

ORIGINAL

Decision No. 24817

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of	}	Application No. 17944
VIDAL WATER COMPANY		
for (a) a certificate of public convenience and necessity, (b) permission to issue stock and (c) the fixing of rates.	}	

Kliott W. Sparling, for applicant.

BY THE COMMISSION:

O P I N I O N

In this proceeding the Railroad Commission is asked to enter its order declaring that public convenience and necessity require the construction, operation and maintenance of a public utility water system by the Vidal Water Company, a corporation, to supply water to the inhabitants of Tract No. 2458 in the Townsite of Vidal, San Bernardino County; to authorize said corporation to issue 1,000 shares of its no par value common stock; and to establish the rates which said corporation may charge for service rendered by it.

A public hearing was held in this matter before Examiner Kennedy at Vidal.

Vidal Water Company is a corporation organized on or about December 30, 1931, under and by virtue of the laws of the State of California. It has an authorized stock issue of 1,000 shares without nominal or par value.

It is of record that applicant desires to engage in the business of distributing water for domestic, commercial and industrial uses to the inhabitants of Tract No. 2458 in the Townsite of Vidal,

San Bernardino County. This town is located on the main line to Phoenix of the Santa Fe Railroad within four miles of the Colorado River and approximately five miles from the proposed aqueduct of the Metropolitan Water District of Southern California. The tract consists of 320 acres which have been subdivided into about 1350 lots by the Metropolitan Vidal Corporation, Ltd. This corporation is now engaged in selling the lots which have an average size of 50 ft. x 100 ft. It appears that in selling this land, the corporation has and is reserving all rights to water under said lands and has assigned one-third of said rights to Tyler B. Shaw. Said Tyler B. Shaw and the corporation have agreed to assign all of said water rights to applicant Vidal Water Company in consideration of the issuance to them of all of the shares of stock of said company. Under this arrangement, 333 shares of stock would be issued to Tyler B. Shaw and 667 shares to the Metropolitan Vidal Corporation, Ltd. In view of the fact that the testimony shows that water can be obtained anywhere in the vicinity of Tract No. 2458 in inexhaustible quantities, it is evident that the rights which are to be transferred to applicant have little or no value. We will not recognize such rights as having any value for the purpose of issuing stock.

There has been filed in this proceeding a copy of Ordinance No. 355 of the Board of Supervisors of San Bernardino County, under which ordinance said Board of Supervisors grants to Earl P. Van Denburgh, his successors or assigns, the right, privilege and franchise to lay and construct, and to thereafter operate, maintain, repair and to replace, a system of conduits and pipelines, poles and wires, together with such fixtures or appurtenances as the grantee, or his successors or assigns, may deem necessary or convenient in connection therewith, in, under, along or across all public streets, highways and/or alleys

of said district, for the purpose of transmitting and distributing gas, electricity and/or water to the industries and inhabitants of said district for light, heat, fuel, power or any other lawful purposes, and for the purpose of transmitting and distributing telephone service to the industries and inhabitants of said district, for a term of fifty years from and after the effective date of the ordinance. The district for which said right, privilege and franchise is granted is situated in the County of San Bernardino, State of California, and described as follows:

Tract No. 2458 in the County of San Bernardino, State of California, as per map recorded in Book 34, pages 94 to 99 both inclusive, of maps, records of said county.

It is of record that the right, privilege and franchise granted under said ordinance to Earl P. Van Denburgh will be assigned to applicant Vidal Water Company. While said ordinance grants a franchise to construct, maintain and operate electric, gas, water and telephone properties, applicant in this proceeding only asks for a certificate to exercise the right, privilege and franchise granted by said ordinance insofar as they relate to the construction, maintenance and operation of a public utility water system. It is alleged that this franchise has a value of \$20,000.00. However, it was stipulated by applicant that only the actual cost incurred in obtaining such franchise, right and privilege would be claimed for rate fixing purposes. Section 52 of the Public Utilities Act provides that -

"The Commission shall have no power to authorize the capitalization of the right to be a corporation, or to authorize the capitalization of any franchise or permit whatsoever or the right to own, operate or enjoy any such franchise or permit, in excess of the amount (exclusive of any tax or annual charge) actually paid to the state or to a political subdivision thereof as the consideration for the grant of such franchise, permit or right."

In view of this language of the statute, we feel that the Commission

has no authority to recognize the alleged \$20,000.00 franchise value as a basis for the issue of stock.

At the present time it appears that approximately 125 persons reside in the Town of Vidal. Water is now obtained from The Atchison, Topeka and Santa Fe Railway Company under an agreement between that company and the Metropolitan Vidal Corporation, Ltd. Under this agreement the railway company is required to deliver to the corporation surplus water only. The railway company may terminate the agreement on thirty days' notice. Because of this situation, it is planned to transfer to applicant water bearing land and have applicant install a well and pumping equipment to provide itself with an independent supply of water for the community. The cost of this well and pumping equipment is estimated to vary from \$5,000.00 to \$10,000.00. The property has not yet been transferred, nor has any expenditure been incurred on account of the well or pumping equipment. The Metropolitan Vidal Corporation, Ltd. is buying water from the railway company at the rate of 75 cents per 1,000 gallons, with a maximum of 2,500 gallons of water per day. It appears that the price being paid to the railway company is excessive as compared to the cost of producing water independently and such price will not be considered as an element of cost in determining the rates herein established which are based largely upon rates charged by other utilities operating under similar conditions. There is no data available either as to the cost of water or as to the quantity of water that will be used by consumers upon which a schedule of rates can be based. There is nothing, however, indicating any abnormal condition that would increase the cost of developing or producing water in this territory as compared to that of other utilities operating under similar conditions. It appears to us that the rates fixed by the following order should produce sufficient revenue to cover all of the reasonable, necessary and

proper charges against the system when it is completely installed and the tract is fully settled.

Applicant's petition shows that the Metropolitan Vidal Corporation, Ltd. has already laid in the streets of the aforesaid tract approximately one mile of pipelines. The cost of these pipelines, together with engineering expenses and organization expenses, is reported at \$7,500.00. The pipelines are to be transferred to applicant without consideration. As additional pipelines become necessary, applicant proposes to borrow money from the Metropolitan Vidal Corporation, Ltd. to pay for the same. It is estimated that to fully pipe the tract, an additional expenditure of about \$10,000.00 will have to be incurred. As stated, the amount necessary to install a well and pumping equipment is estimated from \$5,000.00 to \$10,000.00, while about \$5,000.00 should be expended for a stand pipe and an additional \$3,000.00 would represent the value of the land which is to be transferred to applicant. The record contains no definite information as to when these additional expenditures will be incurred. Attention is called to them only for the purpose of indicating the probable investment of this utility's enterprise when it is finally completed.

We have considered the testimony submitted in support of this application and are of the opinion that public convenience and necessity require the construction, maintenance and operation of a public utility water system in Tract No. 2458 in the Townsite of Vidal, San Bernardino County. But we do not believe that applicant should be permitted to issue 1,000 shares of its stock in exchange for the rights to which reference is made in applicant's petition and in this opinion. It is evident that if applicant proceeds with the development of its public utility water system, it will own pipelines and other properties. We therefore believe that it is

proper to authorize applicant to issue some stock against the properties which it will own. The order herein will authorize applicant to issue 300 shares of its no par value common capital stock in payment for the properties which it will acquire from the Metropolitan Vidal Corporation, Ltd., and/or from other assignors. This stock may be delivered in payment for such properties, or may be issued and sold at not less than \$25.00 per share, and the cash realized therefrom delivered in payment for the properties. As applicant proceeds with the construction and installation of additional properties, it may, if it becomes necessary, file a new application for permission to issue stock, or other securities, to pay for the properties.

O R D E R

Vidal Water Company, a corporation, having applied to the Railroad Commission for a certificate of public convenience and necessity to construct, maintain and operate a water system at Vidal, San Bernardino County, for permission to establish rates for such service, and to issue 1,000 shares of stock, a public hearing having been held thereon, and the Commission having considered the evidence submitted and being of the opinion that this application should be granted, as herein provided, that the money, property or labor to be procured or paid for through the issue of the 300 shares of stock is reasonably required for the purposes herein specified, which purposes are not, in whole or in part, reasonably chargeable to operating expenses or to income, and that this application, insofar as it involves the issue of 700 shares of stock, should be denied without prejudice, therefore,

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA HEREBY

DECLARES, that public convenience and necessity require and will require the construction, maintenance and operation by Vidal Water Company, a corporation, of a public utility water system for distributing water for domestic and other purposes to the residents of Tract No. 2458, San Bernardino County, and the exercise of the right, privilege and franchise granted by Ordinance No. 355 of the Board of Supervisors of San Bernardino County on January 13, 1932, insofar as they relate to the operation of the said water system.

IT IS HEREBY ORDERED, that Vidal Water Company be, and it is hereby, authorized to file with this Commission, within twenty (20) days from the date of this order, the following schedule of rates to be charged for all service rendered to its consumers in Tract No. 2458, San Bernardino County, subsequent to the effective date of this order:

Minimum Monthly Charges

5/8 x 3/4-inch meter.....	\$1.75
3/4-inch meter.....	2.00
1-inch meter.....	2.50
1 1/2-inch meter.....	3.00
2-inch meter.....	5.00
3-inch meter.....	12.00
4-inch meter.....	20.00

Each of the foregoing "Minimum Monthly Charges" will entitle the consumer to the quantity of water which that minimum monthly charge will purchase at the following "Monthly Quantity Rates."

Monthly Quantity Rates

0	to	500 cubic feet, per 100 cubic feet....	\$0.35
Next		500 cubic feet, per 100 cubic feet....	.30
Next		2,000 cubic feet, per 100 cubic feet....	.20
All over		3,000 cubic feet, per 100 cubic feet....	.15

-000-

IT IS HEREBY FURTHER ORDERED, that Vidal Water Company, a corporation, be, and it is hereby, directed to file with the Railroad Commission, within thirty (30) days from the date of this order, rules

and regulations governing the distribution of water to its consumers, said rules and regulations to become effective upon their acceptance for filing by this Commission.

IT IS HEREBY FURTHER ORDERED, that Vidal Water Company be, and it is hereby, authorized to issue and sell, after the effective date hereof and prior to September 1, 1932, at not less than \$25.00 per share, 300 shares of its no par value common capital stock and use the proceeds realized from the sale of said stock, or said stock, to pay for the water distributing system and properties referred to in this application, including the right, privilege and franchise granted by Ordinance No. 355 of the Board of Supervisors of San Bernardino County, and to pay organization expenses of not exceeding \$500.00.

IT IS HEREBY FURTHER ORDERED, that this application, insofar as it involves the issue of 700 shares of stock, be, and the same is hereby, denied without prejudice.

IT IS HEREBY FURTHER ORDERED, that applicant Vidal Water Company shall keep such record of the issue and sale of the stock herein authorized and of the disposition of the proceeds as will enable it to file, on or before the 25th day of each month, a verified report, as required by the Railroad Commission's General Order No. 24, which order, insofar as applicable, is made a part of this order.

IT IS HEREBY FURTHER ORDERED, that the authority herein granted will become effective twenty (20) days after the date hereof.

IT IS HEREBY FURTHER ORDERED, that within thirty (30) days after the issue of any of the stock herein authorized, Vidal Water Company shall file with the Railroad Commission a certified copy of the deed or other instrument under which it acquired and

holds title to the aforesaid properties and a general description
of said properties.

DATED at San Francisco, California, this 3rd day
of May, 1932.

C. J. Leaver
Leon White
W. J. Carr
W. B. Harris
Fred G. Hedquist
Commissioners.