

ORIGINAL

Decision No. 53994

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 SAN GABRIEL VALLEY WATER COMPANY for)
 a certificate of public convenience) Application No. 37246
 and necessity to extend water serv-)
 ice into additional territory in)
 San Bernardino County, California.)

Gibson, Dunn & Crutcher, by Max Eddy Utt, for applicant.

Brandon A. T. Bowlin, for Highland Avenue Water Company,
 protestant.

Edward J. Soehnel, for Fontana Ranchos Water Company,
 protestant and intervener.

Henry N. Busch, for Chino Basin Municipal Water District;
Everett L. Clark, for Lytle Creek Water and Im-
 provement Company; John C. Luthin, for Southwest
 Water Company; Thad Hickerson, for Fontana Improve-
 ment Association, interested parties.

Clarence Unnevehr, for the Commission's staff.

O P I N I O N

San Gabriel Valley Water Company, a corporation, herein-
 after referred to as applicant, is a public utility water company
 rendering service as such pursuant to authority from this Com-
 mission. Included in its authorized service areas are the City
 of Fontana and surrounding territory, which applicant was author-
 ized to serve by Decision No. 38235, dated September 25, 1945,
 in Application No. 26877 (46 C.R.C. 51), and an unincorporated
 area approximately one-half mile north thereof, designated by
 applicant as its "Highland Tariff Area" (Decision No. 50793,

dated November 23, 1954, in Application No. 35559). Applicant has extended the Highland Tariff Area northward by the acquisition of a contiguous mutual water company system known as the "Malooof System." The Highland Tariff Area, including the Malooof System, is in Section 25 and Section 36, Township 1 north, Range 6 west, S.E.B. & N., and is included in the proposed service area hereinafter described. The Fontana service area is contiguous to and is bounded on the north by the southern boundary of the proposed service area. Applicant's domestic rates in the Fontana area and the Highland area are as follows:

Fontana District Rates

Rates

	<u>Per Meter Per Month</u>
Quantity Rates:	
First 800 cubic feet or less	\$ 1.65
Next 1,700 cubic feet, per 100 cu. ft.	.12
Next 2,500 cubic feet, per 100 cu. ft.	.09
Over 5,000 cubic feet, per 100 cu. ft.	.07
Minimum Charge:	
For 5/8 x 3/4-inch meters	\$ 1.65
For 3/4-inch meters	2.20
For 1-inch meters	3.25
For 1 1/2-inch meters	5.50
For 2-inch meters	9.00
For 3-inch meters	14.00
For 4-inch meters	21.00
For 6-inch meters	37.00
For 8-inch meters	57.00
For 10-inch meters	80.00

The minimum charge will entitle the consumer to the quantity of water which that monthly minimum charge will purchase at the quantity rates.

Highland Tariff Area Rates (See Exhibit No. 13)

Rates

Quantity Rates	<u>Per Meter Per Month</u>
First 1,000 cubic feet or less	\$ 2.50
Next 1,000 cubic feet, per 100 cu.ft.	.15
Next 5,000 cubic feet, per 100 cu.ft.	.10
Over 7,000 cubic feet, per 100 cu.ft.	.05

Minimum Charge:

For 5/8 x 3/4-inch meters	\$ 2.50
For 3/4-inch meters	4.00
For 1-inch meters	6.00
For 1 1/2-inch meters	8.50
For 2-inch meters	10.00
For 3-inch meters	15.00
For 4-inch meters	25.00
For 6-inch meters	40.00
For 8-inch meters	60.00
For 10-inch meters	80.00

The minimum charge will entitle the consumer to the quantity of water which that minimum charge will purchase at the quantity rates.

By the application herein filed on August 22, 1955, as amended by an amendment filed on April 28, 1956, applicant requests (1) a certificate of public convenience and necessity to construct and operate a public utility water system in unincorporated territory in San Bernardino County north of Fontana, comprising Sections 31, 32 and 33, Township 1 north, Range 5 west, S.B.B.& M; Sections 23, 24, 25, 26, 35 and 36, Township 1 north, Range 6 west, S.B.B.&M.; and Sections 1 and 2, Township 1 south, Range 6 west, S.B.B.&M.; and (2) to establish therein the rates it is now authorized to charge and collect in its Highland Tariff Area pursuant to Decision No. 50793, referred to supra.

Public hearings on the application were held before Examiner Kent C. Rogers in Fontana on May 17, 18 and 24, 1956.

On the latter date the matter was submitted as to the issue of public convenience and necessity with the provision that interim rates would be established, and continued to September 24, 1956, for further hearing to determine the proper level of rates.

Prior to the first hearing, notice thereof was given to various interested entities and published as required by the Commission. Representatives of the Highland Avenue Water Company, a mutual company serving water inside the proposed service area, appeared both in opposition to and in support of the proposal. In addition, a representative of Fontana Ranchos Water Company, a public utility water company, appeared in opposition to the application in so far as Sections 31, 32 and 33 are concerned. Each of these protestants moved for continuances on the ground that they desired to make studies and present evidence in opposition to the proposal. The request of the Highland Avenue Water Company was denied on the ground that it had had ample notice of the hearing. The request of Fontana Ranchos Water Company was denied on the grounds (1) that its authorized service area is not contiguous to the proposed service area, and (2) that it had received ample notice of the hearing. We have reviewed the record herein and we hereby affirm these rulings.

General Information

The proposed service area is shown on Exhibit B in the Amendment to the application. Included in the area is the Highland District, now served by applicant and in which applicant has 253 customers, lying on each side of Highland Avenue in Sections 25 and 36. Until very recently the Highland District was served

with water from a well therein. It is now served with water secured from Fontana Union Water Company, hereinafter referred to as Fontana Union. Applicant's Fontana service area includes the City of Fontana and is contiguous to the proposed service area, the southern boundary of the proposed service area being the northern boundary of the Fontana area. In the proposed service area, exclusive of the Highland Tariff Area, applicant furnishes water to 190 consumers either from its gravity transmission lines or from Fontana Union gravity lines. There are, in the area, three other water companies which have not been certificated by the Commission, namely: the Highland Avenue Water Company serving 72 consumers; the Crawford Canyon Water Company serving 23 consumers; and the Goldston and Rich Spring Supply serving seven consumers (Exhibit No. 11).^{1/} There are 62 residences in the area, the occupants of which either haul their water or have wells. The total number of homes located in the proposed service area now receiving water from one or the other of the four sources referred to above, or having no water other than hauled or well water, is 354. The majority of them are located in the area bounded by Highland Avenue on the north, Lime Avenue on the west, Baseline Avenue on the south, and Alder Avenue on the east (see Exhibit No. 9). The proposed service area slopes upward from the south to the north, the elevation at Foothill Boulevard, the southern

^{1/} Two of these companies are mutual water companies; the other company is a private supplier serving seven consumers.

boundary of the proposed service area being approximately 1,300 feet, and the elevation at Lytle Creek Road, the northern boundary of the area, being approximately 1,650 feet (Exhibit B on the application).

The Water Supply and Cost of Water

At present applicant secures all of its water for both the Highland area and the Fontana area from Fontana Union. Fontana Union is a mutual water company which supplies water to its members only. It has 15,000 shares of stock outstanding. Each share of stock entitles the owner thereof to 1/4 of a Southern California miner's inch of water which amount can be increased to 1/2 inch for maximum monthly requirements. Applicant owns 1,936-1/12 of these shares and has the use of an additional 1,009-7/12 shares owned by the so-called Nicholson Trust, which was created and is now controlled by R. H. Nicholson who is the president of applicant. Until May 1956 Fontana Union furnished water to approximately 15,000 acres of land. In 1945 Fontana Union sold approximately 14 million inch hours of water. In 1955 its total sales amounted to approximately 8-3/4 million inch hours, the reduction in usage being due largely to the reduction in agriculture usage as the area developed (see Exhibits Nos. 7 and 8 herein). In May 1956 the board of directors of Fontana Union enlarged its service area to include all of the territory proposed to be served by applicant,^{2/} thereby enabling applicant to use water furnished by Fontana Union throughout the proposed service area. This action was taken after Fontana Union was assured that Metropolitan Water District Colorado

^{2/} See Exhibit No. 3.

River water would be available. Fontana Union will furnish applicant with sufficient water for the proposed area during its initial development and until Metropolitan Water District Colorado River water is available.

Fontana Union secures its water from a total of 28 wells and a portion of the surface flow of Lytle Creek. Of the 28 wells, eight are in the vicinity of Lytle Creek and the others are in the Fontana area. From wells at the mouth of Lytle Creek, north and east of the proposed area, Fontana Union secures 300 inches of water. This water is transmitted in a 14-inch main along Cypress Avenue and then diagonally across country to Fontana Union's "cross-country" box at Walnut Street and Sierra Avenue. It secures a total of 3,480 inches of water from Lytle Creek and wells in the vicinity thereof northeast of the proposed service area. This water flows in a 36-inch main to the above-mentioned "cross country" box near Walnut Street and Sierra Avenue. The water from the two sources then flows south in a 36-inch main along Sierra Avenue. In addition, in the proposed service area, Fontana Union has a well near the intersection of Citrus Avenue and Baseline Avenue producing 225 inches of water; two wells, each producing 150 inches of water, near the intersection of Alder Avenue and Beech Avenue; and a well near the intersection of Sierra Avenue and Miller Avenue producing 240 inches of water. Fontana Union has two reservoirs in the area; one with a capacity of 3.8 million gallons is located near the intersection of Summit Avenue and Citrus Avenue and one with a capacity of 3 million gallons is located near the intersection of Highland Avenue and Alder Avenue. Fontana Union

has a system of 14-inch to 24-inch mains connecting the various segments in its system. The entire system of Fontana Union is in the area shown in Exhibit No. 12 herein.

Fontana Union presently sells applicant water for use in the applicant's Fontana area for 2.5 cents per inch hour plus assessments of \$7.00 per share upon stock issued by Fontana Union and held or used by applicant. The cost of such water to applicant amounts of \$17.24 per acre foot. Fontana Union will allegedly be required, however, to charge more for the water in the proposed service area inasmuch as the area will require the use of Metropolitan Water District water, furnished by Chino Basin Municipal Water District, hereinafter referred to as Chino Basin, which water must be pumped uphill to the reservoir at Summit Avenue and Citrus Avenue.

The chief engineer and general manager of Chino Basin testified concerning the proposal of Chino Basin to extend a feeder line from the Metropolitan Water District aqueduct, which passes through Fontana, into the proposed service area, and the costs of water secured therefrom. Chino Basin's service area includes the proposed service area (see Exhibit No. 2). By the end of November 1957 Chino Basin will have extended a 24-inch feeder line from the Metropolitan water District aqueduct at San Bernardino Avenue and Live Oak Avenue in Fontana, to the vicinity of Foothill Boulevard and Beech Avenue in the proposed service area. There will be a tank and a lift pump at that point. From there water will be transmitted by Chino Basin to Walnut Street and Citrus Avenue, at which point Fontana Union will take delivery of

the water and pump it to its 3.8-million-gallon reservoir at Summit Avenue and Citrus Avenue. The water will be available there for use by applicant and Fontana Union. The Chino Basin line will permit delivery of 12 cubic feet per second to Fontana Union at Walnut Street and Citrus Avenue. Chino Basin pays the Metropolitan Water District \$10 per acre-foot for water at the aqueduct. It adds \$1.00 per acre-foot at that point for service charges. Chino Basin will pump the water up the hill to the point of delivery at Walnut Street and Citrus Avenue, and will charge therefor \$2.00 per acre-foot per 100 feet of dynamic lift, as distinguished from elevation. The cost of the water to Fontana Union cannot yet be determined, but it will be approximately \$17.06 per acre-foot at Foothill Boulevard, about $1\frac{1}{2}$ miles south of, and over 100 feet in elevation lower than, the proposed termination of the feeder. At the time of the hearing Chino Basin's engineer had not computed the cost of the water delivered to the reservoir at Walnut Street and Citrus Avenue.

Applicant's evidence shows that it cannot serve the proposed service area without securing additional water from Fontana Union. Fontana Union will be able to furnish the applicant sufficient water to serve the proposed area for approximately $1\frac{1}{2}$ years, considering the estimated rate of growth of the area, and thereafter Fontana Union will be required to secure Metropolitan water from Chino Basin. San Gabriel's witness estimated it will cost Fontana Union \$29.80 per acre-foot to have water delivered into Fontana Union's Summit Avenue and Citrus Avenue reservoir.

Water taken from Fontana Union's lines south of the Summit Avenue reservoir will cost less than water taken from above the reservoir, and in Sections 1 and 2 north of Foothill Boulevard water will cost the same as water delivered in Fontana, that is, \$17.06 per acre-foot. In order to furnish water north of the Summit Avenue reservoir, applicant will either put in a booster pump and a pressure system at its Summit Avenue reservoir or a reservoir north of Lytle Creek Road outside the proposed service area at an elevation of approximately 1,860 feet. Boosted water above Summit Avenue will cost applicant an estimated \$38.60 an acre-foot. Applicant's witness stated that the proposed rates for its Highland area will be adequate unless a large industry using a large amount of water should settle in the area. In that event, the witness said, the applicant would be selling water in the terminal blocks at below cost and would be required to ask for a rate increase. In addition to the cost of water, applicant's witness pointed out that construction costs in the proposed service area will be higher than the costs of the existing system in the Fontana district which will not require extensive replacement for several years. Also, he said, it is contemplated that the water usage will be less per consumer in the proposed area than in the Fontana district. He said that the average monthly consumption in the present Highland area for the twelve months ending March 31, 1956, was 1,610 cubic feet per connection, while for the year 1955 it was 2,690 cubic feet per connection in the Fontana district. The latter figure, however, includes the industrial customers.

The Plan of Development

Applicant has no definite plan of development of a water system except for the ultimate installation of 10-inch lines running easterly and westerly at 1/2-mile intervals on Highland Avenue, Walnut Avenue, Baseline Avenue, Miller Avenue and Foothill Boulevard, and 12-inch feeder mains running north and south at greater intervals. Its basic source of water will be the Summit Avenue reservoir which is owned and operated by Fontana Union. Applicant contemplates making connections with Fontana Union's lines at Highland Avenue and Citrus Avenue, and with a booster pump at each of the following points: at the "cross-country box" at Sierra Avenue and Walnut Street, at Citrus and Baseline Avenues, at Baseline and Alder Avenues, and at Highland and Alder Avenues. It also plans to build a reservoir above Lytle Creek Road. Main extensions will be from these listed points.

Financing

The booster plants and reservoir will be paid for by applicant with its own funds. Applicant's witness testified that the value of its utility plant is approximately 7½ million dollars and its bonded indebtedness is 3½ million dollars. Main extensions will be financed pursuant to applicant's filed main extension rule, with extensions being made from the locations listed above.

Presently Contemplated Developments in the Area

Four subdivisions in the area are either in the course of construction or awaiting for an assured source of water. One 15-acre tract at the east side of Sierra Avenue between Walnut

Street and Highland Avenue will have 53 houses. There is a tract containing 275 acres, sufficient for approximately 1,100 houses, located on the west side of Citrus Avenue just south of Baseline Avenue. An initial development therein, which will contain 124 houses, has been approved by the San Bernardino County Planning Commission. Another subdivider is planning to build 80 houses on a 20-acre tract at the southeast corner of Baseline Avenue and Laurel Avenue. Each of these tracts will be carried to completion as soon as an assured source of water supply is available.

Two property owners, one owning 700 acres in Sections 23 and 24 south of Lytle Creek Road, and the other owning a large portion of Section 23, including the entire western boundary thereof, testified that as soon as there is an assured supply of water in that area they intend to commence subdividing therein.

The Protestants

Representatives of the Highland Avenue Water Company, a mutual company, and a representative of Fontana Ranchos Water Company, a public utility water company, appeared as protestants.

Highland Avenue Water Company furnishes water to 72 of its members, mainly located in Section 31, bounded by Highland Avenue, Citrus Avenue, Baseline Avenue and Sierra Avenue. The president of this company appeared as a witness for the applicant, and two of its directors appeared as protestants. (It appears that there is no official position by the company relative to the application). The company has only one well and transmission lines, and the water users supply any storage facilities they consider necessary on their own premises. The system is admittedly inadequate to furnish water to the members, and the record shows that it is in

financial difficulties. During the course of the hearing it was developed that the main interest of the members, in addition to an assured water supply, was to receive adequate compensation for the existing system when a public utility water company commenced serving the area. Applicant's vice president and general manager testified that applicant would negotiate with the mutual company for the acquisition by the applicant of the mutual system. This Commission will expect such an arrangement to be made.

Fontana Ranchos Water Company vigorously protested the application. This company, however, does not serve in the proposed service area (see Exhibit No. 16), and presented no evidence in support of its protest except to point out that the protestant could allegedly supply water cheaper to Sections 31, 32 and 33 than the applicant for the reason that all of the protestant's water comes from the north from Lytle Creek. The protestant's witness stated that it has sufficient water to supply the listed sections, in the absence of heavy industrial development, for several years without relying on water from Chino Basin.

The Staff's Position

At the conclusion of the hearing, the Commission staff representative stated that there had been a failure to sustain the rates proposed in the application, and that, in view of the fact that Fontana Union serves throughout the existing and proposed service area at one rate at present, an opportunity to test the reasonableness of the company's proposal to serve the area as two separate districts is desirable. An attempt had been made, he said,

between the applicant and the staff, to agree on an interim order but no agreement has been reached. He proposed, therefore, that the Commission make an interim order:

1. Authorizing the company to continue the existing services in the proposed area;
2. Authorizing the company to connect new individual consumers on the same basis as the existing services in the area;
3. Authorizing the company to serve the subdivision proposed for Section 1;

or, in the alternative, if the Commission determines that the record supports such authorization,

4. Authorizing applicant to serve the proposed subdivisions referred to in the record;
5. Requiring the service rendered to be provided at the Fontana district rates until such time as a final decision on the matter becomes effective.

Applicant's attorney objected to any partial certification, and stated that the evidence presented indicates conclusively a justification for a higher rate in the proposed area than in the Fontana area. The attorney urged that the entire matter be submitted on the merits.

Since submission the staff has proposed in writing as follows:

- a. That the company physically integrate the facilities in the requested area with those of its Fontana tariff area wherever economies, consistent with good operating practice, will result;
- b. That in future rate applications affecting Highland and Fontana areas the earnings of both areas be considered even if continuing a rate differential based on the respective elevations;

- c. That the boundary used for purposes of establishing a rate differential at this time between the Fontana and Highland tariff areas should be the street designated "Base Line Road", a street approximating an elevation contour, rather than the differential between the Highland and the Fontana tariff areas presently proposed by the company;

and has withdrawn its request for a further hearing. We will approve the recommendations.

We have thoroughly considered the matter. The record is conclusive that public convenience and necessity require the establishment of dependable public utility water service in the entire proposed service area at the very earliest possible time. The record, as it now stands, demonstrates that additional water will be needed to serve the proposed certificated area, and that the cost of water supplied to the higher elevations therein will be higher than the cost of water in the Fontana tariff area. We will, therefore, make an order granting the applicant the certificate it has requested upon the conditions hereinafter stated. Applicant's ownership of 1,936-1/12 shares of Fontana Union entitles applicant to the use of approximately 484 miner's inches of water which can be increased to about 970 inches for maximum monthly requirements. As stated, this is not sufficient to properly serve the proposed certificated area, and applicant will be required to procure the unlimited use of an additional 250 miner's inches of water. This can be secured by the acquisition by applicant of an additional 1,000 shares of Fontana Union. The order granting a certificate will therefore be conditioned upon the acquisition by applicant of such additional 1,000 shares of Fontana Union.

Conclusion

After full consideration of the record herein the Commission is of the opinion and finds that public convenience and necessity require the granting of the certificate as requested. This certificate is subject to the following provision of law:

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.

O R D E R

Application having been filed, a public hearing having been held thereon, the Commission having made the foregoing findings, and based upon such findings,

IT IS HEREBY ORDERED:

(1) That San Gabriel Valley Water Company be, and it hereby is, granted a certificate of public convenience and necessity to construct and operate a public utility water system in the area hereinabove described.

The foregoing grant of a certificate of public convenience and necessity, and the exercise thereof, is conditioned upon the following:

- (a) That San Gabriel Valley Water Company shall, prior to the exercise of the right granted, acquire the unlimited ownership of and title to an additional 1,000 shares of the stock of Fontana Union Mutual Water Company;
- (b) That San Gabriel Valley Water Company shall certify in writing to the Commission of its acquisition and ownership of said 1,000 shares, and shall thereafter continue to own, without lien or encumbrance, an aggregate minimum of 2,936-1/12 shares of the stock of said Fontana Union Mutual Water Company, until otherwise ordered by the Commission.

(2) (a) That applicant is authorized and directed to revise, within thirty days after the effective date of this order, its presently filed tariff schedules and tariff service area map applicable to its Highland tariff area, in accordance with the procedure prescribed by General Order No. 96, to provide for the application of said tariff schedules for water service in that portion of the area being certificated by this order which lies north of the street designated as Base Line Road. Such revised tariff sheets shall become effective upon five days' notice to the Commission and to the public after filing as hereinabove provided.

(b) That applicant is authorized and directed to revise, within thirty days after the effective date of this order, its presently filed tariff schedules and tariff service area map applicable to its Fontana tariff area, in accordance with the procedure prescribed by General Order No. 96, to provide for the application of said tariff schedules for water service in that portion of the area being certificated by this order which lies south of the street designated as Base Line Road. Such revised tariff sheets shall become effective upon five days' notice to the Commission and to the public after filing as hereinabove provided.

(3) That the applicant shall file, within forty days after the system is placed in operation, four copies of a comprehensive map, drawn to an indicated scale not smaller than 1,200 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 the applicant.

(4) That coincidentally with the placing of the system in operation applicant shall physically integrate its facilities in its herein certificated area with those of its Fontana tariff area whenever economics, consistent with good operating practice, will result.

(5) That in future rate applications affecting both the herein certificated area and the applicant's Fontana tariff area, the earnings of both areas be considered even if continuing a rate differential based on the respective elevations.

(6) That the authority herein granted shall expire if not exercised within one year from the date herein.

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

Dated at San Francisco, California, this 30th day of OCTOBER, 1956.

W. E. ...
President
Paul ...
...
...

Commissioners

Commissioner JUSTUS F. CRAEMER being necessarily absent, did not participate in the disposition of this proceeding.