

Decision No. 42183**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the latter of the Application of Robert E. Shields doing business as TAHOE PINES WATER COMPANY to declare system to be public utility, to fix rates, and to define area of service.

Application No. 29591.

Robert E. Shields, applicant, for himself; White and Harber, by Lawrence A. Schei, for Tahoe Pines Association.

O P I N I O N

Robert E. Shields asks this Commission for a certificate of public convenience and necessity to operate a public utility water system in an unincorporated area in the County of Placer comprising a portion of Tahoe Pines Tract. He also asks this Commission to authorize the filing of specified flat and meter rates and charges for water service.

A public hearing in this matter was held at Tahoe City before Examiner Ross.

At the hearing, applicant asked that his application be amended to include specified additional areas not covered in the original application.

Applicant acquired this water system on June 1, 1948 from Tahoe Pines Company, a California corporation, and he presented a copy of a deed evidencing the transfer of ownership. The system was originally installed in 1912 and had been operated by Tahoe Pines Company and its predecessors prior to June 1, 1948.

The area for which a certificate is requested is shown in part on a map filed with the application and that part of the area is described as:

"All that portion of Tahoe Pines tract in Placer County, California according to the map on file in the recorder's office that lies south of Blackwood Creek and north and east of a line described as beginning at the intersection of the center line of Grand Avenue and the west line of Tahoe Pines subdivision; thence easterly along the center line of Grand Avenue to the intersection of the center line of Grand Avenue and the center line of Glen Alpine Terrace and running thence southerly along the center line of Glen Alpine Terrace to the center line of Park Avenue; and running thence easterly along the center line of Park Avenue to the center line of Tamarack Avenue; and running thence southerly along the center line of Tamarack Avenue to the center line of Rubicon Avenue; and running thence easterly along the center line of Rubicon Avenue to the center line of Popular Avenue; and running thence southerly along the center line of Popular Avenue to the center line of Lanzasita Avenue; and running thence easterly along the center line of Lanzasita Avenue to Lake Tahoe."

At the hearing applicant asked that Blocks 42, 43 and 44 of Tahoe Pines Tract also be included in the certificated area, this additional area having been omitted in the application through inadvertence. It was asked that a further amendment as to service area be accepted, more particularly to include the portion of the so-called Idlewild Subdivision described as lying north of Blackwood Creek, east of the State Highway, south of the north line of the so-called Johnson property, and bounded on the east by Lake Tahoe.

At that time of the hearing, applicant had water service connections to 39 customers in the above areas, although four of these connections were inactive at that time. Eighty-four of the connections are in the Tahoe Pines Tract while the remaining five are in the Idlewild Subdivision. Service in the latter area has only recently been instituted, and applicant testified that he had agreements with the five customers to the effect that, in the event of a shortage of water, the customers in the Tahoe Pines Tract would be given priority. He indicated that any further service rendered in the Idlewild Subdivision would be made subject to the same limitation.

The present water system consists of a single spring from which water flows by gravity into a catch basin and thence into two 10,000-gallon redwood stave storage tanks provided with metal covers. From these tanks, located at an elevation above the service territory, water is distributed by gravity through approximately 18,000 feet of mains ranging in size from one to four inches in diameter.

It was testified that prior to applicant's acquisition of this water system, a flat annual charge of \$15 per service connection was levied on all customers except four, and of the latter, one exceptionally large residential user was charged \$90 and three smaller customers were charged \$7.50 each. There was some controversy as to whether or not these former charges provided for year-round service, but it was testified that during certain winters, service was not interrupted. Applicant since June 1, 1948 has been charging \$27.50 per season, payable in advance, for unmetered service to single family dwellings, defining the season as from May 15 to October 15 or any portion thereof, and requests that such a rate be authorized if he is granted a certificate. He further requests that a meter rate be authorized providing a minimum charge of \$27.50, payable in advance, for the same season as in the flat rate proposal, which would entitle the customer to 1,100 cubic feet of water each month of the season, with additional charges for use in excess of that volume at the monthly rate of \$0.25 per hundred cubic feet for the next 1,400 cubic feet and \$0.20 per hundred cubic feet thereafter. The meter rate is intended to be applied to customers who use large quantities of water and those who use water wastefully. Applicant indicated that he did not intend voluntarily discontinuing water service during the winter season, but that he could not accept the obligation of providing continuous year-round service at the rates requested. He stated that no charges were proposed for use of water available during the winter months.

Applicant placed in the record a fairly-detailed description of the physical facilities of the system, giving the approximate date of installation of each major item, but stated that he was unable to ascertain definitely the historical cost of the system. He estimated such cost to be in the neighborhood of \$15,000, however. He further produced a witness who testified that he had been a plumber in the Tahoe Pines area since 1929, and who indicated his recollection of various delivered, and/or installed unit costs of piping and equipment in the area. He had not worked upon this water system except in very recent periods, however, and accordingly did not have first-hand knowledge of the actual costs incurred. In this connection, no objections were raised to a stipulation by applicant that the records of historical cost on file with the Commission might be used in ascertaining the reasonable historical cost of the properties.

Applicant presented a detailed estimate of his annual costs of operation for the immediate future which aggregated \$2,425, including taxes and depreciation. The principal items were \$360 for management and superintendence, \$350 for taxes, \$300 for depreciation (being calculated by the straight line method on the basis of 2% of the \$15,000 estimated historical cost), and \$250 for repairs to mains, in large part occasioned by winter damage, notwithstanding a further item of \$100 for a winter caretaker. No pumping costs were included, but applicant thought that the springs might not prove adequate in the future. As to revenue, applicant stated that during the years 1946 and 1947 the water system grossed about \$1,050, and that since June 1, 1948 he had collected about \$1,900 for the season's service, but had not yet been paid by certain customers. Upon the basis of \$27.50 per service connection, and a present total of 89 such connections, a gross revenue of approximately \$2,450 would result, without consideration of a small proportion of inactive service connections and possible meter rate billings in excess of the seasonal minimum. If applicant

realizes a growth to 100 service connections in the near future, which he testified was likely, then, at least \$2,750 would be received if all connections were active. Under this latter assumption an annual net revenue of about \$325 would remain after expenses.

Complaints were registered at the hearing that service was not available early this summer due to delays in repairing last winter's damage. The suggestion was made that applicant's mains should be lowered in many locations to minimize the danger of freezing. Applicant acknowledged the desirability of lowering or adding cover over certain mains, and indicated he would proceed upon this to the extent possible in view of the difficulty of securing casual labor at the Lake. In defense of the delay in resuming service this spring, he stated that it was common knowledge that the past winter had been the most severe in years as to freezing of water mains, due to the relatively light snow cover in conjunction with low temperatures.

Counsel for Tahoe Pines Association, an association of property owners in Tahoe Pines Tract, did not make his position clear as to whether he was supporting or contesting the granting of the certificate requested herein. He presented a resume of the succession of ownership of the water system, and attempted to demonstrate that some form of ownership, right or title to all or a portion of the water system resided in certain purchasers of land and to that end counsel was given additional time to submit evidence supporting such contention, but failed to produce such evidence. Under these circumstances, this Commission has no basis for considering the relevancy of the case of *Allen vs. Railroad Commission* (179 Cal 68), as cited by counsel in this connection.

It is concluded that applicant's estimate of expenses is reasonable for an average year's operations in the near future, and his estimate of revenues under the rates he has requested is believed to be supported. These estimates show no return on the investment

with the present number of service connections, and about \$325 of net revenue upon the assumption of 100 connections in the near future. Any pumping costs incurred in the future would tend to reduce the net revenue, since the expense estimate is predicted upon gravity flow only. Although it is not possible from the record to ascertain the historical cost of the facilities used and useful in rendering water service, the rates requested herein will yield little return if any on the investment and therefore are not unreasonable. The area for which a certificate is requested is not served by any other public utility water system, and there were no supportable objections raised at the hearing against granting the authority sought herein. The order will provide for the granting of the requested certificate of public convenience and necessity covering the areas described heretofore in this opinion, and will authorize the flat rates and meter rates requested by applicant.

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 the franchise involved herein or this certificate of public convenience and necessity or the right to own, operate or enjoy such franchise or certificate of public convenience and necessity in excess of the amount (exclusive of any tax or annual charge) actually paid to the State or to a political subdivision thereof as the consideration for the grant of such franchise, certificate of public convenience and necessity or right."

O R D E R

Good cause appearing, 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 Robert E. Shields in an area comprising a portion of Tahoe Pines Tract and a portion of the Idlewild Subdivision in the County of Placer, as more particularly described in the opinion which precedes this order.

IT IS HEREBY ORDERED as follows:

1. That a certificate of public convenience and necessity be and it is hereby granted to Robert E. Shields to construct, maintain and operate a public utility for the distribution and sale of water within the territory hereinabove described.
2. That Robert E. Shields be and he is hereby authorized and directed to file in quadruplicate, in conformity with this Commission's General Order No. 96, within thirty (30) days after the effective date of this order, the schedule of rates in Exhibit A appended to be charged for all water service rendered to 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.
3. That Robert E. Shields, within thirty (30) days after the effective date of this order, shall file with this Commission four sets of rules and regulations governing relations with his customers, 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 the 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 Robert E. Shields, within thirty (30) days 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, 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.

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

Dated at San Francisco, California, this 3rd day of November, 1948.

R. E. Shields
Justice J. Casper
James P. Farrell
Harold P. Hill
Keneth Potter
 Commissioners.

EXHIBIT A

Schedule No. 1

SEASONAL METER RATES

APPLICABILITY

Applicable to all seasonal water service furnished on a metered basis.

TERRITORY

Within certain portions of Tahoe Pines Tract and adjacent portions of Idlewild Tract lying east of State Highway.

RATES

Minimum seasonal charge, payable on or before May 15, entitling the customer to 1,100 cubic feet of water during each month from May 15 to October 15.	<u>Per Meter Per Season</u> \$27.50
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Where water is used in excess of the quantity allowed for the minimum, the following rates will apply:

First 1,100 cubic feet per month, included in annual charge.	
Next 1,400 cubic feet per month, per 100 cubic feet.	\$.25
Over 2,500 cubic feet per month, per 100 cubic feet.	.20

Per Meter
Per Month

SPECIAL CONDITIONS

1. A meter may be installed on any service connection at the request of the consumer or at the option of the company.

Schedule No. 2

SEASONAL FLAT RATES

APPLICABILITY

Applicable to all seasonal water service furnished at flat rates.

TERRITORY

Within certain portions of Tahoe Pines Tract and adjacent portions of Idlewild Tract lying east of the State Highway.

RATES

For each single family dwelling, payable on or before May 15, and entitling the customer to water service during the season from May 15 to October 15.	\$27.50
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