

ORIGINAL

Decision No. 47209

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
ENES WATER COMPANY, a corporation,
for authority to increase its rates
and charges.

)
) Application No. 33122
)
)

In the Matter of the Application of
ENES WATER COMPANY, a corporation,
for a certificate of public convenience
and necessity to extend its water
system.

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) Application No. 33136
)
)

Scott Elder, for applicant; John W. Bell,
Melvin Faith, Erasmus D. Seeno, Joe Reese,
Mrs. John Kunstal, Mrs. Gloria McLaughlin,
Mrs. Faye Platnack, Mrs. T. F. Brown,
Dario Giordano, Mrs. H. Victor and
Mrs. Vincent Seeno, protestants; John K. Power,
for the Commission's staff.

O P I N I O N

Enes Water Company, a corporation, engaged in the public utility water business in an area located west of Pittsburg, Contra Costa County, in Application No. 33122 seeks authority to increase its water rates. Applicant also seeks authority to increase the cash deposit required of each new customer from the amount of the present minimum monthly service charge to twice the amount of the proposed minimum monthly service charge to such customer.

By Application No. 33136 applicant requests a certificate of public convenience and necessity to extend its water service into an area immediately west of its present service area, a part of which is presently being subdivided and the remainder of which it is anticipated will be subdivided in the future for the purpose

of constructing homes thereon. A map showing the present service area together with the proposed extension has been filed with the Commission as a part of applicant's Exhibit No. 1.

Public hearings on both applications on a consolidated record were held at Pittsburg on April 24 and 29, 1952. During the course of the hearing, line one on page three of Application No. 33122 was amended on its face by applicant by the insertion of the word "service" between the words "monthly" and "charge". At the close of the hearing the matters were submitted subject to receipt of two late filed exhibits, Nos. 5 and 7, by the Commission's staff. These two exhibits were filed May 2, 1952. Inasmuch as a determination of applicant's request for extension of service area affects the Commission's determination respecting the request for rate increase, Application No. 33136 will first be considered.

The applicant at the end of 1951 was serving 794 customers with water obtained from the Contra Costa Canal under a contract with the Contra Costa County Water District. Its present facilities include two treatment plants, a 130,000-gallon storage tank and a 500,000-gallon storage tank and 8.1 miles of pipe lines of 8-inch and smaller sizes for distribution.

The immediate need for the extension of the service area has arisen as the result of the new home development by Earl W. Smith, Inc., in Shore Acres, located northwest of the present service area. This firm intends to construct 1,100 home units, 110 of which are already completed and 80 of these are now occupied. Mr. Bernard ✓ Enes, for applicant, testified that by September of this year it is estimated that 550 units will be completed. The extension of service to Shore Acres will more than double the number of consumers within a year. Applicant in its exhibits also included revenues from 289 units which were proposed to be constructed in an addition to Shore Acres but the Commission's staff witness testified that according to

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later information, plans for construction of these additional 289 units had been abandoned and for that reason were excluded in the revenue and expense estimates set forth in the study, in this proceeding, Exhibit No. 4.

The mains and other distribution facilities to supply Shore Acres are being furnished and installed by Earl W. Smith, Inc., and at present water is being supplied to the homes in this area by applicant at rates authorized for its existing service area. If the extension of the service area is approved by the Commission, Earl W. Smith, Inc., proposes, subject to the approval of this Commission, to transfer its distribution facilities to applicant in exchange for common stock of applicant.

The area covered by the request for service extension includes not only Shore Acres but also property to the east of Shore Acres and other property to the south of Shore Acres, adjacent to applicant's present service area, and through which its mains have had to be laid to connect with Shore Acres. Mr. Enes testified that although there are no immediate plans for subdivision of the area covered by the request for certificate extension other than in Shore Acres, that he has received inquiries regarding his willingness to serve the area from persons who are interested in the construction of homes throughout the entire area. The Pittsburg area is one of tremendous industrial growth and expansion and it is highly probable that there will be further construction of new homes in this area in the near future.

To meet the new maximum demand for domestic, commercial and fire protection purposes, capacity of the treatment plants and booster pumps will have to be increased, additional storage capacity will be needed and a new connecting line between Filter Plant No. 2 and the new storage tank will have to be laid. Present plans include the addition of a gravity filter at Filter Plant No. 2, a

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500,000-gallon steel storage tank adjacent to the present 130,000-gallon tank and a 6-inch main from Filter Plant No. 2 to the proposed new tank.

Applicant intends through bank loans to finance the additional facilities required for expansion, other than those to be acquired from Earl W. Smith, Inc. In 1948 applicant had a total of \$96,000 in bank loans outstanding but has reduced these loans to \$58,000, payable to the American Trust Company June 1, 1952. Thirteen thousand dollars of funds for this purpose has been provided through advances by Bernard and Chris Enes and the remaining \$25,000 has been taken from the cash revenues of the applicant. The annual interest rate on these bank loans has been raised successively from 4% to 5% and recently from 5% to 6%. To pay off the existing bank loan to the American Trust Company which the witness, Bernard Enes, testified could not be renewed, and to finance the proposed expansion, applicant intends to borrow approximately \$150,000 at an annual interest charge of 6%. The witness further testified that this financing can be arranged only if the Commission will authorize rates which will provide applicant a reasonable return on its investment.

The evidence shows that only the Webb Water Works is operating in the vicinity of the requested service area. The service area of this company is adjacent to the existing service area of the Enes Water Company but is not adjacent to the requested service extension area. As of December 31, 1951, the Webb Water Works was serving 98 customers from one well. No one appeared on behalf of Webb Water Works to protest the proposed extension of Enes Water Company. Mr. Bernard Enes testified that no water company other than applicant can conveniently serve Shore Acres.

The consumer protestants and witnesses expressed concern over the fact that the extension of service into the newly requested area may result in the need for higher water rates than would otherwise be required.

Applicant estimates that its rate of return under existing rates will increase from 2.1% during 1951 which period was prior to the proposed extension of the water service, to 3.3% during 1953 when most of the facilities required for the extension will be in service. Under the proposed rates applicant estimates that the rate of return will increase from 7.8% during 1951 to 7.9% during 1953. The increase would have been greater except for the fact that the proposed rates will result in earnings in excess of \$25,000 per year and the Federal income tax on earnings in excess of \$25,000 is 52% rather than 30%. The Commission staff engineer estimates that the rate of return under existing rates will decrease from 4.68% during 1951 to 3.29% during 1953 and under proposed rates from 11.04% during 1951 to 7.57% during 1953. The difference in the Federal tax rate on earnings in excess of \$25,000 accounts for the greater decline in return under the proposed rates. An explanation of the difference in the estimates of the applicant's engineer and the Commission staff engineer appears subsequently in this decision following the comparison of estimates of revenue, operating expenses and rate bases for the year 1953.

No estimates of rate of return during the year 1953 based on the assumption that the requested extension of service area not be granted appear in the record. However Mr. Bernard Enes testified that to serve consumers in the presently certificated area it will be necessary to increase the filtering and storage capacity and to replace a considerable number of water mains because of leaks. As such capital improvements are made the rate base will be enlarged, operating expenses will be increased and the rate of return will be

decreased in future periods. To the extent that such capital improvements as well as existing facilities may also serve consumers in the proposed extension area, the additional revenues from the new consumers in the proposed extension area will bear a share of the increased expenses arising from the use of such facilities, which increased expenses otherwise would be solely chargeable to consumers in the presently certificated area.

In view of the record in this proceeding, we hereby find that public convenience and necessity require this Commission to grant applicant authority to serve the extension area as requested and as described in Application No. 33136. Our consideration of the rate increase requested in Application No. 33122 will include a consideration of the estimated results of the extension of service into this area.

The certificate of public convenience and necessity for extension of service issued herein is 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 annual 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 exhibits prepared both by applicant's engineer and by the Commission's staff engineer included in the estimates of revenues and expenses amounts for service in Shore Acres.

The evidence indicates that all the homes in Shore Acres will be completed by the end of 1953 and that the additional utility facilities required for the service in the existing certificated area and in Shore Acres will be completed and in use at that time. Estimates based on the number of customers being served as of the end of this year are, therefore, considered to be the most representative of the operations of this applicant and will be used for the purpose of determining the water rates which should be authorized.

Following are the schedules of the present and proposed rates:

Present Rates

Minimum Monthly Charges

5/8-inch meter	\$2.00	2-inch meter	\$ 6.00
3/4-inch meter	3.00	3-inch meter	8.00
1-inch meter	4.00	4-inch meter	12.00
1½-inch meter	5.00		

Each of the foregoing monthly minimum charges entitles the consumer to that amount of water which the monthly minimum charge will purchase at the following quantity rates:

Monthly Quantity Rates

First	500 cubic feet or less.....	\$2.00
Next	500 cubic feet, per 100 cubic feet....	.30
Next	2,000 cubic feet, per 100 cubic feet....	.25
Next	7,000 cubic feet, per 100 cubic feet....	.20
Over	10,000 cubic feet, per 100 cubic feet....	.15

Proposed Rates

Monthly Readiness-to-Serve Charge

5/8-inch meter	\$2.10	2-inch meter	\$ 6.00
3/4-inch meter	2.35	3-inch meter	15.00
1-inch meter	2.75	4-inch meter	25.00
1½-inch meter	4.25	6-inch meter	40.00

Monthly Quantity Rates

First	500 cubic feet, per 100 cubic feet....	\$0.30
Next	2,500 cubic feet, per 100 cubic feet....	.25
Over	3,000 cubic feet, per 100 cubic feet....	.20

The readiness-to-serve charge is a service charge applicable to all metered service and is to be added to the monthly charge computed at the quantity rates.

A comparison of the estimates of applicant's engineer and the Commission's staff engineer for the year 1953 is as follows:

	1953			
	Present Rates		Proposed Rates	
	Applicant	Staff	Applicant	Staff
Revenue	\$ 93,460	\$ 81,700	\$126,406	\$111,620
Operating Expenses	<u>78,012</u>	<u>68,320</u>	<u>89,453</u>	<u>80,810</u>
Net Operating Revenues	15,448	13,380	36,953	30,810
Undepreciated Rate Base	543,575	473,950	543,575	473,950
Accumulated Depreciation	<u>75,746</u>	<u>67,035</u>	<u>75,746</u>	<u>67,035</u>
Depreciated Rate Base	467,829	406,915	467,829	406,915
Rate of Return	3.3%	3.29%	7.9%	7.57%

The difference in revenues estimates arises because the applicant's engineer forecast that all the homes in the Shore Acres tract would be completed by the end of 1952 and that a portion of the homes originally planned for construction in Shore Acres addition would be completed in 1953. The Commission's staff engineer made his study more recently and according to the best information available to him at the time of his study all of the homes in the Shore Acres subdivision will not be completed until the middle of 1953 and the plans for construction of homes in the Shore Acres addition have been abandoned. In view of the fact that the Commission staff engineer's estimate is based upon a more recent investigation, his estimate of numbers of customers and revenues will be adopted.

The principal reason for the differences in operating expenses, depreciation reserve and depreciated rate base is because different methods of computing depreciation were used. The staff engineer computed depreciation on a remaining life basis. The applicant's engineer determined that amounts for depreciation in the past had been excessive and therefore disregarded past depreciation accruals. He made his own estimates of service lives and computed depreciation by the total life method.

Applicant's engineer stated that he thought the remaining life method of computing depreciation was proper where past revenues have been sufficient to provide for depreciation and a reasonable rate of return. However, in the case of this applicant the claim was made that as past revenues had not been sufficient to provide a fair return after reasonable allowances had been made for depreciation, the previous excessive depreciation charges amounted to no more than bookkeeping entries and should be disregarded.

The record shows that this applicant has been operating at a profit and hence has had sufficient revenues to cover its depreciation charges. At such time as applicant became dissatisfied with the return it was receiving under its authorized rates it could file an application for authority to increase its rates. The Commission has found that the use of the remaining life method of computing depreciation encourages the utility more accurately to estimate its depreciation allowances and lessens the incentive to provide excessive allowances for depreciation, which exists if a utility is permitted to make adjustments to its depreciation reserve when found to be obviously excessive. The use of the remaining life method of computing depreciation is approved as the proper method of determining depreciation allowances and depreciation reserves in this proceeding.

The other principal difference in operating expenses arises because of different allowances for administrative and maintenance salaries. The two principal stockholders of applicant, Bernard Enes and Chris Enes, do part-time work in connection with the operation of applicant water utility. As no charge for such services has heretofore been entered on the books of applicant, both applicant's engineer and the staff engineer made adjustments to operating expenses to provide for salaries for these services.

Applicant's engineer included in his estimate \$300 per month for the services of Bernard Enes and \$75 per month for the services of Chris Enes. This estimate was based upon conferences with Bernard Enes and Chris Enes during which the work of each was reviewed. No time records have been kept, and no estimate of the amount of time spent by either Bernard or Chris Enes appears in the record, although Bernard Enes testified that he spent less than one-half his time in such work.

The staff engineer included in his estimate the sum of \$40 per month for maintenance salaries in addition to an allowance for maintenance expenses based upon recorded maintenance expenses and the sum of \$200 per month for administrative salaries not entered upon the books of applicant. He stated that those allowances were based upon his knowledge of salaries which were being paid by other water utilities of comparable size for similar services.

A heavy burden of proof rests upon an applicant seeking to justify allowances for services rendered by the owners of substantially all its stock. Nothing appears in the record of this proceeding to show that this applicant requires a greater allowance for services of this character than other water utilities of comparable size. The adjustments made for the services of Bernard Enes and Chris Enes by the staff engineer are found to be reasonable.

The staff engineer's estimates of depreciated rate base as of December 31, 1953, and of revenues and operating expenses based upon customers which he anticipates will be served as of December 31, 1953, will be used for determining the rates to be authorized herein.

The following estimates have been derived from Exhibits Nos. 4, 6 and 7:

	Estimates based upon Number of Consumers as of December 31, 1953	
	<u>Present Rates</u>	<u>Proposed Rates</u>
Revenue	\$ 86,400	\$118,100
Operating Expenses before Income Taxes	<u>69,450</u>	<u>69,450</u>
Net Income before Income Taxes	16,950	48,650
Federal and State Income Taxes	<u>2,608</u>	<u>15,831</u>
Net Operating Revenues	14,342	32,819
Undepreciated Rate Base	501,700	501,700
Depreciation Reserve	<u>73,735</u>	<u>73,735</u>
Depreciated Rate Base	427,965	427,965
Rate of Return	3.35%	7.67%

A large number of consumers appeared at the hearing in protest to the proposed rate increase, and a petition opposing the increase signed by a large number of consumers was received in evidence as Exhibit No. 8. These parties were particularly concerned with the proposed monthly readiness-to-serve charge of \$2.10 for the 5/8-inch meter. Some dissatisfaction with service was also expressed by various consumers at the hearing.

The testimony relative to the proposed readiness-to-serve charges shows that they are based upon the readiness-to-serve charges authorized by this Commission for use by the Contra Costa District of the California Water Service Company and that there is a trend to the use of such charges in the area within which applicant operates. Such rates take into consideration the fixed charges which are necessarily incurred by a water utility whether any water is consumed or not.

This Commission is required by law to authorize applicant to charge rates which will provide it an opportunity to earn a reasonable rate of return. Applicant is proposing rates which will produce revenues

totaling \$118,100 per year and a rate of return of 7.67%. After considering the entire record we hereby find that applicant should be authorized to establish rates which will produce revenues totaling \$109,910 and a rate of return of approximately 6.8% on a depreciated rate base of \$427,965, which we hereby find to be reasonable.

We hereby find that the following rates will produce annual revenues of approximately \$109,910 and should be authorized:

Authorized Rates

<u>Readiness-to-Serve Charges</u>	<u>Per Meter Per Month</u>
5/8-inch meter.....	\$ 1.75
3/4-inch meter.....	2.00
1-inch meter.....	2.50
1 1/2-inch meter.....	4.00
2-inch meter.....	6.00
3-inch meter.....	12.00
4-inch meter.....	20.00
6-inch meter.....	35.00

Quantity Charges

First 500 cubic feet, per 100 cubic feet...	\$ 0.30
Next 2,500 cubic feet, per 100 cubic feet...	.25
Next 12,000 cubic feet, per 100 cubic feet ..	.20
Over 15,000 cubic feet, per 100 cubic feet...	.18

The application of these authorized rates will result in an increase in cost to the average domestic and commercial consumer of 28.1% instead of the 37.5% increase in cost which would result from the application of the rates proposed by applicant. The increase in the cost of water to the Contra Costa County Housing Project will be approximately 21.6%.

Applicant also requested authority to increase the cash deposit required of each new consumer to twice the amount of the minimum monthly service charge. In support of such request applicant introduced testimony to show that such increase is necessary to protect it from loss resulting from consumers moving without

paying their water bills in full. We hereby find that applicant should be authorized to increase such cash deposits to twice the amount of the applicable minimum monthly readiness-to-serve charges authorized herein.

During the course of the hearing Mr. Bernard Enes discovered that through inadvertence certain overcharges have been made in connection with the billing of consumers using the larger meters. Mr. Enes assured us at the hearing that these bills will be properly recomputed and that prompt refunds will be made.

O R D E R

The above-entitled applications having been considered, public hearings having been held, the matters having been submitted and now being ready for decision,

IT IS HEREBY FOUND AS A FACT that public convenience and necessity will require the extension, construction and operation of a public utility water system by Enes Water Company, in Contra Costa County, in the area set forth in a map contained in Exhibit No. 1 in this proceeding; therefore,

IT IS HEREBY ORDERED as follows:

1. That a certificate of public convenience and necessity be and it is hereby granted to Enes Water Company to extend, construct and operate a public utility water system for the distribution and sale of water within the territory hereinbefore described at the rates herein authorized pursuant to Application No. 33122.
2. That applicant shall notify this Commission, in writing, of the completion of the extension for which this certificate is granted, within thirty (30) days after the completion thereof.
3. That applicant shall file, within forty (40) days after the extension to the present system is placed in operation, 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, both in the existing certificated area and the extension herein authorized, and the location of various properties of applicant.

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The authorization hereinabove granted to extend service will lapse if not exercised within one year from the date hereof.

IT IS HEREBY FURTHER FOUND AS A FACT that the increases in rates and charges authorized herein are justified and that the existing rates, in so far as they differ from the rates herein prescribed are unjust and unreasonable; and that the cash deposit required of each new customer should be increased to twice the monthly readiness-to-serve charge applicable to such customer; therefore,

IT IS HEREBY FURTHER ORDERED that 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, the schedule of rates shown in Exhibit A attached hereto, and its Rule and Regulation No. 6 as shown in Exhibit B attached hereto, and on not less than five (5) days' notice to the Commission and the public, to make such rates and revised rule and regulation effective for service rendered on and after July 1, 1952; and that applicant refile all necessary title sheets, preliminary statements, maps, tariff sheets, rules and regulations to include all areas in which applicant is authorized to serve as well as the Enes Tract presently referred to therein.

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

Dated at San Francisco, California, this 27th day of May, 1952.

R. I. Dunning
President.
James J. Casper
Harold A. Hula
Kenneth J. Dutton
John E. Mitchell
Commissioners.