

ORIGINAL

Decision No. 41360

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of  
DEL PASO WATER CO., a corporation,  
for Certificate to operate Water  
System in Sacramento County.

Application No. 28698

Cosgrove, Molinari & Tinney, by  
Lloyd J. Cosgrove, for Applicant.

Russell A. Harris, by J. A. Montgomery, Jr.,  
for Mrs. B. F. Strock, dba  
Ben Ali Water Company.

O P I N I O N

Del Paso Water Co., a corporation, asks the Commission for a certificate of public convenience and necessity to operate a domestic water system in Del Paso Manor, a subdivision located 2-1/2 miles east of the unincorporated town of Ben Ali, adjoining North Sacramento in Sacramento County. The Commission is also asked to establish flat and meter rates for the service rendered.

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

Del Paso Manor contains 305 acres, more or less, and is owned by Del Paso Manor Inc., a corporation. All funds for tract development have been furnished through M. J. King, Inc. Mr. M. J. King and Mr. B. I. Lusk are officers and directors of each of these corporations and own all of the stock therein except shares qualifying directors. They are also officers and directors of applicant company.

Two units of the tract, comprising 85 acres, have been subdivided into 298 lots. These lots vary in area from 8,000 to 9,000 square feet each. At present there are 139 homes in various stages of construction, of which 45 are completed and 30 are sold and occupied. Units No. 3 and No. 4, consisting of 88 and 100 lots

respectively, have been subdivided and Mr. Lusk testified that houses would be erected on these lots as fast as demand is made for them. He stated that the entire tract of 305 acres would be subdivided into 1,200 lots and estimated that it will require three years to develop the territory and construct homes on all of the lots.

A water system has been installed to serve the two units now being developed. Water is obtained from a 12-inch well, 500 feet deep. The well is equipped with a deep-well turbine pump driven by a 50-horsepower electric motor. The water is delivered into a 5,000-gallon automatically-controlled pressure tank and then distributed through 14,344 feet of steel pipe varying from 4 to 8 inches in diameter. There are 245 service connections installed in these pipe lines and at present 30 residents are being served at no charge. Mr. Lusk testified that the facilities now installed have cost \$41,253; that a contract has been let to drill another well and install a distribution system for Units No. 3 and No. 4; that two additional wells will be required to supply the entire tract; and, that the estimated cost of the completed system to serve the fully developed tract will be from \$150,000 to \$200,000.

The existing distribution system is installed in utility rights of way located along the back of the lots. Pipe lines cross the streets only between blocks. Permission to cross the streets can be obtained from the county authorities upon request.

Mr. Lusk asked the Commission to establish for this water system the same flat and meter rates generally in effect on other public utilities in the immediate vicinity.

Mr. Lusk testified that at present Del Paso Water Co. owns only the lot upon which the well pump and pressure tank are located. He stated that M. J. King, Inc., has advanced the funds to install the water system and will be reimbursed either by Del Paso Manor, Inc., or by applicant. The repayment may be made with applicant's stock or by refunding a percentage of the revenues received from water service. No definite plan has been formulated for paying for the system, nor has any request been made for authority to issue stock.

Protest against the granting of this certificate was made by Mrs. B. F. Strock, doing business as Ben Ali water Company, on the ground that the Commission in its Decision No. 39425, issued September 24, 1946, Application No. 27413, granted her a certificate to serve an area including the 305-acre tract involved herein, together with certain other and adjacent territory, and on the further ground that granting to this applicant a certificate will force her to operate two separate systems, originally designed and constructed to be interconnected by a system to be installed in the disputed territory. Mrs. Strock testified that when she filed her application for a certificate, Del Paso Manor Tract was a part of the 435-acre property then owned by Jere Strizek and Jessie Daw Strizek, and, although title to 305 acres of said property subsequently was acquired by M. J. King, Inc., on April 16, 1946, no protest was made at the public hearing held in her certificate application in June of 1946 by the then owners of said property.

From the evidence it appears that Mrs. Strock who owns and operates the Ben Ali Water Company now supplies water to 900 consumers in territory adjacent to and adjoining applicant's proposed service area which is located between two operating units of her system. Upon the basis of informal negotiations with the former owners of the 305-acre tract involved herein and adjacent properties and certain other interested parties, Mrs. Strock had been requested to provide water service therein. Upon the strength of these negotiations, she applied to this Commission for a certificate of public convenience and necessity covering this tract, together with certain adjoining territory, a portion of which she is serving now by a separate system. No written agreement however was made in connection with the extension of water service into any of this newly certificated area.

It appears unfortunate that the promoters of the Del Paso Manor real estate development have not seen fit to deal with protestant but have elected to install and operate their own utility water system on the properties which they control. While the certificate granted Ben Ali Water Company is not exclusive, we are reluctant to have a needless number of public utility water systems operating in competitive territory. Nevertheless, under the conditions now existing in this instance and the status of actual operation and construction of applicant's water-

works, it appears to the best interests of all concerned to grant the application in order to avoid the otherwise general confusion which would result with its attendant inconvenience to the present and prospective water users. ~~Limitation of the area which may be served by Mrs. Strook (Ben Ali Water Company) is not an issue in this proceeding. However,~~ The order herein will limit the utility service that may be rendered by applicant corporation to Del Paso Manor Tract only.

Mr. King and Mr. Lusk formed and organized applicant corporation to operate the waterworks being installed to serve the real estate project which they also are promoting and developing through other corporate entities which they likewise control. However, Del Paso Water Co., apparently holds record title to none of the waterworks facilities other than the lot upon which one of the wells, a pump and a pressure tank are located. Issuance of a permanent certificate herein therefore must be made contingent upon acquisition by Del Paso Water Co., of full title to and ownership of all of the essential water producing, distributing and other necessary facilities for the entire waterworks system.

Applicant asks that rates be established for the service that are similar to the rates in effect on other domestic water utilities in the vicinity. Under the circumstances the rates in effect for the Ben Ali Water Company, which serves in adjoining territory, will be established in the following Order.

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 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 now being 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 Del Paso Water Co., a corporation, to construct, maintain and operate a public utility domestic water system within and limited to Del Paso Manor Tract, located 2-1/2 miles east of the unincorporated town of Ben Ali, Sacramento County, said tract comprising approximately 305 acres, as more particularly delineated upon a map filed as Exhibit No. 2 in this proceeding and made a part of this Order by reference.

IT IS HEREBY ORDERED as follows:

1. That a preliminary certificate of public convenience and necessity is hereby issued to Del Paso Water Co., a corporation, to construct and operate a public utility water system for the distribution and sale of water within the tract hereinabove described, provided that service shall not be furnished outside of said tract without first obtaining a separate certificate specifically authorizing such outside service, and provided, further, that applicant shall file a written acceptance of said limited certificate and of the conditions of this order within twenty days after the date hereof.
2. That Del Paso Water Co., a corporation, is hereby authorized and directed to file in quadruplicate, within thirty (30) days from the effective date of this Order, in conformity with the Commission's General Order No. 96, the following schedules of rates to be charged for all water service rendered to its customers, which schedules of rates are hereby found to be just and reasonable for the service to be rendered.

Schedule No. 1

FLAT RATE SERVICE

Applicability:

Applicable to all domestic and commercial flat rate water service.

Territory:

Within Del Paso Manor Tract, located 2-1/2 miles east of the town of Ben Ali, Sacramento County.

Rates

Per Month

For water used for domestic purposes in a dwelling house, and on lots having an area of 5,000 square feet or less . . .	\$ 1.50
For a house and a lot having an area over 5,000 square feet to and including 11,000 square feet . . . . .	2.00
For a house and a lot having an area over 11,000 square feet to and including 13,000 square feet . . . . .	2.25

Schedule No. 1 - Continued

FLAT RATE SERVICE

<u>Rates - Continued:</u>	<u>Per Month</u>
For a house and a lot having an area over 13,000 square feet to and including 15,000 square feet . . . . .	\$2.50
For a house and a lot having an area over 15,000 square feet to and including 18,000 square feet . . . . .	2.75
For a house and a lot having an area over 18,000 square feet to and including 30,000 square feet . . . . .	3.00
For a house and a lot having an area over 30,000 square feet to and including 35,000 square feet . . . . .	3.25
For a house and a lot having an area over 35,000 square feet to and including 40,000 square feet . . . . .	3.50
For a house and a lot having an area over 40,000 square feet to and including 47,000 square feet . . . . .	4.00
For a house and a lot having an area over 47,000 square feet, for each additional 7,500 square feet or less . . . . .	0.50
For each additional residence on a lot . . . . .	1.00

Schedule No. 2

METER RATES

Applicability:

Applicable to all domestic and commercial metered water service.

Territory:

Within Del Paso Manor Tract, located 2-1/2 miles east of the town of Ben Ali, Sacramento County.

Rates:

<u>Monthly Minimum Charges:</u>	<u>Per Meter Per Month</u>
5/8 x 3/4-inch meter . . . . .	\$1.50
1-inch meter . . . . .	2.00
1 1/2-inch meter . . . . .	3.00
2-inch meter . . . . .	4.00
3-inch meter . . . . .	6.00
4-inch meter . . . . .	8.00

Each of the foregoing "Monthly Minimum Charges" will entitle the consumer to the quantity of water which that monthly minimum charge will purchase at the following "Monthly Quantity Rates":

Schedule No. 2 - Continued

METER RATES

Rates - Continued:

Per Meter  
Per Month

Monthly Quantity Rates:

First	800 cubic feet or less . . . . .	\$1.50
Next	4,200 cubic feet, per 100 cubic feet . . . . .	.10
Over	5,000 cubic feet, per 100 cubic feet . . . . .	.05

3. That Del Paso Water Co., a corporation, within sixty (60) days from the effective date of this Order, shall file 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 limited area herein authorized to be served.
4. That Del Paso Water Co., a corporation, within sixty (60) days from 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, upon which shall be delineated by appropriate markings the territory to be served. This map should be reasonably accurate, show the source and date thereof, and include sufficient detail to show clearly and definitely the location of the property comprising the limited utility area of service.
5. That Del Paso Water Co., a corporation, within ninety (90) days from the effective date of this Order, shall file a certified copy of appropriate permission from the Sacramento County Board of Supervisors to lay, maintain and operate pipe lines for the transportation of water in, under, along and across all public highways within the territory herein certificated.

IT IS HEREBY FURTHER ORDERED that the preliminary certificate of public convenience and necessity shall lapse and become void sixty (60) days from and after the effective date of this Order, unless within said period the water production and distribution facilities, lands, rights of way and/or easements and all other essential water utility properties be acquired in fee by the Del Paso Water Co., and an affidavit describing such properties and showing the date of acquisition thereof be filed by applicant, together with a formal request for the issuance of a permanent certificate limited in scope to said Del Paso Manor Tract.

The effective date of this order shall be twenty days after the date hereof.

Dated at San Francisco, California, this 23<sup>rd</sup> day of March, 1948.

R. F. [Signature]  
Justin J. [Signature]  
[Signature]  
[Signature]  
[Signature]

Commissioners.