

ORIGINAL

Decision No. 41298

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

EMIL POHLI, LILLIAN RUSSELL, WILLIAM D. CURR,
FRANK DESOTO, CARLTON B. EIFERT, MRS. F.G. YOUNG,
O. B. CAVANAUGH, CAROLYN E. VAN VUREN, W. H. O'NEIL,
MYRTLE DAVIDSON, DOMINIC POLITEO, CLAYTON L. DREW,
T. D. SPARKE, J. JAMES, GEORGE L. EDDY,
WILLIAM T. MOSGROVE, A. A. EUSTIS, HUGHES BREWSTER,
C. F. SUNDY, J. W. FALLON, K. J. DEISSLER,
GERTRUDE WAKEHAM, JOHN GOWLAND, HELEN J. FRINK,
ORAN A. JENKINS, C. F. TOLAND, ELIZABETH A. CREWS,
R. D. SCOFIELD, ROBERT BOTTINI, CHARLES T. DODGE,
FRITZ POULSEN, E. A. STAINTON, OSCAR R. ADOLFSON,
E. C. STEELE, J. P. SELLER,

Complainants,

vs.

ARENAL WATER COMPANY, A CORPORATION,
Defendant.

CASE No. 4898

In the Matter of the Application of
DOUGLAS A. NYE and LUCIEN A. MARSH, as Sellers,
and ARENAL WATER COMPANY, as Buyer, for an order
(a) authorizing the sale and transfer of the
water system owned by the former to the latter;
and (b) authorizing the latter to increase its
rates for operations conducted under the
consolidated system.

Application No. 28482.

Frank Loughran, For Complainants in Case No. 4898;
and for Protestants in Application No. 28482.

Reginald L. Vaughan, For Arenal Water Company,
Defendant in Case No. 4898, and
For Douglas A. Nye and Lucien A. Marsh, and
Arenal Water Company in Application No. 28482.

OPINION

Emil Pohli and 34 other consumers of the Arenal Water Company, a corporation, in Case No. 4898, complain that the rates now charged by Arenal Water Company are excessive, unreasonable and discriminatory, by reason of the following allegations:

(1) At the time the present rates were established, the system was owned by a group of local water users, an adequate water supply was not available, and the rates set by the Commission included revenue sufficient to enable the utility to make certain improvements and in addition to purchase water from an exceedingly expensive private source in order to meet the demand;

(2) Since said rates were established, the control of Arenal Water Company was purchased by Douglas A. Nye and Lucien A. Marsh, who are also the owners of the Stinson Beach Water Works, a public utility operating in adjacent territory which delivers water to its customers at a lower rate than charged by the Arenal Water Company;

(3) The defendant utility is now serving its Arenal consumers with water supplied by the Stinson Beach Water Works and the two utilities are now being operated as a single system;

(4) Factors resulting in the establishment of the present rates no longer apply, so the consumers of the Arenal system are being discriminated against to the extent that the rates charged by the defendant exceed those charged consumers served by the Stinson Beach Water Works;

(5) This discrimination is retarding the growth of the Arenal area.

Arenal Water Company in its answer enters a general denial that the rates now charged are excessive, unreasonable, or discriminatory, and alleges that said rates are non-compensatory and are unduly and unreasonably low.

Application No. 28482 was filed jointly by Douglas A. Nye and Lucien A. Marsh, copartners, doing business as Stinson Beach Water Works, and Arenal Water Company, a corporation, asking the Commission to authorize the sale and transfer of Stinson Beach Water Works properties to the Arenal Water Company, a corporation, and to establish an increased schedule of rates for the operation of the consolidated system which will return the cost of operations, allow a reasonable profit on the investment, and permit the installation of additional storage and other facilities.

Public hearings in these matters were held in Stinson Beach before Examiner MacKall.

The area served by the Arenal Water Company consists of two subdivisions known as the Robinson and Upton Tracts, located along the ocean beach and sand spit, northwesterly from and adjacent to Stinson Beach. A certificate of public convenience and necessity to serve this area was granted to Mr. A. H. Upton in Decision No. 25330, dated November 7, 1932. The Commission authorized the Arenal Water Company to issue stock in Decision No. 31908, dated April 4, 1939, and in Decision No. 31909, dated April 11, 1939, granted said A. H. Upton permission to sell and Arenal Water Company to purchase all of the usable facilities of the Upton water system.

The water supply for Arenal Water Company was obtained originally from wells, thereafter from springs, augmented by purchase from the Kent Estate. The present operators, Nye and Marsh, acquired the stock of the Arenal Water Company and took over operation of the system in 1945. The water supply from the Arenal spring was inadequate and most of the water now comes from the Stinson Beach Water Works system. There are 102 services in the Arenal area, nine being metered.

The service area of the Stinson Beach Water Works adjoins the territory served by the Arenal Water Company. Most of the former service area was subdivided prior to 1906 from parcels of the Stinson Ranch. Stinson Beach Highlands, however, only recently was subdivided and developed by Nye and Marsh, but is located generally at a higher elevation than the rest of the service area.

The water system supplying Stinson Beach proper was installed originally in 1906 and 1907 by A. H. Stinson. Various members of the Stinson family have operated the waterworks from time to time but no adequate improvements ever have been made. Nye and Marsh purchased the Stinson Ranch, which included the water system, in 1944. The only improvements made by these new owners to the old water system arises through development of additional water and storage primarily to provide water to the new Stinson Beach Highlands subdivision. The water from these new sources is delivered into a storage tank located above the Highland area, and serves the new subdivision and, in addition, augments the Arenal and Stinson Beach water supplies. There are 121 services in the Stinson Beach area, of which only 27 are metered.

Mr. Douglas A. Nye, testifying in behalf of both water utilities, stated that he and his partner, Mr. Lucien A. Marsh, have invested approximately \$16,000 since acquiring the two water systems, resulting in a total investment of \$33,000 therein at the present time, including the Arenal spring and tank site, but exclusive of other land values. Mr. Nye stated that \$3,300 will have to be invested immediately in a new 6-inch main feeder line to serve the main Stinson Beach area, \$8,500 for urgently needed additional storage facilities, \$5,000 to install meters, \$1,500 for a second-hand truck, \$250 to \$300 for a new settling tank and \$1,200 to \$1,400 to enlarge and replace inadequate and worn-out mains. These improvements do not include the replacement of the greater portion of the old Stinson Beach distribution mains which were installed over 40 years ago, mostly from pipe salvaged from the San Francisco fire of 1906. Mr. Nye stated that he and Mr. Marsh were ready and willing to rehabilitate the old Stinson Beach Water Works distribution system if the Commission would establish a rate which would make the necessary expenditures worthwhile.

Mr. Nye claimed that the water shed lands, from which the water supplies of these two systems have been developed, comprised from 600 to 750 acres upon which he placed a value of from \$30,000 to \$35,000. The Arenal spring and tank site was given no present fair market value but was purchased for \$1,500 or \$1,600 about eight years ago. Mr. Pohli, however, representing the protestants, testified that in his opinion none of the watershed lands had any value other than for the water produced thereon.

Mr. Edmund F. Catey submitted a report, prepared jointly with Mr. Clyde F. Norris, Commission engineers, covering an investigation of the operations of the two systems. The fixed capital of the Arenal System was based upon an historical cost appraisal of the operative properties of the company, made in 1940 by R. E. Savage and R. S. Melvin, engineers for the Commission at that time. To these amounts were added subsequent net additions and betterments, resulting in a total estimated historical cost, exclusive of lands, of \$11,828, as of September 1, 1947, with a corresponding depreciation annuity of \$175, computed by the 5% sinking fund method. The fixed capital of the Stinson Beach Water Works was based upon an appraisal made in 1941 by John L. Luthin, a Commission engineer, and likewise was brought up to

date, resulting in an estimated historical cost, less land value, of \$21,552, as of September 1, 1947. The corresponding depreciation annuity was \$302, computed by the sinking fund method at 5%.

Summarized below are the estimated historical costs of the two systems as appraised by the Commission's engineers, as of September, 1947:

Item	Arenal	Stinson	Total
Fixed Capital (Excluding Land)	\$11,828	\$21,552	\$33,380
Materials & Supplies	250	250	500
Landed Capital*	1,567	2,263	3,830
Deduct for Advances**	-	6,410	6,410
Rate Base	\$13,645	\$17,655	\$31,300

Notes:*Includes three tank sites and watershed protection and protective rights of way.

**Distribution facilities solely serving Stinson Beach Highlands Subdivision excluded from the above fixed capital.

Operations for the year 1946, taken from the companies' annual reports to the Commission are as follows:

Item	Arenal Water Company	Stinson Beach Water Works	Total
Fixed Capital	\$8,052	\$20,112*	\$28,164
Revenues	1,836	2,099	3,935
Expenses	2,213	3,078	5,291
Net Revenues	(377)	(979)	(1,356)

(Red Figures)

Note:*Includes \$13,000 for Lands.

Analysis by the Commission's engineers of the maintenance and operating expenses, including taxes and depreciation, as set up in the annual reports to the Commission, indicated certain capital charges therein. Adjustments therefor showed that for the year 1946 the proper charges should have been \$3,682. With revenues of \$3,935 for this same period, the operations resulted in a net revenue of \$253.

Applicants estimated the 1947 combined revenue under existing rates to be \$3,977 and claim their expenses, including taxes and depreciation, should be \$8,949,

if charges actually were made for salaries and general supervision. This would leave a deficit of \$4,972.

According to the estimates presented by the engineers for the Commission the combined revenue for the year 1947, under existing rates, should be \$4,490; the expenses, including depreciation, \$3,890; leaving net revenues of \$600.

The Stinson Ranch, owned by Nye and Marsh, contains 1,650 acres. The water supply for the two utility water systems now is obtained from several small streams arising on the ranch, the flow being sustained during the summer and fall months by springs and seepage draining into the water courses. No reliable data is available on the average low flow yield of these various streams and springs, although our estimate, not definitely fixed as to the year and relative climatic conditions, gave the low flow yield of Stinson Creek as 30 M.G.D. and 15 M.G.D. for all others combined. These data are of value only for comparative purposes. The water shed lands are very steep and precipitous, thickly covered with brush and some timber, and not suitable for grazing or any agricultural purpose.

Mr. Nye claimed that from 600 to 750 acres of these water shed lands were necessary for protection of the utility water supplies, upon which he placed a value of \$30,000 to \$35,000. Mr. E. P. McAulliffe, Commission Land Appraiser, placed present fair market value of the ranch at \$40 per acre. Mr. Catey testified that only one group of springs was fenced off, containing but a few acres, and that by reason of the steep and bushy nature of the other diversions, fencing not only would be impractical but is unnecessary. Mr. Catey further testified that, at most, not over ten acres at each spring or diversion would be necessary for water supply protection, and this area mainly for operating purposes.

The present fair market value of the tank and other sites, rights of way, and of Arenal Spring and tank site lands, exclusive of water shed lands, was appraised by the Commission's land appraiser at \$1,830. Upon the basis of the testimony of necessary water shed lands and their present fair market value, it appears that \$2,000 is fair and reasonable, making a total land value of \$3,830 for the purposes of this proceeding.

Complainants in Case No. 4898 had objected to paying a higher rate for service than the consumers were charged on the Stinson Beach Water Works System since consolidation under the same ownership and with the same source of water supply. However, complainants withdrew their opposition to the extent that they agreed to the transfer and establishment of a fair and uniform schedule of rates for both service areas.

Nye and Marsh claim to have spent \$16,000 in water system improvements since acquisition of the two properties. However, most of this money was expended in development of water supply sources, transmission mains, storage facilities and piping to serve the Stinson Beach Highlands subdivision, which the two partners have placed on the market. Six thousand four hundred ten dollars (\$6,410) of this expenditure benefited solely the subdivision and has not been included in the rate base structure since there is but one home now constructed and occupied in the tract at the present time.

The consumers in the Stinson Beach Water Works service area complain and the evidence conclusively supports them therein, that none of this expenditure has improved their service conditions other than providing some additional standby storage, and that even said storage is not properly available to them, by reason of the system design and present operating methods. Practically none of this money was expended to enlarge or replace the worn-out and wholly inadequate mains in the Stinson System area, except incidentally. The new storage tank is located at an elevation so high that water cannot be delivered directly into the old Stinson Beach System without blowing out home plumbing and fixtures as well as the water mains. Under these circumstances it certainly cannot be fair and proper to charge against these consumers the entire cost of the increased capital installed by applicants here primarily to serve Stinson Beach Highlands. The consumers in the old Stinson Beach service area should be assessed only their reasonable proportion of these improvements when they are made available to them. Messrs. Nye and Marsh cannot be held wholly responsible for the inadequate water facilities and service, a condition which has existed for many years prior to their acquisition of the

Stinson Ranch and the two water utilities. But they are in a position and owe a duty to the public to relieve the intolerable service conditions existing in the Stinson Beach Water Works service area. This area and the Highlands Subdivision must be zoned in two or three distribution districts, and controlled by automatic pressure regulating valves. The middle and lower zones must be so arranged that full advantage may be taken of both the upper, or Highlands tank, and the old main Stinson Beach tank. Choice in the two or three-zone operation will be left to applicants, subject to approval by this Commission, especially in view of the proposed erection of another and much needed additional storage tank.

A six-inch pipeline should be installed immediately through the central service area, preferably, at least in part, along Calle Del Mar (county road) to its intersection with the State Highway (Baulinas Avenue). On State Highway (Baulinas Avenue) there also should be installed a main not less than 4 inches in internal diameter, which main should extend from Belvedere Avenue on the east to at least a point opposite the westerly boundary of Block 1, H. H. Stinson's Subdivision No. 1. This main should be circulated and not be dead-ended at Belvedere Avenue and eventually should be extended westerly down the highway to connect with the Arenal service area mains.

Mr. Will Airey, a pioneer resident and business man of Stinson Beach, was called as a witness by applicant. Mr. Airey is now, and for several years last past has been, chief of the Stinson Beach Fire District, a duly constituted fire district under the general laws of the State of California. Mr. Airey testified that the fire district has money in its treasury available to pay for fire protection facilities, that it has fire fighting equipment available but which cannot be used in the Arenal and Stinson Beach areas because there are no fire hydrants and the present mains are too small for installation thereof. There are, however, according to the fire chief, six-inch mains and fire hydrants in the new Stinson Beach Highlands,--all, however, located too far away to be of much practical help in the older built-up areas. Mr. Airey stated further that although the utility had spent a great deal of money in system improvements, none of these had helped

to reduce the very serious fire hazard in the main business and residential sections. The fire chief also stated that the fire district commissioners were ready and willing to pay fire hydrant rentals if the utility would install mains large enough to provide proper and adequate fire flow volume.

From the record it appears that the engineers for the Commission based their estimated future operating expenses upon past recorded costs. It is clear that to provide proper service, applicants will be required to spend more money for competent operating help. However, the claims of applicant that operating expenses of \$8,949 per year are necessary and required, obviously is wholly without reason or justification. This cost would amount to \$3.34 per consumer each month. A system with only 223 consumers cannot support such an overhead charge. The system has been operated by part-time assistance from applicant's ranch staff, and in all fairness should so continue. The sum of \$5,000 for annual maintenance and operating expenses appears to be adequate and reasonable.

In view of the findings set forth above it is patent that applicants should have increased revenues in order to provide proper service. However, it is equally clear that the water service in the area of the original Stinson Beach system has for so many years been inadequate and unimproved that the service during the summer and fall is hardly worth the charges now being paid. For this reason, the new schedule of rates established in the following Order will remain effective only until the thirty-first day of May, 1948, in the service area of the Stinson Beach Water Works, excluding Stinson Beach Highlands and the former Arenal Water Company service area along the beach, unless by that date the improvements set forth above have been installed and are in operation in a manner satisfactory to this Commission. In the event the rates in the above Stinson Beach service area should revert to the old schedule, all annual payments and any other advance or prepayments for service shall be subject to refund on a prorated basis either in cash or by way of credit to the consumers.

The consumers complained that during the summer and fall months there has been a general shortage of water because Nye and Marsh used a large part of the

water supply to irrigate pasture crops on the ranch on a parcel of land adjacent to the Stinson Beach service area. The record shows that the ranch owners have approximately 35 acres planted to permanent pasture crops, which have received system water which Nye and Marsh claimed was actually surplus water not needed by the utility systems. However this may be, it is clear that during the summer and fall months the consumers have not had sufficient water. While this shortage on the old Stinson Beach system is due partly to inability of the small mains to deliver all available water, on enlarging the main capacities in this area, more water will be required and used. Applicants herein should understand that none of the waters dedicated to the public use on these two systems may be used for agricultural irrigation purposes, unless and until the domestic requirements of the consumers have been fully met.

It furthermore appears that some overtures have been made to Arenal Water Company by subdividers of a parcel of land located on the Boulinas sand spit, adjoining or adjacent to the Union Tract, looking toward an extension of mains to supply water to a subdivision temporarily referred to as the "Kent Subdivision." In view of the uncertainties of water supply this year and the inadequate water service in portions of this utility's service area already existing, no such extension of water service into additional territory will be permitted by the Commission at this time.

ORDER

Complaint having been filed as entitled above, application having been filed as above entitled, public hearings having been held thereon, the matters having been submitted and the Commission now being fully advised in the premises,

IT IS HEREBY ORDERED that Douglas A. Nye and Lucien A. Marsh, operating under the fictitious firm name and style of Stinson Beach Water Works, be and they are hereby authorized to transfer to Arenal Water Company, a corporation, their right, title and interest in and to the water distribution system used by them in supplying water to Stinson Beach, Marin County, as more particularly set forth and described in the application herein and that thereupon said Douglas A. Nye and

Lucien A. Marsh, be and are hereby relieved of all further public utility obligations and liabilities in connection with said water system, subject to the following terms and conditions:

1. The authority herein granted shall apply only to such transfer as shall have been made on or before the 30th day of April, 1948, and a certified copy of the final instrument of conveyance shall be filed with this Commission by Douglas A. Nye and Lucien A. Marsh;
2. On or before the 30th day of April, 1948, Douglas A. Nye and Lucien A. Marsh shall refund all amounts, if any, for deposits made for main connections, and/or any other purpose and within ten (10) days thereafter shall file with this Commission a written statement of compliance therewith.

IT IS HEREBY FOUND AS A FACT that the rates now charged by the Arenal Water Company, a corporation, for water supplied to its customers in the unincorporated area known as Stinson Beach, Marin County, are unjust and unreasonable in so far as they differ from the rates herein established and that the rates herein established are just and reasonable rates to be charged for such service to be rendered; that the increase in charges authorized in this decision is hereby found to be justified; and basing its Order upon the foregoing findings of fact and upon the statements of fact contained in the preceding Opinion,

IT IS HEREBY FURTHER ORDERED that Arenal Water Company, a corporation, be and it is hereby authorized and directed to file with the Public Utilities Commission of the State of California, within twenty (20) days from and after the effective date of this Order the following schedule of rates, for all water delivered to its customers in and in the vicinity of the unincorporated area known as Stinson Beach, in Marin County, said schedule to become effective for all water service rendered for the year 1948 and thereafter, except as hereinafter provided.

Schedule No. 1

MONTHLY METER RATES

Applicability:

Applicable to all water service rendered on a metered basis to bona fide permanent residents.

Territory:

In the subdivisions known as Robinson Tract, Upton Tract, Stinson Beach Highlands Tract, and the area presently being served by the Stinson Beach Water Works, in Marin County.

Rates:

Applicable only to water users who are permanent residents or operators of permanent and established commercial businesses or enterprises and who have taken continuous service for a period of 12 consecutive months.

For the Period From May 1 to November 30.

Monthly Quantity Charges:

Per Meter
Per Month

First 500 cubic feet or less.....	\$1.75
Next 1,000 cubic feet, per 100 cubic feet.....	.30
Next 1,000 cubic feet, per 100 cubic feet.....	.25
Over 2,500 cubic feet, per 100 cubic feet.....	.40

For Period From December 1 to April 30.

First 1,000 cubic feet or less.....	\$1.75
Next 1,500 cubic feet, per 100 cubic feet.....	.15
Over 2,500 cubic feet, per 100 cubic feet.....	.10

Schedule No. 2

SUMMER AND VACATION CONSUMERS

METER RATES

Annual Charge For Calendar Year

Applicability:

Applicable to all water service rendered on a metered basis to non-permanent summer and intermittent residents or commercial enterprises.

Territory:

In the subdivisions known as Robinson Tract, Upton Tract, Stinson Beach Highlands Tract, and the area presently served by the Stinson Beach Water Works, in Marin County.

Rates:

Minimum Annual Charge:

Payable in advance, entitling the customer to 500 cubic feet of water each month during the calendar year..... \$21.00

For all water used in excess of 500 cubic feet per month, charges shall be the same as provided for under Schedule No.1, during the respective periods of use.

Schedule No. 3

FLAT RATES

Applicability:

Applicable to all water service rendered on a flat rate basis.

Territory:

In the subdivisions known as Robinson Tract, Upton Tract, Stinson Beach Highlands Tract, and the area presently being served by the Stinson Beach Water Works, in Marin County.

Rates:

Annual charge, payable in advance for water service rendered each residence or commercial establishment..... \$24.00

Schedule No. 4

FIRE HYDRANT RATES

	<u>Per Month</u>
Fire hydrants on mains less than 3" inside diameter.....	\$.50
Fire hydrants on mains 3" inside diameter.....	.75
Fire hydrants on mains 4" inside diameter.....	1.25
Fire hydrants on mains larger than 4" inside diameter,	1.75

Hydrants to be installed by Utility. Location, size, and number of fire hydrants subject to agreement by and between Utility and Fire District, and private individuals where private fire protection is requested.

IT IS HEREBY FURTHER ORDERED that Arenal Water Company, within thirty (30) days from and after the effective date of this Order, shall file with this Commission plans for the installation of the improvements set forth in the Opinion preceding this Order, upon approval thereof by this Commission said Arenal Water Company shall proceed without delay with the installation thereof, to be completed on or before the thirty-first day of May, 1948, in a manner acceptable to and approved by this Commission.

IT IS HEREBY FURTHER ORDERED that the foregoing schedule of rates shall remain in effect in the service area of the Stinson Beach Water Works only until the thirty-first day of May, 1948, and shall be cancelled as of the first day of June, 1948, and thereupon on said first day of June, 1948, shall be superseded by the schedule of rates effective in said service area of Stinson Beach Water Works prior to the schedule of rates authorized in this Order, unless and until the

improvements ordered installed in the Opinion above and in this Order have been completed, are in proper operation, and have been approved by this Commission. In all other respects the schedule of rates established in this Order shall remain in full force and effect throughout the remainder of the consolidated service area.

IT IS HEREBY FURTHER ORDERED as follows:

- (a) That Arenal Water Company, a corporation, within sixty (60) days from and after the effective 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 $8\frac{1}{2}$ 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.
- (b) That Arenal Water Company, a corporation, within sixty (60) days from and after the effective 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, delineating thereupon in distinctive markings the boundaries of its present service area. 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.

IT IS HEREBY FURTHER ORDERED that the major causes of complaint either having been withdrawn or satisfied by the Order herein, in all other respects the complaint in Case No. 4898 be and it is hereby dismissed.

The effective date of this Order shall be thirty (30) days from and after the date hereof.

Dated at San Francisco, California, this 9th day of March, 1948.

R. T. [Signature]
Justus S. [Signature]
W. S. [Signature]
Harold A. [Signature]
Samuel P. [Signature]
Commissioners