

Decision No. 60531**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 KYBURZ WATER CO., a corporation, for)
 (1) Authority to issue and sell its)
 shares, (2) A certificate to operate)
 a water system to furnish water to)
 the public, and (3) An order estab-)
 lishing and approving rates for)
 service.)

Application No. 42029
 (Amended)

MacBride and Gray, by Charles F. Gray, Jr., for
 applicant.

Evan T. Marsden, for El Dorado County Department of
 Public Health, interested party.

W. B. Stradley and Sidney J. Webb, for the
 Commission staff.

O P I N I O NApplicant's Request

By this application, filed March 14, 1960 and as amended
 at the hearing on June 1, 1960, Kyburz Water Co., a California corpo-
 ration, seeks authority:

- (1) To operate a public utility water system in
 the area known as Kyburz Mountain Resort
 located on U. S. Highway 50 about 32 miles east
 of Placerville in El Dorado County.
- (2) To issue stock in the amount of \$57,000 for the
 purpose of acquiring the existing water supply
 facilities, transmission pipelines and distri-
 bution system in the first unit of the sub-
 divided properties.
- (3) To charge the amounts proposed in the applica-
 tion at both flat and meter rates for annual
 and seasonal service.

Public Hearing

After due notice a public hearing was held on this applica-
 tion before Commissioner Theodore H. Jenner and Examiner E. Ronald
 Foster at Kyburz on June 1, 1960. Applicant presented exhibits and

testimony through five witnesses in support of the application.

A registered sanitarian representing the El Dorado County Department of Public Health testified concerning the adequacy and quality of the water supply.

Engineering and financial representatives of the Commission staff cross-examined the witnesses. The application was submitted subject to the later filing of five exhibits, the last of which was received on June 30, 1960. The matter now is ready for decision.

Proposed Service Area

The area for which a certificate of public convenience and necessity is sought contains approximately 80 acres in the N.W. 1/4 of the N.W. 1/4 of Section 27 and the N.E. 1/4 of the N.E. 1/4 of Section 28, T. 11 N., R. 15 E., M.D.B. & M., as shown on Exhibit "D" of the application. The area lies in unincorporated territory, at an elevation just above 4,000 feet, and is traversed from east to west by U. S. Highway 50 and also by the South Fork of the American River.

Summer Homes, Inc., a California corporation, is in the process of developing the area and has subdivided the easterly portion thereof, containing about 50 acres, into the first unit of 91 lots varying from around 9,000 square feet to over two acres in area. It is proposed to subdivide the remaining 30 acres into 41 lots as the second unit. The first unit includes the resort buildings consisting of the tavern, restaurant, grocery store and service garage and also one lot upon which there are ten motor-court type cabins. Some houses have already been built and others are under construction on the residential lots in the first unit. By the end of the summer in 1960 it is anticipated that there will be a total of about sixty active service connections.

Description of the System

Water for the system is obtained from the two branches of Kyburz Creek, with a minimum flow of 100,000 gallons per day based on measurements made in August or September of 1957, according to applicant's engineer witness. Three dams afford a total storage capacity of approximately 100,000 gallons, the water being supplied by gravity at pressures in the service area varying from about 30 to 110 pounds per square inch. Chlorinating equipment is located on the transmission line between the dams and the service area. The three dams, chlorinating station and most of the transmission mains are located on forest lands with necessary easements and rights of way granted under permit issued by the U. S. Forest Service.

A well-designed distribution system is already installed in Unit No. 1, with provision for making extensions into Unit No. 2. The mains have minimum cover of 30 inches and are laid mostly in streets and partly in public utility easements as shown on the map received in evidence as Exhibit No. 8. Four 2-inch wharf-type fire hydrants are installed. There are no meters on any of the present service connections.

In general, it appears that the water supply facilities and distribution system have been installed in accordance with the minimum requirements of the Commission's General Order No. 103.

Cost of System and Financing

The major portions of the facilities were installed in the latter part of 1958 by Summer Homes, Inc. under a contract awarded after competitive bidding. The following tabulation shows the total actual undepreciated cost of those facilities as set forth in the late-filed Exhibit No. 6:

<u>Account No.</u>	<u>Description</u>	<u>Amount</u>
301	Intangible Plant	\$ 1,750.00
312	Source of Supply	9,356.00
324	Pumping Equipment	2,225.00
331	Water Treatment Equipment	2,778.00
343	Transmission and Distribution mains	36,221.50
345	Services	4,045.00
348	Hydrants	<u>667.00</u>
	Total	\$57,042.50

According to the testimony, the only overhead costs included in the foregoing tabulation are those represented by engineering design and supervision expenses of \$5,075 which have been distributed to the several accounts. Legal and engineering fees totaling \$1,750 represent the expenses of organization. The tabulated costs include no amounts for the two smaller dams which are reported to have been constructed some fifty or more years ago and certain pipelines installed in connection with them, all of which have been incorporated with the newly built water supply facilities, without cost to applicant.

In the record of this proceeding, the only evidence pertaining to the value of the two older dams and pipelines is the rough estimate of applicant's engineer that the present-day reproduction cost of such facilities would be not less than \$10,000, and in his opinion the depreciated value thereof would more than offset the amount of depreciation accrued on the recently installed facilities during the past 1½ years. The original dams and pipelines were utilized to supply water to Kyburz Resort prior to the development by Summer Homes, Inc. and before the installation of the additional facilities intended to be used for public utility purposes.

For the purposes of this proceeding, suffice it to say that the net depreciated historical cost of the entire water supply, transmission and distribution facilities proposed to be acquired by

applicant and thereafter to be devoted to public utility purposes appears to be not less than \$57,000.

For the purpose of acquiring the above-described water system, applicant proposes to issue to Summer Homes, Inc., 57,000 shares of its common stock having a par value of \$1.00 per share for an aggregate amount of \$57,000. The record shows that Summer Homes, Inc. will then transfer the entire 57,000 shares of said stock to Fred R. Morley and Diana M. Morley, his wife, for an amount of \$10,000 in accordance with the terms of the purchase agreement attached to the application as Exhibit "G" as modified by the supplementary purchase agreement late-filed as Exhibit No. 4. Said Fred R. Morley as president and Diana M. Morley as secretary-treasurer of the applicant corporation will then become the sole owners of the stock of said corporation, Kyburz Water Co. and they intend to operate the public utility water system under the authority requested herein.

It is proposed that the extension of the water system to serve Unit No. 2 will be financed in accordance with the provisions of that portion of the main extension rule, heretofore authorized by the Commission for public water utilities, whereby the subdivider would advance the cost of the extension mains and then be refunded by the percentage of revenue method.

Proposed Rates

Applicant has proposed a basic annual flat rate of \$72, a six-month summer season rate of \$42 and a six-month winter season rate of \$36. Similar amounts are proposed as minimum charges for the smallest size of meter for measured service, entitling the consumer to 1,000 cubic feet of water per month, with corresponding higher charges for larger meters and three blocks of quantity rates terminating at 25 cents per 100 cubic feet for usage over 4,000 cubic feet per month.

Applicant's president testified that no meters are planned to be installed as long as there is no necessity for them as an incentive to conserve the available water supply. While it appears that the proposed flat rates are reasonable for service rendered to single-family residential premises, the Commission is of the opinion that they might prove to be unfair and discriminatory if applied to service rendered to business establishments or to premises with more than one living unit using relatively large quantities of water. Therefore, the flat rate schedules hereinafter authorized will be restricted to service supplied to single-family residential premises, all other service to be rendered at the authorized meter rates.

Applicant has also proposed a rate of \$4 per month for service rendered to each fire hydrant. The only ones now installed are four two-inch wharf-type hydrants, for which the proposed rates is considered to be somewhat high. The order herein will authorize applicant to file an appropriate rate schedule for public fire hydrant service, to be applicable at such time as a fire protection agency may be organized to include applicant's proposed service area.

In the establishment of rates for such a system rendering service to some premises which may be occupied only at times during either one or both of the seasons, it must be borne in mind that, in addition to a reasonable return on the original cost of the installed facilities to which the owner is entitled, continuous maintenance and operation of the system will be required and depreciation of the facilities occurs throughout the entire year. These are the costs incurred in order to make the service available at any time when it may be desired by a consumer.

Estimated Operations

Since completion of the system, water service has been supplied to the resort properties, for construction purposes, and to completed homes within the area without any charge for such service.

Exhibit "E" of the application shows the estimated annual operating expenses to be about \$7,000. While the estimate includes a reasonable allowance for depreciation, nothing is included therein for county ad valorem taxes, state franchise tax or federal income tax. An amount of \$3,650 is included for part-time services of an operator and repair man, which amount appears excessive for a system of this size and character.

At the proposed flat rates and with a continuing increase in the number of annual and summer service connections, Exhibit "K" of the application shows the estimated annual revenue to be \$2,880, \$3,810 and \$4,800 for a total of 60, 80 and 100 such connections, respectively.

Applicant's president testified that he was aware of the possibility of operating at the losses indicated by the foregoing estimates and that he is prepared to absorb such losses until the service area is more fully developed. He stated that he is a registered sanitarian working as a consultant in that field with a licensed contractor and thus has other sources of income.

Franchise and Permits

The application states that no franchise is required by El Dorado County for the construction or extension of the water system. The application also states that Summer Homes, Inc., had obtained a permit from the California Real Estate Commission for the sale of the subdivision property.

Late-filed Exhibit No. 5 is a copy of a provisional water supply permit issued on October 3, 1957 to Summer Homes, Inc., by the El Dorado County Health Officer for the State Board of Public Health. At the hearing in this matter, an area sanitarian appeared for the El Dorado County Health Department and testified in protest to the granting of the requested certificate. His protest is substantiated

by the late-filed Exhibit No. 2, consisting of a letter dated June 2, 1960, from the El Dorado County Health Department and signed by the County Health Officer. The letter states that certain provisions of the said permit, issued October 3, 1957, have not been met and it also indicates disapproval of the water supply from a safety and adequacy standpoint. The record reveals that the present owner has not been utilizing the existing chlorination facilities. However, the testimony and exhibit presented by the Health Department includes no substantial evidence of a possible deficiency in the quantity of water and it appears elsewhere in the record that the available supply of water should be adequate for the prospective number of consumers in both units of the subdivision. The applicant herein will be expected to apply for the necessary permit from the El Dorado County Health Department prior to the commencement of service as authorized by the certificate hereinafter granted.

Miscellaneous

No resident of the service area nor any prospective consumer of the applicant's water system voiced any protest at the hearing.

Counsel for applicant requested at the hearing that an interim order be issued, authorizing the proposed rates to be put into effect, pending the issuance of a final decision. The Commission has considered the request and it will be denied.

Findings and Conclusions

The Commission finds and concludes, based upon the record herein, that applicant's water supply and distribution facilities as constructed and as proposed are adequate for the anticipated development of both units of Kyburz Mountain Resort, in accordance with the minimum requirements of this Commission's General Order No. 103.

The Commission finds and concludes that public convenience and necessity require that the requested certificate be granted. The Commission further finds and concludes that the rates set forth in the appendix to the following order are fair and reasonable for the service to be rendered.

The certificate hereinafter 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 for any amount of money 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.

The Commission is of the opinion and finds that the money, property, or labor to be procured or paid for by the issuance of the stock herein authorized is reasonably required for the purposes specified and that such purposes are not in whole or in part reasonably chargeable to operating expenses or to income. The authorization herein given is not to be construed as a finding of value of applicant's stock or properties, nor as indicative of amounts to be included in any future rate base for determination of just and reasonable rates.

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 a certificate of public convenience and necessity be and it is hereby granted to Kyburz Water Co., a corporation, to acquire, construct and operate a public utility system for the distribution and sale of water within the area known as Kyburz Mountain Resort, being in unincorporated territory located

on both sides of U. S. Highway 50 approximately 32 miles east of Placerville in El Dorado County, comprising the N.W. 1/4 of the N.W. 1/4 of Section 27 and the N.E. 1/4 of the N.E. 1/4 of Section 28, T. 11 N., R. 15 E., M.D.B. & M., as outlined in red on the map attached as Exhibit "D" to the application herein.

IT IS FURTHER ORDERED that:

1. Applicant is authorized to file, after the effective date of this order, the schedules of rates and charges set forth in Appendix A attached to this order, to be effective on or before the date service is first rendered to the public under the authority herein granted, together with rules and a tariff service area map acceptable to this Commission and in accordance with the requirements of General Order No. 96. Such rates, rules and tariff service area map shall become effective upon five days' notice to this Commission and to the public after filing as hereinabove provided.

2. Applicant shall notify this Commission, in writing, of the date service is first rendered to the public under the rates and rules authorized herein, within ten days thereafter.

3. Applicant shall file, within thirty days after the system is placed in operation under the rates and rules authorized herein, four copies of a comprehensive map, drawn to an indicated scale not smaller than 100 feet to the inch, delineating by appropriate markings the 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.

4. Applicant 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. 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 utility plant composition occur and at intervals of not more than five years. Results of these reviews shall be submitted to this Commission.

5. If the authorization herein granted is exercised, prior to the date service is first furnished to the public under the authority herein granted applicant shall apply for and obtain, from the public health authority having jurisdiction, a water supply permit for its proposed system, and applicant shall advise this Commission, in writing, as soon as such permit has been received.

6. On and after the effective date hereof and on or before December 31, 1960, applicant may issue not to exceed 57,000 shares of its capital stock at par value of \$1.00 per share for the purposes specified in the foregoing opinion.

7. Applicant shall file with the Commission a report or reports as required by General Order No. 24-A, which order, in so far as applicable, is made a part of this order.

8. In all other respects the application is denied.

The certificate and the authorization granted herein will expire if not exercised within one year after the date hereof.

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

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

[Signature]
President
[Signature]
[Signature]
[Signature]
Commissioners

- Commissioner C. Lynn Fox, being necessarily absent, did not participate in the disposition of this proceeding.

APPENDIX A
Page 1 of 7

Schedule No. 1

ANNUAL GENERAL METERED SERVICE

APPLICABILITY

Applicable to all metered water service furnished on an annual basis.

TERRITORY

The unincorporated community known as Kyburz, and vicinity, located adjacent to State Highway 50 approximately 32 miles east of the City of Placerville, El Dorado County.

RATES

Monthly Quantity Rates:		<u>Per Meter Per Month</u>
First 1,000 cu.ft. or less		\$ 6.00
Next 1,000 cu.ft., per 100 cu.ft.36
Next 2,000 cu.ft., per 100 cu.ft.30
Over 4,000 cu.ft., per 100 cu.ft.25
		<u>Per Meter Per Year</u>
Annual Minimum Charge:		
For 5/8 x 3/4-inch meter		\$ 72.00
For 3/4-inch meter		90.00
For 1-inch meter		108.00
For 1 1/2-inch meter		162.00
For 2-inch meter		252.00

The Annual Minimum Charge will entitle the customer to the quantity of water each month which one-twelfth of the annual minimum charge will purchase at the Monthly Quantity Rates.

(continued)

APPENDIX A
Page 2 of 7

Schedule No. 1

ANNUAL GENERAL METERED SERVICE

(continued)

SPECIAL CONDITIONS

1. The annual minimum charge applies to service during the 12-month period commencing January 1 and is due in advance.

2. The charge for water used in excess of the quantity allowed each month for the annual minimum charge may be billed monthly, bimonthly or quarterly at the option of the utility on a noncumulative monthly consumption basis.

Schedule No. 1S

SEASONAL GENERAL METERED SERVICE

APPLICABILITY

Applicable to all metered water service furnished on a seasonal basis.

TERRITORY

The unincorporated community known as Kyburz, and vicinity, located adjacent to State Highway 50 approximately 32 miles east of the City of Placerville, El Dorado County.

RATES

	<u>Per Meter Per Month</u>
Monthly Quantity Rates:	
First 1,000 cu.ft. or less	\$ 6.00
Next 1,000 cu.ft., per 100 cu.ft.36
Next 2,000 cu.ft., per 100 cu.ft.30
Next 4,000 cu.ft., per 100 cu.ft.25

Seasonal Minimum Charge:

	<u>Per Meter Per Season</u>	
	: Summer Season : : May 1 through : : October 31 :	: Winter Season : : Nov. 1 through : : April 30 :
For 5/8 x 3/4-inch meter	\$ 42.00	\$ 36.00
For 3/4-inch meter	54.00	42.00
For 1-inch meter	66.00	54.00
For 1 1/2-inch meter	96.00	78.00
For 2-inch meter	150.00	120.00

The Seasonal Minimum Charge will entitle the customer to the quantity of water each month which one-sixth of the seasonal minimum charge will purchase at the Monthly Quantity Rates.

(continued)

Schedule No. 1S

SEASONAL GENERAL METERED SERVICE
(continued)

SPECIAL CONDITIONS

1. Service may be taken under this schedule for either or both seasons.
2. The seasonal minimum charge is payable in advance on or before the initial day of the season and entitles the customer to the quantity of water each month on a noncumulative basis that corresponds to the seasonal minimum charge as shown above.
3. 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.

Schedule No. 2R

ANNUAL RESIDENTIAL FLAT RATE SERVICE

APPLICABILITY

Applicable to all annual residential water service furnished to single family units on a flat rate basis.

TERRITORY

The unincorporated community known as Kyburz, and vicinity, located adjacent to State Highway 50 approximately 32 miles east of the City of Placerville, El Dorado County.

RATE

	<u>Per Service Connection</u> <u>Per Year</u>
For a single family residence, including premises	\$72.00

SPECIAL CONDITIONS

1. The above residential flat rate charge applies to service connections not larger than one inch in diameter to single family units.
2. All annual residential service not covered by the above classification will be furnished only on a metered basis.
3. 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. 1, Annual General Metered Service, or Schedule No. 1S, Seasonal General Metered Service.
4. The annual flat rate charge is payable in advance on or before January 1 of each year.

Schedule No. 2RS

SEASONAL RESIDENTIAL FLAT RATE SERVICE

APPLICABILITY

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

TERRITORY

The unincorporated community known as Kyburz, and vicinity, located adjacent to State Highway 50 approximately 32 miles east of the City of Placerville, El Dorado County.

RATES

Per Service Connection
Per Season

Summer Season: Winter Season :
May 1 through: Nov. 1 through:
October 31 : April 30 :

For a single family residence,
including premises \$42.00 \$36.00

SPECIAL CONDITIONS

1. The above residential flat rate charges apply to service connections not larger than one inch in diameter to single family units.
2. All seasonal residential service not covered by the above classification will be furnished only on a metered basis.
3. 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. 1, Annual General Metered Service, or Schedule No. 1S, Seasonal General Metered Service.
4. Service may be taken under this schedule for either or both seasons.
5. The seasonal flat rate charge is payable in advance on or before the initial day of the season.

Schedule No. 5

PUBLIC FIRE HYDRANT SERVICE

APPLICABILITY

Applicable to all fire hydrant service furnished to municipalities, duly organized or incorporated fire districts or other political subdivisions of the State.

TERRITORY

The unincorporated community known as Kyburz, and vicinity, located adjacent to State Highway 50 approximately 32 miles east of the City of Placerville, El Dorado County.

RATE

	<u>Per Month</u>
For each hydrant	\$2.00

SPECIAL CONDITIONS

1. For water delivered for other than fire protection purposes, charges will be made at the quantity rates under Schedule No. 1, General Metered Service or Schedule No. 1S, Seasonal General Metered Service.
2. The cost of installation and maintenance of hydrants will be borne by the utility.
3. Relocation of any hydrant shall be at the expense of the party requesting relocation.
4. The utility will supply only such water at such pressure as may be available from time to time as the result of its normal operation of the system.