

DEC 17 1992

Decision 92-12-064 December 16, 1992

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
 (Petition to Modify
 Decision 91-07-046
 Filed December 4, 1992)

OPINION ON PETITION TO MODIFY DECISION 91-07-046

Statement of Facts

Idylwild Water System (Idylwild), a small privately owned Santa Cruz Mountains water system, serves approximately 41 active metered customers on the Santa Clara County side of the summit adjacent to Highway 17. Despite five years of drought, Idylwild with water obtained from a creek basin in Moody Gulch has had adequate water supplies. While its storage and distribution facilities were destroyed by the 1989 Loma Prieta earthquake, the system's owner has replaced or restored them.

Despite the adequate supply of water available, the stringent requirements being imposed by the Environmental Protection Agency and Department of Health Services to conform to the federal Safe Drinking Water Act amendments of 1986, which requires that all community water systems relying on surface water sources must provide multiple-barrier treatment by June 30, 1993, make it imperative that Idylwild obtain access to other water sources. The cost of treatment facilities to continue use of Moody Creek would be very substantial for so small a utility to obtain and operate.

A positive result of the 1989 earthquake was construction of the 21,000-foot, eight-inch Montevina Pipeline from San Jose Water Company's Montevina treatment plant up the Santa Cruz grade to the summit area. Built with federal and state grants plus a

Department of Water Resources loan, the pipeline is to be acquired by Mountain Mutual Water Company (Mountain) to be a shared source to its member companies to receive potable tested water conforming to the new federal and state requirements.

Mountain's Board of Directors, in addition to a membership fee, imposed on each member company a \$20 per month per connection contribution to defray Mountain's interim organizational, legal, and operating expenses. This contribution was to continue for nine months. In Interim Decision (D.) 91-07-046 issued July 24, 1991 in Application 91-03-050, the Commission, recognizing how essential it was that Idylwild maintain its membership in Mountain, and in order to obtain the funds needed for that purpose, authorized Idylwild to impose a \$20 per month per connection surcharge on each Idylwild customer for nine months. In the body of the opinion to D.91-07-046, the Commission also recognized that were Mountain to extend these "dues" assessments, Idylwild could seek modification of D.91-07-046 to accommodate Mountain's extension.

Mountain did determine upon an extension, mandating a six-month extension beyond the initially set nine-month period. And Idylwild continued to surcharge each customer through October 1992 to obtain the funds needed to maintain its Mountain membership. In addition, Idylwild collected a \$12 per connection supplemental surcharge for the month of November 1992.¹

¹ During the entire assessment period Mountain had assessed Idylwild based on 48 customer connections, whereas because of customers electing to quit the Idylwild system and rely upon their own wells and/or springs, Idylwild had only 41 customers paying the surcharge. Idylwild recently was successful in negotiating with Mountain for an average of 45 customers. To cover the resulting deficit Idylwild continued a surcharge through November, but for \$12 per connection and thereby has accumulated funds to keep it current with Mountain.

Idylwild has since realized that it lacked the requisite Commission authorization to have continued a surcharge beyond nine months. These amount to \$132 per customer. As the surcharge monies already collected are absolutely necessary to maintain Idylwild's membership, a necessity recognized by the Commission and the Santa Clara Health Department, Idylwild filed the captioned petition to modify D.91-07-046 to give it authorization for a one-time surcharge of \$132 per connection for the month of December 1992. As these funds have already been collected, rather than refund the unauthorized collections, they can be applied against the December surcharge in the same amount, thereby obviating the need to refund and recollect with attendant expense. All customers will thus be current and Idylwild will be able to keep its account with Mountain before January 1993.²

Notice of Idylwild's petition appeared in the Commission's Daily Calendar of December 4, 1992. A utility letter to all customers advised of the petition being filed, and 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 the Montevina Pipeline water, to be available only through Mountain when the legal and accounting technicalities involved in turning the facility over to Mountain are completed, is absolutely essential to Idylwild. Increasingly stringent Environmental Protection Agency and Department of Health standards

² The Mountain annual meeting will be held early in 1993. All accounts must be current by January 1993 in order to maintain membership. As only a limited number of connections are available to the Montevina pipeline and other mutual organizations beyond the original limit seek to join, any suspended member must await an opening in order to later rejoin. Therefore, maintenance of existing membership is especially important.

based on federal requirements make a switch to the proven Montevina Pipeline water the only economic and sensible way to go. The construction by Idylwild of a new water treatment facility to meet these new standards and the need for a certified operator would require a very significant initial capital outlay plus ongoing costs. The owners of Idylwild do not have these funds and do not wish to accept the day-to-day responsibility and obligations of operating a treatment plant. Until the Montevina Pipeline ownership issues can be resolved so that Mountain can acquire the pipeline and obtain regular revenues from normalized sales of water to member utilities, these member entities have no choice but to maintain their memberships in order to assure future access to pipeline water.

While it is unfortunate that Idylwild overlooked the D.91-07-046 statement that it could seek amendment of the decision's nine-month limit should Mountain impose an extension to its original assessment, the Commission considers the December surcharge being authorized here a reasonable resolution of the technical retroactive ratemaking issue raised. A new surcharge is authorized prospectively. The funds have already been collected and can be offset against the new surcharge, obviating the need to refund and then recollect the new charge, with the attendant costs and delay such a procedure would involve at a time when time is literally of the essence and the costs would only further hurt the utility which has just replaced facilities at considerable cost. While not ideal, we accept the petition's proposal.

Because of the emergency nature of this matter, the order that follows will be made effective the day the order is signed.

Findings of Fact

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

2. Idylwild needs access to a reliable source of safe potable water to replace its present reliance upon mountain stream surface water.

3. In D.91-07-046, the Commission determined that membership in Mountain would provide Idylwild opportunity to obtain access to a secure, dependable source of safe potable water for the future, obviating the need to invest in an expensive treatment plant to meet forthcoming federal and state standards mandated by federal law.

4. By D.91-07-046 the Commission authorized Idylwild to impose a \$20 per connection monthly surcharge on its ratepayers for a nine-month period in order to pay Mountain's assessments on its member entities.

5. D.91-07-046 also recognized the probability of an extension beyond nine months by Mountain, and informed Idylwild that it might seek modification of D.91-07-046 to accommodate any such extension.

6. Mountain extended the assessment period to 15 months.

7. Overlooking the fact that prior Commission authorization was a prerequisite to continuation of a surcharge beyond the initial, authorized nine-month period, Idylwild continued surcharging during the entire 15 months of Mountain's assessment, and also added another surcharge of \$12 per connection for the month of November 1992 to cover a surcharge deficit incurred when a number of customers left the Idylwild system.

8. On December 4, 1992, Idylwild filed the present petition to modify D.91-07-046 to authorize a surcharge; the matter was noticed and customers afforded an opportunity to respond to the petition.

9. Idylwild's petition seeks modification of D.91-07-046 to change the period of the surcharge from nine to 16 months, and for authority to impose a \$132 per connection surcharge with the December 1992 period to enable the utility to bring its Mountain

assessment current before Mountain's January 1993 cutoff point prior to Mountain's annual meeting.

10. By its petition Idylwild also seeks authorization to not refund the extension surcharge monies already collected, but rather to offset or credit them against the December surcharge for which authorization is herein being requested, thereby obviating the need and expense of a refund and recollection of the same amount from each customer.

11. Time is of the essence if Idylwild is to retain its Mountain membership.

Conclusions of Law

1. The petition to impose a \$132 per connection surcharge for the month of December 1992 on each ratepayer, considering the consequences if funds are not obtained to maintain Idylwild's membership in Mountain is reasonable and necessary.

2. Idylwild should be authorized to offset or credit the extension surcharge monies already collected without authorization against the December 1992 \$132 fee connection surcharge, thereby obviating the need to refund and recollect the same amount.

3. Under the circumstances there is no need for a public hearing.

4. The following order should be effective immediately, in order to preserve Idylwild's membership in Mountain.

O R D E R

IT IS ORDERED that:

1. Ordering Paragraph 2 in Decision (D.) 91-07-046 issued July 24, 1991 in Application 91-03-050 is modified to change the applicable period from 9 months to 16 months.

2. Ordering Paragraph 6 is added to D.91-07-046 to read:

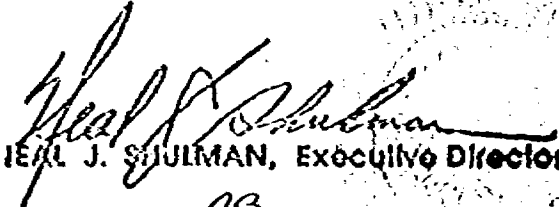
"7. Idylwild is authorized to collect a surcharge in the amount of \$132 per connection, in December 1992, and may use surcharge collections previously made with prior authorization for this purpose to offset or credit the December 1992 surcharge."

This order is effective today.

Dated December 16, 1992, at San Francisco, California.

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

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


NEAL J. SHULMAN, Executive Director
PB