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ORIGINAL

Decision No. 5196

Decision No. \_\_\_\_\_

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

\* \* \*

In the Matter of the Application of )  
WINTERHAVEN IMPROVEMENT COMPANY, )  
a corporation, for an order authoriz- )  
ing the issue of capital stock, and )  
for certificate of public convenience )  
and necessity. )

Application Number 3461.

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C.A. Lindeman for applicant.  
E.B. Criddle for The Southern Sierras Power Company  
and Coachella Valley Ice & Electric Company.

BY THE COMMISSION:

O P I N I O N .

WINTERHAVEN IMPROVEMENT COMPANY applies for certificate that public convenience and necessity require it to exercise franchise rights to serve water, electric energy and gas in the townsite of Winterhaven and vicinity in Imperial County and that it be authorized to issue \$63,500.00 of its capital stock at par.

A public hearing was held at Winterhaven by Examiner Westover.

Applicant was organized by Winterhaven Townsite Company, engaged in marketing the townsite of Winterhaven, California, about one and one-half miles from Yuma, Arizona. Applicant has an authorized stock issue of \$65,000.00 divided into 65,000 shares of the par value of \$1.00 each.

On November 6, 1916, (Vol. 11, Opinions and Orders of the Railroad Commission of California, pg. 888) the Railroad Commission denied without prejudice an application of Winterhaven Improvement Company for authority to issue \$63,500.00 par value of its capital stock. In its decision, the Commission suggested that applicant amend its articles of incorporation so as to limit its business to that of a public utility character and that it then ask permission to issue its stock at par to secure such funds as it might need for public utility purposes only.

Under its original articles of incorporation, applicant was authorized to engage in public utility business of various kinds, to deal in real estate, engage in construction business, operate hotels, stores and other business of a character not related to its public utility functions.

The evidence in Application Number 2388 showed that prior to the filing of that application, applicant had issued to Winterhaven Townsite Company in exchange for lots \$63,500.00 par value of its common capital stock. The testimony in this proceeding shows that this stock has been canceled and that applicant's articles of incorporation have been amended along the lines suggested by the Commission in its decision of November 6, 1916.

Since the hearing on the previous application, a number of buildings have been constructed on the townsite including a new and modern cotton gin with 12 machines having a capacity to gin 20 bales per day of the long staple cotton grown in the vicinity. A pumping plant has been built with a 25000 gallon hemispherical modern steel water tank on a 60-foot steel tower and mains laid. An electrical distributing system has been partly constructed. The cost of applicant's water system to February 1, 1918 is reported at \$6,364.06, that of its electrical distributing system at \$4,017.02. Applicant estimates that it will have to expend about

about \$1,000.00 to complete its water system and about \$2,365.00 to complete its electrical distributing system. The engineers for the Railroad Commission have checked the expenditures, as well as the estimated expenditures, and find them to be reasonable.

Winterhaven Townsite Company has advanced to applicant all of the moneys expended in the construction of its water and electrical plants. The original as well as the present plan contemplate the purchase by applicant of 10 lots each 25 x 125 at \$500.00 per lot in exchange for capital stock at par, in addition to the lot 210 feet square on which its wells, machinery and structures are located, for which it is to pay in stock at par the sum of \$2,937.00. The price of the latter lot, as explained in letter from applicant, received since the hearing, is based on a price of \$250.00 each for lots 30 x 100, which represent the net selling price of adjoining lots. It is apparent that four such lots will allow ample space for applicant's utility business, and that an allowance of \$1,000.00 for the purchase of real estate is adequate to meet applicant's needs.

The testimony indicates that the capital needs of applicant, other than working capital, are about as follows:

Organization, general construction and development cost including incorporation, attorney's fees, traveling expenses, rent, taxes and \$67.70 cost of franchise, . . . .	\$1,411.73
Water plant constructed, . . . . .	6,364.06
Water plant extensions, . . . . .	1,000.00
Electric construction, . . . . .	4,017.02
Electric extensions, meters and transformers, . . . . .	2,365.00
Real estate, . . . . .	<u>1,000.00</u>
Total, . . . . .	\$16,157.81

Applicant has about 25 water users who have been served since December 1, 1917, and 7 electric consumers who have

been receiving electrical energy since about September 1, 1917. Applicant purchases its electric energy from the Yuma Light, Water & Power Company, which energy is originally generated by The Southern Sierras Power Company and delivered to the Yuma Company through the lines of the Coachella Valley Ice and Electric Company, a company controlled by the same interests which control The Southern Sierras Power Company.

Applicant asks authority to sell <sup>water and</sup> electric energy in Winterhaven and vicinity. It proposes to put into effect the same schedule of rates as is charged by the Yuma Light, Gas & Water Company in the City of Yuma for electric service and a flat schedule of rates for water service as follows:

Proposed Electric Power Rates

First 100 K.W.H.	per meter per month,	....9¢	K.W.H.
Next 100	" " " "	....8¢	"
Next 100	" " " "	....7¢	"
Next 200	" " " "	....6¢	"
Next 250	" " " "	....5¢	"
Next 250	" " " "	....4¢	"
All over 1000 KWH	" " " "	....3½¢	"

Minimum charge \$1.00 per mo. per H.P. connected.

Proposed Electric Lighting Rates

First	6 K.W.H. or less	per meter per mo.	\$1.00
First	50	" " " "	16¢ K.W.H.
Next	50	" " " "	14¢
Next	100	" " " "	12¢
Next	100	" " " "	10¢
Next	200	" " " "	8¢
Next	250	" " " "	7¢
Next	250	" " " "	6¢
All over 1000	" " " "	" " " "	5½¢

Proposed Water Rates

\$2.00	flat rate per month	for residence service
5.00	" " " "	commercial service
10.00	" " " "	cotton gin service

Attached to the petition herein is a copy of a franchise granted to applicant by the Board of Supervisors of

Imperial County on November 19, 1917, by resolution and order authorizing applicant to use the streets and public places in Winterhaven and vicinity for the purpose of constructing and maintaining pipes, mains, poles and wires for distributing water, gas and electric energy.

The purported franchise apparently does not conform to the requirements of the Broughton Act, Statutes of 1905, p. 777, and its subsequent amendments. Section 1 of the Act provides that "every franchise\*\*\*shall be granted upon the conditions in this Act provided and not otherwise" and Section 7 provides "the said franchise shall \*\*\*be granted by ordinance\*\*\*\*\*".

While it appears that furnishing of water and electric energy will serve public convenience and necessity in and about Winterhaven, the Commission cannot authorize the exercise of rights or privileges under franchise until a valid franchise, fully complying with all the requirements of the law, shall have been procured. When satisfactory evidence of that fact is presented, the Commission will be in position to issue the appropriate order. It appears that for the present applicant will confine its operations to its water and electric business.

The town limits of Winterhaven are

being modified by an exchange of about 40 acres in the southerly part for an equal area on the north, carrying the line to the Southern Pacific right-of-way. The transmission lines of the Coachella Valley, Ice and Electric Company pass near Winterhaven and that company may later wish to distribute electric energy in that vicinity. Applicant and the Coachella Company stipulated at the hearing that the territory to be served by applicant may be limited to the townsite of Winterhaven as contemplated, and a zone of a half mile beyond in each direction, and also the right to serve industries on Colorado siding of the Southern Pacific near Winterhaven, which may be owned or operated by applicant, Winterhaven Townsite Company, or the affiliated interests of either of them.

#### O R D E R

WINTERHAVEN IMPROVEMENT COMPANY having applied to the Railroad Commission for an order authorizing the issue of capital stock of the par value of \$63,500.00 and for a certificate that public convenience and necessity require it to exercise franchise rights, a public hearing having been held and the matter having been submitted and being now ready for decision,

IT IS HEREBY ORDERED that Winterhaven Improvement Company be, and it is hereby, granted authority to issue 17,000 shares of its capital stock of the par value of \$1.00 per share upon the following conditions and not otherwise:

- (1).-- Of the stock herein authorized, 11,793 shares may be delivered to the Winterhaven Townsite Company in payment for \$11,792.81 advanced to applicant herein.
- (2).-- Of the stock herein authorized, 1000 shares may be delivered to Winterhaven Townsite Company in exchange for land of the equivalent area of 4 lots each 30x105 heretofore conveyed to applicant by Winterhaven Townsite Company and used or useful in the public utility business of applicant.
- (3).-- Of the stock herein authorized, 4,207 shares shall be sold by applicant for cash at not less than the par value thereof and the proceeds used for the purpose of completing applicant's water and electric plants, or for such other purposes as the Railroad Commission may authorize in a supplemental order.
- (4).-- Until all the stock herein authorized has been issued, applicant shall on or before the twenty-fifth day of each month make a verified report to the Railroad Commission showing the amount of stock issued and the application of the proceeds in such manner and detail as is required by the Commission in its General Order Number 24, which order, in so far as applicable, is made a part of this order.

5. The authority herein granted shall apply only to such stock as may be issued on or before November 1, 1918.

THE RAILROAD COMMISSION HEREBY DECLARES that public convenience and necessity require that Winterhaven Improvement Company construct, maintain and operate means for furnishing water and distributing electric energy to the inhabitants of Winterhaven, Imperial County, and proper authority for the exercise of franchise rights will be issued when the Commission has evidence that valid franchise has been procured.

Dated at San Francisco, California, this 11th day of March, 1918.

Manuel J. Heelan  
H. S. Cleveland  
Edwin O. Edgerton  
Frank R. Hollic  
Commissioners.