

ORIGINAL

Decision No. 54327

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 SOUTHWEST WATER CO., a California)
 corporation, for a certificate of)
 public convenience and necessity to)
 furnish water service in the vicin-)
 ity of Etiwanda, San Bernardino)
 County, and for permission to issue)
 Class A Preferred Stock.)

Application No. 37413

In the Matter of the Application of)
 SAN GABRIEL VALLEY WATER COMPANY)
 for a certificate of public conven-)
 ience and necessity to furnish)
 water service in territory near)
 Cucamonga in San Bernardino County,)
 California.)

Application No. 37695

Arthur D. Guy, for Southwest Water Company, appli-
 cant in Application No. 37413 and protestant
 in Application No. 37695;
Gibson, Dunn and Crutcher by Max Eddy Utt, for San
 Gabriel Valley Water Company, applicant in
 Application No. 37695 and protestant in Appli-
 cation No. 37413;
James R. Edwards, for Adobe Water Company, Estates
 Water Company and Cucamonga Water Company;
Stanley F. Van Fleet, for North Cucamonga Water
 Company; Berne Rolston, for Mira Loma Water
 Company, protestants;
Henry M. Busch, for Chino Basin Municipal Water
 District; Rutan, Lindsay, Dahl, Smedegaard,
Howell and Tucker, by William E. Harmon, for
 Hermosa Water Company, interested parties.
Harold C. McCarthy, Clarence Unnevehr, Carol Coffey
 and Theodore Stein, for the Commission staff.

O P I N I O N

Southwest Water Company, a corporation, hereinafter referred to as Southwest, by Application No. 37413 filed on October 17, 1955, as amended by an amendment filed on February 29, 1956, and an amendment filed on June 8, 1956, requests that the Commission make its order as follows: (1) granting Southwest a certificate of public convenience and necessity for the service of domestic water in a portion

of the unincorporated area of San Bernardino County and a small portion of the unincorporated area of Riverside County bounded as follows:

From the intersection of Wilson Avenue and Millikan Avenue; Wilson Avenue, Cherry Avenue, Foothill Boulevard, Hickory Avenue, Arrow Avenue (Route), Etiwanda Avenue, the extension of Santa Ana Avenue, Mulberry Avenue, Davidson Avenue, Etiwanda Avenue, Mission Freeway, Archibald Avenue, Colton Avenue, Turner Avenue, San Bernardino Avenue and Millikan Avenue to Wilson Avenue;¹

(2) authorizing Southwest to place its present tariffs in effect; and (3) authorizing Southwest to issue 2,233 shares of Class A cumulative 5½ per cent preferred stock of the par value of \$50 per share.

San Gabriel Valley Water Company, a corporation, hereinafter referred to as San Gabriel, by Application No. 37695 filed on January 25, 1956, and orally amended at the hearing, requests that the Commission make its order granting San Gabriel a certificate of public convenience and necessity for the service of water in a portion of the unincorporated area of San Bernardino County bounded as follows:

From the intersection of Wineville Avenue and Foothill Boulevard; Foothill Boulevard, Ilex Street (also known as Hickory Avenue), Arrow Route, Etiwanda Avenue, the extension of Santa Ana Avenue, Mulberry Avenue, the Riverside County-San Bernardino County Line, and Wineville Avenue to the point of beginning.

Exhibit No. 1 herein depicts Southwest's proposed service area, including the area excluded by stipulation and above referred to, and the boundary of San Gabriel's proposed service area, as amended, which is indicated by yellow crosshatching. San Gabriel's proposed service area is entirely within Southwest's proposed service area.

¹ By stipulation at the hearing, the area bounded by Colton Avenue on the south, College Avenue on the north, Archibald Avenue on the west, and Turner Avenue on the east was excluded from the service area sought by Southwest.

At the commencement of the first day of hearing the two applications were consolidated for hearing. Public hearings thereon were held in Los Angeles before Commissioner Rex Hardy and Examiner Kent C. Rogers on June 27, 28 and 29, and July 11, 12 and 13, 1956. Prior to the first day of hearing, notices of hearings on each application were published as required by this Commission and mailed to parties known to be interested.

General Information

Southwest is presently furnishing domestic water to approximately 2,150 customers in the La Mirada area of Los Angeles County which is approximately 25 miles from the service area sought by its application as amended. Southwest was originally organized in 1954 with 100 customers and has experienced a substantial growth. Its balance sheet as of April 30, 1956, is set forth on pages 5 and 5a of Exhibit No. 2 herein.

The area for which Southwest requests a certificate contains about 25 square miles and lies between Cucamonga and Fontana in Riverside and San Bernardino Counties (See Exhibit No. 1). There are about 200 homes and a few commercial establishments in that portion of the area north of San Bernardino Avenue, with the area south of San Bernardino Avenue almost entirely occupied by vineyards.

The record shows that a very substantial development comprising industrial plants, commercial enterprises, and dwelling houses is contemplated in the southerly and southeasterly portions of the area sought by Southwest, as well as in the northerly and westerly portions. The record also shows that Southwest's president was active in assisting in the establishment of enterprises incidental specifically to the proposed industrial development, i. e., he proposed and proposes to promote the establishment of a sewage system to

handle the waste matter expected because of the extensive industrial development.

San Gabriel is presently operating a public utility water system in an area contiguous on the east to the area for which it seeks certification which, as hereinbefore stated, lies entirely within the area for which Southwest seeks certification. San Gabriel might have exercised its extension privileges into said area, as permitted by Section 1001 of the Public Utilities Code, prior to the time Southwest filed its application. The record is silent as to San Gabriel's activities in relation to the area for which it seeks certification, but shows many varied and timely activities on behalf of Southwest for a considerable time prior to the filing of its application.

Four railroads, as well as the San Bernardino Freeway and several major highways, cross the area, which has been zoned for all types of construction from single-family residences to general manufacturing (page 12 of Exhibit No. 2). The Metropolitan Water District aqueduct crosses the territory in approximately the center thereof.

There are five wells southerly of the San Bernardino Freeway which will belong to Vina Vista Development Company and produce an aggregate of between seven and eight million gallons of water per day, together with three reservoirs having a total capacity of approximately fourteen million gallons of water.

The entire area, with the exception of a small portion thereof in Riverside County (see Exhibit No. 1), is in the Chino Basin Municipal Water District, which has been formed for the purpose of distributing water from the Metropolitan Water District aqueduct to public utility and mutual water companies. Colorado River water is available to each applicant from the aqueduct through two 20-inch

outlets, one of which is at Millikan Avenue and one of which is at Etiwanda Avenue (Exhibit No. 3), and will be needed to furnish an adequate water supply to the area.

There are certain facilities in the proposed service area south of San Bernardino Avenue concerning which Southwest's president has entered into a contract of purchase, which, in the event a certificate is granted Southwest by the Commission, will be transferred to Southwest (Exhibit No. 9).

Garrett and Company formerly owned the territory south of the San Bernardino Freeway shown on Exhibit No. 1 herein as C-1. It has contracted to sell that property to Vina Vista Development Company which contemplates a very substantial development - residential, commercial and industrial. On April 9, 1956, Camille A. Garnier, the president of Southwest, in his individual capacity, contracted with Vina Vista, among other things, to purchase the wells, pipelines, reservoirs and other water facilities existing on said property at a price to be determined, and provided that if the herein sought authority is granted Garnier will transfer the facilities to Southwest (Exhibit No. 9). The water facilities referred to above include five wells producing a total of seven to eight million gallons of water per day, one 12-million-gallon reservoir, and two reservoirs having capacities of approximately one million gallons each, and necessary pumping equipment. No evidence was furnished concerning the value or cost of these items, although portions of the proposed acquisitions are included by Southwest in estimating its results of operations for the year 1957 (page 35 of Exhibit No. 2), and for the year 1962 (page 36 of Exhibit No. 2).

The record shows that Southwest has sold $\frac{1}{2}$ million dollars of its bonds to Lincoln National Life Insurance Company, of which \$100,000 will be available with which to pay the cash portion of the

consideration for the purchase of the two mutual water companies here hereinafter referred to, and an application for authority to issue the said bonds has been prepared by Southwest's attorneys and will be filed soon with this Commission.

The Water Supplies

The Rochester Mutual Water Company² secures its water supply from surface water flowing from canyons north of the proposed service area. It has installed 6- to 4-inch mains extending from the northern boundary of the area to Slover Avenue. It has a 315,000-gallon reservoir near Baseline Street. The flow of water varies from year to year, but the minimum flow is 200 gallons per minute (22 miners' inches). At present the company has 23 domestic services.

Rochester was incorporated in 1889, at which time its water rights were acquired. It formerly supplied both irrigation and domestic water to its members. At present it furnishes domestic water only. There are 1,840 shares of stock outstanding, none being appurtenant to the land, but each of which entitles the holder to 1/1840th of the total water supply. On August 25, 1955, Southwest opened an escrow in which it deposited \$25,000 in cash, and agreed to pay \$50 for each share of Rochester stock, one half to be paid in cash and the balance to be paid by exchange of \$50 par value Class A preferred stock of Southwest (Exhibit No. 12). Prior to the close of the hearings herein 95 per cent of Rochester shareholders had agreed to accept Southwest's stock and cash in exchange for their Rochester stock. If Southwest acquires all of the Rochester stock, the total amount in cash and stock it proposes to pay therefor is \$92,300.³

² Hereinafter called Rochester.

³ There appears to be an error in applicant's calculations as it requests authority to pay \$50 per share in cash and preferred stock for 1,840 shares of stock of Rochester which totals \$92,000.

A witness for Southwest appraised Rochester's system, including land, rights of way and water rights at \$144,817 as of June 6, 1956 (page 27 of Exhibit No. 2). Upon objection, this appraisal was stricken from the record.

A valuation engineer of the Commission staff appraised Rochester's system as having an historical cost as installed between 1925 and 1929, of between \$69,800 and \$73,500, exclusive of water rights.

The Etiwanda Water Company,⁴ was formed as an irrigation water supplier in 1882. It secures its water from the surface flow of canyons north of the proposed service area, plus two wells. The minimum average canyon surface flow for the past 40 years has been approximately 270 miner's inches. The two wells produce a total of approximately 290 miner's inches. Etiwanda has 2,300 shares of stock outstanding, each of which entitles the owner thereof to 1/2300th of the total water available to the company. The evidence shows that the stock in Etiwanda is now selling for \$400 per share.

In 1927 the Etiwanda Domestic Water Company⁵ was organized by members of Etiwanda to furnish members of Etiwanda with domestic water. Each member contributed one half of one share of Etiwanda stock plus \$200 cash to Domestic in exchange for one share of Domestic's stock. Two hundred sixty-two shares of stock have been issued by the latter company, which owns 131 shares of Etiwanda's stock. The cash consideration was used by Domestic to construct its water system. Domestic's water supply is furnished by Etiwanda. Domestic's system now includes 87,000 feet of pipe⁶ and four cement

4 Hereinafter called Etiwanda.

5 Hereinafter called Domestic.

6 A portion of this pipe, depicted on page 22 of Exhibit 2 is privately owned by some of Domestic's members.

reservoirs, with a total capacity of 790,000 gallons, and supplies 182 services. Southwest has a continuing agreement with the owners of an additional 100 shares of Etiwanda stock which will authorize the use of additional water (Exhibit No. 40). Domestic has an arrangement whereby it permits its members to secure extra water by acquiring Etiwanda stock and turning such stock over to Domestic, thereby giving Domestic the extra amount of water available through such stock.

Southwest requests authority to acquire the physical assets of Domestic and the 131 shares of Etiwanda owned by it in exchange for \$131,000, payable one half in cash and one half in exchange for its \$50 par value preferred stock.

The books of Domestic reflect the original cost of the land, reservoirs, pipe and miscellaneous items to have been \$64,409, with a depreciated value as of December 31, 1956, of \$41,051 (Exhibit No. 29).

An independent firm of appraisers calculated the present value of Domestic's system to be \$82,376 (Exhibit No. 33), exclusive of the value of the Etiwanda stock.

A valuation engineer of the Commission staff appraised Domestic's system as having an historical cost of between \$69,200 and \$74,600, without any allowance for the value of the Etiwanda stock. San Gabriel procures its water supply from Fontana Mutual Water Company which supplies its water utility system to the east of the area sought to be certificated by each applicant.

Public Convenience and Necessity

Real estate agents, subdivision representatives, and representatives of commercial enterprises intending to establish places of business in the proposed service area appeared and testified extensively as to the contemplated developments therein.

Generally, such witnesses supported each of the applications without prejudice or objection to either Southwest or San Gabriel. From the evidence it appears, and we hereby find that public convenience and necessity require that water service be furnished to the over-all area.

If San Gabriel were given a certificate as requested, we would still be required to give Southwest a certificate for the remaining portion of the territory, which would involve constructions and operations and the establishment of distinct sets of rates by each of the applicant utilities in an over-all area which we hereby find can favorably be served by one water utility. San Gabriel does not desire to serve all of the area which we find needs or, in the foreseeable future will need, water service. The area sought by San Gabriel, in general, comprises that portion of the entire area upon which it is proposed to establish substantial industrial enterprises using large amounts of water. The area already certificated to San Gabriel--to the east of the area sought by Southwest--is extensive and will continue to afford a very substantial water utility operation to San Gabriel.

Each applicant appears to have an adequate source of water supply at present, but eventually each will be required to secure water from the Chino Basin Municipal Water District which distributes Metropolitan Water District water, in order to adequately serve the public. Each applicant has adequate financial ability and experience.

We have carefully reviewed the record herein, including all evidence presented by San Gabriel, and are of the opinion that the public interest will be best served by the granting of a certificate of public convenience and necessity to Southwest for the amended and reduced area sought. San Gabriel's application should therefore be denied.

Southwest, through its witnesses and exhibits, was able to demonstrate that its proposed rates would generally yield operating revenues that were not unreasonable in comparison with the estimated costs of installing and operating the system. It is therefore appropriate that a rate level be established for Southwest that is different from that proposed by San Gabriel, notwithstanding the fact that the latter's rates are lower.

It is apparent, however, that the rates proposed by Southwest are not properly designed for a water system in which the probability of supply and use of water in extremely large quantities to and by industrial customers exists, as in the case before us, and that its estimated operating results did not fully reflect this condition. In recognition of this fact, the rates which will be authorized herein have been modified from those proposed by Southwest. The rates hereinafter authorized are hereby found to be just and reasonable.

It appears that Rochester's water rights hereinbefore referred to are valuable. While we cannot, on the record herein, determine the value thereof, we will permit Southwest to acquire all of the issued stock of Rochester which will carry with it the title to the entire water system (including its water rights), and to pay therefor the total sum of \$92,000, payable one half in cash and one half in exchange for Southwest's preferred stock at its par value of \$50 per share, provided, however, that Southwest shall acquire 100 per cent of the outstanding stock of the Rochester Water Company carrying with it the full and unencumbered clear title to its entire water system and all of its water rights.

From the evidence herein it appears that Southwest should also be permitted to acquire the physical assets of Domestic at the depreciated value thereof, to wit, the sum of \$41,051, together with

the 131 shares of Etiwanda stock, for the additional sum of \$52,400, or a total of \$93,451, which Southwest may pay to Domestic one half in cash and one half in exchange for Southwest's preferred stock, provided, however, that Southwest shall acquire all of the physical assets of Domestic, without lien or encumbrance, and the 131 shares of Etiwanda stock in one transaction.

Southwest's president testified that it was the intention of his company to cause the installation of its utility plant either by the company's own construction force, or pursuant to sealed competitive bids by independent contractors. The Commission accepts this testimony as a continuing obligation of Southwest to be faithfully observed, and the order which follows will so provide.

Southwest's accounting and engineering witness submitted as Exhibit No. 2 the estimated financial results of its operations for the years 1957 and 1962 based upon its proposed rates. The following tabulation summarizes this information:

<u>Item</u>	<u>Summary of Earnings</u>	
	<u>1957</u>	<u>1962</u>
Operating Revenue	\$ 73,780	\$ 510,930
Operating Expenses	31,080	249,560
Depreciation Expense	12,370	47,750
Taxes	<u>10,630</u>	<u>103,410</u>
Net Income	19,700	110,210
Rate Base	387,190	1,441,210
Rate of Return	5.1%	7.6%

The bases of Southwest's calculation are set forth on pages 31 through 41 of Exhibit No. 2. It should be noted that the fixed capital therein set forth includes the total asking price of the two mutuals hereinabove referred to of \$223,300, and which we have reduced to \$185,451 for the reasons stated. Southwest has also figured the estimated income taxes on the basis of this service area comprising a separate system and the payment of a separate income

tax, whereas its income tax will be assessed and paid on the basis of its revenues from its entire system. As hereinbefore noted we are not approving Southwest's proposed rates.

Findings and Conclusions

After consideration of the record herein the Commission is of the opinion and finds that public convenience and necessity require the granting of a certificate to Southwest, 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.

The Commission is also of the opinion that the money, property or labor to be procured or paid for by the issue of the stock herein authorized is reasonably required for the purposes herein specified, and that the expenditures for such purposes are not, in whole or in part, reasonably chargeable to operating expenses or to income.

The action taken herein shall not be construed to be a finding of the value of the properties herein described for rate-making purposes.

The order which follows will provide for the filing of the schedule of rates attached hereto. Such filing will be authorized subject to review by this Commission after Southwest's first full calendar year of operation.

San Gabriel's application will be denied.

O R D E R

Applications having been filed by San Gabriel Valley Water Company and Southwest Water Company, the matters having been

consolidated for hearing, and public hearings having been held thereon, the matters having been submitted and now being ready for decision, and the Commission having made the foregoing findings,

IT IS ORDERED as follows:

1. That Application No. 37695 of the San Gabriel Valley Water Company be, and the same hereby is, denied.

2. That Southwest Water Company, a corporation, be, and it is, granted a certificate of public convenience and necessity to construct and operate a public utility water system in the area first hereinabove described.

3. That Southwest Water Company be, and it is authorized to revise and refile after the effective date of this order, to be effective on or before the date service is first rendered to the public in the area being certificated by this order, its presently filed tariff schedules now applicable to its La Mirada Tariff area, including tariff service area maps, in accordance with the procedure prescribed by General Order No. 96, to provide for the application of said tariff schedules, to the extent not inconsistent with this decision and order, for water service in said area being certificated hereinabove. Schedule No. EG-1 attached hereto as Appendix A shall be incorporated in said revised and refiled tariff schedules for said area being certificated hereinabove. Such revised tariff sheets shall become effective upon five days' notice to the Commission and to the public after filing as herein provided.

4. That Southwest Water Company, within thirty days following the first full calendar year of operations under the rates authorized herein, shall file with this Commission a report of its operations for its first full calendar year, including gross revenues, operating expenses, taxes, depreciation, rate base, rate of return, face value of stock issued and the interest paid thereon, and that thereupon such rates shall thereupon be subject to review by this Commission.

5. That Southwest Water Company shall file, within ninety days after the system is placed in operation under the rates and rules authorized herein, 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 for which this certificate is issued, the sources of its water supply, and its distribution facilities.

6. That Southwest Water Company, after the effective date hereof, may acquire the 1,840 shares of stock of the Rochester Water Company issued and outstanding, and carrying with said shares the full and unencumbered title to its entire water system and all of its water rights, and may pay therefor \$50 for each of such shares of stock, such \$50 to be paid one half in cash and one half by exchange for Southwest's Class A Cumulative Preferred Stock at the par value of \$50 per share, with a dividend rate of 5½ per cent of the par value thereof, provided, however, that the funds for the acquisition of such company, Rochester's stock, the necessary instruments of title, and Southwest's stock to be issued in exchange, all be placed in escrow until Southwest has had delivered to it for cancellation all of the shares of stock of Rochester amounting to 1,840 shares and has received the necessary instruments of title to the physical assets referred to, coincidentally with the acquisition of the assets of Domestic as hereinafter referred to, or until further order of this Commission.

7. That Southwest Water Company, after the effective date hereof, may acquire the assets of Etiwanda Domestic Water Association, including 131 shares of stock of the Etiwanda Water Company without lien or encumbrance, and may pay therefor the sum of \$93,451, such sum to be paid one half in cash and one half by exchange for Southwest's Class A Cumulative Preferred Stock at the par value of

\$50 per share, with a dividend rate of 5½ per cent of the par value thereof; provided, however, that the funds for the acquisition of such company, Domestic's stock, Etiwanda's stock, and Southwest's stock to be issued in exchange, all be placed in escrow until Southwest has had delivered to it for cancellation all of the shares of stock of the Etiwanda Domestic Water Association amounting to 262 shares, and has received the aforesaid 131 shares of Etiwanda, without lien or encumbrance, coincidentally with acquisition of the stock and assets of Rochester hereinbefore referred to, or until further order of the Commission.

8. That Southwest Water Company shall notify this Commission within 10 days after the close of the escrows hereinbefore referred to in paragraphs 6 and 7, and shall certify over the signatures of its responsible officers that it has acquired and owns the hereinbefore described assets of the companies named in said paragraphs.

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

10. That installation of utility plant exceeding \$1,000 for each project or contract, when not performed by the utility's own construction force, shall be based upon sealed competitive bids. Southwest may reject the bids of bidders who are deemed unqualified, but there shall be a minimum of three bonded bidders, each guaranteeing to do the majority of work with its own forces. Contracts may be by specified projects or by unit prices for a period not exceeding one year. Southwest shall maintain a record of bids and bidders and certify thereon that the minimum three bidders are nonaffiliated with and nonfinanced by applicant or its officers, directors and/or employees in any manner, that bidders were notified at least five days in advance of the time and place of opening bids, and that bids were opened in the presence of bidders who appeared. In the event

that three bids are not obtained and the utility does not elect to reject all bids, the Commission shall be advised by letter at least ten days in advance of awarding a contract. This letter should set forth the circumstances and indicate the nature of the proposed contract, to what extent calls for bids have been advertised, what bids have been received, and what bidders were deemed unqualified.

11. That the authorization herein granted will expire if not exercised within one hundred twenty days after the date hereof.

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

Dated at San Francisco, California, this 27th day of December, 1956.

[Signature]
President
[Signature]
[Signature]
[Signature]

Commissioners

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

APPENDIX A

Schedule No. EG-1

Edwards-Guasti Tariff AreaGENERAL METERED SERVICEAPPLICABILITY

Applicable to all metered water service.

TERRITORY

Certain unincorporated territory adjacent to the easterly boundary of the City of Ontario, San Bernardino County.

RATES

Quantity Rates:		<u>Per Meter Per Month</u>
First	800 cu.ft. or less	\$ 2.50
Next	3,200 cu.ft., per 100 cu.ft.20
Next	296,000 cu.ft., per 100 cu.ft.13
Over	300,000 cu.ft., per 100 cu.ft.07
Minimum Charge:		
For	5/8 x 3/4-inch meter	\$ 2.50
For	3/4-inch meter	3.00
For	1-inch meter	3.75
For	1 1/2-inch meter	5.00
For	2-inch meter	7.50
For	4-inch meter	50.00
For	6-inch meter	100.00

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