

Decision No. 42921

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application
of DAVID BLACK and BERNARD BLACK
for Certificate of Public Convenience
and Necessity and to Establish Rates
for Service Rendered.

Application No. 29873

Bohnett, Hill, Cottrell & Bohnett by
L. D. Bohnett for applicant; Thomas J.
Randazzo for Almaden Improvement Club,
protestant.

O P I N I O N

David and Bernard Black, by the above-entitled application, request a certificate of public convenience and necessity authorizing them to operate a water system to serve customers located in the village of Almaden (sometimes known as Hacienda) within the area outlined in green on a map identified as Exhibit B attached to the application. This area may be described in approximate terms as a strip of land 7,000 feet long in a canyon which averages between 800 and 1,000 feet wide, covering some 160 acres, subdivided into lots facing Alamitos and Almaden Roads and Bertram Avenue. A schedule of flat rates and meter rates was proposed in the application. A public hearing on this application was held before Examiner Edwards in Almaden on February 4, 1949.

The water properties owned and operated by applicants consist of an underground intake of 36-inch and 18-inch perforated pipe buried in gravel on Alamitos Creek at a point called Lovely Glen, located about a mile southwest or upstream from Almaden Reservoir Dam; a chlorinator located immediately below the intake; an iron and steel transmission line comprised partly of six-inch and partly of eight-inch pipe laid along the creek bed and passing under the dam; and distribution mains consisting of four-inch pipe along Almaden Road and two-inch

pipe along Bertram Avenue within the village. The water system is currently supplying about 100 customers. Applicants claim right to divert and use 880,000 gallons of water per day from Alamitos Creek.

Since 1927 the applicants have been supplying free water service, but now the applicants believe they are justified in charging for water in order to help operate, maintain and improve the system. Rates proposed by applicants are a base domestic flat rate of \$30 per year and an optional minimum meter rate charge of \$30 with quantity rates from 30 cents reduced through various blocks to ten cents per 100 cubic feet.

Mr. David Black, appearing as the applicants' principal witness, testified that the out-of-pocket cost of operating and maintaining this system is approximately \$2,500 per year. In addition, during the past year he said he spent approximately \$3,000 in making capital improvements. He believes that future necessary improvements could be made from receipts from the sale of water over and above the out-of-pocket cost of operating the system.

Mr. J. D. Reader, an engineer of the Commission's Hydraulic Division, made a study of the operations of this system and found that an automatic electrically driven hypochlorinator has been installed to combat contamination upstream from the intake. Since this is a gravity system, Mr. Reader testified that applicants' estimate of expense of \$2,500 per year was too high and that \$2,200 appeared to be a more reasonable figure. He found the original cost of the equipment used and useful in present operations at \$16,328 and estimated a cost of \$10,000 for acquiring the right to divert 880,000 gallons per day. Annual depreciation expense on the 5% sinking fund basis is \$224.48.

Mr. Norman E. Andrews, Assistant Manager of the San Jose Water Works, appeared at the hearing to inform the Commission how far into this area his utility has extended water service following purchase of the old county pipe line running along Almaden Road. He testified that his company is now serving Lot No. 35 of the Almaden

Manor Tract and Mr. Paul Houret across the street from this lot. Both of these properties are within the proposed service area of the Blacks. He requested a segregation of the service areas. The Commission believes that an appropriate dividing line between the two systems is the intersection of Bertram Avenue and Almaden Road. San Jose's pipe line extends up Almaden Road to the north side of this intersection. All property facing on Almaden Road below this intersection should be served by San Jose Water Works.

Mr. Andrews was questioned as to the cost for his utility to extend mains to serve all of Almaden. He testified that the following construction would be required: 20,000 feet of new main, settling tank, chlorinator, meters, new services, reroute pipe around dam, and extensive pipe replacement in Almaden. He was not prepared to give any total cost figure, but indicated that the new main alone would cost \$75,000 and the settling tank \$5,000.

Many customers protested the granting of a certificate of public convenience and necessity to the Blacks to operate as a public utility. They complained that the water was delivered at insufficient pressure, had been muddy and contaminated, contained excessive chlorine and was unfit to drink, and that during the late summer months the water was inadequate and carried rust, silt and leaves.

Mr. Joseph Thompson testified as a witness for the Almaden Improvement Club concerning the transmission pipe line above the Santa Clara Valley Water Conservation District's dam. He claimed that during the period of low flow of the creek, in the late summer months, muddy water accumulated behind the dam entered the rusted-out transmission pipe below applicants' intake. Mr. M. A. DeCosta, President of the Almaden Improvement Club, also testified that the water was very dirty most of the time and said that the club members want good water and were willing to pay for good service. He further testified that conditions have been unsatisfactory for the past 15 years and until the Blacks come forward with a definite program of improvement, he was afraid that present difficulties would continue.

Mr. Black answered those complaints by stating that the installation of a new pipe line through the reservoir has eliminated the muddy water problem. Water tests have indicated a safe B-Coli index since the chlorinator was installed; the open flume has been replaced with steel pipe and the intake buried in gravel so that in the future the water should be satisfactory.

In analyzing these complaints, the Commission notices that many are similar to those made at a previous hearing under Application No. 29223, and at present largely have been taken care of by the new pipe and chlorinator recently installed. However, additional improvements, such as a 25,000-gallon storage tank (or larger) below the dam and more flushing valves are needed. The tank should provide more uniform pressure and a means for settling any sand or silt that may get into the system. A regular flushing program should alleviate any rust and muddy water conditions.

The evidence indicates that the Blacks' have the financial means to continue to operate and maintain the system. With some help from revenue from the sale of water, needed improvements in the system can be made. Changes in the operating practices should improve the quality of the water. Applicants expressed willingness to make improvements recommended by the Commission. Under the circumstances, the Commission finds that public convenience and necessity require the issuance of this certificate.

The certificate of public convenience and necessity hereinafter granted is subject to the following provisions 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.

Applicants requested that the rates be on an annual basis and payable in advance on January 1, each year. The record shows that many residents live in this area the year around and, there being no justification for requiring a year's advance payment for permanent residents, these customers should be billed monthly. Likewise, we see no need on this system to require the seasonal customers to advance a full year's payment, but believe that semiannual payments would be more equitable. The applicants also proposed to include only 400 cubic feet of water each month for the minimum charge under the meter rates. In view of the fact that this is a gravity system we believe that 600 cubic feet of water is a more reasonable allowance to be included in the minimum charge.

It is concluded that the rates requested by applicants are higher than are deemed proper after giving consideration to all factors. The rates prescribed in the order herein will contain the changes enumerated above as well as reductions up to 17% in applicants' proposed flat rates, and reductions up to 27% in proposed meter minimum charges, and reductions up to 17% in proposed meter quantity rates.

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 will require the construction, operation, and maintenance of a public utility water system by David and Bernard Black in Santa Clara County in the area set forth on a map marked Exhibit B attached to the application but excluding therefrom that area facing Almaden Road north and east from the intersection of Bertram Avenue.

IT IS HEREBY ORDERED that a certificate of public convenience and necessity be and it is granted David and Bernard Black to construct, operate and maintain a public utility system for the distribution and sale of water within the territory hereinbefore described.

IT IS HEREBY FURTHER ORDERED that applicants shall:

1. File in quadruplicate with this Commission within twenty (20) days after the effective date of this order, in conformity with General Order No. 96, the schedules of rates shown in Exhibit A attached hereto, to be charged for all water service rendered to customers after said effective date.
2. Within twenty (20) days after the effective date of this order, file with the Commission four sets of rules and regulations governing relations with their customers, 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 by distinctive markings the boundaries of the service area hereinbefore described and the location thereof with respect 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 portion thereof.
3. Within thirty (30) days after the effective date of this order, file four copies of a comprehensive map drawn to an indicated scale of not less than 400 feet to the inch, delineating by appropriate markings the various tracts of land, territory served, and the location of the various facilities and properties of the applicants.

IT IS HEREBY FURTHER ORDERED that applicants shall install on or before the first day of September, 1949, a storage tank below the dam of 25,000-gallon capacity or greater, and flushing valves that will enable all mains to be regularly flushed. Sixty (60) days after the effective date of this order applicant shall submit engineering plans for these improvements, a progress report on the installation thereof and a regular operating schedule for flushing mains. Similar progress reports shall be made each sixty (60) days thereafter until all of these improvements are installed and in proper operation.

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

Dated at San Francisco, California, this 24th day of May, 1949.

[Signature]
[Signature]
[Signature]
[Signature]
[Signature]
Commissioners

Schedule No. 1

METER RATES

APPLICABILITY

Applicable to all measured water service on a monthly or yearly basis.

TERRITORY

In and in the vicinity of the town of Almaden, Santa Clara County, above intersection of Bertram Avenue and Almaden Road.

RATES

Minimum Charges:

	<u>Monthly</u>	<u>Yearly</u>
For 5/8 x 3/4-inch meter	\$ 2.00	\$22.00
For 3/4-inch meter	2.50	27.50
For 1-inch meter	4.00	44.00
For 1 1/2-inch meter	8.00	88.00
For 2-inch meter	15.00	165.00

Quantity Charges:

	<u>Per Meter Per Month</u>
First 600 cubic feet or less	\$2.00
Next 1,400 cubic feet, per 100 cubic feet.25
Next 3,000 cubic feet, per 100 cubic feet.20
Next 10,000 cubic feet, per 100 cubic feet.15
Over 15,000 cubic feet, per 100 cubic feet.10

The minimum charge will entitle the customer to the quantity of water which that monthly minimum charge or 1/12 of the annual minimum charge will purchase at the monthly quantity rates..

SPECIAL CONDITIONS

1. The monthly minimum charges apply to permanent residents.
2. The annual minimum charges apply to seasonal residents and are due and payable semiannually in advance in 50% payments January 1 and July 1 of each year.

Schedule No. 2

FLAT RATES

APPLICABILITY

Applicable to all flat rate water service on a monthly and yearly basis.

TERRITORY

In and in the vicinity of the town of Almaden, Santa Clara County, above intersection of Bertram Avenue and Almaden Road.

RATES

	<u>Per Month</u>	<u>Per Year</u>
Dwelling, including not to exceed 2,500 square feet of garden	\$2.25	\$25.00
Additional garden irrigated per 100 square feet or fraction thereof10	.60
Cabin or apartment, not over two rooms, no garden	1.50	18.00
Fire hydrant, not to exceed a 3" outlet	1.50	18.00

SPECIAL CONDITIONS

1. For commercial or larger users, the rate to be determined by water use as measured by meter or estimated and applied to the meter rates set forth under Schedule No. 1.
2. The monthly rates apply to permanent residents.
3. The yearly rates apply to seasonal residents and are due and payable semiannually in advance in 50% payments January 1 and July 1 of each year.
4. Meters may be installed at option of utility or domestic or commercial customer, in which event service will thereafter be rendered only on the basis of Schedule No. 1, Meter Rates.