

LBM

Decision No. 24822

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
SANTA CLARA VALLEY PUBLIC SERVICE
COMPANY, a corporation, for (1) order
authorizing issue of stocks and bonds;
(2) order authorizing mortgage of cer-
tain public utility property; (3) cer-
tificate of public convenience and
necessity; (4) order authorizing in-
crease in rates; and (5) jointly with
Fred C. Ehman, R. C. Leib, Frank A.
Leib, Lida Leib Armstrong, Elna Leib
Wright, Joseph Bacciocco and R. H.
Brotherton respectively, for order
authorizing sale and purchase of cer-
tain properties.

ORIGINAL

Application No. 17005.

McCutchen, Olney, Mannon & Greene, by Carl I. Wheat,
for applicant.
Chas. A. Gray, for Loyola Improvement Association.
Geo. W. Patterson, for property owners in Kellogg Tract.

BY THE COMMISSION:

FIRST SUPPLEMENTAL OPINION

The supplemental application filed in this matter on March 7th involves the transfer of the properties, to which reference is hereafter made, to applicant Santa Clara Valley Public Service Company, hereinafter sometimes referred to as the Santa Clara Company; the issue by said applicant Santa Clara Valley Public Service Company of 4,000 shares of no par common stock and \$150,000.00 of six percent twenty-year first mortgage bonds for the purposes hereinafter stated; the granting of a certificate of public convenience and necessity to said applicant Santa Clara Valley Public Service

Company to construct, maintain and operate a public utility water system in the territory hereinafter described and the publication and charging of rates.

Subject to the conditions and provisions of the order in Decision No. 23367 dated February 9, 1931 the Commission authorized applicant Santa Clara Company to issue on or before September 30, 1931, 7,220 shares of stock and on or before December 31, 1931, \$216,000.00 of bonds to acquire and improve the water plants referred to in the opinion in said decision. The Santa Clara Company did not issue any of such stock or bonds. Since the date of the said decision, Santa Clara Company has modified its plans, both as to the properties which it intends to acquire and as to the improvements which it intends to install.

The Santa Clara Company now proposes to acquire the following water works properties, as described in Exhibit No. 16:-

1. Loyola Water Works, a public utility serving 64 consumers in and bordering on the tract known as the Los Altos Golf and Country Club properties. The distributing system consists of about 43,700 feet of mains. The system is fully metered. The water supply is obtained from a well which is now taxed to its capacity to serve the system and others herein mentioned.

2. Rose L. Simmonds, a private system which supplies 9 consumers through about 4600 feet of pipe line and which is 80 percent metered. The water supply is obtained from the Loyola Water Works. This system supplies what is known as the Loyola Townsite adjacent to and east of the Loyola system.

3. Morgenstern and Quinn, a private system serving the Los Cerritos Tract located west of and adjacent to the Loyola system and consisting of about 5,000 feet of distribution mains and serving 3 consumers, all of whom are receiving water through meters. The water supply is obtained from the Loyola Water Works.

4. Rice, a private system serving the Hillhaven tract and con-

consumers on Summerhill Avenue, located to the northwest of the Loyola system and serving 5 consumers, which are all receiving water through meters. The distributing mains total about 7600 feet. The water supply is obtained from the Loyola Water Works.

5. R. H. Brotherton, a private system serving the Kellogg tract adjacent to and south of the town of Mountain View, consisting of about 3900 feet of mains and served by a complete and separate water plant which serves 45 consumers. This plant is entirely metered and its supply just about adequate to serve present consumers.

6. Joseph Bacciocco, a private system serving Montebello Acres, a subdivision adjacent to and south of the town of Mountain View and consisting of about 9,500 feet of mains and served by a separate water plant of adequate present capacity. There are 9 consumers on this system which is fully metered.

7. Easter Gables(Calkins and Spalding), a private system serving the Easter Gables tract located one mile south of the south boundary of Sunnyvale and consisting of about 3,000 feet of mains. There are 17 consumers in this tract, three of whom are receiving water through meters. The water supply is obtained from an irrigation well and boosted to a tank.

8. The Estate of S. F. Leib, a private system with about 150,000 feet of mains covering the greater portion of the area which it is proposed to serve through the consolidation of the several properties. There are about 385 consumers being served by this system. The system is about 95 percent metered. A large number of the pipe lines are of inadequate capacity. The water supply is obtained from the irrigation system for the Leib Ranch properties, being surplus water. The supply is becoming inadequate to serve the consumers.

The Loyola, Rose L. Simmonds, Morgenstern and Quinn, Rice and Easter Gables properties are at present owned by Fred C. Ehman. The record shows that he has options to acquire the R. L. Brotherton properties and the properties of the Leib Estate. He proposes to transfer all of these properties to the Santa Clara Company.

In Exhibit No. 19, R. E. Savage, an assistant engineer for the Commission, estimated as of January 1, 1932 the historical cost of the properties which the Santa Clara Company intends to acquire, at \$150,143.00, and the estimated historical cost less depreciation of such properties at \$118,353.00. W. B. McMillan, a consulting engineer, employed by the Santa Clara Company, estimates the historical cost of the properties as of the same date, at \$152,983.00 and the historical cost less depreciation, at \$123,505.00. The difference between the two estimates is immaterial so far as the issues of this proceeding are concerned.

The service being rendered by the several water systems, be they private or public utility, is not satisfactory. In some instances the inadequate service is due to an insufficient water supply, while in other cases it is attributed to too small distributing pipe lines, and low pressure. Santa Clara Company proposes to expend forthwith \$98,150.00 to improve the service. This money would be expended for the following purposes:-

a. Water supply.....		\$51,820.
Loyola boosters	\$2,790.	
Truman plant	22,690.	
Easter Gables plant	22,150.	
Leib booster	<u>4,190.</u>	
b. Distribution lines		43,330.
Primary	38,230.	
General system	<u>5,100.</u>	
c. Equipment, tools and fixtures.....		3,000.
Total.....		<u>\$98,150.</u>

It is of record that these improvements should be, and that they will be, installed forthwith, and that all of them are necessary, in order that the Santa Clara Company can give a first class public utility service.

At present about 540 consumers are served by the several water systems. In addition to this there are about 100 immediate potential consumers, of which about one half are supplied by other systems. It is estimated that at the end of 1932 the number of connections will total 640.

The territory in which applicant Santa Clara Valley Public Service Company asks permission to operate is set forth in Exhibit No. 10 attached to the supplemental petition. In general, the territory comprises the following areas:-

1. All of Mountain View School District east of Springer Road, south of San Francisco and San Jose Road (El Camino Real), south and east of Alviso-Mountain View Road and Whisman Road, and south of Ynigo Rancho (Sunnyvale Air Base) including properties on the west side of and fronting on Springer Road, but excluding the area within the corporate boundaries of the Town of Mountain View;
2. All of Sunnyvale School District west and south of the territory of Sunnyvale and Sunnyvale Annex, but excluding the area within the corporate boundaries of the Town of Sunnyvale;
3. All of the Collins School District;
4. All of Millikin School District west of the easterly boundary of the Quito Rancho and the Enright Tract;
5. That portion of Doyle School District north of Stevens Creek Road and west of the easterly boundary of the Quito Ranch;
6. That portion of San Antonio School District included in Section eleven(11), Township seven(7), South, Range two(2) West, Mt. Diablo base and meridian;
7. That portion of Los Altos School District consisting of the "Hill Haven Tract" and properties fronting on Summerhill Avenue for a distance of three fourths(3/4) mile northwest from Magdalena Avenue and being part of the Margarita Tract.

The Santa Clara Company asks that it be granted a preliminary certificate of public convenience and necessity to construct, operate and maintain a public utility water system in the aforesaid territory. It intends to apply to the Board of Supervisors of Santa Clara County for a franchise to operate a public utility water system for the service of domestic water, but not for fire protection service. If it

is successful in securing this franchise it will ask for a final certificate. It is not the intention of Santa Clara Company to encroach upon any service now being given by the Town of Mountain View, and the Town of Sunnyvale, outside municipal limits, nor upon the service now rendered by the California Water Service Company in a portion of the territory for which Santa Clara Company asks a certificate. The two companies have reached a definite understanding with respect to the area that each intends to serve.

At the hearing had on May 20th certain consumers in the Kellogg Tract adjacent to the Town of Mountain View asked that the area served by the Brotherton Water Plant be not included in the area for which applicant, Santa Clara Company, is given a certificate. R. H. Brotherton, the owner of the water plant serving this tract, maintains that he is not operating as a public utility. It appears, however, that he has given an option to Fred C. Ehman, under the terms of which Fred C. Ehman may acquire his properties. If he does so, he intends to transfer the same to applicant, Santa Clara Company. The consumers in this tract represented at the hearing that they are taking steps to organize an association which would install a distributing system throughout the tract and acquire water at wholesale from the Town of Mountain View. They allege that they own the meters. The granting of a certificate to Santa Clara Company authorizing it to operate a public utility water system in the Kellogg Tract in no way prevents the consumers from organizing such an association and obtaining water from the Town of Mountain View. If the Santa Clara Company undertakes to sell water in such tract, or elsewhere, it should acquire on some equitable basis, the consumer's meters.

At the present time there is only one of the several water plants, the Loyola plant, referred to herein, which is admittedly a public utility. Some of the plants, namely, the Simmonds, Easter Gables, Morgenstern and Quinn, and Hillhaven make no charges for water furnished. Varying rates are charged on the other systems. The tes-

timony shows that the charges now made for water are not sufficient to equal operating expenses, accruing depreciation, taxes and a return on the fair value of the properties as they now exist. Moreover, it is essential that approximately \$100,000.00 be expended to develop an additional water supply and improve the service. The purposes for which this money must be expended is set forth above and in some detail in Exhibit No. 16. Representatives of the Santa Clara Valley Public Service Company testified that they would, upon request, furnish the Commission with detailed plans and specifications as it proceeds with the installation of the new work. The Santa Clara Valley Public Service Company asks that it be permitted to publish and charge the following rates:-

SCHEDULES

- (1) For the Valley Zone covering the majority of consumers.
- (2) For the Foothill Zone where extra boosting is necessary.

MINIMUM MONTHLY RATES

(1) VALLEY ZONE	(2) FOOTHILL ZONE
Min. 5/8" Meter 2.00	Min. 5/8" Meter 2.50
3/4" " 3.50	3/4" " 4.50
1" " 5.50	1" " 7.00
1 1/2" " 10.00	1 1/2" " 12.50
2" " 16.00	2" " 20.00

Note: 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 meter rates":

MONTHLY METER RATES

0- 400 cu.ft.	50¢ per 100 cu.ft.	-----	62 1/2¢ per 100 cu.ft.
400- 4,400 "	30¢ " 100 "	-----	40¢ " 100 "
4,400- 44,400 "	25¢ " 100 "	-----	35¢ " 100 "
44,400- and over	20¢ " 100 "	-----	30¢ " 100 "

It is estimated by the Santa Clara Valley Public Service Company that the proposed rates will, with 600 consumers, produce \$30,000.00 of revenue per year. Our analysis of the water used leads us to believe that the rates will not produce an operating revenue of \$30,000.00. We believe, however, that sufficient revenue will be

realized from the rates herein established to cover operating expenses, depreciation, taxes and some return on the investment.

During the hearing certain consumers on the Loyola System suggested that that system be regarded as a separate unit and rates fixed accordingly. We have considered this request and find that the rates on such a basis would have to be higher than those established by the order herein.

The authority granted Santa Clara Valley Public Service Company to charge the rates set forth in the following order is predicated upon the assumption that the improvements referred to in this opinion will be installed.

The Santa Clara Valley Public Service Company asks permission to issue 4,000 shares of no par value common stock and \$150,000. of six percent 20-year bonds. The stock would be delivered to Fred C. Ehman in part payment for the properties which he intends to transfer to the company. The bonds would be sold at not less than 85 percent of their face value and accrued interest and the cash or some of the bonds themselves used to acquire the aforementioned properties and to pay for the improvements to which reference is made in this opinion. If the bonds are sold at 85 the company will realize \$127,500.00.

Applicant has not yet submitted a copy of its proposed trust indenture which it will execute to secure the payment of the bonds. The order herein will provide that none of the bonds may be issued, sold or delivered until the Commission has authorized the execution of such a trust indenture.

SUPPLEMENTAL ORDER

The Commission having been asked to enter its order, as indicated in the foregoing opinion, public hearings having been held in this supplemental application before Examiner Fankhauser, the Commission having considered the testimony submitted at such hearings and being of the opinion that the money, property or labor to be procured or paid for by the issue of the stock and bonds herein authorized is reasonably required by Santa Clara Valley Public Service

Company, for the purposes herein indicated, that the expenditures for such purposes are not in whole or in part reasonably chargeable to operating expenses or to income, and that this supplemental application should be granted subject to the provisions of this supplemental order, therefore,

THE COMMISSION HEREBY ORDERS AND DECLARES as follows:-

A. TRANSFER OF PROPERTIES:

1. R. C. Leib, Frank A. Leib, Lida Leib Armstrong and Elna Leib Wright may sell and convey, after the effective date hereof and prior to September 1, 1932, to Santa Clara Valley Public Service Company, the properties, system and business described in paragraph four of this application, and in Exhibit No. 16, filed in this proceeding.
2. Joseph Bacciocco may sell and convey, after the effective date hereof and prior to September 1, 1932, to Fred C. Ehman, and the said Fred C. Ehman may sell and convey to Santa Clara Valley Public Service Company the properties, system and business of Joseph Bacciocco, described in paragraph five of this supplemental application and in Exhibit No. 16 filed in this proceeding.
3. R. E. Brotherton may sell and convey, after the effective date and prior to September 1, 1932, to Fred C. Ehman, and said Fred C. Ehman may sell and convey to Santa Clara Valley Public Service Company the properties, system and business of said R. E. Brotherton, described in paragraph five of this supplemental application and in Exhibit No. 16 filed in this proceeding.
4. Fred C. Ehman may sell and convey, after the effective date hereof and prior to September 1, 1932, to Santa Clara Valley Public Service Company the properties, system and business described in paragraphs six and seven of this supplemental application and in Exhibit No. 16 filed in this proceeding.

5. Santa Clara Valley Public Service Company may purchase, after the effective date hereof and prior to September 1, 1932, all of the aforesaid properties, system and business from the said several applicants.

B. ISSUE OF SECURITIES.

6. Santa Clara Valley Public Service Company may, after the effective date hereof and prior to September 1, 1932, issue and sell at not less than 85 percent of their face value and accrued interest, \$150,000.00 of six percent 20-year bonds and 4,000 shares of its no par common capital stock and use the proceeds to acquire the aforesaid properties and to install and construct additions and betterments described in Exhibit No. 16 filed in this proceeding, provided that none of said bonds may be issued, sold or delivered until the Commission has authorized said Santa Clara Valley Public Service Company to execute a trust indenture to secure the payment of said bonds; and provided further, that none of said proceeds be expended for the installation and construction of the properties described in said Exhibit No. 16 until there have been filed with the Commission copies of contracts, if any are entered into, under which said construction work will be done and copies of the plans, specifications and cost estimates, referred to in the foregoing opinion.

C. CERTIFICATE OF PUBLIC CONVENIENCE
AND NECESSITY.

7. The Commission hereby declares that public convenience and necessity require and will require the granting to applicant Santa Clara Valley Public Service Company of a temporary certificate of public convenience and necessity authorizing it to acquire, construct, operate and maintain a public utility water system

described in the foregoing opinion and more particularly shown by a certain map introduced in evidence and designated as Commission's Exhibit No. 17, such certificate to become final when said applicant, Santa Clara Valley Public Service Company, has filed with the Railroad Commission a copy of the franchise authorizing it to construct, maintain and operate a public utility water system, and the Commission has entered a supplemental order authorizing said applicant, Santa Clara Valley Public Service Company, to exercise the rights and privileges granted by said franchise, and provided further, that the Railroad Commission of the State of California may hereafter, by appropriate proceedings and orders, revoke or limit, as to territory not then served by applicant or its successors in interest, the authority herein granted.

D. R A T E S

8. IT IS HEREBY FOUND AS A FACT that the rate schedules of the several water systems proposed to be acquired by the Santa Clara Valley Public Service Company insofar as they differ from the schedule of rates herein established, are unfair and unreasonable and that the rates herein established are just and reasonable rates to be charged for the service to be rendered, and basing its order upon the foregoing finding of fact, and on the further statements of fact contained in the opinion which precedes this order, Santa Clara Valley Public Service Company is hereby authorized and directed 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 subsequent to the 30th day of June, 1932:-

MONTHLY METER MINIMUMS

Size of Meter	Valley Zone	Hill Zone above Fairway Drive Elevation 325, Loyola
5/8 x 3/4-inch meter	\$ 2.00	\$2.50
3/4-inch meter	3.00	3.60
1-inch meter	4.00	4.80
1 1/2-inch meter	5.00	6.00
2-inch meter	6.00	9.60
3-inch meter	14.00	16.80
4-inch meter	20.00	24.00

Each of the foregoing "Monthly Meter Minimums" will entitle the consumer to the quantity of water which that monthly meter minimum will purchase at the following "Monthly Quantity Rates."

MONTHLY QUANTITY RATES

Quantity	Valley Zone	Hill Zone above Fairway Drive Elevation 325, Loyola
First 400 cubic feet or less, per 100 cu.ft.	\$2.00	\$2.50
Next 4,000 cu.ft. per 100 cu.ft.	.30	.40
Next 40,000 cu.ft. per 100 cu.ft.	.25	.35
Over 44,400 cu.ft. per 100 cu.ft.	.20	.30

SUMMER HOME RATES (Valley Zone only)

Applicable to consumers occupying homes for a portion of the year only.

Annual charge payable in advance entitling each consumer to 400 cubic feet of water per month for any period of eight consecutive months during the calendar year,
 5/8 x 3/4 inch meter\$16.00

When water is used in excess of the above monthly allowance of 400 cubic feet per month or when used for additional months over the eight consecutive months in any calendar

year covered by the sixteen dollar (\$16.00) annual payment, the regular monthly minimum and quantity rates shall apply.

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9. Santa Clara Valley Public Service Company shall file with the Railroad Commission within thirty (30) days from the date of this order, rules and regulations governing service to the consumers on the various systems proposed to be consolidated and operated by said Santa Clara Valley Public Service Company, said rules and regulations to become effective upon their acceptance for filing by this Commission.
10. Santa Clara Valley Public Service Company shall file with this Commission complete plans and specifications of all facilities to be installed under its initial development plan, together with an estimate of the cost of said facilities, said estimate to be in such detail as to permit of an independent verification.

E. EFFECTIVE DATE.

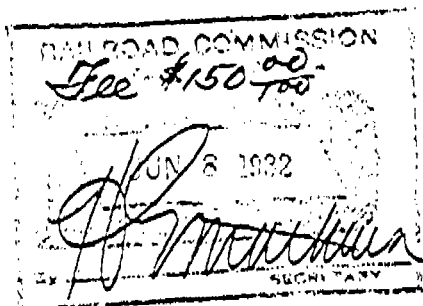
11. The authority herein granted to issue bonds is subject to this further condition, that the same will become effective when applicant, Santa Clara Valley Public Service Company, has paid the fee prescribed by Section 57 of the Public Utilities Act, which fee is One Hundred Fifty Dollars (\$150.00).
12. For all other purposes the effective date of this order shall be twenty (20) days after the date hereof.

F. GENERAL ORDER NO. 24

13. Santa Clara Valley Public Service Company shall keep such record of the issue, sale and delivery of the stock and bonds herein authorized to be issued, 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.

DATED at San Francisco, California, this 6th day of June, 1932.

C. Seavey
Leon Whiteley
W. A. Cum
M. B. Harris
Frederic G. Stewart



-14-

Fee # 25720