

ORIGINAL

Decision No. 49159

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Suspension and)
 Investigation on the Commission's own)
 motion of Proposed Schedule entitled)
 "Special Service", Original Cal. P.U.C.)
 Sheet No. 4-W, filed by San Jose)
 Water Works.)

Case No. 5490

Verner R. Muth, for the Commission staff.
Robert L. Lipman, of McCutchen, Thomas, Matthews,
 Griffiths & Greene, for San Jose Water Works.
Alma H. Feehan, E. E. Dadmun and Joseph J. Beatty,
 in propria personae, Louis Heilbron, for
Yehudi Menuhin, and George Britton, for
 State Division of Forestry, interested parties.

O P I N I O N

The Commission, on September 1, 1953, suspended, as contrary to the utility's filed rules, a special service schedule presented by San Jose Water Works for filing on August 12, 1953,^{1/} in purported compliance with ordering paragraph (4) of Decision No. 48847, dated July 21, 1953, in Application No. 34143. This investigation was concurrently instituted into the propriety and reasonableness of the proffered schedule and was submitted for decision September 14, 1953, following a public hearing held at San Francisco before Commissioner Potter and Examiner Gregory.

Decision No. 48847 issued in a proceeding filed by the company seeking authority to carry out a contract with Santa Clara Valley Water Conservation District for relocation of the company's facilities in Los Gatos Creek occasioned by the district's Lexington

^{1/} Advice Letter No. 10, Special Service Schedule, Cal. P.U.C. Sheet No. 4-W and Supplemental Advice Letter, filed August 24, 1953.

Dam Project. The company also requested authority to transfer certain lands to the district for reservoir purposes.

The Lexington Dam Project had been virtually completed when the company first brought the matter formally to the Commission's attention by filing its application. A few consumers, including the Lexington School and the Alma Fire Station, formerly served from the company's Alma Distribution Main located along the old state highway and now inundated by the reservoir, since about January of this year have been receiving water from the district through a new 6" main constructed west of the relocated Los Gatos-Santa Cruz highway generally along the high water mark of the reservoir. Historically, these consumers received metered water service from the company at meters placed close to the Alma Distribution Main. They conveyed the water to their premises through their own service lines, pumps and other facilities. Two persons, Jewett and Coffing, whose premises are located near the head of the district's main close to the company's Montevina Reservoir, for many years received water from one Mary Frank, a customer of the company, and paid her for water so received. The Frank premises, located in the reservoir area, will no longer receive water after the project is in full operation. These two individuals now are obtaining water from lines connecting with the district's 6" main. The district has also constructed new service lines from its 6" main to connect with the pumps or other facilities of the school and fire house, which have been relocated, and with the pumps of five other consumers formerly served by the company. Some of these new service lines are longer and some are shorter than the service lines from the old Alma main. In three

instances, they will be inundated, wholly or partially, depending on the water level of the reservoir from time to time.

Decision No. 48847 provided, as a condition of the authorization to transfer the company's lands to the district, that the company file and obtain authorization for tariffs to include rates, rules and regulations respecting service to its former customers who are now receiving water from the district through the district's 6" main. The company, in purported compliance with the Commission's order, presented its proposed special service schedule (Cal. P.U.C. Sheet No. 4-W), which provided that charges to the customers named therein would be based upon effective rates for general metered service furnished by the company, plus a prorata share of the cost of power for operating a booster pump to be installed on the 6" main. The company proposed that the service lines would be conveyed to the customers, without charge, and that meters would be installed adjacent to the 6" main rather than at the customers' property lines or the generally accessible points at which meters were located prior to construction of the Lexington Dam. Because the conditions of service proposed were contrary to the company's filed rules and regulations relative to service to customers' property lines and because the location of the service lines in the reservoir area appeared to present difficult maintenance problems for the consumers, the proffered schedule was suspended and this investigation was instituted.

The company, at the hearing, presented a revised schedule, designated Cal. P.U.C. Sheet No. 5-W, which provides, in part, as a special condition, that service will be rendered and meters

installed only at the point of connection of the service lines to the 6" pipe line, but will otherwise be subject to the company's general rules and regulations applicable to metered service.

Conclusions

The revised schedule, in effect, constitutes a deviation from the company's general rules respecting metered service. The only issue is whether such a deviation is reasonable in the circumstances disclosed by this record. We hold that the proposed deviation is reasonable and justified under those circumstances.

The district is not in a position to render retail domestic water service, since its function is that of storage and conservation of surplus waters. The company, however, despite its claim, advanced at the hearing, that it is under no legal obligation to continue to render service to these consumers, which assertion we have heretofore held to be without merit, is willing to undertake the obligation to resume service in accordance with the revised schedule and to conclude arrangements with the district to effectuate that obligation. These arrangements, in our opinion, should also include service by the company to Messrs. Jewett and Coffing, who, although not formerly customers, are now connected to the district's 6" main. Their inclusion as customers of the company under its proposed special service schedule would appear to present no special problem.

Service lines to the Beatty, Feehan and Monuhin premises are located partially in the reservoir. The company has agreed to install a cross-connection between the adjacent Beatty and Feehan pipe lines. If a break should occur in either line, water would still be available for both customers through the cross-connection.

A break in the connection to the Menuhin premises, if occurring at a point covered by water in the reservoir, would also present a difficult repair problem but would not result in an immediate cessation in the supply of water at the point of use, as Menuhin possesses reserve storage facilities. In view of the relocation of the 6" main, however, and of the service problems which have been created by the district's project, there appears to be no way of providing a completely satisfactory solution for any crisis that might arise from breaks in the inundated portions of these service lines.

We conclude that the company's proposed schedule, Cal. P.U.C. Sheet No. 4-W, offered for filing under Advice Letter No. 10, filed August 12, 1953 and Supplement to Advice Letter No. 10, filed August 24, 1953, should be rejected, and that the company's proposed revision of said schedule, Exhibit No. 1 in this record, designated Cal. P.U.C. Sheet No. 5-W, should be accepted, subject to inclusion therein of Messrs. Coffing and Jewett as customers of the company under said schedule.

O R D E R

San Jose Water Works having submitted, under Advice Letter No. 10 and Supplement to Advice Letter No. 10, a tariff schedule for service to consumers on the 6-inch pipe line installed by Santa Clara Valley Water Conservation District generally along the westerly side of the district's Loxington Reservoir in Los Gatos Creek, said tariff being designated Cal. P.U.C. Sheet No. 4-W, and having submitted a revised tariff schedule, designated Cal. P.U.C. Sheet No. 5-W, under Second Supplement to Advice Letter No. 10, dated September 11, 1953, a public hearing having been held, the matter having been submitted and now being

ready for decision,

IT IS HEREBY FOUND AS A FACT that the provisions of said schedule Cal. P.U.C. Sheet No. 4-W are unjust and unreasonable and that the provisions of said revised schedule, Cal. P.U.C. Sheet No. 5-W, as modified by the order to follow, are just and reasonable and that any increases in rates or charges as may result from said revised schedule, Cal. P.U.C. Sheet No. 5-W, are justified; therefore,

IT IS HEREBY ORDERED:

1. That "Special Service" schedule, Cal. P.U.C. Sheet No. 4-W, heretofore offered for filing by San Jose Water Works under Advice Letter No. 10, dated August 12, 1953, and Supplement to Advice Letter No. 10, dated August 24, 1953, be and it hereby is permanently suspended.
2. That San Jose Water Works is directed to open revised "Special Service" schedule, Cal. P.U.C. Sheet No. 5-W, Exhibit 1 herein, to lands currently occupied by Messrs. Jewett and Coffing and receiving service from the 6-inch line installed by Santa Clara Valley Water Conservation District, upon the same basis as service is offered to individuals and entities now named in said schedule.
3. That San Jose Water Works is authorized to file in quadruplicate with this Commission after the effective date of this order, in conformity with General Order No. 96, said "Special Service" schedule, revised to include the lands of the individuals named in ordering paragraph 2 above, and, after not less than five

days' notice to the Commission and the public, to make said schedule effective for service rendered on and after November 1, 1953.

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

Dated at San Francisco, California, this 29th day of September, 1953.

R. E. [Signature]
 President
JUSTIA F. [Signature]
[Signature]
[Signature]

Commissioners

Commissioner Harold P. Huls, being necessarily absent, did not participate in the disposition of this proceeding.