

Decision No. 43472

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter 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 for applicant; White and Harbor  
 by Lawrence A. Schei for Tahoe Pines Association.

OPINION AND ORDER ON REHEARING

On November 3, 1948, by Decision No. 42183, this Commission granted Robert E. Shields a certificate of public convenience and necessity to operate a water system in an area comprising a portion of Tahoe Pines Tract and a portion of the Idlewild Subdivision in Placer County, California, and prescribed schedules of metered and flat rates for delivery of water. The Tahoe Pines Association took exception to a number of items appearing in the Commission's decision and filed a petition for rehearing on November 23, 1948. By order dated December 7, 1948, the petition of the association was granted and further hearing set. The rehearing was held before Commissioner Craemer and Examiner Edwards in Tahoe City on September 8, 1949.

The Commission had set a seasonal flat water rate of \$27.50 for service from May 15 to October 15, as requested by applicant. Also, it set a meter rate with a minimum seasonal charge of \$27.50 and with quantity rates of 25 cents per 100 cubic feet and 20 cents per 100 cubic feet, as requested by applicant. Inasmuch as the estimates showed no return on the investment with a total of 89 customers being served, the Commission found applicant's estimate of operating expenses not unreasonable for an average year's operation in the near future and therefore established rates at the level requested.

The association's main objection was to the level of the operating expenses. The previous owners had shown an annual cost of \$500 per year to operate the system, compared with the expense of \$2,425 estimated by Mr. Shields. The petition pointed at the level of taxes, depreciation, repairs, management, supervision, law and Public Utilities Commission expenses as being too high. It also requested a limitation as to service to the Idlewild area. The association requested winter service, as rendered in recent years. Furthermore, the association stated that the right to use water was appurtenant to each lot and that there had been no dedication to public use. Counsel for the association challenged the Commission's jurisdiction, and stated that if the Commission does not have jurisdiction, the proceeding should be dismissed.

In answer to the association's contentions, the applicant testified that he had purchased the water system for \$7,000, which was the market value at the time of purchase; however, the estimated historical cost was much higher. The exact data were not available to determine such cost, but a reasonable estimate could be drawn from the description of the Tahoe Pines water system, together with details of the length of pipe and approximate dates of installation, which were submitted at the rehearing as Exhibit No. 7. The applicant also submitted Exhibit No. 8, which contained a statement of expenses from June 1, 1948 to June 1, 1949, showing expenses of \$2,501.75. During 1948 the income was \$2,202.50, indicating that the expenses were actually running ahead of the revenues.

For the purpose of obtaining a firsthand picture as to the cost of operating this system, the Commission delegated one of the hydraulic engineers on its staff, Mr. V. R. Muth, to make a study and render a report. His report was introduced in evidence at the hearing as Exhibit No. 10. This study showed an estimated historical cost for the system, as of August 1, 1949, at \$16,185. The estimated revenues

for 1949 are \$2,310, annual operating expenses \$1,850, and the rate of return 2.8% on a rate base of \$16,185. It was pointed out to counsel for the association that, even if the applicant's original net investment exclusive of additions and betterments were used instead of the historical rate base, the return would still be within a reasonable level and the Commission could not therefore require rates lower than those established.

At close of the hearing, counsel for the association was requested to submit within thirty (30) days a brief with regard to the rights of property owners to free water service. After thirty (30) days, however, association's counsel did not file any brief or submit any documentary evidence in this regard.

From the evidence of record, it is concluded the applicant's estimated expenses were in keeping with the actual experience and will be in accordance with the estimate for 1949 made by the Commission's engineer. Furthermore, the present rate of return is not unreasonably high, and the Commission finds no basis for revising the rates set forth in the original decision. The Commission is aware of the extra cost involved in rendering year-round service, and therefore will not require the applicant to render service beyond the summer season at the rates established. The association indicated no desire to pay necessary rates to cover the extra costs that would be involved in year-round service.

The association's contention that the water users have a right to perpetual free water service was not borne out by any documentary evidence submitted. The Commission is of the opinion that it has full jurisdiction over this utility's operations and that the association's request therefore should be denied.

The petition of Tahoe Pines Association for a rehearing in this proceeding having been granted, such rehearing held, evidence introduced, the matter submitted for decision, and the Commission being fully advised in the premises;

IT IS HEREBY ORDERED that Decision No. 42183, dated November 3, 1948, be and it is reaffirmed.

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

Dated at San Francisco, California, this 1<sup>st</sup> day of November, 1949.

R. E. Johnson  
Justin J. Casner  
Wesley H. Small  
Harold T. Kule  
Kenneth P. Potter  
Commissioners.