

ORIGINAL

Decision No. 36033

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of  
 GARBERVILLE WATER COMPANY, INC., a  
 corporation, L. A. ROBERTSON, and T. M.  
 TOBIN, co-partners, doing business  
 as Robertson & Tobin Water Company,  
 ELMER W. HURLBUTT and FRED HURLBUTT,  
 for a Certificate of Public Convenience  
 and Necessity, Revision of Rates for  
 Water Service, Approval of Transfer  
 of Properties and Permission to issue  
 stock.

Application  
No. 23678

Hill and Hill, by Arthur W. Hill,  
for Applicant

BAKER, COMMISSIONER:

O P I N I O N

In this application (L. A. Robertson and T. M. Tobin,  
 co-partners, operating a water system under the fictitious  
 name of Robertson and Tobin Water Company and Elmer W. Hurlbutt  
 and Fred Hurlbutt, co-partners, operating a water system under  
 the fictitious name of Elmer Hurlbutt Water Company, each op-  
 erating in the Town of Garberville, Humboldt County, ask for  
 authority to sell and transfer their water systems to Garber-  
 ville Water Company, Inc., a corporation, which corporation  
 asks for a certificate of public convenience and necessity,

for authority to acquire, consolidate and operate said water systems, to establish rates for water service and to issue 100 shares of its common stock at their par value of \$250 in payment for the water system properties it proposes to acquire.

A public hearing in this matter was held at Garberville.

The record shows that Elmer W. Hurlbutt began service of water in Garberville in 1915 by further developing the water supply from springs on his property. The need for additional water in the dry year of 1931 caused him to dig a well on his property in the townsite. Water from the well and springs was conveyed into the 75,000 gallon concrete and masonry reservoir at the Hurlbutt Springs, and thence delivered to the consumers through a pipe system that served a portion of the Town of Garberville. Flat and meter rates are charged for the service furnished.

In 1922, Robertson and Tobin constructed a circular concrete 50,000 gallon tank on a knoll above Garberville on the "Robertson Ranch." The water supply was developed from the upper reaches of Bear Creek and conveyed to this tank through a transmission main. In 1928, a branch pipe line was laid from the upper end of Bear Creek transmission main to a spring on the property of Tooby Brothers. A verbal agreement provided that Robertson and Tobin would pay 2/3ds of the cost of the pipeline and development of the spring. As payment for the use of waters from this spring, more commonly known as "Buck Mountain Spring," one-third of its flow has been and

is now delivered at the southwest extremity of the Garberville townsite where Tooby Brothers (Western Live Stock Company) take delivery without further or any compensation to the water company and transport it another mile for their own purposes. The Water Company maintains and operates the "Buck Mountain Spring" and "Robertson Ranch" sources of water supply and transmission mains therefrom and its storage and other developments thereon. In 1930, to further augment the available water supply, a well was dug and equipped to discharge water directly into the distribution mains.

The distribution system installed by Robertson and Tobin paralleled that installed by E. W. Hurlbutt in many of the streets of Garberville. The flat and meter rates charged on the two systems differed in some respects. Competitive conditions existed until the owners of the respective systems voluntarily associated themselves, and caused the organization on November 24, 1939 of Garberville Water Company, Inc., a corporation, one of the applicants herein, and jointly began to further increase storage facilities and to develop additional water supply to meet increased demands of the steadily growing unincorporated Town of Garberville.

In 1939, Garberville Water Company constructed a circular reinforced concrete tank of 175,000 gallon capacity immediately north of the townsite at the approximate elevation of the 50,000 gallon tank on the "Robertson Ranch" which two tanks by reason of their elevation maintain a gravity flow pressure of about 65 pounds per square inch on the distribution system. Also beginning in 1939 an 8 inch pipe line was laid from the new tank

north along the east side of the State Redwood Highway (main street) with 6 inch and 4 inch laterals in the townsite to generally improve the system and to provide fire protection through 12 fire hydrants. Under agreement dated October 9, 1940 with Garberville Fire Protection District, the agreed rate is \$300 per annum for the 12 hydrants, payable in monthly installments of \$25 for a period of 20 years. This rate appears reasonable under the circumstances and it will be established in the order to follow, but subject to regulation by this Commission.

The water supply was again augmented in 1939 by the construction of a well on the bank of the South Fork of the Eel River. Water is delivered through 1332 feet of 4 inch pipeline into the new 175,000 gallon tank. All of the sources of water supply are without exception dedicated to public use.

Garberville Water Company, Inc. obtained a permit to lay and maintain its water mains in, along and across the public streets in Garberville and vicinity from Humboldt County Board of Supervisors by resolution dated October 15, 1940.

There were 145 service connections on the system as of June 1, 1941 of which 51 were furnished service at flat rate and 94 were served on a measured basis. The flat rates at present in effect in the two systems vary from \$1.25 to \$10.00 per month, depending on the size of the premises served and the probable quantity of water used. The measured rates on both systems provide for a minimum monthly charge of \$1.50, but the quantity rates differ.

These rates follow:

Robertson and Tobin Water System

First 1000 cubic feet, per 100 cubic feet	\$ .20
Over 1000 cubic feet, per 100 cubic feet	.15

Elmer Hurlbutt Water System

First 600 cubic feet, or less	\$1.50
Over 600 cubic feet, per 100 cubic feet	.20

A report, Exhibit No. 1, submitted at the hearing by Mr. E. L. Clark, one of the Commission's engineers, includes an appraisal of the water systems properties, operation and maintenance, expenses, and revenues from operations. This report shows the estimated original cost of fixed capital used and useful as of June 1, 1941 to be \$34,636, of which \$2,977 is non-operative but capable of being returned to operative status.

The report further shows the depreciation annuity, calculated on a 5% sinking fund basis, is \$491, the accrued depreciation is \$5,108 and the estimated original cost less accrued depreciation is \$29,529.04. Annual maintenance and operating expenses were estimated to be \$3,500. Annual future operating revenues estimated under rates charged by Robertson and Tobin Water Company amounted to \$4,487 and under those charged by Elmer W. Hurlbutt Water Company totaled \$4,386. The results of operation of the system, based on the operative capital of \$31,659, produces a return of 3.18% by the use of the rates in effect on the Robertson and Tobin system, and 2.86% return by the use of the rates effective on the Hurlbutt system. As the system is somewhat over-built for present service demands, Corberville Water Company, Inc. is not entitled to a full return on the investment in physical properties. Nevertheless, an adjustment in the rates

is necessary to produce some additional revenue and to equalize the charges for service rendered throughout the community. The rates set out in the following Order will produce an adequate return on the investment in physical properties chargeable against the present consumers.

Garberville Water Company, Inc. is a corporation organized on or about November 24, 1939, under the laws of the State of California. It has an authorized stock issue of 100 shares of the par value of \$250 per share. The corporation was organized by the Robertson-Tobin-Hurlbutt interests and under its Articles of Incorporation, attached to the application as Exhibit A, it is specifically authorized to acquire the water system and water plant owned by L. A. Robertson and T. M. Tobin of Garberville and the water system and water plant owned by Elmer W. Hurlbutt and Fred Hurlbutt of Garberville. L. A. Robertson, T. M. Tobin, Elmer W. Hurlbutt and Fred Hurlbutt will each acquire 25 shares of the corporation's capital stock.

Applicants presented no evidence on either the cost or the value of the properties and accepted Mr. Clark's appraisal of the properties. We feel that the property costs contained in Mr. Clark's inventory and appraisal, adjusted to the date of acquisition, should be the basis for recording the property on the books of Garberville Water Company, Inc. We also are of the opinion that the difference between the depreciated original cost of the properties to be acquired and the par value of the capital stock issued in payment for said properties should be credited to a capital surplus account which the company shall create for this specific purpose.

Attached to the company's application as Exhibit "C" are copies of bills of sale covering the transfer of properties from Robertson and Tobin Water Company and from Elmer Hurlbutt Water Company. After describing the property that will be transferred, the bills of sale continue -

"It being understood and agreed that if any stock of the Garberville Water Company, Inc. be sold (other than the original issue of stock to the incorporators) or any substantial portion of the assets of the corporation be sold, then and in that event the following described personal property shall revert to the grantor, unless by a vote of more than fifty per cent of the issued outstanding stock, prior to the making of such sale of stock or assets, it is agreed that such property shall not revert."

The reversionary property of the Robertson and Tobin bill of sale is described as follows:

"That certain pipe line and tank situated outside the Garberville Sanitary District as shown upon a plat annexed hereto, and the right of said corporation to maintain or take water from a well on Pine Lane within said Garberville Sanitary District as shown on the map thereof."

The Hurlbutt bill of sale describes the reversionary property as follows:

"That certain pipe line and tank situated outside the Garberville Sanitary District as shown upon a plat annexed hereto, and the right of said corporation to maintain or take water from a well located in Block 10 of the Town of Garberville within said Garberville Sanitary District as shown on the map thereof."

The record in this proceeding indicates that the properties described in the reversionary clauses are essential to the water company in the conduct of its business and have been used for many years last past in the distribution of water to the public. These reversionary clauses should be eliminated from its deeds and bills of sale, and the Order will provide for the same.

The record further shows that there were no protests

made against the request for transfer of the properties and for a certificate of public convenience and necessity.

The following form of Order is recommended.

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,

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA hereby declares that public convenience and necessity require the construction, operation and maintenance of a public utility water system by Garberville Water Company, Inc., a corporation, in and in the vicinity of the unincorporated Town of Garberville, Humboldt County and comprising the Garberville Sanitary District as delineated on the map attached to the application and marked Exhibit "F" and which is hereby made a part hereof by reference.

IT IS HEREBY ORDERED that a certificate of public convenience and necessity be, and it is hereby, granted to Garberville Water Company, Inc., a corporation, to construct, operate and maintain a public utility for the sale and distribution of water within the territory hereinbefore described, and to exercise the rights and privileges granted to Garberville Water Company, Inc. by the resolution of the Board of Supervisors of Humboldt County, dated October 15, 1940.

IT IS HEREBY FURTHER ORDERED that Garberville Water Company, Inc., 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 subsequent to the 31<sup>st</sup> day of December, 1942 which rates are hereby found to be just and reasonable for the service to be rendered.

SCHEDULE OF RATES

METERED RATES

Monthly Minimum Charge:

5/8 inch meter	\$1.50
3/4 inch meter	2.00
1 inch meter	2.50
1 1/2 inch meter	3.00
2 inch meter	3.50
3 inch meter	5.00
4 inch meter	6.50

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:

First	500 cubic feet, or less	\$1.50
Next	1,500 cubic feet, per 100 cubic feet	.25
Next	3,000 cubic feet, per 100 cubic feet	.20
Next	10,000 cubic feet, per 100 cubic feet	.15
Over	20,000 cubic feet, per 100 cubic feet	.10

FLAT RATES

<u>Classification</u>	<u>Per Month</u>
For one residence on one lot of 7500 square feet or less, including irrigation by sprinkling of lawns and shrubs thereon	\$1.50
For each additional residence on same lot	1.00
For each additional 100 square feet on same lot when irrigated, minimum 3 months service	.02

FLAT RATES  
(Continued)

<u>Classification</u>	<u>Per Month</u>
For garden areas devoted to growing truck gardens and other crops for food, minimum 3 months service per 100 square feet, or fraction thereof	\$ .02
For first twelve fire hydrants with two 2½ inch hose outlets owned and installed by utility	25.00
For each additional fire hydrant with two 2½ inch hose outlets owned and installed by utility in excess of twelve	2.00
For each fire hydrant owned by Garberville Fire Protection District	1.50
For 2 inch wharf type hydrants owned and installed by utility near street curbs for private fire protection service only	.50

Special Conditions:

All charges for service other than the above shall be at metered rates or under special contracts filed with and approved by the Railroad Commission.

IT IS HEREBY FURTHER ORDERED that Garberville Water Company, Inc., a corporation, be, and it is hereby, directed as follows:

1. Within thirty (30) days from the date of this Order to submit to this Commission for its approval, quadruplicate sets of rules and regulations governing relations with its consumers, each set of which shall contain a suitable map or sketch, drawn to an indicated scale upon a sheet 8½ x 11 inches in size, delineating thereupon in distinctive markings the boundaries of the authorized service area and the location thereof with reference to the surrounding territory; provided, however, that such map or sketch shall not hereby be considered by this Commission or any other public body as a final or conclusive determination or establishment of the dedicated area of service, or any portion thereof.
2. Within sixty (60) days from the date of this Order, to file with this Commission four copies

of a comprehensive map drawn to an indicated scale of not less than 400 feet to the inch, upon which shall be delineated by appropriate markings the various tracts in the territory for which the certificate is granted herein. This map should be reasonably accurate, show the source and date thereof, and include sufficient data to determine clearly and definitely the location of the various properties comprising the entire utility area of service; provided, however, that such map shall not thereby be considered by this Commission or any other public body as a final or conclusive determination or establishment of the dedicated area of service, or any portion thereof.

3. Within sixty (60) days from the date of this Order to file with this Commission an affidavit 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.

The Commission having considered the request of Garberville Water Company, Inc. for permission to issue \$25,000 par value of its capital stock, and it being of the opinion that the money, property or labor to be procured or paid for by the issue of said stock is reasonably required by applicant for the purpose herein stated, and that the expenditures for said purpose are not, in whole or in part, reasonably chargeable to operating expenses or to income, therefore

IT IS HEREBY ORDERED that Garberville Water Company, Inc. be, and it hereby is, authorized to issue, after the effective date hereof and on or before January 31, 1943, \$25,000 par value of its capital stock in payment for the properties described in Exhibits "C" and "D" and Exhibit No. 1 on file in this proceeding.

IT IS HEREBY FURTHER ORDERED that Garberville Water Company, Inc. shall file with the Railroad Commission a report showing the amount of stock issued under the authority herein

granted, the names of individuals to whom the stock was issued, the number of shares issued to each individual and the purposes for which said stock was issued.

IT IS HEREBY FURTHER ORDERED that L. A. Robertson and T. M. Tobin, co-partners, doing business under the name of Robertson and Tobin Water Company, and Elmer W. Hurlbutt and Fred Hurlbutt, doing business under the name of Elmer Hurlbutt Water Company, may, after the effective date hereof and on or before January 31, 1943, sell and Garberville Water Company, Inc. may purchase the properties described in Exhibits "C," "D," and Exhibit No. 1 on file in this proceeding, provided -

- (1) The bills of sale are revised so as to eliminate the reversionary clauses contained therein.
- (2) Garberville Water Company, Inc. uses the property appraisal costs shown in Exhibit No. 1, adjusted to the date of acquisition, as the basis for recording the properties acquired on its books of account.
- (3) Garberville Water Company, Inc. records the difference between the depreciated appraisal cost of the properties it acquires and the par value of the capital stock it issues in payment for said properties in a capital surplus account which account the company is hereby authorized to create.

IT IS HEREBY FURTHER ORDERED that Garberville Water Company, Inc. shall file with the Railroad Commission within thirty (30) days after acquiring said properties, a copy of each deed and a copy of each bill of sale under which it holds title to said properties.

For all other purposes the effective date of this Order shall be ten (10) days from and after the date hereof.

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 15<sup>th</sup> day of December, 1942.

Justin P. Coe

W. Baker

Francis D. Haven

Richard R. Rucker

Commissioners