

Decision No. 36465

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

ORIGINAL

In the Matter of the Application of
MALIBU WATER COMPANY, a California
corporation, for authority to
establish metered rates.

Application No. 24615

Marvin Osburn, for Applicant.
C. M. Armstrong, for Residents of Tract No. 10570.
B. H. Dyas, for Malibu Home Owners Association.
Cornelia M. Runyon, for Consumers residing near
Ventura County Line.
A. H. Shore, for Malibu Improvement Association.

BY THE COMMISSION:

OPINION

Malibu Water Company, a corporation, engaged in the business of distributing and selling water for domestic and irrigation purposes in certain sections of the shore line and ocean front of Malibu Ranch, northerly of Santa Monica in Los Angeles County, asks the Railroad Commission to establish meter rates to be charged for the service rendered its consumers. The applicant alleges that the flat rates at present in effect do not produce sufficient revenue to meet the cost of operation. The Commission is asked to authorize the following schedule of measured rates:

Metered Domestic Service

Monthly Minimum Charges

| | |
|---------------------------|--------|
| 5/8-inch connection | \$1.50 |
| 3/4-inch connection | 2.50 |
| 1-inch connection | 4.00 |
| 2-inch connection | 8.00 |

Monthly Quantity Rates

| | |
|---|--------|
| First 400 cubic feet | \$1.50 |
| Next 600 cubic feet, per 100 cubic feet | .25 |
| Next 2,000 " " " " " " | .20 |
| All Over 3,000 " " " " " " | .15 |

Monthly Flat Rate Domestic Service

| | |
|---|--------|
| For 5/8-inch residence service connection, 30 foot lot frontage | \$1.50 |
| For each additional 30 foot lot frontage | .50 |
| For 3/4-inch residence service connection, 30 foot frontage lot | 2.50 |
| For each additional 30 foot lot frontage or fraction thereof | .50 |
| For 5/8-inch business service connection and 20 foot lot frontage | 2.00 |
| For 3/4-inch business service connection and 20 foot lot frontage | 2.50 |
| For each additional 20 foot lot frontage or fraction thereof | .50 |

Monthly Fire Hydrant Rate

| | |
|---|--------|
| Per hydrant on main distribution lines only and not less than 500 feet apart..... | \$1.50 |
|---|--------|

Metered Irrigation Service

| | |
|--|---------|
| Water for irrigation purposes will be served only in Malibu Canyon area and then only from available supply back of Malibu Dam, per acre foot..... | \$40.00 |
|--|---------|

A public hearing was held in this proceeding before Examiner William Stava at Malibu Beach, in the County of Los Angeles.

Malibu Water Company serves an area comprising two rather narrow strips of ocean shore and beach lands lying along the Pacific Ocean and being a part and parcel of Malibu Ranch, formerly the property of the Rindge Estate. The ranch extends approximately 21 miles along the ocean from Los Flores Canyon to the Ventura County Line. One of the sections served is eight miles long and averages one-half mile in width. This area is supplied with domestic water from wells located at the mouth of Malibu Canyon. The other section is approximately 3 1/2 miles long and averages the same width. This territory receives its water from wells located at the mouth of Truncas Canyon. The entire domestic distribution system consists of 144,800 feet of mains varying from two to eight inches in diameter. The system storage facilities consist of 7 tanks having a combined capacity of 748,000 gallons. There are 245 consumers receiving domestic service and all at present are being served at flat rates.

Irrigation service is furnished only to lands in the Malibu Canyon district. Approximately 175 acres of land can be irrigated. During the 1942 season but 66 acres were irrigated. Irrigation water is obtained from a reservoir formed by a reinforced concrete dam on Malibu Creek. The dam has a height of 102

feet above stream bed and the reservoir has a present capacity of approximately 400 acre feet. The irrigation water is conveyed through 18,480 feet of 8-inch pipe to points of use. The stored supply could be used for domestic purposes if properly treated. Its present use, however, to some extent aids in replenishing the underground supply for the domestic system.

Malibu Water Company was granted a certificate of public convenience and necessity to operate a public utility water system by the Commission in its Decision No. 31269, dated September 19, 1938. In the same decision the company was authorized to acquire its physical properties from the Marblehead Land Company, a corporation, engaged in owning, operating and subdividing real estate, which consisted largely of the Malibu Ranch properties. In connection with the above proceeding the water company was ordered to file the rates charged by the land company. These rates are at present in effect and are as follows:

Flat Rates

| | |
|--------------------------------------|--------|
| For 3/4-inch service, per month..... | \$1.50 |
| For 1-inch service, per month..... | \$2.25 |

At the hearing representatives for applicant stated that a return upon the capital investment was not desired at this time but asked that rates be established which would produce the cost of operation only, exclusive of any allowance for depreciation. Under the circumstances a detailed discussion of the fixed capital is unnecessary, but the testimony concerning this item will be summarized in order to show the extent of the investment in the system.

Arthur Taylor, engineer for the company, estimated the cost of the physical properties as of July 1, 1942, to be \$361,525. This sum included \$13,868 for lands and easements. He also estimated the total yield of various sources of water supply that could be used in the domestic service to be 144 miners inches.

Of this total 72 miners inches were produced from Malibu Creek and the balance from the other coastal streams within the ranch. He estimated the value of 144 miners inches of water to be \$144,000, resulting in a grand total of \$505,525 for fixed capital. Mr. F. H. Van Hoesen, one of the Commission's hydraulic engineers,

estimated the cost of the system as of October, 1942, to be \$365,966, which sum excluded lands, easements, and water rights. The record shows that the Company owns no land in fee, but claims that Marblehead Land Company granted it easements for pipe lines, storage tanks, well sites, and for water development and a right to use the available water.

The operating revenues for the year 1942 as shown by the books of the company, but estimated for the month of December, total \$9,684. Of this sum \$3,500 represents the revenue derived from irrigation deliveries.

The annual cost of maintaining and operating the system as estimated by Mr. Taylor and Mr. Van Hoesen and as set out in the books of the Company for 1942 is summarized in the following tabulation:

| <u>Classification</u> | <u>Estimated By Taylor</u> | <u>Company Books</u> | <u>Estimated by Van Hoesen</u> |
|---|------------------------------------|--------------------------|--|
| E-1 to E-7 Source of Water Supply, | \$ 1,000 | \$ 1,881 | \$ 700 |
| E-8 to E-18 Pumping Expense, | 3,000 | 3,501 | 4,125 |
| E-19 to E-21 Purification Expense, | - | - | - |
| E-22 to E-27 Transmission and Distribution Expense, | 2,000 | 830 | 1,310 |
| E-28 to E-33 Repair to Transmission and Distribution System, | 3,800 | 5,188 | 2,550 |
| E-34 to E-35 Collections, Etc. | - | 2,187 | 300 |
| E-36 to E-49 General Expense, | 1,500 | 57 | 950 |
| E-50 Taxes, | 2,800 | 2,559 | 2,725 |
| Sub-Total | \$14,100 | \$16,203 | \$12,660 |
| Extra Expense due to Floods and Movement of Ground Occupied by Pipe Lines, | 1,000 | - | - |
| Grand Total | \$15,100 | \$16,203 | \$12,660 |

The record shows that vouchers and book entries of maintenance and operation expenses were not sufficiently itemized and were so combined with other and similar expenditures by Marblehead Land Company that the charges could not in many important instances be definitely allocated to the proper accounts, or segregated between the two companies. Many items of operating expenses appearing on the books of the company were found to be chargeable to capital. These improper charges resulted in the differences in the above tabulation. Due consideration of the testimony indicates that the sum of \$13,000 is an ample allowance for the

operation and maintenance expense for the immediate future.

Depreciation was computed by Mr. Van Hoesen by the 5% sinking fund method, and totalled \$3,697. The books of the company show this item for 1941 to be computed by the straight line method and totalled \$12,393.

The results of operation based on the above estimates show an operating loss of \$3,316 for the year of 1942, excluding any allowance for depreciation, and \$7,013 including this item, computed on a sinking fund basis.

The record shows that for the purpose of determining the quantities of water being used by the consumers, the company had installed and read the meters on approximately 200 services for period of eleven months, October, 1939, to August, 1940, both inclusive. Based upon the information thereby obtained, the annual revenues, which should be produced by the requested rates, were estimated to be \$13,660 and \$14,688 by the company's and the Commission's engineers, respectively.

Representatives of the various consumer organizations and individual water users protested any increase in rates or change from a flat to a measured basis, on the grounds that the country was at war and any increase in charge in the form of rate would not be in the public interest as it would discourage the growing of "victory gardens" and the production of food to that extent. Some of the witnesses suggested that the rates be reduced in order that a greater use be made of the available water to provide more food. Other witnesses testified that the system was over-built and that the water company's financial difficulties were due to the Marblehead Land Company not promoting the sale of property and increasing the number of water consumers in the service area.

Mr. Howard C. Bonsal, president of the water company, testified that it was financed by Marblehead Land Company, and any deficiencies in operating costs had heretofore been made up by the Land company, but it was felt that the water company should at least earn bare operating costs. He further testified that the officials of the water company were not receiving any salaries, and that its employees were also part-time employees of the Marblehead Land Company, which

reduced the water company expenses to a minimum. No charge was made even for keeping the water company's books. Mr. Bonsal stated that in order to aid the war effort by assisting in producing food in home gardens, his company would file a victory garden rate that would be effective for the current season.

Other protests to increase in rates were made by consumers having swimming pools, large gardens, etc., on the grounds that their property had been sold them with an agreement to deliver water at low rates in order that pools and gardens could be developed and maintained at a reasonable cost. Protest was also made by Malibu Improvement Corporation, owning 23 acres of land adjoining the ocean in Malibu Beach to the proposed irrigation rate of \$40.00 per acre foot requested in the application. It was contended that the rate was excessive in that it was higher than similar rates charged by other utilities furnishing the same kind of service, and therefore the improvement corporation lands would be difficult to lease for agricultural purposes and it would suffer loss to that extent.

The water company's reply to these protests was to the effect that the water company had never sold any land or made any contracts or agreements for the sale of water, other than those permitted by law. Mr. Bonsal testified that the water company had not engaged in the sale of any of the lands within the service area, and that agents of the Malibu Land Company who sold the land were instructed to advise all land buyers that water service was available to the lands at the water company's schedule of rates. No showing was made that the water company was a party to any land sales or that it had entered into any agreement to provide water service at any other rates than the schedule filed with the Commission. If the protestants have any grounds for an action against the land company for misrepresentation in connection with land sales, their source of relief is in the civil courts as this Commission has no jurisdiction in such issues.

In connection with the protests of the domestic and irrigation rates applied for by the company not providing sufficient water, the Commission feels that the protest deserves some consideration, and that some modification should be made of the schedule in order to encourage the use of water. The rate schedule set out in the following Order has provided for the delivery of more water than the rates requested, but it is estimated that they will normally produce sufficient revenue to provide the estimated necessary maintenance and operating expenses exclusive of depreciation.

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 now being fully advised in the premises,

IT IS HEREBY FOUND AS A FACT that the rates now charged by Malibu Water Company, a corporation, for water delivered to its consumers in that part of Los Angeles County along the Pacific Ocean, commonly known as Rancho Topanga Malibu Secuit, are unjust and unreasonable, in so far as they differ from the rates herein established, and that the rates herein established are just and reasonable rates to be charged for the service rendered; and

Basing its Order upon the foregoing finding of fact and upon the further statements of fact contained in the Opinion which precedes this Order,

IT IS HEREBY ORDERED that Malibu Water Company, a corporation, be and it is hereby authorized and directed to file with the Railroad Commission, within thirty (30) days from the date of this Order, the following schedule of rates to be charged for all water delivered to its consumers on and after the

1st day of July, 1943:

Schedule No. 1

GENERAL METERED SERVICE

APPLICABILITY

Applicable to all water service rendered on a metered basis.

TERRITORY

Within that part of Los Angeles County along the Pacific Ocean, commonly known as Rancho Topanga Malibu Sequit.

RATES

Monthly Minimum Charges:

| | | |
|-----------|----------------------|--------|
| 5/8 x 3/4 | inch meter | \$1.50 |
| 3/4 | inch meter | 1.75 |
| 1 | inch meter | 2.50 |
| 1-1/2 | inch meter | 4.00 |
| 2 | inch meter | 6.00 |
| 3 | inch meter | 15.00 |
| 4 | inch meter | 25.00 |

Monthly Quantity Rates:

| | | |
|----------|-------------------------------------|--------|
| First | 500 cubic feet | \$1.50 |
| Next | 1,000 cubic feet; per 100 cu. ft. . | .25 |
| Next | 1,400 cubic feet; per 100 cu. ft. . | .20 |
| All over | 3,000 cubic feet, per 100 cu. ft. . | .15 |

The Minimum Charge will entitle the consumer to the quantity of water which that monthly minimum charge will purchase at the Monthly Quantity Rates.

Schedule No. 2

MONTHLY FLAT RATES

APPLICABILITY

Applicable to all domestic and commercial water service.

TERRITORY

Within that part of Los Angeles County along the Pacific Ocean, commonly known as Rancho Topanga Malibu Sequit.

Schedule No. 2 (continued)

RATES

| | |
|---|--------|
| 3/4 inch connection to 30-foot lot | \$1.50 |
| 1 inch connection to 30-foot lot | 2.00 |
| Extra for each lot or fraction thereof, per lineal foot frontage | .05 |
| For extra house in which a separate family lives | 1.00 |
| Fire hydrants, each | 1.50 |

Schedule No. 3

IRRIGATION SERVICE

APPLICABILITY

Applicable only in Malibu Canyon area and to such points as can be served by gravity from Malibu Creek Reservoir.

TERRITORY

Within the territory of the service area of the company and as restricted to Malibu Canyon area as stated immediately above.

RATES

Monthly Minimum Charges:

| | |
|--------------------------------|--------|
| 5/8 x 3/4 inch meter | \$1.50 |
| 3/4 inch meter | 1.75 |
| 1 inch meter | 2.50 |
| 1-1/2 inch meter | 4.00 |
| 2 inch meter | 6.00 |
| 3 inch meter | 15.00 |
| 4 inch meter | 25.00 |

Monthly Quantity Rate:

| | |
|------------------------------|--------|
| Per 100 cubic feet | \$0.06 |
|------------------------------|--------|

IT IS HEREBY FURTHER ORDERED that Malibu Water Company, 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 four 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 8 1/2 x 11 inches in size, delineating thereupon in distinctive markings the boundaries of its present service area, and the location thereof with reference to the surrounding territory: provided, however, that such map or sketch 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.
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 territory presently served. 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 property 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.

IT IS HEREBY FURTHER ORDERED that 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 29th day of June, 1943.

Francis J. Haverdine
A. J. Baker
Richard Kachse
James W. Carr
 Commissioners.