

ORIGINAL

Decision No. 54649

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 CITIZENS DOMESTIC WATER COMPANY, a)
 corporation, and SOUTHWEST WATER)
 COMPANY, a corporation, in the alterna-)
 tive, for a certificate of public)
 convenience and necessity to serve)
 certain territory in Riverside)
 County.)

Application No. 38576
 (Amended)

Gray and Guy by Arthur D. Guy, Jr., and John C. Luthin, for applicant.
 Best, Best & Krieger by James H. Krieger, and Howard Greason, for Daly Water Company and Riverside Water Company; and Louis R. Mate, Mrs. Jack Lawrence, Cecil Carlton, Frank Bresson, and H. B. Harless, in propria personae; interested parties.
Charles W. Drake and Richard R. Entwistle, for the Commission staff.

O P I N I O N

Citizens Domestic Water Company,^{1/} a corporation, and Southwest Water Company,^{2/} a corporation, in the alternative,^{3/} by the above-entitled application filed November 7, 1956, as amended January 9, 1957, seek a certificate of public convenience and necessity to construct, extend, and operate a public utility water system in unincorporated territory, Riverside County, adjacent to the westerly limits of the City of Riverside^{4/} in the

^{1/} Hereinafter referred to as Citizens.

^{2/} Hereinafter referred to as Southwest, or applicant.

^{3/} By Decision No. 54160, dated December 4, 1956, in Application No. 38246, authority was granted to Southwest to acquire all of the assets, operating rights, and certificate of public convenience and necessity of Citizens, and pursuant thereto, Citizens has been dissolved as a California corporation.

^{4/} Hereinafter referred to as the City.

area delineated on the map attached to the amended application as Exhibit "B". Authority is also requested to acquire from Riverside Water Company,^{5/} a mutual water company, all of the outstanding stock of Daly Water Company,^{6/} a mutual water company, for the consideration of a combination of cash and applicant's stock.

Public hearings on this matter were held before Examiner Stewart C. Warner on January 16 and 17, 1957, at Riverside. There were no protests to the granting of the application although one water user, now being served by the City and a potential consumer of applicant, inquired about the quality of applicant's water and the probable effect of the application on his water service and rates therefor.

The matter was consolidated for hearing with an adjourned hearing on Application No. 38110 of Daly Water Company,^{7/} which proposes to operate as a public utility in accordance with an amendment to the articles of incorporation of Daly, the mutual, on October 30, 1956. By a letter to the Commission dated January 15, 1957, the contents of which are of record in the proceeding, counsel for Daly, the proposed utility, for Daly, the mutual, and for Riverside, the parent mutual thereof, advised that Riverside and Southwest had entered into an agreement providing for the transfer of the stock of Daly, the mutual, to Southwest, provided that Southwest's service area were extended to include all the lands set forth in the instant application as amended. Said counsel stipulated at the hearing that if the instant application were

^{5/} Hereinafter referred to as Riverside.

^{6/} Hereinafter referred to as Daly, the mutual.

^{7/} Hereinafter referred to as Daly, the proposed utility.

granted, Daly, the proposed utility, would withdraw its application and request that said application be dismissed.

A copy of the agreement dated December 27, 1956, between Riverside and Southwest, was received in evidence as Exhibit No. 5, and a copy of an option agreement of like date, granting Southwest, or its nominee, a right to repurchase or purchase from Riverside the \$30,000 par value of Southwest's Class A cumulative preferred 5½ percent stock, proposed to be issued to Riverside by Southwest as part of the consideration for the transfer by Riverside of the stock of Daly, the mutual, to Southwest, at 75 percent of par value plus accrued dividends to the date of exercise of said option, was received in evidence as Exhibit No. 5A.

General Information

Applicant's present service area^{8/} comprises approximately 5,000 acres, and water service was being furnished therein to an average of 2,599 consumers during the year 1956. The existing area is generally known as La Sierra Heights located in the vicinity of Arlington, Riverside County, and is primarily agricultural-suburban. The source of water supply for said area consists of four wells with presently installed pumping plant capacity of 2,880 gallons per minute. Said area is divided into two pressure zones. Zone 1 has water storage facilities related thereto with a capacity of 1,140,000 gallons, and Zone 2, a low pressure zone, has water storage facilities related thereto with a total capacity of 440,000 gallons.

^{8/} Applicant's present or existing service area, as used herein, is that area formerly served by Citizens and which is northerly of and contiguous to the area herein requested to be certificated. Applicant also serves two other areas which are not contiguous and are unrelated to the present proceeding.

The proposed area is adjacent to the southerly boundary of the existing service area and extends south to the Riverside Water Company canal, east to the City limits, and west to approximately Grant Street. It comprises approximately 1,450 acres. Included in the proposed area are a new subdivision known as Skylark Terrace, in which about 40 homes are under construction, and a subdivision at Nye Street and Magnolia Avenue partly served by the City's Water Department. The record shows that a portion of the proposed area formerly was included within the City limits but has been withdrawn therefrom by the City Council. The City's Water Department still furnishes water service to approximately 98 scattered consumers along said Water Department's 6-, 4-, and 2-inch water mains, the locations of which are shown in red on the map, Exhibit No. 1, filed at the hearing. The record further shows, and the manager of the Water Department testified, that the City will not add new consumers to its water system outside the City limits, and that an offer submitted by Southwest to the City to purchase the City's existing facilities in the proposed area and to furnish water service to the City's consumers therein had been received by the City and "tabled". The City offered no objection to Southwest's application to serve the proposed area.

The proposed area includes all of the lands owned by shareholders of Daly, the mutual, and Riverside which have been receiving irrigation water from said companies west of the City limits and which are within the area requested by Daly, the proposed utility, to be certificated to it in Application No. 38110, supra. Counsel for the mutual companies urged, and the agreement, Exhibit No. 5, provides that all of said lands be included in the area certificated to applicant in order that domestic water service would be available thereafter to all of said lands.

Sources of Water Supply

The record shows that applicant's present sources of water supply and storage facilities are barely adequate for applicant's existing service area, and that in order to serve the proposed area applicant must acquire or develop additional sources of supply. By purchasing the stock of Daly, the mutual, applicant would acquire three wells in the proposed area, the locations of which are shown on the map, Exhibit No. 1. Their presently installed production capacity is 2,150 gallons per minute, and their locations are such that their present water production could be utilized by applicant to supplement its sources of water supply for its existing service area, in addition to serving the proposed area. The quality of the water is "hard" as is all of applicant's water and, as is, apparently, all ground water pumped from the Arlington Basin.

Rates

Applicant proposes to apply its Zone 1 meter rates to the proposed area. A calculation from evidence of record indicates that for a consumption of approximately 2,000 cubic feet the monthly charge would be \$3.45 compared with a charge of \$4.30 now being paid by consumers of the City outside the City limits.

The agreement, Exhibit No. 5, provides, in paragraph 3 thereof, that Riverside agrees to purchase from applicant 5,000 miner's inch²-days of irrigation water to be made available at Riverside's main canal at the terminus of the 14-inch line which

²/ A miner's inch as used herein is defined as one-fiftieth of a cubic foot of water per second, and a miner's inch-day is the quantity of water resulting from a continuous flow of one miner's inch for a period of 24 hours.

runs from Daly's, the mutual's, wells to said canal, and Riverside agrees to pay 60 cents per miner's inch-day for said irrigation water and a minimum of \$3,000 per year whether or not said water is actually used by Riverside, but for the calendar years 1957, 1958, and 1959 only. It should be noted in this connection that applicant has not filed a tariff for irrigation water service.

Proposed Financing

Applicant proposes to acquire the 499 shares of capital stock of Daly, the mutual, now owned by Riverside, for \$30,000 cash and \$30,000 par value of 5½ percent cumulative preferred stock. A consulting engineering witness for applicant submitted as Exhibit No. 3 a replacement cost new less depreciation appraisal of Daly's, the mutual's, facilities with the reserve requirement computed on a 5 percent sinking fund accrual method. The total replacement cost new set forth therein was \$47,711, with accrued depreciation of \$4,285.18, and net value of \$43,425.82. This witness testified that if depreciation had been computed on the straight-line accrual basis, the net value would have been \$39,499.22. A Commission staff engineering witness submitted an historical cost appraisal of \$38,133.17, with a depreciation reserve requirement of \$6,017.32, for a net value of \$32,115.85. The Commission staff recommended that applicant use the staff's appraised cost of Daly's, the mutual's, facilities in all future rate cases.

Applicant based its consideration provided for in Exhibit No. 5, of the contemplated payment, hereinbefore noted, to Riverside by Southwest of cash and stock for Daly's, the mutual's, stock on a negotiated price of \$60,000. Applicant's witness testified that Riverside had first asked \$75,000 in cash, part to be paid on time. Southwest countered with an offer of \$50,000

consisting of \$30,000 cash and \$20,000 stock. The price was negotiated thereafter by both parties, and the sum of \$60,000 was agreed upon, as noted.

Other Staff Recommendations

The Commission staff engineering witness, in Exhibit No. 9, a Commission staff report of an investigation into the application, as amended, recommended that no new customers be added outside the certificated areas and that applicant be restricted to the area proposed in the application and the existing service area until applicant demonstrates to the Commission that its water supply, storage reservoirs and distribution systems are adequate to take care of the entire combined certificated area. The applicant already has extended its service to a new subdivision to the northwest of the Twin Butte reservoir and outside its certificated area. The staff witness stated that the load at this part of the system is critical since the entire peak flow is from the Twin Butte reservoir. During peak demand water cannot be pumped from the wells to the reservoir. The recommendation was based on an engineering study contained in said exhibit which projected, through the year 1961, the estimated demands for water service in applicant's existing and proposed areas based on known sources of water supply, storage, and distribution facilities, and growth in the number of consumers.

The staff engineering witness also recommended that applicant complete and operate in 1957 necessary facilities to serve Zone 2 with water pressure between 40 and 60 pounds per square inch; that applicant change system design to allow all wells to pump directly into the distribution system, and install adequate transmission mains to supply the area and the reservoirs; that all reservoirs should float on the line; that applicant should file a

current set of standard practices; and that applicant should purchase the Worthington Well (now leased and serving the existing area) or another of equal capacity. Certain of these recommendations will be incorporated in the order to follow.

Applicant's Proposal to Improve Water Supply,
Storage, and Distribution System Facilities
and Improve Service Conditions

Applicant's witness, its general manager, testified that applicant had recently acquired from Citizens the water system to be known as its La Sierra District; that it recognized many of the deficient service conditions testified to by the staff witness; and that it planned extensive rehabilitation and development of the water system to meet acceptable standards, but that completion of these plans would require considerable cross system support and would take several years to accomplish.

Findings and Conclusions

The Commission finds and concludes that public convenience and necessity require that Southwest's application for a certificate of public convenience and necessity to serve the unincorporated territory of Riverside County delineated on the map, Exhibit "B", attached to the amendment to the application be granted and the order which follows will so provide. The certificate of public convenience and necessity granted hereinafter is subject to the following provision of law:

That 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.

It appears from the record that the true negotiated price for the purchase of stock of Daly, the mutual, from Riverside by

applicant is \$52,500. Considering applicant's needs for acquiring additional sources of water supply and the availability thereof in the area; the demands for domestic water service in the proposed area; the fact that counsel for Daly, the proposed utility, has stipulated to a withdrawal of its Application No. 38110 (supra) to serve the area, thereby saving the costs of litigation before the Commission in pursuing its application; the costs of such litigation to applicant; and other factors of record in the proceeding; applicant will be authorized hereinafter to issue \$22,500 par value of its 5½ percent cumulative preferred stock to Riverside for the purchase of Daly's, the mutual's, stock as a partial consideration of such purchase.

A copy of an agreement dated October 8, 1956, between Citizens and Capri Estates, Inc., Manhattan Terrace No. 1, Inc., subdivider, was submitted as late-filed Exhibit No. 10. This agreement was intended to provide for the installation of a water system and the service of water by Citizens within a subdivision identified as Skylark Terrace, Unit No. 1, and for the advance by the subdivider of a substantial sum of money for the purposes of contributing toward the construction of said water system, but with no provision for any refund thereof. It appears that the agreement neither conforms to the appropriate sample form of main extension agreement filed with the Commission nor has it been approved by the Commission. Therefore, applicant will be ordered either (1) to negotiate and file with the Commission a copy of a revised main extension agreement that does comply with applicant's filed main extension rule, or (2) to negotiate a new agreement to be submitted to the Commission for approval in accordance with Section X.A of the Commission's General Order No. 96.

The option agreement dated December 27, 1956, which apparently grants Southwest, or its nominee, the right to repurchase or purchase from Riverside the shares of Southwest's Class A cumulative preferred 5-1/4 percent stock, is not to be deemed approved by this decision or to permit Southwest to repurchase from Riverside any of said shares of stock unless such repurchase is made out of earned surplus or out of surplus resulting from the reduction of the stated capital of Southwest.

It is hereby found that applicant's service is inadequate in many parts of its system. It has the responsibility of providing adequate service within its certificated area before it makes any investment to serve customers outside the certificated area. Therefore, it will be ordered that no new customers shall be added outside the existing service area and that area certificated by this decision, until the Commission, upon sufficient showing, shall have modified the order herein.

The action taken herein with respect to the issuance of stock shall not be construed to be a finding of the value of the property to be acquired, and the negotiated price shall not, necessarily, be adopted by the Commission in determining applicant's rate base for rate-making purposes.

O R D E R

Application as amended, as above entitled, having been filed, public hearings having been held, the matter having been submitted and now being ready for decision,

IT IS HEREBY ORDERED as follows:

1. That Southwest Water Company, a corporation, be, and it is, granted a certificate of public convenience and necessity to acquire, construct and operate a public utility water system in unincorporated territory, Riverside County, in the area

delincated on the map, Exhibit "B", attached to the amendment to the application.

2. (a) That applicant shall not extend its water system beyond the boundaries of its existing service area known as its La Sierra District and the area certificated herein without further order of the Commission.
 - (b) That applicant shall submit in writing to the Commission, within thirty days after the effective date of this order, a list giving the name, address and initial date of service of all customers being served as of said effective date who are not within said existing service area or the area being certificated herein, together with a map showing the location of such customers with relation to the boundaries of said areas.
 - (c) That no new customer shall be served outside said existing service area and the area certificated herein until applicant shall have first submitted in writing to the Commission (1) a summary of the changes planned to be made to the water systems as then existing in order to furnish an adequate supply of water to the Twin Butte reservoir and to serve the northwestern portion of said service area at proper operating pressure and (2) a statement that such changes have been made and showing the date when the necessary facilities were placed in operation; and then not until the Commission, upon such showing, shall have modified this order.
 - (d) That within ninety days after the effective date of this order, applicant shall make such changes in its water system and install such facilities as may be necessary to maintain a minimum pressure of 40 pounds per square inch in Zone 2 of its said existing service area. Applicant shall notify the Commission in writing within five days after said facilities have been placed in operation.
3. (a) That applicant on and after the effective date hereof is authorized and directed to charge its presently filed schedule of La Sierra District Zone 1 meter rates for water service in the area certificated herein, and to apply in said certificated area its rules which are on file with the Commission.
 - (b) That applicant shall, within forty days after the system certificated herein is placed in operation under the authority herein granted, revise its presently effective La Sierra District tariff schedules to provide for the application of its rates and rules in the area certificated herein, including a tariff service area map,

all in accordance with the procedure prescribed by General Order No. 96. Such rates, rules and tariff service map shall become effective upon five days' notice to the Commission and to the public after filing as hereinabove provided.

- (c) That applicant is authorized to file in quadruplicate with this Commission in accordance with the procedure prescribed in General Order No. 96, after the effective date of this order, the rate schedule set forth in Appendix A attached to this order to be effective on or before the date service is first rendered under the authority herein granted, and on not less than five days' notice to the Commission and to the public to make such rate schedule effective for service rendered thereafter.
- (d) That applicant shall file, within forty days after the system in the area certificated herein is placed in operation under the rates and rules authorized herein, four copies of a comprehensive map of its La Sierra District service area 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 the various properties of applicant in said district.
4. That applicant shall notify the Commission in writing of the date on which the water system was placed in operation under the authority herein granted, within five days thereafter.
5. That applicant shall review annually the accruals to depreciation reserve which shall be determined for each primary plant account by dividing the original cost of plant less estimated future net salvage less depreciation reserve by the estimated remaining life of the surviving plant of the account; and the results of the reviews shall be submitted annually to the Commission.
6. That applicant be, and it is, authorized to issue 225 shares of its Class A cumulative preferred 5½ percent stock in the stated amount of \$22,500 to Riverside Water Company, a mutual water company, together with \$30,000 cash for the purchase of all of the 449 shares of stock of Daly Water Company, a mutual water company, owned by said Riverside Water Company and constituting all of the outstanding shares of stock of said Daly Water Company. The Commission is of the opinion that the money, property or labor to be procured or paid for by the issuance of such stock is reasonably required by applicant for the purposes herein stated and that such purposes are not, in whole or in part, reasonably chargeable to operating expenses or to income.

7. That applicant shall file with the Commission a report or reports as required by the Commission's General Order No. 24A, which order insofar as applicable, is made a part of this order.
8. That the authority herein granted will lapse if not exercised within one year after the effective date hereof.
9. That applicant, within thirty days after the effective date of this order, shall negotiate an agreement between it and Capri Estates, Inc., Manhattan Terrace No. 1, Inc., subdivider, to provide for the installation of facilities to furnish water service within the subdivision identified as Skylark Terrace, Unit No. 1, which agreement shall either:
 - (a) Conform to the appropriate sample form of main extension agreement on file with the Commission, in which case a certified copy of such agreement shall be filed with the Commission within five days after the date hereof; or
 - (b) Conform to the requirements of Section X.A of the Commission's General Order No. 96, in which case the request for authorization by this Commission shall be made by formal application, in accordance with the Commission's Rules of Procedure, within fifteen days after the date of said agreement.
10. That installation of utility plant exceeding \$100 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 bona fide 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.

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

Dated at San Francisco, California, this 12th day of MARCH, 1957.

[Signature]
President

[Signature]

[Signature]

[Signature]

[Signature]
Commissioners

APPENDIX A

Schedule No. IS - 3MLT
LIMITED TEMPORARY METERED IRRIGATION SERVICE

APPLICABILITY

Applicable to temporary metered irrigation service furnished to Riverside Water Company.

TERRITORY

The unincorporated community of La Sierra, and vicinity, Riverside County.

RATES

	<u>Per Motor per Year</u>
Quantity Rate:	
For all irrigation water delivered per miner's inch per 24-hour run	\$ 0.60
Annual Minimum Charge:	
Per 14-inch service	\$3,000.00

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

The term "miner's inch" as used herein denotes one-fiftieth of a second-foot.

SPECIAL CONDITIONS

1. This schedule will be effective only until and including December 31, 1959.
2. Water will be delivered under this schedule to the Riverside Water Company canal at the terminus of the 14-inch distribution main which runs from the Daly wells to said canal side.