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ORIGINAL

Decision No. 87860 SEP 13 1977

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's own motion into the rates, operations, practices, service, equipment, facilities, contracts, rules, regulations and water supply of Earl Powell and Louise Powell, individually and doing business as San Martin Water Works.	Case No. 10286 (Filed March 15, 1977)
COUNTY OF SANTA CLARA, FREDERICK A. HOFFMEYER, Office of the Fire Marshal, KURT A. FISHER, Environmental Health Services, Complainants, vs. EARL L. POWELL and LOUISE L. POWELL dba EAST SAN MARTIN WATER COMPANY, Defendants.	Case No. 10318 (Filed April 25, 1977)

F. A. Hoffmeyer, Deputy Fire Marshall, for County of Santa Clara, complainant.
Kurt Fisher, for Environmental Health Services, County of Santa Clara, complainant in C.10318 and intervenor in C.10286.
Earl Powell, for himself and Louise Powell, individually and dba San Martin Water Works, defendants.
Jasper Williams, Attorney at Law, and Eugene Lill, for the Commission staff.

O P I N I O N

The San Martin Water Works (defendant), also known as the East San Martin Water Company, was purchased by Earl Powell (Powell)

and his wife Louise from Harvey and Marjorie Bear, under authority granted by Decision No. 81618 dated July 24, 1973 in Application No. 53881. The utility serves approximately 150 residential customers, a packing house, several markets, and a few small business establishments situated in an essentially rural area east of Monterey Road (old U.S. Highway 101) in and around the unincorporated community of San Martin in Santa Clara County. With minor exceptions the service is metered.[1/]

The service area of the utility, in the form of the letter "T", actually is two separate systems. The western system, comprising the head of the letter "T", lies between Monterey Road and new U.S. Highway 101, and serves the old townsite. It consists of a looped distribution system utilizing 2-inch, 6-inch, and 8-inch mains served from a 5,000-gallon hydropneumatic tank drawing water by means of a 20-hp pump from a 243-foot deep well (rebuilt in 1968) located on utility property near the corner of Llagas and Spring Avenues. Pressure is maintained between 22 and 48 psi and service appears satisfactory. The eastern system, comprising the tail area of the "T", stretches eastwardly from new U.S. Highway 101 toward the gently ascending slopes leading up to Coyote Lake County Park. Water for this portion of the system is obtained from a spring located on the slopes on the ranch of the former owner. From the spring, water flows by gravity into a 16,000-gallon concrete reservoir, also located on

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1/ However, some meters register flow in gallons, necessitating conversion to cubic feet for billing as the tariff schedule provides for charges by cubic feet. On occasion conversions have not been made, resulting in exceptional overcharges.

Bear's property.[2] In response to an order in 1974 by the Gilroy-Morgan Hill Justice Court, a chlorinator was installed at the reservoir; however, it is not always used.[3] From the reservoir the water is distributed westwardly along San Martin Avenue from New Avenue almost 1½ miles to U.S. Highway 101 by means of a single 2-inch main. There are pressure problems in this part of the system, although theoretical pressure is about 30 psi. The two service areas of the overall utility system are interconnected by means of a 4-inch main under U.S. Highway 101. A valve controls interflow. A map of the service system appears as Appendix A to this decision.

As late as March 1977 defendant, without authorization, was augmenting the eastern (or spring derived) water supply with water

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2/ Under the purchase agreement, the spring, the 16,000-gallon reservoir, and the 2-inch main from the reservoir to New Avenue were to be retained by the Bears, and Powell was to install a new source of water within a year. The sum of $23,000 of the $48,000 purchase price was retained to provide a new well and storage facility. Paragraph 7 of Decision No. 81618 provided:

"7. Before September 30, 1973, the utility shall file in this proceeding a statement of its plan to either acquire a second source of water or install additional storage equivalent to five days average water use."

Nothing has been done to accomplish this objective.

3/ The spring, although enclosed by a rock and cement closure, has during the past four years been subject to recurring bacteriological contamination from animals, leaves, and organic matter. The Santa Clara County Health Department's Sanitation Division regularly tests both the well and spring water of this utility, following federal drinking water standards. The well water in the western half of the utility has consistently tested good. On the other hand, the water derived from the spring source in the eastern half of the system frequently has shown heavy contamination, primarily because chlorine has not been added regularly.

diverted from two additional springs located on the Bear Ranch. These springs are only minimally protected by redwood boxes, and substantially add to the danger of contamination. The County Health Department wants defendant to cease using spring water and placed a moratorium on defendant's adding new connections because of the inadequate and unwholesome condition of the system, asserting that to allow additional connections would be to the detriment of existing customers. Following a joint staff-health department investigation, the defendant ceased using the two additional springs.

As the result of a building moratorium imposed beginning May 11, 1977, by the Santa Clara County Board of Supervisors, feverish construction and permit activity have resulted in the area, and defendant is pressured for water connections. Even were he authorized to provide them, distribution of the spring derived water in the eastern half of the system is severely hampered by the inadequately sized 2-inch main serving the area down the 1½ mile length of San Martin Avenue from New Avenue to U.S. Highway 101. Defendant has attempted to alleviate this problem in part by valving off part of San Martin Avenue east of U.S. Highway 101 and opening the valve interconnecting the two sections of the overall system to allow some of the well derived water to flow eastward. However, this causes problems in the old city site area. Recently when a developer proposed a large warehouse construction on Depot Street, he found that the water system lacked sufficient pressure and flow to support an automatic sprinkler system without installation of expensive special fire booster pumps. In the eastern side, six fire hydrants frequently fail to work as sufficient volumes of water and pressure are not available (the local fire district in January 1976 advised Powell that while it was willing to pay for hydrants that worked, they

felt that hydrants that did not work deserved no pay).[4/] The district also complained that the utility does not notify the fire chief of interruptions, and many times hydrants are found to be valved off. The Crow's Nest, a small home for retarded children, sheltering 12 children, located on Mammini Court (a lateral street to San Martin Avenue), to obtain state licensing had to install a holding tank equipped with a pressure pump to provide sufficient pressure to operate its sprinkler system. Yet at times there has been inadequate water flowing to back up this system.

Defendant has found it difficult to resist developers' pressures and in the past has allowed installation, primarily at the cost of the developers, of almost 3,000 feet of new 6-inch main to provide emergency fire protection for new residential construction. Well permits are readily obtainable and developers can obtain drinking water supplies from their own wells. However, some developers have merely made a moonlight connection and tap in for drinking water also.

4/ In many instances fire hydrants have been installed connected to 6-inch subsidiary mains drawing from the 2-inch primary main on San Martin Avenue.

In other instances defendant has avoided the connection moratorium in effect the past year and a half by unofficially substituting a new connection for a discontinued connection. Over the past two years, the Commission has received numerous complaints from defendant's customers, primarily from east of Highway 101, relating to service and billing problems. Defendant has made numerous errors in reading meters and in billing, as well as unilaterally raising the minimum rate from $3 to $6 per month.

As a consequence of these complaints, the Commission on March 15, 1977, on its own motion ordered an investigation into the rates, operations, practices, services, equipment, facilities, contracts, rules, regulations, and water supply of defendant. On April 25, 1977, the Fire Marshall and the Environmental Health Services of Santa Clara County filed a formal complaint seeking an order requiring defendant to upgrade the system. A duly noticed public hearing was held in Morgan Hill on April 28, 1977, before Administrative

Law Judge John B. Weiss. Inasmuch as the matters treated by the complaint were interwoven to a considerable degree with those involved in the Commission ordered investigation, the cases were consolidated for hearing and decision with the concurrence of both County complainants and defendant--all of whom waived notice. The hearing was but sparsely attended apart from the witnesses. A staff witness, three customers, two Santa Clara County representatives, and defendant testified. At conclusion of the hearing, the case was submitted.

The staff witness introduced a comprehensive report on defendant's water supply, distribution facilities, and billing practices, and noted what appeared to be somewhat appositional stances taken by the two county agencies vis-a-vis expansion. Included as an exhibit to the staff report was a customer-by-customer review of defendant's billings made for an 11-month period in 1976. The exhibit evidenced over- and undercharges in all save ten accounts. The total of the overcharges was $2,335.07, and the total of the undercharges was $470.15.

The proprietress of the Crow's Nest testified that on February 3, 1977 defendant had cut off her water supply in a dispute over a protested past unpaid balance of $179.06. She testified how, after reference through the County Nurse to the Commission staff, on direction of the staff she had had a plumber reconnect the water supply at a cost of $33.36. In addition, she testified of occasional low pressure. The staff analysis showed that she had been overcharged $70.72 in 1976 as a result of incorrect conversion to cubic feet from gallons in reading her meter. A neighbor also testified of occasional low pressure and of a continuing dispute over billing with defendant, asserting that he had received as many as three bills in one month, all different, and of his inability to get a clear answer from the defendant. The staff analysis showed an overcharge of $214.02 in his account for 1976. Although offered an opportunity to submit the individual bills as a late-filed exhibit, the witness failed to

forward them. A third witness, a representative of Vlastic Food Company, a local food packer situated in the old townsite, testified of difficulty in relating his 1976 usage with defendant's tariff rates, and of his inability to ever reach defendant to reconcile the matter. An Environmental Health Sanitarian for the County testified of the contamination repeatedly found in the spring water, and of his department's continuing efforts, including recourse to the courts, to get the spring water chlorinated. He denied that his department sought to withhold growth. Rather, he testified they merely sought improvement of the system, and imposed a moratorium to ensure that the customers, present and future, would receive an adequate and wholesome supply of water. The Deputy Fire Marshal of the County testified of frustrations with this utility over insufficient water and pressure for fire service (noting that six of eleven hydrants have no pressure), inadequate mains, and unkept promises by Powell. The witness urged the addition of capacity to furnish a 30,000-gallon supply above and beyond required domestic needs for fire fighting purposes. Such a facility, he testified, would provide a minimum 250-gallon per minute flow at 20 pounds residual pressure, and would meet minimum fire flows set by Insurance Service Offices.5/ The witness asked that defendant be required to upgrade the system or that encroachment by other interested parties be allowed, noting that other parties have expressed interest in purchasing all or part of the utility.

Testifying for defendant, Powell readily admitted that the staff report was correct and accepted responsibility for the billing

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5/ The Standards of Insurance Service Offices have been adopted by Santa Clara County. All cities and districts are graded on their fire defenses for insurance rating purposes, ratings ranging from 0-10 (0 the best, 10 the worst). Most rural areas are in Class 8 as a consequence of inadequate water supplies. The difference between a Class 8 and a Class 5 would save the average $50,000 homeowner between $100-$200 per year in premiums.

problems. He readily admitted further that there were extensive problems with the utility, but hopes to get these worked out in time to be ready to accommodate the "army" of developers expected after expiration of the Board of Supervisors' permit moratorium. He related how at the time of the purchase of the utility he ran a construction company and was well experienced and financially able to handle such problems. However, enroute home after contracting with Bear and paying the deposit, he was involved in a very serious auto accident on Monterey Road. Severely injured by that accident, he was unconscious three and a half days, and required prolonged hospitalization in San Jose and Palo Alto. He is still a patient. As a consequence of the accident, his memory has been impaired, and he stated that in running the utility: "I might not have been as sharp as I should have been before I had the accident...." He believes that his memory is now coming back. He testified that: "I have plans to take care of every problem in this report, but so far as the money to do it with, I don't have that money." Powell testified that he has been working on an application for a loan from the State of California under the Water Bond Act to finance replacement of the inadequate 2-inch main on San Martin Avenue and to install a larger reservoir in place of the 16,000-gallon reservoir at the eastern end of the system.

Discussion

From the evidence adduced at the hearing, it is amply clear that to meet even today's demands for service, this faltering small water utility urgently needs: (1) replacement of the hopelessly inadequate 2-inch primary water main on San Martin Avenue extending eastward from U.S. Highway 101 to New Avenue, and (2) a second water source to replace the spring facility on Bear's ranch. Adequate at the time it was rebuilt in 1968, the distribution system in the old townsite area west of U.S. Highway 101 today can handle existing demand in that area, but only marginally. It cannot accommodate expanded demand as the evidence of its inability to produce sufficient

pressure for a sprinkler system in a proposed warehouse on Depot Street demonstrates. However, it is in the eastern area beyond U.S. Highway 101 that the principal new demand for service today exists and will expand tomorrow. But it is this eastern area that all service is drawn from the 2-inch primary main extending 1½ miles on San Martin Avenue; it is in this eastern area that 6-inch lateral mains draw from the 2-inch primary main, and it is in this eastern area that fire hydrants do not work, having no pressure and little flow, and owners of newly constructed homes are forced to sink private wells to obtain domestic water. It is this eastern half which is supplied from the spring which is so frequently contaminated. Apart from the present problems, unless remedial steps are taken soon, when the building moratorium imposed by the County Supervisors is lifted, the pent up demand to subdivide in these prime building areas could be strangled in its infancy.

Powell is seeking solutions. He owns a second well although it is not dedicated to public utility use. Furthermore, this second well is located on San Martin Avenue west of U.S. Highway 101--the low elevation end of the 1½-mile-long 2-inch primary main. While of future value in the old townsite area, it offers little immediate succor to the eastern area. To be used in the eastern area, its water would have to be introduced under high pressure; and it is doubtful that the 2-inch main could sustain the pressure without bursting. Defendant testified concerning siting a 30,000-gallon reservoir tank up on the hill east of New Avenue so as to utilize gravity. But it would be on land owned by the Bears and there would still remain the problem of the 2-inch main. The staff recommends a new well to be sited about the midpoint of the 1½-mile, 2-inch main on San Martin Avenue, and a 30,000-gallon storage tank.[6/] This recommendation, if brought

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6/ Estimated cost to be approximately $18,000, made up of tank ($5,000), well ($10,000), and pump and electrical equipment ($3,000).

to fruition, would enable the utility to abandon use of the spring on Bear's property and would also end the contamination problem which caused the Health Department to order a moratorium on new connections. While it would not serve the longer range problem of the need to replace the 2-inch primary main, it would give some immediate relief to the pressure and flow problems in the eastern area for the present customers, and eliminate the contamination problem. However, Powell states that he lacks the funds needed to make the necessary additions to the system or correct its faults.

Defendant must understand that one of the obligations incurred by operation of law in conducting a public utility water service to the public is that of providing and rendering an adequate and proper service. In the event existing facilities do not so provide, reasonable and serious efforts must be made by the owner thereof to obtain sufficient water and to so improve the plant and distribution facilities that a satisfactory service may be rendered. In the event the costs of providing such adequate service for the consumer should so increase the capital investment by defendant in used and useful properties that existing rates no longer yield an adequate revenue, defendant has a remedy before this Commission that may be invoked by the filing of an application to adjust the existing rate structure (Board of Trustees of the City of Pt. Arena (1931) 36 CRC 175, 177; Cronin v Portola Water Co. (1926) 28 CRC 349, 351).[7/] In the instant case defendant testified of its intention to file an application for a state loan under provisions of the Water Bond Act in order to obtain financing for the needed capital improvements. We

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7/ The staff has been working with defendant relative to a rate adjustment by means of advice letter proceedings.

believe this to be a reasonable step; however, defendant should accelerate its efforts and file such an application as soon as possible, keeping the Commission staff informed of its progress. It would probably be advisable to obtain professional assistance in this regard. In any event prompt action is imperative. Defendant, however, should also explore and report to the Commission staff on alternate ways in addition to such an application to finance these urgently needed improvements. Defendant cannot merely wait out developments in the hope that something may turn up. Testimony at the hearing, uncontroverted by defendant, was to the effect that at the time of acquisition of the utility, Powell was in effect given a discount on the $48,000 purchase price and was to use that $23,000 discount to provide a new well and storage facility within a year, vacating usage of the spring and reservoir on Bear's ranch. Powell testified of the immense hospital costs which were imposed upon him following his accident at the time, and that drain on his assets presumably accounted for much of the earmarked $23,000. But Powell also testified that in addition to leased shopping centers he has and now rents and leases "... dozens of homes that at one time I had built and they did not sell," but which today have greatly appreciated in value to the point that "... I'm unaware of the true value of the dozens of houses that I have." Thus, Powell himself is not without assets.

Defendant must keep in mind that it is the primary concern of this Commission to assure that the convenience and needs of the public are reasonably served. Certificates are not granted merely to meet the desire of an operator, and while it is not generally the policy of the Commission to authorize invasion of the territory of one public utility by another, this Commission has the power and right to grant authorization for such an invasion where the presently certificated utility wilfully, negligently, or otherwise fails to provide the service required by law (Clyde Henry (1946) 46 CRC 469, 477; Crystal Water Co. (1962) 59 CPUC 407, 413). In circumstances as those

which are developing here, if a utility is unwilling to make the necessary investment of money to improve its water works and distribution system so that its consumers will receive reasonably dependable water service at satisfactory pressure, forcing consumers to take other steps to acquire a satisfactory service, this Commission will no longer prevent competition from any other water utility that might undertake to furnish a supply of water. (J. J. Roddy et al. (1943) 45 CRC 1, 5-6.) Accordingly, it will be ordered that unless defendant has a satisfactory rehabilitation plan approved by the Commission staff and financing arrangements under way within a six-month period following the date of this order, the Commission will entertain and look with favor upon applications of others to invade defendant's territory.

In the interim, defendant should be restricted to serving only those customers being served as of the effective date of this order. To this end we will require defendant to furnish the Commission within 30 days after the effective date of this order with a detailed list containing the names and addresses of all such customers. Before any additional connections may be made, approval in written form signed by the Executive Director of this Commission should be required. Should subdividers within the defendant's service area apply for service, such service should be conditioned upon the subdivider providing an acceptable well source of supply completely equipped with pumps, electrical facilities, hydropneumatic tank and appurtenances, and contribution of such facilities to the utility.

For a reasonable period while defendant is actively taking steps to resolve the financial problems,[8/] and until a second well source and storage facility are obtained and placed into service,

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8/ In Powell's behalf it should be noted that he has attempted to give the utility to the city of Morgan Hill or to Santa Clara County. Both refused the offer.

defendant should be allowed to continue to operate the spring source of supply located on Bear's ranch. However, while the potability and purity level of a utility's water supply are in the first instance within the jurisdiction of appropriate health authorities (Van Fleet v Pierson (1965) 65 CPUC 1, 6), in this instance the County Health Department, this Commission shares a responsibility under the law[9] to see that defendant safely operates its water utility. The evidence presented by the County's Environmental Health Sanitarian at the hearing of frequent contamination clearly indicates that the water supply is not being regularly chlorinated.[10] Such omission is grossly intolerable! Accordingly, we will direct that defendant, within fifteen days of the effective date of this order, resume regular chlorination to the standard set by the County Health Department. Defendant will be ordered to reactivate the automatic chlorinating equipment within that time, or if that equipment cannot be reactivated, replace it with chlorinating equipment satisfactory to the Commission staff. In either event, continued use of water from the spring source is conditioned upon proper chlorination. Failure to comply with these provisions relating to chlorination will be treated as a contempt of this Commission, and may result in a fine or

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9/ Section 761 of the Public Utilities Code provides in part that "Whenever the Commission, after a hearing, finds that the rules, practices, equipment, appliances, facilities, or service of any public utility, or the methods of manufacture, distribution, transmission, storage, or supply employed by it are unjust, unreasonable, unsafe, improper, inadequate, or insufficient, the Commission shall determine and, by order or rule, fix the rules, practices, equipment, appliances, facilities, service or methods to be observed, furnished, constructed, enforced, or employed..." (Emphasis added.)

10/ Despite the fact that defendant has been ordered in other proceedings in other jurisdictions to chlorinate satisfactorily to the County Health Department (see Judge Biafore's order of November 15, 1974, in the Morgan Hill Justice Court).

imprisonment, or both (see Sections 2112 and 2113 of the Public Utilities Code). Defendant will notify the Commission, within twenty days of the effective date of this order, of its compliance.

In that defendant has 11 fire hydrants in service and bills the local fire district $4.20 per month for each hydrant, it should immediately file with the Commission a tariff schedule providing for public fire protection.

Staff review of defendant's customer billings over an 11-month period in 1976 revealed that there had been overcharges to 78 customers and undercharges to 83 customers. In fact, there were only 10 customers who received correct billings throughout the 11-month period! The reasons for the incorrect billings, where discernible, vary. In about two-thirds of the cases, bookkeeping errors were made: in 35 instances defendant had unilaterally raised its minimum charge per month (without sanction from this Commission); in 12 instances estimated billings were incorrect; in 6 instances meters were misread; in another 6 instances there were incorrect conversions from gallon readings to cubic feet charged. A public water utility is under the duty of adhering strictly to the rates approved by this Commission (Temescal Water Co. v West Riverside Canal Co. (1935) 39 CRC 398, 402). Accordingly, we will require that within 60 days after the effective date of this order, defendant complete a study utilizing a format approved by the Commission staff, comparing consumption of water with the respective billing made, for the period March 15, 1974 to the effective date of this order, and submit the study, in writing, to the Commission within 10 days thereafter. After submission of this study, the staff will verify, and where necessary, correct the billings, advising defendant in writing of corrections. Defendant will be authorized to collect any undercharges indicated, but will also be required to credit customers' accounts against payments becoming due in each instance where a customer has been overcharged, rather than be required to make refund.

The proprietress of the Crow's Nest who incurred the plumbing bill of $33.36 to reconnect her service over her disputed bill, at a time when she had actually been overcharged, will be entitled to have her account credited with the $33.36. The defendant should not have disconnected her service as it did.

Although the staff recommends that we require replacement of the gallon register meters immediately with cubic feet meters, in view of the more urgent priorities that face this small utility, we will not at this time order any change. However, defendant should flag the gallon register accounts so that a proper conversion is made before billing is rendered. Failure to do so in the future will result in defendant being required to make replacement.

Findings

1. The service area of San Martin Water Works is comprised of two separate segments, each with its own water source and distribution system.

2. The western segment, supplied through a looped distribution system from a well, provides generally adequate volumes of wholesome water at acceptable pressures to its present customers.

3. The eastern segment, supplied through a 1½-mile-long, 2-inch main from a spring and reservoir, both sited on the lands of the former owner of the utility, provides inadequate volumes of frequently contaminated water at inadequate pressure varying from none to 30 psi to its customers.

4. The eastern segment requires constant chlorination to meet Health Department standards.

5. San Martin Water Works does not chlorinate regularly despite a 1974 Justice Court order to do so, resulting in the sporadic distribution of unwholesome water in the eastern segment.

6. The Health Department consequently has placed a connection moratorium upon additional connections to the system.

7. There is no or inadequate pressure in the eastern segment of the system to operate fire hydrants.

8. Developers have been required to sink individual wells in order to obtain domestic water supplies in the eastern segment.

9. When the six-month Board of Supervisors' building moratorium imposed May 11, 1977 is lifted, there will exist a substantial pent-up demand for water service in the eastern segment of the system, a demand the utility cannot meet under its present limitations in facilities.

10. A new well source of supply and storage tank near the mid-point of San Martin Avenue, and replacement of the 2-inch main on San Martin Avenue is needed to enable the utility to provide adequate volumes of wholesome water at acceptable pressure in the eastern segment for present and future customers as well as for acceptable fire protection.

11. Powell was very badly injured in an auto accident immediately following purchase of this utility, and required costly and extensive hospitalization. He is still a patient. Since the accident his memory suffered impairment but is now improving.

12. As a consequence of the extensive medical and hospital expenses incurred, Powell assertedly lacks ready funds to make the required substantial additional investment needed in the utility.

13. Powell is in the preliminary stages of making application for a Water Bond Act loan to finance the necessary improvements and additions.

14. San Martin Water Works has no public fire protection tariff on file with this Commission although it has billed the local fire district for hydrant service.

15. San Martin Water Works made errors in billing all but ten of its customers in 1976, resulting in numerous over- and undercharges.

16. One customer suffered disconnection over a disputed bill; after investigation it was ascertained the customer had been over-charged substantially.

17. After recourse to the Commission staff through the County Nurse, service was reconnected by a plumber at a cost of $33.36 to the customer.

Conclusions

1. Water service furnished to the western segment of its service area by San Martin Water Works has been adequate, but has not been adequate to the eastern segment of its service area.

2. San Martin Water Works must immediately take steps to obtain a new well source for water, sufficient to meet domestic and fire protection requirements under General Order No. 103, near the midpoint of San Martin Avenue, and replace the 2-inch main on San Martin Avenue with at least a 6-inch main.

3. If within a reasonable period of time San Martin Water Works has not undertaken definite steps to acquire a new water source and improve distribution facilities on San Martin Avenue, this Commission may permit encroachment into San Martin Water Work's territory by other water utilities.

4. In the interim and pending acquisition of a new water well source in the eastern segment of its territory, San Martin Water Works will be allowed to continue use of the present spring source of water supply, provided the water therefrom is chlorinated regularly to Health Department standards.

5. No new or additional connections in the eastern segment of the territory will be permitted until a new source of water and adequate distribution facilities are added in the eastern segment.

6. San Martin Water Works must file a public fire protection tariff if it desires to continue charging for hydrant service.

7. San Martin Water Works should prepare a study covering three years of its past billings and consumption.

8. San Martin Water Works should be required to credit past overcharges against future billings and collect past undercharges.

9. The Crow's Nest should receive a credit of $33.36 for costs incurred in rectifying an improper service disconnection.

O R D E R

IT IS ORDERED that:

1. Earl L. Powell and Louise L. Powell, doing business as San Martin Water Works (San Martin), shall be allowed six months from the effective date of this order to have a satisfactory rehabilitation plan for this utility, including a new well source of water and an adequate distribution system on San Martin Avenue, approved by the Commission staff, and to have financing arrangements for this plan under way. In the event these steps are not taken within the above-stated time frame, the Commission will look with favor on encroachment applications by other water utilities.

2. Within fifteen days after the effective date of this order, San Martin shall either reactivate, or replace if it cannot be reactivated, the automatic chlorinating equipment, and resume regular chlorination of the spring source water in the eastern segment of the system, with chlorination to be to the standards set by the County Health Department. Thereafter, when chlorination cannot be provided, the spring water shall not be used.

3. After the effective date of this order, San Martin is authorized to file with this Commission a public fire protection tariff schedule.

4. San Martin shall make no further water connections beyond those existing on the effective date of this order without first securing authority in writing from this Commission.

5. Within sixty days after the effective date of this order, San Martin shall complete, and within ten days thereafter submit to the Commission, a study comparing consumption and billing, customer by customer, covering the period March 15, 1974 to the effective date of this order. The Commission staff thereafter shall verify and if

necessary correct this study before returning it to San Martin. Thereafter San Martin shall collect indicated undercharges, and shall credit customer's accounts for overcharges in lieu of refund.

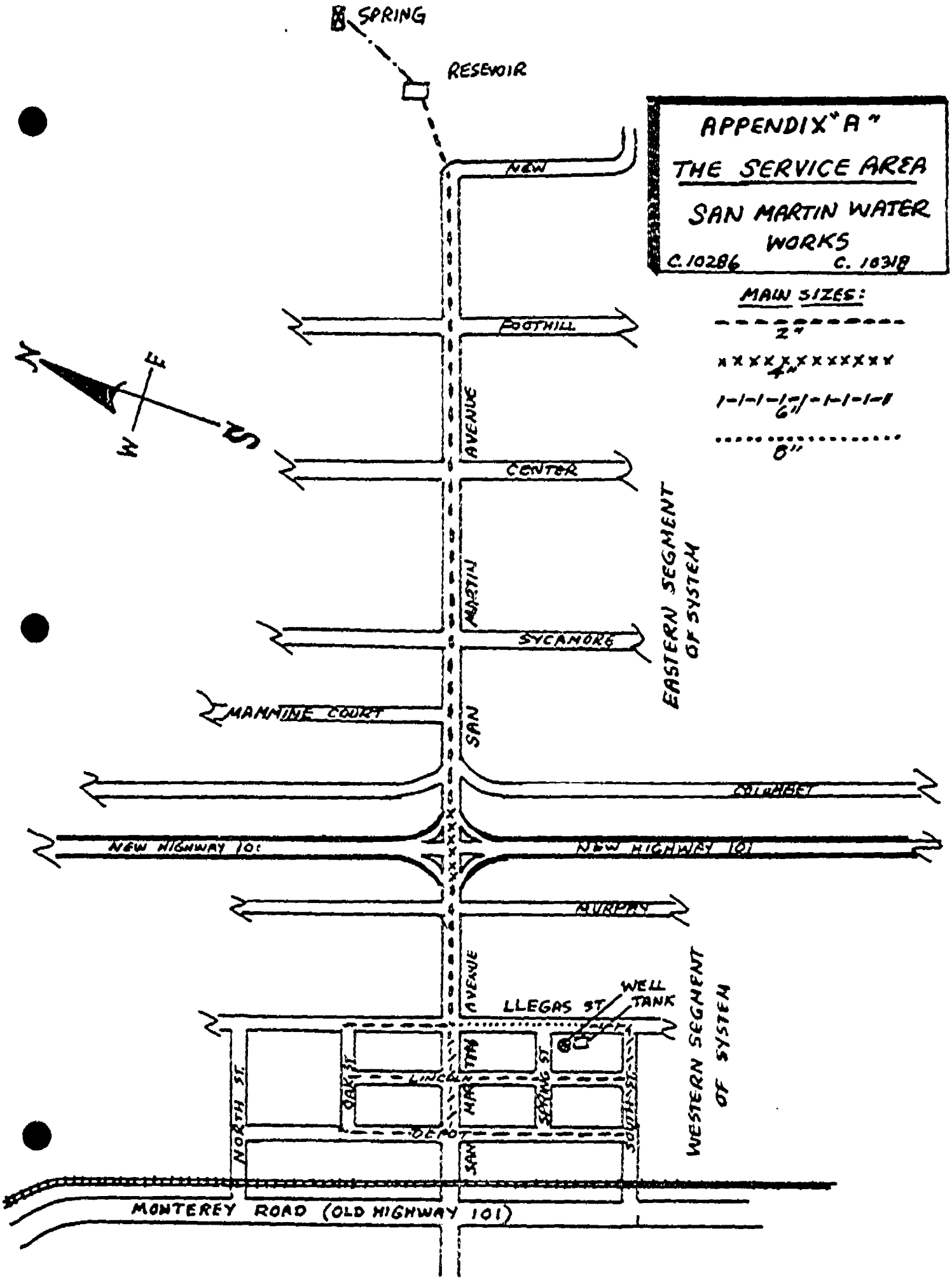
6. The Crow's Nest account shall be credited $33.36.

7. San Martin shall flag its account books and records to reflect gallon meter accounts so as to prevent recurrence of overcharges derived by reason of failure to convert consumption to cubic feet volumes before billing.

The effective date of this order shall be twenty days after the date hereof.

Dated at San Francisco, California, this 13th day of SEPTEMBER, 1977.

Robert Batinovich
President
William Symons Jr.
Leonard L. Snyder
Richard D. Gravelle
Vaie C. Levine
Commissioners


SPRING
RESEVOIR
APPENDIX "A"
THE SERVICE AREA
SAN MARTIN WATER WORKS
C. 10286
C. 10318
MAIN SIZES:
2"
4"
6"
8"
N
E
W
S
NEW
FOOTHILL
SAN MARTIN AVENUE
CENTER
SYCAMORE
MANNING COURT
EASTERN SEGMENT OF SYSTEM
COLUMBET
NEW HIGHWAY 101
NEW HIGHWAY 101
MURPHY
LLEGAS ST
WELL
TANK
WESTERN SEGMENT OF SYSTEM
NORTH ST
OAK ST
LINCOLN
MAIN ST
SPRING ST
SOUTH ST
DEPOT
SAN
MONTEREY ROAD (OLD HIGHWAY 101)