

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

COMMISSION ADVISORY & COMPLIANCE DIVISION
Water Utilities Branch

RESOLUTION NO. W-3440
April 12, 1989

R E S O L U T I O N

(RES. W-3440) SAN JOSE WATER COMPANY (SJWC).
ORDER AUTHORIZING A WATER RATIONING PLAN

SJWC, by Advice Letter (AL) No. 216, filed March 6, 1989 and revised March 27, 1989, has requested authority to add Rule 14.1 to its tariffs establishing a mandatory water rationing plan for its entire service territory. SJWC's proposal is in response to a call for water rationing by the Santa Clara Valley Water District for all suppliers in the Santa Clara Valley area. The plan as initially filed and noticed called for 45% reductions by most users, but was subsequently revised to require 25% cuts. SJWC serves about 201,000 customers in San Jose, Los Gatos, Saratoga, Monte Sereno, and parts of Cupertino and unincorporated Santa Clara County.

In normal years, SJWC purchases about 40% of its water from the District, pumps about 55% from aquifers underlying its service area and controlled by the District, and obtains the remainder from storage of runoff in local reservoirs. Because of the continuing drought, SJWC's water sources are in jeopardy.

The Santa Clara Valley Water District is a water wholesaler to SJWC, two other Commission-regulated water utilities, fourteen local cities and the County of Santa Clara. Although the District has no retail customers of its own, it manages most of the area's water supplies. It receives, treats and distributes water from the federal Bureau of Reclamation's San Felipe Project and the State Water Project through aqueducts from the San Joaquin Valley, and provides for groundwater recharge, charging a pump tax for all water drawn from local aquifers. During the coming year the State Water Project will be able to meet the District's allocations, but the Bureau of Reclamation may cut back its deliveries to the District by a percentage yet to be firmly established. With less imported water available, the area's water retailers will be driven to increased reliance on groundwater withdrawals, and water tables already depressed by two years of below-normal precipitation and above-normal pumping will not be adequately recharged.

The District has determined that at current consumption levels all Santa Clara Valley water sources, including imported water, underground aquifers and local runoff, will be unable to safely provide for the needs of the more than 1.4 million people in the area. The District initially asked all local suppliers to take steps to reduce the amount of water used by 45%, but voted on March 20, 1989 to reduce that figure to 25% following early-March's favorable precipitation and a successful effort to obtain additional imported water. As a result, SJWC must now reduce its customers' consumption by 25%. Two other CPUC-regulated water utilities, Great Oaks Water Company and California Water Service in its Los Altos/Suburban District, are similarly affected. Each is expected to request Commission authorization to implement a rationing plan nearly identical to SJWC's.

To achieve the necessary reduction, SJWC requests authority to impose mandatory rationing on its customers as set forth in AL 216's proposed Rule 14.1 which:

Prohibits nonessential and unauthorized water use, including:

use for more than minimal landscaping in connection with new construction;

use through any meter when the company has notified the customer in writing to repair a broken or defective plumbing, sprinkler, watering or irrigation system and the customer has failed to effect such repairs within five days;

use of water which results in flooding or runoff in gutters or streets;

use of water through a hose for washing cars, buses, boats, trailers or other vehicles without a positive automatic shut-off valve on the outlet end of the hose;

use of water through a hose for washing buildings, structures, sidewalks, walkways, driveways, patios, parking lots, tennis courts, or other hard-surfaced areas;

use of water to clean, fill or maintain levels in decorative fountains;

use of water for construction purposes unless no other source of water or other method can be used;

service of water by any restaurant except upon the request of a patron; and

use of water to flush hydrants, except where required for public health or safety.

Establishes customer water allocations at 75% of historical usage with the corresponding bimonthly billing periods of 1987 being the base.

Establishes an allocation of 90% of 1987 consumption for users of process water (water used to manufacture, alter, convert, clean, grow, heat or cool a product, including water used in laundries and car wash facilities that recycle the water used).

Establishes a minimum allocation of six Ccf per month (one Ccf is one hundred cubic feet) for any customer regardless of historical usage.

Establishes an exceptions procedure for customers with no prior billing period record or where unusual circumstances dictate a change in allocation.

Establishes a penalty ("conservation fee") of \$2.00 per Ccf for usage over allocated amounts, provided, however, that banking of underusage from month to month is allowed.

Provides that penalty funds are not to be accounted for as income, but are to be kept in a separate reserve account for disposition as directed by the Commission.

Provides that, after written warning for nonessential or unauthorized water use, for subsequent violations the utility may install a flow restrictor to be left in a minimum of three days. The second time a flow restrictor is installed it may be left in until rationing ends.

Establishes charges of \$25, \$50, or actual cost depending on meter size for removing restrictors, and provides that continuing nonessential or unauthorized use may result in disconnection.

Establishes an appeal procedure first through the utility, then to the Commission staff through the Executive Director, then to the Commission via a formal complaint.

SJWC's plan is nearly identical in structure to that which the Commission authorized for California Water Service's four San Francisco peninsula districts by Resolution W-3404 on July 8, 1988, but the rationing percentages for California Water Service's plan range from 70% to 90% depending on district and time of year compared to SJWC's constant 75%. The only other significant difference is SJWC's restriction on hydrant flushing which the earlier plan did not have.

The California Water Code, Section 350 et seq, provides that any public water supplier may, after public notice and hearing, declare a water shortage emergency within its service area whenever it determines that the ordinary demands and requirements of its consumers cannot be satisfied without depleting the water supply to the extent that there would be insufficient water for human consumption, sanitation, and fire protection. After it has declared a water shortage emergency, it must adopt such regulations and restrictions on water delivery and consumption as it finds will conserve its water supply for the greatest public benefit. Section 357 requires that suppliers which are subject to regulation by the CPUC shall secure its approval before making such regulations and restrictions effective. SJWC has notified customers, held public hearings, and declared a water shortage emergency as required by these sections of the Water Code.

SJWC held a duly noticed Water Code public hearing in San José on March 20, 1989 while the reduction was still expected to be 45%. According to the Water Branch representative who was there as an observer and the local newspaper, approximately 130 customers attended. Most of those who testified acknowledged the need for rationing but criticized the plan's premise that individual allocations should be based on a percentage of prior use, maintaining that it is disadvantageous to those who heeded the call for conservation in the past and clearly inequitable. According to SJWC, cards submitted by attendees indicated that the aspects of most interest were the rate structure, allotments and plan methodology, along with the appeal process, future actions and water supply issues, and the concerns of special interest groups.

SJWC notified customers of its AL 216 filing by publishing a notice containing the plan in its entirety in the local newspaper on March 6, 1989. The Water Utilities Branch has received one letter in response, a qualified protest from the City of San Jose.

The City's qualified protest emphasized that it was being filed only on the understanding from the Water Branch's staff that it would not be taken as cause to unnecessarily delay the implementation of a rationing plan. The City's protest made three points: (1) a flat percentage cutback based on past use does not adequately account for past conservation efforts, and the City advocates a plan which would base half the allocation on past use and half on a uniform per customer amount; (2) SJWC's proposed \$2.00 per Ccf penalty is inadequate, the City preferring to see that amount graduated upward for increasing levels of overusage such as is successfully done in other drought-affected areas; and (3) a portion of the penalty funds to be collected and held pending further Commission order should be made available to the City to further its efforts to promote and enforce water conservation.

Earlier during its investigation of AL 216, the Water Branch contacted and was contacted by representatives of the City and the Santa Clara Valley Water District. Both strongly supported the need for rationing and were well informed of the structure of SJWC's proposed plan. Both expressed concerns with specific aspects but stated that the need to begin some form of rationing as soon as possible outweighed the potential benefit of requesting revisions at this time. The City's qualified protest, endorsed by the City Council, confirms that view.

The Commission's March 8, 1989 Order Instituting Investigation No. 89-03-005 into measures to mitigate the effects of the drought offers an appropriate forum for the City, the District and other interested parties to present their views and advocate any changes to SJWC's plan they believe are needed. If the evidence presented indicates change is warranted, SJWC's plan can be modified at that time. For now, there is general agreement that SJWC's plan should be put into effect immediately rather than delaying to implement another potentially better.

On March 3, 1989 SJWC filed a Petition For Emergency Rate Relief in its pending general rate proceeding, Application 88-09-029, requesting authority to increase its rates by 33.5% to offset the revenue losses due to this rationing plan. The request was subsequently modified to seek instead a 14.8% increase to reflect the change from a 45% rationing cut to 25%. That Petition also asks authorization to set up a memorandum account to accrue the estimated sales loss amounts pending the Commission's decision.

FINDINGS

1. All but a small portion of SJWC's water supply is obtained from the Santa Clara Valley Water District or from aquifers under the District's control.
2. Due to the continuing drought, the amount of water available to the District is insufficient to meet its resale customers' needs, including SJWC's, without unacceptable drawdown of the local aquifers. The District is therefore requiring all local suppliers to reduce the amount of water used by 25%.
3. SJWC has declared a water shortage emergency following the requirements of the California Water Code, Section 350 et seq, after determining that the ordinary demands and requirements of customers cannot be satisfied without depleting the water supply to the extent that there would be insufficient water for human consumption, sanitation, and fire protection.
4. SJWC's proposed rationing plan as set forth in AL 216's proposed Rule 14.1 is necessary to ensure the equitable allocation of such water supplies as are available, with particular regard to domestic use, sanitation, and fire protection.

5. The \$2.00 per Ccf penalty rate provided for under SJWC's proposed Rule 14.1 for excess usage is necessary to promote compliance with customers' maximum allocations.
6. The restrictor removal charges established under SJWC's proposed Rule 14.1 are reasonable and justified to compensate SJWC for costs incurred in installing and removing such restrictors.
7. SJWC's proposal to accumulate the amounts collected under its excess usage penalty rate in a suspense account for eventual disposition in a manner to be determined by the Commission rather than accounting for them as utility income is appropriate.
8. Order Instituting Investigation No. 89-03-005 into measures to mitigate the effects of the drought offers an appropriate forum for the City, the District and other interested parties to present their views and advocate any changes to SJWC's plan they believe are needed. SJWC's plan should be put into effect immediately rather than delaying to implement another potentially better.

IT IS ORDERED that:

1. San José Water Company is authorized to add Rule 14.1 to its tariffs establishing the mandatory rationing plan proposed by Advice Letter No. 216 as revised. Rule 14.1 shall apply to service rendered on and after its effective date. The effective date of Rule 14.1 shall be the same as the effective date of this resolution.
2. Rule 14.1 shall continue in force until such time as the Commission directs its modification or repeal.
3. This resolution is effective today.

I certify that this resolution was adopted by the Public Utilities Commission at its regular meeting on April 12, 1989. The following commissioners approved it:

G. MITCHELL WILK
President
STANLEY W. HULETT
JOHN B. OHANIAN
Commissioners

Commissioner Frederick R. Duda
being necessarily absent, did
not participate.

Commissioner Patricia M. Eckert
present but not participating.



VICTOR R. WEISSER
Executive Director