

Decision No. 54306**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Harold J. Hicks,)
 doing business as Palm Valley Water)
 Company, for a certificate of public)
 convenience and necessity to conduct) Application No. 37856
 business as a water corporation in)
 the vicinity of Cathedral City,)
 Riverside County, California.)

Gordon, Knapp & Gill, by Wyman C. Knapp, for Palm
 Valley Water Company.
John Moore Robinson, for Rancho Ramon Water
 Company; Richardson & Henderson, by
Jerome L. Henderson; interested parties.
Theodore Stein, Richard Entwistle and Charles
Drake, for the Commission staff.

O P I N I O N

Applicant, Harold J. Hicks, is an individual who proposes to operate a water corporation as that term is defined in Section 241 of the Public Utilities Code in a territory located generally northeast of Cathedral City in Riverside County, California. The legal description of the territory proposed to be served is as follows:

All of Sections 1 and 2, the East 1/2 of Section 3, and all that portion of Section 12 north of the Whitewater River Flood Control Channel right of way, except the N $\frac{1}{2}$ of the NW $\frac{1}{4}$ of said Section 12, all in Township 5 South, Range 5 East, SBB&M, Records of Riverside County, California.

A public hearing was held before Examiner Grant E. Syphers in Palm Springs on October 3 and 11, 1956. On these dates evidence was adduced and on the last named date the matter was submitted. It is now ready for decision.

The testimony discloses that the territory proposed to be served presently has no public utility service nor is in the area of any public utility water company. There are various developments and proposed developments in the area and the applicant initially proposes to furnish service to three of them: the Desert Braemar, the Desert Sun Ranch Estates, or Winan's subdivision, and the Tierra Del Sol subdivision.

The Desert Braemar, located in the northwest section of the area, now is in the process of development in that there are under construction 100 own-your-own apartments. These apartments are being constructed at a cost of \$1,555,000 according to the general contractor and will be completed about Christmas time of 1956. A second unit of 100 apartments will be commenced in about June of 1957. Exhibit No. 3 is a map showing the location of the Desert Braemar. There is a well on the property which well is approximately 320 feet in depth and is fitted with a 14-inch casing and a 15-hp electric pump. Exhibit No. 11 is a water supply permit issued for this well by the State Board of Public Health, dated July 31, 1956. The applicant proposes to install a 50-hp pump and two 10-hp booster pumps which will provide a capacity of approximately 400 gallons per minute. In addition to this well there is a reservoir site located to the west of the Braemar Estates at a distance of approximately 1,750 feet. The applicant will acquire this reservoir site. Likewise there is a second possible well which may be used. This well is located about 2,400 feet to the east of the Braemar Estates on property now owned by one M. N. Herbert. The applicant estimates that the 100 apartments now being constructed will require approximately 150 gallons per minute.

The Desert Sun Ranch Estates, or the Winan's property, is located in the southeasterly portion of the proposed service area and has a potential of 50 lots. At the present time there are nine residents in this tract. There is a well located on the Winan's property which is approximately 192 feet in depth and fitted with a 10-inch casing. Exhibit No. 12 is a water supply permit for this well issued by the State Board of Health on July 31, 1956. This well has a capacity of approximately 500 gallons per minute using a 30-hp motor on a Peerless pump. In addition the applicant has made arrangements for a tie-in with the Thunderbird Water Company. The pipe for this tie-in has been installed and consists of about 150 feet of 4-inch line and approximately 280 feet of 6-inch line. This tie-in is capable of producing about 450 gallons per minute. The applicant estimated the potential needs for the Winan's property to be 125 gallons per minute. Exhibit No. 4 is a map of this area.

The third area is known as the Tierra Del Sol and is shown on the map which is Exhibit No. 5. Applicant now proposes to drill a well on this property and to effectuate this the Tierra Del Sol subdivider has advanced the sum of \$18,665. This well will be approximately 500 feet in depth and with the installation of a 25-hp pump will produce approximately 500 gallons per minute. Exhibit No. 13 is a water supply permit issued for this well by the State Board of Public Health, on July 12, 1956. At the present time there are 31 potential customers in this tract.

The applicant proposes to install three fire hydrants at Tierra Del Sol and some on the Winan and Braemar properties although the exact number has not been determined. It is his intention to have the subdivider pay for these fire hydrants and the company will not make any refunds therefor.

For the bulk of the equipment which applicant will acquire in connection with these three tracts he has entered into agreements with the various parties involved under the terms of which the cost of certain facilities will be advanced to the water company under refund contracts. By these arrangements the applicant will refund 22 percent of the amount received from each consumer for the repayment of these advances. These amounts will be refunded until the advances are repaid or until 20 years have passed.

Exhibit No. 16 is a copy of the agreement between applicant and the Desert Braemar properties and the adjoining property known as Desert Country Club Estates. Under the terms of this agreement the applicant will receive certain property including the well and its equipment, a 20,000-gallon steel tank, a reservoir site and various other equipment and easements in connection therewith. In addition to this initial property, for which the applicant will pay \$3,500 in cash and other consideration, the Braemar subdividers also agree to advance the initial cost for the new pipelines which will be installed. It is estimated that approximately 1,750 feet of 8-inch pipe will be installed at a cost of \$2.40 per foot. These costs will be advanced by the subdivider and be subject to the 22 percent refund agreement previously mentioned.

Exhibit No. 17 is a similar agreement covering the Winan's property and Exhibit No. 18 one covering the Tierra Del Sol property. It should be noted that in addition to the advances and contributions the applicant proposes to invest initially the following sums of money: Braemar, \$11,432; Winan, \$1,255; and Tierra Del Sol, \$1,360. These investments will be to provide the fencing, pumping equipment, meters, reservoirs and other items

which are deemed necessary to the development of the water system. Furthermore, during the year 1956 applicant proposes to invest a total of \$24,000. of his own money in the development of these projects. The total amount of advances and contributions and the monies invested by applicant during 1956 is estimated to be \$74,166. In other words, the immediate investment of the applicant as compared to the total cost for 1956 will be slightly in excess of 32 percent.

It was the testimony of applicant that he is willing and able to invest additional funds should it be necessary to do so, and in this connection Exhibit No. 8 was received in evidence, setting out the balance sheet and net worth of applicant as of December 27, 1955.

An analysis of this testimony leads us to find that applicant is financially able to conduct the proposed operations.

The rates proposed to be charged are set out in the application and also in Exhibit No. 6. This exhibit additionally carries the rates of other water companies in the area and discloses that the proposed rates are comparable therewith. Considerable testimony was presented by various residents and property owners in the area, all of whom supported the application and testified that the proposed rates were satisfactory.

Opposition to the application was expressed by a representative of the Palm Valley Mutual Water Company which conducts operations in the area, this opposition being based upon the apprehension that if applicant is granted a certificate covering the territory now covered by the mutual water company, it may preclude the mutual water company from later converting its operations into a public utility. In connection with this testimony it should be noted that not all of the owners of the

mutual are opposed to the application. One property owner in the mutual territory who owns 36 percent of its stock, testified that a public utility was preferable to the present arrangement.

Testimony was presented by an engineer of the Public Utilities Commission staff relative to each of the three subdivisions to which service now is proposed. In relation to the Braemar properties, this witness testified that in his opinion the fire protection was inadequate and accordingly he recommended that a storage capacity of 120,000 gallons be provided. However, the witness, upon cross-examination, stated that he was not aware that the development of the 100 units in the Braemar property would have a large swimming pool. He conceded that this storage capacity could be used for fire protection. This witness was further of the opinion that the proposed water supply to the Winan's property was adequate, but he recommended that a second well be installed in the Tierra Del Sol properties. He further indicated that the physical system in the Winan's property had some objectionable features.

Additional testimony developed that the system in the Winan's property now is in place and is one which is being taken over by the applicant who testified that he will make such improvements as become necessary. As to the Tierra Del Sol property, it was pointed out that there is a potential of 31 customers in the subdivision. To drill another well would cost between five and six thousand dollars, and it was testified that this would be an impractical expenditure in the light of the few customers involved.

At the conclusion of the testimony a representative of the Hydraulic Section of the Public Utilities Commission moved to dismiss the application on the grounds (1) that there had been no showing that the proposed rates were reasonable, (2) that the

financing of the system is improper, and (3) that the proposed system is of an improper design.

This motion will be denied. It is apparent from the record that the only part of the system which could be subject to the charge of improper design is that in the Winan's property, and this system now is installed. The applicant is taking over an existing system which presently has only nine customers.

As to the allegation of improper financing, the record discloses that the applicant is an individual who is well qualified to finance the system. Repeatedly on this record he expressed a willingness so to do, and during the year 1957 he proposes to invest approximately \$24,000 over and above the advances and contributions. It is apparent that this applicant is personally liable for this system and we find that he is financially qualified to finance its operations. It should be noted that a representative of the Utilities Finance and Accounts Division of this Commission stated on the record that the proposed financing was not objectionable.

As to the contention that applicant has not established that the proposed rates are reasonable, we point out that the proposed rates are comparable to those of existing utilities in the area, and secondly that the customers are willing to pay these rates as demonstrated by the testimony in this record. Obviously, if further experience discloses that some changes in these rates are necessary, this Commission will have jurisdiction to make the changes. However, this is an application proceeding, not a rate case, and in the initial instance we believe it proper to permit the applicant to establish rates which are not objectionable to any of the users and which are comparable to rates of existing utilities in the area.

Indeed it appears to be the intention of the Public Utilities Code to require that the question of public convenience and necessity be determined prior to any detailed inquiry into the operating practices, rates, rules and regulations, and other similar matters of a utility (Section 1001 P.U.C.). The Commission is of the opinion that under the circumstances in this case the rates proposed are prima facie just and reasonable.

A consideration of all of this record leads us to the conclusion and we now find that the proposed operations are justified by the present and future public convenience and necessity as demonstrated on this record. The application will be granted, with the exception that the territory of the Palm Valley Mutual Water Company will be excluded from the service area, subject to the conditions hereafter set out. In addition, the applicant will be expected to provide and maintain adequate standby water facilities in the Tierra Del Sol area.

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.

The action taken herein shall not be construed to be a finding of the value of the property herein concerned.

The applicant herein also has requested that this Commission approve the three agreements hereinabove discussed and received in evidence as Exhibits Nos. 16, 17 and 18. In the light of the evidence in this matter, these agreements will be approved. The agreement covering the Tierra Del Sol property contemplates

an advance by the subdivider of \$18,665 for the costs of certain installations of pipe and the drilling of a well. The money is to be refunded at the rate of \$500 per acre to a maximum of \$5,000. In addition, this agreement, as well as the other two, are subject to the refund arrangement hereinbefore described. The applicant will be permitted to file rules and regulations providing for all of these refund arrangements. In view of the completion date of the development in the Braemar area, this order will become effective ten days after the date hereof.

O R D E R

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

IT IS ORDERED:

1. That Harold J. Hicks, an individual doing business as Palm Valley Water Company, be, and he hereby is, granted a certificate of public convenience and necessity to construct and operate a public utility water system in the following described area:

All of Section 1, all of Section 2 except as hereinafter noted, the E $\frac{1}{2}$ of Section 3, and all that portion of Section 12 north of the Whitewater River Flood Control Channel right of way, except the N $\frac{1}{4}$ of the NW $\frac{1}{4}$ of said Section 12, all in Township 5 South, Range 5 East, SBB&M, Records of Riverside County, California.

The following territory is specifically excluded from the above-described area:

Commencing at the S/W corner of Section 2, thence easterly 1,320 feet, more or less, northerly 1,155 feet, more or less, thence easterly 1,061.83 feet, thence southerly 11.5 feet, thence easterly to the Whitewater River Flood Control right of way, a distance of approximately 260.97 feet, thence

northerly 165 feet, thence westerly 2,642.80 feet, more or less, thence southerly 1,320 feet, more or less, along the boundary of Section 2 and Section 3 to the point of beginning, this area being the present service area of the Palm Valley Mutual Water Company.

This certificate is subject to the following condition:

That applicant shall install and place in operation reservoir or storage capacity of not less than 120,000 gallons for its Desert Braemar area, within sixty days after the effective date hereof, and shall notify the Commission within ten days after such facilities are placed in operation.

2. That applicant be and he is authorized to file the rates set forth in Appendix A attached to the order, effective on or before the date service is first rendered to the public, together with the rules and tariff service area map acceptable to this Commission and in accordance with the requirements of General Order No. 96 and in accordance with the authorization herein. Such rates, rules and tariff service area map shall become effective on or after the effective date of this order on five days' notice to the Commission and to the public after filing as hereinabove provided.

3. That applicant shall file within sixty days after the system is placed in operation as herein authorized, 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 various properties of applicant.

4. That applicant shall base the accruals to depreciation upon spreading the original cost of plant, less estimated net salvage and depreciation reserve, over the estimated remaining life of the property; applicant shall revise 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.


5.a. That applicant is authorized to enter into the three agreements submitted in this proceeding as Exhibits 16, 17 and 18.


b. That applicant shall file with this Commission within thirty days after the effective date of this order two certified copies of each of said three agreements as executed, together with the statements of the date on which each agreement was deemed to have become effective.

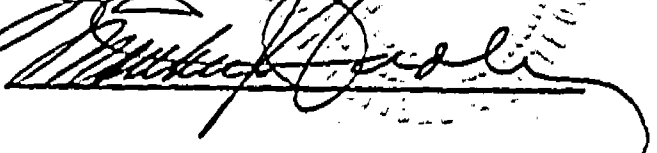
6. That the authority herein granted shall expire if not exercised within one year from the date hereof.

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

Dated at San Francisco, California, this 21st day of December, 1956.



President




Commissioners

Rex Hardy
Commissioner S. C. Lyn Fox, being
necessarily absent, did not participate
in the disposition of this proceeding.

APPENDIX A
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Schedule No. 1

GENERAL METERED SERVICEAPPLICABILITY

Applicable to all metered water service.

TERRITORY

The unincorporated area approximately one mile northeast of Cathedral City, Riverside County.

RATES

Quantity Rates:		<u>Per Meter per Month</u>
First	500 cu.ft. or less	\$ 2.00
Next	1,000 cu.ft., per 100 cu.ft.....	.30
Next	3,500 cu.ft., per 100 cu.ft.....	.20
Next	10,000 cu.ft., per 100 cu.ft.....	.15
Next	10,000 cu.ft., per 100 cu.ft.....	.125
Over	25,000 cu.ft., per 100 cu.ft.....	.10
Minimum Charge:		
For	5/8 x 3/4-inch motor	\$ 2.00
For	1-inch motor	4.50
For	1-1/2-inch motor	8.00
For	2-inch motor	15.00
For	3-inch motor	30.00
For	4-inch motor	50.00

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

Schedule No. 4

PRIVATE FIRE PROTECTION SERVICE

APPLICABILITY

Applicable to all water service for privately owned fire protection systems.

TERRITORY

The unincorporated area approximately one mile northeast of Cathedral City, Riverside County.

RATES

	<u>Per Hydrant per Month</u>
For each private fire hydrant connected to:	
1 main 2 inches in diameter	\$2.00
1 main 3 inches in diameter	4.00
1 main 4 inches in diameter	6.00

SPECIAL CONDITIONS

1. The fire protection service connection will be installed by the utility at the cost of the applicant. Such cost shall not be subject to refund.
2. If a distribution main of adequate size to serve a private fire protection system in addition to all other normal service does not exist in the street or alley adjacent to the premises to be served, then a service main from the nearest existing main of adequate capacity will be installed by the utility at the cost of the applicant. Such cost shall not be subject to refund.
3. The above rates include the use of water for fire fighting and for no other purposes. Quantities of water delivered through fire hydrants for any other purpose will be estimated or measured and charges therefor will be made at the monthly quantity rates under the General Metered Service schedules.
4. The utility will supply only such water at such pressures as may be available from time to time as a result of its normal operation of the system.

Schedule No. 5

PUBLIC FIRE HYDRANT SERVICE

APPLICABILITY

Applicable to fire hydrant service furnished to municipalities, duly organized or incorporated fire districts, or other political subdivisions of the State.

TERRITORY

The unincorporated area approximately one mile northeast of Cathedral City, Riverside County.

RATES

	<u>Per Hydrant per Month</u>
For each fire hydrant connected to:	
A main 2 inches in diameter	\$2.00
A main 3 inches in diameter	4.00
A main 4 inches in diameter	6.00

SPECIAL CONDITIONS

1. The above rates include the use of water for fire fighting and for no other purposes. Quantities of water delivered through fire hydrants for any other purpose will be estimated or measured and charges therefor will be made at the monthly quantity rates under the General Metered Service schedule.

2. 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.