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DEC 19 1990

Decision 90-12-053 December 19, 1990

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of DEL ESTE WATER COMPANY (U 175 W), a corporation, for an order authorizing it to increase rates charged for water service in order to offset cost of leasing, installing, and operating well head treatment facilities for reduction of excess Dibromochloropropane (DBCP) concentration at eight wells in order to meet maximum contaminant level requirements of the California Department of Health Services, and for authority to establish a balancing account to accrue such costs.	Application 90-09-021 (Filed September 10, 1990)

O P I N I O N

Summary of Decision

This decision authorizes Del Este Water Company (applicant or Del Este) to increase rates in order to offset costs of well head treatment for reduction of Dibromochloropropane (DBCP) concentration in eight wells to meet requirements of the California Department of Health Services (DHS).

Summary of Application

On September 10, 1990, applicant filed Application 90-09-021 seeking authority, under Public Utilities (PU) Code § 454, to increase General Metered, Flat Rate and Private Fire Protection Service rates by approximately 15%, and to establish a balancing account, to offset costs of leasing, installing, and operating well head treatment facilities for reduction of DBCP concentration at eight wells.

Background

Applicant provides water service to approximately 18,000 customers in suburban Modesto and in the communities of Waterford, Empire, Salida, Turlock, Hillcrest, Hickman, and Grayson. Except for the systems in suburbs of Modesto, most of these service areas are isolated and served by separate systems that are not interconnected. All water is obtained from wells. The company obtains no surface water and has no surface storage facilities.

In recent years, applicant has encountered problems relating to water quality. In particular, compliance with the new maximum contaminant level (MCL) requirements of the DHS with respect to DBCP has become costly.[1] While other utilities subject to Commission jurisdiction have encountered a DBCP problem, applicant states that none has faced one of this magnitude.

At end of year 1989, applicant's depreciated plant in service was $9,368,843. Its depreciated rate base was $4,758,586. It had in service 69 wells. Its total operating revenues for the year 1989 were $3,039,468 and its operation and maintenance expenses for that year were $2,245,047.

Applicant states that it first became aware of the DBCP problem in 1988. At that time the MCL for DBCP permitted by DHS was one part per billion. While only one of applicant's wells at that time produced water with DBCP in excess of the MCL, applicant decided that DBCP posed a major quality problem for the future. It concluded that there were basically three ways for meeting and solving the DBCP problem:

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1 The Commission in Decision (D.) 89-11-063 took note of applicant's DBCP problem, commenting on page 13 of the decision that DBCP had been used as an agricultural spray but was now banned for use throughout the country. DBCP, the Commission stated, is suspected of causing sterility in humans and is known to have caused cancer in laboratory animals.

First Alternative: Substitute Water

One alternative was to reduce DBCP in the water supply by using better quality water that might exist in the underground basin. This could be done by deepening existing wells to zones of better quality water or by replacement of a contaminated well. In addition, multiple wells might be interconnected so as to blend poor and good quality water in proportions that would yield acceptable DBCP levels. Alternatively, the capacity of wells producing good quality water could be increased by using surface storage to reduce dependency on poorer quality wells. Applicant states that it concluded that these alternatives were not feasible for the following reasons:

a. In the last four years, applicant drilled six new wells to find better quality water. Each time it encountered DBCP concentrations sufficient to discourage this solution.

b. Over the past 20 years, applicant has been unsuccessful in attempts to deepen or reconstruct 30 wells because of problems with nitrates, chlorides, radioactivity, and iron. As shown in Exhibit B to Del Este's application, deepening or reconstruction of many of the wells produced higher than allowable chlorides or rendered the wells unusable. Applicant states that in some areas where ground water quality problems exist, it is not feasible to drill new wells because the ground water quality does not meet DHS standards. In those cases where DBCP exists in wells, deepening could produce water high in chlorides, nitrates, or other substances, rendering the water unusable.

c. Applicant considered the possibility of blending poor and good quality water to obtain acceptable DBCP levels, but again it concluded that this alternative was not feasible. Del Este's wells generally are distant from one another. There are no system transmission mains. In order to accomplish blending, it would be necessary

to use distribution mains. Before blending of good water and bad, customers would have taken service off those mains that carried unacceptable water to the acceptable water.

d. Since applicant has no surface storage capacity in its system, increased use of surface storage could not be used to reduce dependency on poor quality wells.

Second Alternative: Supplemental Water

Applicant states that a second alternative is the introduction of a surface supply of water free from DBCP. Applicant is engaged, with the City of Modesto, in negotiations with the Modesto Irrigation District for delivery by that District to the City and to applicant of a supplemental supply of treated water. The district would provide the City and applicant with 30 million gallons of treated water a day, with the City taking 70% and applicant 30%. Applicant states that it is hopeful that a memorandum of understanding among the parties will be executed within six months. Following that, the District must obtain financing and then install facilities, consisting of a treatment plant 15 miles east of Modesto up the Tuolumne River at Modesto Reservoir and a transmission main from the plant to the City. Applicant states that water could be available for delivery at the end of 1993 or the start of 1994.[2] Even assuming the availability of treated water, applicant states that it must continue to rely on its underground sources of supply for peaking, during emergencies, and in the event of a shutdown of the District facilities.

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2 The estimated delivery date is subject to delay. The City and County of San Francisco have brought suit against the Modesto Irrigation District seeking, among other relief, a writ of mandate setting aside the project because of alleged procedural and substantive defects prejudicial to San Francisco and others dependent on this water supply.

Third Alternative: Well Head Treatment

Applicant states that a third alternative is well head treatment of the water to reduce DBCP concentrations to an acceptable level or to eliminate DBCP completely. Since neither of the first two alternatives proved feasible, it was the third that applicant decided to follow.

Applicant commissioned Brown and Caldwell Consulting Engineers (B&C) to produce a feasibility study for providing well head treatment. That report, dated June 23, 1989, is attached to Del Este's application as Exhibit C.

Hard on the heels of the B&C report came a ruling of DHS reducing the DBCP MCL from one part per billion to 0.2 parts per billion (ppb), effective July 28, 1989. After adoption of the new MCL, applicant notified DHS that seven wells located in four of its 18 systems did not meet the new DBCP standard. Applicant took those wells out of service. Since applicant relies solely on groundwater as its source of supply, it advised DHS that it might be necessary to operate all its wells, including those producing water exceeding the DBCP MCL, during peak demand periods in order to meet the requirements of its customers. As pointed out above, applicant has no storage and no transmission mains capable of moving water to areas where wells have been taken out of service.

Applicant states that it currently has 13 wells that exceed the DBCP MCL standard.

DHS on March 23, 1990, issued amended permits covering eight of the 13 wells and approving applicant's DBCP abatement schedules.

In its report, B&C concluded that the DBCP concentrations experienced by applicant could be treated effectively by either air stripping, granular activated carbon (GAC) adsorption, or oxidation with hydrogen peroxide in ultraviolet light (UV/H_2O_2). B&C commented that both GAC and air stripping would provide cost-effective treatment but recommended that "due to the likelihood of

varying DBCP concentrations resulting in increased contamination in the future, GAC is felt to provide the best level of treatment." B&C further stated that UV/H_2O_2 is not considered cost-effective for well head treatment of DBCP.

Applicant followed the B&C recommendation and began GAC treatment. While the cost of air stripping may be less than that of GAC, air stripping, as its name implies, involves a degree of air pollution, is noisy to operate, and provides less flexibility for changes in DBCP concentration levels than GAC. Since the problem wells are in residential areas where noisy operations would be offensive, and in view of the other air stripping disadvantages, applicant opted for the GAC treatment.

Lease of Equipment

Having determined that long-term treatment of DBCP was required and that GAC adsorption was the best available technology, applicant states that it investigated the availability of treatment facilities. Two sources of GAC units were available: Calgon Carbon and Weststates Carbon, both in California. Applicant states that only Calgon had the necessary units in stock. Since time was important in getting units on line before peak season demands, applicant decided that Calgon was the sole vendor in a position to make prompt delivery of the units. Accordingly, a request for competitive bids was not made.

The aggregate purchase price of the eight required units was $1,251,625. Applicant states that it did not have funds available to purchase units outright. Although applicant recently closed a long-term loan agreement with Pacific Mutual Life Insurance Company, the proceeds of that loan are earmarked for other water supply capital improvement purposes and are not available for purchase of the GAC equipment. Applicant states that it has reached the limits of its long-term borrowing capacity and cannot obtain further long-term financing to enable it to purchase

the equipment. Accordingly, applicant states, leasing was the only practical method of obtaining the equipment.

Applicant in a contract dated June 1, 1990, entered into a five-year lease of the equipment from General Electric Credit Corporation at a monthly rental of $24,269 for the eight units. A copy of the lease is attached to Del Este's application as Exhibit F.

Essential to the operation of the GAC units is activated carbon. Applicant states that it was able to obtain the necessary supply from the only vendor having a sufficient amount on hand, 300,000 pounds, at a cost of $270,938. Applicant believes that the supply so purchased and already installed in each of the eight units should be adequate for three years. Accordingly, applicant proposes to amortize the activated carbon cost of $270,938 over a period of three years.

Applicant estimates that the annual lease rental expenses of the eight GAC units, plus operation and maintenance expenses, including amortization of the carbon will be $464,021. Aggregate capital cost of installing the units will be $202,100. Applicant's existing rates were established without any allowance for DBCP treatment costs.

Applicant states that the cost of operating the GAC facilities constitutes an immediate and substantial drain on applicant's financial resources, such that it is essential that applicant's rates be increased to offset the costs.

Additional DBCP Problems

Applicant is monitoring all its wells for DBCP. Applicant states that it appears probable that an additional 15 wells will have DBCP concentrations within the next year in excess of the DHS MCL. Prompt installation of GAC treatment facilities on those wells will become necessary. As the equipment is obtained and placed on line, applicant proposes to make advice letter filings for authorization to increase its rates further to offset

the increased expenses. Applicant states that the order in this proceeding should make provision for the filing of such future advice letters.

Public Meeting

The Water Utilities Branch (Branch) of the Commission's Advisory and Compliance Division on September 27, 1990, filed its Advice of Participation notice in this proceeding. Branch scheduled an "Informal Public Meeting Concerning Rate Application by Del Este Water Company" on the evening of October 16, 1990, in the Modesto Centre Plaza in Modesto. A notice of the meeting was mailed to ratepayers before the meeting date.

Branch states that approximately 12 ratepayers attended the public meeting. Also present was William Beard, a vice president of Del Este. Branch representative Richard Tom explained the purpose of the meeting, and Del Este's vice president described the basis on which the utility seeks rate relief. Branch reports that there were few questions about applicant's method of dealing with the DBCP concentrations. Most customers were concerned generally about the proposed increase in their rates.

In compliance with PU Code § 454(a), applicant had notified ratepayers in bill inserts of its intention to seek offsetting rate relief to deal with DBCP costs. The Commission has received two letters in response to this notice. The letters object generally to any rate increase by applicant. A total of six ratepayers signed a notice at the public hearing asking to be notified if public hearings were scheduled in this matter.

In view of the limited response to the utility's notice and to the public meeting, Branch has concluded that an evidentiary hearing on this application will serve no purpose. Branch further states that it does not disagree with applicant's decisions in dealing with the DBCP problem, nor does Branch dispute applicant's statement of costs necessary to resolve DBCP contamination.

However, Branch opposes the utility's request to establish a balancing account to track expenses for DBCP treatment. Branch notes that Resolution W-3494, effective May 4, 1990, authorized Del Este to establish a memorandum account for DBCP costs that enables the utility to recover these expenses in rates. DBCP costs are known, Branch states, and Del Este is scheduled to file a general rate application in 1991, when DBCP costs will be reviewed again. Thus, establishment of a balancing account (which tends to become permanent) is unnecessary and could deflect attention from cost-effective alternatives.

Additionally, Branch recommends that the nonrecurring legal and consultant expenses attributable to this filing be included as a special condition in the tariffs to be recovered in one year. If they are included in the base rates, the result could be an overcollection of costs. At the end of the year, these one-time expenses should be removed from the rates.

We agree with Branch's recommendations. Branch has prepared the rates and special conditions applicable to this filing, and they are attached to this order as Appendix A.

Discussion

DBCP was used in agriculture for control of nematodes (small roundworms) until the chemical was banned in 1979 because of concerns that exposure to the chemical had a toxic effect on human reproduction. An action level of 1.0 ppb, later amended to 0.2 ppb, was established by the California DHS. According to the DHS Domestic Water Quality and Monitoring Regulations, this MCL is defined as "the maximum permissible level of a contaminant in water which is delivered to a free flowing cold water outlet of the ultimate user of a public system...."

Based on the undisputed facts in this application, applicant could not continue to operate eight of its wells unless it took some action to eliminate or decrease DBCP contamination in those wells to a level of less than 0.2 ppb. Neither Branch nor

any of applicant's ratepayers has objected to the manner in which applicant has proceeded to treat the contaminated water. Based on the comments received at the public meeting, and on the limited response to Del Este's notice of its intention to seek rate release, we infer that ratepayers do not disagree with applicant's decision to treat DBCP-contaminated water.

Applicant's existing rates were established without any allowance for DBCP treatment costs. The verified application asserts that the utility is not in a position to absorb these costs without rate relief. The relief sought would increase the average flat rate residential rate by $1.18 per month (from $7.89 to $9.07), or 14.9%. The typical large industrial user would pay an additional $540.90 per month (from $3,596.78 to $4,137.68), a 15.04% increase. (Application Exhibit I-5.)

We agree with Branch that evidentiary hearings on this application will serve no useful purpose in the absence of any suggested alternative to the DBCP procedure that applicant has put in place. Accordingly, we will grant applicant's request for a rate increase of approximately 15% in its General Metered, Flat Rate, and Private Fire Protection Service Schedules.

On the other hand, we are not persuaded of the necessity at this time to authorize filing of advice letters that would permit applicant to increase rates further to offset additional costs for DBCP costs on other wells in the next year. Those costs are speculative at this point. Other alternatives, including the agreement with the Modesto Irrigation District, may present themselves to ameliorate the need for further DBCP treatment and expense. Accordingly, we will require applicant to file again pursuant to PU Code § 454, or as part of its regular general application to justify additional DBCP treatment costs.

Findings of Fact

1. Applicant provides water service to approximately 18,000 customers in suburban Modesto and in the communities of Waterford,

Empire, Salida, Turlock, Hillcrest, Hickman, and Grayson, California.

2. Applicant's General Metered, Flat Rate and Private Fire Protection Service Schedules now in effect were authorized by the Commission in D.89-11-063, dated November 22, 1989.

3. Applicant's current rates do not reflect costs of leasing, installing, and operating well head treatment facilities for reduction of excess DBCP concentration at eight wells to meet MCL requirements of the DHS.

4. In order to offset the increase in expenses and capital costs resulting from DBCP treatment costs, an increase of approximately 15% is sought by applicant in its General Metered, Flat Rate, and Private Fire Protection Service Schedules.

Conclusions of Law

1. Applicant is in immediate need of rate relief to offset the increase in expenses resulting from DBCP treatment at eight wells. Accordingly, this order should be effective today.

2. Applicant has complied with PU Code § 454 in requesting an increase of approximately 15% in General Metered, Flat Rate and Private Fire Protection Service Schedules to offset additional expenses and capital costs resulting from DBCP treatment.

3. There has been no protest with respect to applicant's method of, or expenditures for, DBCP treatment.

4. The application to increase rates to offset DBCP treatment costs should be granted.

5. The application for authority to establish a balancing account and to make advice letter filings to further increase rates to offset DBCP treatment costs not covered in this order should be denied.

O R D E R

IT IS ORDERED that:

1. Del Este Water Company (Del Este) is authorized to file an advice letter incorporating the revised rates schedules attached to this order as Appendix A and concurrently cancel its presently effective rate Schedules Nos. 1, 2, and 4. The effective date of the revised schedules shall be 5 days after the date of filing. Its filing shall comply with General Order 96-A.

2. The authority shall expire unless exercised within 90 days after the effective date of this order.

3. Del Este's request to establish a Dibromochloropropane (DBCP) Expense Balancing Account is denied.

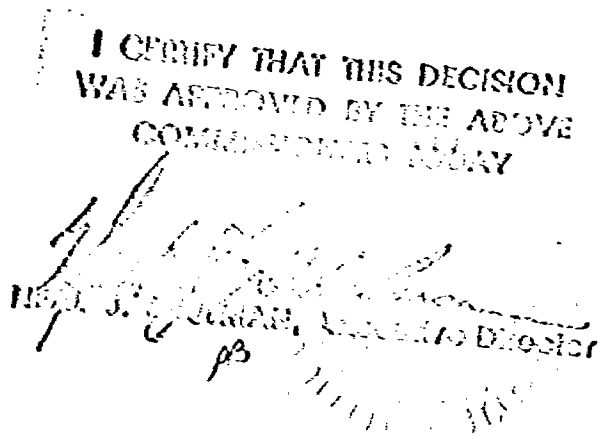
4. The request of Del Este for authority to make advice letter filings to increase rates further for DBCP expenses not authorized by this order is denied.

This order is effective today.

Dated December 19, 1990, 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



DEL ESTE WATER COMPANY

Schedule No. 1

GENERAL METERED SERVICE

APPLICABILITY

Applicable to all metered water service.

TERRITORY

Portions of Modesto and Turlock and Empire, Salida, Waterford, Hickman, Grayson, and Hillcrest and vicinity, Stanislaus County.

RATES

Quantity Rates:

For the first 10,000 cu. ft., per 100 cu. ft	$0.432	(I)
For all over 10,000 cu. ft., per 100 cu. ft	$0.393	(I)

Service Charge:

	Per Meter Per Month	
For 5/8 x 3/4-inch meter	$4.60	(I)
For 3/4-inch meter	6.75	
For 1-inch meter	8.50	
For 1-1/2-inch meter	11.35	
For 2-inch meter	14.80	
For 3-inch meter	23.40	
For 4-inch meter	31.80	
For 6-inch meter	49.25	
For 8-inch meter	67.80	
For 10-inch meter	107.75	
For 12-inch meter	131.10	(I)

The service charge is a readiness-to-serve charge which is added to the charge for water used computed at the Quantity Rates.

SPECIAL CONDITIONS

1. Due to the undercollection in the Balancing Account, an amount of $0.017 per Ccf is to be added to the quantity rates as shown above from the effective date of this tariff through the period ending December 8, 1990, to amortize the undercollection.

2. Due to non-recurring expenses associated with DBCP removal at well sites, an amount equal to 0.95% of the above rates will be added to each customer bill for a period of 12 months from the effective date of the decision for A. 90-09-021. (N)

3. All bills are subject to the reimbursement fees set forth on Schedule No. UF.

DEL ESTE WATER COMPANY

Schedule No. 2

FLAT RATE SERVICE

APPLICABILITY

Applicable to all water furnished on a flat rate basis.

TERRITORY

Portions of Modesto and Turlock and Empire, Salida, Waterford, Hickman, Grayson, and Hillcrest and vicinity, Stanislaus County.

RATES

For a Premise served by an unmetered water connection having the following areas:	Per Service Connection Per Month	
6,000 sq. ft., or less	$ 10.25	(I)
6,001 to 10,000 sq. ft	11.90	|
10,001 to 16,000 sq. ft	14.20	|
16,001 to 25,000 sq. ft	17.15	|
Over 25,000 sq. ft	21.15	(I)

SPECIAL CONDITIONS

1. Meters may be installed at the option of the utility or the customer in which event service will be furnished only under Schedule No. 1, Metered Service. A customer's request for metered service must be made in writing.

2. Customers requesting service of the following types will not be served under this schedule, but will be served under Schedule No. 1, Metered Service.

   a. Residential service connections larger than 3/4" diameter or any 3/3" residential service that, in the utility's judgement, may consume excessive water because of lot size, special equipment, or unusual use.

   b. Service connections to commercial or business establishments.

   c. Service connections for agricultural purposes.

   d. Service connections to premises containing multiple dwellings or dwellings and occupied trailer houses.

3. Due to the undercollection in the Balancing account, an amount equal to 4.39% of the above rates will be added to each customer bill from the effective date this tariff through the period ending December 8, 1990, to amortize the undercollection.

(continued)

DEL ESTE WATER COMPANY

Schedule No. 2
(continued)

FLAT RATE SERVICE

4. Due to non-recurring expenses associated with DBCP removal at well sites, an amount equal to 0.95% of the above rates will be added to each customer bill for a period of 12 months from the effective date of the decision for A. 90-09-021. (N) (N)

5. All bills are subject to the reimbursement fees set forth on Schedule No. UF.

DEL ESTE WATER COMPANY

Schedule No. 4

PRIVATE FIRE PROTECTION SERVICE

APPLICABILITY

Applicable to all water furnished on a flat rate basis.

TERRITORY

Portions of Modesto and Turlock and Empire, Salida, Waterford, Hickman, Grayson, and Hillcrest and vicinity, Stanislaus County.

RATES

	Per Month	
For each inch of diameter of service connection	$ 4.00	(I)

SPECIAL CONDITIONS

1. The fire protection service connection shall be installed by the utility and the cost paid by the applicant. Such payment shall not be subject to refund.

2. The minimum diameter for fire protection services shall be four inches, and the maximum diameter shall not be more than the diameter of the main to which the service is connected.

3. If a distribution main of adequate size to serve a private fire protection system in addition to all other normal service does not exist in the street or alley adjacent to the premises to be served, then a service main from the nearest existing main of adequate capacity shall be installed by the utility and the cost paid by the applicant. Such payment shall not be subject to refund.

(continued)

(END OF APPENDIX A)