

Decision No. 48678

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
of CARPINTERIA WATER COMPANY, a)
corporation, for permission to)
execute an agreement with the)
STATE OF CALIFORNIA acting by)
and through the DEPARTMENT OF)
PUBLIC WORKS.)
-----)

Application
No. 34385

O P I N I O N

In this application Carpinteria Water Company requests authority to enter into an agreement, or agreements, with the State of California, Department of Public Works, Division of Highways, covering the relocation of water mains and providing for the repayment to the State of California, over a period of not to exceed ten years, of the relocation costs in the event it should be determined that the utility is financially responsible for such relocation costs.

Applicant is a California corporation engaged in the business of supplying water for domestic, industrial and municipal purposes to customers located in and adjacent to the unincorporated community of Carpinteria, in the County of Santa Barbara. It now reports that the State of California, through the Department of Public Works, Division of Highways, is constructing a freeway through the community of Carpinteria and that the construction is being done in an area where several of its main water distribution lines are located. Applicant further reports that it has been notified by the state that it must relocate the water mains, at its own expense, so that they will not interfere with the construction or the maintenance of the freeway. It estimates the cost of the relocation work at \$15,000.

Applicant is willing to relocate its water mains, where necessary for the construction of the freeway. However, it does not agree that it is financially responsible for the relocation and it further alleges that it does not have at the present time the necessary funds with which to finance the cost of the relocation work. Because of these factors, applicant has entered, or proposes to enter, into an agreement with the state, a copy of which is attached to the application as Exhibit C, which recognizes the above-mentioned dispute and purports to protect the rights of both parties in the dispute. It provides for advances by the state of the funds to expedite the relocation of the necessary mains and contemplates the future determination of the financial responsibility for the relocation of the subject water mains, either by agreement of the parties to the dispute or by the decision of a court of competent jurisdiction. The agreement further provides for the repayment by applicant to the state of any funds advanced to applicant if it hereafter is established that applicant is financially responsible for all or part of the costs of relocation of water mains in the area of the freeway, such repayment to be made in ten equal yearly installments.

The application shows that in addition to the agreement filed as Exhibit C, the parties may execute a later agreement of compromise or settlement determining the financial responsibility with respect to the relocation costs. We are asked to authorize applicant to execute these agreements and to do whatever acts or to make whatever payments may be required to comply with the terms.

It thus appears that applicant may be called upon to execute documents whereby it will agree and will become obligated to make payments of certain sums over a period of more than twelve months after the dates of such instruments. It is our opinion that such agreements, to the extent they will provide for such payments by

applicant, will constitute evidences of indebtedness as defined by Section 817 of the Public Utilities Code and that applicant, accordingly, is required to obtain the Commission's prior approval before becoming obligated to make such payments.

It appears that the execution of such agreements is necessary to enable applicant to relocate its lines in order to facilitate the construction of the freeway and, in our opinion, the money, property or labor to be procured or paid for by the execution of the same is reasonably required for such purpose, as the utility's financial statements indicate that it does not have sufficient cash on hand to finance the estimated costs.

O R D E R

The Commission having considered the above entitled matter, and being of the opinion that a public hearing is not necessary and that the application should be granted, as herein provided; therefore,

IT IS HEREBY ORDERED as follows:

1. Carpinteria Water Company may incur obligations providing, among other things, for the repayment to the State of California of not exceeding \$15,000 over a period of ten years in equal annual installments, representing moneys advanced to cover the cost of relocating certain of its pipelines.
2. Applicant shall advise the Commission in writing of the action taken by it under the authorization herein granted.

3. The authority herein granted will become effective when applicant has paid the minimum fee prescribed by Section 1904(b) of the Public Utilities Code, which fee is \$25.00.

Dated at Los Angeles, California, this 9th day of June, 1953.

[Signature]
President

Justice F. Casner

Harold P. Hula

Samuel Pittet

Paul E. Mitchell
Commissioners

