

ORIGINAL

Decision No. 58005

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)
unincorporated territory, COUNTY OF)
ORANGE, under Section 1001, Public)
Utilities Code of the State of)
California.)

Application No. 39115

Glenn A. Lane, attorney, for applicant.
James G. Shields and Theodore Stein, for
the Commission staff.

O P I N I O N

Dyke Water Company, a corporation, by the above-entitled application filed June 5, 1957, as amended June 17, 1957, and as amended at the hearing, seeks a certificate of public convenience and necessity to establish a water production and distribution system within Tract No. 3182 in unincorporated territory of Orange County, in the vicinity of Yorba Linda, as described by a metes and bounds description, Exhibit No. 1, and the map, Exhibit No. 3, each attached to the application, and as more particularly shown on the map, Exhibit No. 2, filed at the hearing.

A public hearing was held before Examiner Stewart C. Warner on October 24, 1957, at Los Angeles. No protests to the granting of the application were entered.

Evidence

Exhibit No. 1 is a copy of an agreement dated February 14, 1957, between Joseph W. Drown and applicant, setting forth the terms *of* under which applicant would "extend" its water system into land owned by said Drown in the vicinity of Yorba Linda, about 7 miles northeast of applicant's present service area in southwestern Orange County.

This property is outside of applicant's spheres of operations, as established by Decision No. 53858, issued October 1, 1956, in Application Nos. 37097 and 37161. Said exhibit provides that Drown shall advance \$11,000 for the drilling of a 16-inch water well with a 75-hp pump, said well to be used to supply water to the land development; that easements or similar rights for the construction, installation, and maintenance of water mains shall be furnished by Drown to applicant without cost; and that Drown shall deed to applicant, free and clear, a piece of land approximately 50 x 50 feet, with ingress and egress thereto, for a well site. Said exhibit further provides that as each tract in Drown's land development is recorded, applicant will refund to Drown the monies paid out by said Drown for the water installation hereinabove mentioned, said refund to be without interest and to be made annually in July of each year, after commencement of rendition of service by applicant, and to be in a sum equal to 22 percent of the gross revenues collected by applicant from consumers in Tract No. 3182, as said tract is developed, during the 12 calendar months immediately preceding the months during which such refund shall mature; that the payment of such refund will continue for a period not exceeding 20 years, provided that the total of all such refunds shall not exceed the amount advanced by Drown for water installation and wells in Tract No. 3182.

Applicant's then president testified that the proposed area comprised approximately 400 acres; that he had been approached by prospective subdividers about three years ago; that someone else took an option on the purchase of the property; that said option had

recently been taken up, and that the subdividers, the Pacific Builders, had commenced to put in streets, curbs and gutters; that about two or three weeks before the October hearing, applicant had installed approximately 1,500 feet of 10-inch main to serve 41 lots; that he, personally, had advanced roughly \$15,000 for said water main installation; that the \$11,000 had been advanced by the subdivider for the drilling of the well; that said well had been drilled and was capable of producing 1,300 gallons per minute; that no houses had been constructed on any lots; that Tract No. 3182 covered the entire area requested to be certificated as shown on the map, Exhibit No. 2, except for 15 acres of land at the southwest corner of the requested area which were additive thereto; that included in the requested area was a golf course with an independent source of water supply; that such water supply of the golf course would be available to applicant for use as a stand-by facility; that the pipe line installed by applicant lay along Yorba Linda Boulevard at the northern extremity of the requested area; that its installation prior to the October hearing herein was necessitated by the fact that the subdivider's contractor was in the process of building the roads and laying the concrete gutters in the subdivision; that applicant had been required to drill under the concrete gutters for the pipe lines; that the well is located about 1,400 feet due south of Yorba Linda Boulevard near the western edge of Tract No. 3182; that it was proposed to connect the well to the 10-inch main by a 6-inch main, but that such connection had not been effected nor had the 6-inch main been installed; that the 50 x 50 feet well site had

been turned over to applicant but that no deed therefor had been received by applicant; that he planned to retire as president of the Company on November 1, 1957, but that the other officers of applicant, who were members of his family, would guarantee to advance any money necessary for the proposed construction or extension not covered by advances from subdividers; and that no firm commitment in writing, either as to terms or amounts of money, had been given to applicant by its officers and directors who were members of the Lansdale family.

Paragraph III of the Amendment to the application filed June 17, 1957 shows that, for the eventual development of the area, applicant would be required to spend \$140,000 for pumping stations and booster pumps, \$250,000 for a reservoir site and reservoir, \$67,500 for buildings, land, fencing, trucks and equipment, for a total of \$457,500. The evidence shows that applicant expected that sums of \$60,000 for 10,000 feet of 10-inch main, \$24,000 for 8,000 feet of 6-inch main, and \$6,000 for 3,000 feet of 4-inch main, plus installation costs, for a total of \$90,000, would be advanced to applicant by subdividers under applicant's main extension rule.

None of the aforementioned estimated costs of proposed construction or extension include the costs of wells, well sites, pumps, or meters to be installed either at well sites or on domestic services or both.

Paragraph III in the amendment to the application, which was signed and verified on behalf of the applicant by applicant's then president, recites as follows:

"The above estimated cost necessary to serve the requested property will be furnished by consumer's advances in aid of construction, and moneys furnished by the Lansdale family."

Exhibit No. 2 attached to the application is a tentative statement of applicant's financial condition as of December 31, 1956. Said exhibit shows that applicant's total depreciated utility plant amounted to \$2,927,158.89 as of December 31, 1956, against which advances for construction amounted to a liability of \$2,530,314.47, which is 86 percent of applicant's total depreciated utility plant. Said exhibit further shows that applicant's equity capital consists of \$8,000 of capital stock and earned surplus of \$30,612.98, for a total of \$38,612.98 out of total liabilities and capital of \$3,099,652.75.

Said financial statement also shows that as of December 31, 1956, applicant's current assets and current liabilities were as follows:^{1/}

"CURRENT ASSETS:

Cash on hand and in banks		\$	360.00
Notes and accounts receivable:			
Water customers	\$	8,010.35	
Other		10,551.63	
Associated companies and stockholders		<u>24,494.84</u>	43,056.82
Materials and supplies			54,203.84
Prepayments			<u>121.61</u>
Total Current Assets			<u>97,742.27</u>

CURRENT LIABILITIES:

Bank overdrafts		\$	8,600.84
Notes payable:			
Bank	\$	5,000.00	
Stockholders		60,000.00	
Others		<u>13,184.39</u>	78,184.39
Contracts payable			38,428.44
Accounts payable:			
Stockholders		5,774.16	
Others		<u>119,000.96</u>	124,775.12
Taxes and expenses accrued			31,648.76
Estimated current portion due on pay-back advances (below)			<u>81,500.00</u>
Total Current Liabilities			<u>363,137.55"</u>

^{1/} The financial statement included in Decision No. 56003 in Application No. 39303, First Amendment, issued this day shows different figures because it is of a later date.

Applicant's chairman of its Board of Directors testified that applicant was in the process of developing a 5-year construction program with a related program to meet applicant's financial requirements, and that applicant's Board of Directors, its attorneys, and its engineer had met during the week of October 14, 1957 to draw up such a program to present to the Commission at a hearing on applicant's request for interim rate relief by its First Amendment to Application No. 39303, filed October 8, 1957, hearing on which was held on November 1, 1957, at Santa Ana.

Findings and Conclusions

The Commission has, in numerous decisions issued in matters in which the applicant herein was interested, had occasion to comment upon applicant's unsatisfactory financial condition. Coincidentally with the issuance of this decision, the Commission has issued Decision No. 56003 in Application No. 39303, First Amendment. This last mentioned decision is interim in character and upon an application of the applicant for an order of the Commission which would authorize applicant herein to increase its rates, on an interim basis, for water service in applicant's spheres of operation as established by Decision No. 53858, supra. In Decision No. 56003 coincidentally issued, the Commission had the benefit of evidence as to applicant's financial condition as of August 31, 1957, and in that decision the Commission made findings, inter alia, to the effect that applicant was heavily indebted for advances in aid of construction as of August 31, 1957 as to applicant's unbalanced and insufficient capital structure, and as to applicant's need for additional capital to liquidate its current liabilities,

its long-term obligations, and to provide for improvements and expansion. ✓

Applicant has, in this matter, ignored and violated the provisions of the first paragraph of Section 1001 of the Public Utilities Code in that it had begun the construction of a water system in said Tract 3182 "without having first obtained from the commission a certificate that the present or future public convenience and necessity require or will require such construction." Applicant has no justification for presenting the accomplished fact as the basis for its application for the issuance of a certificate of public convenience and necessity by this Commission. Applicant has heretofore been alerted against this practice, and it is here again put on notice of the provisions of the law, violations of which will not be tolerated by this Commission.

It is evident from the record before us in this proceeding, and the Commission finds as a fact and concludes, that applicant's financial condition, as disclosed on the record herein, is insufficient and inadequate; that no sound or satisfactory financial program was submitted by applicant; that the public interest requires that applicant should be in a sound financial condition in order to render satisfactory water service, not only to its present consumers, of which there are some 19,000 in the areas in which it is furnishing water service in southwestern Orange County, but also to the area requested herein to be certificated; that to grant the instant application would be adverse to the public interest; and that this application should be denied.

Because of the financial condition of applicant as found herein, the Commission is unable to find that public convenience and necessity justify the granting of the application. The application will be denied.

ORDER

Application as amended 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 Tract No. 3182, in unincorporated territory, in the vicinity of Yorba Linda, Orange County, be and it is denied, *without prejudice.*

John

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

Dated at San Francisco, California, this 17th day of December, 1957.

John E. ...

President

Ray ...

...

R. Hardy

E. ...

Commissioners