

Decision No. 60205**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 EDGAR C. HOLLAND and LEE FOSDICK,)
 doing business as SUNSET WATER CO.,) Application No. 42308
 for permission to sell water for)
 domestic purposes to residents of)
 SUNSET TERRACE.)

Laurence B. Myers for applicants;
Los Osos Valley Water Company, by Lloyd E. Somogyi,
 protestant;
John E. Johnson for Commission staff.

OPINION AND ORDER

By this application, filed May 31, 1960, Edgar C. Holland and Lee Fosdick, in a joint venture known as Sunset Water Co., seek a certificate of public convenience and necessity in order to provide public utility water service to a real-estate subdivision, of which they are the developers, located in the South Morro Bay area of San Luis Obispo County. The subdivision is generally known as Tract No. 185 Sunset Terrace.

Public hearing in the matter was held before Examiner F. Everett Emerson on July 12, 1960, at San Luis Obispo. The matter was submitted on such date and now is ready for decision.

Applicants own a parcel of 140 acres of land, of which they have developed approximately 30 acres into 84 residential lots known as Sunset Terrace Unit No. 1. They have installed in said Unit No. 1 a system of water mains and service connections for each of the lots. Six standard fire hydrants are connected to the system. As of the date of hearing, one residence was under construction. The supply for the system consists of an 8-inch gravel-packed well, lying about 500 feet to the east of Unit No. 1 on land owned by applicants, and

is one which has been in existence for a number of years but only recently rehabilitated by applicants. Water storage for the system consists of a 60,000-gallon redwood tank located about 1,150 feet south of Unit No. 1. The system was designed to comply with the provisions of this Commission's General Order No. 103.

Plans for future development of the balance of the 140-acre parcel or for the future water system to serve the same are presently unknown. However, applicants propose to place a second well in operation at such time as 20 customers may be connected to the system in Unit No. 1 and propose to erect a second storage tank when 100 customers are served. Applicants intend that their water system serve only their own lands.

Applicants propose to sell water at flat rates, using meters only for the purpose of curbing the wastage of water by their customers. The proposed rates are intended to produce the same revenues as would be produced if the water rates of the Los Osos Valley Water Company were applied to applicant's Sunset Terrace system. Applicants have estimated that the system will produce a nominal amount of net revenue when 84 customers receive full water service.

Los Osos Valley Water Company, a public utility under the jurisdiction of this Commission, protests the granting of a certificate to the applicants herein. Applicants' subdivision lies within the area in which this water utility has held itself out to serve. The 140-acre parcel of applicants is contiguous to the westerly boundary of an area which is in fact presently served by the water utility.^{1/}

^{1/} Witness Lambert testified that the water utility has a customer "just across the street" from applicants' property.

Applicants made inquiries of the utility, during the summer of 1959, respecting the availability of water service to their then-proposed subdivision and were informed that the utility would provide service under the terms of the utility's main extension rule. Mutual misunderstandings developed amongst the parties as to the requirements for the physical system, as influenced by conflicting requirements of the utility and of local public authorities, and as to the provisions and application of the utility's main extension rule. Applicants, discovering what they thought to be a latent ambiguity in the standard form contract for main extensions offered by the utility (respecting optional methods of refunding advance payments for system construction) became distrustful of the utility. Negotiations were broken off and applicants proceeded to construct their own system.

The water utility has made numerous improvements to its system in recent years. It has enlarged its water mains, obtained an additional source of supply and has considerably increased its water storage. It has plans for additional improvements, including a second 230,000-gallon storage reservoir south of applicants' tract. If it were to serve applicants' tract from this reservoir it would provide greater water pressure than applicants' system provides. It is a going concern, adequately serving the public.

It has long been the policy of this Commission to protect, wherever possible, the existing utility in any territory where it appears that the utility is properly discharging its duty and obligation to the public. In this instance, the utility is rendering reasonable service at proper rates and is fulfilling adequately the duties which it owes to the public. It holds itself out, and is ready and willing, to serve the entire area in accordance with rules which are presently in force and on file with this Commission and at rates

which this Commission has found to be reasonable. Unless first properly authorized by the Commission, no extension of service may be installed under any arrangement or agreement the terms of which deviate from the utility's filed rates or rules.

The utility's growth must generally be westward from its existing system of water mains because of terrain and the existence of an adjoining public water district. Granting a certificate to applicants would essentially block the logical growth of the utility.

The desire of applicants to enter the water utility business so as to promote the sale of their lots and homes is in no wise controlling as evidence of public convenience and necessity. Public convenience and necessity is best served by the extension of existing utility facilities and the Commission finds the fact so to be. In view of the evidence, the Commission finds that the application herein should be denied; accordingly,

IT IS ORDERED that the application of Edgar C. Holland and Lee Fosdick for a certificate of public convenience and necessity for operation of a water system in Sunset Terrace, San Luis Obispo County, be and it is hereby denied.

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

Dated at San Francisco, California, this 17th day of SEPTEMBER, 1960.

[Handwritten signatures of three individuals over horizontal lines]

Commissioners

Commissioner Theodore H. Jannar, being necessarily absent, did not participate in the disposition of this proceeding.