

Decision No. 43331

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

IN THE MATTER OF THE APPLICATION OF
GEORGE I. BUMGARDNER and GLADYS N.
BUMGARDNER, FOR AN ORDER OR CERTIFICATE
AUTHORIZING APPLICANTS TO CONDUCT A
WATER SYSTEM FOR THE PURPOSE OF
DELIVERING WATER TO RESIDENCES ON
CERTAIN TRACTS OF LAND NEAR THE CITY
OF MODESTO, COUNTY OF STANISLAUS,
STATE OF CALIFORNIA.

Application No. 30276

T. B. Scott for applicants.O P I N I O N

George I. and Gladys N. Bumgardner, doing business as George Bumgardner Water Company, by the above-entitled application filed April 30, 1949, request a certificate of public convenience and necessity authorizing them to serve water to residences within the following areas near the city of Modesto:

Olympic Tract
South Modesto Acres Tract No. 3
Wilén Tract
Wilén Tract No. 2
Woodman Tract
Frazier Tract
Frazier Home Tract
Francek Tract
Dunham Tract
Weil Colony (Blocks 11, 12, 13 and 14)

Maps of the territory included within these tracts are attached to the application and marked Exhibits A to J, inclusive. Applicants are also requesting that water rates be established at a level higher than the rates which are now being applied. The proposed flat rates are contained in the application and a proposed set of optional meter rates was requested at the hearing, designated Exhibit No. 1 in this proceeding. A public hearing on this

application was held before Examiner Edwards on August 31, 1949, at Modesto, California.

Under date of April 12, 1949, applicants obtained a franchise by resolution from the Board of Supervisors of the County of Stanislaus granting permission to maintain, use, repair, and replace water pipes and incidental installations in the public streets of the county in the aforementioned areas, marked Exhibit K. The term of the franchise is indeterminate and the franchise is assignable to the assignees and successors in interest of George I. and Gladys N. Bumgardner, doing business under the name of George Bumgardner Water Company. Under the franchise, no fee is payable and no costs were incurred by applicants in obtaining the franchise. The applicants have stipulated that they, their successors or assigns, will never claim before the Commission or before any court or public body, any value for the aforesaid franchise.

Applicants' water system consists of four separate units; each one complete within itself, containing wells, pumps and distribution mains not interconnected with the other units. The first unit serves the areas known as South Modesto Acres No. 3, Frazier Tract, and Frazier Home Tract, all located about one mile south of the city of Modesto. These tracts cover areas of 104 acres, 11 acres, and 42 acres, respectively. Service was first started in 1940. Water is produced by three wells with 25 hp turbine pumps and 3,000 to 5,000-gallon pressure tanks. There are 24,500 feet of two-inch, four-inch, and six-inch distribution mains in this unit, which serves 570 customers with service connections varying from one-half inch to one inch in size.

The second unit serves the area known as Olympic Tract, located about a mile southeast of the city of Modesto and three-quarters of a mile east of the first unit. This tract covers an

area of 106 acres and was first served in 1946. Water is produced by two wells with 15 and 20 hp turbine pumps, connected to 4,000-gallon pressure tanks. Water from these two sources is delivered through some 11,000 feet of four-inch and six-inch distribution mains to 284 customers with services of 3/4-inch and one-inch size.

Unit No. 3 comprises the areas known as Wilen Tract, Wilen Tract No. 2, and Dunham Tract, all located about a mile northwest of the city of Modesto. These tracts cover areas of 35 acres, 12 acres, and seven acres, respectively. Service was first started in 1945. Water is obtained from a ten-inch well by means of a 10 hp turbine pump, connected to a 3,000-gallon pressure tank. Water is delivered through some 9,500 feet of 2½-inch, four-inch, and six-inch distribution mains to 185 customers with services varying in size from 3/4 to one inch.

The fourth unit serves the area known as Woodman and Francek Tracts and the applicants intend to add Lots 11 to 14 in the adjacent Weil Colony. These tracts are all located about one mile north of the city of Modesto and adjacent to the east side of Unit No. 3. They cover areas of 29 acres, 21 acres, and 20 acres, respectively, and were first served in 1947. Water is obtained from a 12-inch well by means of a 15 hp turbine pump connected to a 3,000-gallon pressure tank. This water is delivered through some 8,200 feet of four-inch and six-inch distribution mains to 96 customers with 3/4-inch service connections. In the near future, applicants plan to consolidate Units Nos. 3 and 4 by installing a six-inch interconnecting water main. Total service by this utility covers 1,135 customers in the entire service area of 387 acres.

Applicants are requesting that the present flat rate for a half-inch outlet be set at \$2, 3/4-inch at \$2.50, and one-inch at \$3.35. These proposed rates are 20 to 25 cents per month higher

than rates currently being charged. Applicants are also requesting permission to continue a 10% penalty charge if the bills are not paid by the tenth of each month, but withdrew the request for connection charges for new services. With regard to meter rates, applicants request a minimum charge for 5/8-inch meter of \$2.25 per month for the first 500 cubic feet, with minimum charges for larger sizes of meters, and quantity rates to be determined and set by the Commission.

In substantiation of the need for the proposed rates, applicants' witness testified that the unit costs of labor and material have increased substantially since the systems were originally constructed. Heretofore, operations have been carried on as a private business without a certificate, but upon certification as a public utility, there will be increases in the cost of accounting, filing and publishing rates, rules and regulations, and billing in order to comply with the regulations prescribed by the Commission. In the past, the applicants have not been making out and mailing bills each month, but would send reminders to all customers who did not pay their bills by the 15th day of each month. Applicants' witness also testified that improvements in the system are needed in order to render better service. A higher rate also is necessary to yield a rate of return commensurate with the cost of borrowed money.

In order to determine what effect the proposed rates would have on the earnings of the system, an engineer from the Hydraulic Division of the Commission's staff, Mr. Ed F. Catey, made an appraisal and results of operation study for the years 1948 and 1949 and presented a copy of his report in evidence at the hearing, as Exhibit No. 2. The exhibit shows that the proposed rates increased the rate of return from 8.2% to 10.1% on the basis of the 1948 level

of business. For the estimated year 1949, the rate of return would increase from 5.7% to 7.8%. For the purpose of computing this rate of return, a straight line depreciation method was used, together with a depreciated rate base. The revenues upon which these returns have been computed, include improper delayed payment penalties and connection charges for new services. Difficulty was experienced in properly segregating the operating expenses and capital costs of this business enterprise prior to 1948, because Mr. Bumgardner was also in the well-drilling business and applicants' records combine the well drilling and water operations in one set of books.

At the hearing, interest in the proposed rate increase was manifested by several customers, some of whom presented statements for the record. Principal objection of the customers was to the proposed rate because of low water pressure during periods of heavy usage. Objections were also made to the penalty provision, which was applied on the tenth of each month and which was charged before the service had been rendered. The present method of billing is to require the customers to pay in advance, and many expressed the opinion that it was unfair to charge a penalty on payments for service that had not as yet been rendered. Others testified that there was discrimination between the half-inch and the 3/4-inch rates. Others questioned the equity of adopting meter rates if only a few customers were to be metered. There were also complaints of sand and rust in the water.

Applicants' witness was unable to account for the low pressure in most cases, because the pipes appeared of adequate size. The pumps are set to start when the pressure drops to 35 pounds and shut down when the pressure reaches 55 pounds. Some of the difficulties were due to (a) dead-end mains, (b) 1/2-inch service connections, and (c) 1/2-inch house pipes. However, it is believed that the low

pressure condition could be improved by setting the minimum pressure on the pumps up to 40 pounds and correcting the above-mentioned difficulties. Applicants' witness also stated that an open bottom type of pump well casing was used in order to seal off any contamination from cesspools or septic tanks that might arise if a perforated type of casing were used. This condition causes some sand to be drawn into the system, but the condition can be improved by instituting a regular program of flushing of mains.

At the hearing, no opposition to the granting of a certificate of public convenience and necessity was manifested. The principal opposition shown was in regard to the level of the rate to be set. From the testimony received, it appears that the George Bumgardner Water Company was the only firm rendering public utility water service within the areas mentioned.

In analyzing the record in this proceeding and in reaching a conclusion as to rates for the future, the objection of the customers, as well as applicants' required improvements and increased costs, will be given due consideration. In order to finance the required system improvements, it is necessary that the earning position of this utility be improved at this time. Applicants' request for a 10% delayed payment penalty will not be granted. Likewise, no connection charge will be permitted other than that provided by the rules and regulations to be filed governing extensions of mains. Applicants should negotiate with the county for fire hydrant rates that will cover the cost of rendering this type of service.

It is concluded that the rates established in the following order are not unreasonable and are estimated to produce for 1949 a net revenue of \$5,400 and a rate of return of 6.1% on a depreciated rate base of \$88,600. The rates established provide for a minimum

size of service connection of 3/4-inch and the applicants, at their expense, shall provide upon consumer's request, a 3/4-inch service connection.

From the evidence of record, the Commission will find that public convenience and necessity require the issuance of this certificate and the exercise by applicants of the right, privilege and franchise granted to the George Bumgardner Water Company, by resolution of the Board of Supervisors of Stanislaus County, dated April 12, 1949.

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 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

Public hearing having been held on the above-entitled application, the matter having been submitted, and the Commission being fully advised,

IT IS HEREBY FOUND AS A FACT that public convenience and necessity will require the construction and operation of a public utility water system by George I. and Gladys N. Bumgardner in Stanislaus County in the area set forth in maps marked Exhibits A to J inclusive and to exercise the franchise rights contained in Exhibit K in this proceeding.

IT IS HEREBY ORDERED that a certificate of public convenience and necessity be and it is granted George I. and Gladys N. Bumgardner.

doing business as George Bumgardner Water Company to construct and operate a public utility system for the distribution and sale of water within the territory hereinbefore described and to exercise the right, privilege and franchise granted April 12, 1949 by resolution of the Board of Supervisors of Stanislaus County, subject, however, to the following conditions:

1. That the George Bumgardner Water Company shall not exercise this franchise for the purpose of supplying water in those parts or portions of Stanislaus County not now served by it except through extensions of its existing system made in the ordinary course of business, as contemplated by Section 50(a) of the Public Utilities Act.
2. That the George Bumgardner Water Company shall not exercise the franchise for the purpose of supplying water in those parts or portions of Stanislaus County lying outside of the area defined in said franchise, except under further certificate of this Commission first obtained; and
3. That the Commission may hereafter, by appropriate proceeding and order, limit the authority herein granted to applicant as to the entire territory within said county not then being served by it.

IT IS HEREBY FURTHER ORDERED that applicants shall:

1. File in quadruplicate with this Commission within five (5) days after the effective date of this order in conformity with General Order No. 96, the schedule of rates shown in Exhibit A, attached hereto, to be charged for all water service rendered to customers on and after the first day of November, 1949..
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 present service area 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 any portion thereof.

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

Dated at San Francisco, California, this 27th day of
September, 1949.

Justice F. Casanova
By ~~St. Lawrence~~
Harold P. Hills
Respectfully (Patterson)
Commissioners.

Schedule No. 1

GENERAL METERED SERVICE

APPLICABILITY

Applicable to all metered water service.

TERRITORY

Within the areas known as South Modesto Acres Tract No. 3, Frazier Home Tract, Frazier Tract, Olympia Tract, Wilen Tract, Wilen Tract No. 2, Dunham Tract, Woodman Tract, Francek Tract and Weil Colony (Blocks 11, 12, 13 and 14), all located in the vicinity of Modesto as shown on the maps included in the Tariff Schedules.

RATES

Quantity Rates:	Per Meter per Month
First 1,000 cu.ft. or less	\$ 2.25
Next 3,000 cu.ft., per 100 cu.ft.20
Next 6,000 cu.ft., per 100 cu.ft.15
Over 10,000 cu.ft., per 100 cu.ft.10

Minimum Charge:

For 5/8 x 3/4-inch meter	2.25
For 3/4-inch meter	2.75
For 1-inch meter	3.25
For 1 1/2-inch meter	6.00
For 2-inch meter	10.00
For 3-inch meter	15.00
For 4-inch meter	25.00

SPECIAL CONDITION

The minimum charge will entitle the customer to the quantity of water which that monthly minimum charge will purchase at the quantity rates.

Schedule No. 2

GENERAL FLAT RATE SERVICE

APPLICABILITY

Applicable to all flat rate water service.

TERRITORY

Within the areas known as South Modesto Acres Tract No. 3, Frazier Home Tract, Frazier Tract, Olympia Tract, Wilen Tract, Wilen Tract No. 2, Dunham Tract, Woodman Tract, Francek Tract and Weil Colony (Block 11, 12, 13 and 14), all located in the vicinity of Modesto as shown on the maps included in the Tariff Schedules.

RATES

Per Month

- (1) First dwelling, house or other single residential unit,
including an irrigated area of not over 5,000 square
feet of lawns, gardens, shrubbery or trees \$ 2.50
- (2) Each additional residential unit taking service through
the same connection 1.25
- (3) For irrigation of grounds planted to lawns, gardens,
shrubbery or trees, in excess of the 5,000 square feet
included in the residential rate, payable six months of
the year. (May through October.) Per 100 square feet05

SPECIAL CONDITION

A meter will be installed and Schedule No. 1 applied on any service if either the utility or the customer so desires.