

ORIGINAL

Decision No. 81452

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

RUDOLPH A. MICHAELS, et al,
Complainants,

vs.

METTLER MUTUAL WATER CO.,
Defendant.

Case No. 9466

(Filed November 1, 1972)

Henry C. Mack, Jr., Attorney
at Law, for complainants.
Rudolph A. Michaels, for
himself, complainant.
Stephen Eyherabide, Attorney
at Law, for defendant.
Forest Greber, Attorney at Law,
Kern County Counsel's Office,
for El Tejon Union School
District and Kern County Fire
Dept., interested parties.
Robert C. Durkin, for the
Commission staff.

INTERIM OPINION

By this complaint Rudolph A. Michaels and 25 other water users (complainants) alleged that the Mettler Mutual Water Co., a corporation, whose principal owner is Aldo Joe Ghiglia, has devoted its water system to public use so as to become subject to the jurisdiction of the Public Utilities Commission; that the attorney for the water company has advised the complainant and their attorneys that he welcomes the jurisdiction of the Public Utilities Commission; that shortly after acquiring ownership of the water company Aldo Joe Ghiglia served the water users and purchasers with a notice of an increase in water rates effective on September 1, 1972;

that, the percentage increase for residential users varied from 66-2/3 percent to 233-1/3 percent; and that the increase for business establishments ranged from 30 percent to 400 percent. It was further alleged that the rate increases are unreasonable in amount and bear no reasonable relationship to the amount of water used by the various consumers affected thereby and that the rates proposed would result in one of the highest flat rate charges for water for Kern County. The complainants request the Commission to assume jurisdiction over the Mettler Mutual Water Co. and request a Commission investigation and hearing regarding the rate increase. ✓

The answer to the complaint stated that Aldo Ghiglia, Sr., is the sole owner of the Mettler Water Co. (defendant). Defendant requested the Commission take jurisdiction over its operations and requested a hearing so it will be able to introduce evidence showing the reasonableness of the new proposed rates which were to become effective on September 1, 1972, together with a showing as to expenses and return. Defendant also requested an order that owners and their tenants both be liable for water used by tenants who move away without paying their water bills and that defendant be authorized to require a deposit of at least one month's water bill in advance to protect it from nonpaying customers.

A public hearing was held before Examiner Levander at Bakersfield, Kern County, on March 12, 1973.

The attorneys for complainants, defendant, and Kern County concurred in the recommendations contained in the staff report, Exhibit No. 2, that the Commission assume jurisdiction over the utility and that new, increased rate schedules be adopted. Mr. Michaels did not recommend any alternate rate proposals.

Defendant's service area, located in the farming community of Mettler, California, approximately 25 miles south of Bakersfield and on the west side of Highway I-5, contains residential Tract No. 1444, commercial developments, a church, and a school. The service area is relatively level at an elevation of approximately 545 feet above sea level. Defendant served 39 premises with water as of December 18, 1972. All of these customers are served on a flat rate basis. No meters have been installed on any of the services.

Aldo Ghiglia, Sr., acquired the assets of Mettler Water Co. from Kenneth Gieg in 1970. Mr. Ghiglia lives in the service area and operates the water company with the assistance of his son-in-law and a part-time clerical worker. Mr. Ghiglia owns several residential and business properties served from his water system.

As of December 18, 1972, the distribution system contained 60 feet of 8-inch pipe, 2,100 feet of 6-inch pipe, and 1,600 feet of 3-inch pipe. The water distribution mains are dipped and wrapped steel and are buried at depths which meet the requirements of this Commission's General Order No. 103. Four fire hydrants are installed and there are gate valves installed which make possible shut down of sections of the system for repairs.

At the time of hearing the source of supply was a drilled well 12 inches in diameter approximately 1,200 feet deep, equipped with a deep well turbine pump and a 75-horsepower electric motor which discharged into a 44,000-gallon storage tank. A 10-horsepower electric booster pump took water from the storage tank and delivered the supply to the distribution system through a 4,000-gallon pressure tank.

The individual services on the system are not valved. Any new services or installations for meters should have shut-off valves on individual service lines. Major service disruption to install service line valves might be avoided through use of a freezing technique.

By letter dated May 3, 1973, late filed Exhibit 8, defendant's attorney advised the Commission that the well had failed and that a new well and equipment would cost \$18,141.96. He requested a rate modification to compensate for the new facilities.

By letter dated May 10, 1973, late filed Exhibit 9, Mr. Michaels advised the Commission that water from a nearby source was being used to supply the system; that initially the water quality from this source was unsatisfactory; that a controlled chlorination unit had been installed to make the water safe for drinking; that water pressures and quantities were inadequate. He requested immediate action to commence drilling of the new well to meet hot weather water requirements.

Mr. Michaels requested that if the Commission gave consideration to rate changes that certain additional revenue sources be considered.

Mr. Michaels commented negatively on the utility's public relations practices. We expect a utility to conduct its affairs with its customers in a responsible businesslike manner.

The staff witness investigated defendant's operations and in Exhibit 2 made 1973 estimates of operating revenues at the flat rates in effect prior to September 1, 1972, at the September 1, 1972 increase originally proposed by defendant, and also made an estimate of revenue assuming the metering of defendant's commercial customers and continued service of

defendant's residential customers at his recommended flat rates. At the time of the hearing the evidence showed that the rates in effect prior to September 1972 would result in a net revenue loss; that the increased rates proposed by defendant would yield a 41.1 percent rate of return; that the staff recommended rates would yield an estimated 7.1 percent rate of return for 1973.

The staff estimated operating expenses to provide payment for power bills, supplies, periodic overhauling of water production facilities, and an allowance for reasonable operating labor charges for the operation of the utility.

The staff utilized an inventory of facilities installed by defendant to price out the existing utility plant and to make an estimate of the reserve for depreciation applicable to the plant. The staff also made estimates of depreciation expenses and taxes, net revenues, rate base, and rate of return.

It is appropriate to consider the defendant's increased revenue requirement to compensate for the new well and equipment. There is a pressing need for defendant to expeditiously construct and place these facilities in service.

The following modifications are contained in a revised staff summary of earnings, late filed Exhibit 10: operating expenses reflect increased electric power rates, a higher level of efficiency in the pumping equipment, amortization of expenses required to locate a new well site; property taxes, depreciation and rate base are based upon inclusion of the new plant on a full year basis; income taxes reflect the revised expenses and a revised schedule of rates contained in Appendix B attached hereto.

All present customers were considered in all of the staff estimates. The staff's summary of earnings studies are contained in the tabulation on the following page:

Summary of Earnings

			Staff	
			Recommended Rates	
			Old	New
			Well	Well
Operating Revenues	\$7,080	\$11,950	\$ 9,840	\$11,500
Operating Expenses	6,200	6,200	7,100	7,240
Depreciation	1,010	1,010	1,100	1,170
Taxes Other Than Income	500	500	580	630
Income Taxes	-	800	160	200
Total Expenses	\$7,710	\$ 8,510	\$ 8,940	\$ 9,240
Net Revenue	\$ (630)	\$ 3,440	\$ 900	2,260
Rate Base	\$8,370	\$ 8,370	\$12,600	31,760
Rate of Return	-	41.1%	7.1%	7.1%

(Red Figure)

Defendant did not submit evidence to support the proposed increase in rates for the period after September 1972. The rate of return of 41.1 percent which would be derived from those rates is excessive. We concur in the staff's recommendations for residential flat rates, metered rates, and interim flat rates for nonresidential customers at the levels in effect prior to September 1, 1972 until meters are installed. The meter installations for nonresidential customers should be completed in six months, and these customers should then be billed at the metered rates authorized herein.

Financing

Defendant desires to meter all of its customers at such time as funds are available.

The evidence shows that defendant had obtained a commitment for a four-year \$5,000 loan to meter its nonresidential customers. If the loan for meters and/or for the new well and pumping equipment requires the pledging of utility property or if the charges connected with servicing the loan are reflected on the utility's books, it will be necessary for defendant to secure authorization for a long-term loan in the manner set forth in the Commission's Rules of Procedure.

By letter dated May 22, 1973, late-filed Exhibit 11, defendant's attorney advised the Commission that defendant's bank might be willing to make a loan of about \$24,000 for a 5-year period with monthly payments of \$510, but that insufficient income would be generated from the increased rates (contained in Appendix B attached hereto) to justify the loan.

The order herein authorizes rates which are just and reasonable to meet reasonable operating expenses, including operating labor charges and depreciation, and to provide a reasonable return on rate base. These rates were not designed to amortize the 5-year loan in addition to meeting operating expenses and return.

Expeditious construction of a new well is needed to meet the service requirements of defendant's customers. If defendant is unable to expeditiously proceed with the construction of a new well, further hearings will be held on short notice at which time defendant will be expected to submit justification for a higher level of rates than authorized herein.

Defendant submitted a bid from a sewer company to furnish labor, equipment, material, and supervision to install meters and valves on the services of defendant's nonresidential customers. If possible, defendant should secure alternate bids prior to proceeding with the meter installations, drilling, or equipping the new well.

Mains serving the residential subdivision are located near back lot lines in the residential tract. The cost of metering residential customers in these locations may be increased if encroaching structures have been built over the pipelines. Defendant was not certain as to whether or not easements over the locations where its facilities are installed are in the name of the utility.

Findings

1. Aldo Ghiglia, Sr., dba Mettler Water Co. (defendant), has been and is selling water to customers in the community of Mettler, Kern County.
2. Defendant is a public utility water corporation as defined in Sections 216 and 241 of the Public Utilities Code.
3. Defendant's operations are subject to the jurisdiction, control, and regulation of this Commission pursuant to the provisions of Sections 216 and 2701 of the Public Utilities Code.
4. Defendant's emergency water supply is not meeting the volumetric and pressure requirements on its system.
5. Defendant should endeavor to expeditiously construct, equip, and place an adequately sized new well in service.
6. Defendant's original proposed rates for the period after September 1972 would result in an unreasonably high rate of return based upon the then existing investment.

7. The estimates of revenues, expenses, rate base, and rate of return at the staff's recommended rates as set out in the opinion are reasonable and should be adopted.

8. The staff recommended rates contained in Exhibit A are just and reasonable for the service being presently provided. Defendant should file these rates with this Commission along with a tariff service area map and rules governing water service.

9. The staff recommended rates contained in Exhibit B are just and reasonable for service after the new well and equipment have been placed in operation.

10. Defendant should meter its nonresidential customers within six months of the effective date of this order.

11. The rules and forms which defendant will be ordered to file contain provisions for advance billing for flat rate service and establish who will pay for water service and will permit defendant to obtain customer deposits for establishment of service.

12. Defendant should file a water system map prepared in conformity with Section I.10.a. of the Commission's General Order No. 103.

13. Defendant should comply with the requirements of the Kern County Health Department to provide a potable water supply to its customers.

14. Defendant should secure all easements, title, and authority needed to operate, maintain, repair, and replace all of its facilities. Title should be recorded in the name of Aldo Ghiglia, Sr., dba Mettler Water Company.

15. Defendant should compute its depreciation expense in the manner set forth in the ensuing order.

16. We further find with reasonable certainty that the determination of defendant's public utility status and our order herein will not have a significant effect on the environment and is therefore not subject to the provisions of the California Environmental Quality Act of 1970, as amended.

Conclusions

1. Defendant should be declared to be a public utility under the jurisdiction, control, and regulation of this Commission pursuant to the provisions of Sections 216 and 2701 of the Public Utilities Code.

2. This proceeding should be reopened for further hearing if defendant does not expeditiously proceed with the construction, equipping, and placing in service of a new well capable of meeting the volumetric and pressure requirements on its system.

3. Defendant should be directed to file its tariffs, including the rates contained in Appendix A attached hereto, and should be directed to apply them and no others, within its service area. ✓

4. Defendant should be authorized to file the rates contained in Appendix B attached hereto after the Commission staff has verified that the new well and equipment have been placed in service. ✓

5. Defendant should be required to book the utility plant costs and related depreciation reserves developed by the staff for plant in service installed prior to December 31, 1972. ✓

6. Defendant should file water system maps; copies of documents permitting it to operate, maintain, repair, and replace all of its facilities; copies of its current correspondence from the Kern County Health Department together with its program and scheduling to correct any deficiencies which might be required to provide its consumers with a potable water supply. ✓

7. No Environmental Impact Report or Negative Declaration is required in this proceeding. ✓

INTERIM ORDER

IT IS ORDERED that:

1. Aldo Ghiglia, Sr., doing business as Mettler Water Co. (defendant), is declared to be a public utility subject to the jurisdiction of this Commission and to the applicable provisions of law.

2. On or before June 6, 1973, defendant shall file a written schedule with the Commission setting forth a description of its proposed construction and estimated dates for commencing and

completing the construction of a new well, for equipping the well, and for placing the well in service.

3. Defendant is authorized and directed to file, within ten days after the effective date hereof, in conformity with the Commission's General Order No. 96-A, the schedule of rates shown in Appendix A attached hereto, together with rules governing service to customers, a tariff service area map, and copies of printed forms used in connection with customers' services. Such rates, rules, tariff service area map, and forms shall become effective upon four days' notice to this Commission and to the public after filing as hereinabove provided.

4. When defendant completes and places its new well and pumping equipment in service it shall notify the Commission in writing. Upon verification by the Commission staff defendant is authorized to file the schedule of rates shown in Appendix B attached hereto. Such filing shall comply with General Order No. 96-A. The effective date of the revised schedules shall be four days after the date of filing. The revised schedules shall apply only to service rendered on and after the effective date thereof.

5. Defendant shall prepare and keep current the system map required by paragraph I.10.a. of General Order No. 103. Within ninety days after the effective date of this order, it shall file with the Commission two copies of this map.

6. Defendant shall book the utility plant costs and related depreciation reserves developed by the staff for plant installed prior to December 31, 1972.

7. For the year 1973, defendant shall apply a depreciation rate of 3 percent to the original cost of depreciable plant. Until review indicates otherwise, this rate shall be used. This rate shall be reviewed at intervals of five years and whenever a major change in depreciable plant occurs. Any revised depreciation rate shall be determined by: (1) subtracting the estimated future net salvage and the depreciation reserve from the original cost of plant; (2) dividing the remainder by the estimated remaining life of the plant; and (3) dividing the quotient by the original cost of plant.

The results of each review shall be submitted promptly to the Commission.

8. Within thirty days after the effective date of this order, defendant shall file with the Commission two copies of its current correspondence with the Kern County Health Department together with its program and scheduling to correct any deficiencies which might be required to provide its consumers with a potable water supply. ✓

9. Within ninety days after the effective date of this order defendant shall file with the Commission a recorded copy of documents conveying to Aldo Ghiglia, Sr., dba Mettler Water Co., title, easements, or authority to operate, repair, and replace all of its facilities. ✓

10. Within one hundred eighty five days after the effective date of this order defendant shall file with the Commission a report on its metering program. ✓

The effective date of this order is the date hereof.

Dated at San Francisco, California,
this 30th day of MAY, 1973.

William L. Stearns
President
William L. Stearns
William L. Stearns
William L. Stearns
Commissioners

APPENDIX A
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Schedule No. 1

METERED SERVICE

APPLICABILITY

Applicable to all metered water service.

TERRITORY

Mettler and vicinity, Kern County.

RATES

Per Meter
Per Month

Quantity Rates:

First	800 cu.ft. or less	\$ 6.00
Next	1,200 cu.ft., per 100 cu.ft.60
Next	3,000 cu.ft., per 100 cu.ft.45
Over	5,000 cu.ft., per 100 cu.ft.30

Minimum Charge:

For	5/8 x 3/4-inch meter	\$ 6.00
For	3/4-inch meter	7.50
For	1-inch meter	10.00
For	1 1/2-inch meter	20.00
For	2-inch meter	30.00
For	3-inch meter	45.00
For	4-inch meter	70.00

The Minimum Charge will entitle the customer to the quantity of water which that minimum charge will purchase at the Quantity Rates.

Schedule No. 2RL

RESIDENTIAL FLAT RATE SERVICE

APPLICABILITY

Applicable to all flat rate residential water service.

TERRITORY

Tract No. 1444 in the community of Mettler, Kern County.

RATES

Per Service Connection
Per Month

For a single-family residential unit, including premises not exceeding 7,500 sq. ft. in area	\$7.50
a. For each additional single-family residential unit on the same premises and served from the same service connection	5.00
b. For each 100 sq. ft. of premises in excess of 7,500 sq. ft.05

SPECIAL CONDITIONS

1. The above flat rates apply to a service connection not larger than one inch in diameter.
2. If the utility so elects, a meter shall be installed and service provided under Schedule No. 1, Metered Service.

Schedule No. 2LX

LIMITED COMMERCIAL FLAT RATE SERVICE

APPLICABILITY

Applicable to flat rate service furnished to commercial customers on a limited basis.

TERRITORY

Mettler and vicinity, Kern County.

RATES

Per Service Connection
Per Month

Kern County Fire Dept., Mettler Station	\$ 22.50
St. Christopher Church	5.00
U.S. Post Office with adjoining Tavern and Apartments	10.00
Baptist Church	7.50
Arco Service Station	32.50
Douglas Service Station	25.00
Chevron Service Station	20.00
El Tejon Union School District, Mettler School	125.00
Farm House Restaurant	50.00
Trailer Court	30.00
Produce Shed	5.00
Motel and Cafe	50.00
Drive Inn Cafe	10.00

SPECIAL CONDITIONS

1. Service under this schedule is limited to those premises being served as of January 1, 1973.
2. Service under this schedule shall be terminated on or before 180 days after the effective date of the order in Decision No. and service thereafter shall be furnished on the basis of Schedule No. 1, Metered Service.

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Schedule No. 1

METERED SERVICEAPPLICABILITY

Applicable to all metered water service.

TERRITORY

Mettler and vicinity, Kern County.

RATES

Quantity Rates:

	Per Meter Per Month	
First 800 cu.ft. or less	\$ 7.00	(I)
Next 1,200 cu.ft., per 100 cu.ft.70	
Next 3,000 cu.ft., per 100 cu.ft.53	
Over 5,000 cu.ft., per 100 cu.ft.35	

Minimum Charge:

For 5/8 x 3/4-inch meter	\$ 7.00	
For 3/4-inch meter	8.75	
For 1-inch meter	11.70	
For 1 1/2-inch meter	23.40	
For 2-inch meter	35.10	
For 3-inch meter	52.65	
For 4-inch meter	81.90	(I)

The Minimum Charge will entitle the customer to the quantity of water which that minimum charge will purchase at the Quantity Rates.

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Schedule No. 2RL

RESIDENTIAL FLAT RATE SERVICE

APPLICABILITY

Applicable to all flat rate residential water service.

TERRITORY

Tract No. 1444 in the community of Mettler, Korn County.

RATES

	<u>Per Service Connection</u> <u>Per Month</u>	
For a single-family residential unit, including premises not exceeding 7,500 sq. ft. in area	\$ 8.80	(I)
a. For each additional single-family residential unit on the same premises and served from the same service connection	5.85	
b. For each 100 sq. ft. of premises in excess of 7,500 sq. ft.06	(I)

SPECIAL CONDITIONS

1. The above flat rates apply to a service connection not larger than one inch in diameter.
2. If the utility so elects, a meter shall be installed and service provided under Schedule No. 1, Metered Service.

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Schedule No. 2LX

LIMITED COMMERCIAL FLAT RATE SERVICEAPPLICABILITY

Applicable to flat rate service furnished to commercial customers on a limited basis.

TERRITORY

Mettler and vicinity, Kern County.

RATES

	Per Service Connection Per Month	
Kern County Fire Dept., Mettler Station ...	\$ 26.35	(I)
St. Christopher Church	5.85	
U.S. Post Office with adjoining Tavern and Apartments	11.70	
Baptist Church	8.80	
Arco Service Station	38.00	
Douglas Service Station	29.25	
Chevron Service Station	23.40	
El Tejon Union School District, Mettler School	146.25	
Farm House Restaurant	58.50	
Trailer Court	35.10	
Produce Shed	5.85	
Motel and Cafe	58.50	
Drive Inn Cafe	11.70	(I)

(Continued)

APPENDIX B
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Schedule No. 2LX

LIMITED COMMERCIAL FLAT RATE SERVICE
(Continued)

SPECIAL CONDITIONS

1. Service under this schedule is limited to those premises being served as of January 1, 1973.

2. Service under this schedule shall be terminated on or before 180 days after the effective date of the order in Decision No. 81442 and service thereafter shall be furnished on the basis of Schedule No. 1, Metered Service.