

**ORIGINAL**Decision No. 58425

## BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
 JOHN A. FULTON and MARGARET F. MASON, )  
 dba FULTON WATER COMPANY, for an )  
 order authorizing the sale of one- ) Application No. 40795  
 half interest in the company and to )  
 extend its certificated area to )  
 other lands owned by them. )

John A. Fulton, for applicants.  
John D. Reader, for the Commission staff.

O P I N I O N

John A. Fulton and Margaret F. Mason, a copartnership doing business as Fulton Water Company, have been operating a public utility water system serving a subdivided tract known as Lake Forest Unit No. 2 and adjacent territory on the northwest shore of Lake Tahoe near Carnelian Bay, Placer County, under a certificate of public convenience and necessity granted by this Commission's Decision No. 39475 dated October 1, 1946, in Application No. 27472.

By the above-entitled application filed February 2, 1959, the two partners request the Commission to authorize the sale and transfer of one-half interest in the water utility from Margaret F. Mason (sometimes called Margaret Fulton Mason) to her nephew John A. Fulton (also known as John Allen Fulton Jr.). A copy of a notice of dissolution of the copartnership, dated November 30, 1958, and a copy of the proposed bill of sale are attached to the application. The Commission is also requested to authorize the utility to extend its operations into certain areas which are contiguous to the lands included in the original certificate and also to another area which is not contiguous thereto.



Public Hearing

A public hearing on the application was held before Examiner E. Ronald Foster at Sacramento on April 1, 1959, prior to which time, notices of hearing thereon were sent to neighboring public utilities and were published and posted, and also mailed to all customers of the utility as required by this Commission. Several customers attended the hearing but no person appeared to oppose granting of applicants' requests. After evidence both oral and documentary had been presented, the matter was submitted, subject to the later filing of an exhibit which was received by the Commission on April 3, 1959. The matter is now ready for decision.

Request to Sell and Transfer One-half  
Interest in Utility Properties

Attached to the application are financial statements of Fulton Water Company for the fiscal year ended November 30, 1958. The balance sheet shows water distribution plant of \$53,983 and a depreciation reserve of \$6,982, indicating a net utility plant of \$47,001. Total assets are shown as \$48,247, against which are shown liabilities consisting of \$6,242 in notes payable to Fulton Estate Co. and construction advances amounting to \$12,677, leaving the net worth of the investors at \$29,328. The profit and loss statement shows gross revenues of \$1,821 and total expenses of \$2,739, or a net loss of \$918 for that year.

The application states that the consideration for the one-half interest of Margaret Fulton Mason consists of values, both tangible and intangible; that her half-interest in the company is considered to be in excess of \$6,000; and that her desire to transfer ownership in the utility is prompted by motives other than monetary return.



The copy of the proposed bill of sale attached to the application states in effect, among other things, that the property is to be conveyed to John Allen Fulton, Jr., subject to the conditions that Margaret Fulton Mason shall be relieved of all responsibility for the maintenance and repair of the water mains thereby conveyed and that Fulton, on acceptance of such conveyance, shall assume the obligation of service to the consumers served by the water system in its public utility operation. It further states that upon the effective date of the sale, the partnership shall be deemed to be dissolved, wound up, and settled.

Certificated Territory,  
Present and Requested

The map filed as Exhibit No. 1 in Application No. 27472, to which exhibit reference is made in Decision No. 39475, shows that the territory, comprising some 160 acres, included in the original certificate granted to applicants, comprised the following areas, all in Section 28 of Township 16 north, Range 17 east, M.D.B. & M.:

1. Lake Forest Unit No. 2, being the south half of the fractional northeast quarter.
2. The east half of the northwest quarter.
3. The north half of the north half of the southwest quarter.
4. The north half of the north half of the fractional southeast quarter, being a small portion of Lake Forest Unit No. 3.

In the present proceeding applicants state that they have from time to time extended service to areas contiguous to the lands contained in their original certificate, particularly northeasterly to a tract known as Ridgewood Highlands and also southerly to the so-called Ketman Development. Applicants' affiliate, Fulton Estate Co., has recently sold the north half of the southeast quarter of Section 32, Township 16 north, Range 17 east, M. D. B. & M., which



is not contiguous to the certificated territory. One of the terms of the sale was that the utility would furnish water to that area when desired by the buyer, as evidenced by a copy of a letter dated March 31, 1959, filed as Exhibit No. 3 in the current application, which letter is indicated as having been signed by John A. Fulton, both as Secretary of Fulton Estate Co. and on behalf of Fulton Water Company. Therefore, the Commission is requested to authorize the applicant utility to render service of water in such additional territory comprising the following areas, all in Township 16 north, Range 17 east, M. D. B. & M., as shown on the map filed as Exhibit No. 1 in the instant proceeding:

- a. The subdivided tract known as Ridgewood Highlands located in the southeast quarter of Section 21 and bounded on the south by the southerly boundary of Section 21 which is the northerly boundary of a tract called Cedar Flat in Section 28, on the west by the north-south center line of Section 21, on the north by Watson Creek, and on the east by a tract known as Ridgewood Subdivision.
- b. The south half of the north half of the southwest quarter of Section 28, and a minor portion of Lake Forest Unit No. 3 comprising the south half of the north half of the fractional southeast quarter of said Section 28; excepting therefrom the southerly 100 feet defined by a line extending easterly from the western boundary of Section 28 to the State Highway No. 28 and also the southerly 250 feet defined by a line extending easterly from the State Highway No. 28 to the shore of Lake Tahoe, which lines form the northern boundary of the territory currently under consideration by the Commission<sup>1</sup> requested to be certificated to T. E. Finger doing business as Lake Forest Water Company.
- c. The north half of the southeast quarter of Section 32, the northern boundary of which is the southern boundary of the territory heretofore certificated to

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<sup>1</sup> Application No. 40485, heard March 31, 1959.



John P. Fabian, doing business as the Highlands Water System, by the Commission's Decision No. 51929 in Application No. 37115 (54 CPUC 407), and a part of the southern boundary of which is the northern boundary of the territory being served by Theodore E. Finger, doing business as Lake Forest Water Company, as previously authorized by the Commission's Decision No. 43750 in Application No. 30549 (49 CPUC 341).

Witness John A. Fulton testified that service to Ridgewood Highlands was extended under the terms and conditions of a water main extension agreement in accordance with the utility's filed Rule and Regulation No. 19 pertaining to main extensions. However, the utility has not requested authorization of the Commission to carry out the terms of the said agreement, as required by Section X.A. of General Order No. 96, and neither is a copy of the general form of such agreements contained in the utility's presently filed tariff schedules. Therefore, the utility will be required by the order herein to submit to the Commission the agreement under the terms of which service was extended and is being rendered to Ridgewood Highlands, and upon the receipt thereof the Commission reserves the right to take whatever action it may deem to be appropriate. As provided in Section IX of General Order No. 96, the utility may file with its tariff schedules a copy of the general form of contract intended to be used in such cases, which will relieve the utility of the necessity of obtaining authorization of the Commission in each such case.

#### Rates for Water Service

In its Decision No. 39475 the Commission authorized both meter and flat rates for seasonal service from May 1 to October 31. With its Advice Letter No. 2, on August 15, 1958 the utility refiled those rates for the summer season, together with rates for both metered and flat rate service to be rendered during the winter season from November 1 through April 30, which rates became effective September 14, 1958.



In the instant application the utility proposes to supply water, in accordance with the rates now on file, to the extended areas and also to the noncontiguous area herein requested to be certificated.

The record in this proceeding developed the fact that in order to render reliable water service during the winter, it became necessary to "winterize" the existing system, particularly to lower the mains to a depth sufficient to preventing freezing, and that in response to requests from customers for winter season service, the applicants herein have obtained advances from such customers to cover the estimated cost of winterizing the facilities necessary to serve them. For this purpose the utility entered into refund agreements patterned after the usual form of water main extension agreements, but modified to cover the cost of winterizing the water mains and other facilities, a copy of which refund agreement was late-filed as Exhibit No. 2. Among other things, this agreement provides for the refunding of the advance, without interest, over a period not exceeding 20 years, by an annual payment of 22 per cent of the estimated annual winter water revenue from each bona fide customer connected directly to the main for which the advance was made. Applicants' witness testified that some half-dozen such agreements had been executed, with \$150 having been advanced in each instance. At the present flat rate of \$45 per connection for service in the winter season, the advance normally would be refunded over a period of about 15 years. In no case has the utility heretofore requested authorization of the Commission to carry out the terms of these agreements for furnishing service under conditions other than those contained in its filed tariff schedules. In the existing situation, we find the terms of the contracts to be reasonable and the order herein will authorize the utility to carry out the terms of all such existing



contracts. In the future, however, applicants will be expected to comply with the provisions of the Commission's General Order No. 96. It may be pointed out that all agreements or contracts of the nature discussed hereinabove should contain substantially the following provision:

This agreement shall at all times be subject to such changes or modifications by the Public Utilities Commission of the State of California as said Commission may, from time to time, direct in the exercise of its jurisdiction.

Witness Fulton testified that all facilities planned to be built in the future will be designed and constructed to provide all-year service. He also testified that winter service is being furnished to only three customers during the 1958-59 season, although facilities for such service are available to about 25 of the present 80 summer season customers. While no estimate was made on the record as to the probable cost of rendering winter service, it is obvious that such costs would be more than the revenue obtainable from winter service rendered to only three customers. Even though the utility may desire to render winter service with an out-of-pocket loss, for other reasons, it should not be required to do so and neither should the summer customers be expected at any future time to subsidize the winter operations. Therefore the utility will be authorized by the order herein to continue in effect the rates presently on file for the originally certificated territory and to apply the same rates to the adjacent areas and the noncontiguous area to be certificated herein, but with a new special condition to the effect that the utility may, at its option, refuse to render winter service to less than 10 winter season customers, which condition and the number 10 included therein are considered reasonable.



Miscellaneous

Applicant Fulton stated that in addition to advances in aid of construction which have been and in the future may be obtained from those desiring winter service from the existing system and also from individuals and subdividers in accordance with the provisions of the water main extension rule, an amount of \$10,000 had been advanced by the affiliated Fulton Estate Co. which amount will be available for the development of necessary water supply, pumping, and storage facilities for the several areas.

Fulton further stated that water for the existing service area has been obtained by pumping from Lake Tahoe and that what he considered riparian rights to such water had been utilized for the territory originally certificated and the areas contiguous thereto. He testified that he had filed an application with the State Water Rights Board to take such water and that the receipt of the application had been acknowledged on August 4, 1958, and assigned No. 18248. Further details of the filing were not revealed.

The same witness testified that sufficient water to serve the requested area in Section 32 is obtainable from one or more of three sources: (1) by pumping from Lake Tahoe, the shore of which is less than one-quarter mile distant; (2) from wells to be located in, or within the vicinity of, said area; and (3) through the facilities of the neighboring public utility being operated by T. E. Finger under the name of Lake Forest Water Company. He is familiar with the provisions of the Commission's General Order No. 103, and he stated that the design and construction of all portions of the system in the future will be in accordance with the minimum standards set forth therein.



He further testified that permission to supply domestic water to his customers had been granted in a letter dated October 26, 1956, from the Placer County Public Health Department.

Findings and Conclusions

The Commission is of the opinion and hereby finds that the transfer of the one-half interest in the public utility water system requested in the above-entitled application will not be adverse to the public interest and should be authorized.

The action taken herein shall not be construed to be a finding of the value of the properties herein authorized to be transferred.

From the record it appears, and we now find, that public convenience and necessity require the granting of the certificate of public convenience and necessity to John A. Fulton as requested, and that he is financially capable of carrying out his proposed construction and operation of the water systems in the territory heretofore certificated and in the areas certificated herein. It further appears and we find that the utility's presently authorized rates are reasonable and should be placed in effect in the areas herein certificated, but modified by a special condition pertaining to the service of water during the winter season to eliminate the possibility of an undue burden being imposed upon the summer season customers.

In order that the properties on which the water production and related facilities are located be dedicated to public utility operations, as well as easements for pipelines which are not and will not be located in public streets, the utility will be required to file with the Commission documentary evidence to that effect.



The certificate herein granted 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

An application having been filed, a public hearing having been held thereon, the matter having been submitted and now being ready for decision, the Commission having made the foregoing findings and based upon said findings,

IT IS HEREBY ORDERED that:

1. Margaret F. Mason, also known as Margaret Fulton Mason, on or after the effective date hereof and on or before July 31, 1959, may sell and transfer her one-half interest in the public utility water system known as Fulton Water Company to John A. Fulton, also known as John Allen Fulton, Jr., substantially in accordance with the terms and conditions of the document entitled "Bill of Sale", a copy of which is attached to the application herein.

2. On or before the date of the actual transfer, John A. Fulton and Margaret F. Mason shall refund all customers' deposits and all advances for construction, if any, which are subject to refund. Any such unrefunded deposits and advances shall be transferred to and become the obligation for refund of John A. Fulton.

3. On or before the date of the actual transfer of the physical properties herein authorized, Margaret F. Mason shall transfer and deliver to John A. Fulton, and the latter shall receive and preserve,



all records, memoranda, and papers pertaining to the construction and operation of the properties herein authorized to be transferred.

4. If the authority herein granted is exercised, within thirty days thereafter Margaret F. Mason shall notify this Commission, in writing, of the date of such completion of the property transfer herein authorized and of her compliance with the conditions hereof.

5. Upon due compliance with all of the conditions of the preceding paragraphs of this order, Margaret F. Mason shall stand relieved of all further public utility obligations and liabilities in connection with the operation of the public utility water system herein authorized to be transferred.

IT IS HEREBY FURTHER ORDERED, if the authority hereinbefore granted to Margaret F. Mason to sell and transfer her one-half interest in the public utility water system, known as Fulton Water Company, to John A. Fulton is exercised, that a certificate of public convenience and necessity be and it is hereby granted to said John A. Fulton, doing business as Fulton Water Company, to acquire, construct, and operate public utility systems for the distribution and sale of water within the following areas in unincorporated territory in Placer County, as extensions of and additions to his previously certificated operations, all in Township 16 north, Range 17 east, M. D. B. & M., as more particularly delineated on a map filed as Exhibit No. 1 in this proceeding and which map is hereby made a part of this order by reference:

- a. The subdivided tract known as Ridgewood Highlands located in that portion of the SE $\frac{1}{4}$  of Sec. 21 which is south of Watson Creek and west of a tract known as Ridgewood Subdivision.



- b. The S $\frac{1}{2}$  of the N $\frac{1}{2}$  of the SW $\frac{1}{4}$  of Sec. 28, and a minor portion of Lake Forest Unit No. 3 comprising the S $\frac{1}{2}$  of the N $\frac{1}{2}$  of the fractional SE $\frac{1}{4}$  of said Sec. 28; excepting therefrom the southerly 100 feet lying between the western boundary of Sec. 28 and the State Highway No. 28 and also the southerly 250 feet lying between the State Highway No. 28 and the shore of Lake Tahoe.

- c. The N $\frac{1}{2}$  of the SE $\frac{1}{4}$  of Sec. 32.

IT IS FURTHER ORDERED, if the authority hereinbefore granted to Margaret F. Mason is exercised, and after the date on which Margaret F. Mason shall have notified the Commission, as required by Paragraph 4 of the order herein, as follows:

6. That John A. Fulton, doing business as Fulton Water Company, is authorized to apply the presently effective tariff schedules in the areas certificated herein; provided, however, that the said schedules shall be revised as to the special conditions pertaining to winter season service.

7. That John A. Fulton shall file with this Commission the revised tariff schedules, as set forth in Appendix A attached to this order, together with rules governing customer relations revised to reflect present-day operating practices, and a revised tariff service area map acceptable to the Commission, and shall file original tariff sheets containing sample printed forms that are normally used in connection with customers' services, including forms of refund contract agreements similar to the one filed as Exhibit No. 2 in this proceeding, and also forms of general main extension agreements, in accordance with the procedure prescribed by General Order No. 96, to provide for the application of said tariff schedules for water service in the areas certificated herein; such revised and original tariff sheets to be effective on or before the date service is first furnished to the public in the areas certificated herein. Such revised and original tariff sheets shall become effective upon five



days' notice to the Commission and to the public after filing as hereinabove provided.

8. That John A. Fulton shall notify this Commission, in writing, of the date service is first rendered to the public in the north half of the southeast quarter of Section 32, Township 16 north, Range 17 east, M. D. B. & M., under the rates and rules authorized herein, within ten days thereafter.

9. That John A. Fulton shall file four copies of comprehensive maps 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, the principal water production, storage, and distribution facilities, and the location of his various water system properties; the map or maps pertaining to service in portions of Sections 21 and 28, Township 16 north, Range 17 east, M. D. B. & M., to be filed within forty-five days after the date on which Margaret F. Mason shall have notified the Commission, as required by Paragraph 4 of the order herein; and the map pertaining to service in a portion of Section 32, Township 16 north, Range 17 east, M. D. B. & M., to be filed within sixty days after service is first furnished to the public in that area, as certificated herein, under the rates and rules authorized herein.

10. That applicant, John A. Fulton, 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. Said applicant shall review the accruals as of January 1st of the year following the date service is first rendered to the public under the rates and rules authorized herein and thereafter when major changes in the composition of utility plant occur, and at intervals of not



more than five years. Results of these reviews shall be submitted to this Commission.

IT IS FURTHER ORDERED that:

11. Within thirty days after the effective date of this order John A. Fulton shall submit to this Commission, in accordance with the procedure prescribed by General Order No. 96, the water main extension agreement under the terms of which service was extended and is being rendered to Ridgewood Highlands, an area contiguous to the territory originally certificated to the applicants herein.

12. (a) John A. Fulton, upon acquiring sole ownership of the utility operated under the name of Fulton Water Company, as hereinabove authorized, is hereby authorized to carry out the terms and conditions of all such refund contract agreements similar in form to the one filed as Exhibit No. 2 in this proceeding as may have been executed prior to the date of this order; (b) John A. Fulton, within thirty days after acquiring sole ownership of the utility, shall file with the Commission two certified copies of each of the contracts as executed, together with a statement of the date on which the contract is deemed to have become effective.

13. If the authorizations herein granted are exercised, John A. Fulton shall procure and dedicate to public utility purposes the lots or areas on which all wells, pumps, tanks, and related water facilities are or are to be located, and all easements or permits where water mains are or will be located, and he shall file with the Commission one copy of each appropriate document showing such dedication not later than thirty days after the date service is first rendered to the public in the north half of the southeast quarter of Section 32, Township 16 north, Range 17 east, M. D. B. & M., under the rates and rules authorized herein.



The authorization herein granted pertaining to the certification of service to be rendered in the north half of the southeast quarter of Section 32, Township 16 north, Range 17 east, M.D.B. & M., will expire if not exercised within one year from the date hereof.

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

Dated at San Francisco, California, this 19th day of May, 1959.

I concur  
Matthew Y. Dooley  
Matthew Y. Dooley, Commissioner.  
Date MAY 20 1959

E. L. Fox  
President  
Theodore H. J. J. J.  
Commissioners

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



APPENDIX A  
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## Schedule No. 1S

SEASONAL METERED SERVICEAPPLICABILITY

Applicable to all seasonal metered water service.

TERRITORY

The unincorporated area including the subdivisions known as Lake Forest Unit No. 2, Ridgewood Highlands and Fulton Acres, and the N $\frac{1}{2}$  of the SE $\frac{1}{4}$  of Section 32, T.16 N., R.17 E., MDB & M., and vicinity, near Carnelian Bay, Lake Tahoe, Placer County.

RATES

Per 5/8 x 3/4-inch  
Meter Per Season

## Seasonal Minimum Charge:

## Summer Season

For the 6-month period,

May 1 through October 31 ..... \$18.00

## Winter Season

For the 6-month period,

November 1 through April 30 ..... 41.00

## Monthly Quantity Rates:

Per Meter Per Month

First	700 cu.ft. or less included in Seasonal Minimum Charge.	
Next	1,300 cu.ft., per 100 cu.ft. ....	\$ 0.25
Next	2,000 cu.ft., per 100 cu.ft. ....	.20
Over	4,000 cu.ft., per 100 cu.ft. ....	.15

(Continued)



APPENDIX A  
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Schedule No. 1S--Contd.

SEASONAL METERED SERVICE

SPECIAL CONDITIONS

1. A customer may take service under this schedule for either the summer season, the winter season, or both seasons.
2. The summer season minimum charge is payable in advance on or before May 1 of each year.
3. The winter season minimum charge is payable in advance on or before October 1 of each year. Unless application is made for winter season service and payments in advance therefor are received from at least 10 customers on or before October 1 of any year, the utility may, at its option, refuse to render service of water for the ensuing winter season. Upon electing such option and refusal, the utility will return all winter season advance payments, if any, to the applicants for winter service on or before October 15 of such year.
4. The charge for water used in excess of the quantity allowed each month for the seasonal minimum charge may be billed monthly, bimonthly or quarterly at the option of the utility on a noncumulative monthly consumption basis.



APPENDIX A  
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## Schedule No. 2SR

SEASONAL RESIDENTIAL FLAT RATE SERVICEAPPLICABILITY

Applicable to all residential water service furnished on a seasonal flat rate basis.

TERRITORY

The unincorporated area including the subdivisions known as Lake Forest Unit No. 2, Ridgewood Highlands and Fulton Acres, and the N $\frac{1}{2}$  of the SE $\frac{1}{4}$  of Section 32, T.16 N., R.17 E., MDB & M, and vicinity, near Carnelian Bay, Lake Tahoe, Placer County.

RATES

	<u>Per Service Connection</u> <u>Per Season</u>
Seasonal Charge:	
Summer Season	
For the 6-month period,	
May 1 through October 31 .....	\$20.00
Winter Season	
For the 6-month period,	
November 1 through April 30 .....	\$45.00

(Continued)



APPENDIX A  
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Schedule No. 2SR--Contd.

SEASONAL RESIDENTIAL FLAT RATE SERVICE

SPECIAL CONDITIONS

1. A customer may take service under this schedule for either the summer season, the winter season, or both seasons.
2. The summer season charge is payable in advance on or before May 1 of each year.
3. The winter season charge is payable in advance on or before October 1 of each year. Unless application is made for winter season service and payments in advance therefor are received from at least 10 customers on or before October 1 of any year, the utility may, at its option, refuse to render service of water for the ensuing winter season. Upon electing such option and refusal, the utility will return all winter season advance payments, if any, to the applicants for winter service on or before October 15 of such year.
4. All service not covered by the above classification will be furnished only on a metered basis.
5. Meters may be installed at option of utility or customer for above classification in which event service thereafter will be furnished only on the basis of Schedule No. 1S, Seasonal Metered Service.