

ORIGINAL

Decision No. 67845

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the Application of METROPOLITAN WATER COMPANY for an order granting a Certificate of Public Convenience and Necessity for authority to construct a system to render water service and exercise its rights and privileges conveyed under the franchise granted by Ordinance No. 1371 of the County of Ventura, to establish water rates for water service and to issue securities and evidences of indebtedness to finance such construction and operation.

Application No. 45981
(Filed November 20, 1963;
amended June 18, 1964)

John Amos Fleming, for applicant.

Gibson, Dunn & Crutcher, by Raymond L. Curran, for Russell Valley Municipal Water District, Valley Stream Corporation, Triunfo Property Corporation, Russell Valley Corporation, Blair Castle Corporation and Cove Property Corporation; Paul B. Noel, for Ventura County Waterworks District No. 6; Mrs. Martin Russell Miller, Earle Brookins, and Emilene Trudell, in propria personae; interested parties.

Jerry J. Levander and Kenji Tomita, for the Commission staff.

O P I N I O N

Metropolitan Water Company (applicant) seeks (1) a certificate of public convenience and necessity to construct and operate a public utility water system in an area containing approximately 4,620 acres in the eastern portion of Ventura County, California, which area includes the 2,850-acre Oak Park property which is owned

by applicant's parent corporation, Metropolitan Development Corporation (Development Corporation), and is depicted on Exhibit A-1 attached to the amendment to the application; (2) a certificate of public convenience and necessity to exercise the rights, privileges, and franchise granted by Ordinance No. 1371 of Ventura County; (3) authority to establish rates for the water services; and (4) authority to issue capital stock and evidences of indebtedness.

A public hearing on the application was held before Examiner Rogers in Thousand Oaks in Ventura County, California, on June 8 and 9, 1964, and the matter was submitted subject to the filing of briefs, a late-filed exhibit, and an amendment to the application. All filings the parties intend to make have been made and the matter is submitted. There were no protests to the amended application.

General Information

Applicant's Articles of Incorporation were filed with the Secretary of State of California on March 25, 1960. It is stated therein that the business of the corporation is to engage in the production, distribution, and sale of water as a public utility corporation. Applicant is thereby authorized to issue one class of stock. The total number of shares authorized is 2,000, and the par value of each of said shares is \$500 for an aggregate par value of \$1,000,000. The original directors were Louis H. Boyar, Mark Boyar and Ben Weingart. Mark Boyar is president, James Gross is vice president, Joseph Ross is secretary and Samuel Dobkin is the assistant secretary-treasurer. Development Corporation owns the Oak Park area for which a certificate is herein requested. The

officers and directors of this latter corporation are the same as those of the applicant corporation.

Financial Backing

Exhibit 4 is a consolidated financial statement of Development Corporation and its subsidiaries and it shows a net worth of \$6,141,185 as of December 31, 1963, and net earnings for the calendar year 1963 of \$328,043 after federal income taxes. Development Corporation has issued to applicant a commitment (Exhibit "O" on the application) wherein it states, among other things,

"This is our commitment to you and our representation to said Commission: that in consideration of your applying for and receiving a certificate of public convenience and necessity permitting you to serve water in our said Oak Park development, this corporation agrees to purchase your capital stock at par, without commission or other selling expense, and lend you on your seven-year, seven per cent notes, convertible into your capital stock, the full amount of cash required to complete Unit No. 1, and so much thereafter as may be necessary to complete a water system with sufficient meters in service to pay all costs and produce a reasonable rate of return upon the capital investment qualified for rate structure, all as regulated by the Public Utilities Commission. Up to that point we will purchase shares of your capital stock and lend you equal amounts as we progress. After that point, we are to have the first right to buy any securities as you may issue in order to complete said Oak Park development water system and any additional areas within your service area to which you may undertake the service of water."

The form of convertible note proposed to be issued is attached to the application as Exhibit "N".

Service Area Requested

Applicant's proposed service area comprises 4,620 acres, more or less, east of Thousand Oaks, in Ventura County, and is bounded on the south by the Los Angeles-Ventura County line. Included in this 4,620 acres, there are, in addition to Development Company's property, 1,720 acres owned by Bob Hope Enterprises and 50 acres owned by an individual. There are no plans for developing these latter two areas and no appearances were made on their behalf. Accordingly, these areas will be deleted from consideration. The only property hereinafter considered will be the 2,850 acre Oak Park area. Elevations in the Oak Park area range from approximately 1,000 feet to approximately 2,150 feet.

The original development, Tract 1693, will comprise approximately 246 acres, which will be developed in two phases. Work on Phase 1 commenced in June, 1964. This phase will contain about 162 acres, in which will be constructed 699 condominium-type living quarters, plus a school, a park, a golf course, a commercial area and a sewage treatment plant. Phase 2, containing 84 acres, will include 700 condominium-type living quarters, a school and a park. Construction on this latter phase is expected to commence in 1965, but depends upon the sales in Phase 1. Development Company estimates it will take approximately seven years to develop the Oak Park area and no immediate plans have been developed beyond the original Tract 1693.

Sources of Water Supply

The entire service area is in the Calleguas Municipal Water District (Calleguas). Calleguas water is to be available to applicant by the middle of the year 1966 through a proposed Lindero Canyon Feeder, which will extend approximately six miles from the now existing Conejo Valley Feeder of Calleguas to the west edge of the proposed service area. Applicant will construct its own main from the west edge of the Oak Park area into the initial service area. The Las Virgenes Municipal Water District (Las Virgenes), which serves water in western Los Angeles County, has agreed, for \$65 per acre-foot, which charge is in addition to Calleguas' charge for the water of \$50 per acre-foot, to carry water through its system, for Calleguas, to give applicant its first two years' supply of water, estimated at 1,500 gallons per minute (Exhibit 3). Applicant proposes to construct a 12-inch main approximately 8,500 feet in length from the Las Virgenes Feeder in Los Angeles County south of the service area. The water will be metered at the Los Angeles County line. When the applicant's Las Virgenes Feeder is constructed to the south edge of the service area (this has been done), applicant will extend a line from this feeder to Unit No. 1. After a connection is effected to the Lindero Canyon Feeder, applicant will donate the Las Virgenes line to Calleguas to enable the latter to secure an emergency source of supply. Initially, a 1,500,000-gallon reservoir is to be constructed immediately northeast of Unit No. 1. This storage is to be expanded to 3,000,000 gallons in the initial development, plus surrounding territory, which total area is designated Pressure Zones 1 and 2 on applicant's master plan (Exhibit "D")

on application). Ultimate plans call for several million gallons of storage spread throughout the 2,850 acres owned by the Development Corporation.

A staff hydraulic engineer estimated that the original 1,500,000 gallons of storage is equivalent to approximately one peak day requirement of water assuming the equivalent of 1,480 customers in the original 246 acres, excluding the golf course which will be watered with reclaimed water.

Applicant requests authority to include in its utility plant the cost of the temporary Las Virgenes supply main, which main will cost \$125,000; Development Corporation's cost of the proposed Lindero Canyon Feeder, which is estimated by applicant to be \$450,000; and the annexation fee levied by Calleguas, which will be \$71,215.

Applicant requests that these costs be borne, in whole or in part, by the utility. We have reviewed the record herein and the applicant's arguments. In our opinion, such costs should be borne by the developer and are not a fair and proper expense to be borne by the utility and ultimately by the water user.

The Franchise

Applicant has been granted a franchise to construct and maintain a water transmission and distribution system along and across all county roads in the proposed service area (Ventura County Ordinance No. 1371) and seeks authority to exercise such franchise. Under the terms of the original grant, the franchise would have expired at the time of hearing and on June 16, 1964, the applicant was granted until September 16, 1964, in which to exercise it.

Rates

Applicant proposes rates as follows:

GENERAL METERED SERVICE

RATES

		<u>Per Meter Per Month</u>
Quantity Rates:		
First	500 cu. ft. or less	\$ 4.00
Next	1,500 cu. ft., per 100 cu. ft.25
Next	3,000 cu. ft., per 100 cu. ft.20
Over	5,000 cu. ft., per 100 cu. ft.15
Minimum Charge:		
For	5/8 x 3/4-inch meter	\$ 4.00
For	3/4-inch meter	5.00
For	1-inch meter	6.00
For	1½-inch meter	12.00
For	2-inch meter	25.00
For	3-inch meter	50.00
For	4-inch meter	80.00

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

FIRE HYDRANT RATE

Type of Hydrant	<u>Per Hydrant Per Month</u>			
	4-inch Main	6-inch Main	8-inch Main	10-inch Main or Larger
4-inch with 3-inch or smaller riser	\$1.50	\$1.50	\$1.50	\$1.50
4-inch x 2½-inch single	1.50	2.00	2.50	2.50
4-inch x 2½-inch double	2.50	3.00	4.00	4.00
6-inch x 2½-inch double	-	5.00	5.00	5.00
6-inch x 2½-inch triple	-	5.50	5.50	5.50

CONSTRUCTION WATER RATE

Rate at \$4.00 per lot during course of project development.

Financing

Applicant's development of the 2,850 acres owned by its affiliated parent corporation will by January, 1972, require an estimated \$5,300,540 in utility plant, of which \$2,372,000 will come from the subdivider's advances. Initially, applicant seeks authority to issue 1,382 shares of its \$500 per share par value common stock for \$691,000 and to borrow \$690,742 from the parent corporation for seven years at 7 per cent per annum noncumulative on a note convertible to common stock with interest payable from earnings only. It proposes to use the derived funds for the following purposes:

Payment to Calleguas for Development Corp.'s share of Lindero Canyon Feeder cost	\$ 450,000
Estimated cost of connecting Oak Park development with Las Virgenes mains at Ventura Freeway	125,000
Estimated cost of developing water system in Unit 1	<u>806,742</u>
Total Expenditures	\$1,381,742

The staff financial witness stated that involved in the cost figures for Unit No. 1 are certain in-tract plant items in the amount of \$53,121 installed in temporary localities and which will be used on an interim basis to accommodate the developer at an earlier date than would be possible if the plant were developed in an ordinary manner. In addition, he excluded the \$646,215 heretofore referred to for intangible plant for developing Oak Park. The witness contended that even under applicant's present financing proposals, exclusive of investment in intangible plant items heretofore referred to, the applicant might be confronted with the

limitations imposed by the main extension rule prohibiting further extensions when unrefunded advances exceed 50 per cent of net utility plant without authorization of the Commission. He also stated that if a unit smaller than proposed Unit No. 1 is determined to be the initial water system, the applicant may possibly find itself restricted under the limitations of the main extension rule at a much earlier date.

A staff engineer estimated that Unit No. 1 will require a utility plant valued at \$618,820, excluding the water supply items hereinbefore referred to, but adding the costs of a Calleguas connection to its system and adding a working cash allowance of \$3,000.

Water Supply Permit

Applicant has been granted a water supply permit by the Department of Public Health of the State of California.

Staff Recommendations

The staff recommended that a certificate be granted to applicant for Unit No. 1 comprising 246 acres only, with no restriction against contiguous extensions; that all costs, except connection charges, involved in joining Calleguas and the financing of the Lindero Canyon Feeder be considered a land development cost to be borne by the landowners and not included as part of utility plant; and that all costs incurred by the utility to bring a temporary source of supply for development purposes be borne by the land developer. In addition, the staff made other recommendations, some of which will be included in the order herein.

The record herein shows, and the applicant agreed, that each living unit in Tract 1693 is proposed to be served by a separate 3/4-inch meter and that each such unit will be adequately served by a 5/8 x 3/4-inch meter.

Findings

Upon consideration of the evidence, the Commission finds that:

1. Applicant is ready, willing, and able to render service as a public utility water corporation in the approximately 2,850-acre area in Ventura County, known as Oak Park, owned by its parent corporation, Development Corporation.

2. Public convenience and necessity require that applicant furnish water as a public utility water corporation to the said area owned by Development Corporation, subject to the limitations and conditions contained in the order herein.

3. Neither public convenience nor public necessity require that applicant be authorized to serve the remaining 1,770 acres requested in the application.

4. Rates proposed by the applicant are fair and reasonable for the service to be rendered. Applicant should install 5/8 x 3/4-inch meters in each residential unit in Tract 1693, unless a larger size is requested by the occupant.

5. Applicant should not be permitted to include in its utility plant the cost of the temporary Las Virgenes supply main,

any portion of the proposed Lindero Canyon Feeder, nor any portion of the annexation fee. Such costs should be borne by the Development Corporation.

6. Applicant should be authorized to issue 622 shares of its common stock at par value net to applicant in the face amount of \$311,000 to Development Corporation in exchange for cash and should be authorized to issue a seven-year, 7 per cent per annum promissory note convertible to stock, and with interest payable only out of net earnings to Development Corporation for \$310,820 in cash. Said note should be in the form attached to the application herein as Exhibit "N".

7. The authority to issue stock and the convertible note herein granted to applicant shall not be construed to be a finding of the value of the properties of the applicant and shall not necessarily be utilized as a basis for determining applicant's rates for water service.

8. Public convenience and necessity require that applicant exercise the rights, privileges and franchise granted by Ventura County Ordinance No. 1371, dated September 10, 1963.

9. Except to the extent herein granted, the application should be denied.

Based on the foregoing findings, the Commission concludes that applicant's requests for a certificate of public convenience and necessity, for authority to establish rates, for authority to issue stock, and for authority to issue a note should be granted as set forth herein and that in all other respects, the application should be denied.

The certificate of public convenience and necessity issued herein shall be subject to the following provision of law:

The Commission shall have no power to authorize the capitalization of the franchise involved herein or the certificates of public convenience and necessity or the right to own, operate, or enjoy such franchise 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 a political subdivision thereof, as the consideration for issuance of such franchise, certificates of public convenience and necessity or rights.

O R D E R

IT IS ORDERED that:

1. Metropolitan Water Company, a corporation, is granted a certificate of public convenience and necessity to extend, construct and operate a public utility water system in that portion of Ventura County, State of California, known as Oak Park, comprising 2,850 acres, more or less, which area is depicted on Exhibit "D" on the application. This authority is subject to the restriction that applicant shall establish its initial service in Tract 1693, comprising 246 acres as proposed in the application herein. Applicant shall not extend service to any area other than said Tract 1693 without further authority from this Commission.

2. Applicant be and is authorized to file with this Commission before the commencement of service and to be effective on or before service is first rendered to the public under the authority herein granted and in conformity with the Commission's General Order No. 96-A, the schedules of rates shown in Appendix A attached hereto, tariff service area maps, appropriate general rules and copies of printed forms to be used in dealing with customers.

Such filing shall become effective on the fourth day after the date of filing. Each residence in Unit No. 1 in Tract 1693 shall have a 5/8 x 3/4-inch meter, unless a larger size is requested by the occupant.

3. Applicant shall notify the Commission, in writing, of the date service is first rendered to the public under the rates and rules authorized herein within ten days thereafter.

4. Applicant, after the effective date of this order, is authorized to issue not to exceed 622 shares of its capital stock for an aggregate par value of \$311,000 and its promissory note in the face amount of \$310,820, as specified in the opinion herein, to Metropolitan Development Corporation. Two conformed copies of the promissory note as issued shall be filed with this Commission prior to the date service is first rendered to the public under the rates and rules specified herein.

The Commission is of the opinion that the money, property or labor to be procured or paid for by the issue of the securities and the note herein authorized is reasonably required for the purposes specified herein and that such purposes are not, in whole or in part, reasonably chargeable to operating expenses or to income.

5. Applicant is granted a certificate of public convenience and necessity to exercise the rights, privileges, and franchise granted by Ordinance No. 1371 of the County of Ventura, State of California.

6. In installing all or any portion of the transmission and distribution system in Oak Park, applicant shall comply with the requirements of General Order No. 103.

7. Applicant shall, within sixty days after the system is placed in operation, file with the Commission four copies of a comprehensive map drawn to an indicated scale of not more than 600 feet to the inch, delineating by appropriate markings the various tracts of land and territory served, the principal water source, storage, and distribution facilities, and the location of the various water system properties of applicant.

8. Applicant shall determine the accruals for depreciation by dividing the original cost of the utility plant, less estimated future net salvage, less depreciation reserve, by the estimated remaining life of plant. Applicant shall review the accruals as of January 1 following the year service is first furnished in the area herein certificated and thereafter when major changes in utility plant composition occur and at intervals of not more than three years. Results of these reviews shall be submitted to this Commission.

9. Compliance by applicant with paragraph 2 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.

10. Metropolitan Water Company shall file with the Commission a report or reports as required by General Order No. 24-B, which order, insofar as applicable, is made a part of this order.

The authority herein granted to issue a note will become effective when applicant has paid the fee prescribed by Section 1904(b) of the Public Utilities Code, which fee is \$311. In all other respects, the effective date of this order shall be twenty days after the date hereof.

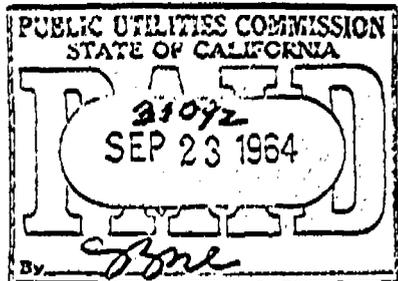
Dated at San Francisco, California, this 15th day of SEPTEMBER, 1964.

Frederick B. Holbrook
 President

George W. Grever
 Commissioner George W. Grever, being necessarily absent, did not participate in the disposition of this proceeding.

William M. Bennett
 Commissioner William M. Bennett, being necessarily absent, did not participate in the disposition of this proceeding.

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 Oak Park, and vicinity, located approximately four miles east of Thousand Oaks, Ventura County.

RATES

Quantity Rates:	<u>Per Meter</u> <u>Per Month</u>
First 500 cu.ft. or less	\$ 4.00
Next 1,500 cu.ft., per 100 cu.ft.25
Next 3,000 cu.ft., per 100 cu.ft.20
Over 5,000 cu.ft., per 100 cu.ft.15
 Minimum Charge:	
For 5/8 x 3/4-inch meter	\$ 4.00
For 3/4-inch meter	5.00
For 1-inch meter	6.00
For 1 1/2-inch meter	12.00
For 2-inch meter	25.00
For 3-inch meter	50.00
For 4-inch meter	80.00

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 SERVICEAPPLICABILITY

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 Oak Park, and vicinity, located approximately four miles east of Thousand Oaks, Ventura County.

RATES

Type of Hydrant	Per Hydrant Per Month			
	4-inch Main	6-inch Main	8-inch Main	10-inch Main or Larger
4-inch with 3-inch or smaller riser	\$1.50	\$1.50	\$1.50	\$1.50
4-inch x 2½-inch single	1.50	2.00	2.50	2.50
4-inch x 2½-inch double	2.50	3.00	4.00	4.00
6-inch x 2½-inch double	-	5.00	5.00	5.00
6-inch x 2½-inch triple	-	5.50	5.50	5.50

SPECIAL CONDITIONS

1. For water delivered for other than fire protection purposes, charges will be made at the quantity rates under Schedule No. 1, General Metered Service.
2. The cost of installation and maintenance of hydrants will be borne by the utility.
3. Relocation of any hydrant shall be at the expense of the party requesting relocation.
4. 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.

Schedule No. 9-FC

FLAT RATE CONSTRUCTION SERVICE

APPLICABILITY

Applicable to flat rate water service furnished to lots under construction in new subdivisions.

TERRITORY

The area known as Oak Park, and vicinity, located approximately four miles east of Thousand Oaks, Ventura County.

RATE

For construction purposes in new subdivisions,
for each lot \$4.00

SPECIAL CONDITION

For other temporary uses, an estimate of the quantity of water used will be made by the Company. The charge for this water will be made at the quantity rates under Schedule No. 1, General Metered Service.