

Decision No. 58665**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of FIRST THERAPEUTIC
WATERS CORP., a Corporation, to
operate a therapeutic water
system in Desert Hot Springs,
Riverside County; to establish
rates, and to issue capital
stock in the amount of \$6,000.00

Application No. 40713

Harry B. Cannon, for applicant.
Austin E. Finch, for Desert Hot Springs County
Water District; Paul B. Shliff, for the
State Department of Public Health, Bureau of
Food and Drug Inspections; Maurice Hawkins,
for Riverside County Health Department,
interested parties.
Donald B. Steger and A. L. Gielegem, for the
Commission staff.

O P I N I O N

First Therapeutic Waters Corp., hereinafter referred to as applicant, is a California corporation incorporated on August 15, 1958, for the purpose, among others, of developing, distributing, supplying and delivering natural hot mineral waters for therapeutic use for Lots Nos. 17 to 36, inclusive, in the Hacienda Riviera Tract, Desert Hot Springs, Riverside County, California. The Articles of Incorporation also authorize the applicant to own, possess or otherwise deal in improved or unimproved real estate wherever situated, whether in California or other places in the United States, and to issue not to exceed 2,500 shares of stock having a par value of \$10 per share.

The land described in the Articles of Incorporation, to wit, Lots Nos. 17 to 36, of the Hacienda Riviera Tract, overlies a hot mineral water bearing strata which is tapped by a well from which mineral water at a temperature of 170° Fahrenheit is obtained. This well is situated on Lot No. 33 of said tract. The applicant proposes to pipe the hot mineral waters produced by the well to the lots in said tract.

By the application herein, filed on December 26, 1958, it prays:

(1) For an order to determine whether the operation as proposed by the applicant is a public utility operation within the purview of this Commission;

(2) If the applicant is determined to be a public utility, for an order of the Commission granting a certificate of public convenience and necessity to applicant for operating a therapeutic water system in said tract;

(3) For an order of the Commission establishing rates as requested in the application; and

(4) For an order of the Commission allowing the issue of capital stock as follows:

- (a) To Phillip Barzow and Lillian Barzow, or either of them, in exchange for the right, title and interest in and to the well and adjoining property, capital stock in the amount of \$1,125;
- (b) To David Reiff and Lizzie Reiff, or either of them, in exchange for all of the right, title and interest in and to the well and adjoining property, capital stock in the amount of \$375;
- (c) To Phillip Barzow and Lillian Barzow, or either of them, an aggregate of 337½ shares for cash at the price of \$10 per share; and

- (d) To David Reiff and Lizzie Reiff, or either of them, an aggregate of 112½ shares at the price of \$10 per share.

A public hearing on the application was held in Desert Hot Springs on February 24, 1959, before Examiner Kent C. Rogers. At the hearing evidence was presented and the matter was submitted, subject to the filing within one week of certain exhibits. These exhibits have been filed and the matter is ready for decision. Prior to the hearing, notice thereof was posted and published as required by this Commission.

The operations of the applicant, as proposed in the application, are best described in Exhibit No. 8, a report prepared by a Commission staff engineer which sets forth the following matters:

Applicant is a California corporation organized on August 15, 1958. As of the date of the hearing, February 24, 1959, it was not actively engaged in providing service.

By the application applicant proposes to provide a specific type of water service to Lots Nos. 17 to 36, inclusive, of the Hacienda Riviera Tract in the community of Desert Hot Springs, Riverside County. The twenty lots for which service is proposed comprise one block which is bounded on each side by a dedicated street. The proposed service is for hot therapeutic water only and is not for general or domestic purposes. Desert Hot Springs is an unincorporated community in Riverside County at the westerly limit of the Coachella Valley. The general occupancy of the Desert Hot Springs is residential and small

business, principally for desert resort and health purposes. Conventional water service of domestic and business purposes is provided by the Desert Hot Springs County Water District. The water mains of this public utility have already been installed in the proposed service area of the applicant.

Within the proposed service area a well 8 inches in diameter and 169-feet deep has been drilled on the southwest corner of Lot No. 33 on a 10-foot-square parcel thereof. The average temperature of this well water is 170° Fahrenheit. Pumping equipment is to be located on the said portion of Lot No. 33, and from this location the hot water is to be supplied through a 2-inch distribution main (changed to 3-inch) located in a public utilities easement along the rear lot lines (see Exhibit A on the application). All service is to be provided on a metered basis, and the proposed rates are as follows for a 3/4-inch meter:

| | | <u>Per Meter</u> <u>Per Month</u> |
|-------|--------------------------------------|--------------------------------------|
| First | 500 cu. ft. | \$7.50 |
| Next | 500 cu. ft., per 100 cu. ft. | 1.00 |
| Next | 4,000 cu. ft., per 100 cu. ft. | .80 |
| Next | 5,000 cu. ft., per 100 cu. ft. | .60 |
| Over | 10,000 cu. ft., per 100 cu. ft. | .40 |

(Rates would also be established for 1-inch meters.)

An investigation of individual installations in this general area indicates that the probable maximum demand will not exceed 10 gallons per minute per customer, and with a reasonable diversity factor of .33 for the 20 potential customers, a probable

system demand of 66 gallons per minute can be anticipated. The well has been test pumped at 50 gallons per minute with a pumping drawdown of 5 feet.

Applicant's president testified to the following matters:

There is at present no water system of applicant in the service area (Exhibit No. 1). There is a hot water well in a 10-by-10-foot parcel of land on the southwest corner of Lot 33 in the service area, which well was completed on May 23, 1958, and on test yielded 50 gallons per minute of water having a temperature of 170° Fahrenheit (Exhibit No. 2). The well driller was of the opinion that the well could safely produce 70 gallons of water per minute. The well, exclusive of the land on which it is situated, cost \$1,389.28, and was paid for by the witness and David Reiff (Exhibit No. 3). The witness owns a three-quarter interest in the well and David Reiff owns a one-quarter interest therein. The witness intends to install a 70-gallon-per-minute pump operated by a 5-horsepower electric motor on the well together with a 1,000 gallon pressure tank which, together with the necessary valves and fittings, will cost \$2,969 (Exhibit No. 4). All services are to be metered. The witness estimated applicant will have 10 or 12 customers in the tract which contains 20 lots. The water is to be used for bathing and swimming purposes only and will not be for domestic use, and the facilities will be so installed that there can be no mixing of the domestic water and the applicant's water. Applicant intends to issue \$6,000 worth of stock and the sum realized from said sale is to be expended approximately as follows:

| | |
|--|------------|
| Purchase of the well which is presently owned jointly by Philip Barzow and Lillian Barzow, as to an undivided three-quarters interest, and David Reiff and Lizzie Reiff, as to an undivided one-quarter interest | \$1,500 |
| Necessary Pumping equipment | 2,500 |
| Installation of 3-inch transite pipe line, miscellaneous equipment and expense | 1,000 |
| Working Capital | 700 |
| Organizational Expense | <u>300</u> |
| | \$6,000 |

The applicant's president estimated that the annual cost of providing the water service to the tract will be \$72 a year for power; \$60 a year for inspection; \$120 a year for repairs to the system; \$100 a year for taxes; \$100 a year for insurance; \$240 a year for travel expenses between Los Angeles and the tract; \$360 a year for attorney's fees and miscellaneous fees; and \$1,200 a year for employees to keep the system operational, for a total of \$2,252 a year. It appears that these costs are in excess of the maximum revenues which could be realized from the proposed service area.

The applicant's president testified that he will advance money to the company to cover necessary deficiencies (see Exhibit No.6), and that he and the other incorporators own the tract in question except for two lots. The reason the incorporators are willing to advance money is that the addition of the hot water facilities to the lots will enhance the value thereof. The witness stated that if the certificate as requested

is granted, the proposed water line will be installed as soon as an application for service is filed. The witness also stated that the applicant would attempt to charge \$1 per month per lot in the tract until such time as a house is constructed on such lot and the applicant's water services are used. In addition, the applicant's witness stated that it would extend the proposed service to adjacent or contiguous properties if a request for such service is made. All services are to be metered and applicant will furnish the meters. The estimated installed cost thereof is \$57 for a 5/8-x 3/4-inch meter and \$90 for a 1-inch meter.

The staff investigated the matter thoroughly. It was particularly concerned with the effects of the hot temperatures (170° Fahrenheit) and the corrosion occasioned by the high mineral content of the water. The problems, as the staff saw them, are as follows:

- (1) Design of pumping equipment which will have a reasonable operational life between major repairs.
- (2) Design of pumping equipment with maximum efficiency for the type operations required.
- (3) Operation of noncirculatory system of distribution mains when substantial changes in temperature take place.
- (4) Design and installation of meters for hot water operation.

(5) Design of tariffs which clearly define the water service offered, provide for strict compliance with the regulations relating to cross-connections established by the State Department of Health, and establish the minimum standards for operation of the system.

(6) Provision for funds to meet the operating deficit which will result even under full development of the proposed service area.

The evidence shows that the applicant presently owns and controls a well capable of producing water which the applicant proposes to deliver by means of pipes and other appliances for the supply, distribution, sale, furnishing, and measurement of water. Evidence was introduced to show that the water is intended to be used for bathing and that its use for such purposes will be beneficial. The evidence also shows that the applicant proposes to serve any and all persons who may desire such water service from the applicant. In our opinion, such an operation would involve a "water system" within the meaning of Section 240 of the Public Utility Code; the applicant would become a water corporation within the meaning of Section 241 of said Code; and a "public utility" within the meaning of Section 216A of said Code.

There are, however, several important factors which lead the Commission to conclude that it would not be in the public interest to certificate the proposed operation. There were no requests for such service nor has there been a demonstration of a requirement for public utility service for the particular type of water it is proposed to serve. Even if required, the proposed operation is extremely small and as indicated by the applicant, would not be economically self sufficient. The applicant has offered no sufficient solution for the many operational problems involved, particularly that of temperature control which would be essential to a safe and satisfactory operation.

In the light of these factors, it is apparent that the applicant would be assuming the many obligations of public utility

service with little chance of success and that it would be grossly unfair to ~~any~~ potential customers to have them assume that customary public utility service would be available.

Under these circumstances the Commission is not able to make the required finding that public convenience and necessity require the proposed service.

O R D E R

Public hearing having been held on the above-entitled application, the matter having been submitted, and the Commission being fully advised,

IT IS HEREBY ORDERED that the application of First Therapeutic Waters Corp., a corporation, for a certificate of public convenience and necessity be and it is denied.

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

Dated at San Francisco, California, this 22nd day of June, 1959.

[Signature]
President
[Signature]
[Signature]
Theodore Deiner
[Signature]
Commissioners