

Decision No. 91750 MAY 6 1980

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the application
of Donner Lake Utility Company
to increase rates for water
service, by approximately 47%.
(Adv Ltr No. 17.)

Application No. 59163
(Filed September 27, 1979)

Thomas G. Redmon, Attorney at Law, for Donner
Lake Utility Company, applicant.
Charles E. Luckhardt, Jr., Attorney at Law,
for Betty and Delmar Oneal, Liz and Dan
Rehkop, Merv Bailey, and Paul Merschdorf,
protestants.
Karl Kuttel, Brian Flaherty, Mark Meiggs,
Charles C. White, and Jack R. Olson, for
themselves, interested parties.
Robert Cagen, Attorney at Law, for the
Commission staff.

INTERIM OPINION AND ORDER

By this application, Donner Lake Utility Company (Donner)
requests authority to increase its rates for water service by
approximately 47 percent.

Decision Summary

By this decision, the Commission authorizes Donner to
increase its water rates by about 47 percent, an increase that will
add about \$4 to the monthly bills of Donner's some 1,000 customers.
The increase is on an interim basis, however, subject to further
order of the Commission after hearings on possible improvements
to Donner's system designed to alleviate serious service problems
that have been the subject of many formal and informal complaints
by Donner's customers. The latest formal complaint was filed in

December 1979 by 38 customers. That complaint will be consolidated with this application and a hearing will be held shortly to determine the service and plant improvements that should be made.

Background

Donner's last rate increase was effective July 1, 1975 as authorized by Commission Resolution No. W-1737 through the Commission's advice letter procedure. Donner filed an advice letter for the increase requested herein on December 14, 1978. This was converted to the instant application on September 27, 1979 after consideration by the Commission's staff (staff) of the number and nature of customer protests. Public hearing on the application was held before ALJ Albert C. Porter on January 14 and 15, 1980 in Truckee. Two witnesses testified for Donner, two for the staff, and three customers testified concerning Donner's service. The matter was submitted on February 13, 1980 upon the receipt of late-filed Exhibit No. 3 by Donner, the date having been extended from January 23 at Donner's request. The application is now ready for decision.

Donner's Showing - Rates

Cliff Shoolroy, a Certified Public Accountant who has done Donner's accounting work since 1975, prepared and presented the financial data upon which Donner bases its requested increase. Mr. Shoolroy testified that he and John Williams, the president of Donner, had conferred about the possibility of raising rates as early as August 1978 and subsequently forwarded material for an advice letter proceeding to the staff in December 1978. Meetings and discussions with the staff proceeded during 1979 culminating in the filing of this application in September. Further, submissions of information at the request of staff were made in December 1979 and on December 6 the matter was finally set for hearing. Prior to

and during the hearings, Mr. Shoolroy updated all previous financial material submitted and presented the result as Exhibit No. 1. Table I is a summary of certain applicable figures from that exhibit.

TABLE I

	<u>1978</u>	<u>Actual</u> <u>1979</u>	<u>Estimated</u> <u>1980*</u>
Revenues	\$ 94,099	\$ 99,525	\$147,750
Expenses			
Oper. & Mtce.	\$ 31,637	\$ 42,021	\$ 50,150
Adm. & Gen.	50,986	57,586	61,450
Other	<u>22,871</u>	<u>25,117</u>	<u>27,100</u>
Total	\$105,494	\$124,724	\$138,700
Net Income	\$-11,395	\$-25,199	\$ 9,050
Rate Base	\$299,586	\$326,584	\$345,139
Rate of Return	-3.80%	-7.72%	2.62%

*At Proposed Rates.

When asked by his counsel how the utility has been able to continue operations in view of the losses shown for 1978 and 1979, witness Shoolroy explained that Donner had built up some cash reserves during 1975, 1976, and 1977 and had depreciation expense of \$26,428 in 1978 and 1979, which is a noncash expense. He stated, however, that Donner was now experiencing a serious cash-flow problem and must have rate relief soon. Mr. Shoolroy testified that his projected results for 1980 at proposed rates would not provide the 9.5 percent rate of return required for successful operation of Donner. However, he did not change the increase requested, which was based on estimated results for 1979 and would have produced an estimated 8.5 percent rate of return for 1979, because it would have entailed further delays.

When questioned by other parties to the proceeding as to whether the recorded figures for 1978 and 1979 had been audited by

him, witness Shoolroy conceded that they had not been in the strict sense of generally accepted accounting principles. He stated that to do so for such a small company as Donner would be prohibitively expensive and he would not expect there would be any significant differences from the results shown in Table I. He testified that the Commission prescribes a system of accounts which must be adhered to by utilities under jurisdiction of the Commission such as Donner, that Donner follows that system, and that Donner must file a results of operations report with the Commission each year which is verified by an officer of the company as being a true and correct depiction of the revenues and expenses of the company. Other than the matter of audits discussed above, no one disputed the results shown on Table I as introduced by witness Shoolroy in Exhibit No. 1.

Counsel for Donner offered late-filed Exhibit No. 3 which concerns the necessity for Donner and the Commission to comply with federal wage/price guidelines. For the purpose of this proceeding we will use the two-part profit margin test limitation which may be applied to any utility. This method requires a test of the probable profit margin of the utility for the second year of the guidelines program, October 2, 1979 to October 2, 1980, against the best two of the last three fiscal years completed before October 2, 1978. Under that test, the second year pre-tax profit should not exceed base year profit by more than 13.5 percent plus any positive percentage growth in sales. The only figures available to us for such a test are those shown on Table I, and, since the two historical years show losses, there can be no meaningful test made. However, the 2.62 percent return estimated by Donner for 1980 is less than what could be considered reasonable by any standard we might apply.

Staff's Showing - Rates

A financial examiner from the Revenue Requirements Division of the Commission presented a report on the results of

operations for Donner. However, the report reflected only estimated results of operations under present and proposed rates for the year 1979. The witness proposed several adjustments to Donner's recorded operating expenses none of which would result in significant changes in the losses sustained. Staff also recommended changes to Donner's estimated rate base, but, likewise, the changes are minor, amounting to less than 2 percent of the total rate base. Staff recommended that the requested increase be granted.

Discussion - Rates

We will grant Donner's requested rate increase based on the estimates offered by Donner's accountant and shown in Table I. The increase will be essentially a flat amount for each customer since only 40 of Donner's 1,000 customers are metered (those 40 are commercial customers). Donner's system is unmetered, except as noted above, and there is not a problem with respect to raw water supply. We do not believe that the showing made by staff concerning the adjustments it recommends requires consideration and resolution for purposes of this decision because of the minimal net income Donner estimates for 1980 under proposed rates. Because of the service problems which are discussed following, the rate increase will be interim and subject to refund pending a further hearing and Commission decision.

Service Problems

There are three matters concerning service which are involved in this proceeding. First, as the result of a formal complaint filed March 16, 1978, Case No. 10521, the Commission issued Decision No. 89956 dated February 14, 1979 which ordered Donner to make certain improvements in its system. There are questions about whether Donner has complied with that order. Second, by letter dated April 18, 1979, the staff requested Donner to institute a so-called "summer program" of improvements to alleviate the problems of water outage, low pressure, frozen pipelines, and leaks; as a

result, Donner undertook an 18-point improvement program. There are questions concerning the status of that program. Third, three customers of Donner testified at the hearings concerning service problems with the utility. The complaints voiced were quite similar to those contained in a new formal complaint filed December 24, 1979, Case No. 10817. From this record the matter of service problems cannot be reconciled to our satisfaction. Also, Case No. 10817 has yet to be heard by the Commission, and it appears that a hearing in that matter will be required. Therefore, we instruct the assigned ALJ for this application and Case No. 10817 to consolidate the two proceedings and hold an early hearing to take evidence on service problems and proposed solutions. After consideration of that record we will order any required system improvements with the possibility that if they are not satisfactorily completed all or part of the interim increase granted herein may be refunded. We note from the record that Donner has applied for a \$100,000 loan under California's Safe Drinking Water Bond Act which may help alleviate some of the system problems.

Findings of Fact

1. Donner is a public utility under the jurisdiction of this Commission.
2. By this application, Donner requests an increase in rates for water service of about 47 percent.
3. A properly noticed hearing was held at which all interested parties had an opportunity to appear and be heard.
4. Under the rates proposed by Donner and assuming they were in effect for the entire year 1980, Donner would have a net profit of \$9,050 and rate of return of 2.62 percent.
5. Donner has justified the rate increase requested in this application.
6. The total annual revenue increase authorized by this decision will be about \$45,000.

7. Donner should be authorized to file the revised tariff pages attached to the application herein.

8. Donner has had numerous system problems which have resulted in complaints to the Commission by Donner's customers concerning service including a formal complaint docketed by the Commission as Case No. 10817.

9. Pending resolution of Donner's service problems, the increase in rates authorized herein should be interim.

10. The Administrative Law Judge assigned to this application and to Case No. 10817 should consolidate the two matters and hold a hearing on the service aspects of Donner's operation as discussed in this decision.

11. The increase in rates and charges authorized by this decision are justified and are reasonable; and the present rates and charges, insofar as they differ from those prescribed by this decision, are for the future unjust and unreasonable.

12. There is an immediate need for the rate relief authorized herein because Donner is operating at a loss and we are well into 1980, which is the test year.

Conclusions of Law

1. Donner should be authorized to place into effect the increased rates found to be reasonable in the findings set forth above.

2. The effective date of this order should be the date hereof because there is an immediate need for rate relief.

IT IS ORDERED that:

1. After the effective date of this order, Donner Lake Utility Company is authorized to file revised rate schedules reflecting the rates contained in the proposed tariff pages attached to the application herein and concurrently cancel its presently effective schedules. Such filing shall comply with General Order No. 96-A.

2. The effective date of the revised schedules authorized by Ordering Paragraph 1 shall be four days after the date of filing. The revised schedules shall apply only to service rendered on and after the effective date thereof.

3. The increases authorized by this decision shall be interim and subject to refund pending final decision by the Commission.

4. The assigned Administrative Law Judge for this matter shall consolidate it with Case No. 10817 for the purpose of further hearing.

The effective date of this order is the date hereof.

Dated MAY 6 1990 , at San Francisco, California.

John E. Byron
President

Hermon L. Lawrence

Michael D. Swales

Clair T. Edrigh
Commissioners