

**ORIGINAL**

Decision No. 48873

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
ERSKINE CREEK WATER COMPANY, a cor- )  
poration, for an Order Authorizing )  
the Issue of Stock, for a Certificate )  
of Public Convenience and Necessity )  
to Acquire and Maintain a Water )  
System, and for an Order Fixing Water )  
Rates. )

Application No. 33334  
(Supplemented and Amended)

Irvin M. Fulop, Arthur Taylor, and  
Harry H. Kem, for applicant.  
Theodore Stein, Elizabeth Green and  
Martin Abramson, for the Commission  
staff.

O P I N I O N

By Decision No. 47462, issued July 15, 1952, in Application No. 33334, the Commission found that it was not in the public interest to issue applicant a certificate of public convenience and necessity prior to such time as applicant is able to show it has acquired a permanent and adequate source of water meeting the requirements of the Kern County Board of Health. The application was denied without prejudice to the renewal of the request by the filing of a supplemental application.

Pursuant to Decision No. 47462, applicant filed a supplement and amendment to the application on file herein on February 19, 1953. Applicant now proposes to acquire from Charles E. Silicz, John G. Silicz and Harry H. Kem & Co., Ltd., a Nevada corporation, the owners of the Erskine Creek Ranch, 94.64 acres of land together with a water system situated thereon.

Applicant states that the fair value of the 94.64 acres of water-bearing land is \$45,000 and that the reasonable value of the water system is \$20,500, making a total of \$65,500. In consideration

for the land and water system applicant proposes to issue 375 shares of its capital stock having par value of \$100 per share to the owners of said land and water system. Upon the purchase of said land and water system applicant proposes to credit Stated Capital with the amount of \$37,500 and Paid-In Surplus with the sum of \$28,000.

A copy of the Water Supply Permit issued to applicant by the Department of Public Health of the State of California is attached to the supplement and amendment to the application.

Applicant requests authority to issue its capital stock as above provided and seeks a certificate of public convenience and necessity to acquire, maintain and operate a public utility water system in the proposed service area consisting of the lands embraced in the 500 acres known as the Erskine Creek Ranch in Kern County. The legal description of the proposed service area is set forth in the original application on file herein and a map of the area is attached to said application. Applicant also requests authority to establish both flat and meter rates for water service.

Public hearing was held before Examiner Cline at East Bakersfield May 20, 1953. The matter was taken under submission subject to receipt of late-filed Exhibits Nos. 6 and 7, the later of which was filed May 27, 1953.

#### Description of System

Mr. E. C. Uffert is in the process of subdividing portions of the Erskine Creek Ranch for residential and business purposes. Tract No. 1631 which contains 86 residential lots and Tract No. 1638 which contains 10 commercial acres are completed subdivisions. Under an agreement with the owners of the Erskine Creek Ranch, Exhibit No. 7, Mr. Uffert is also undertaking the subdivision of Parcels Nos. 1, 2, 3, 4, 5, 6, and 7. When the various subdivisions are fully developed the water system will serve approximately 1,000 consumers.

The water supply for the system is obtained from two wells. One well, 60 feet deep and equipped with a 30-hp electrically driven deep-well turbine pump, has been tested to deliver 2,000 gallons per minute with little or no drawdown. The water from this well is pumped into a 3,000-gallon pressure tank and then delivered to the water users through the distribution mains. The other well which applicant proposes to acquire is equipped with a 20-hp electrically driven deep-well turbine pump and has been tested to deliver 1,500 gallons per minute. This well is presently being used for irrigation purposes. The distribution system as of December 31, 1952, consisted of 690 feet of 3-1/4-inch O.D. pipe, 3,000 feet of 4-inch O.D. pipe, and 6,590 feet of 5-1/2-inch O.D. pipe, to serve water to Tract No. 1631, Tract No. 1638, and the Kernville High School and Grammar School.

The records of the Erskine Creek Water Company as of December 31, 1952, show the cost of the water system exclusive of land to be \$29,057.52. The balance of cost remaining after deducting the book depreciation reserve of \$2,942.36 is \$26,115.16. This book figure is higher than the \$20,500 stated to be the reasonable value of the system in the application because no amount was included in such value for the cost of drilling the two wells and because applicant failed to include all the mains which have been installed to date.

Land

Exhibit A attached to the supplement and amendment to the application was introduced in evidence as Exhibit No. 2. A copy of a letter from Arthur Taylor is included in this exhibit which in part reads as follows:

"I have reviewed the status of the water bearing lands and system developed by the owners of Erskine Creek Ranch, and it is my opinion that it is prudent and advisable for the Water Company

to acquire the designated area of 94.64 acres, and that the fair and reasonable value of this water bearing area is not less than \$45,000.00. I arrived at this figure in my full study of the water situation of this area and set out same in my report to you dated February 11, 1952. This value is not based so much on acreage as upon the potential ground water yield of the Erskine Creek Wash lands.

"In my report I set out that this wash area is capable of producing a safe net yield of 90 miner's inches of water, and an inch of water under the conditions existing is worth \$500.00. Therefore, the aforesaid area with its exclusive water rights is worth \$45,000.00

"There are two wells, developed in 1948, and tested at 1000 and 2000 gallons per minute capacity, respectively, in the aforesaid area. These wells go with the land; ..."

At the hearing Arthur Taylor appeared as a witness. He qualified as an expert on the valuation of water rights but stated that he was not a qualified land appraiser. For that reason he refused to testify as to the value of the land apart from the value of the water rights. He stated that each of the two wells could be placed on sites approximately 50 feet by 50 feet to 100 feet by 100 feet, and that in such case the value of these two sites together would also be \$45,000 because of the water rights.

Witness Taylor testified that the greater part of the 94.64 acres is nonsubdividable wash land, but that applicant should acquire this land to protect its source of water supply.

The record does not show what the owners of the Erskine Creek Ranch paid for the ranch including these water-bearing lands or when such property was purchased. There is no evidence that a definite amount has been invested in water rights by the owners of the ranch separate and apart from the amount paid for the water-bearing lands themselves. No evidence has been submitted indicating that applicant will possess any greater rights to appropriate underground water than those enjoyed by or inhering to the owners of

adjacent water-bearing lands. Water and water rights in, on and within the parcels of the Erskine Creek Ranch which are being subdivided are reserved to the owners of said ranch and not to applicant. Said owners also own the water rights on the remainder of the ranch which has not yet been subdivided. Also the water-bearing lands may extend beyond the lands of the Erskine Creek Ranch.

Under the circumstances in this application, the 94.64 acres will not be valued by the Commission on the basis of an estimate of value of exclusive water rights to the percolating underground waters. (See Water Works of Monta Vista, 42 C.R.C. 431,434; Highland Domestic Water Co., 27 C.R.C. 1,2; A. J. Ronsheimer, 21 C.R.C. 30,31.)

There is not sufficient evidence in the record to enable the Commission to determine the reasonable value of the 94.64 acres of water-bearing land which applicant proposes to acquire through the issuance of its capital stock. However, Witness E. C. Uffert testified that the commercial acres 100 feet by 300 feet in Tract No. 1638 are being sold for \$3,500. Tract No. 1638 is just across the state highway from the wells. On this basis well sites 50 by 50 feet in size may reasonably be valued at approximately \$292.50 each.

Inasmuch as applicant also proposes to acquire distribution mains, provision should be made for obtaining the necessary easements for such mains at the time of their acquisition.

#### Stock

Applicant's proposal to issue stock will not be authorized. However, the Commission will authorize the issuance of 267 shares of stock having a total par value of \$26,700 to the owners of the Erskine Creek Ranch in consideration of the transfer to applicant of

the water system described herein and two well sites fifty feet by fifty feet square at the two wells described herein together with the necessary easements to enable applicant to construct, maintain and operate the water system. Undivided interests in the Erskine Creek Ranch are owned as follows:

Name	Fractional Ownership
Charles E. and Josephine P. Silicz; husband and wife	1/4
John G. Silicz	1/4
Harry H. Kem & Co., Ltd., a Nevada Corporation	1/2

Witness Kem has stated that the owners of the Erskine Creek Ranch will loan applicant funds sufficient to provide the necessary working capital to operate the system.

Subdivision 7 of Exhibit No. 7 which is an agreement for the sale of parcels of the Erskine Creek Ranch by the owners thereof to Edward C. Uffert reads as follows:

"Prior to the time that Buyer desires to subdivide any parcel, he shall procure a firm bid as to the cost of installing adequate water pipe with necessary connections to bring water for domestic purposes in the manner designated by Erskine Creek Water Co. from its well or wells to said subdivision. Buyer shall bear the cost of said pipe, but upon payment thereof, the amount of the purchase price for said parcel to be subdivided, ascertained in the manner aforesaid, shall be reduced by the cost thereof. An appropriate credit shall be endorsed upon said note by the holder thereof, showing the reduction of the purchase price of said parcel. Buyer shall thereupon deliver a bill of sale and quitclaim deed for such pipe to Erskine Creek Water Co., a corporation, its successors or assigns, without further consideration therefor."

#### Proposed Rates

Applicant has proposed a basic flat rate of \$3 per single family residence and has also proposed metered rates as follows:

Quantity	Charge	Per Month
First	500 cubic feet	\$2.50
Next	1,500 cubic feet, per 100 cubic feet	.40
Over	2,000 cubic feet, per 100 cubic feet	.30

The proposed minimum rates range from \$2.50 for 5/8 x 3/4-inch meter to \$4 for a 1-inch meter.

The above quantity charges are considerably higher than those authorized by this Commission for other public utility water systems in the same general territory. There is nothing in the record respecting operating experience to support the rates proposed by applicant. Such evidence will only become available as this system is developed. The rates set forth in Exhibit A generally compare favorably with rates which this Commission has authorized other utilities in the area to charge. These rates are hereby found to be reasonable and applicant will be authorized to charge the rates set forth in Exhibit A.

#### Conclusion

The Commission has considered the request of applicant for a certificate of public convenience and necessity to acquire, maintain and operate a public utility water system and is of the opinion that it should be granted upon applicant's acquisition of the water system, well sites, and easements on the basis previously set forth herein.

The certificate to be 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 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 Commission further finds that the money, property and labor which may be procured through the issuance of 267 shares of common stock of applicant having par value of \$26,700 to the owners of the Erskine Creek Ranch in the same proportionate amount of said 267 shares as equals his or their undivided ownership of said

Erskine Creek Ranch are reasonably required by said corporation for the purposes specified in the order issued herein, and that such purposes are not, in whole or in part, reasonably chargeable to operating expenses or to income. The action taken herein shall not be construed to be a finding of the value of the properties herein authorized to be acquired through the issuance of stock.

O R D E R

The above-entitled application having been considered, 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 upon applicant's acquiring the water system and properties hereinabove described through the issuance of 267 shares of its capital stock, public convenience and necessity will require the construction, maintenance and operation of a public utility water system within the territory described in the application on file herein; therefore,

IT IS HEREBY ORDERED:

1. Applicant may issue 267 shares of common stock having par value of \$26,700 to the owners of the Erskine Creek Ranch in the same proportionate amount of said 267 shares as equals his or their undivided ownership of said Erskine Creek Ranch for the purpose of acquiring the water system, land and easements hereinabove described, and upon the issuance of said capital stock applicant shall file with the Commission a copy of each journal entry used to record such transaction.
2. A certificate of public convenience and necessity shall be granted applicant to construct, maintain and operate a public utility water system for the distribution and sale of water within the territory hereinbefore described, such certificate to become effective upon the filing with the Commission on or before December 31, 1953, of an affidavit by an officer of applicant that applicant has acquired the property described above through the issuance of 267 shares of its capital stock as herein authorized and to which affidavit are attached copies of the deeds and other documents by and through which such acquisition is effected.



3. Applicant shall file with this Commission, concurrently with the filing of said affidavit, in conformance with the provisions of General Order No. 96, four copies of the schedule of rates attached hereto as Exhibit A, together with four copies of rules and regulations and tariff service area map, and, on not less than five days' notice to the public and this Commission, make said rates, rules and regulations effective for all water service rendered thereafter.
4. Applicant shall also file with this Commission, concurrently with the filing of said affidavit, four copies of a comprehensive map, drawn to an indicated scale not smaller than 400 feet to the inch, delineating by appropriate markings the tract of land and the territory served and the location of property of applicant.
5. Applicant shall file with the Commission a report, or reports, as required by General Order No. 24-A, which order, in so far as applicable, is made a part of this order.

The authorization herein granted will lapse if not exercised on or before December 31, 1953.

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

Dated at San Francisco California, this 28th day of July, 1953.

R. T. [Signature]  
President

Justus D. [Signature]

Harold [Signature]

[Signature]

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Commissioners

Commissioner Peter E. Mitchell being necessarily absent, did not participate in the disposition of this proceeding.

EXHIBIT A  
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## Schedule No. 1

GENERAL METERED SERVICEAPPLICABILITY

Applicable to all metered water service.

TERRITORY

The unincorporated area known as Erskine Creek, in portions of Sections Nos. 1 and 6, T. 27 S., Rs. 32 and 33 E., M.D.B. & M., Kern County.

RATES

	<u>Per Meter per Month</u>
Quantity Rates:	
First 800 cu.ft. or less .....	\$2.50
Next 1,200 cu.ft., per 100 cu.ft. ....	.30
Next 3,000 cu.ft., per 100 cu.ft. ....	.25
Over 5,000 cu.ft., per 100 cu.ft. ....	.20
Minimum Charge:	
For 5/8 x 3/4-inch meter .....	\$2.50
For 3/4-inch meter .....	3.00
For 1-inch meter .....	4.00

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

EXHIBIT A  
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## Schedule No. 2

FLAT RATE WATER SERVICEAPPLICABILITY

Applicable to all water furnished on a flat rate basis.

TERRITORY

The unincorporated area known as Erskine Creek, in portions of Sections Nos. 1 and 6, T. 27 S., Rs. 32 and 33 E., M.D.B. & M., Kern County.

RATES

	<u>Per Service per Month</u>
For each single family residence, including premises not exceeding 8,500 square feet in area:	
3/4-inch service connection .....	\$3.00
1-inch service connection .....	4.00
For each duplex or multiple family residence, including premises not exceeding 8,500 square feet in area:	
First two residential units .....	4.00
For each additional unit .....	1.00
For each additional 100 square feet of premises in excess of 8,500 square feet, in addition to regular residence flat rates, during months of May through October, inclusive ...	.05
For each store or shop having no other plumbing fixtures than lavatories and toilets .....	3.00
For each industrial establishment .....	5.00
For each trailer park:	
Office and utility building .....	4.00
Additional for each trailer unit occupied .....	.50

EXHIBIT A  
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Schedule No. 2

FLAT RATE WATER SERVICE—contd.

SPECIAL CONDITIONS

1. All service not covered by the above classifications will be furnished service only on a metered basis.
2. Meters may be installed at option of utility or customer for above classifications, in which event service thereafter will be rendered only on the basis of Schedule No. 1, General Metered Service.
3. Whenever two or more stores, shops or industrial establishments are situated on the same premises under the same ownership, no charge will be made for such of those establishments which are not actually piped to use water for any purpose.