

ORIGINAL

Decision No. 92307 OCT 8 1980

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

The Commission is requested to modify P.U.C. Resolution No. W-2393, approve the Safe Water Projects Loan when the Department of Water Resources submits the loan to the P.U.C., authorize Meadowbrook to assess the owners of unimproved parcels an equitable amount for loan payback purposes; and revise the payback rates of 148 customers.

Application No. 59182
(Filed October 3, 1979;
Petition for Modification
filed July 3, 1980)

John F. Rausch, for applicant.
Ernest E. Hansen, for himself, interested party.
James J. Cherry and Ellen LeVine, Attorneys at
Law, M. J. Purcell, and Arthur B. Jarrett,
for the Commission staff.

O P I N I O N

Applicant Meadowbrook Water Company, Inc. (MB) petitioned for modification of Interim Decision No. 91855, issued June 3, 1980, in order to delay implementation by one full year of the water system improvement plan required by that decision. For the reasons set forth herein we deny MB's petition and will order rate refunds in the manner described below.

Background

Decision No. 91855 describes the factual background of this proceeding. By that decision we denied MB's petition to extend the period of time to construct facilities allowed by Commission Resolution No. W-2393 (W-2393). We also directed MB to amend its application on one of the following bases:

- "(a) A request for authorization to convey its system to the Crestline-Lake Arrowhead Water Agency, pursuant to an agreement or draft agreement with

that agency, and for authorization to terminate its obligation to provide water service after the conveyance of the system has been completed. This request shall include a provision for transferring the excess unexpended net 1980 revenues from MB to Crestline-Lake Arrowhead Water Agency or as a customer refund within 15 days after the date of transfer. The request shall explain the basis of expenditures from the 1980 revenues in detail as of the date of filing. [Option (a).]

- "(b) A plan to fund and construct the five-phase improvement plan set forth in W-2393 modified to provide for completion of Phases I and II by September 30, 1980, and for the completion of Phases III, IV, and V by September 30, 1981. [Option (b).]
- "(c) A filing (1) explaining why Ernest E. Hansen and/or MB is incapable or unwilling to proceed with the funding and construction of the improvements ordered in W-2393; (2) setting forth the summary of earnings data described in footnote 8 herein; (3) other information relevant to MB's failure to comply with the construction and reporting requirements of W-2393; and (4) other information relevant to the issues of rate reduction and refunds. [Option (c).]"

Instead of amending its original application, MB filed a second petition on July 3, 1980, to defer implementation of the five-phase system improvement schedule another year. Specifically, MB requested authority to complete Phases I and II by September 30, 1981, and Phases III, IV, and V by September 30, 1982. MB also indicated that 90 percent of the system failures could be corrected by July 25, 1980, due to the installation of 500 feet of 6-inch main in part of the system, and the transfer of the Lutheran Church and Camp, large customers of MB, to the Crestline-Lake Arrowhead Water Agency (CLAWA).

By letter dated June 13, 1980, to MB, Administrative Law Judge Levander advised MB that the petition did not comply with any of the three options available in Decision No. 91855. ALJ Levander therefore directed MB to provide a full explanation of its proposal

to modify option (b) and to provide the information required in option (c).^{1/} In addition, he attached a detailed notice to customers which he directed MB to send by a specific date.

Hearings

Hearings in this matter were set for the primary purpose of allowing customers to be heard prior to Commission action on one of the three options. In particular, we were concerned that MB had failed to notify customers of the February 14 and 15, 1980 hearings which led to Decision No. 91855. Moreover, because MB had failed to comply with any of the three options set forth in our interim decision, we allowed it an opportunity to support its most recent petition.

Hearings were held in San Bernardino on July 14 and 15, 1980. At the hearing MB acknowledged that it had failed to give the required notice indicated in Decision No. 91855 and in the ALJ's June 13, 1980 letter. In addition, MB failed to furnish the information regarding its financial status as directed in option (c) of Decision No. 91855 and in the June 13, 1980 letter. Lastly, MB failed to address the issue of rate reduction and refunds as specified in option (c).

MB's presentation essentially outlined the improvements implemented in five days just prior to the July 14, 1980 hearing and its efforts to apply for a \$248,000 Safe Drinking Water Bond Act loan from the Department of Water Resources (DWR) to complete the five-phase improvement program. MB testified that 70-90 percent of the pressure problems associated with the system were corrected by the recent improvements. MB further testified that pressure and volume increased due to the transfer of the Lutheran Church and Lake Arrowhead Lutheran Camp to the CLAWA. MB further indicated that the five-phase improvement

^{1/} Decision No. 91855, at p. 16, set forth the specific information we required.

schedule could be completed by the following dates: Phase I by July 15, 1981; Phase II by August 15, 1981; Phase III by September 15, 1981; and Phase IV by October 15, 1981. This schedule substantially differs from the schedule set forth in MB's petition for modification.

When asked why MB failed to send the required notices to customers and provide such in a timely manner MB's witness simply indicated that he was at fault and should have done so. His response was similar in explanation of his failure to provide the financial data.

Several customers also testified with regard to service. While many acknowledged that the recent improvements greatly increased their water pressure, others testified that water pressure was still inadequate. A petition circulated among the customers further indicated that most were unhappy with the water service, citing poor or complete lack of pressure as the primary problem.

Staff presented two witnesses, a staff engineer and a policy witness, to testify with regard to the system. The staff engineer, Robert Durkin, indicated that while the recent installation of 500 feet of 6-inch pipe improved the pressure of the system, it did so for only one portion of the service area. He further testified that the pressure increases were largely a result of the transfer of the Lutheran Church and Camp from the system to CLAWA. He also stated that the improvements did not correct 70-90 percent of the system problems, but much less. A staff late-filed exhibit reporting pressure readings indicated that pressure is best toward the lower part of the system but is still below General Order No. 103 standards in many other parts. He further indicated that the five-phase improvement program was necessary to adequately rectify the pressure and volume problems inherent in the system.

The policy witness, M. J. Purcell, testified that refunds should be ordered, as originally contemplated in W-2393, dated September 6, 1978. She particularly noted that MB had failed to meet its improvement schedule; had failed to follow up on its application for a Safe Drinking Water Bond Act loan in a timely fashion; had failed to properly bill its customers; and, lastly, had failed to provide the customer notice required by the Interim Decision No. 91855. In short, the policy witness faulted MB for providing inadequate service for several years because of management's inexperience in operating a water system. She then suggested three options for making refunds: (a) full refunds from September 1978 and a reinstatement of the prior rate level; (b) refunds from September 1978 to July 12, 1980, the date the 500 feet of 6-inch main was installed; (c) refunds from June 1979, until such time as the required mains are installed. June 1979 represents the earliest date MB could have financed improvements through the issuance of long-term debt. Staff supports the third option.

Discussion

We described above the three options from which MB could select in connection with the operation of its water system. MB has not elected either to transfer the system to CLAWA under option (a) or to timely complete its five-phase improvement plan as outlined in option (b). We therefore must determine whether MB has complied with remaining option (c).

Initially, we are concerned that MB failed to send the notices of hearing to its customers as directed in Decision No. 91855. In that decision MB was expressly warned that failure to send notices as directed could result in sanctions under Division 1, Chapter II of the Public Utilities Code. Notwithstanding this admonition, MB failed to comply. MB sent a notice of time and place of hearing but failed to send the specific information set forth in the ALJ's June 13, 1980 ruling.

More importantly, however, we are seriously concerned that MB does not plan to complete even the initial phases of its improvement schedule earlier than July 15, 1981. This is ten months later than the September 30, 1980 date. Moreover, the improvements which MB has already implemented still leave the system below General Order No. 103 standards by its own admission.

We share staff's concern that the customers of MB have tolerated unreasonable delays and resulting inadequate service for an undue length of time.

MB explained that completion of these improvements require funding through a DWR loan. MB further claimed that such a loan can be obtained by September 1980. We think this is unrealistically optimistic. Although MB indicated it filed its loan application on May 31, 1980, staff pointed out that final processing may take up to six months. Moreover, in Decision No. 91855 we expressly denied an extension of time to make the required improvements pending the processing of the DWR loan. We have not been convinced by any new evidence that an extension is warranted.

We further point out that MB failed to provide the summary of earnings data as directed in our interim decision and by the ALJ's letter of June 13, 1980. The late-filed exhibit reserved for this data was incomplete.

In sum, MB's pattern of repeated failure to comply with our orders justifies a refund to its customers. In W-2393 we expressly stated that the authorized rate increase to MB was subject to refund if the five-phase system improvement program was not completed on schedule. We subsequently granted a one-year delay of the first phase.^{2/} Notwithstanding this extension, MB has yet to complete even the first phase of this program, and does not intend to do so

^{2/} We also granted delays for Phases II, III, and IV.

by the end of this year. As we indicated in our prior decision, MB had requested a delay to prevent the ordering of refunds because of its failure to comply with the conditions which were part of the authorization for a rate increase. That request was denied in Decision No. 91855 and should be denied again. We do not believe that MB's customers should have to tolerate further delay and inadequate water service because of management's lack of experience and ability to timely obtain proper funding for needed improvements. We therefore will order refunds and a rate decrease as originally contemplated in W-2393, partially in accordance with the option recommended by staff.

As of today's date, MB's rates revert to the level in effect on September 5, 1978 plus the offset increase authorized on July 31, 1979, by W-2509. Appendix A shows the rates. MB shall file appropriate tariffs to reflect this revised rate schedule in compliance with General Order No. 96-A. Refunds shall be based upon the difference between the rate level in effect on September 5, 1978 and the rates authorized by W-2393, beginning June 1, 1979.

After the improvements have been installed, rates should revert to levels authorized in W-2393 and W-2509. MB should file an advice letter to accomplish such reversion.

We also note that the present owner, Ernest Hansen, has not filed an application to transfer authority from himself to John Rausch. Hansen, as legal owner of MB, is responsible for complying with our order.

Findings of Fact

1. W-2393 gave conditional authorization to MB to increase its rates. The conditions were that MB meet a five-phase schedule for constructing specific system improvements and that a reduction in ad valorem tax savings be flowed through to its customers.

2. W-2393 states in part: "The increase in rates authorized herein is subject to refund to the customers and to termination of the rate increase if Phase One of the Schedule of System Improvements

is not completed and adequate progress toward completion of Phase Two is not reported on or before October 1, 1979..."

3. The improvement schedule of Phase I of W-2393 was extended one year.

4. MB requested another one-year continuance for making system improvements.

5. MB installed 500 feet of 6-inch main to improve water pressure and volume. This improvement, however, is insufficient to correct the pressure and flow problems in its service area in accordance with General Order No. 103.

6. Water pressure in the entire system falls below General Order No. 103 standards.

7. MB failed to provide the notice specified in Interim Decision No. 91855 and in the ALJ letter to MB dated June 13, 1980.

8. MB has not yet obtained a Safe Drinking Water Bond Act loan from the DWR to complete the five-phase improvement program of W-2393.

9. No application to transfer ownership of MB from Ernest Hansen to John Rausch has been made pursuant to Section 854 of the Public Utilities Code.

10. Applicant has not complied with any of the three options of Ordering Paragraph 2 of Decision No. 91855.

Conclusions of Law

1. Refunds and a rate decrease should be made as originally provided in W-2393.

2. The effective date of this order should be the date on which it is signed because public convenience requires prompt reduction of rates and refunds to customers.

O R D E R

IT IS ORDERED that:

1. Meadowbrook Water Company, Inc. shall within twenty days of the date hereof file with the Commission revised tariffs reflecting the rate schedule described in Appendix A.

2. Within sixty days of this date, Meadowbrook Water Company, Inc. shall make refunds to its customers for the period of June 1, 1979 through October 7, 1980 based on the difference of the rates in effect on September 5, 1978 and the rates authorized by Resolution No. W-2393.

3. For a reinstatement of the rate level in effect on October 7, 1980 Meadowbrook shall file an advice letter upon completion of Phases I through III of the improvements ordered in Resolution No. W-2393.

The effective date of this order is the date hereof.

Dated OCT 8 1980, at San Francisco, California.

John E. Byrne
President

Veron L. Sturgeon

Richard W. Chavella

Edward J. [Signature]
Commissioners

Commissioner Claire T. Dedrick, being necessarily absent, did not participate in the disposition of this proceeding.

APPENDIX A
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Schedule No. 1RL

METERED SERVICE

APPLICABILITY

Applicable to all residential metered service.

TERRITORY

The unincorporated area known as Meadowbrook Woods, located approximately two miles south of Lake Arrowhead, comprising the entire N 1/2 of the NW 1/4 of Section 28, township 2 north, range 2 north, range 3 west, San Bernardino Base and Meridian, San Bernardino County.

RATES

Quantity Rates:	<u>Per Meter</u> <u>Per Month</u>
First 300 cu.ft. per 100 cu.ft.	\$ 0.60
Over 300 cu.ft. per 100 cu.ft.	0.75
 Service Charge:	
For 5/8 x 3/4-inch meter	\$ 4.16
For 3/4-inch meter	4.60
For 1-inch meter	6.25
For 1 1/2-inch meter	8.30

SPECIAL CONDITIONS

1. New customers on metered service may be required to pay an annual charge of twelve times the monthly meter charge for the first year, such charge being credited to water bills until exhausted.

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Schedule No. 2RL

FLAT RATE SERVICE

APPLICABILITY

Applicable to all water service furnished on an annual flat rate basis only for household residential purposes.

TERRITORY

The unincorporated area known as Meadowbrook Woods, located approximately two miles south of Lake Arrowhead, comprising the entire N 1/2 of the NW 1/4 of Section 28, township 2 north, range 3 west, San Bernardino Base and Meridian, San Bernardino County.

RATE

	<u>Per Service Connection Per Year</u>
For each single-family residence including premises	\$ 72.00

SPECIAL CONDITIONS

1. The annual charge applies to service during the twelve-month period commencing May 1, and is due in advance.
2. All service not covered by the above classification will be furnished on a metered basis.
3. Meters may be installed at option of the utility for above classification in which event service thereafter will be furnished only on the basis of Schedule No. 1RL, metered service.

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Schedule No. 3RL

METERED SERVICE

APPLICABILITY

Applicable to all nonresidential metered service.

TERRITORY

The unincorporated area known as Meadowbrook Woods, located approximately two miles south of Lake Arrowhead, comprising the entire N 1/2 of the NW 1/4 of Section 28, township 2 north, range 3 west, San Bernardino Base and Meridian, San Bernardino County.

RATES

	<u>Per Meter</u> <u>Per Month</u>
Quantity Rates:	
Per 100 cubic feet	\$ 0.75
Service Charge:	
For 5/8 x 3/4-inch meter	4.16
For 3/4-inch meter	4.60
For 1-inch meter	6.25
For 1 1/2-inch meter	8.30

SPECIAL CONDITIONS

1. New customers on metered service may be required to pay an annual charge of twelve times the monthly meter charge for the first year, such charge being credited to water bills until exhausted.