

ORIGINAL

Decision No. 66435

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
 FRUITLAND WATER COMPANY, a California )  
 corporation, for order authorizing )  
 issuance and sale of \$50,000 of )  
 capital stock, and for a certificate )  
 of public convenience and necessity )  
 authorizing extension of service )  
 area in Monterey County in which to )  
 furnish public utility water service. )

Application No. 45633  
(Filed July 31, 1963)

Ralph W. Thompson, for applicant.  
Thomas K. Perry, for Los Lomas Water  
 Company, protestant.  
Clyde F. Norris and Sidney J. Webb,  
 for the Commission staff.

O P I N I O N

By this application, Fruitland Water Company, a corporation, seeks a certificate of public convenience and necessity to construct an extension of its present system and exercise a county franchise; and seeks authority to issue and sell securities.

This application was heard before Examiner Catey at Watsonville on October 17, 1963, and was submitted on October 21, 1963. Copies of the application, the amendment filed on August 6, 1963, and notice of hearing were served in accordance with this Commission's rules of procedure. The only protestant is Los Lomas Water Company, a public utility serving territory near applicant's present and proposed areas.

Present and Proposed Areas

Applicant's present service area consists of some 65 acres in Monterey County known as Lots 1, 2, 3 and 5 of Fruitland Sub-division. This area is located about two miles south of Watsonville.

It was certificated to applicant by Decision No. 47659, dated September 2, 1952, in Application No. 33233. That decision did not prohibit extensions by applicant into contiguous territory. The nearest potentially competitive water system is that of protestant.

The additional area now requested by applicant consists of a 170-lot, 66-acre subdivision on Lot 4 and Lots 6 through 10 of the original Fruitland Subdivision, and about 55 acres of additional land on Lots 11 through 15. Applicant's president testified that the 66-acre tract is expected to be developed soon but that he knew of no definite plans for development of the rest of the requested area.

#### Water Supply and Requirements

The Commission staff report, Exhibit No. 1 herein, shows that there were 54 active metered service connections as of August 1963. This constitutes only 45 percent of the potential 120 customers in the present service area. If the requested areas were added, the potential number of customers would be about 360.

The water supply for the present system is obtained from two wells located in the most easterly portion of the area presently served. These wells are equipped with pumps having a combined production rate of 85 gpm. A Commission staff engineer testified that systems of the general size of applicant's require at least 2 gpm per customer if adequate service is to be provided. He further testified that the irrigation well which applicant proposed to acquire is not a suitable source of potable water, and that to convert it for domestic use would cost more than to drill a new well.

Applicant's president testified that, in accordance with the staff engineer's recommendation, he intends to develop or acquire additional suitable sources of supply progressively as more

customers are added. He had no specific plans to present, however, nor any detailed knowledge of depths required and other design criteria for wells in the area.

The Commission staff engineer stated that at least one of applicant's customers has a secondary source of supply of water which may or may not be potable. Section 7603 of the California Administrative Code requires that any such customer provide back-flow prevention devices conforming with the Cross-Connection Regulations of the State Department of Public Health. The staff witness recommended that applicant require its customers to comply with those regulations.

#### System Additions and Replacements

In addition to the new sources of supply needed for the enlarged service area, applicant proposes to construct and install a 40,000-gallon storage tank, two 250-gpm booster pumps, 2,735 feet of 6-inch pipe to replace present undersized mains, six fire hydrants, and a 50,000-gallon standpipe. These additions and replacements were designed to improve the presently inadequate service and conform to the requirements of General Order No. 103.

In order to serve the additional area requested, main extensions will be required. Applicant's president had no definite plans for, and was unable to estimate the probable cost of, those extensions.

#### Financing

Authority is requested for applicant to issue and sell \$50,000 of its capital stock, with a par value of \$10 per share, to finance the system improvements outlined herein. Applicant's president now owns 596 shares of applicant's common stock and anticipates purchasing between 100 and 300 of the 5,000 additional

shares requested to be authorized. He testified that the present customers, including himself, already own all of applicant's presently outstanding stock, that some of these customers had advised him that they would purchase more, that the developer of the new subdivision to be served might also buy some, but that he did not have firm commitments for any such purchases.

The cost of main extensions into and within subdivisions will be advanced by the subdividers in accordance with applicant's filed main extension rule. That rule requires the utility to provide any necessary meters. Applicant's president had no definite plan for financing the cost thereof, which he estimated would be about \$35 per meter.

#### Franchise and Permits

Applicant has obtained a 50-year franchise from the County of Monterey, by Ordinance No. 1310, adopted July 29, 1963, permitting it to install, maintain, replace and use a water system in such public highways, roads, streets and ways within unincorporated territory as it elects to use. At the hearing, the application herein was amended orally to include a request for a certificate of public convenience and necessity to exercise that franchise.

The franchise requires that, after a five-year grace period, applicant pay to the county two percent of the gross revenue arising from the exercise of the franchise. The payments are to be based only upon pipelines and facilities originally installed after the effective date of the franchise.

Applicant now has a public water supply permit for its present wells, as required by the California Health and Safety Code. An amended permit will be required when applicant adds any new sources.

### Rates and Rules

Applicant's present tariffs provide for general metered service, limited irrigation metered service and fire hydrant service, as established by Decision No. 54882, dated April 22, 1957, in Application No. 38442. No changes in rates are proposed by applicant. Its president testified that he was aware that, during the developmental period of the subdivisions, these rates will produce only a token return on the increased investment resulting from the proposed system improvements. He anticipates, however, that a reasonable return will be realized after a few years.

Applicant's present rules were filed in 1952. Many other utilities, such as protestant, have filed or refiled the somewhat uniform set of rules developed since 1952.

### Protestant

Los Lomas Water Company serves an area directly east of Fruitland Subdivision. Pursuant to Decision No. 33842, dated January 28, 1941, in Application No. 23709, a tariff service area map was filed by that utility, showing the boundaries of its certificated area. A revised map was filed on June 11, 1954, presumably to add territory contiguous to the utility's then existing system and into which it would be permitted to extend under Section 1001 of the Public Utilities Code. This additional territory, however, is quite large and includes not only the areas for which a certificate is now requested by Fruitland Water Company but even the area certificated to that utility in 1952.

The president of Los Lomas Water Company testified that his utility was ready, willing and able to serve the new areas requested by applicant. He stated that a rather expensive but

feasible installation of a pipeline under an intervening 100-foot railroad right-of-way would be required to connect the present Los Lomas system with a distribution system in the new area. In the alternative, an isolated system could be established by protestant, complete with its own production, storage and distribution facilities. Protestant would have to file a certificate application for construction of an isolated system, as the new facilities then would not be an extension of an existing system.

Summary

The improvements proposed by applicant would benefit its present customers by increasing operating pressures and flows and by providing storage for fire protection and periods of peak consumption. Their installation would not appear to be economically feasible unless applicant enlarges its service area and gains additional customers. The record thus indicates that the public, as a whole, would derive greater benefits through the proposed rehabilitation and expansion of applicant's system than it would through extensions of protestant's system into the Fruitland Subdivision area.

The principal problem encountered is financial. Applicant's ability to sell its securities is not certain. If applicant is permitted to expand the area in which it is obligated to provide service, and it later develops that it is unable to finance the necessary production, pressure and storage facilities, service to the present customers will deteriorate, rather than improve.

The risk of deteriorating service can be avoided with minimum detriment to the subdivider of Lot 4 and Lots 6 through 10 if applicant is required to show ability to finance and obtain an adequate supply of water, prior to its filing any revised tariff

service area map which permits and obligates it to serve a larger area. If applicant then is unable to sell its securities within a reasonable time, the subdivider can request service from protestant or seek other relief.

There is no imminent need for water service to Lots 11 through 15 of the original Fruitland Subdivision. The subdivision to be developed soon on Lot 4 and Lots 6 through 10 is contiguous to applicant's water system and, in the absence of any specific restriction ordered by this Commission, can be served by applicant in accordance with Section 1001 of the Public Utilities Code without first obtaining a certificate of public convenience and necessity. Although the Public Utilities Code does not preclude the granting of a certificate covering contiguous territory, such certificate is not necessary and, in the present situation, could complicate the future extension of protestant's system into that area in the event applicant is unable to finance the improvements to its present basic system which are necessary for its expansion.

#### Findings and Conclusions

The Commission finds that:

1. Public convenience and necessity do not require the construction by applicant at this time of extensions to serve Lots 11 through 15 of Fruitland Subdivision.
2. The subdivision soon to be developed on Lot 4 and Lots 6 through 10 of Fruitland Subdivision will be contiguous to applicant's system and is not now served by a public utility of like character.
3. The facilities proposed herein to be installed by applicant are necessary to serve the requested areas, conform to the requirements of General Order No. 103, and will greatly improve service to applicant's present customers.

4. Applicant has not shown that it has the ability to finance and obtain an adequate supply of water to serve the requested area.

5. Applicant should apply to the appropriate health authorities for an amended public water supply permit before using any new or different sources of supply.

6. Applicant has not required backflow-prevention devices on services of customers with secondary sources of supply.

7. Applicant's present rules are outmoded and should be revised.

8. Public convenience and necessity require the exercise of the county franchise recently received by applicant, within its service area as established from time to time by this Commission.

9. 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 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.

10. Other than applicant's officers, prospective purchasers of the stock to be issued as authorized herein may not be informed adequately as to applicant's operations unless they are provided with a suitable prospectus, as set forth in the following order.

The Commission concludes that (1) the certificate of public convenience and necessity to exercise a county franchise and (2) authority to issue securities should both be granted; that the certificate to construct extensions of applicant's system



should be denied; that applicant should be restricted to serving its present certificated area until further order of the Commission and that certain other requirements should be made, all as set forth in the ensuing order.

O R D E R

IT IS ORDERED that:

1. A certificate of public convenience and necessity is granted to applicant, Fruitland Water Company, authorizing it to exercise, within its present service area and any additional areas later permitted by this Commission, the franchise granted by Ordinance No. 1310, adopted July 29, 1963, by the County of Monterey.
2. Within ten days after the effective date of this order, applicant shall serve written notice on any of its customers with a secondary supply of water that they must install suitable backflow prevention devices as prescribed by the Cross-Connection Regulations of the State Department of Public Health. Copies of the written notice and a list of the customers to whom it was sent shall be furnished promptly to this Commission and to the appropriate health authority.
3. Within sixty days after the effective date of this order, applicant shall file appropriate revised general rules. Such filing shall comply with General Order No. 96-A, and the revised sheets shall become effective on the fourth day after the date of filing.
4. Applicant shall not file revised tariff service area maps permitting it to extend service outside of its certificated area, nor complete the sale of any of the securities offered ✓

pursuant to ordering paragraph 6, without first having obtained authorization therefor by further order of this Commission. Such authorization will be granted by supplemental order herein if applicant shall have filed in this proceeding, on or before April 30, 1964, a written report showing that firm commitments have been made for the purchase of substantially all of the securities authorized herein to be issued and showing that applicant can provide additional adequate supplies of water progressively as it adds new customers.

5. Before using any new or different sources of supply, applicant shall apply to the appropriate health authority for an amended public water supply permit covering those sources, and shall submit to this Commission a copy of the application.

6. Applicant may offer for public sale and issue, subject to the restrictions of ordering paragraph 4, not to exceed \$50,000 aggregate par value of its capital stock, at par, for the purposes set forth herein.

7. 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.

8. Applicant shall prepare a prospectus in connection with its offering of the stock to be issued as authorized herein, shall distribute a copy to each prospective stock purchaser who is not an officer of applicant, and shall file three copies with this Commission five days prior to undertaking a public offering. The prospectus shall show clearly applicant's financial position and earnings experience and shall include statements that (1) completion of the sale of any of the stock is contingent upon the receipt by applicant of firm commitments from prospective purchasers sufficient to ensure their purchase of substantially all of the securities authorized herein to be issued, and (2) that the authorization

of this Commission is not to be construed as obligating the State of California to pay or guarantee the stock in any way whatsoever.

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

Dated at San Francisco, California, this 18<sup>th</sup> day of DECEMBER, 1963.

*William L. Bennett*  
 President

*John E. Mitchell*

*Wesley D. Keene*

*George L. Thorer*

*Fredrick B. Hilchoff*  
 Commissioners