

ORIGINAL

Decision No. 41241

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)	
CABAZON WATER COMPANY, Cabazon,	:	
California, for a public utility)	Application
and certificates of public conven-	:	No. 28755
ience and necessity.)	
-----	:	

Melvin Hansen, for applicant. Andrew T. Jenkins,
 in propria persona, and E. L. Overholt, for
Andrew T. Jenkins, protestant. E. M. Larson,
 interested party.

O P I N I O N

In this proceeding, Cabazon Water Company seeks a certificate of public convenience and necessity authorizing it to construct, operate, and maintain a water system in Cabazon and vicinity, for authority to issue 2,800 shares of common stock in exchange for stock previously issued, and file certain rates.

A public hearing in this matter was held before Examiner Chiesa at Cabazon.

Cabazon Water Company, a California corporation, was incorporated June 5, 1911, as a nonprofit, mutual water company, for the purpose of acquiring from Malone Water and Land Company the water system built to serve domestic and irrigation water to 2,800 acres of land in the vicinity of Cabazon, an unincorporated community in Riverside County. The original authorized capital consisted of \$42,000 divided into 2,800 shares of the par value of \$15. One share of stock was issued for each acre of land to

be irrigated, and the stock was appurtenant to the land. The Articles of Incorporation were amended September 30, 1946, and, as amended, provided, among other things, that the capital stock consist of 2,800 shares of no-par value stock, with the right of conversion, share for share, for the former par value stock, and that the new capital stock be not appurtenant to any land.

A financial statement filed in support of this application (Exhibit "B") listed tangible assets of \$166,452.95 and liabilities of \$43,000, as of September 10, 1947. There were 2,800 shares of stock issued and outstanding. The record indicates that applicant acquired its capital by the original sale and issuance of its shares and by subsequent capital stock assessments. The assets listed consisted of Cash, \$3,250.50, Accounts Receivable, \$196.75, Materials & Supplies, \$697.50, Land, \$36,475.00, and Improvements, principally water lines, \$125,833.20. The forty-three thousand dollars (\$43,000) of liabilities consist of one promissory note, secured by a trust deed in the sum of forty thousand dollars (\$40,000), dated May 14, 1947, payable two thousand dollars (\$2,000) per year with interest at the rate of 4% per annum. The balance of the indebtedness was a three thousand dollar note which, at the time of the hearing, had been paid in full. The company has no other obligations except current operating expenses. An analysis of the company's operating accounts showed that the operating revenues, for the year ending October 1, 1947, were \$3,580.51 and operating expenses, including taxes and depreciation, \$4,180.47.

It is not possible from the company's records to determine accurately the cost of its properties. A Senior Engineer

of the Commission's staff prepared a detailed appraisal of all the company's used and useful property as of October 16, 1947. He estimated the total cost of such property to be \$184,589.73. The annual depreciation expense, calculated on the 5% sinking fund basis, was estimated to be \$1,426.27, and the depreciation reserve requirement, \$56,360.75. He made no appraisal of the company's nonoperative property.

As of the time of the hearing applicant had 110 water users. Of this number, about 30% were stockholders or entitled to shares. The evidence shows that applicant has been, and is now, delivering and selling water for compensation to others than its stockholders. It is clear to us and we find that applicant is operating its water system as a public utility.

Applicant, following the amendment of its Articles of Incorporation, asked its stockholders to exchange their shares of stock having a par value of \$15 per share for shares of no par value, such exchange to be on a share for share basis. At the time it was not aware of the fact that the Commission's permission to issue the new shares of stock was necessary. It now asks such permission.

Protestant contends that the Public Utilities Commission has no jurisdiction to act upon this application because applicant is a mutual water company. While applicant may have been organized as a mutual water company it, as stated, has been and is now selling water to others than its stockholders. Having found that applicant is operating as a public utility, it follows that the Commission has jurisdiction over applicant's stock issue.

Protestant also questions the legality of the amendment to applicant's Articles of Incorporation. This is a matter for the courts rather than the Commission to determine.

Applicant's water supply is diverted from Millard Creek, a tributary of Whitewater River, at a point approximately five miles north of Cabazon, on the south slope of the San Bernardino Mountains. The company has drilled a well above the intake works to augment its water supply during dry periods, but the well has not yet been equipped with a pumping plant. A transmission pipe line delivers the water to a division box and sand trap near the north boundary line of the townsite of Cabazon. From this point domestic water is distributed to the townsite by means of 10,810 feet of steel mains ranging in diameter from $1\frac{1}{2}$ to 12 inches, and irrigation water is distributed to Sections 15, 16, and 17, south of Cabazon, by a network of 84,940 feet of steel and concrete pipe lines ranging in diameter from 8 to 14 inches.

The applicant company desires to include in its service area all lands that were irrigated by the nonprofit, mutual corporation, as well as certain other lands adjacent to its pipe lines. These lands are described as follows:

- T. 2 S., R. 2 E., S. B. B. & M.
That portion of the $NW\frac{1}{4}$ of the $S\frac{1}{2}$ of the $SW\frac{1}{4}$ of Sec. 29 lying west of the right of way of the water company's transmission pipe line.
- T. 3 S., R. 2 E., S. B. B. & M.
All of Sec. 5, except the $E\frac{1}{2}$ of the $NE\frac{1}{4}$.
That portion of the $E\frac{1}{2}$ of Sec. 7 north of U. S. Highway 99.
The $S\frac{1}{2}$ of the $S\frac{1}{2}$ of the $SE\frac{1}{4}$ of Sec. 9.
All of Secs. 15, 16, and 17.

The company's pipe lines are all constructed in easements provided for that purpose, and thus no franchise was required from the County of Riverside.

The water rates for domestic consumers have all been on a flat-rate basis, with the basic charge \$2.50 per month for each residence and various charges for other uses. The flat-rate method of charges has been unsatisfactory in many instances, and the company has now purchased a number of water meters and desires that a meter-rate schedule be authorized. Prior to the past year, water for irrigation was charged at the rate of \$0.20 per miner's-inch day. In order to encourage irrigation use during the winter months, an experimental rate of \$0.10 per miner's-inch day during the winter period, November 1 to April 1, was established. This rate will be continued through this winter to determine its feasibility.

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

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

premises, and it being of the opinion that the money, property, or labor, procured or paid for, or to be procured or paid for, by the issuance of the 2,800 shares of stock herein authorized is reasonably required by Cabazon 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 and operation of a public utility water system by Cabazon Water Company, a corporation, in Cabazon and vicinity, in the area more particularly described in the Opinion hereof.

IT IS HEREBY ORDERED as follows:

1. That a certificate of public convenience and necessity be, and it hereby is, granted to Cabazon Water Company, a corporation, to construct, maintain, and operate a public utility for the production, distribution, and sale of water for domestic, irrigation, commercial, and other purposes within the territory hereinabove described.
2. That Cabazon Water Company, a corporation, be, and it hereby is, authorized and directed to file, in quadruplicate, within thirty (30) days from the date of this Order, in conformity with this Commission's General Order No. 96, the following schedules of rates to be charged for all water service rendered to its consumers on and after the date of this Order, which schedules of rates are hereby found to be just and reasonable for the service to be rendered:

Schedule No. 1

FLAT RATE DOMESTIC SERVICE

Applicability:

Applicable to all flat rate water service rendered.

Territory:

In, and in the vicinity of, the townsite of Cabazon, Riverside County.

Rates:

	<u>Per Month</u>
Residence or business on single lot	\$2.50
Vacant premises if water service maintained . . .	1.00
<u>Multiple dwellings:</u>	
First unit	2.50
Additional units, each	1.00

The flat rates will provide for the irrigation or sprinkling of 1,500 square feet of lawns, trees, or gardens.

Schedule No. 2

Metered Domestic Service

Applicability:

Applicable to all metered water service rendered.

Territory:

In, and in the vicinity of, the townsite of Cabazon, Riverside County.

Rates:

<u>Quantity Charge</u>	<u>Per Meter</u> <u>Per Month</u>
First 1,000 cubic feet or less	\$2.50
Next 1,000 cubic feet, per 100 cubic feet12
Over 2,000 cubic feet, per 100 cubic feet08
<u>Minimum Charge</u>	
5/8 x 3/4-inch meter	\$2.50
1 -inch meter	5.00
2 -inch meter	7.50
3 -inch meter	10.00

The minimum charge will entitle the consumer to the quantity of water which that monthly minimum charge will purchase at the quantity rates.

A meter may be installed on any service, at the option of either the consumer or the utility.

Schedule No. 3

Irrigation Service

Applicability:

Applicable to all irrigation service rendered from low-pressure irrigation pipe lines.

Territory:

In, and in the vicinity of, the townsite of Cabazon, Riverside County.

Rates:

For all irrigation water delivered April 1 to November 1, per miner's inch per 24-hour run \$0.20

*For all irrigation water delivered November 1 to March 31, per miner's inch per 24-hour run \$0.10

*Denotes an experimental rate designed to encourage winter irrigation use. This rate is temporary and is operative during the winter season 1947-1948 only. A new winter rate may be filed not later than August 1, 1948.

The term miner's inch, as used herein, denotes one-fiftieth of a second-foot.

3. That Cabazon Water 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 immediately 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 Cabazon Water 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 a suitable scale, 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 Cabazon Water Company may issue not exceeding 2,800 shares of its no-par value common stock in exchange for a like number of shares of its outstanding par-value stock, upon a share for share basis.
6. That on or before June 30, 1948, Cabazon Water Company shall file with the Commission a report showing the number of shares of stock issued under the authority herein granted, the names of the persons to whom such shares were issued, the number of shares of stock issued to each person and the number of shares of stock surrendered by each person.

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 24th day of February, 1948.

R. B. Davidson
Justin J. Casper
Leah H. Powell
Harold P. Hule
Wesley Lott
Commissioners