

ORIGINAL

Decision No. 57440

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of MOGLE WATER COMPANY, a California corporation, for a certificate of public convenience and necessity to authorize the operation of a water distribution system as a public utility in the vicinity of Chino, California, to establish rates and for leave to issue capital stock.

Application No. 37791  
(Amended)

Clayson, Stark & Rothrock, by Donald D. Stark, for applicant.  
William S. Cook, for Park Water Company, protestant.  
L. A. Shelton, for D. H. Linderman, Frank Bandy, H. H. Keese, Catherine Brown, Mrs. Edwards, Mr. and Mrs. Banta; Munroe & Brock by Frederick E. Brock, for the Parnell School for Girls; Donnell F. Schneible, in propria persona; Everett A. Phillips, for the City of Pomona; Robert T. Balch, for Southern California Water Company; interested parties.  
Donald B. Steerer, A. L. Gielegem, James G. Shields, for the Commission staff.

O P I N I O N

Public hearings were held in this matter at Chino, California, on November 21, 1957, and January 16, 1958, before Commissioner Ray E. Untereiner and Examiner Kent C. Rogers, and on January 17, 1958, before Examiner Rogers. Hearings also were held in Los Angeles on February 26 and 28, 1958, before Commissioner Untereiner and Examiner Grant E. Syphers. On these dates evidence was adduced, and on the last-named date the matter was submitted subject to the filing of late-filed exhibits and briefs. These have been filed and the matter now is ready for decision.

The applicant is a California corporation organized November 22, 1954, and is the successor in interest of a sole proprietorship formerly owned and operated by one Richard P. Mogle, who died subsequent to the filing of the original application in this matter. His wife, Alma G. Mogle, has succeeded to his interest herein.

Three things are requested: (1) a certificate of public convenience and necessity to operate as a water corporation in the area now being served by a water system established by Richard P. Mogle, (2) authority to establish rates, and (3) authority to issue shares of common stock at \$100 par in an amount equal to the "historical cost depreciated of the water system."

Request for a certificate of public convenience and necessity.

The applicant herein and its predecessors have been conducting a water company since 1948. At the present time it is serving approximately 500 customers, about 10 percent of which are poultry ranches and the balance residences. There is one school in the area. Authority is requested herein for a certificate covering the territory now served. Generally this territory is in the Rancho Santa Ana del Chino, which is located immediately north of the City of Chino and west of the City of Ontario in the County of San Bernardino. The proposed service area is described in the exhibits and testimony submitted in this matter, and there was no objection to the issuance of a certificate. There were certain areas which were requested to be excluded from the boundaries of the proposed service area because these areas are now served through other sources. Two of them are being served by the Park Water Company, two by the

City of Pomona, and one by the City of Chino. The record discloses, and we now find, that public convenience and necessity require the proposed service in the area hereinafter set out, and accordingly a certificate will be granted to applicant.

Certain testimony was presented by witnesses who desired applicant to extend service into certain lands lying westerly of the intersection of Riverside Drive and Garey Avenue. There has been and is now a one-inch meter situated on the west side of Garey Avenue at its intersection with Riverside Drive, and connected to this one-inch meter are certain private pipe lines. At the hearing applicant gave assurance that it would continue the existing service through the one-inch meter but did not desire to extend its service generally into that area because its present system is not adequate to include this additional territory.

The certificate hereinafter granted will not require applicant to furnish any additional service in this territory.

The certificate shall be subject to the following provision of law:

That the Commission shall have no power to authorize the capitalization of this certificate of public convenience and necessity or the right to own, operate, or enjoy such certificate of public convenience and necessity in excess of the amount (exclusive of any tax or annual charge) actually paid to the State as the consideration for the issuance of such certificate of public convenience and necessity or right.

Rates

The existing rates of applicant comprise a minimum charge of \$3 per meter per month for the first 1,000 cubic feet of water and an additional 10 cents for each 100 cubic feet over 1,000 cubic feet. The minimum rate per meter, regardless of size is \$3, and the rate for school service is the same as the other rates except that it drops to 9 cents for each 100 cubic feet over 25,000 cubic feet.

It is proposed to increase these rates as follows:

<u>Minimum Charge per Month</u>	<u>Meter Size</u>	<u>Amount</u>
	5/8" X 3/4"	\$ 3.50
	3/4"	4.50
	1"	6.00
	1-1/2"	12.00
	2"	20.00
	4"	40.00

Quantity Charge per month

First 1,000 cu.ft. or less	All	Minimum charge for meter
Next 1,000 cu.ft.	All	\$0.30 per 100 cu.ft.
Next 2,000 cu.ft.	All	0.25 per 100 cu.ft.
Next 46,000 cu.ft.	All	0.20 per 100 cu.ft.
Over 50,000 cu.ft.	All	0.10 per 100 cu.ft.

Fire Hydrants per month

<u>Size</u>	
2-1/2" X 2-1/2"	1.50 ea.
4" X 2-1/2"	2.00 ea.

Studies were presented by both applicant and staff as to the results of operations under present rates for the estimated year 1958. These studies are summarized as follows:

<u>Item</u>	<u>Company</u>	<u>Staff</u>
Operating Revenues	\$ 33,268	\$35,190
Operating Expenses	26,116	22,295
Depreciation	6,041	3,619
Taxes	1,878	3,838
Total Expenses	34,035	29,752
Net Revenue	<u>767</u>	5,438
Depreciated Rate Base	181,440	76,890
Rate of Return	-	7.1%

Red Figure

The most glaring difference between these two estimates occurs in the estimate of rate base wherein the applicant's estimate exceeds that of the staff by \$104,550. These rate bases stem from appraisals which were made by both applicant and staff as of January 1, 1957. After making adjustments and corrections by various exhibits and testimony the appraisal of the staff was \$150,388, while that of the applicant was \$227,623. Essentially the difference between these two appraisals is found in the allowances made for the cost of installation of the system. The owner of the water system and the builder were one and the same person. Accordingly, the staff estimate has attempted to set out the actual costs to the builder of the system, whereas the company allowance attempted to fix a reasonable value therefor. In order to arrive at a reasonable rate base in this proceeding, an analysis of the methods and allowances made by each of the parties follows.

As to land values, the staff attempted to estimate the cost of the land as of the date of acquisition thereof by Richard P. Mogle, whereas the company used the value of the land as of the time it was devoted to public use. Apparently Mogle purchased the land prior to dedicating it to service in the water company, and during that period the land value increased. We hold that a fair value of land for rate base purposes is the value at the time the land is dedicated to public use. Therefore, in this proceeding we will accept the company's estimates as to this item as reasonable. It is noted that the company

estimates exceed those of the staff by \$5,470.

Another major difference in these appraisals occurs in the prices charged for materials. The position of the company was that even though Richard Mogle, doing business as Mogle Brothers, did install the water system, the price which should be allowed in the rate base for the materials used should be a reasonable cost. The staff, on the other hand, contended that the price actually paid by Richard Mogle for these materials was the cost that should be used. While we are aware of the problems of subsidiary companies, we are also aware that in the handling of goods and materials certain costs are involved, and it is not reasonable to expect a construction company to sell its materials at the same price as they were purchased. In this case the testimony shows that the construction company maintained facilities for hauling and storing inventories. Likewise, it assumed credit risks and inventory losses. In the purchase of materials this company received jobbers' discounts. The water company could not have obtained these discounts and the construction company necessarily incurred certain expenses, as above mentioned, in operating as a jobber. The staff deducted these jobbers' discounts in making its appraisals. We now hold that the jobbers' discounts should not be deducted. To do otherwise would require the construction company to take a loss on the installation of the water company. This accounts for \$9,718 of the \$12,108 difference in material costs between the two appraisals, and will be allowed for the purposes of arriving at a rate base in these proceedings.

The principal difference in the appraisals is to be found in the amounts allowed for labor costs. The staff used the actual hourly rates paid and attempted to estimate the exact time required for each job performed. The company in its estimates used the

prevailing wage rates which were paid by other contractors for the same type of work. In defense of this position the company pointed out that while it was actually paying the workers a lower rate of pay, this rate covered considerable dead time. For example, the workers were consistently being paid for forty-nine hours per week, while actually working no more than forty. Also, it was necessary for the construction company to maintain and pay a labor force for each working day whether they worked or not, and the evidence discloses there were many working days when they did not work. A consideration of this testimony leads us to conclude that the company's estimates are reasonable and they will be adopted in this respect. The record discloses no dispute or contradiction to this evidence. It also discloses that the company's estimates for this cost are no greater than if the work had been performed by independent contractors. The difference between the two estimates in this regard is \$22,849.

The staff made no allowance for any organization expense prior to 1957, yet the record shows that such expenses, in the amount of \$5,078, were incurred. We find this amount to be reasonable and it will be allowed.

Both the staff and the company made certain allowances for overhead costs in connection with construction, the staff using a figure of 4 percent and the company one of 10 percent. Both contended that these figures were based on judgment, having in mind the overhead costs generally incurred on similar projects. The staff's figures will be followed in this instance. We are elsewhere herein allowing the construction company the benefit of the jobbers' discounts, and these, in part, should cover some of the overhead costs. As to the equipment rented for these construction projects, the staff made an allowance of rental cost based on the equipment actually used.

by the construction company, whereas the applicant used as a basis bid prices of other contractors. In this instance we also will follow the staff's recommendation.

While there are other items of difference in the two appraisals they are not material and we now find that a fair appraisal of applicant's properties, as of January 1, 1957, is an amount equal to the staff's appraisal of \$150,338, plus the following additions thereto:

Land Values	\$ 5,470	
Material	9,718	✓
Labor	22,849	✓
Organization Expense	<u>5,078</u>	
Total	\$43,115	✓

This results in utility plant as of January 1, 1957, of <sup>deleted</sup> \$193,453. Reflecting the additions since that date, we find that the estimated average utility plant for 1958. is \$230,000. ✓ (deleted)

From this average utility plant we develop the rate base for 1958 as follows:

Average Utility Plant		\$230,000	✓
<u>Less Adjustments</u>			
Contributions	\$63,815		
Advances	<u>16,755</u>		
		<u>80,570</u>	
		\$149,430	✓
<u>Add Working Capital</u>			
Materials and Supplies	2,000		
Working Cash	<u>2,300</u>		
		<u>4,300</u>	
		\$153,730	✓
Deduction for Depreciation Reserve		<u>33,547</u>	✓
		\$120,183	✓



Giving effect to the foregoing adjustments, which are in line with the recommendations of the staff in this respect, we find a reasonable rate base for this utility for 1958 to be \$120,000.

The estimates of the staff and of the company as to the effect of the proposed rates for the year 1958 are set out below:

<u>Item</u>	<u>Company</u>	<u>Staff</u>
Operating Revenues	\$ 61,329	\$ 61,220
Operating Expenses	26,116	22,295
Depreciation Expense	6,041	4,267
Taxes	10,142	13,522
Net Revenue	19,030	21,136

An analysis of these differences discloses that in the matter of operating expense most of the difference arises from the amount of wages allowed. The company made allowances for overtime and vacation in making its estimates, whereas the staff did not. Since these items are real expenses, we find the company's estimate to be more nearly correct in this matter. The difference in depreciation expense arises from the different appraisals used, and since we have now adopted an appraisal an adjustment will be made to correct for this depreciation expense. The difference in estimate of taxes likewise arises from the different bases from which the computations were made. Giving effect to these corrections, we now find that a reasonable net revenue to be expected from the operations of this company at proposed rates for the year 1958 would be \$20,000. Using the rate base which we previously have determined of \$120,000 the applicant would realize a return of approximately 16 percent on its proposed rates. This return we find to be too high, and accordingly in the ensuing order the rates as requested will not be allowed, although we do find applicant to be entitled to some rate relief.

The evidence discloses that applicant will be required to finance substantial improvements and provide facilities for anticipated growth. Under these circumstances and because the utility is small a return of 6.9 percent will be allowed, which we hereby find to be reasonable. The rates hereinafter authorized would yield such a return on the adopted rate base of \$120,000 for the estimated year 1958. It is hereby found that the increases in rates and charges authorized herein are justified and that the present rates, insofar as they differ from those herein prescribed, for the future are unjust and unreasonable.

Issuance of Shares of Common Stock

The third request of applicant in this proceeding is for authority to issue sufficient shares of \$100 par value common stock to equal an amount of \$139,403. These shares are to be issued to Alma G. Mogle, the successor in interest of Richard P. Mogle, in exchange for all of the properties of the water system. There was no opposition to the proposal to issue stock. However, upon the basis of our determination in this proceeding, it appears to us that the stock authorization should be limited to not to exceed 1,200 shares of stock of the aggregate par value of \$120,000. The Commission is of the opinion that the money, property or labor to be procured or paid for by the issue of the stock herein authorized is reasonably required for the purpose specified herein and that such purpose is not, in whole or in part, reasonably chargeable to operating expenses or to income.

O R D E R

Application as above entitled having been filed, public hearings having been held, and the Commission having made the foregoing findings,

IT IS ORDERED:

(1) That Mogle Water Company, a corporation, be and it hereby is granted a certificate of public convenience and necessity to construct and operate a public utility water system in the following described area:

A territory in the Rancho Santa Ana del Chino as recorded in Book 6, page 15 of Maps, Records of San Bernardino County, beginning at the intersection of Francis Avenue and the southwest corner of Lot 30 of Section 35, Township 1 south, Range 8 west, thence northerly along the west line of Lots 30 and 19, easterly along the north lines of Lots 19 and its easterly prolongation, 18 and 17 and its easterly prolongation to its intersection with the center line of Benson Avenue, thence southerly along the center line of Benson Avenue to its intersection with the easterly prolongation of the south line of Lot 49, thence westerly along the south line of Lot 49 and its easterly prolongation to the center of said lot line, thence southerly along the center line of Lot 64 to the center of said lot, thence easterly along the center line of Lot 64 and its easterly prolongation to its intersection with the center line of Benson Avenue, thence southerly along the center line of Benson Avenue to an intersection with the north boundary of the City of Chino, thence westerly along said boundary as the same existed on November 1, 1954, to its intersection with the center line of Chino Avenue, thence westerly along the center line of Chino Avenue to its intersection with the southerly prolongation of the west line of Lot 26 of Section 10, Township 2 south, Range 8 west, thence northerly along the west lines of Lots 26 and its southerly prolongation, and 23 to the northwest corner of said lot, thence westerly along the north line of Lot 24 and its westerly prolongation to its intersection with the center line of Pipe Line Avenue, (excluding from the territory herein defined the single residence on the southwest corner of Lot 9, Section 10), thence northerly along the center line of Pipe Line Avenue to its intersection with the center line of Riverside Drive, thence westerly along the center line of Riverside Drive to its intersection with the southerly prolongation of the east line of Lot 62 of Section 4, thence northerly along the east line of Lot 62 to the northeast corner of said lot, thence westerly along the north lines of Lots 62, 61 and its westerly prolongation, and Lot 60 to the center of the north line of said lot, thence southerly along the center line of Lot 60 to the center of said lot, thence easterly along the center line of said lot and its easterly prolongation to the west line of Lot 61, thence southerly on the west line of Lot 61 and its southerly prolongation to the center line of Riverside Drive, thence westerly along the center line of Riverside Drive to its intersection with the northerly prolongation of the east line of Lot 6, Section 9, thence southerly along the east lines of Lots 6 and its northerly prolongation, 11, 22, 27 and its southerly prolongation, and 38 to the southeast corner of Lot 38, thence westerly along the south lines of Lots 38 and 39 to its intersection with the center line of Garey Avenue, thence northwesterly along the center line of Garey Avenue to its intersection with the boundary between San Bernardino County and Los Angeles County, thence easterly and northerly along said boundary line to its intersection with the north

line of Lot 28, Section 33, Township 1 south, Range 8 west, thence easterly along the north lines of Lot 28 and its easterly prolongation, Lots 29, 30 and 31 to the southwest corner of Lot 17, thence northerly along the west line of Lot 17 to its northwest corner, thence easterly along the north line of Lot 17 and its easterly prolongation and the north line of Lot 24 to the northeast corner of Lot 24 of Section 34, thence southerly along the east line of Lot 24 to its southeast corner, thence easterly along the north lines of Lots 26 and its easterly prolongation, 27, 28, 29, 30 and its easterly prolongation, and 31 to the northeast corner of Lot 31, thence northerly along the west line of Lot 17 to the northwest corner of that lot, thence easterly along the north line of Lot 17 to the center of Monte Vista Avenue, thence southerly along the center line of Monte Vista Avenue to its intersection with the westerly prolongation of the north line of Lot 25 of Section 35, thence easterly along this line and the north line of Lot 25 to the southwest corner of Lot 23, thence northerly along the west line of Lot 23 to the northwest corner of said lot, thence easterly along the north line of Lot 23 and its easterly prolongation, and the north line of Lot 22 to the northeast corner of Lot 22, thence southerly along the east lines of Lots 22 and 27 and its southerly prolongation to the center line of Francis Avenue, thence easterly along Francis Avenue to the point of beginning.

(2) That applicant is authorized and directed to file, after the effective date of this order, the rates set forth in Appendix A attached hereto, to be effective on and after November 1, 1958, together with rules acceptable to this Commission and in accordance with the requirements of General Order No. 96. Such rates and rules shall become effective upon five days' notice to the Commission and to the public after filing as hereinabove provided.

(3) That applicant shall file within sixty days after the effective date of this order four copies of a tariff service area map, acceptable to this Commission and in accordance with the requirements of General Order No. 96. Such tariff service area map shall become effective upon five days' notice to the Commission and to the public after filing as hereinabove provided.

(4) That applicant shall, within sixty days after the effective date of this order, file four copies of a comprehensive map drawn to an indicated scale not smaller than 600 feet to the inch, delineating by appropriate markings the various 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, and shall review the accruals when major changes in plant composition occur and for each plant account at intervals of not more than five years. Results of these reviews shall be submitted to this Commission.

(6) That applicant shall, prior to March 1, 1959, complete the following improvements to its system and, within ten days thereafter, advise the Commission in writing of such completion:

- a. Rehabilitation of Well No. 1, including increase in pump capacity.
- b. Installation of booster facilities at the Goetz Well.
- c. Installation of booster facilities to serve the Badders area.

(7) That Mogle Water Company is authorized to issue not to exceed 1,200 shares of its capital stock, each share having a stated par value of \$100, for a maximum total of not to exceed \$120,000, to Alma G. Mogle in exchange, at dollar-for-dollar, for water system properties, materials and supplies and working cash to be transferred to Mogle Water Company by said Alma G. Mogle.

(8) That Mogle Water Company shall file with the Commission a report, or reports, as required by General Order No. 24-A, which order, insofar as applicable, is made a part of this order and at the same time shall file a copy of each journal entry used to record on its book the issue of such stock and the acquisition of the water system properties, materials and supplies and working cash.

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

Dated at San Francisco, California, this 7<sup>th</sup> day of October, 1958.

E. Lynn Fox  
 President

Raul L. ...

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Commissioners

I dissent:  
...

APPENDIX A  
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Schedule No. 1

GENERAL METERED SERVICE

APPLICABILITY

Applicable to all metered water service.

TERRITORY

An unincorporated area including approximately 2,500 acres located immediately north of the City of Chino and west of the City of Ontario, San Bernardino County.

RATES

	<u>Per Meter</u> <u>Per Month</u>
Quantity Rates:	
First 1,000 cu.ft. or less .....	\$ 3.00
Next 1,000 cu.ft., per 100 cu.ft. ....	.20
Next 3,000 cu.ft., per 100 cu.ft. ....	.15
Over 5,000 cu.ft., per 100 cu.ft. ....	.12
Minimum Charge:	
For 5/8 x 3/4-inch meter .....	3.00
For 3/4-inch meter .....	4.00
For 1-inch meter .....	5.00
For 1 1/2-inch meter .....	10.00
For 2-inch meter .....	15.00
For 3-inch meter .....	25.00
For 4-inch meter .....	35.00

The Minimum Charge will entitle the customer to the quantity of water which that minimum charge will purchase at the Quantity Rates.

Schedule No. 5

PUBLIC FIRE HYDRANT SERVICE

APPLICABILITY

Applicable to all fire hydrant service furnished to duly organized or incorporated fire districts or other political subdivisions of the State.

TERRITORY

An unincorporated area including approximately 2,500 acres located immediately north of the City of Chino and west of the City of Ontario, San Bernardino County.

RATES

Per Month

Hydrant with 2½- x 2½-inch hydrant head .....	\$1.50
Hydrant with 4- x 2½-inch hydrant head .....	2.00

SPECIAL CONDITIONS

1. For water delivered for other than fire protection purposes, charges will be made at the quantity rates under Schedule No. 1, General Metered Service.
2. The cost of installation and maintenance of hydrants will be borne by the utility.
3. Relocation of any hydrant shall be at the expense of the party requesting relocation.
4. The utility will supply only such water at such pressure as may be available from time to time as the result of its normal operation of the system.