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**ORIGINAL**

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

## BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of  
 INVERNESS WATER COMPANY, a California  
 corporation, for a certificate of  
 public convenience and necessity  
 authorizing Applicant to furnish  
 public utility water service in a  
 certain portion of Marin County,  
 California.

Application No. 44251  
 (Filed March 8, 1962)

Bacigalupi, Elkus & Salinger, by William G. Fleckles, for applicant.

U. S. Department of Interior, National Park Service, by William J. Costello, James E. Cole, and James M. Siler; Inverness Public Utility District, by Douglas J. Maloney; protestants.

Drakes Beach Estates, Inc., and Drakes Bay Land Co., by Benjamin P. Bonelli; interested parties.

W. B. Stradley, for the Commission staff.

O P I N I O N

This application was heard before Examiner Carol T. Coffey at San Francisco on May 1, 1962. The matter was submitted for decision on May 31, 1962, upon the receipt of late-filed exhibits.

Applicant requests the issuance of a certificate of public convenience and necessity authorizing it to provide public utility water service to two real estate developments in west Marin County known as Drakes Bay Estates and Drakes Bay Pines.

Service Area Requested

Applicant presently serves approximately 320 customers in the vicinity of the town of Inverness. Drakes Beach Estates, Inc., (Subdivider) has requested that applicant supply water service to a 1,000 acre ranch it is developing adjacent to the seashore on Point Reyes Peninsula. Drakes Bay Land Company has also requested service by the applicant to a 500 acre ranch on the Inverness Ridge of Point Reyes Peninsula which it plans to subdivide. These areas for which a certificate is requested are located between Drakes Bay and the town of Inverness, within the boundaries of the proposed Point Reyes National Seashore.

Of the approximately 2,000 ultimate residential lots, Subdivider has recorded a total of 218 lots (Exhibit No. 1) in three subdivisions known as Drakes Beach Estates, Subdivision No. 1 (81 lots), Drakes Bay Unit No. 1 (88 lots), and Drakes Bay Unit No. 2 (49 lots). The Board of Supervisors of Marin County has tentatively approved maps for 96 more lots in Unit No. 2 and for 89 lots in a subdivision known as Drakes Bay Unit No. 3, but these lots have not been recorded. As of May 1, 1962, 125 lots have been sold, 9 houses have been completed, and 2 houses are under construction.

No construction or land development of the ultimate 300 lots has been effected in the area of the Drakes Bay Land Company.

An easement exists between the areas for which a certificate is requested.

Water Service History

When development of the subdivisions started in 1960, both the Inverness Water Company and the Inverness Park Water Company, water utilities, refused to serve the areas to be subdivided. Subdivider considered the formation of a public utility but determined that to do so would not be feasible due to the requirements of this Commission relating to capitalization. Subdivider formed in mid-1961 the Limantour Mutual Water Company (Mutual), as the only other alternative, to supply water to its subdivisions and to the ranch. A water system was installed to serve two of the three presently recorded subdivisions, with transmission lines to serve the third unit and all of the proposed commercial and multiple dwelling areas. The system was built by Marin County at a cost of \$151,694.71, financed as follows, mainly by the formation of assessment districts which issued 15 year 6 percent bonds:

- a. Drakes Beach Estates, Subdivision No. 1 (81 lots) -- \$75,492 assessment,
- b. Drakes Bay Unit No. 1 (88 lots ) -- \$61,248 assessment,
- c. Subdivider contributed \$14,954.71 since assessment bonding estimates were below cost.

This water system was acquired from the assessment districts by Mutual at no cost.

The applicant was again requested to serve the areas, subsequent to the formation of Mutual, after the purchase of applicant by the Citizens Utilities Company. By agreement dated January 22, 1962, applicant bought the water system of Mutual for \$5,000 in cash, to be distributed to 110 lot owners, and agreed to

apply to this Commission for a certificate of public convenience and necessity to serve the areas. Notwithstanding the sale of Mutual's water system to applicant, the approximately \$135,000 of bonds issued to finance the construction of the water system remains an obligation to be paid by the lot owners in the two assessment districts. Applicant will make future extensions in accordance with its filed rules.

The president of Subdivider testified that of the 179 shares authorized, Mutual had not issued any shares to the 96 qualified shareholders at the time of the agreement to sell the water system of Mutual; that a special shareholders' meeting was held in December 1961, to authorize the sale of Mutual's assets; that all of the over 50 percent of the stock represented at the meeting, either by proxy or in person, voted in favor of selling the assets. President of Subdivider further testified also that Subdivider did and does not want a mutual because of the many problems involved, poor service, lack of management, mutual would lose money due to small size, and because the prohibition by the Corporation Commissioner against a subdivider's owning stock in a mutual could result in the subdivider's losing control of the mutual after the first annual meeting and therefore subdivider has no assurance of water being available for future subdivisions.

#### Water System Operations

Applicant estimates it will have 2,420 services when the two areas are entirely developed, equivalent to 2,750 residential customers. The presently installed system as acquired from Mutual consists of two wells with pumping plants, two 40,000 gallon storage

tanks, eleven fire hydrants, and associated mains, valves and services. These facilities are all within the area of Subdivider. Applicant anticipates that in the future it will interconnect the present Inverness service area with the two proposed service areas and operate all areas as an integrated system. Based on his review of geological maps and the logs and pumping tests of Mutual's wells, witness for applicant testified it was his belief there was adequate water available to serve the areas for which certification is requested. No definite engineering or other expert testimony was introduced to support this belief as to the adequacy of water supply to meet ultimate requirements.

With the exception of minor discrepancies which the applicant has agreed to correct, the existing water system has been installed in accordance with the provisions of General Order No. 103.

Mutual has obtained permits from the State Department of Health and the Board of Health of Marin County which authorize it to render water service.

Applicant proposes to charge within the areas for which certification is requested the same rates as those applied to its present service area in the vicinity of Inverness.

#### Estimated Earnings

Applicant estimates that the cost of the water system to serve the ultimate development of the areas will be \$1,231,445. Of this amount \$197,300 will be financed by the applicant, \$909,195 will be advanced by the developers and \$124,950 is the amount the applicant proposes to enter into its books of account to record the

purchase of Mutual's water system. Annual operating results are estimated for the completed development as follows:

Gross Revenues	\$ 96,250
Operating Expenses	<u>65,800</u>
Net Revenue	\$ 30,450
Refunds of Advances	\$ 20,200

Net revenue is estimated to be a loss of \$300 for the year 1962 but it is estimated to increase to \$600 for the year 1963. By the end of 1963, in addition to the purchase of the Mutual system, applicant estimates that it will have financed \$34,500 of plant and the developer will have advanced \$60,495.

Proposed Accounting for Purchase of Mutual

Applicant, without any related entry to the Plant Acquisition Adjustment or Contributions in Aid of Construction accounts, proposes to book a total of \$124,950 to record the original cost of the Mutual water system purchased for \$5,000.

This Commission on occasion has held that when a public utility purchases a mutual water system, the original costs of construction, and not the purchase price, should be charged to plant accounts, on the theory that the mutual has dedicated the water system to public use, with the difference between the net original costs and the price, either the excess or the deficiency, being credited or charged to the proprietary capital. However, where there has been no dedication the Commission has directed that only the utility purchase price paid by the utility be booked. Substantial questions of fact have to be determined in each instance in order to make equitable determinations. These might include whether the mutual is a true mutual or is in fact a public utility which has

dedicated its property to public use, or whether the mutual truly serves the needs of its shareholders as a mutual or is a subdivi-der's tool for promotion, or whether the investment made by the utility stockholders was prudent and the amount on which the utility should be allowed to earn a return.

#### Protestants' Positions

The Inverness Public Utility District, representing the present consumers of applicant, protested the request of applicant because of the possible adverse effects on the rates paid by and the water available to the present consumers of applicant, and because of the pendency of legislation relating to the proposed Point Reyes National Seashore. It requested that the applicant's request either be denied or that the hearing on the application be continued pending resolution of the question of acquisition of the areas by the Federal Government. It was urged, should a certificate be granted, that the applicant be required to maintain separate accounting records by districts.

A representative of the National Park Service of the U. S. Department of Interior testified relative to the development and legislative status of the proposed Point Reyes National Seashore. Although legislation authorizing the establishment of the Point Reyes National Seashore is before the Congress of the United States, protestant could not give assurance as to when or whether the proposed legislation would become law. Protestant asked that this Commission give consideration to the legislation in prospect.

Findings

Upon consideration of the evidence the Commission finds:

1. Applicant has failed to demonstrate the adequacy of available water supplies to serve the existing service area of the company and the areas for which a certificate is requested. To grant applicant's request as set forth in the application would not be in the public interest. Applicant's request should be denied in part.

2. Public convenience and necessity require that the application for a certificate of public convenience and necessity be granted for the subdivisions delineated on Exhibit No. 1 and known as Drakes Beach Estates, Subdivision No. 1; Drakes Bay Unit No. 1; and Drakes Bay Unit No. 2.

3. The rates presently charged by applicant are fair and reasonable for the service to be rendered within the areas for which the certificate of public convenience and necessity will be issued.

4. Applicant's proposed water supply and distribution facilities will provide reasonable service for such areas. When the applicant has shortened three sections of 2-inch pipe to a maximum of 250 feet, the proposed system will meet the minimum requirements of General Order No. 103.

5. The required permits from the appropriate public health authorities have not been obtained by applicant.

6. The record reveals that Mutual was conceived and created by Subdivider to supply water to its subdivisions as an alternate of supply by an existing water utility, or by the formation of a public utility, or by a public district. Mutual is a mutual water company and has not devoted its property to public utility service.



7. Applicant is the first to devote the water system acquired from Mutual to public utility service.

8. The original cost to applicant of the water system purchased from Mutual is \$5,000 plus other costs of acquisition.

The action taken herein is for the issuance of a certificate of public convenience and necessity only and is not to be considered as indicative of amounts to be included in a future rate base for the purpose of determining just and reasonable rates.

The certificate hereinafter granted 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.

ORDER

An application having been filed, a public hearing having been held and based on the evidence therein adduced,

IT IS ORDERED that:

1. A certificate of public convenience and necessity be and it is granted to applicant to construct and operate a public utility water system for the distribution and sale of water in the subdivision tracts in Marin County known as Drakes Beach Estates, Subdivision No. 1; Drakes Bay Unit No. 1; and Drakes Bay Unit No. 2, as recorded on May 1, 1962, and as delineated on Exhibit No. 1 in this proceeding.

2. Applicant is authorized to apply, after the effective date of this order, its presently effective tariff schedules to the areas certificated herein.

3. Applicant is authorized and directed to revise, within thirty days after the effective date of this order and in conformity with General Order No. 96-A, such of its tariff schedules, including a tariff service area map acceptable to this Commission, as are necessary to provide for the application of its tariff schedules to the areas certificated herein. Such tariff sheets shall become effective upon five days' notice to the public and this Commission after filing as hereinabove provided.

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

5. 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 of not more than 400 feet to the inch, delineating by appropriate markings the tract 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. Prior to the date service is first furnished to the public under the rates and rules authorized herein, applicant shall (a) apply to the appropriate public health authority for a water supply permit for the system which will serve the area herein certificated, and (b) report to the Commission in writing, within ten days thereafter, that such application has been made.

7. Applicant shall not without further order of the Commission extend its water system beyond the area herein certificated.

8. Applicant shall maintain its accounting records in such form as to show separately the revenues, expenses, plant investment and related depreciation reserve pertaining to the operations of and investment in the properties located in the area herein certificated.

9. Applicant, in recording its acquisition of the Mutual's properties, shall charge to its plant accounts an amount not in excess of the purchase price paid plus reasonable cost of acquisition. In addition, applicant shall, within thirty days after the effective date of this order, file with this Commission the journal entries it proposes to use for the purpose of recording said acquisition, together with a statement showing the items to be capitalized as representing purchase price and costs of acquisition.

10. The authorization herein granted will expire if not exercised within one year after the date of this order.

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

Dated at San Francisco, California, this 4<sup>th</sup> day of September, 1962.

George G. Traver  
 President

D. L. Fox

Conrad W. Page

Fredrick B. Hallock

Commissioners