

MAILED

JUL 25 1991

Decision 91-07-046 July 24, 1991

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 Idylwild Water System to increase)
 rates to surcharge customers for)
 participation in the Mountain)
 Mutual Water Company's Montevina)
 Pipeline Project.)

ORIGINAL

Application 91-03-050

(Filed March 25, 1991)

Bruce Franks, for Idylwild Water System,
 applicant.

Donald McCrea and Thomas Smegal, for the
 Commission Advisory and Compliance
 Division, Water Utilities Branch.

INTERIM OPINION**Statement of Facts****General Background**

Idylwild Water System (Idylwild), a small, privately owned Santa Cruz Mountain water system, constructed in 1905 alongside Highway 17 on the north or Santa Clara side of the summit, passed through various owners before being sold to the present owner, Bruce Franks, in September 1973. Franks is a certified water treatment plant operator and has operated treatment plants for over 20 years. Under contract he also manages several mutual water companies in the area.

As the result of consumer complaints and following a staff investigation and public hearing, the Commission asserted jurisdiction over the Idylwild system in Decision (D.) 87-07-095 on July 29, 1987. The system now serves 46 metered customers located in the steep mountainous terrain along mostly unpaved roads or former logging trails.

Idylwild obtains its water from a small pool or intake basin formed by a natural rock barrier in Moody Creek in Moody

Gulch. From this intake basin the water is piped through a strainer to storage tanks from which, after chlorination, it flows by gravity to the customers. Despite five years of drought, water supplies have continued to be adequate to meet the system's needs. The 1989 earthquake destroyed the system's storage facilities and cracked many of the mains. However, after the earthquake Franks replaced the tanks and repaired the mains at an estimated cost of \$60,000.

The Montevina Pipeline

A positive result of the 1989 earthquake for mountain residents was the construction of the 21,000-foot, 8-inch Montevina Pipeline from San Jose Water Company's Montevina treatment plant above Lexington Reservoir paralleling Highway 17 to Holy City. Built with Federal Emergency Management Agency (FEMA) and Office of Emergency Services' (OES) grants, augmented by a 30-year Department of Water Resources' loan at 8-1/2% to Redwood Mutual Water Company (Redwood), the pipeline was completed at a cost of approximately \$2.7 million. Redwood is the initial owner. Although there appears to be no written federal or state requirement that it be a shared resource, the pipeline has capacity to deliver water for approximately 1,500 homes. Redwood, with 388 connections, wants to share the resource with other water companies, but, as a mutual water company exempt from regulation by the Commission and wanting to maintain that exemption (See Public Utilities (PU) Code § 2705),¹ it has decided to form a new mutual water company,

1 As relevant here, PU Code § 2705 provides that any corporation or association organized for the purpose of delivering water to its stockholders or members at cost, including use of works for conserving, treating, and reclaiming water, and which delivers water to any one except its stockholders or members or to the state or any agency or department thereof, to any city, county, school

(Footnote continues on next page)

Mountain Mutual Water Company (Mountain), to be the owner and operator of the Montevina Pipeline. Accordingly, both privately owned public utilities and mutuals could join Mountain and get access to pipeline water. Of the 14 companies other than Redwood, all except Idylwild and Mt. Charlie are mutuals.

Idylwild's Problem With Continued
Reliance on Creek Water

Increasingly stringent Environmental Protection Agency and Department of Health Service requirements associated with the federal Safe Drinking Water Act Amendments of 1986 require that all community water systems relying on surface water sources provide multiple barrier treatment including filtration and disinfection by June 30, 1993. There are no exceptions. The requirements include preparation of an engineering report on the capacity of the water treatment plant to treat the specific source waters available, the installation of facilities to store and condition backwash water prior to reuse, the provision for certified water treatment plant operation, and the capability of meeting ongoing daily monitoring and operating requirements. The construction of a new water treatment plant requires a significant capital investment and also imposes additional operating expenses for power, chemicals, and increased operator surveillance and attention. Prior to the 1989 earthquake Franks had engineers make some preliminary estimates of the continued reliance on the creek. The creek treatment option was estimated then to be in excess of \$80,000 for purchase and

(Footnote continued from previous page)

district, or other public district, or to any other mutual water company, at cost, is not a public utility, and is not subject to the jurisdiction, control, or regulation of the Commission.

installation alone. It is Franks' view that there is not much choice.² He testified:

"...that for us to get into the treatment... building a new business for the Idylwild Water System, for a small system like this, when there is water, or treated water available, that this is the best way to go. Let San Jose Water Works monitor the water 24 hours a day and let them fill out the reports, and we'll take it." (RT 8.)

Mountain's Initial Period Administrative Costs Assessment

Each applicant water company, mutual or privately owned, was required to pay a \$1,500 application fee to become a member of Mountain. Idylwild was one of the 14 water companies who paid this fee to join Mountain.

But in addition to this membership fee, until Mountain owns the pipeline and can obtain revenues from the member companies related to the resale of water to them, Mountain has imposed a \$20 per month assessment against all active water service connections for its 14-member companies. This assessment is to pay Mountain's ongoing administrative expenses (legal costs, consultant costs, an engineering water master plan, insurance, and other start-up

² Over recent years Franks has actively worked on an alternative to reliance on creek sources. A Commission Senior Utilities Engineer in November of 1985 estimated that it would cost Idylwild approximately \$1,300,000 (or \$30,000 per connection) to bring Montevina water up the hill to Idylwild, install a 250,000-gallon reservoir, and update the distribution system to General Order 103 standards. Seeking a more feasible resolution than going it alone, Franks monitored the efforts of Chemekta Park and Redwood to bring a pipeline to realization; the efforts were later abandoned because of cost. In the aftermath of the 1989 earthquake, when FEMA and OES funds were possible, Franks wrote to both OES and Redwood seeking for Idylwild to be allowed to connect. On April 4, 1990 Idylwild paid \$1,500 to Redwood as a down payment for a connection study.

expenses).³ The mutual companies began surcharging their members starting February 1991. The assessment initially is to run nine months. It is anticipated that after that, it can be reduced. Start of assessment through the two privately owned public utility companies was deferred to allow each company to obtain Commission authorization to make the assessment surcharge, but their assessment period at \$20 per connection for each month must also run nine months.

While the Water Branch has some concerns with the rather substantial legal and consultant fees incurred and budgeted for the year by Mountain, the Branch believes that Idylwild's membership in Mountain is necessary, and therefore recognizes that to retain membership, Idylwild is obligated to pay all necessary and reasonable charges required by Mountain. Nonpayment of any obligation to the mutual is grounds for expulsion. The Branch agrees that the assessment per connection should be paid by Idylwild by means of a monthly \$20 surcharge applicable to all metered Idylwild customers regardless of whether they are currently paying service charges or receiving water service. However, at this time the Branch would authorize a surcharge for an initial period of only nine months.

The Present Application

Idylwild filed the present application on March 25, 1991 proposing that it be authorized to impose a \$20 per month per connection until it begins receiving water deliveries from Mountain. It noted that this was the first phase surcharge; that a

3 Redwood, the largest of the Mountain mutuals, during 1989 and 1990 advanced more than \$100,000 toward formation of Mountain and construction of the pipeline, and will be reimbursed a pro rata share of these advanced costs by Mountain as part of the transfer of pipeline ownership after a detailed accounting. Meanwhile, since February 1991, Redwood has received a \$7,000 monthly credit against its monthly assessment fees to pay a portion of the anticipated reimbursement of advanced costs.

second would probably be needed to pay for the engineering study and connection of an intertie. In April Idylwild asked for a delay in processing the application to allow investigation into procedures involving voting for Mountain's Board of Directors. This accomplished, through Branch staff Administrative Law Judge (ALJ) John B. Weiss was informed of Idylwild's readiness to proceed.

The Intertie

An earlier engineering report estimated that an intertie to connect Idylwild to the Montevina Pipeline would cost \$25,000. On January 3, 1991, Idylwild retained Boyle Engineering to design a water transmission line from the pipeline to Idylwild tanks. The study and design, received on the eve of the May 28, 1991 hearing, indicated that an existing Idylwild pipeline from Old Santa Cruz Highway (where the pipeline is) to Upper Idylwild Road and Raineri Lane where Idylwild has tanks can possibly serve. The Montevina Pipeline Pump Station No. 2 at Oakmont which serves to pump water to Holy City will also be able to pump water to the elevation of Idylwild's Raineri Lane tanks. By following their electrical diagrams, putting in telemetry controls from Idylwild's tank to existing controls at Ogallala Road and Old Santa Cruz Highway, the intertie should work. Franks estimates that resolution should cost about \$10,000. If that does not work out, Franks would like to locate the intertie to the corner of Buckeye and Raineri Lane (where he owns the property) where he would locate a tank, or to a location at whatever elevation it must be.

Public Hearing May 28, 1991

A duly noticed public hearing was held Tuesday evening, May 28, 1991, in the Loma Prieta School on Summit Road in the Santa Cruz Mountains above Los Gatos. Approximately 15 customers attended. Idylwild's evidence was presented by Franks. Staff presented its comprehensive report on the application through engineer Tom Smegal. Customers Drummond, Linden, Cook, Rowland,

The basic question that faces the Commission, Idylwild's management, and the ratepayers is whether or not this small mountain water utility should continue its membership in Mountain and intertie to obtain reliable treated water through its membership in the mutual from San Jose Water Company, or whether it should abandon its application fee in Mountain and face the uncertainties and large costs of investment in a modern water treatment plant. For the Idylwild ratepayers it is complicated to a degree by the fact that after the earthquake they formed a special district to buy Moody Gulch in order to protect the watershed from loggers; currently each ratepayer pays \$15 monthly, payable for 15 years. Once connected to Mountain and the Montevina Pipeline, that investment in Moody Gulch is substantially useless to them except as a hedge for the future.

We believe that in reality there is no choice open for Idylwild in this situation. The stringent water treatment requirements mandated under federal and state laws will shortly require very heavy investment in filtration and disinfection treatment plant. This equipment will require continuous monitoring and effort, requirements not feasible for so small a utility. Its life span of approximately 15 years would mean replacement investments. Filtration waste disposal would be expensive as well.

- 7 -

resolutions. Now, Idylwild must either put into effect the \$20 per month per connection surcharge to remain a member of Mountain or be dropped. We will authorize Idylwild to initiate and collect that surcharge. But we will limit the collection of the surcharge to nine successive months. If Mountain imposes a similar assessment beyond that period, Idylwild may seek an amendment to the order that follows to accommodate such requirement. As connection to the Montevina Pipeline through Mountain would be beneficial to all on the Idylwild Water System, each metered connection should be billed the surcharge whether or not it currently receives water or pays a service charge.

As soon as decisions are made on the intertie, Idylwild should request bids on the construction work and select a contractor. A further public hearing, after notice, would then be necessary, should Idylwild seek a surcharge to pay for the intertie construction costs. After completion of the improvements and initiation of water service from Mountain, rates would require adjustment to reflect the new costs involved, including the costs of purchased water.

The present proceeding will remain open as the vehicle for these purposes.

Comments on the Proposed Decision of the ALJ

As provided in PU Code § 311, the Proposed Decision of ALJ John B. Weiss was served on the parties to this proceeding. No party submitted comment.

Findings of Fact

1. Idylwild is a water public utility subject to regulation by this Commission.

2. Faced with coming stringent water filtration and treatment provisions mandated by federal and state health authorities, Idylwild must either switch and connect to an alternative safe and reliable treated water source, or itself

develop additional sources and install and maintain costly water treatment plant.

3. Idylwild lacks the funds and/or borrowing capacity to be able to go it alone in development of an independent utility-owned safe and reliable water supply and treatment plant.

4. The Montevina Pipeline project has brought a safe and reliable treated water supply to the general vicinity of Idylwild's service area, and in the form of the Mountain Mutual Water Company offers a present opportunity to participate as a mutual member company to obtain a secure dependable source of safe potable water for the future.

5. As an initial step, Idylwild has joined Mountain, but now as a mutual member is required to meet its obligations to the mutual.

6. Ratepayers will have to advance whatever funds would be required to bring Idylwild into present and future compliance with federal and state requirements, either as a mutual member company or as a self sufficient independent utility.

7. To meet its initial administrative costs and ongoing expenses pending ultimate full operations, Mountain requires its member companies to assess their customers a \$20 monthly assessment per connection for a nine-month period, with the probability of a reduced assessment thereafter.

8. At the May 28, 1991 evening hearing of the captioned application, there was no opposition from ratepayers to Commission authorization to Idylwild to impose on ratepayers a monthly per connection assessment for a nine-month period.

9. Because this proceeding involves the public health and safety the ensuing order should be made effective on the date of issuance.

Conclusion of Law

The application to immediately initiate the stated monthly surcharge should be granted as expeditiously as possible.

INTERIM ORDER

IT IS ORDERED that:

1. Idylwild Water System (Idylwild) is authorized to impose a \$20 per month per connection surcharge for remittance to Mountain Mutual Water Company for the latter to fund operations and administrative expenses.
2. The surcharge shall be for a period of 9 months, and shall be applicable to all metered customers regardless of whether they are currently paying service charges or receiving water service.
3. Within 60 days of the effective date of this order, Idylwild will put the construction work on the intertie out to bid and select a contractor who can expeditiously perform the work.
4. Should Idylwild find it necessary to obtain ratepayer funding for the intertie construction, it must file an amendment to the present application seeking a surcharge to pay for the construction.
5. This proceeding is not closed.

This order is effective today.

Dated July 24, 1991, at San Francisco, California.

PATRICIA M. ECKERT
President

G. MITCHELL WILK

JOHN B. OHANIAN

DANIEL Wm. FESSLER

NORMAN D. SHUMWAY

Commissioners

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