

Decision No. 28258

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RAILROAD COMMISSION

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of  
The Utilities Company of Novato for  
approval of contract between Trustees  
of Black Point Water Associates and  
The Utilities Company.

Application No. 19927.

A.J. Cain, for Applicant.

O.F. Hansen, F.A. Lund, John Boost  
and Walter Sutter, as Trustees,  
for Black Point Water Associates.

BY THE COMMISSION:

O P I N I O N

In this proceeding A.J. Cain, who owns and operates a public utility water works under the fictitious firm name and style of The Utilities Company of Novato, asks the Railroad Commission to approve a contract between himself and the Trustees of the Black Point Water Associates covering the extension of service to the unincorporated community of Black Point situated about three and three-quarters miles east of the Town of Novato in Marin County.

A public hearing in this matter was held at Novato before Examiner MacKall.

The evidence shows that for years no adequate water supply has been available in Black Point from local wells or any other sources. A voluntary unincorporated organization known

as the Black Point Water Associates<sup>(1)</sup> was formed with a board of five trustees with authority to raise and distribute funds for the purpose of securing water service for the community. These trustees contracted with A.J. Cain for an extension of his Novato water system to Black Point.

Several complications having arisen over the various agreements entered into concerning this extension, the entire matter was submitted by both parties for settlement. None of the agreements were ever approved by this Commission. The extension, however, is now completely installed and is supplying all residents of Black Point requesting water service. Rates for this territory heretofore have been fixed by the Commission's Decision No. 22497, issued the third day of June, 1930, 34 C.R.C. 730.

The agreement submitted herein for approval is one which has been modified in certain respects to cover conditions arising after the extension was completed in October, 1934. In the original contract the total cost of the extension was estimated at five thousand three hundred and thirty-three dollars (\$5,333), of which sum the trustees agreed to raise and deposit with the utility two thousand six hundred and thirty-three dollars (\$2,633), subject to refund upon a basis which, among other things, provided for the reimbursement to the utility first of all capital expenditures made by it, to be derived only from the net revenues obtained from the extension after all operating charges, including depreciation, had been duly credited. Thereafter, any net revenues available from the extension would be

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1. Hereinafter referred to as Associates.

used to refund the advances made by the Associates. Under this plan there appeared little prospect of refund to the Associates for many years to come.

Although the original cost estimate of the extension was five thousand three hundred and thirty-three dollars (\$5,333), A.J. Cain actually expended a total of eight thousand six hundred dollars (\$8,600) to complete the project. Under a revised agreement the said Associates raised and deposited with the utility two thousand eight hundred twelve dollars and fifty-eight cents (\$2,812.58), subject to repayment. In addition to this amount, six hundred dollars (\$600) was contributed subject to refund in service by the Novato Fire District and one hundred dollars (\$100) was donated by the Black Point School District, not refundable. In addition to the above, the Associates secured and conveyed to the utility, without charge, a tank site and certain easements and rights of way. Based upon figures presented, with the existing forty-three consumers in Black Point the utility should earn approximately two hundred and fifty dollars (\$250) a year net revenue from the extension upon the basis of the minimum annual charges for water service together with some additional funds for use in excess of the minimum quantities provided. There may also be some slight additional yield obtained from those residents who to date have not joined the Associates in raising money for the extension and who have not yet agreed to take water.

In this entire project both the water users of Black Point and the utility have acted in entire good faith; there is no dispute over the amount of money involved or the service

rendered. The only difficulty arises over the fact that the plans for refunding the loans advanced by consumers under the final agreement are not reasonably workable. It appears that under the circumstances it will be fair to both the Associates and the utility if refunds are made to the former organization or directly to the users upon the basis of ten per cent of the annual gross revenue received from the extension until the full amount due and owing is satisfied, provided, however, that the period during which said refunds should be made shall not be in excess of ten years from and after the first day of January, 1936. Distribution of the refunds may be made by the utility to the Associates or directly to the consumers either by cash or by way of credit upon their individual annual water bills. It is evident that refunds can be handled more simply by the utility than by the water users Associates, provided strict accounting thereof is rendered said Associates.

#### O R D E R

Application having been made to the Railroad Commission as entitled above, a public hearing having been held thereon, the matter having been submitted and the Commission now being fully advised in the premises,

IT IS HEREBY ORDERED that A.J. Cain, operating a public utility water system under the fictitious firm name and style of The Utilities Company of Novato, be and he is hereby authorized and directed to enter into an agreement with Black Point Water

- Associates for the refunding of amounts due said Associates embracing substantially the following terms, conditions, and provisions:

1. The entire amount of money loaned by the Black Point Water Associates to A.J. Cain in aid of construction of the Black Point Extension shall be repaid to the Associates at the rate of not less than ten per cent per annum of the annual gross revenue received from all service rendered by and through said Extension.
2. Said annual repayment may be made by means of credits on the monthly or annual water bills of the individual contributors or may be paid in cash in monthly or quarterly installments at the option of the utility.
3. The period during which said refunds are made shall not be in excess of ten (10) years from and after the first day of January, 1936, and the first annual refund shall be due and payable on the thirty-first day of December, 1936.
4. The agreement entered into by authority of this Order shall be executed within thirty (30) days from the date of this Order.
5. Within thirty (30) days from the date of the execution of said agreement, A.J. Cain shall file with the Railroad Commission a certified copy of the instrument as finally executed.
6. This agreement shall be subject to the written approval of this Commission.

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IT IS HEREBY FURTHER ORDERED that the application herein, in so far as it relates to the approval of the agreement submitted, be and it is hereby denied.

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 7<sup>th</sup> day  
of October, 1935.

Leon O'Whalley

W. H. A. Auer

W. B. Lanning

W. H. Lanning

Frank R. Dwyer

Commissioners.