

Decision No. 31135

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of  
LAKEWOOD WATER & POWER COMPANY,  
(a California corporation), for a  
certificate of public convenience  
and necessity for an extension to  
and new construction upon its exist-  
ing water system and for authority  
to issue and dispose of its securi-  
ties.

Application No. 23270

John Amos Fleming, for applicant.

BY THE COMMISSION:

O P I N I O N

This is an application by Lakewood Water & Power Company for a certificate of public convenience and necessity authorizing it to operate a water system in Tract No. 11861, in the County of Los Angeles, and for an order permitting it to issue \$25,000 of its common capital stock.

A public hearing in the matter was held before Examiner Clark in Los Angeles. No appearances were entered in protest to the granting of the company's requests.

The application shows that Lakewood Water & Power Company is a corporation organized on May 10, 1938, under the laws of the State of California, with an authorized capital stock of \$250,000, divided into 2500 shares, all common, of the par value of \$100 each. Heretofore, by Decision No. 31132, dated July 27, 1938, in Application No. 22037, it received a certificate of public convenience and necessity permitting it to operate a water system in a tract of land, known as Tract No. 11425, containing some sixty acres of land located about seven miles northeast of Long Beach, and an order authorizing it to issue, at par, \$25,000 of its capital stock to finance the cost of the water system and to provide working capital.

It appears that Tract No. 11425, now being served, and Tract No. 11881, which is the subject of the present application, consisted of lands wholly belonging to Montana Land Company and by that company subdivided and now being sold for residential and other purposes. The record indicates that Tract No. 11881, which is about two miles north of Tract No. 11425, contains approximately forty-five acres of land divided into 218 lots, from 50' by 112' to 50' by 214' in size; that all pipelines in this tract were installed on easements reserved for the purpose before the subdivision plat was recorded or the streets and alleys were dedicated to public use, thus making unnecessary the required consent, franchise or permit from the proper public authorities; that an adequate quantity and quality of water is being obtained from one 10-inch well drilled in 1939 to a depth of 650 feet and that the pumping and storage facilities are capable of delivering this water to the consumers at a controlled pressure of 45 pounds to 60 pounds per square inch through welded steel mains ranging from ten inches to four inches in diameter. The application and testimony of W.L. Scheifele, the company's secretary, show that sales are being made at the rate of ten or more lots a month, that to date applicant has received twenty-four applications for water service and that there is no other water system, either public utility or mutual, operating in, or in the vicinity of, the proposed additional service area, or in the territory between the two tracts of land. It is not planned by applicant at this time to connect the two systems, although it is proposed to operate them under the same rates, rules and regulations.

It has been the practice of Montana Land Company to advance to Lakewood Water & Power Company the funds necessary to construct the water systems and thereafter to obtain reimbursement for its advances when and as consumers are attached to the lines of the water company. Under an agreement between the two companies, referred to in the former proceeding, reimbursement for advances for construction in Tract No. 11425 will be made at the rate of \$150 for every consumer attached to the lines prior to January 1, 1947, and under a second agreement, dated June 2, 1939, reimbursement for construction in Tract No. 11881 will be made at the rate of \$100 for every consumer prior to January 1, 1948. No refunds will be made to Montana Land Company for connections made after these dates, even though some parts of the advances have not been refunded. Montana Land Company has agreed to accept applicant's stock in repayment of its advances.

Up to December 31, 1939 Lakewood Water & Power Company has expended for fixed capital the sum of \$39,786.23, of which, according to the testimony herein, \$13,911.69 had been applied to the construction of the system designed to serve Tract No. 11881, and the balance of \$25,874.54 had been used for organization purposes and for the construction of the system installed in Tract No. 11425. In addition, the company reported on hand \$3,931.00 of receipts from the issue of its stock.

Of the \$39,786.23 thus expended for fixed capital the company had, prior to October 1, 1939, financed \$25,000 through the issue of Montana Land Company of its capital stock at par under the authority granted by the former decision, No. 31143. On October 1, 1939 there became due and payable to the land company the further sum of \$1,000 and shortly thereafter Lakewood Water & Power Company issued, or attempted to issue, an additional \$1,000 of stock in payment.

The issue of this stock, being in excess of that authorized by the Commission, is void. However, it clearly appears that applicant's action in this respect was through inadvertence and with no intent to evade the provisions of the Public Utilities Act. Accordingly, the Commission will at this time make an order authorizing the company to issue \$1,000 of stock, in lieu of that it attempted to issue without authorization from the Commission, in payment of the advances of like amount that became due and payable to Montana Land Company on October 1, 1939. The certificate heretofore issued, representing the \$1,000 of stock, forthwith should be surrendered to the company and cancelled and a new one issued in place of it.

Applicant estimates that on or before December 31, 1941 it will be called upon to repay Montana Land Company the sum of \$11,764.40 for

connections which may be made in Tract No. 11425 and \$6,602.75 for connections in Tract No. 11881, a total of \$18,367.15. In addition it believes it may find it necessary to provide \$5,632.85 to pay the cost of installing an additional well and other facilities and to provide working capital. Therefore, it has asked permission to issue \$24,000 of stock for these purposes.

A review of the record indicates that the company's requests should be granted. 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 and the Commission now being fully advised in the premises,

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA HEREBY FINDS AND DECLARES that public convenience and necessity require the construction, maintenance and operation of a water system by Lakewood Water & Power Company, a corporation, in that certain tract of land described as Tract No. 11881, County of Los Angeles; and

IT IS HEREBY ORDERED that a certificate of public convenience and necessity be, and it hereby is, granted to Lakewood Water & Power Company, a corporation, in accordance with the foregoing finding and declaration.

IT IS HEREBY FURTHER ORDERED that Lakewood Water & Power 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 1<sup>st</sup> day of May, 1940, and that within thirty (30) days from the date of this order, said company shall file with this Commission the necessary amendments to its

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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.

IT IS HEREBY FURTHER ORDERED that Lakewood Water & Power Company, a corporation, be, and it hereby is, authorized to issue, on or before December 31, 1941, not exceeding \$25,000 of its common capital stock, in addition to the \$25,000 of common capital stock heretofore authorized to be issued by Decision No. 31132, dated July 27, 1938, it being the opinion of the Commission that the money, property or labor to be procured or paid for through said issue is reasonably required for the purposes specified herein, and that the expenditures for said purposes are not, in whole or in part, reasonably chargeable to operating expenses or to income.

The authority herein granted is subject to the following conditions:

1. Of the \$25,000 of stock herein authorized, \$1,000 shall be issued in lieu of stock of like amount heretofore issued without an order from the Commission to pay refunds due and payable on October 1, 1939 to Montana Land Company; approximately \$18,400 may be delivered at par to Montana Land Company to repay advances of approximately \$18,400, from that company that may become due on or before December 31, 1941; and approximately \$5,600 may be sold at par for cash and the proceeds used to provide working capital and to finance the cost of a new well and other facilities, provided that any stock not needed for the foregoing purposes may be issued only for such <sup>other</sup> purposes as the Commission may authorize in supplemental orders.

2. Applicant shall keep such record of the issue 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 verified report, as required by the Railroad Commission's General Order No. 24-A, which order, insofar as applicable, is made a part of this order.

3. Within sixty (60) days from the date of the order, Lakewood Water & Power 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.

4. Lakewood Water & Power 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 600 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.

5. The authority herein granted shall become effective twenty (20) days from the date hereof.

DATED at San Francisco, California, this 9<sup>th</sup> day of April, 1940.

Ray L. Price  
Joseph A. ...  
Ray B. ...  
M. ...  
Justin F. Craven  
COMMISSIONERS