

DECISION NO. 35916

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
 PALM SPRINGS WATER COMPANY, a
 corporation, for an Order of the
 Railroad Commission of the State of
 California Authorizing the Palm
 Springs Water Company to Exercise
 the Privileges of a Franchise
 Granted the Palm Springs Water
 Company by the City of Palm Springs,
 California, a municipal corporation.

ORIGINAL

Application No. 24333

C. L. McFarland, for Palm Springs Water Company.

Roy E. Colgate, City Attorney for City of
Palm Springs.

CRAEMER, COMMISSIONER:

O P I N I O N

In this proceeding Palm Springs Water Company, a corporation, asks the Commission for authority to exercise the privileges of a franchise granted by City of Palm Springs, Riverside County, providing for the installation and maintenance of pipe lines for the distribution of water within the city limits.

A public hearing in this matter was held at Palm Springs.

Applicant is the successor in interest to Palm Valley Water Company, which was operating a public utility water system prior to the enactment of the Public Utilities Act. At that time the community was unincorporated and water service was supplied only in the village of Palm Springs, which was located in the east half of Section 15, Township 4 South, Range 4 East, S.B.B.&M. As the village grew, service was extended into adjacent territory until at present the service area includes approximately 4 1/2 sections of land.

The City of Palm Springs was incorporated April 12, 1938. The City boundaries include 19-3/4 sections of land of which 8 1/2 sections are Indian lands. Every alternate section is owned by the Agua Caliente Mission Indians Band No. 1. Approximately 6-3/4 sections of the privately owned land within the city limits are unsubdivided and there is no present demand for water service in these sections.

Owing to the limited water supply from existing sources, Applicant's service area was restricted to some 4 1/2 sections by the Commission in its Decision No. 34208, dated May 20, 1941. This area includes the west half of Section 14, which is Indian land. Applicant has been supplying service in this section by agreement with the Indians who have leased parcels of land for auto courts, stores and residential purposes. The City has no jurisdiction over the Indian lands, except perhaps as to the public health therein. It cannot grant Applicant a franchise to extend mains into any of these Indian land sections, but it was necessary to include the said half section within the service area in order to protect public health and safety from the standpoint of sanitation. Bills are pending in Congress for the sale or exchange of the Indian lands in order that the City may exercise more control and jurisdiction over them.

Applicant desires to exercise the provisions of the franchise which cover the entire area within the city limits for the reason that it does not have mains installed in all of the existing roads and streets and there are certain unsubdivided lands within its service area to which Applicant has agreed to furnish water. This procedure will also avoid the necessity of obtaining a new franchise if and when a demand is made for service outside of the existing boundaries. At that time Applicant will ask the Commission for a certificate of public convenience and necessity to include any new lands that request service or a modification of the Order limiting the service area.

This procedure is acceptable to the City as it is difficult to foresee or determine where or when future development may take place.

The City has obtained rights of way through some of the Indian lands and easements along the section lines for streets and roads from the Secretary of the Interior. The County has also been granted similar rights which the City has inherited for the roads within its boundaries. By the terms of the franchise, Applicant obtains the right to use any or all of these roadways if and when required.

The franchise involved herein is of indeterminate duration and is in lieu of all franchises or privileges previously granted. It provides for the payment of 2% of Applicant's gross annual receipts arising from the use and possession of the franchise. There is no other public utility water system within the area covered by the franchise. Applicant agreed to file a stipulation that it would not claim before this Commission or before any court or other public body, a value for such franchise or for the authority herein granted in excess of the actual cost thereof.

It is evident that Applicant should be granted authority to exercise the franchise.

The following form of Order is suggested.

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, and

It Being Found as a Fact that public convenience and necessity so require,

IT IS HEREBY ORDERED that Palm Springs Water Company, a corporation, be and it is hereby granted a certificate to exercise the rights and privileges granted by the City of Palm Springs by Ordinance No. 96, adopted March 19, 1941, subject to the condition, however, that no claim of value for such franchise or the privilege hereby granted in excess of the actual cost thereof, shall ever be made by the grantee before this Commission or before any court or other public body.

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 5th day of November, 1942.

Justin P. Cooper

[Signature]

Frank D. Havens

[Signature]

Commissioners.