secretary of the California Environmental Protection Agency, said the project is a significant advance that will help block the movement of contaminated groundwater. "This is a good example of people deciding to move forward and deal with the problem."

Wayne Shirley Named Chairman

Wayne Shirley was named by Governor Gary Johnson as Chairman of the New Mexico Public Utility Commission on July 17, 1995. Chairman Shirley from Corrales, New Mexico, a long time regulatory attorney, was appointed by Governor Johnson to fill the term of former Commissioner Mary McInerny. He was confirmed by the New Mexico State Senate on March 18, 1995 and his term will end January 15, 1999.

Before coming to the Commission, Chairman Shirley was in private practice, primarily in the areas of corporate and public utilities law. During the 1980's he also represented residential ratepayers and industrial energy consumers in several Commission cases.

Chairman Shirley spent four years with the Albuquerque law firm of Campbell, Pica and Olson, where he presented the New Mexico Industrial Energy Consumers, a group of the state's largest industrial energy users including Intel.

The new Chairman was also head of the energy unit for the state Attorney General's Office under Paul Bardecke from 1983 to 1986. The purpose of the attorney general's energy unit is to represent residential ratepayers in utility matters.

Southwest Water Announces Contract

Southwest Water Company announced that ECO Resources Inc., its service business subsidiary, has been awarded a five-year, $5.3 million contract to operate and maintain the wastewater treatment and sewage collection systems in the City of Barstow, California. This is the eighth new contract acquired by ECO Resources this year. These contracts will generate roughly $30 million in additional revenue over their initial five-year terms.

The new agreement was approved by the Barstow City Council on August 21. Under the terms of the contract, which formally began on September 1, ECO Resources will operate and maintain the city's wastewater treatment plant that processes 2.75 million gallons of sewage daily. In addition, the company will be responsible for operating and maintaining the wastewater collection system, including 80 miles of sewer pipeline. With a population of approximately 23,000, Barstow is located in California's high desert, roughly 130 miles northeast of Los Angeles.

Southwest Water president Anton C. Garnier said, "The $5.3 million Barstow contract marks yet another milestone on our path of strategic growth. We are very pleased to be able to provide the City of Barstow with the high-quality service that has made ECO Resources an industry leader. This contract represents the fourth new geographic region into which ECO Resources has expanded in 1995, following west Texas, New Mexico and California's Central Valley. Looking ahead, we will continue to aggressively pursue new business opportunities."

Cal Water Wins Menlo Park

The Menlo Park City Council awarded California Water Service Co. a contract to provide "customer services" for the Menlo Park Municipal Water System beginning October 1. "Customer Services" includes meter reading, billing, taking customer calls and investigating customer inquiries. Turn-ons/turn-offs and repairs for the 3,900 customers of the city system will be performed by existing municipal employees.

"Under this contract, everyone wins. The city will realize administrative and overhead savings; that means tax savings for city residents. It also means savings for our existing customers by spreading fixed costs across a larger customer base," said Donald L. Houck, President and Chief Executive Officer. "With our significant economies of scale and experience operating municipally-owned water systems, Cal Water is well positioned to provide service contracts like these economically and efficiently," explained Houck. "I expect the number of these contracts awarded to Cal Water to increase over the next few years."

Welcome to

Our Newest Member Companies

Aaronrod Co., Inc.
Waverly, PA

Lake Meadows Water Co.
Delmar, NY

Lakeland Estates Water Co.
Omaha, NE

Trails End Utility Co.
Oak Hall, VA

Watertek Inc.
Salinas, CA

Rose Valley Water Co.
Green Valley, AZ

Rosemount Water Co., Inc.
Reno, NV

Walloon Lake Water System, Inc
Walloon Lake, MI

Our Newest Associate Members

Ahmed Akacem
Transversal Technologies, Inc.
New London, NH

Robert V. Arndt
Advance Tank and Construction Co.
King of Prussia, PA

Frank S. Brainard
F. S. Brainard & Co.
Burlington, NJ

Paul S. Daily
Orion Group Software Engineers
Indianapolis, IN

A. David Degann
Alexander & Alexander Consulting Group
Lyndhurst, NJ

Thomas J. Purvenas
P. Moul & Associates
Cherry Hill, NJ

DATES TO REMEMBER 1 • 9 • 9 • 6

NAWC

California Water Association
BoD Meeting
San Jose, CA
January 11

Pennsylvania Chapter BoD Meeting
Hershey, PA
January 17

New Jersey Chapter Meeting
Jamesburg, NJ
January 19

Washington Chapter Meeting
Olympia, WA
February 6

California Water Association
BoD Meeting
Carson, CA
February 9

Illinois-Missouri Chapter Meeting
Belleville, IL
February 14

Pennsylvania Chapter BoD Meeting
Hershey, PA
February 21

Florida Chapter Meeting
Orlando, FL
March 13

California Water Association
BoD Meeting
Sacramento, CA
March 14

New Jersey Chapter Meeting
Jamesburg, NJ
March 15

Pennsylvania Chapter BoD Meeting
Hershey, PA
March 20

California Water Association
BoD Meeting
Covina, CA
April 11

Pennsylvania Chapter
Customer Service Seminar
Harrisburg, PA
April 17

Pennsylvania Chapter BoD Meeting
Hershey, PA
April 24

New England Chapter Meeting
May 3

NAWC Eastern/Midwestern
Customer Service Conference
Nashville, TN
May 6–8

California Water Association
Spring Meeting
Sacramento, CA
May 6–8

NAWC Executive Committee Meeting
Washington, DC
May 7

NAWC Board of Directors Meeting
Washington, DC
May 8

Washington Chapter Meeting
Fife, WA
May 7

New Jersey Chapter Meeting
Jamesburg, NJ
May 10

Pennsylvania Chapter BoD Meeting
Hershey, PA
May 15

Florida Chapter Meeting
Orlando, FL
June 12

New Jersey Chapter
Annual Meeting
Jamesburg, NJ
June 14

Pennsylvania Chapter BoD Meeting
Hershey, PA
June 19

California Water Association
Meeting
Napa Valley, CA
July 11–12

Pennsylvania Chapter BoD Meeting
Hershey, PA
July 17

Washington Chapter Meeting
Fife, WA
August 6

California Water Association
BoD Meeting
Sacramento, CA
August 16

Pennsylvania Chapter BoD Meeting
Hershey, PA
July 17

Pennsylvania Chapter BoD Meeting
Hershey, PA
August 21

Pennsylvania Chapter
Legislative Golf Outing
Hershey, PA
September 10

Florida Chapter Meeting
Orlando, FL
September 11

California Water Association
BoD Meeting
San Jose, CA
September 12

New Jersey Chapter Meeting
Jamesburg, NJ
September 20

Pennsylvania Chapter
Annual Meeting and Dinner
Harrisburg, PA
September 24

NAWC Annual Conference
Orlando, FL
September 29–October 3

California Water Association
BoD Meeting
San Jose, CA
October 10

Pennsylvania Chapter BoD Meeting
Hershey, PA
October 16

Washington Chapter Meeting
Fife, WA
November 5

New Jersey Chapter Meeting
Jamesburg, NJ
November 8

Pennsylvania Chapter BoD Meeting
Hershey, PA
November 20

California Water Association
55th Annual Meeting
Monterey, CA
November 20–22

Florida Chapter Meeting
Orlando, FL
December 11

Pennsylvania Chapter BoD Meeting
Hershey, PA
December 18

NARUC

NARUC Winter Committee Meeting
Washington, DC
February 25–29

16th NARUC Annual Western
Water Utility Rate School
San Diego, CA
April 21–26

19th National Conference of
Regulatory Attorneys
Clearwater Beach, FL
June 2–5

Southeastern Association of
Regulatory Utility Commissioners
Point Clear, AL
June 2–6

55th Western Conference of
Public Service Commissioners
Snowbird, UT
June 9–13

Mid-America Regulatory
Commissioners
Chicago, IL
June 16–19

74th National Conference of
Regulatory Utility Commission
Engineers
Clearwater, FL
June 17–20

41st Great Lakes Conference of
Public Utilities Commissioners
Cleveland, OH
July 7–11

NARUC Summer Committee
Meetings
Los Angeles, CA
July 21–25

10th NARUC Biennial Regulatory
Information Conference
Columbus, OH
September 11–13

NARUC Basics of Regulation and
the Rate-Making Process Course
Albuquerque, NM
October 13–18

NARUC Eastern Utility Rate
Seminar
Clearwater Beach, FL
October 20–25

198th NARUC Annual Convention
San Francisco, CA
November 18–21

AWWA

Annual Conference
Toronto Sheraton
June 23–27

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