

Decision No. 38154

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of

DONALD B. AYRES

for a certificate of public convenience and necessity to operate a water system for the furnishing of water to the public on the property hereinafter described.

ORIGINAL

Application No. 26451

Eugene M. Elson, for applicant.

Dr. Louis Sinclair, for Chamber of Commerce,
Joshua Tree Townsite.

BY THE COMMISSION:

O P I N I O N

The original application in this proceeding was filed by Donald B. Ayres, asking for a certificate of public convenience and necessity to operate a water system in and in the vicinity of a subdivided area known as Joshua Tree Townsite, located approximately fifteen miles west of the town of Twenty-nine Palms, San Bernardino County. The Commission is also asked to approve a schedule of rates providing for a monthly minimum charge of \$2.00 for the first 500 cubic feet of water. Water used over the minimum is reduced through three blocks to 15¢ per 100 cubic feet for quantities in excess of 5,000 cubic feet.

Subsequent to the original filing, Donald B. Ayres sold his interests in the said water system to Jack E. Poole who thereafter sold and conveyed all of his interest therein to Joshua Tree Service Company, a corporation. No water charges have ever been made by any of the owners or operators of this water system. An amended application has been filed herein substituting Joshua Tree Service Company for the original applicant and further requesting the Commission

to authorize the company to issue 4,000 shares of its common stock at a par value of \$1.00 per share for payment to said Jack E. Poole for the water system properties; and 20,000 shares of common stock to provide funds for improvements and additions to the plant.

A public hearing in this proceeding was held at Joshua Tree Townsite before Examiner Stava.

Joshua Tree Service Company is a California Corporation formed by Donald B. Ayres in 1944 for the purpose of acquiring and operating the water system in Joshua Tree Townsite and vicinity. The proposed service area covers 1,240 acres of land owned by Joshua Tree Land Company, a corporation. The townsite includes Tracts Nos. 2556 and 2738, having an area of 255 acres and was subdivided by Joshua Tree Townsite Company, a corporation. Donald B. Ayres is president of each of the above companies.

The water supply is obtained from a drilled well 506 feet deep. The distribution system was constructed by the above land company in 1937 and consists of 18,341 feet of mains varying in size from two to six inches in diameter. Water is pumped directly into the distribution system from the well by a gas engine-operated turbine pump and storage is provided by a 10,500-gallon tank located above the subdivision and 214 feet higher than the pump house. At present 43 consumers are being furnished free water service.

Mr. Ayres testified that the land company and its predecessors in interest have expended the sum of \$21,891 as of May 31, 1944, in constructing a water system to serve a portion of the subdivision, and that the depreciated value of the property is estimated to be \$17,840. This investment includes costs incurred in drilling a well which failed to produce water. Mr. Ayres claimed that the value of the present water system actually is \$6,000 greater than its historical cost by reason of the proven and developed water supply. In this connection it should be stated that no evidence was presented to support this contention that \$6,000 or any other sum should be added arbitrarily to fixed

capital, over and above the amount actually expended on the construction and installation of the system. New mains installed since May 31, 1944, have cost \$5,218.

Mr. Ayres testified further that the service company contemplates improvements and extensions of facilities in the two tracts which will result in expenditures of \$12,340 for new pipe lines. Applicant also proposes to install a booster pump and motor at the well and a new 100,000-gallon storage tank at an estimated cost of \$4,950. The proposed additions to the system, including the above \$5,218 for mains, will total \$22,508. The \$20,000 stock issue is to provide funds for the proposed extensions but present costs of labor and materials already have resulted in increasing this estimate by \$2,508.

The record shows that Joshua Tree Land Company sold the water system to Donald B. Ayres, on June 10, 1944, and on December 18, 1944, Mr. Ayres sold his rights and interests therein to Jack E. Poole for \$4,000. Mr. Poole has sold the system to the service company for 4,000 shares of its common stock, together with an agreement to buy an additional 20,000 shares for cash at the par value of \$1.00 per share to finance the proposed improvements. Joshua Tree Service Company is authorized by its articles of incorporation to issue a total of 100,000 shares of common stock at a par value of \$1.00 per share.

Mr. J. J. Crane appeared in behalf of Mildred H. Crane and asked that 40 acres of her land, being the NE $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 36, T. 1 N., R. 6 E., S.B.B. & M., be included in the certificated area in order that water may be made available and the land improved. Mr. Ayres expressed the opinion that this property which adjoins lands owned by Joshua Tree Land Company could be served without difficulty if water is available when the demand for service arises. However, by reason of the limited yield of the present source of supply, the Crane lands will not be included within the certificated area at this time. In the event future development requires extension of service to said lands, applicant may apply for inclusion thereof upon proper showing which will include, among other things, an adequate water supply.

Donald B. Ayres has assigned to said service company all his right, title and interest in and to that certain franchise granted him by the Board of Supervisors of San Bernardino County, Ordinance No. 557. This ordinance is a franchise for supplying water and laying and maintaining pipe lines in, over, and along the streets and alleys in a part of the community known as "Joshua Tree Ranchose" embracing the territory for which certificate is requested herein.

No other public utility water system operates in this area. No protests nor objections were made. It appears, therefore, that public convenience and necessity require that a certificate be granted. The proposed schedule of rates is just and reasonable and will be hereinafter established.

The certificate of public convenience and necessity granted herein is subject to the following provisions of law:

"That the Commission shall have no power to authorize the capitalization of this certificate of public convenience and necessity or the right to own, operate or enjoy such certificate of public convenience and necessity in excess of the amount (exclusive of any tax or annual charge) actually paid to the state as the consideration for the issuance of such certificate of public convenience and necessity or right."

ORDER

Application as above entitled and amendment thereto having been filed with the Railroad Commission, a public hearing having been held thereon, the matter having been duly submitted, and the Commission being of the opinion that it is reasonably necessary for Joshua Tree Service Company to issue 24,000 shares of its capital stock for the purposes hereafter stated, that the expenditures for said purposes are not in whole or in part reasonably chargeable to operating expenses or income, and the Commission now being fully advised in the premises,

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA HEREBY DECLARES that public convenience and necessity requires, and will require, the construction and operation of a public utility water system by Joshua Tree Service Company, a corporation, in and in the vicinity of Joshua Tree Townsite, San Bernardino County, being more particularly described as the

West one half of Section 25; all of Section 36, excepting the NE $\frac{1}{4}$ of the NE $\frac{1}{4}$ consisting of 40 acres; and West one half of Section 31, all in Township 1 North, Range 6 East, S.B. & M.,

said area consisting of 1,280 acres more or less and delineated upon the map marked Exhibit "B" attached to the original application herein and hereby made a part of this Order by reference.

IT IS HEREBY ORDERED as follows:

1. That a certificate of public convenience and necessity be and it is hereby granted to Joshua Tree Service Company, a corporation, to construct and operate a public utility for the distribution and sale of water within the territory hereinabove described.
2. That Joshua Tree Service Company, a corporation, be and it is hereby authorized and directed to file in quadruplicate, in conformity with this Commission's General Order No. 96, 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 on and after September 1, 1945, which schedule of rates is hereby found to be just and reasonable for the service to be rendered:

Schedule No. 1

GENERAL METERED SERVICE

Applicability:

Applicable to all domestic, commercial and industrial metered water service.

Territory:

In and in the vicinity of Joshua Tree Townsite, San Bernardino County, as delineated on the map and included in the tariff schedules as Map No. 1.

Rates:

Per Meter
Per Month

Quantity Charges:

First: 500 cubic feet, or less	...	\$2.00
Next: 500 cubic feet, per 100 cubic feet25
Next: 4,000 cubic feet, per 100 cubic feet20
Over: 5,000 cubic feet, per 100 cubic feet15

Minimum Charges:

For 5/8 x 3/4 inch meters	...	\$2.00
For 3/4 inch meters	...	2.50
For 1 inch meters	...	4.00
For 1 1/2 inch meters	...	6.00
For 2 inch meters	...	8.00

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

3. That Joshua Tree Service Company, a corporation, within sixty (60) days from the date of this Order, shall 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 8½ 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 immediate 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.

4. That Joshua Tree Service Company, a corporation, within sixty (60) days from the date of this Order, shall file with this Commission four copies of a comprehensive map, drawn to an indicated scale of not less than 600 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.

5. That Joshua Tree Service Company, on or before December 31, 1945, may issue at par 4,000 shares of its common capital stock to Jack E. Poole in full payment of the water system referred to in the foregoing opinion and may issue and sell, at not less than par, not exceeding 20,000 shares of its common capital stock to finance in part the cost of the proposed additions to the water system, provided that Joshua Tree Service Company shall file with the Commission verified reports of the issue of the stock herein authorized, and of the disposition of the proceeds, as required by the Commission's General Order No. 24-A, which order, in so far as applicable, is made a part of this Order.

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 14th day of

August, 1945.

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 Commissioners.