

Decision No. 40452

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of RUSKIN T. GARDNER,
doing business as Sunkist Water Company,
for a Certificate of Public Convenience
and Necessity to operate a public
utility.

Application No. 27450

Gordon and Knapp, by Wyman C. Knapp, for Applicant.
Dailey S. Stafford, for City of Covina, Protestant.
P. J. Tscherner, for Azusa Irrigating Company.
Eldred E. Wolford, for San Gabriel Valley Water Company,
Protestant.
C. F. Culver, for Baldwin Park Water District.

O P I N I O N

Ruskin T. Gardner, doing business as Sunkist Water Company, is engaged in distributing and selling water in a 160-acre subdivision located within the corporate limits of the City of West Covina, Los Angeles County, and asks the Commission for a certificate of public convenience and necessity to serve adjoining territory consisting of approximately 1,350 acres of partially subdivided and potential subdivision properties.

Applicant alleges that the lands in the proposed service area have all been devoted to agricultural use, but are now rapidly being subdivided, and he has been asked to extend his mains and supply water for domestic purposes in the residential sections.

A public hearing in this proceeding was held in Los Angeles before Examiner Stava.

Applicant asked to amend the application at the outset of the hearing to exclude certain lands from his proposed new service area, mostly lands lying within the service area of Baldwin Park Water District, a public corporation, leaving about 1,100 acres. Applicant further requested amendment to pray for authority to exercise the privileges granted him through franchise by the City of West Covina, in addition

to the franchise of the County of Los Angeles, in so far as said franchises embraced the service area as amended.

This Commission in its Decision No. 35082, issued March 31, 1942, granted applicant's predecessor in interest a certificate of public convenience and necessity to operate a public utility domestic water system within a subdivided territory containing 160 acres, more or less, located within the corporate limits of the City of West Covina. Water is obtained from two wells by electrically-driven deep-well pumps and discharged directly into the distribution system, controlled by two pressure tanks having a combined capacity of 7,000 gallons. There are 25,350 feet of water mains ranging from two to six inches, and 190 customers, all metered.

The present rates were established in the certificate proceeding and reaffirmed in Decision No. 36205, dated March 9, 1943. They provide for a minimum monthly charge of \$1.25 with an allowance of 1,000 cubic feet of water. Excess use is reduced through two blocks to 8 cents per 100 cubic feet for all use over 5,000 cubic feet. The fixed capital installed as of December 31, 1946, is reported as \$21,955 and the operating revenues for the year totalled \$4,172.

Mr. Gardner testified that he acquired the system in March, 1943, with 108 customers then being served. As of December 31, 1946, the number had increased to 192. By reason of the general increase in new industries in Southern California and the resultant population growth of the suburban areas Mr. Gardner believes that the territory he now serves and surrounding areas will continue to demand extension of water service at the same as or even a greater rate than in the past.

The lands for which a certificate is requested are at present, or until very recently have been, devoted to agricultural purposes, planted mainly to truck gardens and walnut groves. However, the demand for suburban homes in this territory already has caused the subdivision of some of these lands and the development of projects calling for the subdivision of other properties. A mutual water company has supplied water for irrigation purposes only, but all domestic water has been supplied from individual wells. Applicant has been requested to extend distribution mains and furnish water for domestic purposes into all sections of the territory asked to be

certificated. These requests were substantiated by many land owners who appeared as witnesses and testified that they have asked applicant for extension of service to their homes, or for subdivisions or proposed real estate developments.

Mr. Gardner has been granted franchises to construct, maintain and operate a water system in, under, along and across all public streets and highways within the area for which a certificate is requested by the City Council of the City of West Covina in its Ordinance No. 126, dated October 9, 1946, and by the Board of Supervisors of the County of Los Angeles, through its Ordinance No. 4730 (New Series) dated July 30, 1946.

Applicant has been asked by some fifteen consumers, supplied through a 2" pipeline owned by the municipal water system of the City of Covina, to extend water service into this area, comprising approximately 150 acres, bounded by Garvey Avenue, Sunset Avenue, Walnut Creek Wash and Glendora Avenue, said parcel of land lying wholly within the city limits of West Covina. The record shows that although certain of these consumers now supplied by the City of Covina have complained to said city for a long time of poor and inadequate service, yet, no necessary improvements have ever been made. However, representatives of the City of Covina protested the granting of a certificate of public convenience and necessity to applicant to serve the above described territory, upon the ground that the City Council of Covina recently has set aside the sum of \$61,000 for improving and extending the municipal water system, and has directed the installation of 4" and 2" distribution mains into this area where the above complaining consumers reside, to improve present service conditions. Under these circumstances the request of applicant for a certificate to serve this particular territory will be denied.

Mr. R. H. Nicholson, president of San Gabriel Valley Water Company, protested the granting of a certificate to certain lots, Numbers 99, 100, 101, 102 and 106, consisting of 100 acres, more or less. This protest was made upon the ground that the above lots are located within his company's service area. The record shows that the above lots were so included several years ago by a blanket certificate heretofore issued the San Gabriel Valley Water Company, which embraced an excessively large area of approximately 35,000 acres. At the time this service area was

established there were included in certain sections thereof several water systems, mutual and cooperative organizations and also independent waterworks and water systems owned and operated by public corporations. The above certificate granted San Gabriel Valley Water Company for these and other reasons necessarily has been modified from time to time by this Commission. San Gabriel Valley Water Company does not supply any consumers anywhere within the proposed certificated area of applicant, nor has it the present ability so to do from installed and operative facilities. The nearest service supplied by this company is a small plant serving a few consumers in a subdivided parcel of land located at the junction of Garvey Avenue and Puente Avenue, at least one-quarter of a mile from the service area proposed by applicant herein.

The testimony indicates that no application by any resident or landowner within the area requested to be certificated by applicant has ever been made to San Gabriel Valley Water Company; on the other hand, the testimony shows that a large number of requests have been made to Mr. Gardner for the extension of service by his company to supply property within this area. In view of the fact that the certificate granted heretofore to San Gabriel Valley Water Company is by no means exclusive, and by reason of the further fact that under the circumstances surrounding the granting of said blanket certificate, the Commission from time to time has found it necessary to exclude therefrom various lands, it would appear that public convenience and necessity in this case also requires that authority to serve this particular disputed territory be granted to applicant herein, thereby withdrawing said area from the territory heretofore certificated to protestant, San Gabriel Valley Water Company or its predecessors in interest.

The protest of the above water company against the granting of a certificate to serve the 20-acre parcel known as lot No.107, which is not within the certificated area of San Gabriel Valley Water Company, likewise will be denied and authority to supply water therein will be granted to applicant. San Gabriel Valley Water Company has no service presently being rendered immediately in contiguous territory and no demand for such service from any of the landowners or residents residing therein.

In connection with this protest it should be noted that it is most significant that none of the landowners in the proposed certificated area have requested extension of service by San Gabriel Valley Water Company, but on the contrary in many instances have emphatically stated a desire and willingness for service only from the system to be extended and installed by Mr. Gardner.

A consideration of the record presented in this proceeding indicates that public convenience and necessity and the best interests of the public require that a certificate be issued to applicant herein to supply water for domestic and other purposes throughout all territory herein requested, as amended, excepting therefrom, however, that certain territory protested by the City of Covina, heretofore described as being bounded by Garvey Avenue, Sunset Avenue, Walnut Creek Wash and Glendora Avenue.

The certificate hereinafter issued 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."

O R D E R

Application as entitled above having been filed with the Public Utilities Commission of the State of California, a public hearing having been held thereon, the matter having been duly submitted and the Commission having been fully advised in the premises,

The Public Utilities Commission of the State of California hereby declares that public convenience and necessity require and will require Ruskin T. Gardner, doing business as Sunkist Water Company, to construct, maintain and operate a public utility water system within the city limits of the City of West Covina and in unincorporated territory in the County of Los Angeles, as more particularly delineated and outlined by red line upon the map, marked Exhibit 6, in this proceeding, which exhibit is hereby made a part of this Order by reference, excluding therefrom, however, the area heretofore and now certificated to the predecessor in

interest of said Ruskin T. Gardner by this Commission in its Decision No. 35082, issued March 31, 1942, and further excepting therefrom that certain tract or parcel of land bounded by Garvey Avenue, Sunset Avenue, Walnut Creek Wash, and Glendora Avenue.

IT IS HEREBY ORDERED as follows:

1. That a certificate of public convenience and necessity be and it is hereby granted to Ruskin T. Gardner, doing business as Sunkist Water Company, to construct, maintain and operate a public utility for the production, distribution and sale of water for domestic and other purposes within the territory hereinabove described, and said Ruskin T. Gardner be and he is hereby authorized to exercise the right, privilege and franchise granted him by the City Council, of the City of West Covina by its Ordinance No. 126, dated October 9, 1946, and by the Board of Supervisors of the County of Los Angeles by its Ordinance No. 4730 (New Series), dated July 30, 1946.

2. That the rates to be charged by applicant for water service in said area shall be the same as those established by Decision No. 35082, issued March 31, 1942, and reaffirmed in Decision No. 36205, issued March 9, 1943.

3. That Ruskin T. Gardner, doing business as Sunkist Water Company, within sixty (60) days from the date of the Order, shall file with this Commission four copies of a suitable map or sketch, drawn to an indicated scale upon a sheet $8\frac{1}{2}$ x 11 inches in size, delineating thereupon in distinctive markings the boundaries of its present service area, 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 Ruskin T. Gardner, doing business as Sunkist Water Company, 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.

The effective date of this Order shall be the twentieth day after the date hereof.

Dated at San Francisco, California, this 24th day
of June, 1947.

Harold P. Kula
Julius F. Cassen
Walter Powell
A. J. Dunderman
Harold H. Butler
Commissioners.