

Decision No. 51817**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of James E. McClure,  
Trustee in bankruptcy of the bank-  
rupt estate of Ralph R. Westfall,  
to sell the estate's property in  
the water system in Los Osos  
Highlands Nos. 1 and 2, County of  
San Luis Obispo; and Application  
of W. H. Lambert to purchase said  
water system and to increase rates. )

Application No. 37141

Lloyd E. Somogyi and Charles K. Buck,  
for applicants.  
James E. McClure and W. H. Lambert.

O P I N I O NNature of Proceeding

By the above-entitled application, filed July 15, 1955, James E. McClure, trustee in bankruptcy of the estate of Ralph R. Westfall (Los Osos Valley Water Company) seeks authorization of this Commission to sell to W. H. Lambert the public utility water system serving Redfield Woods and Los Osos Highlands No. 2 subdivisions,<sup>1/</sup> located approximately 10 miles northwest of the City of San Luis Obispo, and W. H. Lambert seeks authority to establish increased rates and charges for water service coincident with his purchase of the system.

The record in this proceeding is clear that on February 19, 1954, James E. McClure was duly appointed the trustee in the matter of the bankruptcy proceeding involving Ralph R. Westfall, pending in the U. S. District Court as Case No. 59170-WB, and that among the assets of the estate of Westfall was the water system supplying public utility water service to the subdivisions

1/ Also known as Los Osos Highlands No. 1 and No. 2 subdivisions.

above mentioned. Pursuant to his duties as trustee in bankruptcy, McClure has attempted to find a buyer for the water system. The best offer received is that of W. H. Lambert who, in addition to his preferred cash purchase, in the amount of \$100, conditions his purchase offer upon the authorization for an increase in water rates sufficient to halt water system operating losses and provide an opportunity to earn a fair return on the value of the water system devoted to public service. The gross annual revenues sought by Lambert total \$3,600 based upon near-future operations of the system as proposed by him.

#### Public Hearing

A public hearing in the matter was held before Examiner F. Everett Emerson on August 9, 1955, at San Luis Obispo and was submitted for decision on that date. Numerous water users attended the hearing and the president of the Water Users Committee representing consumers served by the system, took an active part in the proceeding. Considerable urgency was voiced and the entire situation was characterized as "an emergency" by all participants.

#### Nature of Evidence

The record in this proceeding indicates that the existing water system is woefully deficient and deteriorated as respects quantity of water supply, storage and pressure. Many consumers are without water or have such low service pressures as to make the service unusable. Service normally considered suitable by the average householder is not supplied to any consumer at the present time. The system was originally intended to service over 500 residential lots in the area. It does not now properly serve 60 lots. According to the evidence, service worsens with every passing day. For example, due to lack of maintenance the output of the pump, on the only well supplying the system, has declined to the point where only 67 gallons of water are produced per minute at an efficiency of about 32 per cent.

The system is now being operated at an annual net loss approximating \$1,300. Gross revenues presently produced by the system do not meet the out-of-pocket costs of operation, let alone provide for the payment of taxes or depreciation expense. In short, in our opinion, financial as well as physical collapse of the system appears imminent.

Applicant Lambert is well aware of this situation and proposes to rehabilitate and improve the physical system and to provide adequate service to all present, as well as prospective consumers. Although not experienced in water utility operations, he is a licensed contractor and well driller and has had many years' experience in obtaining adequate water supplies. He is confident that, given suitable opportunity and a reasonable increase in revenues, the public will benefit from his operation of the system. Present water users apparently have equal confidence in him and have indicated their willingness to pay higher water rates providing adequate service is rendered.

Lambert promises that within 30 days of receiving title to the properties he will drill a new well and install a new pump thereon. Within another 30 days he will install a booster system to supply all consumers at the upper elevations of the tracts with adequate water pressures. Further, he proposes to repair the existing cement-block 30,000-gallon storage reservoir and generally to restore the physical plant to its intended operating condition. The evidence is clear that he is financially able to undertake and complete the work necessary to accomplish such desirable result.

The situation, both physical and financial, presently and prospectively facing this water system and its water users was testified to by an engineer of the Commission staff. His testimony corroborated that of other witnesses respecting the deficiency and needs of the existing system. In his expert opinion the proposed

rehabilitation and improvements to the system should be made and without delay. He presented estimates of costs, revenues and related matters based upon existing conditions and based upon complete fulfillment of the proposals made by Lambert. The results of operations, as presented by this engineer, are summarized as follows:

Summary of Earnings

I. Existing System, Existing Water Rates

<u>Item</u>	<u>Annual Amount</u>
Operating Revenues	\$ 1,260
Operating Expenses	
Before Taxes and Depreciation	1,770
Taxes	25
Depreciation	747
Total Operating Expenses	<u>2,542</u>
Net Revenue	(1,282)
Depreciated Rate Base	19,000
Rate of Return	loss

(Red Figure)

II. Rehabilitated and Improved System, Increased Water Rates

<u>Item</u>	<u>Annual Amount</u>
Operating Revenues	\$ 3,600
Operating Expenses	
Before Taxes and Depreciation	2,095
Taxes	130
Depreciation	1,045
Total Operating Expenses	<u>3,270</u>
Net Revenue	330
Depreciated Rate Base	25,100
Rate of Return	1.4%

The present system serves but 60 residential customers and one public school. Lambert's rate proposal is basically to set a flat rate of \$5 per service connection per month and to reduce such rate to a final permanent rate of \$3.50 per month, in proportionate steps, as groups of 10 customers may be added to the system. While Lambert's intention to provide water service at lesser charges as the system grows is laudable, the method, and variability in charges produced therefrom, in our opinion would

not be equitable as between utility and consumer or classes of consumers nor would it be in the best public interest. The intended end result may be accomplished in a more suitable manner by increasing the charges set forth in the existing rate schedules until adequacy of service is accomplished and then, either by voluntary action on the part of the utility or further order of this Commission, new rates may be established which may be fair and reasonable under the circumstances then prevailing. In our opinion, under the circumstances in which this utility operation and its consumers now find themselves, both the public interest and the utility will best be protected by such method.

#### Conclusions

In view of the evidence we find that transfer of the water utility properties comprising the Los Osos Valley Water Company to W. H. Lambert is not adverse to the public interest. The requested authority to permit the proposed sale will be granted. Such authority, however, shall not be construed to be a finding as to the value of the property authorized to be transferred.

In view of the evidence we further find that increases in rates and charges for all water service rendered from this system are justified and that the rates and charges hereinafter authorized are fair and reasonable rates and charges for such service.

Authorized charges, as compared with existing charges, are shown below. An appropriate rate for metered service will also be established.

#### Flat Rate Service

<u>Area of Lot Served</u>	<u>Present Rate</u>	<u>Authorized Rate</u>
6,000 sq. ft. or less	\$2.25	\$4.75
6,001 to 9,000 sq. ft.	2.50	4.85
9,001 to 12,000 sq. ft.	2.75	5.00
Over 12,000 sq.ft. per 1,000 sq.ft.	.10	.10
Additional residence on same lot	1.50	3.00

The new rates will be effective as of the approximate date the new well is made operative. Applicants are placed upon notice, however, that the new rates are predicated upon a faithful performance of the proposed system improvements and that should such improvements not be made this proceeding may be reopened with a view toward rescinding, in whole or in part, the rate increases authorized herein.

O R D E R

The above-entitled application having been filed with this Commission, public hearing thereon having been held, the matter having been submitted and it appearing to the Commission that the proposed transfer will not be adverse to the public interest; therefore,

IT IS HEREBY FOUND AS A FACT that the rates and charges authorized herein are justified, and

IT IS HEREBY ORDERED as follows:

1. James E. McClure, trustee in bankruptcy in the estate of Ralph R. Westfall, may, on or after the effective date of this order and on or before December 31, 1955, sell and transfer the public utility water system described in the application in this proceeding to W. H. Lambert.

2. If the authority hereinabove granted is exercised, applicants shall, within thirty days thereafter, notify this Commission in writing of the date of completion of such property transfer, shall file a certified copy of the instrument or instruments by which the real property is transferred and shall file a written statement indicating the date upon which physical control and possession of the system were assumed by W. H. Lambert.

3. On or before the date of actual transfer, James E. McClure shall refund all deposits which customers are entitled to have refunded; any unrefunded deposits shall be transferred to and become the obligation for refund of W. H. Lambert; James E. McClure, trustee, shall file with this Commission, within thirty days after the date of transfer, a written statement showing the disposition of any such deposits or showing that no deposits exist.

4. W. H. Lambert is authorized to file in quadruplicate with this Commission, on or after the effective date of transfer of the properties and in conformance with the provisions of General Order No. 96, the schedules of rates attached hereto as Appendix A together with rules and tariff service area map acceptable to this Commission and, after not less than five days' notice to the public and to this Commission, to make such rates effective for all service rendered on and after October 1, 1955; further, in the interim, the presently filed rates and rules applicable to this system shall be continued in effect.

5. W. H. Lambert, on or before October 1, 1955, shall have installed and in proper operation a new well and pump, and on or before November 1, 1955, shall have installed and in proper operation the pressure system and booster pump, as severally proposed by him in this proceeding; further, written notice of the completion of such installations shall be given this Commission within ten days thereafter.

6. Within one hundred twenty days from the date of completion of the above-ordered well and pressure system, W. H. Lambert shall file with this Commission four copies of a comprehensive map, drawn to an indicated scale of approximately 100 feet to the inch,

clearly indicating thereon by appropriate markings the parcels of land and the location and composition of the items of utility plant then existing.

7. On the date of property transfer James E. McClure shall transfer to W. H. Lambert all records and books of account pertaining to the utility system transferred and shall thereupon stand relieved of his utility obligations.

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

Dated at San Francisco, California, this 11th day of August, 1955.

James E. McClure  
President

James J. Coe

Ronald L. Latham

William J. Dwyer

W. H. Hardy  
Commissioners



APPENDIX A  
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## Schedule No. 1

GENERAL METERED SERVICEAPPLICABILITY

Applicable to all metered water service.

TERRITORY

The unincorporated area known as Los Osos Highlands Subdivisions Nos. 1 and 2, and vicinity, located about 10 miles northwest of the City of San Luis Obispo, San Luis Obispo County.

RATES

	<u>Per Meter per Month</u>
Quantity Rates:	
First 600 cu.ft. or less .....	\$4.50
Next 1,400 cu.ft., per 100 cu.ft.....	.25
Next 3,000 cu.ft., per 100 cu.ft.....	.20
Over 5,000 cu.ft., per 100 cu.ft.....	.15
Minimum Charge:	
For 5/8 x 3/4-inch meter .....	\$ 4.50
For 3/4-inch meter .....	6.00
For 1-inch meter .....	8.00
For 1-1/2-inch meter .....	11.00
For 2-inch meter .....	15.00
For 3-inch meter .....	20.00

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

## Schedule No. 2

RESIDENTIAL FLAT RATE SERVICEAPPLICABILITY

Applicable to all water service furnished to residential customers on a flat rate basis.

TERRITORY

The unincorporated area known as Los Osos Highlands Subdivisions Nos. 1 and 2, and vicinity, located about 10 miles northwest of the City of San Luis Obispo, San Luis Obispo County.

RATES

For each residential unit, including a lot having an area of:

	<u>Per Service Connection per Month</u>
6,000 sq.ft. or less .....	\$4.75
6,001 to 9,000 sq.ft.....	4.85
9,001 to 12,000 sq.ft.....	5.00
Over 12,000 sq.ft., each additional 1,000 sq.ft. or fraction thereof.....	.10

For each additional residence on the same lot served from the same service connection .....	3.00
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SPECIAL CONDITION

Meters may be installed at option of utility or customer for above classifications, in which event service will thereafter be rendered only on the basis of Schedule No. 1, General Metered Service.

Schedule No. 3

SCHOOL FLAT RATE SERVICE

APPLICABILITY

Applicable to all water service furnished to schools on a flat rate basis.

TERRITORY

The unincorporated area known as Los Osos Highlands Subdivisions Nos. 1 and 2, and vicinity, located about 10 miles northwest of the City of San Luis Obispo, San Luis Obispo County.

RATES

	<u>Per Service Connection per Year</u>
For Sunnyside Elementary School facilities, exclusive of irrigation use .....	\$180.00
	<u>Per Service per Month</u>
For Sunnyside Elementary School irrigation use, per 1,000 sq.ft. of irrigated area .....	\$0.15

SPECIAL CONDITIONS

1. The above annual flat rate charge may be paid in 12 equal monthly installments.

2. A meter may be installed at option of utility or customer for above classification, in which event service thereafter will be rendered only on the basis of Schedule No. 1, General Metered Service.

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Schedule No. 4

PUBLIC FIRE HYDRANT SERVICE

APPLICABILITY

Applicable to fire hydrant service rendered to a local fire protection authority or other political subdivision.

TERRITORY

The unincorporated area known as Los Osos Highlands Subdivisions Nos. 1 and 2, and vicinity, located about 10 miles northwest of the City of San Luis Obispo, San Luis Obispo County.

RATE

Per Month

For each fire hydrant, irrespective of size ..... \$2.00

SPECIAL CONDITIONS

1. 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.
2. The above rate includes use of water for fire fighting and for no other purpose. Quantities of water delivered through fire hydrants for any other purpose will be estimated or measured and charges therefor will be made at general metered service rates.
3. Fire hydrants will be attached to the utility's distribution mains for public fire protection only upon receipt of proper order of the local fire protection authority. Said order must designate the specific location at which each hydrant is to be installed.
4. The foregoing charges for hydrant service are based upon the understanding that the hydrants are to be owned by the local fire protection authority and are to be installed, maintained, painted, inspected and relocated at the expense of such authority.