

ORIGINALDecision No. 49013

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Investigation on
 the Commission's own motion into the
 operations, practices, contracts, main
 extensions, service area, water supply
 and water service, and related matters,
 or any of them, of DEL ROSA HEIGHTS
 WATER COMPANY, a corporation, operating
 a public utility water system in the
 general area known as Del Rosa, in the
 County of San Bernardino.

Case No. 5325

Cunningham, Parry and Holcomb, by Thomas C. Parry,
 attorney, in propria persona and for Del Rosa
 Estates Property Owners' Association.
Jerome L. Richardson and Paul R. Briskin, attorneys,
 for Betty Lee, Robert Lee, Anne Stern and Irving
 Stern; Daniel J. Cowett, attorney, for Mrs.
L. R. Myers; L. R. Meyers, in propria persona;
Elias Shahan, in propria persona.
J. K. Power and James F. Wilson, for the Commission
 staff.

O P I N I O N

A further hearing in the above-entitled matter was held
 before Examiner Warner on August 20, 1953, at San Bernardino, for
 the purpose of determining whether the certificate of public
 convenience and necessity granted to Del Rosa Heights Water Company,
 a California corporation, by Decision No. 42704, dated April 12,
 1949, in Application No. 29766,^{1/} should be revoked. This entire
 proceeding, which was instituted September 18, 1951, was submitted
 for the Commission's decision at the hearing of August 20, 1953.

^{1/} The entire record, including exhibits and testimony in Applica-
 tion No. 29766, was included in this proceeding by reference.

On August 5, 1952, the Commission issued its Decision No. 47545 in this matter. In the order of said decision, Del Rosa Heights Water Company was prohibited from furnishing water service to any additional consumers and from accepting any new applications for water service without further order of the Commission. The company was also ordered to employ a public accountant to bring its books of account up to date and to submit a balance sheet as of June 30, 1952, and an income statement for the first six months of 1952 within twenty days after the effective date of that order. Also, the company was ordered to file an annual report for the year 1951 within thirty days, to continue to keep its books of account up to date and in conformance with the Uniform Classification of Accounts prescribed by the Commission, and to file with the Commission an up-to-date balance sheet and income statement for the current month and for the year to date once a month within twenty days after the close of each month until further order of the Commission.

Proposed Service by the City of
San Bernardino Water Department

A letter to the Commission from the City of San Bernardino Water Department, dated July 31, 1953, which was read into the record, indicates that the City of San Bernardino Water Department had, as of that date, received 110 applications from Del Rosa Estates property owners for water service by the city, and that the city had appropriated \$189,000 to construct transmission and distribution pipelines, to construct a 500,000-gallon storage tank in the area, and to install a booster pumping plant to serve Del Rosa Estates and surrounding territory.

The record shows that the Del Rosa Estates area, which includes the entire service area of Del Rosa Heights Water Company, was annexed to the City of San Bernardino on April 25, 1953, by a

vote of approximately 90 per cent of the residents of the area. The city water department has planned the extension of its water system to serve an area of approximately 388 acres, including the Del Rosa Estates and Tract No. 3757,^{2/} San Bernardino County. Water service to the latter tract was the subject of a further hearing in this matter held in San Bernardino on June 17, 1953.

Costs of water service by the city to the Del Rosa Estates property owners would be \$71.76 per lot for extraordinary charges, plus \$1.50 per front foot, plus a service connection charge, including installation of a meter, of \$25 for a 5/8-inch meter if the street is not paved, and \$35 if the street is improved, and increasing charges for larger sized meters. All extensions by the city would be performed under its main extension rules and service would be rendered at the city's rates for service inside the city and outside the city. Copies of the city's rates for such service were filed at the hearing as Exhibits Nos. 2-A and 2-B. As of the date of the hearing 158 property owners (a majority of those owning property in the annexed area) had advanced the necessary amounts to receive water service from the city.

A witness called by the Commission, the superintendent and chief engineer of the city water department, testified that the city would require assurance of 100 per cent financial participation by the potential water users of the city's water service to Del Rosa Estates before it could commence construction. He further testified that the city had already brought water to 40th and Harrison Streets and that it had all materials, pipes

^{2/} Tract No. 3757, comprising 32 lots, is located at the northwest corner of Del Rosa Avenue and Avery Street. It is immediately contiguous and adjacent to the company's authorized service area on the north. Said tract is within the city limits and city water service would be available to it under the same conditions as service to Del Rosa Estates.

and supplies on hand and would start a construction crew working six days a week on Monday, August 24, 1953, if there were such assurance by that date. Bids for a 500,000-gallon capacity storage tank in the northerly part of the Del Rosa Estates area and a booster plant were opened on August 19, 1953. It is anticipated that all construction will be completed and water service by the city will be commenced in December, 1953. This witness indicated, however, that it would not be financially feasible for the city to go ahead with its plans if the Del Rosa Estates area were to continue to be served by both a municipal and a public utility water system. The issue now before the Commission is whether or not public convenience and necessity require the perpetuation of the certificate of public convenience and necessity granted to Del Rosa Heights Water Company by Decision No. 42704 hereinbefore referred to.

Financial Condition of Del Rosa
Heights Water Company

The Superior Court of the County of San Bernardino appointed a receiver for Del Rosa Heights Water Company in March, 1953, and the record shows that, continuously since 1949, the company has been in financial and legal straits. As of the date of the hearing the receiver for the company testified that the company had \$23.88 cash in the bank and owed bills amounting to \$1,200, which included \$346.87 owed to Mr. Elias Shahan for the purchase of surplus water, \$163.22 owed to Southern California Edison Company for a power bill due and payable July 31, 1953, an Employer's Liability and Compensation Insurance bill amounting to \$123.51, and the receiver's accrued salary to August 6, 1953, amounting to \$575. In addition, a water bill amounting to \$120.13 is pending for water purchased from Mr. Shahan between August 11 and August 20, 1953.

Filing of Annual Reports and Reports
Under General Order No. 24A, and
Condition of Books of Accounts and Records

The record shows that no annual reports for the years 1949, 1950, 1951 and 1952 have ever been filed by the company.

Although authorized by Decision No. 42704 to issue 45,000 shares of common stock of par value of \$1 per share, 40,000 shares of which were to be issued to L. R. Myers for acquisition of the water system properties and 5,000 share for cash, the corporation never has issued any stock. Consequently, and further, due to extensive litigation, there is considerable doubt and confusion about who owns the company.

The record shows that the company's books of accounts have never been kept in conformance with accounting standards prescribed by the Commission and there appear to be no fixed capital investment records whatsoever. The Commission's order for the filing of balance sheets and income statements subsequent to June, 1952, has never been complied with.

Water Service Conditions

The record of the hearings on November 7, 1951, March 26, 1952, July 30, 1952, June 17, 1953, and the instant hearing, is replete with complaints by consumers regarding deficient water service and testimony by Commission staff engineers regarding inadequacy of the utility's water supply. As of the present time, water service is shut off regularly between 10:30 p.m. and 6:00 a.m., and verbal and written restrictions have been issued by the company to the consumers to water their lawns only every other day in order to conserve water. On recent hot summer days the utility has run out of water between 8:00 a.m. and 9:00 a.m. until around 6:00 p.m. The utility has the full use of one well only, its own. Surplus water purchased from Mr. Shahan has been available only sporadically since August 11, 1953, due to Mr. Shahan's need to irrigate his

orange groves. The utility has only a verbal agreement with Mr. Shahan to furnish such water as he may be able to make available at a rate of \$1.50 per hour's use of the Shahan well.

Conclusion

No evidence was submitted to the Commission at this latest hearing that the Del Rosa Heights Water Company has any possible prospect of successful continuation in business. Because of its involved financial and corporate difficulties and because of its lack of water supply, it has been, and it appears that it will continue to be, unable to fulfill its obligation to render anything like adequate water service to its consumers. The prospect of service by the City of San Bernardino Water Department appears to have been overwhelmingly desired by the residents of the area and to be a practicable solution to a distressing problem. The record shows that eight fringe consumers on the west side of Mountain Avenue and the south side of Avery Street are not located within the area annexed to the city. Their location is adjacent to the city limits and is such that they could be annexed, upon application to the city, should they so elect.

It is concluded that it would not be in the public interest for two water systems to operate in the area. It does not appear that the utility could continue to operate with a reduced number of water service consumers.

After a review of the record in this proceeding, the Commission is of the opinion and finds that when the City of San Bernardino Water Department is physically able to commence water service to the area certificated by Decision No. 42704 to Del Rosa Heights Water Company, public convenience and necessity will no longer require that said certificate remain in full force and effect and the Commission further finds that public convenience and

necessity require that said certificate should be revoked. The order which follows will provide that the certificate and operating rights of the company shall be revoked on December 31, 1953.

Emergency Condition

The Commission finds that an emergency condition exists with respect to water service being furnished by Del Rosa Heights Water Company. Therefore, and in order to relieve such emergency by hastening the introduction of water service by the City of San Bernardino Water Department to the area, the effective date of the order which follows will be its date.

O R D E R

The Commission having instituted an investigation on its own motion into the operations, practices, contracts, main extensions, service area, water supply and water service, and related matters, or any of them, public hearings 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 will no longer require that the certificate of public convenience and necessity granted by Decision No. 42704, dated April 12, 1949, in Application No. 29766, to Del Rosa Heights Water Company remain in full force and effect upon the commencement of water service to Del Rosa Estates by the City of San Bernardino Water Department and that public convenience and necessity require the revocation thereof; therefore,

IT IS HEREBY ORDERED that the certificate of public convenience and necessity heretofore granted to Del Rosa Heights Water Company by Decision No. 42704 be, and it is, revoked as of

December 31, 1953, and that Del Rosa Heights Water Company shall cease and desist from operating or furnishing water service as a public utility water corporation after said date.

The effective date of this order shall be the date hereof.

Dated at San Francisco, California, this 25th day of August, 1953.

A. R. Minton
President

Justus F. Crocker
John E. Mitchell

Commissioners