

Decision No. 43473

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
 Peninsula Service Corporation for
 Certificate of Public Convenience
 and Necessity.

Application No. 30206

DiMaria and DiMaria, by Philip A. DiMaria,
 for applicant, and Emmett R. Burns and
 Arthur T. Bridgett for Calderon Real Property
 Owners Protective Association.

O P I N I O N

Peninsula Service Corporation, a corporation, asks the Commission to grant it a certificate of public convenience and necessity to construct and operate a public utility water system within a subdivided area located approximately two miles north of the City of Mountain View, Santa Clara County. The Commission is also asked to establish meter rates for the water service to be furnished.

A public hearing in this proceeding was held in Mountain View before Examiner Stava.

Applicant had asked in a former application, No. 29027, for a certificate for a 925-acre territory in the same general area it now proposes to serve. This request was denied by the Commission in its Decision No. 42020, issued September 3, 1948, mainly on the grounds that plans for furnishing the service were indefinite and on the further grounds that the application was opposed by practically all of the property owners in the area.

In this proceeding applicant has restricted its request for a certificate to a 14-acre area, consisting of Lots Nos. 34, 35, and 36, of Sierra Vista Addition No. 1; Lots Nos. 11, 25, 26 and 27, of Sierra Vista Addition No. 2; Lots Nos. 20, 21, 47, 48, and 49 of Sierra Vista

Addition No. 3; and Lots No. 6 and 7 Sierra Vista Addition No. 4. These lots can be subdivided into approximately 50 residential lots. At present there are 12 dwellings within the proposed service area.

The record shows that water service is presently being supplied to five of the dwellings from a leased well, and to an unoccupied home from a new well owned by applicant. A flat rate of \$3.50 per month is being charged for the service from the leased well.

Applicant has drilled a ten-inch well 220 feet deep and installed an electrically driven turbine pump, together with 1,500-gallon pressure tank at the well site. Water presently is distributed from this well through 182 feet of four-inch pipe. The cost of the installed portion of the system is \$4,908. Applicant proposes to install 2,980 feet of four-and two-inch pipe to serve the balance of the tract at a cost of \$4,283, resulting in a total investment of \$9,191 in the system.

Applicant requested the Commission to establish a schedule of rates that provides for a monthly minimum charge of \$2.50 with an allowance of 700 cubic feet of water. For excess use the charges are decreased through three blocks to 15 cents per 100 cubic feet, for quantities over 10,000 cubic feet. However, at the hearing a witness for applicant stated that a reduced rate would be acceptable in view of lower rates being effective in the general area for similar service.

The Board of Supervisors of Santa Clara County on December 9, 1947, granted applicant permission to construct and operate water pipe lines in, along and under county roads in the area for which a certificate was requested in Application No. 29037 and which also covers the area requested herein.

Property owners within the proposed service area testified that the water obtainable from shallow wells in that section was not a safe or satisfactory supply for domestic purposes, as it was distasteful and subject to possible contamination from septic tanks in the surrounding territory; and, owing to its hard quality, water softeners were

required to make the water usable for household purposes. These witnesses, some of whom are also directors of the company, desired a utility water service instead of the expense of installing and operating their individual well, pump and water softener. These witnesses desire to subdivide their property and build dwellings for sale purposes; and a public utility water supply is required before the homes can be financed through the Federal Housing Administration.

A general protest was made to the granting of the certificate by the property owners surrounding the proposed service area, who have formed an organization called the Calderon Real Property Owners Protective Association and represented some 425 members. Witnesses for the protestants testified that they owned acreage varying from one- to 36-acre parcels; that each parcel had a well, pump, and tank that supplied water for domestic and irrigation use and represented an average investment in excess of \$1,000. Almost all of these protestants had gardens, trees, some chickens or rabbits and claim that they had moved from cities to live in the country in order to avoid the various sanitary, water and other restrictions imposed by cities brought about by the concentration of population within their boundaries. These witnesses feared that the drilling and operation of a deep well by a public utility would lower the water table in this territory and would deprive them of water from their own wells. A witness testified that it was necessary to lower the pump at the Whisman School because irrigation pumping in the vicinity had lowered the water table. Other witnesses testified that a utility district should be formed and water obtained from San Francisco Water Department, as its new Hetch Hetchy line is expected to be installed through this territory.

The protestants contend that this Commission has no authority or jurisdiction to grant applicant a certificate to operate a public utility unless applicant shall first have obtained a permit from the Department of Public Works to take water from subterranean channels as provided by the Water Code of the State of California.

Applicant takes the position that protestants have recourse to the civil courts if they suffer any damage from a lowered water table resulting from applicant's operations; that a utility well operation could not be compared to the production required for irrigation of a celery crop, and that protestants residing one to 1½ miles from a 220-foot well would certainly not be affected by its operations; that permits from the Department of Public Works are required only for withdrawals of water from subterranean streams flowing through main and definite channels which underground condition is non-existent in this territory.

The record does not show that there are any definite water channels in the area. The evidence does show that water is obtained from different strata at varying depths and almost at any location. However, the quality of the water generally varies with the depth and appears to be of a better quality from the deeper zones. Under these conditions a permit from the Department of Public Works would not be necessary.

The record shows that applicant has asked for a certificate to furnish water to property not supplied by privately owned wells or by any utility and where the owners thereof definitely desire a public utility water service instead of privately owned wells and pumping plants. Under the circumstances, the Commission feels that it is in the public interest that a certificate be granted applicant, for the area requested. Protestants can, of course, control the expansion of the utility service area by not selling their properties to subdividers, although the record indicates the trend of development of this territory is toward a suburban residential area.

A schedule of rates will be established in the following order that will provide for charges that are similar to those effective on systems similarly operated.

The certificate of public convenience and necessity issued herein is subject to the following provisions 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.

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 and operation of a public utility water system by Peninsula Service Corporation, a corporation, in Santa Clara County, in the area set forth in a map marked Exhibit No. 1 in this proceeding; therefore,

IT IS HEREBY ORDERED that a certificate of public convenience and necessity be and it is granted Peninsula Service Corporation, a corporation, to construct and operate a public utility system for the distribution and sale of water within the territory hereinabove described.

IT IS HEREBY FURTHER ORDERED as follows:

1. Applicant shall file four copies of the rates set forth in Exhibit A attached to this order, together with rules and regulations and a tariff service area map acceptable to this Commission and in accordance with the requirements of General Order No. 96, within ten (10) days after the effective date hereof, to be charged for water service rendered on and after December 1, 1949.
2. Applicant shall notify this Commission in writing, within thirty (30) days thereafter, of the completion of the facilities scheduled for construction, but not installed at the time of the hearing, on the system for which this certificate is granted.

3. Applicant shall, within forty (40) 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 and territory served and the location of the various properties of applicant.

The authorization herein granted will be void if not exercised within one (1) year from the date hereof.

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

Dated at San Francisco, California, this 1st day of November 1949.

R. E. Dintarney
Justus F. Casner
W. H. L. L. L. L.
Harold P. Hule
Frederick D. Datt
Commissioners.

Schedule No. 1

METER RATES

APPLICABILITY

Applicable to all measured water service.

TERRITORY

In an area at the intersection of Rengstorff Avenue and Leghorn Street, consisting of approximately 14 acres and located two miles north of the City of Mountain View, Santa Clara County.

RATES

| | <u>Per Meter</u> <u>Per Month</u> |
|------------------------------------|--------------------------------------|
| Minimum Charges: | |
| For 5/8 x 3/4-inch meter | \$2.25 |
| For 3/4-inch meter | 2.50 |
| For 1-inch meter | 4.00 |
| For 1 1/2-inch meter | 6.00 |
| For 2-inch meter | 9.00 |

The monthly minimum charge will entitle the customer to the quantity of water which that monthly minimum charge will purchase at the following monthly quantity charges:

| | |
|--|------|
| Quantity Charges: | |
| First 700 cubic feet or less | 2.25 |
| Next 800 cu. ft., per 100 cu. ft. | .30 |
| Next 3,000 cu. ft., per 100 cu. ft. | .25 |
| Next 5,500 cu. ft., per 100 cu. ft. | .20 |
| Over 10,000 cu. ft., per 100 cu. ft. | .15 |