

ALJ/OIW/rsr \*

Decision 88 02 024

FEB 10 1988

**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Suspension and )  
Investigation on the Commission's )  
own motion of tariff filed by )  
Advice Letter No. 248 of Citizens )  
Utilities Company, Sacramento- )  
Lincoln Oaks District, in )  
Sacramento County. )

(I&S)  
Case 87-07-039  
(Filed July 29, 1987)

Holliman, Hackard & Taylor, by Michael A. Hackard, Attorney at Law, for Citizens Utilities Company of California, applicant.  
Kronick, Moskovitz, Tiedeman & Girard, by Raul M. Bartkiewicz, Attorney at Law, for Northridge Water District, protestant.

OPINION

On June 26, 1987, Citizens Utilities Company of California (CUGC), filed Advice Letter 248 consisting of a tariff map filing made for the purpose of including property owned by U. S. Home Corporation (Developer) within its Sacramento-Lincoln Oaks tariff/service area. CUGC's filing was made in response to a written request for water service received from Developer.

On July 1, 1987, Northridge Water District (Northridge), a county water district, filed a protest letter alleging that (1) at the time of its protest, Northridge had a petition pending before the Sacramento County Local Agency Formation Commission (LAFCO) requesting that the district's sphere of influence be extended by LAFCO to include Developer's property, and (2) the extension of service by CUGC would be adverse to the public interest because Northridge was ready, willing, and able to serve the subdivisional property with an adequate supply of potable water.

The Water Utilities Branch of the Commission Advisory and Compliance Division recommended that the advice letter be suspended and the matter set for public hearing. On July 29, 1987, the Commission suspended the advice letter to April 30, 1988, or until further Commission order, whichever occurs sooner.

A duly noticed public hearing before Administrative Law Judge Orville I. Wright was held in San Francisco on November 17, 1987, and the matter was submitted for decision upon the receipt of concurrent briefs on November 30, 1987.

CUCC's Evidence

CUCC presented evidence to show that Developer is currently engaged in constructing a residential development in an area called Antelope Highlands which will consist of 490 single family homes, multi-family units, shopping center, and park. After first negotiating for water service with Northridge, Developer made a written request to CUCC for such service to its development.

The service area extension sought by CUCC is contiguous and coextensive with the southern boundary of a portion of its present Sacramento-Lincoln Oaks service area map on file with the Commission. It is also located within the franchise area of CUCC as granted by ordinances of the Sacramento County Board of Supervisors and within the area of CUCC's certificate to exercise its franchise rights granted by the Commission.

CUCC's maps and testimony show an integrated program to establish a natural and logical service area coextensive with its franchise territory. Sacramento County allocated franchise rights to CUCC in a fashion so as to not overlap the service area of Northridge or other water purveyors in the county. CUCC currently serves customers in another extension of its service area, called Driver Ranch, to the west of the area before us in this decision. On the day before hearing in this matter, the utility filed a map to incorporate the intervening land from Driver Ranch to the area before us, again on the request of the developer.

The record shows that if Advice Letter No. 248 is approved together with the map filing for the area contiguous to it to the west, CUCC will have joined two of its existing, but separated, Commission-approved service areas into a unified and natural entity.

CUCC has received written requests for water service within the two extension areas presently before the Commission and it has received written requests from developers to the north, east, south, and west, as well. The utility follows Commission policy that map filings are only made when the developer indicates that it is ready to proceed and requires water service in the near term.

CUCC's extension in this proceeding complies with Paragraph I.E. of General Order 96-A, which provides that:

"The utility shall, before commencing service, file tariff service area maps for extensions into territory contiguous to its line, plant, or system and not theretofore served by a public utility of like character."

Further, CUCC, in constructing or extending its line, plant, or system, will not interfere with the operation of any line, plant, or system or any other public utility or of the water system of any public agency, already constructed (Section 1001, Public Utilities Code.)

In addition to being contiguous to CUCC's present service area, the requested extension is only 400 feet from a drilled well sufficient to supply the new area. ✓

Evidence and Position of Northridge

Northridge correctly states that the Commission cannot fairly and reasonably determine whether public convenience and necessity require approving CUCC's application to expand its tariff area without considering whether there is an alternative water service available to the area. Northridge contends that it is

ready, willing, and able to provide water service and is the better alternative.

The several factors considered by the Commission in determining which of two competing alternatives for extended water service best meets the requirements of public convenience and necessity are set forth in San Gabriel Valley Water Co. and Suburban Water systems (1969) 69 Cal. P.U.C. 339. These factors are: financial soundness, adequate water supply, adequacy and cost of new system, proximity to logical operating territory, level of rates, and selection of developer.

Both Northridge and CUCC are financially sound and have an adequate water supply, but the record shows that CUCC is the superior supplier when the balance of the pertinent factors are weighed.

Protestant has long term plans to expand its service area northward into and around CUCC's present tariff areas and its planned extensions. It initially sought to implement these plans by petitioning LAFCO to approve its proposed expansions by granting sphere of influence and annexation status to these properties. LAFCO, in fact, approved annexation of a parcel of unimproved property directly to the north of Northridge's present facilities. Lately, LAFCO has denied any further extensions of Northridge's sphere of influence, expressly including the property to be improved by Developer in this case.

Lacking LAFCO authority, protestant now contends that neither LAFCO nor Commission approval is required for it to enlarge its service territory; it may do so by contract between it and developers. It has, for example, extended a single 12-inch main over unimproved land on its eastern boundary and contracted with a developer to provide water service to a project outside of the LAFCO-approved annexation.

Northridge has also constructed a second 12-inch main along the entire westerly boundary of its LAFCO-approved annexation

for the stated purpose of serving developer. Assuming, without deciding, that we may fairly consider line extensions made in advance of need in determining the merits of this case, it remains that Northridge's facilities are more distant from Developer's first phase project than are those of CUCC.

With respect to the question as to which contending water purveyor is closest in proximity to a proposed new development, the better comparison considers facilities which are presently used and useful. CUCC offers the more logical extension by this measure.

Northridge stresses that its domestic water rates are presently one-third lower than those of CUCC. On the other hand, Developer testified that protestant's per lot charge to the intending purchaser would be from \$300 to \$500. As Developer is attempting to reach the first-time home buyer, it considered the initial cost more important than the quantity water rate.

Finally, Developer's testimony is that it prefers that CUCC be the water supplier.

Pursuant to the Commission's Rules of Practice and Procedure, the proposed decision of the assigned administrative law judge for this proceeding was filed with the Commission and distributed to the parties on December 28, 1987.

Comments were filed by Northridge on January 15, 1988 and by CUCC on January 19, 1988.

As a result of the filed comments, findings of fact numbers 3 and 4 have been redrafted to more clearly reflect the facts of record.

#### Findings of Fact

1. In response to a written request for the extension of water service, CUCC filed an advice letter and map for the purpose of including a contiguous area within its Sacramento-Lincoln Oaks tariff service area.

2. Northridge protested the extension of service on the grounds that it had a petition pending before LAFCO requesting the

extension of Northridge's sphere of influence to include the proposed extended area and that Northridge was ready, willing, and better able to serve the subdivisional property with an adequate supply of potable water.

3. CUCC's tariff area is contiguous to the proposed service area extension and the utility has drilled a well within approximately 400 feet of the proposed additional service territory.

4. Northridge's district boundaries are contiguous to the proposed service area extension, but the district's presently used and useful facilities are not as close to the proposed new development as those of CUCC.

5. LAFCO has denied Northridge's petition to extend its sphere of influence to include the proposed additional service territory.

6. CUCC is better able to serve the subdivisional property with an adequate supply of potable water.

7. CUCC's extension in this proceeding is in compliance with General Order 96-A.

8. CUCC, in constructing or extending its line, plant, or system, will not interfere with the operation of any line, plant, or system of Northridge.

9. As this extension of service territory is immediately needed to facilitate Developer's construction schedule, this order should be effective on the date that it is signed.

#### Conclusions of Law

1. Public convenience and necessity require that CUCC extend service to the disputed area.

2. The tariff sheets of Advice Letter No. 248 are reasonable and lawful.

3. This order of investigation should be discontinued and the proposed tariff sheets of Advice Letter No. 248 should be effective immediately.

C.87-07-039 ALJ/OIW/rst \*

ORDER

IT IS ORDERED that:

1. Citizens Utilities Company of California's Advice Letter No. 248 tariff sheets are effective immediately.
2. C.87-07-039 is discontinued.

This order is effective today.

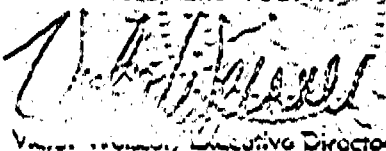
Dated FEB 10 1988, at San Francisco, California.

STANLEY W. HULETT  
President

DONALD VIAL  
FREDERICK R. DUDA  
G. MITCHELL WILK  
Commissioners

Commissioner John B. Ohanian,  
being necessarily absent, did not  
participate.

I CERTIFY THAT THIS DECISION  
WAS APPROVED BY THE ABOVE  
COMMISSIONERS TODAY.

  
G. MITCHELL WILK  
Executive Director

*AB*

Decision PROPOSED DECISION OF ALJ WRIGHT

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Suspension and )  
Investigation on the Commission's )  
own motion of tariff filed by )  
Advice Letter No. 248 of Citizens )  
Utilities Company, Sacramento- )  
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O P I N I O N

On June 26, 1987, Citizens Utilities Company of California (CUGC), filed Advice Letter 248 consisting of a tariff map filing made for the purpose of including property owned by U. S. Home Corporation (Developer) within its Sacramento-Lincoln Oaks tariff/service area. CUGC's filing was made in response to a written request for water service received from Developer.

On July 1, 1987, Northridge Water District (Northridge), a county water district, filed a protest letter alleging that (1) at the time of its protest, Northridge had a petition pending before the Sacramento County Local Agency Formation Commission (LAFCO) requesting that the district's sphere of influence be extended by LAFCO to include Developer's property, and (2) the extension of service by CUGC would be adverse to the public interest because Northridge was ready, willing, and able to serve the subdivisional property with an adequate supply of potable water.

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CUCC's Evidence

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The service area extension sought by CUCC is contiguous and coextensive with the southern boundary of a portion of its present Sacramento-Lincoln Oaks service area map on file with the Commission. It is also located within the franchise area of CUCC as granted by ordinances of the Sacramento County Board of Supervisors and within the area of CUCC's certificate to exercise its franchise rights granted by the Commission.

CUCC's maps and testimony show an integrated program to establish a natural and logical service area coextensive with its franchise territory. Sacramento County allocated franchise rights to CUCC in a fashion so as to not overlap the service area of Northridge or other water purveyors in the county. CUCC currently serves customers in another extension of its service area, called Driver Ranch, to the west of the area before us in this decision. On the day before hearing in this matter, the utility filed a map to incorporate the intervening land from Driver Ranch to the area before us, again on the request of the developer.

The record shows that if Advice Letter No. 248 is approved together with the map filing for the area contiguous to it

to the west, CUCC will have joined two of its existing, but separated, Commission-approved service areas into a unified and natural entity.

CUCC has received written requests for water service within the two extension areas presently before the Commission and it has received written requests from developers to the north, east, south, and west, as well. The utility follows Commission policy that map filings are only made when the developer indicates that it is ready to proceed and requires water service in the near term.

CUCC's extension in this proceeding complies with Paragraph I.E. of General Order 96-A, which provides that:

"The utility shall, before commencing service, file tariff service area maps for extensions into territory contiguous to its line, plant, or system and not theretofore served by a public utility of like character."

Further, CUCC, in constructing or extending its line, plant, or system, will not interfere with the operation of any line, plant, or system or any other public utility or of the water system of any public agency, already constructed (Section 1001, Public Utilities Code.)

In addition to being contiguous to CUCC's present service area, the requested extension is only 400 feet from a producing well sufficient to supply the new area.

Evidence and Position of Northridge

Northridge correctly states that the Commission cannot fairly and reasonably determine whether public convenience and necessity require approving CUCC's application to expand its tariff area without considering whether there is an alternative water service available to the area. Northridge contends that it is ready, willing, and able to provide water service and is the better alternative.

The several factors considered by the Commission in determining which of two competing alternatives for extended water service best meets the requirements of public convenience and necessity are set forth in San Gabriel Valley Water Co. and Suburban Water systems (1969) 69 Cal. P.U.C. 339. These factors are: financial soundness, adequate water supply, adequacy and cost of new system, proximity to logical operating territory, level of rates, and selection of developer.

Both Northridge and CUCC are financially sound and have an adequate water supply, but the record shows that CUCC is the superior supplier when the balance of the pertinent factors are weighed.

Protestant has long term plans to expand its service area northward into and around CUCC's present tariff areas and its planned extensions. It initially sought to implement these plans by petitioning LAFCO to approve its proposed expansions by granting sphere of influence and annexation status to these properties. LAFCO, in fact, approved annexation of a parcel of unimproved property directly to the north of Northridge's present facilities. Lately, LAFCO has denied any further extensions of Northridge's sphere of influence, expressly including the property to be improved by Developer in this case.

Lacking LAFCO authority, protestant now contends that neither LAFCO nor Commission approval is required for it to enlarge its service territory; it may do so by contract between it and developers. It has, for example, extended a single 12-inch main over unimproved land on its eastern boundary and contracted with a developer to provide water service to a project outside of the LAFCO-approved annexation.

Northridge has also constructed a second 12-inch main along the entire westerly boundary of its LAFCO-approved annexation for the stated purpose of serving developer. Assuming, without deciding, that we may fairly consider line extensions made in

advance of need in determining the merits of this case, it remains that Northridge's facilities are more distant from Developer's first phase project than are those of CUCC.

With respect to the question as to which contending water purveyor is closest in proximity to a proposed new development, the better comparison considers facilities which are presently used and useful. CUCC offers the more logical extension by this measure.

Northridge stresses that its domestic water rates are presently one-third lower than those of CUCC. On the other hand, Developer testified that protestant's per lot charge to the intending purchaser would be from \$300 to \$500. As Developer is attempting to reach the first-time home buyer, it considered the initial cost more important than the quantity water rate.

Finally, Developer's testimony is that it prefers that CUCC be the water supplier.

Findings of Fact

1. In response to a written request for the extension of water service, CUCC filed an advice letter and map for the purpose of including a contiguous area within its Sacramento-Lincoln Oaks tariff service area.
2. Northridge protested the extension of service on the grounds that it had a petition pending before LAFCO requesting the extension of Northridge's sphere of influence to include the proposed extended area and that Northridge was ready, willing, and better able to serve the subdivisional property with an adequate supply of potable water.
3. CUCC's service area is contiguous to the proposed service area extension.
4. Northridge's service area is not contiguous to the proposed service area extension.
5. LAFCO has denied Northridge's petition to extend its sphere of influence to include the proposed additional service territory.

6. CUCC is better able to serve the subdivisional property with an adequate supply of potable water.

7. CUCC's extension in this proceeding is in compliance with General Order 96-A.

8. CUCC, in constructing or extending its line, plant, or system, will not interfere with the operation of any line, plant, or system of Northridge.

9. As this extension of service territory is immediately needed to facilitate Developer's construction schedule, this order should be effective on the date that it is signed.

Conclusions of Law

1. Public convenience and necessity require that CUCC extend service to the disputed area.

2. The tariff sheets of Advice Letter No. 248 are reasonable and lawful.

3. This order of investigation should be discontinued and the proposed tariff sheets of Advice Letter No. 248 should be effective immediately.

ORDER

IT IS ORDERED that:

1. Citizens Utilities Company of California's Advice Letter No. 248 tariff sheets are effective immediately.

C.87-07-039 ALJ/OIW/rsr

2. C.87-07-039 is discontinued.

This order is effective today.

Dated \_\_\_\_\_, at San Francisco, California.

Decision 88-02-024 February 10, 1988

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

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The record shows that if Advice Letter No. 248 is approved together with the map filing for the area contiguous to it to the west, CUCC will have joined two of its existing, but separated, Commission-approved service areas into a unified and natural entity.

CUCC has received written requests for water service within the two extension areas presently before the Commission and it has received written requests from developers to the north, east, south, and west, as well. The utility follows Commission policy that map filings are only made when the developer indicates that it is ready to proceed and requires water service in the near term.

CUCC's extension in this proceeding complies with Paragraph I.E. of General Order 96-A, which provides that:

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**CORRECTION**

**THIS DOCUMENT HAS  
BEEN REPHOTOGRAPHED**

**TO ASSURE**

**LEGIBILITY**

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extension of Northridge's sphere of influence to include the proposed extended area and that Northridge was ready, willing, and better able to serve the subdivisional property with an adequate supply of potable water.

3. CUCC's tariff area is contiguous to the proposed service area extension and the utility has drilled a well within approximately 400 feet of the proposed additional service territory.

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7. CUCC's extension in this proceeding is in compliance with General Order 96-A.

8. CUCC, in constructing or extending its line, plant, or system, will not interfere with the operation of any line, plant, or system of Northridge.

9. As this extension of service territory is immediately needed to facilitate Developer's construction schedule, this order should be effective on the date that it is signed.

#### Conclusions of Law

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2. The tariff sheets of Advice Letter No. 248 are reasonable and lawful.

3. This order of investigation should be discontinued and the proposed tariff sheets of Advice Letter No. 248 should be effective immediately.

ORDER

IT IS ORDERED that:

1. Citizens Utilities Company of California's Advice Letter No. 248 tariff sheets are effective immediately.

2. C.87-07-039 is discontinued.

This order is effective today.

Dated February 10, 1988, at San Francisco, California.

STANLEY W. HULETT  
President

DONALD VIAL

FREDERICK R. DUDA

G. MITCHELL WILK  
Commissioners

Commissioner John B. Ohanian,  
being necessarily absent, did  
not participate.