

ORIGINAL

Decision No. 41627

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the application)
of DESERT WATER COMPANY, a)
California corporation, (1) for)
a permit to issue and sell its)
shares of stock; (2) for a)
certificate of public convenience)
and necessity to operate a public)
utility water system; (3) to)
establish domestic water rates.)
-----)

Application
No. 28751

George C. Lyon, for Applicant.

O P I N I O N

Desert Water Company was incorporated in 1947 for the purpose of operating a public utility water system in a section of Morongo Valley, known as Morongo, located in San Bernardino County. In this proceeding applicant asks for permission to issue and sell its shares of stock, for a certificate of public convenience and necessity to operate a public utility water system, and for the establishment of water rates.

A public hearing in this proceeding was held at Morongo before Examiner MacKall.

Morongo Valley Mutual Water Company in 1916 constructed a water system to supply its stockholders living in or near the vicinity of Morongo. The water supply was obtained by diversion from Big Morongo Creek and transmitted through a 12" steel and 8" concrete pipeline, to a division box located on the northwesterly

corner of the area served. The stockholder consumers lived on various parcels of land in Sections 28, 29, 32 and 33, T.1 S, R.4 E., S.B.E.& M. After operating this system for about thirty years and encountering many serious financial problems, the stockholders of the company in a meeting held the 21st day of April, 1947, voted to sell their entire water properties to J. Lyttleton Lyon who had agreed to organize a corporation for the purpose of acquiring and operating the water system as a public utility. Accordingly, Mr. Lyon acquired the property for himself and associate, Mr. Ray Smith. The purchasers thereupon caused to be organized on the second day of May, 1947, Desert Water Company, a corporation, which has acquired their interests and rights in all of the water properties of Morongo Valley Mutual Water Company. In this proceeding Desert Water Company requests permission to issue 2,240 shares of its capital stock of the par value of \$10.00 each, in consideration of the sale, transfer and conveyance to it of said water system. Of said shares 1,680 will be issued to J. Lyttleton Lyon and 560 to Ray Smith. The record herein warrants the Commission to authorize the corporation to issue the said shares of stock.

Applicant has a water right amounting to .14 of a cubic foot per second in Big Morongo Creek, the original filing having been made on June 14, 1914, confirmed by court decree December 9, 1938; it claims a second right by appropriation to 1.5 cubic feet per second in said Big Morongo Creek. Applicant also has a drilled well capable of yielding fifty miner's inches. This well is not in use at the present time but it is available should necessity for its use arise.

The transmission system consists of 3,426 feet of 12 inch steel pipe and 6,469 feet of 8 inch concrete pipe. A portion of the transmission main is carried through a 4 x 6 tunnel, 500 feet in length. The distribution mains are comprised of 11,430 feet of 8 inch concrete pipe, 6,000 feet of 2 inch galvanized iron pipe and 1,000 feet of 2 inch black pipe. Since acquisition of these properties applicant has replaced the former 1,200-gallon wooden tank used by the Morongo Valley Mutual Water Company, with a 42,000-gallon steel tank which now provides adequate storage for that section of the service area which it serves. During the summer of 1947 there were 43 active consumers; at the present time there are 49.

Mr. J. Lyttleton Lyon stated that the records of the mutual water company indicated that the original cost of all water system properties in 1916 amounted to \$60,000. In a report prepared under his direction Mr. Lyon set forth the estimated original cost of the used and useful properties as of September 2, 1947, to be \$46,174 and the depreciated original cost as \$22,424. An appraisal of these properties, as of November 25, 1947, was submitted by James F. Wilson, one of the Commission's engineers, based upon estimated original cost and amounted to \$46,112. Depreciation annuity computed by the 5% sinking fund method amounted to \$286; the estimated original cost depreciated as of the same date amounted to \$32,585.

The records of revenues and operating expenses under the ownership and operation of these properties by the mutual water company were not available. During the few months of operation under the direction of Mr. Lyon, all consumers have been charged

a uniform flat rate of \$1.50 per month regardless of type or amount of use. Mr. Lyon estimated the annual income for the year 1947 to be \$774; upkeep and repairs only, \$360; depreciation on the straight line method \$1,350; leaving a loss of \$936. From the evidence available it appears that the requested monthly minimum charge of \$2.00 may provide at least some net return on the investment over and above operating costs including depreciation.

The rate schedule presented by applicant appears reasonable in comparison with charges for similar service in the general vicinity. No objection thereto was made by any of the consumers. The rate requested, therefore, will be established in the following order.

The service area proposed by this utility lies in portions of Sections 28, 29, 32 and 33, T.1 S., R.4 E., S.B.B. & M. Within this territory there is included an 80-acre subdivision designated as Tract No. 2541, in Section 28. Within the service area there are also several other small subdivided tracts, containing from 10 to 20 acres each. In addition to these tracts, several similar parcels of land located in various sections of the service area will be subdivided for homesites in the near future.

During the course of the hearing held in this matter several residents of Tract No. 2541 testified that they had at their own expense installed portions of the 2' inch distribution mains supplying their premises. Mr. H. M. Hess, a realtor who subdivided and placed Tract No. 2541 on the market, testified that some of the consumers in this tract had paid for various amounts of the 2 inch water mains used to supply the subdivision and that

he himself had installed at his own expense a considerable amount of the distribution system. Certain of these witnesses claimed to be the owners of the mains within the subdivision. In 1937 Mr. Hess subdivided and placed upon the market Tract No. 2541 and thereafter he assigned to each lot purchaser his pro rata share of the water stock in the mutual water company appurtenant to the water subdivision. Water was supplied to these consumers by the mutual water company but the duty and obligation of keeping the water mains in the tract in repair fell to the tract residents themselves who organized the Morongo Valley Improvement Association for this purpose.

Mr. C. Millington, a director and former president of the Morongo Valley Mutual Water Company, testified that Mr. Hess had turned over to the Morongo Valley Improvement Association, in 1933 or 1934, the pipe lines in Tract No. 2541 and at that time declared that he no longer had any interest in the distribution system. It appears that members of this Improvement Association had willingly turned over whatever rights, liabilities or responsibilities they had in maintaining and repairing this distribution pipe to Mr. Lyon and Mr. Smith.

Mr. J. R. White, who subdivided and sold portions of his own property in Morongo and vicinity, testified that he himself and a half dozen purchasers of property from him were ready and willing to turn over to Mr. Lyon or applicant corporation any and all pipe lines that they had installed at their own expense which had amounted to over \$500.

From the evidence presented it is clear that the directors of the Morongo Valley Mutual Water Company, approved by

their stockholders, turned over the mutual water company properties to Mr. Lyon and his associate because of their inability to provide proper service and to pay the cost of maintenance and repairs. Mr. Lyon stated that he assumed and believed at the time of entering into negotiations with the mutual water company that he was acquiring all of the existing production and distribution facilities, including the mains in Tract No. 2541. None of the residents in this tract including Mr. Hess has ever maintained or repaired any of these distribution lines nor are any of them willing to do so now. Applicant herein has assumed this obligation. This Commission is not the proper forum to determine the title to or ownership in these mains. Applicant is ready and willing to supply all consumers in Tract No. 2541 with water at the regularly established rates. It can do so only through the mains already installed in the subdivision. If for any reason any of these consumers refuse applicant the use of their water mains, they may still receive service at the regularly established rates by extending their own pipe lines to the boundary of the tract at or near the reservoir.

The certificate of public convenience and necessity granted herein 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."

The action taken herein shall not be construed to be a finding of the value of the properties herein authorized to be transferred.

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, the construction, maintenance and operation of a public utility water system by Desert Water Company, a corporation, in the unincorporated community of Morongo, San Bernardino County, as more particularly set forth and delineated upon the map filed as Exhibit No. 7, which map is hereby made a part of this Order by reference.

IT IS HEREBY ORDERED as follows:

1. That a certificate of public convenience and necessity be and it is hereby granted to Desert Water Company to construct, maintain and operate a public utility for the distribution and sale of water within the territory hereinabove described;
2. That Desert Water Company be and it is hereby authorized to issue, after the effective date hereof and on or before September 30, 1948, 2,240 shares of its capital stock of the par value of \$10 each, in payment for the water system to be acquired from J. Lyttleton Lyon and Ray Smith to which reference is made in the preceding opinion, it being the opinion of the Commission that the money, property or labor to be procured or paid for by such issue is reasonably required by Desert Water Company for the purpose specified herein and that such purpose is not, in whole or in part, reasonably chargeable to operating expenses or to income.
3. That Desert Water Company be and it is hereby authorized and directed to file in quadruplicate, in conformity with this Commission's General Order No. 96, within thirty (30) days from and after the effective date of this Order, the following schedule of rates to be charged for all water service rendered to its consumers on and after said effective date, which schedule of rates is hereby found to be just and reasonable for the service to be rendered:

Schedule No. 1

MONTHLY METER RATES

APPLICABILITY:

Applicable to all domestic, commercial, industrial and irrigation users of water.

TERRITORY:

Morongo, and in the vicinity thereof San Bernardino County.

RATES:

| <u>Monthly Minimum Charges:</u> | <u>Per Meter Per Month</u> |
|---------------------------------|--------------------------------|
| For 5/8" x 3/4" Meter..... | \$2.00 |
| 1" Meter..... | 3.50 |
| 1 1/2" Meter..... | 5.00 |
| 2" Meter..... | 7.00 |

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

Monthly Quantity Rates:

| | |
|--|--------|
| First 1,000 cubic feet, per 100 cubic feet.... | \$0.25 |
| Next 3,000 cubic feet, per 100 cubic feet.... | .20 |
| Over 4,000 cubic feet, per 100 cubic feet.... | .15 |

In the event meters are not available when customers apply for service, the proper size connection will be made and the customer charged the minimum meter rate per month for the size meter required.

4. That Desert Water Company, within sixty (60) days from the date of this Order, shall submit to this Commission for 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 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.

5. That Desert 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.
6. That Desert Water Company shall file with the Commission within thirty (30) days after the issue of the stock herein authorized, a report as required by the Commission's General Order No. 24-A, which order, insofar as applicable, is made a part of this order.
7. The authority herein granted is effective twenty (20) days from and after the date hereof.

Dated at San Francisco, California, this 25th day of May, 1948.

~~R. J. [unclear]~~
Justice F. Green
Robert D. [unclear]
Harold P. [unclear]
Lawrence P. [unclear]