

Decision No. 32424

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of  
SAN GABRIEL VALLEY WATER SERVICE, a  
corporation, for a certificate of  
public convenience and necessity.

ORIGINAL

Application No. 22610

In the Matter of the Application of  
SAN GABRIEL VALLEY WATER SERVICE to  
purchase and E. H. McHANN and  
J. E. LAYCOOK, a co-partnership doing  
business under the name of McHANN &  
LAYCOOK DOMESTIC WATER SYSTEM to sell  
a certain public utility water system  
situated in the County of Los Angeles,  
State of California, and of SAN  
GABRIEL VALLEY WATER SERVICE, a  
corporation, to purchase and INDIO  
WATER COMPANY, LTD., a corporation,  
to sell all of its public utility  
water system situated in the County  
of Riverside, State of California,  
and of SAN GABRIEL VALLEY WATER  
SERVICE to issue, sell and deliver  
\$120,000 principal amount of its  
First Mortgage Bonds, and to issue and  
deliver 1200 shares of its capital  
stock in payment for said properties.

Application No. 21250

O'Melveny, Tuller & Meyers by L. M. Wright,  
for Applicant.

M. I. Church, for Potrero Heights Water Company.

H. E. Tuller for certain consumers of Potrero  
Heights Water Company.

WAKEFIELD, COMMISSIONER:

O P I N I O N

In Application No. 22610, San Gabriel Valley Water Service,  
a corporation, engaged in the business of producing, distributing

and selling water for domestic purposes in a large section of the unincorporated area adjacent to the City of El Monte, in the County of Los Angeles, asks the Commission to grant it a certificate of public convenience and necessity to operate a water works in a territory embracing some 1,100 acres, more or less, including and adjoining a small community known as Potrero Heights, in Los Angeles County.

Application No. 21250 was reopened by the Commission for further hearing, at the request of Potrero Heights Water Company\*, a mutual water company. In its petition this Company alleged that the Commission in its Decision No. 29954, dated July 16, 1937, granted Applicant herein a certificate of public convenience and necessity to operate a water system in an area which included a portion of the territory already served by the Mutual Company, that it had no notice of the hearing of the application, and therefore no opportunity to appear and enter protest; and that the application was faulty and misleading in that it failed to set forth the fact that a portion of the area for which a certificate was requested already was being served by said Mutual Company. The Commission is asked to exclude from Applicant's certificated area all lands supplied by the Mutual Company.

It appeared that proper notice of the original hearing in Application No. 21250 had not been given and that Potrero Heights Water Company was thereby denied an opportunity to appear and be heard. The proceeding accordingly was therefore reopened.

Public hearings were held in these two proceedings at Los Angeles and by stipulation both matters were combined for the taking of evidence and for decision. All of the evidence and

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Note: (\*) Potrero Heights Water Company hereinafter will be referred to as the Mutual Company.

briefs submitted at the prior reopening of Application No. 21250 as a result of the protests of Baldwin Park County District, the Pico County Water District, and Roy E. Rankin, were also made a part of the record of this proceeding. This prior reopening was granted primarily upon the same grounds that due notice of the original hearing had not been given, thus preventing the above parties from protesting against the invasion of their respective service areas\*.

APPLICATION NO. 22610

The evidence shows that the Mutual Company was incorporated in 1912 by the landowners of Tract 701, Los Angeles County, for the purpose of furnishing water for domestic and irrigation purposes to their properties. This tract is a portion of the old Baldwin Ranch and embraces approximately 1,200 acres and is located along San Gabriel Boulevard east of the City of Monterey Park and north of the City of Montebello. It was subdivided in 1911 into five-acre and larger lots, but no water was provided by the original promoters. The landowners organized a mutual water company; stock was sold, wells and mains were installed and water has been delivered to the stockholders since 1912. At present there are 5,245 shares of stock outstanding and 545 acres of land are entitled to service through stock ownership. The first plantings on the tract were to citrus. However, the principal agricultural demand is now for truck gardening. The tract is also showing a considerable development for suburban home sites.

The Mutual Company's system is reported to have a present value of \$47,498 and a reproduction cost new value of \$55,000 as of March 28, 1938. The water supply is obtained from a well located near the Rio Hondo and is distributed through 42,710 feet of main

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Note: (\*) See Decision No. 32390, dated September 26, 1939, issued in connection with the above reopened proceeding.

varying from  $1\frac{1}{2}$  to 12 inches in diameter. Domestic service is supplied to 165 consumers and 10 receive water for agricultural irrigation purposes. All service connections are metered.

Applicant, as a result of Application No. 21250, has a gross acreage somewhat in excess of thirteen thousand in its service area which includes approximately six hundred acres of the Mutual Company's Tract 701. Applicant however has no mains in this tract but operates in one section about a mile easterly thereof and has another separate and distinct water system some two miles to the north of Potrero Heights.

R. H. Nicholson, President of Applicant company, testified that he had received a petition containing eighty-two signatures of persons claiming to be stockholders and consumers of the Mutual Company praying that Applicant extend its water service throughout the Potrero Heights territory. The Applicant desires a certificate of public convenience and necessity to embrace the six hundred acres in Tract 701 not covered in its original certificate and in addition thereto requests a certificate to operate a water works in adjoining unincorporated territory comprising some 500 acres lying between Tract 701 and the Cities of Monterey Park and Montebello. Mr. Nicholson further testified that on behalf of Applicant he had made an offer to purchase the system of the Mutual Company for \$6,500 which had been refused and that under the circumstances the cost of the extension from Applicant's system to supply Potrero Heights would be in the neighborhood of \$15,000 which expenditure it was ready and willing to make at the expense of Applicant.

The evidence shows that the eighty-two signatures to the petition presented to Applicant represented but 738 shares (14%) of stock out of a total of 5,245 shares outstanding, and

represented approximately 50% of the water users. A petition of 83 stockholders representing 3,103 shares of stock was presented to the Commission requesting that Applicant be refused permission to supply water within any portion of the Mutual Company's service area.

The water service provided by the Mutual Company appears to be adequate and generally satisfactory. However, there exists considerable friction between certain of the consumers and the board of directors over the operating methods and practices of the Mutual Company. Charges of gross mismanagement and costly inefficiency were made. Such a state of affairs, if it actually exists, is most unfortunate. However, mere internal strife in a mutual water organization not under the jurisdiction or control of this Commission is not proper grounds for permitting a public utility to invade its territory when other conditions do not justify or warrant such drastic action. The evidence shows that the affairs of the Mutual Company are now rapidly being placed upon a sound and stable basis.

Referring to the above mentioned adjoining 1,100 acres which Applicant desires to have included in its service area, the evidence shows 600 acres thereof are within the boundaries of Tract 701 and that the remaining 500 acres outside of the tract is property held by two separate owners, neither of which were consulted about this matter nor have they given their consent to having said lands embraced within the certificated area of this water works. None of the outside 500 acres of land is subdivided, one parcel is unimproved hilly land, used practically for grazing only, the other is a portion of the Montebello Oil Field upon which is located a large number of producing oil and gas wells together

with the usual appurtenant buildings, tanks and other structures. As to these two properties it is quite clear that no evidence whatsoever was presented tending to show either public convenience or necessity for the extension of water service to any portion thereof. It is equally clear that no public necessity has been shown to exist in connection with the request to serve any portion of the 1,200 acres in the Potrero Heights section, Tract 701.

APPLICATION NO. 21250

In view of the findings above it will be unnecessary to enter into any detailed discussion of the results of reopening this proceeding. The record indicates that the Mutual Company had no notice of the original hearing in this case, nor under the circumstances could it reasonably have been expected to have been advised thereof, and therefore did not appear at the hearing. No evidence was presented at the original hearing tending to show that this Mutual Company or any other water works was operating in any portion of the 600-acre section of Tract 701 in which Applicant was granted permission to serve. In all fairness the original Decision No. 29954 in Application No. 21250, must be modified to exclude from the certificated area therein granted Applicant all of Tract 701 which comprises the entire territory in which the Mutual Water Company conducts its operations.

The following form of Order is recommended.

O R D E R

San Gabriel Valley Water Service, a corporation, having filed with the Commission an Application, No. 22610, as entitled above, and the Commission having issued its order reopening Application No. 21250 at the request of Potrero Heights Water

Company, public hearings having been held thereon, the proceedings having been consolidated for the taking of evidence and for decision, the matters having been submitted, and the Commission being now fully advised in the premises,

IT IS HEREBY ORDERED that Application No. 22610 of the San Gabriel Valley Water Service, a corporation, for a certificate of public convenience and necessity be and it is hereby denied.

IT IS HEREBY FURTHER ORDERED that the Commission's Decision No. 29954, dated July 16, 1937, granting a certificate of public convenience and necessity to San Gabriel Valley Water Service, a corporation, be and it is hereby modified to exclude therefrom all parts and parcels of Tract No. 701, Los Angeles County.

In all other respects Decision No. 29954 shall remain in full force and effect.

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

The foregoing Opinion and Order are hereby approved and ordered filed as the Opinion and Order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 27<sup>th</sup> day of October, 1939.

Robert W. Johnson  
Frank P. Murphy  
Carl E. King  
W. M. M.  
Justice J. Casner  
COMMISSIONERS.