

ORIGINAL

Decision No. 39508

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of

E. R. KENNEDY, doing business as
E. R. KENNEDY PUMPING PLANT

and

SAN JOSE WATER WORKS,

Application No. 27792

for (1) an order authorizing the transfer from E. R. Kennedy to San Jose Water Works of the water system now operated by E. R. Kennedy, and (2) a certificate that public convenience and necessity require the extension of the plant and system of San Jose Water Works now serving water in the vicinity of the unincorporated community of Campbell, County of Santa Clara, to the area now served by E. R. Kennedy.

McCutchen, Thomas, Matthew, Griffith & Greene;
Leib & Leib, by Robert M. Brown.

O P I N I O N

In this proceeding, E. R. Kennedy, doing business as E. R. Kennedy Pumping Plant, engaged in the business of distributing and selling water for domestic and irrigation purposes in an area adjacent to the unincorporated community of Campbell, Santa Clara County, asks the Commission for authority to convey the water system to San Jose Water Works, a corporation, which joins in the application. San Jose Water Works asks the Commission for a certificate of public convenience and necessity to extend its system and serve the territory now supplied by the Kennedy System, but limit the agricultural irrigation service to the area now actually receiving such service from E. R. Kennedy.

The application alleges that the Kennedy service area is being subdivided and that the demand for new domestic water service will require substantial capital outlays. San Jose Water Works is amply equipped with water and storage facilities and prepared to extend its mains into the Kennedy area. Mr. Kennedy desires to sell the system and be relieved of all further public utility obligations to supply water in this territory.

A public hearing in this proceeding was held before Examiner Stava at San Jose.

The Commission by its Decision No. 35759, dated September 15, 1942, granted E. R. Kennedy a certificate of public convenience and necessity to furnish water for irrigation purposes within a 460-acre area of orchard lands comprising some 460 acres more or less, and domestic water in a parcel thereof containing some 80 acres.

Water is obtained from a 16-inch well, 551 feet deep, and is distributed for irrigation use through 17,000 feet of 10 and 12-inch concrete pipe. Irrigation water is sold at a rate of \$3.00 per hour for the run of the pump and deliveries are reported to vary from 600 to 1,000 gallons per minute, depending on the underground water level and elevation of the property being supplied. There are 41 customers being presently supplied with irrigation water.

Water for the domestic system is obtained from the same irrigation well, but is pumped into a 15,000-gallon storage tank from which it is distributed by means of a pressure system through 1,500 feet of 2 and 3-inch pipe to 12 customers. The domestic service is supplied at a measured rate providing for a monthly minimum charge of \$1.25 with an allowance of 560 cubic feet of water. Excess use is reduced through two blocks to 12¢ per 100 cubic feet for all water used over 8,000 cubic feet.

The record shows that the fixed capital installed in the Kennedy System, as of June 30, 1946, totals \$37,180, the corresponding depreciation reserve is \$12,903, resulting in a depreciated cost of the property of \$24,277.

The purchase price of the system is \$25,277, as of June 30, 1946, plus certain subsequently installed additions and betterments listed at actual cost. The purchase price represents the depreciated cost of the system in the sum of \$24,277, plus \$4,000 for three parcels of real property, including the well lot and two adjoining lots. Customers' extension deposits, amounting to \$3,000, are excluded but are subject to refund as customers are added to the extensions. The operating revenues for the year ending December 31, 1945, were \$7,252 and the operating expenses for the same period totaled \$4,314, resulting in a net revenue of \$2,938. However, no allowance was included in the operating expenses for Federal Income Taxes paid by Mr. Kennedy.

Mr. Kennedy testified that the domestic service area is being subdivided with thirty new homes under construction and seventy additional homes to be erected at an early date. As his present water system was not designed or equipped to furnish such an increased demand, Mr. Kennedy prefers to sell the property to the San Jose Water Works.

San Jose Water Works already operates in adjacent territory under rates that are but slightly higher in the initial two blocks than the Kennedy schedule. While application of these rates will result in a possible increase in domestic water charges not to exceed six per cent, a treated water will be delivered at a pressure of 85 pounds per square inch instead of the present untreated well supply at 30 to 50 pounds pressure. In addition to this, there is the assured entire reserve supply of the San Jose Water Works available to all consumers on the Kennedy System.

The San Jose Water Works proposes to continue the delivery of irrigation water from the same well at the rates presently in effect. However, it asks that the certificate, if granted, limit the irrigation service to the present area served as the company does not hold itself out to furnish agricultural irrigation service in any other portion of its service area.

The San Jose Water Works was granted a franchise in 1868 by the Board of Supervisors of Santa Clara County, authorizing it to enter in, on, along or under all public roads in the county for the purpose of installing, operating and maintaining pipe lines for the distribution of water.

No protest was made to the transfer of the system or to granting a certificate to San Jose Water Works to serve the Kennedy area. No objection was made to the establishment of rates of said waterworks in the Kennedy area. Under the circumstances, the transfer, certificate and approval of the rates will be authorized in the following Order, the establishment of which rates hereby is found to be justified.

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

"That the Commission shall have no power to authorize the capitalization of the certificate of public convenience and necessity herein granted or the right to own, operate or enjoy such certificate in excess of the amount actually paid to the State or to a political subdivision thereof as the consideration for the grant of said certificate of public convenience and necessity."

O R D E R

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

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA HEREBY DECLARES that public convenience and necessity require, and will require, the operation of public utility water systems by San Jose Water Works, a corporation, to supply water service for domestic and agricultural irrigation service in that certain unincorporated area adjacent to the community of Campbell, Santa Clara County, and comprising an area of 460 acres, more or less, and as more particularly delineated upon the map attached to the application herein, marked Exhibit B, which is hereby made a part of this Order by reference; said certificate to supply agricultural irrigation water service, however, shall be limited to the area now actually receiving such service from said E. R. Kennedy.

IT IS HEREBY ORDERED that a certificate of public convenience and necessity be and it is hereby granted to San Jose Water Works, a corporation, to construct and operate public utility domestic and irrigation systems for the distribution and sale of water within the territory hereinabove described.

IT IS HEREBY FURTHER ORDERED AS FOLLOWS:

1. That E. R. Kennedy, doing business as E. R. Kennedy Pumping Plant, be and he is hereby authorized to transfer to San Jose Water Works the public utility water system used in supplying domestic and irrigation service to an unincorporated area adjacent to the community of Campbell, Santa Clara County, said system being more particularly described in the Deed and Bill of Sale attached to the application and marked Exhibit F, which is hereby made a part of this Order by reference.
2. That San Jose Water Works be and it is hereby authorized to supply domestic water within the territory hereinbefore described at the rates and subject to the rules and regulations of said San Jose Water Works now on file with this Commission, or that may hereafter be made effective, and to charge for agricultural irrigation water service the rates now effective on said E. R. Kennedy System, or as may hereafter be made effective.
3. That the transfer herein authorized shall be made on or before December 31, 1946, and that said E. R. Kennedy shall file a certified copy of the final instrument of conveyance with this Commission on or before said date.
4. That E. R. Kennedy shall file a written statement with this Commission, on or before December 31, 1946, indicating the date on which control and possession of said system were relinquished.
5. That upon compliance with the above Order of the Commission, said E. R. Kennedy shall stand relieved of all public utility obligations and liabilities in connection with said system.
6. That San Jose Water Works be and it is hereby directed to file, on or before December 31, 1946, four copies of the rates for irrigation service furnished by the irrigation system in the 460-acre service area adjacent to the community of Campbell, Santa Clara County.

This Order shall become effective upon the date hereof.

Dated at San Francisco, California, this 25 day of

October, 1946.

Justus F. Guzman
Francis J. ...
...
A. J. ...
 Commissioners.

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