

Decision No. 53483

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
of PACIFIC WATER COMPANY, a)
California corporation, under)
Section 1001 of the Public)
Utilities Code, to extend its)
certificated areas in Orange)
County, California)

Application No. 36592
(First Supplemental)

FIRST SUPPLEMENTAL OPINION AND ORDER

1/
Pacific Water Co., by the above-entitled First Supplemental Application filed January 8, 1958, seeks approval of a group of 67 main extension contracts, each of which deviates in one or more respects from the applicable main extension rule on file when each contract was entered into.

Of the total number, 44 are alleged to have been written contracts, and the remaining 23 oral. Attached to the application as exhibits are unsigned copies of all written contracts except one, which is stated to have been misplaced in Pacific's files. The application states that one of the written contracts was never executed.

The Commission, in ordering Paragraph 1 (j) of Decision No. 53862, dated October 1, 1956, in this proceeding, directed Pacific to file, in accordance with General Order No. 96, certain contracts not already filed, including main extension contracts which do not conform to the applicable filed sample contract form. Inasmuch as the contracts enumerated herein deviate from the main extension rule in effect as of the date of each contract, Pacific now requests Commission approval of such contracts.

1/ Sometimes herein called Pacific.

From a review of the contracts submitted by Pacific, we find that 20 were entered into by Pacific, 40 by Mountain Properties, Inc., ^{2/} six by Desert Water Co. ^{3/} and one by Arvin Richardson, doing business as Mesa Acres Water Company. ^{4/}

The obligations of Mesa Acres were assumed by Mountain when the latter acquired the Mesa Acres system pursuant to authority granted by Decision No. 44508, dated July 11, 1950, and Decision No. 44791, dated September 19, 1950, in Application No. 31512. Any obligations of Mountain and Desert under the subject agreements were assumed by Pacific when the latter was formed by the consolidation of Mountain and Desert under authority granted by Decision No. 48648, dated June 1, 1953, in Application No. 34371.

The 67 contracts described in the application may be classified as shown in the following tabulation:

<u>Type of Transaction</u>	<u>Number of Contracts</u>			
	<u>Pacific Water Co.</u>	<u>Mountain Properties, Inc.</u>	<u>Desert Water Co.</u>	<u>Mesa Acres Water Company</u>
Preferred stock issued in exchange for water system plant	10	2	1	-
Water system plant purchased	5	3	1	-
Contribution of water system plant	5	26	1	-
Advance subject to refund	<u>-</u>	<u>9</u>	3	<u>1</u>
Totals	20	40	6	1

As indicated above, the terms of the subject contracts vary widely and, in most cases, show little similarity to the applicable main extension rules upon which such contracts should have been based. These contracts, some of which date as far back

^{2/} Sometimes herein called Mountain.
^{3/} Sometimes herein called Desert.
^{4/} Sometimes herein called Mesa Acres.

as 1939, were not brought to the attention of the Commission until recently despite the clear requirements of Section 489 of the Public Utilities Code which requires the filing with the Commission of all rates, charges, rules or contracts which are collected or enforced by each public utility.

Mountain, Desert, and Mesa Acres, predecessors of Pacific, entered into 47 of the 67 contracts for which approval is sought herein. Of these 47 earlier contracts, 34 were carried out by short term transactions such as contributions of plant, purchases of plant or lump sum refund of advances by stock issues. The remainder, 13 in number, provided for refunds over extended periods. The refund periods of four of the contracts have now expired and in the other nine cases the refund periods will terminate within the next three years.

Under the circumstances, since these 47 earlier contracts were entered into by predecessor utilities which have been out of existence for several years, the Commission will neither approve nor disapprove the 38 predecessor contracts which have been completely performed. Pacific will be authorized, in the order which follows, to carry out the terms and conditions of the nine predecessor contracts for which the refund provisions may not have expired.

The main extension contracts entered into by Pacific since it was organized in 1953 include 20 for which authorization is sought herein. Eight of that number provided for the exchange of 3% Class C preferred stock for water system facilities. These

stock issues were authorized by Commission decisions listed in the following tabulation:

<u>Decision Number</u>	<u>Date</u>	<u>Application Number</u>	<u>Amount Authorized</u>
49216	October 20, 1953	A-34778	\$ 6,500
50364	August 3, 1954	A-35005	13,200
50371	August 10, 1954	A-35635	7,200
50409	August 17, 1954	A-35005	5,400
50754	November 16, 1954	A-35902	3,900
50931	January 4, 1955	A-36543	6,700
51077	February 7, 1955	A-36630	670

An additional contract, which provided for the exchange of 3% preferred stock is stated to have never been carried out. The issue of 3% preferred stock was authorized in connection with these nine contracts and further action by the Commission appears not now to be appropriate. Accordingly, Pacific's request for approval of these nine contracts will be neither granted nor denied.

Of the remaining 11 contracts entered into by Pacific, the terms of ten have been carried out. In each of five of these contracts, water system plant was purchased for a token cash payment of one dollar; another five included contributions of plant. The Commission will neither approve nor disapprove these ten completed contracts. The remaining contract of the above-mentioned 11 involved an exchange of water system plant for 400 shares of 5% Class B preferred stock and, in addition, annual payments of 35% of the gross revenues collected from the system until the sum of \$5,710 was paid, but in any event, for a period of not to exceed ten years. The application states that this was not a main extension but a purchase of a separate complete water system. Considering the above-described circumstances, and the fact that the refund period has not expired, Pacific will be authorized to carry out the terms and conditions of this contract.

It is noted that the most recent date of any of the contracts considered herein is December 16, 1954, and that Pacific alleges that these contracts include all main extension contracts not conforming with contract forms filed with the Commission. Pacific is placed on notice that it has no alternative other than to apply its filed main extension rule; should the utility believe that any exceptional circumstance renders the rule impracticable or unjust, it may refer such matter to the Commission.

The Commission having considered the request of Pacific 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 Pacific Water Co. be and it is authorized to carry out the terms and conditions of the following written contracts entered into by:

- (a) John C. Scott and Emeline E. Scott and Desert Water Co., dated June 27, 1948.
- (b) L. A. Tinch, Lindy Realty Enterprises Inc., Pioneer Title Insurance and Trust Company and Desert Water Co., dated September 21, 1948.
- (c) Floyd Andres and Mountain Properties, Inc., dated April 7, 1949.
- (d) Norman H. Weiczorek and Mountain Properties, Inc., dated May 16, 1949.
- (e) Las Palmas Rancho, Inc., and Mountain Properties, Inc., dated September 17, 1949.
- (f) Forty-seven separate property owners and Desert Water Company entered into during March 1950 according to the form shown in Exhibit No. "KK" as attached to the application.

- (g) J. R. Sanchez and Mesa Acres Water Company,
dated October 20, 1950.
- (h) Shell Oil Company and Mountain Properties,
Inc., dated February 1, 1951.
- (i) Weedpatch Ginning Co. and Mountain
Properties, Inc., dated August 17, 1951.
- (j) Russ Boorey and Pacific Water Co., dated
April 23, 1954.

IT IS HEREBY FURTHER ORDERED that Pacific Water Co.

shall:

1. File with this Commission within thirty days after the effective date of this order, two certified copies of each of the herein authorized contracts as executed, together with a statement of the date on which each of the said contracts is deemed to have become effective.
2. Within thirty days after the effective date of this order, notify this Commission in writing of the date when any of the herein authorized contracts has theretofore terminated, if any, and further, for any contracts terminating thereafter,

notify this Commission of the date of termination within thirty days from and after such date of termination.

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

Dated at San Francisco, California, this 8th day of April 1958.

[Signature]
President

[Signature]

[Signature]

[Signature]

Commissioners