

Decision No. 60081

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
NATOMAS WATER COMPANY, a corporation,
for a certificate of public convenience
and necessity authorizing applicant to
furnish public utility water service in
certain portions of Sacramento County,
California, and to exercise franchise
rights in connection therewith.

Application No. 41809

Harry B. Seymour and Raymond W. Ickes, for applicant.
Earl C. Cooper, protestant.
W. B. Stradley, for the Commission staff.

O P I N I O N

By the above-entitled application filed with this Commission on December 29, 1959, Natomas Water Company, a corporation, requests (1) a certificate of public convenience and necessity to operate a water system in the City of Folsom and in unincorporated territory located westerly and southeasterly of said City of Folsom comprising a total of nearly 19,000 acres, all in Sacramento County, and (2) a certificate to exercise the rights and privileges of a franchise granted to applicant by Ordinance No. 692, passed and adopted by the Board of Supervisors of the County of Sacramento on January 6, 1960.^{1/}

A public hearing was held before Commissioner Theodore H. Jenner and Examiner E. Ronald Foster on March 18, 1960, at Folsom, at the conclusion of which the matter was submitted and is now ready for decision.

^{1/} Copy of Ordinance No. 692 filed as Exhibit No. 2 at hearing.

Since it was incorporated March 18, 1912, to take over the public utility business of Natomas Consolidated of California, applicant has been furnishing water service in the vicinity of Folsom for domestic, commercial, irrigation, and industrial purposes, including gold dredging. No certificate of public convenience and necessity has ever been requested by applicant or issued by the Commission for this area heretofore.

By Decision No. 50969 dated January 10, 1955 in Application No. 35640, 2nd and 3rd Supplemental, a certificate of public convenience and necessity was granted to Cordova Water Company to construct and operate a public utility water system in Rancho Cordova Subdivision, consisting of 360 acres, more or less, as shown in yellow on the map attached to the application herein as Exhibit B^{2/} and described as being bounded on the east by Cordova Lane, on the south by U.S. Highway 50 and on the west and north by Coloma Road, excepting therefrom the properties of Frank Chilton, Joseph M. Mendonca and Fenton Williamson. This public utility water system was transferred to Natomas Water Company by Decision No. 52286 dated November 29, 1955, in Application No. 37397, Amended.

By Decision No. 53448 dated July 16, 1956, in Application No. 37462, Amended, the Commission granted to Natomas Water Company a certificate of public convenience and necessity to construct and operate a public utility water system for the distribution and sale of water in an area consisting of about 2,320 acres, also shown in yellow on the said map attached to the application herein as Exhibit B, and which may be described as follows:

- a. That area lying south of U.S. Highway 50 across said highway from Rancho Cordova Subdivision and designated as Block 1 of Natomas Consolidated of California Subdivision No. 3, and

^{2/} Identical with the map filed as Exhibit No. 1 in this proceeding.

- b. That area bounded on the east by and including Cordova Meadows and Cordova Garden Subdivisions, on the north by the American River, on the east by Citrus Road (sometimes known as Fair Oaks Road), and on the south by Coloma Road and U.S. Highway 50.

In the instant proceeding, applicant asks the Commission to grant to it a certificate of public convenience and necessity to operate a water system for domestic, commercial, industrial, irrigation, and other purposes within the area described in Exhibit C attached to the application herein, lying generally to the east and northeast of the Cordova areas heretofore certificated to applicant and shown in red, blue and green on the aforesaid map, comprising the following areas:

Residential, including Folsom, and vicinity	5,770 Acres
Residential, adjacent to Cordova Subdivisions:	
North of U.S. Highway 50	718 Ac.
South of U.S. Highway 50	<u>832 Ac.</u>
Total residential	<u>1,550 Acres</u>
Industrial, south of Folsom	1,730 Ac.
Industrial, east of Citrus Road ...	<u>1,530 Ac.</u>
Total industrial	3,260 Acres
Aerojet General Corporation	<u>8,152 Acres</u>
Total Area requested to be certificated	18,732 Acres

Applicant alleges that by virtue of operations by it and its predecessors on and prior to March 23, 1912, and continuously since then, it holds a prescriptive right to render public utility water service throughout the entire territory shown on Exhibits B and C hereinabove mentioned. Notwithstanding the allegation of such prescriptive right and without prejudice to applicant's claim that it holds such right, the Commission is requested to authorize applicant to construct, maintain and operate a public utility water system within the above-described area presently uncertificated to it.

Applicant urges that its service area be made a matter of record to avoid confusion and uncertainty in matters of administration by the Commission and to enable the public to be accurately informed as to the geographic coverage of applicant's system. At this time the Commission is not making any determination as to applicant's claimed prescriptive right in this area but it will proceed on the merits of the application before it.

The boundaries of the area included in the franchise issued pursuant to Ordinance No. 692, adopted January 6, 1960, by the Board of Supervisors of the County of Sacramento, conferring certain rights and privileges to Natomas Water Company appear to coincide with the exterior boundaries of the combined areas hereinabove described as having been previously certificated to applicant, including those areas herein requested to be certificated to it, saving and excepting therefrom any portion of such areas lying within the corporate limits of the City of Folsom, as to which applicant alleges that it holds a constitutional franchise. Any franchise rights which applicant may have enjoyed, as evidenced by Ordinances Nos. 479 and 493 previously adopted by the Board of Supervisors of Sacramento County, are superseded by the franchise granted in Ordinance No. 692, which repeals the said prior ordinances.

Recognizing certain rights which applicant had acquired to the waters flowing in the South Fork of the American River, in 1951 the United States Government entered into a contract with applicant, the execution of which was authorized by the Commission in Decision No. 46212 dated September 24, 1951, in Application No. 32739. Among other things, the said contract provides for the delivery from Folsom Reservoir to applicant of an amount of 32,000 acre-feet of water annually at a rate not in excess of 60 cubic feet per second.

After the release of such water, a portion is conducted through applicant's facilities to a reservoir above the city of Folsom where it settles and is chlorinated, but is not otherwise treated, and thence is delivered under pressure for general purposes within the city. Additional quantities of water are transmitted by gravity through a series of canals, reservoirs, ditches, and conduits through the entire length of the area requested to be certificated and also extending into the Cordova area.

Water for residential purposes in the Cordova subdivisions is obtained from a number of wells, several of which are interconnected by the distribution mains. In general, water for this area is delivered by electrically operated pumping units discharging through hydropneumatic tanks into the various distribution systems.

Applicant proposes to continue to apply its presently effective rates in the enlarged service area. Applicant now has on file twelve rate schedules covering both metered and flat rate service. Those pertaining to the Folsom tariff area alone include rates applicable to treated water for general metered and flat rate service, municipal service and irrigation service at flat rates, and also a flat rate applicable to untreated water for industrial service rendered to Natomas Company. Rate schedules pertaining to the Cordova tariff area only provide for general metered service, residential flat rate service, private fire protection, and public fire hydrant service. Still other rate schedules are applicable in all tariff areas and provide for flat rate service of water from the ditch system for irrigation and industrial purposes. Applicant has also agreed to supply up to 10,000,000 gallons of untreated water per day from its ditch system to Aerojet General Corporation under contract authorized by Decision No. 53666 dated August 29, 1956, in Application No. 38141.

As service may be extended to additional areas for various purposes, it appears that no confusion is likely to occur as to the proper application of the several rate schedules, inasmuch as the two sources of supply are distinct and separate. It may also be noted that on February 9, 1960, Natomas Water Company filed Application No. 41941 requesting an upward revision of all of its rates for water service, which application is now pending before the Commission.

The record shows that there are no water utilities, either privately or publicly owned, with which applicant is likely to compete in the areas presently certificated or in the area requested herein to be certificated. In the territory adjacent to and west of the Cordova Meadows and Cordova Garden Subdivisions water service is being rendered by Citizens Suburban Company, with which applicant has reached an agreement as to their respective service areas in this vicinity.

It also appears from applicant's representations that the financial resources available to it and to its parent, Natomas Company, are ample to enable applicant to render adequate water service within the entire area under consideration herein.

One of applicant's customers, on his own behalf and claiming to represent the views of a number of other residents of the city of Folsom, protested the granting of applicant's request until it has improved the service to its present customers. The principal basis for his protest was the allegation that water furnished by applicant for domestic purposes is not filtered or adequately treated and is often, for long periods of time, highly discolored and laden with foreign matter in suspension. He also alleged that water pressures in applicant's system are not uniform and that in certain sections of the city such pressures are insufficient to render satisfactory service.

In response to this protest, a witness for applicant explained the unusual turbidity of the water supply during the past winter as resulting from an old dam on one of the river's tributaries which had broken and thereby released a large quantity of fine silt, which did not settle out in Folsom Reservoir to the extent anticipated. He further testified that applicant is now actively investigating the cost of the installation and maintenance of a complete filtration and treatment plant in connection with the water supply for the city of Folsom and adjacent residential areas. He also stated that applicant is planning the installation of booster pump facilities to create adequate zones of pressure at the various elevations of the present and proposed service areas.

Applicant's witness further testified concerning the anticipated growth in the vicinity around Folsom. Here and in other locations, subdividers have inquired regarding what service may be provided by applicant. Although the present population of the city of Folsom is reported at only 3,500 people, it is predicted that within 20 years the population of the prospective residential area in and around the city will be increased ten times. The record indicates that applicant's source of water supply is adequate to meet such possible expansion. Furthermore, there appears to be no other such source available.

Based on all of the evidence before us, we find as a fact that public convenience and necessity require the construction, operation and maintenance of a public utility water system, or systems, by applicant within those areas in the County of Sacramento delineated on the map attached to the application herein as Exhibit B and as more particularly described in Exhibit C attached thereto.

We also find as a fact that public convenience and necessity require the exercise by applicant of the rights and privileges granted in the franchise conferred by Ordinance No. 692 of the Board of Supervisors of the County of Sacramento.

The certificates of public convenience and necessity issued herein are subject to the following provision of law:

That the Commission shall have no power to authorize the capitalization of the franchise involved herein or these certificates of public convenience and necessity, or the right to own, operate or enjoy such franchise or certificates 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 issuance of such franchise, certificates of public convenience and necessity or right.

O R D E R

The above-entitled application having been considered, a public hearing having been held, the matter having been submitted and now being ready for decision,

IT IS HEREBY ORDERED that:

1. A certificate of public convenience and necessity be and it hereby is granted to Natomas Water Company, a corporation, to construct, operate and maintain a public utility water system for the distribution and sale of water in the area described in Appendix A attached hereto.

2. A certificate of public convenience and necessity be and it hereby is granted to Natomas Water Company, a corporation, to exercise the rights and privileges conferred by the franchise issued pursuant to Ordinance No. 692, adopted January 6, 1960, by the Board of Supervisors of the County of Sacramento, in the following areas:

- a. That area certificated to Cordova Water Company by Decision No. 50969 dated January 10, 1955 in Application No. 35640 (2nd and 3rd Supplemental)

and subsequently transferred to Natomas Water Company by Decision No. 52286 dated November 29, 1955 in Application No. 37397 (Amended).

- b. That area certificated to Natomas Water Company by Decision No. 53448 dated July 16, 1956, in Application No. 37462 (Amended).
- c. That area certificated to Natomas Water Company by the foregoing Paragraph 1 of this order, saving and excepting therefrom any portion thereof lying within the corporate limits of the city of Folsom.

3. Applicant is authorized to apply, after the effective date of this order, its presently effective tariff schedules within the area certificated by the foregoing Paragraph 1 of the order herein.

4. Within thirty days after the effective date of this order, applicant shall revise its presently filed tariff schedules, including tariff service area maps acceptable to this Commission, and file same with the Commission in conformity with the provisions of General Order No. 96, to provide for the application of said tariff schedules for water service in the area being certificated by this order, consistent with the authorization hereinabove granted. Such tariff sheets shall become effective upon five days' notice to the Commission and to the public after filing as hereinabove provided.

5. Within ninety days after the effective date of this order, applicant shall file with this Commission four copies of a comprehensive map, or maps, drawn to an indicated scale not smaller than 600 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 system properties of applicant.

6. If the authorization herein granted is exercised, applicant shall procure and dedicate to public water utility purposes all real property not heretofore owned and so dedicated on which the wells,

pumps, tanks, reservoirs or other such facilities are or are to be located, including rights of way, easements and permits for canals, conduits, ditches and pipelines other than those located in public streets, roads or highways, and shall file with this Commission, within one hundred and eighty days after the effective date of this order, one copy of each appropriate document not heretofore filed with the Commission, showing such procurement, dedication, right of way, easement or permit.

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

Dated at San Francisco, California, this 9th day of May, 1960.

[Signature]

 President

[Signature]

[Signature]

[Signature]

[Signature]

 Commissioners

APPENDIX A

That part of the County of Sacramento, State of California, lying in portions of Township 9 North Range 6 East, Townships 9 and 10 North Range 7 East and Townships 9 and 10 North Range 8 East, M.D.B.&M., as shown on the map, Exhibit B, attached to the application herein, and described as follows:

Beginning at the Northwest corner of Block 1, Natomas Consolidated of California Subdivision No. 3; thence from said point of beginning southerly along the boundary line between Blocks No. 1 and No. 2 of said Subdivision No. 3 to the intersection of the center line of the White Rock Road; thence easterly along the center line of the White Rock Road to the intersection of the Grant Line; thence northerly along the Grant Line to the intersection of the center line of the Prairie City Road; thence northwesterly along the center line of the Prairie City Road to the intersection of the center line of U.S. Highway 50; thence easterly along the center line of U.S. Highway 50 to the intersection of the center line of the Southern Pacific Railroad, Placerville Branch; thence northwesterly along the center line of the Southern Pacific Railroad, Placerville Branch, to the intersection of the centerline of the Natomas Canal; thence northerly along the center line of the Natomas Canal to the north line of Section 33 T. 10 N., R. 8 E., M.D.B.&M.; thence east along the north line of Section 33 to the Sacramento County-Eldorado County line; thence northwesterly along the Sacramento County-Eldorado County line to the intersection of the center line of the Green Valley Road; thence southwestwardly along the center line of the Green Valley Road to the intersection of the center line of the Mormon Island Road; thence southwestwardly along the center line of the Mormon Island Road to the intersection of the easterly boundary line of the City of Folsom; thence northwesterly along the easterly boundary line of the City of Folsom to the northerly boundary line of the City of Folsom; thence southwestwardly along the northerly boundary line of the City of Folsom to the westerly boundary line of the City of Folsom; thence southeastwardly along the westerly boundary line of the City of Folsom to the intersection of the westerly Take Line of the Bureau of Reclamation; thence southerly along the westerly Take Line of the Bureau of Reclamation to the center line of the County Road (old U.S. 50); thence southwestwardly along the center line of the county road to the intersection of the center line of U.S. Highway 50; thence southwestwardly along the center line of U.S. Highway 50 to the intersection of the projected southerly Take Line of the Bureau of Reclamation; thence along the southerly Take Line of the Bureau of Reclamation to the center line of the American River; thence westerly along the center line of the American River to the intersection of the center line of Citrus Road; thence southerly along the center line of the Citrus Road to the intersection of Coloma Road; thence westerly along the center line of Coloma Road to the intersection of the center line of Cordova Lane; thence southeastwardly along the center line of Cordova Lane to the intersection of the center line of U.S. Highway 50; thence southwestwardly along the center line of U.S. Highway 50 to the intersection of the projected boundary line between Blocks No. 1 and No. 2, Natomas Consolidated of California Subdivision No. 3; thence southerly along said projected boundary to point of beginning.