

Decision No. 65102**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of }
 ALVIN J. HOFFMAN, an individual and }
 sole proprietor, for a certificate }
 of public convenience and necessity }
 to operate a public utility water }
 system in the name of Pan-Terra Water }
 Company, and to establish flat rates }
 for water service in a portion of the }
 unincorporated area of the County of }
 Santa Clara, State of California, }
 pursuant to the provisions of the }
 Public Utilities Code of the State }
 of California. }

Application No. 44403
 (Filed May 2, 1962)

Wade H. Hover, for applicant.
James S. Kent, for himself and
J. Kettmann, for Anderson Lake
 Homeowners and Recreation Associa-
 tion, protestants.
A. C. Fegan, for the Commission staff.

O P I N I O N

By this application Alvin J. Hoffman seeks (1) a certificate of public convenience and necessity to construct and operate a public utility water system in Santa Clara County and (2) authority to establish rates and charges for the service to be rendered by said water system.

Public hearing was held before Examiner Porter at San Jose on September 12, October 2, 23 and 24, 1962, on which latter date the matter was submitted.

The area for which a certificate is requested includes about 1,200 acres and is located approximately 4 miles east of the City of Morgan Hill, Santa Clara County. Originally record title to this land was held by two individuals, Gladys Jackson and Evelyn Jackson. In 1952, Holiday Lake Resort, with an area of about 350

acres, was established on the shore of Anderson Lake under a long-term lease by applicant's predecessor. In February 1962, applicant purchased from the lessors the fee in the realty under lease. There are about 145 lots, averaging approximately 10,000 square feet in area, laid out as subleases under a use permit. On about 50 of these lots houses have been built and they receive water service from the existing water system, without charge.

The remaining area in Holiday Lake Resort of about 310 acres, including roadways, is proposed to be subdivided, but subdivision plans have not been filed.

The balance of the area for which a certificate is requested, about 850 acres, and which is owned by the Jacksons, is presently being used for range and pasture land, with no plans for subdivision in the near future.

The present water system is already installed and providing service within the Holiday Lake Resort area. The Holiday Lake Resort was established in 1952 by applicant's predecessor under a long-term lease from the Jackson sisters. Applicant acquired this lease and subsequently purchased the resort area. The original system which served the Holiday Lake Resort was installed by said predecessor at the time the resort was established. This original system was supplied from surface springs which in 1960 became a hazard to health and are no longer connected to the system. As a substitute source of supply, applicant constructed a connection to the Jacksons' well, about two miles removed from the Holiday Lake Resort area. Water is furnished, and has been so furnished since the establishment of the system, without charge to residents of the area having a lease from applicant or his predecessor.

A contract (Exhibit 14) was entered into by applicant and the Jacksons which provides that, as a condition of continued use of their well:

a. Applicant apply for a certificate of public convenience and necessity.

b. A specified portion of the Jacksons' property be included in the area certificated by the Commission.

The evidence shows that the Jackson well is inadequate to serve the entire area requested, including said specified portion of the Jacksons' property. If applicant were to be granted a certificate for a smaller area, however, he would have no assurance of the continued use of the production of that well.

Under an agreement with the Jacksons (Exhibit 13), applicant has the right to drill a well within 600 feet of the Jackson well. The indications are that applicant would have a reasonable expectation of developing a well suitable for supplying sufficient water to serve the 350 acres included in the Holiday Lake Resort.

To bring the system up to the requirements of the Commission's General Order No. 103, Rules Governing Water Service Including Minimum Standards for Design and Construction, applicant would have to reconstruct practically his entire distribution system, which consists largely of long runs of undersized mains not buried to proper depths. While applicant's balance sheet (Exhibit 1 to the application) appears to overstate his assets and net worth, his financial resources would be sufficient to develop a new well and to rehabilitate the water system. However, the extensive subdividing activity he plans in the area may preempt these resources, leaving insufficient financing for the water system.

Based upon the record in this proceeding, the Commission finds that:

1. The public convenience and necessity require that a certificate be granted for a 325-acre portion of the Holiday Lake Resort area. No present need for public utility water service has been shown to exist in the remaining 875 acres included in applicant's request.

2. In two fundamental respects applicant's water system does not meet the minimum requirements for providing adequate public utility service:

(a) It has no firm and assured supply of potable water.

(b) The distribution system is inadequate and poorly constructed.

3. Applicant has not made a sufficient showing that he has the financial capability, over and above the requirements of his planned subdividing activity, to develop a new source of supply and reconstruct the distribution system.

4. The authority granted herein should not become effective until applicant has developed an assured water supply and brought all elements of the system up to at least minimum standards for public utility water service.

5. Applicant should be restrained from providing water service to any premises not served by his water system prior to the effective date of this order.

6. The rates proposed by applicant are unreasonably high; the rates set forth in the appendix to the following order will be fair and reasonable for the proposed service after improvement of the system; and subsequent to the effective date of ordering paragraph 1 herein, applicant should be authorized to file the rates set forth in said appendix.

The certificate hereinafter granted shall be subject to the following provision of law:

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

IT IS ORDERED that:

1. A certificate of public convenience and necessity is hereby granted to applicant, Alvin J. Hoffman, doing business as Pan-Terra Water Company, to construct and operate a public utility water system within the County of Santa Clara, said area to be that portion of the requested area shown on Exhibit A-1 in this proceeding described as follows:

Commencing at the most easterly point of the area shown on Exhibit A-1, at the intersection of the centerline of Dunne Avenue and a line designated "Section Line", bearing N 3° 40'W, thence northerly along this "Section Line" a distance of 216.11 feet to the shore of Anderson Dam Lake, thence in a westerly direction along the shoreline of Anderson Dam Lake a distance of approximately 12,000 feet to the intersection with a line bearing S 2° 00'W, thence southerly along this line a distance of 1,591.83 feet to the intersection with a line bearing S 53° 06'53" E, thence southeasterly along this line and a line bearing S 52° 55'E, a combined distance of 8,357.70 feet to the intersection with the centerline of Dunne Avenue, thence northeasterly along the centerline of Dunne Avenue to the point of beginning.

2. Applicant shall file with this Commission within thirty days after the effective date of this ordering paragraph a list of the most recent customers occupying any premises receiving service from applicant's water system prior to that date. This list shall show the name and address of each customer and shall identify each customer's premises by a lot number as shown on Exhibit 4 in this proceeding.

3. Applicant is authorized and directed to file with this Commission, after the effective date of this ordering paragraph and prior to the date service is first furnished to the public under the authority herein granted, in conformity with General Order No. 96-A and in a manner acceptable to the Commission, the schedules of rates attached to this order as Appendix A, rules governing service to customers, a tariff service area map and copies of printed forms to be used in connection with customers' services. Such rates, rules, tariff service area map and forms shall become effective upon five days' notice to the Commission and to the public 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. Applicant shall file comprehensive engineering and financial plans, acceptable to the Commission, for developing an assured water supply and for bringing all portions and elements of the water system, including storage, distribution, and transmission facilities up to at least the minimum standards prescribed by General Order No. 103 and shall submit such plans together with an acceptable program showing dates of completion of all of the necessary improvements, in writing, to this Commission by July 1, 1963.

7. Until further order of this Commission, applicant shall not provide water service to any premises not served by applicant's water system prior to the effective date of this ordering paragraph.

8. Applicant shall determine 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.

The effective date of paragraphs 2, 6 and 7 of this order shall be twenty days after the date hereof. In all other respects, the effective date of this order shall be established

by supplemental order of this Commission following applicant's completion of the improvement of his system according to the plans specified in said ordering paragraph 6.

Dated at San Francisco, California, this 19th day of MARCH, 1963.

George T. Hoover President
~~[Signature]~~
[Signature]
Frederick B. Hulsehoff
Gallagher W. Bennett Commissioners

APPENDIX A
Page 1 of 5

Schedule No. 1A

ANNUAL GENERAL METERED SERVICE

APPLICABILITY

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

TERRITORY

Holiday Lake Resort and vicinity, located approximately four miles east of Morgan Hill, Santa Clara County.

RATES

	<u>Per Meter Per Month</u>
Monthly Quantity Rates:	
First 800 cu.ft. or less	\$ 5.00
Next 2,200 cu.ft., per 100 cu.ft.25
Over 3,000 cu.ft., per 100 cu.ft.20
	<u>Per Meter Per Year</u>
Annual Minimum Charge:	
For 5/8 x 3/4-inch meter	\$ 60.00
For 3/4-inch meter	72.00
For 1-inch meter	99.00
For 1 1/2-inch meter	162.00
For 2-inch meter	222.00

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.

SPECIAL CONDITIONS

1. The annual minimum charge applies to service during the 12-month period commencing January 1 and is due in advance. If a permanent resident of the area has been a customer of the utility for at least 12 months, he

(Continued)

Schedule No. 1A

ANNUAL GENERAL METERED SERVICE
(Continued)SPECIAL CONDITIONS (Contd.)

may elect, at the beginning of the calendar year, to pay prorated minimum charges in advance at intervals of less than one year (monthly, bimonthly or quarterly) in accordance with the utility's established billing periods for water used in excess of the monthly allowance under the annual minimum charge. When meters are read bimonthly or quarterly, the charge will be computed by doubling or tripling, respectively, the number of cubic feet to which each block rate is applicable on a monthly basis.

2. The opening bill for metered service, except upon conversion from flat rate service, shall be the established annual minimum charge for the service. Where initial service is established after the first day of any year, the portion of such annual charge applicable to the current year shall be determined by multiplying the annual charge by one three-hundred-sixty-fifth ($1/365$) of the number of days remaining in the calendar year. The balance of the payment of the initial annual charge shall be credited against the charges for the succeeding annual period. If service is not continued for at least one year after the date of initial service, no refund of the initial annual charges shall be due the customer.

Schedule No. 2RA

ANNUAL RESIDENTIAL FLAT RATE SERVICE

APPLICABILITY

Applicable to all flat rate residential water service furnished on an annual basis.

TERRITORY

Holiday Lake Resort and vicinity, located approximately four miles east of Morgan Hill, Santa Clara County.

RATES

	<u>Per Service Connection Per Year</u>
For a single-family residential unit, including premises	\$ 72.00
For each additional single-family residential unit on the same premises and served from the same service connection	60.00

SPECIAL CONDITIONS

1. The above flat rates apply to service connections not larger than one inch in diameter.
2. All service not covered by the above classifications shall be furnished only on a metered basis.
3. For service covered by the above classifications, if the utility or the customer so elects, a meter shall be installed and service provided under Schedule No. 1A, Annual General Metered Service, effective as of the first day of the following calendar month. Where the flat rate charge for a period has been paid in advance, refund of the prorated difference between such flat rate payment and the minimum meter charge for the same period shall be made on or before that day.

(Continued)

APPENDIX A
Page 4 of 5

Schedule No. 2RA

ANNUAL RESIDENTIAL FLAT RATE SERVICE
(Continued)

SPECIAL CONDITIONS (Contd.)

4. The annual flat rate charge applies to service during the 12-month period commencing January 1 and is due in advance. If a permanent resident of the area has been a customer of the utility for at least 12 months, he may elect, at the beginning of the calendar year, to pay prorated flat rate charges in advance at intervals of less than one year (monthly, bimonthly or quarterly) in accordance with the utility's established billing periods.

5. The opening bill for flat rate service shall be the established annual flat rate charge for the service. Where initial service is established after the first day of any year, the portion of such annual charge applicable to the current year shall be determined by multiplying the annual charge by one three-hundred-sixty-fifth ($1/365$) of the number of days remaining in the calendar year. The balance of the payment of the initial annual charge shall be credited against the charges for the succeeding annual period. If service is not continued for at least one year after the date of initial service, no refund of the initial annual charges shall be due the customer.

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 of the State.

TERRITORY

Holiday Lake Resort and vicinity, located approximately four miles east of Morgan Hill, Santa Clara County.

RATE

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

SPECIAL CONDITIONS

1. For water delivered for other than fire protection purposes, charges shall be made at the quantity rates under Schedule No. 1A, Annual 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. 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 specific location at which each is to be installed.
5. 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.