

Decision No. 42704

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the Application  
of Del Rosa Heights Water Company,  
a California corporation, for a  
Certificate of Public Convenience  
and Necessity, for Order Authorizing  
Issuance of Stock, and for an Order  
Establishing Rates.

Application No. 29766

Lynden R. Myers for applicant; Cunningham and Parry by  
James E. Cunningham for Elias Shahan, James McDill,  
Isabel Shahan, and Irving Cushing, protestants;  
Quincy Brown, William Talcott, Oswald V. Hanschildt,  
individual protestants.

# O P I N I O N

Del Rosa Heights Water Company, a corporation, asks the Commission for a certificate of public convenience and necessity to operate a domestic and irrigation water system serving in the general area known as "Del Rosa" in San Bernardino County just east of the city of San Bernardino along Highland Avenue. The Commission is also asked to establish a schedule of meter rates and to authorize the issuance of stock.

Public hearings in this matter were held before Commissioner Huls and Examiner Warner, December 29, 1948, and February 4, 1949, in San Bernardino.

Del Rosa Heights Water Company is a California corporation. Its articles of incorporation were filed with the Secretary of State on June 25, 1948, and it has authorized capital stock of 100,000 shares with par value of \$1 per share.

The proposed service area as shown more particularly in the map marked Exhibit 7 includes Tract 2901, Del Rosa Estates, which extends north of Eureka Street between Del Rosa Avenue and Mountain

Avenue to Avery Street and consists of 265 lots with 60 customers in this 100-acre tract. Also included within the proposed service area is a parcel of land extending westerly from Mountain Avenue along Avery Street to the south, and the S. W. Little Tract, Tract No. 3359, which lies along and north of Foothill Drive east of Del Rosa Avenue. These territories are being developed as a residential district adjacent to the city of San Bernardino, and 72 customers are now being served therein. It is anticipated that additional residential construction will take place during 1949, adding more water customers to the system.

#### Source of Water Supply

Principal objections to the granting of the application were based on allegations by protestants that applicant possesses no title to any source of water; that the only developed source of water is a parcel of land comprising approximately three acres known as the "Reservoir Lot" located at the extreme northeast corner of the proposed service area; that said Reservoir Lot is owned by tenants in common; that applicant's proposition to acquire a 49% interest in the two wells located on the Reservoir Lot, together with the water system owned and operated by L. R. Myers attached thereto, is uncertain and raises a question as to applicant's ability to maintain a continuous source of supply. It is alleged by protestants that this uncertainty is created by the possibility of claims to water, not only as to monthly output, but also as to times of production and delivery by the majority of the interest-holders, and that if Mr. Elias Shahan, an interest-holder and protestant, utilized his own full share for a full period for private irrigation purposes, service to applicant's domestic utility customers would be jeopardized.

The two wells located on the Reservoir Lot are about 100 feet apart, 800 feet north of Foothill Drive, and 1,400 and 1,500 feet east

of Del Rosa Avenue. They are both approximately 200 feet in depth and are said to be capable of producing a total of approximately 50 inches, or about 500 gallons of water per minute. The most westerly well is equipped with a Pomona pump driven by a 7-1/2 horsepower electric motor, which produces approximately 22 inches, or 225 gallons of water per minute, with a four-foot drawdown from a static water level of 12 feet. This well is connected to a 247,000-gallon steel reservoir which is in turn connected with approximately 21,380 feet of mains.

The most easterly well is not equipped with pump and motor, but applicant's witness testified that it could be so equipped quite readily.

A completely undeveloped water source available to applicant is located in Harrison Canyon. This source, in addition to the drilling of a well, and installation of pumping equipment, would require the construction of a transmission main in order to provide service.

Mr. Vern Jackson, witness for the applicant, also testified that he would grant an easement to drill a well on his five-acre parcel of land located in the vicinity of the service area on the west side of Mountain Avenue. This witness testified that a neighbor's well, 212 feet deep, produced 150 gallons per minute from a depth to water level of 110 feet with a three-foot drawdown over a 48-hour period.

From the evidence, therefore, it appears that the water supply available to the applicant, if found not to be fully adequate to meet demands of customers, could be implemented readily and practicably.

Also, it appears that the distribution system now installed and proposed to be installed by the applicant is adequate to render service to the proposed area.

Easements for pipe lines are in private rights of way, and no franchise has been required by the County of San Bernardino,

but applicant's witness testified he would be willing to apply for such franchise if, at a later date, he found it to be necessary.

Applicant's witness testified that the water had been tested at San Bernardino Community Hospital and found to be potable.

No other public utilities now render water service in or near this area. There are two uncertificated water distributors nearby, both of whom made appearances, but their water systems are not within the applicant's proposed service area.

#### Financing

Applicant asks permission to issue 45,000 shares of its capital stock of the par value of \$1 per share. Of such shares, 40,000 would be issued to L. R. Myers in payment for the existing water system. He will, pursuant to the terms of the agreement on file in this application as Exhibit "4", deposit 60% of the stock with Gray Graham and Ralph A. Garrett, two of the partners of Del Rosa Estates. The shares so deposited are to be held by them as security for the faithful performance by L. R. Myers of the terms and provisions of said agreement. They shall be reassigned to L. R. Myers when, as and if he has complied with the terms of the agreement, when 75% of the lots in the subdivision have been sold or 100 dwellings in the subdivision are being supplied with water by applicant. The water properties, including L. R. Myers' 49% interest in the reservoir lot, will be transferred to applicant free and clear of all encumbrances.

Applicant asks permission to issue 5,000 shares of its stock for cash at the par value of \$1 per share. It will use the proceeds for miscellaneous capital expenses and working capital.

#### Rates

Applicant's witness proposed certain rates in the application which were amended at the final hearing, and testified that since July, 1948, all water service had been metered at the minimum rate of

\$1.50 for the first 1,000 cubic feet or less. This witness also testified that it was intended to install 14 fire hydrants upon the formation of a fire district but did not request that a fire hydrant rate be set. It was requested, however, that a school rate be determined by the Commission for the Del Rosa Elementary School now under construction. The Commission's witness, Mr. Muth, introduced a summary of earnings estimated for the year 1949 as follows:

Summary of Earnings (Estimated 1949)

Estimated revenues	\$3,960
Estimated expenses (except federal taxes)	<u>3,060</u>
Net revenues	900
Estimated federal income tax	<u>150</u>
Net profit	750
Rate base as of December 1, 1948	47,875
Rate of return	1.6%

No objection to the proposed rates was interposed and from the evidence of record, the rates appear to be reasonable and will be authorized.

The Commission has considered this request for a certificate of public convenience and necessity and is of the opinion that it should be granted 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.

The action herein shall not be construed to be a finding of the value of the property of Del Rosa Heights Water Company.

O R D E R

The above-entitled application having been considered, a public hearing having been held, the matter having been submitted, and now being ready for decision,

IT IS HEREBY FOUND AS A FACT that public convenience and necessity require and will require the construction and operation of a public utility water system by Del Rosa Heights Water Company in San Bernardino County in the area set forth in the map marked Exhibit 7 in this proceeding.

IT IS HEREBY ORDERED that a certificate of public convenience and necessity be and it is granted Del Rosa Heights Water Company to construct and operate a public utility system for the distribution and sale of water within the territory hereinbefore described, subject to the following conditions:

1. Del Rosa Heights Water Company shall file with this Commission, in accordance with the requirements of General Order No. 96, the schedule of rates set forth in Exhibit A attached to this order, to be effective on or before May 1, 1949.
2. Del Rosa Heights Water Company, within thirty (30) days after the effective date of this order, shall file with this Commission four copies of a suitable map, drawn to an indicated scale upon a sheet 8½ x 11 inches in size, delineating thereupon by 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.
3. Del Rosa Heights Water Company, 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.

IT IS HEREBY FURTHER ORDERED that Del Rosa Heights Water Company be, and it is, authorized to issue, on or before October 31, 1949, 45,000 shares of its capital stock of the par value of \$1 per share. Forty thousand of said shares may be issued to L. R. Myers in payment for the water system owned by him and described in the foregoing opinion, provided applicant acquires title to said properties free and clear of all indebtedness. Five thousand shares of said stock may be sold by applicant for cash at \$1 per share. Applicant shall use the proceeds obtained from the issue and sale of said 5,000 shares of stock for the improvement and maintenance of its service. 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 Del Rosa Heights Water Company for the purposes herein stated and that such purposes are not, in whole or in part, reasonably chargeable to operating expenses or to income.

IT IS HEREBY FURTHER ORDERED that Del Rosa Heights Water Company shall file with the Commission a report required by the Commission's General Order No. 24-A, which order in so far as applicable, is made a part of this order.

IT IS HEREBY FURTHER ORDERED that the authority herein granted will become effective twenty (20) days after the date hereof, and that any authorization herein granted will be void if not exercised on or before October 31, 1949.

Dated at San Francisco, California, this 12<sup>th</sup>  
day of April, 1949.

R. B. [Signature]  
Justice F. Coe [Signature]  
Harold F. Kille [Signature]  
[Signature]  
Commissioners

Schedule No. 1

GENERAL METERED SERVICE

APPLICABILITY

Applicable to all domestic and irrigation water service furnished on a metered basis.

TERRITORY

Throughout the entire service area which includes Tract 2901, Del Rosa Estates, and Tract 3359, the S. W. Little Tract, and adjacent territory in San Bernardino County just east of the easterly San Bernardino city limits along Highland Avenue.

RATES

Monthly Minimum Charge:	Per Meter Per Month
For 5/8 x 3/4-inch meter.....	\$ 1.50
For 3/4-inch meter.....	1.50
For 1-inch meter.....	2.50
For 2-inch meter.....	5.00
For 3-inch meter.....	10.00

Quantity Rates:

First 1,000 cubic feet or less, per 100 cubic feet..	\$ 1.50
Next 2,000 cubic feet, per 100 cubic feet.....	.12
Next 2,000 cubic feet, per 100 cubic feet.....	.10
Over 5,000 cubic feet, per 100 cubic feet.....	.075

The Minimum Charge will entitle the customer to the quantity of water which that monthly charge will purchase at the Quantity Rates.