

**ORIGINAL**Decision No. 44744

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of  
MALIBU WATER COMPANY, a California  
corporation, for authority to amend  
its Rules and Regulations.

Application No. 30673

Clarence M. Heublein, for applicant; Sylvester S. Pierce, for West Malibu Community Council and Malibu Township Council; Yetta C. Monoil, for Yetta C. Monoil Corporation; Robert Chambers, for Malibu Canyon Property Owners' Association; W. L. Gunn, for Malibu-Le Costa Owners' Association; J. Barrin Mitchel, in propria persona; Marvin Foster, H. M. Rebaol, Edward West, interested parties; Edward L. Butterworth, for Joseph Shalhoub, protestant; Myron J. Stuart, Dr. Irving W. Alexander, Rav Gagnon, O. E. De Camp, John Wattling, protestants.

O P I N I O N

Malibu Water Company, a California corporation, by the above application filed on October 4, 1949, requests authorization to cancel certain of its schedules, rules and regulations, and to substitute in lieu thereof revised schedules, rules and regulations, as set forth in Exhibit A, attached to and made a part of the application. These proposed revisions provide for additional special conditions in the rate schedules, permitting the utility to restrict and ration the use of domestic water in case of extreme water shortage, or if the water is found by a governmental authority to be not potable, and to set up a method of rationing gravity water from Malibu Creek Reservoir for irrigation purposes.

Under the rules and regulations certain changes and additions have also been requested. Under Rule and Regulation No. 3, Contracts, a clause would be added to provide for irrigation water

being delivered on a special contractual basis. Under Rule and Regulation No. 8, Discontinuance of Service, a clause would be added prohibiting cross-connecting of the domestic water supply with other water supply to avoid contamination of water service. Rule and Regulation No. 18 would be amended to provide for the consumers' incurring a portion of the charge for extending service across the Pacific Coast Highway. Rule and Regulation No. 19, covering main extensions, would be amended to give applicant the right to require water mains on both sides of the highway when the streets in subdivisions and tracts exceed 70 feet in width.

In a separate proceeding under Application No. 30713, the Commission is today issuing a concurrent order placing in effect revised rules and regulations covering subjects not in conflict herewith. Reference will conform to the numbers of the new rules and regulations.

Public hearings were held on this matter in Los Angeles on December 15 and 16, 1949, and in Malibu on January 5, 1950, before Examiner Crenshaw.

Applicant is engaged in the business of distributing and selling water for domestic purposes, and surplus water, when available, for commercial and irrigation purposes in certain sections of the shore line and ocean front of Malibu Ranch, northerly of the City of Santa Monica, in the County of Los Angeles, commonly known and designated as "Rancho Topanga Malibu Sequit." This utility faces several unusual and difficult problems of operation seldom affecting utility water distribution generally. The area served comprises two sections, one a strip approximately 8 miles long, the other approximately  $3\frac{1}{2}$  miles in length, both about one-half mile in width, with the Pacific Ocean on one side and the coastal foothills on the other. Through this strip runs the Pacific Coast Highway.

Due to the continued drought, the underground water supply has decreased materially in this area, and, in some instances, there has been an encroachment of salt water in a few of the wells near the beach. Applicant has requested that a clause be incorporated in its domestic rate schedule permitting it to ration domestic water on 24-hour notice.

Applicant stated at the hearing that it has an adequate supply of domestic water to take care of its present consumers and new subdivisions now being developed in this area. At the present time, salt water intrusion has not decreased the availability of potable water for domestic use to a point where rationing is necessary. Until such time as the domestic water supply becomes critical, there should be no need for rationing but, when necessary, the proration should be subject to the approval of this Commission as provided in the new Rule and Regulation No. 14. Therefore, it is our opinion that applicant's request for permission to ration domestic water on 24-hour notice as applied for is not necessary at this time.

Special Condition No. 3, as proposed by applicant under the domestic schedule, provides for restricting the use of domestic water when it is declared by governmental authority to be not potable, and for notification to its consumers. It is our opinion that this special condition is not necessary as it is taken care of by the new Rule and Regulation No. 14.

In the past, water for irrigation purposes has been supplied by applicant from well water when there has been an excess available, and by gravity flow from the Malibu Creek Reservoir which, when originally constructed, was capable of storing from 500 to 600 acre-feet of water. Due to the flood in 1938, the reservoir was partially filled with silt. At the present time, the capacity of the reservoir is approximately 60 acre-feet. Because of continued drought and salt water intrusion, there is no well supply available for agricultural

irrigation; the only water now available for this use is obtained from the Malibu Creek Reservoir. Applicant has been rationing this water among its irrigation consumers on a monthly basis by prorating the available water to the irrigation users according to the ratio of the acreage which each owns to the total acreage of those consumers who have applied for irrigation water. Applicant proposes to continue such allocations based on the total amount of irrigation water sold to all consumers each corresponding month during 1949. If the quota is not used by the consumer during the month in which it applies, it will not be added to future quotas. After the reservoir is filled, surplus water will be distributed as evenly as possible on an acreage basis by adding to current quotas. In applicant's judgment, should there be less water available than during the corresponding month in 1949, the utility would reduce the quotas proportionately. Applicant would be obligated to carry out the rationing to the best of its ability but would not be liable for any loss of crops due to lack of water, or for lack of sufficient water to fill any quota. In order to control the rationing, applicant would reserve the right to lock the meters of any consumer exceeding his quota or quotas, and keep them locked until subsequent quotas make up the overage. It is also proposed that applicant will enforce such other method of rationing as the Commission will from time to time approve and direct.

The hearings were attended by a large number of consumers of the company who objected to any clause permitting the rationing of water for domestic use when, in applicant's opinion, a shortage existed. The consumers contended that proration because of a shortage should be subject to the approval and supervision of this Commission. As to the rationing of irrigation service, certain irrigation users protested the method proposed by applicant as not being equitable during certain months for those irrigating crops, such as citrus orchards, which require irrigation primarily during the summertime.

These consumers requested that they be permitted to accumulate their allotment for use during the summer months in which irrigation would be required.

Due to the limited capacity of the Malibu Reservoir, the amount of water available each month would depend upon the season of the year as the source of supply is from stream flow. During summer months when there is a minimum flow of water in the streams, only storage water behind the dam, plus inflow, would be available for irrigation purposes. Therefore, any rationing program should require that, as nearly as possible, the full capacity of the reservoir be maintained during the months when stream flow water is available so as to provide storage water for irrigation during the summer months. However, during the summer minimum runoff period, the estimated stored water in the reservoir available for irrigation purposes, will be rationed each month until the next rainfall season, in accordance with revised Rule and Regulation No. 14. Unless and until the company has available a surplus of well water over and above an adequate supply for regular domestic and commercial consumers, no well water should be delivered for agricultural irrigation purposes.

Applicant has submitted a rationing program as Special Condition No. 2 under its Rate Schedule No. 3 for irrigation service. In our opinion it does not appear that the method of rationing water should be incorporated in a rate schedule but should be included in the company's rules and regulations. Since the shortage of water for irrigation purposes has been caused by the drought, it appears that any program governing the rationing of water should be handled as a rule and regulation rather than being incorporated in the rates of the company. This rule and regulation should be flexible enough so that the Commission, by informal directives, may make the necessary changes to meet changing water conditions and consumer requirements. The method of rationing irrigation water to be followed by applicant will

be incorporated in a new Rule and Regulation No. 14, referred to in this order, and in our opinion is fair and reasonable under present conditions.

Applicant has also incorporated an additional special condition designated as No. 3 in Rate Schedule No. 3 for irrigation service, which provides that it shall have the right to sell any surplus domestic water for irrigation purposes when in its judgment such sale will not interfere with an adequate supply of water for domestic purposes. This special condition does not appear necessary at this time. It will be provided that such sales to irrigation customers may be made subject to the prior approval of the Commission, in accordance with new Rule and Regulation No. 2 as set forth in this order.

Since the special conditions pertaining to the rationing of water are to be incorporated in the rules and regulations, there will be no necessity to revise Rate Schedules 1 and 3.

Applicant has requested that a clause be added to Rule and Regulation No. 3, Contracts, permitting irrigation water to be delivered by contract only. Since the irrigation rate is on a yearly basis, it does not appear necessary to require the consumer to contract for service for a specified period.

Under Rule and Regulation No. 8, a provision has been submitted by applicant which will permit it to discontinue service to a consumer when it is found that his domestic service has been cross-connected with some other water supply. The reason presented by applicant for requiring this clause is to avoid contamination of water in its system with that of some other water supply. It appears to us that, under certain conditions, cross-connection could be permitted; therefore, a clause will be provided in the new Rule and Regulation No. 16 setting forth the requirements under which cross-connection may be permitted.

Applicant has amended its original requested change in Rule and Regulation No. 18 for water service extensions to safeguard it against unusual and excessive costs of installing service connections to property from a water main located on the opposite side of the Pacific Coast Highway. In such a case, applicant proposes to furnish and install at its own expense a service pipe of suitable capacity from its water main to the curb line or to the property line abutting on the highway along which it already has a main; provided, however, that the portion of the cost of the service connection to be paid for by the utility shall be no more than the reasonable cost of a service connection 100 feet long that does not cross the paved strip of the highway. However, if the installation requires crossing the Pacific Coast Highway, the customer would be required to advance either the excess cost over and above the estimated cost of an ordinary installation or, at the option of the utility, only such portion of the excess computed on the basis of the number of potential service connections as estimated by the utility.

According to the record, service extensions across the Pacific Coast Highway to serve individual consumers would be required only in isolated cases as in most instances more than one consumer would be served; therefore, the crossing would be handled as a main extension.

In general, under the circumstances, applicant's request appears to be reasonable and the order will set forth under the new Rules and Regulations Nos. 15 and 16, the requirements for extending service across the Pacific Coast Highway.

Under Rule and Regulation No. 19, Main Extensions, applicant has incorporated a provision whereby, when streets, highways, or freeways exceed 70 feet in width in subdivisions or tracts, it shall have the right to require a main on each side of the street. The length of the main extension for new consumers shall be measured from the nearest main on the same side of the street. We have no basis

upon which to determine the reasonableness of this request. Further, the record is not clear as to why this requirement was limited only to subdivisions and tracts, and to streets over 70 feet in width. The record is not sufficient, in our opinion, to sustain applicant's request for mains to be installed on both sides of a street exceeding 70 feet in width in subdivisions and tracts.

Subsequent to the submission of this matter, there was introduced at the original hearing of Application No. 30713, a complete new set of rules and regulations which was received in evidence as Exhibit No. 12. These revised rules and regulations incorporated some of the changes requested in this present application. An order in Application No. 30713 is being rendered today by this Commission concurrently with this decision of the same date prescribing generally revised rules and regulations, and will include those rules and regulations as prescribed for filing by this decision.

#### O R D E R

Malibu Water Company having applied to this Commission for an order authorizing amendment of its tariff schedules in certain respects, public hearings having been held, the matter having been submitted for decision, and the Commission finding that any increases which may result from the changes hereinafter authorized are justified,

IT IS HEREBY ORDERED that Malibu Water Company shall file with this Commission the following rules and regulations concurrently with the filing of the revised rules and regulations as set forth this date in an order in Application No. 30713.

1. In revised Rule and Regulation No. 2, Description of Service, include the following provision:

#### E - Surplus Water

Subject to the approval of the Public Utilities Commission, the company may sell for irrigation purposes,



any surplus water from its wells not required to furnish an adequate supply of water for domestic and commercial purposes.

2. In revised Rule and Regulation No. 14, Shortage of Supply and Interruption of Delivery, include the following provisions:

C - Apportionment of Supply During Time of Shortage

During times of threatened or actual water shortage, the utility will apportion its available water supply among its customers as directed by the Public Utilities Commission. In the absence of direction from the Commission, it will apportion the supply in the manner that appears most equitable under circumstances then prevailing with due regard to public health and safety.

D - Apportionment of Irrigation Water

The company will prorate available irrigation water to each user according to the ratio of his acreage to the total acreage of all applicants entitled to receive irrigation service. This will be done on a monthly quota basis according to the water estimated to be available. Any portion of the quota not used during the month in which it applies will not be added to future quotas.

A consumer who has more than one meter may use his quota through any or all of his meters.

The company may discontinue the delivery of irrigation water to any consumer who has exceeded his quota until subsequent allocations equalize the overage.

The company will equitably prorate irrigation water to the best of its ability but cannot be responsible for any loss of crops due to the lack of sufficient water to fill any quota.

The proration of irrigation water will at all times be subject to the jurisdiction of the Public Utilities Commission.

3. In revised Rule and Regulation No. 15, Main Extensions, include the following provision under Section A, General and Ordinary Extensions:

A - General and Ordinary Extensions

Where the property requested to be served is located adjacent to the paved strip of Pacific Coast Highway, the company will extend a main across the highway or from the nearest existing main on the same side of the highway, depending upon which is estimated to cost less. However, in case of an extension across the highway, the portion of the cost assumed by the company for each applicant will be the average cost of installing 100 feet of main of the same size laid under ordinary conditions not involving the crossing of Pacific Coast Highway, and the applicant for service will be required to advance the remainder of the cost. Refunds to original depositors will be made on the basis of the cost of 100 feet of ordinary extension for each new customer added.

4. In revised Rule and Regulation No. 16, Service Connections, Meters, and Consumers' Facilities, include the following:

A-1 Service Connections

When the property requested to be served is located adjacent to the paved strip of the Pacific Coast Highway

and the nearest existing main is located on the opposite side of said highway, the connecting pipe to serve the applicant's property will be considered a main extension, and will be installed in accordance with provisions of the rule and regulation applicable to Main Extensions.

A-3 Cross-Connection Protective Devices

Where any water pipe on a consumers' premises is cross-connected to another source of water supply, the utility may refuse or discontinue service until there shall be installed at the expense of the consumer suitable protective device, approved by the California State Board of Public Health, to protect against back-flow into the utility's system.

IT IS HEREBY FURTHER ORDERED that the following changes in its rules and regulations, as requested by Malibu Water Company in this proceeding, be denied:

1. Special Condition No. 3 in proposed Rate Schedule No. 1, as follows:

"In the event the supply of domestic water is found to be unpotable by a governmental authority, the company may restrict the use of its domestic water, upon proper notification to the consumers, to such uses as are approved by said governmental authority."

2. Rule and Regulation No. 3, Contracts, as proposed, as follows:

"(c) Irrigation water shall be delivered by contract only."

3. Rule and Regulation No. 19, Main Extensions, as proposed, as follows:

"C. Extension to serve tracts or subdivisions when thoroughfares exceed 70 feet in width. When streets, highways or freeways exceed 70 feet in width, company

shall have the right to require a main on each side of such street, highway, or freeway. The length of the main extension shall be measured from the nearest existing main on the same side of the thoroughfare to the premises to be supplied."

The effective date of this order shall be twenty (20) days after the date hereof.

Dated at San Francisco, California, this 1<sup>st</sup> day of September, 1950.

R. E. Dunning  
Justus J. Allen  
Walter H. Hall

Herbert H. Potter  
Commissioners.