

Decision No. 47163

**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
CRESTLINE WATER COMPANY, a California )  
corporation, for a certificate of )  
public convenience and necessity to )  
authorize the operation of a water ) Application No. 32860  
distribution system as a public )  
utility in Crestline, California, )  
to establish rates, and for leave )  
to issue its capital stock. )

Surr & Hellyer, by John B. Surr and James R. Edwards, attorneys, for applicant; L. J. Styskal, attorney, for Cedar Pines Park Mutual Water Company, protestant against expansion of applicant's present service area; Alden Reid, attorney, for Valley View Park Mutual Water Company, interested party; Dr. R. L. Moore, president, for Crest Forest Property Owners' Association, protestant against issuance of a certificate to applicant; Fred C. Lang, member, Crest Forest Fire Commission and member, San Bernardino County Planning Commission, protestant against establishment of a fire hydrant rate; P. J. Cormack, water user and stockholder, Joseph B. Strople, property owner and shareholder, Joe Quatman, Ed Codona, Julius A. Thomas and Mrs. Louise Buehler, in propria personae, interested parties; C. G. Ferguson and R. R. Entwistle, for the Commission staff.

O P I N I O N

Crestline Water Company<sup>1/</sup>, a corporation, by the above-entitled application filed October 31, 1951, seeks a certificate of public convenience and necessity to operate a public utility water system in unincorporated territory in and about Crestline, San Bernardino County. The establishment of rates for water service, and permission to issue stock for the acquisition of assets of Crestline Village Mutual Service Company<sup>2/</sup> also are sought.

1/ Referred to as the utility.

2/ Referred to as the mutual.

A public hearing in this matter was held before Commissioner Huls and Examiner Warner on April 10, 1952, at Crestline.

Crestline, a long-established mountain resort, is located on Rim of the World Highway in the San Bernardino Mountains between San Bernardino and Lake Arrowhead. Crestline Village Mutual Service Company has been furnishing water service in the Crestline area since 1924. The subdivided area comprises 2,994 lots in Crestline and 228 lots in Skyland, as shown on the map filed at the hearing as Exhibit No. 2. The total area, including some unsubdivided area, requested to be certificated, as shown on said map, comprises about 640 acres. As of December 31, 1951, there were 1,295 normal one-residence on one lot flat rate consumers, 276 extra-residence on the same lot flat rate consumers, 32 business consumers, 12 metered consumers, and 39 inactive service connections.

The source of water supply of the mutual water system includes a series of wells, tunnels, booster pumps, storage tanks, and reservoirs, each at various elevations ranging from 4,605 feet at the Spring Water well to the Skyland tank at 5,220 feet as shown on the diagrammatic map filed at the hearing as Exhibit No. 3. Water is also pumped from Lake Gregory into a filter plant at an elevation of 4,520 feet, and boosted therefrom into the distribution system. The water pumped from the lake is so obtained in accordance with the terms of a contract, a copy of which was filed at the hearing as Exhibit No. 5.

According to the regulations of the mutual, ownership of a share of stock therein is a prerequisite to receipt of water service. The record shows that, as of the date of the hearing, 6,150 shares of mutual stock were outstanding. Of this total, 3,900 shares were owned by Frank L. Whitelock, president of the mutual and applicant's president.

Applicant, Crestline Water Company, filed its Articles of Incorporation with the Secretary of State on August 24, 1951. Its first directors, as indicated therein, are Frank L. Whitelock, Frank C. Russell and Gene O'Bryan, all of San Bernardino, California. Applicant is authorized by its Articles, a copy of which was attached to the application as Exhibit "A", to issue 50,000 (fifty thousand) shares of stock of one class only of a par value of \$10 per share, and of an aggregate par value of \$500,000. The record shows that all stock issued would be common stock.

As of the date of the hearing applicant had no assets, had no liabilities, and had issued no stock.

In its application, applicant proposed to acquire all of the assets of the mutual, including the entire water distribution system, except cash equal to the amount of the liability appearing on the latest balance sheet of the mutual entitled "Maintenance Charges - To be refunded to property owners." Applicant would assume all current liabilities of the mutual as of the date of the acquisition except for the above-mentioned maintenance charge refund. In consideration for the acquisition of the mutual assets, applicant proposed to issue capital stock to the mutual in an amount equal to the fixed capital accounts of the mutual, less depreciation, as disclosed by Exhibit "C" attached to the application. This proposal was modified at the hearing to include the results of an historical cost appraisal of said capital dated December 31, 1951, as shown in Exhibit No. 4 filed at the hearing by applicant's consulting engineering witness.

Analysis of the testimony of record indicates that through his ownership of a majority of the mutual stock, Mr. Whitelock, in fact, has held and does hold the controlling interest in and has been and is the sole operator of the mutual company. If utility stock

were issued to mutual stockholders in accordance with the plan for such stock issuance as outlined in the application, it appears that Mr. Whitelock would be the majority stockholder of the utility and as such would continue to hold the controlling interest in and be the sole operator of applicant.

The primary issue before the Commission in this matter is to determine whether public convenience and necessity require the conversion of the water system operations from a mutual status to a public utility status in accordance with the proposal contained in the application.

In support of its application for a certificate of public convenience and necessity, Mr. Whitelock testified that, as the majority stockholder, president and a director of the mutual, he had operated the water system since 1939, and that during that time he had borne the entire responsibility of the mutual's operations. If the mutual were converted to a utility, he indicated that he believed that some of his responsibility, particularly with respect to service complaints and rates, would be relieved through Commission jurisdiction of the utility's operations. Under Commission jurisdiction, it was his opinion, recourse would be available to the consumers for the lodging of complaints about rates and service against the utility through the procedures established by this Commission. This recourse is not available to the consumers under mutual operation. He further stated that he believed the conversion of the mutual into a utility would be advantageous both to the utility and to the consumers through the establishment of credit of the water company, thereby increasing its borrowing powers for expansion and for the improvement of facilities. He stated that in 1945 the mutual had attempted to borrow \$75,000 from the Reconstruction Finance Corporation but had been turned down because of its mutual status. He stated, further,

that the present mutual shareholders might receive two and a fraction shares of utility stock in exchange for a share of mutual stock and that the owners of such utility stock might receive dividends.

Several mutual stockholders, property owners and water service consumers appeared at the hearing and entered objections to the granting of the certificate as applied for. Dr. R. L. Moore, president of Crest Forest Property Owners' Association, in addition to entering a protest and objection to the granting of the certificate in behalf of said association, inquired whether the operation of the utility would be more economical or efficient than the operation of the mutual had been. The record does not indicate that it would be. Joe Quatman and P. J. Cormack expressed concern over, and fear of, a possible rate increase if the certificate herein were granted.

The record shows that water service has been adequate under mutual operation, and that no improvements to the water system, or improvements in service, are either planned for the year 1952, or are necessary, except the painting and welding of the Barn tank at an estimated cost of approximately \$10,000. The record does not show that additional financing would be necessary to effect this improvement to the system.

The record does not show that the mutual stockholders, property owners or consumers would receive better water service. Neither does it show that any regular dividend, necessarily, would be paid to utility stockholders. Further, it does not show that conversion of the mutual to a utility, as proposed, would lessen the responsibility on the utility's owner-operator.

Before the Commission grants a request for a certificate of public convenience and necessity, the record should be clear and

without doubt that public convenience and necessity require the granting of such request. The record in this proceeding does not manifest such requirement.

After careful consideration of all of the evidence of record including that submitted by applicant and the statements, objections and protests of stockholders, property owners and water service consumers who appeared at the hearing, the Commission is of the opinion that the application for a certificate should be denied without prejudice, and the order herein will so provide.

By the order herein denying applicant's request for a certificate of public convenience and necessity, the substantial amount of evidence which was introduced by consulting engineering witnesses for applicant and by a Commission engineering staff witness, regarding applicant's estimated earnings for the year 1952, becomes irrelevant. Also, the evidence adduced by consulting engineering witnesses for applicant with respect to an estimated value to be placed on water-bearing properties of the mutual proposed to be acquired by applicant, likewise, becomes irrelevant to the instant determination.

O R D E R

Crestline Water Company, a corporation, having applied for a certificate of public convenience and necessity to operate a public utility water system in unincorporated territory in and about Crestline, San Bernardino County, as delineated on the map filed at the hearing as Exhibit No. 2, for the establishment of rates, and for permission to issue stock to acquire the assets of Crestline Village Mutual Service Company, a corporation, 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 do not at this time require the operation of a public utility water system by Crestline Water Company in the territory hereinabove described; therefore,

IT IS HEREBY ORDERED that the application of the Crestline Water Company for a certificate of public convenience and necessity to operate a public utility water system in the area hereinabove described, for the establishment of rates, and for permission to issue stock to acquire the assets of Crestline Village Mutual Service Company be, and it is, denied without prejudice.

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

[Signature]  
President.

[Signature]  
[Signature]

[Signature]  
[Signature]  
Commissioners,