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Decision 95-12-014 December 6, 1995

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

R.M. JONES, et al.,

Complainant,

vs.

MOUNTAIN CHARLIE WATER WORKS,

Defendant.

Case 87-01-008
(Filed January 6, 1987)

In the Matter of the Application of
MOUNTAIN CHARLIE WATER WORKS to
increase rates to surcharge
customers for participation in the
Mountain Mutual Water Company's
Montevina Pipeline Project.

Application 91-03-051
(Filed March 25, 1991)O P I N I O NStatement of Facts and Discussion

Mountain Charlie Water Works, aka Mountain Charlie Water Company (Mt. Charlie), is a small 150 plus customer public utility serving residential customers in the rugged summit area of the Santa Cruz Mountains off Highway 17. Constructed in the 1960's, but not to Commission standards, and obtaining its water from two mountain creeks, it has been subject to frequent breakdowns, water shortages, and inadequate funding. Devastated by the 1989 Loma Prieta earthquake, it has had to adopt repeated emergency measures including temporary water tanks and distribution lines, and water hauling, mostly financed by surcharges and balancing accounts. It has repeatedly failed to meet health department requirements.

A potentially positive result of the earthquake was the construction of the Montevina pipeline from San Jose Water

Company's (SJWC) plant to near the summit area. The Montevina pipeline was constructed with loans and grants from the Federal Emergency Management Agency, Department of Water Resources (DWR), and Office of Emergency Services to Redwood Mutual Water Company (Redwood), with the understanding that after completion it would be transferred as a shared resource for all the local summit area small companies, under the ultimate control of Mountain Mutual Water Company (Mt. Mutual), a specially formed mutual to which about a dozen of the area water purveyors, including Mt. Charlie, had to join and pay assessments and "dues" in order to become eligible for ultimate connection to the pipeline and its quality SJWC water. Assorted irregularities and cost overruns involved Redwood in audits and lawsuits, holding up any transfer of the pipeline to Mt. Mutual, while Mt. Mutual's assessments and "dues" continued.¹

While repeated scenarios were presented with regard to engineering studies for a potential intertie or an interconnection pipeline to a proposed Redwood tank farm, either in association with local mutuals or going alone, and some feasibility studies were pursued, all required substantial financing which Mt. Charlie lacked, and most importantly, all required some resolution of the State-Federal Agency lawsuit with Redwood (to which Mt. Charlie was not a party).

In this period Mt. Charlie did obtain a determination of financial eligibility for a Safe Drinking Water Bond Act loan of \$300,000 to be used to rehabilitate the system and interconnect to the pipeline. However, in July of 1993, Mt. Charlie was informed by Chester M. Winn, Chief, Division of Fiscal Services of the Department of Water Resources, that

¹ As a "mutual," Mt. Mutual is not within the jurisdiction of this Commission (PU Code § 2705).

commitment of the funds could not be made pending resolution of three issues:

1. The Redwood audit involving the Montevina Pipeline;
2. Water Resources approval of a transfer agreement of the Montevina pipeline from Redwood to Mt. Mutual; and
3. Mt. Charlie had to get a contract from Mt. Mutual for use of the Montevina pipeline and a firm water supply.

Until the first two issues to which Mt. Charlie was not a party were resolved, not much other than preliminary negotiation could be accomplished on the last item.

Meanwhile, in view of the DWR determination being unable to access the DWR loan money, and with Montevina water tied up until resolution of the Redwood audit and lawsuit, and an eventual transfer agreement between Redwood and Mt. Mutual, Mt. Charlie was forced to continue reliance upon its creek diversions for water. Relying upon chlorination treatment alone and using an uncertified operator, the dilapidated system was out of compliance with both §§ 64650 and 7107 of Title 17, Cal. Code of Regulations.²

Compliance being beyond the financial and technical compliance of Mt. Charlie's management, the Health Department became increasingly frustrated in its efforts to obtain compliance while a number of customers sought intervention by the County Board of Supervisors and their Legislative representatives.

² § 64650, the Surface Water Treatment Rule, requires multibarrier treatment to protect against microbiological contaminants.

§ 7107, the Certified Water Treatment Plan Operator Requirement, would require a Grade II operator.

The continued delay and frustration with Mt. Charlie's management's perceived inability or unwillingness to comply with regulations led the County Health Department on May 19, 1995 to file in Superior Court under § 4035 of the California Health and Safety Code for appointment of a receiver. On May 31, 1995, the Superior Court of Santa Cruz County appointed a bankruptcy trustee and receiver, John W. Richardson. On August 11, 1995, by Resolution W-3935, the Commission recognized Richardson's appointment.

By Resolution W-3941 issued September 7, 1995, the Commission authorized a 228% increase in gross annual revenues to enable Mt. Charlie to recover operational costs and to make repairs. The one year term of the increase is pending a general rate case to be filed before September 1, 1996. No return on ratebase was authorized. With the recent resolution of the long-standing audit lawsuit against Redwood, the door was opened for a transfer of the Montevina pipeline to Mt. Mutual, which in turn will allow a Mt. Charlie intertie to obtain Montevina water. The construction costs for this Mt. Charlie intertie are to come from proceeds of the Safe Drinking Water Bond Act loan to Mt. Charlie.

As circumstances have changed significantly, there no longer exists any need to keep open the two captioned proceedings and they may now be closed.

Finding of Fact

With the appointment of a receiver for Mt. Charlie charged by the Superior Court with responsibility for bringing safe, treated water to the ratepayers as soon as possible, and to negotiate a permanent solution to water quality problems, and the provision for revenues to progress toward meeting these responsibilities, there no longer exists any need to keep Case 87-01-008 and Application 91-03-051 open.

Conclusion of Law

Case 87-01-008 and Application 91-03-051 should be closed.

O R D E R

IT IS ORDERED that Case 87-01-008 and Application 91-03-051 are closed.

This order is effective today.

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

DANIEL Wm. FESSLER
President
P. GREGORY CONLON
JESSIE J. KNIGHT, JR.
HENRY M. DUQUE
JOSIAH L. NEEPER
Commissioners