

Decision 89 11 069 NOV 22 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.

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

SIXTH 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 further expanded to accommodate real estate sales in the area. Today, as a California public utility corporation headed by attorney Wester Sweet, it serves 139 customers.

With its water derived from mountain creek sources, and transfer capability across the rugged mountain terrain limited, the aged system badly needed complete reconstruction to meet its public utility responsibilities. Three years of drought and several earthquakes had adversely affected the system's ability to serve, particularly at the higher elevations. In the past several years,

water hauling has had to be resorted to, completely exhausting finances and necessitating resort to frequent application of monthly surcharges and water rationing to get by.

To address the longer range requirements of rebuilding the system and financing the cost of an impartial professional engineering study to determine options, priorities, and costs, a special hearing had been noticed for the evening of November 2, 1989 in the mountain area.

Before that meeting could occur, on the late afternoon of October 17, 1989, a Richter Scale 7.1 earthquake centered adjacent to the Mt. Charlie service area devastated the San Francisco Bay Area. The Mt. Charlie service area and surrounding areas were especially hard hit. Eighteen customers' homes were lost and many others extensively damaged. Five of the utility's six major water tanks were demolished. Both principal roads through the service territory had large and critical segments wiped out in major landslides.<sup>1</sup> The transfer and distribution lines were sprung and left either broken or leaking badly.

The system's management responded immediately and extra personnel were brought in to help dig out and repair what could be repaired. The Los Angeles Department of Water & Power, acting through the Office of Emergency Services and the California Water Association, sent an engineer and loaned labor. The Commission's Water Utilities Branch had Engineer Kachur on hand to assist in determining the extent of damage and immediate needs. The Commission authorized emergency use of the balance of funds in the

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<sup>1</sup> The Mt. Charlie Road segment that collapsed along with the entire hillside into State Highway 17 will limit traffic for at least a month. Caltrans has carved out and paved a new Mt. Charlie Road segment inland from the Hillside. The Hutchinson Road segment that collapsed into the adjacent valley has also been partly restored.

Water Hauling Surcharge Balancing Account, and the restoration of service task proceeded.

On Thursday evening, November 2, 1989, a hearing was held before Administrative Law Judge (ALJ) John B. Weiss at an alternate location in the area. (Damage to the original meeting location precluded its use.) Approximately 80 residents attended.

Mt. Charlie's President, Wester Sweet, reported on the progress being made to restore service. The one remaining 45,000-gallon storage tank was back in use although it could be but half filled, and distribution lines to the Hutchinson Road core of the system had been tested and were set to begin delivering water the following day to those homes able to receive service - these numbered approximately 60 of the customers.

Sweet reported that few tanks were available around the State and those only at a high price. However, he had located five 15,000-gallon fiberglass tanks in Santa Clara but the terms were \$22,500 cash. These would provide good temporary service until the system could be studied and rebuilt, replacing the destroyed tanks. Although a Small Business Administration Loan in the amount of \$160,000 had been applied for, there were no assurances of when or what amount would be available. A show of hands with only one per service participating indicated a majority of residents would accept an immediate \$100 surcharge applicable to the November billing to apply toward immediate purchase of these tanks.<sup>2</sup> The \$10,000 from the Hauling Balancing Account would also be used, and 14 customers volunteered personal loans for less than a year

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<sup>2</sup> There was general agreement that the \$45 per month water hauling surcharge should be ended with the October 1989 billing.

duration to provide the balance.<sup>3</sup> Since that evening hearing, the tanks have been purchased and delivered, and the Mt. Charlie crew is hard at work plumbing them into location with hope of restoring at least pre-earthquake rationing level service to virtually all customers within several weeks. Three customers had also loaned small 5,000-gallon tanks for interim uses.

Following a report from Engineer Kachur, the residents present also indicated majority support for a \$45 per month surcharge for the December, January, and February billing months to be used to pay for an independent, professional engineering study to be made of the Mt. Charlie system. This conceptual study would take into consideration the Federal, State, and local standards that will have to be met, and would identify the options and costs on a priority basis so that the residents could make intelligent choices for rebuilding the water system. A committee of six members and five alternates volunteered to assist management and Engineer Kachur in putting the study out to bid and selecting an engineer for the conceptual study. It is expected to get the study underway in December of 1989.

The management and residents agreed to drop the monthly basic \$35 charge for those residents whose homes were destroyed or damaged until they were rebuilt or again inhabitable, but agreed all customers should be liable for the surcharges.

John A. Bilci, a financial examiner with the Commission Advisory and Compliance Division, introduced into evidence staff's

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3 The woman customer who led off the volunteer creditors set the tone by stating: "I need this water company a hell of a lot worse than it needs me, and I wonder if this group would be willing to give some sort of indication of what kind of financial support they could come up with this month to supplement what reasonably isn't enough. Even with a \$100 surcharge it's not enough." And she led off with a four-digit personal check right then and there. In all, \$13,500 was advanced on loan that evening.

May 19, 1989 Audit Report on the accounting and financing records of Mt. Charlie. Without objection, the ALJ deferred any cross-examination on the report for a subsequent hearing to review service rates.

Discussion

The emergency measures discussed and considered at this hearing appear to be reasonable and necessary to alleviate the disastrous circumstances resulting from the October 17, 1989 earthquake and its aftershocks. The residents by their excellent turnout under the most adverse conditions, and their cooperative attitude, showed their desire to rebuild and continue. Management has done an excellent job in this emergency, and all concerned are to be congratulated. While water appears to be available, the distribution resources will be very limited and therefore the Mandatory Water Conservation Plan as set forth in Appendix A to D.88-09-071 should be immediately reimposed. It is also essential that progress be made as soon as possible on an engineering concept study to provide a system capable of delivering good quality water adequate to meet the needs of these mountain residents.

Findings of Fact

1. The October 17, 1989 earthquake devastated Mt. Charlie.
2. Immediate and drastic measures were and are necessary to restore at least pre-quake levels of service.
3. For the long range, an engineering conceptual study is needed to identify options and costs associated with these options so that intelligent decisions can be made for reliable service for the future.
4. The emergency financing using surcharges is reasonable and appropriate under the circumstances, both with regard to acquisition and installation of tanks and repairs, and to engineering conceptual studies needed.
5. Mandatory conservation is needed immediately to provide for fair distribution of water.

Conclusions of Law

1. The present emergency warrants the surcharges set forth in the accompanying order.
2. This order should be made effective immediately.

INTERIM ORDER

IT IS ORDERED that:

1. The Balancing Account Surcharge for Water Hauling is ended with the October 1989 billing.
2. Any balance remaining in the Balancing Account for water hauling may be used for emergency costs incurred in restoration of service.
3. A \$100 surcharge for the month of November 1989 is authorized to be collected and applied to the purchase and installation of temporary replacement tanks.
4. A \$45 surcharge per month is authorized to be collected for the months of December, 1989, and January and February 1990 and used to defray the costs of an engineering conceptual study to be made by an independent professional engineer engaged by a bid procedure by management, assisted by Commission staff and the Residents Advisory Committee.
5. Residents whose homes were destroyed or rendered uninhabitable by the earthquake and its aftermath will not be charged the regular monthly service charge until their homes are replaced or rendered habitable.
6. The Mandatory Water Conservation Plan set forth in Appendix A of Decision 88-09-071 dated September 28, 1989 will be placed into effect immediately.
7. The Mountain Charlie Water Works shall notify each of its customers immediately that mandatory rationing is being reimposed.

8. The utility's management shall cooperate with the Small Business Administration as necessary and reasonable in pursuit of a low-interest loan.

This order is effective today.

Dated NOV 22 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.

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*Wesley Franklin*  
WESLEY FRANKLIN, Acting Executive Director  
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