

ORIGINAL

Decision No. 59997

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application
of SAN BERNARDINO WATER UTILITIES
CORPORATION to construct and operate
a water system and for the establish-
ment of rates to consumers in
San Bernardino Valley, San Bernardino
County, State of California.

Application No. 41513
Amended

D. W. Coughlin, president, Helen Riche, secretary,
and Guy Evans, Jr., manager, for applicant.
James G. Shields and A. L. Cielezhem, for the
Commission staff.

O P I N I O N

San Bernardino Water Utilities Corporation, a corporation, by the above-entitled application, filed September 23, 1959, seeks an order to construct and operate a water system, for the establishment of rates, and for the granting of a certificate of public convenience and necessity to construct and operate a public utility in Tract No. 3948 in the City of San Bernardino, San Bernardino County. The application was amended at the hearing by a request for approval of the Agreement between the applicant and Lilac Builders, Inc., a copy of which was submitted as Exhibit No. 4.

The general location of said Tract with relation to other public utilities, a mutual water company, and the Water Department of the City of San Bernardino, is shown on the map, Exhibit C, attached to the application.

A public hearing was held before Examiner Stewart C. Warner on January 13, 1960, at San Bernardino. No protests were

entered, and the matter was submitted subject to the filing of Exhibit No. 6, a tracing of grant deeds for water rights, which said Exhibit was received on January 26, 1960, and the matter is now ready for decision. Exhibit "C-1" attached to the application is a copy of a letter dated February 6, 1959, from the superintendent and chief engineer of the San Bernardino Municipal Water Department stating that the City had no objection to the proposed area being served by the applicant. Exhibit "C-2" attached to the application is a copy of a letter dated August 11, 1959, from Muscoy Mutual Water Company No. 1 stating that the service of said company is limited to its shareholders and that the owners of Tract No. 3948 owned no stock therein.

General Information

The applicant was incorporated April 22, 1932, and furnishes water service to about 300 customers in an area comprising approximately 8200 acres approximately one mile north of Tract No. 3948.

The proposed area, Tract No. 3948, contains about 80 acres which have been subdivided into 230 homesites and 2 commercial lots. Approximately 50 homes have been constructed on said sites, and 14 of said homes were occupied as of the date of the hearing.

Exhibit No. 4, supra, provides for the advance by Lilac Builders, Inc., a subdividing corporation, of the amount of \$47,287.56 for back-up facilities consisting of a 16-inch well, a deep well pump, a 169,000-gallon storage tank, 2 booster pumps, a pump house, a 10,000-gallon hydropneumatic tank, and the necessary piping, valves, fittings and plant improvement. Said Exhibit further provides for the advance by Lilac of the amount of \$39,500

for the estimated cost of the construction of water mains, service lateral, all necessary valves, fittings, fire hydrants and miscellaneous appurtenances of size and type necessary to comply with the various governing agencies' specifications to serve Lots 1 through 230, excluding Lots 231 and 232, of Tract No. 3948. The total amount of the subdivider's advance set forth in said Exhibit is \$86,787.56, which applicant has agreed to refund for a period of time not to exceed 20 years based upon 22 percent of the gross annual revenue derived from the water system installation. The record shows that applicant's Main Extension Rule No. 15 is not applicable herein, to the extent that the costs of the back-up facilities have been included in the amount of the advance and for that reason, the application was amended at the hearing seeking approval of the contract.

The costs of the water system installation in Tract No. 3948, hereinbefore set forth, are to be advanced by the subdividing corporation but the applicant has borne the cost of the purchase of a lot at the extreme north end of the subdivision for \$1,556.60, which is the wellsite and the location of applicant's pumps and tanks. Applicant has also purchased water rights underlying all properties in Tract No. 3948 for the sum of \$11,500. Said latter purchases were made from Highway Construction Company of which H. H. Wheeler, president of Park Water Company, a public utility water company under the jurisdiction of this Commission, is president, and V. E. Motz, former secretary of Park Water Company, is secretary. In this connection it should be observed that unadjudicated water rights such as were obtained by applicant are not usually considered by this Commission to be a proper part of the rate base upon which a utility is entitled to earn a return. The record shows that H. H. Wheeler, Jr., is a director of applicant and owns all of the applicant's common stock.

Description of Water System in Tract No. 3948

The deep well turbine pump installed in applicant's well located at the north end of Tract No. 3948 is designed to pump 1,000 gallons per minute against a 330-foot head. The two booster pumps, with capacities of 240 gallons per minute each, will pump water from the 169,000-gallon storage tank, into which latter tank water is discharged from the well, through a 10,000-gallon pressure tank into the distribution system. The record shows that the booster pumps should be capable of delivering 345,600 gallons per day if operated continuously, which said latter amount would not be sufficient to meet the estimated ultimate peak-day demand of 365,000 gallons, but the record shows that the applicant intends to install a third booster pump when necessary. Further, the applicant has arranged with Muscoy Mutual Water Company No. 1 to provide standby service through a 6-inch connection near the wellsite at a pressure of 90 p.s.i.

It appears that the sources of water supply available to the applicant for Tract No. 3948, the storage facilities, the booster pumps installed and proposed to be installed, and the distribution system now installed in said Tract, are adequate to meet customers' demands on the water system.

Rates

Applicant proposes to apply its present water rates to Tract No. 3948.

The record in this proceeding shows that applicant's present equity position is approximately 37 percent and that the proposed method of financing the water system to supply Tract No. 3948 would further reduce the utility's equity.

A Commission staff accountant recommended that in view of the high proportion (71%) of applicant's debt in the pro forma capital structure, which includes the proposed refund contract in the amount of \$86,788, consideration should be given to converting some portion of long-term debt and construction advances to permanent capitalization at the earliest opportunity in order to improve the applicant's capitalization ratios and ability to finance future growth. This witness indicated that future expansion financed by refund agreements might render applicant incapable of meeting its financial obligations.

The testimony of the Commission's staff witnesses shows clearly that the proposed refund agreement is basically unsound. We are of the opinion that the financial weaknesses of the proposal should be corrected before the certificate is granted, rather than depend upon some future refinancing expedient which may or may not be detrimental to the interests of the utility's customers.

In several previous decisions^{1/} involving refund agreements, where substantial portions of the cost of back-up facilities were to be included in the amount of the advance, under circumstances similar to the instant application, the requested authorization has been denied. The main extension rule was designed to be applicable to the extension of distribution facilities from an existing system which includes at least the basic required water production facilities. This is not the case in the instant application.

Attention of applicant is directed to the clear provisions of Section 1001 of the Public Utilities Code, wherein it is prohibited from constructing any such proposed water system ... "without having first obtained from the Commission a certificate that the present or future public convenience and necessity require or will require such construction".

^{1/} For example: Decision No. 51526, dated May 21, 1955, in A-36808, and Decision No. 52010, dated October 4, 1955, in A-36997 and A-37053.

Findings and Conclusions

From a review of the record the Commission finds and concludes that public convenience and necessity do not require that the application, as amended, be granted and the following order will deny said application, as amended.

O R D E R

Application as above entitled having been filed, a public hearing having been held, the application having been amended at said hearing, the matter having been submitted subject to the receipt of a late-filed exhibit, said exhibit having been received, and now being ready for decision based upon the record in the proceedings and the findings of facts and conclusions with respect thereto,

IT IS HEREBY ORDERED as follows:

1. That the application of San Bernardino Water Utilities Corporation, a corporation, for a certificate of public convenience and necessity to construct and operate a public utility water system in Tract No. 3948 in the City of San Bernardino, San Bernardino County, be and it is denied.
2. That authority to carry out the terms and conditions of the proposed Agreement, Exhibit No. 4 filed at the hearing, between the applicant and Lilac Builders, Inc. 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 26th day of April, 1960.

[Signature]
President

[Signature]

[Signature]

[Signature]

[Signature]
Commissioners