

# **L.A. water agency ordered to return nearly \$30 million to customers**

A judge tentatively rules the Department of Water and Power must pay back funds set aside to help balance the city budget. If the decision is upheld, refunds or credits on future bills may be issued.

By David Zahniser  
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A Superior Court judge has issued a tentative ruling ordering the Los Angeles Department of Water and Power to repay its customers nearly \$30 million that city officials had hoped to spend on other services.

The tentative ruling, which was issued last week, said the DWP's long-standing practice of moving money from its water fund into the city's general fund -- which pays for such services as police, fire protection, street maintenance and libraries -- violates provisions of the anti-tax measure Proposition 218.

The ruling calls on the city to recalculate its water rates for the 2006-07 fiscal year -- when the money was collected -- and give customers either refunds or credits on future bills.

If upheld, the decision would represent a major victory for the Howard Jarvis Taxpayers Assn., which said the state Constitution bars municipal utilities from overcharging ratepayers for water and then using the surplus to pay for other city programs.

"They can only charge those customers for the commodity that they're selling to them," said Tim Bittle, the group's lawyer.

The Apartment Assn. of Greater Los Angeles also opposed the transfer.

The city has until Thursday to respond to the proposed decision.

"We have received the tentative ruling and are studying its ramifications," DWP General Manager H. David Nahai said in a prepared statement.

For years, mayors and council members have relied on transfers from the DWP to address the city's budget woes. Last year, Mayor Antonio Villaraigosa and the City Council agreed to take \$196 million from the utility's electrical power fund.

In 2007, the DWP went to court to determine whether transfers from the water fund would withstand judicial scrutiny under Proposition 218, which was crafted by the Howard Jarvis group and passed in 1996.

Because the transfers from the water fund were considered legally vulnerable, the DWP held off on moving the money to the general fund and did not spend it.

Since the money has been collected over three years, more than \$100 million could be due to ratepayers by the time the litigation is resolved, Bittle said.

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