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Decision No. 78385

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of INDEPENDENCE WATER
COMPANY, to increase rates for
water service.

Application No. 51969
(Filed June 15, 1970)

John A. Gemmell and Everett L. Clark, for
applicant.
Chester O. Newman, for the Commission staff.

O P I N I O N

By this application Independence Water Company, a California corporation, seeks authority to increase its rates and charges for water service by 50 percent.

Public hearing in the matter was held before Examiner Emerson on September 15 and 16, 1970 at Independence. Upon receipt of late-filed exhibits, the matter was submitted on September 24, 1970.

Applicant was incorporated in 1887 and has since such time supplied water to the unincorporated town of Independence, county seat of Inyo County. The original authorized stock was 8,000 shares, of one dollar per share par value common stock. There are presently outstanding 7,620 shares of such stock, now held by eleven shareholders, such number of shares having been the same since June 5, 1888. No dividends have ever been paid to the holders of these shares.

The present stockholders are as follows:

<u>Stockholder</u>	<u>Number of Shares</u>
John A. Gemmell and wife	3,800
John A. Gemmell	20
H. R. Gemmell	5
K. J. Gemmell	25
The City of Los Angeles	2,795
Mona Osborne	25
Duane Georgeson	25
Paul H. Lane	25
O. I. Mairs	300
John E. Baxter	300
Phillip E. Baxter	<u>300</u>
Total	7,620

John A. Gemmell is president of applicant. He and his family together hold 50.525 percent and the City of Los Angeles holds 36.680 percent of the stock. Three of applicant's five directors are the Gemmells, John, Helen and Katherine; the other two, Duane Georgeson and Mona Osborne, are reported to be employees of the City of Los Angeles. None receive any fee for serving as a director.

The Northern District of the Aqueduct Division of the Department of Water and Power of the City of Los Angeles has its operating headquarters in Independence and it is believed that about 50 percent of the town's inhabitants work for the city department.

Applicant's service area is the unincorporated townsite of Independence, an area of about 200 acres in which only about 50 percent of the land is in private ownership, the balance being owned by

the City of Los Angeles, Inyo County and the School District. All of the lands surrounding the townsite are held, in general, either by the City of Los Angeles or by the Federal government and are withdrawn from public use. Except for service to existing inactive service connections, there is little or no possibility for water-customer growth or system expansion. Only eleven customers have been added since 1958. Today the system serves 297 active service connections, 6 connections for flushing the town's sewers, which are owned by the City of Los Angeles, and 31 fire hydrants owned by the local fire district.

The City of Los Angeles, since about 1913, has diverted Owens River waters, waters from many tributary streams and waters pumped from underground aquifers, into the Owens River Aqueduct for transport to and ultimate use within the corporate limits of Los Angeles. One of the tributary streams is Independence Creek, the source of supply for applicant's system and from which applicant has an established right to 55 miner's inches of continuous flow.

Applicant's point of diversion from Independence Creek lies about one mile west of the townsite where its diversion works, settling basins, 405,000-gallon open reservoir and chlorinators are located on a ten-acre parcel of land which applicant leases from the City of Los Angeles.

The City of Los Angeles diverts the flow of Independence Creek at locations both upstream and downstream from applicant's diversion works. Upstream diversions by the City have on occasion left applicant's system completely without water, since applicant's reservoir holds only about a two-hour's supply during peak water usage within the townsite.

The City of Los Angeles has installed, operates and maintains a meter in applicant's 10-inch supply main, at a point about 650 feet below applicant's reservoir, in order to measure the gross water consumption in Independence.

The water system has been operated for at least the last 20 years with part-time help. For some 16 of these years, Mr. Gemmell served as applicant's general manager while being employed full-time by another employer in the community and was, for all practical purposes, continually available to meet emergency situations as well as the routine operations of the utility. For his utility work he was paid \$250 per month. In August 1968, Mr. Gemmell accepted full-time employment in Silverpeak, Nevada, some 150 miles distant from Independence and since such time has been unable to closely oversee the operations of the water system. Round-trip travel time in good weather is some 5 hours; in winter, as long as 14 hours. Continued management by Mr. Gemmell is thus rather obviously impractical. To meet this problem applicant's directors have sought a replacement for Mr. Gemmell and have authorized a salary of \$750 per month for a full-time manager. They have as yet been unable to attract or find a person competent to manage and operate the system. Reportedly, there are employees of the City of Los Angeles in the community who are capable of undertaking such work on a part-time basis and who might like to do so but the testimony indicates that the City will not permit its employees to accept non-city employment.

The system has been plagued with problems of low-pressure and low-quantity availability on numerous occasions over a period of many years. When large run-offs of storm water occur, the system suffers from dirty water, both during the storms and for periods of

varying lengths of time thereafter. In recent years there has been only one instance when the system was out of water and on such occasion an emergency supply was obtained by running some 2,000 feet of main on top of the ground to a well owned by the City of Los Angeles. Customers of the system have been, by and large, long-suffering and have made the best of trying conditions. Faced with a proposed 50 percent increase in rates in this proceeding, however, they object and recite their complaints. In addition to numerous letters voicing complaints just prior to the hearing in this matter, 12 customers testified relative thereto. The majority must obtain water for drinking and cooking purposes from an artesian well, owned by the City of Los Angeles, some 2 1/2 miles from town, in order to avoid the dirty and possibly contaminated water (there are public camp grounds along Independence Creek) served by applicant. A succinct summary of their testimony would be that the present value of the poor service that they receive does not warrant any increase in rates but that a fully adequate service of clean, uncontaminated water would justify some increase.

Because of the poor quality of water served (sand, rocks and sediment), the Commission in 1960 directed applicant to install a "rapid sand filter" at the diversion works (see Decision No. 59476, Application No. 41104, issued January 5, 1960). Said filter was not installed as ordered but in lieu thereof a "debris removal structure" was placed at the site (see Decision No. 65775; July 30, 1963). Even though applicant's engineer thereafter reported that "the debris structure loses much of its effectiveness when required to handle muddy water in such large quantities" and recommended by-passing stream flow during periods of heavy run-off, the Commission, since 1963, has been led to believe that the problem had been adequately solved. That such is not the case, however, is plainly apparent from the testimony in the instant proceeding.

Applicant was also ordered, in 1960, to undertake a routine main-flushing program and to properly chlorinate the water. The evidence discloses that applicant did not flush mains on a scheduled or programmed basis during either 1969 or 1970. The evidence also indicates that the Department of Health has often complained about applicant's source of supply and purification facilities during the past five years.

A review of applicant's prior compliance reports relating to the operation of its filtering system shows that a reduction of dirt and debris in the distribution mains can be accomplished by regular supervision and by following a routine operating schedule for cleaning and backwashing the filter beds. Customer complaints also show that there is an accumulation of sediment in the distribution system which has built up over many years with no indication that applicant has provided written instructions to its employees to carry out a systematic plan for cleaning the distribution mains.

Applicant is aware of customer dissatisfaction and readily admits poor pressures and other system deficiencies and their long standing. It has no present intention or plans for future improvement of the system. When questioned along these lines, its witness cited cost estimates of \$15,000 to \$400,000 as being indicative of what might be needed to substantially improve its water service. It seems to be overwhelmed by the magnitude involved and is certain that the financing thereof cannot be accomplished.

Applicant has been attempting to sell the system. In this respect, its President testified "I have been working consistently with the (Los Angeles) Department of Water and Power for some three and a half years now trying to get them interested in taking over the system, inasmuch as I feel that they are in the water business

and that this is their town". According to his testimony, the City of Los Angeles has kept reiterating its interest in acquiring the system but negotiations have never reached a formal stage. In all the circumstances, we are of the opinion that this course of action should be vigorously pursued in the best interests of the water users. It would seem that whereas applicant's operations are its sole interest and plagued with the problems of both management and labor, the entire enterprise might be little more than an incrementally insignificant addition to the operations of the City of Los Angeles; particularly in view of the headquarters and the large number of personnel which the city has in Independence.

Applicant should make a concerted effort to obtain local operating assistance from the City of Los Angeles. With approximately 150 water department employees stationed in Independence, surely the City, a substantial stockholder in applicant, could temporarily relax its rule respecting outside employment and permit at least one of its competent employees to be employed by applicant on a part-time basis for supervision and maintenance of applicant's system.

With respect to applicant's earnings, the record herein, including applicant's annual reports to this Commission, shows that the system operated at a loss for the years 1968 and 1969. Applicant also estimates losses of more than \$6,000 for each of the years 1970 and 1971, such prospective losses being primarily attributable to an increase in management salaries. A brief summary, after inclusion of full allowances for depreciation expense and all taxes, is as follows:

<u>Year</u>	<u>Net Revenue Loss</u>
1968	\$ 206
1969	857
1970 Est	6,066
1971 Est	6,289

Applicant's utility plant account at the start of 1970 totaled \$97,346, including intangibles of \$9,805.^{1/} With a depreciation reserve of \$48,566 applicant's net plant was thus \$48,780 as of January 1, 1970.

In viewing the record in this proceeding, certain facets stand out most clearly: (1) water users are provided an inadequate service overall, with low pressures, insufficient quantities, muddy and, at times, contaminated water; (2) the utility has no present intention of making future improvements for supplying its patrons with clear and uncontaminated water; (3) the utility wants to sell its system. We conclude that the value of the present service is not such as to warrant an increase in water rates at this time.

If applicant can bring its system, its degree of maintenance and its management or supervisory efforts up to a proper standard of performance and thereby accomplish improvements which would warrant a finding that the value of the service to its patrons is equal to its proposed increased charges, applicant's rate increase proposal should be fully granted.

It is basic in law, of course, that a public utility may not be forced to operate at a loss and may, under such adverse circumstances abandon its operations and go out of business. Such a step is indeed a drastic one; however, if applicant cannot meet its utility obligations to the public and remain solvent, it may consider seeking authority for such a step. Seemingly, the only present reasonable alternative is acquisition of the system by the City of Los Angeles, a substantial stockholder of the enterprise.

^{1/} Recorded amount of \$12,070 less \$2,265 incorrectly included therein for settlement of prior free-water claims.

In view of the record herein, the more important elements of which are hereinabove discussed, the Commission makes the following findings of fact.

1. After due notice, public hearings have been held; evidence has been adduced; the Commission has been fully informed and the matter stands submitted.

2. Under existing rates and charges for its utility services, applicant has operated at a loss during the years 1968 and 1969 and, prospectively, will so operate during 1970 and 1971.

3. Applicant seeks to increase each of its water rates by fifty percent.

4. Applicant now provides an inadequate service to the public and has failed to make system improvements or employ practices designed to alleviate existing inadequacies.

5. Applicant's system is now largely unattended by management.

6. It is essential that system improvements be made in the following respects:

- a. Applicant should be required to install a coarse mesh grating or perforated metal plate at the stream intake to its filtering structure. This screening installation should be capable of removing and diverting leaves, sticks and other debris more than 1/2 inch in diameter. Provisions should be made for cleaning of the screen daily by the system operator.
- b. Applicant should be required to immediately institute a main cleaning and flushing program beginning at the southwesterly corner of the service area and proceeding down stream to the north and east ends of the distribution system. A scrubbing unit of suitable material should be passed through each main of more than 2-inch diameter.
- c. Applicant should employ personnel who can carry out operating procedures on a routine basis.
- d. Applicant should be required to submit detailed written instructions to be used for routine operation and maintenance of the filter system, water treatment facilities, and storage reservoirs.

7. The value of the present service to the public is no greater than the present charges therefor.

8. Upon completion of the system improvements set forth in paragraph 6, above, applicant's rates should be increased by approximately 50 percent.

The Commission concludes that authorization to increase rates, as proposed by applicant, should be deferred until such time as applicant can demonstrate that its system and its operations have been brought to a proper standard. When compliance with the following order is obtained and investigation by the Commission's staff confirms the same, the Commission, by supplemental order in this proceeding, will authorize the filing of increased water rates in the full amount sought herein.

O R D E R

IT IS ORDERED that:

1. Within ninety days of the effective date of this order, applicant shall install a screening appurtenance capable of removing all debris more than 1/2 inch in diameter. Said installation shall comply with any requirements of the Department of Public Health of the State of California. When such installation is complete, applicant shall so notify the Commission in writing.

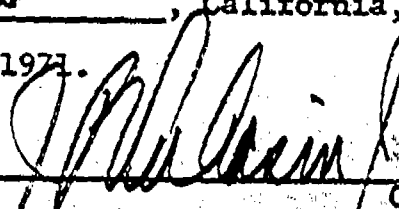
2. Within one hundred twenty days of the effective date of this order, applicant shall commence a main cleaning program using a scrubbing device for all mains larger than 2 inches in diameter. Applicant shall report its progress in the cleaning program on the first and fifteenth days of each month until cleaning is completed.


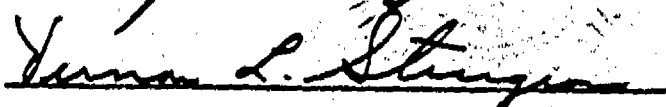
3. Within thirty days of the effective date of this order, applicant shall file with this Commission a copy of written operating instructions for the operation and maintenance of its filter system, water treatment facilities and storage reservoirs.


4. Authorization to increase rates is hereby denied until such time as a Commission staff investigation may disclose that all of the foregoing has been accomplished and that the system is in proper operating condition.

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

Dated at San Francisco, California, this 2nd day of MARCH, 1971.


Chairman


Commissioners

Commissioner William Symons, Jr., being necessarily absent, did not participate in the disposition of this proceeding.