

Decision No. 41839

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of

BORREGO SPRINGS WATER COMPANY,
a corporation,

for an Order Authorizing the Issue of
Stock, for a Certificate of Public
Convenience and Necessity to Acquire
and Maintain a Water System, and for
an Order Fixing Water Rates.

Application No. 26977
Amended.

Berger & Irell, By Richard Brawerman, for applicant.

O P I N I O N

In this proceeding, Borrego Springs Water Company, a corporation, asks the Commission for a certificate of public convenience and necessity authorizing it to supply water for domestic, irrigation, and other purposes in an area embracing 4,000 acres, more or less, of land in Borrego Valley, San Diego County; for authority to issue, for the purposes hereafter stated, not exceeding 100 shares of its capital stock of the par value of \$10 per share, and for an order establishing a schedule of fair and reasonable charges for water service rendered.

A public hearing in this matter was held before Commissioner Huls and Examiner Foster at Borrego Springs.

Borrego Springs Water Company, a California corporation, was organized primarily for the purpose of serving water to lands in Borrego Valley acquired and sold or leased by Borrego Land and Development Company, a California corporation, or by Bank of America National Trust and Savings Association, a national banking association, as Trustee under an indenture of mortgage and deed of trust executed

by Borrego Land and Development Company. The proposed service area consists of approximately 4,040 acres described in the amended application and delineated on the sketch submitted in evidence as Exhibit 5, as follows, all related to San Bernardino Base and Meridian:

- (a) Section 31, Township 10 South, Range 6 East.
- (b) SW $\frac{1}{2}$, and W $\frac{1}{2}$ of SE $\frac{1}{2}$ of Section 32, Township 10 South, Range 6 East.
- (c) W $\frac{1}{2}$ and W $\frac{1}{2}$ of E $\frac{1}{2}$, of Section 5, Township 11 South, Range 6 East.
- (d) Section 7, Township 11 South, Range 6 East.
- (e) W $\frac{1}{2}$ and W $\frac{1}{2}$ of SE $\frac{1}{2}$, of Section 8, Township 11 South, Range 6 East.
- (f) N.E. one acre equal-sided parallelogram of NE $\frac{1}{2}$ of Section 1, Township 11 South, Range 5 East.
- (g) Section 17, Township 11 South, Range 6 East.
- (h) NE $\frac{1}{2}$, and East $\frac{1}{2}$ of NW $\frac{1}{2}$, and NE $\frac{1}{2}$ of NW $\frac{1}{2}$ of NW $\frac{1}{2}$, of Section 20, Township 11 South, Range 6 East.
- (i) E $\frac{1}{2}$, and NW $\frac{1}{2}$, of Section 18, Township 11 South, Range 6 East.
- (j) NE $\frac{1}{2}$ of Section 13, Township 11 South, Range 5 East.
- (k) Lots 1 and 2 of SW $\frac{1}{2}$ of Section 18, Township 11 South, Range 6 East, except the East 60 acres.
- (l) An equal-sided parallelogram, each side of which is 600 feet in length, in the SW corner of the SW $\frac{1}{2}$ of the SE $\frac{1}{2}$ of the SE $\frac{1}{2}$ of Section 32, Township 10 South, Range 6 East.

Borrego Land and Development Company holds other lands located more or less contiguously southeast of the area described above, as shown on the map introduced in evidence as Exhibit 6, but which additional lands are not sought to be included in the certificated area at this time. Part of the acreage in the proposed service area is now subdivided and additional units are being and will be subdivided in the near future. At the time of the hearing, of the total number of 1,101 lots in the first six units, about 620 lots had been or were in the process of being sold. Over 45,000 feet of six- and four-inch

pipe lines had been installed with service lines to serve every lot in Units A, B and C. The distribution system for some of the other units had been designed and was expected to be installed during 1948. Some 26 customers have been connected to the water system.

At the present time, two 14-inch wells, one 292 feet deep drilled in 1930 and the other 496 feet deep drilled in 1947, are being operated by applicant to supply the demand. Engineering reports and chemical and bacteriological tests indicate that the water is of satisfactory quality and that the quantity available is ample. Other wells and well sites, conveniently located about the holdings of the land company, are controlled by applicant and will be utilized as needed for additional customers. Electrically driven, deep-well pumps deliver the water into two 500-barrel steel tanks located on the ground at suitable elevations. It is the intention of the applicant to install meters on all services.

An appraisal of the water system was made by Mr. James F. Wilson, one of the Commission's hydraulic engineers. His appraisal sets forth in detail the historical cost as of March 1, 1948, the annual depreciation expense, and the depreciation reserve requirements as calculated on the 5% sinking fund basis. A summary of the appraisal is as follows:

<u>Acct. No.</u>	<u>Description</u>	<u>Estimated Historical Cost Including Overhead</u>	<u>Depreciation Expense 5%</u>	<u>Reserve Requirements</u>
C-1,4	Intangible Capital	\$ 500.00		
C-5	Landed Capital	800.00		
C-6	Buildings	198.00	\$ 9.18	\$ -
C-10	Wells	10,281.15	113.83	963.72
C-14	Pumping Equipment	3,447.42	104.26	-
C-18	Distribution Mains	54,152.97	1,637.75	-
C-19	Distribution Tanks	1,706.54	35.73	-
C-21	Services	1,140.52	34.49	-
C-24	Genl. Shop Equipment	275.00	12.74	-
	Total	72,501.60	1,947.98	963.72

Applicant estimated the cost of the water system complete to serve Units A, B, C and D at \$135,821.

Applicant has an authorized stock issue of 7,500 shares of the par value of \$10 per share and of the aggregate par value of \$75,000. It asks permission to issue and sell for cash at \$10 per share, not exceeding 100 shares of its capital stock, and use the proceeds in the conduct of its business.

The trustee under the mortgage and deed of trust of Borrego Land and Development Company is authorized to transfer the water properties constructed by the Development Company to applicant free and clear of the lien of the mortgage, upon condition that the stockholders of Borrego Springs Water Company will pledge or otherwise hypothecate all shares of stock as additional security for the payment of the bonds of the Development Company in such manner as to create a first lien on the beneficial interest therein in favor of the trustee, reserving to the owners of the stock, however, all voting rights of said shares for so long as the Development Company is not in default. The Development Company agrees that on or before the 10th day of each calendar month it will pay applicant a standby charge in a sum equal to the difference between the amount of revenues derived by applicant from the operation of its water system during the preceding calendar month and the aggregate amount of expenditures and indebtedness of applicant for operation costs for such month from and after the date of acquisition of said properties by applicant and up to and including the last day of December, 1951. This matter is incorporated in the agreement filed in this application as Exhibit 3.

The customers presently connected to the water system have heretofore been served without charge pending the order of the Commission granting to applicant a certificate of public convenience and necessity. Applicant proposes to charge for its water service according to the following schedules:

Schedule No. 1

GENERAL METERED SERVICE

APPLICABILITY

Applicable to all domestic and commercial service.

TERRITORY

Within the service area in Borrego Valley, San Diego County.

RATES

Annual Minimum Charges:

5/8 x 3/4-inch meter	\$ 24.00
3/4-inch meter	30.00
1-inch meter	36.00
1 1/2-inch meter	48.00
2-inch meter	72.00
3-inch meter	144.00
4-inch meter	240.00

The consumer will be entitled to that quantity of water each month which 1/12 the Annual Minimum Charge will purchase at the Monthly Quantity Rates.

Monthly Quantity Rates:

First 400 cubic feet	\$ 2.00
Next 600 cubic feet, per 100 cubic feet30
Next 2000 cubic feet, per 100 cubic feet25
All over 3000 cubic feet, per 100 cubic feet20

Schedule No. 2

IRRIGATION SPRINKLING SERVICE

APPLICABILITY

Applicable only to golf clubs and municipal parks, and limited to two-inch, three-inch, and four-inch metered service.

TERRITORY

Within the service area in Borrego Valley, San Diego County.

RATES

Annual Minimum Charges:

2-inch meter	\$ 72.00
3-inch meter	144.00
4-inch meter	240.00

The consumer will be entitled to that quantity of water each month which 1/12 the Annual Minimum Charge will purchase at the Monthly Quantity Rates.

Monthly Quantity Rates:

First 5000 cubic feet, per 100 cubic feet	\$.20
All over 5000 cubic feet, per 100 cubic feet15

A comparison of the monthly charges under the two schedules reveals that for similar quantities of water customers served under proposed Schedule No. 1 would pay more than customers served under Schedule No. 2. Applicant's only justification for this differentiation was that those consumers to whom Schedule No. 2 might be applicable would use the bulk of their requirements in off-peak periods. However, to remove the discrimination which would result under the two schedules, the Order herein will combine the two proposed schedules to equalize the charges for all consumers and still provide for delivery of large water quantities at favorable rates to those who can take advantage of the off-peak periods.

There are no public utility water systems operating in or near the area proposed to be served by applicant, and no objection was made to the issuing of the certificate or to the establishment of the proposed rates. Under the circumstances, the authority sought will be granted.

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 requires, and will require, the construction, maintenance and operation of a public

utility water system by Borrego Springs Water Company, a corporation, in the area embracing 4,040 acres, more or less, in those sections and parts of sections in Borrego Valley, San Diego County, more particularly described in the Opinion which precedes this Order and as delineated upon the sketch filed as Exhibit 5 in this proceeding, which sketch is made a part of this Order by reference.

IT IS ORDERED as follows:

1. That a certificate of public convenience and necessity be and it is hereby granted to Borrego Springs Water Company to acquire, construct, maintain and operate a public utility for the production, distribution and sale of water for domestic, irrigation and other purposes within the territory hereinabove described.
2. That Borrego Springs 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 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 the first day of September, 1948, which schedule of rates is hereby found to be just and reasonable for the service to be rendered:

Schedule No. 1

GENERAL METERED SERVICE

APPLICABILITY

Applicable to all domestic, industrial, irrigation and other water service rendered on a measured basis.

TERRITORY

Within the service area in Borrego Valley, San Diego County.

RATES

Minimum Charge:	<u>Per Meter Per Year</u>
For 5/8 x 3/4-inch meter	\$ 24.00
For 3/4-inch meter	30.00
For 1-inch meter	36.00
For 1 1/2-inch meter	48.00
For 2-inch meter	72.00
For 3-inch meter	144.00
For 4-inch meter	240.00

The Minimum Charge will entitle the consumer to the quantity of water each month which 1/12 the annual minimum charge will purchase at the Quantity Rates.

Schedule No. 1

GENERAL METERED SERVICE (cont.)

<u>RATES (cont.)</u>		<u>Per Meter</u>
Quantity Rates:		<u>Per Month</u>
First	400 cubic feet or less	\$ 2.00
Next	600 cubic feet, per 100 cubic feet30
Next	2000 cubic feet, per 100 cubic feet25
Next	5000 cubic feet, per 100 cubic feet20
Over	8000 cubic feet, per 100 cubic feet15

SPECIAL CONDITIONS

The annual minimum charges will be applicable for the 12-month period beginning September 1 of each year.

Consumers requiring water in quantities amounting to over 8,000 cubic feet in any calendar month may be required to take water during off-peak hours for uses such as irrigating golf links, municipal parks and for filling swimming pools.

3. That Borrego Springs Water Company, within forty (40) days from the effective date of this Order, shall file with this Commission 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 immediate surrounding territory; provided, however, that such filing shall not be construed as a final or conclusive determination or establishment of the dedicated area of service or any portion thereof.
4. That Borrego Springs Water Company, within forty (40) 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 to be 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 filing shall not be construed as a final or conclusive determination or establishment of the dedicated area of service or any portion thereof.
5. That Borrego Springs Water Company, after the effective date hereof and on or before December 31, 1948, may issue and sell for the purpose of acquiring properties and maintaining and improving its service, at \$10 a share, not exceeding 100 shares of its capital stock. The Commission is of the opinion that the money, property or labor to be procured or paid for by the issue of said shares of stock is reasonably required by Borrego Springs Water Company for the purposes stated, and that such purposes are not, in whole or in part, reasonably chargeable to operating expenses or to income.

6. That Borrego Springs Water Company within thirty (30) days after the issue and sale of said shares of stock, or any part thereof, shall file with the Commission a report showing the number of shares of stock issued and sold, the names of the purchasers, the consideration received and the purpose or purposes for which applicant has expended, or will expend, the proceeds.

The effective date of this Order shall be twenty (20) days from and after the date hereof.

Dated at San Francisco, California, this 13th day of July, 1948.

Justice F. Cramer
Grant Sawyer
Harold Kula

Commissioners.