

ORIGINAL

Decision No. 81821

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of CITIZENS UTILITIES  
COMPANY OF CALIFORNIA to increase  
its rates and charges for its water  
system serving the Niles-Decoto  
area in Alameda County.

Application No. 53178  
(Filed February 29, 1972)

Weyman I. Lundquist and Robert M. Ralls, Attorneys  
at Law, and Jack O. Sanders, for applicant.  
Peter Nussbaum, Attorney at Law, for Water Committee  
of Union City, Tamarack Knolls and Niles;  
Anthony J. Garcia, Attorney at Law, for City of  
Union City; and Theodore R. Bresler, Attorney  
at Law, for the City of Fremont, protestants.  
William C. Bricca and Elinore C. Morgan, Attorneys  
at Law, and John D. Reader, for the Commission  
staff.

O P I N I O N

By this application, Citizens Utilities Company of California (Citizens-California), a wholly owned subsidiary of Citizens Utilities Company of Delaware (Citizens-Delaware),<sup>1/</sup> requests an increase in rates for metered water service in its Niles-Decoto District which is designed to increase annual revenues in the test year 1972 by \$141,900 over the rates now in effect.

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<sup>1/</sup> Citizens-Delaware is a nationwide utility which provides gas, electric, telephone, and water services in over 450 communities in the U. S.

A prehearing conference was held on May 12, 1972 at Niles at which the issues were determined and hearing dates scheduled. Public hearing was held at Niles on October 24, 25, 26, 27, 1972 and at San Francisco on October 30 and December 20 and 21, 1972. The matter was submitted on January 2, 1973 upon receipt of various late-filed exhibits. Copies of the application had been served and notice of hearing had been published, posted, and mailed in accordance with this Commission's Rules of Procedure.

Oral and written testimony on behalf of applicant was presented by one of its assistant vice-presidents and its water systems engineer. The Commission staff presentation was made by two accountants and two engineers. Oral and written testimony was presented by the city of Union City and by the city of Fremont. Thirty-seven members of the public attended the hearing. The testimony of 22 public witnesses protesting the rate increase and describing the service rendered was received. Fourteen witnesses testified on their own behalf and 8 testified on behalf of the Water Committee of Union City, Tamarack Knolls and Niles (Committee). In addition, the Committee presented Exhibit 1, a petition signed by 624 persons objecting to the rate increase on the grounds that the water quality and service provided do not justify the increase. Testimony favorable to applicant was presented by 1 public witness.

The record contains 736 pages of transcript and 46 exhibits.

On October 30, 1972, applicant orally moved that it be granted an interim rate increase reached in accord with the staff's view of the case. The motion was opposed by the Committee and the staff. The examiner denied the motion.

On November 8, 1972, applicant filed a "NOTICE OF MOTION FOR INTERIM RATES, NOTICE OF APPEAL OF EXAMINER'S RULING DENYING APPLICANT'S MOTION FOR INTERIM RATES, AND NOTICE OF MOTION FOR DATE CERTAIN TO RESUME HEARING".

On November 15, 1972, the city of Fremont filed a "MEMORANDUM OF POINTS AND AUTHORITIES IN OPPOSITION TO APPEAL OF EXAMINER'S RULING, IN OPPOSITION TO MOTION FOR INTERIM RATES, AND IN SUPPORT OF MOTION FOR DATE CERTAIN TO RESUME HEARING, SUBMITTED BY CITY OF FREMONT, PROTESTANT".

On November 21, 1972, the Water Committee of Union City, Tamarack Knolls and Niles filed a "MEMORANDUM OF POINTS AND AUTHORITIES IN OPPOSITION TO APPLICANT'S APPEAL OF THE EXAMINER'S RULING AND TO APPLICANT'S MOTION FOR INTERIM RATES".

The Commission on November 20, 1972, by a letter from its Secretary, stated that it would issue an order after considering applicant's "Notice of Motion" as well as the papers filed by parties in opposition. The letter set December 20 and 21, 1972 as the dates for further hearings.

The examiner's ruling was proper. Applicant's motion is denied.

On December 21, 1972, the Water Committee of Union City, Tamarack Knolls and Niles filed a "PETITION FOR PROPOSED REPORT".

On December 27, 1972, applicant filed an "OBJECTION TO PETITION FOR PROPOSED REPORT".

There appears to be no need for a proposed report as the matter can be resolved within the normal decisional making process. The petition is denied.

Summary of Earnings

A summary of applicant's and staff's estimated year 1972 earnings is:

Item	Applicant		Staff		Applicant	
	Present	Proposed	Present	Proposed	Exceeds Staff	
	Rates	Rates	Rates	Rates	Present:Proposed	

(Dollars in Thousands)

Operating Revenues	\$ 337.9	\$ 480.2	\$ 351.1	\$ 496.4	\$(13.2)	\$(16.2)
<u>Operating Expenses</u>						
Oper. & Maint.	134.6*	135.1*	125.3*	125.3*	9.3	9.8
Admin. & Gen.	55.2	55.8	38.1	38.7	17.1	17.1
Depreciation	44.2	44.2	43.7	43.7	.5	.5
Other Taxes	56.1	59.4	54.0	54.0	2.1	5.4
Income Taxes	-	61.4	1.4	76.6	(1.4)	(15.2)
Total Expenses	290.1	355.9	262.5	338.3	27.6	17.6
Net Operating Revenue	47.8	124.3	88.6	158.1	(40.8)	(33.8)
Average Rate Base	1,409.5	1,409.5	1,379.6	1,379.6	29.9	29.9
Rate of Return	3.39%	8.82%	6.42%	11.46%	(3.03)%	(2.64)%

(Red Figure)

\* Staff included ground water replenishment charges in Oper. & Maint. Expense rather than as part of Other Taxes.

Operating Revenues

Except for 13 large customers, the staff normalized metered consumption by the Modified Bean Method in accordance with Standard Practice U-25.<sup>2/</sup> The staff's normalized annual consumption per customer for the test years is 193.2 ccf for 1971 and 195.2 ccf for 1972. Applicant did not normalize its 1971 consumption and used an annual per customer consumption of 189 ccf for test year 1972, which is the same per customer consumption as recorded in 1971. The large customer consumptions were estimated individually by both the applicant and staff.

<sup>2/</sup> Guide for Adjusting and Estimating Operating Revenues of Water Utilities.

For year 1971, the staff estimate of normalized meter revenue is \$28,400 above the applicant's recorded revenue. For 1972, the staff estimate is \$13,200 above the applicant's revised estimate at present rates and \$16,200 at proposed rates. The following tabulation compares applicant and staff estimates of revenue for test year 1972:

Item	1972			
	Applicant		Staff	
	Present	Proposed	Present	Proposed
(Dollars in Thousands)				
Excluding Large Customers	\$306.1	\$439.4	\$316.6	\$454.6
Large Customers (13)	18.7	27.7	20.8	28.1
Fire Protection and Other	<u>13.1</u>	<u>13.1</u>	<u>13.7</u>	<u>13.7</u>
Total	337.9	480.2	351.1	496.4

According to applicant, the staff witness has misconstrued paragraph 13 of Chapter 5 of U-25 which reads:

" . . . It is assumed that the climatological data have been correlated in time with consumption and that rainfall, including its long term mean, has been adjusted to reflect a maximum monthly rainfall of 4 inches. The U. S. Weather Bureau published long-term (30-year) mean temperature and rainfall data are normally used..."

because he adjusted historical rainfall data in each month to exclude all rainfall in excess of 4 inches in any one month and computed his average using those adjusted rainfalls. Thus, according to applicant, he has not eliminated abnormally low rainfall months from his calculation and has therefore calculated an average which understates the true average or normal rainfall. By his method the staff witness has derived an average rainfall of 13 inches per year for the Newark Weather Station as opposed to a true average rainfall of over 14 inches per year for that weather station. Applicant argues that by using the staff's method there cannot be an average monthly rainfall of as much as 4 inches for any month - for example, the month of January - unless all historical rainfall in the month of January is 4 inches or more.

Therefore, according to applicant, the staff witness did not calculate his average rainfall in the same manner that the United States Weather Bureau calculates its mean rainfall as the United States Weather Bureau does not reduce its historical monthly rainfall to a 4-inch maximum in computing its normal or mean rainfall.

Applicant thus contends that the use of the understated average rainfall as developed by the staff always results in an overstatement of normalized revenues.

In an effort to resolve the question of normalized revenues, the examiner requested applicant and staff to file exhibits detailing their calculation of normalized annual consumption per customer. (Exhibits 44, 45, and 46.)

We have sedulously reviewed these exhibits and associated testimony. If we assume, as we do, from our understanding of the staff testimony, that all rainfall in any one month above 4 inches is runoff and has no effect on consumption, then the staff method produces reasonable estimates of normalized consumption.

The staff witness did not consider the curtailment - if any - of usage that results from prior rate increases and that might further increase if the proposed rate is granted.

Applicant's witness testified that he considered curtailment only to the extent that it had occurred through year 1971 and only to the extent that prior curtailment affected his estimated normal consumption for years 1972, 1973, and 1974. He made no estimate of further curtailment in usage which might result from the pending rate increase. He contended that the staff's failure to consider the curtailment of usage that results from prior rate increases and that might further occur as a result of future rate increases results in an overstatement of test year revenues. Overall, the staff's estimate is reasonable and will be adopted.

Operation and Maintenance Expense

Differences in operation and maintenance expenses for 1972 at present rates are tabulated below, differing from those at proposed rates only due to applicant's additional \$500 in uncollectibles:

Item	1972		
	Applicant	Staff	Staff
(Dollars in Thousands)			
Salaries and Wages	\$ 45.8	\$ 45.8	\$ -
Assessments on Ground Water	20.4	19.5	0.9
Pumping Power	20.3	18.6	1.7
Materials, Services, Miscellaneous	39.4	32.5	6.9
Telephone and Telegraph	1.4	1.3	.1
Uncollectibles	1.3	1.6	(.3)
Rental on Right-of-Way	.4	.4	-
Transportation Expense	5.6	5.6	-
Total	134.6	125.3	9.3

(Red Figure)

Staff estimate of salaries and wages is based on present positions and pay levels, and for 1972 is the same as applicant's estimate. In order to eliminate the effect of salary trend on trend in rate of return, the staff used the same salary levels for normalized 1971 and 1972.

Staff estimate of assessments on ground water differs from applicant's revised estimate due to a combination of higher staff amounts of water for normalized 1971 and estimated 1972 and lower staff estimates of water pumped from within the district.

At the time the present water rates were authorized by the Commission, it was indicated by the Alameda County Water District that, in the future, a ground water replenishment tax would be levied on applicant's wells outside of, as well as within, the district.

These rates, therefore, include an increment of cost for this tax. The district advised the staff that this position has been reversed, that taxes charged to the outside wells have been refunded, and that these outside wells will not be taxed in the future.

Staff estimate of pumping power expense is less than applicant's due to the staff's adjustment for excessive unaccounted for water.

Staff amount for materials, services, and miscellaneous is less than applicant's due to a staff adjustment for meter repair expense.

Staff and applicant differ regarding uncollectibles because of differing estimates of gross revenue and because the staff used an average of the amount at present rates and at proposed rates.

The staff estimates are reasonable and will be adopted.

#### Administrative and General Expenses

Administrative and general expenses are shown in the following table:

Item	Applicant	Staff Estimate	Applicant Exceeds Staff
General Office Expenses	\$18,400	\$12,540	\$ 5,860
Common Plant Expenses	1,900	1,670	230
Legal & Regulatory Commissions	16,300	5,440	10,860
Insurance	2,300	1,220	1,080
Injury & Damages	4,200	4,200	-
Welfare & Pensions	8,800	8,330	470
Rent	1,100	1,100	-
Miscellaneous & Per Diem <sup>1/</sup>	2,200	2,220	(20)
Total <sup>1/</sup>	55,200	36,720	18,480

(Red Figure)

<sup>1/</sup> At Proposed Rates:

Misc. & Per Diem	2,800	2,830	(30)
Total	55,800	37,330	18,470



General office expenses are from two sources, Stamford and Redding. (Sacramento administrative salaries are included in Redding allocations.) The Stamford administrative office expenses have been adjusted by the staff. The staff's estimated salaries are the annualized salaries at the current level. Salary charged to direct is estimated by the staff based on the amounts recorded for the last three years. The staff has excluded such direct charges from the total salary to arrive at the amounts before allocation. Applicant made no such adjustment to its salaries. Accounting and Internal Audit and Tax Department salaries have been adjusted to allow, as chargeable to California, only one-half of the chief accountant's salary and two and one-half internal auditors and tax accountants, since Citizens has an accounting department in California. Secretary, filing, and other general office salary charges have been reduced in proportion to the accounting and internal audit and tax accounting salary adjustment. Other relatively minor adjustments are the result of using three-year averages or least square trending and a lower depreciation rate for office furniture. All contributions to charities and other community agencies have been eliminated. The staff estimated the amount charged to capital from Stamford using a four-year average ratio of the construction fee to the actual construction applied to an adjusted construction budget for 1972, which includes additional construction as shown in four current applications. For accounting billed directly, the staff used 50 percent of the Accounting Department salaries and 5 percent of the Secretary and Filing Department salaries. The ratio of the directly billed salary to the total salary of these two departments was then applied to the other expense items that are related to these two departments. The staff reviewed applicant's calculations and has accepted the percentage allocations for Stamford administrative office expenses chargeable to California operations including the telephone operations. The allocated Stamford expenses are then

combined with other administrative office expenses before determining the amount of general office expense charged to each water district and to the Telephone Department.

Staff's estimated salaries for the Redding office are the annualized amount at the current level. The staff made its estimates of other Redding general office expenses utilizing six months' recorded 1972 expenses. Insurance and audit expenses are based on a three-year average. The amount of unemployment and old age benefit tax is based on staff estimated salaries. The amount charged to capital is 1.5 percent of the adjusted construction which reflects the additional construction shown in the four current applications. Applicant's four-factor allocations between the Water and Telephone Departments and to the four water districts presently under study have been reviewed and accepted by the staff. The allocated Stamford and Redding administrative office expense for the Niles District was estimated at \$12,540 by the staff under this method of allocation.<sup>3/</sup>

The common plant expenses are the operation and maintenance expenses of the Sacramento general office. Employee salaries and expenses are estimated based on recorded amounts during 1970 and 1971. Dues, contributions, and donations expense is an adjusted three-year average, excluding contributions and donations. The staff estimates the depreciation expense for the

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<sup>3/</sup> The staff subsequently modified this method by directly allocating the salaries and expenses of the manager of the Water Department and his secretary. This is not the proceeding to refine an allocation method which has been the subject of innumerable objections and which is currently being studied. We point out that it is incumbent upon applicant to finish the new study before the next round of rate increase applications.

Sacramento office using a 2 percent rate for the building and 15 percent for office furniture and equipment. Of these charges 39 percent has been allocated to common plant and the balance to Sacramento County water systems. The staff's estimated property tax on the Sacramento office reflects the sale of a portion of the land. The common plant expense allocated to the Niles District is \$1,670.

The staff's estimate for legal and regulatory commission expense includes \$830 for legal expense based on a five-year average of such charges. In the last Niles-Decoto rate proceeding, the staff and the Commission allowed \$690 for regulatory expense based on a five-year average of an adjusted total allowance. It would now appear that proration over a three-year period is justified. Accordingly, the staff has included \$1,200 for recovery of prior rate proceeding costs, and \$3,410 as the distribution over a three-year period of the estimated reasonable costs of the present proceeding, a total of \$5,440.<sup>4/</sup>

The staff estimates the insurance cost using its adjusted and estimated utility plant in service based on a projection of the ratio of the recorded amounts of insurance paid in 1970 and 1971 to plant balance at the beginning of these years.

The staff bases its \$470 adjustment to welfare and pensions on its lower estimate of administrative salaries. Applicant allocates 88.71 percent of these charges to expense and 11.29 percent to capital which allocation has been accepted as reasonable by the staff.

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<sup>4/</sup> Applicant in its closing argument requested that "a new look and a new consideration" be taken regarding the area of legal and regulatory fees. We suggest to applicant that what is needed is evidence of actual costs not pleadings of counsel.

The miscellaneous and per diem expenses consist of a business license charge by the city of Fremont and other miscellaneous expenses. The staff's estimated business license expense is based on the staff's estimated metered revenues applicable to the city of Fremont.

The staff's original estimates are reasonable and will be adopted.

Depreciation

Applicant and staff determine depreciation expense in the same manner. Any difference is due to differences in estimated plant additions.

Other Taxes

Ad valorem taxes have been computed by the staff using an average current tax rate of \$13.30 per \$100 of assessed value. Alameda County uses the combined capitalized income and historical cost method for appraising utility properties. Under this method the 1971 earnings are one of the factors for developing the 1972 assessed value, and the 1972 earnings will be one of the factors for developing the 1973 assessed value. Therefore, since 1972 earnings are not going to be materially affected by a change in water rates resulting from this proceeding, it will be 1974 before the assessor would reflect any change in earnings authorized as a result of this proceeding. The staff has developed an appraised value using the Alameda County assessor's method at present rate earnings only, but has increased the assessment for nonrevenue-producing plant included by the staff as of the beginning of the year.

Applicant computed its ad valorem tax estimates using a \$14 tax rate and the same method as indicated above, but under proposed rates included one-third of the full effect of its requested increase in earnings. Staff's estimate is reasonable and will be adopted.

Income Taxes

Both staff and applicant computed income taxes at the same tax rates. The differences in taxes are mainly due to the different estimates of operating income and deductions for income tax purposes. Applicant in its Results of Operations report computed depreciation for both state and federal tax purposes on a straight-line basis. At the hearing, applicant stated it is taking liberalized depreciation for qualifying plant additions commencing January, 1971. The staff has computed depreciation on a straight-line basis for plant constructed before January 1, 1971 and uses liberalized depreciation for qualifying additions commencing January 1, 1971. Liberalized depreciation is computed by the Commission staff for rate-making purposes on a flow-through basis. Asset depreciation range depreciation was considered for qualified 1972 additions; however, applicant is using a plant life shorter than the ADR guideline life and, under this circumstance, ADR cannot be applied. Applicant computed the investment tax credit (now called Job Development Investment Credit) on the 1971 and 1972 plant additions and deducted 3.5 percent (spread over 28 years) of this credit as an annual amount from the federal income tax. The staff computed the Job Development Investment Credit on a five-year average of the plant additions and deducts the entire amount from the federal income tax.

Considerable hearing time was devoted to argument by the parties regarding their views of what can or cannot be done regarding liberalized depreciation.

The issue of liberalized depreciation in computing income taxes for the purpose of setting rates is presently before the Commission in the rehearing on Decision No. 79367 issued November 22, 1971 on the request of General Telephone Company of California for increased rates, Application No. 51904, and will be further considered in the request of The Pacific Telephone and Telegraph Company for increased rates, Application No. 53537. In those proceedings the issue will be decided after testimony in depth and complete briefs.

For the limited purpose of this proceeding only, we will treat liberalized depreciation and the Job Development Investment Credit on a normalized basis.

Rate Base

Both applicant and staff adjusted the beginning-of-year balances of utility plant and depreciation reserve by rolling back nonrevenue-producing plant additions and retirements before computing average figures for these two items. Applicant's average utility plant, depreciation reserve, and common plant are the average of beginning- and end-of-year balances. The staff computed the weighted average of these three items by using estimated monthly balances.

The difference in common plant is due to slightly different treatment by the staff of the sale of a portion of the land where the Sacramento office building is located.

For materials and supplies applicant used a six-year average of the recorded end-of-year balances. The staff based its estimate on a three-year average plus a \$550 adjustment made by the Finance and Accounts Division.

Staff firmly believes that the interest-during-construction rate of 9.00 to 9.69 percent is too high and should be not more than 7.5 percent. The staff testified that a change now would only represent a change of \$45' in rate base but that it wants the principle established. Applicant objects that talking about a \$45 item in this case "has really been a backdoor-type of approach". We place applicant on notice that its rate of 9.00 to 9.69 percent is too high not only for Niles-Decoto Water District but for all other water districts, affiliates, and its telephone department. To avoid further controversy, it should immediately change its interest-during-construction rate to 7.5 percent as recommended by the staff.

The staff's rate base, for purposes of this decision, more nearly reflects our traditional method of calculating the various components of rate base than does applicant's rate base. Thus, we will adopt the staff's rate base for test year 1972 with the amount of the tax reserve deducted therefrom.

Rate of Return

Applicant is constitutionally entitled to an opportunity to earn a reasonable return on its investment which is lawfully devoted to the public use. It is a percentage expression of the cost of capital utilized in providing service. Within this context, a fair and reasonable rate of return applied to an appropriately derived rate base quantifies the earnings opportunity available to the enterprise after recovery of reasonable operating expenses, depreciation allowances, and taxes.

Ultimately, the rate of return determination in this proceeding must represent the exercise of informed and impartial judgment by the Commission, which must necessarily give equal weight to consumer and investor interests in deciding what constitutes a fair and reasonable rate of return. Such balancing of interests is directed toward providing applicant's water consumers with the lowest rates practicable, consistent with the protection of applicant's capacity to function and progress in furnishing the public with satisfactory, efficient service and to maintain its financial integrity, attract capital on reasonable terms, and compensate its stockholders appropriately for the use of their money.

Applicant contends that based on its study a reasonable rate of return would be no less than 9.75 percent. This results in a return on common equity in the range of 12 to 14 percent. However, according to applicant, if the Commission authorizes its requested rates, the actual rate of return realized, based on its estimated results of operation, would be but 8.82 percent.

The Commission staff's opinion is that 7.70 percent is the minimum rate of return required. This would result in a return on equity of 8.96 percent. The staff's rate of return recommendation does not give consideration to any service deficiencies nor does it consider attrition.

The staff's determination of a fair rate of return is reasonable and will be adopted because such a return meets the requirements set forth above.

Applying a return of 7.70 percent to the 1972 adopted rate base of \$1,373,700 produces net operating revenues of \$105,800. Therefore, gross revenues will be increased by \$60,500 instead of applicant's requested \$141,900.

Quality of Service

Applicant contends that its water system meets the standards of General Order No. 103.<sup>5/</sup>

The Water Committee of Union City, Tamarack Knolls and Niles opposes an increase because of the long-standing poor service applicant is providing to its customers.

The city of Union City opposes the rate increase on the grounds that service at the present time is inadequate.

The city of Fremont opposes the rate increase on the basis that the level of service in the Niles area is clearly inadequate.

The staff testified that the service supplied is average.

Fourteen public witnesses testified regarding various complaints, one of whom testified in favor of applicant stating her only complaint was the taste of chlorine in the water. There were 2 complaints regarding pressure, 7 of bad taste, 7 of hardness of water, 6 of odors, 1 bill complaint, 1 of air in pipes, 1 of slow repair of leaks, and 1 regarding the hardship on retired people if rates are raised.

The Committee introduced 3 exhibits from dissatisfied customers. Included in the exhibits were 6 complaints of dirty water, 5 of bad tasting water, 4 of pressure problems, 3 of hardness, 2 of odor, and 1 each of air in pipes and hardship if rates were increased.

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<sup>5/</sup> Rules Governing Water Service Including Minimum Standards For Design And Construction.



Exhibit No. 7 is a certified copy of a study made by the State of California, Health and Welfare Agency, Department of Public Health, entitled:

"Exhibit A in the Matter  
of the Permit Application  
From  
CITIZENS UTILITIES COMPANY OF CALIFORNIA  
SERVING THE NILES-DECOTO AREA OF ALAMEDA COUNTY  
REVISED  
SANITARY ENGINEERING  
INVESTIGATION OF  
DOMESTIC WATER SUPPLY  
March 7, 1972"

On May 19, 1972, the State Board of Public Health granted applicant a water supply permit for its Niles-Decoto system. The board's action was based upon Exhibit 7 and most particularly applicant's letter of March 3, 1972 in which applicant committed itself to take prescribed actions.<sup>6/</sup> In effect these commitments became conditions of the permit.

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6/ Basically, the prescribed actions are:

1. The Citizens Utilities Company of California shall prepare a long-range engineering plan and feasibility study for assuring a satisfactory future water supply for its Niles-Decoto system.
2. King Avenue well and the 14th Street well shall be valved-off the system and used only for emergencies such as fire fighting.
3. All well water except that produced by Shinn #2 shall be sampled for nitrate-nitrite content every six months. Shinn #2 well shall be analyzed monthly.
4. All wells found to be producing water exceeding the mandatory limits established in the 1962 U. S. Public Health Service Drinking Water Standards shall be physically disconnected from the domestic water system and abandoned as a source of supply before January 17, 1975, unless effective treatment and/or dilution is provided.
5. Chlorine dosage shall be programmed to assure a satisfactory bacterial quality of water as defined in the 1962 U. S. Public Health Service Drinking Water Standards.

The Assistant City Engineer of the city of Union City testified that based on studies which he made<sup>7/</sup> it was his opinion that there were major problems with respect to the level of service maintained by applicant in the Decoto area. It was his conclusion that applicant is not providing an adequate distribution system in the Decoto pressure zone.

The Assistant City Engineer for the city of Fremont testified that as a result of pressure tests and studies he made of applicant's Niles system<sup>8/</sup> it was his conclusion that the service level is low in the Niles District and not presently deserving of an additional rate increase based on the service provided and lack of conformance with General Order No. 103.

Applicant's systems engineer testified that his evaluation of pressure checks made by applicant and of the evidence supplied by the city of Fremont showed that there were no violations of General Order No. 103 regarding pressure or operating requirements. It was his opinion that the testimony of the city of Union City was in error in 7 of the 15 locations described by the city's witness because of work done since the date of the map used by the city in its studies, work being done, and work scheduled to be done. It was his testimony that customers presently being served from the approximately 60,000 feet of 2-inch main in the system are generally obtaining service which meets the standards set forth in General Order No. 103.

Based on its investigation, the staff found that, although marginal at times of high demand, applicant's system does supply water at the pressure required by paragraph II.3.a. of Commission General Order No. 103. However, a significant portion of its

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<sup>7/</sup> Exhibits 11 and 11-A.

<sup>8/</sup> Exhibit 9.

distribution system, particularly in the Decoto area, does not meet the size requirements of paragraph III.2.a. in Commission General Order No. 103.<sup>9/</sup>

The staff recommends that in addition to the improvements which the applicant has stated it intends to make, that a long-range program be undertaken to systematically replace distribution mains that do not meet the size requirements of paragraph III.2.a. in Commission General Order No. 103. In addition, the staff is of the opinion that if an interconnection with a neighboring purveyor in the Decoto area is not accomplished, the applicant should install emergency power at one of its wells in that area.

Because of the differing opinions regarding the level of service provided by applicant, the examiner directed applicant to present as Exhibit 38 copies of the pressure records required to be kept under the provisions of II.3.c. of General Order No. 103. The examiner directed the staff to analyze the records and report on its findings. The staff witness testified that based on his analysis of the records contained in Exhibit 38 the system does meet the requirements of General Order No. 103.

A review of the five late-filed exhibits ordered as a result of the public's testimony regarding service shows that in one case low pressure was due to small piping within customer's house, and that the other complaint of low pressure was partially resolved

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<sup>9/</sup> Effective July 1, 1956,  
Paragraph I.1.a. of General Order No. 103 states:

" . . . The standards herein prescribed are intended as minimum standards applicable after adoption and continued full utilization of existing facilities is contemplated. Nothing contained in any of the rules herein promulgated shall be construed to require the replacement or abandonment prior to the expiration of economic utilization of facilities in use at the time of adoption of these rules unless the Commission, after hearing, shall enter an order directing the abandonment or replacement of particular facilities found to be inadequate for the rendition of proper public utility service."

by the installation of a larger service and meter and that further improvement would require replacing of the customer's interior plumbing. The other three complaints were resolved in discussions between applicant and the customers who complained.

The staff recommended that applicant be ordered to refund part of the revenues obtained through two offset increases authorized by the Commission. Applicant opposes the staff recommendation on the basis that it has not yet received confirmation from the Alameda County Water District that its wells located outside of the Alameda County Water District will not be taxed in the future. However, the water district has refunded the ground water tax collected in 1970 and the first half of 1971 for water pumped from wells located outside of the water district and has not since taxed any of the water pumped from these wells. Since both applicant and the staff have not included any estimate of taxes on water produced from the wells located outside of the district we are convinced that the customers are entitled to a refund. While staff Exhibit No. 24 attempted to estimate the refund as of December 31, 1972, the staff testified that the refund exhibit was prepared before its summary of earnings exhibit (No. 22) and since the staff now shows 1972 earnings at present rates of 6.42 percent (Exh. No. 39) or lower earnings than the 7.2 percent last found reasonable by the Commission for this district, the staff recommends that the calculation of refunds be terminated as of June 30, 1972 and that \$14,700 be refunded. Applicant will be ordered to submit a plan to refund \$14,700 to its customers.

Adopted Results of Earning

Operating Revenues	\$411,600
<u>Operating Expenses</u>	
Oper. & Maint.	125,300
Admin. & Gen.	37,300
Depreciation	43,700
Other Taxes	54,000
Income Taxes	<u>45,500</u>
Total Expenses	\$305,800
Net Operating Revenue	\$105,800
Average Rate Base	\$1,373,700
Rate of Return	7.7%

Findings

1. Applicant is in need of additional revenues, but the proposed rates set forth in the application are excessive.
2. The adopted estimates, previously discussed herein, of operating revenues, operating expenses, and rate base for the test year 1972, indicate that results of applicant's operation in the near future in the Niles-Decoto District will produce a reasonable rate of return.
3. A rate of return of 7.70 percent on the adopted rate base and return on common equity of 8.96 percent for the future is reasonable.
4. The increases in rates and charges authorized herein are justified, the rates and charges authorized herein are reasonable, and the present rates and charges, insofar as they differ from those prescribed herein, are for the future unjust and unreasonable.

5. Service meets the minimum requirements of General Order No. 103 based on the record in this proceeding.

6. Applicant should refund \$14,700 to its customers due to excessive ground water taxes collected through water rates.

Conclusion

The application should be granted to the extent set forth in the order which follows.

O R D E R

IT IS ORDERED that:

1. After the effective date of this order Citizens Utilities Company of California is authorized to file for its Niles-Decoto Water District the revised schedules of general metered service rates attached to this order as Appendix A, and concurrently to cancel its present schedule for general metered service. Such filings shall comply with General Order No. 96-A. The effective date of the new and revised tariff sheets shall be four days after the date of filing. The new and revised schedule shall apply only to service rendered on and after the effective date thereof.

2. Applicant is further ordered to use a 7.5 percent rate in capitalizing interest-during-construction and to advise the Commission of any future changes in this rate.

3. Citizens Utilities Company of California shall refund and distribute \$14,700 to its Niles-Decoto District customers. Applicant shall file within sixty days after the effective date of this order a plan and schedule for making this refund.

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

Dated at San Francisco, California, this 28<sup>th</sup> day of AUGUST, 1973.

William J. Sturgeon President  
[Signature]  
[Signature]  
Commissioners

Commissioner D. W. Holmes, being necessarily absent, did not participate in the disposition of this proceeding.

I concur  
Vernon L. Sturgeon  
Commissioner

## APPENDIX A

## Schedule No. ND-1

METERED SERVICEAPPLICABILITY

Applicable to all metered water service.

TERRITORY

The communities of Niles and Decoto, and vicinity, included generally within the boundaries of the City of Fremont and Union City, respectively, Alameda County.

RATES

		Per Meter Per Month	
Quantity Rates:			
First	600 cu.ft. or less .....	\$ 4.00	(I)
Next	1,400 cu.ft., per 100 cu.ft. ....	.53	
Next	3,000 cu.ft., per 100 cu.ft. ....	.39	
Over	5,000 cu.ft., per 100 cu.ft. ....	.34	
Minimum Charge:			
For	5/8 x 3/4-inch meter .....	\$ 4.00	
For	3/4-inch meter .....	6.00	
For	1-inch meter .....	9.00	
For	1 1/2-inch meter .....	15.00	
For	2-inch meter .....	25.00	
For	3-inch meter .....	42.00	
For	4-inch meter .....	60.00	(I)

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