

ORIGINAL

Decision No. 50580

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Investigation on)
the Commission's own motion into the)
reasonableness of Water Main Extension)
Rules presently effective for water)
utilities throughout the State, and)
the development of such revised exten-)
sion rule as appears reasonable.)

Case No. 5501
and related
applications

Applications of San Jose Water Works)
(No. 34614), California Water Service)
Co. (No. 34615), Del Este Water Co.)
(No. 34693), Suburban Water Systems)
(No. 34710), Pacific Water Co.)
(No. 34848), and San Dimas-Charter)
Oak Domestic Water Co. (No. 35191),)
for revision of their respective)
water main extension rules.)

Appearances are listed in Appendix A

O P I N I O N

Scope of Proceeding

This is a consolidated proceeding, initiated by the Commission on its own motion by order dated October 20, 1953 as a result of the filing or anticipated filing of separate applications by a number of privately owned, public utility water companies in California seeking revision of their rules governing extension of facilities to serve individuals, subdivisions, tracts and organized service districts.

The purpose of the investigation, as stated in the Commission's order, is

"to determine whether the rules, regulations, contracts and practices, or any of them, with respect to the extension of water mains by privately owned public utility water systems throughout the State are unjust, unreasonable, discriminatory or preferential in any particular,

and to determine the just, reasonable and proper rules, regulations, contracts and practices, or any of them, applicable to said water main extensions, and to fix the same by order; ..." (Public Utilities Code, Secs. 728, 729.)

Notice and Public Hearings

Following widespread notice to the water utility industry, to federal, state and local authorities and to real estate and other organizations and individuals deemed by the Commission to have an interest in the subject matter of the investigation, public hearings were held before Examiner John M. Gregory at San Francisco and Los Angeles on eight days during the period commencing December 11, 1953 and terminating July 12, 1954, when the proceeding was taken under submission.

Existing Water Main Extension Rules

Water utilities in California, both public and private, for a number of years have maintained widely divergent rules and regulations governing extension of their facilities to serve individual consumers, subdivisions, housing projects and organized service districts. Rules of the privately owned companies, in general, provide that extensions to serve new individual customers will be made at the company's expense when the total length of main extension from existing facilities does not exceed 100 feet or 150 feet per service connection. If the total length of the required main extension exceeds the "free footage" allowance, the applicant is required to advance the estimated reasonable cost of the extension in excess of the free allowance but not exceeding the cost of a main of 4 inches in diameter, exclusive of the cost of service connections, meters or "backup" facilities (i.e., increasing the size of existing mains, providing additional water supplies, storage capacity or pumping equipment). The money so advanced is subject to refund without interest, in payments equal to the reasonable actual cost of 100 feet or 150 feet of main extension in place, normally within

90 days after installation of each service connection for a period of ten years after completion of the main extension.

With respect to main extensions to serve new subdivisions, tracts or organized service districts, the existing rules of privately owned public utilities filed with the Commission, though varying as to scope and verbiage, in general provide that applicants for such extensions shall advance to the company, before construction is commenced, the estimated reasonable costs of the necessary facilities, subject to adjustment to actual cost, exclusive of service connections and meters. The moneys so advanced are subject to refund, without interest, at an annual rate of 35% of the gross revenues collected from attached consumers for a period not in excess of ten years. If stubs or service connections to lots are required by public authority to be installed prior to paving of streets, some of the rules provide for inclusion of the cost thereof in the advance and for refund of that portion of the cost, without interest, within 90 days after the stub or service connection is placed in service, no such refunds, however, to be made after a period of ten years from the date of completion of the original extension.

Publicly owned water systems, not subject to the Commission's jurisdiction, maintain a wide variety of rules and regulations for main extensions. For the most part, the rules of the publicly owned systems require the applicant to advance the total estimated cost, subject to adjustment to actual cost, for both general and subdivision extensions, without provision for refund in either case, although a free footage allowance is provided for in some rules in the case of general extensions.

Problem of Financing Main Extensions Under Present Rules

From the turn of the century to the commencement of World War II, California's population increased from one and one-half million to more than six million people. Since 1940, however, the population has virtually doubled. Homes had to be built for these people and water supplied them.

The combination of rapid growth, high construction costs and the present main extension rules has forced the privately owned water utilities, in extending their facilities, to make substantial capital investments considerably above the average investment per existing consumer. Since required refunds, under present rules, cannot normally be developed from revenues derived from customers served by new extensions, due to low ratios of net to gross revenues after depreciation and taxes, it has become necessary for the utilities to secure new money through outside financing with which to provide at least a part of the refund. Nearly all of the water utilities have experienced considerable difficulty in arranging outside financing and many have been forced to make refund payments exclusively from internal sources thus severely limiting the availability of funds otherwise needed for replacements and expansion of facilities. Most of these utilities have been before the Commission for rate relief to enable them to qualify for outside money or to maintain earnings at the highest allowable level to assist in making funds available for main extension refunds. The increasing financial pressure upon the water utilities resulting from the foregoing factors led them and the Commission to seek a solution for the problem that would give recognition to the needs of the utility customers, the real estate developers and the utilities.

Rules Proposed by Water Utility Industry

The California Committee on Revision of Water Main Extension Rules and Regulations (hereinafter called "the Committee"), with a nucleus comprising a committee of the California Section of the American Water Works Association, placed in the record economic data and three alternative rules governing water main extensions and refunds of sums advanced therefor. The Committee, whose members were drawn from some 15 representative water utilities in California, gave long and careful consideration to the problem of main extensions and its work has materially aided the Commission in seeking to resolve the questions here presented for decision. (1)

The basic principles advanced by the Committee are set forth in Exhibit 2. In general, they are that new extensions should be self-supporting; that applicants for extensions should advance the total cost of all facilities from the nearest main of adequate capacity; that the same rule should apply for extensions in existing streets as in new subdivisions; applicants should advance the cost of the portion of new plant and "backup" ultimately required to serve new customers on an extension, which would require limitation of refunds to a maximum amount so that there would exist an unpaid balance at the termination of the contract; refunds should in no case require new financing, but should be developed from revenues from new customers on the extension.

In short, the Committee's basic philosophy, as exemplified in its statement of principles and in the text of the three

(1) The Committee, headed by Philip F. Walsh, of Southern California Water Co., originally proposed four alternate methods of refund (Exhibits 7, 8, 9, 10) and Suburban Water Systems (Appl. No. 34710) proposed one of its own (Exhibit 11). The final revisions offered by the Committee are incorporated in Exhibits 12 and 13.

alternative rules proposed, was that (a) new extensions should be self-supporting; (b) advances for new extensions should include an enforced donation of a portion of the investment in plant or "backup" required for the extension; (c) refunds should be payable solely out of revenues derived from the extension.

The method of refunds, to be left to the discretion of the utility, would be either (a) a fixed number of dollars per consumer in subdivisions or tracts, or a percentage of the annual revenue per consumer in the case of housing projects, large commercial developments or organized service districts; (b) a cost-to-revenue method with a lump sum refund; i.e., the total estimated cost of the extension, including "backup," to be refunded in an amount equal to a certain number of times the estimated annual revenue for each bona fide consumer directly connected to the extension, depending on the financial situation of the individual utility adopting that form of rule; (c) a cost-to-revenue method, with a percentage of revenue refund, under which the advance would be refunded at the rate of a certain percentage (depending on the situation of the utility) of the estimated annual revenue per consumer directly connected to the extension. The text of the three Committee sponsored rules has been standardized where possible.

The Committee also offered certain standard "special conditions" for inclusion in the rules of utilities desiring them. These conditions relate to: extensions along freeways, waterways or railroad rights of way; added costs of complying with requirements of public authorities; the effect of failure to bring grades to those established by public authority, or excessive cost-to-revenue ratios, on the utility's obligation to extend its facilities.

Rules Proposed by Commission Staff

The Commission's staff representatives, who actively cooperated with members of the Committee in an attempt to work out adequate rules, advanced certain conclusions or principles underlying construction of extensions and refunds of advances therefor which, in many respects, were distinctly at variance with the principles espoused by the Committee. The conclusions of the staff, summarized, are that: customer advances should not include cost of "backup" facilities unless agreed to by the parties and approved by the Commission; for general extensions, the utility should provide distribution mains free up to a specified distance roughly equivalent to the average length of distribution main per customer on its existing system; the subdivider should advance the total estimated costs of the extension, also the cost of services if he elects to install them or their installation is required by public authority (the staff proposed main extension rule, Exhibit 18, modified this conclusion to include the services for extensions to serve subdivisions); refunds of the full amount advanced should be made if the extension develops a customer density comparable to the balance of the system; in situations where the proportionate cost method of refund works a hardship, the utility should be permitted to apply a percentage of revenue method over a period not exceeding 20 years, subject, however, to termination of the agreement by mutual consent upon payment of a lump sum if customer density on the extension approaches that on the balance of the system.

A rule proposed by the staff (Exhibit 18) modified by certain suggestions contained in a proposal by one of the larger utilities (Exhibit 20) is hereinafter adopted and embodies the staff conception of refund of the full amounts advanced by subdividers if the areas develop to a customer density comparable to the balance of the system and provides two alternate methods of refund:

(a) a proportionate cost method, whereby the utility will refund within 90 days after qualification as a bona fide customer that portion of the total amount of the advance which is determined from the ratio of 65 feet of main to the total footage of main in the extension for which the cost was advanced; (b) a percentage of revenue method, with an optional method for accelerated refunds, whereby the utility will refund 22% of the estimated annual revenue from each bona fide customer connected directly to the extension for which the cost was advanced, such refunds to be made in annual, semiannual or quarterly payments and for a period of 20 years.

The staff rule, like those advanced by the Committee, also makes provision for refunds to individual consumers who require extension of mains, and likewise contains general provisions relating to special conditions, such as extensions along freeways, compliance with specifications of public authority and the effect of insufficient grading of public streets.

A special feature of the rule proposed by the staff provides for termination, by mutual consent, of percentage of revenue refund contracts after two years upon payment to individuals or subdividers of the present worth of an annuity of equal annual payments of the unpaid balance of the advance calculated at 6% as of the termination date of the contract. The effect of such a provision is to make available to the utility a method for paying off the subdivider if the tract fills up rapidly and of getting the main extension out of the category of consumers' advances and into the company's rate base as a fixed asset. This procedure would result in a portion of the cost of an extension being charged to the donations account, thus reducing the rate base and to some extent limiting the investment of a utility in new extensions, as proposed by the Committee.

Summary and Conclusions

As originally conceived, this proceeding was designed to provide a forum for promulgation of two or three alternate forms of main extension rule to be availed of by the utilities as they might desire. It quickly became apparent during the course of the hearings that a basic cleavage in philosophy had developed between the water utility representatives on the Committee and the Commission's staff on the subject of refunds. The Committee's general approach to the problem was that the company should not be required to refund more than its average investment per consumer in distribution mains and services, rather than the total amount advanced, thus in effect forcing a donation from subdividers to assist in financing plant and "backup."

The Commission's staff, however, while adhering to the full refund theory, still makes provision for contributions to plant and "backup" in its proposed rule.

There is no doubt in our minds, upon review of the record, that the privately owned water utilities in California need relief from the conditions imposed by the present rules relating to refunds of advances for main extensions. We, therefore, are of the opinion and we find as a fact that the existing rules and regulations relating to water main extensions maintained by the privately owned public utility water companies in California are unjust, unreasonable and insufficient and that the water main extension rule set forth in Appendix B to this decision is and for the future will be the just, reasonable and sufficient rule respecting main extensions to be observed by all such utilities. Should the prescription of said rule result in any increase in rates or charges, we hereby find that such increase is justified.

The following order will provide for cancellation of existing rules and the filing of the rule herein prescribed. In effecting transition from the present extension rules to a new rule, public utility water systems in California should apply the provisions of their present rules for main extensions to those prospective customers who have signed applications for service or those who have actively negotiated in good faith for service during the six-month period prior to the date of issuance of this decision.

O R D E R

A public hearing having been held in the above-entitled and numbered consolidated proceedings, evidence and argument having been adduced and considered, it having been found herein that the rules and regulations respecting water main extensions presently maintained by public utility water companies subject to the jurisdiction of this Commission are unjust, unreasonable and insufficient and that the rules and regulations contained in Appendix B attached hereto are and for the future will be the just, reasonable and sufficient rules and regulations to be observed by all such water utilities with respect to water main extensions, the Commission now being fully advised,

IT IS ORDERED that:

1. Each privately owned public utility water company in California, within forty days from the effective date of this order, shall cancel, in accordance with the procedure prescribed by General Order No. 96, its existing rule and regulation respecting extensions of water mains and in lieu thereof shall file with this Commission the rule and regulation in the form set forth in Appendix B attached to this decision. Such rule and regulation shall become effective upon five days' notice to the Commission and to the public after filing as hereinabove provided.
2. The Commission's investigation herein, Case No. 5501, is hereby discontinued.

3. Applications Nos. 34614, 34615, 34693, 34710, 34848 and 35191, individually filed by the several water companies named therein for revision of their several water main extension rules and consolidated for hearing and decision with said Case No. 5501, except as herein granted, are and each of them is hereby denied.

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

Dated at San Francisco, California, this 28th day of September, 1954.

John E. Mitchell
President

Justus J. Calmes

Henrietta J. Jett

Gene Soggin

Ray W. Wetmore
Commissioners

APPENDIX A

List of Appearances

W. E. Johns and E. C. Drew, for Coast Counties Gas & Electric Co.
Guy Cornell, Warren Lemmon and Edward Behrens, for Crocker-Huffman
 Land and Water Co. (Merced Water System).
R. W. DuVal, for Pacific Gas & Electric Co.
Philip F. Walsh, for Southern California Water Co. and California
 Committee on Revision of Water Main Extension Rules and
 Regulations.
Camille A. Garnier and C. L. Gardner, for Suburban Water Systems.
Edson Abel, for California Farm Bureau Federation.
W. J. Hays and Bacigalupi, Elkus and Salinger, by Claude N. Rosenberg,
 for California Water & Telephone Co.
Robert J. Costello, Asst. City Attorney, for City of San Jose.
Robert M. Brown, George L. Williams and Owen Jameson, for Del Este
 Water Co., California Water Service Co. and San Jose Water Works.
John C. Luthin, for Monterey Bay Water Co.
A. B. Gilbertson, for California-Pacific Utilities Co.
Mrs. Willard Dohzenshy, for Newman Water Works Co.
Clyde Henry and Ernest E. Sexton, for Friendly Acres Water Co.,
 Klamath Water Co. and West Sacramento Water Co.
R. W. Adcock, for Alco Water Service.
Thomas H. Underwood, for Citizens Utilities Co. of California.
Lee J. Hollopeter, for Lakewood Water & Power Co.
Edward D. Keil, for Sonoma Water & Irrigation Co.
E. J. Guidotti, for Armstrong Valley Water Co.
William S. Schwartz, for Smithson Springs Water Corporation.
Edward R. Bowen, for Committee, American Water Works Association,
 and with T. V. Tallon, Alex Lawrence and Arthur L. Reeves, for
 Dominguez Water Co.
Joseph G. Nunes, for State Division of Real Estate.
Moss, Lyon & Dunn, by George C. Lyon, for Pacific Water Co.
J. E. Shope, for Yermo Water Co.
Walter Rawlings, for Tustin Water Works.
Samuel K. Rindge, for Citizens Domestic Water Co.
Alfred C. Davenport, City Attorney, for City of Montebello.
William P. Crum, for San Dimas-Charter Oak Domestic Water Co.
V. M. Freeman, for Santa Paula Water Works, Ltd.
Patrick J. Maloney, for Carpinteria Water Co.
Rudolph L. Gazveda, Morris A. Meade and Henry F. Rager, for
 City of Fontana.
John A. Cunningham, for Sunny Slope Heights Water Co. and
 Mission Water Co.
Richard C. Goodspeed and R. G. Reddinguis, for East Pasadena Water Co.
Marvin G. Sturgeon, for Robert L. Ryan, County Engineer, County of
 Ventura.
Anson H. Phillips, for Malibu Water Co.
Joseph Yarkin, William E. Gillis and Frederick C. Kracke, for
 Associated Home Builders, Inc. and Home Builders Council of
 California.
Ben Haggott, for Palos Verdes Water Co.
Ira R. Calvert, for Azusa Valley Water Co.
William C. Bricca, Harold J. McCarthy, William R. Roche and
Verner R. Muth, for the Commission staff.

Rule and Regulation No. _____

MAIN EXTENSIONS

A. General Provisions

1. A bona fide customer as referred to in Sections B and C hereinafter shall be a customer of permanent and established character, exclusive of the real estate developer or builder, who receives water service at a premises improved with structures of a permanent nature.
2. Any facilities installed hereunder shall be the sole property of the utility.
3. The size, type, quality of materials, and their location will be specified by the utility and the actual construction will be done by the utility or by a constructing agency acceptable to it.
4. Adjustment of any difference between the estimated cost and the reasonable actual cost of any main extension made hereunder will be made within 60 days after the actual cost of the installation has been ascertained by the utility.
5. In case of disagreement or dispute regarding the application of any provision of this rule, or in circumstances where the application of this rule appears impracticable or unjust to either party, the utility, applicant or applicants may refer the matter to the Public Utilities Commission for settlement.
6. Revenue from fire hydrant service will be included in the computation of refunds under the percentage of revenue method in those cases where the cost of fire hydrants or services for fire hydrants is included in the amount of the advance.
7. Extensions for fire hydrant service, private fire protection service, and temporary service will not be made under this rule.
8. For the purposes of this rule, the estimated annual revenue for residential and business service will be the utility average annual revenue per residential and business customer for the prior calendar year, such average to be effective on April 1st and used until the following April 1st. For other classes of service the utility will estimate the annual revenue to be derived in each case.
9. The utility will not be required to make extensions where grades have not been brought to those established by public authority.
10. Where the property of the applicant or applicants is located adjacent to a street or highway exceeding 70 feet in width, or a freeway, waterway, or railroad right of way, the utility may elect to install a main extension on the same side thereof as the property of the

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MAIN EXTENSIONS

A. General Provisions—Contd.

applicant or applicants, and the estimated cost in such case will be based on such an extension.

11. Where an extension must comply with an ordinance, regulation, or specification of a public authority, the estimated cost of said extension shall be based upon the facilities required to comply therewith.
12. Contracts entered into under the percentage of revenue method of refund under this extension rule may be terminated any time after two years following completion of the extension upon the mutual agreement of the parties by payment to the individual, individuals or subdivider of the present worth of an annuity of equal annual payments of the unpaid balance of the advance calculated at 6% interest as of the termination date of the contract.

B. Extensions to Serve Individuals

1. The utility will extend its water distribution mains to serve new bona fide customers at its own expense, other than to serve subdivisions, tracts, housing projects, industrial developments or organized service districts, when the required total length of main extension from the nearest existing distribution main is not in excess of 65 feet per service connection. If the total length of main extension is in excess of 65 feet per service connection applied for, the applicant or applicants for such service shall be required to advance to the utility before construction is commenced that portion of the reasonable estimated cost of such extension over and above the estimated reasonable cost of 65 feet of the main extension per service connection, exclusive of the cost of service connections and meters and exclusive of any costs of increasing the size or capacity of the utility's existing mains or any other facilities used or necessary for supplying the proposed extension. Such estimated reasonable cost shall not be based upon the cost of a main in excess of 4 inches in diameter except where required by the special needs of the applicant or applicants. The money so advanced will be refunded by the utility without interest in payments equal to the reasonable actual cost of 65 feet of the main extension, for which advance was made for each additional service connection, exclusive of that of any customer formerly served at the same location. Refunds will be made within 180 days after the date of first service to a bona fide customer. No refunds will be made after a period of 10 years from the date of completion of the main extension and the total refund shall not exceed the amount advanced.

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MAIN EXTENSIONS

B. Extensions to Serve Individuals—Contd.

2. Where a group of five or more individual applicants request service from the same extension, or in unusual cases after obtaining Commission approval, the utility at its option may require that the individual or individuals advance the entire cost of the main extension as herein provided and the utility will refund this advance as provided in Section C 2 b of this rule.
3. In addition to refunds made on the basis of service connections attached directly to the extension for which the cost was advanced as provided in Section B 1 of this rule, refunds also will be made to the party or parties making the advances in those cases where additional bona fide customers are served by a subsequent main extension, either continuous or lateral, supplied from the original extension upon which an advance is still refundable, whenever the length of such further extension is less than 65 feet per service connection. Such additional refunds will equal the difference between the 65-foot allowance per service connection and the length of each required subsequent extension multiplied by the average cost per foot of the extension used as the basis for determining the amount advanced. In those cases where subsequent customers are served through a series of such main extensions, refunds will be made to the party or parties making the advances in chronological order beginning with the first of the extensions in the series from the original point of supply, until the amount advanced by any party is fully repaid within the period of 10 years as specified above. In those cases where two or more customers have made a joint advance on the same extension, refunds will be made in the same proportion that each advance bears to the total of said joint advance. Where the utility installs a main larger than that for which the cost was advanced to serve an individual or individuals, and a subsequent extension is supplied from such main, the original individual or individuals will not be entitled to refunds which might otherwise accrue from subsequent extensions.

C. Extensions to Serve Subdivisions, Tracts, Housing Projects, Industrial Developments or Organized Service Districts

1. An applicant for a main extension to serve a new subdivision, tract, housing project, industrial development or organized service district shall be required to advance to the utility before construction is commenced the estimated reasonable cost of installation of the mains, from the nearest existing main at least equal in size to the main required to serve such development, including necessary service stubs

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MAIN EXTENSIONSC. Extensions to Serve Subdivisions, Tracts, Housing Projects,
Industrial Developments or Organized Service Districts—Contd.

or service pipelines, fittings, gates and housings therefor, and including fire hydrants when requested by the applicant or required by public authority, exclusive of meters. If additional facilities are required specifically to provide pressure or storage exclusively for the service requested, the cost of such facilities may be included in the advance upon approval by the Commission.

2. The money so advanced will be subject to refund by the utility without interest to the party or parties entitled thereto. The total amount so refunded shall not exceed the amount advanced. Refunds may be made under either of the following methods at the option of the utility:

a. Proportionate Cost Method

For each service connection directly connected to the extension, exclusive of that of any customer formerly served at the same location, the utility will refund within 180 days after the date of first service to a bona fide customer that portion of the total amount of the advance which is determined from the ratio of 65 feet of main to the total footage of main in the extension for which the cost was advanced. No refunds will be made after a period of 10 years from the date of completion of the main extension.

b. Percentage of Revenue Method⁴

The utility will refund 22% of the estimated annual revenue from each bona fide customer, exclusive of any customer formerly served at the same location, connected directly to the extension for which the cost was advanced. The refunds will, at the election of the utility, be made in annual, semiannual or quarterly payments and for a period of 20 years.

⁴ The utility may, at its option, in its filing insert a higher refund percentage, so as to refund a greater percentage of the estimated annual revenues over a shorter period than set forth herein; provided, however, that in so doing the percentage times years equals 4.4.