

ORIGINAL

Decision No. 55355

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
DYKE WATER COMPANY, a corporation,)
for authority to extend its water)
service to additional territory in)
the vicinity of Garden Grove, in)
unincorporated territory, County of)
Orange, under Section 1001, Public)
Utilities Code of the State of)
California.)

Application No. 37097
Second Supplemental

Glenn A. Lane and Arlyne Lansdale, attorneys,
for applicant.
Preston Turner, city attorney, for the City of
Anaheim, protestant.
James G. Shields and Richard R. Entwistle, for
the Commission staff.

O P I N I O N

The above-entitled Second Supplemental Application of Dyke Water Company, a corporation, filed February 7, 1957, as amended at the hearing to exclude (1) the proposed area north of the Santa Ana Freeway and (2) certain areas erroneously delineated by a red line on the map Exhibit "C" attached to said Second Supplemental Application, seeks authority to extend its water system within the area delineated by said red line on said Exhibit "C". The area into which authority is requested to extend includes unincorporated territory of Orange County, and does not include any area within the boundaries of the City of Anaheim nor of any other City.

Public hearings were held before Examiner Stewart C. Warner on May 15, 16, and 17, 1957, at Santa Ana, on a

consolidated record with applicant's First Supplemental Application No. 37161.^{1/}

The city attorney of the City of Anaheim, who appeared on behalf of the Light, Power and Water Department of said city, protested the granting of the instant application.

Allegations of Applicant.

Applicant alleged that the area proposed in the instant application was erroneously excluded by the Commission by its Decision No. 53858, dated October 1, 1956, in Applications Nos. 37097 and 37161; that the map, Appendix "A", attached to said decision, upon which were delineated the spheres of operations and service area boundaries of applicant in Orange County, excluded certain area which applicant alleged the Commission considered to be potential Anaheim City territory inasmuch as it was subject to annexation procedures by said city; that on November 20, 1956, said annexation, called West Anaheim Annexation was defeated at the polls by 649 votes against annexation to 203 votes for such annexation; that applicant had

^{1/} By its First Supplemental Application No. 37161, applicant seeks authority to extend its water system into tentative Tracts Nos. 3208, 3156 and 3214, and to Tracts Nos. 2880, 3010, and 3043, and to the Ferguson School, in unincorporated territory, Orange County, south of Westminster Avenue, between Taft and Bushard Streets.
By its Second Supplemental Application No. 37161, filed June 4, 1957, applicant seeks authority to extend its water system to Tract No. 2524, and a tract of land known as the Tibbets Tract or Tract No. 1040; the Bolsa School; and numerous commercial establishments and home owners in the territory bounded by Cannery Street on the west, Ward Street on the east, Hazard Avenue on the north, and Sugar Avenue on the south, in unincorporated territory of Orange County. Pacific Water Co., by its Applications Nos. 39031, filed April 26, 1957, and 39223, filed July 10, 1957, seeks authority to extend its water system in the general areas covered by applicant's First and Second Supplemental Applications No. 37161 (supra).

received numerous requests from commercial subdividers and developers for water service within the proposed area; that applicant had made arrangements to interconnect its master water system from its service areas certificated by Decision No. 53858 (supra); and that public convenience and necessity required that applicant be permitted to render water service in the proposed area.

Description of Proposed Area

The proposed area includes slightly in excess of 900 acres of unincorporated territory, and is generally north of Ball Road to the Santa Ana Freeway, bounded on the west by Gilbert Street, and on the east by Brookhurst Street and Dahlia Drive, and the so-called Richfield annexation. The proposed area includes some areas south of Orange Avenue between Gilbert and Brookhurst Streets, and an area on the north side of Lincoln Avenue, east and west of Brookhurst Street, each as shown in yellow on the map Exhibit "C" (supra), which were included in applicant's sphere of operations by Decision No. 53858. The proposed area also includes Tract No. 2928, for which applicant was granted a certificate of public convenience and necessity by Decision No. 54710, dated March 26, 1957, in applicant's First Supplemental Application No. 37097.

Protest of the City of Anaheim.

The City of Anaheim protested applicant's request for authority to extend into unincorporated territory in the vicinity of the City's boundaries, on the grounds that the City had installed transmission and distribution mains in La Palma,

Crescent, Lincoln, Broadway and Orange Avenues, and Ball Road in the years 1953, 1954, 1955, and 1956. The diameters of said mains range in size from 18" to 6", and water service was then being furnished by the City from said mains in Tracts Nos. 2001 and 3055 outside the City limits, and Tract No. 2803 inside the City limits. Each of said tracts outside the city limits was withdrawn by applicant from its application. A witness for the City testified that no annexations were pending within the area applied for by applicant as of the date of the hearings thereon.

Restrictions Placed on Applicant's Extending Its Water System By Decision No. 53858 (supra).

Ordering paragraph 1.(a) of Decision No. 53858 (supra) ordered applicant not to extend its water system outside the boundaries of its spheres of operations as delineated on the map, Appendix "A", attached to said Decision without further order of the Commission.

Area Requested by Applicant's Original Application No. 37097, filed July 5, 1955.

The map Exhibit No. 1, attached to applicant's original Application No. 37097, filed July 5, 1955, delineates in yellow solid coloring the territory requested by applicant by said application. It did not include the area requested by its Second Supplemental Application, herein being considered. Appendix "A" (supra), was based on the map, Exhibit No. 23, filed at the hearings on applicant's original application and, insofar as applicant's then requested area was concerned was based on information placed on said Exhibit No. 23 by applicant's



president. It is evident that applicant has not, prior to the filing of its Second Supplemental Application, sought authority to extend its water system into the proposed area herein being considered.

Applicant's Financial Condition as of December 31, 1956. (Exhibit No. 2)

Exhibit No. 2 is a copy of a statement of applicant's financial condition as of December 31, 1956. A summary statement showing its investments and sources of funds is as follows:

Assets

Current assets	\$ 51,394
Utility plant, less reserve	3,469,537
Other investments	73,771
Total	<u>\$3,594,702</u>

Liabilities and Capital

Current liabilities	\$ 330,995
Long-term debt	116,942
Advances for construction	2,616,289
Contributions	66,806
Capital (common stock and surplus)	463,670
Total	<u>\$3,594,702</u>

The foregoing balance sheet points up an unsound financial condition. Among other things, the statement shows advances for construction in a total amount equivalent to 75 per cent of the net investment in plant. A review of the record in this proceeding shows that the amounts of such advances have been increasing rapidly from \$1,041,736 at February 28, 1955, to \$1,645,348 at August 31, 1955, to \$2,616,289 at December 31, 1956. Of the latter amount, advances of \$81,500 were due at the close of the year. This amount increases the current liabilities to \$412,495 as compared with current assets of only \$51,394. The reported net income in 1956 was \$51,634.

On the basis of the information before us we can only conclude that applicant is not financed properly and, because of the large preponderance of borrowed money in the capital structure, is in a position where it may be unable to meet its obligations and to perform its public utility functions. The wholesale financing of

new systems by means of subdividers' advances is a violation of sound and conservative financing principles, the observance of which is necessary to insure adequate service, and is a misapplication of the main extension rule. Such a rule, as its very title suggests, is applicable to the extension of mains from existing operative systems, and is not intended to provide the major source of capital funds, as is the practice of applicant.

It seems clear to us that with applicant's unbalanced structure the situation could well develop where the obligation to make refund payments, by their very size, would threaten the impairment of the solvency of the company. Good business practice dictates a larger investment of proprietary capital than is the case here.

Our views on applicant's financial condition are not new. In Decision No. 53858, dated October 1, 1956, the Commission said:

"The Commission is greatly concerned with Dyke's violation of Commission orders, its unauthorized extensions and contracts, its improper, incorrect and incomplete accounting records, and its inadequate financial condition which is hereby found to be insufficient to support its present and future operations."

As will be noted from the recitation, hereinbefore, of the applicant's financial condition as of December 31, 1956, there has been no appreciable nor sufficient improvement therein over that shown in Decision No. 53858 (supra).

The record does show that applicant is in the process of bringing its Books of Accounts into accord with the Uniform

Classification of Accounts for Water Utilities prescribed by the Commission, in compliance with paragraph 1.(f) of the order in Decision No. 53858 (supra). Compliance with said paragraph has not been effected, and by its Order Extending Time, dated March 12, 1957, the Commission granted, among other things, a request by applicant for an extension of time to June 30, 1957, to comply with said paragraph.

The record shows that applicant's capital for extending its water systems comes from three main sources: (1) consumers' advances for construction, (2) internally created funds, such as depreciation reserve, and (3) investments in the form of long or short-term liabilities by the Lansdale family. Applicant's president is L. D. Lansdale, Jr., its vice presidents are L. D. Lansdale and William M. Lansdale, and its secretary-treasurer is Arlyne Lansdale.

Although applicant's president testified that the Lansdale family stood at all times, ready, willing, and able to advance sums of money for applicant's construction program or operations, he testified that the agreement for the advancing of such funds was verbal, only, and without any set limitation as to amount, or provision for interest or repayment. No financial statement of the Lansdale family is of record in this proceeding, and, although applicant's president indicated for the record that applicant intended to issue common stock to the Lansdale family, no request for authority to issue such stock has been filed with or granted by the Commission.

Applicant's president testified that negotiations

were being conducted with U. S. Life Insurance Co. of New York for a \$500,000 loan against applicant's promissory note; that authority for executing such note had been granted by Decision No. 54537, dated February 19, 1957, in Application No. 38823; but that such negotiations had not been completed, and that the monies to be derived therefrom, if and when received from the insurance company, were to be used for the development of three 5,000,000-gallon reservoirs located at Brookhurst Street between Cerritos and Katella Avenues, in order to utilize a proposed connection with Metropolitan Water District facilities at Katella Avenue and Dale Street. The cost of effecting such connection would likewise be covered by the said proposed insurance company loan.

Evidence of Public Convenience and Necessity

At the hearing of May 15, 1957, applicant submitted only one request for water service, but did not indicate either the nature or extent of water service requested. No other requests for water service by applicant in the proposed area were placed in evidence.

Findings and Conclusions

From a review of the record, the Commission is of the opinion and finds and concludes that public convenience and necessity do not require that Dyke Water Company, a corporation, be granted authority to extend its water system as requested by its Second Supplemental Application herein.

The Commission finds as a fact and concludes that the preliminary statement of the financial condition of Dyke Water Company, as of December 31, 1956, Exhibit No. 2 (supra) discloses that said company is in an insufficient and inadequate financial

condition; that applicant offered no sound or firm financing program; and that therefore, it would be adverse to the public interest to grant the instant application.

The Commission finds and concludes that this Second Supplemental Application of Dyke Water Company should be denied, and the order which follows will so provide.

O R D E R

Second Supplemental Application 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 that the application of Dyke Water Company, a corporation, for authority to extend its water service to additional territory in the vicinity of Garden Grove, in unincorporated territory of Orange County in the area delineated by the red line on Exhibit "C" attached to the application as amended at the hearing, be and it is denied.

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

Dated at San Francisco, California, this 5th day of AUGUST, 1957.

Ray E. Untereiner President
Marion D. ...
R. ...
E. ...
Commissioners

Commissioner Ray E. Untereiner, being necessarily absent, did not participate in the disposition of this proceeding.