

ORIGINAL

Decision No. 26770

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
A.E. KIRCHGATER for a certificate of
public convenience and necessity to
acquire a water system from F.C. Hill
and to operate it and extend it.

Application No. 18757.

Forrest C. Hill, for applicant.

Hugh B. Bradford, City Attorney,
and R.E. Mittelstaedt, for the
City of Sacramento.

BY THE COMMISSION:

O P I N I O N

Applicant herein, A.E. Kirchgater, is the owner of a public utility waterworks supplying the residents of the 80-acre Gould Tract, a subdivision situate approximately one-half mile southeast of the corporate limits of the City of Sacramento, and is the successor in interest to one G.A. Richardson, who was granted a certificate of public convenience and necessity to operate a water system in said Gould Tract by this Commission in Decision No. 12466, dated August 8, 1923. In the application it is alleged that the territory lying between the Gould Tract and the city limits of Sacramento has increased steadily in population and that applicant now desires to extend service into this section. Authority is requested therefore to acquire from F.C. Hill a water supply pipe line six inches in diameter located between 14th and 16th Avenues in the Hillpark Tract, which tract lies adjacent and contiguous to the City of Sacramento and out-

side the corporate limits thereof, and permission is also requested to purchase from said F.C. Hill Lot 15 of Hillpark, to sink a well and erect a water tank thereon to provide additional water, together with the granting of a certificate of public convenience and necessity authorizing the extension of service to that certain territory adjacent and contiguous to the City of Sacramento, including therein the Hillpark Tract. It is alleged that applicant will connect this system with the mains now serving the Gould Tract.

A public hearing was held in this matter before Examiner Johnson at Sacramento.

The evidence shows that applicant owns and operates a public utility waterworks which now and for many years last past has supplied water to a subdivision known as the Gould Tract situate and lying about one-half mile south of the City of Sacramento and serving about two hundred consumers. Applicant now desires to serve an additional area, including the Hillpark Tract, located adjacent and contiguous to the south line of the City of Sacramento but situate approximately 800 feet from the Gould Tract. For this service applicant proposes to construct within this area a well, pumping plant, elevated tank and the necessary distribution system, and also to interconnect it by mains with the Gould Tract plant.

Forrest C. Hill heretofore was the owner of a subdivision designated as Hillpark which is a part of the area applicant proposes to serve. In order to sell lots in this tract it was necessary to provide water. For this purpose, the City of Sacramento, late in 1926 or early in 1927, laid about 600 feet of 6-inch main through this parcel of land and connected this pipe line to its municipal water system. To cover the cost to the City of this work,

said Hill paid to the City the sum of five hundred forty-six dollars and sixty-two cents (\$546.62) and claims to be the owner thereof. Since that time, water has been supplied and rates charged and collected by the City of Sacramento for service to about twenty consumers. According to the testimony, applicant has purchased from said F.C. Hill the said 6-inch main supplying Hillpark and also acquired Lot 15 in said tract, has constructed the well, pumping plant and elevated tank, and also installed a portion of the distribution system necessary for the service. Applicant testified that he would be able to obtain from sixty to seventy new consumers within the new territory and also stated that many consumers now being served by the City were desirous of obtaining water from him. Testimony was introduced to the effect that two other properties lying between the Gould Tract and this proposed new area would use his public utility water, should the application be granted and extensions made as proposed.

Protest against the granting of this certificate was entered by the City of Sacramento, represented by R.E. Mittelstaedt, Superintendent of the Division of Water, City of Sacramento, who testified that the City of Sacramento is now serving water from its municipal system to approximately two hundred and fifty consumers living south of the city limits, fifty-three of which consumers being within the area covered by this application, and that the City is prepared and is ready and willing to serve any and all applicants residing therein upon demand. However, in view of the fact that practically all of the facilities necessary to supply water service in this new territory have already been acquired and installed by applicant, it appears that the request for a certificate of public convenience and necessity therefore should be granted

No permission from this Commission is necessary to acquire the private properties of said F.C. Hill.

O R D E R

Application having been filed by A.E. Kirchgater as entitled above, a public hearing having been held thereon, the matter having been submitted and the Commission being now fully advised in the premises,

The Railroad Commission of the State of California hereby declares that public convenience and necessity require that A.E. Kirchgater extend his water system into that certain territory adjacent and contiguous to the City of Sacramento, including therein Hillpark Tract, as said territory is more particularly set forth and described in the application herein, subject to the following terms and conditions:

1. The rates, charges, rules and regulations effective in the territory in which a certificate of public convenience and necessity is herein granted shall be the same as those in effect on applicant's present waterworks supplying the Gould Tract.
2. Within ninety (90) days from and after the date of this Order, A.E. Kirchgater shall file with this Commission a certified copy of a franchise, permit or other consent issued by the County of Sacramento authorizing him to construct, operate and maintain pipe lines and other appurtenant facilities for the distribution of water in the territory herein above described.
3. Within ninety (90) days from and after the date of the Order herein, A.E. Kirchgater shall file with this Commission an affidavit to the effect that neither he, his successors nor assigns will ever claim for said franchise

a value in excess of the actual cost of acquiring or securing it.

For all other purposes the effective date of this Order shall be twenty (20) days from and after the date hereof.

Dated at San Francisco, California, this 19th day of January, 1934.

M. B. Harris
Leon Whiskey
W. H. Ware
Commissioners.

We dissent. In our opinion the record in this proceeding has failed to show either public convenience or necessity and therefore does not justify the issuance of a certificate.

O. L. Leamy
W. H. Carr
Commissioners.