

**ORIGINAL**Decision No. 55504

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of	)	
YUCCA WATER COMPANY, LTD., a cor-	)	
poration, for the approval of	)	Application No. 38002
agreement and amendment and supple-	)	Petition for
ment to agreement for the sale and	)	Modification
distribution of surplus water.	)	

John E. Sisson, attorney for applicant.Fred J. Dudley, attorney for Bob Jernberg, protestant.James G. Shields, for the Commission staff.O P I N I O N

By Decision No. 53873, dated October 9, 1956, in Application No. 38002, this Commission granted a certificate of public convenience and necessity to the Yucca Water Company, Ltd., a corporation, to construct and operate a public utility water system within a territory including temporary Tracts Nos. 4438 and 4762, Section 5, Township 1 South, Range 5 East, S.B.B.&M., San Bernardino County, California. One of the conditions attached to that certificate was Paragraph 5 which reads as follows:

"(5) The Yucca Water Co., Ltd., in the exercise of the authority herein granted will be permitted to deviate from its Rule No. 15, Cal. P.U.C. Sheets Nos. 25-W to 28-W, inclusive, in that it will be permitted to accept as a contribution in aid of construction the pumping equipment, storage tanks, fire hydrants and pipe installations agreed to be made

"by the subdivider in connection with the furnishing of water to the territory herein certificated upon filing within thirty days after the effective date of this order two copies of a contract acceptable to this Commission which provides for said deviation but otherwise is in conformance with all of applicant's filed tariff schedules including said Rule No. 15."

Under date of April 9, 1957, the Yucca Water Company, Ltd., was granted to and including May 1, 1957, within which to comply with Paragraph 5 of the order contained in Decision No. 53873, supra. On April 29, 1957, the Yucca Water Company, Ltd., filed a Petition for modification of said Decision No. 53873 which is the subject matter of the proceeding now before us.

A public hearing was held in Los Angeles on June 26, 1957, before Examiner Grant E. Syphers at which time evidence was adduced, arguments were heard and the matter submitted.

Prior to the issuance of Decision No. 53873, supra, and as part of its application in that proceeding, the Yucca Water Company, Ltd., filed a contract which had been executed by its officers and one E. R. Jernberg who at that time was intending to subdivide Tracts Nos. 4438 and 4762. Decision No. 53873, supra, required the filing of a contract acceptable to this Commission inasmuch as the original contract filed with the application did not meet certain requirements deemed advisable in the operations of the water utility. Subsequently, the Yucca Water Company, Ltd., on November 29, 1956, offered for filing an amendment to this agreement. However, this amendment was not signed by E. R. Jernberg, the subdivider of the land, but was only signed by the president of the Yucca Water Company, Ltd. Further, it was not acceptable to the Commission as effecting compliance with the Commission's order and the utility was so advised.

Attached to its petition in the instant proceeding the Yucca Water Company, Ltd., filed a supplemental amendment which likewise was only signed by officers of the Yucca Water Company, Ltd., and not by E. R. Jernberg.

At the hearing E. R. Jernberg testified that he is not now interested in receiving water from the Yucca Water Company, Ltd. Furthermore, he does not now own Tract No. 4762, this tract having been sold in the latter part of 1956 to Ingabord G. Crawford, Shirley A. Mosher, and Ethel A. Mosher. These persons are not parties to this proceeding.

Accordingly, now Mr. Jernberg is the owner of Tract No. 4438, which tract has not been approved for subdivision purposes by San Bernardino County. At the present time there is no one living on this tract, the only installation thereon being a real estate office.

The president of the Yucca Water Company, Ltd., testified that the company has complied or will comply with all the conditions of the order of Decision No. 53873, supra, except paragraph 5 and that it could not now completely comply with this provision since Mr. Jernberg cannot sign an amended contract since he has no further interest in Tract No. 4762.

Among the conditions that it has complied with is one requiring the installation of an additional storage tank. Shortly after the date of Decision No. 53873, supra, the company commenced installation of a 210,000-gallon water tank. This installation was completed on June 23, 1957. Additionally, it has filed revised tariff schedules and intends to meet the other conditions of the order by filing four copies of a map delineating the various tracts of

land and territory served together with the storage and distribution facilities of the water. It also intends to follow the requirement of the order as to setting up depreciation.

An analysis of this record leads to the conclusion and we now find that the Yucca Water Company, Ltd., was granted a certificate to serve Tracts Nos. 4438 and 4762 as hereinbefore described. Furthermore, insofar as practicable at the present time, it has complied with the conditions of the order granting the said certificate and now shows a willingness to operate in conformance with those conditions. Specifically, it has changed its position in that it has constructed a 210,000-gallon water tank based upon the aforesaid certificate.

In the light of this situation and in the light of its changed position, based upon Decision No. 53873, supra, equity demands that the certificate granted to Yucca Water Company, Ltd., be upheld. We now find that company was granted a certificate to serve the two tracts in question, which certificate is now in full force and effect subject to all of the conditions and restrictions of Decision No. 53873, supra, with the exception of condition 5 as hereinafter discussed. As to Tract No. 4762, the owners of that property are not parties to this proceeding. In the normal course of events, if they should desire water, they should apply to the Yucca Water Company, Ltd., for service. That company will be expected to provide service to them according to its rules and regulations.

As to Tract No. 4438, if the owner of that tract desires water, he likewise should apply to the company. Condition 5 of the order of Decision No. 53873, supra, was a condition relating to

a requested permission to deviate from the company's so-called main extension rule. If the owner of Tract No. 4438 does not now desire to enter into such a contract, then that phase of the order has become moot. Any water supplied to either Tract No. 4438 or Tract No. 4762 shall be under the company's existing rules and regulations unless permission to deviate therefrom is first obtained from this Commission.

We therefore find that the condition contained in paragraph 5 of the order of Decision No. 53873, supra, is no longer of any force or effect. Said decision will be modified by striking said paragraph.

O R D E R

A Petition for Modification as above entitled having been filed, a public hearing having been held thereon, the Commission being fully advised in the premises and hereby finding it to be not adverse to the public interest,

IT IS ORDERED:

(1) That paragraph 5 of the order of Decision No. 53873, dated October 9, 1956, in Application No. 38002, be and it hereby is stricken from said decision.

(2) That the certificate of public convenience and necessity granted to the Yucca Water Company, Ltd., and the remaining ...

conditions and provisions of Decision No. 53873, supra, are to be construed as being in full force and effect.

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

Dated at San Francisco, California, this 3rd day of SEPTEMBER, 1957.

[Signature]  
 President

[Signature]

[Signature]

[Signature]

Commissioners

Commissioner Matthew J. Dooley, being necessarily absent, did not participate in the disposition of this proceeding.