

ORIGINAL

Decision No. 76370

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's
own motion into the operations,
service, maintenance, facilities,
equipment, water supply, practices,
rates, rules, tariff schedules and
records of Rubicon Water Co., Inc.

Case No. 8944
(Filed July 29, 1969)

Charles R. Wadsworth, for respondent.
Kenneth E. Hettick, for Rubicon-Tahoe
Owners, Inc., interested party.
W. B. Stradley, for the Commission staff.

O P I N I O N

This proceeding is an investigation, on the Commission's own motion, to determine whether the operations, service, maintenance, facilities, equipment, water supply, practices, rates, rules, tariff schedules and records of Rubicon Water Co., Inc. are unreasonable or inadequate.

Rubicon Water Co., Inc. (respondent herein) is a public utility water corporation operating in an area located on the west shore of Lake Tahoe at Rubicon Bay in El Dorado County. Ownership of the corporation is held by four persons, one of whom is the president who holds one-third of the stock, one of whom is the secretary-treasurer and who also holds one-third of the stock and who generally supervises the operation of the system, and two of whom each hold one-sixth of the stock of the corporation.

Following the receipt of numerous complaints regarding the service furnished by this utility, field investigations were undertaken by an engineer of the Commission's staff and the Commission

instituted this formal proceeding and set the matter for hearing. Each customer of the utility, as well as the officers of respondent, were notified thereof and public hearing was held before Examiner Emerson at Meeks Bay on August 29, 1969. More than 70 customers attended the hearing and nine of them testified respecting service conditions. The matter was submitted, on receipt of an exhibit filed by respondent, on October 1, 1969, and is now ready for decision.

The evidence consists of six exhibits, the testimony of the staff engineer, an employee of the State Department of Public Health, a sanitarian of the El Dorado County Health Department, the nine customer witnesses above mentioned (three of whom are doctors of medicine) and respondent's president.

The utility was certificated by this Commission in 1959. Its source of water supply is Lonely Gulch Creek, a stream passing through the central portion of the area, across which is a dam which impounds about 185,000 gallons of the stream flow. The adequacy of the stream flow and the storage behind the dam to meet the ultimate needs of the approximately 606 lots in the certificated service area has been questioned on several occasions by respondent's customers. The system presently serves 242 customers and the evidence seems clear that although some customers have at times been without water such outages have not been because of inadequate stream flow or storage but have been the result of inattention, frozen mains, or faulty operation of the system.

Since 1967 when the present stockholders of the company took over control and operation of the system, general operation of the system has been under the supervision of the company's Secretary-Treasurer and Manager who resides in Rocklin, Placer County, about

100 miles distant from the water system. The other three stockholders reside in the State of Washington. The day-to-day operations of the system are carried on by plumbing contractors at Tahoe City, about 15 miles from the system, who are under verbal contract with the utility to maintain the system in proper operation and to meet its emergency needs. The evidence is clear that customers have on numerous occasions been unable to reach either the manager, the plumbers or any other representative of the utility for emergency-type services and that their emergency service needs have remained unattended for periods varying from several hours to as long as three days. In at least one instance, frozen mains precluded water usage for a period of three months. The evidence discloses that although General Order No. 103 of this Commission requires the utility to keep a record of interruptions in service, both emergency and scheduled, together with the date, time, duration, location, number of customers affected and in the case of emergency interruptions, the remedy and steps taken to prevent recurrence, the utility has no such records.

One portion of the system presently serving 14 customers at the higher elevations, is fed from an elevated storage tank into which water is pumped from the lower distribution mains. The operation of the pump and thus the water level in the tank is remotely controlled over leased telephone lines. The evidence shows that during the month of June 1969 the pump and its controls failed to function so frequently that adequate amounts of water were not being stored and customers were left without water for varying periods of time, this in spite of the fact that the 22,000 gallon capacity of the tank should have met the normal needs of these customers for several days before complete refilling of the tank would be required. The repeated replacement of

blown pump motor fuses undertaken by respondent is no real solution; competent operation, maintenance and repair is. In this situation, respondent has provided none of these.

Pressure readings, taken at various points on the system, indicate distribution system pressures as high as 165 psi, some 40 psi above the normal maximum pressure specified by this Commission's General Order No. 103. Because the utility has failed to do so, many customers have installed pressure reducers on their service lines. When dirt and debris clogs these devices, the customer has been charged for their cleaning and adjustment, a practice neither provided for by the utility tariffs nor otherwise authorized by this Commission. Proper pressure maintenance work is the responsibility of the utility, not the customer.

Mud, sand, rust, leaves and other debris are allowed to enter the distribution mains and thus find their way into customers' facilities. The water is particularly turbid during the spring and fall months and following thundershower activity. The existing coarse screening at the reservoir outlet is inadequate to prevent the serving of muddy, silt and debris-laden water to customers. Flushing of the mains as done to date by the utility has also been inadequate to clear them.

The utility either owns or controls an area of about five acres surrounding the reservoir and the reservoir at sometime in the past has been enclosed by a 5-foot high "cyclone" type fence. The fence is now broken or sagging in several places, thus allowing persons and animals ready access to the reservoir. How long the present condition has existed is not disclosed in this record but the fact that it does exist provides a clear indication of lack of system maintenance and neglect.

The utility has dedicated its public service to use throughout the year and its tariffs basically provide for an annual charge for year-around water service. The evidence is clear that because some of the mains are not deep enough, they freeze and no water may be served from them until they are thawed out. Flowing water is difficult to freeze, however, and on a system where freezing may occur, proper operation of the system would dictate that a constant flow of water (water flowing to waste) be maintained during winter freezing periods. This utility has not followed such practice.

Of wider and even more serious concern than any of the above-discussed matters is the quality of water served by this system. The testimony of the health department representatives, the doctors and the several customer witnesses make it abundantly clear that contaminated water has somehow entered the system and could have caused illness in those who consumed it. Numerous cases of gastro-enteritis, abdominal pains and diarrhea, some requiring immediate medical attention, have been reported as having persisted over a period of many weeks. The conclusion is inescapable that a health hazard has existed on this water system all during the summer season of 1969 up to at least the date of hearing in this proceeding. While the source of contamination is not presently known, the water may be made potable and safe for human consumption by proper filtering and chlorination. The evidence shows that the chlorinator for the system is of some age, in need of repair or replacement and is only irregularly operative. In its present condition it has required constant attention but, obviously, has not received it. The above-recited illnesses may have been the result of the lack of adequate chlorination.

This record also shows that respondent has actively sought to serve water to another subdivision (Tahoe Hills) which is not contiguous to its present serving area. Respondent is placed on notice that extension of the existing system to such subdivision may not lawfully be undertaken without the approval of this Commission having first been obtained (Section 1001, Public Utilities Code).

The testimony of the utility's president in response to the matters above discussed was that the customer complaints were legitimate and that no attempt would be made to rebut them. With respect to the water contamination problem, he stated, "I think this is an extremely serious, very serious, problem myself" (TR 97, lines 9, 10) and promised immediate correction of the chlorination problem (TR 97, lines 22-24). With respect to other problems, his position was generally that they are matters for specific study before undertaking any large projects but that all of them would have his attention.

Findings of Fact

In view of the evidence, the more important elements of which are discussed above, the Commission makes the following findings of fact:

1. After due notice, public hearing has been held in the matter of an investigation on the Commission's own motion into the operations of Rubicon Water Co., Inc.; evidence has been adduced and the matter stands submitted.
2. Ownership of the utility lies with four persons, three of whom reside out of state and one of whom resides some 100 miles distant from the water system.
3. The system has no local office or local supervision, its operations being dependent upon the services of a plumbing firm some 15 miles distant from the system.

4. The utility's response to customers' needs has been dilatory and inattentive.

5. There is no present means whereby customers may with assurance contact the utility or obtain a prompt response to their emergency needs.

6. Unduly long and unwarranted interruptions of service have occurred.

7. Unreasonably high water pressures are maintained on certain portions of the system.

8. The system has neither been adequately maintained and operated in accordance with accepted good practice nor in compliance with the requirements of this Commission's General Order No. 103.

9. The system has provided unpotable and contaminated water.

10. The utility has charged customers for maintenance work which was its own responsibility to provide and in contravention of its tariffs.

11. No proof has been offered that the water supply is sufficient to serve any area greater than that presently served.

Conclusions of Law

1. Respondent has not furnished and maintained such adequate, efficient, just and reasonable service, instrumentalities, equipment and facilities as are necessary to promote the safety, health, comfort and convenience of its patrons and the public.

2. Respondent should be directed to furnish and maintain adequate service and facilities as set forth in the following order.

3. Respondent's operations should be limited to the serving of its present area pending further order of the Commission.

C R D E R

IT IS ORDERED that:

1. Respondent shall forthwith install, place in proper operation and thereafter maintain in proper operating order a chlorinator adequate to insure that all water served from its system is properly disinfected in accordance with the health standards established by the Board of Health of El Dorado County and the State Department of Public Health. Said chlorinator shall have as part thereof a readable chlorine-metering device adequate to insure that chlorine may be added properly and consistently. The installation and operation of the chlorinator shall be such as will insure a thirty-minute retention period for chlorinated water. Said chlorinator shall be inspected, as to its proper functioning, daily during the period of April 15 through October 15 and twice weekly during the period October 16 through April 14 of each year and respondent shall keep a log record of such inspections signed by the person making each inspection. Said log records shall be permanently maintained by respondent until relieved of so doing by further order of this Commission and said log records are hereby declared to be open to public inspection at any reasonable time.

2. By not later than thirty days after the effective date of this order, respondent shall inform this Commission in writing that the aforesaid chlorinator has been installed and in proper operation.

3. Respondent shall submit bacteriological samples of water to the State's Bureau of Sanitary Engineering monthly and once yearly shall submit a sample with chemical analysis thereof to the same agency.

4. Respondent shall forthwith commence and thereafter continue a program of water main flushing at regular intervals throughout each year. Flushing points shall be on the lowest portions of individual segments of the mains and at each dead-end main. The period of flushing shall be for such length of time and at such rate of flow as to remove any entrained solids and maintain an optimum clarity of water but in no event during the period April 15 through October 15 of each year shall flushing be done less than twice weekly and for less than five minutes at each flushing point.

5. By not later than sixty days after the effective date of this order, respondent shall submit to this Commission a copy of its flushing program or schedule together with a copy of its written instructions to its operating personnel concerning the same. Upon changing or revising either the program or the instructions, respondent shall promptly inform this Commission in writing as to the details thereof.

6. By not later than sixty days after the effective date of this order, respondent shall have cleaned and flushed its elevated 22,000 gallon tank and shall thereafter clean and flush said tank at intervals not exceeding six months.

7. As soon as feasible but in no event later than ninety days after the effective date of this order, respondent shall repair the fence enclosing its reservoir and shall thereafter maintain said fence in such state as to hinder and discourage the entrance of animals and unauthorized humans into the enclosed area.

8. By not later than May 15 of each year respondent shall thoroughly clean its reservoir. In draining the reservoir, arrangements shall be made to prevent interruptions of water service to customers during the period of draining and cleaning.

9. Within one year after the effective date of this order, respondent shall have constructed and in proper operation:

- a. A settling basin upstream of the present reservoir in order to provide for preliminary settling-out of material and debris before water enters the reservoir, and
- b. An adequate sand trap and filtering equipment at the reservoir outlet and convenient to the system chlorinator.

10. During the winter months or during potentially freezing weather, respondent shall maintain a flow of water in its mains, by wasting, sufficient to prevent freezing of water in the mains.

11. By not later than June 15, 1970, respondent shall have so regulated the water pressure at the customers' service connections in its mains that no pressure greater than that specified in this Commission's General Order No. 103 will thereafter prevail. Until respondent shall have so established its water pressure, respondent shall adjust and/or clean its customers' individual pressure regulators, without charge therefor, when requested to do so by the customers.

12. As soon as feasible but in no event later than six months after the effective date of this order, respondent shall have installed and in proper operation a water-level indicator on its 22,000 gallon storage tank and thereafter shall record the level of water therein not less than once each week.

13. Except upon further order of this Commission, respondent shall not extend its water system or supply water service therefrom to any person beyond the boundaries of the service area delineated on presently effective Tariff Sheet No. 72-W.

14. Respondent shall forthwith take such steps as are necessary to insure that:

- a. A responsible officer, employee or agent is at all times reasonably available to the local area to meet the emergency as well as the normal day-to-day needs of its customers and to adequately operate and maintain the water system, and
- b. Each customer is kept informed as to how to reach such officer, employee or agent in the local area by mail and at any hour by telephone.

15. Respondent shall forthwith commence and shall thereafter continue the recording of service interruptions in conformance with the provisions of this Commission's General Order No. 103. In addition, respondent shall prepare water system maps in accordance with the provisions of said General Order and shall file two copies thereof with this Commission by not later than August 1, 1970.

The effective date of this order shall be the date hereof.

Dated at San Francisco, California, this 4th
day of NOVEMBER, 1969.

William Sepurua Jr.
President
[Signature]
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Vernon L. Stinson
Commissioners