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Decision 95-07-008 July 6, 1995

W O I H I C O

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

MR. RAY L. DELANGAUSKAS,

Respondent

Complainant,

vs.

MOUNTAIN SPRINGS WATER COMPANY
(formerly Pinon Springs Water
Company),

Defendant,

Case 94-11-011
(Filed November 7, 1994)

JERRY A. HARNESS, and MARILYN
HARNESS,

Complainants,

Case 94-12-014
(Filed December 2, 1994)

MOUNTAIN SPRINGS WATER COMPANY,

Defendants.

ORIGINAL

Ray L. Delangauskas and Jeff A. Harness
complainants,
Cora Jane Hainline, for Mountain Springs Water
Company, respondent,
Daniel R. Page, for the Division of Ratepayer
Advocates.

Mountain Springs serves 29 full-time customers and 11 standby customers. Mountain Springs charges \$27 per month to standby customers and \$37 per month for regular customers for up to 300 cubic feet (ccf) of water use. Hainline is the sole owner of Mountain Springs. The customers are neither shareholders of the company nor members of any association which is organized for the purpose of delivering water to them at cost.

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Decision 92-07-008 July 8, 1992

O P I N I O N

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Summary

The decision finds Mountain Springs Water Company to be a public utility water corporation and, as such, subject to regulation by the Commission.

Background

In the late 1960's, Mountain Valley Estates, a real estate developer built a water system as part of the plan to build and sell homes in Tract 3312 in Kern County. Tract 3312 is approximately seven miles north of State Route 58 near the City of Tehachapi between Monolith and Cameron. Mountain Valley Estates sold lots in the subdivision from 1977 through 1979.

In March 1984, Jon P. Sansing and Patrick I. Sansing purchased the water system which was then known as Pinon Springs Water Company.

In December 1986, the current owner, Cora Jane Hainline, bought the water company and renamed it Mountain Springs Water Company (Mountain Springs). When she bought the water company, it consisted of a well with a five horsepower (hp) submersible pump, two hp booster pumps, a 500-gallon pressure tank, a 12,000-gallon storage tank, and approximately 1,400 feet of water mains. Hainline has since replaced the pumps and made other improvements to the system.

Mountain Springs serves 29 full-time customers and 11 standby customers. Mountain Springs charges \$27 per month to standby customers and \$37 per month for regular customers for up to 300 cubic feet (Ccf) of water use.

Hainline is the sole owner of Mountain Springs. The customers are neither shareholders of the company nor members of any association which is organized for the purpose of delivering water to them at cost.

The California Department of Health Services regulates the quality of Mountain Springs water. The Kern County Health Department has issued a water supply permit to Mountain Springs. There are no outstanding orders from the two agencies requiring Mountain Springs to take corrective action.

Mountain Springs is not currently under the Commission's jurisdiction. Complaints

On November 7, 1994, Ray L. Dalangauskas, a customer, filed a complaint, (C.)94-11-011, alleging that Mountain Springs charges are excessive and that Mountain Springs recently has made an additional charge for repairs to the system. Dalangauskas requests that the Commission assume jurisdiction over Mountain Springs and regulate it as a public utility.

On December 2, 1994, Jerry A. and Marilyn H. Harness, two customers of Mountain Springs, filed a complaint, C.94-12-014, against Mountain Springs making allegations similar to those made by Dalangauskas. The Harnesses also request that the Commission require Mountain Springs to have its meters checked for accuracy and to refund the additional charge of \$100 for system repairs.

The Division of Ratepayer Advocates (DRA) on January 10, 1995, filed a petition for leave to intervene and to become a party to C.94-11-011. DRA stated that it would conduct an independent investigation of Mountain Springs and prepare a report on its findings. Hearings

An evidentiary hearing in the complaints was held on February 8, 1995, before Administrative Law Judge Gardner. The matter was submitted upon receipt of the transcripts March 6, 1995.

At the evidentiary hearing, the two complaints were consolidated and DRA was allowed to participate in the consolidated proceeding. Complainants, Hainline and DRA provided testimony.

Complainants reiterated the positions stated in the complaints. Hainline stated that she was operating Mountain Springs according to the published rules and regulations a copy of which is provided to each customer. She also stated that her company was operating at a loss. DRA provided a detailed report on Mountain Springs' operations. DRA's report included Mountain Springs' estimated summary of earnings for Test Year 1995 and recommended rates schedule.

According to DRA, Coxa Jane Hainline dba Mountain Springs is the sole owner of the water plant and facilities and its customers are not shareholders or members of any association organized for the purpose of delivering water to them at cost. Mountain Springs sells water to the public for compensation and is willing to serve anyone who could be served by its system.

Accordingly, DRA believes that Mountain Springs is a public utility under the provisions of Public Utilities (PU) Code §§ 216 and 2701 and that it should be regulated by the Commission as a Class D water utility.

Further, DRA states that Mountain Springs' current rates are inadequate to allow it to earn a minimum rate of return of 13.6% found reasonable by the Commission for Class D water utilities for 1994-95. DRA recommends that the Commission adopt the summary of earnings shown in Table 1 and that the Commission set Mountain Springs' rates for water service in accordance with the schedule shown in Appendix A to this order. DRA also recommends that the Commission adopt the quantities for water use per customer, purchased power and other elements used to develop the summary of earnings which are included in Appendices B and C to this order.

Neither Hainline who testified for Mountain Springs, nor the two complainants opposed DRA's recommendations and solicited testimony. Complainants Hainline and DRA provided testimony.

Table 1

**Mountain Springs Water Company
SUMMARY OF EARNINGS
Test Year 1995**

	Recommended Rates
Operating Revenues:	
Metered Service	\$23,460
Flat Rate Service	0
Total Revenue	<u>\$23,460</u>
Operating Expenses:	
Power	\$1,260
Other Vol. Related Expense	0
Employee Labor	2,000
Materials	1,000
Contract Work	2,320
Other Plant Maintenance	0
Office Salaries	0
Management Salaries	2,000
Transportation Expense	1,820
Uncollectables	117
Office Rent	0
Office Supplies	500
Professional Services	200
Insurance	1,500
General Expense	100
Regulatory Commission Expense	100
Subtotal	<u>12,917</u>
Depreciation Exp	1,061
Franchise Tax	0
Property Taxes	518
Payroll Tax	635
Income Taxes	1,929
Total Deductions	<u>\$17,061</u>
Net Revenue	\$6,399
Average Plant	\$102,020
Average Accumulated Depreciation	8,106
Net Plant	93,914
Less: Advances	0
Contributions	48,051
Plus: Working Cash	1,100
Materials and Supplies	100
Rate Base	<u>47,064</u>
Rate of Return	13.60%

Mountain Springs Water Company
SUMMARY OF EARNINGS
Test Year 1992

Discussion

The main issue to be resolved in this complaint is whether or not Mountain Springs is a public water utility within the purview of PU Code § 2701. If it is, the system automatically, as a matter of law, comes under our jurisdiction. Although the defendant has not expressed any opinion on the issue and the complainants request that we assert jurisdiction and regulate, the issue of jurisdiction depends on application of the law to the facts of the case.

PU Code § 216 defines a "public utility" as including every "water corporation, ... where the service is performed for or the commodity delivered to the public or any portion thereof and "for which any compensation or payment whatsoever is received." Further, PU Code § 2701 states that "Any person, firm, or corporation ... owning, controlling, operating, or managing any water system within the State, who sells ... or delivers water to any person ... whether under contract or otherwise, is a public utility, and is subject ... to the jurisdiction, control, and regulation of the commission."

The uncontrovertible evidence in this proceeding clearly indicates that Mountain Springs provides water service for compensation and is dedicated for public use. Mountain Springs is not a mutual water company under the provisions of PU Code § 2725 because its customers are not stockholders who receive service at cost. Mountain Springs is a public utility under the provisions of PU Code §§ 216 and 2701 and is subject to the Commission's jurisdiction.

Next we will consider the appropriate rates to be charged by Mountain Springs for its water service. DRA's report (Exhibit 16) contains a reasonably detailed analysis of Mountain Springs' operations. The estimated operating expenses contained in Table 1 were developed by using a representative average of actual expenses incurred in recent years. They appear to be reasonable.

47,034	Rate Base
100	Materials and Supplies
1,100	Plus: Working Cash
48,234	
13,802	Rate of Return

estimated gross revenue requirement will provide Mountain Springs an opportunity to earn a rate of return of 13.6% on rate base which is the minimum rate of return allowed for 1994-95 for Class D water companies.

The proposed rate design allows Mountain Springs to recover 100% of its fixed costs through a service charge. Recovery of the balance of the revenue requirement will be through a single quantity rate as called for by the policy adopted in Decision 86-05-064.

We will adopt the summary of earnings and rate design as recommended by DRA.

Findings of Fact

1. Mountain Springs provides water service to the public for compensation.

2. Mountain Springs is dedicated to public use.

3. DRA's estimates for Mountain Springs' Test Year 1995 with operating expenses were developed by using a representative average of actual expenses incurred during recent years.

4. DRA's estimates for Mountain Springs' Test Year 1995 revenue requirement will allow Mountain Springs the opportunity to earn a 13.6% rate of return on rate base.

5. Under the Commission's current policy, Class D water utilities are authorized to earn a rate of return of 13.6% on rate base.

6. DRA's proposed rate design is in accordance with the Commission's policy.

7. GO 96A requires a public utility to file tariffs with the Commission.

8. GO 103 requires a public utility to file and keep current system maps with the Commission.

Conclusions of Law

1. Mountain Springs is a public utility water corporation and, as such, is subject to regulation by this Commission.

2. DRA's recommended summary of earnings and rate design for Mountain Springs for Test Year 1995 should be adopted. Mountain Springs should file its tariffs and system map as required by GO 96-A and GO 103, respectively.

IT IS ORDERED that:

1. Mountain Springs Water Company (Mountain Springs) which is a public utility, is subject to regulation by this Commission as provided by the laws of the State.

2. Mountain Springs shall, within 60 days of the effective date of this order, file tariff schedules shown in Appendix A, in accordance with advice letter procedures of General Order 96-A.

3. Mountain Springs shall prepare its system map and file it with the Commission within 60 days of the effective date of this order.

4. The proceedings in Case (C) 94-11-011 and C 94-12-014 are closed.

This order becomes effective 30 days from today.

Dated July 6, 1995, at San Francisco, California.

DANIEL Wm. FESSLER
President

GREGORY CONLONI

JESSIE J. KNIGHT, JR.

HENRY M. DUQUE

Commissioners

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

Wealey Franklin
Acting Executive Director

APPENDIX A

Mountain Springs Water Company

Schedule No. 1

GENERAL METERED SERVICE

APPLICABILITY

Applicable to all general metered service.

TERRITORY

Tract 3312, Kern County, in the vicinity of Sand Canyon Road approximately seven miles north of State Route 58 between Cameron and Monolith.

RATES

	<u>Per Meter per Month</u>
Quantity Rates:	
For all water delivered, per 100 cu. ft.	\$1.71
Service Charge:	
For 5/8 x 3/4 - inch meter	\$39.00
For 3/4 - inch meter	58.50
For 1 - inch meter	97.50
For 1 - 1/2 - inch meter	195.00
For 2 - inch meter	312.00

The service charge is a readiness-to-serve charge applicable to all metered service and to which is added the charge for water used computed at the quantity rates.

SPECIAL CONDITIONS

1. All bills are subject to the reimbursement fee set forth in Schedule No. UF.

(END OF APPENDIX A)

APPENDIX B
Page 1

Mountain Springs Water Company
ADOPTED QUANTITIES
Test Year 1995

Uncollectible Rate	0.500%
Franchise Tax Rate	0.000%
Federal Income Tax Rate	15.00%
California Corporate Franchise Tax Rate	9.30%

1. Water Consumption, Metered, Ccf per year	2220
Unaccounted for Water, Ccf per year	460
Total Water Consumption, Ccf per year	2680
2. Water Consumption per Customer, Ccf per year	58
3. Power	

Southern California Edison Company Rate Schedule PA-1, effective January 1, 1995:	
Customer Charge, per Meter per Month	\$16.70
Number of Meters in use	2
Load Charge per Horsepower (H.P.) for each Load over 2 H.P.	\$1.95
Connected Load over 2 H.P.	5
Energy Charge per kWhr	\$0.09768
Electric Energy Required, kWhr	7,600
Total Electric Energy Expense	\$1,260

4. Average Number of Services	
For 5/8 x 3/4 - inch meter	38
For 3/4 - inch Meter	4
For 1 - inch Meter	0
For 1 1/2 - inch Meter	0
For 2 - inch Meter	0

5. Payroll, annual	
Employee Labor	\$2,000
Office Salaries	\$0
Management Salaries	\$2,000

APPENDIX B
Page 2

Mountain Springs Water Company

ADOPTED QUANTITIES
Test Year 1995
ADOPTED QUANTITIES For Test Year 1995

6. Amount per year included in Contract Work for:
 Water Testing \$1,100
 Department of Health Services fees \$400
7. Ad Valorem Tax:
 Tax Rate 1.10%
 Assessed Valuation 47,084

ADOPTED INCOME TAX CALCULATIONS

	CCFT	FIT
Operating Revenues	\$23,460	\$23,460
Expenses		
Operations & Maintenance	12,917	12,917
Depreciation	1,061	1,061
Taxes Other than Income	1,153	1,153
CCFT		800
Subtotal Expenses	15,131	15,931
Deductions		
Tax Depreciation	0	0
Interest Expense	0	0
CCFT Taxable Income	828	
CCFT (at 9.3% or \$800 minimum)	800	
FIT Taxable Income		7,529
FIT		1,129
Total Income Taxes		\$1,929
Employee Labor	25,000	
Office Salaries	20	
Management Salaries	25,000	

(END OF APPENDIX B)

APPENDIX C

Mountain Springs Water Company
PLANT ACCOUNT RECONCILIATION

	1988	1989	1990	1991	1992	1993	1994	1995
Water Plant in Service:								
B.O.Y. Plant	\$95,050	\$86,080	\$91,717	\$92,131	\$94,691	\$97,743	\$99,253	\$99,643
Contributed Portion	52,800	56,100	56,100	56,100	56,100	56,100	58,580	58,580
Land & Intangbl Portion	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000
Plant Additions	2,530	8,437	2,914	4,960	4,052	1,610	7,390	4,877
Plant Retirements	11,500	2,800	2,500	2,400	1,000	100	7,000	2,500
E.O.Y. Plant	86,080	91,717	92,131	94,691	97,743	99,253	99,643	102,020
Average Plant	90,565	88,899	91,924	94,691	97,743	99,253	99,643	102,020
Adopted Depr Rate								
	2.5000%	2.5000%	2.5000%	2.5000%	2.5000%	2.5000%	2.5000%	2.5000%
Amortization	1,320	1,403	1,403	1,403	1,403	1,403	1,465	1,465
Depreciation Expense	919	795	871	940	1,016	1,054	1,002	1,061
Depr Expense & Amortz	2,239	2,197	2,273	2,342	2,419	2,458	2,466	2,526
Accumulated Depr:								
B.O.Y.	19,000	9,739	9,137	8,910	8,852	10,271	12,627	8,093
Depr Expense & Amortz	2,239	2,197	2,273	2,342	2,419	2,456	2,466	2,526
Retirements	11,500	2,800	2,500	2,400	1,000	100	7,000	2,500
E.O.Y.	9,739	9,137	8,910	8,852	10,271	12,627	8,093	8,118
Average Accum Depr	14,370	9,438	9,023	8,881	9,561	11,449	10,360	8,106
Contributions:								
B.O.Y.	52,800	54,780	53,378	51,975	50,573	49,170	50,248	48,783
Amortization	1,320	1,403	1,403	1,403	1,403	1,403	1,465	1,465
E.O.Y.	51,480	53,378	51,975	50,573	49,170	47,768	48,783	47,319
Average Contributions	52,140	54,079	52,676	51,274	49,871	48,469	49,515	48,051
Net Rate-Base Plant	\$24,055	\$25,382	\$30,225	\$34,536	\$38,311	\$39,336	\$39,768	\$45,864

(END OF APPENDIX C)