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Missing

File (85658)

Public hearing on the requested rate increase was held in Fremont on February 3 through 7, 1975, and in San Francisco on February 10, 1975, and the matter was submitted on that date. The evidence adduced at those hearings showed, among other things, that the water supplied from Citizens' wells in the Decoto area has high manganese and iron content; that residential customers opposed rate increases until water quality was improved; that the State Department of Health had directed Citizens to improve the quality of water provided from its Decoto wells; and that court action was begun on February 4, 1975 on a condemnation suit filed by Alameda County Water District (ACWD) in which ACWD sought to acquire the facilities of Citizens in its Niles-Decoto district.

In the course of considering the rate increase request of Citizens, the Commission determined that the application should be reopened for further hearing. Decision No. 84903 dated September 16, 1975 reads, in part, as follows:

"This Commission is gravely concerned about the quality of water service provided in the Niles-Decoto district, and we propose to test our own jurisdiction, if necessary, in pursuit of a remedy. We are aware that the parties are presently engaged in condemnation proceedings that may ultimately provide a satisfactory solution. But we are concerned about the probable duration of that proceeding and the standard of service to be maintained in the interim. Accordingly we reopen this proceeding for the purpose of determining whether there is a short-term solution whereby persons in that district can be furnished satisfactory water and if so, the procedure for accomplishing that result.

"Based on the existing record, we consider the option of treating existing water sources to be unacceptable. In the reopened proceeding we intend to consider: 1. alternative sources of supply; 2. terms and conditions under which alternative sources may be made voluntarily available; 3. legal remedies whereby suppliers of alternative sources may be compelled to furnish water. We are prepared to order the applicant or to commit this Commission to engage in litigation, if necessary, to obtain an alternative source of supply.

"IT IS ORDERED that:

"1. The matter of Application No. 54960 is reopened for further hearings for the purpose of considering:

- "a. Whether there are alternative sources of water supply;
- "b. Terms and conditions under which alternative sources may be made voluntarily available;
- "c. Legal remedies whereby suppliers of alternative sources may be compelled to furnish water to the applicant."

Following a prehearing conference on October 10, 1975, further hearings were held in the reopened proceeding before Commissioners Symons and Batinovich and Examiner Mallory at San Francisco on November 13 and 14, and December 12, 1975. The reopened phase of the proceeding was submitted subject to the filing of briefs, which have been received.

Evidence Concerning Alternate Sources of Water Supply

A witness appearing for Brown and Caldwell, a firm of consulting engineers employed by Citizens, presented Exhibit A-9, which describes alternate sources of water supply, the estimated amount of time necessary to complete the necessary plant additions for each alternate, and the estimated cost of each alternate.

The following description of the service area and present water sources appears in Exhibit A-9:

"The Niles-Decoto system of Citizens serves the Decoto area of Union City and the Niles district of Fremont. Water supplied by the Citizens system comes from wells penetrating the Niles and Dry Creek cones of the Fremont groundwater basin.

"Well water characteristics vary with geographic location and aquifers from which wells withdraw water. In general, wells in the Niles district reflect the quality of Alameda Creek recharge water, while wells in the Decoto area are influenced by the Dry Creek cone. Water from wells in the Decoto area contains high levels of dissolved

iron and manganese. Water produced by wells in the Niles area characteristically does not contain these levels of dissolved iron and manganese. Consequently, an alternate source of supply for the Niles area has not been considered.

"In 1971 Citizens began treatment of Decoto well waters by adding a chemical sequestrant to impede precipitation of iron and manganese. This program was expanded so that by 1973 sequestering was incorporated at all active Decoto area wells. Sequestering has not produced the desired results, despite the success of early field tests, possibly for two reasons: (1) heating (e.g. in water heaters) tends to break the weak chemical bonds between the sequestrant and the iron or manganese ions, and (2) the bonds may also be broken when the sequestered metals contact oxidized iron and manganese deposits lining pipes."

The consultant developed five alternative sources for the present water supply, which were described as follows:^{1/}

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DESIGN CRITERIA

Alternate source facilities required to deliver water to CUCC's Decoto system were laid out on the basis that the Niles area and the Decoto area would each require a maximum daily flow of 2000 gallons per minute (gpm). Storage requirements include (a) capacity to meet peak hourly demands, estimated to be 21 percent of the average demand on the maximum day (a typical value for systems of this size) and (b) an allowance for fire fighting demands of 2,500 gpm for two hours. To meet these requirements the Decoto area would need 900,000 gallons of storage, of which 100,000 gallons is existing storage.

CONSTRUCTION COST ESTIMATES

For estimating purposes, prices of comparable works were obtained from various sources. Manufacturers, suppliers of material and equipment, and a local contractor provided information on specific questions. Cost data for pumping stations, treatment plants, and storage reservoirs were derived from constructed projects which were designed by Brown and Caldwell, and from project data in professional journals and construction magazines. Cost data for pipelines are based on Brown and Caldwell experience and incorporate current contractor estimates for new work in the Decoto area. Costs of land are estimated on the basis of an appraisal conducted for Citizens in September 1974.

An engineering and contingency allowance of 30 percent is included in cost estimates contained in this report. Engineering costs are estimated on the basis of 15 percent of contract costs. An allowance of 15 percent is added to contract cost estimates to cover contingent items. Separate estimates are not included for Environmental Impact Reports (EIR's) or seismic studies. The cost of such studies, if needed, will be in addition to the engineering and contingency allowance provided. Estimates are made for (a) CUCC overhead, at five percent of construction cost, and CUCC labor during construction at two percent of construction cost; and (b) interest during the construction period at 7.5 percent per annum.

1. New Niles Area Wells with Transmission to Decoto.

Serve the Decoto area from new wells drilled in the Niles area, and place the existing Decoto area wells on standby. This alternate requires the addition of 800,000 gallons of storage in the Decoto area and drilling three new wells, each with a capacity of 1,000 gpm, in the Niles area. Water would be transmitted from Niles to Decoto via a new 12,000-foot 16-inch main in Niles Boulevard and via the existing 12-inch main in Mission Boulevard. These facilities should require approximately six months to construct. Construction cost is estimated at \$1,388,000.

2. Local Treatment of Decoto Well Water.

Provide treatment consisting of permanganate oxidation with subsequent pressure-sand filtration to remove iron and manganese from existing four active Decoto area well waters. Facilities include a chemical reaction tank, mixed-media pressure filters, booster pumps, and appurtenant piping, controls, equipment, and structures. An 800,000 gallon ground level storage reservoir is required, which could be located in the vicinity of the existing 100,000-gallon Decoto Reservoir. These facilities should require approximately fifteen months to construct. Construction cost is estimated at \$1,578,000.

3. Connection to the Alameda County Water District System.

Supply the Decoto area by connecting to the Alameda County Water District (ACWD) system. Connection can be made at two points on an existing 24-inch diameter ACWD main passing along Decoto Road and Mission Boulevard. See Figure 4. Since this 24-inch main terminates in a 15 million-gallon reservoir between Niles and Decoto, no additional storage in the Decoto system has been considered. Construction of a connection to the ACWD system can be made in about one month, at an estimated cost of \$41,000.

4. Connection to City of Hayward System.

Supply the Decoto area from a connection to an existing 24-inch diameter city of Hayward main passing along Mission Boulevard parallel to an existing Citizens' 12-inch main. The connection would be made in the vicinity of Mission Boulevard and Decoto Road. This 24-inch main transmits San Francisco Water District (SFWD) water to Hayward. In addition to tying-in the Citizens' 12-inch main, this plan requires a new 10-inch main along Decoto Road between Mission Boulevard and 11th Street to improve distribution. The city of Hayward staff advises that the 24-inch Hayward main does not have enough unused capacity to serve Citizens' Decoto area demands on a continuous basis. However, if this alternate were selected, an additional 800,000-gallons of storage would be required. Connection to the Hayward main, construction of the additional 10-inch transmission main, and construction of storage should require approximately eight months, at an estimated construction cost of \$387,000.

5. Connection to the San Francisco Water Department System.

Supply the Decoto area from the SFWD Sunol Aqueduct. The Decoto area would be connected to the aqueduct by about 21,000-feet of 16-inch diameter transmission main with a booster pumping station at the aqueduct. If there is not enough unused capacity in the Sunol Aqueduct to serve Citizens, the nearest likely tie-in to the SFWD system would be in the Irvington area of Fremont, at the Hetch Hetchy Aqueduct; a tie-in at that point would add another 2.5 miles of transmission pipeline. The plan also provides for an 800,000-gallon reservoir in the Decoto system. It is assumed that SFWD water will require no treatment prior to use by Citizens. Construction of these facilities should require about nine months, at an estimated construction cost of \$1,596,000 for connection at the Sunol Aqueduct, with an additional \$500,000 to connect to the Hetch Hetchy Aqueduct.

The Brown and Caldwell report in Exhibit A-9 states that no investigation was made by that firm of the availability of water from any of the alternate sources. Based on the investigation made by Brown and Caldwell, the witness concluded that connection to the existing ACWD main adjacent to Decoto has, by far, the lowest total construction cost.

Increases in Rates Necessary to Cover Increased Costs

Citizens-Delaware's vice president for revenue requirements presented Exhibits A-12 and A-21 which show the increased rates necessary to offset the increased capital and operating costs associated with alternatives 1 through 5 in the Brown and Caldwell study in Exhibit A-9. Exhibit A-11 is based on use of a rate of return on added rate base items of 10.5 percent, the return requested in Application No. 54960. Exhibit A-12 was revised at request of the Commission staff to show the result of using a rate of return on rate base items of 8.80 percent, which is the lower end of the range recommended by the staff financial examiner in the rate increase phase of the proceeding. The following table depicts the revised estimates based on a rate of return of 8.80 percent, as shown in Exhibit A-21.

TABLE 1

CITIZENS UTILITIES COMPANY OF CALIFORNIA
NILES-DECOTO SYSTEMIncrease in Cost to Customers of
Alternate Sources of Water Supplies
Based on 8.80% Rate of Return

(Exhibit A-21)

Item	Purchase	New	Purchase Water From		
	Water From ACWD	Treatment Plant	New Wells	City of Hayward	San Francisco
New Fixed Costs	\$ 7,200	\$336,200	\$264,400	\$ 77,600	\$296,700
New Oper. Exps.	<u>82,800</u>	<u>104,000</u>	<u>86,600</u>	<u>206,300</u>	<u>113,000</u>
Subtotal	90,000	440,200	351,000	283,900	409,700
Reduction in Old Oper. Exps.	<u>(58,900)</u>	<u>(6,900)</u>	<u>(49,500)</u>	<u>(58,900)</u>	<u>(58,900)</u>
Incr. in Total Annual Cost	31,100	433,300	301,500	225,000	350,800
Incr. in Charges Per Ccf	\$.0395	\$.5506	\$.3831	\$.2859	\$.4457
Incr. in Average Annual Bill Per Customer	\$ 7.58	\$ 105.72	\$ 73.56	\$ 54.89	\$ 85.57
Percent Incr. Over Present Rates	7%	95%	66%	49%	77%

(Red Figure)

Note: The water purchased expense included in new operating expenses is computed under the current tariff of the alternate source being considered.

The witness also showed in Exhibit A-11 the increases in operating expenses and rate increases necessary if an additional 463,500 Ccf of water was purchased annually from ACWD. The increased customer rates would range from 6 to 18 percent for water purchased at costs ranging from 17 cents to 29 cents per Ccf.

Department of Health

A witness appearing for the Water Sanitation Section of the California State Department of Health presented Exhibit A-29, which contains that agency's staff review of the alternative sources of water shown in the Brown and Caldwell report in Exhibit A-9. That staff review was for the purpose of determining whether the quality of the water to be supplied under each of the five alternatives would meet Department of Health standards; no attempt was made to evaluate the cost estimates presented in Exhibit A-9, nor was the availability of water under the alternative sources of supply evaluated.

Alternative 1

Exhibit A-29 shows that the mineral content of Citizens' existing wells in the Niles area does not exceed the maximum amounts permitted under Department of Health standards, and that new well construction and site locations should meet Department of Health standards. The report states that because of sporadic coliform problems, chlorination of well waters will likely be necessary.

Alternative 2

If a new central treatment plant in the Decoto area designed to remove iron and manganese is constructed (as more fully described in Exhibit A-9), Exhibit A-29 states that there would be positive removal of the troublesome constituents of iron and manganese and water delivered from that plant should meet the Department of Health quality standards.

Alternatives 3, 4, and 5

These alternatives involve the purchase of water from ACWD, city of Hayward, or city of San Francisco. ACWD water was assumed to be furnished from ACWD's Peralta-Tysen wells. The water purchased from Hayward and San Francisco is assumed to be Hetch Hetchy water. All three sources of water currently meet Department of Health Water quality standards.

Position of ACWD

The position of ACWD in this phase of Application No. 54960 as explained in the opening statement of its counsel (Transcript pages 596 through 600) is that it is the policy of ACWD's board that ACWD will not voluntarily sell water to Citizens. Counsel stated that it is ACWD's belief that the many problems in the Niles-Decoto district can only be solved by Citizens, and that ACWD cannot be required to expend public funds to assist Citizens in finding solutions to those problems. The District gave no explanation of how sale of water to Citizens at compensatory rates would be an expenditure of public funds, but withdrew from the proceeding after having made its statement.

Cities of San Francisco and Hayward

The city of Hayward presented a witness to explain the reasons that the city could not furnish water to Citizens' Niles-Decoto district. The witness explained that it obtains all of its water from Hetch Hetchy, owned by San Francisco, and the water purchase contract prohibits resale of the water supplied thereunder unless consent is given by San Francisco.

The city and county of San Francisco through counsel for its Public Utilities Commission stated that that Commission had adopted a resolution whereby it will not authorize any sale of its water to Citizens, based primarily on the fact that the vast majority of the water in question is derived from the Hetch Hetchy system and therefore is subject to the proscriptions of the Raker Act (12 USCA Sec. 773, 42 USCA Sec. 511-513). The federal Raker Act purportedly prohibits the sale of Hetch Hetchy water to corporations or utilities for resale.

Discussion

Although Citizens does not concede that the quality of water supplied to its Decoto customers is below Department of Health water quality standards, the reopened phase of this proceeding was conducted with the understanding that iron and manganese content of that water exceeded public acceptability and should be improved as promptly as possible.

It is clear that the more rapid and most economical method of providing water of satisfactory quality to customers in the Decoto portion of Citizens' Niles-Decoto district would be the purchase of water from ACWD.^{2/} That district will not voluntarily sell or furnish water to Citizens. In their final briefs, we requested the parties to discuss the legal issues involved in attempting to require the sale of water to Citizens by ACWD, Hayward, or San Francisco. Evidence in the reopened hearings reduced the practical alternatives for outside suppliers of water to three: Alameda County Water District, city of Hayward, and the San Francisco Water Department. As the briefs noted, all are public entities and all refused to cooperate voluntarily. Our review of the legal briefs shows no clear court precedent or unquestionable statutory language giving this Commission authority to order any of those public entities to act if found to be in the broader public interest. From the statements by these entities, it would be clear that such an order would be contested in court with the likelihood that actual improvement of the existing water supply would be delayed for an uncertain but prolonged period of time. In the end, this would defeat our aim in the reopened proceeding, which is to achieve a prompt solution to the elimination of excessive iron and manganese from the water furnished to Decoto customers of Citizens.

^{2/} As shown in Exhibit A-21, securing a similar supply by way of a new treatment plant would be fourteen times more expensive: \$433,300 as opposed to \$31,100.

The record shows that the superior court condemnation award of more than \$3,941,987 (plus court costs) for the acquisition of Citizens' Niles-Decoto system by ACWD is under appeal, and that recent negotiations between Citizens and ACWD to reach agreement on a sale price for the system have reached a stalemate. We urge that such negotiations continue, but our assessment is that the polarization of the positions of ACWD and People for Better Water, on the one hand, and Citizens, on the other hand, will continue to prevent an out-of-court settlement from being reached. Therefore, we conclude that acquisition of Citizens by ACWD is not likely to occur in the foreseeable future. Our concern with the quality of water furnished by Citizens leads us to seek more effective solutions to the immediate and continuing problem than forcing sale of water from reluctant sellers.

As outlined in the Brown and Caldwell report in Exhibit A-9, two possible solutions are available, other than purchase of water from a public entity, namely the drilling of new wells or the construction of a new treatment plant. (Alternatives 1 and 2). The quality of water resulting from either alternative would meet Department of Health water quality standards for iron and manganese and should be acceptable to Decoto customers. Alternative 2, the new treatment plant, would require 15 months to construct, at an estimated cost of \$1,578,000 and the resultant estimated average increase in present rates is estimated to be \$105.72 annually, or 95 percent. Alternative 1, the drilling of new wells in the Niles area, is estimated to require 6 months to complete, at a construction cost of \$1,388,000. The resultant average increase in rates is estimated to be \$73.56 annually, or 66 percent. Between Alternative 1 and 2, it is clear that the drilling of new wells in the Niles area will provide better quality water sooner and at less expense than the erection of a treatment plant. Alternative 1 will be adopted.

The record in the initial phase of this proceeding indicates that there are undersized mains in the Niles-Decoto system which should be replaced. In Exhibit 10, the Commission staff engineer testified that there are approximately 57,200-feet of distribution mains in the Niles-Decoto system which are under four-inches in diameter, representing about 21.7 percent of the total footage of transmission and distribution mains. Replacement of those undersized mains would improve pressure and the volume of water provided to customers. The record also shows that manganese and iron have accumulated in the Decoto mains and removal of those deposits is necessary to ensure manganese-free water. Any main replacement program should begin in the Decoto area to assist in providing better quality water in that sub-system. The staff engineer estimated that replacement of the undersized mains would amount to about \$1,140,000. The current tentative replacement program of Citizens for the years 1975 through 1979 would replace only 28,000-feet or 49 percent of the undersized mains. The engineer recommended that Citizens invest an amount of \$200,000 per year for five years in replacement of undersized distribution mains.

Service and water quality can be substantially improved by implementation of the staff's recommendation to replace all undersized mains over a five-year period. The main replacement program should be undertaken concurrently with the drilling of new wells. The staff engineer also presented Exhibit 14 to show the first-year effect in net operating revenues and rate of return of an investment of \$200,000 per annum for main replacement. That exhibit indicates that depreciated rate base would rise from \$1,413,300 to \$1,609,400, and that rate of return under existing rates would decline from 5.13 percent to 4.55 percent.

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The costs of the improvement programs ordered herein ultimately will result in substantial increases in water rates. The customers that testified in the initial phase of this proceeding did not support the staff's recommended construction program, and opposed any action of the Commission that would result in a rate increase. However, the system has gone without needed improvement for too long; it is time to get on with correction and we will proceed with the best alternative presently available. It is possible that our direction to Citizens to drill new wells and to embark on a main replacement program may change the position of ACWD with respect to whether it will sell water to Citizens. Those directions to Citizens may also affect the negotiations between ACWD and Citizens with respect to acquisition of Citizens by ACWD. Considering those possibilities we will make the effective date of this decision July 15, 1976 which will provide Citizens and ACWD opportunity to negotiate further, and will permit customers to review and reconsider their position. In the event that we are formally advised of a material change during this period which would warrant modifying our directions to construct new wells and to enter into a main replacement program, we would consider suspending or rescinding our order herein, as the facts indicate. ✓

Findings

1. Citizens Utilities Company of California operates a public utility water company in the Niles-Decoto area. It seeks an increase in rates designed to increase annual revenues in a 1975 test year by \$211,800 or 50.6 percent.

2. Decision No. 83855 dated December 17, 1974 in Application No. 53178 ordered that Citizens file a report concerning a program to replace undersized mains in its Niles-Decoto district and to show the cost of treatment to remove iron and manganese from its water supply in the Decoto area of its Niles-Decoto district. That report,

filed in the initial phase of this proceeding contains a five-year main replacement program and an estimate of \$1.5 million for the construction of a treatment plant to eliminate iron and manganese from water furnished from Decoto wells.

3. Public hearing in the initial phase of this proceeding held in February 1975, was devoted to receipt of evidence concerning the rate increase to service, and to water quality. In that phase, the Commission staff recommended that a five-year main replacement plan be ordered to satisfy our findings in Decision No. 83855. That phase of the proceeding was submitted on February 10, 1975.

4. The Commission was advised that a condemnation proceeding in superior court initiated by ACWD to acquire the Niles-Decoto system of Citizens culminated in an award to Citizens of \$5,339,782, and that such award has been appealed. The bond issue passed by voters in ACWD earmarked for the purchase of the Niles-Decoto system was approximately \$2.5 million. ✓✓

5. The Commission considered the rate increase and related issues concerning replacement of mains and improvements of water quality, and concluded that the proceeding should be reopened for the receipt of additional evidence, as indicated in Decision No. 84903 dated September 16, 1975. Following the issuance of that decision, Citizens petitioned for interim relief. That petition has not been acted upon, pending determination of the issues in the reopened proceeding.

6. Hearings in the reopened proceeding were held, at which time further evidence was adduced concerning the alternative sources of water supply for the Niles-Decoto district.

7. Public convenience and necessity require that Citizens cease to furnish water from Decoto wells that are high in manganese and iron content, and that an alternate water supply be substituted.

8. Exhibit A-9 contains five alternative sources of water supply, two of which involve major construction, and three of which involve purchase of water from public agencies in the vicinity.

9. The most favorable alternative from a cost and time aspect involves purchase of water for the Decoto system from ACWD and concurrent discontinuance of the use of water from Citizens' Decoto wells. ACWD will not voluntarily sell water to Citizens. The other two agencies from which water could be purchased believe that sale of Hetch Hetchy water to a private utility violates the provisions of the Raker Act and therefore refuse to sell water to Citizens.

10. Commission action to require the sale of water by public agencies to Citizens will be strongly resisted in court and resolution of the source of alternative water supply by this alternative is likely to be unduly delayed. Therefore, purchase of water from ACWD, city of Hayward, or San Francisco Public Utilities Commission will not result in a prompt solution of problems of water quality in the Decoto area of Citizens' Niles-Decoto district.

11. The two remaining alternative sources of improved water for the Decoto area are the construction of new wells in the Niles area, and the building of a treatment plant. The construction of new wells will cost substantially less and can be completed a great deal faster than the construction of a treatment plant (or plants).

12. The State Department of Health has produced evidence which shows any of the five alternative methods of improving the quality of water furnished to customers in the Decoto area will meet Department of Health water quality standards and will remove excessive iron and manganese from the water supplied to the Decoto area.

13. ACWD is charged with maintaining a water replenishment program for the Niles and Dry Creek cones, the aquifers from which Citizens now draws water for its Niles-Decoto system and from which it would draw water for the new Niles wells. Because of the replenishment program under which ACWD replaces ground water, an adequate water supply exists to provide water from the new Niles wells.

14. A main replacement program as proposed by the Commission staff is required to improve water service in Citizens' Niles-Decoto system and to satisfy the directions in Decision No. 83855.

The construction of new wells in the Niles area and discontinuance of the use of water from Decoto wells, as more specifically described in Exhibit A-9, is necessary to eliminate excessive iron and manganese in water furnished from Decoto wells to improve water quality and to satisfy the directions in Decision No. 83855.

15. The following table depicts the estimated increases in annual operating and capital costs and the rate increase necessary to offset such costs applicable to construction of new wells and the five-year main replacement program:

<u>Added Costs</u>	<u>New Wells</u>	<u>Main Replacement Program *</u>	<u>Total</u>
Fixed Costs	\$ 264,400	\$ 200,000	\$ 464,400
Oper. Exps.	<u>86,600</u>	<u>-</u>	<u>86,600</u>
Subtotal	351,000	200,000	551,000
Reduction in Old Operating Expenses	(49,500)	-	(49,500)
Incr. in Total Annual Cost	301,500	200,000	501,500
Percent Inc. Needed in Rates	66% (Red Figure)	44%	110%

* First year cost only.

Conclusions

1. Citizens should be ordered and directed to make the improvements in its Niles-Decoto system as indicated in the above findings.

2. This Commission has been kept informed of on-going negotiations for the sale of the water system and has withheld action pending their conclusion. We have been informed that tentative agreement has been reached for the sale of the system subject to the passage of a supplementary bond issue covering the portion of the purchase price which exceeds the amount of the existing bond issue. The supplementary bond issue will be placed on the ballot in June 1976. The agreement of sale expires July 10, 1976.

3. The conclusions and order which follow indicate the capital improvements which will be necessary to provide good quality water to Decoto customers and to improve water service in the Niles-Decoto District in the event the sale of the water system is not accomplished.

4. The following order should be issued to indicate to Citizens, ACWD, and the public the actions the Commission intend to initiate if the agreement of sale is not consummated.

5. The main replacement program for the Decoto area should be completed before the main replacement program for the Niles area program is begun in order to eliminate the iron and manganese residuals remaining in the Decoto mains after a new source of water is available. ✓

6. Citizens should be required to obtain approval of the Commission by resolution of each major phase in the main replacement program and well construction program before beginning that phase. ✓

7. The estimates of the construction costs of the facilities ordered herein indicate that substantial rate increases will be required, on the order of 66 percent when the new wells are operative, and on the order of 44 percent for the first step in the main replacement program. The Commission will promptly consider requests for rate increases reasonably required by each major step in the construction program ordered herein, after the completion of each step. ✓

8. This proceeding should remain open to consider the rate increase sought in the application and to consider the need for additional revenues which will result after the construction ordered herein is concluded. ✓

O R D E R

IT IS ORDERED that:

1. Citizens Utilities Company of California is directed to take immediate steps to commence the construction of new wells in the Niles area of its Niles-Decoto system, as more specifically set forth in Exhibit A-9 in Application No. 54960. This construction shall be completed as expeditiously as possible but not later than one year after the effective date of this order.

2. Citizens Utilities Company of California is directed to immediately begin a main replacement program under which one-fifth of its undersized mains are replaced yearly, as more specifically set forth in the report filed by applicant in response to Decision No. 83855, except that such main replacement program shall be completed in the Decoto area prior to commencing the program in the Niles area.

3. Before each major phase of the construction programs ordered in paragraphs 1 and 2 above is commenced or funds are committed therefor, Citizens Utilities Company of California shall obtain approval of the Commission for that phase of the program.

4. Monthly reports of the progress made on the construction ordered herein shall be filed by applicant beginning thirty days after the effective date of this order.

5. This application shall remain open to consider applicant's additional revenue needs resulting from the construction program ordered herein.

The effective date of this order shall be July 15, 1976.

Dated at San Francisco, California, this 13th day of APRIL, 1976. ✓

*I will file a written dissent
William Lyons. J.*

President

James L. Stegman

Leland Ross

Robert Bahamit
Commissioners

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

COMMISSIONER WILLIAM SYMONS, JR., Dissenting

In fairness, I cannot assent to this order without the proposed companion order which allows a partial rate increase to compensate for substantiated expense increases.

As the Commissioner presiding over the evidentiary hearings in this case, it is clear that since the last rate change in 1973, expenses for operating the water service have risen considerably, such as wages paid to the system's employees. Without rate relief, these cost increases have driven down the return the Company realizes on its \$1,425,000 rate base, even below a level which might be used to administer "punishment" to the Company for substandard service. The proposed partial rate increase is stern and minimal: it even reduces the present below-average return on equity of 8.96% to 7.64%. However, without this minimal partial relief, the return declines to an unreasonable 3.3% for 1975, and as the months of 1976 pass, it will fall still lower.

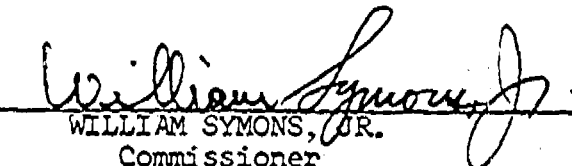
This sort of treatment is administered, while unblushingly, the Commission issues a decision which contains provisions operative on the event of a bond vote failure, that require the Company to come up with an additional 1.3 million in investment dollars with nothing firmer to assure adequate compensation than that further Commission action will be considered.

We recognize that the "takeover" of the Company by the Alameda County Water District has been injected into the case. However, as the Alameda County Water District has exercised its choice to take this matter to the State courts, I do not feel this Commission should use its power to jam a sale down anybody's throat. Unfortunately, I think that the unfair delay has been welcomed by some: it provides a severe squeeze on the Company to

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come to terms--favorable or not. Though the case was made for the need of partial rate relief early in the case, the authorizing order has dragged on without disposition from Commission Conference to Commission Conference since the 24th of June 1975. And now it has been decided that no further consideration will be given to rate relief until July 20, 1976, and possibly not even then. This sorry state of affairs is quite far afield from the expeditious and even-handed regulation that we each took an oath to administer.

San Francisco, California
April 13, 1976


WILLIAM SYMONS, JR.
Commissioner