

ORIGINAL

Decision No. 40950

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 YERBA BUENA WATER COMPANY, a corpora-)
 tion, and MALIBU WATER COMPANY, a)
 corporation, for a certificate of)
 public convenience and necessity to)
 YERBA BUENA WATER COMPANY; the latter) Application
 to issue 35,000 shares common stock) No. 28777
 and to accept conveyance of certain)
 properties from Marblehead Land Company;)
 for approval of rates, Ventura County,)
 California.)
 -----)

Marvin Osburn, for applicant.

O P I N I O N

In this application, Yerba Buena Water Company asks the Commission to grant it a certificate of public convenience and necessity to construct, acquire and operate a public utility water system supplying water in the area shown on Exhibit "A" on file in this application, and approve its proposed rates hereafter mentioned. It also asks permission to issue 30,000 shares (\$30,000 par value) of common stock in exchange for certain properties, and issue and sell 5,000 shares (\$5,000 par value) of stock for \$5,000.

Yerba Buena Water Company is a corporation organized and existing under and by virtue of the laws of California. It has an authorized stock issue of 100,000 shares of the aggregate par value of \$100,000. The par value of each share is \$1.00. Its articles of incorporation authorize it to engage in the public

utility water business.

Applicant asks the Commission to grant it a certificate of public convenience and necessity authorizing it to operate a public utility water system in the area shown on the map filed in this application as Exhibit "A". The area comprises about 25 acres and extends from the Los Angeles-Ventura County line in a westerly direction for about 10,000 feet and in the main lies between the Pacific Ocean and the Roosevelt Highway. Parcel 2 of lot 3 of the proposed service area lies north of the Highway. The area south of the Highway was sold by Marblehead Land Company in 38 separate parcels. Some of these parcels may by the present owners be sold in part, with the result that applicant may in the proposed service area have about 60 consumers.

The water system which applicant proposes to acquire consists of a 300-foot well, situate along the west side of Yerba Buena Creek about 4,000 feet north of the Highway, a 47,000-gallon gunited water tank about 125 feet above the creek bed and approximately 10,960 feet of pipe varying from 2½ inches to 3 inches in diameter. The cost of the physical properties is reported at \$19,528.79. The properties were, in the main, constructed by the Marblehead Land Company, which has agreed to transfer the same to applicant. Marblehead Land Company has further agreed to transfer to applicant the following water rights and easements in and over the lands in Ventura County, as said lands are described in that certain deed dated November 30, 1940, wherein Marblehead Land Company is grantor and Clifford W. Henderson is grantee, said deed being recorded in Book 629, page 34, Records of Ventura County, said lands being hereafter referred to as "said lands":

1. A perpetual easement and right to drill, maintain, operate and pump water wells; to extract, take and use all water therefrom or from springs, streams or otherwise; and to erect and maintain pumping plants, pipe lines, storage tanks, dams or other facilities appurtenant thereto, in, under, on, over, along and across the northerly two hundred sixty (260) feet of said lands, with the further right to lay pipes connecting with any or all aforesaid water facilities along the easterly five (5) feet of said lands adjoining the Yerba Buena Road as it is now or may hereafter be improved or located.

2. An easement and right of way over, under, along and across the southerly five (5) feet of that part of said lands adjoining the State Highway, and easterly five (5) feet of that part of said lands adjoining the Yerba Buena Road, as said Highway and Road are now and may hereafter be located and improved to install and maintain telephone, electric light, and power lines, poles, wires, cables and necessary cross wires or conduits, under conduits, sewers, water and gas pipe with the right of entry thereon for the purpose of maintaining, preserving and installing the same.

The locations of the easements, well, reservoir and water mains are shown on Exhibit "A".

In exchange for the physical properties, water rights and easements, Yerba Buena Water Company asks permission to issue to Marblehead Land Company 30,000 shares of its common stock. It further asks permission to issue and sell 5,000 shares of its common stock to Marblehead Land Company for \$5,000 and use the proceeds to acquire and install meters, other improvements, and

establish and maintain its business.

A number of property owners who own property on the north side of the Highway appeared at the hearing and requested that the Commission direct applicant to extend its service area so as to cover their property as well as that shown on the map filed in this proceeding as Exhibit "A". It appears that the land north of the Highway was sold with the water rights, while the land in the service area was sold without water rights. Marblehead Land Company obligated itself to supply water to the proposed service area within six months after the close of the war. Applicant proposes to assume this obligation, and because of the uncertainty of the quantity of water available it is not ready now to undertake to supply water to a larger service area than that for which Marblehead Land Company is responsible. Its engineers testified that if the water supply is found to be adequate, consideration will be given to increasing the service area. In view of the uncertainty of the water supply, applicant should not now be required to extend its service area. Neither should it, in our opinion, issue more than \$21,000 par value of its capital stock in exchange for the properties described in Exhibit "B".

Applicant claims that owing to the small number of customers to be served by the system, the expense per customer will be higher than normal. Its engineers estimate the cost of operating the system to be approximately \$3,000 per year and that 50 customers is the probable maximum number that will be served. A minimum annual rate of \$60 is proposed to be charged for the service, with an allowance of 12,000 gallons of water per

year. Excess use is to be charged at a rate of 10 cents per 100 gallons. Owing to the underground water supply being limited in that area, applicant proposes to deliver water for only household purposes and desires a rate that will discourage the use of water. The record shows that the existing well will presently produce from 30 to 40 gallons per minute.

The Commission's engineer testified that operating a system of this character only requires part-time employment, that the system could probably be operated for \$1,500 per year, and that applicant's proposed rate exceeds the rates generally charged by comparable water systems.

If the well actually produces the reported quantity of water, applicant will have sufficient water available to allow a larger quantity for the minimum charge. Under the circumstances we believe that applicant's proposed rates are too high. The order herein will fix a minimum annual charge of \$30 which will provide for an allowance of 6,000 cubic feet of water per annum, and for a charge of 40 cents per 100 cubic feet for all quantities over 6,000 cubic feet.

Malibu Water Company, which through stock ownership is controlled by Marblehead Land Company, has filed with the Commission a waiver of any and all rights it may have to serve the area shown on Exhibit "A" by reason of orders or findings heretofore made by the Public Utilities Commission, and by reason of any and all water rights or rights to water it may have in said Ventura County lands by reason of that certain plan of reorganization approved by the U. S. District Court for the Southern

District of California, Central Division, in those certain proceedings numbered 27354-Y.

The certificate of public convenience and necessity granted herein is subject to the following provision 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

The Commission having considered the evidence submitted at the hearing had in the above entitled application before Examiner Fankhauser, and it being of the opinion that the money, property or labor to be procured or paid for by the issue of the 26,000 shares of stock herein authorized is reasonably required by Yerba Buena Water Company for the purposes herein stated, which purposes are not, in whole or in part, reasonably chargeable to operating expenses or to income, and that this application should be granted, as herein provided, therefore,

THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA hereby declares that public convenience and necessity require, and will require, the construction, acquisition and operation of a public utility water system by Yerba Buena Water Company for the purpose of supplying water to consumers residing in the area shown on the map filed as Exhibit "A" attached to the application herein, which exhibit is hereby made a part of this order by reference, and in such area immediately adjacent

thereto in which Marblehead Land Company has assumed the obligation of supplying water.

IT IS HEREBY ORDERED as follows:

1. That a certificate of public convenience and necessity be, and it is hereby, granted to Yerba Buena Water Company to construct, acquire and operate a public utility for the production, distribution and sale of water for domestic purposes within the territory hereinabove described.

2. That Yerba Buena Water Company be, and it is hereby, authorized and directed to file in quadruplicate, within sixty (60) days from the date of this order, in conformity with this Commission's General Order No. 96, the following schedule of rates to be charged for all water service rendered to its consumers on and after the date of this order, which schedule of rates is hereby found to be just and reasonable for the service rendered:

Schedule No. 1

GENERAL METER RATES

Applicability:

Applicable to all metered water service rendered for domestic purposes.

Territory:

In parts of Sections 26 and 27, T. 1 S., R. 20 W., SBB & M, adjacent to the Pacific Ocean, Ventura County and designated Parcels 1 and 2 on the service area map entitled Exhibit "A".

Rates:

<u>Annual Quantity Rates:</u>	<u>Per Meter Per Year</u>
First 6,000 cubic feet or less	\$30.00
Over 6,000 cubic feet, per 100 cubic feet40
 <u>Annual Minimum Charges:</u>	
5/8 x 3/4-inch meter	\$30.00

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

3. That Yerba Buena Water Company, within sixty (60) days from the date of this order, shall submit to this Commission for its approval four (4) 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 Yerba Buena Water Company, within sixty (60) days from the date of this order, shall file with this Commission four (4) 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 Yerba Buena Water Company may, after the effective date hereof and on or before March 31, 1948, issue not exceeding 26,000 shares of its common stock of the aggregate par value of \$26,000. The company may issue and deliver 21,000 shares of said 26,000 shares of stock to Marblehead Land Company in payment for the properties described in Exhibit "B" on file in this application. Yerba Buena Water Company may sell for \$5,000 in cash, 5,000 shares of said 26,000 shares of stock, and use the proceeds to acquire and install meters and other improvements to its water system, and establish and maintain its business.
6. That this application, insofar as it involves the issue of 9,000 shares of stock, is denied.
7. That Yerba Buena Water Company shall file with the Commission a report, or reports, as required by

the Commission's General Order No. 24-A, which order, insofar as applicable, is made a part of this order.

8. That the authority herein granted will become effective fifteen (15) days after the date hereof.

Dated at San Francisco, California, this 19th day of November, 1947.

Harold Hule
Frank Russell
A. J. Donohue
Commissioners