

ORIGINAL

Decision No. 46758

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the application of)
DYKE WATER COMPANY, A California)
Corporation,)

(a) For certificate of Public Con-)
venience and Necessity to Operate)
a Public Water System under Section 50)
of the Public Utilities Act, and)

Application No. 32634
(Amended)

(b) For Order Fixing Rates for such)
Water System under Section 32 of the)
Public Utilities Act.)

Arlyne Lansdale, attorney, for applicant;
George C. Lyon, attorney, for Mountain Properties,
Inc., Loren E. Blakeley, consulting engineer, for
Orange County Water Services Company, James Alderson,
Alfred A. Holve, George Vandenberg, S. W. Lehmer,
J. L. Anderson, M. H. Seaver, Howard F. Pannier,
protestants as to area requested in original
application; C. J. Marks and Dian R. Gardner, for
the Orange County Farm Bureau, interested party;
T. B. Smith and D. H. Musseman, consumers, interested
parties; James G. Lee and Theo Stein for the Commission
staff.

O P I N I O N

Dyke Water Company, a corporation, in its original application filed July 27, 1951, requested a certificate of public convenience and necessity to operate a public utility water system in an area comprising five sections, or approximately 5 square miles of land, located southwest of Anaheim and north of Garden Grove, Orange County. An order requesting the establishment of rates for water service in such territory was also requested. By an amendment to the application filed October 15, 1951, authority to issue 100 shares of stock of par value of \$100 each, or of an aggregate par value of \$10,000, and authority to issue a note in the amount of \$5,000, were also requested.

Public hearings in this matter as amended were held before Commissioner Craemer and Examiner Warner on October 17, 1951, and January 9, 1952, in Santa Ana, California. The matter was submitted for decision on the latter date contingent upon the filing of additional evidence by January 14, 1952.

Dyke Water Company is a California corporation whose Articles of Incorporation were filed with the Secretary of State on March 5, 1951. By its Articles of Incorporation, applicant is authorized to issue one class of shares of stock, the total number of such shares is two hundred and fifty (250) with a par value of \$100 each, or an aggregate par value of twenty-five thousand dollars (\$25,000).

At the original hearing on October 17, 1951, the evidence developed that applicant did not own entirely its so-called well site No. 1, located in the W. G. Sidney Harris Subdivision, Tract No. 1345, Orange County. The evidence at the original hearing also developed that applicant's well in Tract No. 1336 on its so-called well site No. 2, located about 1½ miles due west of Tract No. 1345, had not as yet been connected with electric power and the water production facilities in that well were, therefore, inoperative. The matter was continued to provide applicant an opportunity to clear up questions regarding the titles to and status of those facilities.

The area requested to be certificated by the original application was bounded on the north by Ball Road, on the west by an area extending over Magnolia Street to the west, on the south by Chapman Avenue, and by a line extending north from Chapman Avenue, at a point between Euclid Avenue and 9th Street, to Ball Road. At the hearing on January 9, 1952, applicant's witness stated that a question regarding applicant's title to well site No. 2 in

Tract No. 1336 had arisen and the request to serve the large area comprising the five sections of land was withdrawn, and the original application was amended to serve only Tract No. 1345 located in the northwest corner of Euclid Avenue and Chapman Avenue.

Tract No. 1345 comprises 18 lots, and 10 consumers are now being furnished water service therein. The amended proposed area is more particularly delineated on the map filed at the January hearing as Exhibit No. 14.

Applicant's source of water supply for its amended proposed area comprises a well located between Lots 2 and 3, Tract No. 1345. It is 130 feet in depth, and contains a 6-inch, inside-diameter, steel casing. A pump, to which is attached a 7½-hp electric motor, is installed, and the production capacity of the well and facilities is 130 gallons per minute. Water from the well is discharged by the pump into a 1,000-gallon steel pressure tank, which in turn discharges into the distribution system. The distribution system comprises 2,000 feet of 4-inch cast-iron main, together with service connections and services. The water system in Tract No. 1345 has been operated by the property owners, although not formally organized as a mutual water system, for two or three years. Exhibit No. 8 is an affidavit dated January 9, 1952, by W. G. Sidney Harris, that all of the water system properties, including the well and pipe lines, have been conveyed and deeded to applicant and that there are no further interests outstanding.

The water supply has been tested routinely by Orange County Health Department authorities and found to be free of contamination, as shown in Exhibit No. 5.

From a review of the record, it is evident that the water supply available to applicant and the distribution system installed in Tract No. 1345 are adequate to serve the amended proposed area.

A flat rate of \$2 per consumer per month has been charged in the past, but applicant proposes to charge a flat rate of \$3 per consumer per month and does not intend to install meters. However, the establishment of a schedule of general metered service rates has been requested. This schedule of rates will include a monthly minimum charge of \$2.50 per meter per month which will include the first 1,000 cubic feet, or less, of water usage per month, with the next 1,000 cubic feet at 15 cents per 100 cubic feet, the next 1,000 cubic feet at 14 cents per 100 cubic feet, and all over 3,000 cubic feet at 12 cents per 100 cubic feet. Although applicant did not submit a record of its past revenues received and past expenses incurred in connection with the operation of the water system in a quasi-mutual manner and, therefore, no reliable estimate of estimated revenues and expenses at the proposed rates for the year 1952 can be determined, it appears that under present operating conditions the amended proposed rates which, it is estimated will produce \$360 per year in revenues, will barely cover electric power pumping costs, depreciation, and other normal operating expenses, and will not produce an excessive rate of return. The order herein will authorize the filing of the amended proposed rates as contained in Exhibit No. 3 filed at the October hearing.

At the January hearing applicant amended its application for authority to issue stock by a request to issue 50 shares of stock of par value of \$100 per share and of an aggregate par value of \$5,000 and a \$5,000 note, bearing interest at six per cent per annum, to Dyke Lansdale in consideration of the fixed capital investment, reported at \$10,000, as shown in Exhibit No. 16. Included in Exhibit No. 16 are two (2) spare Pomona pumps with one hp motor, \$500, and under Account C-17, one spare 7,000-gallon, welded riveted steel tank, \$1,500. It appears that these items of fixed capital are not in service and are not needed for the operation of the water system in Tract No. 1345. Accordingly, applicant will be authorized to issue

80 shares of stock, of the aggregate par value of \$8,000 in payment of the operative fixed capital installed in Tract No. 1345.

When applicant voluntarily reduced the size of the area requested to be certificated, all protests to the granting of the application were withdrawn except that several protestants requested the Commission, by special provision of the order herein, to prohibit applicant's serving areas contiguous to Tract No. 1345 without further hearing before and order of the Commission. These protests were based primarily on the desire of the farmer-property owners to protect the underground water supply in the vicinity from further depletion by the operation of a private utility water company on an extended scale. The record shows that the area has, within the last year, been voted into the Metropolitan Water District through the Orange County Municipal Water District and that the importation and availability of Metropolitan Water District water are anticipated within a short time. The protestants also wished the Commission to urge applicant to utilize imported water for its public utility water system operations in preference to underground sources. However, the record shows that many farmer-property owners own and operate wells and pumps on their properties. Also, it appears that to restrict applicant from serving water to contiguous areas without further hearing before an order of the Commission would work an economic hardship, not only on applicant itself, but on its consumers in Tract No. 1345. If such restrictions were ordered, the consumers in Tract No. 1345 would be required to provide all of applicant's revenues for the operation of its water system. The

order herein, therefore, will not place such restriction on applicant's operations. If, at any time, any of the protestant farmer-property owners, members of the Orange County Farm Bureau Federation, or any other persons wish to protest future expansion of applicant's system into contiguous territory not containing a competing public utility of like character, either planned or actual, the procedures for bringing such protests before the Commission are open to the protesting parties and for requesting a hearing thereon as are set out in the Commission's rules.

The record shows that no other public utility of like character with which applicant might compete now operates within or adjacent to the area requested by this application.

The Commission has considered the application of Dyke Water Company for a certificate of public convenience and necessity to construct and operate a public utility water system in Tract No. 1345, Orange County, and is of the opinion that it 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

Dyke Water Company, a corporation, having applied for a certificate of public convenience and necessity for the establishment of rates and for authority to issue stock and a note, public

hearings 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 require the construction and operation of a public utility water system in Tract No. 1345, Orange County; therefore,

IT IS HEREBY ORDERED as follows:

1. That a certificate of public convenience and necessity be and it is granted to Dyke Water Company to construct and operate a public utility water system for the production, distribution and sale of water within the territory hereinbefore described.
2. Applicant is authorized to file in quadruplicate with this Commission after the effective date of this order, in conformity with the Commission's General Order No. 96, a schedule of rates shown in Exhibit A attached hereto, and, on not less than five (5) days' notice to the Commission and the public, to make said rates effective for services rendered on and after March 10, 1952.
3. Applicant 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 the various tracts of land and territory served, and the location of various properties of applicant.
4. Applicant shall file, coincident with the rate filing ordered herein, four copies of rules and regulations, and tariff service area map acceptable to this Commission and in accordance with the requirements of General Order No. 96.
5. Applicant, Dyke Water Company, be and it hereby is authorized to issue 80 shares of stock of the aggregate par value of \$8,000, after the effective date hereof and on or before September 30, 1952 for the purpose of acquiring certain water system assets as set forth in Exhibit No. 16 filed at the hearing, except for the fixed capital not in service amounting to \$2,000 as discussed in the preceding opinion, the Commission being of the opinion that the money, property, or labor to be procured or paid for by the issue of said stock is reasonably required by applicant for the purposes herein stated, and that such purposes are not, in whole or in part, reasonably chargeable to operating expenses or to income.

6. Applicant shall file with the Commission a report as required by the Commission's General Order No. 24-A, which order in so far as applicable is made a part of this order.

IT IS HEREBY FURTHER ORDERED that the authority herein granted shall lapse if not exercised on or before December 31, 1953.

Dated at San Francisco, California, this 13th day of February, 1952.

A. J. [Signature]
President.

Justice F. [Signature]

[Signature]

[Signature]
Commissioners.

EXHIBIT A
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Schedule No. 1

MONTHLY FLAT RATES

APPLICABILITY

Applicable to all unmeasured domestic and commercial water service.

TERRITORY

Throughout the authorized service area comprising Tract No. 1345, between Anaheim and Garden Grove, Orange County.

RATES

	<u>Per Service Per Month</u>
For a single-family residence on a lot not to exceed 10,000 sq. ft. in and through a 3/4-inch service	\$3.00
For each additional family unit on a single lot	1.50
For each additional 100 sq. ft. of lot area03
For each store, market or shop (Service connection not to exceed 3/4 inch)	3.00
For each service station (Service connection not to exceed 3/4 inch)	4.00

SPECIAL CONDITIONS

1. All service not covered by the above classifications will only be furnished on a metered basis.
2. Meters may be installed at the option of the utility or a customer for the above classification in which event service will thereafter be rendered only on the basis of Schedule No. 2, General Metered Service.

EXHIBIT A
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Schedule No. 2

GENERAL METERED SERVICE

APPLICABILITY

Applicable to all measured domestic and commercial water service.

TERRITORY

Throughout the authorized service area comprising Tract No. 1345, between Anaheim and Garden Grove, Orange County.

RATES

Per Meter
Per Month

Quantity Rates:

First 1,000 cu. ft., or less	\$2.50
Next 1,000 cu. ft., per 100 cu. ft.15
Next 1,000 cu. ft., per 100 cu. ft.14
Over 3,000 cu. ft., per 100 cu. ft.12

Minimum Charge:

For 5/8 x 3/4-inch meter	\$2.50
For 3/4-inch meter	2.80
For 1-inch meter	3.00
For 1-1/2-inch meter	3.50
For 2-inch meter	4.25
For 3-inch meter	7.00
For 4-inch meter	9.75

The Minimum Charge will entitle the consumer to the quantity of water which that monthly minimum charge will purchase at the Quantity Rates.