

ORIGINAL

Decision No. 42640

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
BAYWOOD WATER COMPANY, a California)
corporation, for a certificate of)
public convenience and necessity to)
authorize the operation of a water) Application No. 33474
distribution system as a public) (Amended)
utility in San Mateo County,)
California, to establish rates, and)
for leave to issue its capital stock.)

Harold Wattenberg, for applicant; McCutchen,
Thomas, Matthew, Griffiths & Greene, by
Robert Minge Brown and A. Crawford Greene, Jr.,
for California Water Service Company,
protestant; Clyde F. Norris, for the Commission
staff.

O P I N I O N

By the above-entitled application, filed June 9, 1952 as amended June 24, 1952, and as further amended on July 2, 1952, Baywood Water Company, a California corporation, asks for a certificate of public convenience and necessity to construct, operate and maintain a public utility water system in San Mateo County in an area of about 780 acres lying to the southwest of, and contiguous to, the City of Hillsborough. Applicant also seeks authority to establish rates for service in the area and to issue a total of 12,500 shares of common stock of \$10 par value.

A public hearing in the matter was held before Examiner Emerson at San Mateo on July 2, 1952, at which time the matter was submitted for decision.

The Territory and Its Developers

Applicant corporation was formed for the purpose of supplying water service to a real estate subdivision known as

Baywood Park located on lands formerly known as the Polhemus Tract. Said subdivision lies south of Crystal Springs Road (State Highway Route 105) and is approximately bisected by Poor Farm Road (County Road No. 17). The northerly boundaries of the tract are those of the corporate limits of the City of Hillsborough.

According to applicant, Baywood Park will comprise 2,000 residences, three schools and a business district when fully developed. The initial development of 190 homes is scheduled for completion by October 15, 1952. An additional 400 homes are to be constructed during the ensuing 12-month period. About 40 homes are now ready for occupancy. It is of record in this proceeding that, at the time of the hearing herein, 38 homes actually had been sold.

The developers of the initial 190 homes are five persons in copartnership as Junior Estates Company. As individuals these five persons own the lands comprising the entire tract as tenants in common but the said tract is not an asset of the partnership. A water system has been partially constructed on funds supplied by these same five persons. Applicant owns no part of the water system but proposes to sell \$125,000 of its stock to the five individuals and with the proceeds thereof to acquire their water system. The contract prices and estimated costs for the system to serve the 190 homes total \$97,000. The difference of \$28,000 applicant proposes to retain as working capital.

The Physical Plant

The physical plant consists of approximately 11,000 feet of 8-inch and 1,700 feet of 6-inch mains, one 200,000-gallon steel storage tank, one 300 gpm booster pump, 190 service connections including necessary pipe, fittings, meters and meter boxes, and certain lands for utility usage. Applicant's source of water

supply would be from a connection with the 44-inch transmission main of the San Francisco Water Department located along Crystal Springs Road.

Financing of Company

The details of proposed financing are not clear in this record. Allegedly there is an oral commitment on the part of the five prospective stock purchasers to subscribe to the entire \$125,000 stock issue. Estimates of construction costs and operating expenses are inexact and were not supported fully by applicant's witnesses. From the evidence before us we are unable to make the finding required by law that the money, property or labor to be procured or paid for through the issue of capital stock is reasonably required for the purposes specified. We cannot, therefore, authorize the issuance of stock upon the showing made by applicant.

System Operations

Applicant contemplates operating the system with part-time employees. It will have no office of its own but will rely on obtaining space, free of charge, in the real estate office of Junior Estates Company. Apparently the employees of the real estate developers are expected to be available, from time to time, to meet the needs of the water company. The record is not completely clear in this respect, however, nor is the record clear as to how applicant may operate after the real estate developers have completed their land and home sales and have departed. In this respect it is noted that applicant's president testified that other "outside" developers would enter the area for its development beyond the 590 homes to be completed by the end of 1953 by Junior Estates Company.

Provisions for Expansion

With respect to future expansion applicant has indicated that the first unit of the water system to serve 190 homes would be wholly financed by it. The second unit for service to 400 additional homes, which it is estimated would cost an additional \$120,000, would be financed on the usual subdivision extension deposit basis. In this latter instance applicant expects that Junior Estates Company would advance the funds and that applicant would thereafter refund the advance in accordance with a filed extension rule. Applicant, however, has made no arrangements whereby further investments, as represented by such refunding, may be financed beyond the statement by applicant's president that the five individuals constituting Junior Estates Company would provide "for the advance of any funds for operating deficits, costs of installation or anything pertaining to the nature of our business."

Protestant's Position

California Water Service Company, through testimony of the manager of its San Mateo District and cross-examination of applicant's witnesses, protested the issuance of a certificate to applicant. Such protest, primarily was to the effect that protestant on the request of applicant had committed itself to serving the area and that applicant in its dealings with the San Mateo County authorities and with the State's Division of Real Estate, and the Junior Estates Company in its sales of real estate to the public, had placed themselves on record that California Water Service Company would provide public utility service to the area.

The record herein clearly shows that, prior to the formation of applicant corporation, protestant had forwarded to applicant complete plans and specifications for installation of a

water system and the serving thereof under the regularly filed rates, rules and regulations of protestant. On the basis of protestant's rule for extensions to subdivisions applicant herein would have advanced about \$105,000 which would be refundable under the "proportionate cost method" provisions of the regular extension rule.

The record is not clear, however, as to why applicant terminated negotiations with protestant, nor does it seem of importance in considering the merits of applicant's showing in this proceeding. The evidence does show, however, that protestant would have established service to the area as part of its service to the San Mateo District. The physical system would be substantially the same as that of applicant, except as to the specifications for certain classes of pipes. The entire experienced office and operating personnel of protestant's adjoining district would be available to service the area. Protestant is willing and able to serve the area at rates substantially below those offered to the public by applicant.

Conclusion

Applicant made no presentation respecting construction costs of the entire water system, has made no specific over-all plans for its development and has made no estimates of revenues or operating expenses beyond those applicable to the first unit. The indefiniteness of applicant's presentation and plans, respecting operating requirements and its proposals whereby the present and future public demands may be served adequately, raises serious doubt that applicant can provide reasonably adequate service to the public. That public convenience and necessity require that the area be adequately served is beyond question. That applicant can and will supply the needs of public convenience and necessity in the full area for which it requests certification

is questionable. The granting of a certificate is not a trivial thing and its issuance must be predicated on a substantial showing that the public interest will best be served thereby. Applicant's showing has not met this test.

Applicant's requests will be denied without prejudice and applicant may, if it so desires, make supplemental application and then set forth a proper showing which may correct the deficiencies of its showing herein.

ORDER

Public hearing having been held on the above-entitled application, the matter having been submitted and now being ready for decision,

IT IS HEREBY ORDERED that the application of Baywood Water Company for a certificate of public convenience and necessity and to issue capital stock be and it is denied without prejudice.

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

Dated at South Pasadena California, this 15th day of August, 1952.

R. J. [Signature]
President.

Justus F. [Signature]

Harold P. [Signature]

Peter E. [Signature]

Commissioners.

Commissioner Kenneth Potter, being necessarily absent, did not participate in the disposition of this proceeding.