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**ORIGINAL**

Decision No. \_\_\_\_\_

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's  
own motion into the practices,  
operations, contracts, rules,  
facilities and service of the  
DEL MAR UTILITIES, a corporation.

Case No. 6240

John Gerald Driscoll, Jr., for the respondent.  
Gibson, Dunn & Crutcher, by Max Eddy Utt, and  
Albert W. Dowden, Jr., for the City of  
Del Mar; Alan M. Firestone, for the City  
of San Diego; Mona N. Andreen, for Wreford  
and Mary Chapple; interested parties.  
William Roche, for the Commission staff.

THIRD INTERIM OPINION

The above-entitled investigation on the Commission's own motion was instituted on March 17, 1959; hearing was held before Examiner William L. Cole on March 24, 1959, at Del Mar; and Decision No. 58216, dated March 31, 1959, ensued. A further hearing was held before Examiner Cole on September 2, 1959, at Del Mar; the matter was submitted; and a second interim opinion and second interim order ensued as Decision No. 59883, dated April 5, 1960.

By Decision No. 59883 the respondent was ordered, among other things, not to accept applications, thirty days after the effective date of the order, for new water service connections to any premises not previously served, pending further order of the Commission. Further, the respondent was ordered to reject any application filed within thirty days after the effective date of said decision where it appeared to the respondent that construction

of the facilities for which the new service was desired would not have been commenced prior to the end of the thirty-day period. By said decision the submission of the matter was set aside, and the matter was reopened for further hearings to be set in the future.

A further hearing was held before Commissioner C. Lyn Fox and Examiner Stewart C. Warner on January 26, 1961. At said hearing evidence was adduced by the respondent regarding its compliance with Decision No. 59883, as to the filing of certain water supply and availability engineering studies, and as to its compliance with other ordering provisions of said decision. The respondent was unprepared to support its report of July, 1960, filed by its engineering consultants in compliance with Sections 7, 9, 10, and 11 of said decision, which said report had been filed July 27, 1960. Other evidence was adduced by the City of Del Mar, and certain petitions for emergency relief from the restrictive water service connection provisions of Decision No. 59883 were received from property owners and prospective water customers who pleaded special emergency financial hardships imposed on them by said provisions. The matter was continued to March 29, 1961, at Del Mar.

Petition of Wreford G. Chapple and Mary C. Chapple

On January 16, 1961, the attorney for Wreford G. Chapple and Mary C. Chapple filed a petition for a special order as an exception to Decision No. 59883 authorizing the respondent to furnish water service to said petitioners for a 19-unit apartment building proposed to be constructed by petitioners under authority of a special conditional use permit issued to them by the City of Del Mar because of special circumstances existing on April 4, 1960,

at which time petitioners would have qualified for a water service connection under Decision No. 59883. The petitioner Mary C. Chapple testified substantiating the allegations of said petition, and pleaded the imposition on her husband and her of special emergency financial hardship as a result of the water service connection restrictions imposed on the respondent by Decision No. 59883.

Petition of Kent B. Hoopes

On January 30, 1961, pursuant to an order of the presiding officer at the January, 1961, hearing, Kent B. Hoopes addressed a letter to the Commission as Exhibit No. 39 setting forth the fact that in December, 1959, he purchased a lot in Del Mar with the intent of constructing a new home for his family; in January, 1960, he made application for a "Cal. Vet." loan with the Department of Veteran Affairs; and that in September, 1960, his money had been placed in escrow by the State, on which said money he has been paying monthly interest. He pleaded special emergency financial hardship as the result of the water service connection restriction imposed on the respondent by Decision No. 59883.

Petition of Martha G. Smith

On January 28, 1961, pursuant to an order of the presiding officer at the hearing of January, 1961, Martha G. Smith submitted a letter to the Commission as Exhibit No. 41 setting forth the facts regarding the special emergency financial hardship imposed by her inability, as a result of water service connection restrictions imposed on the respondent by Decision No. 59883, to obtain a water service connection to a portion of Lot 520, Arden Heights #5, and a portion of Lot L, Block 9 in Del Mar, which said lots had been purchased in 1959 for the express purpose of constructing two single-

family dwellings thereon, which she intended to sell. She alleged that the plans for the proposed residences had been approved by the San Diego County Building Department, and that both the Del Mar Planning Commission and the San Diego County Planning Commission had assured her that a use permit would be virtually automatic inasmuch as they were to be single-family dwellings and she was not asking for variances.

Findings and Conclusions

The Commission finds as a fact and concludes that, the petitioners having appeared in public hearing and having, individually and separately, supported their petitions for relief based on special emergency financial hardships, the public interest requires that as to the 19-unit apartment properties of Wreford G. Chapple and Mary C. Chapple, as to the property of Kent B. Hoopes, and the two portional lots of Martha G. Smith, the restriction placed on the respondent by Decision No. 59883, as to the acceptance of applications for water service connections, should be lifted and that said decision should be so modified. The order herein will so provide.

Due to the special emergency financial hardships found herein to exist, it is further found as a fact that the public interest requires that the effective date of the order which follows should be its date.

THIRD INTERIM ORDER

A further hearing having been held, testimony having been adduced, the Commission being fully informed, and based on the findings and conclusions hereinbefore made, now therefore,

IT IS ORDERED:

1. That Decision No. 59883, dated April 5, 1960, be, and it is, modified as to the ordering paragraph 1 thereof, and that the respondent be, and it is, authorized to accept an application for water service from Wreford G. Chapple and Mary C. Chapple for their property on which a 19-unit apartment building is to be constructed, as set forth in their letter to the Commission, dated January 16, 1961; from Kent B. Hoopes for his property, as set forth in his letter to the Commission dated January 30, 1961, Exhibit No. 39; and from Martha G. Smith for her properties, as set forth in her letter, dated January 28, 1961, to the Commission, Exhibit No. 41.

2. That in all other respects Decision No. 59883 shall remain in full force and effect.

The effective date of this order shall be the date hereof.

Dated at San Francisco, California, this 14th day of March, 1961.

[Signature] President  
[Signature]  
George E. Hoover

Commissioners

Everett C. McKeage  
 Commissioner..... being necessarily absent, did not participate in the disposition of this proceeding.