

Decision No. 58284**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 EVERGREEN WATER COMPANY, INC., a)
 corporation, for a certificate of)
 public convenience and necessity to)
 exercise franchise secured in the)
 County of Santa Clara.)

Application No. 40400

Wade H. Hover, for applicant.
Franklin T. Laskin, Assistant City Attorney,
 for the City of San Jose, interested
 party.
W. B. Stradley, for the Commission staff.

O P I N I O N

Evergreen Water Company, Inc., in this proceeding, asks for a certificate of public convenience and necessity to exercise the rights and privileges of a franchise granted by the County of Santa Clara, permitting the laying, construction, maintenance and operation of a water transportation and distribution system on the public roads of said County. A public hearing was held before Examiner John Power, on February 24, 1959, at San Francisco.

The franchise referred to, a copy of which is attached to the application and designated as Exhibit A, was granted by the County in accordance with Chapter 1 of Division 3 of the Public Utilities Code, for a period of 50 years. A fee is payable annually to the County equivalent to 2 per cent of the gross receipts arising from the use, operation, or possession of the franchise.

No objection to the granting of the requested certificate has been entered.¹

¹ The hearing herein was called in November, 1958 and continued at the request of the City of San Jose which then was considering an annexation in the area. The annexation did not take place and the City did not appear at the February hearing.

After consideration it is found as a fact that public convenience and necessity require the exercise by applicant of the right, privilege and franchise granted to applicant by Ordinance No. NS-4.27, of the County of Santa Clara.

The certificate of public convenience and necessity herein granted is subject to the following provision of law:

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

IT IS HEREBY ORDERED that a certificate of public convenience and necessity be and it is granted to Evergreen Water Company, Inc., to exercise the rights and privileges granted by the County of Santa Clara, by Ordinance No. NS-4.27, adopted May 26, 1958, subject to the following conditions:

1. That Evergreen Water Company, Inc., shall not exercise said franchise for the purpose of supplying water in those parts of Santa Clara County not now served by it except through extensions of its existing system made in the ordinary course of business as contemplated by Section 1011 of the Public Utilities Code.
2. That the Commission may hereafter, by appropriate proceeding and order, limit the authority herein granted to applicant as to any territory in the County not then being served by it.

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

Dated at San Francisco, California, this 21st day of April, 1959.

[Signature]
 President

[Signature]

[Signature]

[Signature]

Commissioners

Commissioner Everett C. McKeage, being necessarily absent, did not participate in the disposition of this proceeding.