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Decision 91-11-019 November 6, 1991 NOV 7 1991

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of Mountain Charlie Water Works, Inc. to assess surcharge for all customers to offset cost incurred in hauling emergency supplies of water to the service territory.

ORIGINAL

Application 91-10-016 (Filed October 8, 1991)

Wester Sweet and Mark Lew, Attorneys at Law, for Mt. Charlie Water Works, Inc., applicant.

Robert Jones, interested party.

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

EMERGENCY INTERIM OPINION

Statement of Facts

Mountain Charlie Water Works, Inc. (Mt. Charlie) is a small privately owned Santa Cruz mountain water system constructed on the Santa Cruz County side of the summit. The company first came under Commission regulation September 10, 1987 as a result of Decision (D.) 87-09-032 following consumers' complaints. The system serves 137 active metered connections with water obtained from a well and various mountain creek sources. With limited transfer capability across rugged mountain terrain, Mt. Charlie's system has become vulnerable in recent years to recurrent drought. This situation has required it to purchase and haul water regularly and to impose stringent conservation measures.

As an aftermath of the 1989 Loma Prieta earthquake, the 21,000-foot long, 8-inch Montevina pipeline was constructed with various federal and state grants to bring water from the San Jose Water Company treatment plant at Montevina up the Santa Cruz

Mountain grade to Redwood Mutual Water Company (Redwood), the largest system in the mountain area. While there is no written agreement that Redwood is to share this water, there is sufficient pipeline capacity to supply water to all 14 mountain systems (12 mutuals and 2 privately owned public utilities, including Mt. Charlie). To overcome legal problems under Public Utilities (PU) Code § 2705 that could affect its mutual status, Redwood is in the process of turning the pipeline over to a newly formed mutual, Mountain Mutual (Mountain) to which all the 14 water systems would be members. This drawn out process is tied up in Federal Emergency Management Agency (FEMA) and Department of Water Resources (DWA) audits. Meanwhile, an engineering study has determined that Redwood's tank No. 5, which was to be the transfer point where Mt. Charlie and 2 small mutuals were to take delivery of the Montevina water, is not adequate and cannot be used. As an alternative, an adjacent site owned by Redwood is to be used as a tank farm and a 100,000-gallon tank to be constructed. From there Mt. Charlie must run a pipeline to its facilities' on Hutchinson and Mt. Charlie Roads. The 2 small mutuals are using an old 4-inch main to obtain water on an emergency basis from the Redwood tank.<sup>1</sup> This 4-inch main is owned by one of the mutuals. It had been contemplated that upgrading this 4-inch line to 6 inches would enable the 2 mutuals and Mt. Charlie to share this single transmission line. However, Mt. Charlie refused to pay a proportionate share of the engineering

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<sup>1</sup> We accept that while as an emergency measure under PU Code § 2705 Mt. Charlie could purchase water at cost were Redwood willing to sell, the delivery problems involving crossing Summit Road or by trucking would be more costly than the present trucking arrangements. Ridge and Stagecoach, owning the 4-inch line which is adequate for their needs, do not face these delivery problems, or as mutuals, the stricture upon sales to nonmutual public utilities.

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study costs, and accordingly relations between the 3 entities are strained.

The immediate problem is the drought caused drying up of 3 creek sources and reduced supply from Mt. Charlie's well. Mt. Charlie began hauling water to its service tanks on August 7, 1991, and must continue hauling water until sufficient winter precipitation falls in the Mt. Charlie Creek and Miller Creek watersheds to rejuvenate those streams. The October 25 and 26, 1991 rains caused some Mt. Charlie Creek runoff, but much more is needed before hauling can stop. Water rationing has been in effect since November 22, 1989 with penalties for customers whose use exceeds 620 cubic feet per month. Current rates for service consist of a minimum quantity charge of \$70 per month for up to 500 cubic feet, and a charge of \$5.25 for each additional hundred cubic feet.<sup>2</sup> A water trucking memorandum account to accumulate water trucking costs has been in effect, approved by Commission Resolution W-3534 on December 19, 1990.

Early on in the water hauling, Administrative Law Judge (ALJ) Weiss (who has been the hearing officer for all the numerous Mt. Charlie cases), authorized using accumulated drought penalty funds to pay water hauling costs until Mt. Charlie could file an application for authority to surcharge to amortize the balancing account.<sup>3</sup> There is a dispute concerning the amount collected in penalties, with Mt. Charlie indicating approximately \$3,000. But a staff audit indicates the amount should be \$6,140. In addition,

2. In addition, when Mt. Charlie joined Mountain, it had to agree to a monthly surcharge of \$20 per connection for a period of 9 months to pay its share of the new mutual's organization and other expenses. Decision (D.) 91-07-045 dated July 24, 1991 authorized Mt. Charlie to collect this surcharge. This surcharge presently is authorized through May 1992.

3 An emergency measure we hereby ratify.

the creek dry up has reduced pumping costs somewhat although the transfer pumping necessarily continues to move hauled water to the various storage tanks in the hills. Staff estimates that reduced pumping should lower the utility's power costs, saving approximately \$700 per month.

By this application, Mt. Charlie seeks authorization to immediately impose a \$60 per month per connection surcharge to continue until water hauling is no longer required.

An emergency public hearing was duly noticed for the evening of October 30, 1991 before ALJ Weiss at the Loma Prieta Community Center in the Santa Cruz Mountains. The hearing was attended by approximately 45 persons. At the hearing, vigorous comment was presented over the past management and operation of the utility. Much current discontent centered on a "boil water" notice by the utility in mid-July 1991, and chlorine imbalances that have occurred since. The County environmental Health Services is investigating. Some of the participants advocated a rebate for the months of July through October for failure to deliver potable water at all times. Others advocated a graduated surcharge for water hauling for those who consistently use less than the 500 cubic feet minimum quantity each month.

Mt. Charlie presented a summary of water hauling costs and payments for the period August 7, 1991 through October 30, 1991 showing charges of \$18,560.15 and payments of \$9,309.75, leaving an open balance of \$9,250.40, with the water hauling contractor pressing for payment. The utility asked for more time to go forward with its feasibility study and pipeline design, pointing out that until the Redwood tank farm is developed, it cannot proceed. It was supported in this request by a letter and testimony of Dyer S. Stickney, owner of D.S.S. General Engineering.

Staff recommended, in a very comprehensive report, that the surcharge be in the amount of \$50 per month which would generate \$6,850 a month, and that the surcharge be limited to 3

months. Staff further asks that at the end of 3 months there be another public hearing with Mt. Charlie being ordered to produce a full accounting of charges to the water hauling account as well as deposits of surcharges, transfer of penalty funds to the water hauling balancing account and deposit of electric power savings.

Discussion

Mt. Charlie has historically had to haul some water each year in the summer months. In recent years of the drought, this has become more routine and in increasing amounts. In its general rate proceeding, Case 89-11-031, the utility sought \$8,400 for purchased water. The Commission excluded any allowance for purchased water on staff's recommendation because a water hauling balancing account was available.

Until and unless winter rains rejuvenate Miller and Mt. Charlie Creeks continued water hauling will be necessary. While some customers have private 3,000 to 5,000 gallon holding tanks, most customers do not, and the utility must keep the system charged so that all customers receive some water to at least meet the 500 cubic feet minimum each month.

As hauling for the first approximate 3 months, August through October cost \$18,560.15, it is reasonable to assume that unless there is significant rain, the costs of hauling for the next 3 months, November through January, will not be less. Of this \$18,560.15 to date: \$9,309.75 has been paid through October 30, 1991, as follows:

\$3,179.75	actually paid from penalty account
2,960.25	balance per audit in penalty cost (4/30/91)
2,100.00	electric savings 3 months at \$700
<u>1,069.75</u>	from revenue funds of utility diverted to hauling
\$9,309.75	

Therefore, for the period ending October 30, 1991, \$9,250.75 is still owed the water hauler (\$18,560.15 - \$9,309.75 = \$9,250.75), and \$1,069.75 is to be recovered for the utility's general revenue

account, making a total of \$10,320.50 (\$9,250.75 + \$1,069.75 = \$10,320.50) in deficit for the balancing account as of October 30, 1991.

Assuming the probable continued need for hauling over the next 3-month period (November-January 1992) with a probable declining rate in the latter part of the period, at the outside another \$18,560 would be required from the balancing account surcharge. If the \$10,320 deficit from the August-October period is added, an outside total of \$28,880 would be required.

Assuming \$2,100 can reasonably be expected from electric savings, were we to adopt staff's proposed \$50 per month surcharge, producing \$6,850 per month, another \$20,550 would be obtained over the 3-month period which when added to the electric savings would provide \$22,650. The penalty account will add more to narrow the remaining \$6,230 outside expectations gap, and any respectable rainfall during November, December, and January, should eliminate any gap entirely. We believe this scenario to be reasonable and will, therefore, adopt staff's proposal.

Until the Redwood tank farm proposal to replace tank No. 5 as a transfer point for Mountain water firms up, we must agree with Mt. Charlie's request for additional time to meet the requirements of Ordering Paragraphs 3, 4, and 5 of D.91-07-045. The Commission still expects Mt. Charlie to aggressively initiate discussions with Ridge Mutual Water Company and/or Stagecoach Mutual Water Company, if necessary, with regard to an intertie and possible shared upgrading of the 4-inch interconnection pipeline to serve all 3 from the tank farm. If the latter mutuals refuse to participate, then, as soon as the tank farm alternative to tank No. 5 firms up, Mt. Charlie must within 60 days enter a contract to design a 6-inch intertie from the tank farm to its own holding facility and, pursuant to Ordering Paragraph 5 of D.91-07-045, shall furnish the Executive Director of this Commission with a construction work timetable.

In view of the \$9,250.40 presently owed Norm Green's trucking company, and the exhaustion of revenue funds available to meet this continuing obligation, an immediate injection of revenues is needed. Therefore, in this emergency situation, and to avoid any stoppage of water deliveries to the Mt. Charlie system which could cause a shutdown entirely, we will authorize the \$50 per month surcharge to become effective immediately with the month of November 1991.

Although this decision was subject to the provisions of PU Code § 311, all parties to the proceeding waived right to comment and reply, and stipulated to immediate Commission decision.

#### Findings of Fact

1. Mt. Charlie is a water public utility corporation subject to regulation by this Commission.
2. The continued drought has very substantially deprived Mt. Charlie of water obtained out of its creek and well sources, necessitating recourse again to water hauling to meet minimum requirements of the customers of this system.
3. The Commission previously has authorized a balancing account to track water hauling costs.
4. The costs of the present period of water hauling have exceeded available funds, including accumulated drought penalty funds (up to April 30, 1991), electric savings from reduced pumping, and utility revenue funds diverted to meet the emergency.
5. It is anticipated that costs of hauling water through January 1992 will continue to exceed funds available from electric savings and any and all drought penalty funds accumulated since April 30, 1991 through January 1992.
6. The cost of this emergency water hauling was specifically excluded in D.91-06-047 issued June 19, 1991, in Application 89-11-031, Mt. Charlie's most recent rate proceeding, in favor of recovery through a balancing account.

7. Mt. Charlie's captioned application seeks a \$60 per month surcharge to balance the balancing account; staff recommends a \$50 per month surcharge.

8. Coupled with savings in electrical expense from reduced pumping requirements and drought penalty account funds, a 3-month surcharge of \$50 per month is considered adequate to meet water hauling costs through January 1992.

9. The present emergency situation requires making the order that follows effective immediately.

10. Intertie and connection pipeline requirements of D.91-07-045 must be aggressively pursued.

Conclusions of Law

1. The present water shortage and water hauling funding emergency warrant immediate imposition of a surcharge, use of electric savings from unneeded pumping, and use of accumulated and future drought penalty funds.

2. Notice of this matter did not appear on the Commission's public agenda; however, an emergency exists in that there is a present water shortage and water hauling funding problem which justifies our action today under PU Code § 306(b).

3. This order should be made effective immediately.

EMERGENCY INTERIM ORDER

IT IS ORDERED that:

1. A monthly surcharge of \$50 effective with November 1991, and to continue for December 1991 and January 1992, per customer per meter, is authorized to be imposed immediately.

2. All surcharge revenues from this surcharge are to be placed in a balancing account to be used only to pay water hauling costs as set forth in this decision.

3. Mountain Charlie Water Works, Inc. (Mt. Charlie) shall immediately notify each of its customers of this 3-month surcharge.



4. Revenues from the Drought Penalty Account are to be transferred to the water hauling balancing account.

5. Each month, November, December, and January 1992, \$700 is to be transferred from revenues to the water hauling balancing account as set forth in this decision.

6. The provisions of Ordering Paragraph 3, 4, and 5 of Decision 91-07-045, as modified in the Discussion portion of the opinion, are to be pursued.

7. By March 15, 1992, Mt. Charlie shall furnish the Executive Director of this Commission with a written report summarizing all elements of the water hauling balancing accounts receipts and expenditures.

This order is effective today.

Dated November 6, 1991, at San Francisco, California.

PATRICIA M. ECKERT  
President  
JOHN B. OHANIAN  
DANIEL Wm. FESSLER  
NORMAN D. SHUMWAY  
Commissioners

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

  
NEAL J. SHULMAN, Executive Director