

Decision No. 81905

ORIGINAL

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)

Stephen Eyherabide, Attorney at Law,
for defendant.

Anderson and Stronge, by William A.
Anderson, Attorney at Law, for
Mettler Community Betterment
Association and Frank Icardo,
interested parties.

Robert C. Durkin and I. Bill Nagao,
for the Commission staff.

O P I N I O N

Decision No. 81480 reopened Case No. 9466 for further hearing. The scope of the reopened proceedings included defendant's justification for a level of rates higher than authorized in Decision No. 81442, defendant's financial ability to carry out his public utility obligations, alternate solutions to obtain an adequate supply of water for defendant's customers, and testimony related to the staff's results of operation report, late filed Exhibit No. 10.

A public hearing was held on June 22, 1973 in Los Angeles before Examiner Levander. The proceeding was submitted on that date subject to the receipt of late filed exhibits, which have been received.

Level of Rates

Defendant did not submit any evidence to justify a level of rates higher than authorized in Decision No. 81442.

Defendant's Financial Ability

Defendant's personal financial difficulties were developed on this record. Defendant was unsuccessful in his efforts to obtain a loan from two banks to finance construction of a new well and to purchase meters. The banks turned down the request for a loan because defendant had too few customers, 39, and in their opinion the utility's income was not sufficient to amortize a loan over the five-year period they prescribed and that defendant did not have enough personal assets to secure a loan. Defendant tried to obtain loans from Mettler community leaders. He was told that the water company did not warrant a loan of the size required.

Defendant stated that since he was unable to obtain the necessary financing he is willing to sell his system to the community on a fair market basis for \$10,000, not for the \$3,500 he paid for the system. He was willing to convey the system immediately and would be flexible as to payment terms if the community wanted to buy the system.

Defendant stated that he was having problems in collecting payments for water service.

Water Supply

Defendant estimated that with sufficient financing his well driller could drill a new well and place it in service 15 days after commencing work.

Defendant submitted evidence on his making a direct connection from his storage tank to a nearby well supplying a gin in addition to the interconnection between the well and his distribution main to increase his water supply and on his chlorination of the water. The gin well is supplying approximately 60

gallons per minute to his storage tank during early morning hours. This supply is approximately 21 percent of the production which was obtained from defendant's well when it was operative. Since the horsepower of the gin well is one-third that of the defendant's well there should be a further investigation to determine if there is any obstruction preventing additional production from being delivered to defendant's tank and/or system.

The evidence shows that the supply being presently delivered to the system was inadequate on cool spring days. The local school has discontinued irrigation of its lawn and is only watering large trees. The system pressure is inadequate.

The gin well's owners state they would honor prior contractual obligations to use the water supply for agricultural processing uses and for meeting their own requirements.

Defendant has a verbal agreement authorizing him to use the gin well during the current emergency providing that he pays the power bills on the well and pays for major repairs due to breakdowns. The owners of the well were not willing to give permission to defendant to remove the 75 horsepower pump and motor installation from his well to install it in their well.

Alternate Water Supplies

The next closest well is located approximately 1300 feet from the Mettler school. The owner of this well authorized the community to make a temporary connection to his well which was used to fill the school swimming pool. The owner of this well informed defendant that soon after his next harvesting operation he will need all the water from this well for his own use; that he owns another well located approximately 3500 feet from defendant's tank site; and that he is willing to permit defendant to install his 75 horsepower pump and motor on this well and to connect it to his water system. Defendant states that he is unable to finance the \$7,000 cost of such an interconnection.

Defendant contacted the Arvin-Edison Water Storage District and was advised that the cost for treating its irrigation canal water for domestic purposes would be prohibitive; that a petition would have to be filed with the Bureau of Reclamation to seek their permission for the temporary use of canal water for domestic purposes; and that there would be a considerable delay in securing such authorization.

The chairman of the Mettler Community Betterment Association (MCBA) stated that three-quarters of the Mettler community unanimously supported the concept of forming a district to supply water in defendant's service area; that it would take approximately 180 days after the start of the proceedings to form a district; and that the community was undecided on the type of district to form. He did not wish to discuss or take a position for MCBA or for himself as to a possible interim solution to solve the community's water supply problem.

Results of Operation

MCBA submitted a copy of a conditional sales contract entered into by the Mettler Mutual Water Company and a vendor for defendant's pumping equipment. No shares of mutual stock were issued. The proprietary ownership of the water system was transferred several times. Mr. Ghiglia is the current owner. The actual cost of this pumping equipment is higher than the staff's estimated original cost used in the Exhibits Nos. 2 and 10.

The staff submitted a late filed exhibit containing an inventory, estimated original cost and January 1, 1973 reserve requirement for defendant's facilities. This exhibit substituted the recorded original cost for pumping facilities for their estimated original cost. This exhibit also contains excerpts from Decision Nos. 53277 and 63581 relating to the purchase of mutual properties and estimated historical cost.

Excerpts from the two decisions are as follows:

" . . . The transfer of properties should be effected at the original cost or estimated original cost to the mutual of the assets and should be so recorded on applicant's books of account..."

"It has been the policy of this Commission for accounting and rate making purposes to recognize the original cost of operating systems acquired by purchase and to disregard the purchase price paid by the transferees."

The same policy was followed in Decision No. 81442 in this proceeding.

Discussion

Absent a dramatic improvement in Mr. Ghiglia's financial condition, it appears that the only interim solution to solving the water supply problem in the Mettler community would require private financing to drill a new well. It might be possible for an individual or individuals of the community to finance the construction of a new well and to permit Mr. Ghiglia to use his existing pumping equipment in that well pending the formation of a district and the transfer of his facilities to such a district. The long range solution to the Mettler community's water supply problems may require the formation of a district.

Chapter 8 of the Public Utilities Code sets forth methods for determination of compensation for acquisition of public utility properties. Chapter 8.5 of the Public Utilities Code sets forth rights as to compensation for damages in the event of service duplication.

Defendant submitted no justification for increasing rates beyond those recently authorized. Defendant has incurred additional expenses due to the failure of his well in obtaining

a supply of potable water, to pay increased power rates, to pay for production used by the owners of the gin well or their tenants, and due to increases in uncollectibles. Power expenses have been reduced by reason of having to pay a smaller demand charge and not being able to produce the volume required by his customers. Defendant's rate base should be increased because the recorded original cost of some of the facilities was higher than the original staff estimate. The net effect on rate of return was not ascertained on this record. Any consideration of adjusting the rate of return would also have to consider the quality of service being presently provided in the Mettler community.

There is a need to equitably apportion the water supply while the water supply shortage exists in the community.

A customer's service may be cut-off for either non-payment of bills or for wasting of water in accordance with Rule No. 11 of the company's filed tariffs.

In view of the shortage of supply and need for capital to finance a new well the order of priority set forth in Decision No. 81442 should be revised and the mandatory metering of commercial customers set forth in Special Condition No. 2 of Schedule No. 2 LX Limited Commercial Service should be eliminated.

Findings

1. Defendant has not submitted any justification for an increase in rates over and above those contained in Appendix A in Decision No. 81442 which are presently effective.

2. Defendant is carrying out his public utility service obligations by utilizing a temporary emergency well with inadequate capacity to meet all of his customers requirements as to pressure and volume.

3. A plan for apportioning water should be prepared and submitted to the Commission and furnished to defendant's customers.

4. Defendant does not have the financial ability, at this time, to drill a new well needed to be placed in service to adequately meet the needs of his customers.

5. Defendant does not have the financial ability, at this time, to obtain water from any alternate supply of water in or around the community of Mettler.

6. Defendant has been unable to obtain financing from either banks or from individuals within the Mettler community to finance a new well.

7. MCBA intends to form a water district to serve the Mettler community and is exploring the type of district to be formed. The formation of a district would take 180 days after the formation proceedings were initiated.

8. Defendant is willing to turn over his facilities to the community or a district providing that there was an understanding that fair value would be paid for the facilities. Defendant had offered to sell his system for \$10,000 not for his purchase price of \$3,500.

9. The estimated original cost of utility plant and reserve for depreciation as of January 1, 1973 contained in Exhibit 15 is reasonable. The books of the company should show the well retirement and the well-pump and motor should be reclassified as nonoperative plant until such time as they are placed back in service.

10. Defendant has supplied the information required in ordering paragraph 2 of Decision No. 81442.

11. Special Condition No. 2 in defendant's Schedule 2 LX should be rescinded.

12. Defendant should explore the possibility that a constriction exists in the line from the gin well to his storage tank or system.

Conclusions

1. There is no justification for modifying defendant's presently authorized rates.
2. Defendant does not have the financial capability of developing a new source of water supply needed for serving his customers. A short term solution which could secure an adequate supply would involve actions by an individual or individuals in the community to develop a supply of water and to make arrangements for defendant to utilize this supply.
3. Defendant is providing public utility water service. This service is inadequate in meeting the pressure and volume requirements of his customers.
4. Defendant should investigate the possibility that a constriction exists in the line from the gin well to his storage tank or system.
5. A plan for apportioning water in this time of shortage should be prepared and submitted to the Commission.
6. The requirement that the commercial customers be metered within 180 days after the effective date of Decision No. 81442 should be rescinded.
7. The utility plant costs and reserve for depreciation as of January 1, 1973 contained in Exhibit 15 are reasonable as of that date. The company's books should incorporate these values and reflect subsequent retirements and reclassification of plant.

O R D E R

IT IS ORDERED that:

1. Within 15 days of the effective date of this order defendant shall file with the Commission and furnish to his customers a plan for apportionment of supply during times of shortage. This plan should also indicate that in accordance with Rule No. 11 of his filed tariffs water service may be discontinued for wasting water.

2. Special Condition No. 2 in Schedule No. 2 LX is rescinded.

3. Defendant shall book the updated utility plant costs and related depreciation reserves contained in Exhibit 15 in this proceeding; retire his well in accordance with the straight-line remaining life method; and reclassify his well pumping equipment as nonoperative plant.

4. Defendant shall report on his continuing efforts to augment his water supply every 90 days, commencing on October 1, 1973.

The effective date of this order is the date hereof.

Dated at San Francisco California, this 25th
day of SEPTEMBER, 1973.

Vernon L. Steegman
President
William J. Squire

Alvin M. ...
...
Commissioners

Robert ...

William J. ...
Commissioner