

ORIGINAL

Decision No. 63739

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the application of Kenneth Sowers (Winterhaven Water Company) for a certificate of public convenience and necessity to operate a water system in Winterhaven, and to establish and increase rates for water service.

Application No. 43655
(Amended)

Investigation on the Commission's own motion into the status, operations, rates, contracts, practices and service of KENNETH SOWERS, doing business as Winterhaven Water Company.

Case No. 6596

Kenneth Sowers, in propria persona, applicant and respondent.

Leland E. Carson, for Imperial County Health Department, interested party.

J. Calvin Simpson, for the Commission staff.

O P I N I O N

Kenneth Sowers, an individual, doing business as Winterhaven Water Company, by the above-entitled application, filed August 4, 1961, as amended October 25, 1961, seeks a certificate of public convenience and necessity to operate a water system in the unincorporated community of Winterhaven, Imperial County. The establishment of rates, constituting an increase in present rates for water service, is also sought. Case No. 6596 was instituted on July 12, 1960.

A public hearing was held before Examiner Stewart C. Warner on March 7, 1962, at Winterhaven. About 12 consumers attended the hearing, but none protested the granting of the application and two supported it. The matters were submitted on said date and are now ready for decision.

Area Sought to be Certificated

The area sought to be certificated consists of 320 acres comprising the east one-half of Section 27, T16S, R22 E, SBB&M. This includes a portion of the Colorado River and territory in Arizona, and the applicant, at the hearing, amended his request to include only the areas presently served in Winterhaven, California, located generally in the E½ of Section 27, T16S, R22E, SBB&M. Such area is shown on the map, Exhibit "F", attached to the application.

The community of Winterhaven is located about one mile west of Yuma, Arizona, across the Colorado River, north and south of U. S. Highway No. 80. It is partly surrounded by Indian reservation land and there is little prospect for growth of the community.

History

The applicant acquired the water system serving Winterhaven in 1940, the system having been in operation since about the year 1918. No application for a certificate of public convenience and necessity was filed by the prior owner and none was applied for by Sowers until August, 1961, by the instant application. Prior to the instant filing, Western States Utilities, in Application No. 40521, sought authority to purchase

the Winterhaven system and by the same application, Sowers sought authority to sell. Concurrently Western States Utilities filed Application No. 40522, requesting a certificate of public convenience and necessity. Decision No. 59452, dated December 29, 1959, authorized the transfer of the facilities, which said transfer was never consummated. The certificate granted by the same decision was conditioned upon the transfer. Thereupon, the instant investigation was instituted.

Water System Operations

Water service is being furnished to a total of 175 customers, including nine service stations, two motels, three restaurants, six bars, two grocery stores, four churches, the County Jail and Justice of the Peace Building, a doctor's office, 15 small apartments, and 132 residences. Fifteen meters have been installed, but all service is being rendered at flat rates. The applicant intends to meter his entire system and plans to have about 50 meters installed by the end of 1962, with the balance to be installed as soon as feasible.

The applicant's water system has been in poor condition, and early in 1961 the County Health Department condemned the applicant's sole source of water supply, a well, because of contamination. Thereupon, the applicant, through arrangements with the Imperial County Board of Supervisors and the County Road Department, secured permission to drill a new well in the middle of a street upon the condition that it be cement-sealed and sunk in a manhole. No other well site was available to the applicant at that time. To have secured permission to drill a well on Indian reservation land would have required lengthy negotiations with the Bureau of Indian Affairs.

Water from the new well is pumped to a 25,000-gallon

elevated tank and distributed throughout the water system in rubber, steel, plastic, and asbestos-cement pipe at operating pressures of about 25 pounds per square inch. The applicant has recently replaced many sections of rubber, plastic, and steel pipe with asbestos-cement pipe at his own expense, but a Commission staff engineering witness estimated that a total of 5,795 feet of pipe should be retired during the years 1962 through 1965 and replaced by a total of 6,455 feet of asbestos-cement pipe, at an increase in net plant of approximately \$13,000.

Due to the contamination found by the County Health Department, the applicant has been chlorinating the source of water supply, and he testified that six recent private laboratory tests had shown no contamination either of the sources of supply, on three occasions, or at three customer service connections. An old-fashioned tube drip-type chlorinator has been used which, in the opinion of a County health officer, was not adequate for future use. Said officer testified that in the Winterhaven area, which lies adjacent to the Colorado River, good health maintenance practices would require constant chlorination of the system.

The applicant proposes to install a 10,000-gallon hydro-pneumatic tank and to discontinue the use of the elevated storage tank. He has attempted to acquire an additional well site from a private party upon which he proposed to drill a new well and install a pump therein for stand-by purposes. However, his attempts to purchase such a site have not been successful. He plans new efforts.

Present and Proposed Rates

The following tabulation compares the applicant's present flat rates with those proposed in the application. The applicant's proposed rates for general metered service and for fire hydrant service are also set forth.

FLAT RATES

	<u>Present</u>	<u>Proposed</u>
Residence	\$ 3.75	
Small Apartment	3.00	
Residence & Apartments		\$ 4.00
Motels	10.00 - 12.00	15.00
Restaurants	6.00 - 10.00	15.00
Service Stations	5.50	
Markets, Stores, Churches	4.00	
Bars	4.00 - 10.00	
Service Stations, Stores, Markets, Churches, Bars		10.00
County Jail and Justice of the Peace Building	15.00	20.00

GENERAL METERED SERVICE

Quantity Rates

	<u>Per Meter Per Month</u>
First 1,600 cubic feet, or less	\$4.00
All over 1,600 cubic feet, per 100 cubic feet	.15

FIRE HYDRANT SERVICE

Rates

	<u>Per Month</u>
For each 4-inch hydrant head	\$2.00
For each 2½-inch hydrant head	1.00

Exhibit No. 1 is a copy of an agreement signed February 2, 1962, by Board Members of the Winterhaven Fire District for the payment of monthly charges for fire hydrant service to fire hydrants presently installed.

Accounting Records

The record shows that prior to June 1961, the applicant had few, if any, accounting records and none that could be relied upon for rate-making purposes. However, in Chapter 9 of Exhibit "G" attached to the application, he submitted earnings data for the years 1961 and 1962 estimated at present and proposed rates, which said data were not fully supported by his testimony regarding his bookkeeping and accounting past practices.

Earnings

A Commission staff engineer submitted as Exhibit No. 2 a report on the results of his investigation of the operations and earnings of the applicant which showed rates of return for the year 1962 estimated of 10.9% at present flat rates; 16.7% at proposed flat rates; and 17.3% at the proposed rates, partially metered. To show the effect of the improvement program which he recommended, including the lowering of certain mains and the additional cost involved in increasing water production, the rate of return upon completion of that improvement program at present flat rates was estimated to be 4.3%; at the proposed flat rate 8.6%; and for a fully metered system 10.3%. He estimated that the aforesaid rates of return would be reduced to 3.1% at present flat rates; 7.1% at the proposed flat rates; and 9.2% at the proposed metered rates, if and when all improvements, including the replacement and lowering of mains, the acquisition of a second well site, the drilling and equipping of a well thereon, and the installation of a hydropneumatic tank and new chlorinating equipment are completed.

Staff Recommendations

A Commission staff accounting witness recommended that the applicant be directed to utilize the staff estimated original cost of properties and related depreciation reserve shown in Exhibit No. 2 and to set up records that follow the appropriate Uniform System of Accounts prescribed by this Commission.

The staff engineering witness recommended as follows:

1. That the applicant be declared to be a public utility subject to the jurisdiction, regulation, and control of this Commission.
2. That if the application for a certificate were granted, the applicant be required to embark upon the replacement and improvement program outlined in Table 6-A of Exhibit No. 2, and that the recommended ordering paragraphs set forth in Sheets 1 through 3 of Attachment A of Exhibit No. 2 be incorporated as part of the Commission's decision on the matters.
3. That the applicant be directed to amend his application to request a certificate of public convenience and necessity to exercise a County franchise.

Findings and Conclusions

The following findings and conclusions are made:

1. That Kenneth Sowers, an individual, doing business as Winterhaven Water Company, is a public utility within the meaning of the Public Utilities Code of the State of California, as defined in Sections 216 and 241 thereof.
2. a. That public convenience and necessity require that the application of Kenneth Sowers for a certificate of public convenience and necessity to construct, extend and operate a public utility water system in the community of Winterhaven be granted.
- b. That public convenience and necessity do not require the granting of Kenneth Sowers' original application for a certificate of public convenience and necessity covering the entire E½ of Section 27, but do require that the certificate of public convenience and necessity be restricted generally to the E½ of Section 27, T16S, R22E, SBB&M, and specifically to the area set forth in the order which follows.

3. That Kenneth Sowers should apply for and obtain a franchise from Imperial County permitting the installation, maintenance and use of a water system in the streets and highways of said county and when such franchise has been obtained, should apply to the Commission, under Sections 1002 and 1003 of the Public Utilities Code, for authority to exercise the rights and privileges thereunder.
4. That the staff recommendations as to the filing of a comprehensive map and the determination of depreciation expense contained in paragraphs 4 and 5 of Attachment A of Exhibit No. 2 are reasonable and that the applicant should be directed to carry them out.
5. That the applicant should be directed to utilize the estimated original cost of properties and related depreciation reserve appearing in Exhibit No. 2 and to set up records that follow the Uniform System of Accounts for Water Utilities prescribed by the Commission.
6. That the present flat rates for water service and the meter and fire hydrant rates in Appendix A to the order herein are reasonable and will not produce an excessive rate of return. When the applicant has completed the improvements to his water distribution system recommended by the staff engineer in Exhibit No. 2, including, among other things, the installation of new chlorination equipment, the rates proposed in the application will be reasonable.
7. That the applicant should apply to the Imperial County Health Department for a new water supply permit and report in writing to the Commission within ten days thereafter that such application has been made.
8. That the applicant should make the improvements to its water distribution system recommended by the staff in Exhibit No. 2 and should file annual written reports with the Commission no later than March 1, of each year, outlining such improvements made to the water system during the prior calendar year.
9. That the applicant should additionally make the following improvements and file with the Commission a written report thereon within 30 days of the completion of such improvements:
 - a. Secure an additional source of water supply within one year after the effective date of this order, so that the total water supply available for delivery into the system shall be at least 600 gallons per minute. An application for amended water supply permit shall then be made, and a copy thereof submitted to this Commission.

- b. Provide for the measurement of water production as required in General Order No. 103, within 90 days after the effective date of this order.
 - c. Install and connect to the system a hydro-pneumatic tank of at least 9,000-gallon capacity within 90 days after the effective date of this order.
 - d. Prior to the completion of the main improvement program, lower all mains installed at insufficient depths so that the minimum depths shall be at least 2½ feet.
 - e. Use Class 150 asbestos-cement pipe in all new asbestos-cement pipe installations.
10. That prior to February 28, 1963, the applicant should install new chlorinating equipment, and prior to December 31, 1965, should have installed meters on all customers' water service connections.

The certificate of public convenience and necessity granted hereinafter shall be 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 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.

O R D E R

Application, as amended, having been filed, Investigation on the Commission's own motion having been instituted, a public hearing having been held, the matters having been submitted and now being ready for decision,

IT IS HEREBY ORDERED as follows:

1. That Kenneth Sowers be, and he is declared to be, a public utility within the meaning of the Public Utilities Code of the State of California, as defined in Sections 216 and 241 thereof.
2. That Kenneth Sowers be and he is granted a certificate of public convenience and necessity to construct, extend, and operate a public utility water system in the community of Winterhaven in the E½ of Section 27, Township 16 South, Range 22 East, SBB&M, in the area bounded as follows:
 - a. On the west by Third Street; on the north by a line approximately 120 feet north of H Street; on the east by First Street; and on the south by an alley south of Highway Avenue from Third Street to First Street.
 - b. The rectangular area, approximately 175 feet deep by 460 feet long, fronting on First Street and south of the alley south of Highway Avenue.
3. That Kenneth Sowers shall not extend his water system outside of the boundaries of the area herein certificated without further order of the Commission.
4. That Kenneth Sowers shall apply for and obtain a franchise from Imperial County permitting the installation, maintenance and use of a water system in the streets and highways of said county and when such franchise has been obtained, shall apply to the Commission, under Sections 1002 and 1003 of the Public Utilities Code, for authority to exercise the rights and privileges thereunder.
5. That the applicant shall file with this Commission, within 60 days after the effective date hereof, four copies of a comprehensive map, drawn to a scale not smaller than 100 feet to the inch, delineating by appropriate markings the various tracts of land and territories served, the principal water storage and distribution facilities, and the locations of the various water system properties of applicant.
6. That, beginning with the year 1962, the applicant shall determine depreciation accruals by multiplying depreciable utility plant by a rate of 3.3 per cent. This rate shall be used until review indicates it should be revised. The applicant shall

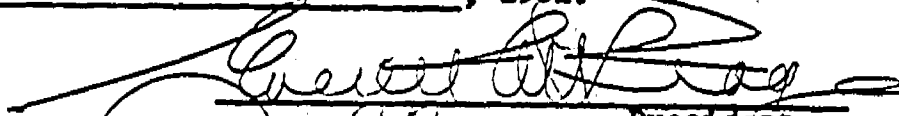
review the depreciation rate, using the straight-line remaining life method, when major changes in utility plant composition occur and at intervals of not more than five years shall revise the above rate in conformance with such reviews. Results of these reviews shall be submitted to this Commission.



7. That the applicant shall file with this Commission, within 30 days after the effective date of this order, in conformity with General Order No. 96-A and in a manner acceptable to the Commission, the schedule of rates attached to this order as Appendix A, together with rules governing service to customers, a tariff service area map showing definite boundaries, and sample copies of printed forms to be used in connection with customers' services. Such rules, tariff service area map, and forms shall become effective on five days' notice to the Commission and to the public after filing as hereinabove provided.
8. That the applicant shall apply to the Imperial County Health Department for a new water supply permit and report in writing to the Commission within ten days thereafter that such application has been made.
9. That the applicant shall make the improvements to its water distribution system recommended by the Commission staff engineer as outlined in the preceding opinion and as more specifically set forth in Exhibit No. 2 filed at the hearing. Such improvements shall include the recommended main replacement and improvement program set forth on Table 6-A of Exhibit No. 2; the securing of an additional source of water supply within one year after the effective date hereof so that the total water supply available for delivery into the water system shall be at least 600 gallons per minute and, then, the obtaining and submission of a copy of an amended water supply permit; the provision for the measurement of water production as required in General Order No. 103 within 90 days after the effective date of this order; the installation and connection to the system of a hydropneumatic tank of at least 9,000 gallons capacity within 90 days after the effective date of this order; the lowering of all mains installed at insufficient depths so that all minimum depths shall be at least 2½ feet; the use of Class 150 asbestos-cement pipe in all new asbestos-cement pipe installations; and the installation of new chlorinating equipment.

10. That the applicant shall file with the Commission a written report within thirty days after the completion of each of the improvements hereinabove ordered to be made, and shall file interim progress reports on these improvements by March 1 of each year.
11. That, prior to December 31, 1965, the applicant shall install meters on all customers' water service connections, and shall have so notified the Commission in writing.

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

Dated at San Francisco, California, this
25th day of MAY, 1962.


President


George L. Grover

Commissioners

APPENDIX A
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Schedule No. 1

GENERAL METERED SERVICEAPPLICABILITY

Applicable to all metered water service.

TERRITORY

Winterhaven and vicinity, Imperial County.

RATES

	Per Meter Per Month
Quantity Rates:	
First 1,600 cu.ft. or less	\$ 4.00 (I)
Over 1,600 cu.ft., per 100 cu.ft.15
Minimum Charge:	
For 5/8 x 3/4-inch meter	\$ 4.00
For 3/4-inch meter	5.00
For 1-inch meter	8.00
For 1½-inch meter	15.00
For 2-inch meter	20.00
For 3-inch meter	40.00
For 4-inch meter	80.00 (I)

The Minimum Charge will entitle the customer to the quantity of water which that minimum charge will purchase at the Quantity Rates.

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Schedule No. 2

GENERAL FLAT RATE SERVICE

APPLICABILITY

Applicable to all flat rate water service.

TERRITORY

Winterhaven and vicinity, Imperial County.

RATES

	Per Service Connection Per Month	
1. For a single-family residential unit, including premises	\$ 4.00	(I)
2. For each motel or restaurant	15.00	
3. For each store, market, church, bar or service station	10.00	
4. For the County Jail and Justice of the Peace Building	20.00	(I) (D)

SPECIAL CONDITIONS

1. All service not covered by the above classifications shall be furnished only on a metered basis.

2. For service covered by the above classifications, if either the utility or the customer so elects, a meter shall be installed and service provided under Schedule No. 1, General Metered Service.

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Schedule No. 5

PUBLIC FIRE HYDRANT SERVICE

APPLICABILITY

Applicable to all fire hydrant service furnished to municipalities, duly organized fire districts and other political subdivisions in the State.

TERRITORY

Winterhaven and vicinity, Imperial County.

RATES

	<u>Per Hydrant</u> <u>Per Month</u>
1. For each four-inch hydrant	\$2.00
2. For each two and one-half-inch hydrant	1.00

SPECIAL CONDITIONS

1. For water delivered for other than fire protection purposes, charges shall be made at the quantity rates under Schedule No. 1, General Metered Service.

2. The cost of installation and maintenance of hydrants shall 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 a result of its normal operation of the system.

5. Fire hydrants shall be attached to the utility's distribution mains upon receipt of proper authorization from the appropriate public authority. Such authorization shall designate the type and size of hydrant and the specific location at which each is to be installed.