



THE METROPOLITAN WATER DISTRICT
OF SOUTHERN CALIFORNIA

CHRONOLOGY OF METROPOLITAN'S NOVEMBER 15, 2019 OFFER TO COMPROMISE AND SDCWA'S DECEMBER 19, 2019 PROPOSAL

Date	Event
2010	
June 2010	SDCWA files first case challenging Metropolitan's rates. Additional cases are filed with each rate setting in 2012, 2014, 2016, 2017, and 2018. All cases are pending final resolution.
2015	
November 2015	Trial court judgment in the 2010-2012 cases. The parties each prevail on claims. SDCWA is awarded contract damages in the amount of \$188,295,602 plus interest.
2017	
June 2017	In a published decision, the California Court of Appeal reverses a portion of the trial court judgment and finds that it is legal for Metropolitan to include State Water Project transportation costs in the System Access Rate and System Power Rate that are part of the price term of the exchange agreement. This reduces the damages award by approximately \$140 million. The cases are remanded to the trial court for recalculation of damages, redetermination of the prevailing party, and other proceedings.
September 2017	The California Supreme Court denies SDCWA's petition for review of the Court of Appeal decision.
November 6, 2017	Meeting between SDCWA and Metropolitan settlement teams to discuss the litigation.
2018	
March 18, 2018	SDCWA and Metropolitan enter into a confidentiality agreement for settlement discussions. Negotiation teams comprised of each agency's Chair, two board members, the General Manager, and General Counsel start formal settlement negotiations.
March 26, 2018	Confidential settlement meeting.
April 23, 2018	Confidential settlement meeting.

Date	Event
June 14, 2018	Confidential settlement meeting.
September 21, 2018	Confidential settlement meeting.
October 25, 2018	SDCWA Board Chair Madaffer sends a public settlement offer to members of the California Legislature, the press, and Metropolitan's Board.
October 2018	Metropolitan declines to engage in public settlement negotiations. Confidential settlement meetings by the negotiation teams continue.
November 5, 2018	Confidential settlement meeting.
2019	
April 17, 2019	Confidential settlement meeting.
May 21, 2019	Confidential settlement meeting.
June 4, 2019	Confidential settlement meeting.
June 25, 2019	Confidential settlement meeting.
July 24, 2019	Confidential settlement meeting.
July 25, 2019	SDCWA General Counsel Hattam sends a letter to Metropolitan General Counsel Scully stating that SDCWA will ask the court to proceed with litigating the 2010-2012 cases, which had been on stay.
July 2019	SDCWA Board Chair Madaffer concurrently advises Metropolitan Board Chairwoman Gray of SDCWA's decision to move forward with the remand trial.
August 16, 2019	SDCWA files a request asking the court to schedule the remand trial.
October 2019	SDCWA Board Chair Madaffer advises Metropolitan Board Chairwoman Gray that SDCWA did not want to set additional dates for settlement discussions.
November 7, 2019	Metropolitan agendas a special board meeting to authorize an Offer to Compromise the <i>SDCWA v. Metropolitan</i> cases.

Date	Event
November 8, 2019	<p>SDCWA Board Chair Madaffer sends a letter to Metropolitan Board Chairwoman Gray “[t]o follow up on our call earlier this week regarding next week’s special board meeting to discuss the rate litigation,” stating that he believes part of the litigation could be resolved and part could remain on stay.</p> <p>(Both agencies’ Boards are cc’d.)</p>
November 12, 2019	<p>Metropolitan’s Board authorizes the Offer to Compromise under Code of Civil Procedure Section 998.</p>
November 12, 2019	<p>SDCWA Board Chair Madaffer sends a letter to Metropolitan Board Chairwoman Gray seeking confirmation that approval of the City of San Diego’s Pure Water Local Resources Program application is not contingent on settlement, and suggesting ways to progress toward settlement.</p> <p>(Both agencies’ Boards are cc’d.)</p>
November 15, 2019	<p>Metropolitan’s litigation counsel delivers the Offer to Compromise to SDCWA’s litigation counsel. The statutory Offer to Compromise is not confidential and may be distributed publicly.</p>
November 15, 2019	<p>SDCWA General Counsel Hattam emails a letter to Metropolitan General Counsel Scully, dated November 11, 2019, suggesting a public settlement process.</p> <p>(SDCWA’s Board is cc’d.)</p>
November 15, 2019 evening	<p>SDCWA’s “MWD Program” email address emails the November 15 letter (dated November 11) to Metropolitan’s Board.</p>
November 18, 2019	<p>Metropolitan General Counsel Scully sends a letter to SDCWA General Counsel Hattam responding to the November 15 letter (dated November 11), restating the course of events, and stating Metropolitan’s view is the SDCWA Board should give serious consideration to the Offer to Compromise prior to seeking an alternative settlement process.</p> <p>(Both agencies’ Boards are cc’d.)</p>
November 18, 2019	<p>The November 15 letter (dated November 11) is postmarked by the U.S. Postal Service.</p>
November 22, 2019	<p>SDCWA General Counsel Hattam sends a letter to Metropolitan General Counsel Scully requesting an extension on the Offer to Compromise’s 30-day statutory period and requesting discussion by the agencies’ General Managers and Boards.</p> <p>(Both agencies’ Boards are cc’d.)</p>

Date	Event
November 25, 2019	<p>Metropolitan General Counsel Scully sends a letter to SDCWA General Counsel Hattam declining the extension request, stating that the Offer to Compromise is not a subject for public negotiation, offering that Metropolitan’s General Manager Kightlinger could answer questions at SDCWA, and restating the course of events.</p> <p>(Both agencies’ Boards are cc’d.)</p>
December 2, 2019	<p>SDCWA General Counsel Hattam sends a letter to Metropolitan General Counsel Scully requesting the Metropolitan Board consider SDCWA’s request for an extension to respond to the Offer to Compromise, reiterating the request for discussion by the agencies’ General Managers and Boards, and stating SDCWA intends to follow a transparent process.</p> <p>(Both agencies’ Boards are cc’d.)</p>
December 2, 2019	<p>Metropolitan Board Chairwoman Gray and Metropolitan settlement negotiation team authorize providing SDCWA with an extension to respond to the Offer to Compromise to December 30, 2019, prior to the January 1, 2020 increase in Metropolitan’s rates.</p>
December 3, 2019	<p>Metropolitan General Counsel Scully sends a letter to SDCWA General Counsel Hattam advising of the extension to respond to the Offer to Compromise to December 30, restating that the Offer to Compromise is not a subject for public negotiation, reminding SDCWA of the parties’ confidentiality agreement, and reiterating that Metropolitan General Manager Kightlinger could answer questions at SDCWA if SDCWA chooses.</p> <p>(Both agencies’ Boards are cc’d.)</p>
December 3, 2019	<p>Metropolitan’s litigation counsel provides SDCWA’s litigation counsel with notice of the extension to respond to the Offer to Compromise to December 30.</p>
December 13, 2019	<p>The court schedules the remand trial in the 2010-2012 cases for June 16-18, 2020.</p>
December 19, 2019	<p>SDCWA holds a special Board meeting to consider Metropolitan’s Offer to Compromise; Metropolitan General Manager Kightlinger answers questions about the Offer at the meeting; SDCWA’s Board takes no action on the Offer.</p>
December 19, 2019	<p>SDCWA sends Metropolitan a settlement proposal.</p>
December 30, 2019	<p>Metropolitan’s Offer to Compromise expires.</p>

Date	Event
2020	
January 1, 2020	The exchange agreement price increases from \$453 to \$482 per acre-foot, when Metropolitan’s 2020 rates take effect.
January 14, 2020	Metropolitan’s Board reviews SDCWA’s settlement proposal at its regular Board meeting and takes no action on the proposal.
January 31, 2020	SDCWA’s settlement proposal expires.