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Decision 92-11-045 November 23, 1992

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

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

ORIGINAL

Application 91-03-051 (Petition to Modify Decision 91-07-045 filed November 3, 1992)

OPINION ON PETITION TO MODIFY DECISION 91-07-045

Statement of Facts

Mountain Charlie Water Works (Mt. Charlie) is a small privately owned Santa Cruz Mountain water system serving 137 active metered connections on the Santa Cruz County side of the summit adjacent to Highway 17. With water obtained from a well and various mountain creek sources, and with limited transfer capability in very rugged mountain ravine terrain, Mt. Charlie has been very vulnerable to recurrent drought, requiring the utility to regularly and extensively purchase and haul water, and undertake stringent conservation measures. Devastated by the 1989 Loma Prieta earthquake, substantial infrastructure investment and additional water sources will be required to restore Mt. Charlie to full service.

A positive result of the 1989 earthquake was construction of a 21,000-foot, 8-inch Montevina pipeline from San Jose Water Company's Montevina treatment plant to near the summit. Built with Federal Emergency Management Agency and Office of Emergency Services grants and a Department of Water Resources loan, in order to be a shared resource for about a dozen small mutual and public utility water companies in the area, ownership is to be turned over to a new mutual, Mountain Mutual Water Company (Mountain), which the dozen local water companies must join to receive water.

Mountain's Board of Directors, in addition to a membership fee, imposed on each member water system a \$20 per month per connection contribution to defray Mountain's interim organizational, operational, and administrative expenses. This latter contribution was to continue for 9 months with a possible extension. Failure to pay cancels membership in Mountain and access to Montevina pipeline water.

Interim Decision (D.) 91-07-045 issued July 24, 1991 in Application 91-03-051, recognized how essential it was that Mt. Charlie maintain membership in Mountain in order to obtain access to the safe and reliable source of potable water represented by the Montevina pipeline access through Mountain. Accordingly, D.91-07-045 authorized Mt. Charlie to impose a \$20 per month per metered connection surcharge on each of Mt. Charlie's customers for a period of 9 months (beginning August 1991) and to remit these collected surcharges to Mountain. In the body of the opinion to D.91-07-045, the Commission also recognized that were Mountain to extend the assessment beyond 9 months, Mt. Charlie might seek modification of D.91-07-045 to accommodate Mountain's extension.

This is precisely what has occurred. The 9 months of surcharges authorized by D.91-07-045 were collected and remittance made to Mountain. Then Mountain mandated a 6-month extension; Mt. Charlie requires Commission authorization to pass this additional surcharge through.¹

In another Mt. Charlie proceeding, a water hauling surcharge case, D.91-11-019 issued in 1991 ordered the utility to

¹ Pending completion of an extensive state and federal audit relating to construction of the pipeline, ownership of the pipeline rests with Redwood Mutual and ownership cannot be transferred to Mountain. This means that water deliveries to Mountain's member entities must be further delayed although Mountain's expenses continue.

furnish the Executive Director of the Commission with a written report summarizing all elements of surcharges and balancing accounts. On April 10, 1992, the utility complied. Included in that report was a request for modification of D.91-07-045 to provide a 6-month extension of the Mountain assessment surcharge. Unfortunately, this request was not presented in this docket, was not made in application form, and, accordingly, not being filed as required under our Rules of Practice and Procedure, it was not processed. Mt. Charlie subsequently filed the present petition for modification on November 3, 1992.

Mountain's annual meeting will be in January 1993. Unless all assessments are current by that meeting, Mountain will suspend any delinquent member entity, place it at the bottom of new applicant entities, and deny it water when the Montevina water is available. In Mt. Charlie's case, it would also lose its two seats on the seven-person Mountain Board of Directors.

To maintain its membership in active status and retain the important two board seats, Mt. Charlie must obtain the \$18,240 (152 connections reserved x \$20 x 6 months) to bring its assessment current before January 1993. This can be done only by a one-time \$120 supplemental surcharge in December on each of Mt. Charlie's connections. Accordingly, by this petition Mt. Charlie seeks ex parte modification of Ordering Paragraph 2 of D.91-07-045 to change the period of the surcharge to 15 months from the stated 9 months; it also seeks authorization to impose a \$120 supplemental surcharge in the December 1992 billing to each customer to recover the extension assessment in order to remit these funds to Mountain in time to bring Mt. Charlie current prior to Mountain's January 1993 annual meeting.

Notice of Mt. Charlie's petition appeared in the Commission's Daily Calendar of November 5, 1992. A utility letter advising all customers of the petition being made and of the utility's request to impose this surcharge in December was sent to

each customer on October 31, 1992 together with each customer's November billing. Customers were informed in the letter that they could comment by writing to the administrative law judge at the Commission. Several objections have been received and have been considered.

Discussion

Access to Montevina pipeline water, to be available only through Mountain when the state and federal agencies complete their audit on the construction and operation phase to date and make the water available, is absolutely essential to Mt. Charlie. Increasingly stringent Environmental Protection Agency and Department of Health standards require that all community water systems relying on surface water sources must provide multiple barrier treatment by June 30, 1993. The requirements include preparation of an engineering report on water treatment plant capacity, installation of facilities to store and condition backwash water before reuse, provisions for certified water treatment plant operations, and capability to meet daily monitoring and operating requirements. The construction of a new water treatment plant to meet these new standards would require a very significant capital investment. The owners of Mt. Charlie do not have the funds to meet present needs, much less the funds to meet forthcoming state and federal treatment requirements. The owners are presently negotiating with the Department of Water Resources for loans to be used to replace the temporary jerry-built storage tanks and distribution lines (improvised to restore service after the 1989 earthquake) with permanent installations. Until the audits are completed and Mountain can own the pipeline and obtain revenue from water sales, its member entities have no choice but to maintain their memberships in order to assure future access to Montevina pipeline water.

While it is unfortunate that the request contained in Mt. Charlie's April 1992 report to the Executive Director for

authority to extend the previously authorized surcharge period was not filed in a manner that would have allowed the Commission to authorize a surcharge extension and spread it out over a longer period, there is still time to implement a surcharge and thereby avoid losing Mt. Charlie's membership in Mountain with its entitlement to water in the future, and the two board seats. Accordingly, recognizing the absolute necessity of bringing Mt. Charlie's Mountain membership current, we will modify ordering Paragraph 2 of D.91-07-045 to change the period of the surcharge to 15 months from the stated 9, and authorize Mt. Charlie to impose a \$120 supplemental surcharge in its December 1992 billing to each connection to recover the 6-month extension amount, with these collected supplemental surcharge funds then to be remitted to Mountain before the latter's January 1993 annual meeting. Because of the urgent nature of this matter, the order that follows will be made effective the day the order is signed.

Findings of Fact

1. Mt. Charlie is a water public utility corporation subject to regulation by this Commission.
2. Mt. Charlie needs additional reliable and safe water sources to meet its present and future requirements.
3. In D.91-07-045, the Commission determined that membership in Mountain would provide Mt. Charlie opportunity to obtain access to a secure dependable source of safe potable water for the future obviating the need to invest in expensive treatment plant to meet forthcoming state and federal standards.
4. By D.91-07-045, the Commission authorized Mt. Charlie to impose a \$20 per connection monthly surcharge on its ratepayers for a period of 9 months in order to pay Mountain's assessments on its member entities.
5. D.91-07-045 also recognized the probability of an extension beyond 9 months by Mountain, and informed Mt. Charlie

that it might seek modification of D.91-07-045 to accommodate Mountain's extension.

6. Mountain extended the assessment period from 9 to 15 months.

7. In April of 1992, Mt. Charlie in a report in another docket asked for authority to extend the surcharge to meet Mountain's assessment, but this request, which did not comply with the Commission direction in D.91-07-045, and was not submitted as an application or petition, was not processed.

8. On November 3, 1992, Mt. Charlie filed the present Petition to Modify D.91-07-045 to authorize a surcharge; the matter was noticed and customers were afforded an opportunity to respond to the petition.

9. Mt. Charlie's present petition seeks modification of D.91-07-045 to change the period of the surcharge from 9 to 15 months, and for authority to impose a \$120 per connection surcharge with the December 1992 billing to ratepayers to enable the utility to bring its Mountain assessment account current before Mountain's January 1993 annual meeting.

10. Time is of the essence if Mt. Charlie is to retain its Mountain membership.

Conclusions of Law

1. The petition to impose a \$120 per connection surcharge with the December 1992 utility billing to each ratepayer should be granted as expeditiously as possible.

2. There is no need under the circumstances for a public hearing.

ORDER

IT IS ORDERED that:

1. Ordering Paragraph 2 in Decision (D.) 91-07-045 issued July 24, 1991 in Application 91-03-051 is modified to change the applicable period from 9 months to 15 months.

2. Ordering Paragraph 7 is added to D.91-07-045 to read:

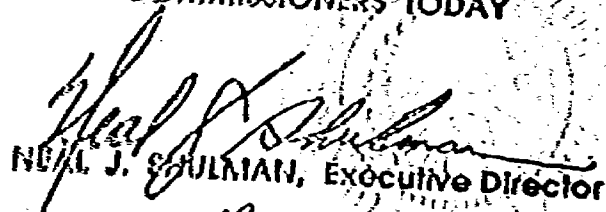
"7. Mt. Charlie is authorized to collect the last 6 months' amount of the authorized surcharge, in the amount of \$120 per connection, in the billing sent each ratepayer at the end of November for the month of December 1992."

This order is effective today.

Dated November 23, 1992, at San Francisco, California.

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

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


NEAL J. SCHULMAN, Executive Director
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