

ORIGINAL

Decision No. 58092

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's own motion into the practices, operations, contracts, rules, facilities and service of the APPLE VALLEY RANCHOS WATER COMPANY, a corporation, furnishing water as a public utility water corporation in and in the vicinity of Apple Valley, California.

Case No. 6160
Amended

Joseph A. Ball, attorney, for the respondent.
Cyril M. Saroyan and James G. Shields for the Commission staff.

INTERIM OPINION

The above-entitled investigation was instituted by the Commission, on its own motion, July 29, 1958 and was amended on September 29, 1958.

A public hearing was held before Examiner Stewart C. Warner on December 1, 1958, at Apple Valley.

The Commission staff submitted eleven exhibits supported by the testimony of an engineering and an accounting witness. The respondent offered oral testimony of its secretary-treasurer and its president.

The order instituting investigation, as amended, contained eleven stated purposes generally to determine whether Apple Valley Ranchos Water Company had violated any of its tariff rules in its water main extension practices and, if so, whether the respondent should be ordered to cease and desist from entering into any

contracts in violation of such rules; to determine whether the respondent should or should not be ordered to set up a depreciation reserve applicable to all of its operating property; to determine whether the respondent has kept its books of accounts in accordance with the Uniform System of Accounts for Water Utilities, and has recorded all of its water producing and distributing properties and facilities in said books of accounts; to determine whether or not the respondent in the future will have an adequate supply of water for the furnishing of service to its present and future customers; to determine whether or not respondent should be ordered to refrain from extending its distribution facilities without further order of the Commission; to determine whether or not the respondent has reached the limit of its capacity to supply water; to determine whether respondent is in violation of Section 1001 of the Public Utilities Code by providing service outside of its certificated area or in any area or areas that are noncontiguous to its certificated area; to determine whether respondent is charging any of its customers other than tariff rates or is furnishing any water free; to determine whether respondent is complying with the standards prescribed by General Order No. 103; and to determine whether or not respondent should be ordered to acquire beneficial ownership and possession of any or all of the physical plant by means of which it is rendering public utility water service.

Evidence

Exhibit No. 1 is a map of respondent's certificated area covered by Decision No. 40424, dated June 17, 1947, in Application No. 28187. Said map also shows the respondent's extended service

area. Said certificated area comprises about 5840 acres of land in Apple Valley about 8 miles southeast of Victorville in San Bernardino County. The service area has been extended to comprise a total of 9200 acres including about 8800 lots in subdivisions, and the service area is being increased by about 1400 acres per year. As of September 30, 1958, water service was being furnished to approximately 1015 active services and was available to about 10,200 lots in subdivisions within the service area. The record shows that respondent plans to extend its water system in 1959 into approximately 10 subdivisions embodying 1800 to 2400 lots, all but one of which are contiguous to the respondent's service area. The respondent filed its Application No. 40581 on November 3, 1958, and amended it on November 20, 1958, covering the area known as Bellview Heights in which it has been furnishing water service to about 50 customers for more than a year. Said area is not contiguous to the respondent's present service area.

Exhibit No. 2, General Information, shows that the respondent was incorporated on November 29, 1945 under the name of Apple Valley Mutual Water Company, and on November 30, 1946 the Articles of Incorporation were amended to permit the corporation to operate as a public utility and the name was changed to Apple Valley Ranchos Water Company. As of December 31, 1957 the footage of distribution mains was approximately 889,000 feet, water service was being furnished to 937 customers, and gross operating revenues totaled \$54,099.

Respondent's officers are N. T. Bass, president, J. A. Ball, vice president, and B. J. Westlund, secretary and treasurer, each of whom is a director. Messrs. Bass and Westlund are directors of

Apple Valley Building and Development Company which makes available to the respondent part-time personnel, installs main extensions, provides certain backup facilities for the water system, determines the subdivisions to which respondent will extend its water service, and arranges certain nonutility land transactions which are reported in respondent's books of accounts.

Said exhibit sets forth the respondent's general metered service rates which are:

\$15.00 per meter per year for the first 5000 cu. ft. or less of water usage,
.25 per 100 cu. ft. for the next 5000 cu. ft.,
.20 per 100 cu. ft. for the next 5000 cu. ft.,
.15 per 100 cu. ft. for the next 5000 cu. ft., and
.08 per 100 cu. ft. for all over 20,000 cu. ft.

Said exhibit shows that respondent's utility plant, as of December 31, 1957, amounted to \$65,780 with a related reserve for depreciation of \$31,025; cash amounted to \$70,987; accounts receivable \$80,185; other assets were \$146,642; and total assets were \$332,580. On the liability side of the balance sheet of that date, contained in Exhibit No. 2 supra, earned surplus was shown in the total amount of \$162,227. In the income statement for the year ending December 31, 1957, contained in said exhibit, other income is shown to be \$61,060. The record shows that "Other Income" was derived from subdivisions in which respondent had a sales contractual interest, shown on the balance sheet as "Other Assets."

Exhibit No. 3, Ownership of Utility Plant, shows that wells Nos. 4 and 6 were acquired from the Development Company but were not recorded on the utility's books. Likewise, wells Nos. 7 and 8 were not recorded on the utility's books although they were acquired by it. Said exhibit shows that, since the respondent's

inception, the cost of transmission and distribution mains has not been recorded in its plant accounts. The respondent derives its interest and right to use these mains from an agreement with Bass and Westlund and Apple Valley Ranchos, Inc., a copy of which was included in Exhibit No. 3, and from "Agreements for Extension of Water Service," copies of which were submitted as Exhibit No. 5. Respondent's vice president and attorney in his letter to the Commission, dated May 9, 1958, rendered an opinion that "the water company does not own legal title to the mains through which the water flows but it does possess all of the beneficial incidents of ownership."

Exhibit No. 4, Utility Plant Extension Practices, shows that respondent executed 51 agreements for the extension of water service (Exhibit No. 5, supra). Of these, 50 agreements neither conformed to filed tariffs nor were approved by the Commission. Copies of the respondent's Rules and Regulations Nos. 15 and 19, in effect since July 16, 1947, were attached to Exhibit No. 4. Said Rules and Regulations provided among other things (a) that any facilities installed should be the sole ownership of the utility, (b) that advanced costs of main extensions were to be refunded, and (c) that the costs of meters were to be borne by the utility. Only one of the agreements provided that title to the utility property should pass to the utility. With but two exceptions, none of the agreements provided for refunds and, in general, the agreements provided that the subdivider should pay the total cost of the extension, presumably including the meters. In some instances the agreements specified that the meters were included in the total costs, and in

other instances subdividers have paid a portion of the total cost of a large feeder main in addition to tract facilities. The record shows that none of these agreements were submitted to the Commission for approval pursuant to the requirements of Section X of General Order No. 96 for contracts at other than filed tariffs.

As noted heretofore, Exhibit No. 5, Main Extension Contracts, is a copy of each of the 51 contracts entitled "Agreement for Extension of Water Service" from March 6, 1947 to August 22, 1958. The record shows that the respondent has submitted a standard main extension agreement contract form to the Commission for approval and that all water main extensions hereafter will be effected pursuant to the provisions of such standard form which include a provision for refunds to subdividers.

Exhibit No. 6, Reserve for Depreciation, shows the hereinbefore stated recorded reserve for depreciation balance, at December 31, 1957, to be \$31,025.43 including an amount of \$909.93 applicable to nonutility properties. Of the total balance of \$30,115.50 applicable to utility plant accounts, \$20,043.28 had been accrued for reservoirs and tanks, the balance having been accrued for wells, pumping equipment, meters, and transportation equipment. Although the respondent's 1957 annual report reported transmission and distribution pipe totaling 888,950 feet and 937 service connections, no costs for these facilities were recorded and no depreciation accruals had been provided at December 31, 1957.

Exhibit No. 7, Earned Surplus, shows that of the total earned surplus amounting to \$162,226.96 at December 31, 1957, the principal portion thereof had been accumulated from sources other

than utility operations. No appropriations for dividends have been made at any time either from income or from earned surplus.

Exhibit No. 8, Depreciation, Ad Valorem Tax, and Related Revenue Requirements, sets forth certain obligations which might be expected to be problematical for the respondent. If unrecorded plant for the year 1957 were assumed to have been company-financed, the estimated revenue requirement per customer, based on a 5 percent rate of return after income taxes, operating expenses, depreciation, and ad valorem taxes, would be \$228 per year; if said plant were assumed to have been consumers' advances for construction, this amount would be \$96 per year; and if unrecorded plant were assumed to have been contributed to the respondent, the amount would be \$59 per year. The recorded revenue per customer for the year 1957 was \$62. This exhibit shows that the respondent's ad valorem taxes for the fiscal years 1956-57 and 1957-58 amounted to \$762.11 and \$750.16, respectively, but that said taxes may approximate \$20,000 for the fiscal year 1958-59 as a result of a San Bernardino County assessed valuation of the respondent's utility plant.

Exhibit No. 9, Water Requirements and Availability, and Exhibit No. 10, Adequacy of Facilities and Compliance with General Order No. 103, show that the respondent's wells Nos. 4, 6 and 9, as presently equipped, can pump a total of approximately 4100 gallons per minute; that respondent's storage capacity amounts to 1,500,000 gallons; that although considerable amounts of pipe installed in the initial water system are of poor quality, the respondent has been for some time, and is now, installing double-dipped and wrapped steel pipe; and that the respondent's present construction and installation

practices conform to requirements of General Order No. 103. Water pressures range from approximately 30 pounds per square inch in high terrain to 170 pounds per square inch in low terrain, and exceed 125 pounds per square inch in extensive parts of the system. Where pressures exceed the 125 psi requirement of General Order 103 customers have installed pressure regulators on their service pipe lines. No complaints of water service, except isolated instances of high pressure have been received by the respondent from its customers, and none whatsoever was entered at the hearing in this proceeding.

Exhibit No. 11, Compliance with General Order No. 96, shows that respondent's billing practices with respect to the Apple Valley Country Club, the Apple Valley Inn, the Desert Knolls Mutual Water Company, and for public fire hydrant service, were reviewed by the staff. Said exhibit shows that for several years prior to September 1, 1958, the country club and inn had been billed at monthly flat rates of \$500 and \$100, respectively, and the respondent's 1957 annual report shows \$7,200 for unmetered sales during said year. Effective September 1, 1958, the country club and inn were converted to metered service and the revenue therefrom was approximately \$3,000 for the month of September, and \$1,300 for the month of October. The record shows that the respondent has installed approximately 600 fire hydrants on its system and that it intends to charge the Apple Valley Fire Protection District a rate of between \$1.00 and \$3.00 per hydrant per month depending on different areas and subject to negotiating a contract with said District providing for such charges. The supply arrangement with the Desert Knolls Mutual Company was covered by a surplus water sales contract

dated July 20, 1951, and the record shows that the respondent proposes to purchase the water system of said company.

Motion of Staff

Counsel for the staff moved that an interim order be entered herein restricting the respondent from extending its water system into new subdivisions without prior Commission approval until the respondent has firmly committed itself to remedy the particular deficiencies with respect to its accounting, water main extension practices and operations shown in the record to exist. Said motion was opposed by respondent's counsel on the grounds that it would be unreasonable and would, adversely to the public interest, cripple the respondent's ability to continue to give good water service to the people in Apple Valley and the new subdivisions that are coming in. Said counsel stated that respondent was willing to put its house in order, and had tried and would, in the future, continue to try to comply with everything the staff asked of it.

Respondent's counsel stated that respondent was willing and anxious to make a study of depreciation reserve requirements and to commit the use of its earned surplus derived from nonutility income and its annual nonutility income to the setting up and accruing of a reserve for the replacement of its transmission and distribution mains.

Findings and Conclusions

It is evident from the record, and the Commission finds as a fact, that the respondent has in the past, since the year 1947, violated its filed tariffs, Commission General Orders Nos. 96 and 103, and Section 1001 of the Public Utilities Code. It is found

as a fact, however, that the respondent has taken steps to remedy the deficiencies existing as a result of such violations, and has indicated its willingness to remedy all of such conditions which have existed, and do exist, which have constituted, constitute, or would continue to constitute, such violations.

It is found as a fact that the respondent's sources of water supply are ample for the immediately foreseeable future, that its present water service installations conform to the minimum standards prescribed by General Order No. 103 other than the 125 psi pressure requirement.

It is concluded that the record herein is deficient as to the ownership of the transmission and distribution mains, and other plant, which are used and useful by respondent in the water system operations, and that respondent should determine such ownership and certify the facts with respect thereto to the Commission. As part of such certification the respondent will be required to indicate the initial parties who paid for facilities and the amounts paid, together with the means and estimated costs to respondent of acquiring title to such facilities.

It is also concluded that the respondent should conduct a study of the original cost and related depreciation reserve requirements of the utility plant which it owns together with that in which it otherwise possesses all of the beneficial incidents of ownership.

Further, it is concluded that the respondent should be required to submit its proposal for establishment of a special reserve and should be restricted from transferring amounts from its earned surplus account until further order of this Commission.

The respondent's studies and proposals will be required to be submitted by May 31, 1959.

It is concluded that it would not be in the public interest to grant at this time the staff motion that a restriction be placed on the respondent's extensions of its water system and water service and that such motion should be denied.

Respondent should record on its books of account all utility plant acquired and owned by it including wells Nos. 4 and 6 referred to in Exhibit No. 3, supra, and any other such unrecorded utility plant.

The respondent is placed on notice not to enter into any agreements for water main extensions which deviate from its standard agreement therefor on file with the Commission without prior approval of the Commission; not to extend its water system into noncontiguous area without applying for a certificate of public convenience and necessity to so extend under Section 1001 of the Public Utilities Code; and not to furnish water service at other than its filed tariffs. Any disregard of such notice will constitute grounds for further action by the Commission as it may deem appropriate.

INTERIM ORDER

Investigation having been instituted by an Order, and an Amended Order, on the Commission's Own Motion into the practices, operations, contracts, rules, facilities, and service of the Apple Valley Ranchos Water Company, a corporation, such investigation having been made, a public hearing thereon having been held, evidence having been adduced by the Commission staff and by the respondent, the matter having been submitted and now being ready for decision based on the findings and conclusions with respect to such evidence set forth in the preceding opinion,

IT IS HEREBY ORDERED:

1. That Apple Valley Ranchos Water Company, a corporation, shall, by May 31, 1959, file with this Commission the following studies relating to its utility plant together with that in which it possesses all of the beneficial incidents of ownership.

(a) The present ownership of the various facilities, the parties who paid for such facilities initially, and the amounts paid.

(b) The means and estimated costs of acquiring title to such facilities.

(c) The original cost and related depreciation reserve requirement for all facilities.

(d) The details of its proposal for establishing a special reserve account.

2. That respondent shall not transfer any amounts from its earned surplus account until further order of this Commission.

3. That the motion of the staff that respondent be restricted from extending its water service without prior Commission approval be, and it is, denied.

4. That upon compliance with the provisions of this order the Commission may issue its further order or orders herein.

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

Dated at San Francisco, California, this 10th day of March, 1959.

[Signature]
President
[Signature]
[Signature]
[Signature]
Commissioners