

ORIGINAL

Decision No. 58014

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of RUBICON WATER COMPANY, )  
a California corporation, for Certifi- )  
cate of Public Convenience and Neces- )  
sity to operate a water system at )  
Lonely Gulch, Rubicon Bay, on the west )  
side of Lake Tahoe, in El Dorado )  
County, California; to establish )  
rates; and to issue stock. )

Application No. 39823

RUBICON PROPERTY OWNERS ASSOCIATION, )  
an unincorporated civic association, )  
and RUSSELL MILLSAP, et al., individ- )  
ually, )  
Complainants, )

vs.

Case No. 6072

RUBICON WATER CO., INC., a corporation, )  
Defendant. )

Oran W. Palmer, for applicant and defendant.  
Russell Millsap and Frank Morrow, for  
Rubicon Property Owners Association,  
interested party and complainant.  
Harold O. Grondahl and Clyde F. Norris, for  
the Commission staff.

O P I N I O N

By its application filed February 15, 1958, Rubicon Water Company requests authority to:

- (a) Operate a water system at Lonely Gulch, Rubicon Bay, on the west side of Lake Tahoe.
- (b) Establish rates.
- (c) Issue 120 shares of its capital stock in the amount of \$2,400.
- (d) Issue a promissory note in the amount of \$50,110.58, at 4 percent interest per annum.

On March 8, 1958, a complaint was filed by the Rubicon Property Owners Association, a voluntary unincorporated civic association, requesting that Rubicon Water Co., Inc., be declared a public utility; that the Commission establish rates for the fiscal year 1957-1958; that defendant be enjoined from discontinuing service pending a determination of appropriate rates and that defendant be required to reimburse its customers for costs expended for the installation of service connections from the water mains to the customers' properties.

A public hearing was held before Examiner Thomas E. Daly on August 14, 1958, at Tahoe City. The matter was submitted upon the receipt of interrogatories and briefs since filed and considered. The application and complaint were consolidated for the purpose of hearing and decision.

The record discloses that the area for which a certificate is sought was originally acquired about 1946 by the Rubicon Properties, Inc., for the purpose of subdividing into summer home sites. With the development of the area the company installed and provided water service to the residents. In 1953 the operations were taken over by the Rubicon Bay Investment Company, Inc., which recently caused the organization of the Rubicon Water Company, applicant herein, for the purpose of providing a public utility water service.

The present system is supplied with water by diversion from Lonely Gulch Creek. At said point a concrete and masonry dam creates a reservoir with a capacity of 150,000 gallons. Water is delivered from the reservoir through heavy gauge 6½-inch I.D. steel pipe. The distribution system consists of approximately 21,000 feet of galvanized pipe varying from 1½ inches to 2½ inches in diameter. As of January 1, 1958, there were thirty-two 1½-inch

wharf hydrants connected to the system. At the present time applicant is serving approximately 90 customers. With future development it is estimated that the system will accommodate approximately 200 additional customers at the rate of 10 new customers annually.

Prior to July 1, 1957, the Rubicon Bay Investment Company and its predecessors charged a flat rate of \$27 per year. As of said date the following rates were charged:

Annual flat rate for five rooms or less	\$72.00
Each additional room	3.00

Said rates are those proposed by applicant. It also requests the Commission to establish meter rates, which it proposes to charge at its option to prevent the waste of water.

Applicant, a newly formed company, was incorporated in 1957 under the law of the State of California. It requests authority to issue \$2,400 of stock and an unsecured 15-year 4 percent per annum note for \$50,110.58 to pay for properties and to provide working capital. The stock is to be issued to Irving and Virginia Williams, who are sole stockholders of the Rubicon Bay Investment Company, Inc. The note is to be issued to the Rubicon Bay Investment Company, Inc., in consideration for the acquired utility properties.

No affirmative evidence was introduced in the complaint proceeding. It was stated that the complaint was filed without knowledge that the application had previously been filed. The primary issue, therefore, is the reasonableness of the present and proposed rates.

During the weeks of April 28 and May 29, 1958, members of the Commission's staff investigated the operations, service and facilities of applicant's water system. The details and findings of their investigation were formally prepared and received in evidence as Exhibit No. 2. Applying the rates on the basis of \$72 annually,

without consideration as to the number of rooms, the staff estimated applicant's rate of return for the year 1958 as follows:

Operating Revenue	\$ 6,870
Operating Expenses	5,612
Net Revenue	1,258
Average Depreciated Rate Base	39,983
Rate of Return	3.15%

Many residents of the proposed area testified. For the most part they expressed dissatisfaction with the marked increase in annual water rates from \$27 to \$72. Many paid the increase under protest. They were of the opinion that the proposed rates placed upon the residents of the older section an unfair burden to the extent that they would be required to contribute to the cost of extending service to the new, undeveloped subdivision area. Others were of the opinion that the proposed rates based upon the number of rooms were vague and uncertain unless the meaning of the word room could be clearly defined.

Complainants contend that the staff improperly evaluated applicant's system on the basis of original cost without taking depreciation into account. As a matter of record, however, the staff evaluated the system at \$47,808 and for rate base purposes deducted \$7,825, thus arriving at a depreciated rate base of \$39,983. Applicant argues that the rate base should be higher because of certain capital improvements which the staff did not include.

Complainants further argue that in the past few years the entire Lake Tahoe area has experienced a tremendous increase in development, which is attributable in part to the forthcoming 1960 Winter Olympics. As a result they contend that the proposed area could very well expect to have at least 30 new customers each year for the next two years. With such an increase, it is asserted that the rate of return would be excessive. Applicant, however, argues that even assuming such an increase the additional revenue would be

offset by corresponding capital costs and operating expenses. Applicant also pointed out that if as a result of future development its rate of return should prove excessive the Commission, either on its own motion or at the instance of complainants', could reduce the rates to a just and proper level.

After consideration, the Commission is of the opinion and so finds that the basic flat rate of \$72 per year presently being charged and proposed is reasonable. The proposed additive flat rate of \$3 per room is ambiguous and will not be allowed. An additive rate of \$24 for each additional residence on the same lot will be provided as well as a limitation on the amount of irrigated area. A rate schedule for metered service will be provided for business customers, residential customers who have large irrigated areas, for multiple residences where desired, and for other residential customers where necessary. The Commission further finds that public convenience and necessity require applicant's proposed service. However, the granting of the certificate hereinafter set forth will be made subject to applicant's filing a more acceptable plan of financing. The issuance of stock in the amount of \$2,400 and a note in the amount of \$50,110.58 at 4 percent per annum is far from the equity ratio desired by this Commission. The net revenue of \$1,258 estimated by the staff would not even meet the interest payments on the note.

The certificate thus to be issued is 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.

O R D E R

Application and complaint having been filed, a public hearing having been held thereon and the Commission being informed in the premises,

IT IS ORDERED:

(1) That a certificate of public convenience and necessity is hereby granted to Rubicon Water Company to acquire, construct and operate a public utility water system for the distribution and sale of water within the territory set forth in Exhibit No. 1 in this proceeding.

(2) That the certificate granted in paragraph (1) hereof is subject to the condition precedent that applicant file with this Commission within twenty days after the effective date hereof a plan for financing the proposed service acceptable to this Commission.

(3) That applicant is authorized and directed to file after compliance with paragraph (2) of this order the rates set forth in Appendix A attached to this order, together with rules and a tariff service area map acceptable to this Commission and in accordance with the requirements of General Order No. 96. Such rates, rules and 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 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 100 feet to the inch, delineating by appropriate markings the various tracts of land and territory served for which this certificate is issued; the principal water production, storage and distribution facilities; and the location of the various water system properties of applicant.

(5) That applicant shall, beginning with the year 1959, determine depreciation expense by multiplying the depreciable utility plant by a rate of 2.6 percent. This rate shall be used until review indicates that it should be revised. Applicant shall review the depreciation rate using the straight-line remaining life method when major changes in utility plant composition occur and at intervals of not more than five years, and shall revise the above rate in conformance with such reviews. Results of these reviews shall be submitted to this Commission.

(6) That Case No. 6072 is hereby discontinued.

This order shall become effective upon the filing of an acceptable financing program in compliance with paragraph (2) hereof and upon further order of this Commission.

Dated at San Francisco, California, this 17th day of February, 1959.

E. J. Fox  
President  
W. L. ...  
William ...  
Theodore ...  
Everett ...  
Commissioners

APPENDIX A  
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Schedule No. 1

ANNUAL GENERAL METERED SERVICE

APPLICABILITY

Applicable to all metered water service furnished on an annual basis.

TERRITORY

The unincorporated subdivision known as Rubicon Bay Properties and vicinity, adjacent to Rubicon Bay, Lake Tahoe, El Dorado County.

RATES

Monthly Quantity Rates:		<u>Per Meter Per Month</u>
First	600 cu.ft. or less .....	\$5.50
Next	1,400 cu.ft., per 100 cu.ft. ....	.40
Next	3,000 cu.ft., per 100 cu.ft. ....	.35
Next	5,000 cu.ft., per 100 cu.ft. ....	.30
Over	10,000 cu.ft., per 100 cu.ft. ....	.20

Annual Minimum Charge:		<u>Per Meter Per Year</u>
For	5/8 x 3/4-inch meter .....	\$ 66.00
For	3/4-inch meter .....	84.00
For	1-inch meter .....	120.00
For	1-1/2-inch meter .....	180.00
For	2-inch meter .....	300.00

The Annual Minimum Charge will entitle the customer to the quantity of water each month which one-twelfth of the annual minimum charge will purchase at the Monthly Quantity Rates.

SPECIAL CONDITIONS

1. The annual minimum charge applies to service during the 12-month period commencing July 1, and is due in advance.

Schedule No. 1

ANNUAL GENERAL METERED SERVICE

SPECIAL CONDITIONS--Contd

2. Charges for water used in excess of the monthly allowance under the annual minimum charge may be billed monthly, bimonthly or semiannually at the option of the utility on a noncumulative monthly consumption basis.

3. For initial service connected after July 1, the annual minimum charge will be prorated on the basis of the number of months remaining in the 12-month period, any portion of a month being treated as a whole month.

Schedule No. 2R

ANNUAL RESIDENTIAL FLAT RATE SERVICE

APPLICABILITY

Applicable to all flat rate water service furnished on an annual basis.

TERRITORY

The unincorporated subdivision known as Rubicon Bay Properties and vicinity, adjacent to Rubicon Bay, Lake Tahoe, El Dorado County.

RATES

	<u>Per 3/4-inch Service Connection Per Year</u>
For a single family residence including an irrigated area not exceeding 1,000 sq. ft. ....	\$72.00
a. For each additional residence on the same lot and served from the same service connection .....	24.00

SPECIAL CONDITIONS

1. The annual flat rate charge applies to service during the 12-month period commencing July 1, and is due in advance.

2. For initial service connected after July 1, the annual charge will be prorated on the basis of the number of months remaining in the 12-month period, any portion of a month being treated as a whole month.

3. Meters for the above classification may be installed at option of:

- a. Utility, where only a single family residence is served on the premises; or
- b. Utility or customer, where two or more residences on the premises are served from the same service connection.

In the event meters are installed service thereafter will be furnished only on the basis of Schedule No. 1, Annual General Metered Service.

4. All service not covered by the above classification will be furnished only on a metered basis.