

ORIGINAL

Decision No. 1927 11

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of PARK WATER COMPANY to purchase and WILLIAM D. CAMPBELL to sell a certain water distribution plant and system in Tract No. 6669, in the County of Los Angeles; for the issuance to said Park Water Company of a certificate of public convenience and necessity to furnish and supply water in certain unincorporated areas adjacent to territory now being served by it; and for an order authorizing it to issue and sell 2000 shares of its capital stock.

Application No. 22589

Paul Overton, for Applicants.

Eugene J. Wix, for Minnie Bell Logan,
Maud E. Andrews, Mary Andrews Shively
and Jesse L. Andrews, heirs of H. S.
Andrews Estate, Protestants.

Edward F. Wehrle, for East Bell Land
Company, Protestant.

C. F. Culver, for Clara Street Water
Company, Protestant.

K. Wiley, for certain property owners,
Protestants.

BY THE COMMISSION:

O P I N I O N

Park Water Company, a corporation engaged in the business of supplying water for domestic purposes in four separate and non-contiguous districts located generally in the vicinity of the Town of Downey in Los Angeles County, asks for authority to purchase and acquire from W. D. Campbell, who joins in the applica-

tion, that certain water distribution system now serving Tract No. 6669. Park Water Company also asks for a certificate of public convenience and necessity to furnish water in said Tract No. 6669 and in certain other areas more particularly delineated upon a map marked Exhibit "D" attached to the application herein. The company further prays for permission to issue and sell from time to time 2,000 shares of its capital stock to net applicant twenty-five dollars (\$25.00) per share, without commission or selling expense.

A public hearing in this matter was held before Examiner M. R. MacKell at Los Angeles.

The company now desires to extend its water operations to cover certain properties which adjoin districts No. 1, No. 3 and No. 4 of its present service area. The company's original certificate of public convenience and necessity was obtained on February 14, 1938, in Decision No. 30620, and covered a territory of approximately 2,600 acres. The application as originally filed in the instant proceeding embraces approximately 3,600 acres of land, including therein the service areas, in whole or in part, of several other water systems, both public utility and mutual companies. One of the disputes over invasion of territory involved a tract of land for which Clara Street Water Company, a public utility, had applied for an amended certificate of public convenience and necessity in Application No. 19535. Through stipulation, the conflict in the territory between applicant and the Clara Street Water Company was settled satisfactorily by mutual agreement. As a result these lands were included in the amended certificate of public convenience and necessity granted to Clara Street Water Company in Decision No. 32208. In addition to certain areas supplied by private pump-

ing plants such as Rio Hondo Golf and Country Club, this application covers also a parcel of land owned by Bandini Estate Company, a corporation controlled by The Atchison, Topeka & Santa Fe Railway Company, through its subsidiary, Santa Fe Land and Improvement Company. East Bell Land Company, in Application No. 22459, heretofore applied for a certificate of public convenience and necessity for water service embracing this same parcel. Decision on rehearing in the East Bell matter, issued today, denies said company's application for a certificate because of the absence of a showing of public convenience and necessity. As a result of the protests made by representatives of the above interests, request was made at the hearing by applicant for authority to amend and revise its application, to eliminate therefrom all lands supplied by or within the service areas of mutual water companies, county water districts and the Clara Street Water Company. The new territory as modified and revised covers 60 acres, more or less, in Tract No. 6669 and approximately 2,240 acres of other lands.

A large number of landowners appeared and protested against the inclusion of their properties within the requested certificated area. The majority of these protestants were orange and lemon growers. Others were dairy ranchers, truck and berry gardeners, or growers of various field crops. Some of the protestants have leased their holdings for the same or similar agricultural uses. One landowner operated a golf and country club, open to the general public, and maintained thereon his own private pumping plant, storage and water distribution facilities. The protesting ranchers and landowners demanded the right to preserve and maintain their private properties free and clear from any authority granted outside parties

to sell and deliver water upon their lands either now or in the future, without their consent and against their express wishes. These parties further contended that there is no need or reasonable necessity at this time to determine or allocate to anyone extensive public utility water operative rights covering their respective properties. Upon these and various other grounds protestants request the exclusion of their lands from this proposed public utility service area.

Applicant has no large or comprehensive waterworks in any part of its present or proposed service areas. In operating practice this company acquires, either by gift or purchase, a small lot or parcel of land in or near the various subdivided tracts, upon which a well is drilled and a pumping plant is constructed. In most cases, the distribution facilities are installed at the expense of the subdivider. The costs of piping subdivisions should be subject to refund to the real estate operator under the utility's regular rules and regulations governing water main extensions. However, the record shows here that at times the piping of new territory has been handled without refund, not by applicant Park Water Company, but through Highway Construction Company or L.A. Decomposed Granite Company, two subsidiary corporations operated and controlled by the President of applicant Park Water Company, H. H. Wheeler.

The evidence presented in this proceeding, as well as the decisions heretofore issued by this Commission involving this utility and several others supplying water service in this particular section of the State, show a growing tendency upon the part of certain water companies to seek exclusive public utility operative rights in large districts devoted almost entirely to agricultural pursuits, wherein there is little or no present

or probable early future demand for domestic water utility service. The amended service area as set forth on maps marked Exhibit No. 3 and Exhibit No. 4 contains approximately 2,300 acres of land, generally unsubdivided and given over to the raising of farm products, dairying and other horticultural activities. The entire service area as originally proposed by applicant herein was thoroughly surveyed by Jas. F. Wilson, one of the Commission's engineers, who prepared maps showing the recorded ownerships of the various parcels, the use and the culture in all of the territory for which applicant requests a certificate. Mr. Wilson's investigation and testimony indicate that practically all of the proposed service area as amended is used for agricultural purposes and for a few scattered commercial and industrial enterprises, such as an aircraft manufacturing plant, a golf course, etc. There are embraced therein, however, several small subdivisions comprising a little over two hundred acres. The company has easements and rights of way across private properties throughout these subdivisions which counsel for applicant assures us are adequate and sufficient for all necessary water utility service and distribution therein.

No sufficient and proper showing of public convenience or public necessity was made for or in behalf of applicant warranting the granting of authority to operate a public utility water system in any territory other than as follows:

Tract No. 6669, now supplied by joint applicant, William D. Campbell, the parcel known as "Bullis Land" and the seven widely scattered subdivided tracts No. 11979, No. 11858, No. 11592, No. 11555, No. 11342, No. 7028 and No. 11554. The above parcels contain about 210 to 215 acres of land.

In connection with the service to the 152.45-acre Bandini Estate Company tract, it should be pointed out that this Commission has issued its decision as of even date with the order in this instant proceeding denying East Bell Land Company a certificate to operate a waterworks in said tract. Reference is made to said decision on rehearing for further details. In this case it will be sufficient to quote therefrom as follows:

"* * * *

"Subsequently a petition was filed by Park Water Company, a corporation, asking that a rehearing be granted upon the ground that public convenience and necessity did not at the time of hearing and do not now require the granting of such a certificate to operate a water system, and upon the further ground that there will be no demand for water service to this particular parcel of land owned by Bandini Estate Company until and unless said property is subdivided and offered for sale to the public.

* * * * *

"* * * However, new evidence shows that no sale of this property for subdivision purposes has as yet been made to this or any other operator and nothing of a definite nature of such a transaction in the immediate future appears to be under negotiation. In view of these circumstances and conditions it is an inescapable fact that neither public convenience nor necessity require any water service whatsoever in this tract now or in the near future. The original order in this application therefore will be cancelled and annulled and the certificate will be denied without prejudice."

The evidence shows that it is in the public interest at this time to authorize the transfer to Park Water Company of the water system owned by William D. Campbell in Tract No. 6669. However, applicant will be authorized to supply water only in those tracts or parcels of land where public convenience and necessity

have been reasonably established.

Park Water Company has an authorized capital stock of \$100,000, divided into 4,000 shares of the par value of \$25.00 each, of which \$25,000 par value now is outstanding, having been issued pursuant to authority granted by the Commission by Decision No. 30620, dated February 14, 1938, to pay organization expenses and to finance the cost of water properties. It now desires to issue an additional \$50,000 of stock.

The record shows that the company has been called upon to make expenditures for additions and extensions substantially in excess of the proceeds received by it through its initial stock issue. In Exhibits A and C, it reports its expenditures for fixed capital up to December 31, 1938 at \$33,536.80 and estimated expenditures, necessary to provide adequate service to present and future consumers, at \$42,471.70. It appears that it has been the company's practice to finance its needs temporarily with borrowed moneys.

In view of the fact that the Order herein authorizes the operation by applicant in an area somewhat less extensive than that for which a certificate was requested, it is possible that not all of the \$42,471.70 will be needed. However, in our opinion, the issue of additional stock is reasonably required by applicant and an order accordingly will be entered.

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,

The Railroad Commission of the State of California hereby declares that public convenience and necessity require the operation of a water system or systems by Park Water Company, a corporation in the parcel known as "Bullis Land" and in tracts No. 6669, No. 11554, No. 11342, No. 11856, No. 11592, No. 11979, No. 11555 and No. 7028, all in the County of Los Angeles, and

IT IS HEREBY ORDERED that a certificate of public convenience and necessity be and it is hereby granted to Park Water Company, a corporation, to operate a public utility water system within the territory hereinabove described.

IT IS HEREBY FURTHER ORDERED as follows:

1. That within sixty (60) days from the date of this Order, Park Water Company, a corporation, shall file with this Commission a certified copy of a resolution, duly passed by its Board of Directors, to the effect that it will never claim before this Commission or any other public body an amount for the certificate of public convenience and necessity granted herein in excess of the actual cost of acquiring it, which amount and cost, if any, shall be stated in said resolution.
2. That Park Water Company, a corporation, be and it is hereby authorized and directed to place in effect throughout the areas in which a certificate of public convenience and necessity is granted herein its existing rates, rules and regulations to become effective for all water service supplied within said areas on and after the 1st day of April, 1940, and within thirty ~~(30)~~ days from the date of this Order said company shall file with this Commission the necessary amendments to its present rates, rules and regulations to cover service within said newly certificated areas, each set of which rules and regulations shall contain a suitable map or sketch, drawn to scale, delineating thereupon in distinctive markings the boundaries of the original and presently authorized service areas.

3. That Park Water Company, a corporation, shall file with this Commission, within sixty (60) days from the date of this Order, four copies of a comprehensive map, drawn to a scale of not less than 400 feet to the inch, upon which shall be delineated correctly by appropriate markings the various tracts of land in the territory for which the certificate is granted herein. This map should be reasonably accurate, show the source and date thereof, and sufficient data to determine clearly and definitely the location of the various properties comprising the entire utility area of service.

IT IS HEREBY FURTHER ORDERED that Park Water Company be and it is hereby authorized to issue and sell at par, on or before December 31, 1940, not exceeding \$50,000 par value of its common capital stock, it being the opinion of the Commission that the money, property or labor to be procured or paid for through the issue of such stock is reasonably required for the purposes specified herein and that the expenditures for such purposes are not, in whole or in part, reasonably chargeable to operating expenses or to income.

IT IS HEREBY FURTHER ORDERED that Park Water Company be and it hereby is authorized to use the proceeds from the sale of the stock herein authorized to pay outstanding indebtedness which was incurred for the purpose of making additions and extensions to its water systems, and to finance the cost of additions and extensions to be made, provided that only such expenditures as are reasonably chargeable to fixed capital accounts, as such accounts are defined in the Uniform Classification of Accounts for Water Corporations, may be financed with such proceeds.

IT IS HEREBY FURTHER ORDERED that Park Water Company shall keep such record of the issue and sale of the stock herein authorized

and of the disposition of the proceeds as will enable it to file, on or before the 25th day of each month, a certified report, as required by the Railroad Commission's General Order No. 24-A, which order, in so far as applicable, is made a part of this Order.

IT IS HEREBY FURTHER ORDERED that William D. Campbell be and he is hereby authorized to sell to Park Water Company, a corporation, which is hereby authorized to purchase and acquire, that certain water system now serving Tract No. 6669 in Los Angeles County, subject to the following terms and conditions:

1. The authority herein granted shall apply only to such transfer as shall have been completed on or before the first day of May, 1940, and a certified copy of the final instrument of conveyance shall be filed with this Commission by Park Water Company, a corporation, within thirty (30) days from the date on which it is executed.
2. Within thirty (30) days from the date of this Order, Park Water Company shall file with this Commission a certified statement indicating the date upon which said company assumed control and possession of the property herein authorized to be transferred.
3. On or before the first day of May, 1940, William D. Campbell shall refund all amounts, if any, due consumers for deposits made for main extensions, meter or service connections, and/or for any other purposes whatsoever, and shall file with this Commission, within thirty (30) days thereafter, a certified statement to the effect that these instructions have been duly complied with.
4. The consideration for the transfer herein authorized shall not be urged before this Commission or any other public body as a finding of value for rate-fixing or any purpose other than the transfer herein authorized.

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 March, 1940.

Ray L. Rice
George R. DeWitt
Robert W. DeWitt
John J. DeWitt
Justin J. DeWitt
Commissioners.