

Decision No. 21826

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the joint application
of the Dillon Beach Company and H. S.
Porter, an individual doing business
under the name and style of Coast Springs
Water Company for a certificate of public
convenience and necessity and for the
establishment of rates for the services
rendered at Dillon Beach, Marin County.

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) Application No. 21826
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Martinelli and Gardiner, by Samuel W. Gardiner,
for applicant H. S. Porter.
Neil Nason and Leo Wilson, for applicant Dillon
Beach Company.
John B. Lounibos, for H. J. Lewis, F. Shimian
and George Howarth, consumers.

BY THE COMMISSION:

O P I N I O N

In this proceeding as entitled above the Dillon Beach Company asks the Commission for authority to sell its water works in Dillon Beach, Marin County, California, to H. S. Porter who joins in the application and in his own behalf asks that a certificate of public convenience and necessity be granted to him for the operation of the plant. The Commission, among other things, is asked to establish a just and reasonable schedule of rates for the service proposed to be rendered by the purchaser.

A public hearing in this proceeding was held before Examiner MacKall at Dillon Beach.

Dillon Beach is a community consisting of two subdivided areas officially known as Subdivision 1 and 2, Dillon Beach, and

containing approximately twenty-three and one-half acres of land located on the ocean shore about four miles due west of the Town of Tomales in Marin County. At the present time there are about 100 consumers being supplied with water for domestic purposes by Dillon Beach Company which owns the water system and a considerable number of lots in the two tracts, together with certain interests in a considerable amount of adjoining unsubdivided ranch property. Dillon Beach Company according to the application alleges that it is in the process of liquidating its properties in this area and retiring from business as a corporation and therefore desires to dispose of its water works, together with rights of way and easements for pipe lines, water rights and rights to develop additional waters from certain underground sources, to Mr. H. S. Porter who has agreed to take over these properties, install necessary improvements and provide a proper and dependable service to all consumers. For the past fifteen years the Commission has received numerous complaints from large numbers of residents in Dillon Beach because of inadequate and interrupted water service, especially during the summer months. Until the past few years the company has claimed to be operating in a private capacity and not as a public utility under the jurisdiction and control of the Railroad Commission but now concedes, however, that its operations have been in the past and now are actually public utility in character and admits jurisdiction of this Commission. The company claims that it is not able to finance the improvements necessary to develop a proper water supply and to install required storage facilities and new mains in order to guarantee the class of service demanded by its consumers. Arrangements therefore have been made to sell the water properties to H. S. Porter who has agreed to take personal charge of the operation of

this plant and provide all facilities necessary to furnish good service, contingent, however, upon the granting by the Railroad Commission of a rate which will enable him to operate at a reasonable profit instead of incurring the loss now being suffered by the present owner.

The Dillon Beach tracts were subdivided during or immediately prior to the year 1905 by John W. Keegan who installed a small water system to supply the lots as sold, receiving its water from a spring developed on a hillside above the subdivision, which source is still in use and now relied upon as the principal water supply during the winter months. Some four or five consumers were served water up until the year 1911 when the properties were sold to Dillon Beach Company, which concern made additions and improvements to the water works, installed more storage and made an active campaign for the sale of lots. In certain instances a supply of water was guaranteed in the deeds to the property sold but in most cases such provisions provided only for a limited quantity of water confined solely to drinking and cooking purposes from certain specified sources. In many instances no provision whatsoever was made for the service of water to property purchasers and such as were made from time to time were by no means uniform. All consumers present unanimously favored the establishment of a uniform schedule of rates and future operation under regulation of this Commission and, in view of the immediate necessity of reconstructing the entire system, the consumers have all agreed to pay an annual charge of fifteen dollars (\$15.00) for improved service. The present rates are twelve dollars (\$12.00) per annum for residential use. Mr. Lounibos, counsel representing three consumers holding contracts

limiting water service both in quantity and in price (\$12.00 per annum), has conceded that the Commission may properly authorize the granting of a certificate and the sale of these properties to Mr. Porter and may establish fair and reasonable rates for the service which he intends to render in the future. Counsel furthermore asks that such action be taken without delay. It appears therefore to the best interests of the public to comply with the requests of the consumers and applicants herein that the transfer be authorized and a certificate be granted as prayed in order that the service may be improved and hereafter rendered under the jurisdiction and control of this Commission.

No evidence was presented by applicants pertaining to the value of the physical properties or costs of operation but they accepted the appraisements and recommendations made by R. E. Savage, one of the Commission's engineers, in his report covering the operations and affairs of this water works. From this report it appears that the estimated original cost of the physical properties, including lands and necessary rights of way at present market value, amounts to thirteen thousand thirty dollars (\$13,030) with the corresponding depreciation annuity computed by the five percent sinking fund method of one hundred sixty-eight dollars (\$168). The revenues receivable from the consumers, including the hotel and resort properties, for the year 1937 would have amounted to one thousand one hundred seventy-two dollars (\$1,172), provided all collections were made. No reliable or accurate figures were obtainable on past operating expenses; however, the Commission's engineer estimated that under the plan proposed by Mr. Porter the future operations would cost in the neighborhood of twelve hundred dollars (\$1,200) annually, including depreciation. It is under-

stood in this instance that the figure set out above for an annual depreciation fund will be increased substantially upon completion of the improvements and replacements proposed by the purchaser.

Mr. Porter has proposed for the present to charge all domestic consumers an annual rate of fifteen dollars (\$15.00), for which he agrees to install improvements immediately. While the evidence indicates that this sum will not provide a fair and reasonable net return upon the investment after the proposed improvements have been made, nevertheless this rate will be established in the following Order, together with a reasonable charge for the service to be rendered the hotel and cabins owned by Dillon Beach Company but operated under lease by Mr. Syl Lawson and his sons, Mr. Howard and Mr. Walter Lawson. After a trial of the rates herein established under improved conditions, sufficient data on operating costs should be available to make any modifications therein as may appear warranted.

Neither Mr. Keegan nor Dillon Beach Company has ever received a certificate of public convenience and necessity for the operation of this plant as a public utility. Applicant Porter wished to amend his petition for a certificate to include not only the area as officially shown on the recorded map of Subdivision 1 and 2, Dillon Beach, Marin County, California, but also the territory immediately adjoining this subdivision. This request will be granted with the provision that Mr. Porter file with the Commission an amended map indicating thereon the exact additional territory in which he desires to extend service. While no franchise, permit or consent to install pipe lines will be required at this time for the present Subdivision 1 and 2 of Dillon Beach, yet such franchise

or permit or consent must be secured to cover the territory adjacent to but outside the subdivision.

In order to eliminate a possible cloud upon the title of the properties to be acquired from Dillon Beach Company, request is made that the transfer be approved by formal order of the Commission. No objection having been made by any of the consumers present at the hearing against the approval of the requests herein, the petition as modified will be granted.

O R D E R

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

IT IS HEREBY ORDERED that Dillon Beach Company, a corporation, be and it is hereby authorized to transfer on or before the 31st day of July, 1938, to E. S. Porter, doing business under the firm name and style of Coast Springs Water Company, the water system supplying Subdivision 1 and 2, Dillon Beach, Marin County, as more particularly described in the deed and bill of sale marked Exhibit "C" attached to the application herein and made a part hereof by reference, subject to the following terms and conditions:

1. Within ten (10) days from the date on which Dillon Beach Company, a corporation, actually relinquishes control and possession of the properties herein authorized to be transferred, said Dillon Beach Company, a corporation, shall file with this Commission a certified statement indicating the date upon which such control and possession were relinquished.
2. A true copy of the final instrument of conveyance shall be filed with this Commission by Dillon Beach Company, a corporation, within ten (10) days from the date of its execution.

The Railroad Commission of the State of California hereby declares that public convenience and necessity require that H. S. Porter, doing business under the firm name and style of Coast Springs Water Company, operate a water system for the purpose of supplying water for domestic and other purposes in Subdivision 1 and 2, Dillon Beach, Marin County, and in territory immediately adjacent thereto, the extent of such adjacent territory being subject to modification, if deemed necessary, and to final approval by this Commission, and

IT IS HEREBY FURTHER ORDERED that H. S. Porter be and he is hereby granted a certificate of public convenience and necessity to operate a public utility water system in the territory described above, subject to the following terms and conditions:

- a. Authorization to serve in territory outside of and adjacent to Subdivision 1 and 2, Dillon Beach, Marin County, shall become effective only upon the filing by H. S. Porter of a map indicating thereon the area in which service is desired to be rendered, such area being subject to modification and approval by this Commission.
- b. H. S. Porter shall file with the Railroad Commission, within thirty (30) days from the date of this Order, the following schedule of rates to be charged for all water delivered to his consumers in Dillon Beach, Marin County, and vicinity for the season of 1938 and thereafter until further order of this Commission:

1. Annual Flat Rate

For each residence per year, due and payable on
January 1st of each year-----\$15.00

2. Special Flat Rate

Special flat rate applicable to Dillon Beach Hotel
and attached store and resort buildings, due
and payable on January 1st of each year-----\$75.00

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- c. H. S. Porter, doing business under the firm name and style of Coast Springs Water Company, shall file with this Commission, within thirty (30) days from and after the date of this Order, rules and regulations governing the service of water to his consumers, said rules and regulations to become effective upon their acceptance for filing by this Commission.
- d. The granting of the certificate of public convenience and necessity for the service of water in the area outside of Subdivision 1 and 2, Dillon Beach, Marin County, shall become effective only upon the filing with this Commission by H. S. Porter of the necessary franchise, permit or consent from the Board of Supervisors of Marin County, or its duly delegated agent, to install and maintain pipe lines and appurtenant facilities in, on and/or across public roads, highways, streets and alleys.

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 21st day of April, 1938.

Walter H. Brown
Leon A. White
Frank R. Nelson
Karl A. Johnson
Commissioners.