

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application No. 53178
(Filed February 29, 1972;
rehearing granted
October 30, 1973)

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.
Janice E. Kerr, Attorney at Law, John D. Reader, and K. K. Chew, for the Commission staff.

The rehearing of this application was held before Examiner Cline in San Francisco on March 4 and 5, 1974 pursuant to Decision No. 82067 dated October 30, 1973, as clarified by Decision No. 82159 dated November 20, 1973. The matter was taken under submission on July 31, 1974, the date of the filing of the reply brief by the Water Committee of Union City, Tamarack Knolls and Niles.

The rehearing was limited to the four issues of treatment of liberalized depreciation, interest during construction, adequacy of service, and legal and regulatory expense.

Treatment of Liberalized Depreciation

In Decision No. 81821 dated August 28, 1973, this Commission said:

"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. 53587. 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."

In Decision No. 83162 issued July 23, 1974 in Application No. 53587 of The Pacific Telephone and Telegraph Company, this Commission treated liberalized depreciation and the Job Development Investment Credit on a normalized basis in the computation of the federal income tax. For the reasons set forth in Decision No. 83162 the Commission in this proceeding reaffirms its treatment of liberalized depreciation and the Job Development Investment Credit on a normalized basis in the computation of federal income tax. Inasmuch as Decision No. 83162 and this decision may be reviewed by the California Supreme Court, applicant should continue to maintain its customer records as required by Ordering Paragraph 1 of Decision No. 82159 to implement customer refunds, if such should become necessary, until further order of this Commission or until this decision becomes final.

Interest During Construction

Decision No. 81821 points out that although the reduction of the 9.00 to 9.69 percent interest-during-construction (IDC) rate used by Citizens Utilities Company of California (Citizens) to the 7.5 percent rate recommended by the Commission staff would result in a change in the rate base of \$45, the staff wanted the principle established that interest during construction should ordinarily be less than, and certainly not more than, the authorized rate of return. This issue was discussed in Decision No. 83524, Continental Telephone Company of California, wherein we said:

"The purpose of the allowance of interest on construction work in progress is not to give a utility profits before operations begin and the plant becomes revenue producing, but it is an acknowledgement of the fact that capital funds cannot be employed without the loss of interest that might have been earned had they been otherwise invested. Since it is not the purpose of the allowance to provide profits before operations are begun, the rate should be confined to the minimum cost necessary to command the funds required. The common stockholder is fairly treated if the allowance on common equity funds used in construction is limited to an amount sufficient to pay current dividends. It is unnecessary for the allowance to be sufficient to provide accretions to retained earnings. The allowance to be equitable must consider the total financial circumstances of the utility, including the source of funds and flow of cash."

We reaffirm the order in Decision No. 81821 wherein we directed applicant to immediately change its IDC rate to 7.5 percent as recommended by the staff. To limit such controversies in the future, we urge applicant to discuss in advance with the staff any changes in its IDC rate.

The findings in this decision will make clear that the 7.5 percent rate hereafter to be used by Citizens in capitalizing IDC is a "net-after-tax" IDC rate. That is, interest on funds used to finance plant under construction that is excluded from rate base likewise is excluded in computation of the income tax allowance used for ratemaking purposes. The "gross-before-tax" IDC rate used by Citizens makes no similar allocation of interest expense in the computation of the income tax allowance for ratemaking purposes. As stated in Citizens' opening brief, the 7.5 percent net-after-tax IDC rate is substantially equivalent to the 9.00 to 9.69 percent "gross-before-tax" IDC rate sought to be used by Citizens.

In computing income tax for ratemaking purposes, interest on funds used to finance plant under construction that is excluded from rate base should not be deducted from gross income in determining the net taxable income.

Adequacy of Service

Finding 5 of Decision No. 81821 which reads:

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

is subject to review in this proceeding on rehearing, but the Commission in Decision No. 82508 refused to modify its order granting rehearing, Decision No. 82067, to include the issue of adequacy of rate of return. We shall therefore limit our consideration of the issue of adequacy of service to a review of the evidence and the finding pertaining to adequacy of service and to the question whether the level of service would justify a reduction in the 7.70 percent rate of return found to be reasonable in Decision No. 81821.

At the rehearing Water Committee of Union City, Tamarack Knolls, and Niles (protestant) offered one witness, from People for Better Water, to summarize the complaints of the customers. She testified that at the time she had first become involved in January of 1973 her organization had collected over 2,000 signatures from customers who were concerned about the quality of the water service furnished by Citizens. The consumers have passed a bond issue by a margin better than five to one to enable the Alameda County Water District to condemn Citizens water system in the Niles-Decoto district. This action was in accordance with a statement in a letter from the Director of the Department of Health dated October 19, 1973, Exhibit RH-5, which reads as follows:

"The Department of Health has made a thorough investigation of the water quality problems at Niles-Decoto and has concluded that interests of the consumers can best be served by a change in ownership of the water system and development of water resources better than those currently in use."

The witness testified that there have been consumer organizations which have been protesting the water service which the consumers have received in the area from Citizens for over 20 years. The complaints are that the water at times is highly discolored and smelly and that the customers frequently have to replace their water pipes and faucets and water heaters and have to repair their washing machines.

On cross-examination the general manager and vice president of Citizens testified that the two Whipple wells are high in iron and manganese and are being sequestered; the Tank Lane well is being sequestered; the D Street well is high in manganese and is being sequestered; the 14th Street well and the King well are not in service; the Rock Avenue well is high in nitrates and increased monitoring has been recommended; and the two Shinn wells are monitored every six weeks at the request of the Health Department.

Witness Morgan Stewart has been a regional engineer with the State Department of Health since 1960, and he has been familiar with the Citizens water system which is involved in this proceeding since 1967. He testified that the bacteriological quality of the water did not meet public health standards in 1969 and 1970. In 1971 the Bureau of Sanitary Engineering of the State Department of Health conducted a detailed sanitary engineering investigation of the water system because of the unfavorable bacteriological quality of the water and because some of the chemical constituents were higher than the standards normally permit. As a result of this study the Department of Public Health asked Citizens to discontinue the use of the King Avenue well and the 14th Street well which were high in nitrates and nitrites. The Department of Public Health also recommended that Citizens make an engineering and feasibility study because of the need for major improvements to get better quality water.

Mr. Stewart also testified about the emergency situation in January of 1973, that led the Department of Public Health officials to warn Citizens' customers that they should boil their water before using it. Public health standards require that there be less than 2.2 coliform per hundred milliliters, but of eight samples collected on January 9 and 17, 1973, three had more than 240 coliform. This was gross contamination within the meaning of Section 7010(e)(5) of the Administrative Code, and Citizens was under the obligation to notify the Department of Public Health immediately but did not do so.

Two things either caused or aggravated the problem. Citizens had cut the chlorine dosage down to a bare minimum prior to January 1973, and it had installed some air release valves terminating in rock filled sumps or pits which permitted not only air but contaminated water to be sucked back into the wells when the pumps went off. The valves were not designed in accordance with good waterworks practice, and a qualified waterworks engineer would have foreseen the hazards. Citizens did not modify the air release valves until required to by the Department of Health.

Mr. Stewart further testified that currently Citizens is just barely meeting the standards of the Public Health Department, and with such compliance it is to be expected that there will be customer complaints. The Public Health Department has received numerous complaints regarding turbidity, color, taste, and odor of the water and suspended black and brown particles in the water.

Section 451 of the Public Utilities Code provides that:

"Every public utility shall furnish and maintain such adequate, efficient, just and reasonable service, instrumentalities, equipment, and facilities as are necessary to promote the safety, health, comfort, and convenience of its patrons, employees, and the public."

Protestant points out that adequacy of service is one of the prime factors to be considered in determining the necessity and size of any rate increase, and that if Citizens is barely meeting the minimum requirements of General Order No. 103, the rate of return it would otherwise be authorized to receive should be reduced to reflect the level of service it is providing. Protestant therefore urges the Commission to reduce the rate of return authorized in Decision No. 81821.

The Commission staff witness submitted Exhibit RH-7 entitled "Report on Service Rendered by Citizens Utilities Company of California in its Niles-Decoto District". Staff field investigations of Citizens' operations and facilities in its Niles-Decoto district were made during May and December of 1973 and January 1974. The report states that the facilities and equipment were, on the whole, in acceptable condition. Major improvements to the system since the original hearings on the application were the installation of a larger main on H and Third Streets in the Decoto area in 1972, installation of equipment to treat the water with "N" sodium silicate at three well sites in 1972, and the acquisition of a new well with a capacity of 1,000 gpm in the Niles area in 1973. Pressure checks were made and no pressures below 50 pounds per square inch were observed. Customers who were interviewed, however, informed the staff witness that during periods of high demand there is an appreciable pressure drop in areas served by the small water mains. The report further stated that some customers, more noticeably in the Decoto portion of the system, have experienced taste and staining problems caused by iron and manganese which precipitate when the water is oxidized or heated. As no well in the Decoto portion of the system is equipped with independent emergency power for emergency water supply in case of a general electrical failure, that part of the system is dependent upon the limited storage and a 6-inch interconnection with the Niles area.

Exhibit RH-7 lists the number of informal complaints against Citizens Niles-Decoto district as follows: 1969, none; 1970, sixteen; 1971, thirty-two; 1972, three; and 1973, seventy-one. Of the 71 informal complaints registered with the Commission in 1973, 64 involved service. The majority of these informal complaints were received by the Commission in February after the notice to boil water had been issued by the Health Department.

With respect to water quality the staff report states that at the time of the staff investigation Citizens had discontinued the use of two of its wells which had high nitrate-nitrite levels recorded, and was treating the water being supplied from three wells with "N" sodium silicate to sequester or hold in suspension the iron and manganese that is in the ground water. All water that is being pumped into the system is being chlorinated. Citizens is unable to obtain a supply of better quality water from a source outside the area.

In Exhibit RH-7 the staff witness concludes that the only apparent solution to the water quality problem of Citizens is for expensive treatment facilities to be installed. A complete treatment plant will cost in the magnitude of \$1 million to \$1.5 million. The costs of operation of treatment plants to remove iron and manganese are approximately 23 cents per 100 gallons. Even with full treatment of the water there will continue to be problems, though at a diminishing rate, as the iron and manganese that has been precipitated out in the water mains will be picked up by water flows, surges, and flow reversals.

The staff report points out that much of the early construction of the water system was done with small size mains which are incapable of supplying water to meet the demands of present day requirements. At present there are approximately 59,000 feet of 2-inch and smaller mains, approximately 23 percent of the system's mains, in use on the system, which are the source of numerous complaints as they are unable to supply an adequate water supply to the customers. At various times Citizens has replaced some of the smaller mains with larger mains. The majority of the undersized mains are in the Decoto area.

The staff report also shows that after being notified regarding complaints with respect to the handling of customer deposits, Citizens returned all deposits to its customers.

The staff recommends that Citizens should be required to file reports with the Commission within three months on the following matters:

1. A program to replace the undersized mains in the Niles-Decoto district within five years.
2. The cost of treatment to remove the iron and manganese from its water supply.
3. Improvement in the reliability of water service in the Decoto area during an electric power outage.

With respect to adequacy of service the staff brief points out the staff investigation revealed that Niles-Decoto water presently meets the health standards of the State, that improperly collected customer deposits have been returned, and Citizens is presently complying with its deposit rules, that certain allegedly oversized meters were appropriate, and that there is no indication of systematic overreading or underreading of meters.

Citizens points out in its brief that both the witness from the State Department of Public Health and the Commission staff witness have testified that Citizens is currently meeting the public health standards in the Niles-Decoto area for taste, color, and smell of its water.

The testimony shows that the "boiled water" incident in January 1973 was caused primarily by the flood which occurred during that month. After further investigation the Health Department found that the problem was not as grave as it was originally thought to be. The general manager of Citizens in his testimony stated that the changes in the air release valves referred to by the witness from the Department of Public Health were made in the Niles area and not in that part of the Decoto system where the January boiled water incident occurred. The only air release valve in that portion of the system was (and still is) vented to the atmosphere in January 1973, just as the witness from the Department of Public Health testified it should be. Since January 1973, there has been a continuous monitoring program performed by Citizens. The results of this program are reported monthly to the State Department of Health, and there have been no violations of the standards of the State Department of Health.

Citizens has pointed out that modern "N" sodium silicate sequestering methods to control iron and manganese have been installed. The general manager of Citizens produced at the hearing numerous samples of crystal-clear water that had been taken from random points in the system on the day he testified. He stated that such samples were representative of the water in the Citizens system.

The bottles of water brought to the hearing by consumer Mrs. Vincent were samples taken on dates ranging from January 4, 1972 to October 13, 1973. The discoloration of the water samples due to manganese and iron ranged from yellow-brown to brown to black. Citizens contends that these samples are not representative of the present water being delivered after the sequestration of the manganese and iron. The general manager of Citizens, however, did admit that on occasion the water that comes out of the tap is not as desirable as the samples he brought to the hearing because when there is a flow reversal or a sudden hammer effect in the system some of the iron and manganese deposited in the mains breaks loose. He testified that 99 percent of the time however, such is not the case.

Citizens points out that the staff witness testified that Citizens has endeavored to obtain a better source of water outside the area but so far has been unsuccessful, and that further reduction of the iron and manganese content of the water would require the installation of a treatment plant involving considerable capital investment and high operation and maintenance expense. Citizens has sought the necessary permits from the city of Fremont to connect the Niles and Decoto systems with a 12-inch main in order to improve the quality of water in the Decoto area, but the city of Fremont has refused to issue them.

In the original hearings on this rate application the staff witness testified that his analysis of the pressure records contained in Exhibit No. 38 showed that the Niles-Decoto system met the pressure requirements of General Order No. 103. The general manager of Citizens testified that the continuous pressure chart readings at multiple locations on the system demonstrate that the system is continuing to meet the requirements of General Order No. 103 with respect to water pressure.

Citizens contends that there is no legitimate basis for giving any consideration to any reduction in Citizens' rate of return as requested by protestant, and that the rate of return allowed Citizens in this proceeding is far too low.

The rate of return on rate base of 7.70 percent and the return on common equity of 8.96 percent found to be reasonable in this proceeding were authorized after consideration of the level of service furnished by Citizens in the Niles-Decoto area. No further reduction in the rate of return is justified by the evidence produced at the rehearing. The parties are placed on notice that any substantial improvement or reduction in the level of service will be considered by the Commission when it establishes the rate of return in future rate proceedings.

Legal and Regulatory Expense

In Decision No. 81821 the Commission adopted \$5,440 as a reasonable estimate of legal and regulatory expense. The amount of \$5,440 was the staff estimate for legal and regulatory expense and was \$10,860 less than Citizens' estimate of \$16,300. The increase in gross revenues sought by Citizens in this application was \$141,900, and the increase in gross revenues authorized by the Commission in Decision No. 81821 was \$60,500.

At the rehearing a detailed description of the legal services in connection with this application including the rehearing performed by the attorneys for Citizens together with itemized billing for each attorney showing the hours, rate of charge, total charge, and allocation to Niles under the Four Factor Formula was introduced into evidence as Exhibits RH-2 and RH-3. These two exhibits also included tables showing the regulatory expense, other than legal, related to this application including the rehearing. The final total of the legal and regulatory expense included in the two exhibits is \$36,401.87 or \$12,134 if prorated over a three-year period. This revised figure of \$12,134 may be compared with Citizens' original estimate of \$16,300 for legal and regulatory expense.

The staff does not challenge the reputation or expertise of the law firm Citizens has chosen to represent its interests. It contends, however, that Citizens' revised estimate should be rejected because of the attendance of two attorneys at the hearings as shown by Exhibits RH-2 and RH-3, prodigious briefing of numerous issues during the hearings, and the fact that the length and complexity of the hearings are due in large part to the service problems of Citizens. The staff contends that Citizens' ratepayers should not be required to pay for Citizens' expenses which result from complaints regarding the adequacy of service, as good service is the responsibility of the utility. Such costs should be born by the shareholders, not the ratepayers.

In Exhibit RH-8 the Commission staff witness stated his opinion that the staff's estimated legal and regulatory expense of \$5,440 is reasonable and is based on a review of the staff work papers and a comparison of that estimate with the estimated expenses which were adopted by the Commission as reasonable in connection with applications filed by Southern California Water Company between December 1971 and September 1972, involving the following districts: Big Bear, Calipatria-Niland, Arden and Cordova, and Bay Districts. The staff did not include expenses to cover the service problems that Citizens has been experiencing in the last few years.

The staff contends that no reasonable man could conclude that three and one-half months of legal work costing approximately \$25,000 (\$36,000 if other regulatory expense is also included) is reasonable for a rate increase of \$60,500.

Protestant contends that it is unreasonable to allow Citizens' legal and regulatory expense which includes (1) fees for two attorneys in attendance at hearings, (2) expenses attributable to the expert witnesses expenses (\$1,095) for testimony on interest during construction which are far in excess of the amount in controversy (\$45), and (3) legal expense involved in (a) opposing a subpoena issued by the Commission, (b) seeking interim rate relief, (c) seeking to supplement the rehearing by including the issue of rate of return after the Commission had already rejected that request twice, and (d) resolving the service issues raised by protestant.

In its brief Citizens contends that the comparative approach to legal expense used by the staff in making its estimate is an extremely dubious method of arriving at a legal and regulatory expense estimate as it bears no relationship to the actual legal and regulatory expense incurred by Citizens in this proceeding. Citizens points out that the rate proceedings used by the staff in its comparative approach were far simpler and shorter. One of the proceedings lasted only one day. No rehearings were required. The same number of hotly contested issues did not appear to be involved.

Citizens contends that the staff in its estimate allowed nothing for legal and regulatory expense incurred in the rehearing. Citizens points out that the rehearing involved the issues of accelerated tax depreciation, interest during construction, and legal and regulatory expense as well as adequacy of service. Therefore, Citizens contends that all of the legal and regulatory expense should not be disallowed in the rehearing on the ground that an issue of quality of service was involved. Citizens further points out that Citizens' request for rehearing on the issues of interest during construction and legal and regulatory expense came after the request for rehearing on the issues of accelerated tax depreciation and quality of service was filed by protestant.

A reasonable amount, not the actual amount expended, should be allowed for legal and regulatory expense for ratemaking purposes. The Commission will reaffirm its allowance of \$5,440 for legal and regulatory expense for the reasons set forth by the protestant and the staff.

Protestant should take note that this determination will result in a further reduction of the actual net return to Citizens' shareholders in the light of the level of service which is being offered to the consumers in the Niles-Decoto area of Citizens.

Findings

1. Liberalized depreciation and the Job Development Investment Credit should be treated on a normalized basis as provided in Decision No. 81821.
2. Citizens should continue to maintain its customer records as required by Ordering Paragraph 1 of Decision No. 82159 to implement refunds, if such should become necessary, until further order of this Commission or until the order in this decision becomes final.
3. A 7.5 percent net-after-tax interest-during-construction rate which is substantially equivalent to the 9.00 to 9.69 percent gross-before-tax interest-during-construction rate sought to be used by Citizens is reasonable.

4. The reduction of the 9.00 to 9.69 percent gross-before-tax interest-during-construction rate used by Citizens to the 7.5 percent net-after-tax interest-during-construction rate adopted by the Commission as reasonable will result in a change in Citizens rate base of \$45.

5. In computing income taxes for ratemaking purposes interest-during-construction should not be deducted from the gross income in determining the net taxable income.

6. Citizens, the State Department of Public Health, and the Commission since 1970 have received numerous complaints from customers of Citizens in its Niles-Decoto district regarding the quality of its water.

7. The consumers of Citizens in its Niles-Decoto district have passed a bond issue by a margin of better than five to one to enable the Alameda County Water District to condemn Citizens water system in the Niles-Decoto area. This action was in accordance with a conclusion of the State Department of Health that the consumers of the Niles-Decoto system can best be served by a change in ownership of the water system and the development of water resources better than those currently in use.

8. In January of 1973 the Department of Public Health warned the customers of Citizens that they should boil the water before using it, because of gross bacteriological contamination. This contamination was caused primarily by the flood during that month and because Citizens had cut the chlorine dosage to a minimum prior to 1973. Citizens promptly remedied the situation when required to do so by the State Department of Health.

9. Currently Citizens is just barely meeting the standards of the Public Health Department regarding quality of the water, and with such compliance it is to be expected that there will be customer complaints.

10. The facilities and equipment of the Citizens water system in the Niles-Decoto district are on the whole in acceptable condition, but there are deficiencies, as set forth in Findings Nos. 14 and 15. ✓

11. Major improvements to the system since the original hearings on the application include the installation of a larger main on H and Third Streets in the Decoto area in 1972, installation of equipment to treat the water with "N" sodium silicate at three well sites in 1972, and the acquisition of a new well with a capacity of 1,000 gpm in the Niles area in 1973.

12. Some customers, more noticeably in the Decoto portion of the system, have experienced taste and staining problems caused by iron and manganese which precipitate when the water is oxidized or heated.

13. Citizens has been unable to obtain a supply of better quality water from a source outside the area.

14. The only apparent solution to the water quality problem of Citizens, other than transfer of the system to Alameda County Water District, is for expensive treatment facilities to be installed to remove the iron and manganese. Even with full treatment of the water there will continue to be problems, though at a diminishing rate, as the iron and manganese that have been precipitated out in the water mains will be picked up by water flows, surges, and flow reversals.

15. There are approximately 59,000 feet of 2-inch and smaller mains, approximately 23 percent of the system mains, in use in the Niles-Decoto district system of Citizens, the majority of which are in the Decoto area, which have been the source of numerous complaints as they are unable to supply an adequate water supply to the customers.

16. The continuous pressure chart readings at multiple locations on Citizens' Niles-Decoto district demonstrate that the system is currently meeting the requirement of General Order No. 103.

17. Improperly collected customer deposits have been returned by Citizens, and Citizens is presently complying with its deposit rules.

18. Certain allegedly oversized meters were appropriately installed by Citizens.

19. There is no systematic overreading or underreading of meters in the Niles-Decoto district water system of Citizens.

20. Citizens has sought the necessary permits from the city of Fremont to connect the Niles and Decoto systems with a 12-inch main in order to improve the quality of the water in the Decoto area, but the city of Fremont has refused to issue such permits.

21. As recommended by the staff, Citizens should be required to file reports with the Commission within three months on the following matters:

- a. A program to replace the undersized mains in the Niles-Decoto district within five years.
- b. The cost of treatment to remove the iron and manganese from its water supply.
- c. Improvement in the reliability of water service in the Decoto area during an electric power outage.

Such reports should include a status report on any action by Alameda County Water District to acquire Citizens' Niles-Decoto district water system, and the effect such action may have upon the advisability of making the improvements which are the subject of the report to the Commission.

22. The rate of return on rate base of 7.70 percent and the return on common equity of 8.96 percent are again found to be reasonable after a consideration of the level of service offered by Citizens in the Niles-Decoto district.

23. The increase in gross revenues authorized by the Commission in Decision No. 81821 was \$60,500.

24. The final total of the legal and regulatory expense incurred by Citizens in this proceeding including the rehearing, as shown in Exhibits RH-2 and RH-3, is \$36,401.87, or \$12,134 if prorated over a three-year period.

25. It is not reasonable to include in the legal and regulatory expense of Citizens for purposes of ratemaking in this proceeding the fees of two attorneys.

26. The length and complexity of the hearings in this proceeding are due in large part to the service problems of Citizens. As good service is the responsibility of the utility, it is unreasonable to include in legal and regulatory expense for ratemaking purposes the extraordinary expenses which have resulted from the issue of adequacy of service.

27. It is unreasonable to include expenses in the amount of \$1,095 for testimony regarding interest during construction when such issue involves an adjustment in the rate base of only \$45.

28. The annual amount of \$5,440, or \$16,320 over a three-year period, is a reasonable estimate for legal and regulatory expense in this proceeding in which the Commission has authorized rates which are expected to produce additional gross revenues in the amount of \$60,500.

Conclusion

The order in Decision No. 81821, as modified in Decision No. 82159, should be further modified as provided in the order below.

O R D E R

IT IS ORDERED that:

1. Paragraph 1 of the order in Decision No. 82159 is modified to read as follows:

Applicant Citizens Utilities Company shall establish a special reserve for the purpose of accruing the amount of any increase in rates which may result from the filing of revised schedules of general metered service rates pursuant to the order in Decision No. 81821, and applicant shall accrue to that reserve the difference between estimated gross revenues at the rates in existence on November 19, 1973, and revenues at the rates authorized

by Decision No. 81821, until further order of this Commission or until this order becomes final. The Commission will require applicant to refund to its customers revenues, if any, collected in excess of those finally established in this proceeding together with interest thereon at the rate of 7 percent per annum.

2. Applicant is ordered to file with this Commission within three months after the effective date of this order a report on the following matters:

- a. A program to replace the undersized mains in the Niles-Decoto district within five years after the effective date of this order.
- b. The cost of treatment to remove the iron and manganese from its Niles-Decoto district water supply.
- c. Improvement in the reliability of water service in the Decoto area during an electric outage.

Such report should include a status report on any action taken by Alameda County Water District to acquire Citizens' Niles-Decoto district water system, and the effect such action may have upon the advisability of making the improvements which are the subject of the report to the Commission.

3. The order in Decision No. 81821, as modified in Decision No. 82159, and as further modified above, is reaffirmed.

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

Dated at San Francisco, California, this 17th day of DECEMBER, 1974.

I abstain:

[Signature], Commissioner

Vernon L. Sturgeon
President

William J. Quinn

Robert E. McLeod
Commissioners