

Decision 89 11 030 NOV 3 1989

ORIGINAL

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.

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,
defendants.

Jasjit Sekhon, for the Commission
Advisory and Compliance Division,
Water Utilities Branch.

FIFTH 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 attorney Wester Sweet, and serves approximately 139 customers.

With water derived principally from mountain creek sources and with limited transfer capability in the rugged mountain terrain where it serves, the system badly needs upgrading to meet its responsibilities to its customers. Three years of drought have substantially and adversely affected the ability of the system to

provide service, particularly at higher elevations. Water hauling and stringent water conservation measures were adopted by Commission order during periods over the past 2 years. By Decision (D.) 89-09-028 issued September 7, 1989 a surcharge was imposed beginning in September to raise funds to be placed in a Surcharge Balancing Account to be used to haul water. The account at that time D.89-09-028 was issued already held approximately \$8,000 from earlier surcharge imposts.

A hearing had been duly noticed before Administrative Law Judge (ALJ) John B. Weiss for the evening of November 2, 1989 at the Mountain Bible Church on Summit Road, Los Gatos, adjacent to the Mt. Charlie service territory for the purpose of addressing financing an independent engineering study of the system for the purpose of determining improvements and priorities. Mt. Charlie lacks the funds to perform these tasks.

Late afternoon on October 17, 1989 a 7.1 Richter Scale earthquake followed by numerous continuing aftershocks hit the Bay Area, apparently centered in the area near Mt. Charlie. Extensive damage with many homes destroyed or damaged and roads put out of service occurred. The water system has been extensively damaged and much of the system's storage capacity lost.

Immediate funds were required to pay for replacement and repair of surviving facilities to restore some service. The only immediate source of funds was the Surcharge Balancing Account. Accordingly, ALJ Weiss issued a ruling authorizing diversion of part of this Account, with appropriate safeguards and Commission staff supervision of their expenditure to Mt. Charlie's use for these purposes.

Discussion

The emergency existing in this stricken area merited the diversion of these available funds for the more immediate need. Accordingly, we adopt and affirm the ALJ's ruling, a copy of which is attached hereto as Appendix A.

Finding of Fact

The emergency created by the destruction and damage caused by the October 17, 1989 earthquake merited diversion of available Surcharge Balancing Account funds to the extent necessary to pay for replacements and repairs of facilities under general disbursement supervision of the Commission's staff.

Conclusion of Law

The ALJ's Ruling should be adopted and affirmed.

FIFTH INTERIM ORDER

IT IS ORDERED that the ruling issued by Administrative Law Judge John B. Weiss and attached hereto as Appendix A is adopted and affirmed as the order of this Commission.

This order is effective today.

Dated NOV 3 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
00

JBW/bg

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 Owners of the MT. CHARLIE WATER)
 WORKS: TED PIERCE, ET AL.,)
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EMERGENCY RULING OF THE ADMINISTRATIVE LAW JUDGE
 ON DIVERSION OF WATER HAULING FUNDS

Statement of Facts

Late in the afternoon of October 17, 1989, the 7.1 Richter Scale earthquake centered in the Santa Cruz Mountains struck the Mountain Charlie Water Works (Mt. Charlie) service area with devastating force. Numerous homes were destroyed or badly damaged. The old logging roads making up the "street" network south of Summit Road were fissured in places or blocked by landslides. The largest storage tank, a 65,000-gallon tank at Mt. Charlie and Pierce Road junction was demolished as were several 45,000-gallon tanks off Old Ranch Road and Oak Flat Road. Another large tank on Old Mill Road at the lower end of the system was damaged. The only tank immediately serviceable is the 45,000-gallon tank on Hutchinson Road. And it is leaking profusely. The pumps appear workable but the transfer and distribution lines were badly damaged and until charged all the leaks and breaks cannot be detected and repaired. However, some of the 139 customers have gravity flow service and are still receiving some water.

The president of Mt. Charlie and his two-man staff are trying to restore the Hutchinson Road tank to full use, tracking leaks and repairing breaks, and installing temporary loaned tanks. He has the advice of an engineer loaned from Los Angeles Department of Water and Power who spend two days assisting to assess damage to prepare a report on the system. Water Utilities Branch engineer

APPENDIX A

C-87-01-008 JBW/bg

Kachur has been on the scene and is also helping to assess damage. The immediate need is money to hire additional temporary help, purchase repair parts, pipe, etc., and to acquire replacement tanks to bring additional portions of the system back into service as quickly as possible.

By earlier order of the Commission a surcharge and balancing account were established to pay for water hauling needed to meet the water shortage caused by drought conditions. This surcharge was resumed after being temporarily halted, and had a small surplus of funds when the earthquake struck. At present the local water source is providing water but it cannot be used to any extent because the system damage.

The Administrative Law Judge (ALJ) in this emergency, acting with the advice and assistance of the Water Utilities Branch staff, deems the urgent need for system replacements and repairs to be the most important and urgent task facing this stricken system. Water is now available, but the system cannot distribute it. The water utility and its owners lack immediate funds to redress the situation. Accordingly, the ALJ by this ruling gives the president of Mt. Charlie immediate access to up to \$10,000 of the Surcharge Balancing Account, subject to clearance for each expenditure with Water Utilities Branch engineer Kachur who being regularly on the scene has immediate awareness of the needs and priorities. Receipts and full records will be maintained of such expenditures.

Therefore, IT IS RULED that effective immediately, Wester Sweet, president of Mountain Charlie Water Works, is authorized to spend funds from the Surcharge Balancing Account, subject to clearance for each expenditure with Steve Kachur, PUC engineer, for repair and replacement parts, and necessary extra labor, equipment and services, up to a maximum of \$10,000.

Dated October 30, 1989, at San Francisco, California.

/s/ JOHN B. WEISS
John B. Weiss
Administrative Law Judge

CERTIFICATE OF SERVICE

I certify that I have by mail this day served a true copy of the original attached Emergency Ruling of the Administrative Law Judge on Diversion of Water Hauling Funds on all parties of record in this proceeding or their attorneys of record.

Wester Sweet, Esq.
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Mt. Charlie Water Works
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Los Gatos, CA 95030

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Los Gatos, CA 95030

Commission Advisory and Compliance Division

Jasjit S. Sekhon
Steve Kachur

Dated October 30, 1989, at San Francisco, California.

/s/ BERLINA GEE
Berlina Gee

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number of the service list on which your name appears.

(END OF APPENDIX A)