

Decision 09-05-003 May 7, 2009

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Lynn Stanghellini, Terrie Christiansen,  
Ken Rose, Bobbie Rose, Patricia Marchand  
and Ann Geraghty,

Complainants,

vs.

San Jose Water Company (U168W),

Defendant.

Case 08-06-020  
(Filed June 17, 2008)

**DECISION GRANTING IN PART AND  
DENYING IN PART REQUESTED RELIEF**

**1. Summary**

Today's decision grants complainants' request for a solution that will increase water pressure at three residences,<sup>1</sup> but denies complainants' request to increase water pressure at a fire hydrant near the three residences.<sup>2</sup> The water pressure will be increased through the installation of individual water pressure augmentation systems at each residence. Water pressure augmentation system installation costs will be paid by SJWC; however, maintenance and operational

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<sup>1</sup> The three residences are located at 19350, 19356, and 19366 Overlook Road, Los Gatos, California. The residences are at an elevation of about 1,400 feet which is significantly above most of San Jose Water Company's (SJWC) system.

<sup>2</sup> Complainants also requested that SJWC inspect the apparent pooling of water in the street by the residences.

costs for the installed systems will be the responsibility of each of the owners of the three residences. As the Santa Clara Fire Department (Fire Department)<sup>3</sup> indicates it can obtain the required flow necessary for fire protection, this decision does not order SJWC to increase the fire hydrant water pressure. This decision also finds SJWC is not in violation of General Order 103. This proceeding is closed.

## **2. Background**

Complainants filed Case 08-06-020 (Complaint) on June 17, 2008, alleging that SJWC was not providing the minimum normal operating pressure required by General Order (GO) 103<sup>4</sup> to their residences or to the nearby fire hydrant.<sup>5</sup> Complainants provide a history of communications with SJWC including a February 2008 meeting with a SJWC representative who measured water pressure at seven pounds per square inch (psi) at one residence, and 5 psi at the hydrant. Complainants also state that:

- a) The SJWC website indicates the Overlook Road area is a low pressure area of between 25 and 40 psig.
- b) SJWC stated that the three residences were “grandfathered” into receiving service from SJWC prior to adoption of GO 103 and therefore owners were responsible for improving their water pressure.

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<sup>3</sup> The Fire Department has responsibility for fire protection using the hydrant.

<sup>4</sup> GO 103 adopted June 12, 1956, (Decision (D.) 53204) required a minimum normal operating pressure of 25 pounds per square inch as measured on a gauge (psig). GO 103 was amended in 1975 to require a minimum normal operating pressure of 40 psig.

<sup>5</sup> GO 103 provides for minimum fire protection water flows calculated at a minimum pressure of 20 psi. The Fire Department has responsibility for this hydrant and fire protection.

- c) Nothing in the deeds<sup>6</sup> for the three residences indicates that previous owners accepted lower than normal water pressure.
- d) Water pressure measurements taken in March 2008 indicated hydrant pressure of 14-18 psig.

In March 2008, Complainants indicate that SJWC offered to install a water pressure system at one residence but not the other two residences. After rejection of that offer, Complainants state that SJWC offered to install water pressure systems at all three residences.

On July 22, 2008, SJWC answered the Complaint (Answer) stating:

- a) It is prohibitively expensive and a burden to existing ratepayers to continuously upgrade the water system, and thus existing services are grandfathered into the system.
- b) Recorded water pressure readings taken on March 25, 2008, at the three residences were between 13 and 26 psig at outside hose bibs.
- c) The original services for the three residences were likely established about 1928.
- d) If new water services were established today for the three residences, the services would be established sufficiently downhill to meet GO 103 water pressure requirements.<sup>7</sup>
- e) Installation of a large water pressure system<sup>8</sup> to serve the area near the residences is estimated to cost about \$112,000. The cost would be included in SJWC's rate base.

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<sup>6</sup> Complainants indicate that SJWC has not been able to produce any waivers indicating that less than normal water pressure would be acceptable at any of the three residences.

<sup>7</sup> Complainants also note that about five years ago, a large house was built that has its own water tank and pumping system. Although unknown, it is possible that this system has had a negative effect on the local water pressure.

<sup>8</sup> This water pressure system would be located adjacent to SJWC's Beckwith tank. The Beckwith tank sits adjacent to the three residences.

- f) The fire hydrant in front of the residences was installed in 1936. An additional hydrant was installed further downhill in 1987.
- g) The local Fire Department is aware that the pressure at the nearby fire hydrant is 18-19 psig, and has stated that in the event of a fire, the Fire Department will boost the hydrant pressure from a truck.
- h) As the Beckwith tank is not sized to accommodate current minimum fire flow requirements, and the cost to comply with current standards is expensive, it would be unreasonable to increase the pressure of the nearby hydrant.
- i) The standing water problem near the three residences appears to be the result of overwatering at another residence.

SJWC contends it has not violated any tariffs and that the Complaint should be dismissed.

At the request of the assigned Administrative Law Judge (ALJ), staff from the Commission's Division of Water and Audits (DWA) analyzed the Complaint. This analysis included a request to SJWC to retest the water service pressure at the residences, and a request to the Fire Department for a water flow test. On December 23, 2008, DWA submitted its analysis and recommendations (DWA Analysis) on the Complaint to the assigned ALJ.

On December 26, 2008, an ALJ ruling sent copies of the DWA Analysis to parties, and provided parties an opportunity to comment. Comments<sup>9</sup> were

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<sup>9</sup> Attached to the comments are portions of The California Department of Public Health's Regulations Related to Drinking Water (January 1, 2009), and 53204 (June 12, 1956), which adopted GO 103.

received from Complainants on January 14, 2009.<sup>10</sup> SJWC stated it had no issues with the ruling.<sup>11</sup>

### **3. Discussion**

#### **3.1. Low Water Pressure at the Three Residences**

Neither of the parties contends that the water pressure at any of the three residences meets the current minimum water pressure required by GO 103.<sup>12</sup> SJWC's tariffs identify the area as a "designated pressure area" subject to different pressure conditions than those required by GO 103. Furthermore, as explained in the DWA Analysis, the low water pressure is due to the close proximity of the residences to SJWC's Beckwith tank which supplies the water pressure by gravity, and is not due to inadequate water facilities such as mains or inadequate storage.

Although low water pressure at the three residences is not disputed by SJWC, GO 103 provides an exception to meeting the minimum water pressure standard. This exception applies until the full utilization of existing facilities.<sup>13</sup> Complainants contend it has been almost 80 years since the initial water service was provided by SJWC and the facilities in question should have been fully utilized.<sup>14</sup> However, as the DWA Analysis explains there has been no determination on the economic utilization of the facilities in question.<sup>15</sup> Given

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<sup>10</sup> An ALJ's ruling on January 27, 2009, received the DWA Analysis and the comments into the formal record.

<sup>11</sup> See, E-mail to the assigned ALJ, January 20, 2009.

<sup>12</sup> See, Table 1, DWA Analysis, p. 3.

<sup>13</sup> See, GO 103, Section I(1).

<sup>14</sup> See, Complainants' Comments, p. 1.

<sup>15</sup> See, DWA Analysis, p. 5.

these circumstances it is unclear whether the GO 103 minimum operating pressure standard should apply in this instance.

SJWC points out that if a residence sought new service today in a low pressure area, either the service meter would be located sufficiently downhill to meet GO 103 minimum pressure, or a deed restriction would be required from the customer. However, the circumstances of this Complaint are relatively unique. The residences were built and connected to the system many years prior to the adoption of GO 103 standards, and no party has presented evidence that any of the three residences have low water pressure deed restrictions.<sup>16</sup> SJWC states it is unable to recall a similar case with low water pressure for an extended length of time.<sup>17</sup>

Despite this uncertainty, SJWC offered to increase the pressure to each of the three residences by installing individual water pressure systems<sup>18</sup> at each of the three residences.<sup>19</sup> Under this offer, costs for installing these systems would be paid by SJWC and the continuing operational and maintenance costs would be paid by the owners of the three residences. After consideration of the unusual circumstances of this Complaint, and noting that SJWC offered to resolve the low water service pressure by installing a water pressure system at each of the three residences, we will order SJWC to make these installations. The cost of installing these water pressure systems, estimated at \$21,000, will be borne by SJWC and shall be included as a one-time expense in SJWC's normal operation and maintenance accounts and tracked in SJWC's balancing account for rate recovery

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<sup>16</sup> See, Complaint, Attachment N.

<sup>17</sup> See, Complaint, Attachment K.

<sup>18</sup> Each water pressure system includes a 500 gallon tank and a booster pump.

<sup>19</sup> See, Attachment AA to the Complaint.

in SJWC's next General Rate Case (GRC). In order to provide for contingencies above the \$21,000 estimated total cost, the total costs should not exceed \$30,000. The continued cost for operations and maintenance of the water pressure systems will be borne by the owners of the three residences. Our adopted solution to this portion of the Complaint considers that installation of the three systems is the least cost alternative, follows the recommended alternative in the DWA Analysis, and is the second preferred alternative by Complainants.<sup>20</sup> In order to accomplish the installation of these three systems, SJWC shall meet with the owners of the three residences and sign agreements which reflect our adopted solution.

### **3.2. Fire Hydrant Water Pressure**

The DWA Analysis explains that the cost for upgrading the local fire hydrant to GO 103 standards is significant.<sup>21</sup> The DWA Analysis also explains that water flow standards for public fire protection prescribed by GO 103 are those the Commission considers appropriate for application on a statewide average basis. The standards prescribed by the local fire protection agency or other prevailing local governmental agency govern this issue.<sup>22</sup> Furthermore, the fire flow tests conducted by SJWC and the Fire Department showed that the Fire Department can obtain a maximum water flow necessary for fire

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<sup>20</sup> In their comments on the DWA Analysis, Complainants stated they preferred that the low water pressure problem be resolved by installing a water pressure system at the Beckwith tank. However, Complainants' second alternative would be installation of the three water pressure systems.

<sup>21</sup> The DWA Analysis estimates this cost at \$431,000.

<sup>22</sup> See, GO 103, Section VII.

suppression using a fire engine with a pressure booster pump. Given this information we will not order changes to the existing fire hydrant.

### **3.3. Standing Water**

As stated in the DWA Analysis,<sup>23</sup> DWA staff conducted a site visit and did not detect any standing water. An earlier visit by SJWC investigated this problem and found no leaks in their system at this location. SJWC indicates it is working with the Complainants on this matter to determine the cause of the problem. If the problem persists, we expect SJWC will make reasonable efforts to remedy the problem.

### **3.4. Violation of GO 103**

GO 103 minimum and maximum water pressure standards apply to residences built either after 1956 when GO 103 was adopted or after water facilities have been fully utilized. However, there are a number of factors which affect application of GO 103 standards in this instance. The residences were built and received service many years prior to 1956, and there is no record of the conditions of service. The area is designated by SJWC as a low pressure area, and if SJWC were to provide service to a residence today it would install the service meter sufficiently downhill to achieve the minimum water service pressure. Although the construction of an additional residence in the area may have contributed to the low water service pressure problem, it appears that low water pressure has existed for many, many years prior to this Complaint. Furthermore, it is uncertain whether there has been economic utilization of the water facilities providing service, and SJWC has indicated it has no plans for

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<sup>23</sup> See, DWA Analysis, p. 7.

upgrading this portion of its system in the near future.<sup>24</sup> Finally, as a broad policy matter<sup>25</sup> it would be a burden to existing ratepayers to upgrade every part of SJWC's water system as service requirements change.

As we have considered the GO 103 standards applicable to the fire hydrant, and the Fire Department has tested the hydrant and indentified actions it would take in the event of a fire to provide adequate fire protection, we will defer to their judgment on this matter.

Since we are adopting a reasonable solution to the low water pressure at the three residences, and given the various factors described above, we cannot find that SJWC violated GO 103 in its water service to the three residences.

#### **4. Comments on Alternatives**

Complainants prefer the installation of a water pressure system at the Beckwith tank which is estimated to cost \$112,000. This amount would be paid for by all ratepayers. However, it is unreasonable to expect SJWC to install such a system to serve three residences when SJWC states it has no plans to upgrade its system in this area. Complainants recognize that granting such a request may not be reasonable and requested individual water pressure systems as a second choice.

Under the unique circumstances in this proceeding we will direct SJWC to install the three water pressure systems and appropriately account for the costs in its books of account. Although we are adopting this solution in this instance, broader policies on low water pressure standards will be addressed in R.07-12-015.

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<sup>24</sup> See, Answer of SJWC, p. 3.

<sup>25</sup> We will determine broad policy matters, including water pressure standards, in Rulemaking (R.) 07-12-015.

## **5. Comments on Proposed Decision**

The proposed decision of the ALJ in this matter was mailed to the parties in accordance with Public Utilities Code Section 311 and comments were allowed under Rule 14.3 of the Commission's Rules of Practice and Procedure.

Comments were filed on April 3, 2009, by SJWC recommending a change in decision language providing for recovery of costs. In response we have modified the decision to place any costs in a balancing account for rate recovery in SJWC's next GRC.

## **6. Assignment of Proceeding**

John A. Bohn is the assigned Commissioner and Bruce DeBerry is the assigned ALJ in this proceeding.

### **Findings of Fact**

1. The three residences were grandfathered into receiving water service from SJWC prior to adoption of GO 103.

2. No party has identified any water service restrictions in the deeds for the three residences.

3. Recorded water pressure at the three residences taken on different dates indicates the water pressures are less than the 40 psig required by GO 103.

4. SJWC has designated the area where the three residences are located as a low pressure area.

5. Installation of a large water pressure system at the Beckwith tank is estimated to cost \$112,000.

6. The most cost effective means to increase the water pressure at the three residences is through installation of individual water pressure systems at each residence, which are estimated to cost about \$7,000 per water pressure system.

7. SJWC has offered to install individual water pressure systems at the three residences with the condition that the owners of the residences pay for continued operational and maintenance expenses for the systems.

8. The Fire Department has tested the water pressure at the hydrant and stated that in the event of a fire it will boost the water pressure by truck.

9. There has been no determination of the economic utilization of the facilities providing service to the three residences.

10. If a residence sought new service today in an area of low pressure, either the service meter would be located sufficiently downhill to achieve the minimum water pressure, or a deed restriction would be required for service.

11. The low water service pressure circumstances in this Complaint are relatively unique.

### **Conclusions of Law**

1. GO 103 as amended in 1975 requires a minimum operating pressure of 40 psig.

2. GO 103 provides that minimum standards apply after the full utilization of existing facilities is contemplated.

3. GO 103 prescribes a set of minimum water flow standards for public fire protection, but the standards prescribed by the local fire protection agency or other prevailing local governmental agency govern.

4. It is not possible to find that SJWC violated GO 103.

5. This proceeding should be closed.

**O R D E R**

**IT IS ORDERED** that:

1. San Jose Water Company shall install individual water pressure systems at the three residences located at 19350, 19356, and 19366 Overlook Road, Los Gatos, California within six months of the effective date of this order.

2. San Jose Water Company shall enter into agreements with the owners of the three residences for installation of the water pressure systems. The agreements shall state that San Jose Water Company will pay for installation costs and the three residential owners will pay for operating and maintenance costs.

3. Acquisition costs estimated at \$21,000 for the three individual water systems shall be accounted for in appropriate San Jose Water Company books of accounts and tracked in San Jose Water Company's balancing account for rate recovery in San Jose Water Company's next general rate case. Total costs shall not exceed \$30,000.

4. Case 08-06-020 is closed.

This order is effective today.

Dated May 7, 2009, at San Francisco, California.

MICHAEL R. PEEVEY  
President

DIAN M. GRUENEICH

JOHN A. BOHN

RACHELLE B. CHONG

TIMOTHY ALAN SIMON

Commissioners