

ORIGINALDecision No. 49833

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the application of)
 John Fernandez, Norman J. Fernandez,)
 John T. Fernandez and James Fernandez,)
 a copartnership doing business under)
 the firm name and style of BRENTWOOD)
 VILLAGE WATER COMPANY, for a certifi-)
 cate of public convenience and neces-)
 sity to operate a water system in and)
 adjacent to Brentwood Village in)
 Sacramento County, California, and to)
 establish water rates.)

Application No. 34901

Joseph E. Spink, for applicants.
Stanley G. King, in propria persona, inter-
 ested party.
W. B. Stradley, for the Commission staff.

O P I N I O N

Applicants John Fernandez, Norman J. Fernandez, John T. Fernandez and James Fernandez, a copartnership doing business under the firm name and style of Brentwood Village Water Company, filed their application on November 25, 1953, for a certificate of public convenience and necessity to operate a public utility water system in certain subdivisions, known as Brentwood Village and Freeport Village Units Nos. 3 and 4 and certain areas adjacent thereto, all of which are in Sacramento County.

A public hearing in this proceeding was held before Examiner W. E. Cline at Sacramento on January 20, 1954. At the hearing applicants were granted permission to submit late-filed Exhibits Nos. 5, 7 and 12. Said exhibits were filed February 6, 1954. At the hearing, as it appeared that Brentwood Village had recently been annexed to the City of Sacramento, the matter was taken under submission subject to the City of Sacramento being served with a copy of

the application and being given a reasonable opportunity to request further hearing. No request for further hearing was made by the City of Sacramento after service of a copy of the application, and the matter was taken under submission February 25, 1954.

Description of System

The proposed service area is shown on the map attached to the application on file herein, and is bounded as follows: On the north by the center line of Fruitridge Road, on the east by the Western Pacific Railroad, on the south by the center line of Encinal Avenue and the easterly extension thereof, and on the west by the center line of Twenty-fourth Street Road. A portion of the area is in the southern part of the City of Sacramento and the rest of the area is in Sacramento County just south of the City of Sacramento.

At the time of the hearing approximately 103 consumers were being served. When the area is fully developed the water system will be required to serve approximately 503 consumers.

The sources of water for the system are two wells designated as Well No. 1 and Well No. 2. Well No. 1 is 325 feet deep and is equipped with a deep well turbine pump operated by a 50 hp electric motor which discharges water into a 5,000-gallon pressure tank set to maintain an average system pressure of 60 pounds per square inch. The pump test report shows that this well produced 1.02 million gallons of water in a 24-hour period. Well No. 2 is equipped with a deep well turbine pump operated by a 30 hp electric motor and discharges water directly into the system. During a 24-hour test period Well No. 2 pumped .958 million gallons.

At the present time the area known as Brentwood Village is completely piped and the residences therein are being furnished water through approximately 700 feet of 8-inch mains and 3,500 feet of 6-inch mains. The system in the area known as Freeport Village is

in the developmental stage and at the present time approximately 9,800 feet of an ultimate total of 15,300 feet of water mains are installed.

As of December 31, 1953, applicants' affiliate had completed work on water system plant in the amount of \$76,163.33, and an estimated \$35,719.75 of work on the system remained to be done. The system when completed should be adequate to serve the requested service area. The record shows that applicants have the requisite financial responsibility to develop the system as proposed.

Bacterial analysis of the water shows it to be potable. Chemical analysis shows that the chemical content is about the same as the water served by the Freeport Water System. The testimony of witness Wells, who operates the Brentwood Village Water System, is that the water is clear and potable. Applicants have filed an application for a State Department of Health water permit but the application has not yet been acted upon.

No other public utility is serving the area for which a certificate is sought, and the City of Sacramento has entered no protest to the granting of the application.

Service Complaint

Stanley G. King, a water consumer, testified that twice recently and once in October 1953, the pressure in the mains had been low and the water had become cloudy. Witness King stated, however, that even when the water was cloudy its taste was satisfactory. Witness Wells, who operates the system, explained that the cloudiness had occurred when the wells were being flushed during the developmental period. The wells are fully cased to the bottom. The tops of the wells are above ground surface and enclosed in concrete blocks. The low pressure resulted from a defective pressure switch which has been replaced.

Franchise

Applicants have obtained a franchise from the Board of Supervisors of the County of Sacramento to operate a water system within the proposed certificated area. The franchise is for a term of 50 years. No fee is payable during the first five years but thereafter an annual fee of 2 per cent of the gross annual receipts arising from the use, operation and possession of said franchise is payable to the County of Sacramento.

Assumption of Indebtedness

Sierra Builders, Inc., all of whose stock is owned by applicants, pursuant to agreement dated May 28, 1952, acquired from Charles G. Michael, the owner and developer of Brentwood Village, a water distribution system serving said Brentwood Village. Said agreement, a copy of which was introduced into evidence as Exhibit No. 3, provides that Sierra Builders, Inc., in consideration of the transfer of the water system, shall operate the system and shall pay to Charles G. Michael that sum which will equal 35 per cent of the gross revenues derived from all residential and commercial water customers within the boundaries of said Brentwood Village, which gross revenues are derived from the date of the agreement to and including June 30, 1962; provided that the total amount to be paid by the said Sierra Builders, Inc. to the said Charles G. Michael shall in no event exceed the sum of \$23,142.45. The agreement further provides that the furnishing of water under the agreement shall at all times be subject to the rules, regulations, and decrees of the Public Utilities Commission of the State of California, and that the agreement shall bind and inure to the benefit of the assigns of the parties to the agreement.

By grant deeds dated October 27, 1953, and January 26, 1954, and by deed and bill of sale dated February 1, 1954, Sierra Builders,

Inc. has deeded to applicants all its interest in and to the properties and water company now serving the proposed certificated area.

There are no outstanding liens, mortgages or obligations against the water supply facilities, except as set forth in the previously described agreement between Sierra Builders, Inc. and Charles G. Michael.

Rates

Applicants propose to charge a flat rate of \$2.75 per month for each residence including an irrigated area of not over 3,000 square feet plus 3 cents per month for the months from May through October per 100 square feet of irrigated area in excess of 3,000 square feet. Applicants also propose to serve water on a measured basis at monthly minimum charges ranging from \$1.75 for 5/8 x 3/4-inch service to \$3.25 for 1-inch service and at quantity charges reduced through five blocks from \$1.75 for the first 800 cubic feet or less to 10 cents per 100 cubic feet for all water in excess of 10,000 cubic feet. Applicants also propose a rate of \$1.50 per month for each wharf or steamer type fire hydrant.

The record shows that the average size of the lots in the area to be served is 6,000 square feet and that it is not likely that any lot will have more than 3,000 square feet of irrigated land. In the event of excessive usage of water a meter may be installed at the option of applicants. The additional charge of 3 cents per 100 square feet of irrigated land in excess of 3,000 square feet will not be authorized.

Applicants have been charging a flat rate of \$2.75 per month for each residential service connection. The income statement for the year ended December 31, 1953 shows a loss of \$1,122.03. Applicants estimate that the proposed rates will produce a return of approximately 4 per cent on a rate base of \$109,397.75 upon full

development of the subdivision. The rates set forth in Appendix A are hereby found to be reasonable and will be authorized.

Conclusion

The Commission has considered the request of applicants for a certificate of public convenience and necessity to construct and operate a public utility water system and is of the opinion that it should be granted.

The Commission is also of the opinion that public convenience and necessity require it to grant applicants a certificate of public convenience and necessity to exercise the rights and privileges granted by the County of Sacramento by Ordinance No. 441 adopted February 16, 1953.

Such certificates are subject to the following provision of law:

That the Commission shall have no power to authorize the capitalization of the franchise involved herein or this certificate of public convenience and necessity or the right to own, operate or enjoy such franchise or certificate of public convenience and necessity in excess of the amount (exclusive of any tax or annual charge) actually paid to the State or to a political subdivision thereof as the consideration for the grant of such franchise, certificate of public convenience and necessity or right.

The Commission further finds that the transfer of public utility properties from Charles G. Michael to Sierra Builders, Inc., pursuant to the agreement for water service dated May 28, 1952, a copy of which is in evidence as Exhibit No. 3, and the transfer of the public utility properties described in Exhibits Nos. 5(a), 5(b), and 5(c) from Sierra Builders, Inc. to applicants will not be adverse to the public interest and should be authorized. The Commission further finds that the money, property, and labor to be procured by applicants herein through the assumption of the obligations of Sierra Builders, Inc., under the agreement for water service,

Exhibit No. 3, are reasonably required by applicants for the purpose of acquiring the public utility properties therein specified, and such purpose is not, in whole or in part, reasonably chargeable to operating expense or to income.

The action herein taken shall not be construed to be a finding of the value of the public utility operative rights and other public utility property herein authorized to be transferred.

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 public convenience and necessity will require the construction and operation of a public utility water system within the territory described in the application on file herein and shown on the map attached thereto and introduced in evidence as Exhibit No. 2.

1. IT IS HEREBY ORDERED that a certificate of public convenience and necessity be and it is hereby granted to John Fernandez, Norman J. Fernandez, John T. Fernandez and James Fernandez, a copartnership doing business under the firm name and style of Brentwood Village Water Company, to construct and operate a public utility water system for the distribution and sale of water within the territory hereinbefore described.

2. IT IS FURTHER ORDERED that a certificate of public convenience and necessity be and it is hereby granted to said John Fernandez, Norman J. Fernandez, John T. Fernandez and James Fernandez, a copartnership doing business under the firm name and style of Brentwood Village Water Company, to exercise the rights and

privileges granted to them by the County of Sacramento under Ordinance No. 441 adopted February 16, 1953.

3. IT IS HEREBY FURTHER ORDERED as follows:

- a. Applicants are authorized to file the rates set forth in Appendix A attached to this order to be effective on or before the date service is first rendered to the public pursuant to the certificate of public convenience and necessity herein granted, together with rules and tariff service area map acceptable to this Commission and in accordance with the requirements of General Order No. 96.
- b. Applicants shall notify this Commission in writing of the completion of the system for which this certificate is granted, within thirty days thereafter.
- c. Applicants shall file with this Commission within forty days after the effective date of this order, four copies of a comprehensive map drawn to an indicated scale not smaller than 100 feet to the inch, delineating by appropriate markings the various tracts of land and territory served; the principal water production, storage and distribution facilities; and the location of the various properties of applicant.
- d. Within sixty days after the date when the system has been constructed and placed in operation under the rates and rules and regulations authorized herein, applicants shall file with this Commission a copy of each and every journal or other entry used to record the original, installed cost of the major items of property acquired or constructed as parts of the system devoted to rendering service to the public. All important acquisitions or installations made within a period of one year from the effective date hereof shall likewise be reported within sixty days after their completion.
- e. Applicants shall base the accruals to depreciation upon spreading the original cost of the plant, less estimated net salvage and depreciation reserve, over the estimated remaining life of the property. Applicant shall review the accruals when major changes in plant composition occur and for each plant account at intervals of not more than five years. Results of these reviews shall be submitted to this Commission.

4. IT IS FURTHER ORDERED that:

- a. Charles G. Michael may, on or after the effective date hereof, and on or before October 1, 1954, sell and transfer the public utility properties described in the agreement for water service, Exhibit No. 3, herein, to Sierra Builders, Inc., pursuant to the provisions of said agreement; and that Sierra Builders, Inc. may, on or after the effective date hereof and on or before October 1, 1954, sell and transfer the public utility properties described in Exhibits Nos. 5(a), 5(b), and 5(c) to John Fernandez, Norman J. Fernandez, John T. Fernandez and James Fernandez, a copartnership doing business under the firm name and style of Brentwood Village Water Company.
- b. Within thirty days after acquiring the properties under the authority herein granted, John Fernandez, Norman J. Fernandez, John T. Fernandez, and James Fernandez, a copartnership doing business under the firm name and style of Brentwood Village Water Company, shall file with the Commission a copy of each final instrument executed to convey the public utility water properties from Charles G. Michael to Sierra Builders, Inc. and a copy of each final instrument executed to convey the public utility water properties from Sierra Builders, Inc. to said John Fernandez, Norman J. Fernandez, John T. Fernandez, and James Fernandez, a copartnership doing business under the firm name and style of Brentwood Village Water Company, and a statement indicating the dates upon which Charles G. Michael and Sierra Builders, Inc. relinquished control of said properties and of their compliance with the conditions hereof.
- c. On or before the date of actual transfer of the physical properties herein authorized, Charles G. Michael and Sierra Builders, Inc. should transfer and deliver to John Fernandez, Norman J. Fernandez, John T. Fernandez, and James Fernandez, a copartnership doing business as Brentwood Village Water Company, and the latter shall receive and preserve all records, memoranda and papers pertaining to the construction of the public utility properties herein authorized to be transferred.
- d. John Fernandez, Norman A. Fernandez, John T. Fernandez and James Fernandez, doing business under the firm name and style of Brentwood Village Water Company, are hereby authorized

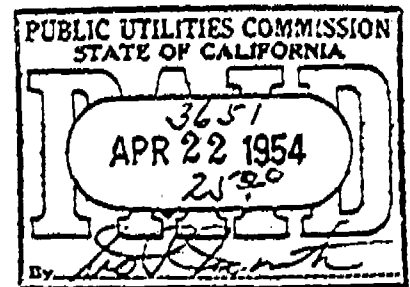
to assume the obligations of Sierra Builders, Inc. under and pursuant to the agreement for water service between Charles G. Michael and Sierra Builders, Inc., dated May 28, 1952, a copy of which agreement was introduced into evidence as Exhibit No. 3; among the obligations herein authorized to be assumed being a contingent obligation to pay to Charles G. Michael the sum of \$23,412.45, as previously described in the above opinion.

This order shall become effective when John Fernandez, Norman J. Fernandez, John T. Fernandez and James Fernandez, a copartnership doing business under the firm name and style of Brentwood Village Water Company, have paid to the Commission the minimum fee prescribed by Section 1904(b) of the Public Utilities Code, which fee is \$25.

The authorization herein granted will lapse if not exercised within one year from the date hereof.

Dated at San Francisco, California, this 20th day of April, 1954.

[Signature]
President
Justino J. Calcedo
Kenneth J. Patten
John E. Mitchell
Deane Higgins
Commissioners



APPENDIX A
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Schedule No. 1

GENERAL METERED SERVICE

APPLICABILITY

Applicable to all metered water service.

TERRITORY

Brentwood Village Subdivision situated within the City of Sacramento adjacent to its southern boundary, and Freeport Village Unit No. 3 and Unit No. 4 immediately south of the south city limits of the City of Sacramento, Sacramento County.

RATES

	<u>Per Meter</u> <u>Per Month</u>
Quantity Rates:	
First 800 cu.ft. or less	\$1.75
Next 1,200 cu.ft., per 100 cu.ft.175
Next 3,000 cu.ft., per 100 cu.ft.15
Next 5,000 cu.ft., per 100 cu.ft.12
Over 10,000 cu.ft., per 100 cu.ft.10
Minimum Charge:	
For 5/8 x 3/4-inch meter	\$1.75
For 3/4-inch meter	2.25
For 1-inch meter	3.25

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

Schedule No. 2

RESIDENTIAL FLAT RATE SERVICE

APPLICABILITY

Applicable to all water service rendered to residential consumers on a flat rate basis.

TERRITORY

Brentwood Village Subdivision situated within the City of Sacramento adjacent to the southern boundary, and Freeport Village Unit No. 3 and Unit No. 4 immediately south of the south city limits of the City of Sacramento, Sacramento County.

RATE

	<u>Per Service Connection</u> <u>Per Month</u>
For a single family residence on one subdivision lot	\$2.75

SPECIAL CONDITIONS

1. The above residential flat rate service charge shall apply only to 3/4-inch and 1-inch service connections.
2. All service not covered by the above classification will be furnished only on a metered basis.
3. Meters may be installed at option of utility or consumer for above classification, in which event service thereafter will be rendered only on the basis of Schedule No. 1, General Metered Service.

Schedule No. 3

PUBLIC FIRE HYDRANT SERVICE

APPLICABILITY

Applicable to all water service rendered to fire hydrants owned by the local Fire Protection Authority.

TERRITORY

Brentwood Village Subdivision situated within the City of Sacramento adjacent to its southern boundary, and Freeport Village Unit No.3 and Unit No. 4 immediately south of the south city limits of the City of Sacramento, Sacramento County.

RATE

Per Month

For each wharf or steamer type fire hydrant \$1.50

SPECIAL CONDITION

The utility will supply only such water at such pressure as may be available from time to time as a result of its normal operation of the system.