

Decision No. 68197

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
of the Southern California Water)
Company for an order granting)
authority to amend applicant's)
Main Extension Rule.)

Application No. 46267
(Filed March 9, 1964)

O'Melveny & Myers, by Donn B. Miller, for
applicant.

Paul McKaskle, for County of Ventura and Ventura
County Waterworks Districts Nos. 3 and 9,
protestants.

William E. Buckner, for Rosa Water Company,
interested party.

Jerry J. Levander and Raymond E. Heytens, for the
Commission staff.

O P I N I O N

Applicant seeks authority either to amend or to deviate from its filed water main extension rule in regard to extensions made within Ventura County.

A public hearing on this application was held before Examiner Catey in Los Angeles on May 19, 1964. Copies of the application and notice of hearing had been served in accordance with this Commission's rules of procedure. The matter was submitted on June 11, 1964, the date of filing of the reporter's transcript.

At the hearing, testimony on behalf of applicant was presented by three of its officers. No testimony was presented by protestants, County of Ventura and Ventura County Waterworks Districts Nos. 3 and 9, but a map showing territory served by the various water purveyors in Simi Valley was prepared by protestants and entered in the record as late-filed Exhibit No. 2. The

appearance for Rosa Water Company asked that it be granted similar relief to that requested by applicant; he was advised by the examiner that such relief was beyond the scope of this proceeding and would require a separate application.

One of the appearances for the Commission staff stated that the Hydraulic Branch of the Utilities Division was opposed to the granting of the application. The other staff appearance stated that the Finance and Accounts Division takes no position as to the granting of the authority requested by applicant but recommends that if the authority is granted to applicant it should be granted to any other utility in Ventura County with adequate financial ability.

Operations of Applicant and Protestants

Applicant is a public utility serving water in sixteen operating districts located in the Counties of Los Angeles, Kern, San Bernardino, Orange, Imperial, Ventura and Sacramento. Applicant also distributes electricity in a small portion of San Bernardino County. The Ventura County areas involved in this proceeding are applicant's Ojai and Simi Valley Tariff Areas. A witness for applicant testified that it had been operating in Ojai for about 35 years but that its Simi Valley operations originated only after a subdivider requested service by applicant in that area early in 1962.

The territory of approximately 1,710 acres comprising applicant's Simi Valley certificated area was established by Decision No. 66256, dated November 5, 1963, in Application No. 45238, with the proviso that applicant could not extend service to a specific portion of the certificated area without further order of the Commission. Such order was issued for part of the previously restricted area by Decision No. 66602, dated January 14, 1964, in Application No. 45980. Two later applications for additional certificated areas were dismissed on May 19, 1964, at applicant's request.

Exhibit No. 2 shows that Ventura County Waterworks District No. 9 includes territory directly east of applicant's certificated area, which certificated area is directly northeast and east of the territory included in Ventura County Waterworks District No. 3. The exhibit also shows that the areas served by applicant, several waterworks districts, Rosa Water Company and various mutual water companies have developed into an erratic patchwork pattern throughout Simi Valley.

Main Extension Provisions

At the time applicant first considered serving in the Simi Valley, its filed main extension rule permitted refunds of subdividers' advances on either a proportionate cost or a percentage-of-revenue basis.^{1/} At that time, the waterworks districts in Ventura County required subdividers to contribute the cost of any extensions of the districts' systems.

By Decision No. 64536, dated November 8, 1962, in reopened Case No. 5501, this Commission revised the uniform main extension rule applicable to all water utilities under its jurisdiction. The revised rule no longer permitted the two alternative refunding methods which had widely divergent economic impacts on subdividers, utilities and utility customers. Instead, the percentage-of-revenue method of the former rule, with certain modifications, is now prescribed for subdivision main extensions, thus fixing the relative responsibilities appropriate for subdividers and utilities.

^{1/} As used herein, "proportionate cost" refers to a refunding method whereby the total cost of an extension is divided by the total length of mains therein to derive an average cost per foot of extension; this average cost per foot, multiplied by a stated fixed footage allowance per customer, determines the refund to be made to the subdivider for each bona fide new customer served directly by the extension. Under the "percentage-of-revenue" refund method, the subdivider receives a stated fixed percentage of the revenue derived from customers served directly from the extension.

Applicant, in its original Simi Valley certificate proceeding, requested authority to deviate from its new main extension rule by refunding a specific subdivider's advances on a 65-foot, proportionate cost basis. This deviation was not allowed because, as stated in the decision therein, it would have increased applicant's revenue requirements and produced a resultant burden on applicant's ratepayers. Because the deviation was denied, the rates requested by applicant in that proceeding would have produced an excessive rate of return, so applicant was ordered to file the lower rates which were then in effect for nearby Rosa Water Company.

On February 11, 1964, the Board of Supervisors of Ventura County adopted its Resolution 415, which permitted the financing of water main extensions by means of assessment bonds in lieu of the contribution formerly required by the waterworks districts. Copies of the resolution and a letter, dated February 4, 1964, containing the recommendation of Ventura County Department of Public Works to the Board of Supervisors that it adopt this modification, are included in Exhibit A attached to the application. The objective of the modification, as stated in the letter, was to make the waterworks districts more competitive with privately owned water companies.

In the current proceeding, applicant seeks to counteract the competitive advantage achieved by the waterworks districts. Applicant requests authority to reinstate the 65-foot, proportionate cost refund method in its main extension rule, to be made effective as its own option in lieu of the 22-percent-of-revenue refund basis to any subdivision main extensions in Ventura County.

Potential Discrimination

One of applicant's witnesses testified that most of the residential lots in the subdivisions it now serves in Simi Valley are 7,200 square feet in area and that future developments will include condominium-type residential units which permit 10 to 12 units per acre instead of the normal 4 to 5. Assuming a normal subdivision with residences on both sides of the streets, it is apparent that the subdivider's advances for construction of main extensions would become fully refundable under a 65-foot proportionate cost refund plan even before all of the units had been completed and occupied. In contrast, assuming the average advance per customer to be about \$380 and the average annual revenue per customer at present water rates to be less than \$80, as indicated by the witness who prepared Exhibit No. 1, the 22-percent-of-revenue method would spread the refunds over a period of about 20 years.

Because of the radically different economic value of refunds under the alternative methods proposed by applicant, the granting of the more favorable method to one subdivider and not to another who might be in a different bargaining position would be unreasonably discriminatory. Applicant's witnesses aver that no such discrimination would be practiced and that applicant would probably apply the proportionate cost method to all subdivisions in Ventura County. The potential discrimination could thus be avoided, if that were the only defect in applicant's proposal, by making the use of proportionate cost refunds mandatory for all future extensions by applicant in Ventura County.

Effect on Water Rates

Applicant's Exhibit No. 1 purports to show that applicant can serve additional subdivisions in Simi Valley at lower cost to the public than can the waterworks districts. This is not the issue in this proceeding. Future purchasers of homes in Simi Valley presumably will weigh, among other considerations, the relative advantages of service by applicant, by protestants, and by any other water purveyor, in deciding which particular subdivision they prefer.

The real issue, and the controlling factor in judging the reasonableness of applicant's proposed modification of, or deviation from, its filed main extension rule, is its potential effect on applicant's own customers, both present and future. Applicant freely admits that its proposal would produce a higher revenue requirement than would the provisions of its filed rule.

Applicant points out that, in Decision No. 66256 issued in its original Simi Valley certificate application, the only discussion of applicant's requested proportionate cost refunding is the statement that such refunding would increase revenue requirements and produce a resultant burden on ratepayers. Applicant contends that this is not an appropriate basis upon which to determine whether or not a refunding method should be permitted because (1) if the only object were to hold rates to the lowest possible level, full contribution of the extension by the subdivider could have been prescribed, and (2) the Commission regulates rates and there will be no payments by ratepayers which are not based upon the cost of the utility property used to serve them.

We do not concur with this view. Many factors were considered by this Commission when it established the present uniform main extension rule for all water utilities under its jurisdiction. The fact that a full contribution of main extensions could have been prescribed does not invalidate the rule actually established as a reasonable yardstick against which to measure the propriety of deviations therefrom.

Competition

The record herein shows that applicant and protestants are engaging in a price war in which concessions would be granted to subdividers in order to compete for additional territory. Unlike most price wars, the ultimate consumer would not receive the benefits, and, in fact, higher cost of water would result.

It is the stated position of protestants that the only way of insuring that the cost of water systems does not become merely an additional profit to the subdivider is to require that he pay all or most of the costs of installation. This is in striking contrast to the assessment bond method of financing main extensions now allowed by the waterworks districts.

Applicant argues that this Commission cannot take the position that it is going to stay the hands of investor-owned utilities subject to its jurisdiction while entities not so regulated are at liberty to proceed as they wish. On the contrary, we cannot justify allowing adverse effects on applicant's customers on the grounds that we are unable to afford similar protection to customers of water purveyors outside of our jurisdiction.

Findings and Conclusion

The Commission finds that applicant's request would have an unjustified adverse effect on its customers and is not in the public interest. We conclude that the application should be denied.

ORDER

IT IS ORDERED that Application No. 46267 is denied.

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

Dated at San Francisco, California, this 10th day of NOVEMBER, 1964.

Frederick B. Holbrook
 President

John C. Mitchell

Robert W. Bay

William M. Bennett

 Commissioners

I concur in the order.

George L. Grover