

Decision 00-06-020 June 8, 2000

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Paul W. McGregor for an exemption from the Moratorium on new water service connections in the Montara-Moss Beach District as set out in D.86-05-078.

Application 00-02-038
(Filed March 15, 2000)

O P I N I O N

1. Summary

Paul W. McGregor (applicant) seeks 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 transfer water service from an existing home that will be demolished and transfer the service to a new home that will be constructed nearby. The new home will be built with water conservation devices required by current building codes. Citizens does not object to the transfer, and no protests have been filed. The application is granted.

2. Nature of Application

Applicant states that he has a contract to purchase a single-family residence at 888 Ocean Boulevard in Moss Beach, along with a vacant parcel three blocks away. The vacant parcel is identified as APN 037-278-090. Applicant states that the existing single family residence is metered and has been serviced by Citizens for more than 50 years.

Applicant has applied to Citizens to transfer the water service from the existing structure, after service is disconnected there, to the new structure.

Citizens responded that it was unable to provide water service because of a moratorium on new connections imposed by this Commission in 1986. On March 15, 2000, applicant filed this application for an exemption from the moratorium.

3. Grounds for Exemption

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 D.86-05-078, 21 CPUC2d 235. The 1986 order responded to an application by Citizens Utilities, 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 Decision (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 for certain projects. In one of these exceptions, it provided that

"The moratorium shall not apply to owners of real property who are customers of CUCC 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.” (21 CPUC2d at 250-51, Ordering Paragraph 3.)

The application relies on this exception. Applicant contends that since the existing water service at 888 Ocean Boulevard will be discontinued, the use of the service at the nearby property will constitute a transfer of existing service, with no additional demand on the water system serving the community. Applicant states that when the existing single-family residence at 888 Ocean Boulevard is demolished, all existing utilities will be capped and permanently sealed. With water service available to APN 037-278-090, applicant plans to build a single-family residence in compliance with current building requirements. Applicant states that the new home will be built with water conservation measures required by current codes, including low-flush toilets, low-flow shower heads and low-flow irrigation devices, in contrast to the less efficient water uses at 888 Ocean Boulevard.

Citizens does not object to the application. It states that the proposed transfer will not increase the number of connections to the water system, nor will it increase the demand for water in the system if the use made of the new premises is substantially the same as the existing property. Citizens adds that the cost of disconnecting the service at the existing parcel and substituting service to another parcel should be borne by applicant in accordance with the utility’s connection fee tariff.

There have been no protests to this application.

4. Discussion

We will grant the application and authorize Citizens to install a water service connection to applicant’s property at APN 037-278-090 following cessation of service at applicant’s property at 888 Ocean Boulevard. Costs should

be borne by applicant. Our order today makes it clear that water service cannot be reinstated at 888 Ocean Boulevard absent a lifting or easing of the current moratorium.

Technically, applicant does not qualify for the "successor in interest" exception to the moratorium cited in 21 CPUC2d 235, since applicant is not seeking to succeed to service at the Ocean Boulevard site. However, he has substantially complied with that exception by proposing to exchange service at one single-family residence for service at another single-family residence, with no change in demand on the water system. With water efficiency requirements at the new residence that are not in place at the existing residence, there is a likelihood that the demand for water will be less than that currently in place.

We recently granted a similar transfer of water service where the owners of a horse ranch elected to receive water through a direct connection rather than through a third-party homeowner. (Application of Lamar Brown and Nan Humbel (February 3, 2000) D.00-02-015, 2000 Cal. PUC LEXIS 56. There, as here, no increase in the use of water was contemplated.

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 is our hope, obviously, 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 176-3033 dated February 17, 2000, the Commission preliminarily categorized this proceeding as ratesetting, and preliminarily determined that hearings would not be necessary. Based on the record before us, no hearing is necessary. It is not necessary to alter the preliminary determinations made in Resolution ALJ 176-2993.

This is an uncontested matter in which the decision grants the relief requested. Accordingly, pursuant to Pub. Util. Code § 311(g)(2), the otherwise applicable 30-day period for public review and comment is being waived.

Findings of Fact

1. Applicant seeks to transfer water service from an existing single-family residence, which will be demolished, to a new single-family residence that will be constructed nearby. The properties are located in Moss Beach.

2. Applicant applied to Citizens to transfer water service from the existing residence to the new residence.

3. Citizens stated that it was unable to transfer water service because of a moratorium on new connections imposed by this Commission in D.86-05-078.

4. The moratorium on new connections was ordered pursuant to Pub. Util. Code § 2708 because the utility had reached the limit of its capacity to supply water in the district.

5. The 1986 moratorium contains limited exceptions for new service, including an exception for successors in interest to property where use of the property will not increase demand on the water system.

6. Under applicant's proposal, water service at the existing residence will be permanently sealed off.

7. The proposed new residence to which the water service would transfer will be built with water conservation devices required by current building codes.

8. The Department of Water Resources is conducting a hydrological study of the Montara area intended to show, among other things, whether new sources of water are available for the community.

Conclusions of Law

1. Applicant substantially complies with requirements for an exception to the moratorium because an existing water service will be replaced by a similar water service at a location where water efficiency requirements will be in place.
2. No further water service at 888 Ocean Boulevard should be permitted once service there is discontinued, absent means to end or ease the moratorium.
3. The application should be approved.

O R D E R

IT IS ORDERED that:

1. The application of Paul W. McGregor for an exemption from the moratorium on new water service connections in the Montara-Moss Beach District of Citizens Utilities Company of California (Citizens), as more fully described in the application, is granted.
2. Citizens is authorized to provide service to a new single-family residence at APN 037-278-090 after service is permanently terminated at 888 Ocean Boulevard, with costs to be borne by applicant.
3. No new service shall be permitted at 888 Ocean Boulevard absent an order by this Commission or termination of the existing moratorium.

A.00-02-038 ALJ/GEW/avs

4. Application 00-02-038 is closed.

This order is effective today.

Dated June 8, 2000, at San Francisco, California.

LORETTA M. LYNCH

President

HENRY M. DUQUE

JOSIAH L. NEEPER

RICHARD A. BILAS

CARL W. WOOD

Commissioners