

Decision 89 09 030 SEP 7 1989

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Sandra Anderson and
Ronald Anderson,

Complainants,

vs.

San Jose Water Co.,

Defendant.

ORIGINAL

Case 88-06-018
(Filed June 14, 1988)

Ronald and Sandra Anderson, for themselves,
complainants.

Robert Loehr, Attorney at Law, for San Jose
Water Company, defendant.

OPINION

I. Summary

This decision authorizes San Jose Water Company (San Jose) to provide service to complainants, Dr. and Mrs. Ronald L. Anderson (Andersons), from a new service connection at their property line on Surmont Drive. This authorization is conditioned upon San Jose reimbursing complainants for actual cost of purchasing and installing a new pump station, at a cost not to exceed \$5,000. Complainants shall be responsible for installation, operation, and maintenance of the pump station.

II. Complaint

The existing main serving Andersons is an 1,815-foot long, 50-year old two-inch screw joint galvanized iron pipe in Blossom Hill Road.

San Jose proposes to replace the existing main with 895 feet of new six-inch main that connects to an existing 17 1/4-inch main in Blossom Hill Road. San Jose plans to retire the remaining 920 feet of the existing main if and when Andersons are served from another source, such as from the main in Surmont Drive at Andersons' property line.

Andersons allege that by replacing the existing main and by providing water service from another source, San Jose creates a serious service problem at their residence located at 400 Surmont Drive in Los Gatos. The existing main operates at 150 psi pressure which is adequate to lift water to the elevation of their residence. Since the new water source and service connection operates at a lower pressure that is not sufficient to lift the water to the residence, San Jose's plan would require Andersons to install a pump station.

Andersons argue that San Jose has provided adequate water service to their residence for 15 years, and that the new main will downgrade their service to an insufficient level.

Andersons suggested several options to San Jose in an attempt to resolve the problem.

1. Maintain the existing main in service after installing the new main.
2. Extend the new main 70 feet to their service connection.
3. Provide service from a water tank that is located higher than their residence.

III. Response by San Jose

San Jose responds that the existing main has outlived its useful service life because of severe corrosion. It has had eight leaks in the past several years that required repairs. The repairs are difficult and expensive due to its location in Blossom Hill Road, a heavily traveled two-lane main thoroughfare. Traffic must

be controlled or detoured during the repairs, which usually take from four hours to a day.

San Jose did not replace the existing main in kind because the service area has realized substantial growth since the old main was designed over 50 years ago. Also, two different pressure zones are involved. Andersons reside in the Belgatos pressure zone, served from the Belgatos reservoir, but have been served from the Mt. Springs pressure zone and reservoir. When service was initiated to a previous owner of the Andersons' property, the Belgatos zone and water system had not yet been developed so service was established and has continued from Mt. Springs. The Mt. Springs reservoir is at elevation 610 while Belgatos reservoir is at elevation 417. Andersons' residence is at elevation 480. All elevations are in feet above mean sea level. ✓

San Jose now proposes to serve Andersons from the Belgatos reservoir, which necessitates a pump station in order to lift the water to the elevation of Andersons' residence. The advantage of service from the Belgatos reservoir is that Andersons can be served from a service connection at their property line in Surmont Drive. The existing main in Blossom Hill Road would be kept in service for one year to allow Andersons time to install the pump station. This would allow the Andersons to abandon about 1,000 feet of their existing service line, which is the portion that crosses other property and development. The service line is a galvanized pipe approximately 2,000 feet long and 15 to 25 years old, with limited remaining useful service life. This service line will be difficult to repair because it crosses over other property between Blossom Hill Road and the Andersons' property.

San Jose further states that the existing 150 psi service connection pressure to Andersons cannot be maintained from the new main. The 150 psi exceeds the General Order (GO) 103 maximum allowable normal pressure of 125 psi at the service connection. The only way the 150 psi could be maintained is to continue to

serve Andersons from the existing 2-inch main since GO 103 does not apply to pre-existing facilities. However, doing so would require San Jose to continue to maintain that portion of the 2-inch main at high cost.

San Jose points out that even under the existing service conditions, Andersons need to pressurize the water for their use, since the pressure in the existing main is barely adequate for water to reach their residence. Once it reaches the residence, the remaining pressure is inadequate for domestic use. For this reason, Andersons use a water holding tank to store the water, and pressure facilities to provide the necessary pressure for domestic use.

IV. Hearing

A. Testimony

During the hearing on October 17, 1988 Andersons testified that having to install and maintain a pump station would place an unreasonable burden on them due to the remoteness of their property, which encourages vandalism. Andersons stated they were assured of adequate water when they bought the property. They are not sure who gave the assurance, but believe it was either from the prior owner or from the realtor they dealt with who may have contacted San Jose at that time. Andersons suggest that San Jose should be responsible for the pump station that is now required as a result of the existing main replacement.

San Jose Chief Engineer Pardini testified that typical pump stations of the type needed by Andersons are located in locked vaults that minimize the risk of vandalism. Such installations are common in hilly areas where service connection pressure is inadequate for high elevation residences. He further testified that to his knowledge San Jose has never assumed responsibility for such pump stations. To do so could set a precedent and entitle

other similarly situated customers to the same benefits, with the costs paid by the other ratepayers.

B. Negotiations

Since there appeared to be a willingness to negotiate, the parties were encouraged to do so during the noon recess. While some progress was made, it was clear that more time would be needed to determine whether an agreement could be reached.

A submittal date of November 16, 1988 was set. By letter dated November 8, 1988 Andersons requested that the submittal date be extended to January 22, 1989 to allow sufficient time for negotiation and to obtain more information on the further alternate options suggested by San Jose. The extension was granted by an Administrative Law Judge's Ruling. The case was submitted without a negotiated settlement on January 22, 1989.

V. Discussion

What is the extent of San Jose's obligation to serve the Andersons? That is the fundamental question in this case.

As a general rule, each regulated utility in California, as a condition of its monopoly franchise, has an obligation to serve all customers who ask for, and are willing to pay for, service in its service area. In a landmark case regarding the utility's obligation to serve its customers the court stated that there "is a wide field for play of the rule of reasonableness for demand for service and whether it does or does not exist must be determined...in each individual case." (Lukrawka v. Spring Valley Water Co., 169 Cal 318.)

If the Andersons were a new customer, the service connection proposed by San Jose at the Andersons' property line on Surmont Drive would reasonably satisfy the company's obligation to serve. This connection would provide water to the property at a pressure within the limits specified by GO 103. Such a service

connection would require the property owners to install and operate a pumping station, at their own expense, to lift the water to their residence. This is a reasonable expense for new customers to incur.

However, the Andersons are not new customers. They have been adequately served from the existing main for more than 15 years. The proposed improvements to the system will lower the water pressure of the service they have been provided, and cause them to incur the additional expense of installing and operating a new pumping station.

The Andersons argue that San Jose has an obligation to continue to provide adequate service which is approximately equal to that which they have received for 15 years. Based on the unique facts of this case, we agree with the Andersons. Where an existing customer has relied on a particular level of service for an extended period of time, we find it unreasonable for the utility to undertake improvements in a manner which causes the customer to incur substantial additional costs to maintain the same level of service.

In apparent recognition of its obligation to serve, San Jose offered to contribute \$2,000 toward the installation of the pump station and to relocate the service connection to Andersons' property line at no cost to them. San Jose implies that to pay for the full cost of the pump would be too costly.

Undoubtedly there are situations in which the expenditure of funds to maintain services to one customer in the course of system improvements would be found to be prohibitive. The record in this case, however, is insufficient to support such a holding. On this record, the Commission concludes that San Jose should relocate the service connection and reimburse complainants the actual cost of purchasing and installing the pump station. The record indicates the maximum cost of a pump station to be \$5,000.

We recognize that the cost of serving a particular customer under unique circumstances such as this case may be more costly than simply lowering the level of service, but this fact is not decisive, since a public utility can seek rate relief to reduce the effects of unprofitable operations when they adversely affect its overall rate of return. The Commission has long held that a utility is expected to combine less remunerative services with the more profitable ones.

We disagree with the Andersons' argument that San Jose should be responsible for the installation, operation, and maintenance of the pump station in perpetuity. While there is some additional cost of operating and maintaining a pump station, this is a customary obligation in the hilly terrain where the Andersons live. Moreover, we find that this added obligation will be offset, at least in part, by the elimination of the pressure tank and approximately 1,000 feet of older service line. Therefore, the Andersons shall be responsible for installing, operating, and maintaining the pump station.

Both San Jose and the Andersons proposed various other service options. It is not necessary for us to review these options in detail, since each of these alternatives either fails to fulfill the utility's obligation to serve or is more costly to the utility than the actions we have required.

One alternative is to maintain the existing main. Each party proposes that the other bear this cost. Maintaining the existing main is not practical or economic considering the age and condition of the main, and the frequency, difficulty, and cost of maintaining it. We find this option unreasonable regardless of who would bear this cost.

Similarly, we reject the option of extending the new main 70 feet to the existing service connection. This option would impose added cost to San Jose, would require the continued use of

the existing service line and a new pump station would still be required.

Finally, we find two alternative routing suggestions far too costly and impractical. We reject Andersons' suggestion that they be served from the Santa Rosa tank. This would require a new service line several thousand feet long over difficult terrain and new easements and would require pressure reduction. We also reject San Jose's suggestion that the Andersons pay \$14,300 for replacing 920 feet of the existing two-inch main from the end of the new six-inch main to Andersons' existing service connection. This option is far too costly, regardless of who would pay for it.

D. Conclusion

We conclude that San Jose may undertake the planned improvements to the system and may establish, at San Jose's expense, a new service connection for the Andersons at Surmont Drive. San Jose shall reimburse the Andersons for the actual cost of purchasing and installing a pump station, not to exceed \$5,000. The Andersons shall be responsible for installing, operating, and maintaining the pump station, including replacing any components as needed.

These conditions offer the Andersons the opportunity to receive water at sufficient pressure for their use and at a more favorable service connection location. The new location would reduce the length of the existing service line by half, eliminating the portion that crosses other property or development, and avoid potentially difficult and expensive maintenance. The pump station should furnish water at sufficient pressure for use at their residence without the need for further pressurization. Andersons will be able to eliminate the maintenance responsibilities they now have with their existing storage tank and pressuring facilities. In return, they only have to assume the maintenance of a new pump station. San Jose shall maintain service at the existing service connection until service is established at the new connection or

until 180 days after the new service connection is completed, whichever comes first.

Findings of Fact

1. Andersons filed a complaint requesting that San Jose continue to provide water at a pressure of 150 psi at the service connection to serve their residence at 400 Surmont Drive in Los Gatos without pumping.
2. Andersons have been receiving water at a pressure of 150 psi for about fifteen years from an existing main in Blossom Hill Road.
3. Andersons' residence is about 205 feet higher than the existing service connection.
4. Andersons use a water storage tank and pressure facilities at their residence in order to provide adequate water pressure for their use.
5. The existing main serving Andersons is an 1,815-foot long, 50 year old two-inch screw joint galvanized iron pipe that is deteriorated and costly to repair.
6. San Jose has replaced a portion of the existing main with 895 feet of new six-inch main which connects with an existing 17 1/4-inch main in Blossom Hill Road.
7. The cost of installing a pump station is approximately \$5,000.
8. The cost of installing a new service connection at Surmont Drive is approximately \$1,500.
9. Andersons are served from the Mt. Springs pressure zone even though they reside in the Belgatos pressure zone. The Belgatos system was not in operation at the time water service was originated to the residence.
10. San Jose proposes to serve Andersons from the Belgatos pressure zone, which would require a pump station to lift the water to Andersons residence.

11. Andersons object to being responsible for a pump station, believing that this should be San Jose's responsibility.

12. San Jose has considered service options proposed by Andersons and has offered further options to them.

13. Andersons have proposed modifications to the further options proposed by San Jose.

14. San Jose and Andersons have not reached agreement on resolving this complaint.

Conclusions of Law

1. San Jose should be required to offer Andersons adequate water service that is approximately equivalent to the service they have been receiving.

2. San Jose should be ordered to relocate the Andersons' service connection and reimburse the Andersons for the actual cost of purchasing and installing a pump station.

ORDER

IT IS ORDERED that:

1. San Jose Water Company (San Jose) shall pay to Dr. and Mrs. Ronald L. Anderson (Andersons) for the actual cost of purchasing and installing a pump station at their residence on Surmont Drive, in an amount not to exceed \$5,000, within 10 days of receiving proof of purchase or installation.

2. San Jose Water Company shall establish a new service connection to the Andersons' residence at the property line on Surmont Drive.

3. San Jose may discontinue service to Andersons from the existing main upon after complying with Ordering Paragraphs 1 and 2.

4. Except to the extent granted herein, this complaint is denied.

This order becomes effective 30 days from today.

Dated SEP 7 1989, at San Francisco, California.

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

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

Wesley Franklin

WESLEY FRANKLIN, Acting Executive Director

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