

ORIGINALDecision No. 52651

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 PACIFIC WATER CO., a California corpo-)
 ration, for a certificate of public)
 convenience and necessity under) Application No. 36914
 Section 1001 of the Public Utilities)
 Code for the Sterling Tract, River-)
 side County, California.)

Moss, Lyon & Dunn by Charles B. Smith and George
Lyon, for applicant;
Franklin D. Laven, for the Home Way Development
 Company, interested party;
Charles Drake, for the Commission staff.

O P I N I O N

Pacific Water Co., a California corporation, hereinafter referred to as applicant, is authorized by this Commission to operate public utility water systems in the Counties of Los Angeles, Orange, Kern, and San Bernardino, California. By the application herein, filed on April 22, 1955, as amended by an amendment filed on October 11, 1955, applicant seeks a certificate of public convenience and necessity to construct and operate a public utility water system in unincorporated territory in Riverside County, California. The territory to be served, known as the Sterling Tract, is shown on Exhibit B in the amendment to the application, and is approximately 5 miles west of the City of Palm Springs on State Highway 111, and approximately 20 miles from applicant's nearest service area which is at Morongo Valley. The County of Riverside does not require that applicant secure a franchise.

Public hearings were held before Examiner Kent C. Rogers in Palm Springs on November 29, 1955, and in Los Angeles on December 13,

1955. At the conclusion of the latter hearing the matter was submitted subject to the filing of certain exhibits. These exhibits were filed on December 23, 1955, and the matter is ready for decision. Prior to the first hearing, notice thereof was published as required by this Commission.

On August 16, 1954, applicant entered into an agreement with Morry Sterling and Abner J. Moss, the predecessors of Home Way Development Co., a California corporation, collectively hereinafter referred to as "subdivider", concerning the installation of a domestic water system in the said area located about 5 miles west of the City of Palm Springs on State Highway 111 (Exhibit B on the application). In October, 1955, the said parties drafted a supplemental agreement increasing the total area to be served to include approximately 240 acres (Exhibit A on the amendment to the application) and on ~~October~~ **October 11, 1955**, the applicant filed an amendment to the herein application, requesting authority to provide water service to the entire 240-acre area. On the first day of hearing on the application in Palm Springs questions were raised concerning the propriety of certain provisions of the agreement between the applicant and the subdivider, and at the hearing on December 13, 1955, in Los Angeles the applicant presented a revised agreement (Exhibit No. 11) which was to replace the aforementioned agreements between the applicant and the subdivider. Certain questions were raised by the staff concerning the propriety of this agreement, and on December 23, 1955, the applicant filed an amended agreement dated December 20, 1955 (Exhibit 11-A) which supersedes all prior agreements between the applicant and the subdivider. This agreement, after reciting that the subdivider desires a supply of domestic water for the tract involved, and setting

forth the legal description of the land, in substance provides as follows:

1. The applicant shall purchase from the subdivider a parcel of land 100 by 100 feet containing a well, and shall also purchase the well.
2. The applicant shall purchase the pump, motor, well casing, and a 10,000-gallon pressure tank from the subdivider.
3. The subdivider shall transfer to the applicant the 100 by 100-foot parcel of land containing the well.
4. The subdivider shall transfer to the applicant all easements required to service the area with water.
5. The applicant shall pay to the subdivider in applicant's three per cent Class C Cumulative Preferred Stock in the face amount of \$17,000 for the well, land, pump, and tank being purchased by applicant.
6. The subdivider shall give the applicant a bill of sale to the personal property.
7. The parties contemplate that a 200,000-gallon storage tank will be required in the future. This tank is to be installed by the subdivider. The applicant is to purchase this tank from the subdivider by issuing to it applicant's three per cent preferred shares in the face amount of the cost to the subdivider. This section also provides that "as and where other water facilities are required exclusively to supply said water system, they shall be installed and paid for by ..." the subdivider.
8. The applicant shall install the necessary pipeline extensions which shall be financed pursuant to its Rule No. 19 (Decision No. 50580 - subdivision main extension rule).

The cost of meters and services, other than service stubs crossing streets, shall be paid for by the applicant.

From the agreement it appears that for \$17,000 in face value of applicant's stock the applicant would receive at least land valued at \$5,100 (page 7 of Exhibit No. 2), a well costing \$19,465¹ (Exhibit No. 4) and a tank and pumping equipment costing \$16,434 (Exhibit No.8).

¹ The subdivider had a well drilled, which produced no water, at a cost of \$1,427.94; Exhibit No. 3. Applicant included this sum in its cost of wells, page 7 in Exhibit No. 2. No reason appears why the water users should reimburse the applicant for the dry well cost.

The Proposal

There are approximately 240 acres in the proposed subdivision which are to be subdivided into 1,000 lots (page 14 on Exhibit No. 2). At the outset, the subdivider proposes to develop Unit No. 1 containing 104 lots (page 12 on Exhibit No. 2). The applicant is to furnish water pursuant to the hereinabove referred to agreement.

The Water Supply

The water supply for the entire subdivision is to be furnished by one well completed on February 12, 1955 (see page 13 of Exhibit No. 2 for the location of the well). This well is 20 inches in diameter and 750 feet in depth and has been tested at 1,800 gallons per minute at a pumping level of 539 feet and a static level of 515 feet.² The water is fit for human consumption³ and will be chlorinated if necessary. The staff is of the opinion that the well will provide sufficient water for normal residential development, plus fire requirements. It should be noted, however, that the original plan for the system, furnished to the staff, included a 2,180-gallon pressure tank and a 67,000-gallon storage tank at the well site for use in Unit No. 1, rather than the 10,000-gallon pressure tank referred to hereinafter.

Plant and System

The pumping plant which will be used at the outset to serve the 104 lots in Unit No. 1 is capable of delivering 450 gallons per minute and will be connected to a 10,000-gallon pressure tank. This equipment will cost approximately \$16,434,⁴ plus \$500 for a low voltage starter. The applicant contemplates adding a 200,000-gallon storage tank when needed, to be paid for by subdividers who will be reimbursed by applicant with preferred stock. The cost of the transmission mains and fire hydrants in Unit No. 1 is estimated at \$20,797.⁵ This figure does not include the sum of approximately \$750

2 Exhibit No. 6.

3 Exhibit No. 7.

4 Exhibit No. 8.

5 Exhibit No. 9.

for certain necessary pipe. The fire hydrants are to be paid for by the subdivider, and water for fire protection is to be furnished by the applicant free of charge. All services are to be metered and applicant will pay the cost of the meters.

Proposed Rates and Estimated Revenues

The applicant proposes a nonmeter rate and a meter rate, although all services are to be metered. The meter rates were stated to be the rates in a portion of applicant's Victorville system and are as follows:

Quantity Charge:	<u>Per Meter Per Month</u>
First 1,000 cu.ft., per 100 cu.ft.	\$ 0.25
Next 3,000 cu.ft., per 100 cu.ft.20
Over 4,000 cu.ft., per 100 cu.ft.15
 Minimum Charge:	
For 5/8 x 3/4-inch meter	\$ 3.00
For 1-inch meter	4.00
For 1 1/2-inch meter	7.50
For 2-inch meter	10.00
For 4-inch meter	30.00
For 6-inch meter	40.00

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

The applicant assumed that by the end of five years it would have a total of 250 consumers in the area, would have added the 200,000-gallon storage tank, and extended mains into Unit No. 2. On these assumptions it calculated its annual gross revenue at \$13,374, and its annual operating expenses as follows:

Source of supply expense	\$ 50
Pumping expense	3,044
Water treatment expense	20
Transmission and distribution expense	266
Customers' account expense	768
Administrative and general expense	1,490
Taxes	3,317
Depreciation	2,134
Total expense	<u>11,089</u>

The applicant assumes that a presently employed serviceman will be able to serve the subdivision at no extra cost to applicant.

The staff estimated that in five years, with 250 consumers, the gross revenue will be \$20,900 and that the expenses will be as follows:⁶

Source of water supply expense	\$ 70
Purchased power	4,070
Water treatment	40
Transmission and distribution expense	370
Customers' accounting expense	1,170
General expense	2,090
Taxes	4,850
Depreciation	2,690
Total expense	<u>15,350</u>

The applicant's estimated revenue of \$53.30 per consumer per annum (Exhibit No. 13) was based on the average bill in its Victorville system, located in the Lucerne Valley a distance of about 100 miles from the Sterling Tract. The staff's estimated revenue is based on the proposed rates and water usage of consumers in Rancho Mirage, located near Palm Springs. This basis would give each of the 250 consumers an annual bill of \$83.60. The applicant's estimate appears the more reasonable when compared with other of applicant's systems (Exhibit No. 13).

If the staff's figures are correct, in the fifth year the applicant will have net earnings of \$5,550. If the applicant's figures are correct, in the fifth year the applicant will have net earnings of \$2,285.

Using the applicant's gross revenue figures, at the end of five years it will be required to pay the subdivider under its main extension rule \$2,942 or 22 per cent of \$13,374. This figure will exceed applicant's net revenue by \$657. Using the applicant's estimated revenue and the staff's estimated costs it would appear that

⁶ Exhibit No. 10, pages 7, 8 and 11.

at the end of five years the refund to the subdivider also will exceed the net revenue.

At the request of the staff, the applicant filed a copy of a letter from the attorney for the Coachella Valley County Water District to the applicant, dated August 11, 1955.⁷ This letter calls attention to the fact that the subdivision is located in the watershed of the Whitewater river system; that the underground waters of the system have been in a condition of overdraft for 15 years; that the rights to the natural underground waters of the system have not been adjudicated; and that the time is approaching when an adjudication will be required.

Regardless of the accuracy of forecasts by the Commission staff and applicant pertaining to refunds being in excess of or less than net revenues or forecasts by the attorney for the Coachella Valley County Water District pertaining to the possible limitation in the use of this water through litigation, there remain the problems of adequacy of service and method of purchase financing which are seriously questionable.

There has not been sufficient showing by the applicant to indicate substantial reliability towards the interests of future consumers here to assure this Commission that adequate service will be forthcoming. It was testified by the staff that the quality of service to consumers in other areas, served by applicant, was below the standards desired by this Commission. It appears from this testimony that such financing as the company has available to it might better be used to improve existing systems rather than to purchase new ones.

⁷ Exhibit No. 15.

In the original application the entire system was to be advanced by the subdivider and refunded by applicant on the basis of 15 per cent of gross revenues over a period of 20 years.

Because an application⁸ had been denied in part by this Commission on the basis that no investment was forthcoming from the owner in the acquisition of a new system, applicant filed a revised agreement. This "Amendment to the Agreement",⁹ between applicant and subdivider, proposes now to purchase certain facilities for \$17,000, in face value of applicant's stock, and at a later date make other purchases in a manner not completely specified. The subdivider agrees to advance all mains, services, fittings, gates, housings, and fire hydrants to be refunded by applicant on the basis of 22 per cent of gross revenues over a period of 20 years. It will be necessary to invest some \$241,000 fixed capital by the time the system is 100 per cent saturated with 1,000 consumers, which indicates that the investment, as such, and showing of applicant's responsibility is small in comparison to the total investment required.

Conclusions

Despite all other considerations, the proposed method of financing is, in our opinion, inadequate. Applicant's proposal to acquire only a portion of the system through issuance of its stock and to acquire the balance under a revenue refund plan, is, at best, a misapplication of the main extension rule.¹⁰ Main extension rules, as the very title should suggest, are designed for and applicable to the extension of mains contiguously from existing operative systems and presupposes a going utility operation which is merely to be extended or enlarged. They are not applicable to the acquisition of whole new systems or portions thereof. The plan of acquisition

⁸ C.P.U.C. Decision No. 51526.

⁹ Exhibit No. 11-A.

¹⁰ C.P.U.C. Decision No. 50580.

herein is most inappropriate and, in our opinion, adverse to the public interest. The application for a certificate of public convenience and necessity will be denied without prejudice by the order which follows:

O R D E R

Public hearings having been held, the matter having been submitted, and the Commission having found that the application should be denied without prejudice and basing its order upon said finding,

IT IS ORDERED that the application of Pacific Water Co., for a certificate of public convenience and necessity to serve as a public utility water company in the territory described in the application be, and it hereby is, denied without prejudice.

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

Dated at Los Angeles, California, this 14th day of FEBRUARY, 1956.

John E. Mitchell
 President

Justin S. Casemus

Raymond L. ...

...

R. Hardy
 Commissioners