

Decision 89 03 058 MAR 2 2 1989

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

ROBERT H. JONES & CURTIS KITCHEN)
representing 32 household)
petitioners,)

Complainants,)

vs.)

Owners of the MT. CHARLIE WATER)
WORKS: TED PIERCE, ET AL.)

Defendants.)

Mailed
MAR 23 1989

ORIGINAL

Case 87-01-008
(Filed January 6, 1987)

Randy Danto, Attorney at Law, for Robert H. Jones and fellow complainants.
Wester Sweet, Attorney at Law, and Mark Lew, for Mt. Charlie Water Works, defendant.
Robert Penny, for the Commission Advisory and Compliance Division, Water Utilities Branch.

THIRD EMERGENCY INTERIM OPINION

Statement of Facts

Mountain Charlie Water Works (Mt. Charlie) is a small Santa Cruz Mountains Water System begun in the 1960 era as a private system, soon expanded to accommodate neighbors, and later associated with real estate sales. Today, it is a California corporation headed by Wester Sweet.

Last year's drought, following that of 1987, substantially and adversely affected the ability of Mt. Charlie's water system to provide water service to all of its ratepayers. Derived principally from mountain creek sources, when these sources produced very limited flow late last summer, only parts of the lower elevation services could be served.

From early in 1988 until recently, only hauling of water kept the upper level pressure systems operating at least part of the time. With limited transfer capability the system could not keep up with demands upon it to balance the dwindling supplies, and since August water trucks have had to deliver water to certain of the reservoir tanks at different locations. The utility lacked the funds for this heavy new cost and emergency action was necessary. Following an emergency evening hearing September 26, 1988 in Felton, the Commission issued Decision (D.) 88-09-071 on September 28, 1988.

By D.88-09-071 the Commission ordered initiation of a Mandatory Water Conservation Plan, and imposed a surcharge to be handled through a balancing account to pay for water hauling. Sparse winter rains gave little relief although they did enable the Commission to reduce the surcharge effective January 1, 1989 to \$45 per month per meter customer (See D.09-01-018 issued January 11, 1989).

Recent heavy precipitation in the Santa Cruz Mountains at least for the present has replenished local groundwater sources so that there is a good creek flow. The utility has been able to dispense with outside water hauling for the present. Unfortunately, total rainfall for the season to date is still considerably short of normal. Creek flows, while good at present, are likely to drop to extremely low levels again early this summer unless rainfall in the immediate future is heavier than average, and comes in a way that while replenishing ground water, does not result in catastrophic flooding.

But this leaves the system and the water company in a paradoxical situation. For the present water is available, and unless taken and used, it will flow down the creek to the river and into Santa Cruz Bay. The system has no containment dams or reservoirs to store large quantities when there is full flow. It is a "use it or lose it" proposition for the present. In addition,

under the stringent conservation plan the utility asserts it is experiencing a negative cash flow making borrowing necessary.

Discussion

The present greatly improved situation means that the Company can resume normal operations for so long as there is a good creek flow. Accordingly, the Commission will authorize Mt. Charlie to discontinue the water surcharge effective March 31, 1989. Further, the water rationing plan may also be suspended for the present, and the penalty rates imposed under provisions of that plan may also be suspended until further notice. The cooperation of the ratepayers during the last five months has been excellent, and while we expect that water will not be wasted, we don't believe rationing and penalties should continue when water is available, only be lost if not used. However, all other provisions of D.88-09-071 including the moratorium on additional customers will continue.

If the present creek flow diminishes, and the water system's management concludes that normal operations are jeopardized, it should file an advice letter with the Commission Advisory and Compliance Division (CACD) immediately to obtain authority to reinstate the rationing plan with its penalties for overuse, and allowing time for notice to all customers.

Similarly, if and when, as unfortunately at present seems unavoidable, water hauling for the higher elevations must be resumed, management must seek prior Commission approval before resorting to the remaining funds in the surcharge balancing account to pay for such hauling. Before reinstating the surcharge for additional water hauling needs, further order of the Commission will be required.

Findings of Fact

1. The improved water flow in the Mt. Charlie watershed has for the present restored the creeks' source flow to adequate levels, so that water hauling is presently unnecessary.

2. The surcharge presently in effect to provide funds to pay for the costs of importing water to meet the minimum requirements set forth in the Mandatory Conservation Plan can be discontinued as of March 31, 1989.

3. Unless rainfall in the remaining season far exceeds normal, it appears probable that creek flows will subside to extremely low levels again by summer, necessitating resumption of water trucking again later this year.

4. The remaining funds in the surcharge balancing account should be held to meet the costs of this probable requirement when it occurs.

5. Without diversion and impound reservoirs to capture and save the creek flow, it is for the present a "use it or lose it" situation.

6. Cooperation of the ratepayers has been good during the recent emergency situation.

7. Rather than continue rationing when water is available, the rationing program and its penalties for excess usage should be suspended until authority is granted for reinstatement when water flow diminishes.

8. The utility's revenues have been adversely affected by the rationing, and a return to normal revenues is needed.

9. This temporary relief does not warrant allowing additional connections.

10. Unless there is heavy precipitation for the balance of the rainy season, water flow will diminish later in the season and the utility will have to resort to water hauling again to keep the upper levels supplied.

Conclusions of Law

1. The present rate surcharge can be suspended effective March 31, 1989.

2. Rationing and excess use penalties can be discontinued effective March 31, 1989.

3. The customers of the utility should be notified of these changes with the April 1, 1989 billing.

4. The imminence of the April 1, 1989 billing cycle mailing makes it necessary to make this order effective immediately.

THIRD EMERGENCY INTERIM ORDER

IT IS ORDERED that:

1. The monthly surcharge is suspended effective March 31, 1989.

2. The balancing account set up to pay water hauling costs will be maintained against probable need later this summer.

3. The rationing plan and penalties thereunder will be suspended effective March 31, 1989.

4. All other provisions of D.88-09-071 are continued until further order of this Commission.

5. Mountain Charlie Water Works (Mt. Charlie) shall notify each of its customers of the March 31, 1989 discontinuance of the monthly surcharge.

6. Mt. Charlie shall file an advice letter with CACD if it wishes to reinstate the rationing plan.


7. Mt. Charlie must obtain prior Commission approval before paying for any future water hauling from the surcharge balancing account.

This order is effective today.

Dated March 22, 1989, at San Francisco, California.

G. MITCHELL WILK
President
FREDERICK R. DUDA
STANLEY W. HULETT
JOHN B. OHANIAN
Commissioners

Commissioner Patricia Eckert
present ~~participating~~ ~~participating~~
WAS APPROVED BY THE ABOVE
COMMISSIONERS TODAY.


Victor Weis
Executive Director

under the stringent conservation plan the utility asserts it is experiencing a negative cash flow making borrowing necessary.

Discussion

The present greatly improved situation means that the Company can resume normal operations for so long as there is a good creek flow. Accordingly, the Commission will authorize Mt. Charlie to discontinue the water surcharge effective March 31, 1989. Further, the water rationing plan may also be suspended for the present, and the penalty rates imposed under provisions of that plan may also be suspended until further notice. The cooperation of the ratepayers during the last five months has been excellent, and while we expect that water will not be wasted, we don't believe rationing and penalties should continue when water is available, only be lost if not used. However, all other provisions of D.88-09-071 including the moratorium on additional customers will continue.

If the present creek flow diminishes, and the water system's management concludes that normal operations are jeopardized, it should write the Executive Director of the Commission immediately to obtain authority from the Executive Director to reinstate the rationing plan with its penalties for overuse, and allowing time for notice to all customers.

Similarly, if and when, as unfortunately at present seems unavoidable, water hauling for the higher elevations must be resumed, management must seek prior approval of the Commission's Executive Director in writing before resorting to the remaining funds in the surcharge balancing account to pay for such hauling. Before reinstating the surcharge for additional water hauling needs, further order of the Commission will be required.

Findings of Fact

1. The improved water flow in the Mt. Charlie watershed has for the present restored the creeks' source flow to adequate levels, so that water hauling is presently unnecessary.

2. The surcharge presently in effect to provide funds to pay for the costs of importing water to meet the minimum requirements set forth in the Mandatory Conservation Plan can be discontinued as of March 31, 1989.

3. Unless rainfall in the remaining season far exceeds normal, it appears probably that creek flows will subside to extremely low levels again by summer, necessitating resumption of water trucking again later this year.

4. The remaining funds in the surcharge balancing account should be held to meet the costs of this probable requirement when it occurs.

5. Without diversion and impound reservoirs to capture and save the creek flow, it is for the present a "use it or lose it" situation.

6. Cooperation of the ratepayers has been good during the recent emergency situation.

7. Rather than continue rationing when water is available, the rationing program and its penalties for excess usage should be suspended until authority is granted for reinstatement when water flow diminishes.

8. The utility's revenues have been adversely affected by the rationing, and a return to normal revenues is needed.

9. This temporary relief does not warrant allowing additional connections.

10. Unless there is heavy precipitation for the balance of the rainy season, water flow will diminish later in the season and the utility will have to resort to water hauling again to keep the upper levels supplied.

Conclusions of Law

1. The present rate surcharge can be suspended effective March 31, 1989.

2. Rationing and excess use penalties can be discontinued effective March 31, 1989.

3. The customers of the utility should be notified of these changes with the April 1, 1989 billing.

4. The imminence of the April 1, 1989 billing cycle mailing makes it necessary to make this order effective immediately.

THIRD EMERGENCY INTERIM ORDER

IT IS ORDERED that:

1. The monthly surcharge is suspended effective March 31, 1989.

2. The balancing account set up to pay water hauling costs will be maintained against probable need later this summer.

3. The rationing plan and penalties thereunder will be suspended effective March 31, 1989.

4. All other provisions of D.88-09-071 are continued until further order of this Commission.

5. Mountain Charlie Water Works shall notify each of its customers of the March 31, 1989 discontinuance of the monthly surcharge.

This order is effective today.

Dated MAR 22 1989, at San Francisco, California.

G. MITCHELL WILK
President
FREDERICK R. DUDA
STANLEY W. HULETT
JOHN B. OHANIAN
Commissioners

Commissioner Patricia Eckert,
present but not participating