

ORIGINAL

Decision No. 67079

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of GARDEN WATER CORPORATION, a corporation, for a Certificate of Public Convenience and Necessity authorizing Applicant to furnish water service to Tract 2550 in the vicinity of Bakersfield, Kern County, California.

Application No. 43732

FOURTH SUPPLEMENTAL ORDER

By Ordering Paragraph 7 of Decision No. 63469, dated March 27, 1962, in this proceeding, the Commission authorized Garden Water Corporation, on or before December 31, 1962, to issue \$28,000 aggregate par value of its 5% preferred, non-cumulative, nonvoting stock. Said paragraph provided that the authority therein granted would not become effective until applicant had filed with this Commission a true copy of its Articles of Incorporation amended to authorize the issuance of such class of capital stock. By supplemental orders, the Commission extended the expiration date for issuance of the stock, the latest extension being to December 31, 1963.

On March 27, 1964, applicant filed with this Commission a certified copy of an appropriate amendment of its Articles of Incorporation authorizing the shares of preferred stock, which amendment bears a September 3, 1963 date of filing with the

Secretary of State. Applicant reports that it had understood that the required filing had been transmitted to this Commission on September 12, 1963, and that on October 3, 1963, it issued \$28,000 par value of the preferred stock. Having been informed that said amendment had not been filed with the Commission, the corporation now requests authority to issue \$28,000 par value of the preferred stock on or before June 1, 1964 in place of a like amount of such stock issued prior to the effective dates of the previous authorizations.

The Commission has considered this request and finds that: (1) applicant issued \$28,000 par value of said preferred stock inadvertently without authorization from this Commission; (2) under Section 825 of the Public Utilities Code such unauthorized issue of preferred stock is void; (3) the money, property or labor to be procured or paid for by the issue of \$28,000 par value of preferred stock is reasonably required for the purposes referred to in Decision No. 63469; and (4) such purposes are not, in whole or in part, reasonably chargeable to operating expenses or to income. On the basis of these findings, we conclude that applicant should be authorized to issue \$28,000 par value of preferred stock in place and stead of a like amount previously issued without authorization from this Commission. A further public hearing is not necessary.

In issuing our order herein, we place applicant and its shareholders on notice that we do not regard the number of shares outstanding, the total par value of the shares nor the

dividends paid as measuring the return applicant should be allowed to earn on its investment in plant and that the authorization herein given is not to be construed as a finding of value of applicant's stock or properties nor as indicative of amounts to be included in proceedings for the determination of just and reasonable rates.

IT IS ORDERED that:

1. Garden Water Corporation, on or after the date hereof and on or before June 1, 1964, for the purposes set forth in Decision No. 63469, may issue not to exceed \$28,000 aggregate par value of its 5% preferred, noncumulative, nonvoting stock at par, in place and stead of a like amount of said stock previously issued without authorization from this Commission.

2. Garden Water Corporation shall file with the Commission a report, or reports, as required by General Order No. 24-A, which order, insofar as applicable, is hereby made a part of this order.

3. The effective date of this Fourth Supplemental Order is the date hereof.

Dated at San Francisco, California, this 14th day of April, 1964.

Adelmar G. Demuth
President
W. E. [unclear]
George G. Traver
Frederick B. Holbrook
Commissioners