

Decision No. 34371**ORIGINAL**

## BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of  
 RANCHO GRANDE WATER COMPANY, a  
 California corporation, for a  
 CERTIFICATE OF PUBLIC CONVENIENCE  
 AND NECESSITY permitting applicant  
 to operate as a public utility, a  
 general water service within a  
 defined area in the County of Los  
 Angeles; for an ORDER AUTHORIZING  
 AND PERMITTING THE ISSUE, TRANSFER  
 AND SALE BY APPLICANT OF ITS  
 CAPITAL STOCK, 1,000 shares of  
 non-par value stock for cash at  
 \$10.00 per share; \*\*\*\*\* for an  
 ORDER APPROVING AND ESTABLISHING  
 RATES, RULES AND REGULATIONS OF  
 OPERATION; and for the REOPENING  
 AND THE FURTHER HEARING OF THE  
 MATTER OF DECISION NO. 29954, \*\*\*  
 granting to the San Gabriel Valley  
 Water Service, a California cor-  
 poration, a Certificate of Public  
 Convenience and Necessity, etc.

Application No. 23517

Leland R. Shaw, for Applicant.

O'Melveny & Myers, by Lauren M. Wright,  
for San Gabriel Valley Water  
Service, Protestant.

BY THE COMMISSION:

O P I N I O N

Rancho Grande Water Company, a corporation, asks the Commission for a certificate of public convenience and necessity to operate a water system in a 560-acre tract of land situate two miles south of the City of El Monte, Los Angeles County, and to establish rates for the water delivered. The Company also asks

for authority to issue and sell for cash 1,000 shares of non-par value stock at \$10 per share, in order to provide funds to acquire certain existing water production and distribution facilities and to install additional equipment as required.

It is alleged in the application that San Gabriel Valley Water Service, a corporation, hereinafter referred to as Protestant, which now holds a certificate covering the area herein applied for, has sought to compel subdividers to install cast iron pipe in their tracts in order to be eligible for refund privileges of the cost of main extensions or be penalized by paying without reimbursement the entire costs of distribution facilities if certain other types of material are substituted. The Commission is asked to reopen for further hearing Application No. 21250, for the purpose of modifying Decision No. 29954, dated July 16, 1937, granting Protestant a certificate covering the area in which this applicant requests authority to sell water.

A public hearing in this proceeding was held before Examiner Wm. Stave in Los Angeles.

In connection with the reopening of said Application No. 21250, it should be observed that since the rendering of the original decision therein, this application has been reopened three times upon request of various parties, including municipally-owned waterworks, mutual water companies and privately-owned utilities. Public hearings have been held in each of these reopened proceedings after full and ample publication and notice of the time and place of such hearings had been given to all interested parties. There has been presented nothing in the way of evidence justifying another such reopening nor does there appear to be any necessity so to do for the proper determination of the instant case.

The district which Applicant proposes to serve consists of approximately 560 acres of land, being portions of three former Spanish Land Grant Ranchos. The entire territory has been and presently is devoted to general farming purposes with the exception of two areas recently re-subdivided into residential homesites. One of the subdivisions, Tract No. 12029, Los Angeles County, contains some twenty acres and is owned by John Bodger & Sons, Inc., six homes have been constructed thereon and are now occupied. C. M. Mize has constructed three homes upon an adjoining five acres. John Bodger testified that he has subdivided three tracts within Protestant's service area and several tracts within the territory of other public utilities operating in the general vicinity thereof. He stated that all of the other said public utilities operate under practically the same rules and regulations as Protestant and have always granted refund privileges of all deposits made for extensions installed to pipe or serve subdivisions regardless of material used, while only San Gabriel Valley Water Service has insisted upon cast iron pipe throughout if any refunds were to be provided for.

According to Mr. Bodger, Protestant has adopted the practice of offering an optional method to subdividers unwilling or financially unable to pay the costs of standard cast iron construction which provides for piping real estate tracts with less lasting and less expensive materials and sub-standard methods of construction, wherein all installation costs are paid to the Protestant without any provisions whatsoever for refunds. Actual construction costs under this alternative plan usually amount to about one half of that under cast iron specifications. As a result of these demands and the general conditions, Mr. Bodger decided to

install his own water system and proceeded to equip his irrigation well with a new pump and installed 4,000 feet of 4 and 8-inch mains to serve the 55 lots now on the market in his subdivision. An additional 242 feet of 4-inch main was laid to serve a portion of the tract owned by C. M. Kize. The total costs of this distribution system, exclusive of the well, is reported to be \$4,459. The owner of this water works has stated his willingness to sell all of it to Applicant herein at a reasonable price.

Herman J. Baertschiger, President of Rancho Grande Water Company, testified that his family owns thirty acres in the Applicant's proposed service area, namely, ten-acre lots No. 107, No. 112 and the north half of No. 119 of Tract No. 621, all said plots and parcels being a portion of Rancho Potrero Grande. This property will be subdivided and designated as Tract No. 11573, Los Angeles County. Upon application for water to this tract, Protestant offered to pipe the subdivision with cast iron mains for \$6,440, subject to refund, or for \$2,288, upon a non-refunding basis with cheaper materials. These proposals were refused and the Baertschiger family decided to install and operate its own waterworks. To this end, approximately 1,000 feet of six-inch pipe already has been installed and Rancho Grande Water Company has been organized and incorporated to acquire and operate the water system to supply this latter Tract No. 11573 and the waterworks of Mr. Bodger referred to above. Authority to operate as a public utility is requested herein by the said corporation which proposes to install immediately additional facilities amounting to approximately \$5,000.

R. H. Nicholson, President of San Gabriel Valley Water Service, denied that his company ever specified or demanded cast

iron pipe but contended, however, that he could not afford the risk of operating sub-standard facilities except upon a non-refundable basis and had agreed to do so only to assist those subdividers and real estate operators who otherwise could not or would not raise the funds necessary to provide water service for their projects.

There appears little if any merit to such discriminatory practices and certainly nothing to commend the requirement of a quality and type of material not uniformly or at all installed by the utility itself in the regular course of its own business. Such acts constitute an open violation and departure from Protestant's filed rules and regulations which require and provide for refunds in all cases and do not authorize the piping of subdivisions or the extension of mains at the sole cost of the applicant therefor, without privilege of reimbursement. It is obvious that the arbitrary attitude of Protestant has to a considerable extent been responsible for the service problems now before us. It does not appear equitable that subdividers and real estate operators should be forced into the business of selling and distributing water through the otherwise necessity of yielding to unreasonable demands in order to obtain a public utility service. On the other hand, it is not ordinarily in the best interests of the public that there be certificated by this Commission under financially hazardous conditions any considerable number of small, independent and separately-owned water utilities operating as isolated units in non-contiguous districts within an area heretofore certificated to a well organized water utility legally obligated to provide for this very type of demand upon just and uniform terms and conditions.

The problems involved herein are not so serious that they may not easily be solved to the satisfaction of all parties concerned. Applicant originally had no desire to enter the field of

public utility water business and is now willing to sell the water properties installed. Protestant, San Gabriel Valley Water Service, has offered to purchase a part of these facilities. It should acquire all such facilities and agree to install, under its regular rules and regulations, subject to refund, the mains necessary to serve the remainder of the areas involved herein when demand therefor arises. Thirty (30) days will be allowed for Protestant to make the necessary arrangements therefor and negotiations to this end should be undertaken without delay. In view of these circumstances, the Commission will deny the requests of Rancho Grande Water Company without prejudice to its right to petition for reopening in the event negotiations with San Gabriel Valley Water Service are not satisfactory.

O R D E R

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

Based upon the findings of fact and the terms and conditions set forth in the Opinion preceding this Order and other good cause therefore appearing,

IT IS HEREBY ORDERED that the above entitled proceeding be and it is hereby dismissed without prejudice.

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 1<sup>st</sup> day of January, 1941.

W. B. ...  
Ray & Rice  
Justus J. ...  
Francis P. Havenor  
Richard ...  
Commissioners.