

ORIGINAL

Decision No. 85248

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of

CALIFORNIA CITIES WATER COMPANY,
a California corporation,

for authorization to increase rates
for water service in its San Dimas
District.

Application No. 55713
(Filed May 28, 1975)

Gibson, Dunn & Crutcher, by
Raymond L. Curran, Attorney
at Law, for applicant.
Ira R. Alderson, Jr., Attorney
at Law, Ichiro B. Nagao, and
Ernst G. Knolle, for the
Commission staff.

INTERIM OPINION

California Cities Water Company (CCWC), a California corporation, seeks authority to increase water rates in its San Dimas District in order to produce approximately \$377,900 of additional gross revenues for test year 1976 which would result in an estimated 10.45 percent rate of return on rate base. In addition, CCWC seeks authority for an interim rate increase of 7.90 percent to produce approximately \$99,850 of additional gross revenues in test year 1976, which would not exceed 7.70 percent rate of return on rate base.

CCWC, a public utility water corporation, operates water systems in a number of different communities throughout the State of California and has organized such facilities into six operating districts. This application concerns itself with

the San Dimas District which is located in Los Angeles County, California. Other operating districts are located in Santa Barbara, San Luis Obispo, Lake, Orange, and San Bernardino counties. It also holds interest in several mutual water companies within the State.

CCWC's property and equipment in the San Dimas District devoted to the service of water consists of land, reservoirs, pumps, buildings, pipelines, and other material, supplies, equipment, and appurtenances necessary for the rendition of such service in that district.

Its existing rates for water service in the San Dimas District were established and authorized by Decision No. 80207 dated June 27, 1972, as modified by five offset increases, the latest being Commission Resolution W-1661, dated December 6, 1974. As of December 31, 1974 the recorded cost of utility plant in the San Dimas District was \$6,425,163 and the depreciation reserve as of that date was \$1,471,896. As of July 31, 1975, CCWC served 19,400 customers and the San Dimas District served approximately 7,900 customers, accounting for 45 percent of CCWC's operations.

CCWC gave proper notice that it had filed the application for an interim and a general rate increase. Notice of the time and place of hearing was given as required by the Commission's Rule 52 and all persons who had presented letters of protest were given notice by the Commission.

Public hearings were held before Examiner James D. Tante on September 15 and 16, 1975 in San Dimas on the question of interim relief only. The matter was continued to a future date to be set at a later time and thereafter public hearings were held in Los Angeles on October 21 and 22, 1975 and the matter was submitted

as to the request for interim relief on the latter date. Two members of the public were present. One made a statement concerning lack of water pressure on occasion and the other testified that on an occasion the company had installed pipe larger than required to provide water to a newly constructed residence.

The general manager who was also vice president of CCWC, a senior sanitary engineer who was an assistant district engineer of the California Department of Public Health, and the chief hydrologist for Layne Western Company testified for CCWC. A financial examiner testified as a representative of the Commission's staff. Exhibit 3 was marked for identification only and the other Exhibits 1 through 27 were received in evidence.

At present rates the rate of return for the San Dimas District is 7.91 percent for the 1974 recorded year; 7.29 percent for the 1974 adjusted year; 6.58 percent for the estimated 1975 year; and 5.27 percent for the estimated 1976 year (Exhibit 1, Table 11-1).

CCWC stated that an increase in revenues in the immediate future is urgently required so that it may be in a position to arrange for a short-term line of credit with a nonaffiliated lending institution and borrow funds needed to drill a new well and to make other system improvements necessary to meet the California Department of Health requirement that all water served by the company shall not exceed 45 mg/l (milligrams per liter or parts per million) of nitrates, and to bring its interest coverage back to a level safely above the minimum required by its indenture before any further long-term financing can be arranged.

On July 15, 1974 the company received a letter from the California Department of Health notifying it that in accordance with Section 4026 of the California Health and Safety Code the company was in noncompliance with that department's water quality regulations in that several of the wells used regularly by the company and pumped directly into the company's distribution system contained nitrates in excess of 45 mg/l, the maximum permissible limit for domestic water supplies. That letter requested the company to prepare and submit a plan which, when implemented, would enable the company to supply all of its customers all of the time with a domestic water supply containing less than 45 mg/l of nitrates.

CCWC stated that in order to comply with the request of the health department it will be required to invest \$130,000 in additional nonrevenue producing facilities and system improvements in the year 1975 and another \$120,000 in the year 1976. It states that failure to implement this or some other plan which will enable the company to meet the California water quality standards to the satisfaction of the Department of Public Health will result in a possible restriction of any future growth in the company's San Dimas District service area and will subject the company to the penalties and conditions provided for in the health and safety code and in the administrative regulations with respect to those provisions.

It stated that it has had a number of discussions with a lending institution with respect to the possibility of a short-term loan and has been advised that such a loan could not be arranged on the basis of the company's present earnings, but if it can project sufficient earnings in the future, the lending institution would reconsider the question of providing such a

loan, and CCWC believes that if the interim rates requested herein are granted, it would be in a position to demonstrate an ability to repay such a loan.

CCWC stated that it is faced with the need for at least \$1,500,000 in additional long-term financing by 1976. It stated that in the absence of any rate increase the interest expense coverage for the estimated year 1975 would be 1.63 times and for the estimated year 1976 would be 1.35 times, and if the additional \$1,500,000 of bonds were sold the interest expense coverage would fall to 1.06 times for estimated year 1975 and .88 times for estimated year 1976, which it stated is considerably below the 1.5 times coverage required under the terms of the indenture for the issuance of such additional bonds.

CCWC purchases water from the Pomona Valley Municipal Water District and the Covina Irrigation District and has 15 wells, six of which have in excess of 45 mg/l of nitrates, which will not prevent it from supplying sufficient water through April of 1976, but it will not be able to supply water of less than 45 mg/l of nitrates to all of its customers during the peak periods of the summer of 1976. If it does not submit an acceptable plan for correcting this problem to the Department of Public Health, with an acceptable estimated timetable of progress before January 1, 1976, the Department will require it to notify its customers of the poor quality of the water and prevent it from providing service to any further users, which would curtail building in the San Dimas area.

Exhibit 5 is a plan acceptable to the Department of Public Health except that it has no estimate of the time required for progress and completion of the project. CCWC stated that it is unable to provide such information until it is in better financial condition.

The "Priorities Cost Estimate" in Exhibit 5 sets forth that the total estimated cost of the project is \$15,000.

By letter dated August 6, 1975 (Exhibit 12), CCWC pointed out to its parent company and to Layne Western Co., which had prepared Exhibit 5, that there was an error or misunderstanding concerning the cost being only \$15,000; that the general manager of CCWC estimated the cost to be \$199,000, and itemized the work to be done and the cost for such work which totaled \$199,000.

Layne Western Company's letter to CCWC dated August 28, 1975 (Exhibit 6) states that:

"The \$15,000 estimated cost in the report was only for those items of immediate attention within the next few months to upgrade the quality of water for the requirement of the State Board of Health. No attempt was made in the report to itemize the total cost of all improvements needed over the next one to two years to upgrade the system to an acceptable level."

Attached to the letter are itemized revised cost estimates in the exact amount for the same work and with the same total of \$199,000 that had been submitted by CCWC in Exhibit 12, its letter of August 6, 1975.

CCWC's general manager testified that the minimum cost to perform the minimum work necessary to alleviate the nitrate problem was \$199,000, of which \$61,000 would be needed between December 15, 1975 and March 15, 1976. He stated that his estimate was based on the "Items for Equipment Changes Needed" section of Exhibit 5 on pages 6, 7, and 8 of that exhibit, his experience, and the estimates to perform certain work by ECS Corporation (Exhibits 18 and 20) and McCalla Brothers (Exhibit 19).

The chief hydrologist of Layne Western Company participated in preparing the Water Supply and Distribution System Analysis (Exhibit 5) for CCWC. He testified that the \$15,000 cost estimate on the ninth page thereof was his rough estimate of the equipment cost necessary to determine whether the new water management program would be successful and that he anticipated that CCWC's employees would perform the work. He was unable to explain the cost he had attributed to items which appeared to be labor rather than equipment costs. He admitted that he did not have the expertise to testify as to the cost necessary to complete the minimum work required to overcome the nitrate problem. He stated that an expenditure of \$199,000 would serve to make improvements which might last ten years, and that \$90,000 or more would be needed in the next few months to assure an adequate supply of acceptable water for the summer of 1976, but he was unable to state what work was necessary or to itemize the cost of such work.

The ninth page of Exhibit 5 sets forth the priorities and the total cost estimate of \$15,000. There are no other cost estimates in the report. There is not sufficient evidence to establish that the report requires any other work or equipment or that any other work or equipment would be necessary to alleviate the nitrate problem; and the estimates to perform certain work as set forth by Exhibits 18, 19, and 20 are not shown to apply only to work necessary to alleviate the problem.

The evidence presented by CCWC was not sufficient to show that any sum in excess of \$15,000 is necessary to overcome its nitrate problem.

CCWC's general manager testified that even though the net operating revenue for the year ending July 31, 1975 was \$190,282 and its depreciation allowance was \$114,000, a total of \$304,282 for the San Dimas District, that district's share of

interest due and refunds required to be made during that period totaled \$318,000, approximately \$14,000 more than the cash available to make those payments. He stated that the parent company was unable to advance further sums and that he had attempted to borrow \$250,000 from a bank and was unable to do so because of CCWC's unsatisfactory financial condition. He did not determine the possibility of obtaining a short-term loan of less than \$250,000, or of \$15,000. He stated that CCWC did not have the funds necessary to correct the nitrate problem and was unable to obtain such funds without additional income to improve its net earnings times interest coverage and to improve its cash position to show the ability to repay the loan out of earnings or future long-term debt. He stated that the interim relief requested was necessary to prepare for future long-term debt of \$1,500,000.

The staff's witness testified that he had reviewed the documents provided him by CCWC and had been present during its entire presentation of evidence and was of the opinion that \$15,000 was needed by CCWC to put the plan in Exhibit 5 into effect to meet the requirements of the Department of Public Health. He stated that there is no evidence to show that CCWC was unable to obtain the funds necessary to complete such a project and that a financial emergency did not exist. He recommended that the authorization requested be denied.

The hearings concerning CCWC's request for authorization for a general rate increase have been set to begin January 20, 1976.

Interim relief is an extraordinary remedy to be employed only if the time involved in the usual disposition of the case will cause irreparable financial harm and to arrest an existing or imminent deterioration in the financial condition of a utility.

(San Diego Gas & Electric Co. (1961) 58 CPUC 684; Air California (1970) 70 CPUC 762.) The Commission views an interim rate increase as an emergency measure applicable only where the minimum financial obligations of the utility cannot be met prior to the establishment of definitive rates (Coast Counties Gas & Electric Co. (1951) 50 CPUC 580), and the applicant must sustain the burden of proof of existence of an emergency which would justify the increase.

(Southwest Water Co. (1961) 59 CPUC 202.) Interim relief will be granted where extraordinary circumstances exist, such as the need to arrest a utility's downward trend in interest coverage and to enhance its ability to attract its forthcoming capital requirements at reasonable terms. (General Telephone Co. (1970) 71 CPUC 657.)

CCWC has shown that the water in six of its 15 wells has in excess of 45 mg/l of nitrates; that this condition must be corrected before the peak period of the summer of 1976; that it has submitted an acceptable plan to the Department of Public Health but must designate some reasonable period of time for completion of the several progressive steps in the plan before January 1, 1976, or serious consequences may result to CCWC, its customers, and the city of San Dimas.

CCWC has not shown that the project will cost more than \$15,000 to complete or that it is unable to obtain funds or credit to complete the project. It has not shown that its need for long-term financing will be adversely affected by retention of its present rates until the determination of its application for authorization for a general rate increase now set for hearing beginning January 20, 1976.

CCWC has not shown that if it does not receive interim relief the lapse of time involved in the usual disposition of the case will cause it irreparable harm; that during this interim period it cannot meet its minimum financial obligations; and that extraordinary circumstances exist which make interim relief necessary.

Findings

1. The water in six of CCWC's 15 wells contains nitrates in excess of 45 mg/l, the maximum permissible limit for domestic water supplies as set forth in Section 7019 of the California Administrative Code.

2. CCWC has a plan acceptable to the Department of Public Health to correct the nitrate content problem except that it has not set forth in the plan an estimated time of completion of the progressive steps of the plan.

3. CCWC has established that the minimum cost of completing the minimum work required to comply with the plan and alleviate the nitrate problem is \$15,000. It has not established that the cost to do so exceeds \$15,000.

4. CCWC has not shown that it is unable to establish credit or borrow \$15,000 to perform the work required by the plan.

5. CCWC has not shown that it is in need of additional long-term financing of \$1,500,000, or that the delay of authorization for a rate increase between now and the time which it may reasonably expect the result of its application for authorization for a general rate increase would cause a financial problem.

6. CCWC does not face a financial emergency and an interim increase in rates would not be in the public interest.

Conclusion

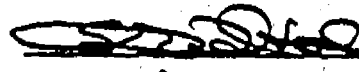
The Commission concludes that CCWC has failed to sustain its burden of proving that its requested authorization for an interim rate increase is justified and concludes that its request for such authorization should be denied.

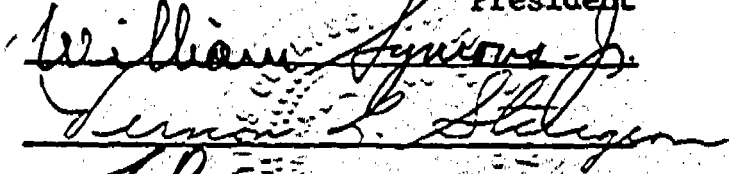
INTERIM ORDER

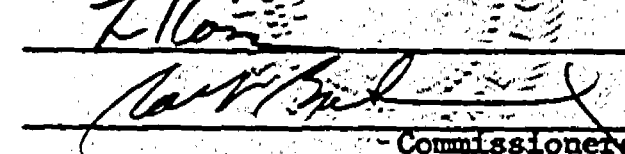
IT IS ORDERED that California Cities Water Company's application for authorization for an interim rate increase is denied.

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

Dated at San Francisco, California,
this 16th day of DECEMBER, 1975.



President


Vernon L. Stetson


Commissioners