

ORIGINALDecision No. 58704

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of TAHOE SIERRA WATER COMPANY,)
 a corporation, for a Certificate of Public)
 Convenience and Necessity; for an extension) Application No. 40430
 of its business in the territory now being)
 served by it.)

In the Matter of the Application of TAHOE)
 SOUTHSIDE WATER UTILITY, a California)
 corporation, for a certificate of public)
 convenience and necessity to extend its) Application No. 40533
 water system.)

Kenneth G. McGilvray, for Tahoe Sierra Water Company.
Sherman C. Wilke, for Tahoe Southside Water Utility.
Franklin A. Dill, for Executors of Estate of Stella
 Van Dyke Johnson, Deceased, protestant.
John D. Reader, for the Commission staff.

O P I N I O N

These are cross-applications, filed, respectively, on September 15 and October 22, 1958. They were heard and submitted on a consolidated record on November 25, 1958 at Tahoe Valley before Commissioner Ray E. Untereiner and Examiner John M. Gregory.

Both applicants seek certificated authority (Public Utilities Code Section 1001) to serve the Nagy Tract, Rancho Bijou Addition Units 1 and 2 and adjacent or nearby areas lying south of U.S. Highway 50 and extending easterly to Ski Run Boulevard in the vicinity of Bijou on the south shore of Lake Tahoe. Tahoe Southside, in addition, requests delineation of its service territory in portions of the area to which Tahoe Sierra also here seeks to extend service. Tahoe Southside asserts that portions of that territory are already embraced within its service area by virtue of its having filed with this Commission, on February 16, 1957, a "tariff service area map" indicating its claim to be entitled to render public utility water service in such areas.

We have concluded, for reasons hereafter stated, to deny the application of Tahoe Southside and to grant, in part, that of Tahoe Sierra. It will be unnecessary, therefore, in this proceeding, to delineate the territorial boundaries claimed by Tahoe Southside. It may be noted, in passing, that the mere filing, by a water utility, of a so-called "tariff service area map" is not considered by the Commission as conclusively determinative of the territory within which such utility may be entitled to serve.

The Executors of the Estate of Stella Van Dyke Johnson, Deceased, oppose both applications. The Johnson properties, comprising some 800 acres of undeveloped land and the Bijou Golf Course, lie generally between subdivisions on the west, served variously by Tahoe Sierra and by Tahoe Southside, and the subdivisions and adjacent areas on the east, to which both utilities here seek authority to extend their facilities. The physical situation is depicted on a map which is Exhibit 2 in evidence and which indicates that both applicants seek to include the Johnson properties in their respective extended areas.

The record shows that the Johnson interests are not now disposed to grant concessions to either utility in or across their lands. Rather, they desire to develop their properties free from encroachment resulting from their inclusion in utility service areas or by reason of pipelines crossing their properties to reach the extended areas which applicants seek to serve. Neither applicant now has a pipeline or rights of way across the Johnson property, nor does either appear to have water rights or reservoir sites in or upon those lands.

The Tahoe Southside proposal, because of possession by that utility of pipeline and other facilities along U.S. Highway 50 and in the original Rancho Bijou tract near the highway, would not appear

to entail obtaining rights in or through the Johnson property for service to Rancho Bijou Addition Nos. 1 and 2 and nearby areas by means of extensions from those facilities. Concessions from the Johnsons, however, would seem to be required if that utility, as a result of arrangements with developers which might flow from the authority sought here, were to bring its water from reservoirs south of Heavenly Valley Creek, in the vicinity of Pioneer Trail, across the Johnson lands to the extended areas, a distance of about one and one-half miles.

Returning to the respective proposals, the record shows that, early in 1957, Carl D. Hoffman, vice president of Tahoe Sierra, installed or supervised the installation of, and since has operated for the developers, the water systems serving customers in the Nagy Tract and Rancho Bijou Addition Nos. 1 and 2, following unsuccessful termination of negotiations between the developers and officials of Tahoe Southside for extension of service from that utility's lines along U.S. Highway 50 and in the original Rancho Bijou tract lying north of the Nagy Tract. The Nagy Tract installations cost \$8,086.55, including labor. Those in Rancho Bijou Addition, including labor and the well which serves both the Nagy and Rancho Bijou Addition, cost \$29,360.08.

The mains in both subdivisions are 4-inch. There is a verbal understanding between Oldis R. Martin, one of the developers of the Rancho Bijou Addition, and Hoffman pursuant to which Hoffman or his corporation - Tahoe Sierra Water Company - may acquire Martin's system, including its source of supply, for the approximate sum of \$29,000. The evidence shows that Martin's well, located in Rancho Bijou Addition No. 1 and producing about 180 gpm of water, is considered by Hoffman and Martin to be adequate to supply both the subdivided areas and the territory adjacent thereto, as requested

herein, without the necessity of using Tahoe Sierra's present water supply, west of the Johnson properties, for standby purposes. Hoffman testified that another well site had been selected in one of the Rancho Bijou additions for future development of additional water and to provide standby facilities in this area.

The Tahoe Southside application embraces territory not included in the tariff map filed in 1957 and which is coextensive with that sought to be served by Tahoe Sierra, as has been stated.^{1/} The record shows that there are about 20 consumers in Rancho Bijou Addition No. 1 who presently receive water service from the installations in that tract, with perhaps a few in the adjoining unit, No. 2. About 15 or 20 residents of Bijou Park Acres, a subdivision lying between the Nagy Tract and Rancho Bijou Addition, together with two residents east of Pioneer Trail, have requested water service from the Rancho Bijou Addition installations. In the area east of Rancho Bijou Addition many residents have their own wells, although the record indicates that well water is difficult to obtain in that area and that more homes would be built there if a water supply were made available.

Tahoe Southside considers that it presently has sufficient water at adequate pressures to serve the whole of the area to which it seeks to extend in this proceeding, and that it can readily serve

^{1/} Tahoe Sierra, by a certificate issued in 1949 (Dec. No. 42642, Appl. No. 29831) and by later extensions, serves about 500 consumers from three wells, within Tahoe Sierra Subdivision Units 1, 3, 4 and 5, south of U.S. Highway 50, and in Tahoe 50 Subdivision north of the highway, in the area between Little Truckee River on the west and Trout Creek on the east. These subdivisions lie west of the west boundary of the Johnson property. Unit 2 of Tahoe Sierra Subdivision is expected to be joined to the system this year.

Tahoe Southside, by virtue of operations conducted by predecessors in the Al Tahoe area prior to 1912, by acquisition of the Bijou Pines Water Company certificate in 1950 (Dec. No. 44978, Appls. Nos. 31743, 31761), and by pipeline and service extensions easterly along and adjacent to U.S. Highway 50 almost to State Line and in subdivisions south of the confluence of Trout Creek and Heavenly Valley Creek northwest of Pioneer Trail (Old County Road), serves about 1,000 consumers in these areas with water from Cold Creek, stored in two reservoirs and chlorinated before use. An additional well and reservoir are planned or under construction.

the Nagy Tract and Rancho Bijou Addition by extension from its 6-inch main terminating in the original Rancho Bijou Subdivision. It plans to serve the area east of those subdivisions to Ski Run Boulevard by a 6-inch extension in Ski Run Boulevard from its 8-inch transmission main along U.S. Highway 50. It is questionable, however, whether the utility's existing facilities are adequate to develop pressures for service to elevated areas in the vicinity of Pioneer Trail and Ski Run Boulevard south of Tamarack Avenue. Moreover, in view of the apparent reluctance of the Johnson Estate to grant rights of way in their lands, it seems unlikely that the utility would have access to either the Nagy or Rancho Bijou Addition tracts, or to territory east thereof, except by means of the extensions noted above.

We have examined this record carefully. Both applicants are experienced operators and both have good sources of water supply and the necessary financial resources with which to make the proposed extensions. The protest of the Johnson Estate, however, is entitled to consideration. To include the property of this estate in the extended service area of either utility, as each has requested be done, would be to disregard what appears from this record to be the realities of the situation. We are thus left to consider what would seem to be the most feasible method of providing water service, in light of the foregoing discussion concerning the respective proposals, for the area which includes the Nagy and Rancho Bijou tracts and which extends easterly through elevated ground to Ski Run Boulevard.

We find that the Tahoe Sierra proposal, which includes acquisition by that utility of present installations in the Nagy and Rancho Bijou Addition tracts, is the more feasible of the two methods for providing service to the area mentioned above. We find, accordingly, that public convenience and necessity require the construction by Tahoe Sierra Water Company of the extension of its water system

as provided by the order which follows. The evidence does not indicate a present need for service in the general area east of Pioneer Trail to Ski Run Boulevard, except in portions of Lots 12 and 13 between Pioneer Trail and the forest reserve lands in which Rancho Bijou Addition No. 3 is being developed. We also find that the necessity for inclusion, as an extension of service area, of the property of the Johnson Estate, as indicated on Exhibit 2, has not been established by either applicant on this record.

We conclude, therefore, that the application of Tahoe Southside Water Utility should be denied and that the application of Tahoe Sierra Water Company should be granted to the extent hereinafter provided.

The certificate of public convenience and necessity issued herein 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

Public hearing having been held herein, the applications having been submitted, the Commission now being fully advised and basing its order upon the findings and conclusions contained in the foregoing opinion,

IT IS ORDERED that:

1. Tahoe Sierra Water Company be and it hereby is granted a certificate of public convenience and necessity to extend its water system to and within the territory delineated on the map, Exhibit 2 herein, lying within the County of El Dorado and more particularly described as follows:

Commencing at the intersection, as shown on the map, Exhibit 2 herein, of the northwest corner of the Nagy Tract and the property line of the lands of the Estate of Stella Van Dyke Johnson, Deceased, near the northern boundary of Township 12 North, Range 18 East, M.D.B.&M.; thence southerly and easterly along said Johnson property line to Pioneer Trail; thence southerly along said Johnson property line to the southeast corner of Lot 7; thence easterly and northerly along the boundaries of the forest reserve lands in Lots 12 and 13 to the northerly boundary of Lot 13; thence westerly along said northerly boundary line of Lot 13 to Pioneer Trail; thence northerly along Pioneer Trail to its intersection with Meadow View Road; thence northwesterly along Meadow View Road and westerly along Meadow View Road Extension to the easterly line of Rancho Bijou Subdivision at Lot 76; thence southerly along the easterly line of Rancho Bijou Subdivision to the southeast corner of said subdivision at Lots 57 and 58; thence westerly along the northern boundary of Township 12 North, Range 18 East, M.D.B.&M. to the point of commencement.

2. Tahoe Sierra Water Company is authorized to apply, after the effective date of this order, its presently effective tariff schedules to the area certificated herein.

3. Tahoe Sierra Water Company shall revise, after the effective date of this order, its presently filed tariff schedules, including 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, such revised tariff schedules to be effective on or before service is first rendered to the public. Such tariff schedules shall become effective upon five days' notice to the Commission and to the public after filing as hereinabove provided.

4. Within sixty days after the effective date of this order, Tahoe Sierra Water Company shall file with this Commission four copies of a comprehensive map drawn to an indicated scale not smaller than 200 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 utility properties of said company.

5. Within ninety days after the effective date of this order, Tahoe Sierra Water Company shall file a written statement with this Commission indicating the location, plans and time schedule for the development of an additional source of water supply for the area certificated herein.

6. Except as granted herein, the application of Tahoe Sierra Water Company be and it hereby is denied.

7. The application of Tahoe Southside Water Utility be and it hereby is denied.

8. Tahoe Southside Water Utility, within sixty days after the effective date of this order, shall revise its presently filed tariff service area map in accordance with the procedure prescribed in General Order No. 96, in a manner acceptable to the Commission and consistent with the provisions of this order. Such revised tariff service area map shall become effective upon five days' notice to the Commission and to the public after filing as hereinabove provided.

Added

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

Dated at San Francisco, California, this 12th day of May, 1959.

E. L. Fox
President
[Signature]
[Signature]
Theodore Jenner
Commissioners