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ORIGINAL

Decision No. 67109

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA"

In the Matter of the Application of MEYERS WATER CO. for a certificate of public convenience and necessity to operate as a water system.	Application No. 46076 Filed January 6, 1964
In the Matter of the Application of MEYERS WATER CO. for authority to issue common stock.	Application No. 46077 Filed January 6, 1964

McCutchen, Doyle, Brown, Trautman & Enersen, by William W. Schwarzer, for applicant.
Donald G. Strand, for Angora Water Co., interested party.
W. B. Stradley and John J. Gibbons, for the Commission staff.

O P I N I O N

Applicant Meyers Water Co., a corporation, seeks authority to issue securities. At the hearing, it requested that its application for a certificate of public convenience and necessity to operate a water system be dismissed without prejudice.

These two applications were heard on a consolidated record before Examiner Catey at Placerville on March 17, 1964, and were submitted on that date.

Service Area and Water System

Applicant provides water service in three separate areas in El Dorado County surrounding Meyers and Tahoe Paradise, as shown on the map, Exhibit 1 to Application No. 46077. There are approximately 1,400 acres of land within the three areas.

Applicant's water systems consist primarily of wells, springs, various pressure and storage facilities, transmission and distribution mains, service pipes and fire hydrants, as described in

detail in Application No. 46077. More than 3,000 services have been installed but only about one-sixth of them are active, resulting in almost 400 feet of mains per active service.

Proposed Financing

Applicant proposes to issue 376,249 shares of its common stock, having a par value of one dollar per share, to Tahoe Paradise, Inc., (T.P.I.), of which applicant is a wholly owned subsidiary. The issue is proposed to refund advances made by T.P.I. between January 1, 1960,and June 30, 1963, in the aggregate amount of $376,249 (sic).[1] These funds were advanced by T.P.I. to enable applicant to extend its water distribution plant and system to serve Tahoe Paradise, Units Nos. 5, 6, 16, 17 and 18, pursuant to the contract, Exhibit C, and to Units Nos. 19 through 24, pursuant to the contract, Exhibit D. Neither contract had previously been submitted for Commission authorization.

Applicant requests a deviation from the provisions of its previous and present main extension rules which provide that subdividers' main extension advances are subject to refund over a period of years. The reasons for this request, as stated by applicant's vice president are:

1. Applicant believes that the two contracts, Exhibits C and D, with its parent corporation are binding.

2. The Commission approved this type of financing for the initial developments in two previous proceedings.

3. Applicant believes the proposal to be logical and financially sound.

The reasonableness of applicant's proposal depends, to a great extent, upon how much of the system might reasonably be

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1 Should be $376,259 to correct arithmetical error in Exhibit 3.

considered by the Commission as the initial development to which applicant's main extension rule need not apply. The two previously authorized stock issues were for utility plant costing $268,535. Even for applicant's rather large potential service area, the territory served by that amount of utility plant is of sufficient size to preclude consideration of additional plant, installed four to seven years after the utility's inception, as being part of the initial development.

Exhibit 3 to Application No. 46077 shows the components, by accounts, of the $376,249 (sic) of plant expenditures for which applicant proposes to issue stock. The $299,861 representing mains, services and hydrants properly should be advanced by the subdivider in accordance with applicant's main extension rule. The remaining $76,398 of backup plant appropriately can be paid for by the issue of stock to applicant's parent.

Limitation of Expansion

Applicant's December 31, 1963 balance sheet, Exhibit B, shows that its advances represent 72 percent of its net utility plant. Even upon issue of the securities for backup plant as authorized herein, the level of advances would be 61 percent of net plant and applicant would still be restricted by its main extension rule from making any further extensions until it had either reduced the percentage or obtained authority to deviate from the 50 percent limitation of that rule.

There are two potential dangers which should be reviewed before a water utility is allowed to expand after having reached the 50 percent level of advances. These are:

1. The utility may be extending into territory where very few customers will ever be served.

2. The utility may be unable to obtain the cash needed to make refunds when due.

In regard to customer density, the record shows that applicant is experiencing a steady increase in number of customers. Within a few years, it is likely that a lower and more reasonable average footage of main per active customer will have been achieved.

The danger of potential cash deficiencies can be alleviated by authorizing applicant to enter into agreements with its parent subdivider whereby all or part of the $299,861 advanced for main extensions would be refunded on a percentage of revenue basis with securities, rather than cash, as such refunds become due. The deviation from applicant's filed tariffs to implement this plan is authorized in the order herein.

For purposes of determining the percentage of advances to net plant, applicant will be authorized to exclude advances which are refundable in stock. This will permit applicant to reduce its effective level of advances to as low as 20 percent of net plant, thus removing the present limitation on its expansion.

Assessment Bonds

The water facilities which were to have been installed in the certificated area requested in Application No. 46076 would have been financed through the issuance of assessment bonds by the County of El Dorado, pursuant to the Municipal Improvement Act of 1913. Upon completion of the installation, the system would have been conveyed by the county to applicant, without charge. Applicant therefore did not propose to include the cost of the system in its rate base. Purchasers of the lots in the area would, however, have had to pay the principal and interest on the bonds.

Applicant's vice president testified that none of the plant for which it now proposes to issue securities has been financed by assessment bonds. He further testified that none

of the units developed by T.P.I. had been so financed to date. He stated, however, that the costs of some main extensions installed by two developers unaffiliated with applicant utility would be subject to refund by the utility to the developers, even though those same costs had already been fully paid to the developers by the county.

Applicant's stated position is that the water system financing obtained by the subdivider is of no concern to this Commission. We cannot agree. If the county is willing to donate a water system to the subdivider, it presumably would be equally willing to donate it to applicant, as was proposed in Application No. 46076. If the subdivider happened to be applicant's parent and alter ego, it would be improper for the parent to interpose and receive either securities of refunds from applicant in exchange for facilities donated by the county. Applicant's vice president admitted that such financing by T.P.I. could occur in the future.

In order to alert the county to possible improper duplication of payments for water systems, the order herein requires applicant to advise the county of each future main extension agreement entered into which requires refund by applicant of the cost of water system facilities. Applicant is also required to obtain a sworn statement from each applicant (whether affiliated or unaffiliated with the utility) for a main extension, stating whether or not the cost of the main extension has been or will be paid for, in whole or in part, by sale of assessment bonds or by the county, either directly or indirectly.

Findings and Conclusions

The Commission finds that:

1. The deviations authorized herein from applicant's filed main extension rule are not adverse to the public interest.

2. The money, property or labor to be procured or paid for by the issue 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 application should be dismissed and that the securities application should be granted to the extent and in the manner set forth in the ensuing order. In issuing our order herein, we place applicant and its shareholder on notice that we do not regard the number of shares outstanding, the total par value of the shares, nor the dividend paid, as measuring the return applicant should be allowed to earn on its investment in plant and that the authorization given herein to issue securities is not a finding as to the value of applicant's stock or properties nor is it indicative of amounts to be included in proceedings for the determination of just and reasonable rates.

O R D E R

IT IS ORDERED that:

1. Application No. 46076 is dismissed without prejudice, at request of applicant, Meyers Water Co.

2. Applicant may issue not to exceed $376,259 aggregate par value of its capital stock for the following purposes:

a. Not to exceed $76,398 in payment of the backup plant discussed in the foregoing opinion.

b. Not to exceed $299,861 as refunds of advances relating to the main extensions discussed in the foregoing opinion, the timing and amounts of refunds to be determined in accordance with applicant's filed main extension rule.

3. Applicant shall file with the 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.

4. Applicant is authorized to deviate from its filed main extension rule to the extent that it may:

a. Enter into and carry out the terms of main extension agreements with Tahoe Paradise, Inc., providing for refund of advances in common stock, as authorized in paragraph 2(b) of this order and not otherwise.
b. In applying Section A.2. of the rule, exclude advances refundable in stock when computing the percentage relationship of advances to net plant.

5. Within thirty days after the execution of each agreement pursuant to paragraph 4(a) of this order, applicant shall file in this proceeding two copies of the agreement and shall file with this Commission a revised summary list of contracts and deviations to include such agreement. The filing of the revised list shall comply with General Order No. 96-A and such list shall become effective on the fourth day after the date of filing.

6. Until otherwise ordered by this Commission, applicant shall advise the Board of Supervisors of El Dorado County, in writing, of each future main extension agreement entered into by applicant, within thirty days after the execution of the agreement.

7. Until otherwise ordered by this Commission, applicant shall require a verified statement from each applicant for a main extension, stating whether or not the cost of the main extension has

been or will be paid for, in whole or in part, by sale of assessment bonds or by the county, either directly or indirectly.

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

Dated at San Francisco, California, this 21st day of April, 1964.

President

Commissioners