

ORIGINAL

Decision No. 56390

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of	)	
Selma K. Jones, doing business as	)	
ELK GROVE WATER WORKS, for an order	)	Application No. 39623
granting authority and permission to	)	
perform provisions of contract to	)	
supply water to STATE OF CALIFORNIA.	)	

OPINION AND ORDER

By this application, filed December 9, 1957, Selma K. Jones, doing business as Elk Grove Water Works,<sup>1/</sup> seeks authorization to carry out the terms of a written agreement with the State of California<sup>2/</sup> through its Director, Department of Fish and Game, dated November 5, 1957. The agreement relates to the furnishing of water service by Utility to State's Central Valleys Fish Hatchery, which is located within the area served by Utility.

The agreement, a copy of which is attached to the application as Exhibit "A", provides that Utility will furnish State such water as it may require, subject to the right of Utility to limit the amount of water delivered to an amount based on 13,500 cubic feet per month. The agreement is for a term of five years from November 5, 1957, and thereafter it is to run from year to year unless terminated sooner. The agreement provides that Utility may terminate it at any time by giving one year's written notice in advance and that State may terminate by giving thirty days' written notice.

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<sup>1/</sup> Sometimes herein called Utility.

<sup>2/</sup> Sometimes herein called State.

For all water delivered to State each month under the agreement, it is to pay \$2.00 for the first 800 cubic feet, \$0.15 per 100 cubic feet for the next 4,200 cubic feet and \$0.10 per 100 cubic feet for all use in excess of 5,000 cubic feet, subject to the applicable minimum charge on file under the Utility's meter rate. In addition, State agrees to pay Utility a flat rate charge of \$10 per month for standby fire hydrant service.

Judicial notice is taken of Utility's filed rates with particular reference to the rate clauses in its Schedule No. 2, Meter Rates, and its Schedule No. 5, Public Fire Hydrant Service, as follows:

Schedule No. 2

RATES

<u>Monthly Quantity Charges:</u>	<u>Per Meter per Month</u>
0 to 800 cubic feet, or less .....	\$ 2.00
Next 4,200 cubic feet, per 100 cubic feet....	.15
Next 15,000 cubic feet, per 100 cubic feet....	.10
Over 20,000 cubic feet, per 100 cubic feet....	.075

Minimum Monthly Charges;

5/8 x 3/4-inch meter .....	\$ 2.00
3/4-inch meter .....	3.05
1-inch meter .....	5.30
1½-inch meter .....	7.00
2-inch meter .....	10.00

Schedule No. 5

RATES

	<u>Per Hydrant per Month</u>
1. 4" x 2½" single outlet Fire Hydrant .....	\$ 2.00

No justification is shown in the application for the higher quantity rates proposed to apply to State. Nor does the application indicate the extent of the standby fire hydrant service to be provided for the \$10 per month charge.

Utility is reminded that it is at all times obligated to render public utility water service to all applicants for service within its area of service under its rates and rules on file and in effect from time to time. Without benefit of such a showing in this proceeding in support of the rates proposed, the rate provisions of the agreement can not, and will not, be authorized by the order which follows.

A main extension is to be installed to provide the proposed service and is estimated to cost \$732.14. The provisions of Utility's filed main extension rule are to apply with the exceptions that the amount of the advance is to be the actual installed cost to be paid upon completion of the extension, but not to exceed \$732.14, rather than the estimated cost subsequently adjusted to actual cost, and certain optional refund arrangements should the agreement be terminated prior to expiration of the usual 20-year refunding period. According to the agreement, should Utility exercise its option to terminate the agreement within the first four years, it is to refund State an amount equal to one-fourth of the actual cost of construction for each full year remaining of the initial four-year period. Further, if State should terminate the agreement, Utility is not required to refund the cost of the extension.

The agreement provides that it will become null and void if not authorized within 180 days after execution and further provides that it is at all times subject to such changes or modifications by this Commission as this Commission may from time to time direct in the exercise of its jurisdiction, including specifically the right to increase the contract rates and to fix the time of the duration of the contract but "subject to the right reserved by the Utility to discontinue service upon one year's written notice."

To the extent that the agreement purports to reserve to Utility the right to discontinue service upon one year's written notice, such provision can not become effective in view of the legal duty of the utility to render service to the fish hatchery which it alleges to be within its service area. The authority herein granted, therefore, will not include such right to discontinue service.

The Commission having considered the request of Utility and being of the opinion that the application should be granted in part and that a public hearing is not necessary, therefore,

IT IS HEREBY ORDERED that Selma K. Jones, doing business as Elk Grove Water Works, is authorized to carry out the written agreement, except as hereinafter noted, dated November 5, 1957, with the State of California and to render the service under the terms and conditions stated therein.

Authorization is specifically withheld:

- a. To carry out those terms and conditions of paragraph (3) of said agreement which relate to rates and charges.
- b. To carry out those terms and conditions of paragraph (6) of said agreement which relate to limitation of service.

- c. To carry out those terms and conditions of paragraph (7) of said agreement which relate to termination by the utility.
- d. To carry out that portion of the terms and conditions of paragraph (10) which states "and subject to the right reserved by the Utility to discontinue service upon one year's written notice."

IT IS HEREBY FURTHER ORDERED that Selma K. Jones, doing business as Elk Grove Water Works, shall:

- 1. File with the Commission within thirty days after the effective date of this order, two certified copies of the agreement as executed, together with the date on which the contract is deemed to have become effective.
- 2. Notify this Commission of the date of termination of said contract within thirty days from and after said date of termination.

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

Dated at San Francisco, California, this 25<sup>th</sup> day of MARCH, 1958.

*E. B. ...*  
 President  
*Ray ...*  
*...*  
*P. ...*

Commissioners