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Decision No. 50429

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the Commission)
Investigation on its own motion)
to determine the reasonableness,)
adequacy, sufficiency and lawfulness) Case No. 5465
of the rates, charges, tolls, rentals,)
service and certain other subjects)
and matters of the Citizens Utilities)
Company of California, a corporation.)
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In the Matter of the Application of)
CITIZENS UTILITIES COMPANY OF)
CALIFORNIA, a corporation, for)
authority to increase water rates for) Application No. 33581
its water system serving the area) (As Amended)
known as Boulder Creek, Ben Lomond,)
Brookdale, Santa Cruz County,)
California.)

OPINION AND ORDER DENYING REHEARING

Petitioner seeks partial rehearing of Decisions No. 50250 and 50267 herein and modification thereof. The grounds urged in support of the petition will be discussed in the order in which they appear in the petition.

1. Petitioner asserts that there is no need for the six-inch main which it was directed to install in Sunnyside Avenue between Brookside Avenue and Main Street in the Ben Lomond area. The proposal for a six-inch main at that location originated with petitioner in detailing construction necessary to serve existing and prospective customers to the 475' elevation ordered by the Commission. It is found on page 22, Item (A) of "Report of Citizens Utilities Company of California Respecting the Adequacy of Service at its Boulder Creek District", filed with this Commission on October 5, 1953. The tie-in is definitely needed, particularly in view of the ordered

removal of the Shrank Tank to a higher elevation and the elimination of the La Torre Tank. Nor will the benefits be insignificant. Water will flow into a relatively densely populated area from the Coon and Shrank Tanks through the ordered tie-in. We have allowed in projected fixed capital the full cost of the installation. The six-inch main in question will tie into a new six-inch main on Brookside Avenue, as well as the two two-inch lines mentioned by petitioner.

Relative to the location of the six-inch main heretofore ordered to be installed, should petitioner believe that some other location than that in Sunnyside Avenue would result more advantageously to petitioner and its customers, the Commission will consider a petition setting forth reasons supporting a request for authorization to place such installation in a different location.

2. We are again importuned to establish retroactive rates, and in this connection petitioner urges that it has been "deprived of permanent rate relief for almost 2-1/2 years". Rate increases were granted by this Commission by its interim Decision No. 48618, dated May 19, 1953, five months after applicant filed its second amended petition and less than three months after the hearings, the rates becoming effective on June 19, 1953. No better answer can be made to the criticism of an asserted "regulatory lag" than to give the chronological sequence of events in this proceeding:

> (1) Original application (with those for four other water systems) filed July 17, 1952; (2) First Amendment filed July 29, 1952; (3) Second amendment filed December 19, 1952; (4) Twelve days of hearings held during February, 1953; (5) Petitioner late-filed an exhibit on April 7, 1953; (6) Decision No. 48618, authorizing increased rates, issued May 19, 1953; (7) Applicant petitioned for rehearing June 9, 1953; (8) Interim rates became effective June 16, 1953; (9) Rehearing denied by Decision No. 48778 issued June 30, 1953; (10) Applicant petitioned Supreme Court for writ of review and conditional stay (S.F. No. 18899) on July 30, 1953; (11) Applicant petitioned Commission for extension of time to comply with portion of Decision No. 48618, granted August 18, 1953;

(12) Applicant requested further extension of time, granted September 15, 1953; (13) Applicant filed report, as required by Decision No. 48618, on October 5, 1953; (14) Supreme Court sustained Commission's order by denying writ of review on October 29, 1953; (15) Applicant filed third amendment to application for rate increase on February 2, 1954; (16) Further hearings commenced March 8 and terminated March 12, 1954, the matter being submitted on briefs at Applicant's request; (17) Applicant's last brief received April 27, 1954; (18) Applicant's corrections to its brief received May 15, 1954; (19) Decision 50250 issued July 6, 1954, effective 20 days thereafter; (20) Decision 50267 issued July 13, 1954, correcting Decision 50250 nunc pro tunc.

It is obvious that no undue delay can be charged to this Commission. In addition, we are constrained to point out that in order to protect the public interest, the Commission was obliged to take the time to ferret out details and clarify obscurities in applicant's presentation to the end that the complete facts might be disclosed.

The instant proceeding affords no compelling reason which would warrant affording such extraordinary relief as retroactive rates. At the hearings herein there were numerous service complaints and protests against any rate increase until such time as service should have been improved. Petitioner states that in the ten months prior to the hearings it had service complaints from about two percent of its approximately 2,000 customers. Although the percentage of complaints may have been lower than that of previous years, such fact does not establish the existence of good and efficient service. The record discloses that 1953 was a good water year.

We find that in view of the present value and adequacy of service, the rates provided by Decisions 50250 and 50267 are eminently fair and reasonable.

Petitioner again adverts to rates of return found to be reasonable in other cases involving both its own rate proceedings and those of other utilities. That certain rates of return may be found to be reasonable under a particular set of facts does not mean that lower rates of return under other facts must be condemned as unreasonable.

Petitioner has been authorized, effective January 1, 1955, to charge rates which should produce a rate of return of 6%. The improvements ordered to be installed prior to June 1, 1955 should afford the petitioner's customers a reasonably adequate service, and the increased rates should provide a fair return thereon. It would be unfair and inequitable at this time to expect the consumers to pay for a type of service they are not yet receiving, and probably will not receive until almost midyear of 1955.

3. We based our decisions and orders herein on a 47% income tax rate. Since it now appears that the corporate income tax has been restored to the 52% level, petitioner may by supplemental application seek to offset the effect of the higher tax rate on its operating results.

The Commission having carefully considered the petition for partial rehearing and modification herein, and every allegation thereof, and being of the opinion that no good cause for the granting of a rehearing or modification is therein made to appear,

IT IS ORDERED that said petition be and it is hereby denied.

Dated at San Francisco, California, this 17th day of August, 1954.

Peter E. Mitchell
President
Justus F. Craemer
Kenneth Potter

Commissioners