

Decision No. 45351**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the
Application of WHITTIER WATER
COMPANY, a corporation, for a
certificate of public convenience
and necessity to serve certain
unincorporated territory west and
northwest of Whittier, California,
and to exercise franchise rights.

Application No. 31766
(Amended)

In the Matter of the Application
of PARK WATER COMPANY, a corpora-
tion, for a certificate of public
convenience and necessity to
furnish water service to certain
unincorporated territory in the
County of Los Angeles

Application No. 31924
(Amended)

In the Matter of the Application
of SUNSHINE WATER COMPANY, A
Corporation, For a Certificate
of Public Convenience and
Necessity to Furnish Water Ser-
vice to Certain Unincorporated
Territory In the County of Los
Angeles, California

Application No. 31947
(Amended)

Gordon and Knapp by Wyman C. Knapp, attorney,
for applicant in Application No. 31766 (Amended)
and for Whittier Water Company, protestant in
Application No. 31924 (Amended) and interested
party in Application No. 31947 (Amended);
Paul Overton and Herbert Cameron, attorneys, for
applicant in Application No. 31924 (Amended)
and for Park Water Company, protestant in
Application No. 31766 (Amended); Hill, Farrer &
Burrill and Williams S. Scully by Williams S. Scully,
attorney, for applicant in Application No. 31947
(Amended); Flint, McKay & Roscoe C. Andrews by
Roscoe C. Andrews, attorney, for Crystal Mutual Water
Company, protestant as to Parcels 5 and 6 in
Application No. 31947 (Amended); Edmund F. Barker,
attorney, and Carl J. Kriesant for Orchard Dale
Service Company, protestant as to Parcel 4 (Lot 6 of
the Gum Grove Tract) and Parcel 5 in Application
No. 31947 (Amended).

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O P I N I O N

Whittier Water Company, a corporation, on September 18, 1950, filed the above-entitled application for a certificate of public convenience and necessity to serve an area southwest of the City of Whittier and designated on the map filed as Appendix B, Page 2 of said application and further described as Parcel 2 of Appendix A thereof. The map attached to the application was amended by the filing at the hearing of the map marked Exhibit No. 25. The application was amended on September 26, 1950, to include a copy of Los Angeles County Franchise Ordinance No. 5426 dated November 1, 1949, and amended by Ordinance No. 5531 dated May 2, 1950.

Park Water Company, a corporation, filed the above-entitled application on November 21, 1950, for a certificate of public convenience and necessity in territory which more or less duplicates the area southwest of the City of Whittier applied for by Whittier Water Company. Park Water Company's application was amended on December 12, 1950, to include certain additional information required by the Commission's revised rules of procedure for filing of applications for certificates of public convenience and necessity.

Sunshine Water Company, a corporation, by the above-entitled application filed December 1, 1950, applied for a certificate of public convenience and necessity to furnish and supply water for domestic and other uses to some nine parcels lying generally south of, but immediately adjacent to, the areas applied for by Whittier Water Company and Park Water Company herein. This application was amended on December 13, 1950 to

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include certain additional information required by the Commission's revised rules of procedure for filing of applications for certificates of public convenience and necessity.

Consolidated public hearings in these applications as amended were held before Examiner Warner on December 12, 13, 15, and 20, 1950, and on January 3 and 4, 1951, at Los Angeles, California.

By its Decision No. 45277 dated January 16, 1951, in Application No. 31616 and Application No. 31766 (Amended), the Commission issued its interim opinion and order in Application No. 31766 (Amended). The interim order therein pertained to an area west, northwest, north and northeast of the City of Whittier. The matter of the portion of Whittier Water Company's Application No. 31766 (Amended) applying to the area southwest of the City of Whittier was deferred to the hearings herein.

On February 1, 1951, Park Water Company requested, in writing, the dismissal of its Application No. 31924 (Amended), and it appears that such request for dismissal should be granted, and the order herein will so provide.

Whittier Water Company is a California corporation serving approximately 3,500 domestic and irrigation customers in an area located just south of the southerly limits of the City of Whittier, California, and in the territory more particularly delineated on the map attached to the order in the Commission's Decision No. 43244 dated August 23, 1949, in Application No. 30375. One of two principal sources of water supply is the so-called Bassett wells field located about 9 miles northeast of the service area and from which it, by an arrangement with California Domestic Water Company, a mutual water company, is entitled to take

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250 miner's inches, and more, if necessary, through a 48-inch conduit to supply its domestic and irrigation consumers. Whittier Water Company's other principal source of supply is the Bartolo wells field located in the Whittier Narrows Flood Control Basin, from which it pumps water and transmits it to the service area through a 20-inch transmission main to a junction point with the Bassett wells conduit at a point near Rose Hills Memorial Park at the intersection of Guirado Avenue and Workman Mill Road, about one mile north of the northerly limits of the City of Whittier. Other water is obtained from La Habra Heights Mutual Water Company from the Judson properties well fields located west of the City of Whittier. The record shows that there is ample water supply to serve the area applied for herein.

The area for which Whittier Water Company has made application for a certificate to serve is bounded on the north by Mulberry Drive, on the south by Anaheim-Telegraph Road, on the east by Gunn Avenue and on the west by Painter Avenue, and is more particularly delineated on the map filed at the hearing as Exhibit No. 25. The area includes Tract No. 16878 in which some 900 homes are under, or are about to be under, construction. It also includes, to the immediate south of said tract, a large unsubdivided area, which the record shows is about to be subdivided.

Whittier Water Company has furnished irrigation service to several customers located on the east side of Painter Avenue just north of Anaheim-Telegraph Road since 1900, and has been serving certain other customers located just east of Painter Avenue and south of Mulberry Drive, and just south of Mulberry Drive between Laurel Avenue and Walnut Way, and at the southwest corner of Mulberry Drive and Gunn Avenue. It is a fact, therefore, that Whittier Water Company has been serving, from presently

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installed facilities, the area applied for on at least three sides for many years. Its general service area lies immediately north of Mulberry Drive in this vicinity, and it is evident that any expansion of the present service area, authorized by the order herein, would be normal. The record shows that Whittier Water Company is financially able to serve the proposed area, that its waters have been and are regularly tested by Los Angeles County Health authorities and have been found to be potable and free of contamination, and that pipe is either on hand or available, to effect certain proposed installations.

Many hearing days were occupied with testimony concerning Park Water Company's application to serve Tract No. 16878. With the before-referred-to filing, by Park, of its request for dismissal of its application, and the granting of such request by the order herein, it becomes unnecessary for the Commission to adjudge the merits of the rival applications as between Park and Whittier. The record shows that Whittier Water Company will effect the proposed installations, both in Tract No. 16878 and elsewhere in the area certificated herein, in accordance with its Rule and Regulation No. 19 on file with the Commission. This rule provides that consumers' advances for construction shall be refunded, over a 10-year period, out of 35% of the revenues deriving from the construction.

Rates proposed to be charged in the area applied for would be those domestic rates presently on file with the Commission by Whittier Water Company for its entire system, and they appear to be reasonable. The order herein will provide for the granting of Whittier's application.

Sunshine Water Company is a California corporation which has been furnishing water service since December 12, 1927, throughout

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an area located just south of Anaheim-Telegraph Road extending to Leffingwell Road on the south and bounded by Shoemaker Avenue on the west and Leland Avenue on the east.

As of December 31, 1949, water service was furnished to 883 domestic consumers, one industrial consumer, and two fire hydrant consumers. Nine parcels contiguous to Sunshine Water Company's present service area, for which application is made herein for a certificate to serve, are shown on the map filed with Application No. 31947 (Amended), as Exhibit A, and are described in detail on Pages 2 and 3 of said application. They are more particularly delineated on the map filed at the hearing as Exhibit No. 43.

There was no protest to the granting of the application to serve Parcels 1, 2, 3, 7, 8, and 9, but Crystal Mutual Water Company protested Sunshine's application to serve Parcels 5 and 6, and Orchard Dale Service Company protested Lot 6 of the Gum Grove Tract, which is a portion of Parcel 4 of Sunshine's application. Orchard Dale also protested Parcel 5.

The record shows that Sunshine has ample facilities to serve the proposed additional areas, including those under protest. Sunshine's witness stated that the purpose of its application was to insure to itself the right to serve contiguous and adjacent territories where certain subdivision development was indicated and anticipated, although not definitely in progress.

Crystal Mutual Water Company made some representation at the hearing, but declined to present evidence, upon request of Sunshine, regarding its financial and other ability to serve the areas requested by Sunshine. The record, therefore, does not show whether or not Crystal could adequately serve the area it protests. Orchard Dale Service Company was shown in the record not to be able, either from a water supply standpoint or from a financial standpoint, to serve the areas which it protested.

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After a careful review of the record in these proceedings, we conclude that the public interest will best be served by the granting of Sunshine's application to serve each of the nine parcels requested, except that portion of Parcel 4 designated as Lot 6 of the Gum Grove Tract, which will continue to be served by Orchard Dale, and the order herein will so provide.

The Commission has considered the requests for certificates of public convenience and necessity and is of the opinion that they 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 taken herein shall not be construed to be a finding of the value of the property herein described.

O R D E R

The above-entitled applications having been considered, public hearings having been held, the matter of the Application No. 31766 (Amended) applying to the area southwest of the City of Whittier now having been submitted, the Commission having issued its interim order by its Decision No. 45277 dated January 16, 1951 in Application No. 31766 (Amended) applying to the areas west, northwest, north and northeast of the City of Whittier, the matters of the Applications No. 31924 (Amended) and No. 31947 (Amended) also having been submitted, a written request for dismissal of Application No. 31924 (Amended) having been filed with the Commission by Park Water Company on February 1, 1951, and it appearing that

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Applications No. 31766 (Amended) and No. 31947 (Amended) should be granted subject to certain conditions and that Application No. 31924 (Amended) should be dismissed, and those matters now being ready for decision,

IT IS HEREBY FOUND AS A FACT that public convenience and necessity will require the operation of a public utility water system by Whittier Water Company in the area delineated on the map therefor attached to this order as Exhibit A, and designated as Whittier Water Company, and to Sunshine Water Company in the area delineated on the map therefor attached to this order also as Exhibit A, and designated as Sunshine Water Company, therefore

IT IS HEREBY ORDERED that a certificate of public convenience and necessity be and it is granted to Whittier Water Company to operate a utility water system for the production, distribution, and sale of water within the territory shown on Exhibit A attached to this order, and designated as Whittier Water Company, and

IT IS HEREBY ORDERED that a certificate of public convenience and necessity be and it is granted to Sunshine Water Company to operate a public utility water system for the production, distribution and sale of water within the territory also shown on Exhibit A attached to this order, and designated as Sunshine Water Company, and

IT IS HEREBY FURTHER ORDERED that:

- (1) Whittier Water Company and Sunshine Water Company shall be authorized to file, publish and place in effect the presently filed rates applicable to the Whittier Water Company and to the Sunshine Water Company, respectively, in the areas shown on Exhibit A, attached hereto, and designated as Whittier Water Company and Sunshine Water Company, to be effective on and after March 10, 1951 together with the rules and regulations and tariff service area maps as may be acceptable to this Commission and in accordance with General Order No. 96.

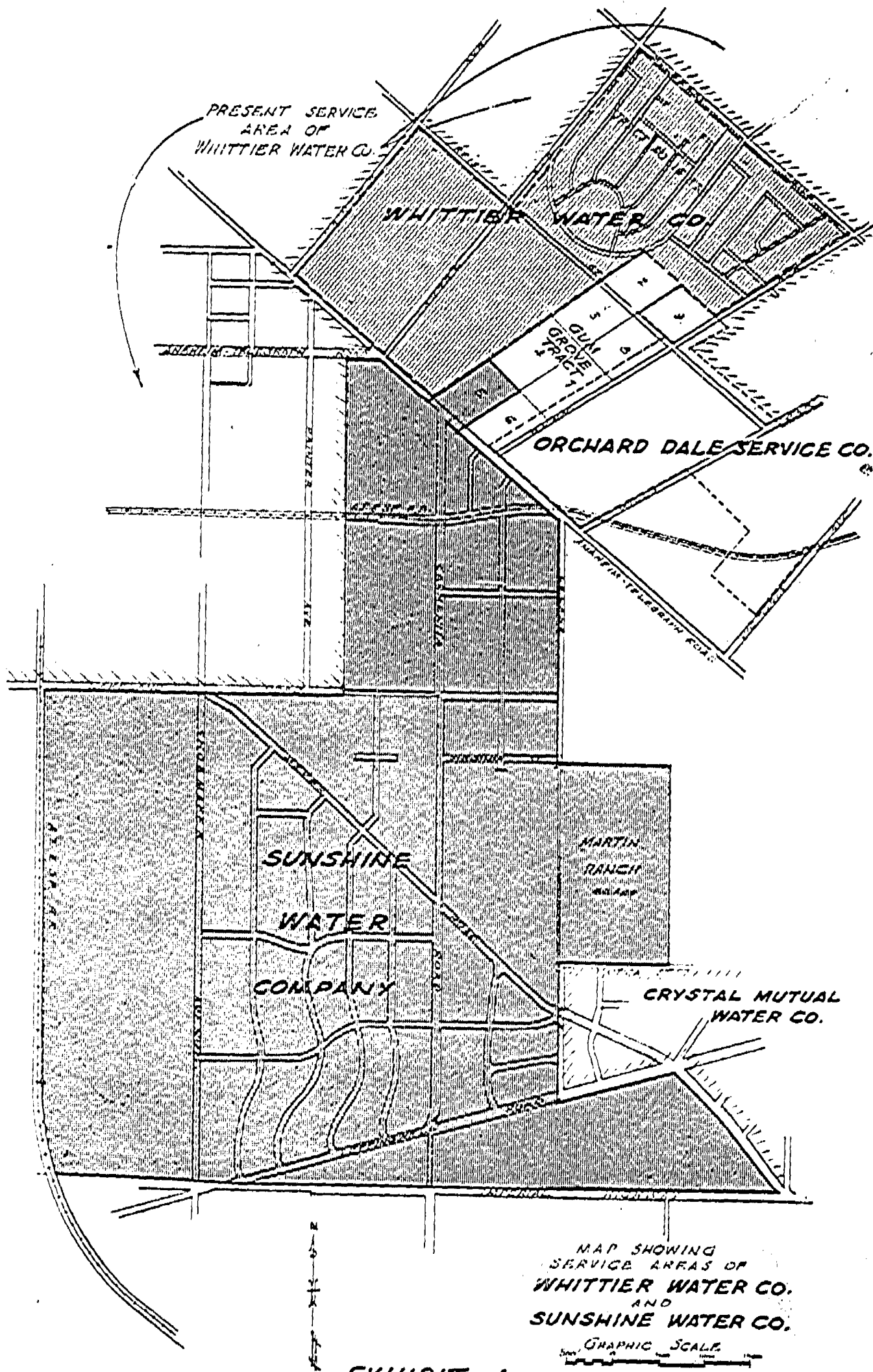


EXHIBIT A.

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- (2) Applicants, Whittier Water Company and Sunshine Water Company, each, shall file within forty (40) days after the effective date of this order four copies of a comprehensive map drawn to an indicated scale of not less than 600 feet to the inch delineating by appropriate markings tracts of land and territory served and the location of its properties in and immediately adjacent to the territories herein certificated to each said applicant.

IT IS HEREBY FURTHER ORDERED that Application No. 31924 (Amended) of Park Water Company shall be and it hereby is dismissed without prejudice.

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

Dated at San Francisco, California, this 13th day of February, 1951.

Q. J. Ingram
Justus J. Calver
Harold Huls
Frederick P. Potter
John E. Atchell
Commissioners.