

**ORIGINAL**Decision No. 66230

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

Application of LESSER WATER COMPANY  
for authority to issue stock; request  
for ex parte.

Application No. 44978  
(Filed November 27, 1962)

Application of LESSER WATER COMPANY to  
extend service to contiguous territory,  
to expand water system, authority to  
issue stock; request for ex parte.

Application No. 44989  
(Filed November 30, 1962)

In the Matter of the Application of  
VILLAGE WATER COMPANY for an order  
granting a certificate of public con-  
venience and necessity to construct  
and extend its plant and system to  
render water service to Running Springs  
Ranch, Conejo Valley, Ventura County.

Application No. 45146  
(Filed January 29, 1963)

In the Matter of the Application of  
VILLAGE WATER COMPANY for an order  
granting to it a certificate of public  
convenience and necessity to construct  
or extend its plant and system for the  
rendering of public utility water  
service, for an order granting a  
certificate declaring that public con-  
venience and necessity require the  
exercise of rights and privileges  
obtained under a franchise from the  
County of Ventura and establishing  
water rates in the territory for which  
certificates of public convenience and  
necessity are issued.

Application No. 45225  
(Filed March 7, 1963)  
(Amended March 22, 1963)

In the Matter of the Application of  
LESSER WATER COMPANY for authority to  
extend its water system in the Newbury  
Park area of Ventura County, Cali-  
fornia, in the vicinity of North  
Potrero Road and Borchard Road and in  
various adjoining or neighboring areas,  
for a certificate of public convenience  
and necessity therefor, and for  
authority to issue stock.

Application No. 45421  
(Filed May 9, 1963)

Gibson, Dunn & Crutcher, by Max Eddy Utt, for  
Lesser Water Company.  
O'Melveny & Myers, by Donn B. Miller, for  
Village Water Company.  
Elinore Charles, A. L. Gielegem, and  
Chester O. Newman, for the Commission staff.

O P I N I O N

Public hearings on the above-consolidated applications were held in Los Angeles before Examiner Rogers on June 18, 19, 20, and 21, and July 26, 1963. On the latter date the applications were submitted subject to the receipt of late-filed exhibits. These exhibits have been filed, and the matters are ready for decision.

On the fifth day of hearings, the applicants, Lesser Water Company (Lesser) and Village Water Company (Village), entered into a stipulation, read into the record, which settled the territorial disputes between them, subject to the Commission's approval.

Lesser Water Company, A. 44978

By the above application, Lesser seeks authority to issue 1,764½ shares of its \$100 per share par value common stock at par for cash in the total amount of \$176,450 to its parent corporation, Louis Lesser Enterprises, Inc. The cash would be used to refund to the parent corporation the costs of mains, meters, and related facilities in Tracts Nos. 1114, 1116-1, and 1116-2 presently served by Lesser pursuant to authority from this Commission. Refunds would be made to the subdivider pursuant to the proportionate cost method, which was an optional refund method permitted by applicant's main extension rule in effect at the time the main extensions were installed.

The staff engineer testified that Lesser has overstated the amount of the main extension advances by inclusion of \$25,500 representing the cost of meters, a cost which is not includable in construction advances. The evidence shows the staff engineer's testimony to be correct. He further stated that Lesser had previously been authorized to issue stock to cover the cost of these

meters in Decision No. 61072 in Application No. 42597 and Decision No. 63849 in Application No. 43900. These decisions certificated Lesser to serve the aforementioned tracts. Applicant states that two of the tracts are fully occupied and that the third would be occupied within four weeks.

The engineer also questioned the length of certain mains which were installed in the three tracts by companies owned by the parent corporation. The original estimates for mains and related facilities, excluding meters, were \$35,000 for Tract No. 1114 (Exhibit 5-A); \$71,000 for Tract No. 1116-1 (Exhibit 5-B); and \$63,800 for Tract No. 1116-2 (Exhibit 5-C). The actual final costs after installation, excluding meters, for Tracts Nos. 1114 and 1116-1 were, respectively, \$28,562 and \$52,764. While final costs have not been determined for Tract No. 1116-2, the evidence indicates that, when meters are excluded and known final costs used, \$130,000 is a close approximation of the bona fide main extension costs incurred in serving the three tracts. The order herein will authorize Lesser to issue stock in that amount.

Village Water Company, A. 45146

Pursuant to stipulation of the applicants, Application No. 45146 will be dismissed.

Lesser Water Company, A. 44989

By this application, Lesser seeks authority: (1) to furnish domestic water to an area of approximately 283 acres known as Running Springs Ranch (Ranch) and owned by its parent corporation; and (2) to issue 8,472 shares of stock to the parent corporation to pay for the backup and distribution systems in the tract.

It is planned to use 15 acres of Ranch for commercial installations, 63 acres for industrial sites, 72 acres for apartments, 13 acres for a school, and the balance of the area for single-family residences. Lesser estimates that the water requirement upon completion of the Ranch development would be equivalent to that of 1,578 residences.

The water supply proposed for Ranch would come from four existing wells on the property, purported by Lesser to produce 228 gallons of water per minute. This would be supplemented by water transmitted from the existing certificated area. Lesser proposes to drill other wells on this property. Lesser estimates that, by February 1964, this water supply will be supplemented by water from the Calleguas Municipal Water District (District). Lesser proposes to install two 420,000-gallon storage tanks on the west edge of Ranch.

Lesser's total existing water supply, prior to availability of water from the District, was originally purported to be 1,153 gallons per minute, or 1,660,300 gallons per day (Exhibit D attached to the application). However, its late-filed Exhibit 34 shows that Lesser's total existing water supply is more nearly 533 gallons per minute, or 767,500 gallons per day.

Lesser's engineer testified that the minimum water supply to meet the requirements of the County of Ventura for the existing certificated area plus the Ranch area would be 1,475,300 gallons per day, as shown in said Exhibit D. Under the method used in that exhibit, the minimum supply required by the County of Ventura for Lesser's existing certificated area alone would be 743,800 gallons per day.

The staff's engineer showed that the estimated peak-day requirement in the year 1964 would be 1,405,000 gallons per day for the existing certificated area plus the Ranch area; and 1,041,000 gallons per day for the existing certificated area alone (Exhibit 39).

Exhibit 41 shows that Lesser's existing water supply is adequate for meeting only its current water requirements.

Lesser has a permanent water supply permit for the area. It also has a Ventura County franchise which it has been authorized by this Commission to exercise.

Lesser proposes to place its presently authorized rates in effect in this area.

Lesser proposes to deviate from its filed main extension rule by refunding the costs of the additions to its distribution system under the proportionate cost method. In this connection Lesser requests authority to issue 5,200 shares of its \$100 par value common stock in exchange for cash to pay for the distribution system. It also proposes to issue 3,272 shares for cash for backup facilities. All shares would be issued to the parent corporation.  
Lesser Water Company, A. 45421

By this application, Lesser originally sought authority to furnish domestic water to five parcels of land containing a total of approximately 1,472 acres in Ventura County. It has withdrawn its request for authority to serve approximately 1,207 of these acres, leaving approximately 265 acres that it seeks to serve. In addition, it seeks authority to issue 3,500 shares of stock to its parent corporation for funds for backup facilities. This request to issue stock was not modified to reflect the reduction in the requested service area.

The final area requested consists of approximately the northwest one half of Parcel 2 and all of Parcels 4 and 5 on Exhibit "A".

There is one tract in Parcel 2 containing approximately 1,000 lots on which construction is to be commenced in 1963.

Parcel 4 contains approximately 50 acres and is approximately 500 feet east of the east line of Lesser's existing service area. It is adjacent to Lesser's 12-inch transmission line and will contain the equivalent of approximately 150 residential units.

Parcel 5 contains two acres of land and is surrounded on the west, north and east by Parcel 4. It is to be developed residentially and will contain the equivalent of approximately six customers.

The water supply would be from Lesser's present sources supplemented with water from the District expected in February 1964. The present water supply is adequate only to meet the water supply requirements of its existing area. ✓

Lesser proposes to place its presently authorized rates in effect in these areas.

Lesser proposes to install the backup facilities at its own expense. It estimates that \$350,000 would be required to install the necessary backup facilities, including meters, for the entire Potrero area. It proposes to secure such funds by issuing stock to its parent corporation. Inasmuch as the proposed service area has been greatly reduced, the amount of stock requested to be issued would be in excess of that required to finance the necessary facilities. Lesser intends to follow the provisions of its present

main extension rule for in-tract facilities within this area. The subdivider of this area is not affiliated with Lesser.

Village Water Company, A. 45225

By this application, as filed, Village originally requested: (1) a certificate of public convenience and necessity to extend its water system to an area containing 1,430 acres divided for descriptive purposes into Parcels 30 through 36, inclusive, and referred to as its additional Conejo areas, and to five parcels noncontiguous to its present areas and referred to as the Potrero areas, containing 1,472 acres divided into Parcels 25 through 29; (2) authority to exercise rights under its franchise from the County of Ventura; (3) continuation of the customer limitation imposed upon it by Decision No. 62583; and (4) authority to apply its existing rates within the requested area.

The parties stipulated that approximately 265 acres of the Potrero areas could be served by Lesser, and Village withdrew its request to serve such acreage. This is the aforementioned 265 acres which Lesser seeks authority to serve under Application No. 45421, as revised.

As shown by Exhibit "A", Village's existing service area is divided into numerous parcels in and around the so-called Conejo area. It alleges that the request herein is necessitated by the growth and development occurring in both the Potrero and Conejo areas. The Janss Corporation, an affiliate of Village, either controls or participates in the control of the majority of the areas herein sought to be served, and there are immediate and definite plans for the sale of various types of residential and commercial property in all of the areas to which the application relates.

The water supply for the additional Conejo areas and the Potrero areas would come from the existing 13 wells, supplemented during periods of heavy demand by water from six new wells and a total storage of approximately 7,000,000 gallons. Village's witness estimates that, by February 1964, this water supply would be supplemented by water from the District.

Village's existing water supply, prior to receipt of water from the District, is shown by applicant's engineering report (Exhibit 24, Table 4) to be 3,865 gallons per minute. However, Village's engineer testified that subsequent review of the well capacities determined that the 13 wells shown in Table 4, excluding wells 23 and 24, had a total capacity of only 1,615 gallons per minute, but that Village had subsequently drilled six new wells having a combined capacity of 1,820 gallons per minute. Of this capacity, 435 gallons per minute will be available through the summer season from wells that are currently equipped. The total capacity available from all these wells, assuming that approximately 200 gallons per minute will be provided to Conejo Valley Water Company, is 3,235 gallons per minute or 4,660,000 gallons per day.

Village's engineer shows the estimated average demand during the peak day in 1963 to be 3,020 gallons per minute (Exhibit 24, Table 10) or 4,350,000 gallons per day. However, he testified that a portion of this demand is for surplus water for construction purposes, resale service to Conejo Valley Water Company and service to a golf course, and that the firm peak requirements for 1963 are 1,300 gallons per minute or 1,870,000 gallons per day. On this basis, the firm peak requirements for 1964 (Exhibit 24, Table 10) would be 2,490 gallons per minute or 3,590,000 gallons per day.



The staff's engineer showed that the estimated peak requirement in 1964 would be 3,554,000 gallons per day (Exhibit 42).

Village intends to follow the provisions of its currently filed main extension rule in extending in-tract facilities within these areas. Corporate funds necessary to provide the backup facilities for the proposed service would be made available to Village by an affiliated corporation.

Village holds a permanent water supply permit from the State Department of Public Health and a franchise from the County of Ventura, which it was authorized to exercise by this Commission in Decision No. 63434, dated March 20, 1962, in Application No. 42911, for at least a portion of the area herein requested. It alleges it will seek and secure any necessary permits not held by it.

The staff financial witness stated that:

(a) Village is presently soundly financed with a well-balanced capitalization capable of absorbing some additional growth financed by additional debt and advances.

(b) The pro forma capitalization resulting from projections and assumptions used in Village's report is not sound or appropriate for this new and growing water utility, containing excessive debt and advances and insufficient equity capital.

(c) Projections of depreciated plant and advances for construction reasonably indicate that proposed financing of in-tract facilities in the areas proposed by means of main extension agreements will not cause advances to exceed the limitation imposed by the presently effective main extension rule.

(d) Future financing of capital expenditures proposed should rely less upon debt and attempt should be made to develop and maintain a capitalization containing at least 40% equity capital. It follows that debt and advances for construction, combined, should be held to no more than 60% of total capitalization.

(e) Projected operating results and cash flow indicate ample coverage for fixed charges and refunds on advances. It is questionable, however, whether such coverage would be sufficient for normal refunding of debt now outstanding and proposed to be issued. For this reason as well, additional equity capital in lieu of proposed financing wholly by debt is recommended.

#### Findings

Upon consideration of the evidence in connection with the requests of Lesser Water Company, the Commission finds as follows:

1. Lesser's request in Application No. 44978 to make proportionate cost refunds to its affiliate in connection with main extensions within Tracts Nos. 1114, 1116-1 and 1116-2 is justified by the fact that the main extensions involved were made while its prior rule was in effect. The issuance of 1,300 shares of capital stock for \$130,000 in cash is reasonably required for purposes of refunding the cost of such main extensions and that such purposes are not, in whole or in part, reasonably chargeable to operating expenses or to income.

2. Demands for water service are developing within the areas for which Lesser has requested a certificate of public convenience and necessity.

3. Public convenience and necessity require that Applications Nos. 44989 and 45421 be granted as set forth in the ensuing order.

4. The issuance of 3,272 shares of capital stock for \$327,200 in cash is reasonably required for the purpose of defraying the cost of financing backup facilities in the area for which Lesser seeks certification in Application No. 44989 and that such purpose is not, in whole or in part, reasonably chargeable to operating expenses or to income. The request to deviate from the extension rule and issue 5,200 shares of its capital stock in connection therewith is contrary to the public interest. ✓

5. Lesser possesses the necessary financial resources to construct and operate the proposed water system.

6. Lesser's rates on file with this Commission are fair and reasonable for the service to be rendered in the areas certificated herein. ✓

7. The ratio of outstanding advance contract balances to depreciated plant should be reduced. Lesser's existing main extension rule has provisions for the termination of main extension contracts. These provisions could be employed to reduce this ratio.

8. Lesser's existing water supply is not adequate to provide for the increased water demands that would result from the requested extension of applicant's certificated area.

9. Additional water supply is scheduled to be available from Calleguas Municipal Water District by February 1964.

10. Extension of Lesser's water service, prior to obtaining supplemental water supply, would endanger the water supply to Lesser's present customers.

11. The record in this proceeding does not contain a basis for determining the specific amount of common stock which Lesser should be authorized to issue to finance necessary backup plant for

serving the reduced area for which Lesser now seeks certification in Application No. 45421. However, the order herein should authorize the issue of common stock in an amount not to exceed \$100,000 to cover the actual cost of backup facilities actually installed in such reduced area.

Upon consideration of the evidence in connection with the requests of Village Water Company, the Commission finds:

1. The staff recommendation that Village should restrict its debt and advances for construction to a total of not to exceed 60 percent of capitalization is reasonable and should be adopted.

2. Village's existing water supply is ample to provide for the increased water demands that would result in 1964 from the requested extension of Village's certificated area but would not provide for the increased water demands thereafter.

3. Additional water supply is scheduled to be available from Calleguas Municipal Water District by February 1964.

4. Extension of Village's water service, prior to obtaining a supplemental water supply, would not endanger the water supply to applicant's existing customers, provided the customer limitation imposed by Decision No. 62583 is continued.

5. Demands for water service are developing within the area for which Village has requested a certificate of public convenience and necessity to extend facilities.

6. Public convenience and necessity require that Application No. 45225 be granted as set forth in the ensuing order.

7. Public convenience and necessity require that a certificate to exercise the franchise awarded to Village by Ventura County Ordinance No. 1118 be granted for the area certificated herein.

8. Village possesses the necessary financial resources to construct and operate the proposed water system.

9. Village's rates on file with this Commission are fair and reasonable for the services to be rendered.

### Conclusions

From the foregoing findings in connection with the requests of Lesser Water Company, it is concluded that:

(1) Lesser's request to make proportionate cost refunds in connection with Tracts Nos. 1114, 1116-1 and 1116-2 should be authorized.

(2) The request to issue stock to provide money for proportionate cost refunds in Tracts Nos. 1114, 1116-1 and 1116-2 should be granted.

(3) Lesser's request for a certificate of public convenience and necessity to extend its water service to the Running Springs Ranch, the N.W. 1/2 of Parcel 2, Parcel 4 and Parcel 5 should be granted subject to such certificate being made effective by further order of this Commission following a showing by Lesser in a supplemental application that it has developed an additional water supply sufficient to serve the additional areas.

(4) Upon the further order of the Commission making said certificate effective, Lesser should be authorized:

- a. To apply its existing rates to the additional service areas certificated herein.
- b. To issue 3,272 shares of its capital stock for \$327,200 in cash to finance backup facilities authorized in connection with Application No. 44989.

(5) Lesser's request in Application No. 44989 to deviate from its main extension rule by proportionate cost refunding of in-tract facilities, and to issue 5,200 shares of its capital stock in connection therewith, should be denied.

(6) Lesser should continue to be restricted from extending its water service until it has made said showing as to additional water supply and the Commission has issued its supplemental order.

(7) Lesser's request to issue stock for backup facilities in the additional areas requested by it in Application No. 45421 should be granted in part, such authorization to be limited to common stock in an amount not to exceed \$100,000 to cover the actual cost of such backup facilities actually installed.

From the foregoing findings in connection with the requests of Village Water Company, it is concluded that:

(1) Village's request for a certificate of public convenience and necessity should be granted to the extent and in the manner set forth in the ensuing order.

(2) The customer limitation imposed by Decision No. 62583 should be continued.

(3) Village should be authorized to apply its existing rates for service in the areas herein certificated to it.

(4) Village should be restricted, as set forth in the ensuing order, as to its debt and advances for construction it has outstanding.

The certificates hereinafter granted shall be subject to the following provisions of law:

1. The Commission shall have no power to authorize the capitalization of the franchises involved herein or these certificates of public convenience and necessity or the rights to own, operate or enjoy such franchises or certificates of public convenience and necessity in excess of the amount (exclusive of any tax or annual charge) actually paid to the State or to a political subdivision thereof as the consideration for the grant of such franchises, certificates of public convenience and necessity or rights.

2. The franchises involved herein shall never be given any value before any court or other public authority in any proceeding of any character in excess of the cost to the grantee of the necessary publication and any other sum paid by it to the county therefor at the time of the acquisition thereof.

O R D E R

IT IS ORDERED that:

1. A certificate of public convenience and necessity is granted to Lesser Water Company authorizing it to extend its service area and public utility water system to provide service to those areas described on pages 1, 2 and 3 of Late-Filed Exhibit No. 33; and Areas 4 and 5, as described on pages 6 and 7 of Exhibit B attached to Application No. 45421; and the area referred to in Exhibit B attached to Application No. 44989. This certificate shall not become effective, and Lesser shall not file tariffs for service in these areas, without a further order of this Commission, following a showing by Lesser in a supplemental application that it has developed an additional water supply sufficient to serve such areas.
2. Lesser Water Company shall not extend its distribution system or water service outside its certificated service area and shall not supply construction water for use outside its certificated service area without first having secured authority therefor by further order of the Commission.
3. Lesser Water Company may issue not to exceed 1,300 shares of its \$100 par value common stock to Louis Lesser Enterprises, Inc., on or before December 31, 1963, at not less than par value for the purposes specified in the opinion herein.

4. Upon the further order of this Commission making effective the certificate granted in paragraph 1 of this order, Lesser is authorized to issue 3,272 shares of its common capital stock for \$327,200 in cash to finance backup facilities authorized in connection with Application No. 44989, and common stock in an amount not to exceed \$100,000 par value to cover the actual cost of backup facilities required to be installed in the reduced area for which certification is now sought in Application No. 45421. The request to deviate from the extension rule and issue 5,200 shares of its capital stock is denied.

5. Village Water Company's Application No. 45146 is dismissed.

6. A certificate of public convenience and necessity is granted to Village Water Company authorizing it to extend its service area and public utility water system to provide service to those areas described on pages 4 and 5 of Late-Filed Exhibit No. 33 and areas 28 through 36, inclusive, as described on pages 3, 4 and 5 of Exhibit B, attached to Application No. 45225.

7. Village Water Company shall not extend its distribution system or water service outside its certificated area without first having secured authority therefor by further order of the Commission.

8. Village Water Company shall not serve more than 1,850 customer equivalents, based on an average of 2,000 cubic feet per month per customer equivalent, before obtaining a supplemental water supply, and shall submit monthly reports to the Commission showing the number of customer equivalents as of the end of each month and the quantity of water delivered for all purposes for each month. The first such report shall be submitted within thirty days after the effective date of this order and these reports shall be filed until further order of this Commission.

9. A certificate of public convenience and necessity is granted to Village Water Company to exercise the rights and privileges granted by the County of Ventura by Ordinance No. 1118 in the area certificated herein.



10. Village Water Company is authorized to apply its presently filed tariffs to the areas certificated herein.

11. Village Water Company 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 sheets, including tariff service area maps 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 to the Commission after filing as hereinabove provided.

12. Village Water Company shall refund advances and terminate refund agreements, in accordance with its filed main extension rule, and limit acceptance of new advances and debt financing, so that, at no time, will the combined debt and liability under advances exceed 60 percent of total capitalization.

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

Dated at San Francisco, California, this 29th day of OCTOBER, 1963.

William M. Bennett  
President

Robert W. Regan

George L. Brown

Fredrick B. Haloboff  
Commissioners