

Decision 00-02-015 February 3, 2000

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Lamar Brown and Nan Humbel for an exemption from the Moratorium on new water service connections in the Montara-Moss Beach District as set out in Ordering Paragraph 1 of D.86-05-078.

Application 99-11-014
(Filed November 10, 1999)

OPINION

1. Summary

Lamar Brown and Nan Humbel (collectively, applicants) seek an exemption from the Commission-imposed moratorium on new water connections in the Montara-Moss Beach District of Citizens Utilities Company of California (Citizens) in order to permit Citizens to install a water service connection at applicants' property. Essentially, the request involves substituting one connection for an existing one, and no increase in the use of water is contemplated. The application is unopposed. The application is granted.

2. Background

The moratorium on new connections in the Montara-Moss Beach District dates from a series of orders by this Commission beginning in 1976 and confirmed in 1986 in Decision (D.) 86-05-078, 21 CPUC2d 235. The 1986 order responded to an application by Citizens, pursuant to Pub. Util. Code § 2708, in which the utility stated that it had reached the limit of its capacity to supply water in the district. The district has about 1,600 connections.

Because Citizens has not acquired meaningful new sources of water for the Montara-Moss Beach District, the Commission has kept the moratorium in effect in various decisions since 1986. Most recently, in D.97-12-097, 1997 Cal. PUC LEXIS 1138, the Commission approved the utility's master plan update for improving the system. The Commission also took note of a pending Department of Water Resources study on water resources in the Montara area. The Commission directed Citizens to file an application within five months of receiving the study to deal with recommendations, if any, for new sources of water. The Department of Water Resources has filed a preliminary report but has not yet made the study final.

The moratorium that was put in place in 1986 contained limited exceptions, including the following:

"The moratorium shall not apply to owners of real property who are customers of CUCC [Citizens] on or before the date of this order, or their successors in interest, if any change in the use of their property will not increase their demand upon the system." (D.86-05-078, Ordering Paragraph 3.)

In addition to exempting system water users and their successors from the moratorium, D.86-05-078 also provided that prospective customers could seek an exemption from the moratorium by filing an application with the Commission showing that extraordinary circumstances required an exemption.

Applicants state that they meet the criteria of both Ordering Paragraphs 3 and 6 of D.86-05-078.

3. Nature of Application

Applicants operate the Morning Star Ranch, a horse boarding ranch located in the Montara-Moss Beach service area of Citizens. The ranch is located on seven acres and provides boarding for about 25 horses. The property is

owned by Caltrans (the California Department of Transportation), and has been leased to applicants since 1986.

From approximately 1947 through the present, the property has been leased to parties who have operated it as a horse boarding ranch. Throughout this period, the property has provided boarding for about 25 horses and, commensurate with this use, its water demands have remained fairly constant. Applicants state that the ranch property has taken water from the Citizens system during all or most of this time.

At the time the water moratorium was instituted in 1986, water was provided directly by Citizens through a connection to a ranch house located on the property. Some time after the moratorium was instituted, the ranch house was condemned by Caltrans for safety reasons and the water connection was removed. The ranch then began receiving water from Citizens through a connection to another house located near the ranch. At the time, applicants state, this was the most cost-effective way for the ranch to receive water. The arrangement continued until 1994 when the owner of the house moved.

Since 1994, the ranch has received water from Citizens through a connection to the house of Elden and Tina Schuller, a couple who purchased a house near the ranch in 1990. The Schullers receive water from Citizens, and applicants' water use at the ranch is monitored by a meter installed by applicants between the Schullers' house and the ranch. Under this arrangement, the Schullers, as Citizens' customer of record, are billed for all water used by them and by the ranch. As part of the arrangement, applicants pay the Schullers' entire water bill.

The Schullers receive sewer service from the Montara Sanitary District. The Sanitary District imposes a sewer assessment tax based on the amount of water used by a customer between November and March. This in turn has

increased the Schullers' sewer assessment tax as a result of receiving water both for themselves and for the ranch. Although applicants pay the Schullers' water bill, they have not in the past paid for sewer service because the ranch is not connected to the Sanitary District sewer system. The parties state that the sewer assessment tax has become burdensome for the Schullers.

According to applicants, it was cost effective for the ranch to receive water through the Schullers' water service connection, but the arrangement no longer serves the parties in view of the Sanitary District method of taxing sewer service. Accordingly, they ask that they be permitted to pay for a line extension to their property in order again to receive water directly from Citizens Utilities.

4. Position of Citizens

Citizens agrees that permitting a direct hookup to applicants' property will not increase demand for water in the utility's system. Citizens states that it will support granting the relief requested if the Commission finds that applicants' request is just and reasonable. The utility adds that "such a decision appears to be consistent with both the letter and spirit of the Commission's moratorium decisions." (Citizens Response, at 2.)

5. Discussion

We will grant the application and authorize Citizens to install a water service connection to applicants' property at applicants' expense. The record shows that applicants and their predecessors at the Morning Star Ranch have received water directly or indirectly from Citizens since long before our 1986 orders establishing a moratorium on new service connections. More importantly, the record shows that granting this application will not increase demand for water in the Citizens system. In effect, we are approving a substitution of one connection for an existing one, with no increase in the use of

water. Under these circumstances, applicants have shown that they qualify generally for the exceptions to the moratorium on new service connections.

In D.97-12-097, we directed Citizens to file an application within five months of receiving the Montara hydrological report of the Department of Water Resources. It continues to be our hope that the report will suggest a means by which Citizens can increase its supply of water and ease the moratorium on new service in the Montara-Moss Beach District.

In Resolution ALJ 176-3027 dated November 18, 1999, the Commission preliminarily categorized this proceeding as ratesetting, and preliminarily determined that a hearing would be necessary. In the absence of opposition to the application, we now determine that a hearing is not necessary, and our order today makes that change in the preliminary determinations in Resolution ALJ 176-3027.

Findings of Fact

1. Applicants seek an exemption from the moratorium on new water connections in the Montara-Moss Beach District in order to have a water service connection installed at applicants' property.
2. Applicants have leased their property from Caltrans since 1986 and operate Morning Star Ranch, a horse boarding ranch for about 25 horses.
3. The ranch previously received its water directly from Citizens through a connection to a ranch house located on the property.
4. When the ranch house was condemned by Caltrans for safety reasons, the ranch began receiving water from Citizens through a connection to another house located near the ranch.
5. Since 1994, the ranch has received water from Citizens through a connection to the house of Elden and Tina Schuller.

6. The Montara Sanitary District imposes a sewer assessment tax based on the amount of water used by a customer between November and March.

7. The ranch is not connected to the Montara Sanitary District, but the Schullers' home is.

8. In order to avoid continuing the high sewer assessment tax for the Schullers based on water use for both the ranch and the Schullers, applicants ask that they be permitted to pay for a line extension to their property in order again to receive water directly from Citizens.

9. The 1986 moratorium contains limited exceptions for new service based on extraordinary circumstances or on the utility's prior provision of service to owners of real property or their successors in interest.

10. Citizens does not oppose the application.

11. Granting the application will not increase demand for water in Citizen's system.

Conclusions of Law

1. Applicants and their predecessors at the Morning Star Ranch have received water directly or indirectly from Citizens since long before the Commission's 1986 orders establishing a moratorium on new service connections.

2. Granting this application will not increase demand for water in the Citizens system.

3. In effect, our order today approves a substitution of one connection for an existing one, with no increase in the use of water.

4. Applicants have shown that they qualify generally for the exceptions to the moratorium on new service connections.

5. In the absence of opposition to the application, we should change the preliminary determination in Resolution ALJ 176-3027 to state that a hearing is not necessary.

O R D E R

IT IS ORDERED that:

1. The application of Lamar Brown and Nan Humbel (applicants) for an exemption from the moratorium on new water service connections in the Montara-Moss Beach District of Citizens Utilities Company (Citizens) is granted.
2. Citizens is authorized to install a water service connection at applicants' property at applicants' expense.
3. The preliminary determination in Resolution ALJ 176-3027 that a hearing in this application would be required is amended to state that no hearing is required.
4. Application 99-11-014 is closed.

This order is effective today.

Dated February 3, 2000, at San Francisco, California.

RICHARD A. BILAS
President
HENRY M. DUQUE
JOSIAH L. NEEPER
CARL W. WOOD
LORETTA M. LYNCH
Commissioners