

ORIGINAL

Decision No. 56386

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
 PINWOOD WATER COMPANY, a California
 corporation, for a certificate of
 public convenience and necessity to
 extend its water system.

Application No. 38510

 PINWOOD WATER COMPANY, a corporation,

Complainant

vs.

Case No. 5965

 TAHOE SOUTHSIDE WATER UTILITY, A
 corporation,

Defendant

 In the Matter of the Application of
 TAHOE SOUTHSIDE WATER UTILITY, a
 California corporation, for a certifi-
 cate of public convenience and necessity
 to extend its water system.

Application No. 39456

Scott Elder for Pinwood Water Company, applicant,
 complainant and protestant.

Sherman C. Wilke for Tahoe Southside Water Utility,
 applicant, defendant and protestant.

R. E. Fraser for Lakeside Park Association,
 interested party.

Robert C. Moeck and John D. Reader, for the Commission
 staff.

O P I N I O N

By Application No. 38510 filed October 16, 1956, Pinwood Water Company seeks authority to extend service as a water corporation, as defined in Section 241 of the Public Utilities Code, in areas contiguous to its present service area known as (a) Bartlett Tract No. 1 and (b) the first tier of lots on the westerly side of U. S. Highway No. 50 facing said Bartlett Tract No. 1 between

the California state line and the present northerly boundary of applicant's Lakeside Lodge service area. By an amendment to its application filed August 23, 1957, the territory sought to be served was enlarged to include Pinewood Park and Pentagon Tract and an area bounded by County Road, Wildwood Avenue and Forest Avenue. On October 1, 1957, a second amendment to Application No. 38510 was filed. By this amendment the area sought to be certificated was further enlarged to include the area adjacent to Pentagon and Triangle Tracts and bounded on its other sides by Wildwood Avenue, Forest Avenue, Paradise Avenue, Pinegrove Avenue and U.S. Highway 50.

On August 16, 1957, Pinewood Water Company filed its complaint against Tahoe Southside Water Utility alleging that the latter company has unlawfully constructed a water system or an extension of its then existing system from Al Tahoe northerly along U.S. Highway 50, a distance of approximately three miles, to the California-Nevada state line, without first obtaining Commission authorization and that said defendant is unlawfully owning, controlling and operating and managing said water system or extension to provide and is providing water service to consumers by means thereof for compensation without authority.

It was further alleged that at the time defendant so constructed or extended its system, the water systems of complainant were already constructed and defendant's system and extensions so constructed interfere with the operation of complainant's utility and injuriously affect it, and that following such construction defendant has amended its tariff on file by filing a revised service area map by which defendant claims the right to serve a large territory on both sides of U. S. Highway 50, and that defendant's purported service area embraces extensive territory which is

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contiguous to complainant's service area and not contiguous to defendant's actual service area, and that defendant has no facilities in said contiguous area and is not furnishing water therein but complainant is informed and believes that defendant is about to engage in construction work in said contiguous territory without obtaining Commission authority.

Defendant, on September 14, 1957, filed its answer, putting in issue most of the allegations of the complaint but admitting and alleging that all of the area described in its service area map not certificated to other utilities constitutes territory which it is authorized to serve and that it does intend to extend and install its water system in certain portions of such territory within the near future.

By Application No. 39456 filed October 5, 1957, Tahoe Southside Water Utility requests a certificate of public convenience and necessity authorizing it to operate as a water corporation in all of the First Subdivision of Lakeside Park, except the area already included within the service area of that applicant, and except Block H.

Public hearing on Application No. 38510 was held at Tahoe Valley before Examiner Rowe on December 6, 1956. Further hearing was held on October 16, 1957 on said application, and consolidated therewith for hearing were Case No. 5965 and Application No. 39456. On the latter date, all three matters were submitted with the right to file briefs or memoranda of points and authorities within thirty days thereafter. On November 15, 1957, a Memorandum of Points and Authorities was filed by Pinewood Water Company. Also received on that date were two documents presented by Lakeside Park

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Association, Inc., which have been considered as that party's brief. On November 16, 1957, a Memorandum of Points and Authorities was filed by Tahoe Southside Water Utility.

The Commission has given careful consideration to the evidence of record and the contentions of the respective parties and finds as a fact that public convenience and necessity require that applicant, Pinewood Water Company, be authorized to serve water as a water corporation in the territory sought by it, with the exception of Pentagon Tract and an adjacent area along U. S. Highway No. 50 and except that no such rights should be granted for operations within the portions of the First Subdivision of Lakeside Park which are presently served by Lakeside Park Association, Inc. As to said subdivision there is insufficient evidence of a public need for such service. For the same reason, Application No. 39456 of Tahoe Southside Water Utility will be denied.

Respecting the complaint of Pinewood Water Company against Tahoe Southside Water Utility, the Commission is of the opinion and, from the evidence of record, finds that the extension constructed by defendant, at least to the extent that it parallels, invades or extends beyond the certificated areas of complainant, is not an extension in the ordinary course of its business within the meaning of Section 1001 of the Public Utilities Code. However, the relief sought by complainant is equitable in its nature, and all considerations must be weighed by the Commission, including the equities of complainant as well as equities in favor of defendant and all those, such as defendant's present customers, who would be affected by a Commission restraining order. Consequently, defendant will be restrained only against making additional extensions or service

connections in the areas now or hereinafter to be certificated for service by complainant.

O R D E R

The above-entitled matters having been considered together upon the record herein, public hearings having been held, and said matters having been submitted and now being ready for decision,

IT IS HEREBY ORDERED:

1. That a certificate of public convenience and necessity is granted to Pinewood Water Company, a corporation, to acquire, construct and operate a public utility water system for the distribution and sale of water in Placer County within (1) the area contiguous to its Lakeside Lodge service area known as (a) Bartlett Tract No. 1, and (b) the first tier of lots on the westerly side of U. S. Highway No. 50 facing said Bartlett Tract No. 1 between the California-Nevada state line and the present northerly boundary of said applicant's Lakeside Lodge service area; (2) the area known as Pinewood Park; and (3) the area adjacent to Triangle Tract and bounded on its other sides by Wildwood Avenue, Paradise Avenue, and County Road, all being located on or near the south shore of Lake Tahoe.

2. That Pinewood Water Company be, and it is, authorized to apply its presently filed rates and rules in the area certificated by this order.

3. That Pinewood Water Company, within thirty days after the effective date of this order, shall revise its presently filed tariff schedules, including tariff service area map, in accordance with the procedure prescribed in General Order No. 96, to provide for the application of said tariff schedules for water service in the area being certificated by this order. Such revised tariff schedules shall become effective upon five days' notice to the Commission and to the

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public after filing as hereinabove provided.

4. That, except as herein specifically granted by ordering paragraph (1) hereof, Application No. 38510 is denied.

5. That Application No. 39456 is denied.

6. That Tahoe Southside Water Utility is hereby restrained and ordered not to make any extensions or service connections within the certificated areas of complainant, including the areas in which Pinewood Water Company heretofore has been authorized to act as a water corporation, and also in the area hereinabove described in which Pinewood Water Company is authorized to render such service.

7. That Tahoe Southside Water Utility, within sixty days after the effective date of this order, shall revise its presently filed tariff service area map in accordance with the procedure prescribed in General Order No. 96 and consistent with the provisions of this order. Such revised tariff service area map shall become effective upon five days' notice to the Commission and to the public after filing as hereinabove provided.

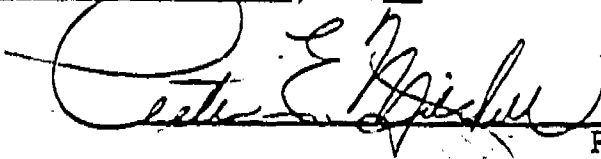
8. That Tahoe Southside Water Utility, within sixty days after the effective date of this order, shall file four copies of a comprehensive map to an indicated scale not smaller than 500 feet to the inch, delineating by appropriate markings the various tracts of land and territory served, the exact location of each customer presently served within the areas certificated to Pinewood Water Company, the principal water production, storage and distribution facilities, and the location of the various water system properties.

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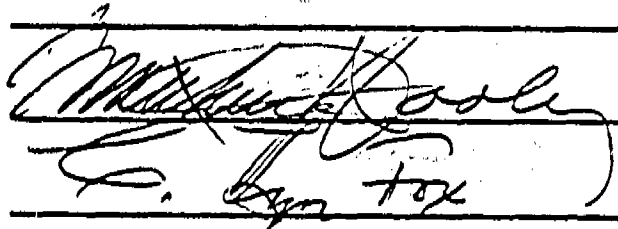
The Secretary is directed to serve a copy of this decision upon defendant, Tahoe Southside Water Utility.

The effective date of this order shall be twenty days after the date hereof, except that, as applied to the order restraining Tahoe Southside Water Utility, it shall be effective twenty days after service of a copy of this decision upon said defendant.

Dated at San Francisco, California, this
17th day of March, 1958.



President



F. Lynn Fox

Commissioners