

ORIGINAL

Decision No. 66369

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of LITTLE CREEK WATER CO., INC., a California corporation, for a certificate of public convenience and necessity to authorize the operation of a public utility water system and to establish rates for service rendered within a subdivided area located within the City of San Jose, County of Santa Clara, State of California.

Application No. 45666  
(Filed August 9, 1963)

Roderick Donald McNeil, for applicant.

Arthur C. Fegan and Sidney J. Webb, for the Commission staff.

O P I N I O N

By this application, Little Creek Water Co., Inc. seeks a certificate of public convenience and necessity to construct and operate a water system and seeks authority to issue securities.

This application was heard before Examiner Catey at San Jose on October 14, 1963, and was submitted on that date. Copies of the application, the amendment filed October 8, 1963, and notice of hearing were served in accordance with this Commission's rules of procedure. There are no protests to the application.

Service Area

Applicant's proposed service area consists of some 55 acres in Santa Clara County, including Tracts Nos. 3462 and 3463, Tentative Tract No. 3580, and about 12 acres of adjacent land. This area is located in recently annexed territory at the easterly limits of San Jose. The tracts have been subdivided into 122 lots, on each of which the developer intends to build a residence. Elevations range from 295 feet to 650 feet above mean sea level. The present

service area of San Jose Water Works, the nearest public utility water system, is immediately adjacent to the westerly side of applicant's proposed area.

Proposed Water System

Applicant proposes to purchase all of its water supply from San Jose Water Works. For the initial development of Tracts Nos. 3462 and 3463 in the lower portion of the area, a 6-inch temporary service pipe would provide water to applicant's system at San Jose Water Works' pressure. When Tentative Tract No. 3580 is approved and developed, the temporary service would be supplanted by a 2-inch permanent service which would deliver water to a 3,500-gallon sump tank. Two 85-gpm booster pumps would then lift the water through an 8-inch transmission and distribution main to a 300,000-gallon tank on a one-acre tank lot at a higher elevation. The 6-inch distribution mains in the upper zone would be supplied at the full pressure from that tank, whereas those in the lower zone would be supplied through three pressure-reducing valves. A 3/4-inch service would be provided for each lot.

The filed tariffs of San Jose Water Works provide, in Rule No. 18, that none of its customers shall resell water received from it, without its agreement. Such agreement is expressed by letter, Exhibit "E" to the application herein, dated July 31, 1963, from San Jose Water Works to Little Creek Estates, applicant's affiliated subdivider and developer. No mention is made in the letter of any deviations from the supplier's filed rates and rules, and no request has been made for such deviation. Schedule No. 1, General Metered Service, of San Jose Water Works would thus apply to applicant's purchases of water for resale.

Initial and Subsequent Construction

The record in this proceeding shows that maps of the first two tracts to be served by applicant have been accepted for filing but that Tentative Tract No. 3580 will probably not be made final until later in the year. The amendment to the application shows that the water system will be constructed in two well-defined stages. The above letter from San Jose Water Works also alludes to the initial and final development of the water system. All five of applicant's witnesses (two consulting engineers, the developer's manager, the developer's sales representative, and applicant's president) testified at some length, however, that they consider the entire development to be a single unit, with construction on Tentative Tract No. 3580 being deferred temporarily only because of weather conditions.

The distinction between the initial and subsequent units of the water system is significant only as it relates to the portion of the ultimate water system to which the uniform water main extension rule prescribed by this Commission need not apply. Even for this purpose, a determination of the facilities which should reasonably be considered as the initial unit of the water system is a matter of judgment, taking into consideration many factors other than the exact timing of the construction. The design of the system, its ultimate size, and its probable future rate of growth are some of the other items which must be considered.

Cost of Land

Applicant's proposed utility plant includes two parcels of land. The smaller of these is 50 feet square and would be used for the sump tank and booster pump site. The larger is a one-acre storage tank site.

Applicant's president, who is also the president of applicant's affiliated developer, testified that the actual compensation to be received by the present owner of the one-acre tank site would be the inclusion by applicant of several parcels of unsubdivided land within its certificated area, as provided in the amendment to the application. The utility would provide whatever extra facilities or capacities might be required to serve the additional territory. Although the extra cost of the water system is reflected in applicant's estimates, \$4,000 is also added as "value" of land. This amount is reasonable for applicant's plant accounts but is offset by an equal amount in Contributions in Aid of Construction. However, applicant can reasonably show a nominal cost for the small pump lot and, under the Uniform System of Accounts for Water Utilities prescribed by this Commission, should include the actual costs of such items as surveying, grading and leveling of both the pump lot and the large tank site.

#### Franchise and Permit

Applicant alleges that no franchise is required by the City of San Jose. It further alleges that it has applied to the State Board of Health for a public water supply permit.

#### Rates and Earnings

The rate schedules proposed by applicant provide for general metered service and public fire hydrant service. The general metered service schedule includes a basic \$5.25 minimum monthly charge for 500 cubic feet or less, with a graduated scale ranging from \$0.70 to \$0.25 per hundred cubic feet for usage in excess of 500 cubic feet per month. The proposed fire hydrant rate is \$3.00 per hydrant per month.

The proposed rates are high, compared with those of similar utilities; however, the Commission staff report, Exhibit

No. 4, shows that they will result in only \$2,085 of net revenues under full development of the requested area. When that net revenue is related to a rate base of approximately \$30,000, the return is less than three percent.

#### Financing

At the hearing, applicant modified its amended application and requested authority to issue 12,747 shares of its capital stock, with a par value of \$10 per share, to its affiliated developer in exchange for the water system, reimbursement of \$3,000 of accounting and legal costs, and \$1,500 of working cash. Applicant's president stated that he did not wish to finance any of the proposed utility system by means of advances for construction provided by the affiliated developer. He requested, however, that, if the Commission exempted only a portion of the ultimate system from the provisions of the uniform water main extension rule, the resulting advances be refundable in common stock rather than in cash. This would lower the utility's future cash requirements and help maintain a high equity ratio. At the estimated annual revenues per customer shown in Exhibit No. 4, the amount advanced would be refunded in about 18 years, on the basis of 22 percent of revenues produced from Tentative Tract No. 3580.

Exhibit "A" to the amendment of this application shows that the estimated cost of the water system to serve the first construction unit, Tracts Nos. 3462 and 3463, is \$31,708. The estimated costs shown in that exhibit for additional pressure, storage and metering facilities to serve the rest of the requested area total \$43,223. Cost of main extensions beyond the first two tracts is estimated in Exhibit "A" to be \$44,030, including mains, services and hydrants.

Assuming the actual cost (after deducting contributions in aid of construction) of the land used by the utility to be around \$500, organization cost to be \$3,000, required working cash to be \$1,500, and the portion of the water system properly provided by the utility to be \$75,000, the stock to be issued initially should have a par value of \$80,000. Another \$44,000 would be required for use in lieu of cash as refunds of advances become due over a period of years.

It would not be appropriate to authorize the issuance of stock to cover the \$4,000 estimated present value of the large tank site. That site is outside of the subdivision, is owned by a party not affiliated with applicant, and is to be contributed by its owner in exchange for applicant's making water service available to certain unsubdivided lots in which said owner has an interest. The fact that the contribution will be made through applicant's alter ego, Little Creek Development Co., Inc., rather than directly to applicant, is immaterial.

#### Findings and Conclusions

The Commission finds that:

1. Public convenience and necessity require the construction of a water system to serve the area requested herein.
2. The facilities proposed to be installed by applicant are adequate to serve the requested area and conform to the requirements of General Order No. 103 but will not permit unlimited future expansion.
3. The initial development, to which the main extension rule to be filed by applicant need not apply, consists of Tracts Nos. 3462 and 3463.
4. Applicant has the financial ability to provide service to the requested area.

5. The money, property or labor to be procured or paid for by the issuance of the stock authorized herein is reasonably required for the purposes specified herein and such purposes are not, in whole or in part, reasonably chargeable to operating expenses or to income.

The Commission concludes that the certificate requested by applicant should be granted and that the issuance of securities should be authorized to the extent set forth in the ensuing order.

The authorization granted herein is not a finding of value of applicant's stock or properties, nor is it necessarily indicative of amounts to be included in any future rate base for determination of just and reasonable rates.

#### O R D E R

IT IS ORDERED that:

1. A certificate of public convenience and necessity is granted to Little Creek Water Co., Inc. authorizing it to construct a public utility water system to serve Tracts Nos. 3462 and 3463 and Tentative Tract No. 3580, Santa Clara County, and approximately 12 acres of adjacent land, as delineated on the map, Exhibit "B" to the amendment of the application herein.
2. Applicant shall not extend service outside of its certificated area without authority first having been obtained by further order of this Commission.
3. After the effective date of this order and not less than four days before service is first furnished to the public under the authority granted herein, applicant shall file the schedules of rates set forth in Appendix A to this order, tariff service area maps clearly indicating the boundaries of the certificated area, appropriate general rules and copies of printed forms to be used in dealing with customers. Such filing shall comply with General Order

No. 96-A and the tariff schedules shall become effective on the fourth day after the date of filing.

4. Within ten days after service is first furnished to the public under the authority granted herein, applicant shall submit to this Commission written notice thereof.

5. Within thirty days after service is first furnished to the public under the authority granted herein, applicant shall file 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 tracts of land and territory served; the principal water supply, transmission, pressure, storage and distribution facilities; and the location of applicant's various water system properties.

6. Beginning with the year 1963, applicant shall determine depreciation accruals by multiplying the original cost of depreciable utility plant by a rate of 3 percent. This rate shall be used until review indicates it should be revised. Applicant shall review the depreciation rate, using the straight-line remaining life method, whenever major changes in depreciable utility plant composition occur and at intervals of not more than five years; shall revise the depreciation rate in conformance with such reviews; and, upon completion of each review, shall submit promptly to this Commission the results thereof.

7. After having complied with paragraph 3 of this order, applicant is authorized to issue not to exceed \$124,000 aggregate par value of its capital stock, at par, not more than \$80,000 of which may be exchanged for utility plant (at original cost) and working cash, and not more than \$44,000 of which may be used in lieu of cash as refunds of advances for construction related to Tract No. 3580 become due.



8. Applicant shall file with this Commission a report or reports as required by General Order No. 24-A, which order, insofar as applicable, is made a part of this order.

9. Compliance by applicant with paragraph 3 of this order shall constitute acceptance by it of the right and obligation to furnish public utility water service to the area certificated herein. The authorities granted herein shall expire unless the designated tariffs are filed within one year after the effective date of this order.

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

Dated at San Francisco, California, this 26<sup>th</sup> day of NOVEMBER, 1963.

William W. Burnett  
President

Ed. M. ...

George A. ...

Frederick B. Heloloff  
Commissioners

APPENDIX A  
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Schedule No. 1

GENERAL METERED SERVICE

APPLICABILITY

Applicable to all metered water service.

TERRITORY

The area known as Tracts Nos. 3462, 3463 and 3580, and vicinity, located in San Jose, Santa Clara County.

RATES

Quantity Rates:	<u>Per Meter Per Month</u>
First 500 cu. ft. or less .....	\$ 5.25
Next 500 cu. ft., per 100 cu. ft. ....	.70
Next 1,000 cu. ft., per 100 cu. ft. ....	.50
Next 3,000 cu. ft., per 100 cu. ft. ....	.40
Over 5,000 cu. ft., per 100 cu. ft. ....	.25
 Minimum Charge:	
For 5/8 x 3/4-inch meter .....	\$ 5.25

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

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

The area known as Tracts Nos. 3462, 3463 and 3580, and vicinity, located in San Jose, Santa Clara County.

RATES

For each hydrant .....	<u>Per Month</u> \$ 3.00
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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. 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.