

ORIGINAL

Decision No. 65614

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Ex-Parte Application of NORTH SAN BERNARDINO WATER COMPANY, a California corporation, for a Certificate of Public Convenience and Necessity, to Establish Rates for Water Service, and for a Permit to Issue Shares of its Common Stock.

Application No. 44943
(Filed November 15, 1962)

W. R. Holcomb, for applicant.
Denslow Green, for East San Bernardino County Water District; Milford W. Dahl, for Orange County Water District; Glen D. McLaughlin, for Albert A. Webb Associates; Chapman and Sprague by H. M. Peccorini, for all property owners in Tract No. 6187; and Surr & Hellyer by Joe Sax, for John Leedom, Interested Parties.
A. L. Gielegem, for Commission staff.
C. O. Newman, for Commission staff.

O P I N I O N

North San Bernardino Water Company^{1/} seeks a certificate of public convenience and necessity to operate a public utility water system within the city limits of San Bernardino^{2/} at the extreme east and north portion thereof to serve 30 lots in Tract No. 6187 and 22 additional lots in unsubdivided territory contiguous to said tract on the east.

1/ Hereinafter referred to as applicant.

2/ Hereinafter referred to as city.

Establishment of rates for water service and authority to issue shares of common stock to acquire water system facilities are also sought.

Public hearings were held before Examiner Warner on March 27, 28, and 29, 1963, at San Bernardino. The matter was submitted for decision subject to the receipt of late-filed exhibits by April 16, 1963, which have been received.

A stipulation was entered into by and between applicant and counsel for East San Bernardino County Water District^{3/} within whose latter boundaries a portion, to-wit; Tract No. 6187, of applicant's proposed certificated area lies. An agreement, dated April 5, 1963, and Resolution No. 439 of the district, incorporating the terms of said stipulation, have been filed with the Commission. Said agreement and resolution, among other things, provide that district would withdraw its protest to the application; would support the application; and would furnish applicant with a standby source of water supply if applicant would restrict its service area; limit its water supplies to its present and possible future service area; provide district with a reservoir site; and exchange water supplies with district if needed.

Orange County Water District contended that water rights to the water supply proposed to be acquired by applicant had been

^{3/} Hereinafter referred to as district.

or would be subject to court action as part of an adjudication of water rights of the Santa Ana River Basin, but the question of determination of water rights was ruled by the presiding officer to be outside the jurisdiction of the Commission. Such ruling is affirmed.

Evidence was adduced by applicant of its proposed corporate organization which would include all of and the same officers and directors of Foothill Vista Development Company, Inc.,^{4/} the owner and developer not only of Tract No. 6187 but also formerly of Tract No. 5659 which is contiguous to Tract No. 6187 on the south and to which water service is being furnished by district. Development company also owns or proposes to acquire and proposes to develop additional acreage in Sections 18 and 19, T1N, R3W, SBB&M, and applicant would furnish domestic water service to such properties and also to the properties of other land owners where such properties are contiguous to applicant's certificated area and to additional contiguous service area.

Development company has installed a domestic water system in applicant's proposed service area, and proposes to transfer such installed facilities, together with 3 wells, well sites, reservoir sites, and pumps, to applicant in exchange for applicant's stock. A U. S. Forest Service Special Use Permit,

^{4/} Hereinafter referred to as development company.

dated November 3, 1961, issued to George and Ruth Koch, one of the three principals of development company and applicant, (Exhibit No. 29), and applicable to land for a reservoir to trap water from a spring in Little Sand Creek Canyon is also proposed to be transferred to applicant.

Total production of the wells and spring available to the proposed area was estimated by a witness for applicant to be 269 gallons per minute and was estimated by a Commission staff engineer to be 226 gallons per minute. Water from all sources of supply is discharged into a 300,000-gallon storage reservoir, and water service by applicant is proposed to be furnished by gravity flow.

The proposed area is foothill, prestige, and residential. All utility services are installed underground, and lots average 1.5 acres with steep slopes back of, surrounding, and below house pads. Price ranges of houses vary between \$50,000 and \$75,000. The cut and fill and severe drop-away terrain, which is characteristic of each lot, precludes extensive planting with attendant high water use. Average water use is estimated at 2500 cubic feet per customer per month. Applicant proposes a flat rate of \$7.00 per month. A schedule of rates for general metered service is included in the application but, unless requested by a customer, is not intended to be used except in cases of excessive water usage. Water service is being furnished by development company to 17 users, without charge.

Originally, and by its Resolution No. 472, dated

January 22, 1963, which together with Resolution No. 458, dated October 9, 1962, comprise Exhibit No. 1 herein, district held itself ready, willing and able to furnish water service to applicant's proposed area, and district asserted that it would protest the instant application when it appeared that applicant intended or sought authority to expand its service area beyond the proposed 52 lots. At the hearing, district first participated as interested party; then protested the application; then entered into the stipulation heretofore mentioned.

A Commission staff engineering witness, in Exhibit No. 9, did not recommend the granting of the application, because of the small size of applicant, the large proposed investment per customer, and applicant's uncertain potential revenue and water supply. He further did not recommend granting the application because of district's proximity and willingness and ability to supply domestic water.

The record shows that the water system installed by development company does not meet district's standards because, although it is constructed of dipped and wrapped steel pipe and thereby meets the requirements of General Order No. 103, it does not meet district's requirements for the use of cement-lined pipe.

The record shows that city's water department is not in a position to extend its water system to serve the area.

The record shows further, however, that district's water system can readily be connected to development company's water system to serve the proposed area. Some accommodation of district's system and operating practices might be necessary.

The record shows that both the present and future operations of applicant would be uneconomical; that applicant would sustain substantial operating losses unless its water system were considerably expanded; and that such expansion would need to approximate 500 customers before an economical operation could be expected.

Findings

Upon consideration of the record the Commission finds as follows:

1. Applicant's source of water supply is inadequate, and its duration and dependability are uncertain.
2. Applicant's proposed present operations would be uneconomical and would continue to be uneconomical until the number of customers approximated 500, and the service area were substantially expanded.
3. East San Bernardino County Water District is ready, willing and able to serve the proposed area.
4. To grant the application for a certificate of public convenience and necessity to applicant to operate a public utility water system within and contiguous to East San Bernardino County Water District would not be in the public interest; public convenience and necessity do not require that the application for a certificate of public convenience and necessity be granted; and the application should be denied.

O R D E R

IT IS ORDERED that Application No. 44943 is denied.

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

Dated at San Francisco, California, this 21st day of JUNE, 1963.

George H. Grover
President
Walter D. [unclear]
William V. [unclear]

Commissioners

Commissioner Peter E. Mitchell, being necessarily absent, did not participate in the disposition of this proceeding.

Commissioner Frederick B. Holoboff, being necessarily absent, did not participate in the disposition of this proceeding.