

Decision No. 45831**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 CALIFORNIA WATER & TELEPHONE COMPANY,)
 for emergency relief by amending)
 Certain of its Sweetwater District)
 Rules and Regulations.)

Application No. 32305

Bacigalupi, Elkus & Salinger, by Claude Rosenberg,
 and DeWitt Higgs, attorneys, for applicant;
Albert C. Boyer, city attorney, City of Chula Vista,
 interested party and protestant; Edwin H. Campbell,
 city attorney, City of National City, Paul Engstrand,
 attorney, for South Bay Irrigation District,
Charles Fox, Jr., attorney for Verda Adams, land-
 owner, Gerald C. Thomas, attorney for
 Mrs. Albert G. Wheeler, owner of Bonita Hills, and
John J. Bryan, attorney, and Allan G. Olson,
Ralph W. Cortese, Robert A. Miles, and
Mrs. George Winn, subdividers, in propria personae,
 protestants; William Stava, for the Commission staff.

O P I N I O N

California Water & Telephone Company, by the above-
 entitled application, filed April 13, 1951, petitions the
 Commission for emergency relief by amending Rule No. 2 of its filed
 Rules and Regulations of its Sweetwater District which includes the
 cities of Chula Vista and National City and adjoining territory in
 San Diego County, California.

A public hearing in this matter was held before Examiner
 Warner on May 4, 1951, in San Diego, California.

The requested amendment to said Rule No. 2, Application
 for Service as amended at the hearing, is quoted as follows:

"No application for the extension of service will
 be granted, nor service rendered to, any subdivision
 not receiving service on April 10, 1951, unless it is a
 subdivision of land which received irrigation service
 for 12 consecutive months, or for a normal annual irri-
 gation season for the crop irrigated, during the 24 months

preceding the date of the application, in an amount at least substantially equal to that which will be required in the aggregate by said subdivision, annually, upon the completion of its development. Nothing contained in this paragraph shall be deemed to prevent the company from complying with any extension or subdivision agreement entered into by the Company prior to April 10, 1951.

"No application for service will be accepted or granted nor service rendered to irrigate land for commercial agricultural purposes unless such land received irrigation service for 12 consecutive months, or for a normal annual irrigation season for the crop irrigated, during the 24 months preceding the date of the application."

California Water & Telephone Company, a California corporation, is engaged in rendering public utility water service for irrigation, domestic, industrial, and public purposes in and about the cities of Chula Vista and National City in its Sweetwater District, and in and about the City of Coronado in its Coronado District, in San Diego County; in the cities of San Marino, and San Gabriel, and in unincorporated territory in Los Angeles County; and in the cities of Monterey, Pacific Grove, and Carmel, and in unincorporated territory in Monterey County. Applicant also renders telephone service in and about various communities in Riverside, San Bernardino, and Los Angeles Counties.

In its application, California Water & Telephone Company, alleges that due to almost unprecedented drought conditions affecting its Sweetwater District in San Diego County, it has become imperative that the Commission authorize the restrictions on the furnishing of domestic water service to new subdivisions, contained in the amendment to Rule No. 2 of its Rules and Regulations for its Sweetwater District as hereinbefore recited.

The record shows that the average number of consumers in applicant's Sweetwater District has increased from 5,885 in 1941 to 10,833 in 1950, and that it continues to increase. This is due to the general population increase in San Diego County in and about the

City of San Diego, effected, in large part, by the Korean situation and defense activities attendant thereto.

The record shows that the total water sales in applicant's Sweetwater District have increased from 4,576 acre-feet in 1941, to 9,157 acre-feet in 1950, and that they continue to increase due to the aforementioned reasons.

In November, 1947, upon completion of the San Diego Aqueduct carrying water from the Colorado River Aqueduct of the Metropolitan Water District of Southern California to the City of San Diego and intermediate and adjacent areas, applicant commenced receiving water from said aqueduct, through the La Mesa-Sweetwater Extension thereof, into its Sweetwater Reservoir, whence the water, so received, was discharged into the distribution system in and about the cities of Chula Vista and National City and elsewhere throughout the Sweetwater District. This water was commingled with water from its other sources of supply, viz., the Sweetwater River runoff, water stored in Sweetwater Reservoir and Loveland Lake, wells in Sweetwater Valley, if producing, and a well in National City.

Water is obtained through the San Diego Aqueduct from the San Diego County Water Authority in accordance with the terms of an agreement, dated February 24, 1948, between the cities of Chula Vista and National City and applicant, entered into evidence as Exhibit No. 9. The above-mentioned cities are member agencies of the San Diego County Water Authority which as the master agency administers the San Diego Aqueduct and the distribution of water therefrom to these cities and other members, including the City of San Diego.

As shown in the Fourth Annual Report of the San Diego County Water Authority for the year 1950 (Exhibit No. 15) the

estimated preferential entitlement to purchase Colorado River water as of June 30, 1950, for the City of Chula Vista was an annual delivery of 2,223 acre-feet and for National City was 1,853 acre-feet, totaling 4,076 acre-feet. Also shown in Exhibit No. 15 is the total use of Colorado River water by applicant, including evaporation losses in Sweetwater and Loveland Reservoirs, during the fiscal year 1949-1950. This water was allocated as follows: to Chula Vista, 5,042 acre-feet, National City 3,101 acre-feet, and outside cities, (not in San Diego County Water Authority), 4,566 acre-feet, for a total of 12,709 acre-feet.

During 1950 and 1951, the excess of usage over the entitlement from San Diego County Water Authority has been obtained by applicant from surplus water made available by the City of San Diego. The San Diego Aqueduct has a deliverable capacity of 71,000 acre-feet per year, and has been operated at capacity since its completion. Of this total capacity, the City of San Diego is entitled to approximately 80%. During 1950, it made available to other members of the San Diego County Water Authority, certain surplus water. Applicant received approximately 9,000 acre-feet, of this surplus water.

Applicant maintains two storage reservoirs, which have not received any appreciable rainfall runoff since the winter of 1943-1944. The first is Sweetwater Reservoir, with a capacity of 27,000 acre-feet, which presently contains in storage approximately 6,000 acre-feet of water. This water has been accumulated by taking from the City of San Diego all surplus supply made available during 1950. The second reservoir is Loveland Lake with a capacity of 25,000 acre-feet, which has presently stored about 1,000 acre-feet of water which cannot be used due to excessive transmission losses in the Sweetwater River Channel if the water is released.

The two reservoirs with a capacity of 52,000 acre-feet, presently have usable storage of approximately 6,000 acre-feet. Applicant estimates that by December 31, 1951, the total water stored will be reduced to approximately 2,500 acre-feet.

Applicant's presently known sources of supply for the years 1951, and 1952, are: (1) the impounded flow of Sweetwater River, which has practically dried up, (2) drilled wells in Sweetwater Valley, which have been pumped dry, (3) water obtained by contract with National City and Chula Vista, amounting to approximately 4,000 acre-feet, (4) water obtained from the City of San Diego under surplus disposal arrangements, (5) the well acquired from National City in 1949, with an annual yield of approximately 1,500 acre-feet.

Applicant produced evidence regarding the contract with San Diego County Water Authority and the obtaining of surplus water from the City of San Diego, to the effect that the city has served notice it will require its full allotment of Colorado River water commencing May 1, 1951, (Exhibit 5). Due to drought conditions, expansion of service requirements and national defense demands, the waters stored in the reservoirs of the City of San Diego have been seriously depleted and it has been required to embark on a strenuous conservation program.

A witness for applicant testified that a new well is being drilled on properties near the Judson Reservoir, the production of which is not at all certain. Explorations of water supply in Tia Juana Valley have been nonproductive, and development of water in that valley would, in any event, require condemnation of land.

It therefore appears from a careful review of the record, that the water supplies available to applicant will be deficient

by approximately 4,000 acre-feet per year, except from the obtaining of surplus supplies from the City of San Diego, and the addition of approximately 860 acre-feet annually if, and when, South Bay Irrigation District becomes a member agency of the County Water Authority or until new water supply sources are developed in the area. The obtaining of such additional supplies appears unlikely.

Preliminary plans for design and construction of a second barrel of the San Diego Aqueduct already are in preparation. Upon completion of the project estimated to be in 1953, or 1954, applicant then may be entitled to approximately 4,000 additional acre-feet of water per annum. This quantity, however, makes up only the deficiency now overcome by the use of the surplus water made available by the City of San Diego. The record shows that the total entitlement to Colorado River water of San Diego County Water Authority is 112,000 acre-feet. The Authority is now receiving 71,000 acre-feet, the maximum capacity of the present single barrel aqueduct.

By Decision No. 9514, dated September 14, 1921, in Application No. 6715 and Case No. 1627, the Commission ordered that further extension of the irrigated area of the Sweetwater System be discontinued until additional facilities for increasing the water supply were provided. The restrictions contained in said order have never been removed by the Commission, hence are still in effect. However, water for domestic purposes has been supplied by applicant to subdivisions located on lands not entitled to irrigation service, and thereby expanded the area served and increased the use of water. The applicant's records indicate that the use of water for citrus irrigation is approximately one acre-foot per acre, and that the consumption is practically the same for subdivided domestic residential property.

It is evident that one of the effects of the application of the proposed amendment being considered herein would be to halt during the emergency the subdividing of those lands which have never been irrigated, together with those lands which may have been irrigated in the past, but have not been irrigated during the past twelve (12) consecutive months, or have not received irrigation service for a normal crop season during the twenty-four (24) months immediately preceding application for service. Also denied water will be land which otherwise qualifies for water service to a subdivision or proposed subdivision, but when subdivided will require an amount of water for domestic service substantially larger than that used when it was receiving irrigation service.

National City, a protestant in the proceeding, has approximately 200 acres of land within its territory, presently receiving irrigation service from California Water & Telephone Company. This is the only land in its territory, which if subdivided, under the proposed rule would be eligible for domestic service. All other surrounding land of National City, is so-called "dry land," which has not been irrigated, and under the proposed rule would not qualify for domestic service.

National City also claims it should receive at least an additional 1,200 acre-feet, which is the amount of water produced from the well it developed and later sold to applicant, on September 19, 1950. However, National City conveyed this well by grant deed, without any restrictions or conditions as to the use of the well water therein. This supply now has been dedicated to system-wide use and therefore, National City has no valid claim to this particular water.

The Commission recognizes that a hardship as to subdivision expansion in National City will occur, but public convenience and necessity require water conservation during the existing emergency.

The hardship of protestant City of Chula Vista will not be as great as that of National City. In Chula Vista there is ample land for subdivision expansion, which has been receiving irrigation service and is known as "wet land."

Protestants, L. T. Brewer and Frank Maggiora, will be eligible to receive service for their subdivision known as La Playa Vista Annex No. 2. These protestants filed their application for service on April 13, 1951, which is the limiting date hereinafter established in the order.

The Commission recognizes the serious consequences of authorizing restrictions on the extension of water service to real estate subdivisions, but herein finds that certain restrictions and limitations are necessary because of the existing water shortage emergency. The restrictions will but temporarily retard the present rapid expansion of the communities involved and the development of lands not heretofore irrigated. However, from the evidence, restrictions are necessary because of the critical lack of water supply in the area without any immediately available source to relieve the situation. It is found that the adoption of such a rule is required during the existing emergency caused by drought conditions. *added*

The proposed rule as worded by applicant is ambiguous and has been rewritten with substantially the same intent and meaning. The rule as rewritten is set forth in the order following. The limiting date of April 13, 1951, is adopted in said rule, being the date the application in this proceeding was filed with the Commission.

O R D E R

CALIFORNIA WATER & TELEPHONE COMPANY, a corporation, having applied to this Commission for emergency relief to amend Rule No. 2, Application for Service, of its Sweetwater District Rules and Regulations, a public hearing having been held, and the matter having been submitted, and it appearing that (amendment is necessary, *changed*)

IT IS HEREBY FOUND AS A FACT that the emergency created by the existing water shortage requires) an amendment to Rule No. 2 of the Rules and Regulations, as filed by the California Water & Telephone Company for its Sweetwater District, *addition* and that such amended rule shall remain in effect until such time as the Commission may determine that an emergency no longer exists, now, therefore,

IT IS HEREBY ORDERED that California Water & Telephone Company, a corporation, file with this Commission on or before the effective date of this order, amendment to Rule No. 2, of the Rules and Regulations of its Sweetwater District, by adding to said rule the following:

"No application for the extension of service to any subdivision, as hereinafter defined, will be granted nor service rendered to such subdivision unless application therefor has been made on or prior to April 13, 1951, except as hereinafter provided.

"A subdivision is defined as any land or lands, divided or proposed to be divided, for the purpose of sale or lease, immediate or future, into five (5) or more lots or parcels.

"However, application for an extension of service to any subdivision or proposed subdivision, may be made after April 13, 1951, and such service will be rendered if the land of such subdivision received irrigation service for a crop that has been irrigated within the twenty-four (24) months immediately preceding the date of application for an extension of service.

"Nothing contained in this rule shall be interpreted or deemed to prevent the Company from complying with any subdivision agreement where application for service or an extension of service has been made to the company on or prior to April 13, 1951. *omission*

with 22
"No application for service will be accepted or granted nor service rendered for the purpose of irrigating land for commercial agricultural purposes unless such land received irrigation service ~~during~~ during twenty-four (24) months immediately preceding the date of application for service or extension of service."

"This emergency rule shall be construed and applied only in conjunction with Paragraph (B) Extensions To Serve Tracts Or Subdivisions, Rule and Regulation No. 19, Main Extensions, and shall not apply to Paragraph (A) General Extensions, under said Rule and Regulation No. 19."

"This rule shall not limit or restrict in any manner whatsoever the granting of service to new applicants, other than for subdivisions and irrigation service as hereinabove provided."

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

Dated at San Francisco, California, this 12th day of June, 1951.

A. F. Johnson
Harold Hulse
John L. White

Commissioners