

ORIGINAL

Decision No. 58364

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Neven R. George,
Dos Rios Water System, to increase
present established rates for
water service.

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Application No. 39219

Neven R. George, for applicant.
Mr. and Mrs. Albert F. Ruefli, Mr. John Vinton,
and Mrs. John Jesenko, in propria personae,
protestants.
C. F. Clark and L. L. Thornod, for the
Commission staff.

O P I N I O N

This Commission in Decision No. 56387, dated March 17, 1958, authorized Dos Rios Water System to increase its rates, and provided in part that the applicant construct and place in operation a 10,000-gallon redwood tank by June 1, 1958. By Decision No. 56732, issued May 27, 1958, time in which to complete said tank was extended to September 1, 1958. Decision No. 56909, dated July 1, 1958, denied applicant's further petition for modification.

On October 15, 1958, this Commission issued an order reopening said application for the purpose of determining whether said utility has complied with the above decisions, and to ascertain whether such decisions should be altered, amended or revoked.

Further hearing in this proceeding was held in Willits on December 5, 1958, at which time evidence was presented by the Commission's staff and by the utility.

Staff's Evidence

Evidence presented by the staff shows that the utility failed to construct said tank as ordered. As a result the service

deficiencies mentioned in Decision No. 56387 were aggravated during the 1958 summer season with residents at the higher elevations in Dos Rios receiving little, if any, water. The hardship to the consumers was at times noticeably severe, some consumers being without water for 48 to 72 hours. As a suggested alternative to the construction of a new tank the staff offered evidence that the present 6,000-gallon redwood tank, situated above the town to the east, might be relocated at the proposed site of the new tank on the west side of the community.

Utility's Position

Mr. Neven George, testifying on behalf of the utility, contends that the utility has, and had during the past year, no funds with which to build a new tank. The rate increase which became effective on April 16, 1958, provided revenue only to meet necessary current expenses and to purchase needed office equipment, insurance and the services of a maintenance man. It was alleged that no other capital was or is available to construct such a tank and that private and public lending institutions refuse to assist in the financing of such a project. Consequently, it was argued that it does not have the financial ability to comply with the order of the Commission. Moreover, the utility asserts that the Commission's order was impractical from an engineering standpoint and could not be followed even if funds were available. This same contention was also advanced as to the alternative proposal suggested by the staff.

During the course of the hearing Mr. George made repeated offers to sell or lease the water system to the consumers at Dos Rios on any terms or conditions satisfactory to them. He even offered to transfer without cost a substantial portion of the water system to the consumers if they would undertake the operation thereof. Such offers have not as yet been accepted.

Conclusion

There is, in our opinion, no practical and enforceable solution in this matter that will not meet with objections from both the utility and the consumers. The order that follows, based upon our findings and conclusions, is a workable compromise and represents the most equitable and reasonable answer to the requirements of the parties.

First of all, the record does provide a practical solution and one which this Commission strongly advises. It is recommended that the consumers accept one of the various offers of Mr. George and purchase or lease this water system operating same by themselves. If these water users were to take over, operate and maintain this system they could, by cooperative and concerted effort, in a relatively short time place this utility in adequate operation at reasonable rates. The Commission cannot force the consumers to buy or lease the utility; however, it appears that a mutual water company operating solely for its members or stockholders at cost is the most appropriate of the various alternatives suggested. Moreover, the consumers should explore the feasibility of creating a public utility water district in this community.^{1/}

But, if the foregoing advice is not followed and if the utility is not willing to abandon to the public all of its property devoted to public use, then the full burden remains with the utility to provide satisfactory service and to comply with the Commission's orders. Here the evidence is clear and convincing that the utility has failed to comply with the orders of this Commission. On the other hand, we are satisfied that it does not have, at this time, the funds with which to finance the improvements heretofore ordered nor

^{1/} Public Utilities Code 15701, et seq.

does it have any reasonable expectation of obtaining funds from private or governmental lending agencies in the immediate future. This utility indicated to the Commission when it purchased this system in 1953 that Mr. George would personally manage the system and reside in Dos Rios; in 1957 at the hearing on the rate increase, Mr. George agreed that part of the revenue gained as a result of the rate increase would be allocated toward service improvements. Instead, the utility has been managed by an absentee owner and its rate increase revenues have been used for purposes other than improvements. While we recognize these breaches of promises, yet they are now accomplished facts and no good purpose would be served by charging the utility with mismanagement, or by instituting contempt action against Mr. Neven George. Although we do not condone Mr. George's actions, drastic measures such as contempt proceedings with the potentially disabling penalties to the individual will not help the consumers obtain better service. The financial picture as it exists today and apparently will exist in the future, rather than the funds that would have been available in the past year, must of necessity determine our present action.

Late-filed exhibits by the utility and the Commission staff have provided in effect the key to the solution which we are adopting. The utility's proposals to improve the distribution of water, delineated in its map exhibit designated for the purpose of this proceeding Exhibit 6A, are accepted in most respects, subject to certain modifications, and will be incorporated in part in the amendments to the order that follows. The proposed construction of an additional one-inch transmission main in 1959 commencing at the intersection of the present main and the line from the springs running parallel to the existing line across the river to the town will be a significant step in increasing the full flow of water from the springs during

peak periods and should double the present total flow to the town. The utility's proposed additional one-inch main connecting both ends of the distribution lines in the west side of the community and thus creating a circulating distribution system has merit and should be constructed in 1960 as suggested by Mr. George. We cannot, however, sanction requests to eliminate connections of private lines of consumers and to disconnect private tanks of residents; the problems, legal and engineering, created offset the minor advantages that might ensue from such a plan.

The initiative taken by the utility in inaugurating this improvement program is encouraging and constitutes a constructive step forward toward a satisfactory solution to the problems plaguing this system. These transmission and distribution line additions outweigh the temporary advantages of new tank construction and old tank relocation.

An analysis of the staff's late-filed exhibit, Exhibit 7, discloses that from May 1, 1953 to December 31, 1957, cash disbursements for this utility approximated cash collections. However, the following estimate of revenues and operating expenses for 1959 indicates that approximately \$235 a year, as a minimum, would be available for plant improvements outlined:

<u>Revenues</u>		\$1,020.00
<u>Operating Expenses</u>		
Wages - maintenance	\$420.00	
Insurance	153.25	
Payroll taxes	21.75	
Property taxes	<u>10.00</u>	
Fixed Expenses	\$605.00	
Material and Supplies (estimate)	\$120.00	
Other Expenses (estimate)	<u>60.00</u>	
Total Operating Expenses		<u>\$ 785.00</u>
Cash available for Plant Improvements		\$ 235.00

If the consumers elected to operate the water system as a mutual water company the cost of wages and insurance could probably be reduced by \$300 to \$400 per annum. In fact, many of the expenses of this utility are indirectly the result of absentee ownership and lack of cooperation between the owner of the utility and the consumers. Such expenses could be substantially reduced in a mutual company arrangement.

It is evident from the above tabulation that on a strict cash income and cash expenditure basis funds will be available for the contemplated transmission line and distribution improvements this year and in succeeding years. Because no allowance is made in the foregoing estimate for the owner's time that may be necessary in operating the water utility, there will be some hardship to him as a result of the improvement program. On the other hand, the consumers will probably have to endure another summer of inadequate water delivery. These temporary drawbacks to be realized by both parties are part of the price to be paid for the eventual improvement in this system.

Because of the comparatively small investment involved and because of the extrinsic circumstances surrounding this small water system, we see no reason for departing from our earlier view in Decision No. 56387 that an establishment of a rate base for rate-fixing purposes in this matter is not practicable. In addition, it is apparent that depreciation expense determination is inapplicable at this time; accordingly, said decision will be amended to delete provisions for such determination.

In view of the fact that the general financial situation of this utility is such that the costs of meters that might be requested by the consumers would reduce the funds available for the

essential improvements described, provisions of Decision No. 56387 providing for installation of meters at the option of either the consumer or the utility must be revised.

In light of the foregoing, Decision No. 56387 will be amended and revised in order to reflect the foregoing findings and conclusions.

O R D E R

Based upon the evidence and findings of record, and good cause appearing,

IT IS ORDERED that Decision No. 56387 be amended as follows:

- (1) That paragraph 3, Page 7 is hereby deleted and canceled.
- (2) That paragraph 4, Page 7 of said decision, as amended by

Decision No. 56732, be amended to read:

"4. Neven R. George shall cause to be constructed, installed and placed in operation for the distribution of water, no less than 500 feet of new galvanized steel transmission pipe, not less than 1 inch in diameter, commencing at the junction referred to in the opinion that precedes this order and in the markings of the late-filed exhibit, Exhibit 6A, designated 'Dos Rios Water System Distribution, Dec. 1958' and running parallel to the present main to the Eel River, thence across the river to the west side of the community of Dos Rios. Said main shall be installed, connected and placed in operation for the delivery of water by December 31, 1959. Neven R. George shall inform the Commission in writing of the commencement of such installation and in addition shall notify the Commission of the completion of the installation and placing in operation thereof within ten days thereafter."

(3) That paragraph 5, Page 7 of said decision be amended to read:

"5. In the event the installation of the parallel transmission main referred to in paragraph 4 is not completed by December 31, 1959 to the point referred to as 'B' on the aforementioned

Exhibit 6A, also described as the junction of the present utility line running south-westerly up to the schoolhouse and the line running northerly along the Mendocino County Road, Neven R. George shall cause to be constructed, installed and placed in operation for the distribution of water by December 31, 1960, transmission pipe of the same size and quality as set forth in paragraph 4 from the termination point of said pipe referred to in paragraph 4 to the above mentioned point 'B'."

(4) That there shall be added to said decision the following ordering paragraph to be designated "6":

"6. Neven R. George shall cause to be constructed, installed and placed in operation for the distribution of water by December 31, 1960, pipe of the same size and quality as set forth in paragraph 4 between the point referred to as 'C' on the aforementioned Exhibit 6A, also described as the southwest end of the existing utility distribution line and the point referred to as 'D' on the aforementioned Exhibit 6A, also described as the northwest terminus of the existing utility distribution line. Neven R. George shall inform the Commission in writing of the commencement of such installation and in addition shall notify the Commission of the completion of the installation and placing in operation thereof within ten days thereafter."

(5) That there shall be added to said decision the following ordering paragraph to be designated "7":

"7. Neven R. George shall set up a separate bank account for the exclusive use of the Dos Rios Water System. All revenues from operations of said water system shall be deposited intact. All disbursements shall be made by check and shall be supported by invoices or other documentary evidence which shall be preserved by applicant."

(6) That paragraph 3 under Special Conditions of Schedule No. 2, Annual General Flat Rate Service and Schedule No. 2S, Seasonal General Flat Rate Service, of Appendix A to said Decision No. 56387, is hereby amended in part to read:

"3. Meters may be installed at option of utility for above classification in which service

thereafter will be furnished only on the basis of Schedule No. 1, Annual General Metered Service, or Schedule No. 1S, Seasonal Metered Service."

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

Dated at San Francisco, California, this 5th day of May, 1959.

E. Lynn Fox
 President

John E. Mitchell

William J. Foster

Theodore J. Decker

Commissioners

Commissioner Everett C. McKeage, being necessarily absent, did not participate in the disposition of this proceeding.