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Decision 94-03-043 March 9, 1994

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

ORIGINAL

Order Instituting Rulemaking on the Commission's own motion to revise Fire Protection Standards of General Order 103.	R.93-07-035 (Filed July 21, 1993)

OPINION

1. Summary

This rulemaking decision adopts a change in Section VIII of General Order (GO) 103 to restore language stating that fire flow requirements set by a local fire protection agency will preempt GO 103 requirements.

2. Background

We issued this Order Instituting Rulemaking (OIR) on July 21, 1993, to consider revising Section VIII (Fire Protection Standards) of GO 103.

Until 1991, the fire flow standards in GO 103 applied only when local fire protection agencies failed to prescribe standards. In Decision (D.) 91-04-068, 39 CPUC 2d 594 (1991), we made a number of changes in GO 103. One of these changes partly repealed the GO's local preemption rule. As amended, GO 103 preempted all local fire flow requirements that were lower than those set forth in the GO. Local authorities could still require greater fire flow.

After this revision of GO 103 became effective on May 24, 1991, we received a number of requests for deviation. Most of these requests cited particular local conditions (low fire risk area) or special conditions (installation of a fire sprinkler system) that had persuaded local fire protection agencies to agree to flow standards less restrictive than those set forth in our revised General Order. Most of these requests for deviation were

unopposed, and the judgment of local fire protection agencies has been persuasive.[1]

In view of this, we became concerned that our change in the GO 103 fire flow standards, however well-intentioned, may have foreordained what should more properly be a local decision. We said that there was little sense in preempting local fire flow standards if, upon filing of a request for deviation, we looked to the local standards for guidance in deciding whether to grant the deviation.

Accordingly, we asked all regulated water utilities to comment on whether we should amend GO 103.VIII.1 to revert to the language previously in effect. We directed each Class A water company to send a copy of our order to fire protection agencies in its service area, inviting these agencies to comment as well.

We received comments from 18 respondents, including 10 fire protection agencies. Based upon these comments, we proposed in an Interim Opinion (Decision 93-11-070, issued on November 23, 1993) to change GO 103 to revert to the language previously in effect. This proposed change was served on all regulated water utilities and on others who had submitted comments earlier. They were invited to comment further within 45 days.

Only Southern California Water Company (SoCal Water) commented. SoCal Water favors the change, but it is concerned that dicta in our interim opinion also may suggest a change in ratemaking with respect to upgrading fire flow or a change in the responsibility of utilities in assessing fire flow. No such

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1 See, e.g., Resolution No. W-3672 (August 11, 1992), granting deviation after compliance with fire agency sprinkler requirement; Bugalski v. California Water Service Company, D.93-09-014 (September 1, 1993), granting deviation after compliance with fire agency roofing requirement; Sahrojan v. California Water Service Company, D.93-09-009 (September 1, 1993), granting deviation after compliance with fire sprinkler system required by fire department.

changes are contemplated in this rulemaking. Our intent is simply to amend GO 103 to affirm that responsibility for local fire flow requirements rests with local fire protection agencies.

3. Change in GO 103

We amend Paragraph VIII.1 of GO 103 to reflect the language previously in effect, as follows (proposed change is underlined):

> "1. Design Requirements. The flow standards for public fire protection purposes set forth below are those the Commission considers appropriate for application on an average statewide basis. However, the Commission recognizes that there are widely varying conditions bearing on fire protection throughout the urban, suburban, and rural areas of California. Therefore, the standards prescribed by the local fire protection agency or other prevailing local governmental agency will govern. Such local flow standards shall be provided whether greater or lesser than those set forth below, except that mains designed for and capable of providing flows in excess of the requirements set forth in the following table opposite the classification of land sue shall be considered mains providing excess flow for the purpose of the application of the utility's main extension rule."

The full text of GO 103.VIII.1, including the proposed change, is set forth in Appendix A of our interim opinion, D.93-11-070.

Findings of Fact

1. Until 1991, minimum fire flow standards in GO 103 applied only when there were no minimum flow requirements established by a local fire protection agency.

2. In D.91-04-068, GO 103 was amended to provide, among other things, that local fire flow standards lower than those in GO 103 were preempted. Local authorities were permitted to set flow requirements higher than those in GO 103.

3. Since 1991, the Commission has received a number of requests for deviation from minimum flow requirements in light of local conditions or in circumstances where automatic sprinkler systems or other fire protection devices have been installed.

4. Requests for deviations from minimum flow requirements have been granted when supported by the local fire protection agency.

5. In this OIR, regulated water utilities and fire protection agencies were asked to comment on a proposed change in GO 103 reverting to the language previously in effect with respect to minimum fire flow requirements.

6. A total of 10 fire protection agencies and a total of 7 water companies responded to our request for comments.

7. A majority of fire protection agencies and a majority of water companies that responded supported a return to prior GO 103 language that would permit local fire protection agencies to prescribe flow standards lower, as well as higher, than those in GO 103.

8. Branch favors a return to local control of minimum fire flow standards.

Conclusion of Law

Section VIII of GO 103 should be revised to provide that local fire flow standards shall be required whether greater or lesser than those set forth in GO 103.

O R D E R

IT IS ORDERED that:

1. Section VIII.1 (Fire Protection Standards) of General Order (GO) 103 is amended as set forth in Attachment A of Decision (D.) 93-11-070 to provide that local fire flow standards shall be required whether greater or lesser than those set forth in GO 103.

2. The Commission Advisory and Compliance Division is directed to amend Section VIII.1 of GO 103 as set forth in Ordering Paragraph 1 at the time of its next revision of the Commission's General Orders.

3. The Executive Director is directed to mail a copy of this order to all regulated water utilities and to other interested parties listed in Appendix B of D.93-11-070.

This order is effective today.

Dated March 9, 1994, at San Francisco, California.

DANIEL Wm. FESSLER
President
PATRICIA M. ECKERT
NORMAN D. SHUMWAY
P. GREGORY CONLON
JESSIE J. KNIGHT, Jr.
Commissioners

I CERTIFY THAT THIS DECISION WAS APPROVED BY THE ABOVE COMMISSIONERS TODAY

NEAL J. SHULMAN, Executive Director