

Decision No. 50397**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of EVERGREEN WATER COMPANY,)
 INC., a corporation, to acquire and)
 operate a water system, to extend)
 existing water system to be acquired,) Application No. 35455
 for order approving rates, and for)
 authority to issue stock in exchange)
 for cash and the said water system.)

Stephen H. Pray, for applicant.
L. L. Thormod and W. B. Stradley,
for the Commission staff.

INTERIM OPINION

Evergreen Water Company, Inc., seeks a certificate of public convenience and necessity to operate a public utility water system in the Evergreen area, County of Santa Clara, near San Jose. Authority is requested to issue and sell capital stock and to use the proceeds for organization expense and acquisition of the water system of Porter Water Service, a noncertificated company, and other properties. Applicant further requests authority to file rates for water service.

A public hearing was held before Examiner Carl Silverhart at San Jose on July 16, 1954.

A map in evidence as Exhibit 9 delineates by broken blue lines, the boundaries of the proposed service area and sets forth the location of the water system, easements and rights of way for utilities.

Fred W. Porter, doing business as Porter Water Service, is the owner of the presently installed water system, which has been serving this area for about four years. The system comprises two wells with a minimum combined capacity of 100 gallons per minute,

a collecting tank, pumping equipment, meters and distribution tanks and mains. It is proposed to add to the system a 500,000-gallon collecting reservoir, a 500,000-gallon steel storage tank, a booster station and 20,000 feet of 8-inch, 6,000 feet of 6-inch, 4,000 feet of 4-inch and 5,000 feet of 2-inch pipe. The utility has entered into an agreement to purchase, at the rate of \$24 per acre-foot, the major portion of the output of a well capable of producing 550 gallons per minute; the term of the agreement is for 10 years with an option of renewal for a further 10-year period.

The depreciated cost of the present system is reported by the applicant as follows:

Land	\$ 4,530.00
Buildings	5,417.00
Wells	16,115.00
Pumping Equipment and Distri. Sys.	40,781.84
Office Equipment	216.00
Total	<u>\$67,059.84</u>

The cost of the contemplated additions is estimated by applicant as follows:

Organization	\$ 2,000.00
Land	4,500.00
Buildings	1,760.00
Pumping Equipment and Distri. Sys.	166,223.00
General Equipment	400.00
Total	<u>\$174,883.00</u>

The record indicates that there is no other public water supply immediately available to serve the proposed area. Water consumers in the proposed service area testified that there is an acute shortage of water and that they are in urgent need of the service proposed by applicant.

It appears that a county franchise is required. An application which has heretofore been filed therefor is presently pending before the Board of Supervisors of Santa Clara County.

The present rate schedule of Porter Water Service is as follows:

Monthly Quantity Charges

From 0 to 1,000 cf., per 100 cu. ft.....	\$0.34
From 1,000 to 2,000 cf., per 100 cu. ft.....	.30
From 2,000 to 3,000 cf., per 100 cu. ft.....	.26
For all over 3,000 cf., per 100 cu. ft.....	.20

Minimum charge of \$2.00 per month.

Where more than one house is on one meter the minimum charge will apply to each house.

Applicant's proposed rate schedule follows:

Service Charge per Month:

5/8-inch meter.....	\$ 2.00
3/4-inch meter.....	3.00
1-inch meter.....	5.00
1-1/2-inch meter.....	8.00
2-inch meter.....	12.00
3-inch meter.....	18.00

For Irrigation Service where the meter is set and removed at the request of the consumer the above service charges shall apply for each time a meter is set, except when the meter is removed for the convenience of Water Company. This charge shall entitle the consumer to 10 days' continuous use. Any time beyond 10 days shall be prorated on the above charges based on a 30-day month.

Monthly Quantity Rates
Apply to All Classes of Service
Domestic and Irrigation:

First 500 cu.ft. at	\$.40 per 100 cu.ft.
Next 500 cu.ft. at	.35 per 100 cu.ft.
Next 5,000 cu.ft. at	.30 per 100 cu.ft.
Next 20,000 cu.ft. at	.25 per 100 cu.ft.
Over 26,000 cu.ft. at	.20 per 100 cu.ft.

Fire Hydrants shall be owned and maintained by the Central Fire District of Santa Clara County. The rate shall be \$1.00 per month per fire hydrant.

According to the record, applicant proposes to acquire the properties comprising the Porter Water Service for the sum of \$67,060 and thereafter to make additions and extensions during 1954 and 1955 at a total estimated cost of \$174,883. Applicant reports that the present water system has 70 services attached to

its lines and that by the time the proposed additions to the system are completed, it is estimated there will be an additional 100 domestic and 12 irrigation consumers connected to the system. Applicant has filed as Exhibit 1 a summary of an inventory and appraisal of the present properties, showing total original costs of \$77,114 and accrued depreciation of \$10,054. Applicant has filed as Exhibit 2 a statement showing in some detail the construction program.

Applicant seeks to finance the purchase price of the water system through the payment of \$20,000 in cash and the issue of \$47,060 par value of common stock. Applicant intends to undertake to provide the cash payment and the cost of the new facilities through the sale of shares of stock to the public. The application is indefinite as to the kind of stock to be issued; that is, whether common or preferred. The preferred stock would be nonvoting with noncumulative dividends at the rate of 5 per cent per annum. Applicant has not, however, completed its arrangements to dispose of its shares of stock nor has it introduced testimony indicating that it will be able to market all the securities necessary to carry its program to completion.

In view of these uncertainties the Commission is undertaking to make a review of the results of operations of the present water system and of the inventory and appraisal filed in this proceeding. Until such review has been completed we are not in a position to make a final order with respect to the amount of stock to be issued in part payment for the present facilities. In order, however, to enable the company to commence operations, we will authorize it at this time to issue not exceeding \$40,000 par value of its common stock to provide part of the \$67,060 purchase price of the Porter Water Service. At a later date, upon completion

of our staff review, we will give further consideration to the issue of additional shares for this purpose. At this time we will also authorize the company to issue not exceeding \$174,880 par value of common stock for additions and betterments.

We have given consideration to applicant's request to issue shares of preferred stock, as well as shares of common stock, to finance the estimated future costs, and we are of the opinion that the preferred shares should not be authorized at this time. Such preferred stock as applicant proposes to issue would bear noncumulative dividends and it may well happen in the development of applicant's territory, as here proposed, that dividends will not be earned during the first few years of operation, in which case the purchasers would have no recourse for failure to earn a return on their investment. Further, it is not clear that applicant will be successful in its financing undertakings. ✓

It is concluded from the evidence of record that applicant should be granted the requested certificate and should be authorized to issue shares of stock, of the kind, in the amount and for the purposes which we have hereinabove indicated. The ensuing order will so provide.

The Commission's staff currently is analyzing the applicant's proposed rate structure. Therefore, pending further hearing and order in this proceeding, applicant will be authorized to charge the Porter Water Service schedule of rates now being used. Such rates are set forth in Appendix A hereto.

The certificate issued herein is subject to the following provisions 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.

When the applicant has filed a supplemental application herein to which is attached a copy of the franchise issued by the Board of Supervisors of the County of Santa Clara, the Commission will issue a certificate of public convenience and necessity authorizing applicant to exercise such franchise upon such terms and conditions as the Commission may designate.

INTERIM ORDER

The above-entitled application having been considered and public hearing having been held,

IT IS HEREBY FOUND AS A FACT that public convenience and necessity will require the construction and operation of a public utility water system by applicant in the area known as Evergreen near San Jose, Santa Clara County, California, as delineated on a map designated Exhibit 9; therefore,

IT IS HEREBY ORDERED that:

1. A certificate of public convenience and necessity be and it is hereby granted to Evergreen Water Company, Inc., a corporation, to construct and operate a public utility water system for the distribution and sale of water within the territory hereinbefore described.

2. Applicant shall:

- a. File in quadruplicate the rates set forth in Appendix A attached to this order, to be effective on or before the date service is rendered to the public, together with rules and regulations and tariff service area map acceptable to this Commission and in accordance with the requirements of General Order No. 96. Such rates shall remain in effect until the Commission, by order made herein, may otherwise direct.

- b. File, within forty days after the effective date of this order, four copies of a comprehensive map, drawn to an indicated scale not smaller than 600 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; all as presently existing and proposed as described herein.

3. Evergreen Water Company, Inc., may issue not exceeding \$40,000 par value of its common stock in part payment for the properties of Porter Water Service, and may issue and sell, at not less than par for cash, not exceeding \$174,880 par value of its common stock for the purpose of financing the cost of proposed additions and betterments, it being the opinion of the Commission that the money, property or labor to be procured or paid for by the issue and sale of the shares of stock herein authorized is reasonably required by Evergreen Water Company, Inc., for the purposes specified herein, and that such purposes are not, in whole or in part, reasonably chargeable to operating expenses or to income.

4. Evergreen Water Company, Inc., shall file with the Commission monthly reports as required by General Order No. 24-A, which order, in so far as applicable, is made a part of this order.

5. Upon the filing by applicant of a supplemental application to which is attached a copy of the franchise issued by the Board of Supervisors of the County of Santa Clara, the Commission will issue a certificate of public convenience and necessity authorizing it to exercise such franchise upon such terms and conditions as the Commission may designate.

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

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

Dated at San Francisco, California, this 10th day of August, 1954.

John E. Mitchell
 President

Justice D. Carmel

Kenneth D. Patton

Gene Higgins

Commissioners

APPENDIX A

Schedule No. 1

GENERAL METERED SERVICE

APPLICABILITY

Applicable to all metered water service.

TERRITORY

The unincorporated community of Evergreen and adjacent territory in Santa Clara County.

RATES

	<u>Per Meter per Month</u>
Quantity Rates:	
First 1,000 cu.ft., per 100 cu.ft.:.....	\$0.34
Next 1,000 cu.ft., per 100 cu.ft.:.....	.30
Next 1,000 cu.ft., per 100 cu.ft.:.....	.26
Over 3,000 cu.ft., per 100 cu.ft.:.....	.20
Minimum Charge:	
For metered service	\$2.00

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

SPECIAL CONDITIONS

1. When more than one residence is served from the same meter and one bill rendered for the combined service, an additional minimum charge will be applied to each additional residence.