

Decision 82 11 043

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's)
own Motion into the operations,)
practices, service, rules, tariffs,)
accounts, and requirements of)
Ridgecrest Heights Land and Water)
Company, a California Corporation.)

OII 102
(Filed December 15, 1981)

Wilbur H. Stark, for respondent.
Lynn T. Carew, Attorney at Law, and
Jasjit S. Sekhon, for the
Commission staff.

INTERIM OPINION

On December 15, 1981, the Commission instituted an investigation (OII) of Ridgecrest Heights Land and Water Company (Ridgecrest) to determine the following issues:

1. Whether Ridgecrest has been or is violating Public Utilities (PU) Code Section 702 by not proceeding in timely fashion to upgrade its system in accordance with its plans submitted to the Commission as required by Decision (D.) 87224 (as modified by D.91546).
2. Whether the Commission should impose upon Ridgecrest a specific timetable for implementing the modifications of its practices, procedures, and water systems to meet the requirements and standards of General Order (GO) 103 and other accepted engineering standards, as contained in its plans submitted to date.

3. Whether any other order or orders should be issued by the Commission in the exercise of its jurisdiction.

Hearings were held in this matter on July 20 and 21, 1982 in Los Angeles before Administrative Law Judge Archibald E. Main. At that time, testimony was presented by Arthur B. Jarrett of the Commission staff's Hydraulic Branch, and by Wilbur H. Stark, Ridgecrest's president and only corporate officer, and Reynold Earl Ericksen, a consulting civil engineer retained by Stark. The matter was submitted upon filing of concurrent briefs 30 days following the filing of transcripts.

Background

A. Commission Actions

As noted at pages 1 through 3 of OII 102, the issue of Ridgecrest's lack of compliance with GO 103^{1/} has been adjudicated in two proceedings (exclusive of this matter) during the past five years.

Briefly, in April 1977, the Commission ordered Ridgecrest to retain a professional engineer to design adequate storage and booster pumping facilities to bring normal operating water pressures up to GO 103 standards; the Commission further ordered Ridgecrest to submit the results of certain ordered tests and studies, together with a construction timetable, to the Commission staff within 90 days. The Commission also ordered certain metering, well production, and main replacement data to be submitted within 180 days. Finally, the Commission imposed a moratorium on the addition of new customers, subject to certain conditions (D.87224, as modified by D.87476 in Application 56687).

^{1/} Rules Governing Water Service, including Minimum Standards for Design and Construction.

In May 1978, the Commission instituted OII 17 to adjudicate the issue of Ridgecrest's compliance with D.87224, as modified. As a result of this investigation, the Commission essentially reiterated its prior mandates to Ridgecrest, including continuance of the moratorium on new customers (D.89661 in OII 17). In ordering submission of a detailed engineering report, the Commission stated: "The report shall itemize each such modification, and estimated cost thereof, and the estimated time within which the modification will be accomplished." (D.89661, Ordering Paragraph 7.)

In January 1979, Ridgecrest submitted a 20-year improvement plan^{2/} which was analyzed and criticized by the Commission staff, as noted in D.91546 (modifying D.89661), issued April 15, 1980. At this time, however, the Commission rescinded Ordering Paragraph 7 of D.89661, noting the dubious value of a construction timetable due to Ridgecrest's poor financial condition (D.91546, Ordering Paragraph 3).

However, the Commission reimposed the timetable requirement in Ordering Paragraph 4 of Resolution W-2736 dated October 22, 1980.

Ridgecrest then submitted a Remedial Plan of Improvement (dated January 17, 1981) and a proposed Amended Plan (dated March 25, 1981); both plans were prepared by Western Engineering and Surveying, Inc. Despite submission of these plans, Ridgecrest made no coordinated effort to implement the suggested system improvements; consequently, Ridgecrest's system continued to deteriorate and serious outages

^{2/} The plan entitled "Existing Capacity and Plan of Improvement For Meeting Present and Future Demands" was prepared by Western Engineering and Surveying, Inc.

were reported to the Commission staff during the summers of 1980 and 1981. There is also continuing dissatisfaction with the new-customer moratorium.

At the commencement of hearings in the present OII, staff put Ridgecrest on notice "that failure to upgrade the system to meet these minimum standards will result in the Staff urging the Commission to initiate a receivership proceeding pursuant to Public Utilities Code § 855."

B. Department of Health Services' Actions

In recent years, the State Department of Health Services (DHS) has also been involved in litigation with Ridgecrest.

On November 13, 1980, DHS issued an Administrative Order requiring Ridgecrest to (1) submit, within 90 days, a detailed engineering report detailing system alterations designed to ensure a continuous supply of water at a minimum pressure of 20 pounds per square inch throughout its system; (2) complete these alterations within nine months; (3) develop, equip, and place in service wells Nos. 8, 10, and 11 within 60 days; and (4) cease adding any new service connections.

On December 3, 1981, the Attorney General's office, on behalf of DHS, filed a complaint for injunctive relief against Ridgecrest, alleging noncompliance with the November 1980 DHS' Administrative Order (Kern County Superior Court, Case 177403). On May 17, 1982, the Kern County Superior Court issued its Order re Preliminary Injunction enjoining Ridgecrest from operating its system in violation of the provisions of Health and Safety Code Sections 203 and 4010 et seq., and further requiring that Ridgecrest:

"(a) Submit a sufficiently detailed engineering report to the state Department of Health Services. The report shall evaluate the source, storage and distribution system of Ridgecrest Heights Water Company and shall make specific recommendations for all of the repairs, alterations and/or additions which are necessary to enable the water company to obtain and maintain a continuous supply of water of adequate quantity to supply the water system during periods of maximum peak demand and to maintain water pressure throughout the system at a minimum pressure of 20 pounds per square inch during such periods. The report shall be prepared by a registered civil engineer who is experienced in water system design and shall be prepared to the satisfaction of the department.

"(b) Defendants are ordered to submit a sufficiently detailed application for a state loan under the Safe Drinking Water Bond Act to the State Department of Water Resources within thirty (30) days of the date of this order. The application shall be prepared by a certified public accountant and shall be prepared to the satisfaction of the State Department of Health Services.

"(c) Defendants are ordered to complete all of the repairs, alterations and/or additions recommended in the report submitted pursuant to section (a) of this order within nine (9) calendar months following the date of approval of the recommendations /3/ by the department or the granting of a temporary or amended permit by the department, whichever is later. Ridgecrest Heights Water Company shall obtain a temporary or amended permit from the department for any modifications, additions

2/ According to DHS' letter dated July 30, 1982, the "date of approval of the recommendations" should be interpreted as the "date we [DHS] notify the utility that we have approved the plans and specifications for the project."

or changes of the source of supply, method of treatment or distribution system which require such permit pursuant to section 4019 of the Health and Safety Code.

"(d) Defendants are ordered, no later than sixty (60) days from the date of this order, to adequately develop, equip, and place into service wells number 8, 10, and 11.

"(e) Defendants are ordered to immediately cease the addition of the new service connections to the systems until all of the requirements of section 4019 of the Health and Safety Code of the waterworks standards at Title 22, California Administrative Code sections 64551 et seq. concerning such connections are met, including but not limited to, section 64568."

C. Subsequent Events

In response to these events, Ridgecrest retained another civil engineer, Reynold Erickson, and submitted a new plan^{4/} which the Commission staff and DHS reviewed and approved with certain minor modifications. In response to the Kern County Superior Court injunction, Ridgecrest filed a request with the State Department of Water Resources (DWR) for a \$1.5 million Safe Drinking Water Bond Act loan.

At the time of the OII 102 hearings, Ridgecrest ranked fifth on the DWR priority list, and the DWR loan commitment was apparently imminent. The loan commitment has since been made. By letter dated September 24, 1982, the director of DWR informed Ridgecrest that \$1,498,000 of the California Safe Drinking Water Bond Act fund was reserved to assist Ridgecrest in funding its improvement projects. ✓

^{4/} Engineering Report - Ridgecrest Heights Water Co., revised April 2, 1982, prepared by Desert Engineering Co., attached as Attachment A to Exhibit 2.

Staff Investigation

PU Code Section 702 provides:

"Every public utility shall obey and comply with every order, decision, direction, or rule made or prescribed by the Commission in the matters specified in this part, or any other matter in any way relating to or affecting its business as a public utility, and shall do everything necessary or proper to secure compliance therewith by all of its officers, agents, and employees."

Staff investigation confirms that Ridgecrest has failed to comply with Commission decisions and resolutions issued during the past five years to prod Ridgecrest into compliance with GO 103. The progress made to date, which only sets the stage for minimum compliance, has taken five years. It has required the development of four engineering reports, the separate efforts of two state agencies, and a superior court injunction.

Even with Ridgecrest's receiving the DWR loan commitment and the cooperative efforts of Ridgecrest's new consulting engineer, DHS, and the Commission staff, some difficulties will probably be encountered. It is therefore essential that the actions of Ridgecrest's principal and only corporate officer, Wilbur H. Stark, should leave no doubt about his good faith in carrying out an adopted plan to upgrade the water system. Moreover, under Ordering Paragraph 7 of D.89661 Ridgecrest may not undertake any construction or improvements to the system apart from those prescribed in the adopted plan, except emergency repairs or replacements, until after approval by the Commission upon written request countersigned by the professional engineer retained by Ridgecrest.

The staff recommends that the Commission order Ridgecrest to upgrade its water system as set forth in the Ericksen plan subject to certain minor modifications. In addition, staff recommends that Ridgecrest be required to establish a 20-year system improvement program designed to replace 5,000 feet of water mains each year.

Ridgecrest's Position

Ridgecrest supports the Ericksen plan, but opposes the staff-recommended 20-year system improvement program. As an alternative to the staff plan, Ridgecrest proposes through a late-filed exhibit a 6-year fire-flow improvement program.

Since the merits of both proposals are still in question, we are deferring resolutions of this disputed issue to a further decision in this proceeding. ✓

Findings of Fact

1. Ridgecrest has not had an established program to improve its deteriorating water system with the result the water system and service to the customers have continued to deteriorate.

2. Ridgecrest has not made reasonable efforts to upgrade its water system as required by D.87224, D.89661, and Resolution W-2736.

3. Ridgecrest's water system is in urgent need of upgrading.

4. Ridgecrest's normal system pressures do not meet the minimum pressure limits of 40 pounds per square inch gauge of GO 103.

5. Ridgecrest has not installed a suitable measuring device at each source of supply as required by GO 103.

6. Ridgecrest's distribution system because of undersized mains is inadequate for supplying water for fire flow.

7. By following the Ericksen plan (Attachment A to Exhibit 2) with certain minor modifications, Ridgecrest will increase its basic water supplies and bring its service generally into compliance with the pressure requirements of CO 103.

8. Ridgecrest has obtained a commitment from DWR for a \$1,498,000 Safe Drinking Water Bond Act loan.

Conclusions of Law

1. Ridgecrest should forthwith file with the Commission an application for approval of the DWR loan and an appropriate customer surcharge to repay the loan.

2. Ridgecrest should upgrade its water system by completing, within nine months after obtaining our approval of the DWR loan, Projects A through V as set forth, except for the following minor modifications, in Attachment A to Exhibit 2:

- a. All new transmission and distribution mains to which a fire hydrant may be attached must be at least 6 inches in diameter as required by Section VIII.3. of CO 103.
- b. Except for already purchased used storage tanks, all further equipment purchased must be new.
- c. All new wells must be designed by a licensed civil engineer.
- d. If building permits for the erection of five storage tanks cannot be obtained at the sites recommended, Ridgecrest shall erect the tanks at alternate sites. Under no circumstances may the total installed storage capacity be less than 1,000,000 gallons.

3. Except for emergency repairs or replacements, Ridgecrest should confine any construction or improvements to its system to the above Projects A through V including the specified minor modifications. Any further changes in the projects may be made only after approval by the Commission upon written request countersigned by the professional engineer retained by Ridgecrest. Similarly, any construction or improvements other than the projects or the emergency repairs or replacements may be undertaken only after approval by the Commission upon written request countersigned by the professional engineer retained by Ridgecrest.

4. The longer-range main replacement and fire-flow improvement proposals should be addressed in a further decision in this proceeding.

5. Because of the urgent need for system upgrading, the following order should be effective upon its being served upon Ridgecrest.

INTERIM ORDER

IT IS ORDERED that:

1. Within 30 days after the effective date of this order Ridgecrest Heights Land and Water Company (Ridgecrest) shall file with the Commission an application for approval of the Department of Water Resources (DWR) loan and an appropriate customer surcharge to repay the loan.

2. Within nine months after obtaining our approval of the DWR loan, Ridgecrest shall upgrade its water system by completing Projects A through V as set forth, except for the following minor modifications, in Attachment A to Exhibit 2:

- a. All new transmission and distribution mains to which a fire hydrant may be attached must be at least 6 inches in diameter as required by Section VIII.3. of GO 103.
- b. Except for already purchased used storage tanks, all further equipment purchased must be new.
- c. All new wells must be designed by a licensed civil engineer.
- d. If building permits for the erection of five storage tanks cannot be obtained at the sites recommended, Ridgecrest shall erect the tanks at alternate sites. Under no circumstances may the total installed storage capacity be less than 1,000,000 gallons.

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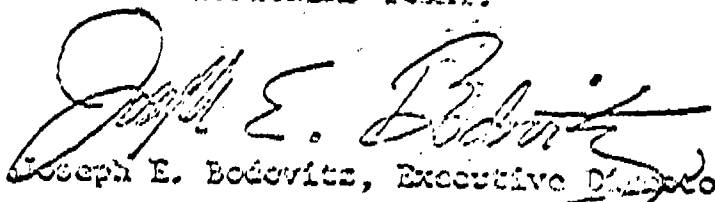

Ridgecrest is put on notice that should it fail either to pursue diligently the prerequisites for having the loan funds disbursed by DWR or to proceed with timely construction of Projects A through V once the loan funds have been disbursed, the Commission shall issue an order to show cause why the Kern County Superior Court should not be petitioned to appoint a receiver to operate and manage Ridgecrest.

The Executive Director shall cause a copy of this order to be served upon Wilbur H. Stark and this order shall become effective on the date of service.

Dated NOV 3 1982, at San Francisco, California.

JOHN E. BRYSON
President
RICHARD D. GRAVELLE
LEONARD M. CRIMES, JR.
VICTOR CALVO
PRISCILLA C. CREW
Commissioners

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


Joseph E. Bodovitz, Executive Director


or changes of the source of supply, method of treatment or distribution system which require such permit pursuant to section 4019 of the Health and Safety Code.

"(d) Defendants are ordered, no later than sixty (60) days from the date of this order, to adequately develop, equip, and place into service wells number 8, 10, and 11.

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Since the merit of both proposals are still in question, we are deferring resolutions of this disputed issue to a further decision in this proceeding, ~~probably after additional hearing.~~

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2. Ridgecrest has not made reasonable efforts to upgrade its water system as required by D.87224, D.89661, and Resolution W-2736.
3. Ridgecrest's water system is in urgent need of upgrading.
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7. By following the Ericksen plan (Attachment A to Exhibit 2) with certain minor modifications, Ridgecrest will increase its basic water supplies and bring its service generally into compliance with the pressure requirements of GO 103.

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- b. Except for already purchased used storage tanks, all further equipment purchased must be new.
- c. All new wells must be designed by a licensed civil engineer.
- d. If building permits for the erection of five storage tanks cannot be obtained at the sites recommended, Ridgecrest shall erect the tanks at alternate sites. Under no circumstances may the total installed storage capacity be less than 1,000,000 gallons.