

ALJ/KKH/tcg

Mailed 8/6/98

Decision 98-08-009 August 6, 1998

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Mr. Steven M. Karp,

Complainant,

vs.

Fulton Water Company,

Defendant.

Case 94-10-042
(Filed October 28, 1994)

Steven M. Karp, for himself, complainant.
John Fulton, for Fulton Water Company,
defendant.

O P I N I O N

1. Summary of Complaint

Steven M. Karp (complainant) resides in Fulton Water Company's (defendant) service territory located on the northern shore of Lake Tahoe in the Tahoe City area. Complainant asserts that his domestic and fire service water pressure is not adequate. He believes that the domestic water pressure provided by the utility has not met the state's usual water standards since the subdivision, where he resides, was approved in 1965. He further believes that the fire hydrant located adjacent to his residence, measuring 20 pounds per square inch (psi) on October 17, 1994, does not meet the 1991 Uniform Fire Code standards.

Complainant seeks a Commission order requiring defendant to install all the necessary equipment to create enough water pressure for adequate domestic and fire service.

2. Answer to the Complaint

Defendant acknowledges in its November 14, 1994 letter response (Exhibit 3) that the water pressure in complainant's area, known as the Beverly Arch area, does not meet defendant's usual water pressure standards. However, defendant explains that such a situation is not uncommon in a mountain region where pressure is determined by how high up the hill one lives. Defendant explains that its fire flow, including its other water flows, satisfies the requirements of a recent rating review undertaken by the Board of Fire Underwriters.

Defendant further explains that it has undertaken steps to improve water pressure in the Beverly Arch area. Specifically, it included approximately \$16,000 in its loan request before the Commission in a different proceeding (Application (A.) 94-03-007) to move the Beverly Arch customers from the utility's middle pressure zone to the utility's upper pressure zone. In D.95-10-015, that loan request was approved.

3. Hearing

An evidentiary hearing was held at Kings Beach on August 21, 1995, immediately following a water pressure field investigation at complainant's residence in Tahoe City. Complainant testified for himself and John Fulton testified for defendant. Three exhibits were identified and received into evidence and the case was submitted at the conclusion of the evidentiary hearing.

After the proceeding was submitted, the Commission's Water Division staff informed the Administrative Law Judge (ALJ) that certain improvements may have been made by the defendant such as to render the complaint moot. By ruling dated November 25, 1997, the ALJ reopened the proceeding for the limited purpose of receiving a verified statement from the defendant regarding any system improvements that had been made subsequent to the hearing in this

matter which might have an effect on the complaint. The ruling also specified that if the complainant wanted to cross-examine the defendant on this submission he was to notify the ALJ.

On December 1, 1997, defendant submitted verified a statement as instructed by the ALJ. The complainant did not notify the ALJ that he wished to cross-examine on the statement. As previously indicated to all parties in the November 25, 1997 ruling, the verified statement will now be received into evidence as Exhibit 4.

4. Discussion

The issue in this complaint case is whether the utility is violating General Order 103 (GO 103) by not providing adequate water pressure for domestic and fire service use at complainant's residence, which is located on an upward sloping corner lot with domestic water service being received on Clayton Street and located in defendant's middle water pressure zone. Complainant's fire service is available from a fire hydrant located on Beverly Drive, around the corner from his domestic water service connection, and is located in defendant's upper pressure zone.

5. Domestic Water Pressure Issue

Complainant testified that his domestic water service is unsatisfactory because it doesn't meet the proper standards for domestic water supply. However, complainant was unable to explain which standards for domestic water service defendant fails to meet.

Defendant acknowledged that complainant's water pressure is low at complainant's service connection. However, he explained that the water pressure is low because the utility operates in three different pressure zones designed around the contour of the land; complainant is currently located in the utility's middle pressure zone.

Complainant's service connection is located on Clayton Street at the point at which complainant's water service pipe connects with the utility's water service pipe. Since neither complainant nor defendant took a pressure measurement at complainant's service connection, there is no evidence on the exact pressure at the service connection.

The field investigation undertaken prior to the evidentiary hearing demonstrates that the fire hydrant's water pressure located near complainant's residence measures 20 psi. Unlike complainant's service connection, the fire hydrant is located around the corner on Beverly Drive and in the utility's upper pressure zone. This is at a higher elevation (approximately the same as the house) than the point at which the water service enters Karp's property. Using defendant's explanation that a 2.3-foot column of water exerts one pound of pressure, complainant experiences a 10- to 12-pound drop in water pressure from the service connection to his residence. Therefore, the pressure at the service connection can be inferred to be about 30 psi.

Complainant presented no other evidence to show that defendant is not complying with GO 103 domestic water pressure requirements.

5.1. Resolution of Domestic Water Pressure Issue

GO 103 sets forth the minimum standards for water utilities. The GO specifically precludes the rules from being construed to require utilities to replace or abandon their water mains prior to the expiration of economic utilization of facilities in use unless so ordered by the Commission. The GO provides that the utility shall maintain normal operating pressures of not less than 40 psi nor more than 125 psi at the service connection, with a provision that the pressure may fall as low as 30 psi and increase as high as 150 psi during periods of hourly maximum and minimum demand, respectively, at the time of peak seasonal loads (GO 103, II 3.a).

Any loss of water pressure beyond the service connection and toward complainant's residence is the responsibility of complainant.

However, the current version of GO 103 is not applicable to this subdivision. Rather the version that was in effect at the time (1965) the subdivision was constructed governs. At that time, GO 103 provided for a minimum pressure of 25 psi. Thus, the complaint as to this issue should be denied because the pressure at the service connection exceeded 25 psi at the time of the complaint.

Furthermore, the defendant states (Exh. 4) that subsequent to the hearing, Fulton relocated two check valves that control the demarcation between the upper and middle pressure zones. The result was to increase water pressure in the Beverly Arch area (complainant's area) by 30 psi.

On November 30, 1997, the defendant measured the pressure at the fire hydrant adjacent to the Karp's location and obtained a reading of 50 psi. The fire hydrant is about 23 feet higher in elevation than the point at which the Karp service enters the property. The inference is that the pressure at the point of service entry would be at least 60 psi. Thus, the relief requested in the complaint has been accomplished.

6. Fire Hydrant Water Pressure Issue

Complainant asserts that the fire hydrant located adjacent to his residence does not meet the 1991 Uniform Fire Code as adopted by the North Tahoe Fire Protection District. However, complainant testified that he did not know the provisions of the Uniform Fire Code (Code) or what provision defendant had not met.

The field investigation undertaken prior to the evidentiary hearing demonstrates that the fire hydrant's water pressure located near complainant's

residence measured 20 psi. The fire hydrant is located around the corner on Beverly Drive and in the utility's upper pressure zone.

Defendant explained that water flow is more important than the pressure level from a fire hydrant because the fire department uses its own pressure pumps located on the fire trucks to fight fires. Fulton further explained that the Fire Underwriters' residential fire rate for the Lake Tahoe area is 250 gallons a minute for a four-hour flow. Defendant explains that its fire flow, including its other water flows, satisfies the requirements of a recent rating review undertaken by the Board of Fire Underwriters.

To date defendant has not received any notice that it is not in compliance with fire flow requirement or that it needs to upgrade its fire flow service.

6.1. Resolution of Fire Flow Issue

The 250 gallons per minute flow rate is the same rate required for fire flow involving initial construction, extension, or modification of a water system for rural residential areas similar to complainant's area, as promulgated by Section VIII I (a) of GO 103. The GO provides that the utility shall not be responsible for modifying or replacing an existing main, which is otherwise adequate, to provide increased fire flow unless the utility initiates the replacement of an existing main used or useful for fire protection purposes and sized to accommodate the governing fire flow standard, or unless local authority determines that there is increased exposure of life and property to fire hazards.

Absent evidence to substantiate that defendant is not in compliance with GO 103 fire service standards, the fire service water pressure complaint should be denied.

The improvements that have been made subsequent to the hearing indicate that any relief requested on this issue has also been accomplished.

Findings of Fact

1. Complainant's residence is located on a corner lot with his domestic water service located on one street and a fire hydrant located around the corner on another street. The domestic water service is located in defendant's middle pressure zone and the fire hydrant service is located in defendant's upper pressure zone.

2. Prior to recent improvements, the water pressure at the complainant's service connection was approximately 30 psi.

3. Prior to recent improvements, the water pressure at the home was approximately 20 psi.

4. After the recent improvements, as detailed in Exhibit 4 now received in evidence, the water pressure at the complainant's service connection is at least 60 psi.

5. Prior to recent improvements, the water pressure at the adjacent fire hydrant was approximately 20 psi.

6. After recent improvements, the water pressure at the adjacent fire hydrant was approximately 50 psi.

7. The current GO 103 promulgates a minimum 40 psi standard for domestic water service.

8. At the time of the construction of this subdivision (1965), the GO provided for a minimum 25 psi standard.

9. Complainant experiences a 10- to 12-pound drop in water pressure from the service connection to his residence because his residence is located uphill from his service connection.

10. The GO precludes utilities from being required to replace or abandon their water mains prior to the expiration of economic utilization of facilities in use.

11. The Fire Underwriters' residential fire rate for the Lake Tahoe area is 250 gallons a minute for a four-hour flow.

12. Defendant has not been ordered by a local authority to increase its fire flow ability.

13. No evidence was presented to substantiate that defendant is not in compliance with GO 103 as to domestic water pressure or as to fire flows.

14. Defendant is in compliance with the GO 103 fire service requirements.

Conclusions of Law

1. The burden of proof in a complaint case is on the complainant.

2. Complainant has not demonstrated that the utility is in violation of the GO 103 in effect at the time of the construction of the subdivision.

3. This is a complaint case not challenging the reasonableness of rates or charges, and so this decision is issued in an "adjudicatory proceeding" as defined in Public Utilities Code § 1757.1.

4. With recent improvements, complainant has not demonstrated that the utility is in violation of the GO 103 in effect currently.

5. Recent improvements have accomplished the relief requested in the complaint.

6. The complaint should be denied.

C.94-10-042 ALJ/KKH/tcg*

O R D E R

IT IS ORDERED that the complaint in Case 94-10-042 is denied.

This order becomes effective 30 days from today.

Dated August 6, 1998, at San Francisco, California.

RICHARD A. BILAS
President
P. GREGORY CONLON
JESSIE J. KNIGHT, JR.
HENRY M. DUQUE
JOSIAH L. NEEPER
Commissioners