

Decision No. 86124

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of }
TRI-PALM ESTATES (MOBILIFE CORP., }
dba TRI-PALM ESTATES), for authority }
to increase rates and charges, and }
for authority to terminate sewer }
service to lots whose owners are }
delinquent. }

Application No. 56328
(Filed March 12, 1976;
amended May 25, 1976)

Dryden, Harrington, and Swartz, by
Miles J. Rubin, Attorney at Law,
for applicant.
Victor H. Alberkrack, for himself;
Simon Russek, for Tri-Palm Owners'
Association; and Quincy Winslow Kennedy,
for Golden State Mobil Homeowners'
Lodge, Chapter 530; protestants.
John E. Brown and Francis S. Ferraro,
for the Commission staff.

O P I N I O N

Mobilife Corp., dba Tri-Palm Estates (TPE), a Michigan corporation, seeks authority to increase its sewer rates from \$4.50 to \$7.15 per month for each hookup in order to increase operating revenues for test year 1976 from \$42,660 to \$67,786, an increase of \$25,126 (58.90 percent) annually over the rates in effect at the time of filing of the application which, it alleges, would result in an estimated net operating income of \$12,357 instead of a \$204 net operating loss, or 1.63 percent return on its rate base of \$760,341. It alleges that it served 749 customers in 1975 and estimates that it will serve 790 customers in test year 1976. It also seeks

authority to amend its tariffs to include a provision permitting it the right to terminate service when a customer's payment for service is delinquent for 60 days.

At the hearing on May 25, 1976 TPE filed an amendment to its application seeking authority to increase its sewer rates from \$15 to \$24 per month (60 percent) for service provided to its one commercial customer.

TPE provides public utility sewer service in the subdivision of Tri-Palm Estates in Thousand Palms, California. Its present rates were established by tariffs filed with the Commission effective July 1, 1973 and its last rate increase was effective January 1, 1971 at which time rates were increased from \$3 to \$4.50 per month for each hookup. On or about March 4, 1975 it requested permission of the Commission for a rate increase pursuant to General Order No. 96-A, Section VI, Procedure in Filing Increased Rates, at which time it was advised that in order to seek an increase in rates it would be required to file a formal application.

TPE's waste water system serving the community of Tri-Palm Estates aerates and stabilizes the sewage in asphaltic concrete-lined ponds followed by percolation of the treated waste water into the soil. The system is designed with enough flexibility to provide the desired level of treatment with minimal operational efforts regardless of the seasonal fluctuations in incoming flow.

Four-inch collection pipes run to each lot which, in turn, run into six-inch, and eventually eight-inch collector pipes. All of the collected waste water flows to a pump station wet well adjacent to the treatment facilities. Two 300 gmp pumps in the station

pump the sewage from the wet well through an eight-inch diameter force main into the oxidation ponds. A magnetic flow meter and recorder in the force main measures the raw sewage flow into the plant and records it on seven-day charts. A totalizer maintains a running total of incoming waste water. Daily flows may be calculated by taking the difference in the totalizer reading over a known number of days, dividing by the number of days, and multiplying by a factor of 10, which gives a reading in gallons per day. The facilities consist of two aerated oxidation ponds lined with two-inch asphaltic concrete. The first of such ponds is equipped with two three-horsepower mechanical aerators and the second is equipped with four three-horsepower mechanical aerators. Following the oxidation ponds are two stabilization ponds which are also lined with two-inch asphaltic concrete. Four percolation ponds are available for infiltration of the treated waste water through the soil. TPE alleges that recent improvements at the present plant and additional capital expenditures were required by the Regional Quality Water Control Board in order to meet the stringent standards in the area.

After proper notice, public hearings were held before Examiner James D. Tante on May 25 and 26, 1976 in Palm Desert, California, and the matter was submitted on the latter date. There were 78 persons present who resided in the area served by TPE and who protested the increase and seven letters were received which stated opposition to the increase. Most, but not all, of the persons present were opposed to TPE's request for authorization to terminate service when payment was delinquent.

The resident manager, the vice president, and the secretary-treasurer of TPE testified for TPE; Victor Alberkrack, Simon Russek, Quincy Winslow Kennedy, Lawrence Moon, Marvin Roth, Lloyd Pearson, Mrs. Eleanor Redden, and Mrs. Howard Danenhauer made statements in behalf of the protestants; and an associate utilities engineer employed by the Commission testified for the Commission staff.

Exhibit 1, proof of notice of the application and the hearing; Exhibit 2, a diagram of TPE's sewer system; Exhibit 3, the December 31, 1975 balance sheet of the sewer system division of TPE; Exhibit 4, the asset value statement of December 31, 1975; Exhibit 5, TPE's summary of earnings statement; Exhibit 6, the Commission staff's report; Exhibit 7, U. S. Department of Labor Consumer Price Index; Exhibit 8, asset values affected by saturation; Exhibit 9, the staff proposed operation revenues revised by TPE; and Exhibit 10, tariff rules applicable to sewer service; were received in evidence.

Mr. Alberkrack's motion for a continuance of the hearing to December 1976 was denied.

The Declarations of Restrictions and Charges for TPE (Declarations) for each tract outline ceiling figures for sewer service rates. The ceiling figure is \$48 a year or \$4 a month per unit subject to increase in the same proportion as the cost of living index for Los Angeles County, California, of the U. S. Department of Labor (index) increases above that index on the date of November 15, 1962. Based upon 1957-59 equals 100, the index was 107.11 on November 15, 1962 and 192.5 in December 1975, for an increase of 85.4 points during that period. TPE contends that the increase during the period involved was 85.4 percent and therefore its permissible increase would be from the present rate of \$4.50 to a

maximum rate of \$7.42 per month; but the increase has not been 85.4 percent but rather 85.4 points divided by 107.1 points or 79.74 percent increase during the period involved, which would permit an increase to provide a monthly rate not to exceed \$7.19. The requested rate of \$7.15 per month is not in excess of that permitted by the Declarations.

Certain of the persons who are customers of TPE and who made statements at the hearing contended that when they bought their lots from TPE that there was included in the purchase price a contribution toward the purchase of the sewer service facilities and that TPE should not be permitted to charge its customers any more than the actual expense of operating the sewer system. The evidence did not support this contention and there was no charge made by TPE for the sewer service facilities in the sale of the residential lots to the buyers.

Some of TPE's customers who made statements at the hearing objected to TPE's being authorized to amend its tariff permitting it to terminate service for nonpayment of a bill. There is litigation pending in the Superior Court in Riverside County between some of its customers as plaintiffs and TPE as the defendant. Some of TPE's customers made statements to the effect that if they elected to withhold payment, they should be permitted to do so until such time as the court case is resolved because if it is resolved in their favor they would not owe any sums to TPE. The request made by TPE to be permitted to discontinue service for nonpayment of bills is consistent with the authority of other sewer public utilities and other public utilities operating in California. In the event that the plaintiffs in the Superior Court case prevail and are

entitled to be reimbursed for any sums that they have paid for sewer service, such a provision can be made in the judgment at the conclusion of the case and the customers will suffer no hardship or financial loss. The request of TPE is reasonable and should be granted. TPE and the Commission staff stipulated that the standard tariff rules applicable to sewer service (Exhibit 10) should be applicable to TPE and may be ordered to be applicable by this decision.

For test year 1976 both TPE (Exhibit 5) and the Commission staff (Exhibit 6) estimated that TPE would have 790 residential customers and at the proposed rates would derive an estimated \$67,782 in operating revenues. In addition the proposed increase from \$15 to \$24 per month for service provided to its one commercial customer would increase its operating revenues an additional \$108 to provide total operating revenues of \$67,890.

As a part of its nonutility business TPE operates a laundromat, two club houses, a hobby hut, and a maintenance department, all of which use the sewer facilities. TPE agreed that each of these five uses should be charged the commercial rate of \$24 per month or \$288 per year to increase the total annual operating revenue \$1,440 for a total of \$69,320. There was no contention nor was there any evidence presented to show that the operating revenues would be in excess of that amount and we find that for the test year 1976 the estimated operating revenues of TPE, based upon the proposed rates, will be \$69,320.

The staff report (Exhibit 6) sets forth the operating expenses for power, employee labor, operating supplies, maintenance (contract work), office and management salaries, office supplies and expenses, insurance, accounting and legal, and property taxes for estimated year 1976 which total \$19,940. TPE's summary of earnings

statement (Exhibit 5) estimated a larger amount for these services but for the purpose of this case TPE accepted and agreed to the estimates of the staff and there was no other evidence to the contrary. We find that the staff's estimate for such expenses, which total \$19,940, is a reasonable sum for operating expenses except for depreciation and income taxes and adopt that estimate for test year 1976.

TPE's summary of earnings statement (Exhibit 5) sets forth that for test year 1976 its depreciated rate base is \$756,710 and the staff's report (Exhibit 6) sets forth that the depreciated rate base for test year 1976 is \$377,000. TPE is designed for 1,617 customers and the number of customers estimated for test year 1976 is 790 plus one commercial customer and the five TPE facilities served, for a total of 796.

The staff contends that a saturation adjustment should be made to remove the plant and depreciation not applicable to the customers presently served, and that the depreciated rate base should be \$377,000 for test year 1976. The evidence showed that it will be necessary for TPE to spend an additional \$50,000 in order to make the sewer system capable of serving 1,617 customers. The witness for the Commission staff did not take this additional expenditure into consideration when making his estimate of the rate base based upon a saturation adjustment. A proper ratio of customers served to the total number of customers to be served by the construction of the sewer system should not be the present depreciated asset value decreased in proportion to the number of customers for which the sewer system was designed and the number of customers being served, but rather the depreciated cost necessary to serve the 1,617 customers, including the additional \$50,000 that TPE must spend in order to

make the sewer system capable of serving 1,617 customers, decreased in proportion to the number of customers the sewer system is designed to serve and the number of customers it is presently serving. He stated that it was his opinion that a rate of return of 8.50 percent was reasonable and that if the depreciated rate base was \$377,000 the rate of return would be 8.67 percent and would be unreasonable, but that if the depreciated rate base had been computed by him in the above manner instead of disregarding the additional \$50,000 expenditure necessary to provide service for 1,617 customers, then his computation of the rate of return would be less than 8.50 percent and would be reasonable.

At the hearing TPE agreed that there should be a saturation adjustment with respect to some of the asset values set forth in Exhibit 4. It agreed that the value of land and the value of certain land improvements including lake liners, sewer lines, franchise cost, sewer plant, sewer system addition, new sewer plant in July and August 1970, which total \$580,870, should be reduced in the same proportion as 790 is to 1,617 or 48.9 percent to reduce the asset value of these items to \$284,046. It contended, however, that the cost of the access road for February, March, and April of 1967, the sewer plant pond improvement, the magnetic sewer meter, the sewer plant addition of October 1975, the floating aerators, the harrow, and the pump, are essential to the sewer system whether 790 or 1,617 customers were to be served and that there should not be an adjustment for these items, which total \$180,736. This amount plus the \$284,046 shows a depreciated rate base of \$464,782. We find TPE's contentions to be reasonable and find that the estimated rate base for test year 1976 is \$464,782 and it is adopted.

In addition to the sewer system involved in this application, TPE owns and operates nonutility property. It contends that for the purpose of this application its income taxes should be computed as a part of its overall operation. The staff contends that its income taxes should be computed as though the sewer operation were a separate entity. The staff's position with respect to the treatment of income taxes in determining the summary of earnings of a public utility is reasonable and is adopted.

Findings

1. A reasonable estimate of TPE's results of operations for test year 1976 at present and proposed rates is:

Summary of Earnings Test Year 1976

<u>Item</u>		<u>Present Rates</u>	<u>Proposed Rates</u>
		(Dollars in Thousands)	
Operating Revenues		\$ 42,790	\$ 69,320
<u>Operating Expenses</u>			
Power	1,600		1,600
Employee Labor	3,340		3,340
Operating Supplies	1,600		1,600
Maint. (Contract Work)	4,200		4,200
Office & Management Sal.	3,620		3,620
Office Supplies & Exps.	1,380		1,380
Insurance	300		300
Accounting & Legal	3,400		3,400
Depreciation	15,012		15,012
Property Taxes	500		500
Income Taxes	2,532		9,874
Total Expenses	\$ 37,484		\$ 44,826
Net Operating Revenue	\$ 5,306		\$ 24,494
Rate Base	\$464,780		\$464,780
Rate of Return	1.14%		5.27%
Number of Customers	796		796

2. A rate of return of 5.17 percent on the rate base adopted herein as requested by TPE is reasonable.

3. The rates of \$7.15 per month for residential customers and \$24 per month for commercial customers set forth in Appendix A attached to this decision are reasonable for 1976. These rates should yield \$69,320, an increase of \$26,530 (62 percent) annually over 1976 revenues at present rates.

4. The increases in rates and charges authorized by this decision are justified and are reasonable; and the present rates and charges, insofar as they differ from those prescribed by this decision, are for the future unjust and unreasonable.

5. It is reasonable for TPE to have authority to amend its tariffs to include a provision permitting it the right to terminate service for nonpayment of bills as set forth in the Commission's general tariff rules applicable to sewer service, and the general tariff rules should be applicable to TPE.


The Commission concludes that the application should be granted as set forth in the order which follows.

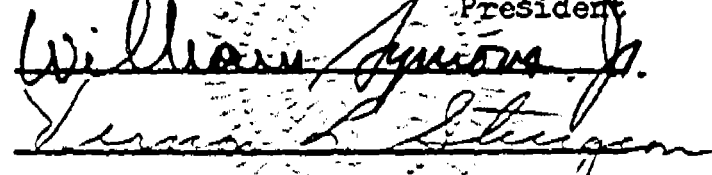
O R D E R

IT IS ORDERED that after the effective date of this order Mobilife Corp., dba Tri-Palm Estates, is authorized to file the revised tariff schedules attached to this order as Appendix A. Mobilife Corp., dba Tri-Palm Estates, shall file the rules for sewer service contained in Exhibit 10. Such filings shall comply with General Order No. 96-A insofar as that General Order is applicable to sewer operations. The effective date of the revised schedules and rules shall be five days after the date of the filing. The revised schedules shall apply only to service rendered on or after the effective date of the revised schedules.

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

Dated at San Francisco, California, this 19th
day of JULY, 1976.



President


Commissioners

Commissioner Leonard Ross, being
necessarily absent, did not participate
in the disposition of this proceeding.

Commissioner Robert Batimovich, being
necessarily absent, did not participate
in the disposition of this proceeding.

APPENDIX A
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Schedule No. 1

GENERAL RESIDENTIAL SERVICE

APPLICABILITY

Applicable to General Residential Sewer Service.

TERRITORY

Tri-Palm Estates near Thousand Palms, Riverside County. (C)

RATES

Single Family Residence \$7.15 per month (I)

APPENDIX A
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Schedule No. 2

COMMERCIAL AND INDUSTRIAL SERVICE

APPLICABILITY

Applicable to Commercial and Industrial Sewer Service.

TERRITORY

Tri-Palm Estates near Thousand Palms, Riverside County. (C)

RATES

Commercial Service \$24 per month (I)