

ORIGINAL

Decision No. 56527

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)	
FRUITRIDGE VISTA WATER COMPANY, a)	
corporation, for a certificate of)	
public convenience and necessity to)	Application No. 39559
operate a water system for the fur-)	Amended
nishing of water to the public in)	
the area hereinafter described.)	

William A. Sitton, for applicant.
Frank L. Sprague, for Citizens Utilities
 Company of California and Citizens
 Northgate, Inc.; Peter B. Van Gelder,
 for Natomas Fire Protection District,
 interested parties.
Sidney J. Webb and W. B. Stradley, for
 the Commission staff.

O P I N I O N

By this application, as amended, which was originally filed November 14, 1957, Fruitridge Vista Water Company requests a certificate of public convenience and necessity which would authorize it to serve water as a public utility in an area known as "Northgate" in Sacramento County lying north of Garden Highway and west of Lower Marysville Road and comprising portions of Sections 13, 24 and 25 in Township 9 north, Range 4 east, and Sections 18, 19 and 30 in Township 9 north, Range 5 east, M. D. B. and M.; and a tract immediately adjacent on the east known as Gardenland No. 3.

This area is presently being subdivided and developed by Artz & Cook, a corporation. The stock ownership of Artz & Cook and of applicant is substantially the same. Three units have been constructed and a fourth is recorded as a subdivision. Plans for the water system to serve the entire area have been prepared. Where houses have been constructed and largely occupied, pipes have been

laid and water is furnished from an adequate series of pressure tanks supplied by wells equipped with from 50 to 10 horsepower electric motors.

Public hearing was held in Sacramento on March 5, 1958, before Examiner Rowe at which time evidence, both oral and documentary, was adduced and the matter duly submitted for decision.

Notice of the application and of the hearing was given as directed by the Commission by publication, by posting in the area and by mailing notice to the householders presently receiving water from the system now operated by the subdivider. It was alleged and the Commission finds that there are no existing public utility water companies serving the area covered by the application.

At the hearing applicant was granted permission and amended its application to include a request to be authorized to exercise the franchise issued by the County of Sacramento in Ordinance No. 487 dated March 14, 1955. Also, all exhibits attached to the application, as amended, were made a part of the record. These included a certificate of amendment to applicant's articles of incorporation which increased the authorized capital of the corporation to \$750,000 which consists of 5,000 shares of common stock with a par value of \$100 each and 2,500 shares of preferred stock with a like par value.

The application requests that Fruitridge Vista Water Company be authorized to issue \$120,953.34, in the aggregate, of its capital common stock to Artz & Cook in payment for a portion of the facilities in Northgate Unit No. 1, and Northgate Units Nos. 2 and 3 including well sites and water distribution systems, and the water distribution system now serving Gardenland No. 3, which lies on the easterly side of Lower Marysville Road and contiguous to said Northgate. This price reflects the actual cost paid to independent

contractors for the construction work and the estimated cost of the well sites.

Approval is also sought of an agreement entered into by applicant with three corporations, namely El Roble Corporation, Hemlock Corporation and Swarthmore Corporation, setting forth the terms of acquisition by applicant of the water distribution systems jointly installed by them in the units to be developed by them. This agreement provides that said systems shall be acquired by applicant at actual cost, repayable to sellers out of the gross revenue from water customers at the rate of 29.33 per cent of said gross revenue for a period of 15 years. The actual costs, amounting to \$15,167.74 expended by the three corporations who have executed the above-mentioned agreement covering the installations of distribution mains to serve 101 lots in Unit No. 1, are to be repaid under this agreement.

According to the testimony at the hearing the terms of the hereinabove discussed agreement deviate from the extension rule now in effect as a part of applicant's tariffs on file with the Commission and applicable to water service being furnished in the Fruitridge Vista areas lying immediately to the south of the City of Sacramento. The provisions of the agreement which deviate from the filed main extension rule are that (1) the subdivider would be required to transfer well sites to the utility, (2) the repayments to the subdivider would be at a different percentage and for a different period, (3) the repayments would be computed on the basis of actual revenues, and (4) the utility, upon approval of the agreement by the Commission, would be obligated to accept and operate such future facilities as may be installed by the subdivider.

With respect to the facilities already installed in Unit No. 1, applicant will be authorized to carry out the terms and

conditions of the agreement. The agreement will not be approved as a basis for making further extensions because of the absence of a complete showing by applicant justifying the deviations for such a widespread area. Fruitridge Vista Water Company is placed on notice that it must apply its main extension rule on file and in effect at the time unless it first obtains the specific authorization of the Commission to deviate from such rule.

The rates proposed for the areas sought to be certificated are those heretofore authorized for applicant in its Fruitridge Vista area by this Commission. The Natomas Fire Protection District introduced no evidence but did indicate that it felt that the rate which applicant proposes on fire hydrants is too high. The Commission is of the opinion that applicant should be permitted to apply its presently filed rates for similar service. The district will in no respect be prejudiced by the following decision, should it submit evidence with respect to fire hydrant rates in some future appropriate proceeding.

Citizens Utilities Company of California, and Citizens Northgate, Inc., which appeared as interested parties requested that a decision granting operative authority to applicant herein contain an order restraining it from extending its system or service into contiguous areas. This request will be denied. Neither Citizens Utilities Company of California nor Citizens Northgate, Inc., is operating in the area sought to be served or in any adjacent territory as a public utility authorized by this Commission or by any statutory or other proper authority.

The Commission finds as a fact that public convenience and necessity require and will require the acquisition, construction and operation of a public utility water system by applicant in the subdivisions and territory herein described, and it is the opinion of

the Commission that the money, property or labor to be procured or to be paid for by the execution of the agreement, Exhibit D attached to the application, and by the issuance of stock hereinafter authorized is reasonably required for the purpose of acquiring the water distribution systems and that such purpose is not in whole or in part reasonably chargeable to operating expenses or to income.

The Commission further finds that public convenience and necessity require the exercise of the rights and privileges granted to applicant by the franchise issued under Ordinance No. 487 of the Board of Supervisors of the County of Sacramento, heretofore referred to. Both certificates of public convenience and necessity to be issued by the following order are granted subject to the following provision of law:

That the Commission shall have no power to authorize the capitalization of the franchise involved herein or the certificates of public convenience and necessity involved or the right to own, operate or enjoy such franchise or certificates in excess of the amount (exclusive of any tax or annual charge) actually paid to the State or a political subdivision thereof as the consideration for the grant of such franchise, certificates of public convenience and necessity or right.

O R D E R

The above-entitled application having been filed, a public hearing having been held, the matter having been duly submitted and now being ready for decision,

IT IS ORDERED:

1. That a certificate of public convenience and necessity is granted to Fruitridge Vista Water Company, a corporation, to exercise the rights and privileges granted by the Board of Supervisors of the County of Sacramento by Ordinance No. 487 adopted March 14, 1955.
2. That a certificate of public convenience and necessity is granted to Fruitridge Vista Water Company, a corporation, to construct

and operate a public utility water system or systems for the distribution and sale of water within the territory described as follows:

Beginning at the point of intersection of the county road known as "Lower Marysville Road" with the county road known as "Garden Highway"; thence north following the Lower Marysville Road to the northeast corner of the South one half of Section 18, Township 9 north, Range 5 east, Mount Diablo Base and Meridian; thence west along the north line of the south one half of said Section 18 and the north line of the south one half of Section 13, Township 9 north, Range 4 east, to the west line of the east one half of said Section 13; thence southerly along said line to the exterior boundary of Natomas Eastside Subdivision, thence east along said boundary to the northeast corner of Lot 120 of said subdivision; thence southerly along the easterly boundary of said subdivision to its intersection with the north line of the subdivision known as "River Gardens"; thence east along the north line of said River Gardens to the northeast corner thereof; thence south along the east boundary of said subdivision to the Garden Highway; thence easterly following the Garden Highway to the point of commencement.

Also a contiguous tract known as "Gardenland Subdivision No. 3".

3.a. That the agreement between El Roble Corporation, Hemlock Corporation and Swarthmore Corporation on the one part and by applicant Fruitridge Vista Water Company on the other part dated July 24, 1955, copy of which is attached to the application herein as Exhibit D is authorized to be made effective only in so far as it covers the installation of a portion of the water system in Northgate Unit No. 1. In all other respects, applicant's request for approval of the said agreement is denied.

b. That Fruitridge Vista Water Company shall file with the Commission within thirty days after the effective date of this order, two certified copies of the agreement as executed, together with a statement of the date on which the agreement is deemed to have become effective.

4.a. That applicant is authorized to apply, after the effective date of this order, its presently effective tariff schedules to the area certificated herein, except for Schedule No. 1, Flat Rate Water Service (former Fruitridge Gardens Water Company), which rate schedule shall not be made applicable to said area.

b. That applicant shall revise, after the effective date of this order, its presently filed tariff schedules, including the tariff service area maps, in accordance with the procedure prescribed by General Order No. 96, to provide for the application of said tariff schedules for water service to the area certificated herein, consistent with the authorization hereinabove granted, such revised tariff schedules to be effective on or before the date service is first rendered to the public in the area certificated herein. Such tariff schedules shall become effective upon five days' notice to the Commission and to the public after filing as hereinabove provided.

c. That applicant shall file within forty days after the system is placed in operation under the rates and rules authorized herein four copies of a comprehensive map, drawn to an indicated scale not smaller than 400 feet to the inch, delineating by appropriate markings the tracts of land and territory served; the principal water production, storage and distribution facilities; and the location of the various water system properties of applicant.

5. That applicant shall determine the accruals for depreciation by dividing the original cost of the utility plant less estimated future net salvage less depreciation reserve by the estimated remaining life of the plant. Applicant shall review the accruals as of January 1st of the year following the date service is first rendered to the public under the rates and rules authorized herein and thereafter when major changes in utility plant composition occur and at intervals of not more than five years. Results of these reviews shall be submitted to this Commission.

6. That after the effective date hereof and not later than ninety days thereafter applicant may issue to Artz & Cook its capital common stock in the amount of not more than \$120,953.34 in the aggregate in payment in full for a portion of the water system in Unit No. 1, the cost of the system in Northgate Nos. 2, and 3, in Gardenland No. 3 and for the well sites, wells and pumps being Well No. 1, No. 2, No. 11 and No. 12 and the well located in Gardenland No. 3.

7. That applicant shall file with the Commission monthly reports as required by the Commission's General Order No. 24-A, which order in so far as applicable, is made a part of this order.

The authorization herein granted will expire if not exercised within one year after the date hereof.

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

Dated at San Francisco, California, this 15th day of April, 1958.

John E. ...
 President

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...

E. J. Fox

Theodore ...
 Commissioners