

ORIGINAL

Decision No. 86987

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's own motion into the operations, practices, service, equipment, facilities, rules, regulations, contracts, and water supply of the MONTEREY PENINSULA DISTRICT OF CALIFORNIA-AMERICAN WATER COMPANY, a corporation, and of RANCHO DEL MONTE DIVISION OF WATER WEST CORPORATION.

Case No. 9530
(Filed April 3, 1973)

EMERGENCY EIGHTH INTERIM OPINION

By Decision No. 86051 dated July 2, 1976, the Commission, after hearings held pursuant to Sections 350 through 358 of the Water Code, found that a water shortage emergency existed within the area served by the Monterey District of California-American Water Company (Cal-Am) such that ordinary demands and requirements of water consumers could not be satisfied without depleting the water supply of the distributor to the extent that there would be insufficient water for human consumption, sanitation, and fire protection.

Having made this finding, the Commission, with the advice of the community, proceeded to establish a water rationing plan. By Decision No. 86270 dated August 17, 1976, the Commission directed Cal-Am to modify the plan so as to provide for a continuing minimal amount of rationing.

The reasons for the imposition and modification of the rationing plan are set forth in the opinion portions of the reference decisions. Since the issuance of the decisions, northern California has experienced a second winter with very little rain. As a result of the drought, several large publicly owned water utilities have instituted water rationing based on per capita allowances.

The presently effective Cal-Am rationing plan was primarily designed to alleviate the effects of inadequate transmission plant, and consists of four phases which depend on the amount of water stored in Cal-Am's terminal reservoirs, Forest Lake and Pacific Grove. The plan was based on the assumption that the restrictions required by the various phases would reduce consumption to a quantity below the transmission main capacity and thus permit replenishment of the terminal reservoirs.

Phase Three of the plan prohibits all outdoor uses of water, including irrigation of golf courses, and is triggered when the total usable amount of water stored in the two terminal reservoirs drops below 60 acre-feet.

It now appears that, because of the drought, flow in the Carmel River may cease entirely and Cal-Am will not be able to meet, from its wells, the demands being placed on the system without invoking Phase Three and keeping that phase in effect until the supplies available from the Carmel River again become adequate to at least meet the demands that would occur under Phase Two of the rationing plan. The invoking of Phase Three for an indefinite period would result in the virtual destruction of water dependent landscaping, including the golf courses on which much of the local community, particularly low income groups, depends as a source of employment.

On February 10, 1977, the Commission issued Decision No. 86959 in Case No. 10114, the Commission's state wide investigation into the subject of water conservation. In this emergency order, the Commission, among other things, directed all investor-owned California water utilities to forecast the probable availability of water to supply their systems for the remainder of 1977, and to submit their conclusions as to the prospects of meeting predicted demands from additional available supplies. Where a study indicated a water shortage, the study was to be accompanied by a rationing plan. The larger water utilities, such as Cal-Am, were required to accompany their plans with drafts of local ordinances designed to provide for enforcement of the plans by local law enforcement agencies. The order also authorized utilities to propose rates designed to recover

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reasonable expenses incurred by complying with the order by means of an advice letter tariff filing.

The Acting Executive Director of the Monterey Peninsula Water Management Agency, a joint powers agency created by the six Monterey Peninsula cities and the County of Monterey, has informed our staff that the Water Management Agency, at a public meeting held on February 14, 1977, by unanimous vote, adopted a water rationing program that was based on per capita allowances for residential users and various degrees of restriction for all other users. The program contains a provision that variances can be granted by the Water Management Agency for extreme hardship.

The program also provides that phase changes are to be made at the direction of the agency.

The program adopted by the Water Management Agency has the advantage of being formulated at the local level by public officials directly elected by voters of the local communities. There is no question of its acceptability by the community as a whole. There is the question, however, whether the Commission can delegate the administration of its functions to a local agency. A careful reading of Sections 350 through 358 of the Water Code leads us to believe that the Legislature intended that water shortage emergencies should, to the extent possible, be dealt with at the local level. The Governor also, in recent public statements, has said that he would like, to the extent possible, to have local communities cope with the water emergency in the manner they deem best according to their local situations.

Section 357 of the Water Code says, concerning regulations and restrictions adopted by a water utility "...provided, however, that any distributor of water which is subject to regulation by the State Public Utilities Commission shall before making such regulations effective secure the approval thereof by the Public Utilities Commission." There appears to be nothing in these sections, or in the Public Utilities Code, that would prevent approval of a program that would provide for administration of the program

by a local body, providing the Commission retained initiative, veto, and appeal power and overall ultimate sovereignty.

Cal-Am informs our staff that it is concerned about the complexity of the Water Management Agency's program and the intensive effort that may be required to enforce it.

Cal-Am has also told the staff that the computer program that it uses for its billing may not be readily adaptable to the administration of the rationing program. The computer only bills for 100 cubic feet^{1/} intervals. The water meters are only read to the lowest 100 cubic feet, and any usage over an even 100 cubic feet usage is picked up in the next meter reading. Cal-Am is also concerned that its bimonthly billing program may not be sufficiently flexible to accommodate the phase changes of the Water Management Agency's rationing program.

As we said in Decision No. 86959 (mimeo. page 8), a water shortage is a community problem, and it is reasonable for a utility, and its customers, to call for the assistance of the community in enforcing water-saving measures intended to protect and benefit all of the citizens of the community. There is no reason why the enforcement of the program should be entirely the responsibility of Cal-Am. The member local governments of the Water Management Agency certainly should be able, in this water supply crisis, to delegate personnel to assist with the enforcement of its program. It would be most appropriate if the local governments would provide for direct enforcement by means of local ordinances.

The Commission understands Cal-Am's concern that its billing procedures may not readily accommodate the Water Management Agency's rationing program. It is possible, and even probable that either the program, or Cal-Am's business procedure, or both, will subsequently require modification. For that reason we will provide that modifications to the program may be initiated by the less complex procedure of a tariff filing and be authorized by a Commission resolution.

^{1/} 100 cubic feet equals 748 gallons.

In the meantime the Commission will understand the difficulties involved and can only expect Cal-Am to do its best to abide conscientiously with the program to the extent reasonably possible.

In order to maintain the Commission's jurisdiction over the overall operation of the rationing program, we shall add a provision that the Executive Director of the Commission shall have power to initiate or veto phase changes and that he shall be immediately advised of changes of phase and also be supplied with the data justifying the phase change. We shall also add the language from the previous plan that provides for appeal to the Commission staff and to the Commission.

Findings

1. The presently effective water rationing plan of Cal-Am's Monterey District is designed to deal with the effects of limited transmission main capacity and is inappropriate and unreasonable for use as a program for dealing with the effects of a prolonged drought.

2. The northern portion of California is now in the second year of a drought situation.

3. The presently effective water rationing plan should be revoked and replaced with a program designed to deal with a prolonged drought.

4. The water rationing program formulated by the Monterey Peninsula Water Management Agency, as modified by this decision, is, under the present drought circumstances, a just and reasonable set of regulations and restrictions on the delivery and consumption of water for Cal-Am's Monterey District.

5. Because of the urgent necessity of replacing the present water rationing plan with a program designed for operation during a prolonged drought, this order should become effective on the date of signing and be effective until modified or canceled by Commission resolution.

EMERGENCY EIGHTH INTERIM ORDER

IT IS ORDERED that:

1. California-American Water Company shall, on the date hereof, file and institute the water rationing program for its Monterey District attached to this decision as Appendix A as the utility's Rule No. 11-A, and concurrently withdraw and cancel its presently effective Rule No. 11-A. The new rationing program shall become effective immediately upon filing.

2. Modifications and changes to, and cancellation of, the herein authorized rationing program may be made by Commission resolution.

The effective date of this order is the date hereof.

Dated at San Francisco, California, this 18th day of FEBRUARY, 1977.

Robert B. Brown
President
William J. Quinn
Richard D. Hurrell
Commissioners

Commissioner Vernon L. Sturgeon, being necessarily absent, did not participate in the disposition of this proceeding.

Commissioner Leonard Ross, being necessarily absent, did not participate in the disposition of this proceeding.

APPENDIX A
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FOR
RESIDENTIAL USERS

<u>Well Production in Acre- Feet Per Day</u>	<u>Phase</u>	<u>Allocation in Acre-Feet Per Day</u>	<u>Basis For Phase</u>
34.4	0	19.4	Voluntary conservation
31.0	1	19.4	63 gals. per person per day
27.1	2	15.5	50 gals. per person per day
25.1	3	13.5	44 gals. per person per day
21.5 and below	4	10.7	35 gals. per person per day

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MONTEREY WATER RATIONING PROGRAM
FOR
ALL OTHER USERS

<u>Well Production in Acre- Feet Per Day</u>	<u>Phase</u>	<u>Allocation in Acre-Feet Per Day</u>	<u>Basis For Phase</u>
34.4	O	15	Mandatory nonresidential restrictions only
31.0	A	11.6	Restrictions plus percent reductions: Commercial 20% Construction 25% Industrial 0% Schools and public agencies 35% DLI & PostGrad 30% Restaurants 15% Motels 25% Hotels 20% Golf courses 50% Car Wash } Nonrecycle 20% } Recycle 0%
21.5	B	10.8	Same as Phase A but reduce golf courses to 20% of 1976 consumption.
19.2	C	8.5	80% of Phase A plus restrictions. Golf courses at 20% of 1976 consumption.
17.2	D	6.5	63% of Phase A plus restrictions. Golf courses at 20% of 1976 consumption.
15.2	E	4.5	46% of Phase A plus restrictions. Golf courses at 20% of 1976 consumption.
12.0 and below	F	1.3	Emergency and essential services only.

Note: Reduction percentages relate to the individual customer's average consumption in calendar 1976.

Residential

Commercial

Business or manufacturing companies where the water is not used principally in the manufacturing or processing function (this would include commercial offices and public utilities such as The Pacific Telephone and Telegraph Company and Pacific Gas and Electric Company, hospitals, churches, and other cultural, social, and religious organizations).

Construction

Industrial

Manufacturing or processing establishments where the water is used principally in the manufacturing or processing function (factories, refineries, bottling plants, food processing plants, nurseries, laundries, etc.)

Schools & Public Agencies

Private and public schools, cities, county, airport, fairgrounds, libraries, etc.

DLI and Naval Postgraduate School

The Defense Language Institute (Presidio of Monterey) and the Naval Postgraduate School.

Restaurants

Motels

Hotels

Golf Courses

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I. MANDATORY

NONRESIDENTIAL RESTRICTIONS

1. All outside watering prohibited except by grey water or treated effluent (subject to health restrictions), except school and public agency athletic and play fields.
2. No filling of new pools.
3. Nonresidential showers restricted to 3 gpm maximum.
4. Where plumbing fixtures will accommodate water saving devices, they shall be installed.
5. Sink flows shall be restricted to 3 gpm.
6. No water service to restaurant patrons except by request; served without ice.
7. All hoses must be equipped with a shut-off device at the discharge end.
8. Use keyed hose bibs on construction job sites.
9. Drinking cans and paper cups to be furnished at all construction job sites.
10. Only non-potable water may be used for earth compaction.
11. Chemical toilets must remain on construction jobs until completion. No use of new toilets on job site until the job is turned over to the owner.
12. Public/employee educational program.

II. PENALTIES

Penalties may only be assessed upon completion of a full billing cycle under the rationing program.

Customers found to be in violation over the term of the billing period (taking into account movement between phases during the period) shall suffer the following penalties:

1st offense - 1/8" restrictor placed in water line at the meter for a minimum 72-hour period.

2nd and all succeeding offenses - 1/8" restrictor placed in water line at the meter for a minimum of 720 hours.

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In the case of residential customers, removal shall be done at the end of the penalty period upon the payment of a \$25 fee. All other users shall be required to pay the actual cost to Cal-Am for the installation and removal of the restrictive device.

III. CRITERIA FOR PHASE CHANGES

The phasing of the rationing program is to be at the direction of the Water Management Agency using the restrictions and limitations to bring water use into parity with well production capability. The rules for this are as follows:

1. When water usage exceeds 90% of well production capability for three consecutive days, the Water Management Agency shall be called into session to determine if a more restrictive phase be implemented.
2. When well production capability exceeds water usage by 15% for ten consecutive days, the Water Management Agency shall be called into session to determine if a less restrictive phase is appropriate.
3. The Water Management Agency may, at its discretion, change either of the residential or nonresidential phases without changing the other and without necessarily relating phases to water production.
4. The Water Management Agency shall immediately advise by telephone, (415)-557-1863, the Chief Hydraulic Engineer of the Commission of determinations of change of phase by the Water Management Agency and supply, by mail, the data justifying the phase change. Phase changes may be initiated or vetoed by the Executive Director of the Commission.

IV. APPEALS

1. In hardship cases due to health, safety, fire, or extreme circumstances, variances from the subscribed standard may be granted by the Water Management Agency Board for a prescribed period of time.

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2. Any person aggrieved by any action taken or threatened to be taken pursuant to this program shall have the right to first petition the Public Utilities Commission staff, and such petition may include a request for interim relief. Any person not satisfied with the decision of the staff, which shall be by a letter from the Executive Director of the Commission, shall then have the right to file a formal complaint with the Commission and may include a request for interim relief. No other action at law or in equity shall accrue against California-American Water Company because of, or as a result of, any matter of thing done or threatened to be done pursuant to the provisions of this program.