

Decision No. 32600

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of CALIFORNIA WATER & TELEPHONE COMPANY, CARMEL DEVELOPMENT COMPANY and a COMMITTEE OF CARMEL HIGHLANDS WATER USERS (a) to transfer and acquire the water distribution system at Carmel Highlands; (b) for cancellation and issuance of certificates of public convenience and necessity; (c) for order fixing rates; (d) for release of certain property from its dedication to public use; and (e) for order approving a certain contract dated September 7, 1939, relating to the foregoing matters.

Application No. 23102

Bacigalupi, Elkus and Salinger,
by Herbert H. Salinger, for
California Water & Telephone
Company.

Morrison, Hohfeld, Foerster,
Shuman and Clark, by Edward
Hohfeld and Garrett H. Elmore,
for Carmel Development Company.

Orla St. Clair and Arthur Conley,
for Committee of Carmel Highlands
Water Users.

BY THE COMMISSION:

O P I N I O N

In this proceeding, joint application is made by California Water & Telephone Company, a corporation, ⁽¹⁾ engaged in the public utility business of furnishing domestic water service to Carmel, Pacific Grove and Monterey, Monterey County,

(1) Hereinafter referred to as Water Company.

Carmel Development Company, a corporation, ⁽²⁾ a public utility engaged in the business of supplying water to the residents of Carmel Highlands, and a Committee ⁽³⁾ of Carmel Highlands water users, representing the public being served in that subdivision, asking the Commission to authorize applicants to enter into a certain agreement dated September 7, 1939. ⁽⁴⁾ This agreement, being marked "Exhibit 1" attached to the application herein, provides, among other things, for the transfer by the Development Company to the Water Company of a water distribution system at Carmel Highlands and the release of certain other property of Development Company from its public utility obligations and the cancellation of the certificate of public convenience and necessity granted Development Company by the Commission's Decision No. 30924 dated May 31, 1938. An application is also made by the Water Company for a new certificate to cover the area now served in the Highlands area and for the installation of a connecting main between the Water Company's and Development Company's said Carmel Highlands distribution mains. In addition thereto the Water Company asks for the establishment of a schedule of rates for the water delivered to the consumers at Carmel Highlands.

A public hearing in this proceeding was held before

(2) Hereinafter referred to as Development Company.

(3) Hereinafter referred to as Committee.

(4) Wherever Exhibit No. 1 attached to the application herein, said exhibit being the agreement of September 7, 1939, is mentioned, it is understood that said exhibit and agreement is subject to certain minor modifications and amendments set forth in the supplementary agreements of November 1, 1939 and November 30, 1939, being "Exhibit No. 5" and "Exhibit No. 6" respectively, filed at the hearing held in this proceeding.

Examiner McNaughton in Carmel Highlands.

The evidence shows that Development Company had applied to the Commission in Application No. 21625 for authority to increase the rates for the water being delivered, or to be permitted to abandon the service in the Highlands area. The Commission in its Decision No. 30924 established an interim rate, pending final opinion and order in the matter, said rate being designed to produce sufficient revenue to provide the out-of-pocket cost of operating the water system. The record in that proceeding showed that owing to the geological formations in the area an adequate water supply could not be developed on the tract, and that the present method of purchasing and producing water from a well situated over a mile distant from the Highlands, together with local so-called mountain wells, would always be costly and unsatisfactory. The Commission suggested that the Development Company and the consumers cooperate in obtaining a less costly water supply of a better quality from other sources. The most practical source, suggested by the engineers testifying in the proceeding, was the Water Company whose nearest mains are now some five miles distant from the Highlands.

A committee of the consumers was formed and after lengthy negotiations with the Development Company and the Water Company, an agreement was reached providing for the installation of a connecting main and the furnishing of water service to the Highlands by the Water Company. The terms and conditions for supplying the service are set forth in an agreement dated September 7, 1939, marked "Exhibit 1" attached to the application herein, which the Commission is now asked to approve.

This agreement provides that the Development Company

will donate to the Water Company its distribution system, which has a present value of approximately twenty-five thousand dollars (\$25,000), but will retain certain of the existing water production and transmission facilities. The Development Company will contribute ten thousand dollars (\$10,000) and the consumers will advance fifteen thousand dollars (\$15,000) toward the cost of a connecting main to be installed between the Highlands distribution system and the Water Company's system at Carmel. In the event the cost of said connecting main exceeds twenty-five thousand dollars (\$25,000), each of the three contracting parties will contribute one-third of the additional expenditures up to an amount not in excess of five thousand dollars (\$5,000), or a total of thirty thousand dollars (\$30,000). The agreement further provides that the interim rates now being charged in the Highlands will remain in effect until the sum advanced by the consumers shall have been refunded, without interest, from the revenues produced by the surcharges over and above the regular rates now in effect on the main system of the Water Company. A period of approximately seven years will very probably be required for this reimbursement upon the basis of present water sales with a limitation that no refunds will be made after ten years. Upon final refunding of all consumer advances, or at the expiration of the said ten-year period, the rates then in effect on the main water distribution system of the Water Company, without further order of this Commission, will be charged the consumers in Carmel Highlands.

The Commission is asked to establish the interim rate together with a commercial rate applicable to all customers using in any month water in excess of 10,000 cubic feet.

The present interim rates in effect and the said commercial rate requested to be established for the Highlands area are as follows:

METER RATES

<u>Annual Minimum Meter Charges</u>	<u>Monthly Entitlement Cubic Feet</u>
1/2 and 3/4-inch meter-----	\$13.20
1-inch meter-----	18.00
1-1/2-inch meter-----	27.00
2-inch meter-----	36.00
	300
	400
	700
	900

The foregoing annual minimum meter charges will entitle the consumer each month to the maximum quantity of water set out above under column "Monthly Entitlement." Use in excess of above monthly entitlements shall be charged each month under the following meter quantity rates.

Meter Quantity Rates

First 300 cubic feet, or less-----	\$1.10
Next 700 cubic feet, per 100 cubic feet-----	.30
Over 1,000 cubic feet, per 100 cubic feet-----	.25

For water used by hotels, inns and other commercial enterprises in excess of 10,000 cubic feet per month, per 100 cubic feet----- .22

Fire Hydrants

Each fire hydrant, per month-----\$2.00

The rates set out above shall be subject to surcharges as follows:

Annual Minimum Meter Charges

1/2 and 3/4-inch meter-----	\$12.00
1-inch meter-----	18.00
1-1/2-inch meter-----	27.00
2-inch meter-----	36.00

The above surcharge may be paid in equal monthly installments by the consumer.

Meter Quantity Rates

Fifty per cent (50%)

For water used by hotels, inns and other commercial enterprises whose use, in any month, is in excess of 10,000 cubic feet per month, a surcharge of thirty-five (35) per cent shall be applicable on all quantities both above and below 10,000 cubic feet in the month when said use is in excess of 10,000 cubic feet.

This surcharge is payable monthly.

Fire Hydrants

Each hydrant, per month-----\$1.00

-000-

The present rate schedule of the Water Company is as follows:

lows:

Monthly Minimum Charges

For	5/8-inch meter-----	\$ 1.40
For	3/4-inch meter-----	1.70
For	1-inch meter-----	2.25
For	1-1/2-inch meter-----	3.55
For	2-inch meter-----	4.80
For	3-inch meter-----	8.40
For	4-inch meter-----	14.40

Each of the foregoing "Monthly Minimum Charges" will entitle the consumer to the quantity of water which that monthly minimum charge will purchase at the following monthly quantity rates.

Monthly Quantity Rates

From 0 to 1,200 cubic feet, per 100 cubic feet-----	\$00.28
Next 800 cubic feet, per 100 cubic feet-----	.18
Over 2,000 cubic feet, per 100 cubic feet, for other than irrigation use-----	.12
Over 2,000 cubic feet, per 100 cubic feet, for irrigation use only-----	.06

Fire Hydrants

Each, per month-----	\$ 3.00
<u>All Municipal Use</u> , per 100 cubic feet-----	\$00.12
<u>Minimum Charge for each Street Sprinkling Hydrant</u> -----	\$ 2.00

The Water Company asks that it be granted a certificate of public convenience and necessity to operate a water system in the Highlands area. The evidence shows that no franchise from the County of Monterey will be required to install and maintain pipe lines in the public roads, streets, alleys, etc., in the Highlands. The roads were dedicated to the public with reservations for the installation and maintenance of water distribution facilities. Many of the existing mains are installed in rights of way or easements granted to the Development Company, or reserved by it.

HGM

The Development Company asks that, upon assumption of control, possession and operation of the Highlands system by California Water & Telephone Company, it be relieved of its public utility obligations and liabilities and that the certificate of public convenience and necessity granted to it by the Commission in its Decision No. ³⁰⁹²⁴~~29924~~ dated May 31, 1938, be cancelled. However, the Development Company desires to retain, and the agreement so provides, the transmission lines from the present source of water supply, the Allan Well, and from the Gibson Creek wells, sometimes called the Mountain Wells, and also the diversion rights in Gibson Creek, and in addition thereto, it desires to retain all its rights in such other streams and water courses as heretofore may have been used from time to time as a source or sources of water supply for the Carmel Highlands system. These facilities and water rights are not to be used in competition with the Water Company. The Commission is also requested to remove the public utility obligations attached to these properties.

Final approval of this agreement will solve a difficult and complex water service situation. In order to expedite the

construction of the new transmission, distribution and other facilities, all parties unite in the desire to have the Commission's decision become effective as of the date of issuance. A careful consideration of the evidence presented in this proceeding shows that it is to the best interest of the public that the prayers of applicants be granted as requested, subject to the terms and conditions set forth in the Order following the Opinion herein.

O R D E R

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

IT IS HEREBY ORDERED that California Water & Telephone Company, a corporation, and Carmel Development Company, a corporation, be and they are hereby authorized to enter into an agreement substantially as set forth in the form of agreement marked "Exhibit 1" dated September 7, 1939, which is attached to the application herein and is hereby made a part hereof by reference.

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA HEREBY DECLARES that public convenience and necessity require the operation of a water system by California Water & Telephone Company, a corporation, in Carmel Highlands, County of Monterey, and in such adjacent territory and in the intervening areas along its main transmission line to Carmel Highlands as are more definitely and particularly set forth and described in said agreement of September 7, 1939, Exhibit No. 1, attached to the application herein, and as set forth and delineated upon the map marked "Exhibit B" attached to the application herein, which is hereby made a part of this Order by reference, and

IT IS HEREBY ORDERED that a certificate of public convenience and necessity be and it is hereby granted to California

Water & Telephone Company, a corporation, to operate a public utility for the sale and distribution of water within the above described territory.

IT IS HEREBY FURTHER ORDERED that, within ninety (90) days from and after the date of this Order, California Water & Telephone Company shall file with this Commission an affidavit setting forth therein that it will never claim before this Commission or any other public body a value for this certificate or for any franchise which it may hereafter obtain to supply water in the certificated area authorized herein in excess of the actual cost of acquiring them.

IT IS HEREBY FURTHER ORDERED that California Water & Telephone Company, a corporation, be and it is hereby authorized and directed to file with this Commission, within thirty (30) days from the date of this Order, the following schedule of rates to be charged for all water service rendered to its consumers at Carmel Highlands in the County of Monterey, if and when the Water Company assumes control and possession of the Carmel Development Company's distribution system and assumes the obligations and liabilities to supply water in this community in accordance with the terms and conditions of the said agreement dated September 7, 1939, hereinbefore referred to as Exhibit 1 attached to the application herein.

METER RATES

<u>Annual Minimum Meter Charges</u>	<u>Monthly Entitlement Cubic Feet</u>
1/2 and 3/4-inch meter-----\$13.20	300
1-inch meter----- 18.00	400
1-1/2-inch meter----- 27.00	700
2-inch meter----- 36.00	900

The foregoing annual minimum charges will entitle the consumer each month to the maximum quantity of water set out above under column "Monthly Entitlement." Use in excess of above monthly entitlements shall be charged each month under the following meter quantity rates.

Meter Quantity Rates

First	300 cubic feet, or less-----	\$ 1.10
Next	700 cubic feet, per 100 cubic feet-----	.30
Over	1,000 cubic feet, per 100 cubic feet-----	.25

For water used by hotels, inns and other commercial enterprises in excess of 10,000 cubic feet per month, per 100 cubic feet----- .22

Fire Hydrants

Each fire hydrant, per month-----\$ 2.00

The rates set out above shall be subject to surcharges as follows:

Annual Minimum Meter Charges

1/2 and 3/4-inch meter-----	\$12.00
1-inch meter-----	18.00
1-1/2-inch meter-----	27.00
2-inch meter-----	36.00

The above surcharge may be paid in equal monthly installments by the consumer.

Meter Quantity Rates

Fifty per cent (50%)

For water used by hotels, inns and other commercial enterprises whose use, in any month, is in excess of 10,000 cubic feet per month a surcharge of thirty-five (35) per cent shall be applicable on all quantities both above and below 10,000 cubic feet in the month when said use is in excess of 10,000 cubic feet.

This surcharge is payable monthly.

Fire Hydrants

Each hydrant, per month-----\$ 1.00

-000-

IT IS HEREBY FURTHER ORDERED that Carmel Development Company, a corporation, be and it is hereby authorized to transfer to California Water & Telephone Company, a corporation, the water distribution system and appurtenant other properties used in supplying water to Carmel Highlands, County of Monterey, subject to the following terms and conditions:

1. The authorization herein granted shall apply only to such transfer as shall have been made substantially in accordance with the terms and conditions of that certain agreement dated September 7, 1939, being said Exhibit 1 attached to the application herein, and a certified copy of the final instrument of conveyance shall be filed with this Commission by said Carmel Development Company within thirty (30) days from the date on which it is executed.
2. Within ten (10) days from the date on which said Carmel Development Company, a corporation, actually relinquishes control and possession of the properties herein authorized to be transferred, it shall file with this Commission a certified statement indicating the date upon which such control and possession were relinquished.

IT IS HEREBY FURTHER ORDERED that upon the assumption of possession and control of the Carmel Development Company's distribution system by the California Water & Telephone Company, a corporation, and the commencement of operation of said system in accordance with that certain agreement dated September 7, 1939, being said "Exhibit 1" attached to the application herein, Carmel Development Company, a corporation, be and it is hereby relieved of all further public utility obligations and liabilities in connection with said distribution system, together with the water production facilities and water rights in Gibson Creek and such other streams and water courses as heretofore may have been used

from time to time as a source or sources of water supply for the Carmel Highlands system, and the transmission facilities from these sources and from the so-called Allan Well, together with such appurtenant lands, rights of way and easements as may have been used in connection with said system and not included in the transfer of properties as provided herein under the terms of the agreement of September 7, 1939, being "Exhibit 1" attached to the application herein.

IT IS HEREBY FURTHER ORDERED that the certificate of public convenience and necessity granted Carmel Development Company, a corporation, by the Commission in its Decision No. 30924 dated May 31, 1938, be and it is hereby declared cancelled as of the date of the transfer of its distribution properties to California Water & Telephone Company and the assumption by the latter company of the obligations and liabilities to furnish water service to the residents of Carmel Highlands in the County of Monterey.

The authority herein granted shall become effective on the date hereof.

Dated at San Francisco, California, this 5th day of

December, 1939.

Rayburn King
Robert R. Miller
Bill Kiley
W. P. Miller
Justin J. Garner
Commissioners.